

## Regulatory Committee

Meeting to be held on 9 September 2015

Electoral Division affected: Ribble Valley North East
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### **Wildlife and Countryside Act 1981**

#### **Definitive Map Modification Order Investigation**

#### **Addition of a Public Footpath from Sawley Road to the Friends' Meeting House on the Parish Boundary, Grindleton Parish, Ribble Valley**

**File No. 804-550**

(Annex 'A' refers)

Contact for further information:

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### **Executive Summary**

Application for the addition of a public footpath to the Definitive Map and Statement from Sawley Road, Grindleton to the Friends' Meeting House on the parish boundary, Grindleton, Ribble Valley, file reference no. 804-550.

### **Recommendation**

1. That the application for a public footpath from Sawley Road, Grindleton to the Friends' Meeting House on the parish boundary, (file no. 804-550), be accepted.
2. That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add a public footpath from Sawley Road, Grindleton to the junction of Public Footpaths 5 Sawley and 44 Grindleton by the Friends' Meeting House on the parish boundary to the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C.
3. That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

### **Background**

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received for the addition to the Definitive Map and Statement of Public Rights of Way of a public footpath in the Parish of Grindleton, Ribble Valley from a point at the junction with Sawley Road, Grindleton to the junction of Public Footpath 5 Sawley and Public Footpath 44 Grindleton on the Grindleton/Sawley parish boundary near the Friends' Meeting House.

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 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 (as explained in Planning Inspectorate’s Advice Note No. 7) 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**

Ribble Valley Borough Council have been consulted and no response has been received it is assumed they have no comments to make.

Sawley Parish Council and Grindleton Parish Council have both been consulted and no response has been received, it is also assumed they have not comments to make.

Applicant/Landowners/Supporters/Objectors

The evidence submitted by the applicant/landowners/supporters/objectors and observations on those comments are included in Advice – Head of Service – Legal and Democratic Services Observations.

## Advice

### Head of Service – Planning and Environment

Points annotated on the attached Committee plan.

Point	Grid Reference (SD)	Description
A	7735 4665	Open junction with Sawley Road (C571)
B	7726 4670	Point at which the route passes between two gateposts
C	7726 4670	Unmarked junction with Public Footpath 5 Sawley and Public Footpath 44 Grindleton on the parish boundary

### Description of Route

A site inspection was carried out in February 2014.

The route under investigation commences at the junction with Sawley Road (point A) just west of the village of Sawley and on the north side of the River Ribble. From Sawley Road access onto the start of the route is open and unrestricted.

From point A the surface of the route is tarmac and it is approximately 4 metres wide bounded on the south western side by a substantial stone wall and on the north eastern side by a well maintained hedge. Close to point A and clearly visible from Sawley Road, a sign has been attached to the wall indicating that the route provides access to the Friends' Meeting House. No other signs indicating whether the route was considered to be public or private were present when the route was inspected.

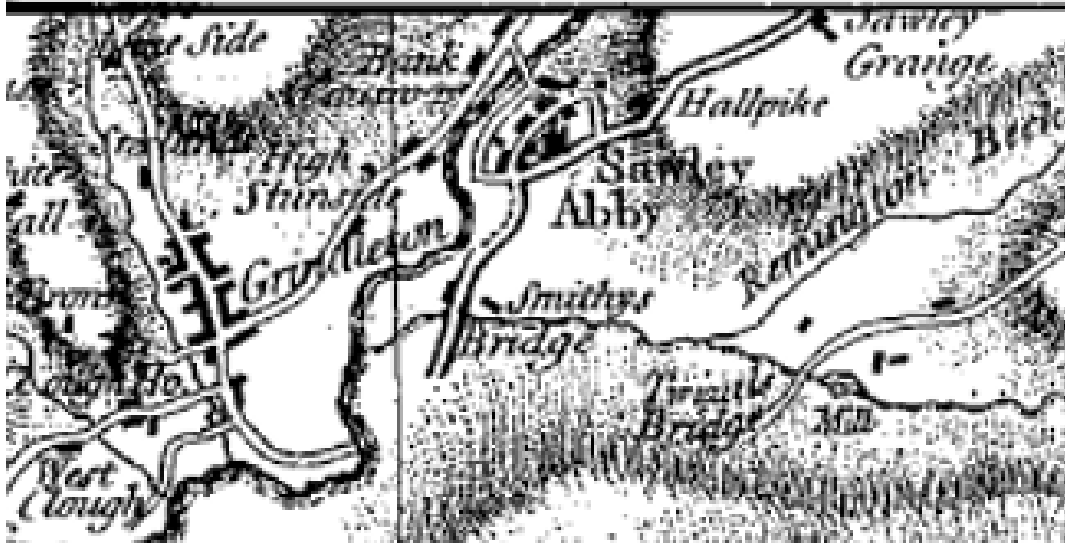
From point A the route extends in a north westerly direction along the tarmacked track passing an open access to a garage on the north east side of the route after approximately 25 metres. It then continues for a further 40 metres to an opening on the north east side providing vehicular access to Green End.


The tarmac route continues in a north westerly direction to pass between Green End cottage on one side (north east) and the Friends' Meeting House on the other (south west).

The tarmac ends at point B where the route passes between gateposts (no gate) immediately adjacent to Green End Cottage and then in a general westerly direction up a short sharp incline that has been block paved to provide access to a garage, passing to the south of the garage to an unmarked point on the parish boundary between Grindleton and Sawley and the junctions of Public Footpaths 44 Grindleton and 5 Sawley.

The total length of the route is approximately 100 metres.

### Map and Documentary Evidence

Document Title	Date	Brief Description of Document & Nature of Evidence
<b>Jeffreys' Map of Yorkshire</b>	1772	Small scale commercial map. Jefferys' Map of Yorkshire was published in 1775 at a scale of 1 inch:1 mile. It was originally surveyed from 1767-1770, 69 and a half miles to 1 degree (approx.). It was published in a book of 42 leaves by act of parliament dated 25 Mar 1772.
		
Observations		The route under investigation is not shown.
Investigating Officer's Comments		The route did not exist as major route at the time although it may have existed as a minor route which would not have been shown due to the limitations of scale so no inference can be drawn in this respect.
<b>Yates' Map of Lancashire</b>	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 area over which the route under investigation runs historically formed part of the West Riding of Yorkshire and is not covered by Yates's Map of Lancashire.

Investigating Officer's Comments		No inference can be drawn.
<b>Greenwood's Map of Lancashire</b>	1818	Small scale commercial map. In contrast to other map makers of the era Greenwood stated in the legend that this map showed private as well as public roads.
Observations		The area crossed by the route under investigation is not shown on the map.
Investigating Officer's Comments		No inference can be drawn.
<b>Hennet's Map of Yorkshire</b>	1830	Small scale commercial map. In 1828 Henry Teesdale of London published George Hennet's Map of Yorkshire.
		
Observations		The parish boundary is marked (thick dashed line) and a building is shown in the location of Green end but the route under investigation is not shown.
Investigating Officer's Comments		The route did not exist as major route at the time although it may have existed as a minor route which would not have been shown due to the limitations of scale so no inference can be drawn in this respect.
<b>Canal and Railway Acts</b>		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		The land crossed by the route under investigation is not affected by any canals or railways and there do not appear to have been any proposals to construct either in the past.
Investigating Officer's Comments		No inference can be drawn.
<b>Tithe Map and Tithe Award or Apportionment</b>	1848	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.



