

Rutland County Council

Catmose, Oakham, Rutland, LE15 6HP

Telephone 01572 722577 Email governance@rutland.gov.uk

Ladies and Gentlemen,

A meeting of the **RUTLAND COUNTRYSIDE ACCESS FORUM** will be held Via Zoom- <https://us06web.zoom.us/j/89927567383> on **Wednesday, 8th March, 2023** commencing at 2.00 pm when it is hoped you will be able to attend.

Recording of Council Meetings: Any member of the public may film, audio-record, take photographs and use social media to report the proceedings of any meeting that is open to the public. A protocol on this facility is available at www.rutland.gov.uk/my-council/have-your-say/

Yours faithfully

Mark Andrews
Chief Executive

A G E N D A

1) WELCOME & APOLOGIES

2) DECLARATIONS OF INTEREST

3) MINUTES OF PREVIOUS MEETING

To confirm the minutes of the Rutland Countryside Access Forum held on the 9th March 2022.

(Pages 3 - 8)

4) QUESTIONS FROM MEMBERS OF THE PUBLIC

The public will be able to ask questions on the business of the meetings at the discretion of the Chair, subject to a time limit of 3 minutes per person.

5) MILES WITHOUT BARRIERS

To receive a written report from John Law.

(Pages 9 - 18)

6) LEGAL ORDERS

To receive a written report by Stuart Crook, Highways Asset & Policy Manager.
(Pages 19 - 82)

7) ANY URGENT BUSINESS

8) DATE OF NEXT MEETING

Wednesday, 6th September 2023 at 2pm.

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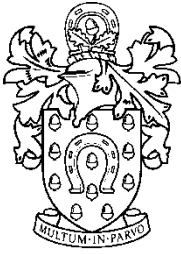
DISTRIBUTION

MEMBERS OF THE RUTLAND COUNTRYSIDE ACCESS FORUM

1.	Councillor A Brown (Chair)
2.	Councillor Rick Wilson
3.	Mr R Brett
4.	Mr J Buchanan
5.	Mr W Cross
6.	Mrs R Harris
7.	Mr W Kirstein
8.	Mr J Law
9.	Mr R Linford
10.	Mr J Williams

OFFICERS:

11.	Stuart Crook	Highways Asset Management and Policy Manager
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Minutes of the **RUTLAND COUNTRYSIDE ACCESS FORUM** held via Zoom on Wednesday, 9th March, 2022 at 2.00 pm

PRESENT: Councillor Andrew Brown (Chair)
John Clarkson
William Cross
Rosemary Harris
John Law

ABSENT: Councillor Miranda Jones
John Williams

OFFICERS: Stuart Crook Highways Asset Management and Policy Manager
V Semple Governance Administrator

1 WELCOME & APOLOGIES

Apologies were received from Harry Baines, James Buchannan, Richard Brett, Roger Linford, Tommy Plummer and William Kirstein.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on the 6th October 2021 were considered and **AGREED** as a true record.

4 MATTERS ARISING FROM PREVIOUS MINUTES

John Law informed the forum that he had not managed to write the report regarding Spraying. He would advise the forum when he would be submitting the item at a later meeting.

5 WARNING SIGNS CONSIDERATION

Rosemary Harris expressed her concerns regarding the lack of signs around for horse riders and cyclists and the incorrect location of these signs in some areas. Rosemary advised the group that the Highway code had been updated due to the increase of accidents with these users involved. The code now read that when passing horses

and horse drawn carriages drivers should allow for a 2-metre passing width and not exceed 10 miles an hour.

In particular Rosemary mentioned signs at Wardley by the A47 where they had been erected many years ago and now required moving as they were incorrectly placed after changes over the years. She also mentioned that there was no sign at a crossing point on to the Bridleway that sat just beyond a bend making the crossing extremely dangerous to horse users. The Chair advised that Highways should be informed regarding this.

ACTION: Vicki Semple

Another village Rosemary felt would benefit from a horse user sign was Lyddington as they do not have any off-road riding there. The Chair asked for this to also be raised to Highways.

ACTION: Vicki Semple

Rosemary advised that she would be reviewing where signs were currently highlighting horses on the roads and bridleways. She would then research areas that she felt needed more signage and signs to be relocated. She would also be documenting any incidents she had been made aware of or witnessed in these areas to support the requirement. She would look at the use of temporary signs erected by the police that were tied on to post using cable ties. She had come across many of these that had slipped down the post and were even facing away from the road making them unreadable to drivers.

ACTION: Rosemary Harris

6 PERMISSIVE ACCESS AGREEMENTS

John Law updated the forum on the current situation of Permissive Access Agreements. He advised that he would draft a letter to DEFRA, raising concerns about the issues regarding the replacement for Higher Level Stewardship (HLS) schemes as they do not seem to be considering payments for permissive access, other than for access to woodlands.

ACTION: John Law

It was agreed that governance team would circulate the letter to Members of the Forum and then send the letter to DEFRA copying the local MP and Natural England.

ACTION: Governance

John also raised concerns about administration of any scheme that replaced HLS. John believed that the schemes often failed to deliver all the anticipated benefits due to lack of enforcement.

In previous years many of the permissive access routes were unsigned, incorrectly described, not maintained to a reasonable standard, had a lack of access and various other issues. They would have failed compliance checks if they had been reviewed. Members of the Forum agreed it was important for the public to be able to access the countryside and see what happens on farms. They felt the health and educational benefits of this outweighed the cost of the funding for the routes.

