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Your ref
Our ref **71/SPS/802**
Date **20th March 1997**

GAA

Dear Councillor

PUBLIC RIGHTS OF WAY SUB-COMMITTEE

A meeting of the Public Rights of Way Sub-Committee will be held on Wednesday, 26th March, 1997, at 10.30 a.m. in Committee Room 'B', at County Hall, Preston.

Yours faithfully

G A JOHNSON

Chief Executive/Clerk

AGENDA

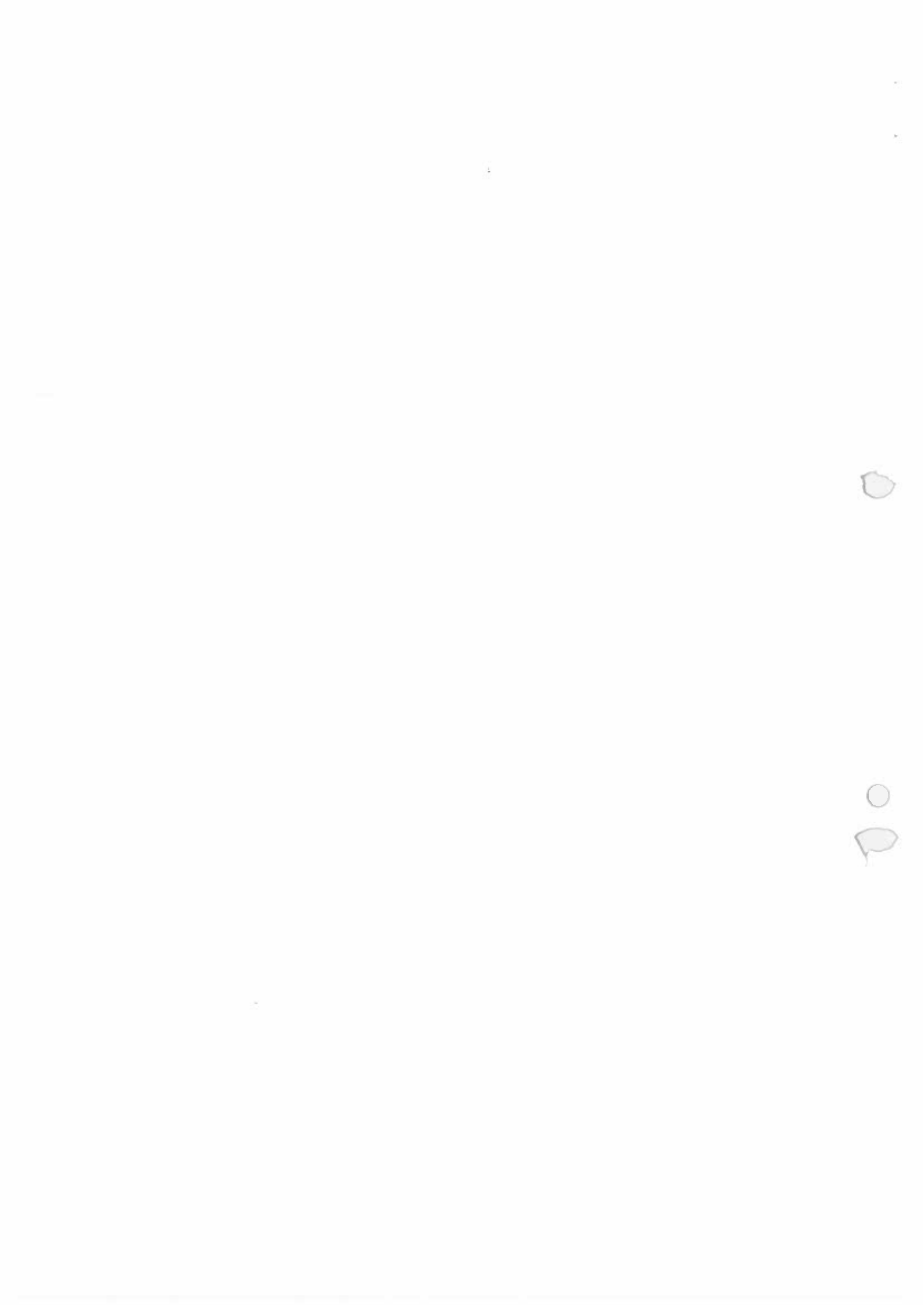
PART 1

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PUBLIC RIGHTS OF WAY SUB-COMMITTEE
26TH MARCH 1997

Would the Sub-Committee please note the following:-

Item No. 7 - Claimed Bridleway at North Meols

The references to "Ralph's Wife's Lane/Water Lane" in the Description and Location of the Claim (p.32 para (b) line 5 and para (c) line 5) and in the Decision required (p.46 para (b) line 4 and para (c) line 4) should all read "New Lane Pace".

Item No. 10 - Proposed Diversion of Part of Public Footpath
No. 21, Halsall

It is suggested that the Decision Required should read as follows:-

That, subject to the County Surveyor being satisfied that the proposed alternative route will be in no way less commodious or convenient for public use, and in particular:-

- i) that the width of the proposed alternative route be a minimum of 2 metres throughout;
- ii) that measures are taken to ensure that the field edge length of the proposed alternative route (points D-C on plan) cannot be adversely disturbed by ploughing or planting of crops;
- iii) that a suitable crossing of the ditch (point D on plan) be provided which will not create an undue future maintenance liability for the County Council;
- iv) that assurances be obtained that no materials which could be detrimental to the enjoyment of the route by the public will be kept immediately adjacent to the proposed alternative route;

Then paras 1 and 2 as per Decision Required outlined on page 53.

Item no. 14 - Public Rights of Way and Access Forum

The references in the Minutes of the Meeting of the Public Rights of Way and Access Forum (Appendix 'D', p.6, item 9 - Any Other Business, para 2, lines 2 and 3) should read 'Blackburn', not 'Blackpool'.



Where there is evidence of public use of a route, dedication of the route as a highway can be inferred at Common Law, if all the circumstances clearly and unequivocally point to an intention on the part of the landowner to dedicate or, under Section 31 of the Highways Act 1980, dedication may be presumed, from 20 years use by the public as of right and without interruption. In both cases dedication can be rebutted by evidence that the landowner has denied the public's right to use a route, eg by physically blocking it, turning people off the route or erecting notices indicating the route is private.

In this case, whilst there is a lot of evidence of use by the public, in particular 10 statements have been obtained of persons using the route in excess of 20 years, there is also evidence of denial of dedication between points B-D of the route.

The claimed route is to the outside of fencing erected by landowners between points B-C. The landowners have provided evidence that the route runs over their land and that they have made attempts to fence down to the water, but when the river floods, the fencing gets damaged. They claim to regularly erect notices to advise the public there is no path but these are vandalised, and to have regularly informed people attempting to use the route that it is private. Their evidence of denial of dedication of a footpath along this section of the route is corroborated by a 44 signature petition that, to the knowledge of the signatories, there has not been a footpath between points B-D for a period of up to 60 years. There is a brick wall over the claimed route at point D and the landowner denies there has ever been a public right of way.

Whilst the evidence of denial of dedication relates to the length B-D the route must be viewed as a whole. The evidence of use of the route all relates to the full length, if one part of the route fails, the whole route must fail.

In view of the evidence of rebuttal of dedication, either at common law or under statute, along the length B-D of the claimed route, the Sub-Committee may agree, that the evidence does not show, on the balance of probability, that a footpath subsists or is reasonably alleged to subsist along the claimed route and the claim should not be accepted.

Decision Required

That the claim for a public footpath from London Road to Winery Lane, Walton-le-Dale, South Ribble Borough, (GR.5531 2862 to 5506 2818), to be added to the Definitive Map and Statement of Public Rights of Way (Claim No. 804/260) be not accepted.

