

176 Bescar Lane

Scarisbrick

Lancs

L409PT

30-05-13

Ref LS94/Jm9/S.47931/Jm9

Dear Sir / Madam,

We are happy for people
to walk along our track responsibly as
it is a very beautiful walk.

Regards

Mark Forshaw

MR MARK FORSHAW

John Roberts
Paul Crowley & Co
267 Breck Road
Anfield
Liverpool
L5 6PT

Phone: 01772 535604
Email: megan.brindle@lancashire.gov.uk

Your ref: JR/IL/76151
Our ref: LSG4/MB3/5.47931/MB3
Date: 11 July 2013

Dear Sir

Lancashire County Council does
not accept service by e-mail.

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
CLAIMED PUBLIC FOOTPATH FROM PUBLIC FOOTPATH 14A
SCARASBRICK, TO BESCAR BROWN LANE, SCARASBRICK BOROUGH OF
WEST LANCASHIRE**

I am writing to you to confirm receipt of the witness statement you have provided on behalf of Mr Lavelle.

At this stage in the process the matter hasn't yet been referred to the Council's Regulatory Committee and therefore a decision to make an Order hasn't yet been made. I will however keep the witness statement on file and pass it onto the rights of way team for their information.

Yours faithfully



Megan Brindle
Business Admin Apprentice

Please quote our full reference number on all correspondence

FAO John Roberts
Paul Crowley & Co

DX: 702772 Anfield

Phone: 01772 533427
Email: jennifer.mort@lancashire.gov.uk

Your ref: JR/IL/76151
Our ref: LSG4/JM9/5.47931/JM9
Date: 14 May 2013

Dear Sirs

Lancashire County Council does
not accept service by e-mail.

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
CLAIMED PUBLIC FOOTPATH FROM PUBLIC FOOTPATH 14A
SCARASBRICK, TO BESCAR BROWN LANE, SCARASBRICK BOROUGH OF
WEST LANCASHIRE**

I have been passed your letter of 8th May 2013 to Mr P Mott and Mrs J Ridout.

I note that you are in possession of a copy of their Notice of Application which had been placed on site.

I can inform you that the Council is in possession of their application and steps have been completed to clarify the exact route being claimed. The claimed route runs from FP 14A Scarasbrick to a point on Bescar Brown Lane, Scarasbrick.

I will shortly be sending out a consultation letter to all landowners affected by the claim, but as per your request I enclose a plan of the claimed route, which is shown as a bold dashed line.

Yours faithfully

Jennifer Mort
Trainee Solicitor

Please quote our full reference number on all correspondence

OUR REF: JR/IL/76151
YOUR REF: LSG4.JM9/5.47931/JM9
DATE: 5th July 2013
PLEASE ASK FOR: John Roberts
E.MAIL: john.roberts@paulcrowley.co.uk
DDI No: 0151 264 6020

09 JUL 2013

**PAUL
CROWLEY
& CO.**

SOLICITORS

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DX 702772 ANFIELD
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VAT No. 135 6264 16

Ms Jennifer Mort,
Trainee Solicitor,
Lancashire County Council,
County Secretary and Solicitor's Group,
DX 710928,
PRESTON COUNTY HALL.

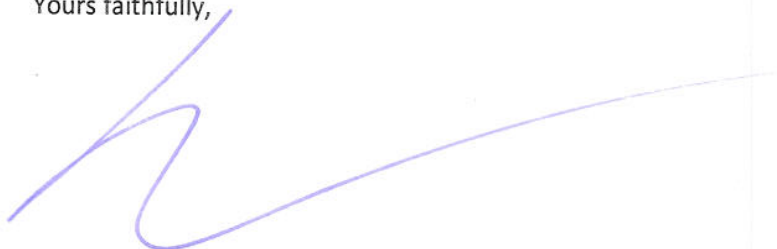
Dear Madam,

Re: Wildlife and Countryside Act 1981 – Part III
Claim for Definitive Map Modification Order
Claimed Public Footpath from Public Footpath 14A Scarisbrick, to Bescar Brow
Lane, Scarisbrick Borough of West Lancashire

We enclose Mr. Lavelle's statement evidence with documents attached and some photographs.