Observations		A parish copy of the Tithe Map for Grindleton has been deposited in the County Records Office (PR3031/4/3) dated 1848.  No Tithe Map for Sawley is available at the County Records Office.
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		The route under investigation is shown on the Tithe Map of Grindleton. Between point A and point B the route appears to be included within the plot numbered 387 which is described in the schedule as 'farmyard' under the ownership of William Asherton and occupied by James Hargreaves. A line is drawn across the route at point B and beyond that the route between point B – C is in different ownership. Plot 389 is listed as the Quaker Chapel and Yard.
Investigating Officer's Comments		The route under investigation existed between point A and point B and appeared to be capable of being used. It is not clear from the Tithe records whether access was available from point B to point C (or beyond). The route between points A – B appeared to be in the ownership of Green End Farm providing direct access to the farm but also access to the Quaker chapel and graveyard. The information provided in the Tithe Award is not inconsistent with public rights of access on foot.
<b>Inclosure Act Award and Maps</b>		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		There is no Inclosure Map of Grindleton deposited in the County Records Office.
Investigating Officer's Comments		No inference can be drawn.
<b>6 Inch Ordnance Survey (OS) Map</b>	1850	The earliest Ordnance Survey 6 inch map for this area surveyed in 1847 and published in 1850. <sup>1</sup>

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<sup>1</sup> 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.

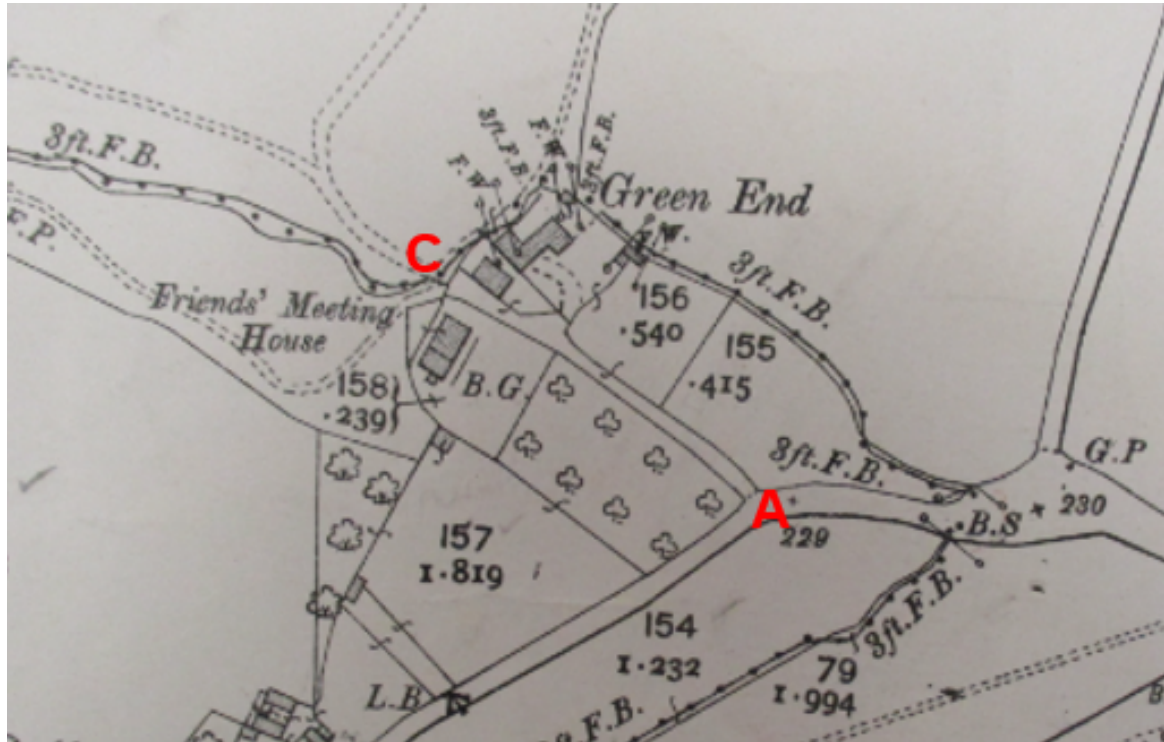


Observations		The full length of the route under investigation is shown. Access onto the route from Sawley Road is shown as being open and unrestricted. The route is shown bounded on either side and provides access to a number of buildings that are collectively labelled as 'Green End'. Access appears to be available between the buildings to point C. The parish boundary is marked and two paths (double pecked lines) appear to converge at point C.
Investigating Officer's Comments		The route under investigation existed in 1847 and appeared to be capable of being used providing access to 'Green End' and forming part of a through route connecting to two paths which continued north and west of the properties.
<b>25 Inch OS Map</b>	1886	The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1884 and published in 1886.





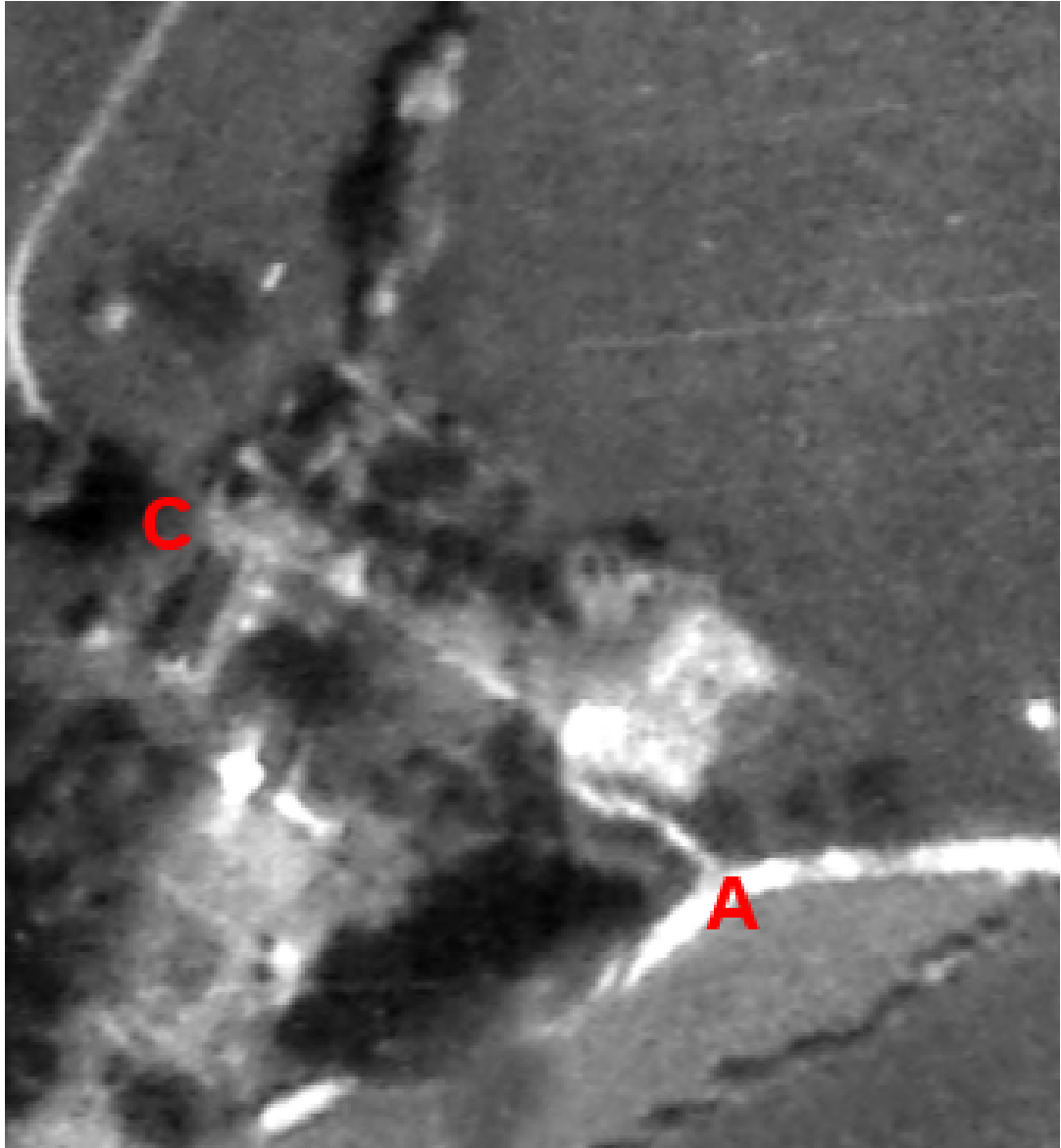
Observations		<p>The route under investigation is shown with the buildings at Green end being shown in more detail than on the earlier 6 inch map. The Friends' Meeting House is shown to the south of the route with the main access to it appearing to be the route under investigation. A burial ground is also marked at the front of the Meeting House. 'Green End' appears to be the buildings north of the route and access to Green End is along the route under investigation. A line is shown across the route under investigation between point B and point C which probably indicated the existence of a gate or gates as routes indicated by double pecked lines and annotated as footpaths (F.P) are shown continuing beyond the line.</p>
Investigating Officer's Comments		<p>The route under investigation existed in 1884 and appeared to provide the main access to a number of properties and a place of worship and burial ground. Paths which subsequently came to be recorded as public footpaths are shown to extend from point C.</p>
<b>25 inch OS Map</b>	1908	Further edition of the 25 inch map surveyed in 1884, revised in 1907 and published in 1908.