7. WILDLIFE AND COUNTRYSIDE ACT 1981
- a) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATHS NOS. 47 AND 48 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT
 - b) CLAIMED BRIDLEWAY TO THE NORTH OF, AND PARALLEL TO, PUBLIC FOOTPATHS NOS. 48 (PART) AND 49 (PART), NORTH MEOLS, WEST LANCASHIRE DISTRICT
 - c) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATH NO. 49 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT
CLAIM NO. 804/268

Issue for Consideration

The claim for:-

- a) the upgrading to the status of bridleway of Public Footpaths Nos. 47 and 48 (part), North Meols, West Lancashire District
- b) the addition of a bridleway to the north of, and parallel to, Public Footpaths Nos. 48 (part) and 49 (part), North Meols, West Lancashire District
- c) the upgrading to the status of bridleway of Public Footpath No. 49 (part), North Meols, West Lancashire District

on the Definitive Map and Statement of Public Rights of Way.

Background Information

Description and Location of the Claim

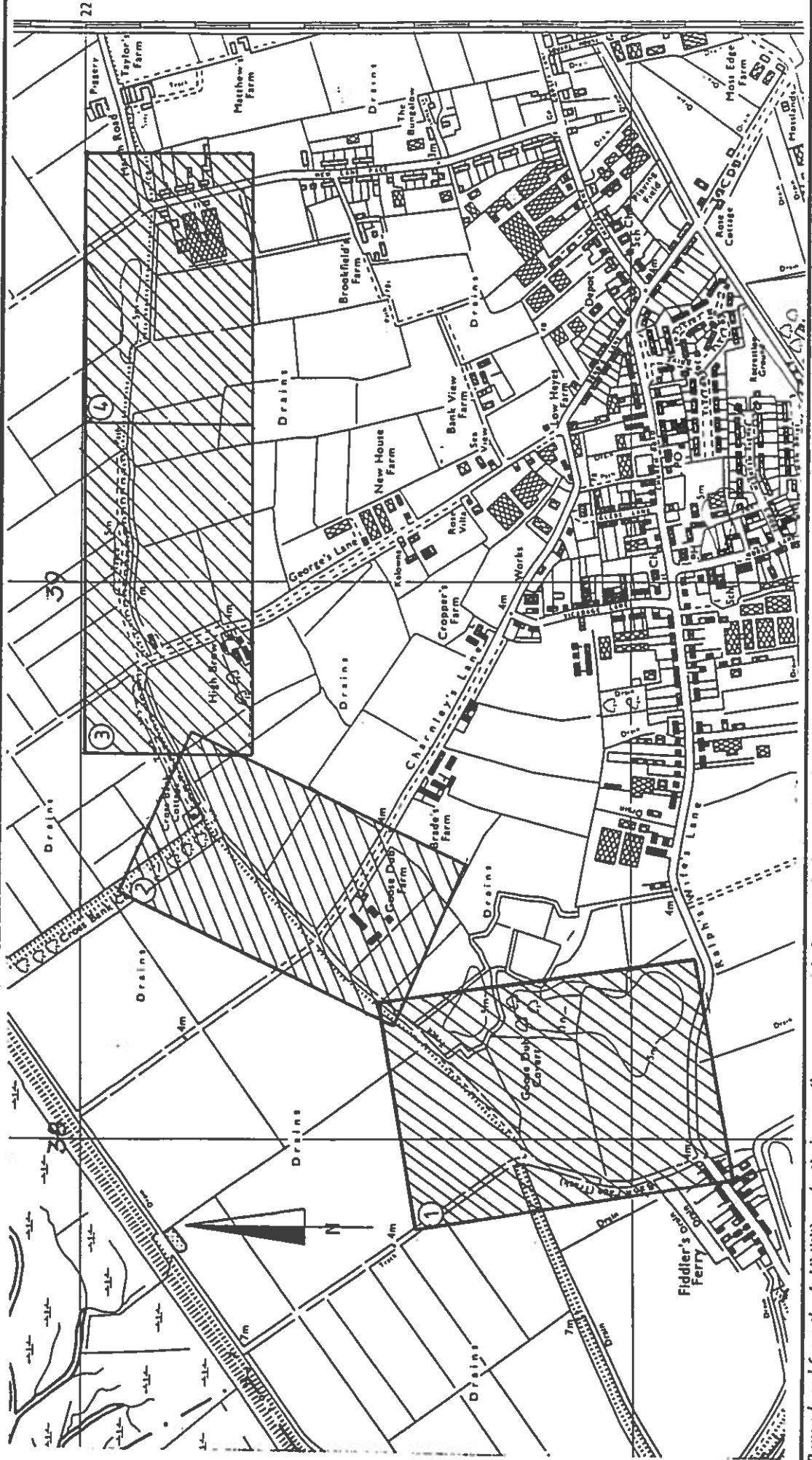
- a) the claimed route for the upgrading to the status of bridleway of Public Footpaths No. 47 and 48 (part), North Meols, extends for a total distance of approximately 1170 metres in a general northerly, then north-easterly direction from a point on Ralph's Wife's Lane/Banks Road, adjacent to No. 105, following Public Footpaths Nos. 47 and 48 (part) to a point at Cross Bank Cottage, and shown between points A-E on the attached plans (GR. 3797 2087 to 3860 2178);
- b) the claimed route for the addition of a bridleway to the north of, and parallel to, Public Footpaths Nos. 48 (part) and 49 (part), North Meols, extends for a total distance of approximately 840 metres in a general easterly direction from a point at Cross Bank Cottage to a point approximately 237 metres west of Ralph's Wife's Lane/Water Lane, opposite Marsh Road, and shown between points E-H on the attached plans (GR. 3860 2178 to 3944 2191);
- c) the claimed route for the upgrading to the status of bridleway of Public Footpath No. 49 (part), North Meols, extends for a total distance of approximately 237 metres in a general easterly direction from a point on Public Footpath No. 49, following Public Footpath No. 49 (part) to a point on Ralph's Wife's Lane/Water Lane, opposite Marsh Road, and shown between points H-I on the attached plans (GR. 3944 2191 to 3966 2190).

Consultations with Local Authorities

LOCATION PLAN

804/268

G. Harding B Eng, C Eng, FICE, FIHT, MBIM, County Surveyor & Bridgemaister.
P.O. Box 9, Guild House, Cross Street, Preston. PR1 8RD.