Kindly acknowledge safe receipt.

Yours faithfully,



PARTNERS

Paul F. Crowley BA (Hons), Senior Partner, Paula Satchell LL.B (Hons)
Terry Moran LL.B (Hons), Michael Fogarty LL.B (Hons),
John McKenna LL.B (Hons)

ASSOCIATES

Janis Clandon LL.B, Gaynor Lanceley CFILEX

CONSULTANTS

John Roberts, J. D. M. Loney LL.B. (Hons),
Anna Leaker LL.B / LL.M, Jane Sampson LL.B

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Employment Law • Commercial Law • Claims Against Police • Conveyancing • Wills & Probate

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86 COUNTY ROAD, WALTON, LIVERPOOL. TEL: 0151 286 4515 & 32 ALMONDS GREEN, WEST DERBY, LIVERPOOL L12 5HS. TEL: 0151 226 2020

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Contracted with the
Legal Aid Agency



IN THE MATTER OF Wildlife and Countryside Act 1981 – Part III Claim for
Definitive Map Modification Order

Claimed Public Footpath from Public Footpath 14A Scarisbrick, to Bescar Brow
Lane, Scarisbrick Borough of West Lancashire

I THOMAS RICHARD LAVELLE of Rosemount Nurseries Pygons Hill Lane
Lydiate Liverpool L31 4JD will say as follows:-

1. There is now produced to me marked 'TRL1' a plan of land retained by the estate of my late mother Mary Lavelle at Scarisbrick adjoining Mount Farm. The plan is produced by Lancashire County Council and marked on it is a claimed route of a footpath which claimed route adjoins the land belonging to my mother's estate.
2. There is now produced to me and marked "TRL2" a copy of a Conveyance dated the 12th August 1953 by virtue of which my late father Robert Thomas Lavelle acquired the land and other land as therein shown.
3. Prior to 1953 my father farmed at Engine House Farm in Whiston with his father and his brother. My grandfather died in 1952 and my uncle stayed in Whiston whilst my father bought the farm in Scarisbrick.
4. We as a family moved to the farm in Scarisbrick at about the time of the purchase and the family then consisted of my mother, my older sister, my younger sister and myself.
5. I stayed at the family home at Mount Farm until I married in 1965. My new wife Kathleen and I took a cottage near to Mount Farm in Wood Moss Lane and I continued to help on the family farm for some 18 months until October

1966 when I relocated to Pygons Hill Lane in Lydiate where I live now to assist my wife's father and his business.

6. Between 1953 and 1966 there was no use of the alleged path by any member of the public or indeed by any one and there was no defined path merely a bank at the field edge next to the stream Sandy Brook.
7. The stream was cleaned once a year by the River Crossens Drainage Board (now the Environment Agency) and is some 2-3 feet deep normally an insufficient depth to maintain a fish population and so there was no recreational use of the stream and I did not see anybody on the land whilst I was at the property before I left to live in Lydiate and I was not told by my father nor by my mother in succession to him nor by anybody of any use of the path or the land until the end of 2012 as appears later. In 1954 the stream burst its banks and flooded the fields. The River Crossens Drainage Board built the bank up and told my father to put a fence along the field to stop the cattle treading the bank away.
8. I regularly called to see my mother until she sold the farmhouse in 2000 calling at least once a week and often more and after she sold the farmhouse and relocated I periodically called to inspect the land that was retained by my mother until she gifted the land to myself and my sisters in November 1993 and it has been successively tenanted.
9. The current Tenant who started in 2006 is Henry Ascroft and I normally meet his son Ian Ascroft on site when I call to inspect and I have regular contact with Ian. I was first told by Ian in October 2012 that people were using the field edge path and breaking down fences that he had put up so that his cattle were getting out.

