

Regulatory Committee

Meeting to be held on 27 November 2024

Part I

Electoral Division affected:
Burscough and Rufford,
West Lancashire North

**Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Public Rights over Mere Lane, Rufford/Tarleton
(Annex A refers)**

Contact for further information quoting file reference 804-770:

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Brief Summary

Application for the addition of a restricted byway and upgrading of footpath to restricted byway over Mere Lane in the parishes of Rufford and Tarleton, West Lancashire.

Recommendation

- (i) That the application for the addition of a restricted byway and upgrading of part of FP0816022 to restricted byway over Mere Lane in the parishes of Rufford and Tarleton, West Lancashire be accepted in part.
- (ii) That an Order(s) be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add a footpath over Mere Lane in the parishes of Rufford and Tarleton on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D-E-F.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

Detail

An application has been received to add a restricted byway and upgrade part of FP0816022 on the Definitive Map and Statement of Public Rights of Way over Mere Lane in the parishes of Rufford and Tarleton, West Lancashire.

On the receipt of an application the county council is required by law to investigate the evidence and make a decision based on that evidence as to whether a public right of way exists, and if so its status. Section 53(3)(b) and (c) of the Wildlife and Countryside Act 1981 set out the tests that need to be met when reaching a decision; also current Case Law needs to be applied.

An order will only be made to add a public right of way to the Definitive Map and Statement if the evidence shows that:

- A right of way “subsists” or is “reasonably alleged to subsist”

An order for adding a way to or upgrading a way shown on the Definitive Map and Statement will be made if the evidence shows that:

- “the expiration... of any period such that the enjoyment by the public...raises a presumption that the way has been dedicated as a public path or restricted byway”

When considering evidence, if it is shown that a highway existed then highway rights continue to exist (“once a highway, always a highway”) even if a route has since become disused or obstructed unless a legal order stopping up or diverting the rights has been made. Section 53 of the Wildlife and Countryside Act 1981 makes it clear that considerations such as suitability, the security of properties and the wishes of adjacent landowners cannot be considered. The Planning Inspectorate’s website also gives guidance about the interpretation of evidence.

The county council’s decision will be based on the interpretation of the evidence discovered by officers and documents and other evidence supplied by the applicant, landowners, consultees and other interested parties produced to the county council before the date of the decision. Each piece of evidence will be tested and the evidence overall weighed on the balance of probabilities. It is possible that the council’s decision may be different from the status given in any original application. The decision may be that the routes have public rights as a footpath, bridleway, restricted byway or byway open to all traffic, or that no such right of way exists. The decision may also be that the routes to be added or deleted vary in length or location from those that were originally considered.

Consultations

West Lancashire Borough Council

West Lancashire Borough Council provided no response to consultation.

Rufford Parish Council



Rufford Parish Council provided no response to consultation.

Tarleton Parish Council

Tarleton Parish Council responded to consultation by asking for further information about the application and the process. A response was provided which addressed the questions asked by the parish council. No comments on the merits of the application were received.

Advice

Head of Service – Planning and Environment

Points annotated on the attached Committee plan.

Point	Grid Reference (SD)	Description
A	4260 1688	Open junction with Wiggins Lane
B	4246 1700	Unmarked parish boundary between Rufford and Tarleton close to property known as Inglewood
C	4231 1714	Unrecorded footpath meets the application route opposite Edenfield
D	4227 1718	Open junction of FP0816026 with Mere Lane
E	4199 1753	Open junction of Mere Lane with farm access road leading to fishery north of Merewood House
F	4199 1761	Bend in Mere Lane at junction of Mere Lane with FP0816022
G	4212 1767	Open junction of FP0816022 (Mere Lane) with The Marshes Lane

Description of Route

A site inspection was carried in February 2024 and the total length of the route is 980 metres.

The application route commences at the open junction with Wiggins Lane 250 metres east south east of its junction with The Marshes Lane (point A on the Committee plan) adjacent to Engine Farm.

The route extends north west from Wiggins Lane along a roadway surfaced with compacted stone/tarmac planings.

Clearly visible at the start of the route is a street sign saying, 'Mere Lane'.





Approximately 10 metres along the application route is vehicular access into Engine Farm (left of the application route). Immediately beyond the access to the farm there are signs located in the grass verges on either side of the application route. On the right there is a sign partly altered from the original wording which requests vehicles to drive slowly with a number 10 within a red circle and the abbreviation 'MPH'. A separate sign also shows a bicycle within a red circle with a line through the bicycle and the words 'No Cycling'.



On the opposite side of the roadway and clearly visible from point A is a further sign:



This sign is quite worn and is clearly titled 'LANCASHIRE COUNTY COUNCIL PRIVATE ROAD'. Underneath the wording 'PRIVATE ROAD' two words have been

blacked out but on close inspection they can clearly be seen as saying 'FOOTPATH ONLY'.

There also appears to be some wording removed from the bottom of the sign (shown below in it's entirety) but it was not possible to read what this may have said:



From here the roadway (application route) extends in a north westerly direction with well-maintained grass verges on either side and a drainage ditch known as Catch Water Drain running along the right hand side.

The route passes through the Rufford/Tarleton parish boundary marked as point B on the Committee plan. The parish boundary is not marked on the ground but is adjacent to a pond within the curtilage of the property known as Inglewood (also accessed via the application route).

From the parish boundary at point B the application route continues north west along the roadway passing Keepers Cottage and adjacent fields and continuing past two further semi-detached properties known as Woodside and Edenfield (point D). Immediately opposite Woodside there is a wooden footbridge providing access over Catch Water Drain into an area of woodland (Holmes Wood). A sign is visible from the application route attached to one of the trees beyond the footbridge saying, 'PRIVATE WOODLAND No Public Access'.

From point D the application route continues past the two residential properties with the drain and woodland on the right hand side and an open field on the left through to the junction with FP0816026 (point D on the Committee plan) where the public footpath which runs from Wiggins Lane along Cabin Lane and along the field edge to

meet the application route at point D. A lady was seen walking along the application route and then along the footpath on the day that the route was inspected.

Beyond the junction with FP0816022 the surface of the application route deteriorates slightly with some large potholes filled with water and evidence of tractor tyres but as the route approaches three further properties (Mere Back, Mere Farm and Merewood House) the surface improves.

The application route passes the three properties named above, curving to continue in a more northerly direction as it passes the third property (Merewood House) to the point marked 'E' on the Committee plan where a roadway leading south west to some fishing ponds and fields leaves the application route. A sign located on the application route points towards the fishing ponds.

The application route then continues from the junction at point E along a tarmac roadway for a further 80 metres to a sharp bend where it meets FP0816022 (point F) where a sign, positioned looking back along the application route to Merewood House says 'PRIVATE ACCESS ONLY'.

From the bend in the route at point F the application route continues along the tarmac roadway (part of FP0816022) through to an open junction with The Marshes Lane between a property known as Merecliffe with associated access to a caravan park and a fenced off Cadent service building (point G on the Committee plan).

Located at the junction of the application route with Mere Lane is a further street sign with the name 'Mere Lane':



[Photograph above Google Street View March 2023]

At point G the route is also signed with a Lancashire County Council public footpath signpost.

Located approximately 20 metres from the junction with The Marshes Lane (but clearly visible from the road) is a sign very similar to that located close to point A.

When the route was inspected in February 2024 (below) it was noted that along the top of the sign there was a thick black strip which appeared to have been painted

onto the sign and the wording on the sign read, 'PRIVATE ROAD NO THROUGH TRAFFIC ACCESS ONLY'. Underneath the words 'PRIVATE ROAD' it appeared that some wording had been covered over in white paint and when a photograph taken of the sign was enlarged the word 'FOOTPATH' could be seen:



Separate No cycling signs and 10 MPH signs were also clearly visible.

Google Street View images from 2018, 2021 and 2023 (below) showed that No cycling and speed restriction signs also existed when those photographs were taken. It was also noted that at some point between March 2023 and February 2024 the wording 'ACCESS ONLY' had been added to the larger sign covering the earlier addition which stated 'NO HORSES'.

Photograph taken by LCC Officer February 2024

Google Street View March 2023



When the route was re-inspected in November 2024 it was clear that the sign (below) had been altered again as shown below with the black paint covering 'LANCASHIRE COUNTY COUNCIL' removed and the 'FOOTPATH ONLY' wording that had been covered by paint now covered by the screwed on plaque saying 'ACCESS ONLY' which had been removed from covering the words 'NO HORSES':



A further comparison of the two signs at point A and point G strongly suggests that the signs erected originally carried the same wording; the key points being that they were headed as being signs provided by Lancashire County Council and that both stated that the route was a Footpath (only).

In summary, when the route was inspected in February 2024 it was possible to walk the full length and there was evidence that vehicles were using the route to access a number of properties. It would also have been possible to ride a horse or to cycle along the route but signage indicating the route was a private road and cycling was prohibited were clearly displayed at that time. Signage saying 'No Horses' was also evident at point G in March 2023 and November 2024.

There was nothing to indicate that access to and from FP0816026 from the application route was restricted or prevented via the application route to and from point D.

Map and Documentary Evidence

Various maps, plans and other documents were examined to discover when the route came into being, and to try to determine what its status may be.

Document Title	Date	Brief Description of Document & Nature of Evidence
Yates' Map of Lancashire	1786	Small-scale commercial map. Such maps were on sale to the public and hence to be of use to their customers the routes shown had to be available for the public to use. However, they were privately produced without a known system of consultation or checking. Limitations of scale also limited the routes that could be shown.

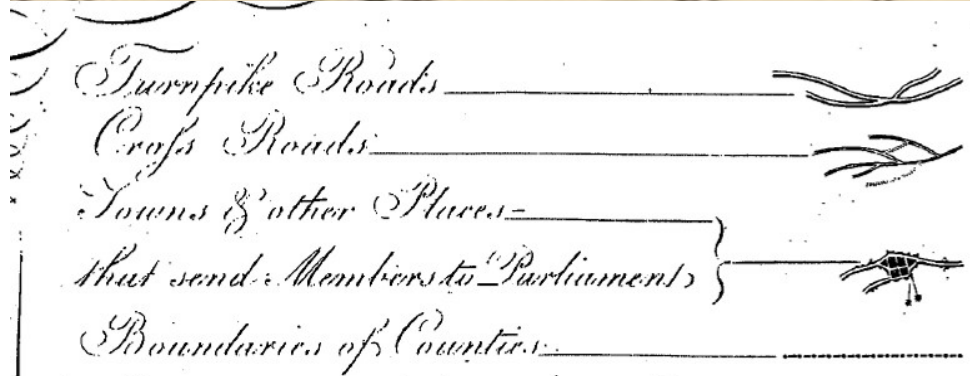
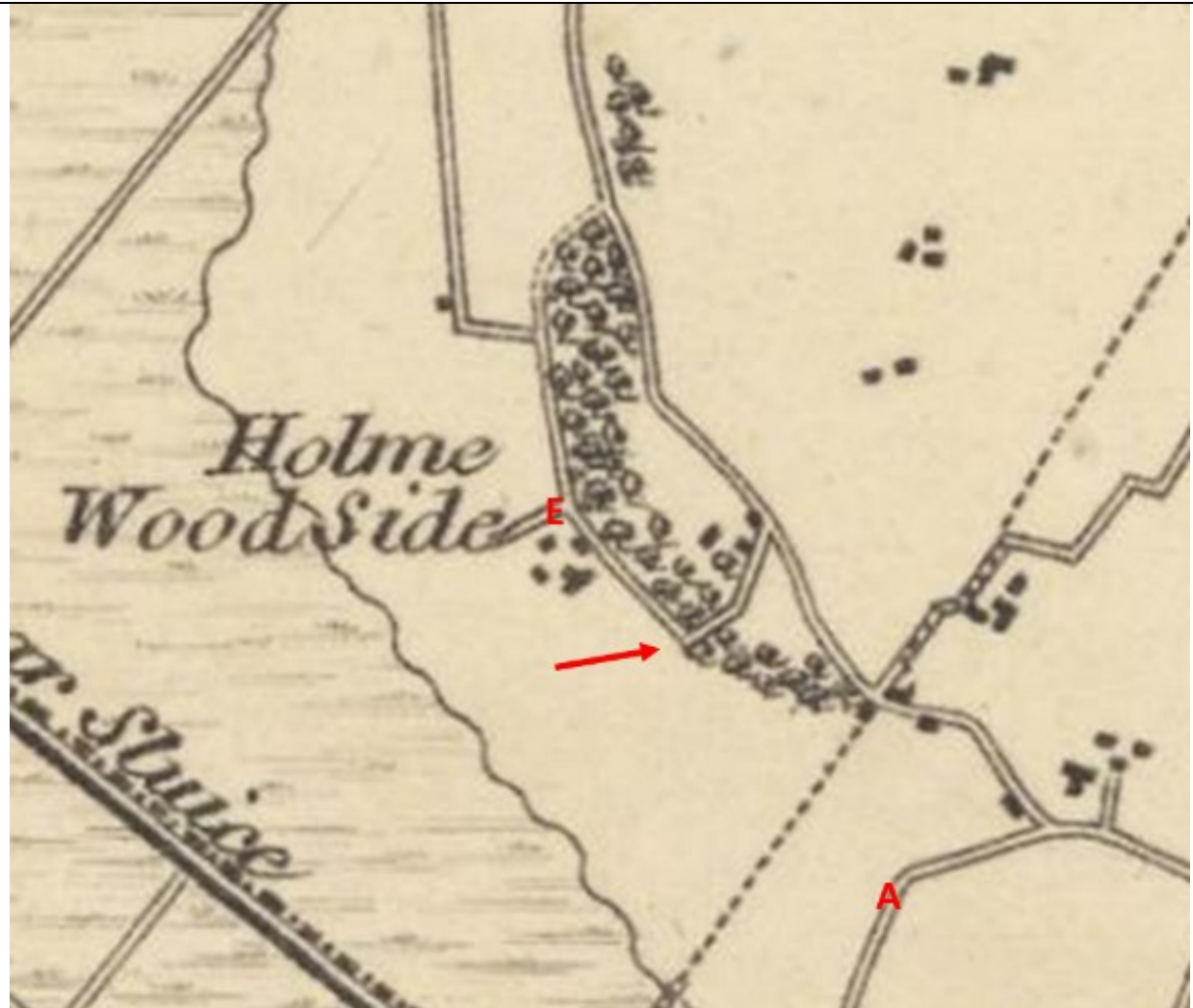


Observations		The application route is not shown although Holmes Wood Hall is marked on the map (north east of the application route). Holmes Wood Hall is a listed building HOLMESWOOD HALL, Tarleton - 1361826 Historic England Understood to have been a hunting or fishing lodge (or part thereof) built by the Hesketh family of Rufford and now a farmhouse. Part of the Hall dates back to 1568 prior to the time that the adjacent land (Martin Mere) was drained. The Marshes Lane and Wiggins Lane are shown but the application route is not.
Investigating Comments	Officer's	The application route probably did not exist at the time or if it did exist, was not considered to be a substantial public vehicular route by Yates. If it did exist, it would have been very unlikely for a route considered to be a footpath or bridleway to be shown on such a small-scale map so no inference can be drawn in that respect. The proximity of Holmes Wood Hall (which still exists) to the route provides an early insight into the ownership of land in the area.
Greenwood's	Map of	1818
		Small-scale commercial map. In contrast

Lancashire

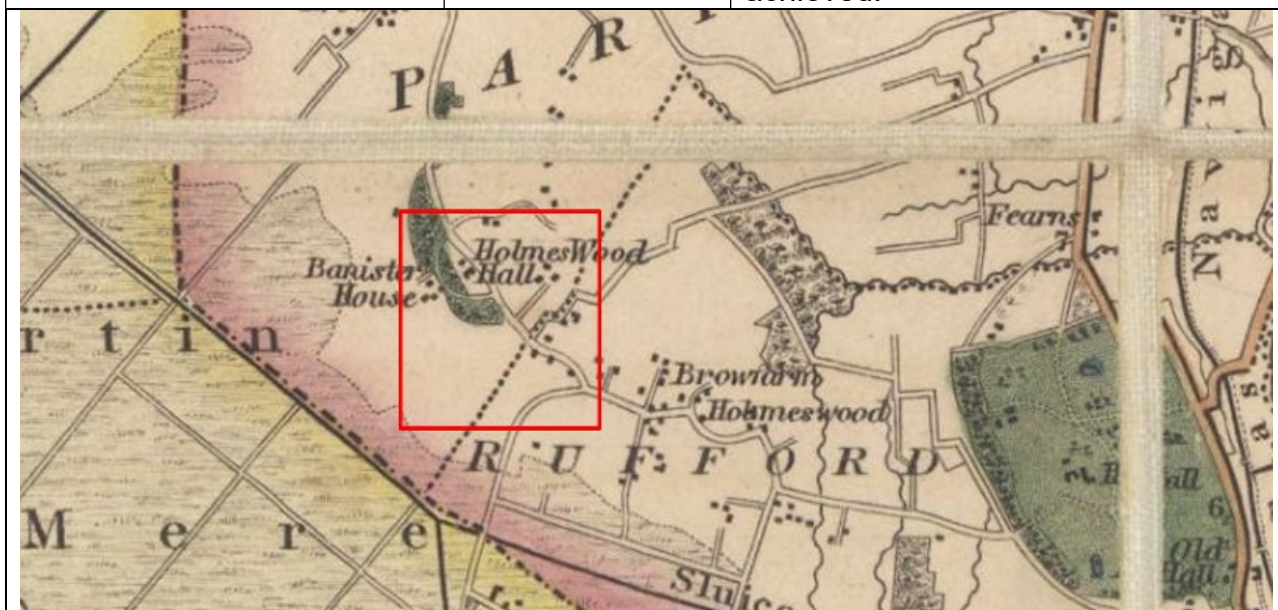
to other map makers of the era Greenwood stated in the legend that this map showed private as well as public roads and the two were not differentiated between within the key panel.

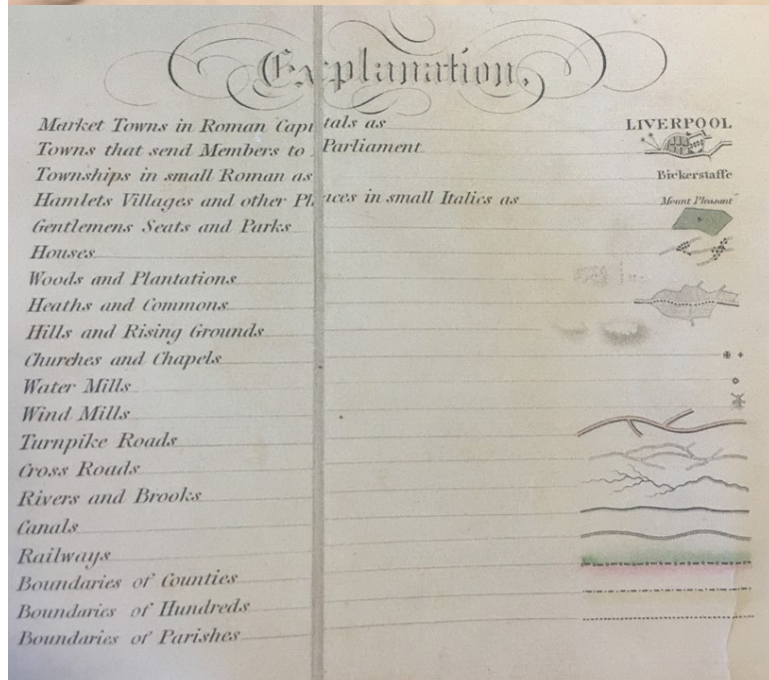




Observations		The full length of the application route is not shown but an area of woodland is shown together with an unnamed building broadly consistent with the location of Holmes Wood Hall. Wiggins Lane is shown but the start of the application route (from point A) is not shown. A route shown on the map as a cross road is shown leaving The Marshes Lane to run in a south south easterly direction past the unnamed building through the woodland to then
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		turn through 90 degrees (point indicated by red arrow inserted onto map extract above) and continue north west to Holme Wood Side where it is joined by another route at a point consistent with part of the application route (point E). The route is then shown continuing north to rejoin The Marshes Lane further north than the application route.
Investigating Comments	Officer's	A short section of the application route existed in 1818 as part of a longer through route which appeared to be capable of being used by (horse drawn) vehicles at that time. This route was not as direct as The Marshes Lane - which was also shown - and the fact that Greenwood was known to show public and private routes on his maps means that this must be considered in the context of what was shown.
Hennet's Lancashire	Map of	1830 Small-scale commercial map. In 1830 Henry Teesdale of London published George Hennet's Map of Lancashire surveyed in 1828-1829 at a scale of 7½ inches to 10 miles. Hennet's finer hachuring was no more successful than Greenwood's in portraying Lancashire's hills and valleys but his mapping of the county's communications network was generally considered to be the clearest and most helpful that had yet been achieved.



