

Definitive map Modification Order application details

Application Reference:	DC2197
Name of Applicant:	British Horse Society.
Address of Applicant:	Abbey Park, Stareton, Kenilworth, Warwickshire. CV8 2XZ
Description of Claimed Route:	Marsh Lane, Ince Blundell
Grid Reference:	SD 31036 04714 SD 31684 03894
Parish:	Ince Blundell
Ward:	Ravenmeols
Date Application Received:	5 August 2022
Date Set for Determination:	
Date Application Determined:	
Decision Made:	
Decision:	
Public Objections Made:	
Applicant Appealed:	
Outcome of Appeal:	
Date Submitted to Secretary of State:	
Order Confirmed:	
Date Order Confirmed:	
Copy of Application:	
Comments:	

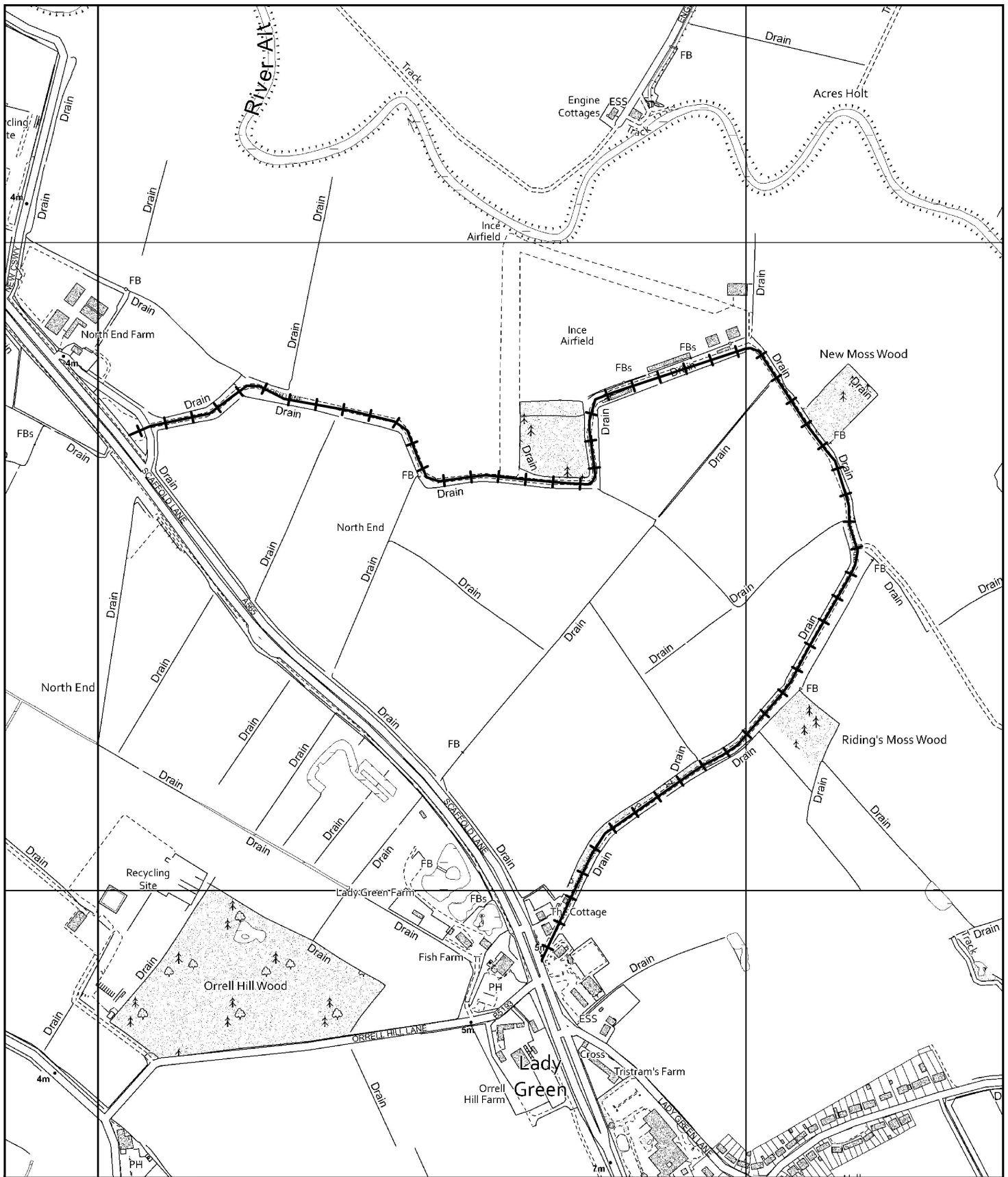
SEFTON METROPOLITAN BOROUGH COUNCIL

REGISTER OF APPLICATIONS MADE UNDER SECTION 53(5) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

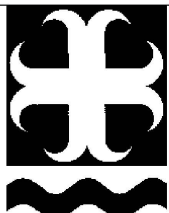
Reference No.	Applicant	Intended Effect of Application	Location	Parish	Definitive Map	Date Application Received	Date Application Validated	Determination Due Date	Secretary of State Direction	Date Application Determined	Decision	Date Order Made	Order Opposed	Order Confirmed	Date Order Confirmed
DC0005	R O'Sullivan	Add a Footpath	School Lane to Canal Towpath Adjacent to 2 School Lane, Aintree, L10 8LH SJ37919851 SJ37879847 & SJ37889848 SJ37889846	Aintree	Sefton MBC Area 3	18/08/2006	N/A	18/8/2007	N/A	22/3/2007	Make Order	9/3/2010	No	Yes	21/9/2010
DC0093	Formby Civic Society	Add two Footpaths	Continuation of Lunts Lane (east) to Liverpool Road and Altcar Road, Little Altcar, L37 SJ 330801,405738 SJ 331272,406781 & SJ 330693,406053 SJ 330938,405979	Little Altcar	Sefton MBC Area 3	28/02/2007	N/A	28/2/2008	N/A	10/1/2008	Make Order				
DC0620	C Cooper, P Liddiard, A & A Williamson, R Cunningham, G Cunningham, E Conway, M Turner	Add a Footpath	Path between St Jerome's Church Hall and Presbytery, Formby, L37 2LX SD 328315,407101 SD 328321,407169	Formby	Sefton MBC Area 3	18/02/2010	N/A	18/2/2011	N/A	16/6/2011	Make Order	13/9/2011	Yes		
DC1041	Mr K Sharpe	Add Footpaths	Cross Barn Lane, Moor Lane and Back O' Th Town Lane, Ince Blundell, L36 6JD SD 332515,402675 SD 332716,403127 & SD 332401,403051 SD 332611,402996 & SD 332313,402963 SD 332405,402814 & SD 332371,402777 SD 332595,402874	Ince Blundell	Sefton MBC Area 3	11/12/2012	2/1/2013	2/1/2014	N/A	9/1/2014	Not to make an order	N/A	N/A	N/A	N/A

Reference No.	Applicant	Intended Effect of Application	Location	Parish	Definitive Map	Date Application Received	Date Application Validated	Determination Due Date	Secretary of State Direction	Date Application Determined	Decision	Date Order Made	Order Opposed	Order Confirmed	Date Order Confirmed	
DC2088	Formby Parish Council	Add several Byways Open to All Traffic and Footpaths	Routes along and adjacent to St Luke's Church Road, Formby, L37 2EB SD 328113,406586 SD 328156,406256 & SD 328156,406256 SD 328374,405550 & SD 328374,405550 SD 328680,405163 & SD 328155,406257 SD 327462,405773 & SD 327575,405584 SD 327420,405456 & SD 327929,406061 SD 327575,405584 & SD 327592,405854 SD 327691,405715 & SD 327526,405809 SD 327641,405660 & SD 328157,406260 SD 328538,406245 & SD 328135,406461 SD 328177,406443	Formby	Sefton MBC Area 3	7/08/17	-	-	Application to be determined by 14 October 2020	7/9/2020	Make Order	14/4/2021				
DC1837	Mr P Anderson	Add a Footpath	Lonsdale Road to Long Lane between 77 & 41 Lonsdale Road, Formby, L37 3HD SD 329457,407492 SD 329456,407524	Formby	Sefton MBC Area 3	27/02/18	30/04/18	30/04/19	N/A	24/09/18	Make Order	2/4/2019	No	Yes	25/6/2019	
DC2195	British Horse Society	Add a Byway Open to All Traffic	North Moss Lane, Formby SD 30976 08663 SD 32215 09450	Formby	Sefton MBC Area 3	5/8/22										
DC2196	British Horse Society	Upgrade Bridleway to a Byway Open to All Traffic and add a Byway Open to All Traffic	Broad Lane & Eight Acre Lane, Formby SD 30287 08786 SD 30559 08898 & SD 30559 08898 SD 31746 09831	Formby	Sefton MBC Area 3	5/8/22										