10. I was told by Ian that he had challenged one man using the path and there had almost been a breach of the peace and I was also told that ladies were using the path presumably the applicants to walk north to Wood Moss Lane and to effect a circular walk back to their houses somewhere in Scarisbrick Village. The gate which is an extra gate near to where the people have been getting through the railings was erected in 2007 by the present Tenant. Mr. Ascroft owns land on opposite side of the road and the gate makes easy access to his land through the gate opposite.
11. I have spoken to the adjoining owner to the north Mark Forshaw in relation to the proposed footpath and he appears to have no objection to it but his Tenant does for the same reasons that my Tenant objects, i.e. fences broken down and people walking along boundaries of the land.
12. I understand from my nephew who is on the Parish Council that there have been informal (not being on the agenda) discussions about defining the area between my mother's land and Sandy Brook as a footpath for some time and I am also told but appreciate this is hearsay that on the 4th October 2012 my Tenant called a P.C. Dawson to the site to remove a trespassing man and P.C. Dawson rang me to check on ownership and then said that she would warn the man as a trespasser and tell him to leave.
13. Signs that I have put up to indicate that the property is private and not a right of way have been taken down.
14. Between my father's acquisition in 1953 and the autumn of 2012 the land in question has been private and has not been used by anyone to my knowledge and I am unable to explain why local people have started to use it and claim

that it is a public footpath when it has clearly been private land for most of my
lifetime.

STATEMENT OF TRUTH

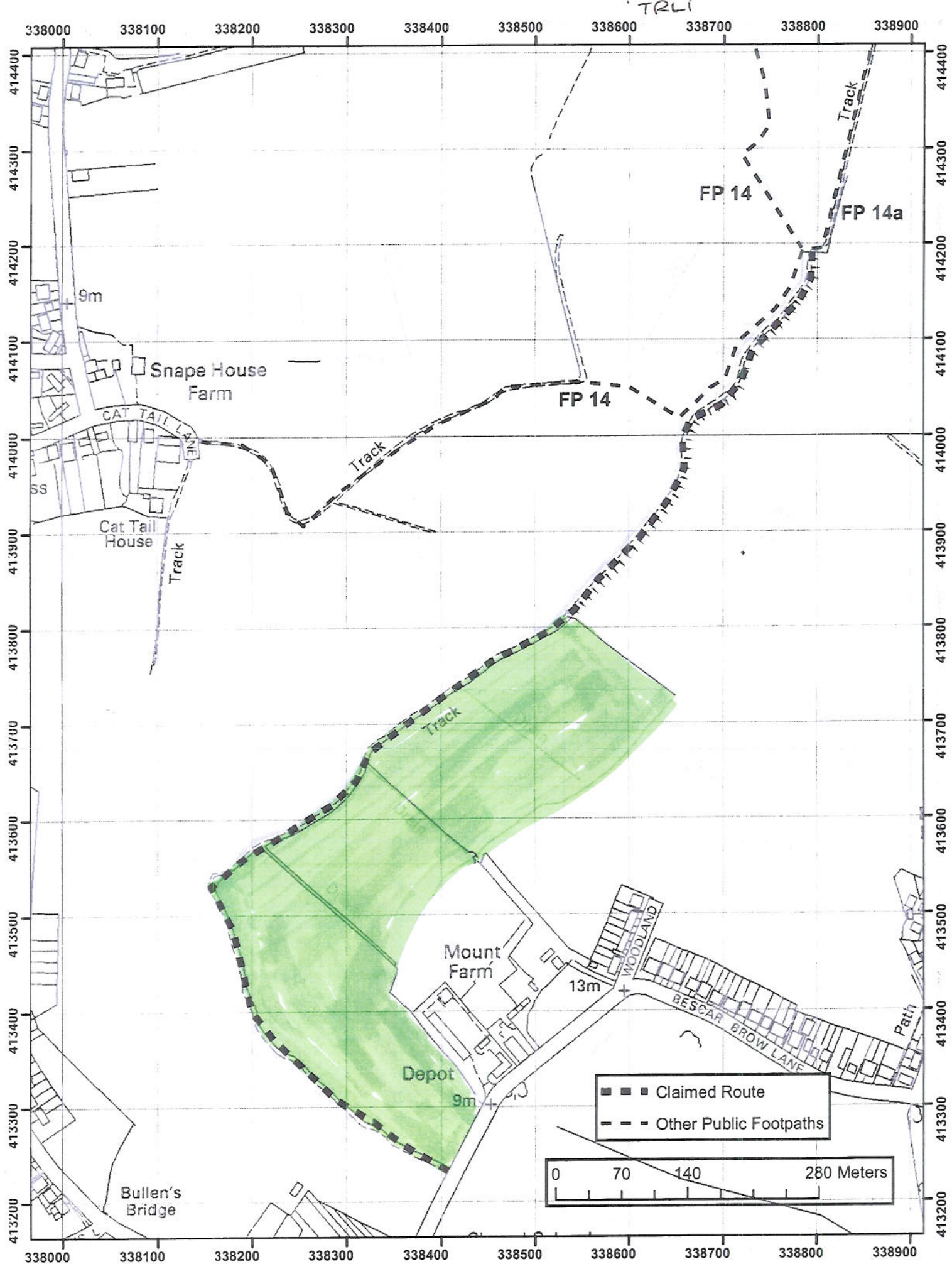
I believe that the facts stated in this Witness Statement are true