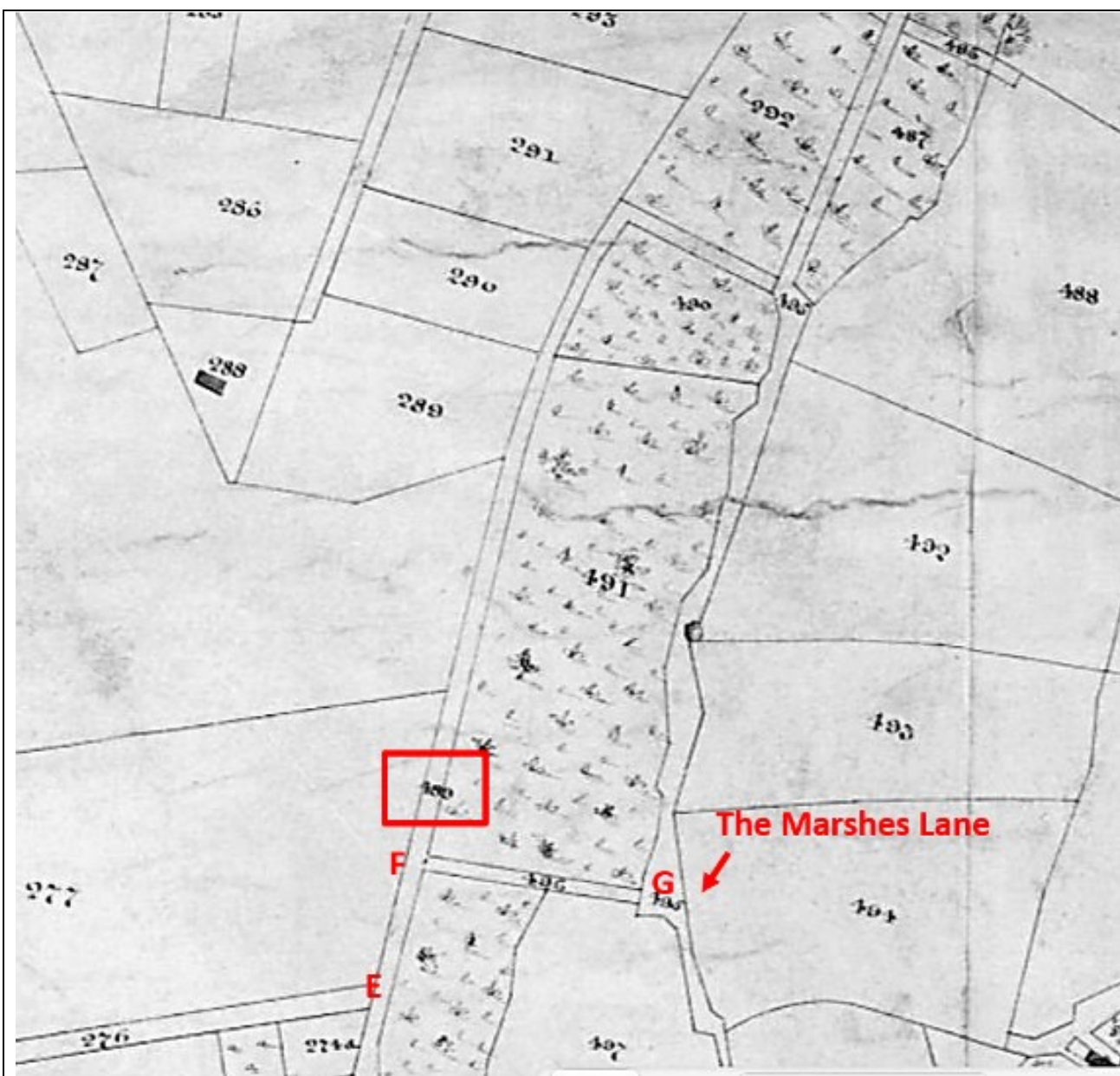


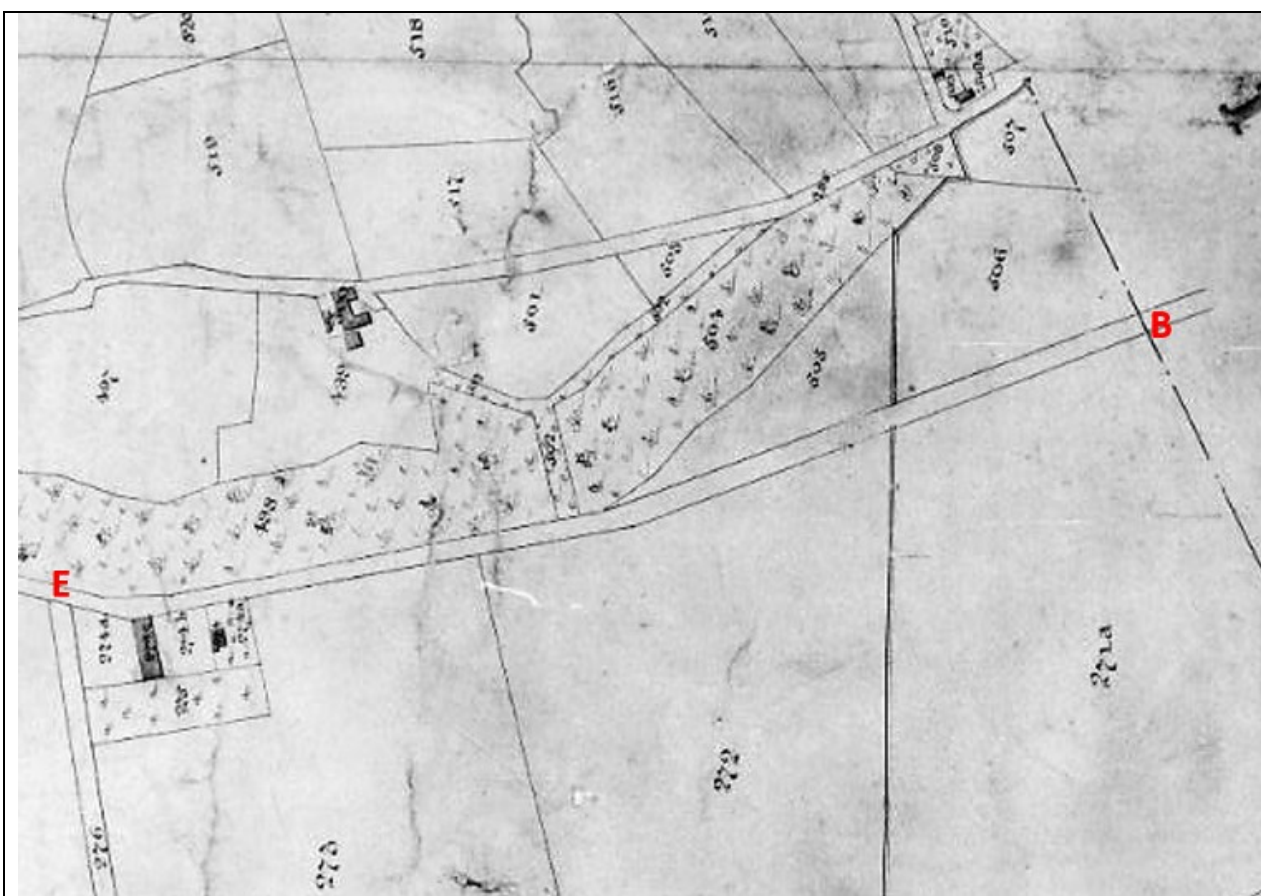
Observations

The application route is not shown although it is noted that when the map is enlarged a loop from and to The Marshes Lane is shown around Holmes Wood Hall providing access to Bannister House.

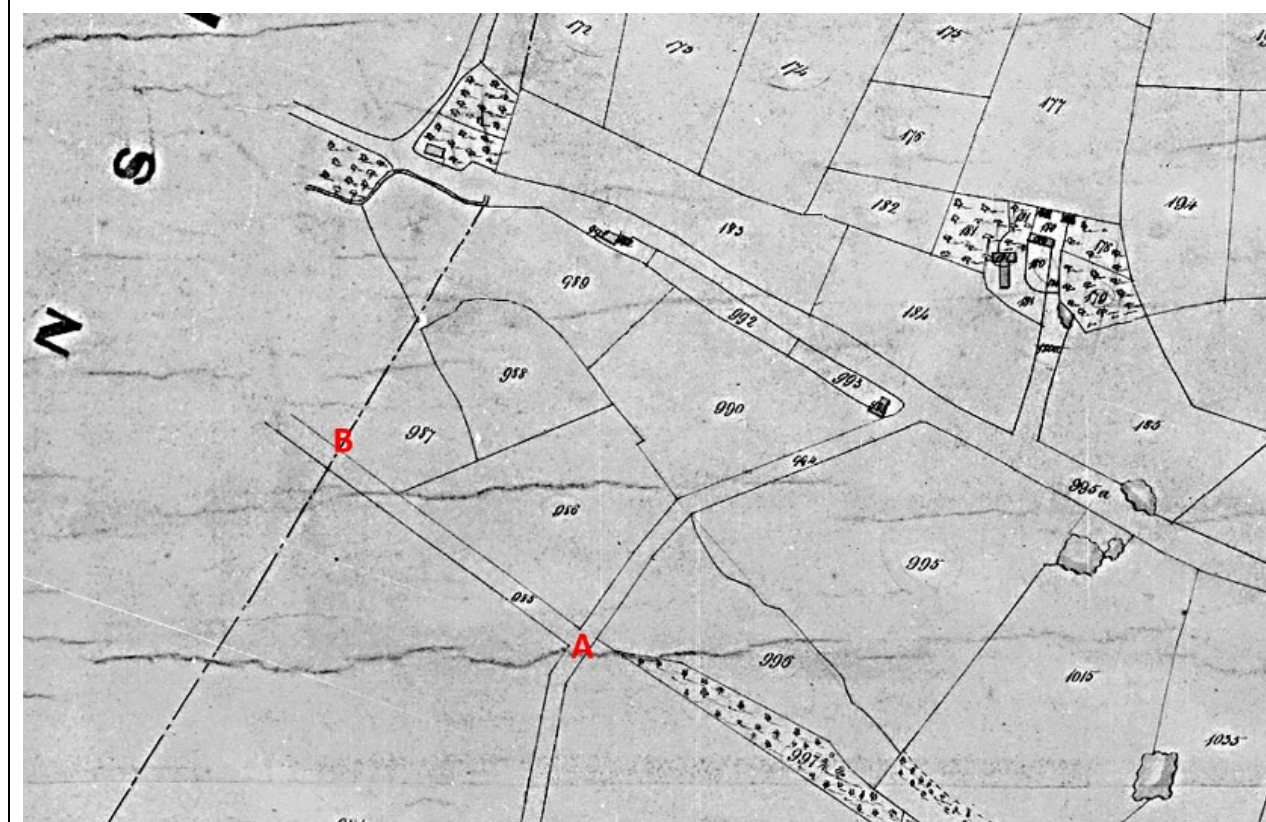
The First Edition 6 inch map detailed below shows Bannister House further north and it is possible that this loop did pass through point E on the application route (adjacent to Merewood House) but the full length of the application route is not shown.

Investigating Comments	Officer's		The full length of the application route probably did not exist at the time or if it did exist, was not considered to be a substantial public vehicular route by Hennet. If it did exist it would have been very unlikely for a route considered to be a footpath or bridleway to be shown on such a small-scale map so no inference can be drawn in that respect.
Canal and Railway Acts			Canals and railways were the vital infrastructure for a modernising economy and hence, like motorways and high-speed rail links today, legislation enabled these to be built by compulsion where agreement couldn't be reached. It was important to get the details right by making provision for any public rights of way to avoid objections but not to provide expensive crossings unless they really were public rights of way. This information is also often available for proposed canals and railways which were never built.
Observations			No railways or canal were built (or proposed to be built) over land crossed by the application route.
Investigating Comments	Officer's		No inference can be drawn with regards to the existence of any public rights.
Tithe Map and Tithe Award or Apportionment Rufford Tithe Map and Award 1839 Tarleton Tithe Map and Award 1845		1839 - 1845	Maps and other documents were produced under the Tithe Commutation Act of 1836 to record land capable of producing a crop and what each landowner should pay in lieu of tithes to the church. The maps are usually detailed large scale maps of a parish and while they were not produced specifically to show roads or public rights of way, the maps do show roads quite accurately and can provide useful supporting evidence (in conjunction with the written tithe award) and additional information from which the status of ways may be inferred.





Extracts from Tarleton Tithe Map and Award [Above]



LANDOWNERS	OCCUPIERS	to the Plot	LANDS AND PREMISES	CULTIVATION	STATUTE MEASURE	and Payable to Rector	
					A. R. P.	S. D.	
		421	Road	Brought forward	62	3	24
		435	Road		2	0	12
		443	Road		1	1	24
		443	Road		1	3	33
		486	Road		3	2	30
		820	Road		3	3	32
		822	Road		1	1	12
		824	Road		1	30	
		824	Road		1	26	
		830	Road		1	28	
		834	Road		1	3	26
		881	Road		1	2	8
		928	Road		1	1	4
		928	Road		1	2	11
		985	Road		3	0	
		985	Road		2	0	
		994	Road		3	2	33
		1000	Road		9	3	30
		1000	Road		4	0	32
		1010	Road		1	3	38
		1034	Road		1	2	11
		1048	Road		1	2	0
		1044	Road		1	2	5
		1163	Road		3	0	2
		1163	Road		1	1	24
		1160	Road		1	1	24
		1174	Road		1	1	8
		1184	Road		1	3	20
					112	7	36
Widdell Sir Thomas Dalympole Bart	Demesne Mty David and others	506	Further Carr Key	Pasture	6	2	1
		506	Further Carr Key	Pasture	2	0	31
		508	Further Carr Key	Pasture	2	1	11

Extracts from Rufford Tithe Map and Award [Above]

Observations

The Tithe Map for Rufford showed the application route A-B as a substantial bounded route continuing across the parish boundary into Tarleton. It was numbered as plot 985 and listed in the Tithe Award in a separate list at the end of the Award titled 'Roads'. Wiggins Lane is also shown on the map numbered plot 994 and is listed as a road.

The Tithe Schedule has a list of 65 plots listed separately at the end of the Award as 'Roads'; with no landowners or occupiers listed.

The Tithe Map for Tarleton shows the rest of the route continuing from point B as a bounded route which runs through points E and point F to continue north and then east as plot 496 (which corresponds to FP0816022) through to The Marshes Lane.

Midway between point B and point E a route leaves the application route east through the woodland to then fork with the north eastern spur leading to an unnamed house and the south east spur

		leading through to The Marshes Lane. The route is numbered 502 and is described in the Tithe Award as 'Old Road' owned and occupied by Sir Thomas Dalrymple Hesketh Bart (Lord Hesketh). Two properties – also owned by Lord Hesketh – are shown accessed from the application route close to point E (at the modern-day location of Merewood House and Mere Farm). At point E a route is shown leaving the application route to go west. A line is shown across the junction of this route and the application route and the route west is separately numbered as plot 276 and is listed in the Tithe Award as being 'part of Martin Mere' and owned by Lord Hesketh with a small tithe payable. At point F a broken line is shown across the route which then turns east to join The Marshes Lane at point G. This short section of 'road' is now recorded as part of FP0816022 and forms the main access road to Mere Farm and Merewood House. The route is numbered 496 on the Tithe Map and is listed as a road owned and occupied by Lord Hesketh with a small tithe payable. Beyond point F continuing north the road, of which the application route B-F formed part, is numbered 489 and it continues through to The Marshes Lane. It is listed in the Tithe Award as 'Banister Road' owned by Lord Hesketh and occupied by Richard Banks. It is described as pasture (state of cultivation) with tithes payable. In contrast The Marshes Lane was numbered 495 on the Tithe Map and was listed in a separate list of roads at the end of the Tithe Award with no owner or occupier listed and no tithe payable.
Investigating Officer's Comments		The full length of the application route existed in 1839 – 1845 over and passing through land owned by Lord Hesketh. Between point A and point B the route

		was in the parish of Rufford and ownership of the route was not listed in the Tithe Award with the route numbered and included in a long list of 'Roads' contained at the end of the Tithe Award. The depiction of the route in such a way is often taken as being good evidence that the route was, at that time considered to be a public road. In this case however, the information is not consistent with how most of the length of the route was regarded and whilst included in a list of roads there was no specific reference to 'public roads' with a number of those originally listed no longer being in existence or having no recorded public status. The application route B-C was numbered as part of a longer route which continued through to The Marshes Lane and was detailed as being in private ownership. Between point E and point F the application route was also numbered and described as a road in private ownership (Lord Hesketh). Other routes off it were also listed as being privately owned and it was noted that the route and adjacent land were all in the ownership of Lord Hesketh. A separate list of roads at the end of the Tithe Award for Tarleton included The Marshes Lane with no ownership detailed for any of the routes detailed in that list. Taking the Tithe information as a whole it appears that the application route existed and may have been capable of being used on foot, horseback and with vehicles at that time but that it was not considered to be a public vehicular through route and appeared to be considered to be a private estate road in the 1840s.
Inclosure Act Award and Maps		Inclosure Awards are legal documents made under private acts of Parliament or general acts (post 1801) for reforming medieval farming practices, and also enabled new rights of way layouts in a parish to be made. They can provide conclusive evidence of status.

Observations		No inclosure maps or plans were found for the land crossed by the application route.
Investigating Officer's Comments		No inference can be drawn with regards to the existence of public rights.
Cassini Historical Map Old Series Liverpool Sheet 108	1840-1843	The Cassini publishing company produced maps based on Ordnance Survey mapping. These maps have been enlarged and reproduced to match the modern day 1:50,000 OS Landranger Maps and are readily available to purchase.



Old Series sheets used to create this map:

Sheet 79, N.E. Quarter, first published 7th November 1840

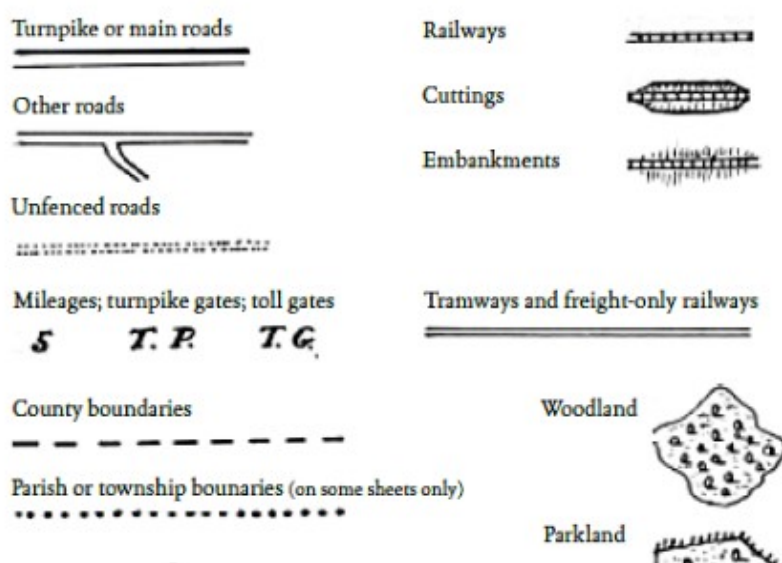
Sheet 80, N.W. Quarter, first published 1st October 1842

Sheet 89, N.W. Quarter, first published 20th December 1842

Sheet 89, S.W. Quarter, first published 1st August 1843

Sheet 90, N.E. Quarter, first published 1st October 1842

Sheet 90, S.E. Quarter, first published 8th April 1842

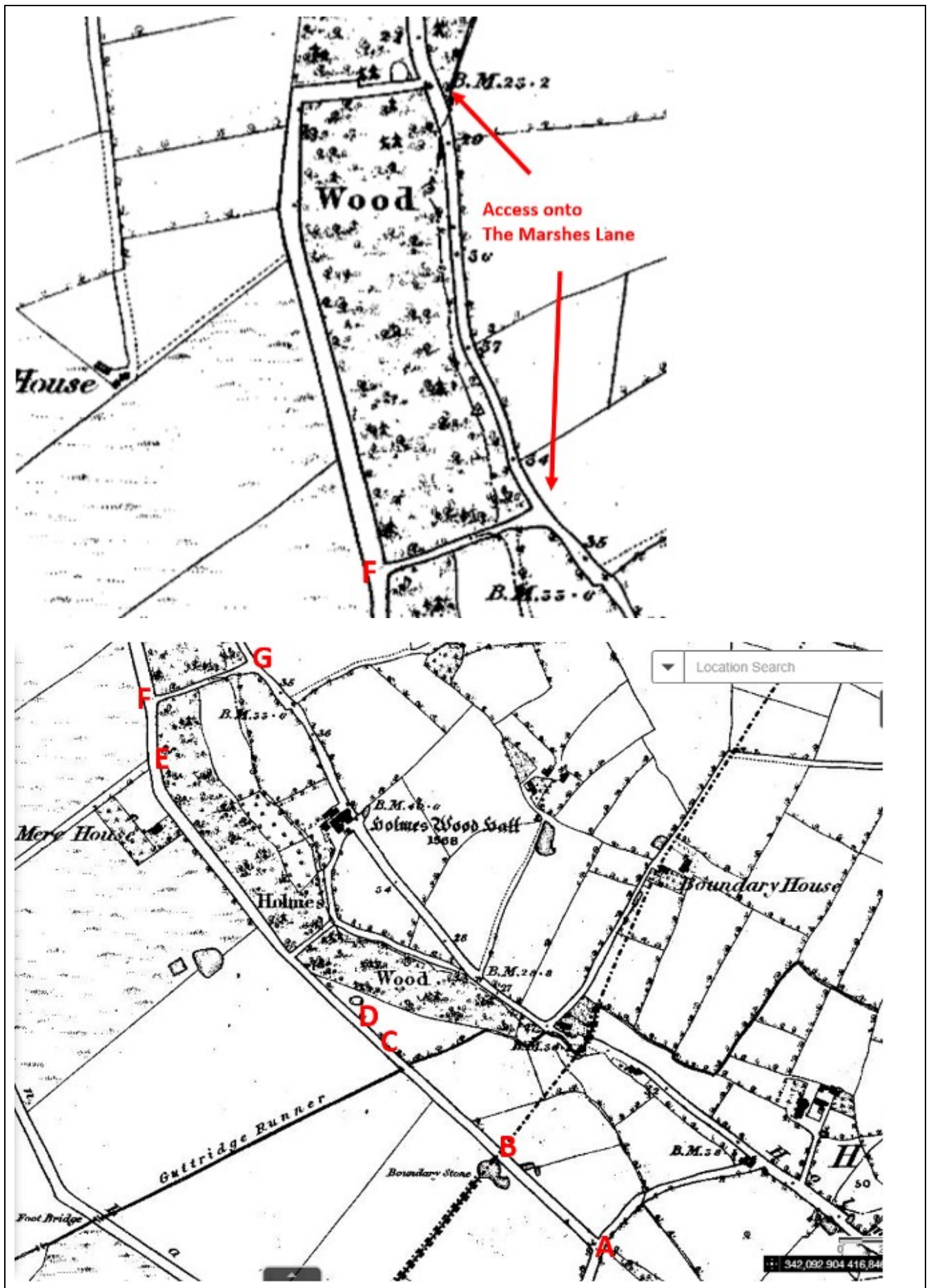


Legend source - <http://www.cassinimaps.co.uk/shop/pagelegend.asp>

Observations		The full length of the application route is shown.
Investigating Officer's Comments		The original scale of the map (1 inch to the mile) means that only the more significant routes are generally shown. There were only two classifications of roads shown on the map – 'Turnpike or main roads' and 'Other' roads. The application route is shown as an 'Other road'. The purpose of the map in the late 1800s would probably have been to assist the travelling public on horseback or vehicle had public rights for those travellers. This, however, is something of a generalisation and needs to be considered in the context of all other available evidence.