Reference No.	Applicant	Intended Effect of Application	Location	Parish	Definitive Map	Date Application Received	Date Application Validated	Determination Due Date	Secretary of State Direction	Date Application Determined	Decision	Date Order Made	Order Opposed	Order Confirmed	Date Order Confirmed
DC2197	British Horse Society	Add a Bridleway	Marsh Lane, Ince Blundell SD 31036 04714 SD 31684 03894	Ince Blundell	Sefton MBC Area 3	5/8/22									
DC2198	British Horse Society	Upgrade Bridleway to Restricted Byway and add a Restricted Byway	Back Lane to Long Lane, Thornton SD 34494 01470 SD 33977 01378 & SD 33977 01378 SD 33558 01925	Thornton	Sefton MBC Area 3	5/8/22									
DC2199	British Horse Society	Add a Bridleway	Back Lane to Lunt Road, Thornton SD 34499 02105 SD 33977 01378	Thornton	Sefton MBC Area 3	5/8/22	22/5/23								
DC2200	British Horse Society	Upgrade Footpaths to Bridleways	Thornton FP5 & Ince B FP5 SD 3384 02211 SD 33699 02328 & SD 33699 02328 SD 33613 02383	Thornton /Ince Blundell	Sefton MBC Area 3	5/8/22	22/5/23								
DC2201	British Horse Society	Add several Bridleways	Broad Lane, Thornton SD 34106 02447 SD 34292 02618 & SD 34292 02618 SD 34292 02618 & SD 34292 02618 SD 34210 02722	Thornton	Sefton MBC Area 3	5/8/22									



SEFTON M.B.C.



HIGHWAYS DEVELOPMENT CONTROL

Peter Moore
Head of Highways &
Public Protection
Magdalen House
Trinity Road
Bootle L20 3NJ

Public Path Modification Order Section 53 Wildlife and Countryside Act 1981

Marsh Lane, Ince Blundell



Route to be Added

Drawn By: BG

Scale: 1:8000 on A4

Date: 16/02/23

Checked:

Ward: Ravenmeols

Os Sheet Name: SD3104ne

Plan:

This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2021.

DC2197



**APPLICATION FORM
FOR A MODIFICATION TO THE DEFINITIVE MAP AND STATEMENT
WILDLIFE AND COUNTRYSIDE ACT 1981**

To: Sefton Metropolitan Brough Council Director of Technical Services, Sefton Metropolitan Borough Council, Balliol House, Balliol Road, Bootle, Merseyside, L20 3NJ

I, [REDACTED], for and on behalf of the **British Horse Society, of Abbey Park, Stareton, Kenilworth, Warwickshire.**

CV8 2XZ.

hereby apply for an order under Section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statement for the area by:-

- a) Adding the Public Bridleway which runs from Point A on the application map (OSGR SD 31036 04714) the northern termination of the application route at the junction with Scaffold Lane, to Point B (OSGR SD 31684 03894) the southern termination of the application route at the junction with Scaffold Lane.

and shown on the map accompanying this application.

I attach copies of the following documentary evidence in support of this application, namely extracts of:

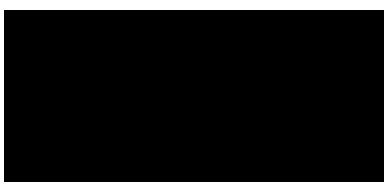
List of Documents

- I. Greenwood Map for Lancashire (1818)
- II. Hennet (1829)
- III. Tithe Map for Ince Blundell (1843)
- I. Ordnance Survey 25" County Series Map Sheets First Edition Lancashire XCI.9 (1893) and XC.12 (1893)
- II. Ordnance Survey 6" County Series Map Sheet Lancashire XCI.SW (1894) and XC.SE (1894)
- III. Ordnance Survey 1" Map Sheet 83 (1896)
- IV. Maps prepared in connection with the Finance (1909-10) Act 1910
- V. Ordnance Survey 1:25000 Administrative Series Sheet 34/30-2546 (1946)
- VI. Map produced from HM Land Registry INSPIRE database (2022)

The copies of the above items of documentary evidence are contained in a Summary of Evidence document also attached.

I understand that the information I have provided may be imparted to third parties.

Signed



Date: 5th August 2022.

Wildlife and Countryside Act 1981 Map to Accompany

Definitive Map Modification Order Application For a route in the Parish of Ince Blundell to be shown as a Public Bridleway marked on the map below by the red dashed line A-B

Applicant's Reference: MER-0062

5 August 2022



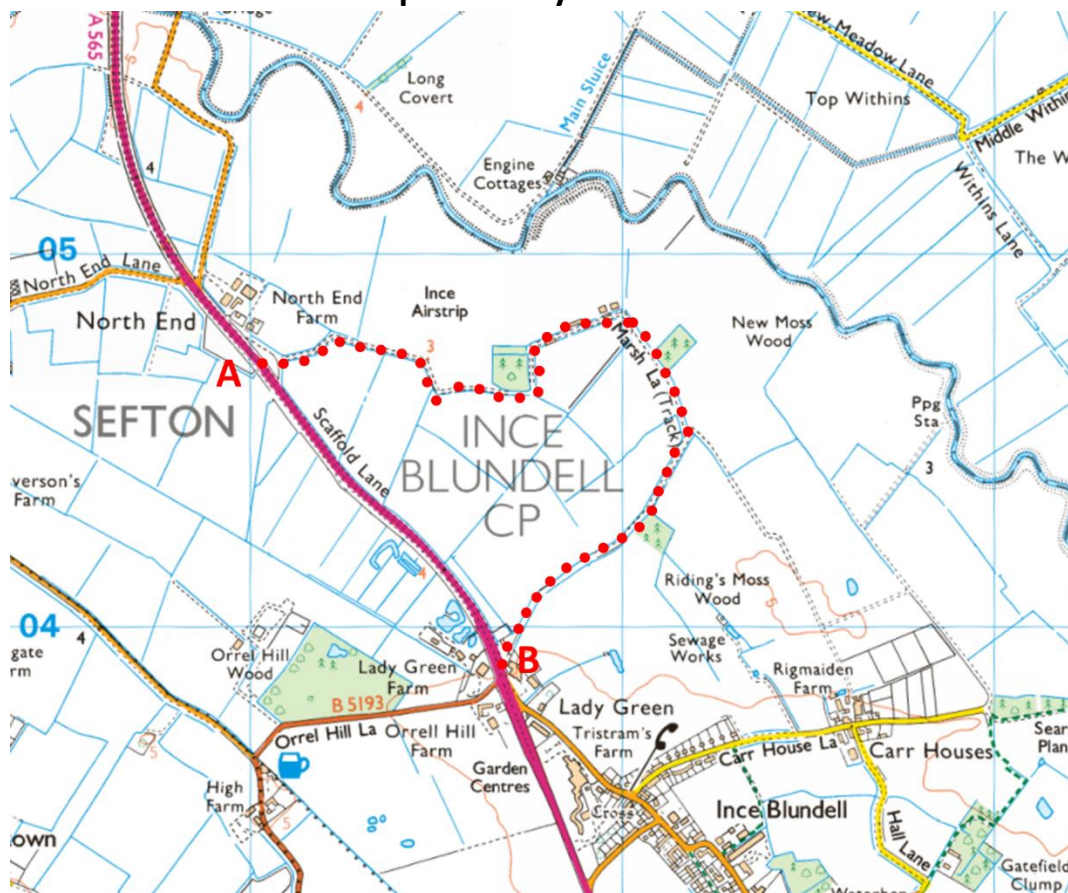
Map produced from extract of Ordnance Survey 1:25,000 scale mapping. When printed on A4 paper, the scale will be not less than 1:25,000 and thus meets the requirement of regulation 2 and regulation 8(2) of The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993.