Thomas R. Lavelle
.....

Thomas Richard Lavelle

29th June 2013
.....

Date





This Conveyance

is made the

Twelfth day of August One thousand nine hundred

and fifty three B E T W E E N GLANS EXECUTOR AND TRUSTEE

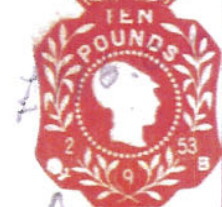
COMPANY a private unlimited Company with a share capital incorporated under the Companies Act of 1929 the Registered Office of which is at 67 Lombard Street in the City of London (hereinafter called "the Vendor") of the one part and ROBERT THOMAS LAVELLE of Engine House Farm Whiston near Prescott in the County of Lancaster Farmer (hereinafter called "the Purchaser") of the other part W H E R E A S:-

1. By a Conveyance dated the Sixth day of July One thousand nine hundred and fifty three and made between John Edward Richard Wyndham of the first part Vincent Wodehouse Yorke The Honourable Everard Humphrey Wyndham M.C. and The Right Honourable Victor Alexander George Anthony Baron Bruntisfield M.C. of the second part and the Vendor of the third part the property hereinafter described together with other property was conveyed to the Vendor in fee simple upon trust for sale.

2. The Vendor in exercise of the said trust for sale has agreed with the Purchaser for the sale to him of the property hereinafter described at the price of Five thousand eight hundred pounds.

N O W THIS DEED WITNESSETH as follows:-

1. In pursuance of the said agreement and in consideration



SEQ95



LA866364



P QUALITY

of the sum of Five thousand eight hundred pounds paid by the Purchaser to the Vendor (the receipt whereof the Vendor hereby acknowledges) the Vendor as Trustee hereby conveys unto the Purchaser AL L T H O S E freehold farm lands farm house and farm buildings known as Mount Farm Scarisbrick near Southport in the said County of Lancaster more particularly described in the First Schedule hereto T O H O L D the same unto the Purchaser in fee simple

(a) Subject to all privileges and advantages whether as regards way support water drainage light or of supplying and maintaining water supply and maintaining repairing or using water or other pipes or mains or apparatus of any nature whatsoever for the benefit of any property forming part of the Vendor's estate or any other adjacent property as the owners tenants or occupiers thereof are now or have been accustomed to enjoy by way of easement quasi-easement profit a prendre or otherwise.

(b) Subject to but with the benefit of all the Vendor's liabilities and rights in any private or occupation road any watercourses hedges fences wires and cables and other like matters leading to or adjoining the property.

(c) Subject to any public footpaths or cart tracks crossing the said land any public rights in respect of way or otherwise and any rights of the public or the Government or any Company or local authority in respect of cables wires poles conduits or apparatus for telegraph telephone or

electricity supply purposes sewers or drains (including manholes connected therewith) or water or other mains pipes or apparatus and subject to and with the benefit of the agreements affecting the same (if any) so far as they may affect any part of the said property and also any liability to repair or contribute to the repair upkeep and maintenance of roads footpaths bridges ways passages watercourses pipelines sewers drains gutters dykes hedges or fences and all agreements or other arrangements with respect to any such repair upkeep or maintenance as aforesaid and all rights of adjacent owners as regards the same respectively or as regards the supply of water drainage or other like matters.