7 SECRETARIAL DUTIES RELATING TO LAF SUB GROUPS

Councillor A Brown agreed to forward the Governance's response to John Law and all Members regarding the Secretarial support that could be offered. John also highlighted that DEFRA guidelines suggest that Secretarial support would be expected to alleviate workload for Members. It was agreed that Governance should review the guidelines recommending secretarial support.

ACTION: Governance

8 UPDATE ON THE IMPROVEMENT OF ACCESS ALONG THE OLD OAKHAM CANAL

Paul Dadford, Oakham Canal Project Manager gave a verbal update regarding the progress at the Old Canal in Oakham. He informed the forum that the Northern Section E154 which was last reported to be in a bad condition with a sloping path and very waterlogged, had now been worked on. A team of local volunteers had been in and helped level the full 420 metres path and given it a firm surface. They had also replaced a foot bridge that required maintenance and next they had plans to replace the footbridge that went across the dam and would be looking at more waterlogged areas on the E154 South side. Paul also informed the group that they had recently been on 'Escape to the Country' talking about all their project at the Canal.

Members Congratulated Paul and his team of all their efforts on the project and it was agreed that Paul would provide a written update for the next meeting.

ACTION: Paul Dadford

9 LEGAL ORDERS AND PLANNING APPLICATIONS

Stuart Crook, Highways Asset Management and Policy Manager, introduced a report setting out two legal orders relating to proposed changes to public rights of way and one definitive map modification order for the Forum to consider.

Item 1: Proposed diversion of public footpath E229 at Home Farm in Ketton, to facilitate construction of a residential development.

This application had been approved in principle by Planning but had been complicated by the developer's intention to have the diverted footpath follow an estate road. This is contrary to guidance (circular 1/09) and can make liability for maintenance difficult to determine. Rosemary Harris suggested that the path be upgraded to a Bridleway and Stuart Crook confirmed that would be something they would look to do in the future. William Cross expressed his frustration that this application had been approved by Planning before the diversion of the footpath had been agreed and fully evaluated.

Item 2: The Rutland County Council District Council (Preston) Bridleway E252 and Footpath E253 Diversion Order (No1) 2021 was made on the 22nd December

The diversion altered the point at which a Bridleway terminated on the A6003, by moving it to a safer location. The diversion order was confirmed on 2nd March, and only some minor work needed to be undertaken for the route to be ready and useable.

Item 3: A definitive map modification order to record a footpath between Main Street in Barrow and Sheep Dyke in Cottesmore.

A group in Cottesmore called Ways Around Cottesmore had submitted an application for a modification order (DMMO) to have a route added to the definitive map. All affected landowners have objected to the recording of the footpath. Rutland County Council have 12 months to determine the application and assess the evidence which, on the first impression, appeared to have been very well researched.

Stuart Crook made the Forum aware of the following major Planning Applications that will affect the rights of way network in Rutland;

- [Mallard Pass](#) (no RCC ref as it's a national infrastructure project).
- Manor Green, Ketton ([2022/0066/MAF](#))
- Home Farm, Ketton ([2020/1254/MAF](#))
- Ranksborough Solar Farm ([2019/1249/MAF](#))

Stuart Crook informed members of the recent announcement by DEFRA regarding important changes to the rights of way package of reforms. Work on the package had been underway for many years but the legislation required to implement these reform measures was not yet ready and considerable work remained to complete the work.

DEFRA had therefore decided to progress the Right to Apply and Cost Recovery Statutory Instruments only and to repeal the 2026 cut-off date. They felt that would strike some balance across stakeholder concerns and interests, whilst recognising that it didn't deliver on all the benefits originally envisaged.

More detail and information will follow at some point. In particular, there is still a desire to implement some of the useful things from DeReg such as modification consent orders, advertising changes, and so on – but it will depend whether they can be 'decoupled' from the sections that will not be progressed.

RESOLVED:

- a) That the forum **REVIEWED** and **NOTED** the Legal Orders.
- b) That the forum **REVIEWED** and **NOTED** the planning applications.

10 ANY URGENT BUSINESS

There was no urgent business.

11 DATE OF NEXT MEETING

To be confirmed following the publication of the Programme of Meetings 2022/23. It was asked by Members if the next meeting could be in person. The Chair advised he would go with the overall consensus of the group. Governance to email members closer to the time of the next meeting.

Action: Vicki Semple

---oOo---
Chairman closed the meeting at 3.11pm.
---oOo---

No.	Ref:	Action	Allocated to:
1	5	Highways to be informed about the signs for Wardley by the A47 and sign at crossing point on to the Bridleway	Vicki Semple
2	5	Highways to be informed about the need for a	Vicki Semple

		horse user sign in Lyddington.	
3	5	Rosemary to review where current signs highlighting horses on the roads and bridleways. To then research areas that she felt needed more signage and signs to be relocated. Documenting any incidents, she had been made aware of or witnessed in these areas to support the requirement. She would also look at the use of temporary signs erected by the police.	Rosemary Harris
4	6	John Law to draft letter to DEFRA regarding replacement for Higher Level Stewardship (HLS	John Law
5	6	Governance to circulate the letter to Members of the Forum and then send the letter to DEFRA copying the local MP and Natural England.	Governance
6	7	Governance to review the DEFRA guidelines recommending secretarial support.	Governance
7	8	Paul to give a written update regarding the Canal project.	Paul Dadford
8	11	Governance to seek members views on in person or virtual meeting for next meeting.	Vicki Semple