Wildlife and Countryside Act 1981

Summary of Evidence

Definitive Map Modification Order Application

For a route in the Parish of Ince Blundell to be shown as a Public Bridleway marked on the map below by the red dashed line A-B



Applicant's Reference: MER-0062

5 August 2022

Quick reference path facts to assist the Surveying Authority in its investigation

OS County series map

Lancashire XCI.9 and XC.12

Modern Definitive Map sheet(s) 'Ince Blundell'

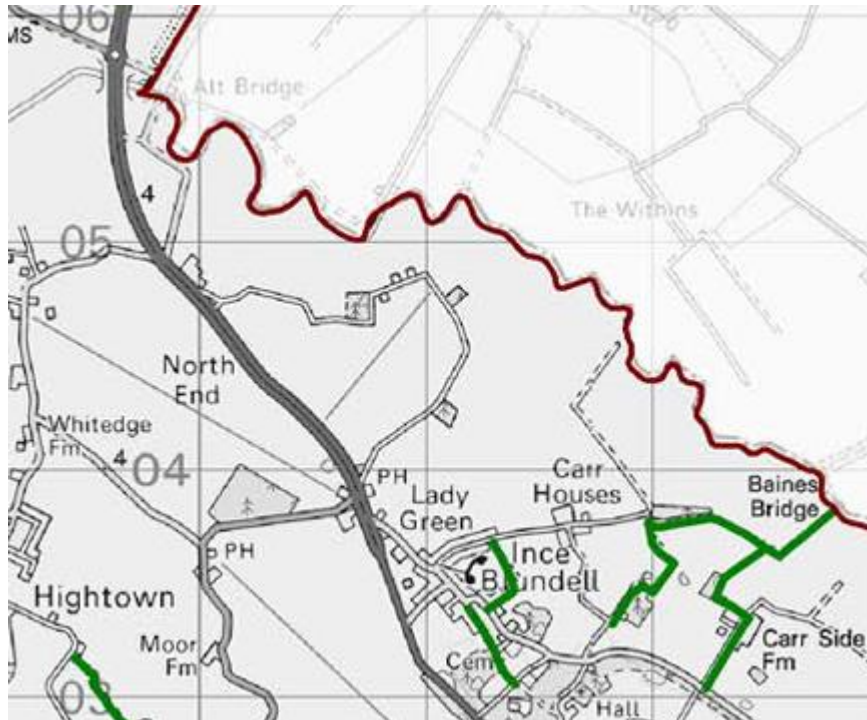
Grid references of ends of route

SD 31036 04714 to SD 31684 03894 (approximate)

1. My name is [REDACTED]. I am the applicant for the order, for and on behalf of the British Horse Society (BHS). I am employed by the BHS as one of their Access Field Officers and have 4.5 years of professional experience in the management of public rights of way primarily for local authorities.
2. This application is made in response to the threat of the extinguishment of unrecorded rights arising from the "2026 cut off" provisions introduced by the Countryside and Rights of Way Act 2000. Regardless of the proposed repeal of the cut-off, the BHS remains convinced that the best way to protect unrecorded equestrian rights from obstruction, neglect or development is to make a DMMO application to have them added to the Definitive Map and Statement.
3. I believe this application will pass the Preliminary Assessment Test proposed to be introduced by para. 2 Sch. 13A Wildlife and Countryside Act 1981 because:
 - a. This application statement includes explanations as to how the evidence applies to the application route, and
 - b. The application contains one or more of the following forms of supporting evidence:
 - (1) Legal document(s) relating specifically to the right of way that is the subject of the application (such as Railway Act, Inclosure Act and Award, Finance Act, Court Order or Main Roads Order evidence).
 - (2) Evidence of reputation in legal document(s), even though not written specifically about the right of way that is the subject of the application (such as Tithe Awards and Maps).
 - (3) Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.
 - (4) Maps and other documents which, over a period of time, and taken together, provide evidence of reputation that the order route is part of the public road network

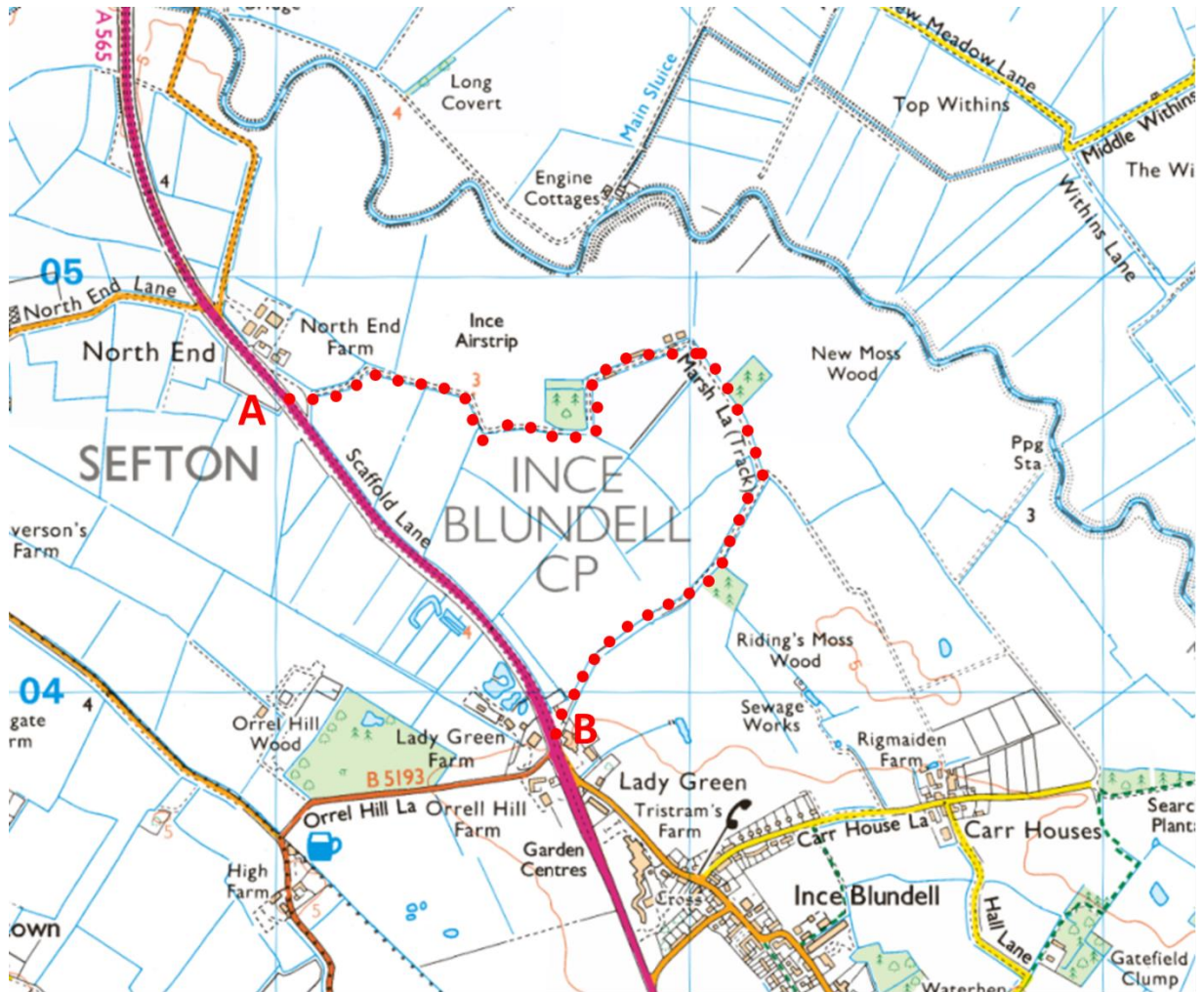
THE APPLICATION ROUTE

4. The application route is shown approximately on the plan below:
 - a. Point A, the northern end of the route, at OSGR SD 31036 04714, the junction of the application route and Scaffold Lane.
 - b. Point B, the southern end of the route, at OSGR SD 31684 03894, the junction of the application route and Scaffold Lane.
5. The application route is shown recorded on the Council's online List of Streets as Marsh Lane but not on its definitive map.



