



The Planning Inspectorate

4/04 Kite Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Direct Line 0117-372 8889
Switchboard 0117-372 8000
Fax No 0117-372 6241
GTN 1371

S P SOUTHWORTH
Lancashire County Council
PO Box 78
County Hall
Preston
PR1 8XJ

Your Ref: 71/SPS/807/144
Our Ref: FPS/C2300/7/88
Date: 12 February 2002

Dear Sir

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53
Lancashire County Council
(DEFINITIVE MAP & STATEMENT OF PUBLIC RIGHTS OF WAY). DEFINITIVE MAP
& MODIFICATION (NO.13) ORDER 1997.

I enclose herewith a copy of the Inspector's decision with regard to the above-named Order.

Any challenge to the validity of the decision must be lodged in the High Court within 42 days from the date of publication of the notice of confirmation, or within 3 months of a decision to not confirm an order. An Inspector's decision can be challenged on legal grounds that:

the decision was taken outside the powers of the Secretary of State;

the relevant requirements of the legislation were not complied with in relation to the decision.

If you have any complaints or questions about a decision, or about the way we have handled the Order write to the address below.

The Quality Assurance Unit will either respond directly to you, or ask a section within the Inspectorate to reply, because they have specific specialist knowledge.

We will investigate your complaint and you can expect a full reply within three weeks. However, we cannot reconsider the order if we have already given our final decision on it. The only time we will reconsider an Order is if you successfully challenge our decision in the High Court.

The Planning Inspectorate
Quality Assurance Unit
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Telephone: 0117 372 8252
Fax : 0117 373 8139

Email: complaints@planning-inspectorate.gsi.gov.uk

Yours faithfully



JP
JOHN GREENSLADE
(Rights of Way Section)

Memorandum for confirmed Orders.

WIDLIFE AND COUNTRYSIDE ACT 1981

Your council's attention is drawn to the requirements of paragraph 11 of Schedule 15 of the Act and to paragraphs 4 and 5 of Schedule 4 to the Wildlife and Countryside (Definitive Map and Statements) Regulations 1993 (SI 1993 No.12). The required certificate should be sent to the Department as soon as possible.

It is our policy to provide free copies of the decision letter to all statutory objectors, everyone given permission to speak at the inquiry (where one is held) and listed under appearances in the Inspector's letter. Also anyone else, who has written to us requesting a copy, before a decision is issued.





Order Decision

Inquiry opened on 4 December 2001

By Lynn Moseley PhD BArch RIBA

An Inspector appointed by the Secretary of State for
Environment, Food and Rural Affairs

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372

Date: 12 FEB 2002

Order Ref: FPS/C2300/7/88

- This order is made under Section 53 and Schedule 15 of the Wildlife and Countryside Act 1981 and is known as The Lancashire County Council (Definitive Map and Statement of Public Rights of Way) (Definitive Map Modification) (No.13) Order 1997.
- Lancashire County Council submitted the order for confirmation to the former Secretary of State for the Environment, Transport and the Regions.
- The order is dated 5 August 1997 and there were two outstanding objections at the commencement of the local inquiry.
- The order proposes to add a bridleway from Public Footpath 48 North Meols at Cross Bank Cottage to a point on Public Footpath 49 237 metres west of New Lane Pace and upgrade Public Footpath 47, part of Public Footpath 48 and the remainder of Public Footpath 49 as far as New Lane Pace to bridleway status.

Summary of Decision: I have confirmed the order with minor modifications as set out in the attached schedule.

Procedural matters

1. The effect of the order, if confirmed without modification, would be to modify the definitive map and statement for the area as follows:
 - a. By adding a bridleway from point E on the Order Map on Public Footpath 48 North Meols at Cross Bank Cottage, running in an easterly direction to point H on Public Footpath 49, 237 metres west of New Lane Pace, a total length of 840 metres from points E to F to G to H.
 - b. By upgrading to bridleway status Public Footpath 47 and part of Public Footpath 48 North Meols from Ralph's Wife's Lane, point A on the Order Map, running generally in a northerly and then north easterly direction to point E, a total distance of 1170 metres.
 - c. By upgrading to bridleway status part of Public Footpath 49 North Meols from point H, running easterly to point I on New Lane Pace opposite Marsh Road, a total distance of 237 metres.
2. I have been appointed to determine the order in accordance with paragraph 10(1) of Schedule 15 to the Act. The Order Making Authority confirmed that statutory requirements had been complied with.

100

[Faint, illegible text covering the majority of the page]

100

100

ORDER DECISION

3. The inquiry was held on 4-6 December 2001 at the North Meols Community Leisure Centre and was concluded at 2.00 p.m. on its third day. I made an informal inspection of the area on 3 December and carried out a site visit to the ways concerned after the close of the inquiry, accompanied by representatives of the objectors, a representative of the County Council and several user witnesses and supporters. The inquiry was very well attended.
4. At the inquiry the Order Making Authority was represented and called its Definitive Map Officer, fourteen users and two others as witnesses. Five supporters gave evidence. One of the two objectors who gave evidence, the Southport Land and Property Company Ltd, was represented and called two witnesses. The British Horse Society and the North Meols Parish Council supported the order. In determining this case I have taken into account these and all other written representations made.
5. I am reporting separately to the Secretary of State on an application for costs made by Mr R M N Gillibrand, solicitor on behalf of the Southport Land and Property Company Ltd against Lancashire County Council.
6. At the inquiry the Order Making Authority put forward modifications to amend the wording of the schedule to the order to reflect a correction of the order map. These modifications were designed to reflect the fact that the definitive route of Footpath 48 North Meols ran along the order route on the seaward side of the sea embankment from point E to point F, and not along the top of that embankment as shown on the order map. Accordingly the order sought to upgrade the whole of Footpath 48.
7. The Council further proposed alternative sets of substantive modifications to the order dependent on my conclusions with regard to the user and documentary evidence presented to the inquiry. I have referred to these modifications below and set out my proposed modifications in the attached schedule.

The main issues

8. Although this case concerns a continuous length of proposed bridleway, its route intersects with the highway network in the area at two intermediate points, point D, where it connects to Charnley's Lane, and point F, where it connects with George's Lane. The user evidence varies in relation to each separate length of the overall route. I have therefore considered each length separately before considering the documentary evidence and coming to my overall conclusions. The main issues in relation to the user evidence are the same for each length, as follows;
 - a. Whether a date can be identified when the right of the public to use that part of the way as a bridleway was brought into question by a notice as prescribed in Section 31(3) of the Highways Act 1980 or otherwise.
 - b. Whether that part has been actually enjoyed by the public as a bridleway as of right and without interruption for a full period of 20 years prior to any identified date.
 - c. Whether there is sufficient evidence that there was no intention on the part of the landowners concerned to dedicate that part of the way as a public bridleway during any identified statutory period.



9. In relation to the documentary evidence the issue applies to the order route as a whole and is whether, alternatively, there is sufficient historical documentary evidence to support a presumption of dedication of the whole way as a public bridleway under common law.