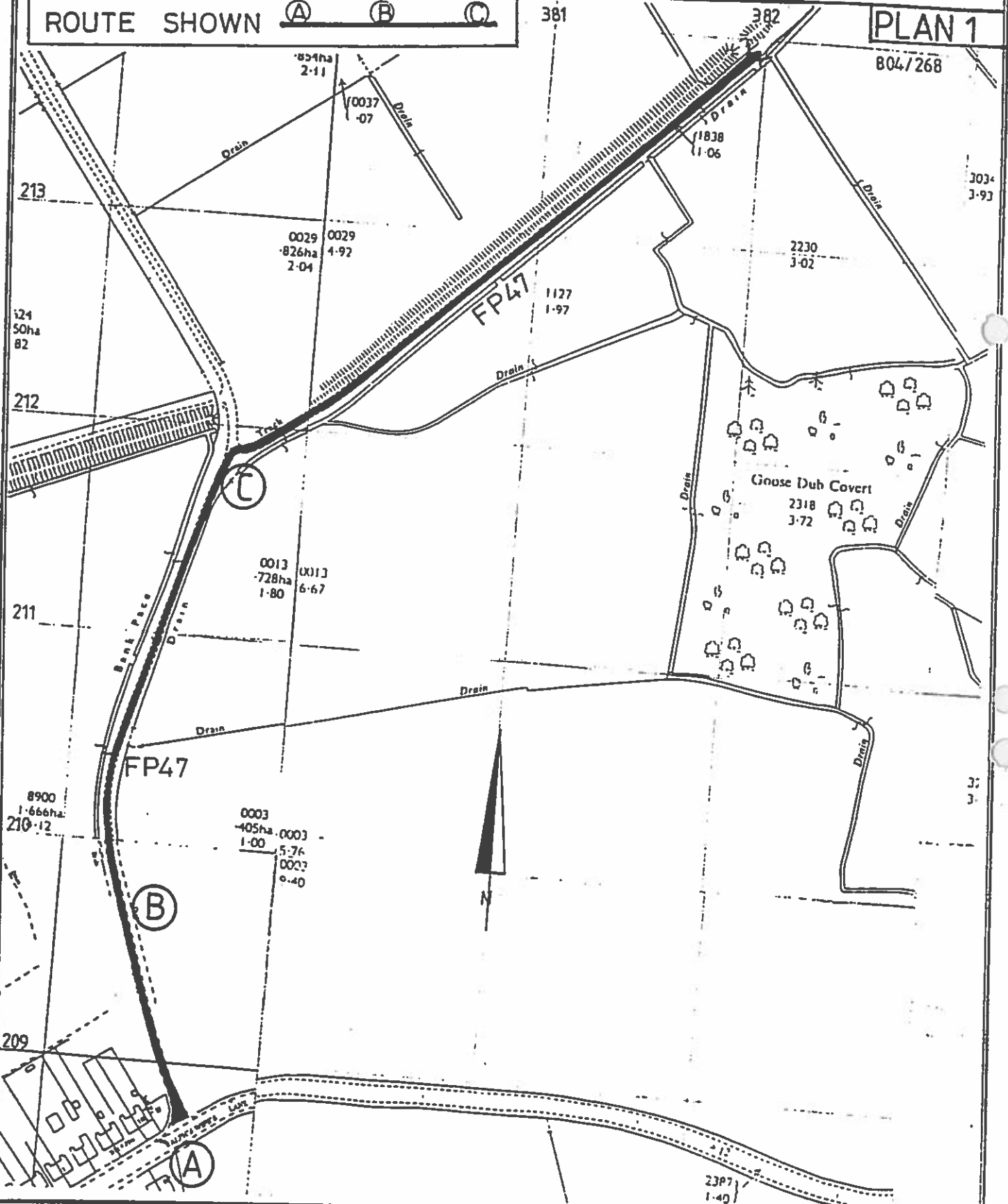


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- c) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATH NO. 49 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT

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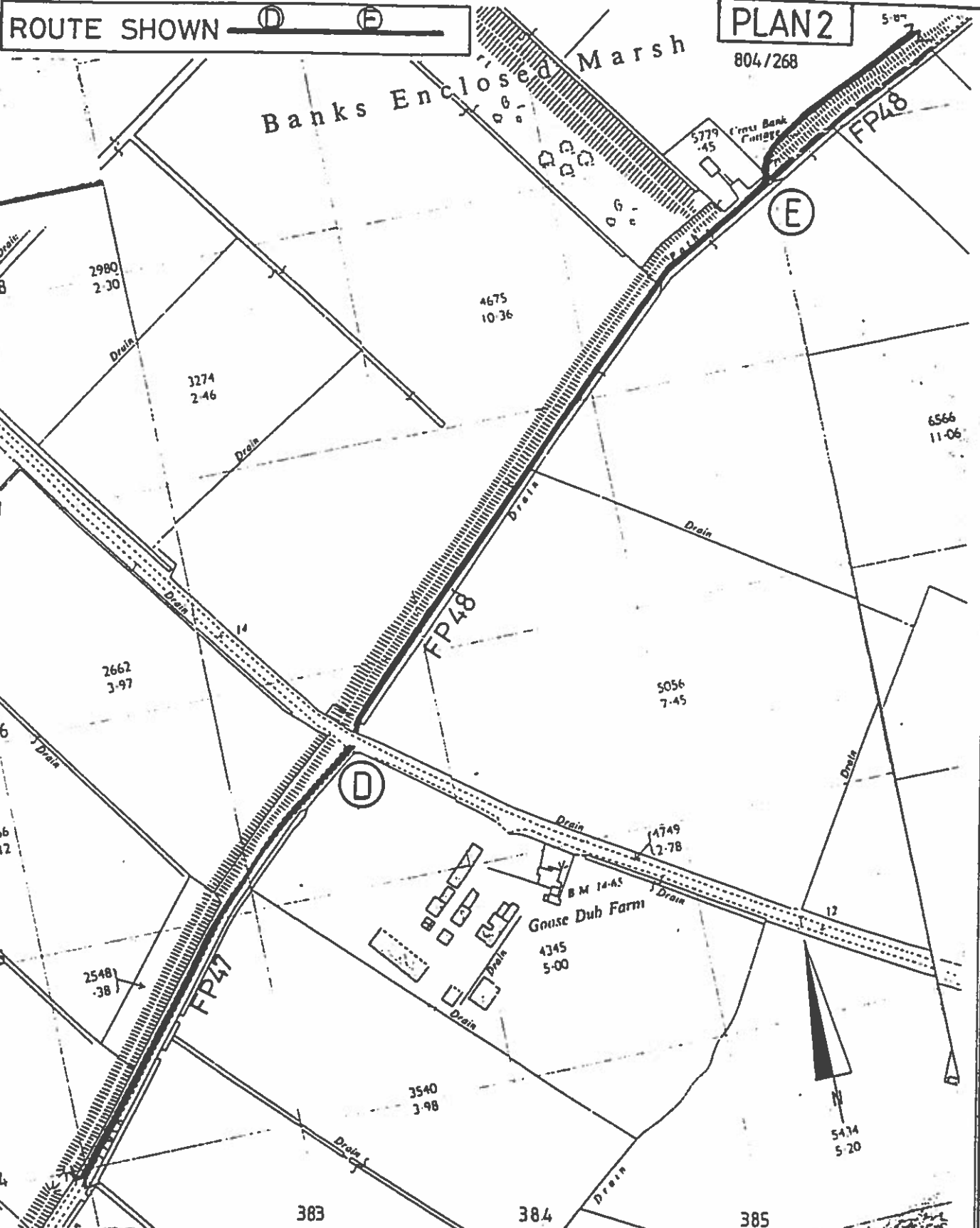
ROUTE SHOWN A B C

PLAN 1



- a) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATHS NOS. 47 AND 48 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT
- b) CLAIMED BRIDLEWAY TO THE NORTH OF, AND PARALLEL TO, PUBLIC FOOTPATHS NOS. 48 (PART) AND 49 (PART), NORTH MEOLS, WEST LANCASHIRE DISTRICT
- c) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATH NO. 49 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT

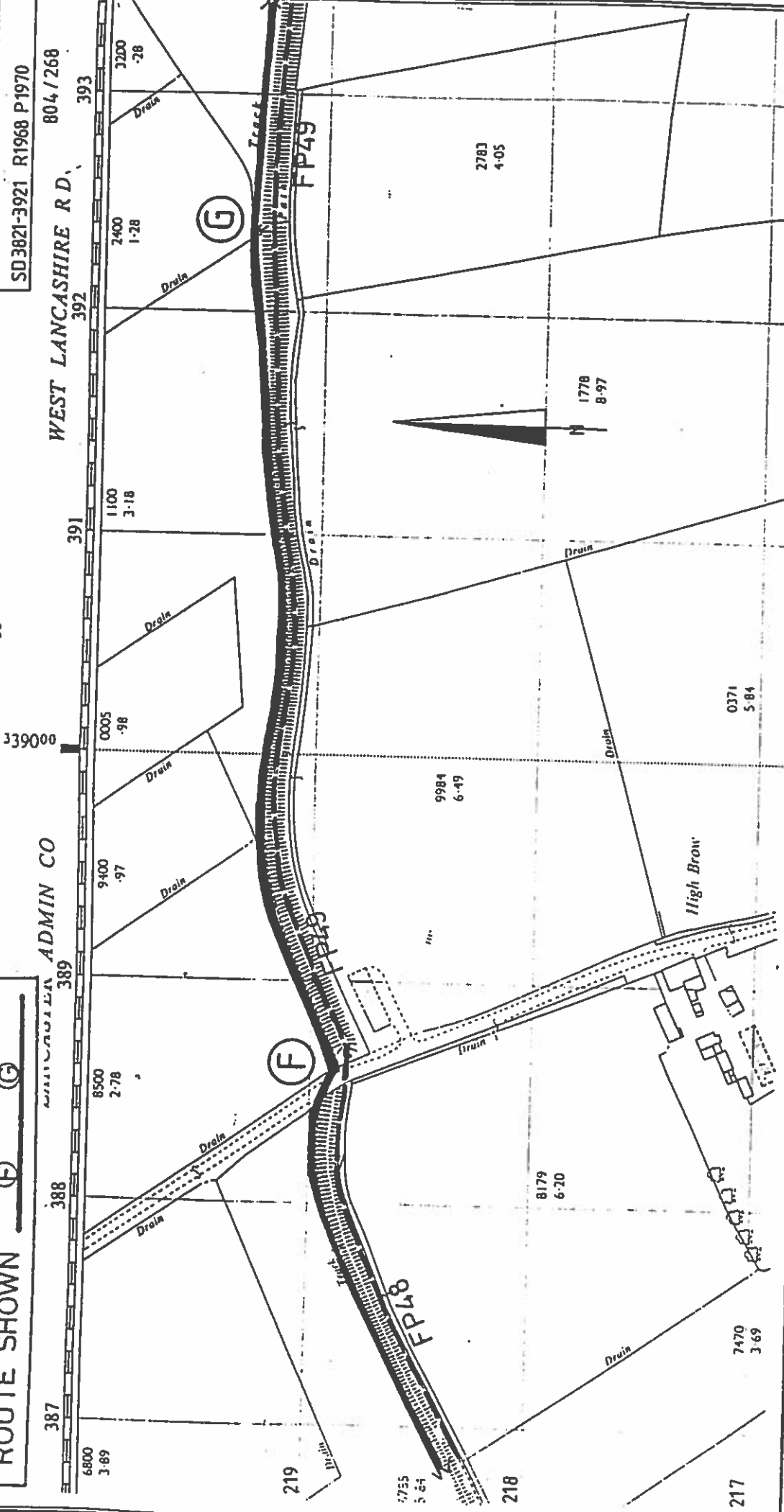
G. Harding B Eng, C Eng, MICE, FIHT, MBIM, County Surveyor & Bridgmaster.
P.O. Box 9, Guild House, Cross Street, Preston, PR1 5RD.