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RUTLAND COUNTRYSIDE ACCESS FORUM

8 MARCH 2023

MILES WITHOUT BARRIERS

JOHN LAW

1. Introduction
2. Our Goal
3. What is currently available
4. How we reach our goal
 - a. Categories
 - b. Additional important information
 - c. Involving the people of Rutland
 - d. Promoting the accessible PROW network
 - e. Possible funding sources

5. Decisions for LAF to make

APPENDICES

- A. Countryside Access Volunteers – Courtesy of Lincolnshire County Council
- B. Disabled Ramblers Views – Courtesy of the Disabled Ramblers Charity

1. INTRODUCTION

Rutland has very few fully accessible countryside routes, which are promoted and open for public access. There are only three Countryside For All routes in Rutland, two of which are at Rutland Water and the other being at Exton. The Countryside For All routes have leaflets displaying gradients, cross slopes, route surfaces, width between barriers, gates etc. There is not likely to be any additional Countryside For All routes in the County in the near future. So to make Rutland countryside more accessible to

members of the public with limited mobility, it is necessary to examine how accessible our Public Rights of Way are and make the public aware of their standard of accessibility.

It is important to keep people physically fit and reduce the high level of mental health issues. With an ageing population it is even more challenging. As walking and access to the countryside is proven to be good for our health and general wellbeing it shows our PROW network is very valuable. So, promoting its accessibility is very important. Promoting the most accessible routes with very few barriers such as stiles is a necessity, to ensure all members of the public can enjoy the countryside.

2. THE GOAL

To provide and promote a web site which displays to the public how accessible individual routes are across the network. This will be achieved by displaying the PROW in categories which denote if they are barrier free (a route without stiles etc.) or the type of barriers on the route.

To involve members of the public in checking and collecting data to ensure the correct information is available to categories PROW routes.

To involve members of the public in surveying the routes, once the web site is live, to ensure standards do not deteriorate.

To provide a method that displays how to prioritise improvements in the PROW network, to make the network more accessible to people with limited mobility.

To aid green social prescribing.

3. WHAT IS CURRENTLY AVAILABLE

Initially it was a case of investigating to see if any other local authorities had carried out a similar project, to see if we could follow a process that had already worked. Natural England was contacted to see if they could help in this area. However, it appeared that nothing was known of a similar task which had been undertaken. Some other organisations had classified their routes in terms of difficulty. However, we are aware of what might be seen as difficult to some people may be easy to others. What we want to do is to follow the Countryside For All principles by providing factual information, to enable the members of the public to assess what is a suitable route for them.

RCC does have information available on a number of databases in relation to structural barriers, their grid references and the land owners or tenants, whose land the barrier is on. However, this does involve some work to cross reference with the individual PROW id. There may be a need to update the names and contact details of the land owners and tenants. In some cases it is also necessary obtain a search from

Land Registry to find the owner of the land. However, the need for this only comes about when the structural barrier needs repairing or replacing.

4. HOW WE REACH OUR GOAL

4.a. Categories

All the data for the Rutland PROW network was analysed displaying the individual PROW with their structural barrier/s. It was decided to categorise every PROW. This initial categorisation is to assist in understanding the PROWs that need no work or very little work to be undertaken, to make them more accessible for people with limited mobility. It also is an aid to prioritise surveying and work to make the network more accessible with limited funds. The current categories are displayed in the table on the following page.

There will be far fewer categories that will describe the network to the public. Discussions will take place with relevant groups of people, to ensure the categories needed are available for the public to access.

Category Description	Category (Version 2)
Sealed or compacted stone path. No Stiles, Bridges or Fords but is a Bridleway or only has gates with Radar locks or gates that are suitable to for large all terrain mobility scooters and large buggies.	A
As Category "A" but has bridges no greater than "X" when accessing and exiting	B
As Category "A" but has bridges above "X" and below "Y" when accessing and exiting	C
As Category "A" but has bridges above "Y" when accessing and exiting	D
Route in Natural Landscape. No Stiles, Briidges or Fords but is a bridleway or only has gates with Radar locks or gates that are suitable for large all terrain mobility scooters and large buggies	E
As Category "E" but has bridges no greater than "X" when accessing and exiting	F
As Category "E" but has bridges greater than "X" but no greater than "Y" when accessing and exiting	G
As Category "E" but has bridges greater than "Y" when accessing and exiting	H

Natural Landscape. With kissing gates but No Stiles, or fords or bridges	I
As Category "I" but with bridges no greater than "X" when accessing and exiting.	J
As Category "I" but with bridges greater than "X" but no greater than "Y" when accessing and exiting	K
As category "I" but with bridges greater than "Y" when accessing and exiting	L
Bridges and 1 Stile Or Just 1 Stile	M
Bridges and 2 Stiles or Just 2 Stiles	N
3 Stiles and above and Fords	O
Steps	P
PROW Ending or starting with a private road	Q
PROW outside of category A- Q	R

The “X” and “Y” factor when accessing and exiting bridges needs to be determined. Further Advice on this matter is sought.

There may be unmaintained sealed and compacted stone paths, with pot holes and loose stone. These may have no stiles, bridges or fords and have gates with Radar locks or gates that are suitable for large all terrain mobility scooters and large buggies. These are to be treated as Natural Landscape until repairs are carried out, to place it in category A, B, C or D.