Extract from online copy of Sefton Definitive Map from <https://www.sefton.gov.uk/around-sefton/walking-cycling/public-rights-of-way>

6. The route's width is shown by the boundaries depicted on the First and Second Edition 25 inch Ordnance Survey map where it is bounded.



Extract of Ordnance Survey 1:25000 scale map (Sheet 285 – Southport & Chorley published 2015) showing application route A – B (not to scale)

7. Photographs 1 – 3 are from Google.



Photograph 1 is a Google Aerial View with the route indicated with red dots. The route is a clear landscape feature.



Photograph 2- A Google Streetview photo from 2021 of just east of Point A looking generally east along the route. The route is of significant width, it has the characteristics of an old lane and has a stone surface.



Photograph 3- A Google Streetview photo from 2021 of Point B looking generally north along the route. The route is of significant width between boundaries, it has the characteristics of an old lane and has a stone surface.

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

8. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. The use of the 'balance of probabilities' test rather than 'beyond reasonable doubt' was confirmed by the High Court in *Todd, Bradley v SOS for EFRA* [2004] 4 All ER 497.
9. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another* [2012] EWCA Civ 334, Lewison LJ said, at paragraph 22,

'In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in R v Exall (1866) 4 F & F 922:

"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength."

10. While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006, there were full vehicular rights.

11. Christopher and John Greenwood's Map Lancashire

a. Date. The Lancashire Greenwood map was published in 1818.

b. Relevance. The title of the map is Map of county of Lancashire, from an actual survey made in the years 1821 and 1822 by C & J Greenwood. Most respectfully dedicated to the Nobility, Clergy & Gentry of the County by the Proprietors. In Hollins and Oldham (1995), Judge Howath examined various maps produced from 1770 to 1830, including Greenwoods, Bryants and Burdetts and concluded that maps of this age which showed Cross Roads and Turnpikes, were maps for the benefit of wealthy people and were very expensive to produce. There was 'no point showing a road to a purchaser if he did not have the right to use it'. The key on Greenwood's map shows Turnpike Roads and Cross Roads. The map did not show footpaths or bridleways. The key on the map does not provide a definition of any of the features listed.

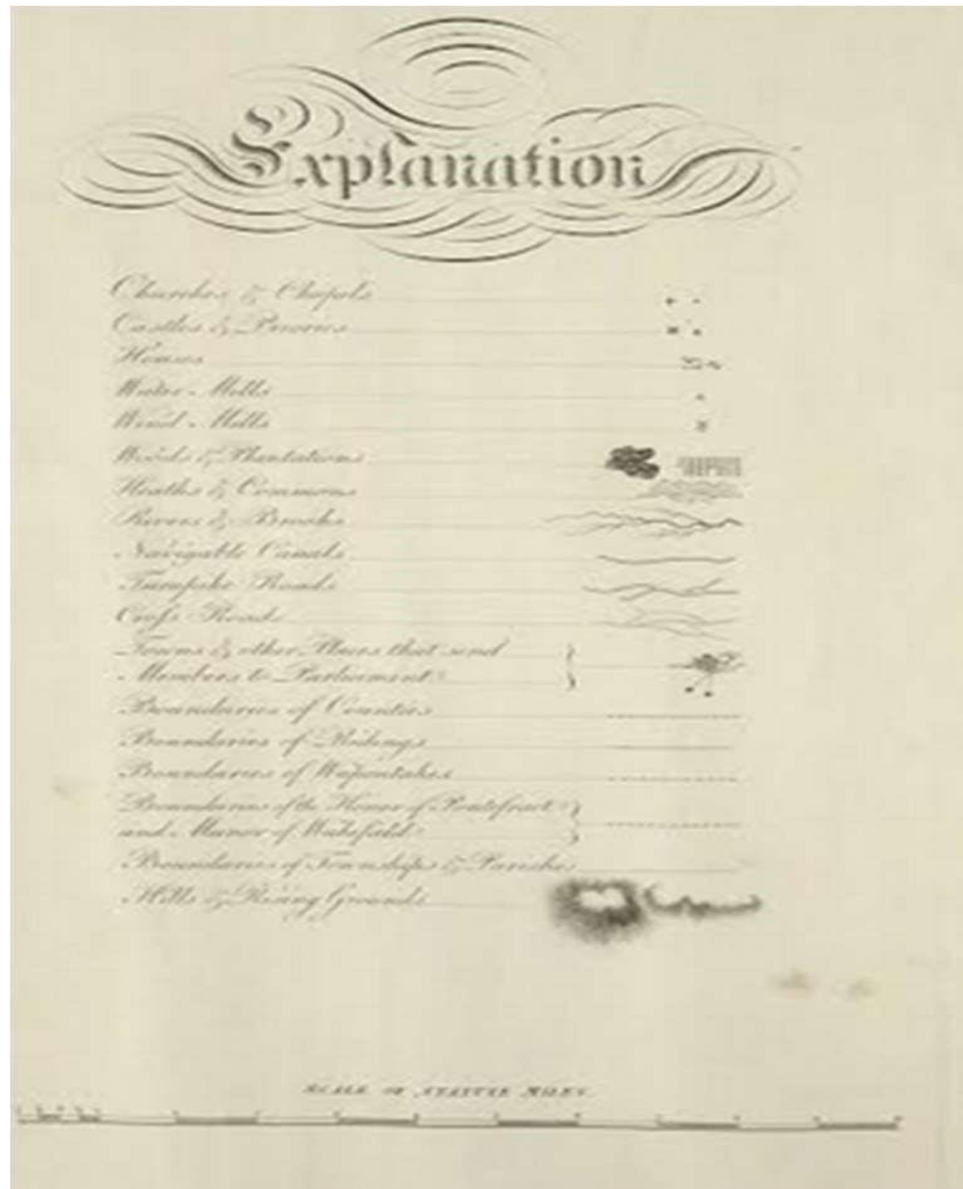
c. Archive and Reference. The Greenwood maps are available online from the <http://www3.lancashire.gov.uk/environment/oldmap/greenwood/greenwood.asp>.

d. Meaning. The application route is shown on the map as being in existence at the time of the map being drawn. The accompanying key shows the route as a road suggesting that it was available to the travelling public. The entire application route is shown on Greenwood's Map as a 'cross road'.

e. Assessment. The application route is indistinguishable from adjacent routes depicted on Greenwood's Map of Cumberland as cross roads and which are public roads today. The depiction of the application route as a 'cross road' is evidence in favour of the proposition that the application route was considered to have vehicle rights in 1844, being a public carriageway or by-road open to horse riders and horse drawn carriages and coaches. The definition of a cross road, case law and arguments relating to the status of cross roads can be found in Taylor, Susan and Hogg, Sue (1997 rev 2020) *What is a Cross Road?* South Pennine Packhorse Trails Trust ISBN 978-0-9530573-0-6 which can also be downloaded from <http://www.bhsaccess.org.uk/uploads/what-is-a-cross-road.pdf> and is submitted as supporting evidence with this application.