<p>Observations</p>		<p>The full length of the route under investigation is shown. A dashed line is shown across the route at point A which may indicate a change in surface condition from Sawley Road. Access to Green End is via the route under investigation but is gated to be separate from the route.</p> <p>A gate across the route under investigation is also shown at point B but a route (double pecked lines) extends beyond point B through point C and beyond.</p>
<p>Investigating Officer's Comments</p>		<p>The route under investigation existed in 1907 and appeared to be capable of being used.</p>
<p><b>Finance Act 1910 Map</b></p>	<p>1910</p>	<p>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.</p> <p>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</p>


		<p>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).</p> <p>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.</p>
Observations		There are no Finance Act maps deposited in the County Records Office for the area crossed by the route under investigation.
Investigating Officer's Comments		No inference can be drawn.

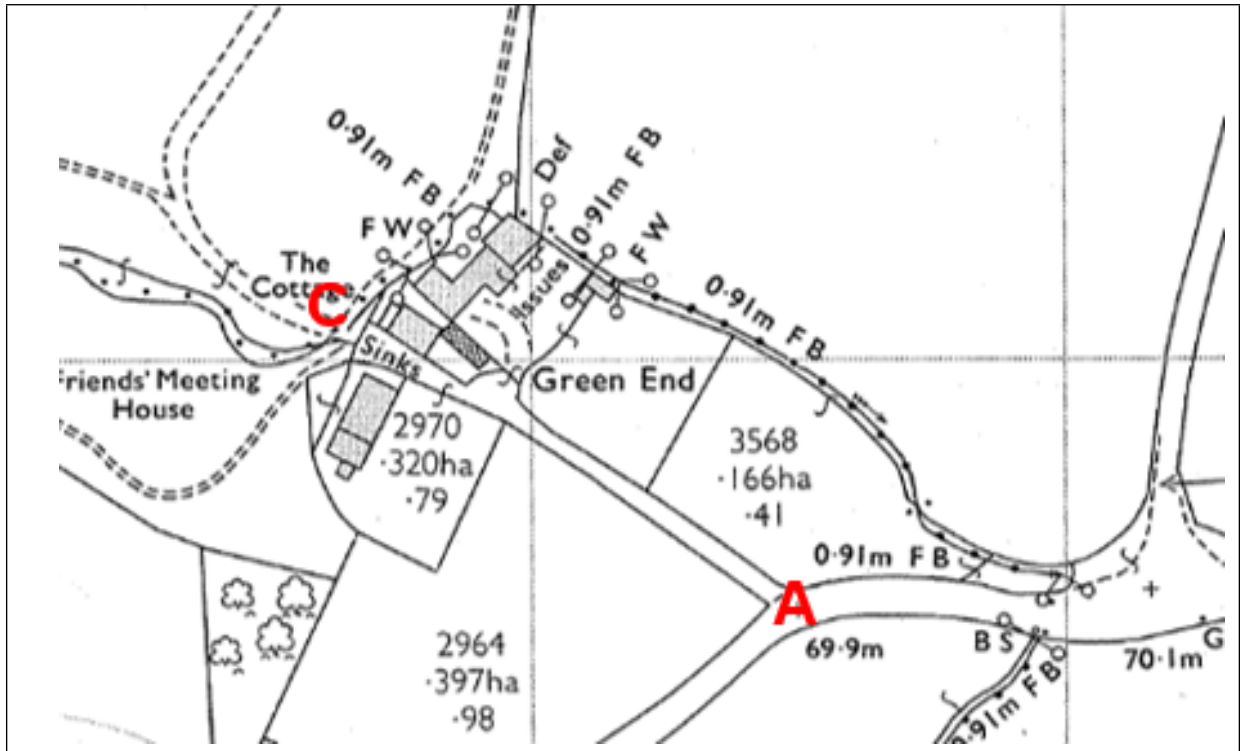
<b>Aerial Photograph<sup>2</sup></b>	1940s	The earliest set of aerial photographs available was taken just after the Second World War in the 1940s and can be viewed on GIS. The clarity is generally very variable.
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Observations		The quality of the aerial photograph is poor although it is possible to make out the route under investigation it is not possible to see much detail.
Investigating Officer's Comments		The route under investigation existed in the 1940s and was probably capable of being used.
<b>6 Inch OS Map</b>	1955	The OS base map for the Definitive Map, First

<sup>2</sup> 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.

		<p>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.</p>
		
<p>Observations</p>		<p>The route under investigation is shown and appears to be a substantial route providing access to the properties at Green End and the Friends' Meeting House. The scale of the map makes it difficult to determine the exact nature of the route between point B and point C although a number of paths appear to go to/from Green End and the Friends' Meeting House from the approximate location of point C.</p>
<p>Investigating Officer's Comments</p>		<p>The route under investigation provided the main access to Green End and the Friends' Meeting House in the 1930s and probably existed as a through route connecting to other routes that were subsequently recorded as public footpaths.</p>
<p><b>1:2500 OS Map</b></p>	<p>1973</p>	<p>Further edition of 25 inch map reconstituted from former county series and revised in 1972 and published 1973 as national grid series.</p>



<p>Observations</p>		<p>The scale of the map provides greater detail and it can be seen that the route under investigation existed as a substantial enclosed route between point A and point B providing access to Green End and the Friends' Meeting House. A line is shown across the route under investigation at point B which may indicate the existence of a gate at this point. Beyond point C the routes originally recorded as Footpaths 3 and 5 Sawley are shown and the route of Footpath 44 Grindleton appears to pass through a gate to point just to the south east of point B onto the route under investigation.</p>
<p>Investigating Officer's Comments</p>		<p>The route under investigation existed and appeared to be capable of being used linking Sawley Road to three public footpaths.</p>
<p><b>Aerial photograph</b></p>	<p>1960s</p>	<p>The black and white aerial photograph taken in the 1960s and available to view on GIS.</p>





Observations		The route under investigation is shown although due to tree cover and shadows it is not possible to see in detail whether the route provided a link to Public Footpath 3 and 5 Sawley and Footpath 44 Grindleton.
Investigating Officer's Comments		The route under investigation existed and may have been capable of being used.
<b>Aerial Photograph</b>	2000	Aerial photograph available to view on GIS.