(d) Subject to the covenants on the part of Frederick Hilditch and William Kennedy contained in a Conveyance dated the Twenty-first day of October One thousand nine hundred and twenty one and made between the Marquess de Casteja of the first part George Daniel Lynch Edmund Arthur de Gendre Starkie and Edward Blount of the second part William Abel Towler of the third part and the said Frederick Hilditch and William Kennedy of the fourth part so far as they relate to the property hereby conveyed.

2. It is hereby agreed and declared that the Purchaser shall not be entitled to any privilege by way of easement or otherwise in respect of light or air which might restrict or interfere with the free use of any adjacent land whether retained by the Vendor or not for building

or other purposes. .

3. The Vendor hereby acknowledges the right of the Purchaser to production and delivery of copies of the documents specified in the Second Schedule hereto.

I N W I T N E S S whereof the Vendor has hereunto affixed its Common Seal and the Purchaser has hereunto set his hand and seal the day and year first before written.

THE FIRST SCHEDULE.

A L L T H A T freehold farmland farmhouse and farm buildings known as Mount Farm Scarisbrick near Southport in the said County of Lancaster containing Forty-eight acres three roods twenty-seven poles or thereabouts of which the following are particulars:-

<u>Ordinance Number</u>	<u>Description.</u>	<u>Area.</u>
Pt. 640	Arable	12.765
1104	House and Buildings	1.502
1106	Pasture	1.136
1109	Arable	5.041
1111	Pasture	11.466
1155	Arable	5.606
1156	Arable	5.560
1158	Arable	5.840

including one-half of the bed of the millstream fronting Ordnance Survey Numbers 1155 and 1158 and with such right title and interest in the ditches dykes or watercourses as are vested in the Vendor or the Purchaser as owners of the property on which such ditches dykes or watercourses abut but subject to all rights and liabilities subsisting in respect thereof all which said property is delineated

and edged red on the plan attached hereto.

THE SECOND SCHEDULE.

<u>Date.</u>	<u>Description of Document.</u>	<u>Parties.</u>
1933 October 24th	<u>Deed of Partition.</u>	1. James Callwood Peck and Thomas Benyon Medcalf. 2. Thomas Benyon Medcalf and Frederick Hooton.
1936 July 8th	<u>Conveyance.</u>	1. Thomas Benyon Medcalf and Frederick Hooton 2. Thomas Benyon Medcalf Frederick Hooton and Joseph Twist Whittle.
1951 September 14th.	<u>Subsidiary Vesting Deed.</u>	1. Ethel May Blundell John Walmsley Blundell and Ivor George Wilmott Newington 2. Ashdale Land and Property Company Limited. 3. Right Honourable Philip Grantham Earl of Hardwicke and John Douglas Clark 4. Vincent Wodehouse Yorke Colonel the Honourable Everard Humphrey Wyndham M.C. The Right Honourable Victor Alexander George Anthony Baron Bruntisfield 5. The Right Honourable Charles Henry Baron Leconfield G.C.V.O.
1951 September 21st	<u>Statutory Declaration.</u>	Ivor George Wilmott Newington.
1953 July 6 th	<u>Conveyance.</u>	1. John Edward Reginald Wyndham 2. Vincent Wodehouse Yorke The Honourable Everard Humphrey Wyndham M.C. and The Right Honourable Victor Alexander

Date.

Description
of Document.

Parties.

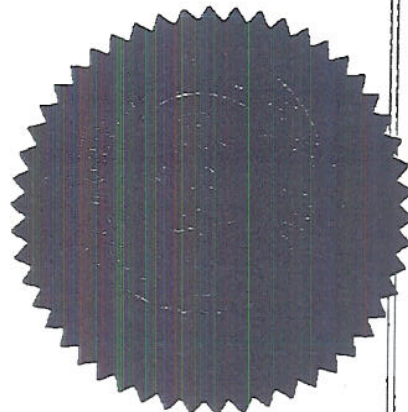
George Anthony
Baron Bruntisfield
M.C.
3. The Vendor.