Greenwood Lancashire



Greenwoods Key

12. Hennet's Map of Lancashire

- a. Date. The Lancashire Hennet's map was published in 1830.
- b. Relevance. This map was surveyed by George Hennet in 1828 and 1829 and published in 1830 by Henry Teesdale. The scale is 7½ ins to 10 miles and the map measures 45 ins by 63 ins.
- c. Archive. The map can be viewed on the Lancashire County Council website <http://www3.lancashire.gov.uk/environment/oldmap/hennet/index.asp>
- d. Meaning. The entire application route is depicted on the map in the same location as it is today and it is indistinguishable from adjacent routes depicted in the same way on Hennet's Map which are public roads today.
- e. Assessment. The depiction of the application route on Hennet's map in the same manner as other routes which are public roads today is evidence in favour of the proposition

that the application route was considered to have public vehicle rights at the time the route was surveyed.



Hennet's Lancashire

13. Tithe map for Ince Blundell.

- a. Date. The Ince Blundell tithe map was published in 1843.
- b. Relevance.

(1) The Tithe Commutation Act 1836 enabled tithes (literally a tenth of the produce of the land) to be converted to a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid. The Act was amended in 1837 to allow maps produced to be either first class or second class.

(2) First class maps are legal evidence of all matters which they portray and were signed and sealed by the commissioners (Tithes Act 1847). They had to be at a scale of at least 3 chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance to tithe commutation, and are often at 6 chains to the inch. There

was a proposed convention of signs and symbols to be used, which included Bridle Roads and Footpaths, but this was not strictly adhered to.

(3) The tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. Non-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass drovers' routes could carry a tithe as they were used as pasture. It was in the interest of the landowners for untithed roads to be shown correctly to minimise their payments. Footpaths and bridleways were more likely to be at least partially productive (for example as pasture). Therefore, although the process was not directly concerned with rights of way, inferences can be drawn from tithe documents regarding the existence of public rights, and in particular, public vehicular rights. In some cases highways are coloured yellow or sienna to indicate public status.

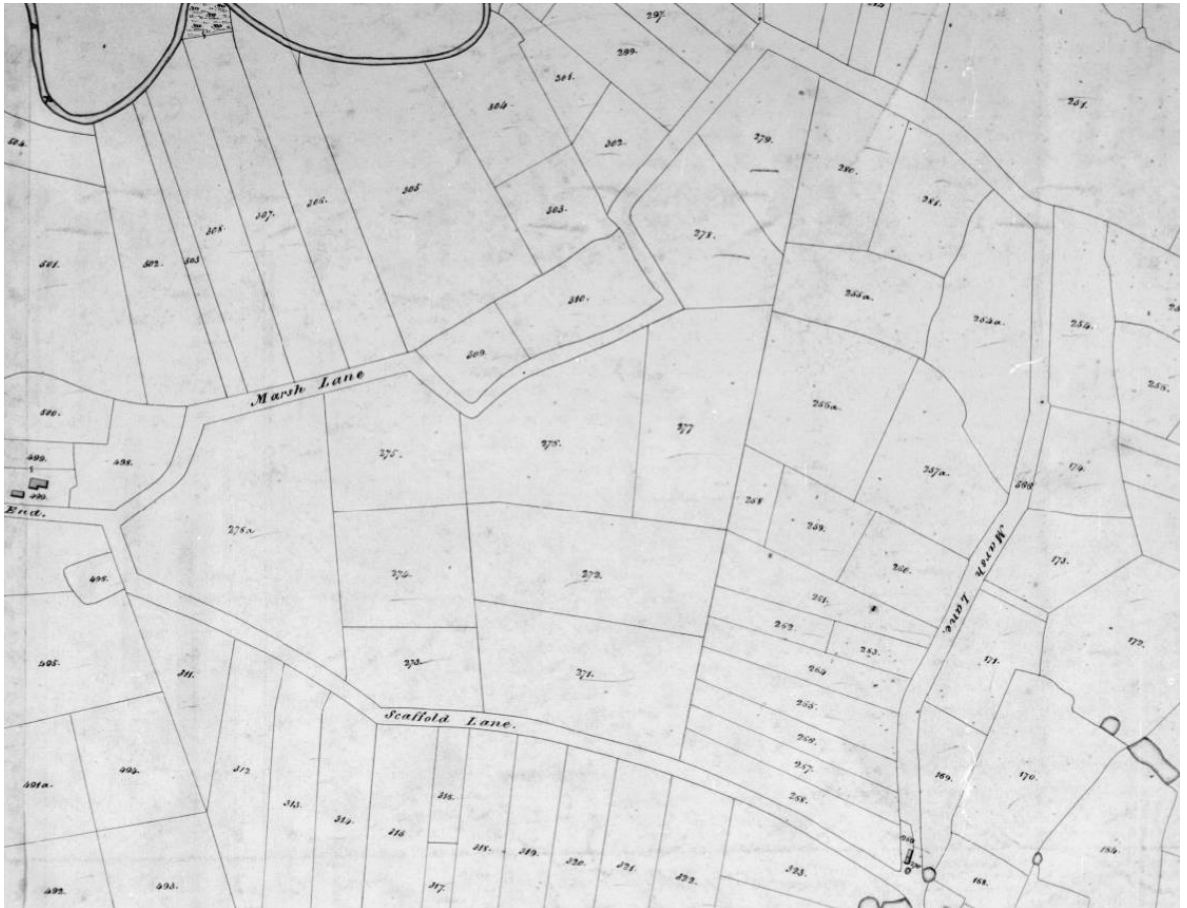
c. Archive and Reference.

(1) The tithe map and apportionments for Singleton are held by the Lancashire Archives and Records Service, map reference IR30/18/180 and apportionment reference IR29/18/180.

(2) Both tithe maps and apportionments are also available from the www.thegenealogist.co.uk subscription service. This provides scans of the maps and apportionments held by The National Archives.

d. Meaning. The map shows the entirety of the application route as a separate unnumbered parcel of land and appears to be shaded as are other roads and tracks. The tithe apportionment has a section giving a total acreage for roads but no parcel numbers and for which no owner or occupier is recorded and for which no tithe is payable and is labelled 'Marsh Lane'. It is of note that Commons, Waste, etc are individually numbered on the map and listed in the apportionment.

c. Assessment. This is probably a second-class map and so is only conclusive of matters of relevance to the tithe commissioners. It nevertheless provides useful information from which inferences may be drawn. The application route is listed as a road and depicted in the same way on the tithe map as other public roads in the area. This depiction is consistent with the application route being a public vehicular highway at the time of the assessment.



Extract from Ince Blundell Tithe Map

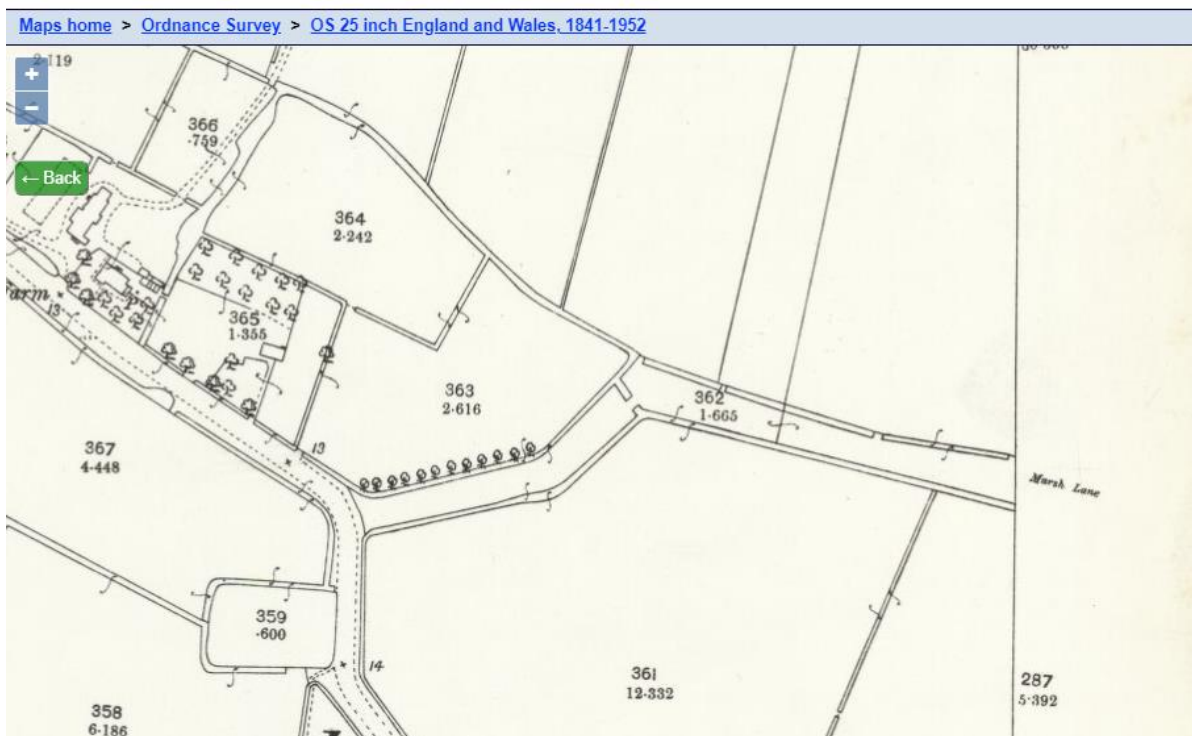
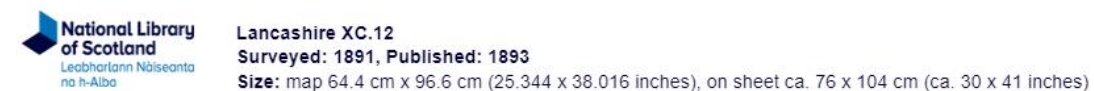
Shaw Richard	35	16	11 16 10
Siddon John		37	7
Justices of the Liverpool Cocts	4	37	11 7
Westhead Elizabeth	298	124	24 18 5
Worsley Thomas	10	134	1 10 6
Township Roads	62	235	
	2258	228	263