Observations		The route under investigation can be seen although it is still not possible to see whether access along the full length of it was available.
Investigating Officer's Comments		The route under investigation existed in 2010 and may have been capable of being used.
<b>Definitive Map Records</b>		<p>The National Parks and Access to the Countryside Act 1949 required all highway authorities to prepare a Definitive Map and Statement of Public Rights of Way.</p> <p>At the time that the Definitive Maps were originally prepared the parishes of Grindleton and Sawley were part of Bowland Rural District in the West Riding of Yorkshire.</p> <p>When the area became part of Lancashire as part of the Local Government reorganisation in 1974 records relating to the preparation of the Definitive Map were passed to Lancashire County Council and the current record – the</p>



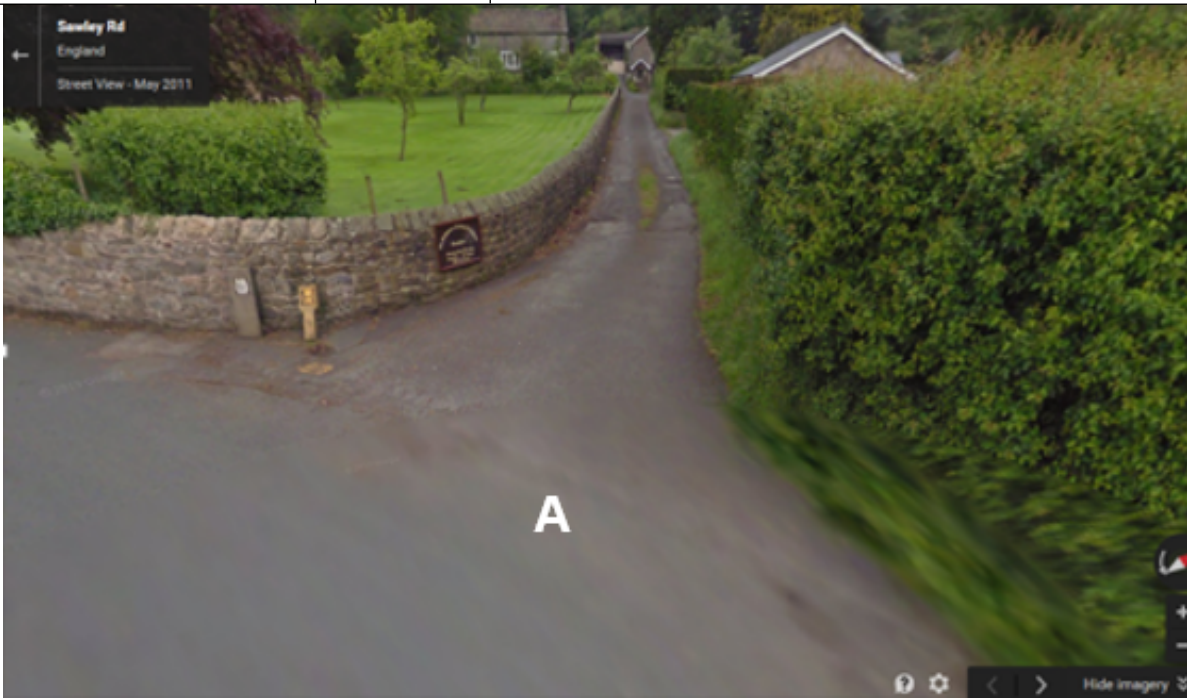
		Revised Definitive Map and Statement (First Review) was prepared.
<b>Parish Survey Map</b>	1950-1952	The initial survey of public rights of way was carried out by the parish council in those areas formerly comprising a rural district council area and by an urban district or municipal borough council 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.
Observations		The County Council does not have the parish survey maps that were originally prepared for the parishes of Grindleton or Sawley. However, Parish Survey cards for the parishes of Grindleton and Sawley have been examined. The surveys in both parishes appear to have been carried out between 1950 and 1951 by the same person – Councillor W Procter. Footpath 44 Grindleton is described in the parish survey card as terminating at 'Friends Meeting House' . Footpaths 3 & 5 Sawley are described in the parish survey cards as starting at 'Green End'.
Investigating Officer's Comments		The fact that Footpath 44 is described as ending at 'Friends Meeting House' suggests that the surveyor may have considered that there was already public access to Green End which did not require to be recorded on the Definitive Map. This is further supported by the same surveyor describing Footpaths 3 & 5 Sawley starting at Green End which could be accessed via the route under investigation.
<b>Draft Map</b>		The parish survey map and cards for Grindleton and Sawley were handed to West Riding of Yorkshire County Council who then considered the information and prepared the Draft Map and Statement.  The Draft Maps were given a “relevant date” (22 <sup>nd</sup> September 1952) and notice was published that the draft map for the West Riding of Yorkshire had been prepared. The draft map

		was placed on deposit for a minimum period of 4 months on 6 <sup>th</sup> June 1953 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.
Observations		The route under investigation was not shown on the Draft Map and no representations were made to the County Council.
<b>Provisional Map</b>		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 1970, 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.
Observations		The route under investigation was not shown on the Draft Map and no representations were made to the County Council.
<b>The First Definitive Map and Statement</b>		The Provisional Map, as amended, was published as the Definitive Map in 1973.
Observations		The route under investigation was not shown on the Draft Map and no representations were made to the County Council.
<b>Revised Definitive Map of Public Rights of Way (First Review)</b>		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 25 <sup>th</sup> April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published by Lancashire County Council with a relevant date of 1 <sup>st</sup> September 1966. This Map included the parishes of Grindleton and Sawley which now formed part of Lancashire although these would have had a relevant date inherited from West Riding. 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.



Observations		The route under investigation is not shown on the Revised Definitive Map of Public Rights of Way (First Review) and Statement.
Investigating Officer's Comments		From 1952 through to 1973 there is no indication that the route under investigation was considered to be public right of way by the Surveying Authority. There were no objections or representations made with regards to the fact that the route was not shown on the map when the maps were placed on deposit for inspection at any stage of the preparation of the Definitive Map.
<b>Highway Adoption Records including maps derived from the '1929 Handover Maps'</b>	1929 to present day	In 1929 the responsibility for district highways passed from district and borough councils to the County Council. For the purposes of the transfer, public highway 'handover' maps were drawn up to identify all of the public highways within the county. These were based on existing Ordnance Survey maps and edited to mark those routes that were public. However, they suffered from several flaws – most particularly, if a right of way was not surfaced it was often not recorded.