Inspector's reasons

Length A-B-C-D, Ralph's Wife's Lane to Charnley's Lane.

Date of calling into question

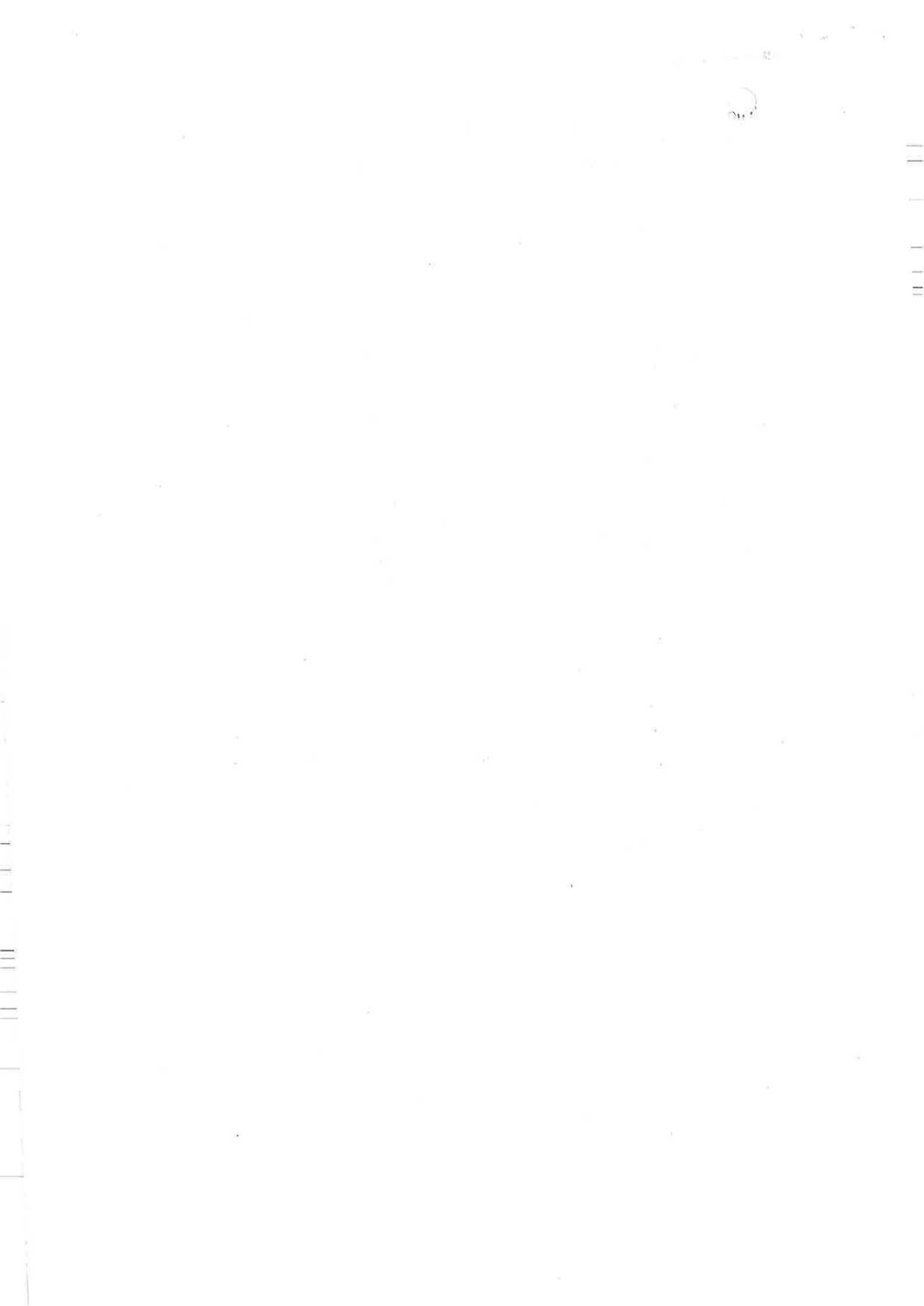
10. All parties agreed at the inquiry that a locked gate was placed at point A in 1994 effectively preventing access from Ralph's Wife's Lane along this access way, known as Bank Pace. The closure of this access to vehicular traffic, other than for servicing the adjoining electric substation, was the subject of a planning condition in the interests of highway safety attached to planning permission dated 10 February 1994 for retention for agricultural use of the access and a hardstanding at Green Heys Farm granted to the Southport Land and Property Company Ltd.
11. The full wording of the condition includes the proviso that consideration be given to other users and provision for public footpath users. The latter were provided for by the inclusion of a kissing gate, but it is clear that the condition was interpreted in such a way that no provision was made for riders. I therefore accept that the implementation of this planning permission in 1994 marks the end of a relevant 20 year statutory period.

User evidence

12. The application for the order was supported by 46 user evidence forms covering the order route as a whole. Of these 14 riders gave evidence that they had used this length, covering a period from 1971 to 1994. Of these witnesses, three might be regarded as exercising a permissive right as their families were tenants of the landowners concerned. I have considered carefully the submissions of the objectors to the effect that discrepancies between the written and oral evidence of some witnesses, together with some unsatisfactory answers to questions regarding the methods used to collect and record user evidence forms and route maps, considerably reduced the weight that could be put on the user evidence as a whole.
13. I consider that there is some weight to these submissions, but I nevertheless conclude that, in relation to this part of the route, there is evidence of significant public use by horseriders over a statutory twenty year period ending in 1994. User evidence to that effect is corroborated by the action of the Scarisbrick Estate in 1976 in erecting a gate at point B in 1976 to 'stop excessive use by horses'.

Lack of intention to dedicate

14. This act by the landowners in 1976 is, however, strong evidence of a lack of intention on their part to dedicate this part of the order route as a public bridleway. The gate is referred to in a letter dated 29 June 1976 to the West Lancashire District Council, written in response to a complaint from the Parish Council that pedestrian access was obstructed. The letter explained why the gate had been erected and acknowledged the obstruction to pedestrian rights, promising to rectify matters by the erection of a stile. It was followed by a formal application dated 6 August 1976 to the Order Making Authority under Section 126 of the Highways Act 1959 for the erection of a new gate with provision for pedestrian access.



15. The evidence shows that a gate was in fact erected at point B in 1976. The former foreman to the Scarisbrick Estate, a witness for the Order Making Authority, confirmed that he and another did so. He did not recall the gate being locked and stated that it eventually fell into disrepair. However another supporting witness did recall that the gate was locked for a period of about a month and that a key was given to one of the Estate's tractor drivers. Moreover the Parish Council is recorded as having noted that the gate was padlocked in the complaint that precipitated this correspondence.
16. I accept that the gate was locked for a fairly short time and eventually fell into disuse, and there is no record that the application of 6 August 1976 was authorised. Few user witnesses recall seeing the gate although it appears to have been still in position in 1981. It was claimed by those that did admit to seeing it that it offered no serious impediment to use, being unlocked and that a determined rider could have by-passed the gate and its supports by entering the unfenced fields to the side of the track. The reasons given for the erection of the gate included the prevention of fly tipping and the unauthorised removal of sand.
17. Nevertheless, the reference to excessive use by horses in correspondence with the highway authority confirms that this action was in part expressly directed at bridleway use. In my view, the erection of a locked gate in June 1976 for this express purpose, followed by submission of a formal application to the Highway Authority within two months to retain that gate in position, constituted an overt act, clearly demonstrating a lack of intention to dedicate at the time it was carried out. That being so I am unable to conclude that this length could have been dedicated as a public bridleway under statutory provision during the 20 year period ending in 1994 or at any time after June 1956.