signed, James Woods

Extract from Ince Blundell Tithe Apportionment

14. Ordnance Survey County Series 25 inch Maps.

- a. Date. The First Edition of OS sheet Lancashire XCI.9 was surveyed in 1892 and published in 1893 and XC.12 was surveyed in 1891 and published in 1893.
- b. Relevance. The OS County Series 25 Inch mapping was predominantly used for professional purposes rather than for navigation. They are detailed enough to show gates / barriers on roads, tracks and paths. Parcels of land are numbered, and areas shown either under the parcel number or in separate "Area Books". Second edition and later maps generally carry the disclaimer "The representation on this map of a Road, Track or (Foot)path is no evidence of the existence of a right of way". However, scrutiny of some of the detail contained along with contemporary published guidance allows some inferences as to status of routes to be drawn. Additionally, on the first edition only, colour was used on some sheets to give significance to certain features (roads, buildings, water features, etc.)
- c. Archive. The extract from these sheets below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/126521015> and <https://maps.nls.uk/view/126520931>.
- d. Meaning. The route is shown as single parcels of land, no. 362, with an area of 1.663 acres, no. 265, with an area of 9.516 acres, within Ince Blundell Parish, separated and separately numbered from the adjoining fields and is labelled 'Marsh Lane'.
- e. Assessment. The depiction of route, in the same manner as the surrounding ordinary road network provides a strong inference that it was also considered to be part of that road network.