		<p>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.</p> <p>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.</p>
Observations		<p>The route under investigation is not recorded as being publicly maintainable in the records originally derived from the 1929 Handover Maps and now held by the County Council.</p>
Investigating Officer's Comments		<p>The route under investigation was not recorded as a publicly maintained highway in 1929. However, many public rights of way have been found not to have been recorded on these maps – often if they were unsurfaced at that time so the fact that the route was not recorded as being publicly maintainable does not necessarily mean that it wasn't.</p>
<b>Statutory deposit and declaration made under section 31(6) Highways Act 1980</b>		<p>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).</p> <p>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</p>

		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 route under investigation runs.
Investigating Officer's Comments		There is no indication by a landowner under this provision of non-intention to dedicate public rights of way over their land.
<b>Google Street View</b>	2011	Image captured from Google Street View and dated May 2011
		
Observations		The photograph shows the start of the route under investigation from the junction with Sawley Road. The route is tarmac and is not gated and access appears to be available. A brown sign can be seen on the wall and although it was not possible to read all of the wording the sign provides information about the Society of Friends and the bottom line says 'All welcome'. A check of the hedge line east of point A was also made on Google Street View to see if there was any evidence of a public footpath sign or post. None was found.
Investigating Officer's		The route under investigation appears to be



Comments		available from point A in 2011. No signpost identifying the route as a public footpath was visible from the photograph.
<b>Undated photograph of Public Footpath signpost and 'No right of Way' sign</b>		Photograph submitted by the Applicant.



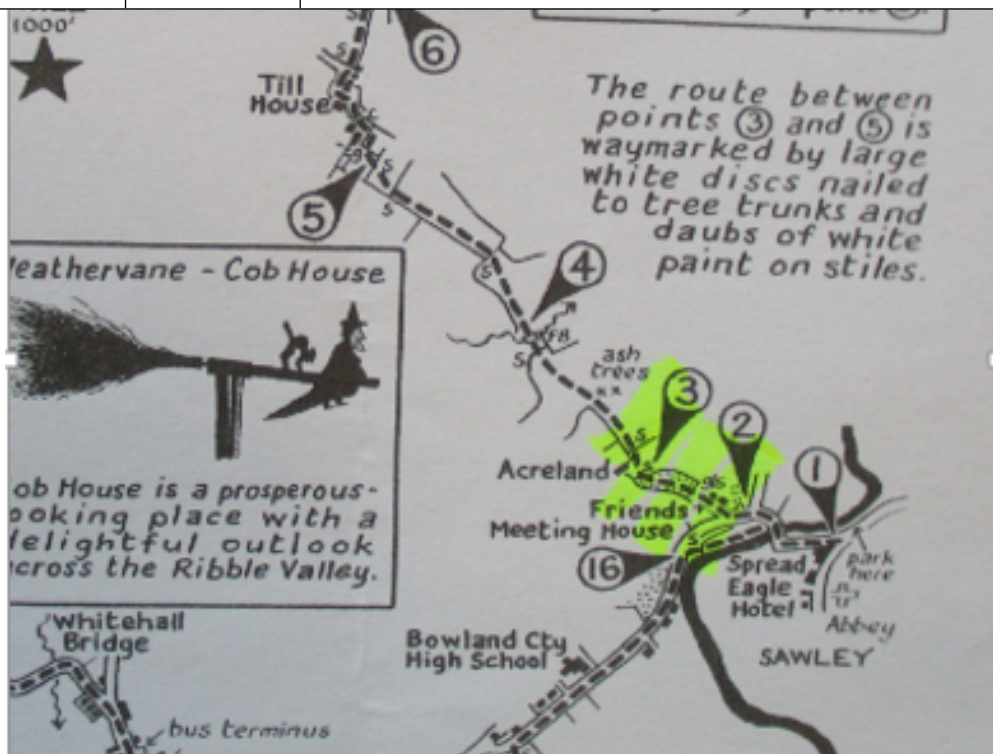
Observations		This photograph shows a public footpath signpost banded onto a wooden post that appears to have existed in the hedge for some considerable time (green and weathered in appearance). Next to it is a sign saying 'Private No public right of way'. The applicant has stated that the private sign appeared in 2013 and that the public footpath sign was subsequently removed by Ribble Valley Borough Council.
Investigating Officer's Comments		The photograph is undated and it is not possible to see from the photograph exactly where the signs are located in relation to the route under investigation although it does not appear that the footpath sign pointed along the route under investigation from point A.  The wooden post onto which the footpath sign had been banded appears to have been there

		<p>for a considerable length of time – although it is possible that it may have been moved from a different location. If the sign from an original post became worn or damaged it was the normal practice of the County Council to replace it with a metal arrow which could be banded onto a post.</p> <p>No records relating to the erection, replacement or removal of a sign have been found so little inference can be drawn.</p>
<b>Ramblers Jubilee Commemorative Walk Clitheroe 60k Route Card</b>	Route devised 1990 and published 1995	Long distance circular route devised by a member of the Clitheroe Ramblers Group
Observations		The 60km route included use of the route under investigation.
Investigating Officer's Comments		The inclusion of the route devised by local Ramblers supports the use of the route by the public in the 1990s.
<b>Extract from Walking in the Forest of Bowland by Gladys Sellers published in 1994</b>	1994	A well-known and respected walking guidebook published by Cicerone Press.



Observations		Chapter 5 describes a number of walks in the
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		Sawley area. One walk is described as 'Sawley to Scriddles Farm' (page 151 of the book) with a hand drawn map showing the route on page 145. The route is described as starting Sawley Road and directs you to walk in the direction of Grindleton taking the first 'lane on the right'. The Lane referred to is the route under investigation and the author states that it is signed the Friends' Meeting House. At its end you are advised to go through a gate and continue alongside a stream (Footpath 5).
Investigating Officer's Comments		The route under investigation is included in a well-known local guide book and is described as a lane. There is no reference to a public footpath signpost and the suggestion is that the author considered it to be a lane up until its end where you passed through a gate and continued along a path.  The inclusion of the route in the guidebook suggests that it was being use by the public in 1994.
<b>Walks in Ribble Country by Jack Keighley published 1999</b>	1999	A further guidebook published by Cicerone Press.



Observations		The hand drawn map shows the route under investigation forming part of a circular walk. The guidebook directs you to "Turn R ( <i>right</i> ) up to
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		the Friends' Meeting House and keep straight on, passing to immediate L ( <i>left</i> ) of garage (looks private) to gate/stile."
Investigating Officer's Comments		The inclusion of the route in the guidebook suggests that it was being use by the public in 1999.
<b>Extract from the Blackpool Gazette - Rural Life</b>	April, 2013	Newspaper article detailing a walk around Sawley with further details on walking website found at <a href="http://www.lancashirewalks.com">www.lancashirewalks.com</a>



**Directions.** From the abbey entrance walk past the Spread Eagle and turn left to cross the River Ribble by the handsome road bridge. At the junction turn left but almost immediately turn right onto the drive of the Friends Meeting House.



Keep ahead to reach the forecourt of a garage next to a wooden gate.



Edge along the left side of the forecourt (taking care as when wet the tiles can be slippery) to access a footpath on the left. This passes a shed and soon enters woodland steadily climbing. After a stile

<p>Observations</p>		<p>Route described as passing along the drive of the Friends' Meeting House to the forecourt of a garage next to a wooden gate (point B). Then edge along the left side of the forecourt to reach a footpath on the left.</p> <p>The undated photographs that are included on the website show access along the route under investigation from point A and show the various onward routes waymarked at point B</p>
<p>Investigating Officer's Comments</p>		<p>The article submitted was published in April 2013 and describes the route under investigation as consisting of the drive of the Friends' Meeting House. The inclusion of the route within a published walk in 2013 suggests that it was being used by the public at that time.</p>

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

Landownership

There is a freehold title for the mines and minerals for the majority of this route in the name of Thomas Assheton, 42 Lansdowne Gardens, London SW8 2EF and Napthens, Solicitors, Preston who have been consulted on the matter and no response has been received. There is a freehold owner for part of the route and the applicant confirmed notice of application to this landowner without response. The

remainder of the route is unregistered. The applicant has posted on site 'notice of application' to unknown landowners and no responses have been received.