Length D-E-F, Charnley's Lane to George's Lane

Date of calling into question

18. Public use of this length appears to have been called into question by the padlocking of a gate at point E, immediately to the north-east of Cross Bank Cottage, where the order route runs through the line of the old sea embankment before turning eastwards along its seaward side. All parties at the inquiry accepted that this event took place at the same time as a locked gate was erected at point A in 1994.

User evidence

19. User evidence in relation to this length was subject to detailed challenges by the objectors at the inquiry. These rested on the topography of the area at the material time. The grass path running from point D to E between the southern slope of the sea embankment and a field ditch would have been too narrow for horses to pass safely and was used solely for private access to Cross Bank Cottage. In any event the way was obstructed by a tunnel-like arrangement of fences and gates at point D which restricted access to a width of just over a metre.
20. The western end of this length was originally fenced in with the embankment as permanent pasture but became overgrown and inaccessible after about 1976 when grazing ceased. A few years later the path was cleared for walkers and public footpath signs erected. Very few if any riders were seen using this length before an agricultural track was constructed over it by the present landowners in 1994. There was no marked track showing use by horses between Cross Bank Cottage and George's Lane although it was accepted that this part of the order route was used as a private vehicular access to the cottage.



21. The evidence of the objectors is contradicted to a significant extent by the Council's witnesses. The former Scarisbrick Estate foreman recalled an unlocked diamond pattern field gate between points D and E, which was used for access and could be opened. On several occasions in the 1970's he drove a four wheeled vehicle from point D to Cross Bank Cottage to carry out maintenance work. Another supporting witness delivered milk to the cottage from both Charnley's Lane and George's Lane in a small van in the 1960's.
22. It appears to me that a full reconciliation of this conflicting evidence is not achievable. Nevertheless, on balance it is possible to conclude that, following the cessation of grazing in the mid seventies, despite the growth of brambles and other vegetation, it was actually possible with some care to take horses over the western half of this length from Cross Bank Cottage to Charnley's Lane. I do not consider that a gap just over a metre wide or a narrow path of rather less width would have presented an impassable obstruction to horses. There is no evidence that the eastern half of this length from George's Lane to Cross Bank Cottage was obstructed in any way.
23. The tenant witness for the objectors qualified his claim that he saw no one on horseback on this part of the route by the phrase '*certainly not enough to make me think that it was any sort of right of way*'. In any event, user witnesses were certain that this route was regularly used, and they maintained their view under intense cross-examination. Several were acquainted with the tenant farmers concerned and spoke to them as they rode this length.
24. Some riders remembered the remains of a gate at point D but did not admit of any obstruction. It appears from the evidence of some witnesses that Length D-E-F was regarded as a short safe route, free of vehicular traffic, for inexperienced riders between the two lanes. One rider confirmed in response to detailed questions that he took a fairly highly-strung former racehorse over this length without difficulty. In all, 14 user witnesses claimed to have ridden this part of the route regularly during the relevant 20 year period.

Lack of intention to dedicate

25. No evidence was presented at the inquiry of any overt act by any landowner in relation to Length D-E-F that might constitute sufficient evidence of a lack of intention to dedicate this way as a public bridleway during the period of use ending in 1994. I have already concluded that, on balance, the gates across this length that existed in the 1970's could not be regarded as effective interruptions to use by horses.
26. I have also considered whether the locked gate at point B, erected in 1976, could be regarded as applying to the whole of the order route and concluded that it could not. All three parts of the order route was separately accessible at both ends from the highway network prior to the date of calling into question.
27. I therefore consider that, on balance, the length which runs from Charnley's Lane to George's Lane could have been dedicated for public bridleway use under Section 53 of the Act by the operation of a 20 year period ending in 1994.

Length F-G-H-I, George's Lane to New Lane Pace

Date of calling into question

28. I accept the consensus of evidence that a chained and padlocked four metre wide gate was discovered at point G in 1996 which had probably been installed in 1994, and that this constituted an interruption calling into question public use by horseriders.



User evidence

29. A similar volume and detail of user evidence applies to this length to that applying generally, and in relation to this part no serious attempt was made by the objectors to dispute such use other than by reference to aerial photographs. References were also made to an agricultural arbitration decision which concluded that at that time there was no physical evidence of a track over this length, but such proceedings have little bearing on the considerations which lead to my own conclusions in relation to this matter. My own view is that little weight applies either way to the aerial photographic evidence in this case, which is in any event contradictory. I have no reason to doubt the overall weight of user evidence in relation to this length, which runs in its entirety on the seaward side of the former sea embankment.

Lack of intention to dedicate

30. Again no evidence relating to this length of way was presented to the inquiry showing a lack of intention to dedicate during the statutory period ending in 1994. I therefore consider that bridleway rights could have been dedicated over Length F-G-H-I under Section 53 of the Act by the operation of this statutory period.

Summary in relation to statutory dedication

31. In summary I consider that, on balance, there is sufficient evidence to presume statutory dedication of bridleway rights over Footpath 48, statutory dedication of a new public bridleway from George's Lane, point E on the Order Map, to point H and statutory dedication of bridleway rights over the remainder of Footpath 49 North Meols eastwards from point H to point I. There can be no such presumption in relation to Footpath 47 North Meols on account of the challenge to such use in June 1976. Before concluding that such dedications did take place however I turn to the documentary evidence in relation to a presumption of prior dedication under common law.

Documentary evidence

32. The documentary evidence in this case is extensive and informative. A firm conclusion may be derived from an analysis of the cartographic and written evidence regarding the antiquity of the order route and a reliable inference drawn regarding its historic status.

33. There is however some uncertainty as to the precise relationship of the definitive routes of the eastern half of Public Footpath 47 and the whole of Footpath 48 to the historic route, the analysis being complicated by the presence of a later sea embankment, which could well straddle parts of the historic route. The issue is further complicated by the obliteration of significant lengths of the definitive footpaths, particularly of Public Footpath 48 between points D and E, by recent agricultural operations.

Henry Banks' Map 1736

34. This early local map was produced in connection with the execution of trusts arising from the will of Charles Scarisbrick in 1736 and appears to show land in the ownership of Peter Bold. The map shows Charnley's Lane, George's Lane and New Lane Pace. Ralph's Wife's Lane is shown only in part and Bank Pace is not shown. A strip of land is shown between the foreshore of the Ribble Estuary and cultivated land corresponding roughly with the alignment of the order route. The lanes opened directly on to this strip, indicating that it was considered accessible for horses.