THE COMMON SEAL of Glyns Executor and
Trustee Company was hereunto affixed
in the presence of

[Signature]
[Signature]

Director.

Asst
Secretary.



SIGNED SEALED AND DELIVERED by the
said Robert Thomas Lavelle in the
presence of

Henry S. Lavelle

*Bar House Farm
Whiston,
Farmer*

R. T. Lavelle.

MEMORANDUM.

By a Conveyance dated the 7th day of ~~September~~ 1953 made between the within-named Robert Thomas Lavelle of the one part and John Richard Jackson of the other part the plot of land part of Ordnance Plot Part 640 situate on the northerly side of Fleet Street and westerly side of Bescar Lane Scarisbrick containing 12.765 acres or thereabouts Together with one-half of the bed of Eas Brook and such interest (if any) as the Vendor had in one-half of the bed of Snig Pot Brook was conveyed unto the said John Richard Jackson in fee simple.

DATED this 7th day of ~~September~~ 1953.

Robert Thomas Lavelle
Solicitors, Prescott.

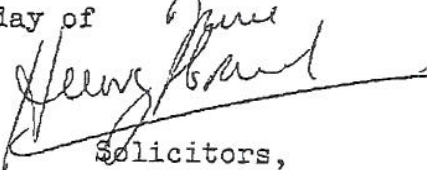
By a Conveyance dated the 28th day of May 1969 made between the within-named Robert Thomas Lavelle of the one part and Her Majesty's Postmaster General of the other part the plot of land bounded on the south east by and having a frontage of 80ft to a public street known as Bescar Brow Lane was conveyed unto Her Majesty's Postmaster General in fee simple.

Dated this 28th day of May, 1969.

Henry Granter
Solicitors, Prescott.

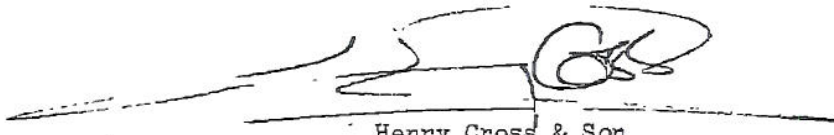
By a Conveyance dated the Ninth day of June One thousand nine hundred and Seventy-one made between the within named Robert Thomas Lavelle of the one part and The Post Office of the other part the plot of land bounded on the south easterly side by and having a frontage to a public street known as Bescar Brow Lane Scarisbrick and more particularly delineated and coloured pink on the plan annexed to the said Conveyance of the Ninth day of June One thousand nine hundred and Seventy-one was conveyed unto the Post Office in fee simple

DATED this *Ninth* day of *June* 1971


Solicitors,
Prescot.

By a Conveyance dated the Thirtieth day of October One thousand nine hundred and Eighty and made between the within-named Robert Thomas Lavelle of the one part and the Lancashire County Council of the other part a plot of land situate on the north-westerly side of and fronting to Bescar Brow Lane Scarisbrick aforesaid shown coloured pink and edged red on the Plan attached to that Deed and containing 1.42 acres or thereabouts was Conveyed unto the Lancashire County Council in fee simple

DATED this Thirty-first day of October 1980


Henry Cross & Son
Solicitors, Prescot.