## **Summary**

A substantial length of the route under investigation (between point A and point B) is shown on maps dating back to 1848 (the Tithe Map) and is clearly shown on all subsequent Ordnance Survey maps inspected. Map evidence suggests that the route formed the access to Green End and to the Friends' Meeting House and burial ground and research on the Friends' Meeting House states that it was built in 1777 suggesting that access may have existed from at least that time.

At point B the Ordnance Survey mapping suggests the existence of a gate which is borne out by the modern day site evidence as the route passes between gateposts at this point. Beyond point B it appears from the mapping evidence that access would have been available to link to the recorded routes of Public Footpaths 3 and 5 Sawley.

Grindleton and Sawley parish councils were tasked with the production of a parish map and accompanying survey cards in the 1950s. Both surveys were carried out by the same individual and the fact that the route under investigation is not recorded in the parish survey but 3 paths are described as starting at Green End or Friends' Meeting House which is consistent with it being assumed that there was public access to Green End.

The various walking guides submitted, which all include the route under investigation, suggest that the route has the reputation of being public and formed an important link in the rights of way network. Sawley is an attractive and historic village and the rights of way in the area are known to be well walked.

The map and documentary evidence examined does not appear to provide sufficient evidence of a public right of way alone but it does support the user evidence submitted with this application and the fact that the enclosed and tarmac route provides access to a place of worship, burial ground and farm may explain why Grindleton Parish Council did not feel it necessary to record the route as a public footpath in the 1950s.

## **Head of Service – Legal and Democratic Services Observations**

### **Information from the Applicant**

The applicant has provided a covering letter for his application:

The applicant is the Footpath Secretary for Clitheroe Ramblers and is submitting the application. The applicant has provided details of who he thinks the landowner for the claimed route is, although there is no record at the Land Registry. The Lane is surrounded by 3 other properties and the issue came to light earlier in 2013 when a notice appeared at the Sawley Road end of the Lane saying 'Private, no public right of way'. The applicant states there has been a Public footpath fingerpost at this point for as long as people can remember, but this was taken down by RVBC when it was

pointed out the public right of way does not appear on the Definitive Map, (the applicant has attached a photograph of this).

The applicant continues to say this lane forms a very important link in many circular walks around Sawley as well as being part of the Nationally Recognized Long Distance Route called Clitheroe 60K.

In support of the application the applicant has submitted 15 user evidence forms, 1 of these forms has been completed by 2 users, so 16 users have used the route in total, the information provided in those forms is set out below.

The years in which the users have known the route varies:

1958-2013(1)	1973-2013(1)	1978-2013(1)	1980-2013(2)
1983-2013(1)	1989-2013(1)	1991-2013(1)	1993-2013(2)
1994-2014(2)	1998-2013(1)	2004-2014(1)	

1 user states they have used the route for 'several years' and another states 'a lot of years'.

All 16 users have used the route on foot, the years in which the route was used varies:

1957-2012(1)	1965-2012(1)	1978-2013(1)	1980-2013(1)
1985-2013(1)	1990-2012(1)	1990-2013(2)	1991-2010(1)
1991 & 2009-2012(1)	1993-2013(1)	1998-2013(1)	2005-2013(1)
2007-2013(1)			

1 user did not provide a response to this question, and 1 user only stated in 1995

The main places the users were going to and from include Sawley, Beacon Hill, Hill House, Rodhill Gate, Acreland, Grindleton, Bolton-by-Bowland, and circular walks such as Clitheroe 60K.

The main purpose for the users using the route were for group walks, leading scouts on a walk, trainer as a runner, for recreation / country walk / pleasure and dog walking.

The use per year varies from 2-3 times, 100 times, 3-4 times, once or maybe twice, on and off over the years to several times a year.

15 users have never used the route on horseback, motorcycle / vehicle or by any other means, 1 user did not provide a response to this question.

All 16 users agree that they have never seen anyone using the route on horseback or by motorcycle / vehicle, however 13 of the users mention they have seen others walking when they have been using the route. The ones who provided dates of when they saw other users state, 1980-2013, 1957-2012, 1995, 2005, 2013 and 1991-2010.

12 users all agree that the line has always run over the same route, 4 users did not provide a response to this question.

When asked if there are any stiles / gates/ fences along the route, 3 users mention there is a stile and all the other users answered 'no' to this question.

When asked if any of the gates along the route were locked or whether they were prevented access from using the route the users either didn't provide a response or

answered 'no'.

Similarly all the users either answered 'no' or did not provide a response when asked if they have ever worked for a landowner over which the route crosses or if they have ever been a tenant over which the route crosses.

None of the users have ever been stopped or turned back when using the route nor have they ever heard of anyone else having been stopped or having to turn back when using the route.

When asked if they were ever told by someone that the route they were using was not a public right of way by foot, 15 users answered 'no', 1 user responded with 'no I never recorded dates of when the path was walked as this was never deemed necessary, and public right of access was never questioned'.

9 users have never seen any signs or notices along the route, however 6 users provided comments:

1. 'Recently the footpath sign has been turned to point up at Sawley Road and a Perspex sign fixed to say 'not a public right''
  2. 'no the footpath signpost has become obscured by vegetation at times but as far as I know has always been present'
  3. 'no, not until a notice was put up in March 2013 prior to that there was a public footpath sign at this point on Sawley Road'
  4. 'there was a public footpath signpost where the route left Sawley Road at SD774467, this had been there so long that the hedge had grown round it'
  5. 'there is one notice to the entrance from the lane which appears to be new'
  6. 'notice said 'private no....', originally there was a footpath sign 1991 – 2010'
- 1 user did not provide a response.

None of the users have ever asked permission to use the route.

At the end of the user evidence form users are asked to provide any extra information they feel is relevant to the application, this information is provided below:

- This user is responding on behalf of both the West Lancashire long Distance Walkers and the Fylde Ramblers. Some members of West Lancashire long Distance walkers have walked this lane on numerous occasions over the years, but below is a list of specific organised walks by both walking groups which passed along this lane:  
West Lancashire Long Distance Walkers
  1. 31st March 2011 went to Chatburn, West Bradford, Beacon Hill, Sawley, Chatburn and there were 7 walkers.
  2. 11th September 2012 went to Sawley, Beacon Hill, Bolton-by-Bowland, Till House, Sawley and there were 16 walkers.Fylde Ramblers
  1. 20th December 2009 went to Sawley, Beacon Hill, Grindleton Fell, Higher Heights, Rod Hill Gate and there were 9 walkers
  2. 12th December 2010 went to Sawley, Grindleton Fell, Beacon Hill, Bolton-by-Bowland, Sawley and there were 13 walkers.The West Lancashire '100' which was held in 1991 also came down this lane from Beacon Hill and Till House - (West Lancs Long Distance Walkers still have the route description). Prior to the event all property occupants were

notified that walkers would be coming down this lane throughout the night and there was not the slightest objection to this. The route of the Clitheroe 60K also comes down this lane, this is still listed as a long distance path on the LDWA website. A screenshot of the Clitheroe 60K website is provided as evidence.