35. At its eastern end the strip referred to continues across the end of New Lane Pace as Marsh Road, the modern public highway from Banks to Hesketh Bank. It is therefore possible to fix the location of this strip at its eastern end in relation to the modern highway network, although its western end is not so well defined.

Yates' Map of Lancashire 1786

36. This map shows a route from Crossens bridging a substantial drainage sluice and continuing along the foreshore over marsh land to Hesketh Bank, where the River Ribble is shown to be fordable at low water. A 'Guide's House' is shown on the northern bank of the river. The route forms part of a longer route for travellers from Liverpool, through what is now Southport, to Preston. The only alternative route between Crossens and Hesketh Bank is around the southern side of Tarleton Moss, a considerable detour.
37. The alignment of this through route may be fixed in relation to the property known as 'Ball's House', which also appears on the 6" Ordnance Survey First Edition of 1844/48 together with the junction of New Lane Pace and Marsh Road. In this manner it is possible to deduce that in 1786 a significant through route ran in a north-easterly direction along the foreshore of the Ribble Estuary and that this route appears to have passed through or close to what is now the eastern end of the order route, point I on the order map, having originated at the crossing of the sluice immediately to the north of Crossens village. As William Yates' map was based on the instrumental survey of the road network it can be considered reasonably reliable in relation to the alignment of such features.

Early C19th commercial maps

38. The route is shown to a small scale on Smith's map of 1804, on Stockdale's map of the country around Manchester in 1818 and on Greenwood's map of 1818. These maps were produced for the use of a growing number of travellers at the time and must have been heavily relied on. The route is depicted on each of these maps as a route of some importance. Greenwood's map clearly shows Banks Pace, Charnleys's Lane and George's Lane, all connecting to the way along the foreshore. The two ends of New Lane Pace are also shown, but there is no continuous connection to Marsh Road along this alternative route.
39. There is an abrupt change in the alignment of the foreshore route on Greenwood's map corresponding to a similar feature on the ground at point H on the order route. This feature scales just over one eighth of a mile (about 237 metres) west of the north end of New Lane Pace. The dwellings shown in this position are named 'Brow Side Houses' on the First Edition Ordnance Survey map of 1844/48. None of these maps show the sea embankment.
40. The Liverpool map of 1818, showing principal roads through the township of North Meols, is not of assistance, but Baines' map of 1824 and the Teesdale/Hennet map of 1830 usefully show New Lane Pace to have been formed as a continuous link between Ralph's Wife's Lane and Marsh Road. These maps identify the probable period of completion of this alternative route through the village of Banks towards Hesketh Bank as the second decade of the C19th.
41. The later of these two maps identifies the order route as an unfenced track linking Ralph's Wife's Lane, Charnley's Lane, George's Lane and New Lane Pace and continuing past 'Ball's' as Marsh Lane towards Hesketh Bank. This foreshore route runs over land depicted, according to the *Explanation* as 'Heaths or Commons' and the lanes connecting to it run to



the edge of that depiction, not to the track itself, possibly indicating that they gave access to the foreshore generally, the track itself being indicated as unenclosed.

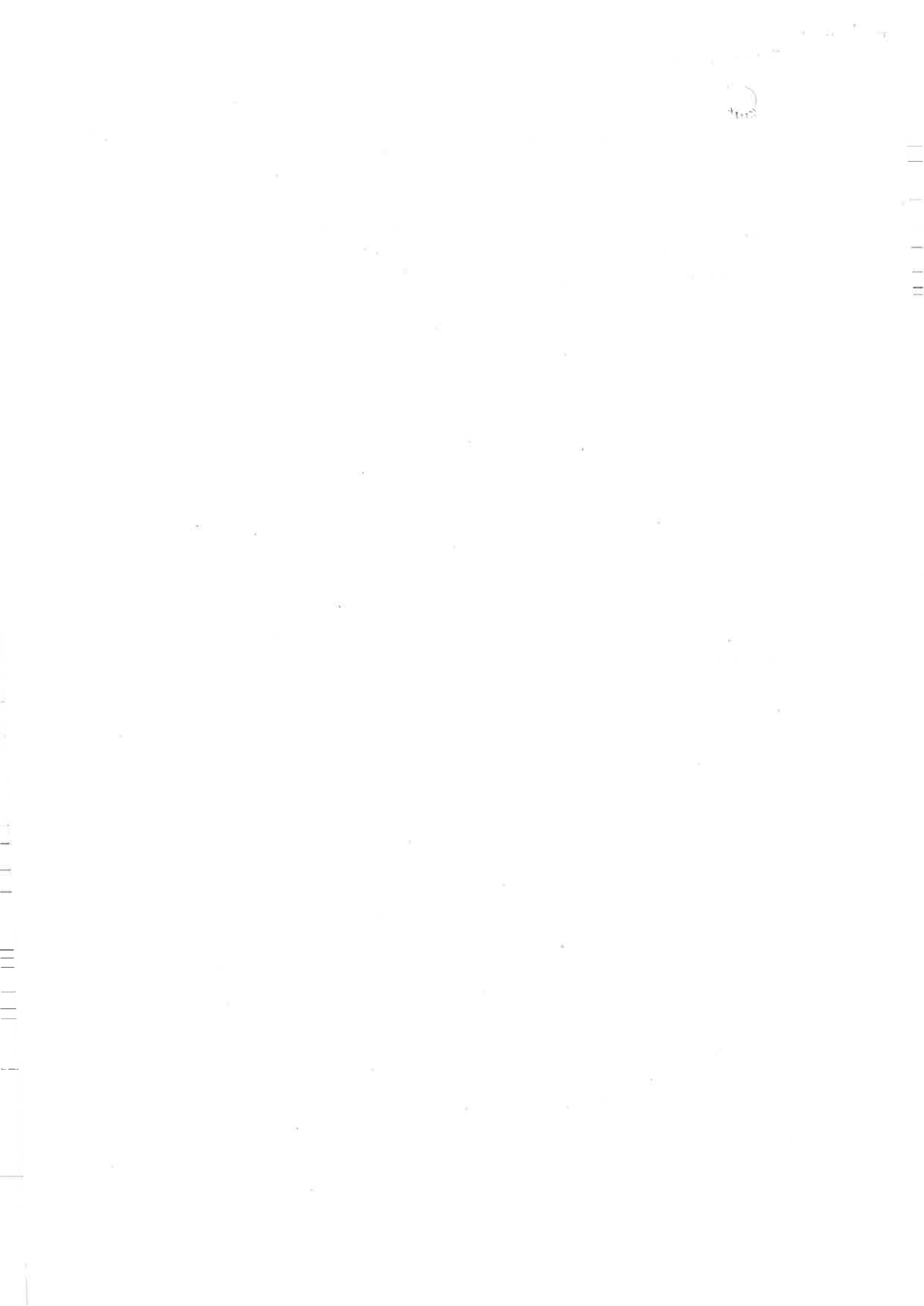
42. The cumulative evidence of early cartographic evidence, when correlated with features that appear on later Ordnance Survey maps or on the ground, demonstrate unequivocally in my view that an ancient track, providing a through route for travellers linking the northern and southern shores of the Ribble estuary, ran on an alignment coinciding with the order route as a whole. It is possible to arrive at this conclusion without reliance on any depiction of the sea embankment on these maps.