6 Inch Ordnance Survey (OS) Map Sheet 76	1847	The earliest Ordnance Survey 6 inch map for this area surveyed in 1845 to 1846 and published in 1847.¹ However it has recently become apparent that in many instances there was more than one 'print run' for OS first edition 6 inch maps. Up until c.1867 the 6-inch maps were updated to show newly constructed railways (of which there were many), which explains why more than one version may be found with apparently the same publication date (with one showing a railway, and one not). As part of the county council's research the Investigating Officer looks at the OS 6 inch maps located within our own records and also those available on the National Library of Scotland website - https://maps.nls.uk/os/ Copies of the maps held by the National Library of Scotland are usually 'final' printings which therefore include railways which in most instances post-dated the survey and first publication of the map. Where appropriate extracts of both copies of the map (if found) will be inserted into the report and clearly labelled.
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¹ The Ordnance Survey (OS) has produced topographic maps at different scales (historically one inch to one mile, six inches to one mile and 1:2500 scale which is approximately 25 inches to one mile). Ordnance Survey mapping began in Lancashire in the late 1830s with the 6-inch maps being published in the 1840s. The large scale 25-inch maps which were first published in the 1890s provide good evidence of the position of routes at the time of survey and of the position of buildings and other structures. They generally do not provide evidence of the legal status of routes, and carry a disclaimer that the depiction of a path or track is no evidence of the existence of a public right of way.

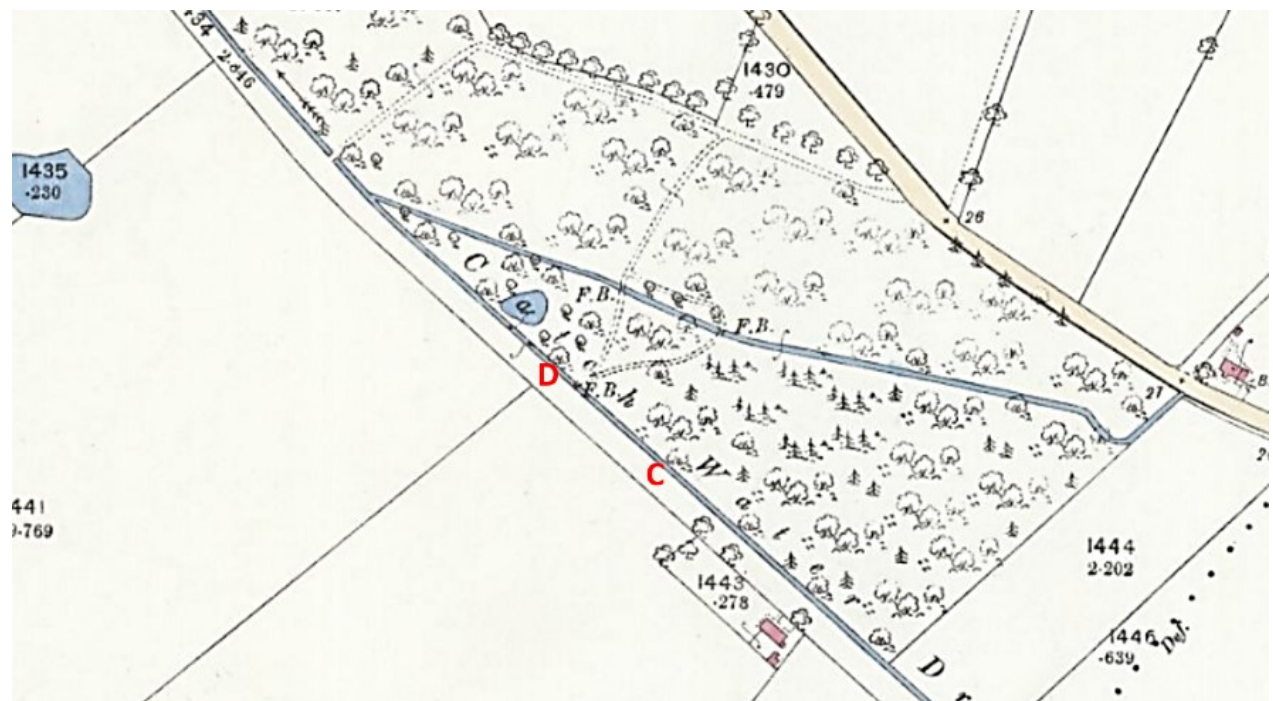
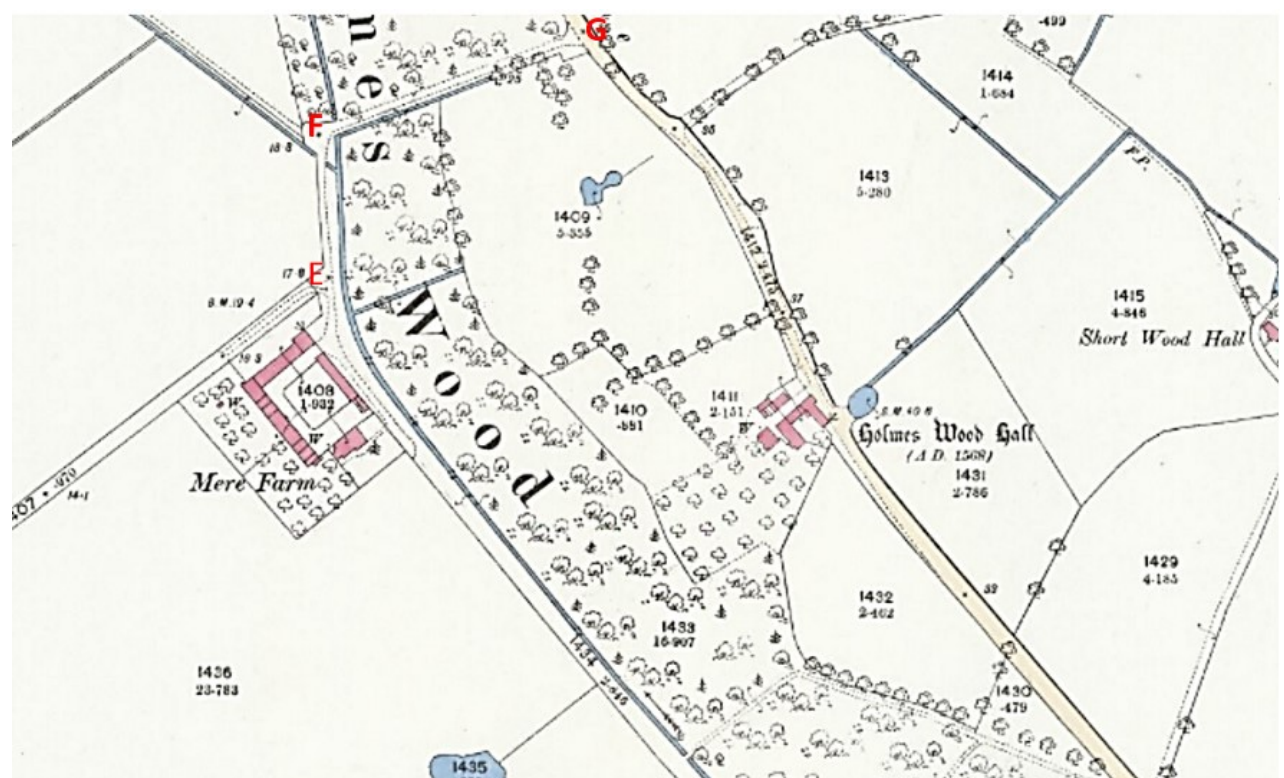


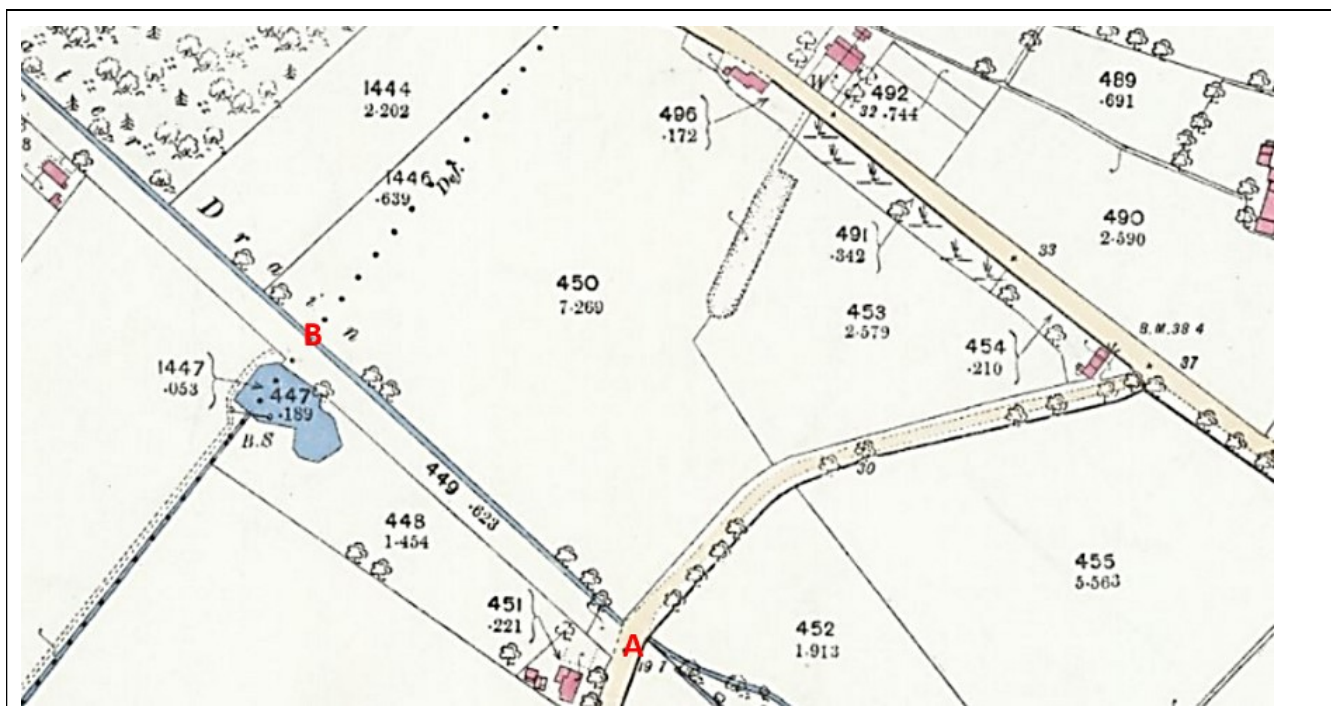
Observations		The full length of the application route is shown on the map. Access onto the route from Wiggins Lane at point A appeared unrestricted with no line shown across the route (which suggests no barrier or gate). The parish boundary was shown crossing the route (point B) with a boundary stone marked south west of the pond. Between points D and E a route can be seen (as shown on the Tithe Map and described in the Award as 'old lane') off the application route leading to Holmes Wood Hall and The Marshes Lane (named further north on the map). A property known as Mere House is shown accessed from the application route just before point E. At point E a route (also shown on the Tithe Map) is shown leaving the application route to run west southwest to Cabin Lane (named on the map). From point F a narrower bounded route heads in a generally east north eastern direction to The Marshes Lane at point G (the modern day access road through to Merewood House and Mere Farm) and a route consistent with the wider width of the application route A-E continues north and then east to join The Marshes Road further north (consistent with the privately owned road named as 'Banister Road' on the Tithe Map with Banister House shown to the west of the lane and accessed from it).
Investigating Officer's Comments		The application route existed in 1845 and appeared to be capable of being used on foot, horseback and with vehicles. It is shown as part of a longer route providing access to several properties. The map does not, on its own, provide evidence of the legal status of route, although the First Edition 6 inch maps did not carry a disclaimer that the depiction of a path or track is no evidence of the existence of a public right of way.

25 Inch OS Map
Sheet LXXVI.9

1894

The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1892 and published in 1894.





Observations

The full length of the application route is shown although it is not shaded or shown with a thickened line along the south or eastern side.

Wiggins Lane is shown shaded and with a thickened line. The application route leaves Wiggins Lane at point A where a dashed line is shown across the junction which probably indicated a change in surface. Approximately 10 metres along the route from the junction at point A a line is shown across the route indicating the likely existence of a gate.

The application route is shown as a bounded route with a drain labelled as Catch Water Drain running alongside the north eastern boundary. The application route however is not named.

The route is shown at a consistent width of approximately 8-9 metres along the full length.

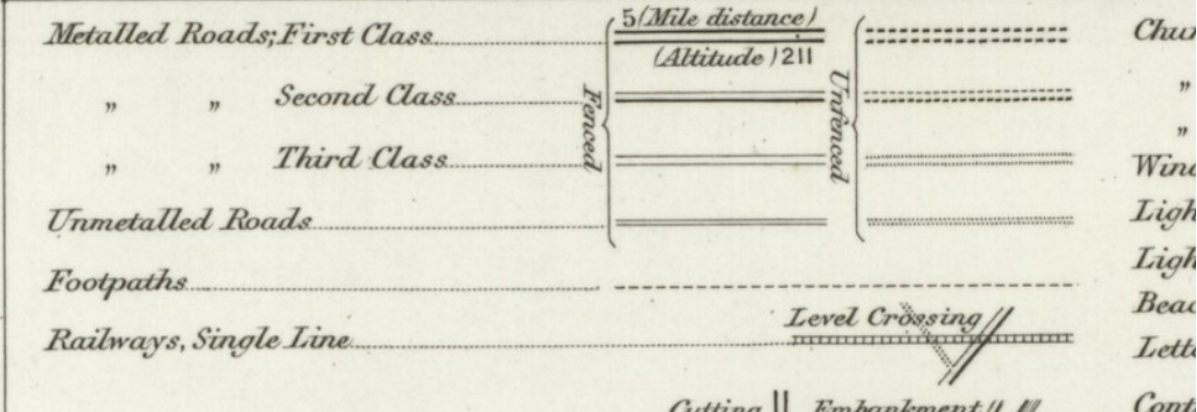
The parish boundary is shown at point B with a boundary stone (B.S.) located south west of the route on the opposite side of a pond to the route (i.e. not on the route itself). From point B a route denoted as a footpath (F.P.) is shown leaving the application route to pass around the pond and follow the parish boundary past the boundary stone

		through to Cabin Lane. Beyond point B the application route continues in a north westerly direction passing a property located on the south west side of the route which is marked on later maps as being named as Keepers Cottage but which was not shown on the Tithe Map or First Edition 6 inch map. At point D the footpath now recorded as FP0816026 is not shown but nearby on the north east side of the route a footbridge (F.B.) is marked crossing the drain from the application route with two unlabelled paths (doubled pecked lines) continuing to cross a second drain via two further footbridges to join another route in the woodland that then connects to The Marshes Lane. 125 metres north west from point D a further route leaves the application route to cross the ditch via a culvert and to pass through the woodland turning south east to exit onto The Marshes Lane. This route is consistent with the eastern spur of the route shown on the First Edition 6 inch map and Tithe Map which provided access to The Marshes Lane but also to Holmeswood Hall. The 25 inch OS map published in 1894 no longer shows the north western spur extending through to Holmeswood Hall and the only access to the Hall is shown as being via The Marshes Lane. On approaching point E the application route passes Mere Farm which is accessed via the application route. At point E a gated route leaves the application route providing access to fields. At point F the route (now recorded as part of FP0816022) continues east north east through to The Marshes Road at point G along the edge of an area of woodland. No lines are shown across it suggesting that it was not gated although a dashed line is shown across the junction with The Marshes Lane
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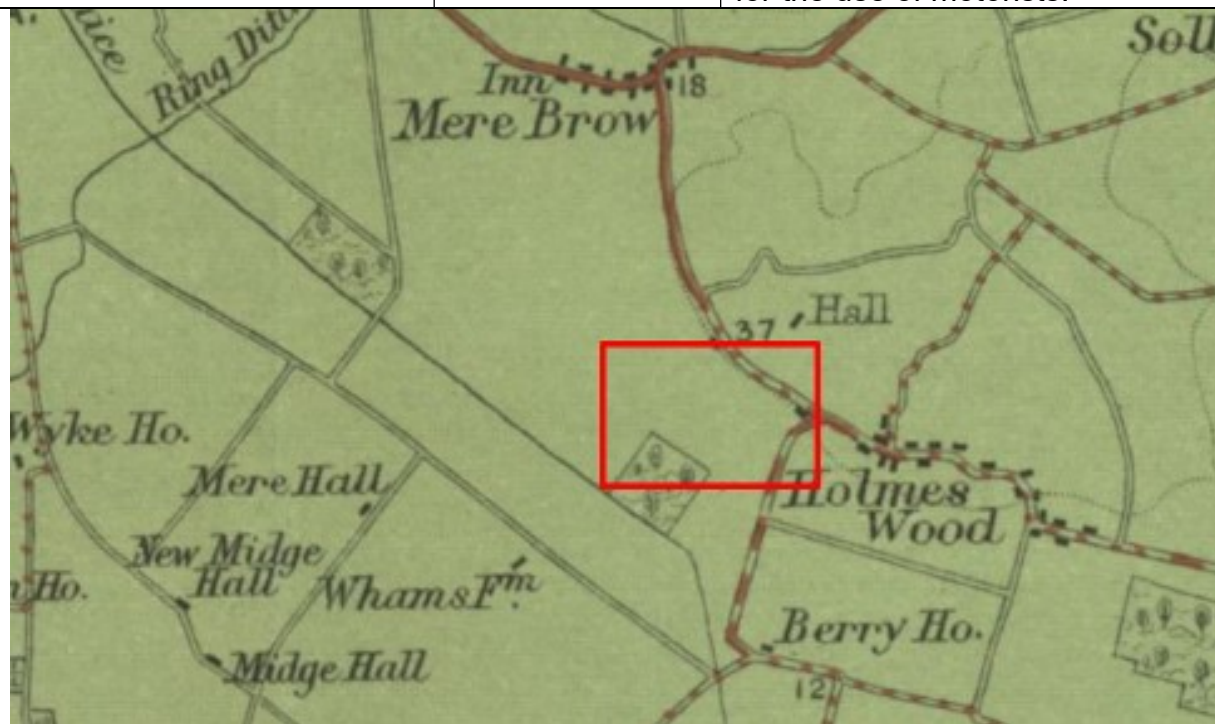
		suggesting a change in surface. Continuing north from point F the roadway shown on earlier maps no longer appears to exist and a 325 metre strip of woodland is shown in its place. Beyond the strip of woodland a route is then still shown forming part of the access between Bannister House and The Marshes Lane. Also shown from point F is a further gated route leading to and from the application route to Bannister House. The route is shown with a parcel number (1434).
Investigating Comments	Officer's	The application route existed in 1892 providing access to a few properties with several other routes branching off it. The route appeared to be capable of being used on foot, horseback and with vehicles at that time. By the 1890s the OS included a disclaimer on their maps that the depiction of a path or track is no evidence of the existence of a public right of way. The map therefore provides good evidence of what physically existed at that time and is considered along with other available evidence. The Planning Inspectorate Consistency Guide states "Public roads depicted on 1:2500 maps will invariably have a dedicated parcel number and acreage." However, it goes on to say that this is far from conclusive evidence of highway status. One gate is shown across the route close to point A. The existence of gates along a public (or private) route would not have been considered unusual in the 1800s particularly in the proximity of farms or in rural locations. Gateways, if they were found to exist, were shown by the surveyor in their closed position although this is not necessarily a true reflection of what may have been the position on the ground. Shading, colouring and the use of thickened lines were often used to show the administrative status of roads on 25"

		scale maps prepared between 1884 and 1912. The Ordnance Survey specified that all metalled public roads for wheeled traffic kept in good repair by the highway authority were to be shaded and shown with thickened lines on the south and east sides of the road. 'Good repair' meant that it should be possible to drive carriages and light carts over them at a trot so the fact that the application route is not shown in this way (in contrast to Wiggins Lane and The Marshes Lane) suggests that it was not considered to be a well-maintained public road in the 1890s. Several paths are shown linking to the application route. The ones through Holmeswood appear to have originated as links to and from Holmeswood Hall. The route marked as a footpath along the parish boundary to Cabin Lane may have been used by the public on foot suggesting use of at least part of the application route to access it.
1 inch OS Map Sheet 75	1896	1 inch map surveyed 1888-1893 and published 1896.