G. Harding B Eng, C Eng, MICE, FIHT, MBIM, County Surveyor & Bridgemaister.
P.O. Box 9, Guild House, Cross Street, Preston. PR1 8RD.

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ROUTE SHOWN 





ROUTE SHOWN



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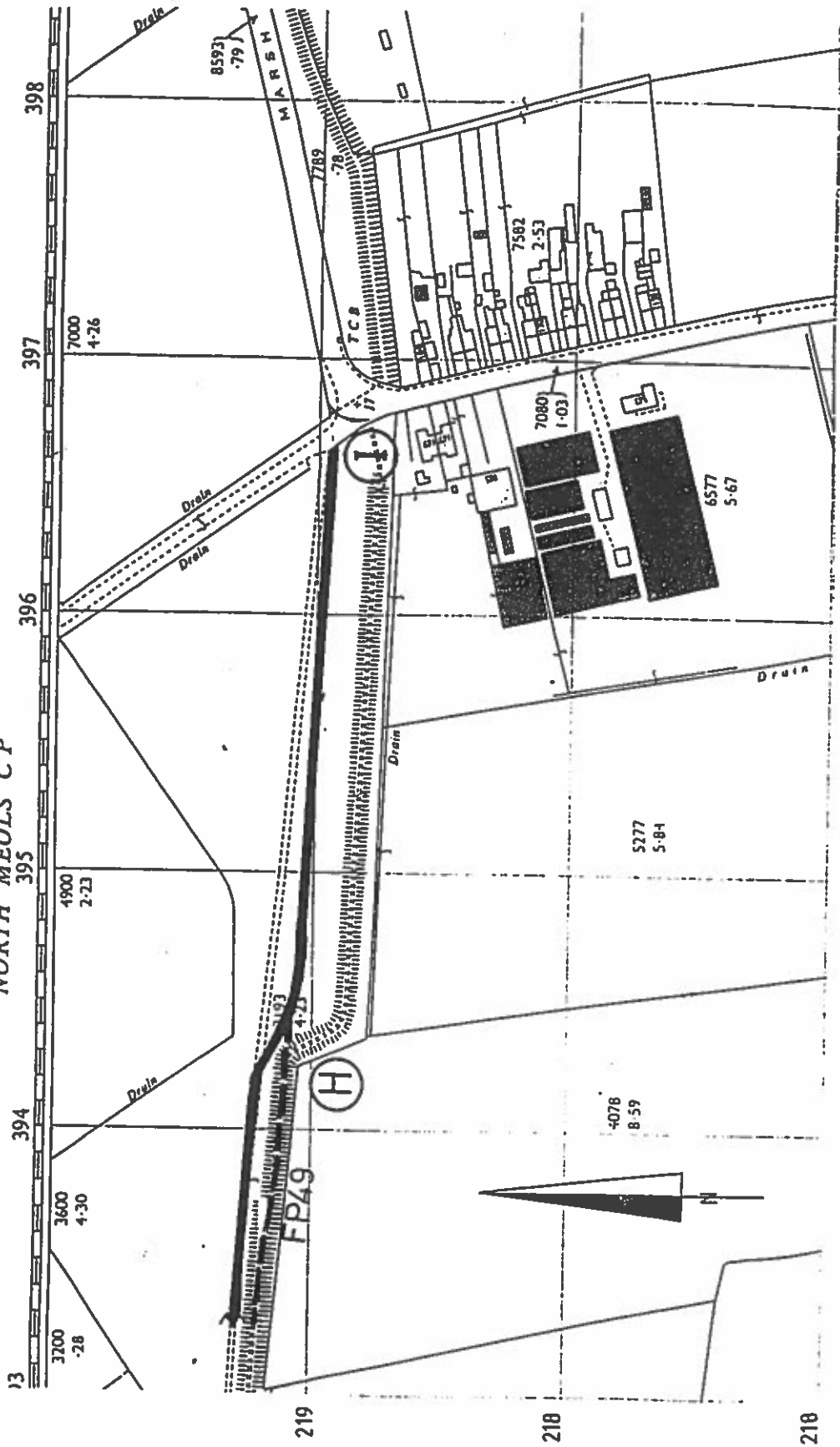
G. Harding B Eng, C Eng, MICE, FIIT, MBIM. County Surveyor & Bridgemaister.
P.O. Box 9, Gull House, Cross Street, Preston. PR1 8RD.

PLAN L

SD 3922
NORTH MEOLS C P
395

SD 3921 P1970 R1968
804/268

- a) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATHS NOS. 47 AND 48 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT
- b) CLAIMED BRIDLEWAY TO THE NORTH OF, AND PARALLEL TO, PUBLIC FOOTPATHS NOS. 48 (PART) AND 49 (PART), NORTH MEOLS, WEST LANCASHIRE DISTRICT
- c) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATH NO. 49 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT



West Lancashire District Council

The District Council has considered the claim and has no objection to the acceptance of it.

North Meols Parish Council

The Parish Council comment that the track mentioned has always been used by horse riders, as well as walkers, and the two user groups have co-existed peacefully. Indeed certain members of the Parish Council can themselves remember riding along this track - some as long as 25 years ago. It is only very recently that the erection of a gate across this track has obstructed both walkers and riders.

They add that this is a rural parish with a large population of horse riders and not one bridleway. Therefore, North Meols Parish Council would strongly support this application for a bridleway along the track mentioned.

County Surveyor's Observations

The route commences at point A, on the north side of Ralph's Wife's Lane, just to the east of No. 105 Ralph's Wife's Lane, and comprises an 8 metre wide bell mouth to a 4 metre wide hard surface track. There is a 4 metre wide metal field gate, chained and padlocked shut, with a metal kissing gate on the east side and metal fencing on the west side. Access is therefore only available for pedestrians. There is a public footpath sign post on the west side of the field gate and on the east side there is a notice which reads "Horses prohibited Private Land". The notice has been partly defaced and turned so that it faces away from Ralph's Wife's Lane. The fencing, and gates, appear to be very new, and the notice also appears to be fairly new.

Beyond point A the route comprises a 2.5 metre wide hard stone and earth surfaced track. On the east side there is 1 metre wide overgrown verge and a drainage ditch and on the west side there is a 1 metre wide overgrown verge. Over part of its length, on the west side, there is a post and wire fence, (combined with a possibly electrified fence) which provides a boundary to an area of land upon which horses are kept. This section of route appears to be very little used at present, by any traffic other than pedestrian.