- This user provides 4 dates in which he has done the Long Distance walk of 60K
- Being very close to Clitheroe and the adjacent countryside this section of path has been used on short afternoon and evening walks and has also been used on much longer walks, full day and long distance walks as part of well-loved routes
- I am and have been secretary of Clitheroe Ramblers since 1981. I have led a number of walks for the group using this route. On 4/8/1980 I used the route to do a circular walk via Higher Heights 37 on the walk and again on 10/6/1981 with 24 on the walk. It is also used by the Clitheroe 60K route originally lead by the Mayor of the Ribble Valley on 15/4/95. I was on the Clitheroe Ramblers 60K walk on 15th / 16th, we used the footpath on the 2nd day there were 27 on that walk
- Have walked this route on many occasions since 1998, with private group of friends on Wednesdays, with close friends a resident at till house and with the ramblers (Lancashire Weekend Walkers)
- From 1957 my wife and I used this lane several times a year as part of walks for pleasure and recreation. After joining the Ramblers in the mid 1960s we also walked it in Rambler group walks. At the ramblers AGM in 1987 I was elected a footpath officer, Grindleton and Bolton by Bowland were two of the parishes allocated to me. I used to park my car near the junction of Sawley Road and Bolton by Bowland Road and walk this lane approximately monthly to reach footpath I wished to check. This continued to 2006 when I handed over these parishes to another footpath officer but I continued to use this way for occasional recreational walks up to 2012.

As well as the user evidence forms the applicant has also provided copies of:

- Clitheroe 60K walk booklet
- A Cicerone Guide for Forest of Bowland Walks
- A Cicerone Guide for Walks in Ribble Country
- Rural Life Country Trails
- Friends' Meeting House, Public Services, Weddings and Burial Ground

#### Information from Others and Landowners

The applicant has informed the County Council of a suspected landowner Mr David Webb, but whilst the Council has made reasonable attempts to contact Mr Webb, no response has been received.

#### **Assessment of the Evidence**

#### **The Law - See Annex 'A'**

In Support of the Claim

- User evidence
- Tithe Map for Grindleton
- Ordnance Survey Maps
- Aerial Photographs
- Parish Survey Map
- Ramblers Jubilee Commemorative Walk Clitheroe 60 K Route Card
- Extract from walking in the Forest of Bowland by Gladys Sellers published in 1994
- Walks in Ribble Country by Jack Keighley published 1999
- Extract from the Blackpool Gazette – Rural Life published April 2013

#### Against Accepting the Claim

- Ordnance Survey 25 inch maps – gate

#### Conclusion

The claim is that the route A – B – C is an existing public footpath and should be added to the Definitive Map and Statement of Public Rights of Way.

It is therefore advised as there is no express dedication that the Committee should consider, on balance, whether there is sufficient evidence from which to have its dedication inferred at common law from all the circumstances or for the criteria in section 31 Highways Act 1980 for a deemed dedication to be satisfied based on sufficient twenty years “as of right” use to have taken place ending with this use being called into question.

Considering initially the criteria for a deemed dedication under section 31 of the Highways Act, that use needs to be “as of right” and also sufficient for the 20 year period. The route was called into question 2013 with erection of a sign stating 'Private, no public right of way' and the period of use from which dedication can be deemed would be 1993 - 2013.

15 user evidence forms have been submitted of which one form has been completed by husband and wife. All 16 users claim to have known and used the route on foot "as of right". The 16 users indicate knowledge and use of the claimed route A – B – C for a continuous period for 20 years or more without interruption suggesting good user evidence for the sufficient period. Some weight is lost in that two users repeat the same information although use by the public at large is satisfied corroborated by various walking publications and user evidence of numerous walking groups. Whilst none of the users confirm there was a gate across the route some users answer 'no' as to whether stiles, gates or fences prevented them from using the route. It appears at point A some users recall a footpath sign with one user confirming it was recently turned to point up at Sawley Road and a Perspex sign fixed to say 'no public right of way' sign erected. Purpose of the route A – B – C from and to Sawley, Beacon Hill, Hill House, Till House, Rodhill Gate, Acreland, Grindleton, Bolton-by Bowland and various circular walks such as Clitheroe 60k for group and individual walks, leading



scouts on a walk, training as a fell runner, for recreation, country walking and dog walking.

There is a freehold title for the mines and minerals for the majority of the claimed route. There is a second freehold title of part of the route. No representation(s) have been received from known landowner(s). The landowner(s) of the remaining parts is unknown and despite the applicant having posted the relevant notices at each end of the claimed route for a period of four months, no further landowner information has been received.

Considering also whether there are circumstances from which dedication could be inferred at common law, part of the claimed route between A and B appeared capable of use on the Tithe Map for Grindleton dated 1848 and shown on all subsequent Ordnance Survey maps inspected. Map evidence supports access between the claimed route A to B as access to Green End and to the Friends' Meeting House and burial ground possibly since 1777 when the House was built. The 6 inch OS map 1847 suggests that access appears to be available between the buildings to point C, subsequent Ordnance Survey maps and confirmation by a site visit 2014 confirm that a gate existed at point B although access appears to be available beyond point B to link to the public footpaths 3 and 5 Sawley. The Parish Survey map whilst not recording the claimed route did describe Footpath 4 as ending at Friends Meeting House' and Footpaths 3 & 5 Sawley starting at Green End being consistent with the assumption there was public access to Green End. A title register confirms that land crossed by the claimed route B - C has since 1981 and continuing to date to be subject to a right of way in favour of adjoining land, day and night, with or without vehicles described as 'along the farm track'. This suggests the route was and continues to be available and capable of use. The various walking guides which include the claimed route suggest the route has the reputation of being public and formed an important link in the rights of network.

It is suggested that the way this route is recorded on documentary evidence is not itself sufficient circumstances from which dedication could be inferred, however, sufficient as of right use acquiesced in by the owners may also be circumstances from which dedication can be inferred. The use as evidenced corroborated by the documentary evidence outlined above would suggest that on balance there are sufficient circumstances to infer at common law that the owners in 1993 to 2013, in acquiescing in the use and taking no overt actions actually intended dedicating the claimed route as a footpath and it had become a footpath accepted by the public.

Taking all the evidence into account, the Committee on balance may consider that the provisions of section 31 Highways Act can be satisfied and there is also sufficient evidence on balance from which to infer dedication at common law of a footpath in this matter and that the claim be accepted.