It is thought that the first phase of surveys to ensure the data is correct and collect more detailed information should be on categories A to L. Whilst it seems a heavy workload, we know there are very few routes in Rutland in category A to D. When the surveys have been carried out and the PROW is placed in the correct category, work can be undertaken on understanding whether there is a need for the 12 categories A to L.

With these A to L categories it is important to make the public aware of whether there is a pavement joining the PROWs, rather than just a road crossing or the route ending at a road. So for phase 1 of the public web site, PROWs with the current categories A to L should be displayed with any pavement that is available. In the interest of road safety, it could be advantageous to display pavements which link all categories.

4.b. Additional important information

For some people information in the categories on the previous page may not provide the information they need, in terms of whether the route is suitable for them. In the Countryside For All leaflets we provide information on gradients and cross slopes. However, most of these routes are on sealed or compacted surfaces, whereas the majority of the PROW are part of the natural landscape. So our thinking at the moment is, for each PROW in the future we need to show the following:

The longest and steepest gradient both up and down hill

The longest cross slope with the greatest fall, both to the left and right of the track

This will be something we will look at capturing and we think there may be a computer application that may give us this information.

Although we have said providing this information is in the future, we need to ensure the database we use to capture all the relevant information on the PROW network, is designed to capture these and any other information we feel will be necessary to have in the future. Therefore whatever is designed needs to be future proofed. If not the system may cost too much to amend and may become obsolete.

4.c. Involving the people of Rutland

It is envisaged the surveys will be carried out by volunteers and the volunteers work coordinated by the Public Rights of Way officer's post, which is currently vacant.

Volunteers are required from all communities to help us understand the nature of the PROW network. It will be useful if we can attract people to volunteer from all sectors whether they are individuals or groups. The social prescribing team, could also see this as the start of the connection between their clients and a green social prescribing activity. The volunteers will need to be provided with data capture sheets and receive training. It would be ideal if the volunteers could enter the data on a spreadsheet using their own PC. Then email it to RCC and the data then transferred by the PROW officer to a master database. When the data has been validated it could automatically links to the web page displaying the electronic Definitive Map.

It is hoped that once the Phase 1 categories are live on the web site, that the majority of the volunteers who worked on collecting the data, would also undertake surveying the routes, to ensure standards do not deteriorate. These volunteers would be known as Countryside Access Volunteers and have the same remit as the Lincolnshire Countryside Access Volunteers as displayed in appendix A.

4.d. Promoting the accessible PROW network

Requesting volunteers could also be used to promote the PROW network. This could be done through the community radio or the local papers. The volunteers themselves, chatting with other people about what they are doing to improve the accessibility of the network, will also assist in the promotion.

The Social Prescribing team will be able to add to what they offer their clients, the role of taking part in the initial surveys to categorise the PROW, the role of a Countryside Access volunteer or a user of the network.

A park display could be provided with a kissing gate, a Woodstock large gate and a stile for all to use. An information board about the PROW network and the new

categories could also be displayed at the park. If this is thought to be a reasonable idea discussions and agreement from the park owner is necessary.

4.e. Possible funding sources

As we are all aware funding is very competitive now. Two likely sources of funds are the National Lottery and Natural England. Once we have a detailed report on the way forward, it would make sense to send it to Natural England, as they may fund or partly fund the project, as it may have some benefits to other authorities.

The project costs would include:

Training volunteers

Coordinating the volunteers

Summarising the data collected by volunteers

Web design

The cost of any extra space needed for the web site

5. DECISIONS FOR THE LAF TO MAKE

- a) Categories – Is there a need for further categories initially? If so what are they?
- b) What should the heights of X and Y be?
- c) How can we attract volunteers
- d) Do we agree that the LAF to invite Age UK, disability groups and young families to get their input, to ensure we are providing what is needed? If so at what stage should this meeting be undertaken?
- e) Further comments in relation to what is required for the project
- f) What else have we missed

COUNTRYSIDE ACCESS VOLUNTEER Appendix A **INFORMATION**

Do you enjoy spending time in the countryside? Why not volunteer and help manage your local rights of way.

Is there a footpath or right of way close to your home or have you got a favourite local walk or ride?

Would you like to play an active role in helping us manage Lincolnshire's public rights of way (PRoW) network?

If you answered 'yes' to these questions then you could be just the person we are looking for!

No previous experience or knowledge of rights of way is necessary as we will provide all the training, equipment and information you need.

Why volunteer with us?

You will be making a difference to the rights of way network, a valuable asset for both local people and visitors to an area.

You will be helping to keep the network open and easy to use.

You can use your existing skills and develop new ones.

You will gain a sense of achievement and be part of a network of like-minded people.

You will explore and discover the Lincolnshire countryside.

Walking/cycling and riding are excellent forms of exercise and can help keep you achieve and well.

It's flexible – you can do it when it suits you and for as long as you want.

Why is it important to keep rights of way open and easy to use?

They are an important asset for an area, allowing access to the countryside including many important historic and wildlife sites.

They provide an opportunity for people to exercise (walk, run, cycle and ride) and spend time in the fresh air which is good for both mental and physical well being.

They may attract visitors to area who want to explore the local countryside. In turn they may support local businesses (pubs, shops, cafes etc).

They have a role to play in sustainable transport, being used for local journeys such as taking the children to school, visiting local shops and facilities.

They are part of our heritage.