		
<i>N.B. The representation on this map of a Road, Track, or Footpath, is no evidence of the existence of a right of way.</i>		
Observations		The application route is shown as an unmetalled road providing access to several properties located along it.
Investigating Officer's Comments		The application route existed as a substantial route capable of being used in the 1890s. The Second Edition 1 inch map carried a disclaimer that representation of a road, track or footpath on the map was no evidence of the existence of a right of way. However, the original scale of the map (1 inch to the mile) means that only the more significant routes are generally shown. The purpose of the map in the late 1800s would probably have been to assist the travelling public on horseback or vehicle suggesting that the through roads shown – and in this case the application route – may have had at least some level of public rights for those travellers.
25 inch OS Map LXXVI.9	1910	Further edition of the 25 inch map surveyed in 1892, revised in 1908 and published in 1910.

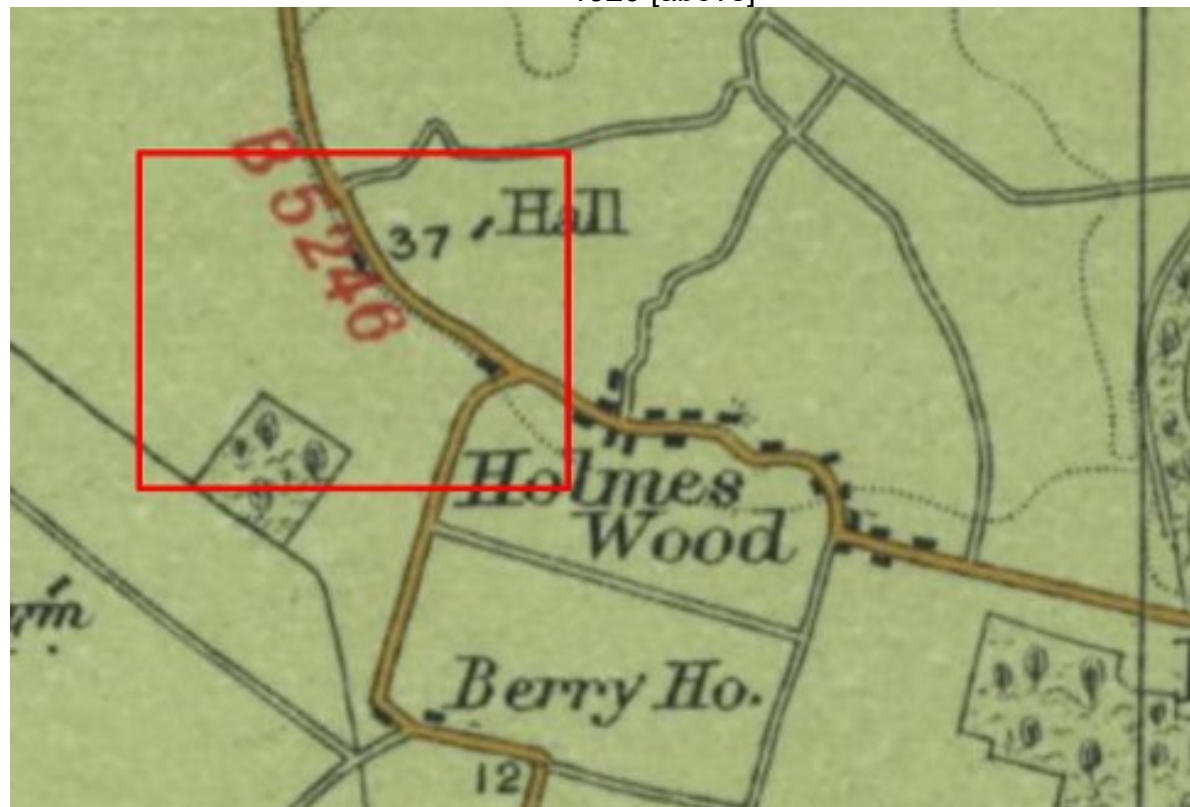
		first edition map is no longer shown.
Investigating Comments	Officer's	The application route existed in 1908 and appeared to be capable of being used. It was gated close to point B although there is no way from knowing from looking at a map whether this gate would have been openable or whether it restricted access at that time.
Bartholomew half inch Mapping	1902-1906	The publication of Bartholomew's half inch maps for England and Wales began in 1897 and continued with periodic revisions until 1975. The maps were very popular with the public and sold in their millions, due largely to their accurate road classification and the use of layer colouring to depict contours. The maps were produced primarily for the purpose of driving and cycling and the firm was in competition with the Ordnance Survey, from whose maps Bartholomew's were reduced. An unpublished Ordnance Survey report dated 1914 acknowledged that the road classification on the OS small scale map was inferior to Bartholomew at that time for the use of motorists.



1904 [above]



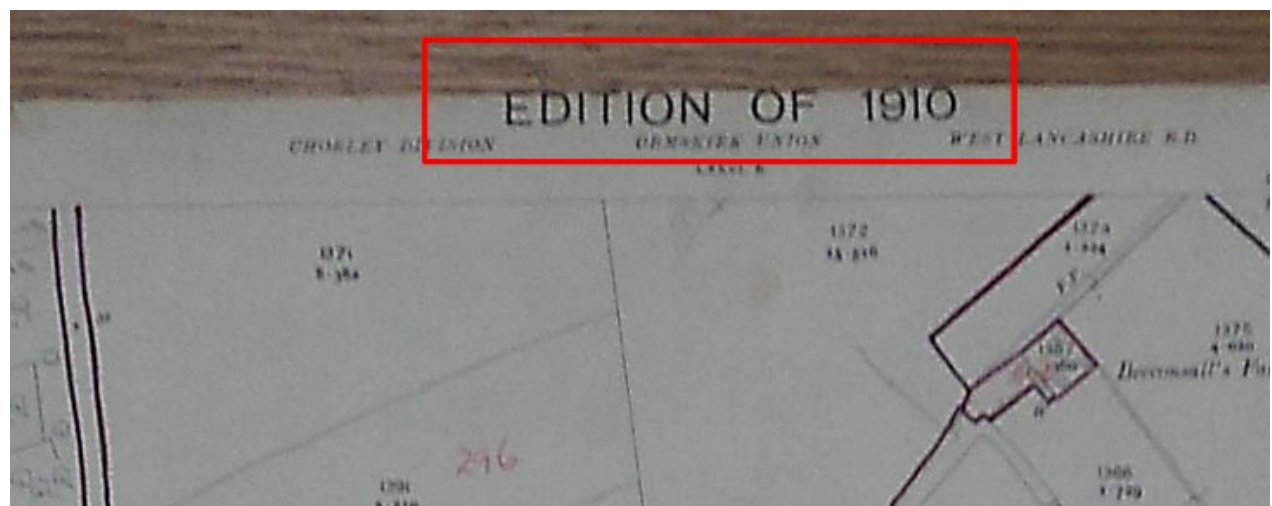
1920 [above]



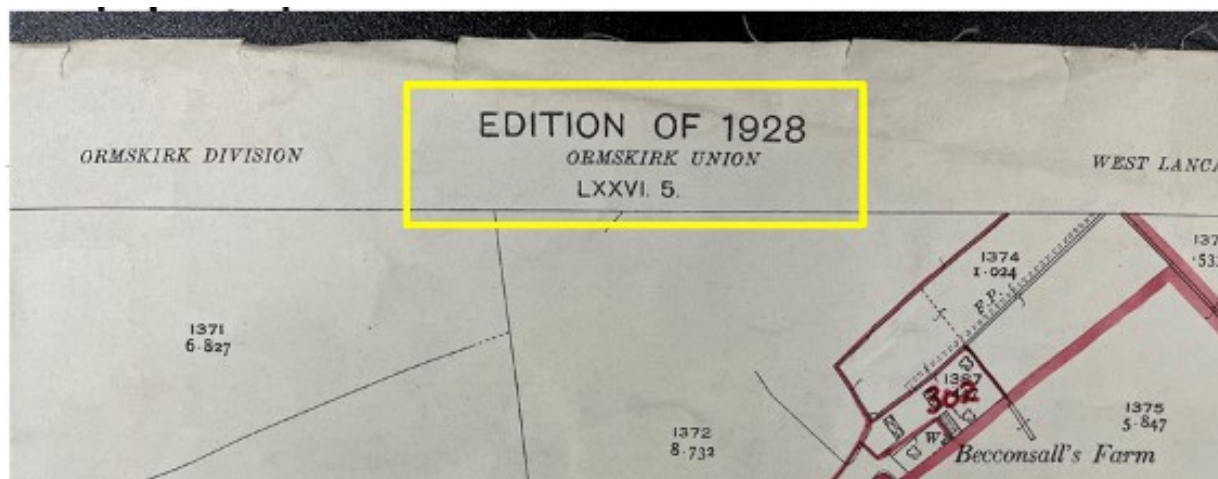
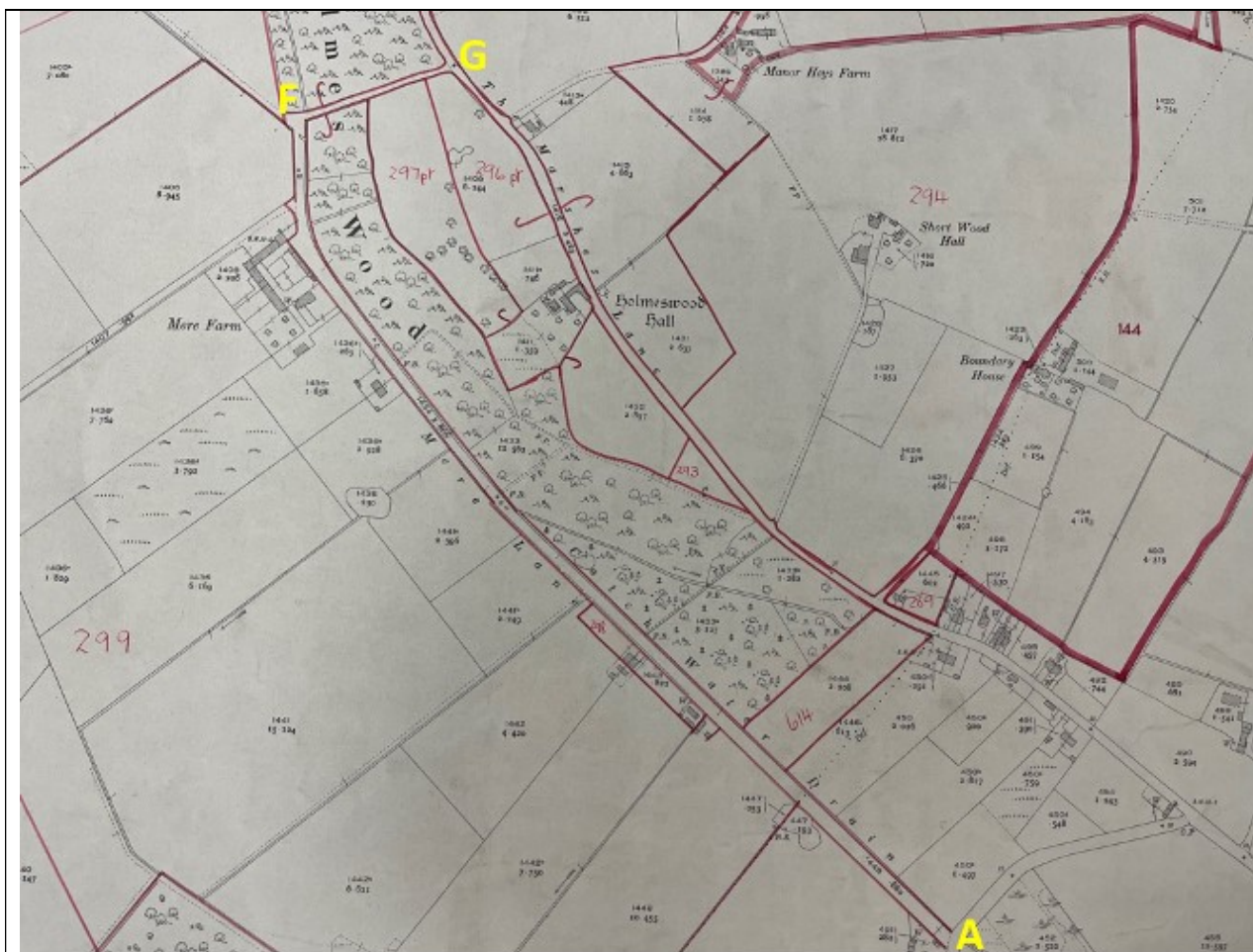
1941 [above]

Observations		The application route is not shown on any of the three editions of Bartholomew's Maps viewed (published between 1904 and 1941).
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Investigating Comments	Officer's		The application route was not considered to be a substantial public vehicular route in the first half of the twentieth century. Public footpaths and bridleways were not generally shown on these maps so no inference can be drawn in this respect.
Finance Act 1910 Map		1910	The comprehensive survey carried out for the Finance Act 1910, later repealed, was for the purposes of land valuation not recording public rights of way but can often provide very good evidence. Making a false claim for a deduction was an offence although a deduction did not have to be claimed so although there was a financial incentive a public right of way did not have to be admitted. Maps, valuation books and field books produced under the requirements of the 1910 Finance Act have been examined. The Act required all land in private ownership to be recorded so that it could be valued and the owner taxed on any incremental value if the land was subsequently sold. The maps show land divided into parcels on which tax was levied, and accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable). An owner of land could claim a reduction in tax if his land was crossed by a public right of way and this can be found in the relevant valuation book. However, the exact route of the right of way was not recorded in the book or on the accompanying map. Where only one path was shown by the Ordnance Survey through the landholding, it is likely that the path shown is the one referred to, but we cannot be certain. In the case where many paths are shown, it is not possible to know which path or paths the valuation book entry refers to. It should also be noted that if no reduction was claimed this does not necessarily mean that no right of way existed.



Map extract from TNAs records Ref: IRI133/5/127 [above]



Map extract from The County Records Office [above]

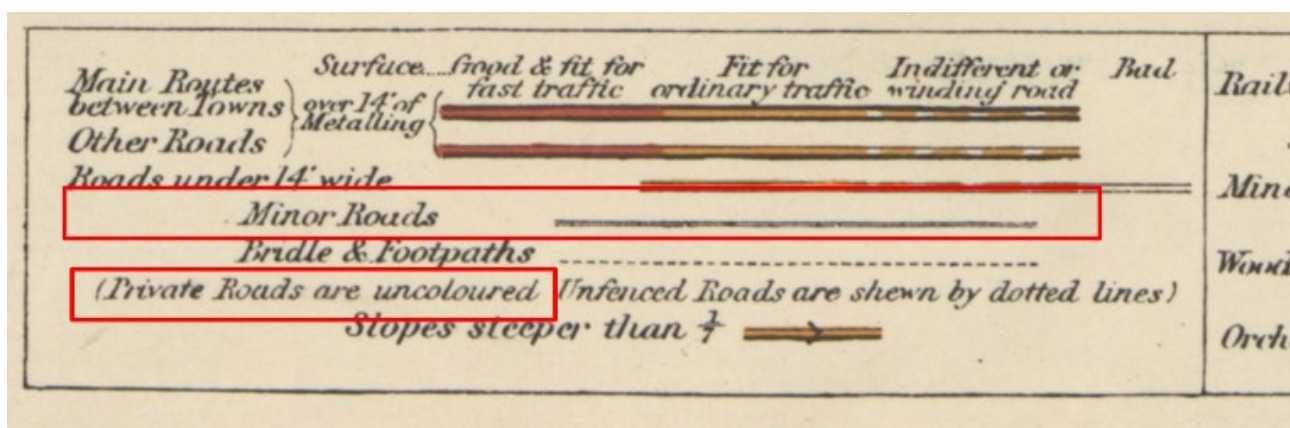
Observations

The Finance Act 1910 map sheet deposited at The National Archives is incomplete. The map sheet is dated 1910 and the land crossed by part of the application route A-B is not marked up and this section is neither shown as part of a numbered hereditament nor as being excluded. The fact that this is incomplete, rather than a large



		hereditament, is clear from the observation that some of the lines drawn were disconnected; i.e. did not enclose a hereditament. From point B through to point G the application route is shown excluded from adjacent numbered hereditaments and between points F and G the land on either side is braced indicating that it was in the same ownership. Field Books for the adjacent hereditaments are deposited at the National Archives but have not been examined. The District Valuation map deposited in the County Records Office is also incomplete and it was noted that it was prepared much later than the original 1910-20 valuation – the OS base map itself being the Third Edition 25 inch OS map published in 1928. This later map shows the full length of the application route excluded. The District Valuation Books for the parishes of Tarleton and Rufford have not been deposited in the County Records Office so no information is available about ownership of the adjacent land.
Investigating Comments	Officer's	The fact that most of the route is shown excluded from the numbered hereditaments is good evidence that in 1910-1920 the surveyor completing the initial valuation, and the adjoining landowner(s) in completing the appropriate forms as part of the Finance Act process, considered the route to be outside the boundary of their ownership or that it was a public highway that should be exempted from the valuation process. Whilst it is not conclusive, there is no obvious explanation for the exclusion of most of the route except that it was considered to be a highway, probably vehicular. It is most unlikely that such a highway would stop short of Wiggins Lane and it is clear that the map deposited in The National Archives was

		incomplete. The Finance Act information does need to be considered in the context of other information, particularly landownership information pre- and post-dating the valuation as this shows the route in private ownership. Public vehicular rights could however come into being/be dedicated across privately owned land.
1 inch OS Map Sheet 29 – Preston, Southport and Blackpool	1924	1 inch OS map revised 1920 and published 1924.



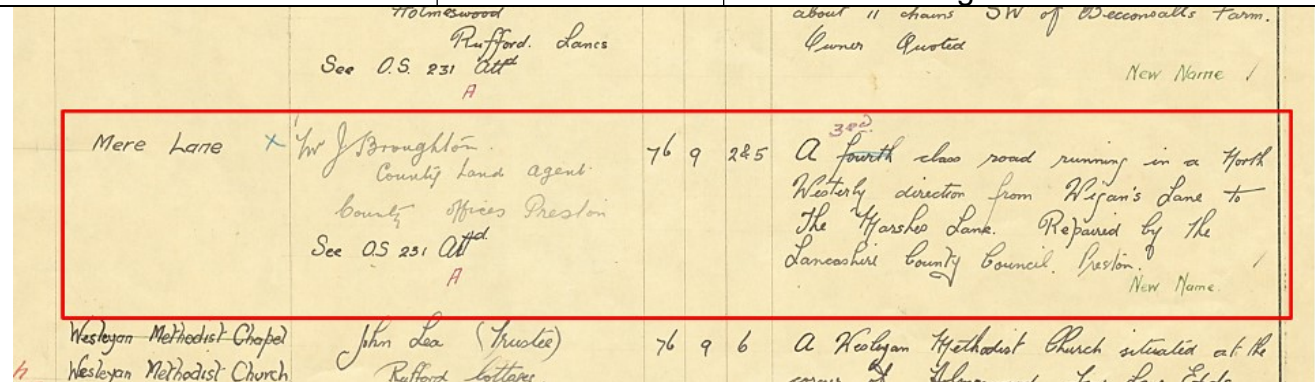
N.B. The representation on this map of a Road, Track, or Footpath, is no evidence of the existence of a right of way.