From points B to C the route continues as a 2.5 metre wide earth and stone surfaced track but appears to be used by agricultural vehicles. There is a deep ditch on the east side and a 1.5 metre overgrown verge and ditch on the west side. Otherwise there is no other boundary to arable land on either side.

Between points C and D the route follows a 3.5 metre wide hard earth and stone track, clearly well used by agricultural vehicles. On the north side there is a 3 metre wide grass verge area (upon which large piles of manure have been stockpiled) and the remains of an old sea defence embankment. On the south side there is a 1 metre wide grass verge, and over a very short length there is also a post and barbed wire fence.

At point D the claimed route is crossed by a track running north south known as Charnley's Lane. At this point there are two, fairly old, public footpath

signposts, one pointing east and one pointing west along the claim route. Facing south, along Charnley's Lane, there is a notice reading "Horses Prohibited. Private Land". This is fairly new and would not be readable from the claim route.

The route continues from point D to E as a 3 metre wide hard earth and stone track. There is a 1 metre wide grass verge on the south side and a 3 metre wide grass verge on the north side together with the remains of an old sea defence embankment. There is no ditch or drain along side this section of route and it does appear to have been subject to substantial earth works to widen the track and fill in the former drain.

At point E the route passes south of Cross Bank Cottage, at which point there is a 4 metre wide metal field gate which is chained and padlocked shut. There is a wooden step stile in new post and rail fencing on the west side of the gate, and also new fencing continues eastwards from the gate to run along the south side of the old sea defence embankment. The claimed route turns northwards to pass through the locked gate before turning eastwards to run along the north side of the embankment. At point E, Public Footpath No. 48 continues to run just to the south of the embankment, but the claim route runs along the track on the north side of the embankment.

Between points E and F the route follows a 2.5 metre wide earth and cinder track with the embankment on its south side and open to fields on the north side. The track is approximately 1.0 metre higher than the fields and appears to be well used by vehicles.

At point F the route is crossed by a further north-south track known as Georges Lane. Facing south along George's Lane, there is a new notice which reads "Horses Prohibited, Private Land".

From Point F to G the route follows a 3 metre wide earth/stone track with an old sea defence embankment on the south side and open to fields on the north side. Only the western most part of this section of track appears to be used by agricultural vehicles. At point G there is a 4.0 metre wide metal field gate chained and padlocked shut. There is no access available, though there is pedestrian access available by means of a step stile through a fence on the line of Public Footpath No. 49, which runs along the top of the old embankment approximately 8 metres south of the gate.

Between points G and H crops have been planted up to the foot of the embankment and consequently no route is visible. There is, however, a very narrow, 0.3 metre wide, trodden path which has been squeezed between the edge of the crop and the toe of the embankment.

Between points H and I the claim route rejoins the line of Public Footpath No. 49 and crosses a field of grass. There is no visible evidence of any track or trodden path over this length, except for a field entrance at point I, off the made up track that runs north south at this point.

At point I the route ends on a tarmac surface track running north from the junction of New Lane Pace and Marsh Road. At this point there is a public footpath signpost and a new notice which reads "Horses Prohibited, Private Land".

In summary, the route falls into two sections. The majority of the route, from point A to point G comprises a well defined hard surfaced track, between 2.5 metres and 3.5 metres wide much of which is well used by agricultural vehicles. New field gates at points A, E and G, are locked and prevent equestrian use, though pedestrian use of all the existing footpaths is available. New notices at points A, D, F & I, deter equestrian use, but otherwise there is no evidence of any other, older deterrent notice or sign. The remaining, shorter section from G to I, shows no evidence of a track or path and is partially covered by a growing crop. However, although no route is visible, this length is open and accessible. There is no current evidence of equestrian use, though it is apparent that prior to the locking of gates, and the erection of notices, it would have been possible for equestrian use of the full route.

A route is clearly shown on Yates Map of 1786 as a double dotted line from Crossens eastwards as far as Hesketh Bank, across the marshes following the shore line. A lane is shown joining the villages of Crossens and Banks, but other than this, no other roads are shown inland from the shoreline of the River Ribble to connect the settlements of Crossens and Hesketh Bank.

Greenwood's Map of 1818 also shows a track from Crossens along the shoreline towards Hesketh with Becconsall. There are some other tracks inland but no connecting roads between Crossens/Banks and Hesketh.

Smith's Map of 1804 and Baines Map of 1824 also show a road from Crossens to Hesketh Bank parallel to the shore.

Teesdale's Map of 1828-30 also shows the track across the marsh as on Yates' Map. The track is shown on an alignment close to the modern day route. It is possible to fix the line by reference to the other roads, such as George's Lane and Charnley's Lane. Teesdale's Map depicts marsh-side routes as bounded by pecked lines whilst inland routes are edged by solid lines.

The tithe map for the parish of North Meols 1839 shows a route crossing the marsh, close to the shoreline, on the seaward side of an embankment. This route is shown as a coloured line, not edged with ink. The route along the marsh and other roads in the parish are shown coloured but none of these roads are numbered, and are not therefore described in the written award which accompanies the map.

There is no inclosure award for the area.

The first edition of the 6" Ordnance Survey Map 1844-48 shows a track starting at the western end of Ralph's Wife's Lane, named as Bank Pace (point A). A track is apparent on the estuary side of the coastal embankment from the track to Goose Dub House, point D, following the embankment to the end of the claimed route, point I. The track then continues in an easterly direction along the shore, closely following the embankment. This edition of the Ordnance Survey Map is unclear between points C and D, but it may be that a track is shown between these points also.

The 1893 25" Ordnance Survey Map shows the route starting on Bank Pace. A wide strip of land, which could have been a grass or earth track, is shown as a continuation of Bank Pace, north-eastwards, between the embankment and

drain, as far as Goose Dub House (point D). This strip of land, though not marked as a track or lane, appears to make a gated, end-on connection to Bank Pace, near to point C. It also appears to make a gated connection at right angles to join Charnley's Lane (point D), and also possibly a gated end-on connection to a strip of land continuing north-eastwards as far as George's Lane (point F). This map also carries the notation 'FP' on the marsh side of the embankment from well to the west of the claimed route, Crossen Bank then by Goose Dub House, point D, and then to the east of High Brow, point F. No feature is shown to correspond to this FP notation other than the embankment itself, or the strip of land on the landward side of the sea wall, as described above.

The marsh to the north of this embankment has not been enclosed at the time of preparing this map.

(In comparison, Definitive Footpath No. 47 follows Bank Pace and then passes between the embankment and its accompanying drain on the landward side. Public Footpath No. 48 continues between the embankment and drain to Cross Bank Cottage, point E, and continues in an easterly direction to join the lane near High Brow, point F. Public Footpath No. 49 continues from this lane, but now passes along the top of the embankment to point H from where it leaves the embankment to run on its northern side, until it ends at Marsh Road. The claimed route follows the Definitive path to Cross Bank Cottage, point E. At this point the claimed route moves to the northern side of the old embankment until the end.)

The 1910-11 25" Ordnance Survey Map shows that the marshes have been enclosed and drained. At point A, the start of the route, where Bank Pace leaves Ralph's Wife's Lane, there is a line across Bank Pace, which may indicate the presence of a gate, fence or wall. The old embankment and associated drain is shown, but no 'FP' notation is present. The strip of land from the north end of Bank Pace, point C, between the old embankment and the drain, is clearly shown as far as Goose Dub House/Charnley's Lane, point D. There also appears to be a separate strip of land, between the embankment and the drain on the landward side, running north eastwards from Charnley's Lane to near point E. At this point there is a clear track through the embankment, appearing to give access to a building and land on the seaward side of the embankment. This building is most likely Cross Bank Cottage. There also seems to be access possible on the north side of the embankment from the building eastwards to a point midway between E and F where a track is shown on the north side of the embankment to point I. This suggests that from about 1911 the full route of the claim was probably in existence on virtually its current alignment.