What does volunteering involve?

Regularly checking local footpaths/bridleways or a promoted route to ensure they are open and easy to use.

Replacing damaged waymarkers to ensure routes are easy to follow.

Removing vegetation overhanging gates, bridges and stiles.

Be the eyes and ears on the ground, reporting any problems you find to us.

Who will provide the equipment necessary?

We will provide you with any tools, materials and safety equipment you need for the time you volunteer

with us (for example: maps, high visibility waistcoat, first aid kit, gloves, secateurs)

What about insurance and health & safety?

Lincolnshire county council apply the same standards of health and safety to authorised volunteers as employees.

Authorised volunteers will be covered by the Council's employee liability insurance.

We will provide you with risk assessments for the activities you undertake as a volunteer.

Who can volunteer?

Almost anyone over the age of 18. But please be aware that there may be uneven and muddy ground and stiles on some routes.

Do I need to know about the countryside and rights of way?

No. We can provide training as necessary, for example map reading, and will provide you with all the information you need.

Where will I be volunteering?

We hope that volunteers will survey rights of way and promoted routes close to their home, but there may be opportunities further afield.

How do I apply to become a countryside access volunteer?

If you would like to be a volunteer please complete the application form provided.

Disabled Ramblers Field Guide to Access Appendix B

British Standard BS5709: 2018 Gaps Gates and Stiles places the emphasis on Least Restrictive Access. Suitability of structures should always be considered on the assumption that a person with reduced mobility will be going out without more-mobile helpers, so will need to operate the structure on their own, seated on their mobility vehicle.

Useful figures

- **Mobility Vehicles**
 - **Legal Maximum Width of Category 3 mobility vehicles: 85cm.** The same width is needed all the way up to pass through any kind of barrier to allow for handlebars, armrests and other bodywork.
 - **Length:** Mobility vehicles vary in length, but **173cm is a guide minimum length.**
- **Gaps** should be 1.1 minimum width on a footpath (BS5709:2018)
- **Pedestrian gates** The minimum clear width should be 1.1m (BS5709:2018)
- **Manoeuvring space** One-way opening gates need more manoeuvring space than two-way opening ones and some mobility vehicles may need a three metre diameter space
- **The ground** before, through and after any gap or barrier must be flat otherwise the resulting tilt effectively reduces the width

Choice of gates

A two-way, self-closing gate closing gate with trombone handle and Centrewire EASY LATCH is the easiest to use: <https://centrewire.com/product-category/pedestrian-and-mobility-access-gates/> <https://centrewire.com/products/easy-latch-for-2-way-gate/>

Kissing gates

If a kissing gate really must be used, we only recommend the [Centrewire Woodstock Large Mobility](#) kissing gate. This is fitted with a RADAR lock which can be used by some users of mobility vehicles. This is the only type of kissing gate that is large enough to be used by all-terrain and large mobility vehicles.

Board walks, Footbridges, Quad bike bridges

All of these structures should be designed to be appropriate for use by large mobility vehicles, be sufficiently wide and strong, and have toe-boards (a deck level edge rail) as edge protection. On longer board walks there may also be a need to provide periodic passing places.

Steps

Whenever possible, step free routes should be available to users of mobility vehicles. Existing steps could be replaced, or supplemented at the side, by a slope or ramp. Where this is not possible, an alternative route should be provided. Sometimes this might necessitate a short diversion, regaining the main route a little further on, and this diversion should be signed.

Legal Orders

1. Background

The County Council has a power to divert, extinguish or create public rights of way either of its own volition or following an application to do so from the public. The Council may also enter into agreements with landowners regarding the dedication of public rights.

As a Surveying Authority the County Council has a statutory duty to keep under continuous review the Definitive Rights of Way Map and Statement for Rutland and to make orders to take account of events requiring the map to be modified. This is carried out by the processing of Definitive Map Modification Orders (DMMOs) which are either applied for by the public or initiated by the Authority on the discovery of evidence.

2. Policy

In our second [Rights of Way Improvement Plan](#) we committed to publishing a policy statement setting out criteria to be met in order for the authority to accept an application for a diversion and also for the prioritisation of applications that have been accepted by 2022. Until that time we will continue to exercise discretion in the use of our powers to divert rights of way. Applications that can't demonstrate some form of public benefit will not generally be accepted.

We also committed to publishing a statement of priorities / exception criteria in relation to applications for definitive map modification orders (DMMOs) by 2022. If a surveying authority fails to determine an application for a definitive map modification order within one year of receipt an appeal may be made to the Secretary of State. In considering the appeal they take into account any statement made by the authority setting out its priorities for bringing and keeping the definitive map up to date. Our statement will ensure that we can justify the prioritisation of applications with the potential to deliver the greatest benefits to the network.

3. Updates since last meeting

Public path orders

- a) A report discussing the proposed diversion of public footpath E229 (Home Farm, Ketton) will be considered by Planning and Licensing committee at their meeting in March.
- b) An application for the diversion / stopping up of public footpath E151 (Langham) to enable development for which permission has already been granted is expected shortly (see Appendix A).
- c) A report discussing the application to divert footpath D79 at Whissendine Lodge is being drafted for Planning & Licensing committee.
- d) The proposed diversion of public footpath D85 at Ranksborough (Langham) to enable construction of a solar farm may be allowed to go ahead despite the route being affected by an undetermined DMMO application claiming bridleway rights.