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



**Alternative options to be considered - N/A**

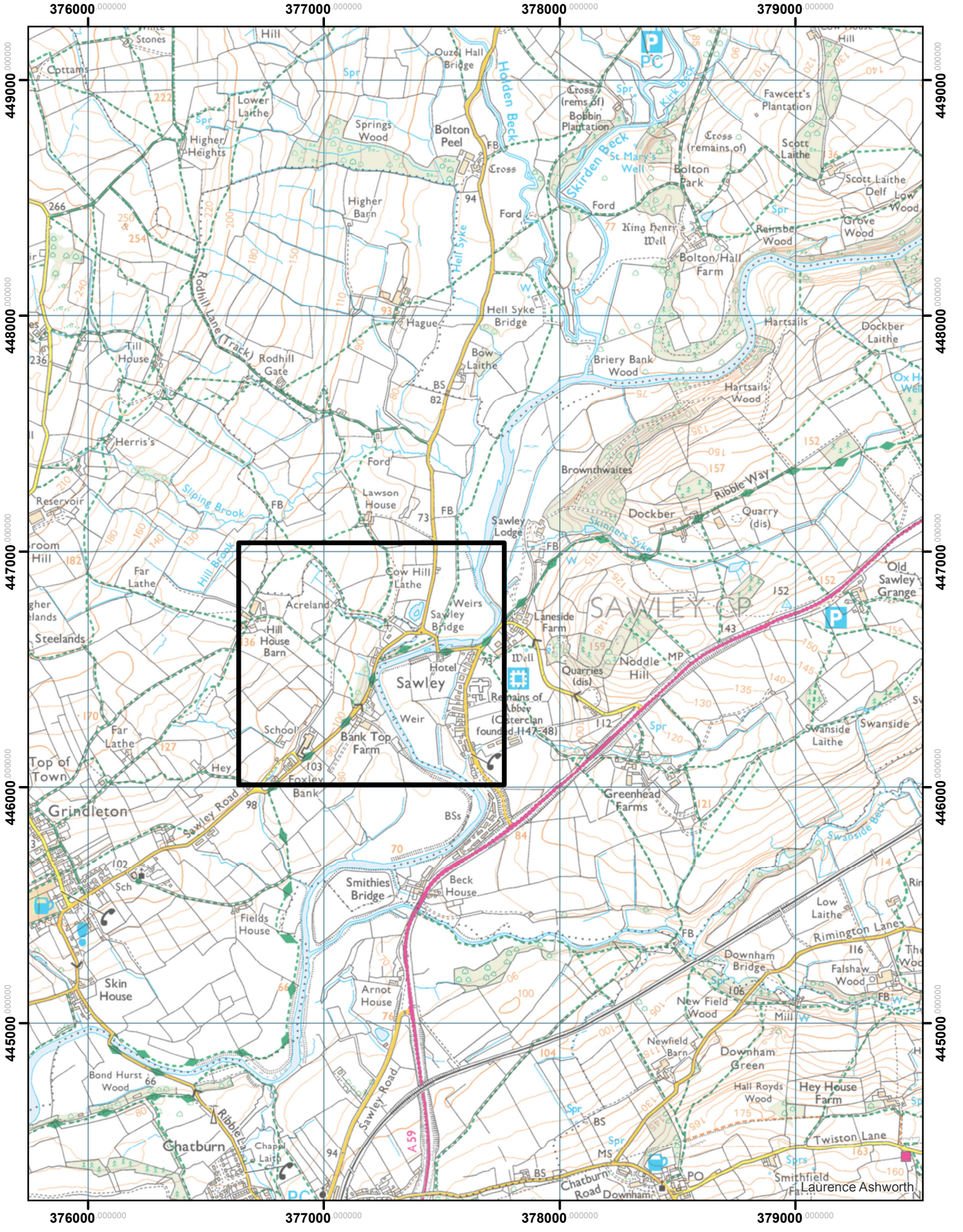
**Local Government (Access to Information) Act 1985  
List of Background Papers**

Paper	Date	Contact/Directorate/Tel
All documents on File Ref: 804-550		Megan Brindle , 01772 535604, Legal and Democratic Services

Reason for inclusion in Part II, if appropriate

N/A





**Andrew Mullaney**  
Head of Planning and Environment

**Wildlife and Countryside Act 1981 LOCATION PLAN**  
**Addition of a public footpath from Sawley Road to junction of**  
**Public Footpath 44 Grindleton and Public Footpath 5 Sawley, Ribble Valley**

1:20,000



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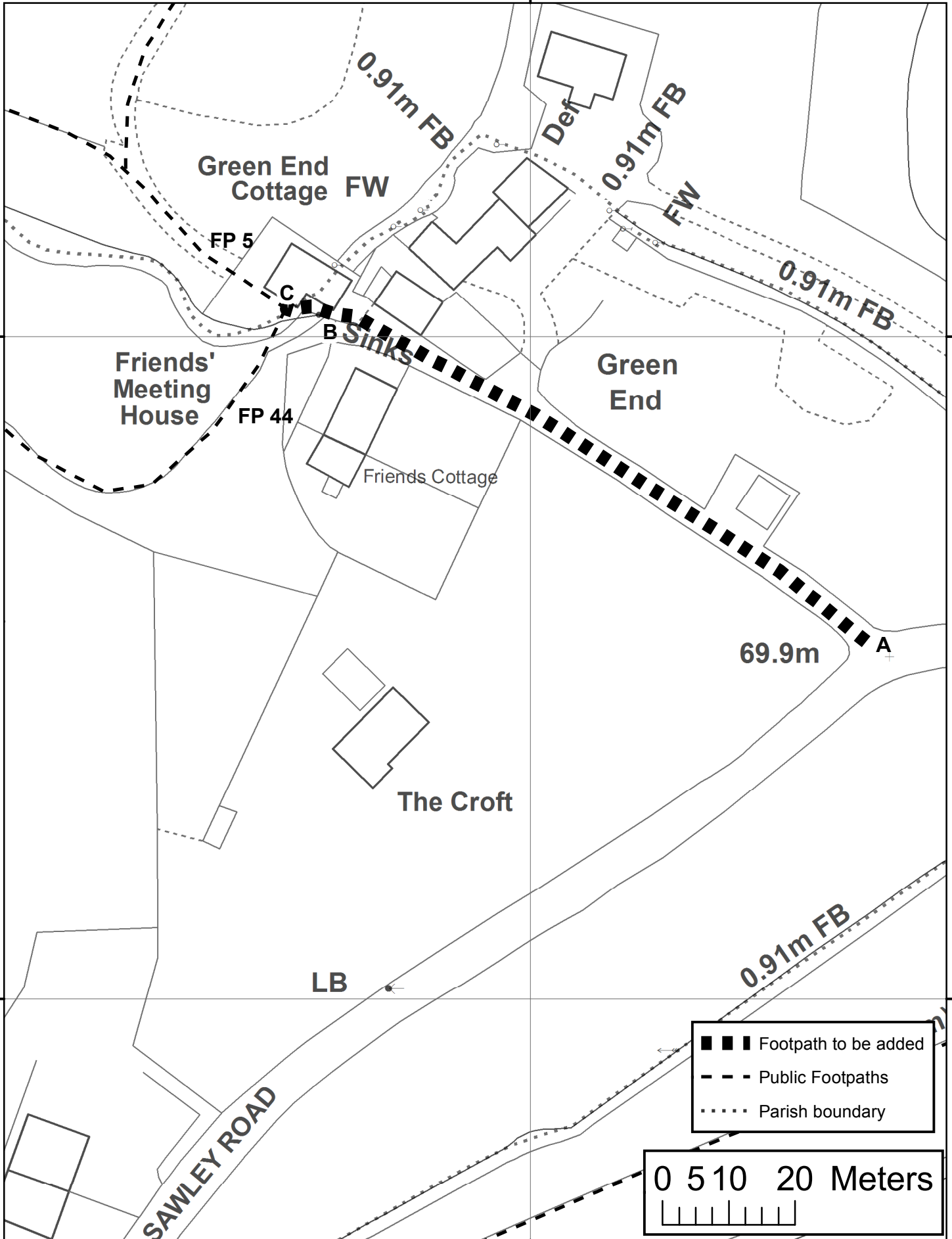
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Andrew Mullaney  
Head of Planning and Environment

**Wildlife and Countryside Act 1981**  
**Addition of public footpath from Sawley Road, Grindleton to junction of**  
**Public Footpaths 44 Grindleton and 5 Sawley on the parish boundary, Ribbles Valley**

1:750



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