The claimed route is shown as part of and adjacent to three public footpaths on the parish survey map. Public footpath No. 47 is described on the survey card which accompanies the map as 'Cindered roadway linking Charnley's Lane with Banks Road, 'Fidlers' Ferry, well defined'. Public Footpath No. 48 is described as 'Footpath along old embankment linking Charnley's Lane with Georges Lane'. Public footpath No. 48 is described as 'Footpath linking Georges Lane with New Lane Pace Corner along old embankment'.

These three public Footpaths are shown unchanged on all stages of the Definitive Map.

Chief Executive/Clerk's Observations

In support of the claim 48 evidence of use forms have been submitted. These show knowledge and use of the route for 65 years; 42 years; 32 years (2); 21-30 years (7); 11-20 years (14); and 1-10 years (23).

The usage has been mainly for pleasure purposes, horse riding, cycling, walking, dog-walking, and ranges from daily, 2/3 times a week, weekly, monthly, and less frequently. The witnesses have not received permission from the land owner to use the route, or been stopped or turned back (until very recently in the case of two or three of the witnesses).

The applicant has added that these tracks have been used by horses and walkers since time immemorial. Yates map of 1786 clearly shows a roadway along the same line, the now main road through Banks Village being non-existent. This was the only way through from Hesketh Bank to Crossens. There were dwellings along the line of the old sea bank which is where the tracks run. An elderly gentleman, Mr Bill Ryding, told the applicant that his family had lived by the bank since the early 1600s. This family's name was the Bounds later to become the Bonds after which Bonds Lane was named. It had been passed down through the generations that the Romans used these tracks as a road.

The horse riders of Banks have used these tracks unopposed by the landowners until recently, a locked gate has now been put across the Ralph's Wife's Lane entry. This part of the track is named Bank Pace, again clearly shown as a road on the Ordnance Survey Maps of 1896 and 1848. The tracks are invaluable as off road riding, there are no designated bridleways in this area. The locked gate stops access to the quiet roads which lead from the tracks, ie. Charnley's Lane, Georges Lane, and force riders along the very busy main road through the village. Horse riders also used the grass track along the sluice from Ralph's Wife's Lane to Water Lane, this is also now blocked by a fence.

The tracks and bank have been extensively levelled and damaged by the landowner to make a coarse hardcored road along the line of the right of way. What used to be a grass or cinder track is now hard core or levelled sand from the bank. There is still a strip of about ten feet between the remains of the bank and the road which could be made good for horses and walkers. The previous owners kept the bank in good repair and long term users of the tracks can remember being able to ride the definitive line of Public Footpath No. 49 along the top of the bank. This is not now possible due to disrepair. Although the user statements are not specific, as to the actual line followed, the applicant has confirmed that, between points E-H, the use was along the line of the claimed route, being the track to the north of the embankment.

An objection to the claim has been received from planning consultants acting for the landowner. They state that:-

1. At its western end, the existing Footpath (no. 47, known as Bank Pace) has been gated since early 1994, where it meets Ralph's Wife's Lane and a kissing gate has been installed. This work was undertaken at the request of Lancashire County Council, in connection with the retention of an access road to the east. Only the land owners and the occupiers of adjoining residential properties have a key to the gate, which is kept locked at all times. This path is thus not accessible by horses at this end.

2. The landowner acknowledges that horse riders do attempt to use these paths, but if they are seen they are always asked to leave. Such requests are made "dozens of times a year".
3. Until the late 1970's, this farm land was owned by the Scarisbrick Estate and managed by a Mr Eric Booth of Southport. At that time, the land was largely grazed by cattle (including the former sea defence embankments). All the land was then fenced and gated, with each tenant's boundary delineated in this way. It is not believed the horse riders could have enjoyed ready access to the land at that time, which is far less than 30 years ago.
4. Permission has never been given to anyone to use any part of this footpath network for horse riding.
5. It should also be borne in mind that the West Lancashire District Council are currently considering an application for planning permission to remove this whole length of the former sea defence embankment (an operation which would normally be permitted development, but which is the subject of an Article 4 Direction). If permission is granted, then it is the intention to reinstate the eastern section of footpath (from Cross Bank Cottage) on its definitive route. This would eliminate the need for any diversion to be considered. (Permission was refused, see later reference on Page 41 of the Agenda).
6. The landowners are shortly to submit a further application for determination in respect of the proposed upgrading and extension of the farm access road which will run for 430 metres on approximately the line of the eastern end of the proposed diversion of Footpath No. 49. This road will be used for the movement of vehicles and equipment associated with the proposed intensive farming of the land for the production of salad and vegetable crops by Messrs. Huntapac. The amount of traffic thus generated will be significant, hence the upgrading and extension of the road. The mixing of this traffic with horses is not acceptable from a safety point of view or for the amenity of the horse riders.

In conclusion, it is considered that, at best, that the claim is premature and, at worst, completely unacceptable.

The Sub-Committee will note, however, that a number of the points which have been made are amenity objections which, whilst important to the landowner, are not relevant to the issue of whether or not the bridleway exists in law. This objector has also submitted a further, more detailed objection to the claim.

He states that the path from Ralph's Wife's Lane to Charnley's Lane (Public Footpath No. 47) has been in regular use by pedestrians for many years. The gate at Ralph's Wife's Lane, which was erected early in 1994 to comply with Condition No. 1 of County Council Planning Permission Ref 8/93/983, incorporates a kissing gate for pedestrian use only. It is not, therefore, passable by horses. The only persons having a key to the gate are the landowner and the adjoining property owners for access with their motor cars.

The section of Public Footpath No. 48 from Charnley's Lane to Cross Bank Cottage (now known as Keeper's Cottage) was impassable to the mid/late 1970's and was only in regular use prior to 1989 as a pedestrian (not vehicular) access to the cottage. The remainder of Public Footpath No. 48, from the cottage to George's Lane, runs along the top of the embankment and has been impassable for many years.

The track which runs along the northern side of the embankments, from the cottage to George's Lane, was upgraded by the present landowner shortly after his company acquired the estate in 1989. At the same time a gate across this path was removed.

If members of the public have ever used this non-statutory section of path, they can only have done so with great difficulty until it was improved six or seven years ago. Until the late 1970's, all the tenancies of the former Scarisbrick Estate were separately fenced and gated. These fences and gates were only removed gradually from the late 1970's up to the early 1990's. In fact, one gate still exists, just off Public Footpath No. 47 at the northern end of Bank Pace. It does not, however, impede any statutory right of way.

From George's Lane to Marsh Road/New Lane Pace the statutory route of Public Footpath No. 49 is currently not passable where it runs along the top of the embankment (for physical reasons). At its eastern end, the footpath runs across an arable field.

The maintained track on the northern side of this embankment runs for some 380 metres eastwards from George's Lane, where it stops at a field boundary.

In reality, therefore, the section of path from George's Lane to Marsh Road has not been and still is not used along the statutory route Public Footpath NO. 49. It is also rarely used along the non-statutory farm access track, other than by farm traffic.

He continues that, in support of the bridleway claim, the applicant submitted 35 'user statements'. Only nine of these indicate knowledge or use of a claimed route for 20 or more years.

In total, these statements represent some 60 horses each week using the whole of the claimed route at the time of the survey in the summer of 1994. Yet, only one lady admits to having been stopped or turned back. Although the landowner does not systematically check on the use of these paths by horse riders, he always speaks to them if he is in the vicinity at the time, pointing out that they should not be there. One particular tenant and his sons, have also stated in a letter that they regularly challenge riders when they are seen.

One user says she has ridden a horse or walked "several times a week" on the claimed route for 22 years. She also claims that "from George's Lane to Shore Road, I rode on the bank top". Any inspection of this section of the embankment will, it is argued, reveal no sign of regular or even occasional use. Indeed, it is believed it will be almost impossible, if not dangerous, for a horse to follow this route.

The objector also would point out that so much horse traffic would inevitably cause regular fouling of these paths with dung. He has never seen any and the landowner confirms that this is not a problem. Horses hooves would also clearly mark the field at the eastern end, where there is no specific path, but the tenant has seen no evidence of this.

With regard to the recent planning consent, the objector points out that on 1st February, 1996, West Lancashire District Council gave prior approval for the details of an agricultural development, comprising the construction of an access road for agricultural use. This new road will run westwards from Marsh Road/New Lane Pace for a distance of 430 metres where it will link up with the existing farm access road on the northern side of the embankment, which currently stops at this point. This proposed new road follows the approximate route of the claimed bridleway, although not exactly the same route at the eastern end.