- e) A proposed rationalisation package of diversions has been proposed by the owners of Leighfield Estate (Appendix B).

Definitive map modification orders

- f) Landowners affected by application reference RCCDC/M17 (footpath between Main Street in Barrow and Sheep Dyke in Cottesmore) requested an extension to allow them undertake research. They were given a further 6 weeks, which concluded on the 20th February. No new evidence in support of their objection was provided, so based on the evidence supporting the application the director for places has instructed legal services to make a DMMO.
- g) On the 30th of August 2022 an application to record a public footpath between the Avenue, Exton and Exton Lane, Burley in the definitive map and statement for Rutland was registered (ref RCCDC/M19). The application submits that the documentary evidence provided proves the existence of the claimed footpath (APPENDIX C).
- h) On the 8th of December 2022 an application to record a public footpath between the village green in Barrow and Burley Road, Cottesmore (via Ashwell Road) in the definitive map and statement for Rutland was registered (ref RCCDC/M20). The application submits that the documentary evidence provided proves the existence of the claimed footpath (APPENDIX D).

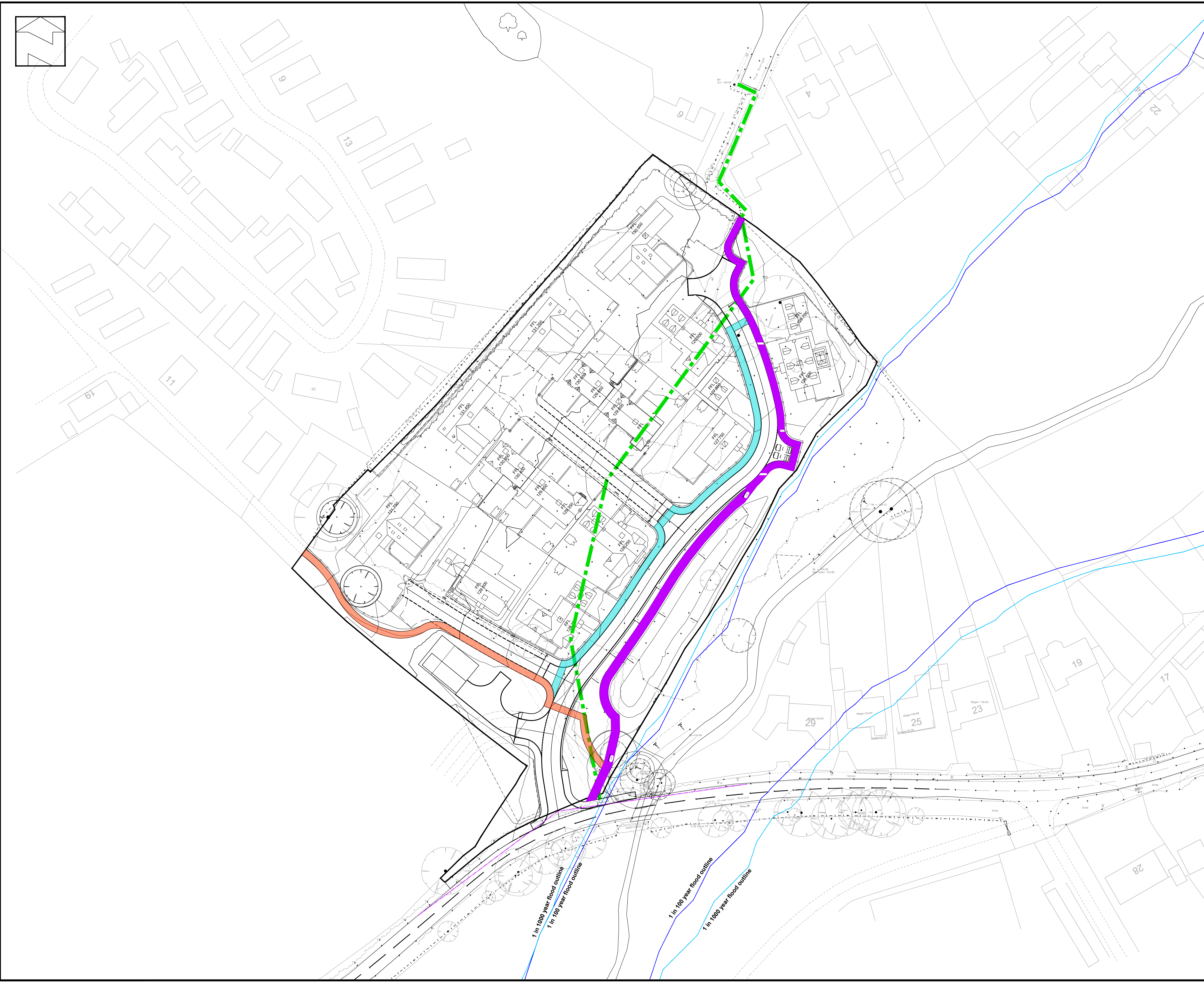
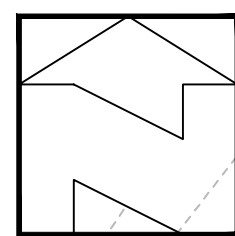
4. Recommendations

That the report is noted and formal written advice given where required.





5. Background papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report: [The second Rights of Way Improvement Plan for Rutland](#).