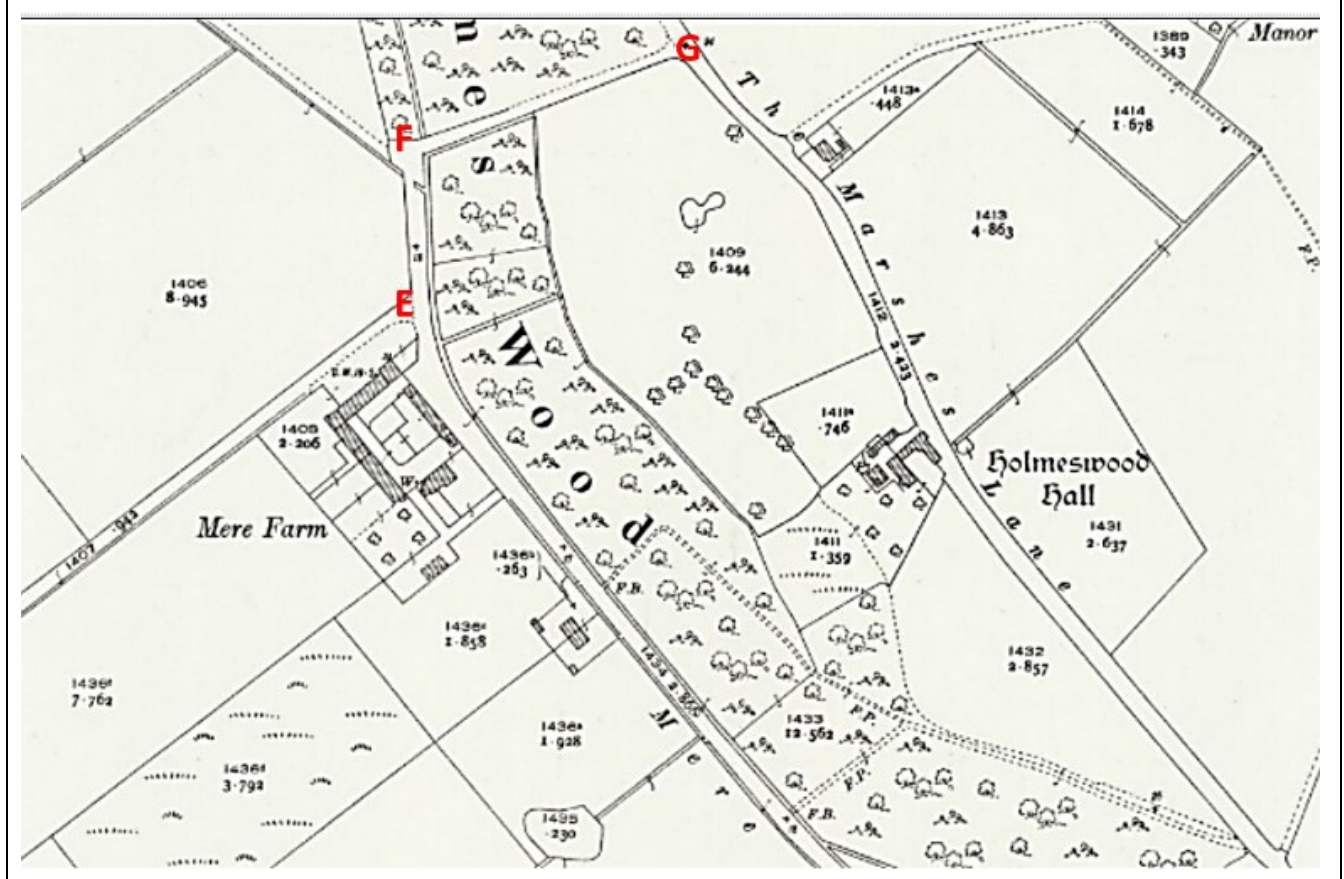
Observations		The small-scale 1 inch map published in
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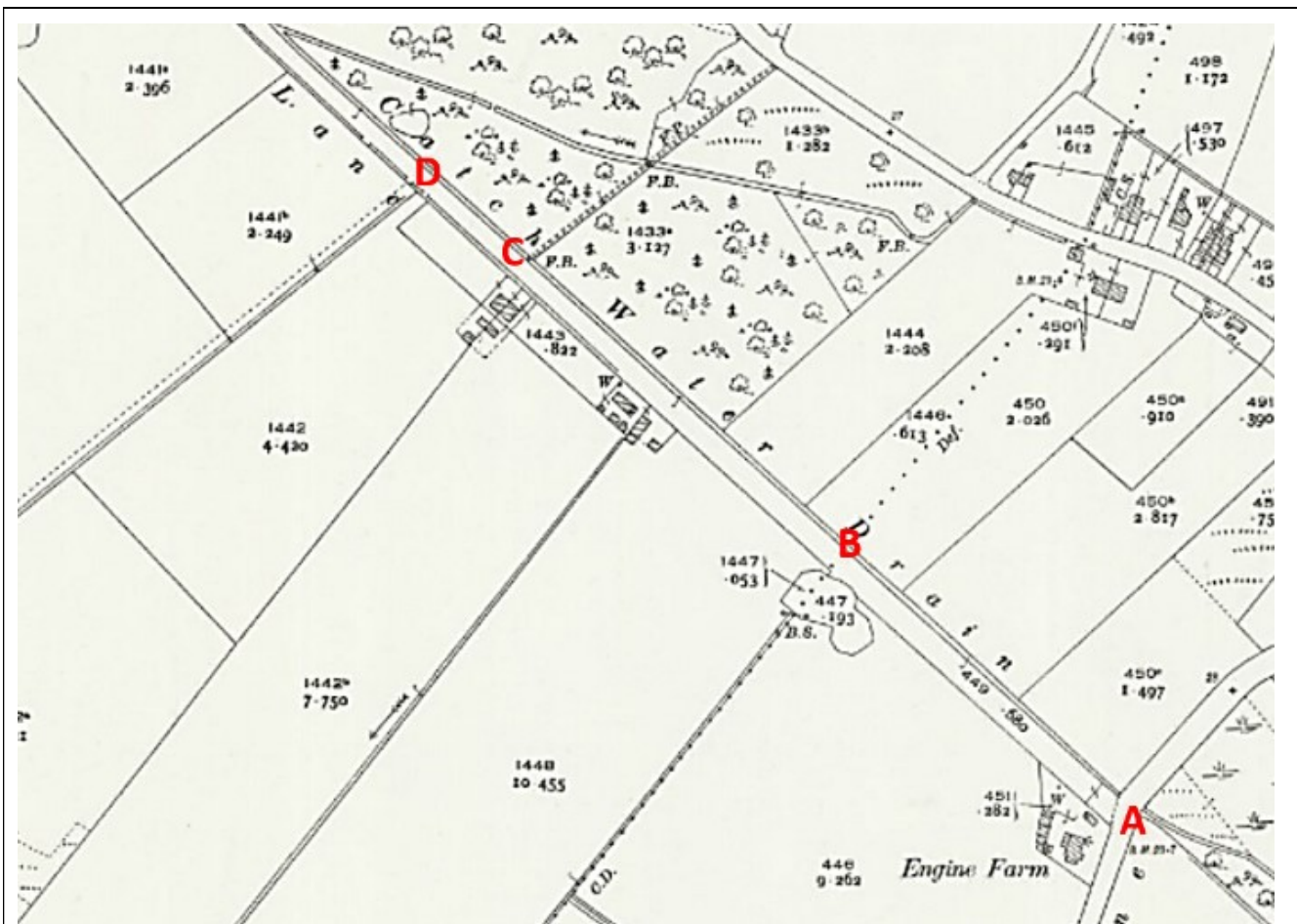
		1924 shows the application route as a minor road – unfenced in places. It is noted that the map key refers to the fact that private roads were uncoloured and there was also the standard OS disclaimer that the depiction of a road, track or footpath on the map was no evidence of the existence of a right of way. Other routes with no recorded public vehicular rights were shown on the map in the same way that the application route is shown (for example, the roads leading to Boundary House and Short Wood Hall north from The Marshes Lane). The map key also provided details on how Main Roads and Other Roads were shown reflecting the surface condition – for example whether they were fit for ordinary traffic.
Investigating Comments	Officer's	The application route existed in 1920 and would probably have been capable of being used by vehicles at that time – particularly as it provided access to a number of properties. The map does not however provide actual evidence of public use of the route and in terms of vehicular use it did not appear to have been considered to be a public road.
6 inch OS Map 76SW	1929	6 inch OS map revised 1926 and published 1929.



Observations		The full length of the application route is shown. A line is still shown across the route close to point A indicating the likely existence of a gate. Of significance is the fact that the route is named as Mere Lane. In addition, footpaths (denoted by single pecked lines) are shown meeting the application route at points C, D and point F.
Investigating Officer's Comments		The application route existed as a named route in 1926 and appeared to be capable of being used on foot, horseback and with vehicles.
Object Names Book OS Map LXXVI.SW (76SW) TNAs Ref: OS35/3962	1908-1926	When the Ordnance Survey was collecting information to put on its second series of published maps the surveyors recorded the names of anything that was to be shown on the

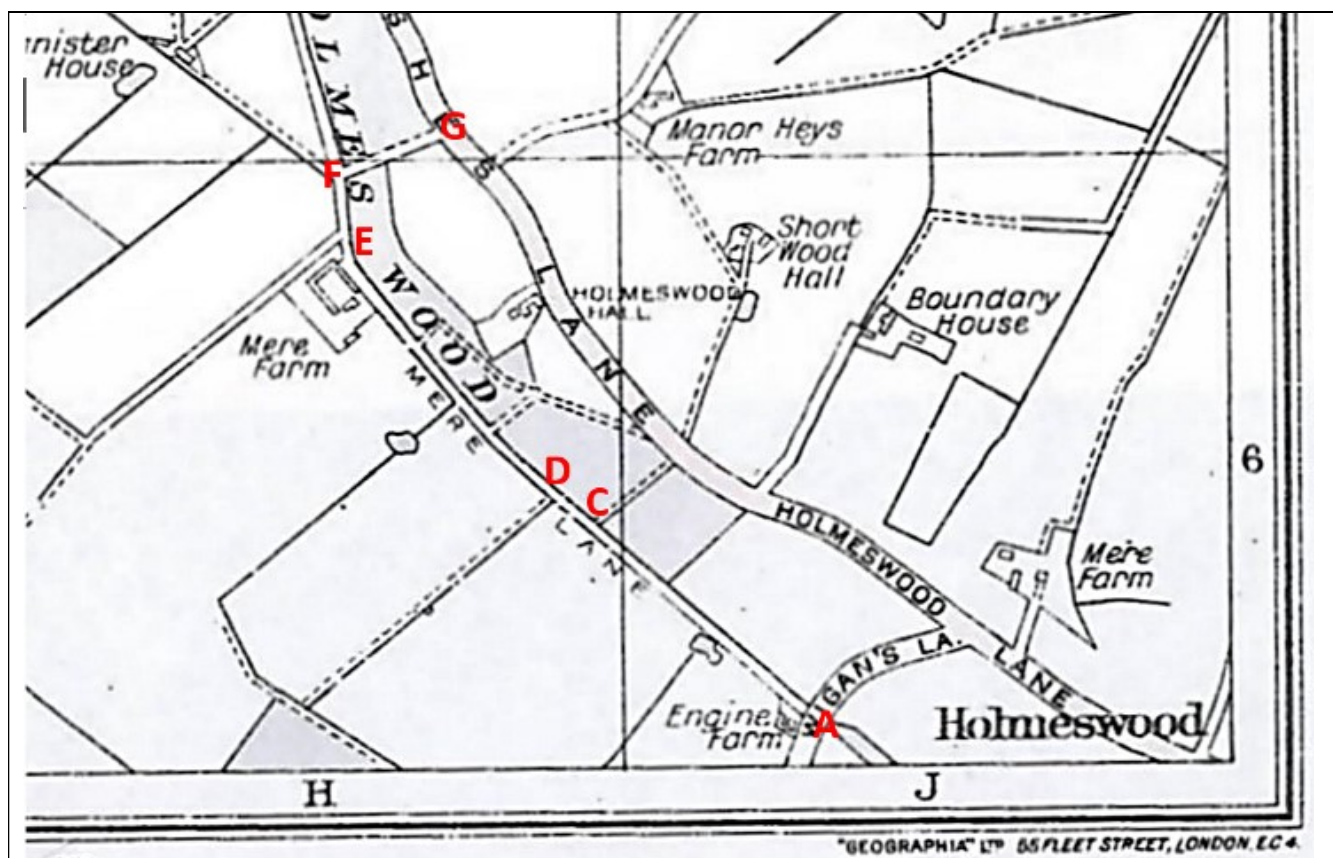
		maps. The Ordnance Survey Object Names Book for an area records these names, the description of the item named, and the local person attesting to the name. The descriptions usually state where the road started and finished, and often described them as a road, lane or drove road. The descriptions often drew a distinction between what was believed to be public and private and included information about who owned or maintained bridges.
		
Observations		The Object Names Book for the OS 6 inch map sheet 76SW was obtained from the National Archives. It was prepared between 1908-1926 and is therefore relevant to OS 6 inch map detailed above which was revised in 1926 and published in 1928 and on which the application route was named as Mere Lane. The listing for Mere Lane describes the route as it being a third class road (originally written as fourth class road but subsequently altered) running in a north westerly direction from "Wigan's Lane to The Marshes Lane. Repaired by the Lancashire County Council. Preston" and it is noted as being a new name which corresponds to the fact that the 1928 OS map was the first inspected to name the route as Mere Lane. The authority for the information provided was detailed as being Mr J Broughton, County Land Agent.
Investigating Officer's Comments		The application route was considered to be a third class road maintained by Lancashire County Council in 1928.
25 Inch OS Map	1928	Further edition of 25 inch map (surveyed in 1892, revised in 1926 and published





Observations		The Third Edition 25 inch OS map was prepared following the same revision carried out for the 6 inch OS map published in the same year and documented above. The full length of the application route is shown gated close to point A and named on the map as Mere Lane. Footpaths (denoted by single pecked lines) are shown meeting the application route at point C (FP0816026, point D and point F (FP0816022).
Investigating Officer's Comments		The application route existed as a named route in 1926 and appeared to be capable of being used on foot, horseback and with vehicles.
1932 Rights of Way Map		The Rights of Way Act 1932 set out the mechanism by which public rights of way could be established by user and under which landowners could deposit maps to show highways already in existence and to indicate that they didn't intend to dedicate further rights of way. The Commons, Open Spaces and Footpath

		Preservation Society (which became the Open Spaces Society) who were the prime instigators of this Act and the later 1949 Act, called for local authorities to draw up maps of the public rights of way in existence (a quasi-pre-cursor of the Definitive Map). This is set out in 'The Rights of Way Act, 1932. Its History and meaning' by Sir Lawrence Chubb [M]. The process for consultation and scrutiny followed in Lancashire is not recorded but some of the maps exist including maps for the following areas are available for inspection at County Hall: Lunesdale Rural District (RD), Lancaster RD, Burnley RD, Garstang RD and West Lancashire RD.
Observations		The maps for West Lancashire Rural District are incomplete and the sheet covering the application route is not marked up.
Investigating Officer's Comments		No inference can be drawn in this respect.
Authentic Map Directory of South Lancashire by Geographia	Circa 1934	An independently produced A-Z atlas of Central and South Lancashire published to meet the demand for such a large-scale, detailed street map in the area. The Atlas consisted of a large-scale coloured street plan of South Lancashire and included a complete index to streets which includes every 'thoroughfare' named on the map. The introduction to the atlas states that the publishers gratefully acknowledge the assistance of the various municipal and district surveyors who helped incorporate all new street and trunk roads. The scale selected had enabled them to name 'all but the small, less-important thoroughfares'.



Observations		The full length of the application route is shown as a named route and labelled as Mere Lane. The route is shown much narrower than Wiggins (Wigan's) Lane and The Marshes Lane/Holmeswood Lane and the continuation north from point F is also shown although OS maps examined from that time (and earlier) suggest that that route no longer physically existed as a road.
Investigating Comments	Officer's	The application route existed in the 1930s. The way the route is shown is more suggestive of a minor vehicular route. Other routes not recorded as public vehicular routes but providing access to properties are shown in a similar manner – for example the road to Boundary House – suggesting that the Map Directory did not just show public routes but also included access routes to properties located along private access roads.
Aerial Photograph ²	1940s	The earliest set of aerial photographs

² Aerial photographs can show the existence of paths and tracks, especially across open areas, and changes to buildings and field boundaries for example. Sometimes it is not possible to enlarge the photos and retain their clarity, and there can also be problems with trees and shadows obscuring relevant features.

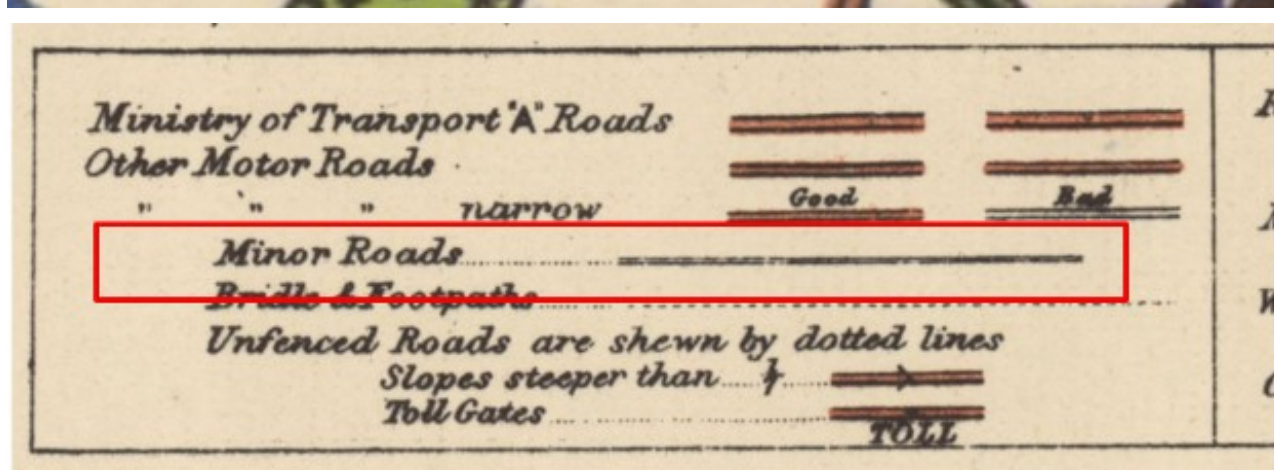
		available was taken just after the Second World War between June 1945 and September 1952 and can be viewed on GIS. The clarity is generally very variable.
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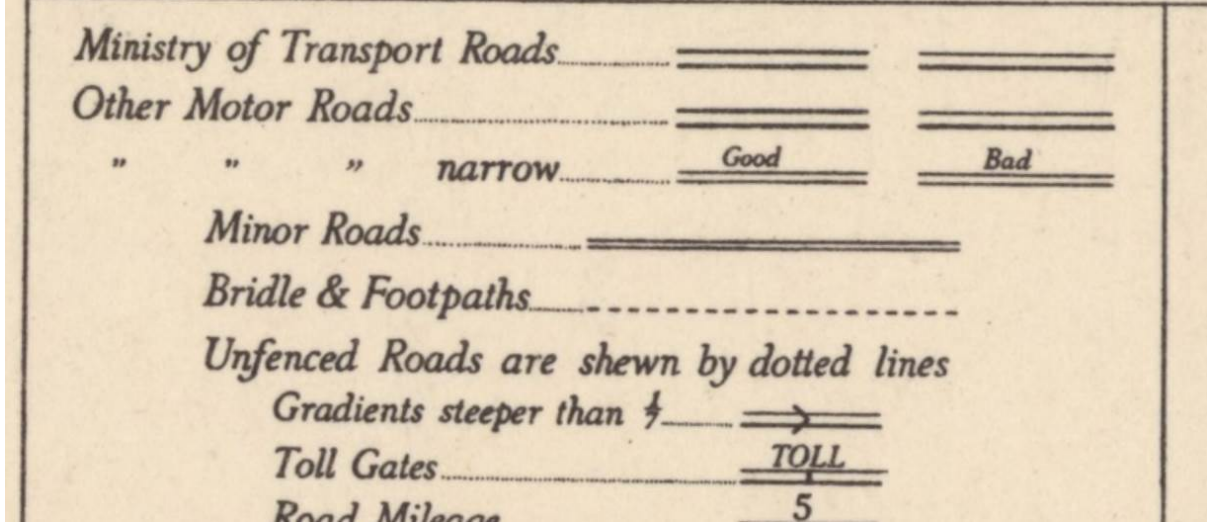


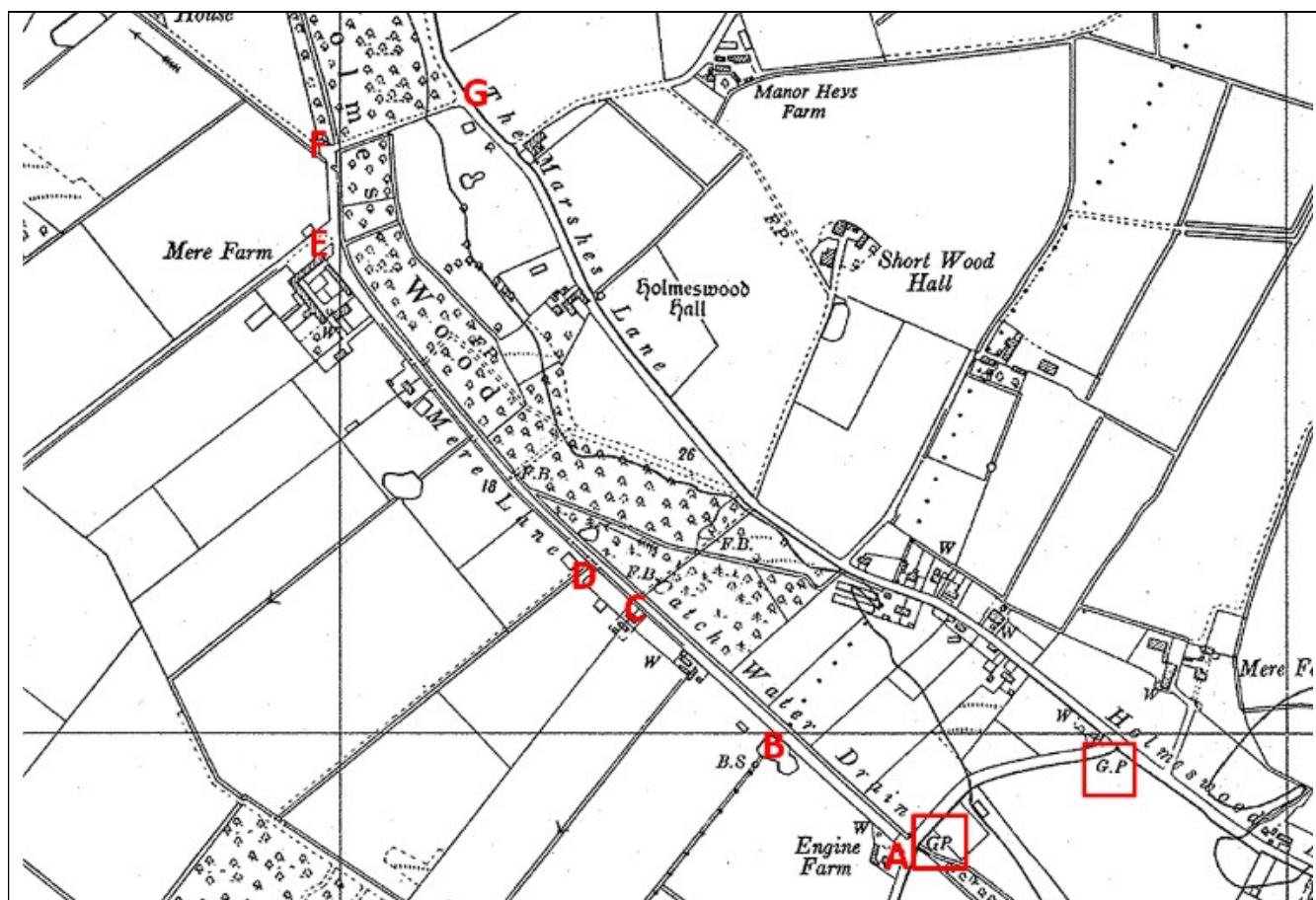
Observations		The full length of the application route is visible but there is a very clear difference between the application route and how clearly visible Wiggins Lane and The Marshes Lane are on the photograph.
Investigating Comments	Officer's	The application route existed but there is no evidence of substantial vehicular use in the 1940s and the route (in comparison to Wiggins Lane and The Marshes Lane) appears to have been receiving low levels of vehicular use more associated with use to access the properties situated along it.