Historical accounts

43. An extract from *'The Writings of Reverend Bulpit'*, a local history published in 1908, defines the word 'pace' as a 'passage to the shore' and refers to such roads in Banks as ancient tracks. Bulpit claims that New Lane Pace was newly paved when an incursion of the sea prevented passage along the ancient shore road. This theory is supported by the cartographic evidence and explains why in modern times the shore road turns sharply inland at the western end of Marsh Road into New Lane Pace, and does not continue along its ancient route.
44. The conclusion to be derived from the account by Reverend Bulpit is that the chief road of the district ran from ancient times along the shore from the Naze of Hesketh to Crossens. The earliest recorded history of Banks commenced with a deed made by one Albert Bussel of Penwortham, who died in 1186, concerning a 'place of entertainment' for travellers waiting to ford the river between Fylde and Meols. 'Ball's House' is mentioned in this connection and it is noteworthy that this property and the 'Guide House' on the opposite bank feature prominently alongside this foreshore route on Yates' map of 1786 and the early C19th maps.
45. In contrast, the present sea embankment appears from this account to be of comparatively recent origin, being the latest of a series erected along the foreshore route to protect the village and its fields. A new bank is recorded as having been washed away by the sea in 1834. Another breach of the sea defences is recorded in 1863. The author himself claims credit for persuading the Scarisbrick Estate (in about 1896) to finally enclose 1,200 acres of foreshore with a new embankment, thus solving the problem of periodic inundation.
46. A much later local history mentions a flood of 1807, implying that the present embankment is that which was breached at that date, but as this theory does not accord with any cartographic evidence produced by instrumental survey before 1844, I consider that the documentary evidence as a whole points to sea defences being progressively replaced and strengthened during the second half of the C19th. As the foreshore route declined in importance following the completion of New Lane Pace it could well be that the foundations of the ancient track were used in part to support the sea defences over what had previously been marsh, and that physical evidence of the track thereby gradually disappeared.

Ordnance Survey Maps

47. The one inch O.S. map published in 1842 is the first surveyed map showing the order route in relation to a sea embankment. Only the western part of the route is included, but this depicts length A-B-C unambiguously as a fenced, unmetalled road, coinciding with the historic alignment of Bank Pace. My further interpretation of this map is that from point C an unfenced track is shown continuing along the foreshore on the seaward side of the



embankment, which is shown as two continuous lines from point C to the eastern edge of the map. In arriving at this interpretation I differ from the conclusion of the Council's Definitive Map Officer, who concluded that the dotted line represented the embankment, but I accept that the depiction is unclear.

48. I have already mentioned the First Edition 6" O.S. map surveyed in 1844-5 as assisting in validating the evidence of earlier commercial maps. Bank Pace is again unambiguously shown and labelled as such on this map, depicted as a fenced road connecting to Ralph's Wife's Lane at point A. No gate or other obstruction is shown at this point or at any point between A and C. The sea embankment is clearly shown and labelled Crossens Bank and Goose Dub Bank.
49. It is not possible to clearly distinguish the path from the embankment between points C and E, but a single pecked line emerges from the depiction of the embankment about half way between C and D and continues through point D to point E, where it changes into a double pecked line on the seaward side of the embankment as far as point I. It then continues along the alignment of Marsh Road. Access to 'Brow Side Cottages' at point H is from this track through the embankment. Cross Bank Cottage is not shown.
50. A possible interpretation of this map is that works to reinstate the sea embankment following its destruction in 1834 involved enlarging it so that it partly or completely covered the western end of the old foreshore track between points C and E. This would account for the fact that from point A to point C and from point E eastwards my own observations on site confirm that the order route follows the alignment of the ancient track, whereas there is uncertainty as to whether the definitive alignments of Public Footpaths 47 and 48 between point C and Cross Bank Cottage coincide with the historic route.
51. Later Ordnance Survey maps do nothing to resolve this uncertainty. The 1893 25" map shows a footpath running along the top of the embankment over the length in question. The 1910 map shows room to pass both on the landward side of this length of the embankment and the means to cross the ditches on the seaward side that had been created following land reclamation in 1896. These and later maps reflect the progressive abandonment of the foreshore route and the creation of modern footpaths and farm tracks, which may not necessarily follow the same precise alignment.

Tithe map of North Meols 1839.

52. This is the earliest map showing the sea embankment, and depicts a track running along the seaward side of the embankment for its entire length. This track does not coincide with the definitive alignment of the eastern half of Footpath 47 and that of Footpath 48. However, while the colouring of this track points to its status as a public road, I place very much less weight on it for the purposes of determining alignment than I do on the surveyed commercial and Ordnance Survey maps. I do not therefore consider that this map resolves the uncertainty regarding these lengths.

Summary in relation to documentary evidence

53. Whatever uncertainty there may be regarding the precise relationship of the alignment of the eastern half of Footpath 47 to the ancient through route from Crossens to Hesketh Bank, it is clear from cartographic evidence that its western half, known as Bank Pace, is part of that ancient track. From this it is reasonable to conclude that the ancient track continued eastwards along the order route, but that physical traces of it have been lost, either under the



later sea embankment or through the encroachment of cultivation. On balance, I therefore consider the eastern half of Footpath 47 to be a residual fragment of that ancient track.

54. The documentary evidence as a whole represents powerful evidence that this track provided a through route for travellers on horseback and driving pack-horses, as well as those on foot, wishing to cross the Ribble estuary. While there is no explicit evidence that this route was dedicated in past times under common law as a public highway carrying such rights, documentary evidence does exist that public provision for travellers using the route was made by a person reputed to be the landowner concerned in the reign of Henry II. It is reasonable to presume therefore that the status of the route as a public highway carrying bridleway rights was established under common law at that time.
55. The effect of this presumption is to override any conclusion that might be arrived at with regard to the interruption of 1976 at point B and a consequent lack of intention to dedicate during the statutory period ending in 1994. Instead I conclude that Footpath 47 North Meols acquired public bridleway rights under a presumed act of dedication under common law in early medieval times.
56. There is similar uncertainty in relation to the western half of Footpath 48 because of lack of evidence as to the extent to which the alignment of this length actually lies over the ancient route. However, I have already concluded that bridleway rights may be presumed to have been dedicated over this length under statutory provisions during the 20 year period ending in 1994, and in my view the documentary evidence does nothing to undermine that conclusion. Moreover, uncertainty as to the precise alignment of the ancient route in relation to the embankment between points C and E would in my view undermine any firm conclusion as to the possible existence of a parallel dedicated way on the seaward side of the embankment to the west of Cross Bank Cottage, as suggested by the Order Making Authority.
57. With regard to the remainder of the order route eastwards of Cross Bank Cottage, the documentary evidence is wholly consistent and reflects my own observations on site, which are that the proposed bridleway from point E eastwards to point I follows the ancient route. I therefore conclude that such bridleway rights were acquired, not by recent statutory dedication, but by operation of common law at the same time as those rights came about in respect of Footpath 47.