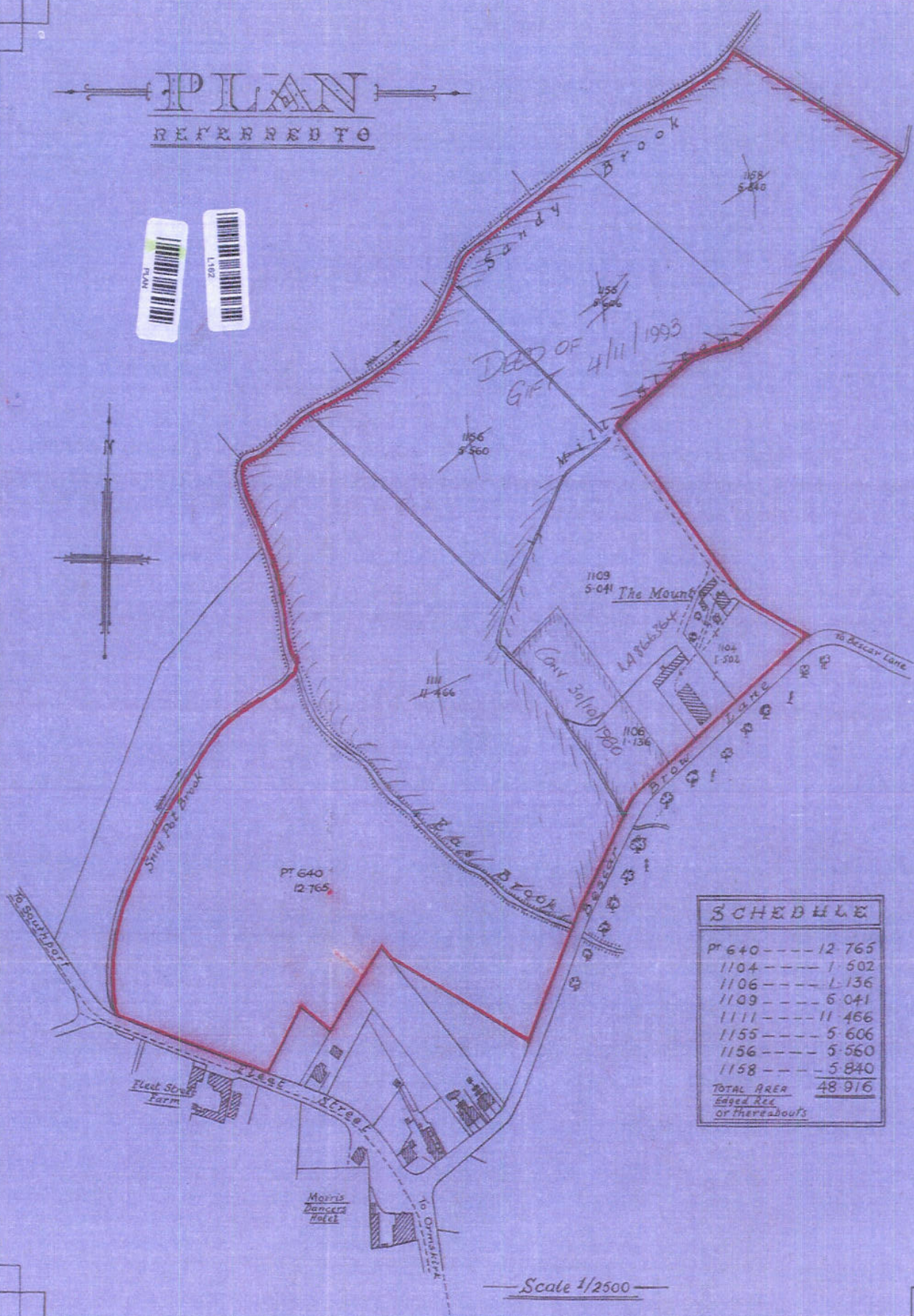
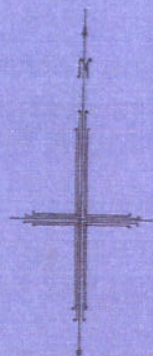
BY A Deed of Gift dated the 4th November 1993 and made between MARY LAVELLE of the one part and MARGARET ANNE MARSHALL, THOMAS RICHARD LAVELLE and MARY ELIZABETH KENWORTHY of the other part the plot of land containing in all 28.472 acres or thereabouts and comprising Ordnance Plots 1111(Part) 1156, 1155 and 1158 and more particularly delineated and coloured red on the Plan annexed to the said Deed of Gift was given to the said MARGARET ANNE MARSHALL, THOMAS RICHARD LAVELLE and MARY ELIZABETH KENWORTHY in fee simple

DATED this Fourth day of November 1993

Wilson Cowie & Dillon.
Solicitors,
10 James Street, Liverpool, L2 7PL.

PLAN

REFERRED TO



SCHEDULE	
PT 640	12 765
1104	1 502
1106	1 136
1109	5 041
1111	11 466
1155	5 606
1156	5 560
1158	5 840
TOTAL AREA	48 916
<i>Edged Red or thereabouts</i>	

Scale 1/2500