		The photograph provides no evidence with regards to whether any use that could be made of it in the 1940s was public or private.
1 inch OS map Sheet 29 – Preston, Southport and Blackpool	1941	Further 1 inch OS map first published 1921 with periodic updated reprints.



Observations		The full length of the application route is shown on the map as a 'Minor Road'. It is not shown as a Motor Road.
Investigating Comments	Officer's	The application route existed and appeared to be capable of being used. The definition of a 'Minor Road' in the

		
Observations		The full length of the application route is shown as a Minor Road.
Investigating Officer's Comments		This map was submitted by the applicant as an example of 'good supporting evidence of the existence of the route'. The investigating Officer would concur with this view – the fact that the route is shown on this small-scale 1 inch OS map does support the evidence that the route has existed for a substantial amount of time providing access to and from a number of properties and adjacent fields. It was also a through route which appeared capable of being used by the public and the map evidence therefore supports any user evidence presented.
6 Inch OS Map 41NW	1955	The OS base map for the Definitive Map, First Review, was published in 1955 at a scale of 6 inches to 1 mile (1:10,560). This map was revised before 1930 and is probably based on the same survey as the 1930s 25-inch map.



Observations

This 6-inch OS map was prepared from a survey carried out before 1930 but was used as the base map for the Definitive Map, First Review.

The full length of the application route is shown, gated close to point A and named as Mere Lane.

Of note is the fact that signposts – known as Guide Posts (G.P. or GP) are shown at the junction of Holmeswood Lane and Wiggins Lane and of Wiggins Lane and Mere Lane (the application route). Richard Oliver in his book 'Ordnance Survey Maps a Concise Guide for Historians' (page 70) explains that guide posts were shown at rural road junctions only.

The OS map sheet examined provided only one other location where a guidepost was shown – at the junction of Blackgate Lane and Green Lane (Grid Reference SD 4360 1970) – both of which are public vehicular roads.

At point C a footbridge (F.B.) is shown

		across Catch Water Drain and a path (single dashed line) is shown running in a north easterly direction across a further drain (via a footbridge) to exit onto The Marshes Lane. A path (now recorded as FP0816026) is also shown meeting the application route at point D. At point F a path is also shown running north west to Bannister House.
Investigating Officer's Comments		The application route existed as access to a number of properties but also as a through route which was signed at the junction with Wiggins Lane. It appeared to be capable of being used on foot, horseback or with vehicles although access may have been restricted by the gate close to point A. Several paths are shown joining the route implying that it would be necessary to travel along the application route to reach them.
1 inch OS map Sheet 100 - Liverpool	1966	1 inch OS map revised 1960 – 1964 published 1966



<i>Passages of Mersey road tunnel</i>		
Roads {	Ministry of Transport {	Motorway M 1 or A 6 (M) Trunk A 570 (T) Class 1 A 558 " 2 B 5205
	14 ft of Metalling or over (not included above)	TOLL
	Under 14 ft of Metalling {	Tarred (not included above) Untarred "
	Minor Road in towns, Drive or Track (unmetalled) (unfenced roads are shown by pecked lines)	Gate
	Under Construction	Marsh
Steep Gradient 1 in 5 or steeper	1 in 7 to under 1 in 5	Bracken, Heath and Rough Grassland
Path		
Heights in feet above Mean Sea Level	surveyed by levelling 275 not surveyed by levelling 1091	Boundaries National + - + - Parish Co Boro or County with
Triangulation Pillar		
Intersection, Lat & Long at 5' intervals (not shown where it confuses important detail)		
Public Paths {	Footpath (right of way on foot) Bridleway (right of way on foot and on horseback) Road used as public path	Public paths on 1st July 1964 The represent

Observations

The application route is again shown as a through route and is depicted on the map as an unmetalled minor road.

The map was revised in 1960-1964 and therefore included information obtained from local highway authorities in respect

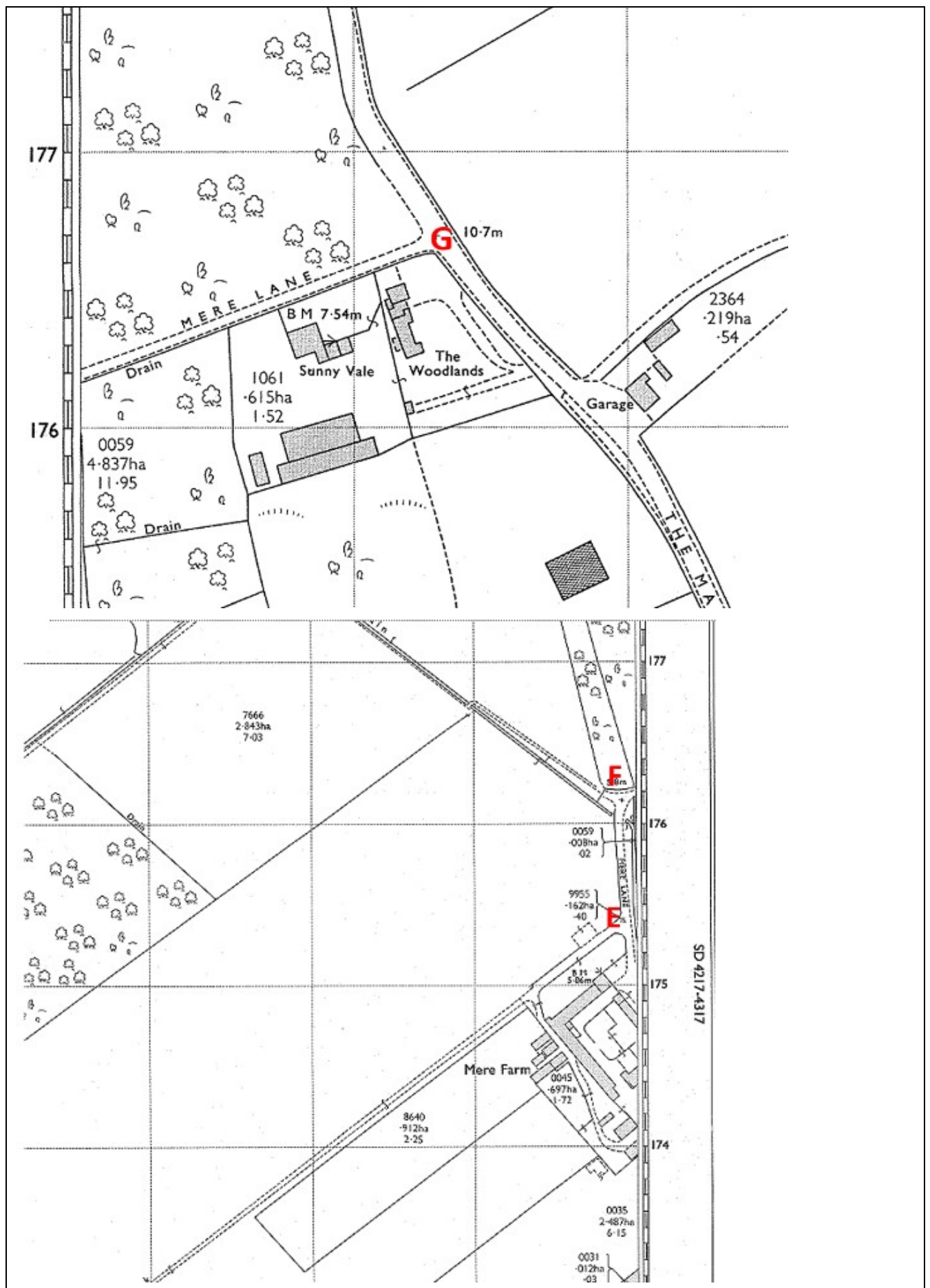


		of public rights of way recorded on the Definitive Map. FP0816026 is shown meeting the application route at point D and between points F-G FP0816022 is shown running the application route.
Investigating Comments	Officer's	The application route existed in the early 1960s and appeared to be capable of being used.
Aerial photograph	1960s	Black and white aerial photography available to view on GIS and flown during the 1960s. The coverage is a mosaic of various flight runs on the following dates: 12-13th May 1961, 1st Jun 1963, 3-4th June 1963, 11th June 1963, 13th June 1963, 30th July 1963, 13th June 1968. The majority of images are from 1963, with the 1961 images mainly covering West Lancashire district, and the 1968 images mainly covering Ribble Valley district.





Observations		The aerial photographs available to view do not cover the land crossed by the route from point E through to point G. From point A through to point E however the route is visible consistent with a route capable of being used on foot, horseback and with vehicles.
Investigating Comments	Officer's	The application route existed in the 1960s. The way that the route is shown is consistent with reasonably low levels of vehicular use suggestive of a route predominantly used for access to adjacent properties and land rather than a public vehicular through route.
1:2500 OS Map sheets SD4017-4117 SD4217-4317 SD4216-4316	1973	Further edition of 25 inch map reconstituted from former county series and revised in 1972 and published in 1973 as national grid series.



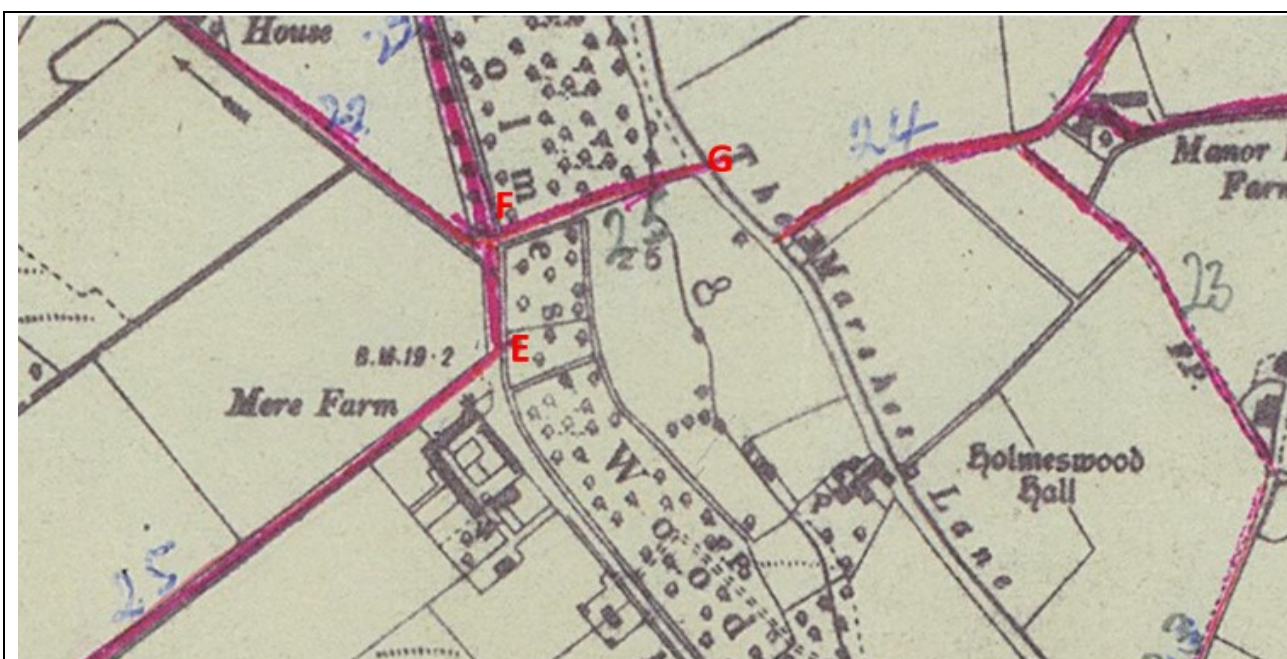
		labelled 'Path' on the map. The route of FP0816026 is not shown meeting the application route at point D. At point E one spur of FP0816022 is shown leading to Bannister House Farm but the more northerly route is not marked.
Investigating Officer's Comments		The application route existed and appeared capable of being used in 1972. The fact that the route of FP0816026 was not shown may be because it was little used or because it crossed arable land.
Aerial Photograph	2019-2023	Aerial photograph available to view on MARIO.





Observations		The application route can be clearly as a substantial route.
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Investigating Comments	Officer's		The application route exists and the photographic evidence supports the modern user evidence submitted.
Definitive Map Records			The National Parks and Access to the Countryside Act 1949 required the county council to prepare a Definitive Map and Statement of Public Rights of Way. Records were searched in the Lancashire Records Office to find any correspondence concerning the preparation of the Definitive Map in the early 1950s.
Parish Survey Map		1950-1952	The initial survey of public rights of way was carried out by the parish council in those areas formerly comprising a rural district council area and by an urban district or municipal borough council in their respective areas. Following completion of the survey the maps and schedules were submitted to the county council. In the case of municipal boroughs and urban districts the map and schedule produced, was used, without alteration, as the Draft Map and Statement. In the case of parish council survey maps, the information contained therein was reproduced by the county council on maps covering the whole of a rural district council area. Survey cards, often containing considerable detail exist for most parishes but not for unparished areas.



Extracts from the Parish Survey Map for Tarleton [above]



Parish Survey Map for Rufford [Above]
Parish Survey Cards for Tarleton [Below]

DISTRICT	<i>West Lancs. R. W. R.</i>	PARISH	<i>Tarleton</i>	No.	<i>28</i>
MAP SHEET No.	<i>2 & 5</i>	LENGTH <i>0.42</i> miles (to two decimal places)			
BRIEF DESCRIPTION (Field F.P. or otherwise)					
<i>unadopted road & field footpath.</i>					
DETAILED DESCRIPTION (giving starting point, means of passage and general condition).					
<i>from road at bottom of Slope Brow (marshes here) road by</i>					
<i>Bannister House farm into here Lane. & marshes here</i>					
<i>also shorter path between same points through plantation.</i>					
SURVEYED BY :—		Name <i>J Taylor & J Wright</i>			
		Address <i>here Brow</i>			
Date <i>Sept 1950</i>		<i>Tarleton.</i>			

50000/F39/4/50



DISTRICT *West Lanes. Rural* PARISH *Tarleton* No. *23-24*
MAP SHEET No. *245* LENGTH *No. 23 0.85*
No. 24 0.43 miles
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)

Field road footpath.

DETAILED DESCRIPTION (giving starting point, means of passage and general condition).

*From here Lane by footbridge ^{over} ditch through wood into
bracken Lane, opposite Shostwood Hall Farm. From Shostwood
Hall Farm through fields via Manor Hey Farm, Becconsall Farm,
to Ashcroft Farm.*

Path from Manor Hey Farm to Rufford Boundary.

Occupation road from bracken Lane to Manor Hey Farm.

SURVEYED BY:—

Name

Address

*J. Wright & J. Taylor
here Braw*

Date *Sept 1950*

Tarleton

50000/F39/4/50

DISTRICT *West Lanes. Rural* PARISH *Tarleton*
MAP SHEET No. *5*

No. *25A*
LENGTH *No. 25 0.482*
No. 25A 0.57
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)

Occupation Rd & Field footpath.

DETAILED DESCRIPTION (giving starting point, means of passage and general condition).

*From here Farm here Lane along occupation road.
one path straight down field footpath from occupation
road to sluice. ^{No. 25}*

*one path to right at end of occupation road along
plantation to sluice.*

*Path along sluice from Rufford Boundary to Northwick Boundary.
Path from sluice along Northwest side of Nicks Wood to Cabin Lane.*

SURVEYED BY:—

Name

Address

*J. Taylor & J. Wright
here Braw*

No. 25A.

Date *Oct 1950*

Tarleton

50000/F39/4/50

DISTRICT <i>West Lancs. Rural</i>	PARISH <i>Tarleton</i>	No. <i>26</i>
MAP SHEET No. <i>5</i>	LENGTH <i>0.49</i> miles (to two decimal places)	
BRIEF DESCRIPTION (Field F.P. or otherwise) <i>Occupation road & field footpath.</i>		
DETAILED DESCRIPTION (giving starting point, means of passage and general condition). <i>From Rufford Boundary Cabin Road, along Cabin Rd, past N.E. side of Nards Wood, then by footpath through field to Mere Lane. Footpaths from Cabin Rd. through Nards Wood.</i>		
SURVEYED BY :— Date <i>Oct 1950</i> Name <i>J Taylor & J Wright</i> Address <i>Mere Brown Tarleton</i>		
50000/F39/4/50		

Observations	The application route from point A through to point E was not recorded on the Parish Survey Map. A red 'dot' can be seen at point A. A route numbered 23 is shown leaving the application route at point C and passing in a straight line through the woodland to cross The Marshes Lane and continue to Short Wood Hall. The Parish Survey card describes this route as footpaths 23 and 24. A further footpath – numbered 26 – is shown meeting the application route (at point D). The Parish Survey card for Footpath 26 describes the route running along Cabin Lane (described as an occupation road) and then through field 'to Mere Lane'. The application route E-F appeared to be numbered as part of Footpath 25 which was described on a Parish Survey Card for Footpaths 25 and 25a as being 'From Mere Farm, Mere Lane along occupation road'. A further Footpath numbered 22 is shown and appears to join Mere Lane at point E. This route had several branches to it but the description referred to it leading 'into Mere Lane'.
Investigating Officer's Comments	Rufford Parish Council did not record the application route A-B as a public right of

		way. It is not known whether they considered that no public rights existed along the route or whether they thought that the route was a public road that did not need to be recorded on the parish survey map. A red mark was visible at the start of the route suggesting some possible thought had been given to its status but this is conjecture and nothing more is known. In contrast Rufford Parish Council did record the start of Cabin Lane (south of the application route) as a footpath (Footpath 2) although the parish survey card provided no detail other relevant information. From point B through to point E Tarleton Parish Council did not record the application route as a public right of way. Of significance however is that they did record two footpaths meeting the application route at points C and D and simply stated that the routes started/ended on Mere Lane suggesting that they considered that the public had a right of access (at least on foot) along the lane to access these footpaths. Conflicting partly with this view is the fact that the application route E-F-G was shown on the Parish Survey map as part of a footpath numbered 25 and there were references to Mere Lane being an occupation road.
Draft Map		The parish survey map and cards for Rufford and Tarleton were handed to Lancashire County Council who then considered the information and prepared the Draft Map and Statement. The Draft Maps were given a “relevant date” (1st January 1953) and notice was published that the draft map for Lancashire had been prepared. The draft map was placed on deposit for a minimum period of 4 months on 1st January 1955 for the public, including landowners, to inspect them and report any omissions or other mistakes. Hearings were held into these objections, and recommendations made to accept or reject them on the evidence

presented.



Extract from the Draft Map [above]

National Parks and Access to the Countryside Act, 1949. Particulars required for the Statement to be annexed to the Draft Rights of Way Map.				
Section 27(4)				
Rural District of West Lancashire			Parish of Tarleton.	
1. No. of path	2. Kind of path	3. Position (For detailed description see Survey Card)	4. Length in miles to 2 places decimals	5. Other particulars (if any) (Limitations or conditions affecting the public right of way).
✓ 16. ✓	Footpath.	The Gravel - Moss Side Lane (Two Exits).	6.750 .64	
✓ 17. ✓	Footpath.	The Gravel past Legh House Farm to Mere Brow.	.227	
✓ 18. ✓	Footpath.	Tabby Nook Lane - Worthington's Farm.	.955	
✓ 19. ✓	Footpath.	Legh Arms to the Sluice.	1.07	
20.	Footpath.	No. 18 - Bannister House Farm.	.50	
✓ 21. ✓	Footpath.	No. 18 - Catch Water Drain - Bannister House Farm.	.44	
✓ 22. ✓	Footpath.	Bannister House via Holmes-Wood - Bannister House.	.42	
✓ 23. ✓	Footpath.	Manor Heys Farm - Asherofts Farm.	.85 .41	
✓ 24. ✓	Footpath.	The Marshes Lane - Rufford Boundary.	.43	
25.	Footpath.	Mere Lane - Sluice along to Rufford Boundary.	.482	
25A.	Footpath.	Sluice - Cabin Lane.	.57	
✓ 26. ✓	Footpath.	Rufford Boundary along Nucks Wood-North to Mere Lane.	.49	
✓ 27. ✓	Footpath.	Moss Side Farm - Hesketh Bank Boundary.	1.016	
✓ 28		Canal Footpath. Canal Bridge A59 to Parish Boundary	.26	

Extract from Draft Statement [above]

THE RAMBLERS ASSOCIATION (LIVERPOOL DISTRICT & NORTH WALES AREA).