Proposed modifications

58. In view of my conclusions regarding the way historic rights and statutory provisions impact differently on each part of the order route I have no need to consider the substantive modifications put forward by the Order Making Authority in relation to a route on the seaward side of the embankment from point C to point E. I am able instead to confirm the order without such substantive modifications since I have found the documentary evidence in relation to such a parallel route lacking in weight and contradictory.
59. I have noted the evidence of riders that they have tended to hug the embankment between point H and point I, but there is no evidence that the historic route did other than continue in a straight line to Marsh Road, as does Footpath 49. In any event I consider the user evidence to be insufficiently conclusive in this regard, being based on periodic temporary deviations by some riders to avoid growing crops. I therefore see no reason to incorporate the suggested modification to this part of the route put forward by the Council.



60. I accept the proposed modifications put forward to correct the erroneous depiction of part of the definitive route of Footpath 48 North Meols between points E and F. These modifications affect the extent to which bridleway rights would be acquired by upgrading or creation along the order route as a whole, and are set out in the schedule attached to this decision.

Conclusions

61. Bearing in mind the user evidence and documentary evidence presented at the inquiry, my conclusions differ in relation to each part of the order route. The provisional conclusion that I arrived at in relation to the possible statutory dedication of bridleway rights over Footpath 47 is overridden by my final conclusion on the basis of documentary evidence with regard to common law dedication of this length.

62. My provisional conclusions regarding statutory dedication of Footpath 48, 49 and the proposed new bridleway, as set out in paragraph 31, are qualified by my conclusions in respect of an earlier dedication of that part of the order route running east from Cross Bank Cottage to New Lane Pace under common law. In arriving at these final conclusions I have taken into account all representations made but they are insufficient to outweigh the considerations which have led to my decision.

Formal Decision

63. In exercise of the powers transferred to me I confirm the order subject to the modifications set out in the attached schedule.


Inspector

Schedule of modifications to Part I of the Schedule to the Order

(i) Description of bridleway to be added

Bridleway from the junction of Public Footpaths No.48 and 49 North Meols, West Lancashire District, with George's Lane in a general easterly direction to a point on Public Footpath No. 49 North Meols, approximately 237 metres west of New Lane Pace, a distance of approximately 625 metres, shown F-H and coloured green on the plan annexed hereto.

(ii) Description of paths to be upgraded

Public Footpaths Nos. 47 and 48 North Meols, West Lancashire District, from a point on Ralph's Wife's Lane, adjacent to No. 105 in a generally northerly, then north-easterly direction, to George's Lane, a distance of approximately 1495 metres, shown A-B-C-D-E-F and coloured green on the plan annexed hereto to be upgraded to the status of bridleways; and

(The remainder of (ii) to read as made.)

10/10/10

10/10/10

10/10/10

Appearances

The Order Making Authority

Lancashire County Council,
represented by Mrs J Turner, solicitor, who called

Miss J Sharrock, Definitive Map Officer, Lancashire County Council.
Mrs M Marshall, 48 Bond's Lane, Banks.
Mrs A Wright, 93 New Lane Pace, Banks.
Mrs B Duffy, Seaview, George's Lane, Banks PR9 8HD.
Mrs P Cadwell, 18 Vicarage Lane, Banks.
Mr E Crowhurst, Meols Hall Cottage, Churchtown, Southport.
Mr B Derbyshire, Woodlands, Bobbiners Lane, Banks PR9 8BZ.
Mrs L Williamson, Silverdale, Long Lane, Banks PR9 8EX.
Mrs H Twist, 15 Square House Lane, Banks.
Mr J Bowers, 14 Vicarage Lane, Banks PR9 8ES.
Mrs I Rawcliffe, 39 Abrams Fold, Banks PR9 8AL.
Mrs P Ollerton-Pleasant, 97 Station Road, Hesketh Bank PR4 6SQ.
Mrs L Linell, 22 Ralph's Wife's Lane, Banks.
Mrs V Harvey, 176 Gravel Lane, Banks PR9 8BX.
Mr D J Rimmer, 29 Vicarage Lane, Banks.
Mrs P Rimmer, Vicarage Farm, Vicarage Lane, Banks.

Supporters

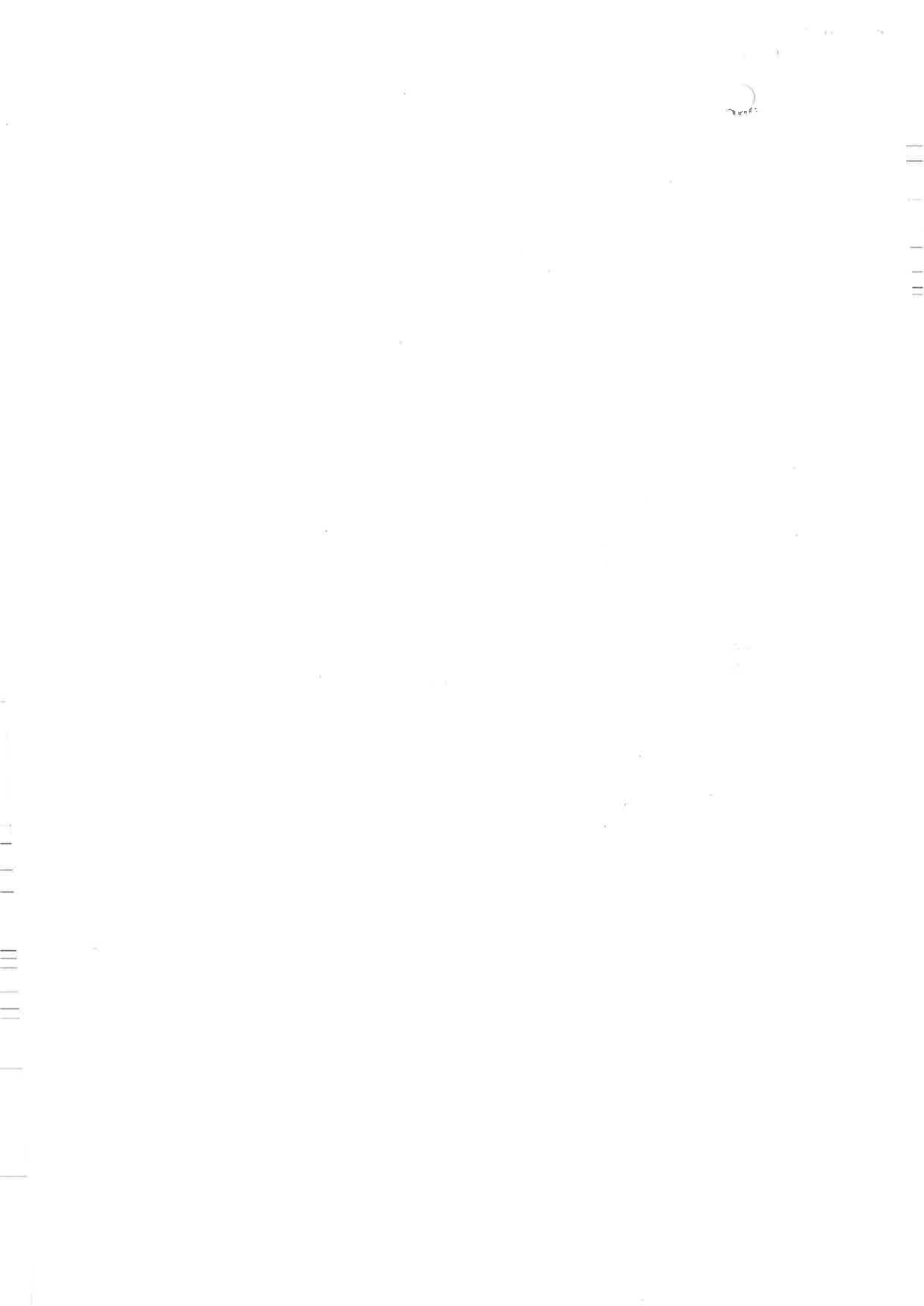
Mr R Cheetham, 24 Mill Dam Lane, Burscough, Ormskirk, Footpath Secretary, West Lancashire Footpath Group, Ramblers' Association.
Mrs C Dickenson, Manor Farm, Shore Road, Hesketh Bank PR4 6XQ.
Mrs J Draper, 31 Sportsman Drive, Banks, Chairman, North Meols Parish Council.
Mr R Ball, 101 Station Road, Hesketh Bank PR4 6SQ.
Mrs S Birch, Rose Cottage, Long Lane, Banks.