This raises two questions. First, if there was an established path here which is used as a bridleway, then the landowner could simply have strengthened it for use by agricultural machinery without the need to seek prior approval. Second, the justification for this road was the need to move bulky, slow, agricultural machinery onto and off the land without going through the nearby village. The potential conflict with horses will be both dangerous for riders and animals alike. It will force horses off the path onto the adjoining fields, where crops will be damaged and horses may be injured.

In a letter supporting the need for this road, the company which has recently taken over 250 acres for intensive crop production, sets out the estimated traffic flows which will use much of the claimed bridleway route, which amply illustrates the scale of the traffic and the potential dangers to horses and riders. Surely, it is preferable for this heavy and slow traffic to freely use these farm tracks, than for them to use local roads through the village in order to avoid conflict with the horses.

This eastern length of the claimed bridleway route has recently been the subject of a dispute between the tenant and his landlord, the Southport Land and Property Company Limited.

In an Arbitration Award dated 26th September, 1994, the Arbitrator found in favour of the tenant. Of particular relevance to the current bridleway claim is the Arbitrator's conclusions regarding the (lack of a) track which follows the eastern 240 metres of the claimed bridleway route, between the 'kink' in the former sea defence embankment and Marsh Road/New Lane Pace.

His observations include the following comments:-

"I consider that the track referred to across the holding is in fact what the tenant says it is namely wheelings made after ploughing and also used thereafter as a headland."

"I accept the tenant's evidence that the track may well be in a different position each year."

"I accept the tenant's case that there has never been a defined track during the period of his tenancy" (ie. since 1973).

In evidence to the hearing, the tenant said there had never been a track here during the time he had known the land, which was 40 years. When he wanted to cross the field, he "simply drove in through the gate and then followed any line he chose avoiding the wet areas." The field was ploughed over in 1984 following the implementation of a drainage scheme and nothing had changed since then. This evidence also clearly demonstrates the lack of a definitive path which can be statutorily designated.

Under cross-examination, the tenant said "he did not agree that the alleged track across his field had been used by a number of people including the gamekeeper." When he ploughed the field after installing the drainage scheme, he was "not aware of any road being ploughed in." He also agreed that "anyone looking at the land and seeing growing crops might say the route was inaccessible"

Referring back to a recent planning consent for the construction of a new access road along the approximate route of Public Footpath No. 49, the tenant has subsequently been asked to surrender the land involved and in the recent exchange of letters the tenant has specifically referred to the bridleway issue. He is quite clear that the claimed route has never been used as a bridleway, although occasionally riders do cross the land, but only along the edge of the field. It is also stated that he and his sons do challenge riders on the "rare occasions" that they are seen.

It seems clear to the objectors, that the tenant believes riders are only recently using what he refers to as the far end of the track in order to support their bridleway claim and that even now riders do not use the section of the claimed route (ie. the eastern end) which is in his tenancy.

It is also submitted that on 23rd May, 1996, West Lancashire District Council refused consent for the removal of the former sea defence embankment which follows Public Footpaths Nos. 48 and 49, and part of 47. This embankment is subject to an Article 4 Direction.

If planning permission had been granted, the landowner's intention was to plant the site of the embankment with trees and to provide a public footpath along the middle, which would have been quite separate from the farm access tracks and could therefore safely have been used by horses, without danger of conflict with farm machinery. Unfortunately, this is no longer an option.

It is also submitted that it does not help the claimant's case that, particularly since the claim was submitted, gates are regularly thrown into ditches, locks are cut and thrown away, signs are defaced and fences are smashed. The fence has now been repaired three times. Galvanised vandal proof fencing is now being used, at considerable cost both in financial and visual amenity terms. The landowners also report

similar problems elsewhere (eg. land off Station Road, Banks) where no public footpath or bridleway (claimed or statutory) exists.

In conclusion, it is felt that given the above facts, the objectors do not see how this claim can be upheld. Sections of the proposed bridleway remain difficult to pass and have been difficult to pass for many years. They show no evidence of regular use and the whole route shows no evidence of the level of use claimed, nor for the period of time claimed.

Again, the Sub-Committee will note that a number of these points are amenity objections and, therefore, not relevant to the issue of whether or not a bridleway exists along the claimed route.

The applicant has responded to these objections by stating:-

- Between points A to D the claimed route is called Bank Pace and is a wide cinder track well passable for horses before the gate was erected and locked. She says the damage to the gate and signs was not done by any person connected with the claim.
- Between points D to E a gate is mentioned by the landowners agents as being removed in 1989. She claims to have ridden the route since then and no gate has been in place until 1996. She has been told the old gate stumps (now removed) did once have a gate attached, but the gate was always left unlocked and was used to keep livestock in, not to prevent access by the horses. The path was grass with a hard base which allowed easy access to the horses.
- Reasons have already been given why the top of the embankment was not used and that the long term users did ride on the bank top, unfortunately their other statements did not detail that the top of the embankment has not been used for a long time. She says when the embankment became unsafe, the path below was used and this path was not, as described, only accessible with difficulty.
- She denies only one person making reference to being stopped by the landowner and says when he stepped up his harassment of riders several people complained to the County Council. She further states that when she was stopped, she was not turned back by the landowner but continued along the route despite the landowner telling her she was trespassing.
- With reference to that length of the claimed route between points H-I, which the landowners' agent describes as showing little evidence of use by horses, she says it has been used by horses. The riders have been considerate and have kept as much as possible off the crops. Horses moving in single file only make a track about one foot six inches wide and a path of this diameter has always been evident along the route. Even when the tenant has ploughed the field she says it has been passable.
- The only difficulty in using the route has come since the landowner erected the gates.

Assessment of the Evidence

The Law - (See Appendix 'A').

a) In support of the claim

A route is shown on old highway maps from Yates Map of 1786, following the old shoreline. Indeed, if Yates Map is accurate, this route was the only road in the area at that time. The tithe map shows the route as coloured, along with other roads in the parish, which are now full public highways.

Evidence has been submitted to show that the route has been used on horseback for over 20 years, and that this use went unchallenged until the present landowner started to turn riders back.

The Parish Council supports the claim stating that walkers and riders have used the route for over 25 years until recently.

b) Against accepting the claim

A track is shown on several old highway maps, but the recording of a route on either an old highway map or an Ordnance Survey Map is an indication of the physical existence of a track, and does not necessarily imply that it has any public bridleway status, or indeed any public status at all.

The tithe map does not specifically refer to any public roads.

Bank Pace is shown on the 1893 Ordnance Survey Map with a dotted line across it, and on the 1910-11 Ordnance Survey Map with a solid line. This may indicate that Bank Pace was gated (although it does not necessarily prove that the gate was ever locked).

Part of the claimed route was recorded as a public footpath on the parish survey. There is no evidence that this status was challenged at the time of drawing the original Definitive Map, or that a bridleway was claimed adjacent to the line of any of the footpaths.

Only eleven people claim to have used the route on horseback for 20 years or more.

Some supporters of the claim refer to the route being used in connection with work, or by 'working horses', (which would indicate occupation rather than public use).

The current landowner attempts to turn horse riders back.

The agent for the previous owner states that horse riding was not encouraged on the estate and he has no knowledge of horse riders using, or being allowed to use, the route.

Conclusion

The claim is to upgrade an existing footpath and two lengths of existing footpaths to the status of bridleway and to add a bridleway to the Definitive Map and Statement. Where a footpath is shown on the Definitive Map it is conclusive evidence that there was, at the relevant date, a right of way for the public on foot, but this is without prejudice to the existence of other higher rights of way. To modify the Definitive Map and Statement the Sub-Committee must be satisfied that the available evidence shows, on the balance of probability, that a bridleway not shown in the Map and Statement subsists or is reasonably alleged to subsist and that the highways shown in the Map and Statement as footpaths ought to be shown as bridleways.

The available evidence is both documentary and user evidence.