APPENDIX A



Key

	Option 1 for redirection of existing E151 public right of way 2m wide footway with additional 0.5m modesty offset from batter to balancing pond
	Option 2 for redirection of existing E151 public right of way along proposed S38 carriageway 2m wide footway
	2m Wide northern footway link not part of an existing public right of way. Based on the existing ground levels this footway link would not be DDA compliant
	Approximate route of existing E151 public right of way

P2	Proposed off-highway Route amended	15/09/22
P1	Issued for Information	N.Y.I.
Rev	Description	Date

Client:
Langton Developments Ltd

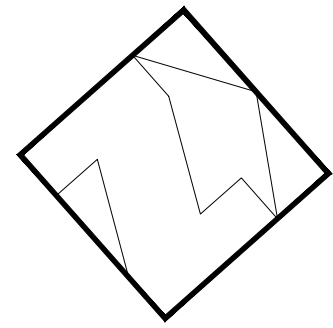
Project:
Phase 1 Development
Cold Overton Road
Langham

Title:
Public right of way diversions



Drg Size:	Scale:	Date:
A1	1:500	15/09/2022
Drg No:	Rev:	
ADC2003-SK-002	P2	

77



Notes
1. Do not scale this drawing. All dimensions must be checked/ verified on site. If in doubt ask.
2. This drawing is to be read in conjunction with all relevant architects, engineers and specialists drawings and specifications.
3. All dimensions in metres unless noted otherwise. All levels in metres unless noted otherwise.
4. Any discrepancies noted on site are to be reported to the engineer immediately.

Zone	Description
Z01	Overall Site Works
Z02	S184 Works
Z03	S38 Works
Z04	S104 Works
Z05	Offsite S278 Works

Hatching Key	
	Carriageway
	Footway
	Vehicle Crossing
	Verge
	Buff Coloured Tactiles

Rev	Date	Description	Dr	Rev
P03	20-01-23	Updated to RCC comments	JW	SH
P02	28-10-22	Scale updated in title block	LW	AR
P01	28-02-22	First Issue	GDJ	PW

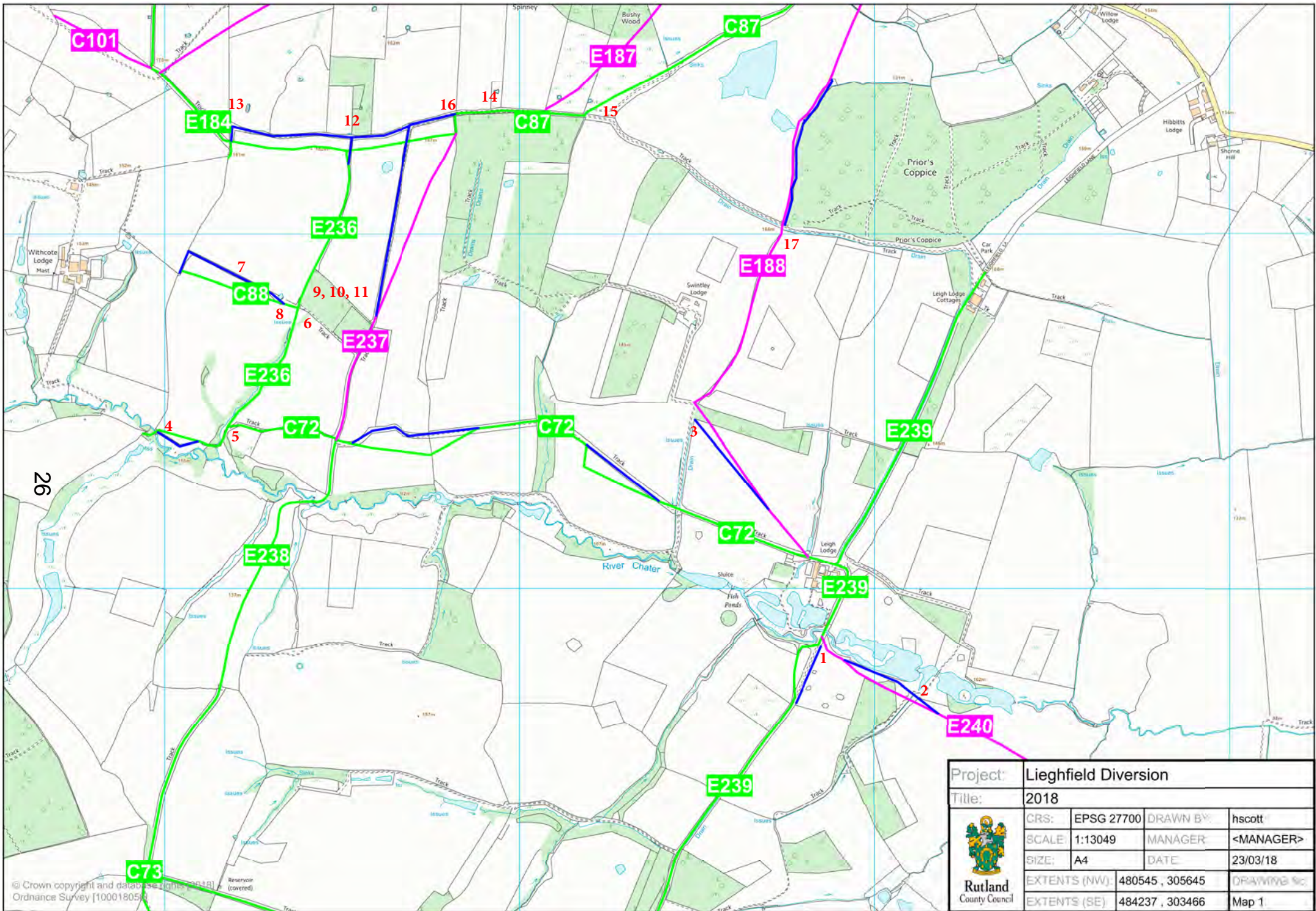
Client:	Langton Developments Ltd
Project:	Phase 1 Development Cold Overton Road Langham