Objectors

Southport Land and Property Company Ltd,
represented by Mr R M N Gillibrand, Oglethorpe, Sturton and Gillibrand, solicitors,
16 Castle Park, Lancaster LA1 1YG, who called

Mrs B Crook, Ribble Hall, Hesketh Bank PR4 6XP, Director.
Mr R P Bond, Cross Bank Cottage, Charnley's Lane, Banks PR9 8HD.

Mr D J Baxter, High Brow Farm, George's Lane, Banks.



Inquiry documents plans and photographs

The Order Making Authority

1. 3 No. Attendance Sheets.
2. Opening Statement of Mrs Turner.
3. Closing statement of Mrs Turner.
4. Folder of user statements of witnesses
5. Appendices to proof of evidence of Miss Sharrock, including,
Site inspection plans and photographs.
Report to County Council Rights of Way Sub-Committee 26 March 1997,
Letter dated 29 June 1976 from Edmund, Kirby and Son.
Letter dated 6 August 1976 from Edmund, Kirby and Son.
Examination of maps and documentary evidence.
Note on preparation of definitive map.
Extract from writings of Reverend Bulpit 1908.
6. Folder of certified copies of maps.
7. Case law report, JPL, April 2000,
R. v SofSETR ex parte Dorset C Council, QBD, Dyson J, 1999.
8. Case law report, JPL, April 2000,
R v Oxfordshire C Council ex parte Sunningwell P Council, House of Lords 1999.
9. Case law report, *Mann v Brodie and another, House of Lords 1885.*
10. Case law report, AELR July 1956,
Fairey v Southampton C Council, Court of Appeal, 1956.
11. Historic Route, Proposed Modifications.
12. Proposed Modifications including length H-I.
13. Proposed Modifications excluding length H-I.
14. Folder of written user statements.

Supporters

15. Documents relating to proceedings of North Meols Parish Council.
16. Extract from local newspaper regarding agricultural works to sea embankment.

Objectors

17. Correspondence with Smith, Hodgkinson and McGinty, property consultants.
18. Appendix to proof of evidence of Mrs Crook, extract from agricultural arbitration report.
19. Aerial photographs dated 1970 and 1973
20. Photographs dated 28 April 1994
21. Letter dated 21 June 1995 from Huntapac Produce Ltd.
22. Planning permission dated 10 February 1994 ref. 8/93/983
23. Map showing Mr Baxter's agricultural tenancy.
24. Map showing Mr Bond's agricultural tenancy.



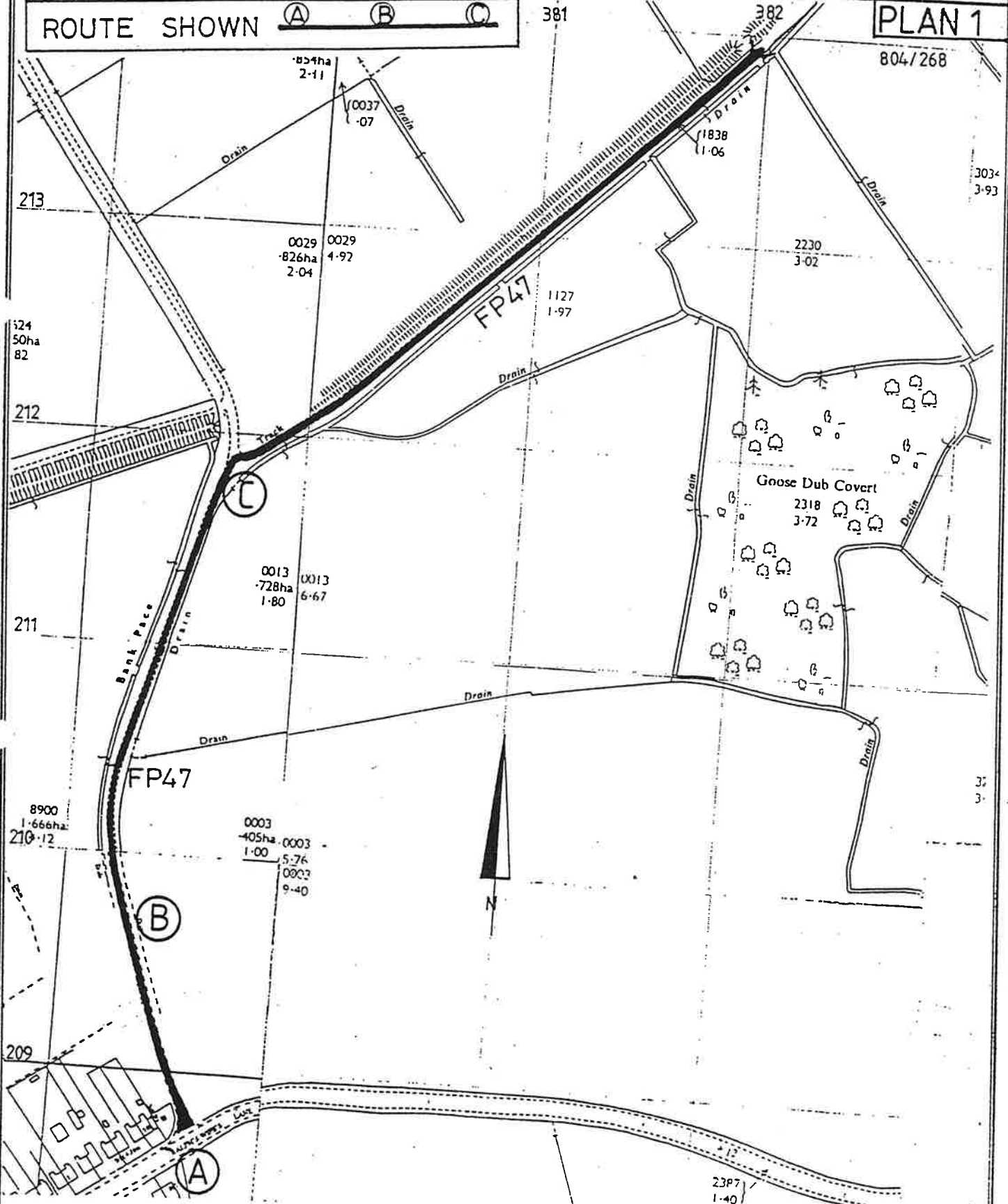
- a) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATHS NOS. 47 AND 48 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT
- b) CLAIMED BRIDLEWAY TO THE NORTH OF, AND PARALLEL TO, PUBLIC FOOTPATHS NOS. 48 (PART) AND 49 (PART), NORTH MEOLS, WEST LANCASHIRE DISTRICT
- c) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC 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 8RD.