Extract from OS 25" First Edition Map

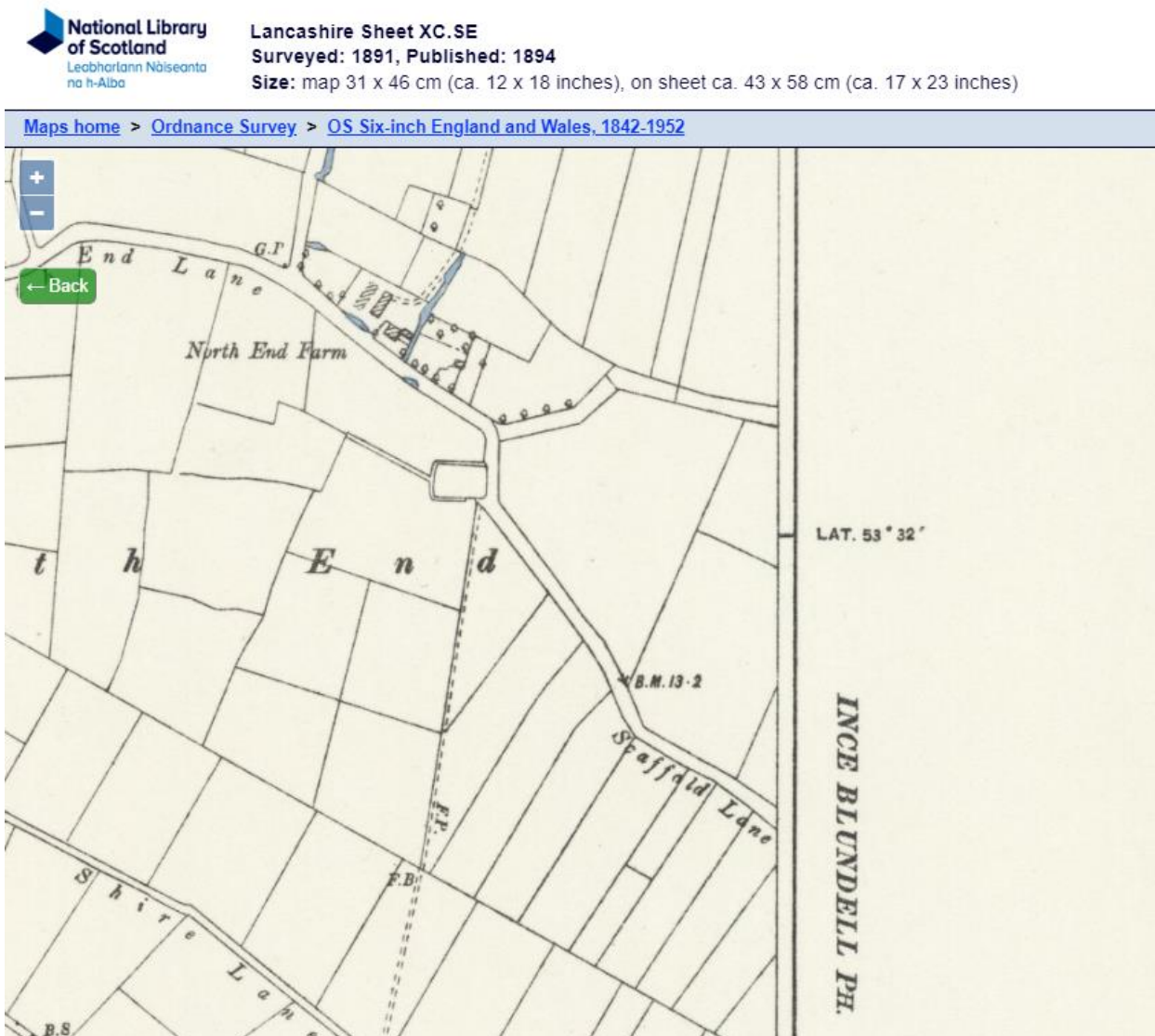


Extract from OS 25" First Edition Map

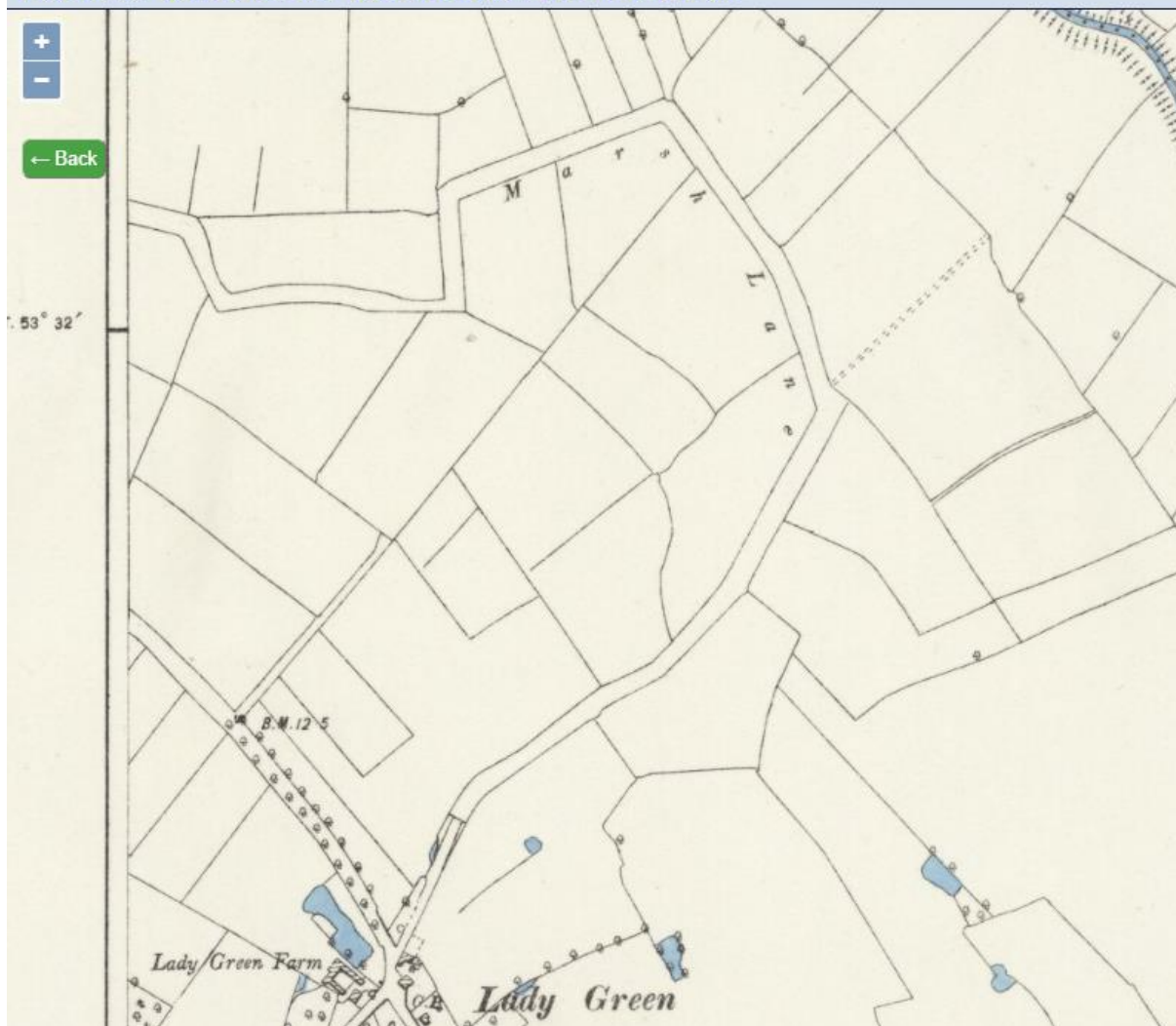
15. Ordnance Survey 6 inch Maps.

- a. Date. OS sheet Lancashire XC.SE was surveyed in 1891 and published in 1894 and XCI.SW was surveyed in 1891-1892 and was published in 1894.
- b. Relevance. The 6" maps were based on and derived from the 25" series. Consequently, they seldom show any topographical differences from the larger scale. However, useful information can sometimes be derived from the particular conventions used to show detail.
- c. Archive. The extracts from these sheets below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/101103050> and <https://maps.nls.uk/view/101103083>.
- f. Meaning. The Characteristics Sheet for the 6" Maps differentiate between main and other roads through the use of a bold boundary on one side of a road. The claimed route is shown as "Other Roads" and is labelled 'Marsh Lane'.

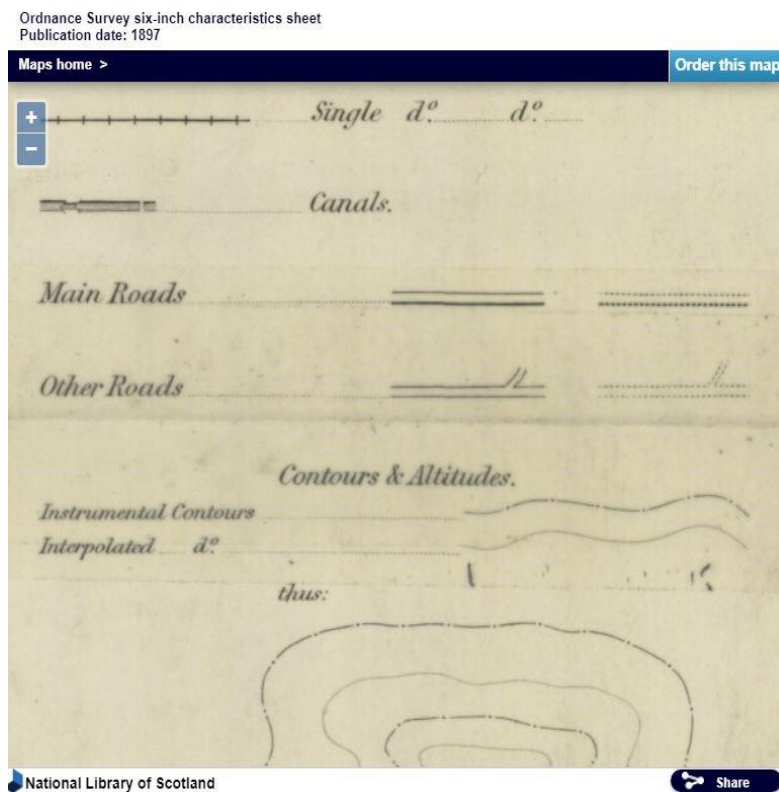
- d. Assessment. This series of maps supports the inference drawn from the 25" maps, that the route is part of the full vehicular road network.