17th NOVEMBER, 1951.

REPRESENTATIONS ON PATHS OMITTED FROM DRAFT MAP.

WEST LANCASHIRE RURAL DISTRICT COUNCIL.

PARISH

& 6" Map Ref.

Description.

Remarks.

SCARBOROUGH PARISH.

83 S.E.	(1)	Path from Pinfold Lane near Marsh Hey Farm, n.w. to canal, s.w. alongside canal to Haleall boundary, and on to Weavers Bridge.	Shown in our pre-war survey as used.
81 W.E.	(2)	Path from Black Moss Lane from Ivy Farm or Ellens House Farm.	To join path on D.M. from Benacres Lane

91 S.E.

(9) Path from Datchers Lane south to Waghall boundary and on to Dodds Lane.

Signposted pre-war "Public Footpath"

TARLETON PARISH.

76 N.W.

(1) Path from Blackgate Lane near Sutton Lane, south to new Southport Road, and continuing for further 100 yds. to existing path running N. and W.

Path stiled, defined and used in our pre-war survey.

76 N.W./N.E.

(2) Track known as Sollow Lane from canal, Sollow Leek, along Brotherton boundary.

If not designated as a public road, is a public footpath.

76 N.W./W.

(3) Path from The String Strine Flat, west and south to Pale Ditch Lane.

Excluded in Parish's working map.

76 S.W.

(4) Path from Mere Lane, through Hoin Wood, across the Marshes Lane past Short Wood Hall to join paths at Manor Heys Farm.

- do -

- continued -

Extracts from Ramblers Association schedule of representations to omission from Draft Map [above]

Observations		The application route between points A-B-C-D-E is not shown on the Draft Map. Footpath 26 is shown joining the application route at point D even though the application route was not shown as a public right of way continuing from that point. The route shown on the Parish Survey Map as part of Footpath 23 between the application route at point C passing through the woodland in a north easterly direction to The Marshes Lane and then to Short Wood Hall and Manor Heyes Farm is not shown. Footpath 25 is shown passing north of Mere Farm onto the application route at point E and then north along the application route to point F. It is then shown crossed out with red pencil. The Ramblers Association (Liverpool District and North Wales Area) compiled a schedule of routes omitted from the Draft Map representations made to the County council of Paths omitted from the Draft Map (From records deposited at The County Records Office Ref: DDX1670 deposits 20-25). Within the schedule are details for paths omitted from the map in the parish of Tarleton including 'Path from Mere Lane, through Holm Wood, across the Marshes Lane past Short Wood Hall to join paths at Manor Heys Farm.' A number – 449 is written next to the entries for Tarleton. The list of objections to the Draft Map compiled by the County council includes an objection numbered 449 and a file containing details of that objection has been inspected. The objection listed four routes that had been omitted from the Draft Map but the County council 'Objection' file only details any discussion and consultations relating to one of the other paths. There is no information confirming whether or not the objection to the omission of the route
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		was pursued, or a hearing held. The County council records also contain details of an objection made to the inclusion of Footpath 25 on the Draft Map. The objection was made by the County Land Agent as the land crossed by the route was owned at that time by Lancashire County Council. The grounds for the objection are listed as 'Path wrongly included in Draft Map'. It was noted on the objection file (held by the County council in our internal records) that Tarleton Parish Council agreed to the route being taken off the Draft Map providing that Footpath 26 (which met the application route at point D) was retained and the tenant of the land was told officially that Footpath 26 was public. The objection was allowed and the path – including the section along the application route D-E was removed from the map. The file contains no details regarding the actual investigation carried out into Footpath 25. The section of route recorded as part of Footpath 25 on the Parish Survey Map and not numbered on the Draft Map (F-G) was not deleted but was retained on the Draft Map and subsequently numbered as part of Footpath 22. No record was found of any queries relating to Footpath 26 terminating on Mere Lane (the application route) or the fact that Mere Lane (at that point) was not under consideration for inclusion on the Definitive Map.
Investigating Comments	Officer's	The fact that Footpath 26 – which appeared to have been disputed by a tenant farmer – was not deleted from the Draft Map but that it met the application route at point D suggests that the Parish Council, Ramblers Association and most significantly the landowner (Lancashire County Council) considered that the public had a right of access along Mere Lane to access the footpath. It is not known what discussion may have taken place with regards to the

		section of Mere Lane retained as Footpath between points F-G although this section is shown as an unfenced track along the edge of Mere Wood on OS maps from that time which may have accounted for it being considered differently to the rest of the route.
Provisional Map		Once all representations relating to the publication of the draft map were resolved, the amended Draft Map became the Provisional Map which was published in 1960 and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not. Objections by this stage had to be made to the Crown Court.



Extract from Provisional Map [above] Extract from Provisional Statement [below]

1. path	2. Kind of path	3. Position	4. Length in miles to 2 places decimals	5. Other particulars
22.	Footpath	Bannister House via Holmes Wood - Bannister House.	.42	
23.	"	Manor Hays Farm - Ashcroft's Farm.	.41	
24.	"	The Marshes Lane - Rufford Boundary.	.43	
25.	"	Rufford Boundary along Nuck's Wood - North to Mere Lang.	.49	
27.	"	Moss Side Farm - Heaketh Bank Boundary.	1.016	
28.	—	Canal Towpath, Canal Bridge A.59 to Parish Boundary.	.26	



Extract from Revised Definitive Map showing complete length of route recorded as Footpath 22 and triangular section of path measuring 0.46 miles long and fitting the description of the footpath included in the Provisional Statement [above]

Observations

The application route A-F is not recorded on the Provisional Map and there is no record of any representations or objections being made.

Footpath 26 is shown terminating on the application route at point D.

The application route F-G is shown as part of Footpath 22 which was described briefly in the Provisional Statement as 'Bannister House via Holmes Wood – Bannister House'. The route is described as being 0.42 miles long which is significantly shorter than the full length of the route numbered as FP 22 (0.70 miles) and is more in keeping with the triangle of routes numbered as part of FP 22 and shown on the map extract above (0.46 miles).

The First Definitive Map and Statement

The Provisional Map, as amended, was published as the Definitive Map in 1962.



Observations

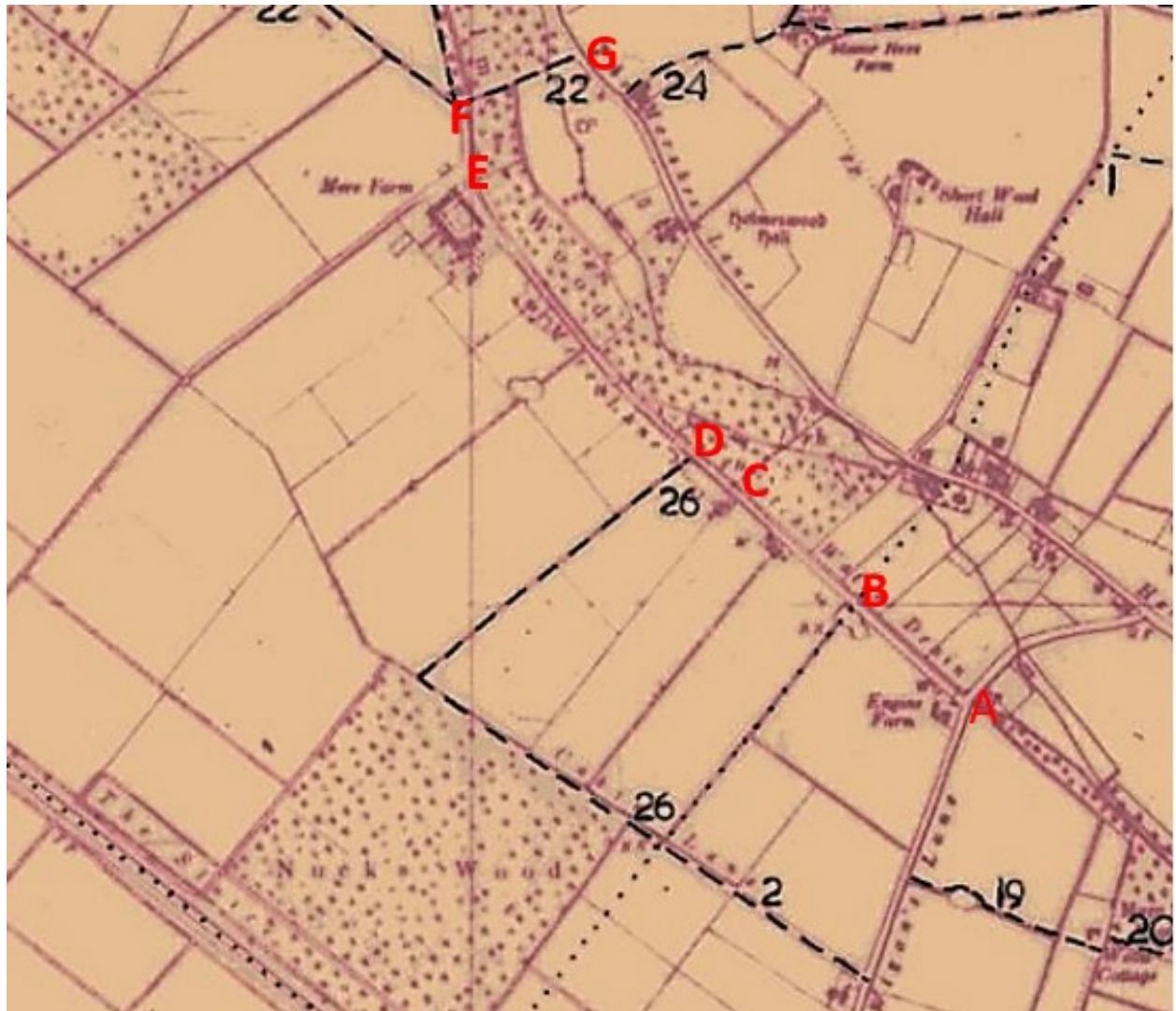
The application route A-F was not recorded on the First Definitive Map. Footpath 26 was recorded as terminating on the application route (Mere Lane) at point D. The application route F-G was recorded as part of Footpath 22.

Revised Definitive Map of Public Rights of Way (First Review)

Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation orders be incorporated into a Definitive Map First Review. On 25th April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date of 1st September 1966. No further reviews of the Definitive Map have been carried out. However, since



the coming into operation of the Wildlife and Countryside Act 1981, the Definitive Map has been subject to a continuous review process.



			to 2 places decimals	
18.	Footpath	Tabby Nook Lane - Worthington's Farm.	0.955	
19.	"	Legh Arms to the Sluice.	1.07	
21.	"	No. 18 - Catch Water Crain - Bannister House Farm.	0.44	
22.	"	Bannister House via Holmes Wood - Bannister House.	0.42	
23.	"	Manor Heys Farm - Ashcroft's Farm.	0.41	
24.	"	The Marshes Lane - Rufford Boundary.	0.43	
26.	"	Rufford Boundary along Nuck's Wood - North to Mere Lang.	0.49	
27.	"	Moss Side Farm - Hesketh Bank Boundary.	1.016	
Observations			The application route is not recorded on the Revised Definitive Map (First Review). Footpath 26 is recorded as terminating on Mere Lane (Mere Lang.). The application route F-G is recorded as part of Footpath 22.	
Investigating Officer's Comments			During the preparation of the First Definitive Map from the 1950s onwards through to its revision and the publication of the Revised Definitive Map (First Review) with a relevant date of 1 st September 1966 it appears that the public's use of the application route – at least on foot – to access FP0816026 was not queried. No objections were made to the fact that the application route was not recorded as a public right of way during that time.	
Lancashire County Council's ownership of land crossed by the application route			Information relating to the ownership of land crossed by the application route by Lancashire County Council.	

Smallholdings - Holmeswood Estate - Condition of
Mere Lane, Mere Brow, Tarleton

In reply to your memorandum of the 25th instant, Mere Lane is a private road running through the centre of the Holmeswood Smallholdings Estate and is maintained by the Smallholdings Committee for agricultural purposes and for access to the smallholdings.

There is no public right of way over it except for a short length running from north to south situated at the west end of it where there is a public footpath.

The road is constructed of loose stone and clinker and potholes are filled up from time to time. Two large loads of stone have already been delivered and spread, and further stone has been ordered for early delivery as the repairs following the severe winter are rather heavier than usual.

I would suggest that the condition of this road is entirely an estate matter and not the concern of the Parish Council.

No recent complaints have been received from tenants and I suspect that the complaints made have come from trespassers who would like to see it converted into a through motor road and taken over by the Highways Committee.

Extract from internal memorandum from the County Estates Surveyor to the Clerk to the County council 1963 [Above]

FROM	TO
THE CLERK OF THE COUNTY COUNCIL	THE COUNTY ESTATES SURVEYOR
	For the attention of
	Mr. R. E. Noble
Our Ref: F/DDM/H.102 Ext. 245	Your Ref:

Ancient Highways
Mere Lane - Parish of Tarleton
West Lancashire R.D.

Following the recent discussion about the status of Mere Lane, Tarleton, I attach for your information a copy of a letter which I have today sent to Mrs. M. Taylor. Having looked into the records relating to this Lane, I am satisfied that it is a private estate road, and not a highway which the Highway Authority are liable to maintain.

P. D. Human

22nd February, 1973
VMH

COUNTY
DEPARTMENT

26/2/73

22nd February, 1973

Dear Madam,

Mere Lane, Tarleton
West Lancashire R.D.

With reference to previous correspondence concerning Mere Lane, Tarleton, I have now had an opportunity of looking into the status of this Lane, and have concluded that it is not a highway which the Highway Authority are liable to maintain.

As I explained to Mr. Thompson of Mere Farm in my letter to him of the 11th August, this Lane is a private road on the County Council's small holdings estate and is not a public highway.

I regret therefore that I am unable to accept that this Lane is an ancient highway, and therefore any improvement in the condition of the Lane must necessarily be a matter for the land owners concerned and not for the County Council as Highway Authority.

Yours faithfully,

(Sgd.) P. J. Inman

Clerk of the County Council

Mrs. M. Taylor,

Observations

Investigations carried out show that land crossed by the application route was historically in the ownership of Lord Hesketh. The Hesketh family disposed of most of the land and properties in their ownership in the first half of the 20th century and Lancashire County Council acquired a large area of land which was formerly known the Holmewood Estate. This land was acquired under the provisions of the Small Holdings and Allotments Acts 1908 to 1926 in July 1932 and included the land crossed by the application route. The land was held by the County council until it was subsequently sold off mostly between 1995 to 2016. The County council Estates Team were consulted as part of this investigation but explained that they had retained very little information about the day to day running of the Homeswood Estate following completion of the sales. Files retained by them were checked but consisted largely of information relating



		to the sale of the land and the only information found which was relevant to this investigation related to investigations carried out in 1963 and 1973 into whether the application route (Mere Lane) was a publicly maintainable road. In 1963 it appeared that the Parish Council (which one is not specified) had complained to the County council about the condition of Mere Lane which prompted a response from the County Estates Surveyor stating that Mere Lane was a private road maintained for agricultural use and that there was no public right of way over it apart from a short section which was a public footpath running from north to south at the west end (it is unclear to which section this refers). Reference is made to possible trespass by people using the route in vehicles who would like to see it adopted as a public vehicular route and maintained by the county council. In 1973 it appears that the Clerk of the County council was called upon to instigate a further investigation into whether the lane was a publicly maintainable road and concluded that Mere Lane was not a public highway and was not publicly maintainable but reiterated that it was a private road over land forming part of the County councils small holding. No other information was found on these files although it is noted from the site inspection that signs located at either end of the route appear to have been erected by the County council at some point in the past and that they were probably originally erected when the County council still owned all – or part of the route (as evidenced by Google Street photographs dating back to 2009). No information has been found on the files about these signs but the one close to point A still has the wording 'Lancashire County Council' clearly visible and it can be seen that it originally contained the information 'Footpath Only'.
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		No other references to the status of Mere Lane were found.
Investigating Comments	Officer's	Only very limited information about the small holding has been retained by the County council. The only discussions recorded about the public status of the road are dated 1963 and 1973 and both appear to have been prompted by requests for the route to be maintained. During that time, it is clear that the County council considered the route to be a private road which was not publicly maintainable. However, Lancashire County Council owned the land when the Definitive Map was being prepared and in the 1950s there is no record of the public's use of Mere Lane to access Footpath 26 being questioned or challenged and no suggestion during the consultation process that public footpath rights needed to be recorded along the lane. The land owned by the County council has now been sold off – including the land crossed by the application route. Private rights of access along Mere Lane were granted to purchasers by the County council (as detailed in the Land Registry information examined) although it is noted that this is standard practice with regards to conveyancing and protects purchasers' private rights of access should other land crossed by the access road be sold off to other private individuals or where any public rights in existence were subsequently diverted or extinguished. Whilst no specific information was found about the signs located at either end of the route the fact that they are headed as signs erected by Lancashire County Council stating that the road is Private concurs with information on the files from 1963 and 1973. The wording 'FOOTPATH ONLY' appears to be an acknowledgement of public rights on foot along the lane and is consistent with information provided by users of the

		route detailed later in this report.
Lancashire County Council Public Rights of Way files	1963-1964 and 1973-1974	Lancashire County Council Public Rights of Way files were inspected to see if there were any references to the application route or adjacent land. Files date back to 1950 and correspondence was found from 1963 and 1973-1974 which was relevant to the application.
Observations		<u>1963-1964</u> An internal memorandum dated 6 December 1963 explained that the county council had received a request from Tarleton Parish Council for a public footpath signpost to be erected on Mere Lane to point along public footpath 26 (at point D on the Committee plan). It is detailed that the farmer at Mere Farm, refused to allow the sign to be erected stating that according to himself and several older residents there had never been a public footpath and that unless he was shown an official map showing the position of all the footpaths in the area – including footpath 26 – he would remove any sign erected. On 3rd January 1964 a letter was sent to the farmer providing him with an extract from the Definitive Map. No further correspondence about the matter was found. <u>1972-1973</u> A letter was received by the county council dated 6 March 1973 from someone who appeared to have been a Tarleton Parish Councillor. The letter concerned a request for a footpath signpost to be replaced on The Marshes Lane to indicate the line of a footpath that went through the woodland to exit onto Mere Lane at point C on the Committee plan. She explains that the footpath had been signed and used for a very long time. An internal county council memorandum dated 11 April 1973 confirmed that the route from The Marshes Lane to Mere Lane was not recorded on the Definitive

		Map but that it could be considered at the 2nd Review. On 14th April a letter was sent to Tarleton Parish Council from Mr D Love explaining that local people had used the path from The Marshes Lane to Mere Lane (exiting at point C). Mr Love said that the path had been used regularly and that it had been repaired by the local highway authority. An undated memorandum from the County Surveyor to the County Estate Surveyor explains that having received information and a petition about use of the route from The Marshes Lane to Mere Lane it would have to be accepted as a public right of way and added at the next Review but that it was understood that the County Estates Officer was willing to accept the route was a public footpath and asked for confirmation of this. On 21 May 1973 an internal memorandum was sent by the Clerk to the County council to the County Surveyor with reference to the fact that the path from The Marshes Lane to Mere Lane was on land owned by the county council as part of the Holmeswood Estate and that there had been some discussion about the County Surveyor taking over future maintenance of the path. This was followed by a further memorandum from the County Surveyor to the Divisional Highways Office for West Lancashire explaining that the Estates Surveyor was willing to accept the footpath from The Marshes Lane to Mere Lane as a public right of way and to carry out repairs to the footbridge and surface. No other information about the application route or any footpath leading to or from the application route was found.
Investigating Comments	Officer's	<u>1963-1964</u> The occupier of Mere Farm is contesting the existence of Footpath 26 although the path was recorded on the Parish

		survey, Draft, Provisional and First Definitive Map. It appears that no further contention was pursued following the provision of an extract of the Definitive Map although there is no record of whether a signpost was erected. No records were found suggesting that the public footpath was obstructed or that the public could not use it at that time and most significant is the fact that there is no record of anyone questioning how the public got to the start of Footpath 26 if not along Mere Lane. Conversely there appears to be no suggestion that Footpath 26 was a cul de sac path and that when you walked along it to Mere Lane (point D) you had to turn around and retrace your steps. This suggests that it was accepted that the public had a right to walk along Mere Lane to access the footpath. In addition, public footpath signposts were normally erected where a public footpath met a public road. This again suggests that Mere Lane was considered to carry at least public footpath rights but more likely that at the time the Definitive Map was originally prepared in the 1950s it was considered to be a public vehicular route that would not need to be recorded on the Definitive Map. <u>1972-1973</u> The correspondence suggests that there was an acknowledgement by the landowner that a route from The Marshes Lane to Mere Lane (at point C) was being used and that it should be recorded as a public footpath at the next review. It was not however included because no further reviews were carried out. Again, there is no discussion regarding how people got to point C along Mere Lane or where they were going suggesting that pedestrian use of Mere Lane was not being questioned.
Highway Adoption Records including maps	1929 to present day	In 1929 the responsibility for district highways passed from rural district

derived from the '1929 Handover Maps'		councils (and later from urban district and borough councils) to the County council. For the purposes of the 1929 transfer, public highway 'handover' maps were drawn up to identify all of the rural district-maintained highways within the county. These were based on existing Ordnance Survey maps and coloured to mark those routes that were publicly maintainable by the rural district council. However, they suffered from several flaws – most particularly, if a right of way was not surfaced it was often not recorded. A right of way marked on the map is good evidence but many public highways that existed both before and after the handover are not marked. In addition, the handover maps did not have the benefit of any sort of public consultation or scrutiny which may have picked up mistakes or omissions. The County council is now required to maintain, under section 31 of the Highways Act 1980, an up-to-date List of Streets showing which 'streets' are maintained at the public's expense. Whether a road is maintainable at public expense or not does not determine whether it is a highway or not.
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22nd February, 1973

Dear Madam,

Mere Lane, Tarleton
West Lancashire R.D.