There is substantial documentary evidence to verify the physical existence of the route. It is consistently shown on old highway maps dating back to Yates Map of 1786. It is of note that, on Yates' Map and Greenwoods Map of 1818, no connecting roads, other than the claimed route, are shown between Crossens and Hesketh Bank. Teesdales Map of 1828 - 30 shows the route on an alignment close to the modern day route. It is shown on the Tithe Map for the Parish of North Meols of 1839 as a coloured line, in the same way as other roads were shown coloured. None of the roads were numbered or described in the written award. The route is shown on all editions of the OS maps, and from 1911 the full length of the claimed route was probably in existence on virtually its current alignment.

Whilst the recording of a route on these maps does not necessarily imply it has any public status it is significant that on the earliest maps it is shown as the only connecting route between two settlements.

This evidence, that the claimed route has existed for a long period of time, is corroborated by the evidence submitted of the reputation of the route as an ancient track.

In addition to the documentary evidence there is a substantial amount of user evidence. 48 evidence of use forms have been submitted in support of the claim, 11 of which detail use in excess of 20 years and for periods of up to 65 years.

It is detailed in Appendix 'A' that dedication of a path may be presumed from 20 years use by the public as of right and without interruption or can be inferred from shorter periods of use if all the evidence clearly and unequivocally points to an intention on the part of the landowner to dedicate.

The 20 year period is computed back from the date the status of the claimed right of way is called into question. From the evidence this would appear to be 1994 when the locked gates were erected at Point 'A' and the witnesses first recall the landowner attempting to turn them back.

With reference to the position pre 1994, the landowners agents have stated it was not physically possible to ride the route. However, the evidence presented is not compelling:-

(a) They submit that when the claimed route formed part of the Scarisbrick Estate, each tenant's boundary was delineated by fences and gates, therefore, horseriders would not have had ready access to the land. However, the exact location of these fences and gates in relation to the claimed route is not detailed, no information is provided as to whether such gates were kept locked or open, or when such gates, if they were situated on the claimed route, were removed.

(b) (i) They submit that Public Footpath No. 48 from Cross Bank Cottage (point E) to Georges Lane (point F) runs along the top of the embankment and has been impassable for many years. However, Public Footpath No. 48 actually runs along the south of the embankment and the claimed route runs along the north side of the embankment ie. the track the landowners agents say was upgraded in 1989.

(ii) They submit that Public Footpath No. 49 is impassable where it runs along the top of the embankment. Again the claimed route runs along the north side of the embankment.

The applicant states the user statements relate to the track to the north of the embankment. Some of the long term users recall originally riding the top of the embankment but as this became impassable, the track to the north was used and this route has now been used for a period in excess of 20 years.

The representations made regarding planning issues and traffic considerations are not relevant objections and have no bearing on the highway status of the claimed route.

Little weight can be attached to the tenants evidence, as the recited extracts from the arbitration hearing in 1994 are taken out of context. No information is provided as to the background to the claim, the landowners stance or the arguments made by the landowner in relation to the track. The tenants observations, both in relation to the arbitration hearing and the correspondence in connection with his surrender of the land, are not independently made but are made to benefit his position in such proceedings.

The Sub-Committee may agree that, on the balance of probability:-

(i) the documentary and user evidence together supports parts (a) and (c) of the claim and that the footpaths shown in the Map and Statement as Nos. 47, 48 (part), and 49 (part) ought to be there shown as bridleways;

(ii) and that, with reference to part (b) of the claim, ie. the addition of a bridleway to the north of and parallel to Public Footpaths Nos. 48 (part) and 49 (part), the evidence supports long term use of a route, between Cross Bank Cottage (point E) and point H, but the recent user evidence suggests that for a period in excess of 20 years, a route to the north of the embankment has been used along the line of the claimed route. This user evidence supports a presumption of dedication, and the Sub-Committee may agree it shows a bridleway, not shown in the Map and Statement, subsists or is reasonably alleged to subsist along this length.

Accordingly, the Sub-Committee may consider that the claim should be accepted.

Decision Required

(1) That the claim for:-

- (a) the upgrading to the status of bridleway of Public Footpaths Nos. 47 and 48 (part), North Meols, West Lancashire District; and
- (b) the addition of a bridleway to the north of, and parallel to, Public Footpaths Nos. 48 (part) and 49 (part), North Meols, West Lancashire District; and
- (c) the upgrading to the status of bridleway of Public Footpath No. 49 (part), North Meols, West Lancashire District

on the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/268, be accepted; and

(2) That an Order be made, pursuant to Section 53 (2)(b) and Sections 53 (3)(c)(i) and (ii) of the Wildlife and Countryside Act, 1981:-

- (a) to upgrade to the status of bridleway on the Definitive Map and Statement of Public Rights of Way, Public Footpaths Nos. 47 and 48 (part), North Meols, from a point on Ralph's Wife's Lane/Banks Road, adjacent to No. 105, following Public Footpaths Nos. 47 and 48 (part) to a point at Cross Bank Cottage, a total distance of approximately 1170 metres, (GR. 3797 2087 to 3860 2178); and
- (b) to add to the Definitive Map and Statement of Public Rights of Way, a bridleway to the north of, and parallel to, Public Footpaths Nos. 48 (part) and 49 (part), North Meols, from a point at Cross Bank Cottage to a point approximately 237 metres west of ~~Ralph's wife's Lane/Water Lane~~ a point on *New Lane face*, opposite Marsh Road, a total distance of approximately 840 metres, (GR. 3860 2178 to 3944 2191); and
- (c) to upgrade to the status of bridleway on the Definitive Map and Statement of Public Rights of Way, Public Footpath No. 49 (part), North Meols, from a point on Public Footpath No. 49, following Public Footpath No. 49 (part) to a point on ~~Ralph's Wife's Lane/Water Lane~~ *New Lane face*, opposite Marsh Road, a total distance of approximately 237 metres, (GR. 3944 2191 to 3966 2190).

8. HIGHWAYS ACT 1980 - SECTION 119
PROPOSED DIVERSION OF PART OF PUBLIC FOOTPATH NO 30 BOLTON-BY-BOWLAND
RIBBLE VALLEY BOROUGH

Issue for Consideration

The proposed diversion of part of Public Footpath No 30, Bolton-by-Bowland, Ribble Valley Borough.

Background Information

During 1996, the County Surveyor took action, with the co-operation of the landowner and tenant farmer, to ensure that the definitive route of Public Footpath No 30, Bolton-by-Bowland, between points A and D on the plan, was accessible. A major part of the works required involved the provision of a substantial footbridge at point B. Design and preparation works were undertaken with the intention of erecting the bridge during the summer of 1996.

However, when details of the bridging proposals were made public, the County Surveyor received almost total opposition to the plan from local residents, the local Parish Council and others. Various reasons were given for the general opposition to the proposal, many of which the County Surveyor had to accept were valid. In particular, the nature of the Beck at point B means that the site is subject to flooding, bank erosion and quite extensive movement of the water course over a period of time. A substantial two span bridge, some 30 feet long, was proposed in order to cater for the difficult location, but even this could not be guaranteed to provide an adequate crossing for the foreseeable future. To further complicate the picture, it was pointed out that the Beck at this location was recognised nationally as one of the best examples in Britain of a meandering and eroding river Channel. (The University of Portsmouth Geography Department has used this site for field study for the past 15 years and Prof J Hooke of the University pointed out that the erection of a footbridge would be detrimental to an area of high scientific value.)

In addition, local residents, backed by the Parish Council, felt that the proposed structure would be out of keeping with the character of the very attractive river flood plain at this point, as well as being very expensive and likely to need continual future attention as the river changed course.

In view of the above it was suggested to the County Surveyor that a preferable solution would be to divert this section of Public Footpath No. 30 to an existing private farm track some distance to the north. This track crosses the Skirden Beck by means of a ford but, as the river at the ford is narrower and more stable at this point, it is proposed to provide a footbridge adjoining the ford. A bridge at this point would be smaller and, due to the lie of the land, would be far less intrusive a feature in the landscape.

The proposed alternative route follows an existing track which is in good condition, and provides just as extensive and attractive views as those provided from the definitive route. Two field gates exist on the proposed route, at points F and H, and it is proposed to provide kissing gates alongside these to assist with easy public use.