ROUTE SHOWN



PLAN 1



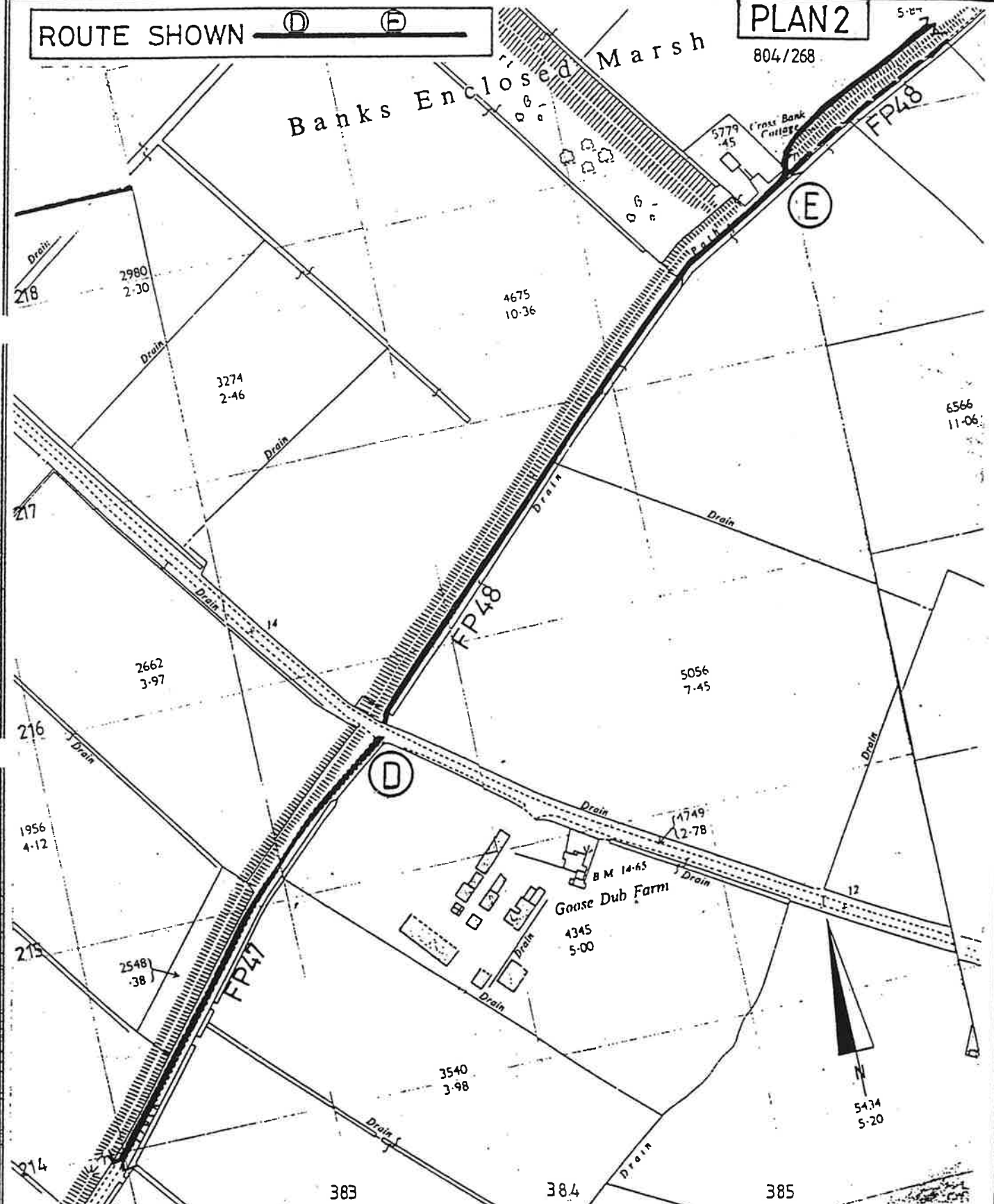
- a) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC FOOTPATHS NOS. 47 AND 48 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT
- b) CLAIMED BRIDLEWAY TO THE NORTH OF, AND PARALLEL TO, PUBLIC FOOTPATHS NOS. 48 (PART) AND 49 (PART), NORTH MEOLS, WEST LANCASHIRE DISTRICT
- c) CLAIMED UPGRADING TO BRIDLEWAY OF PUBLIC 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 8RD.

ROUTE SHOWN D — E

PLAN 2

804/268



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

PLAN 3

ROUTE SHOWN



339000

50

SD 3821-3921 R1968 P1970

LANCASHIRE ADMIN CO

WEST LANCASHIRE R.D.

804/268

387

388

389

390

391

392

393

6800
3-89

8500
2-78

9400
-97

0005
-98

1100
3-18

2400
1-28

3200
-28

219

2755
5-64

218

8179
6-20

217

7470
3-69

9984
6-49

0371
5-84

1778
8-97

2783
4-05

(F)

(G)

FP49

FP48

Track

Drain

Drain

Drain

Drain

Drain

Drain

Drain

Drain

Drain

Drain

Drain

Drain

Drain

High Brow





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

PLAN 4

- 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. 42 (PART) NORTH MEOLS, WEST LANCASHIRE DISTRICT

ROUTE SHOWN 

SD 3921 P1970 R1968
804/268

SD 3922
NORTH MEOLS CP
395

70