Extract from OS 6" Map



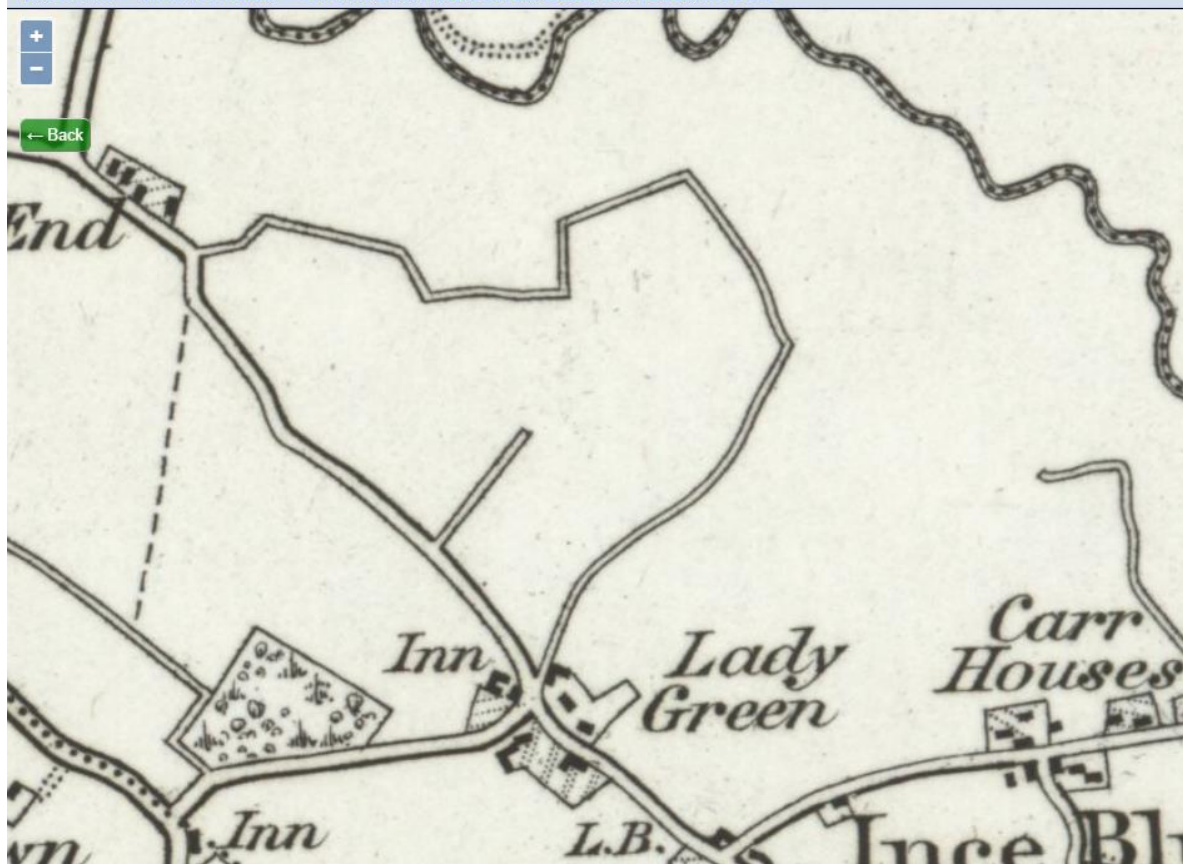
Extract from OS 6" Map



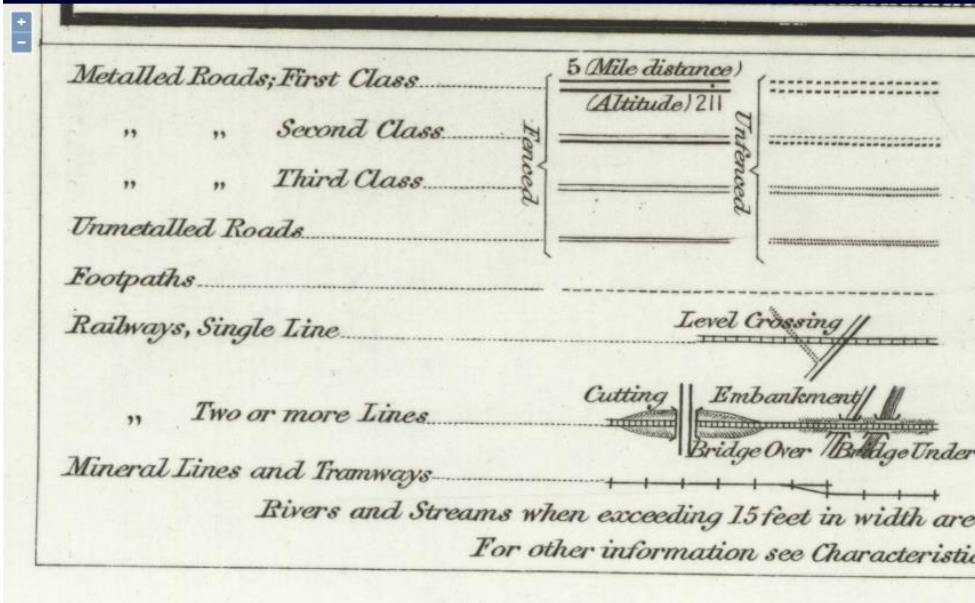
Extract from Key to OS 6" Map

16. Ordnance Survey 1 inch Maps.

- a. Date. OS sheet 83 Formby was published in 1896.
- b. Relevance. These maps were made for sale to the travelling public and thus would only generally show routes of some significance that were available to them.
- c. Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/101169638>.
- d. Meaning. The route is shown as "Unmetalled Road".
- e. Assessment. This series of maps supports the inference drawn from the 25" maps, that the route is part of the full vehicular road network.



Extract from OS 1" Map



Extract from Key to OS 1" Map

17. Inland Revenue Valuation / Finance Act 1910 Maps

- a. Date. The valuation records were produced in the few years after 1910.
- b. Relevance. The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The purpose was to charge a tax on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways: public vehicular roads were usually excluded from adjoining landholdings and shown as ‘white roads’, and discounts could be requested for land crossed by footpaths or bridleways. This is known because s.35 of the 1910 Act provided,

“No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority.”

It is noted that a highway authority was a rating authority. There was no obligation for a land owner to claim any of the other discounts available (applying for discounts was an entirely voluntary act), but Section 25 authorised the discount for footpaths and bridleways if they were claimed:

“The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land, and ... [other exclusions.]”

All land had to be valued unless it was exempted by the Act. There were harsh penalties for making false declarations, and Section 94 provided:

“If any person for the purpose of obtaining any allowance, reduction, rebate, or repayment in respect of any duty under this Act, either for himself or for any other person, or in any return made with reference to any duty under this Act, knowingly makes any false statement or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding six months with hard labour.”

As it appears to be a highway from other evidence, and no duty was assessed in the Inland Revenue Valuation, and the Inland Revenue were under a duty to collect all taxes applying, and hence value the land unless certain that an exemption applied, it is surely for anyone who argues that a different reason for the non-valuation of this white road to show which other exemption could have applied.

- c. Archive. The extracts below are from the IR Valuation Offices to The National Archives at Kew. The National Archives document reference is IR 133/5/216 and IR 132/3/28.
- d. Meaning. The extract below clearly shows part of the application route between A-B as a white road, separated from the adjoining hereditaments by continuous colour-washed boundaries.
- e. Assessment.
 - (1) As this land is unvalued, this suggests it belonged to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority. Had it only been a bridleway,

the Inland Revenue would probably have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy. Had it been held by a rating authority for another purpose there would be some evidence of that holding, yet none has been found.

(2) The legislation is sufficiently clear that anyone arguing that white road status means something other than the route is a public vehicular highway must show which other exception from valuation the route falls under.



Extract from IR 132/3/28



Extract from IR 133/5/216

18. Ordnance Survey Outline Series

- a. Date. OS Sheet 34/30-2546 was published in 1946.
- b. Relevance. This series of maps was made for sale to the public to use to travel around the country and thus would only generally show routes of some significance that were available to them. Although this map carries the disclaimer “The representation on this map of a Road, Track or (Foot)path is no evidence of the existence of a right of way”. However, scrutiny of some of the detail contained along with contemporary published guidance allows some inferences as to status of routes to be drawn.
 - a. Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/196757063>.
 - b. Meaning. The route is shown as “Other Road”.
 - c. Assessment. Other through routes shown in a similar manner are now largely part of the ordinary road network and thus this is evidence in support of the route being a public vehicular carriageway.



Extract from OS Outline Edition Map

19. INSPIRE.

- a. Date. This extract from the INSPIRE database was taken on 4th August 2022.
- b. Relevance. The Land Registry INSPIRE Index Polygons Service is a Web Mapping Service which provides map images of HM Land Registry's INSPIRE index polygons. The INSPIRE index polygon dataset contains only freehold registrations, and the polygons indicate the location of registered land.
- c. Archive. The publicly accessible dataset is found at <https://www.landregistry-uk.com/map-search>. The extract below is taken from a screen shot taken by the Applicant on the date stated above.
- d. Meaning. The application route is shown, indicated by red dots, within several land holdings.

- e. Assessment. This information is given purely to show that the landowners have been identified for the purpose of serving notices.



Extract from the INSPIRE mapping with approximate line of application route indicated by red dots.

CONCLUSIONS

20. This document presents evidence from the last 200 years that consistently indicates that the application route was part of the wider roads network. Whilst no single piece of evidence is conclusive in its own right, taken as whole it paints a compelling picture of the existence of public vehicular rights.
21. Each piece of evidence presented is either evidence of reputation of vehicular highway rights, or consistent with there being either bridleway or vehicular rights, or indicates that a civil servant thought that there were bridleway or vehicular rights.
22. Employing the well-established legal maxim 'Once a highway always a highway', in the absence of a stopping up order, it follows that vehicular highway rights existed immediately before the operation of the Natural Environment and Rural Communities Act 2006.
23. The applicant requests the surveying authority to add the route to the definitive map as a bridleway. It is arguable that the evidence suggests that carriageway rights exist over the

route, the application will be made for bridleway status with an acknowledgement that the surveying authority should make an order for Restricted Byway status if they consider that merited.

Name: [REDACTED]

Position: Access Field Officer

Organisation: British Horse Society