With reference to previous correspondence concerning Mere Lane, Tarleton, I have now had an opportunity of looking into the status of this Lane, and have concluded that it is not a highway which the Highway Authority are liable to maintain.

As I explained to Mr. Thompson of Mere Farm in my letter to him of the 11th August, this Lane is a private road on the County Council's small holdings estate and is not a public highway.

I regret therefore that I am unable to accept that this Lane is an ancient highway, and therefore any improvement in the condition of the Lane must necessarily be a matter for the land owners concerned and not for the County Council as Highway Authority.

Yours faithfully,

(Sgd.) P. J. Inman

Clerk of the County Council

Mrs. M. Taylor,

Observations

The application route is not recorded as a publicly maintainable highway in the County council records (other than F-G which is recorded as a publicly maintainable footpath on the Definitive Map).

The Handover Maps were examined for West Lancashire Rural District but the map sheet examined does not show the application route A-B as a publicly maintainable route. Whilst roads within the parish of Rufford are marked there are no roads in Tarleton shown and no separate map sheet has been found.

The Highways Team have no details regarding the route but letters filed in the Land and Property Team files relating to the County councils former ownership of the Holmeswood Estate record investigations being carried out in the 1960s and 1970s when it was concluded that the application route was not a publicly maintainable road and that it was a private access road within the



		Estate.
Investigating Officer's Comments		The fact that the application route is not recorded as a publicly maintainable highway doesn't mean that public rights (in addition to footpath rights F-G) could not or do not exist.
Highway Stopping Up Orders	1835 - 2014	Details of diversion and stopping up orders made by the Justices of the Peace and later by the Magistrates Court are held at the County Records Office from 1835 through to the 1960s. Further records held at the County Records Office contain highway orders made by Districts and the County council since that date.
Observations		No legal orders relating to the creation, diversion or extinguishment of public rights have been found.
Investigating Officer's Comments		If public rights are found to exist along the application route they do not appear to have been subsequently diverted or extinguished by a legal order.
Statutory deposit and declaration made under section 31(6) Highways Act 1980		The owner of land may at any time deposit with the County council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title within ten years from the date of the deposit (or within ten years from the date on which any previous declaration was last lodged) affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way). Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into question. The onus will then be on anyone claiming that a right of way exists to demonstrate that it has already

		been established. Under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).
Observations		No Highways Act 1980 Section 31(6) deposits have been lodged with the county council for the area over which the application route runs.
Investigating Officer's Comments		There is no indication by the landowners of non-intention to dedicate public rights of way under this provision.

On Google Streetview the sign at point A with Footpath Only painted over can be seen in 2019 and that sign at point G with Footpath Only painted over can be seen in 2018 but there are no earlier dates available to give evidence as to when the painting over was done.

The affected land is not designated as access land under the Countryside and Rights of Way Act 2000 and is not registered common land.

The Natural Environment and Rural Communities Act 2006

This Act effected a blanket extinguishment of unrecorded public rights for mechanically propelled vehicles (MPVs) with certain exceptions. Prior to this carriageway rights did not discriminate between vehicles which were mechanically propelled, such as cars and motorbikes, and those which were not, such as bicycles, wheelbarrows, horse-drawn carriages, donkey carts, etc.. if Committee concludes that the evidence shows that, on the balance of probability, public carriageway rights exist on the application route (Mere Lane) it is then necessary to consider whether the Natural Environment and Rural Communities Act 2006 has extinguished public rights for MPVs. The application route was, at the time of the Act not recorded as a public right of way between points A-F on the Committee plan but was recorded as a public footpath between points F-G and was not on the List of Streets (maintained at public expense) and it does not appear to have been used mainly by the public in MPVs. There is no claim that any other of the other exemptions apply. Therefore, in the event that public carriageway rights are shown to exist and the appropriate status for the full length of the application route to be recorded on the Definitive Map and Statement would be Restricted Byway, with public rights with non-mechanically propelled vehicles, horses or on foot.

Summary

It is rare to find one single piece of map or documentary evidence which is strong enough to conclude that public rights exist and it is often the case that we need to examine a body of evidence, often spanning a substantial period of time, from which public rights can be inferred.

From the maps examined, it appears that Holmes Wood Hall, which was an old property dating back to the mid-1500s was located and accessed from The Marshes Lane and was situated on the edge of a large area of wetland known as Martin Mere. Research shows that the land (and Holmes Wood Hall) was originally owned by Lord Hesketh and stayed in the family's ownership until the twentieth century.

The earliest maps to show the full length of the application route are the Tithe Maps for Rufford (1839) and Tarleton (1845), together with the First Edition 1 inch OS Map (1840-43) and First Edition 6 inch OS Map (1845-46). The Tithe Map for Rufford lists the route A-B as a 'road' with no Tithes payable and no ownership listed. In contrast the Tithe Map for Tarleton lists the route B-F and F-G as being privately owned (by the Hesketh Family) with small tithes payable and does not list it as a public road at the end of the Award.

OS maps examined from the 1840s through to the current day show the route largely unaltered. In the 1840s it provided direct access to Holmes Wood Hall but by the 1890s that access appears to have declined in use. The route did, and still does provide access to and from several properties, with Mere House (adjacent to point E) shown on maps from the 1840s and Keepers Cottage and Engine Farm shown from the 1890s. Other properties were subsequently built along the route in the years that followed.

The OS maps show that a substantial route (gated close to point A) has existed from at least the 1840s which appeared to be capable of being used on foot, horseback and with vehicles. It was shown on small scale 1 inch OS maps generally as an uncoloured or minor road but noted that it was not shown on Bartholomew's half inch maps in the first half of the twentieth century.

No evidence was found to suggest that the route came into being as a public through route and its origins appear to have derived from it being a private estate road.

However, it is necessary to look if there is sufficient evidence to suggest that it was subsequently used by the public and dedicated as a public right of way.

Whilst capable of being used by vehicles the only evidence that it may have been considered to be a public vehicular route appears to be that it was excluded on the Finance Act 1910 maps. On its own this evidence is considered weak. The map deposited at the National Archives is incomplete and the one deposited at the County Records Office post-dated the original survey.

OS maps from 1926 onwards record the route as Mere Lane and the Object Names Book provides details regarding the fact that it was considered by the Lancashire County Council Land Agent to be a third class road maintained by the County council at that time.

However, the 1929 Handover Maps did not record public maintenance responsibilities along the route and the County council do not have any other record of the route being a public vehicular route.

The County council took ownership of the Holmeswood Estate in 1932 and whilst most of the records relating to the management of the estate during their ownership



no longer exist there are records from the 1960s and 1970s clearly specifying that the route was considered to be a private estate road and not a public vehicular route. Slightly at odds with this is perhaps the fact that the application route A-F was not recorded on the Definitive Map in the 1950s even though it must have been recognised that to access FP0816026 it was necessary to walk along Mere Lane.

Although finely balanced, in conclusion, with regards to public vehicular rights, the Investigating Officer considered that there was insufficient evidence from which to infer that historical public vehicular rights existed along the route.

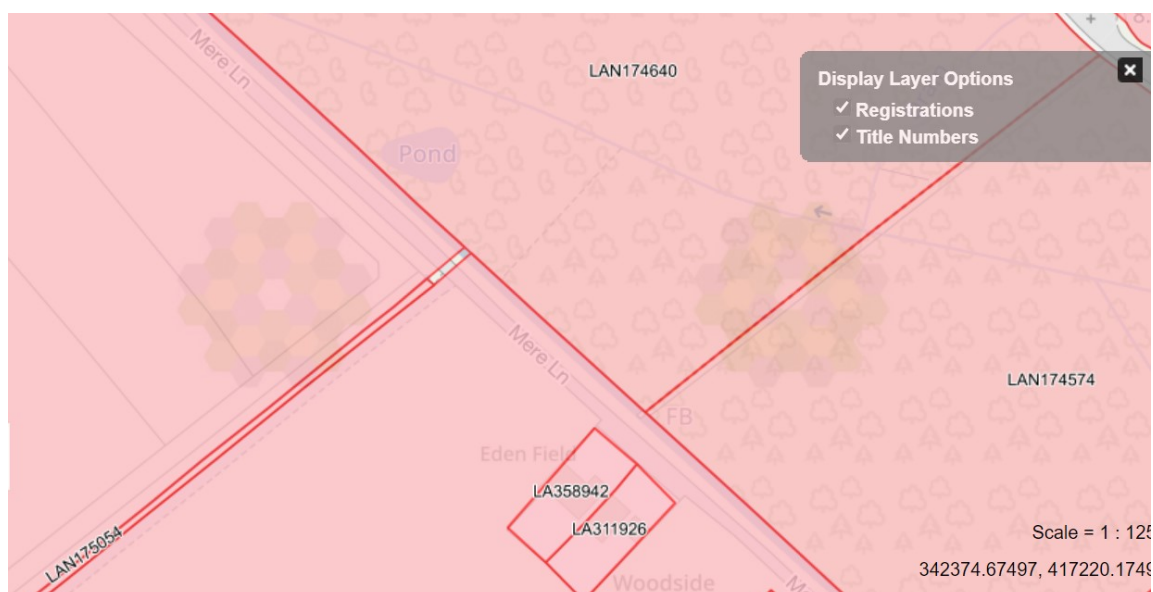
It is however considered that there is sufficient evidence from which to infer that public footpath rights existed along the full length of the application route (and not just the section F-G). The OS map evidence supports the fact that the route was capable of being used at least on foot but in addition to this it would be necessary to walk the route to access FP0816026 and the ability to do this does not appear to have been questioned. In addition, whilst confirmation that the signs at the two ends of the application route were erected by LCC has not been found, the signs are titled LANCASHIRE COUNTY COUNCIL and both (before being defaced) stated that the route was a FOOTPATH ONLY which concurs with the substantial body of user evidence provided detailing use on foot for a significant period of time.

With regards to equestrian use and use on bicycles the map evidence suggests that such use would have been possible although it was noted that current signage (2024) says that use on horseback and bicycle is prohibited.

Head of Service – Legal and Democratic Services Observations

Landownership

The land crossed by the application route is in private ownership (with six separate land registry numbers). One very small piece of land is shown unregistered:



Information from the applicant

The applicant provided a range of map and documentary evidence which has already been considered earlier in this report.

In addition, a total of 21 users submitted user evidence forms in support of the application.

Duration of Use

The 21 user evidence forms collectively provide evidence of use going back as far as 1958 and up to 2024, when the application to record the right of way was made.

Individuals' duration of use prior to application is shown in the table below:

0-10 Years	11-20 Years	21-30 Years	31-40 Years	41-50 Years	50 + Years	Use Unclear	Total
0	3	5	5	1	4	3	21

Method and frequency of Use

Out of the 19 users that stated they used the route on foot, the frequency of their use on foot is shown in the table below:

Daily	Weekly	Monthly	Every Few Months	Yearly	Varying Frequency	Total
1	6	2	6	2	2	19

8 users stated they used the route by pedal cycle, the frequency of their use by pedal cycle is shown in the table below:

Daily	Weekly	Monthly	Every Few Months	Yearly	Varying Frequency	Total
0	0	2	4	2	0	8

Additionally, 4 of the users recorded use on horseback and 4 of the users recorded use by car.

Reasons for Use

The most common reason for use was pleasure. Other reasons for use included dog walking, horse riding, cycling, accessing fishery, exercising ponies, and using a route that was safer than the busy road.

Other Users of the Route

All 21 users recorded that they had seen other users, and many gave details about the use of others. These responses included details of other walkers, runners, horse riders, cyclists, dog walkers and motorists.



Consistency of the Route

All 21 users stated that the route had always followed the same route.

Unobstructed Use of the Route

There is not reference to physical obstruction but 12 users reference challenges to use. However, the dates are not clear and what sort of use was being challenged - on foot, cycle or horseback is not clear. The earliest challenge referred to by one user would appear to be 2016.

Information from the Landowners

One landowner responded to consultation by highlighting the land in their ownership.

Another landowner responded to consultation by objecting to the application. The response provided details of the landowner's concerns, should this route be recorded as a public right of way. The concerns included the route being dangerous for the public to use, mainly due to the farm vehicles and heavy goods vehicles using it. Photographs of a 'private road' sign and HGV wagons on the route were also provided. The landowner also highlighted the land in their ownership.

Assessment of the Evidence

The Law - See Annex 'A'

A highway can be created following dedication by an owner. Where there is no such express dedication Committee is advised to look at all the circumstances to see whether there is sufficient evidence, on balance, from which to infer dedication by the owner of a highway and more specifically what type that may be. Committee is also asked to consider the user evidence and whether dedication, on balance, can be deemed regarding a particular type of highway under Section 31 of the Highways Act 1980.

Firstly, considering the inference at common law from all the circumstances; it would appear this route has its pre-1930s history, its 1930-1990s history whilst the land crossed by the route was owned by the County council and its history since the sale of the route and adjoining land by the County council between 1995 and 2016.

Committee will note the advice of the experienced Rights of Way officer regarding the pre-1930s evidence, and it is suggested that there is on balance insufficient evidence from which to infer a highway along the route. Details of the various documents and assessment of same are set out above.

Once owned by the County council it would appear that at some point the decision was made in effect to dedicate a footpath along the route and erect signage to that effect. The signage is indicative of the owner's intention at that time and there is a lack of intention demonstrated to dedicate any higher rights for the public. The date that the signs were erected is not known although a number of the users of the route make reference to them and user evidence submitted confirms public use of the



route on foot prior to Lancashire County Council selling land crossed by the application route; such use indicating an acceptance of the dedication as a footpath by the public.

If committee are content that the route was already a footpath in law by 1995 Committee are now invited to consider whether there is sufficient evidence of a dedication of higher rights in later years. Use on cycle or horse is not heavily evidenced but there is some evidence. If committee are concerned that the route was not already a footpath in law by 1995 Committee is also invited to consider whether the route has become a footpath since from all the circumstances (common law inference) or twenty years use (s31).

Since the County council sold the land to the different landowners of today there is evidence of use of the route by the public but also evidence of a lack of intention by landowner(s) as the signage originally erected by the County council has been altered and a number of the users completing user evidence forms document challenges being made or knowledge that such challenges had been made to others. It is advised that the further challenges and changes to signage wording makes evidencing actual intention to dedicate various possible public rights difficult under common law.

By virtue of the criteria under Section 31, the use would need to be for twenty years before public rights were called into question. For a calling into question to be effective it would need to be something that apprised a reasonable number of users of the challenge to their use of the route or the application itself in 2024.

This use must be 'as of right', which means that ignoring signage prohibiting public use cannot be regarded as use from which public rights can be inferred. There has been signage variously indicating footpath only, private road no through route, no horses and no cycling such that there is no period of use by equestrians or cyclists which could give rise to a presumption of public rights under S31.

S31 itself says that where the owner of the land over which any such way passes has erected so as to be visible by persons using the route a notice inconsistent with the dedication of the way as a highway the notice, in the absence of proof of a contrary intention is sufficient evidence to negative the intention to dedicate.

The date the signage was altered in respect of footpath user is not clear and whether it was before 2018. If twenty years of use by sufficient numbers without challenge or interruption had already passed it was too late.

It is suggested that use of the way 1998-2018 on foot is evident from the user evidence by sufficient members of the public to give rise to the presumption of footpath dedication under S31 (or even in the twenty years before the 2016 challenge, should 2016 be shown to be the date of the change to the signage) should committee be concerned that an earlier dedication during LCC ownership was not sufficiently evidenced.

Committee is therefore advised that there is, on balance, sufficient evidence of footpath rights being dedicated by the freehold owner pre-1995 but insufficient evidence of higher rights being dedicated or being able to be reasonably alleged to



subsist on this route. In the alternative presumed dedication under Section 31 of public footpath rights can be shown from the evidence.

The recommendation is therefore that an Order be made to record a footpath on the route.

Implications:

This item has the following implications, as indicated:

Lancashire County Council as Surveying Authority under the Wildlife and Countryside Act 1981 is required to keep the Definitive Map and Statement of Public Rights of Way up to date by making definitive map modification orders to correct errors and omissions shown, or required to be shown on it. It is required to process duly made applications for definitive map modification orders and also to consider whether to make orders when it discovers relevant evidence.

This decision is part of this process and Committee has a quasi-judicial role in this decision which must be taken considering all available relevant evidence.

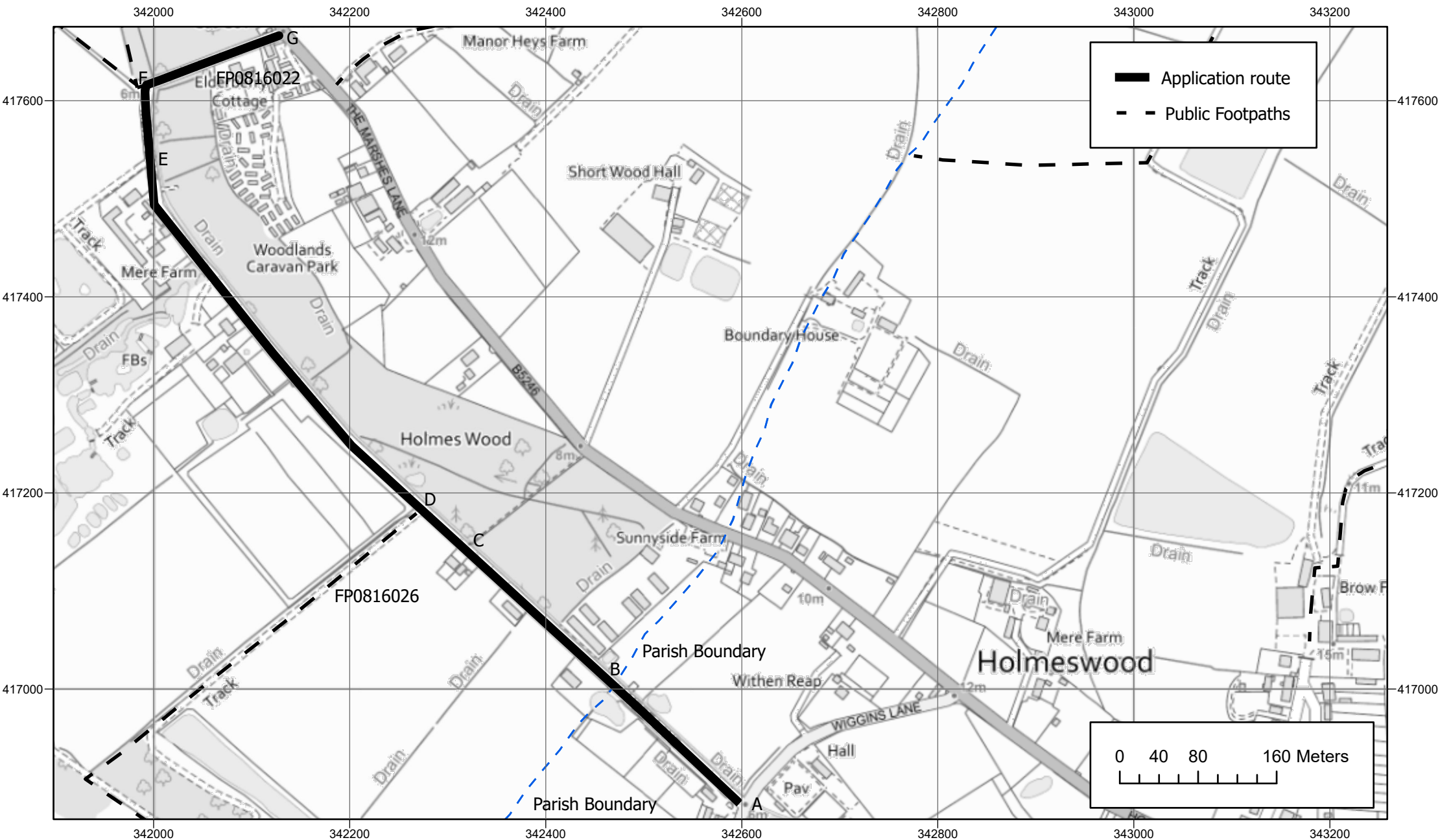
Risk management

Consideration has been given to the risk management implications associated with this application. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, guidance contained both in the report and within Annex 'A' included in the Agenda Papers, officers' presentation and discussion. Provided any decision is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
All documents on File Ref: 804-770		Annabel Mayson, 01772 533244, Legal and Democratic Services
Reason for inclusion in Part II, if appropriate		
N/A		





Public Rights of Way
PROW@lancashire.gov.uk
01772 530317

Wildlife and Countryside Act 1981
Upgrade and addition of Restricted Byway along Mere Lane, in the parishes of Rufford and Tarleton

1:5,000



The digitised Rights of Way information should be used for guidance only as its accuracy cannot be guaranteed. Rights of Way information must be verified on the current Definitive Map before being supplied or used for any purpose.

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