Title:	Section 38 General Arrangement Layout
Status:	Issued For Information

		Drawn:	G.Jones	Reviewed:	P.Walker
		Size:	A1	Scale:	1:250
Project Reference		Type	Zone	Number	Revision
ADC2003-DR-Z03-0100		-	-	-	-

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APPENDIX B



APPENDIX C

~~Joy~~ & Peter McNally
Garden House, The Avenue, Exton, Rutland LE15 8AH
Tel. 01572 811183
mcnallyuk@aol.com

To Mr. S. Crook



28/08/2020

Dear Stewart,

Re. Countryside Stewardship - applied
for by Exton Park Farms. And they
are leasing some of this agricultural land
to ECONERGY Ltd for a SOLAR FARM.??
Regards, Peter McNally

Countryside Stewardship Agreement Document



The European Agricultural Fund
for Rural Development:
Europe investing in rural areas



Forestry Commission



Agreement Name: Exton Park Farms

Agreement Document Type: Higher Tier

Agreement Number: 651459

Agreement Start Date: 01/01/2019

Agreement End Date: 31/12/2028

SBI: [REDACTED]
Agreement Holder: **EXTON PARK FARMS**
Address: **Exton Estate, Oakham, LE15 8AN**
Post code: **LE15 8AN**

Garden House, The Avenue
Exton, Oakham
Rutland
LE15 8AH

Highways Asset Management and Policy Officer
Rutland County Council,
Catmose, OAKHAM

27th August 2022

Dear Sirs,

HISTORIC FOOTPATH: EXTON TO BURLEY

It has been brought to my attention that there was a public footpath by the side of North Barn, The Avenue, Exton which has fallen into disuse and yet it has historical significance. At one end, The Grange, it meets the Avenue, formerly the Queen of Bohemia's Ride, which approaches the impressive crested gates to the Earl of Gainsborough's Estate, and to the Oakham Road, formerly Whitwell Road, leading to St Peter's and St Paul's Anglican church and to the pretty village of Exton.

The old path runs through woodland and then along a farm track bordered by hedgerow alongside wheat fields to "The Cocked Hat Spinney", used at one time, I believe, for rearing wild boar and for rearing pheasant.

The path then proceeds over fields crossing a stream and through more fields to meet Exton Lane. If you then walk past the Water Tower you will meet the footpath on the main road which leads past Home Farm, the listed farm which provided the produce for Burley-on-the-Hill and then to Oakham.

Whilst it would be of historical value to resurrect this path for ramblers it will also bring benefits to our local homes and lodges who have **no safe** access to pathways and **no** footpaths between Burley and Exton or places to walk, **nor** opportunity to exercise and enjoy our beautiful landscape. And yet there were close cultural and commercial ties between these two settlements in the past.

It is for this reason that I, and many others in our neighbourhood, would like to re-instate this footpath which was probably once upon a time a well used path for workers in the villages and for travellers to see their families or for citizens to find their way to church. Hence this Application. At this stage I enclose some preliminary evidence to show the path and its trajectory and also some photographs of its current state at each end.

Whether of historical significance or evidence or not, I should point out that there is a red Royal Mail pillar box at either end of the ancient path. And perhaps it is relevant that the houses at the Burley end of the path are named "Toll Bar House" and Ivy Cottage "Burley Toll Bar" suggesting there may have been a meeting of carriageways and pathways at this site.

I hope that you may support me through this journey and help me investigate evidence and make an assessment.

I provide here a list of evidence and historical mapping and recent photos of beginning and end to footpath. I am submitting the above **narrative** by way of reasoning and registering the Application Form A.

I am submitting here:-

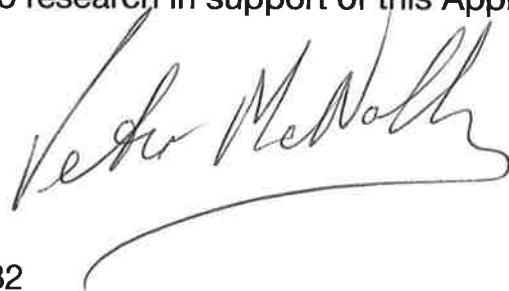
- **Narrative** and reasoning as above.
- **Witness statement** by one of the three landowners
- **Witness statement** from a senior Exton resident living in a house on the Green
- **One Ordnance Survey** map clearly showing the route
- **An old OS map** - source to be verified
- **Land Registry map** showing how the land is divided in to parcels and referenced
- A **Scottish OS Map** published 1931
- A **further Scottish OS map**
- An **1897 map** from the **Finance Act** and the apportionments
- Two '**old definitive maps**' from RCC files
- **Seven photos** of current entrance and exit photos of the footpath path

I will now send Form B to each of the three landowners whose land the path crosses. I will then send you a Form C confirming that I have informed the Landowners that I have made this Application.

I will continue to do research in support of this Application

Yours faithfully,

Peter McNally

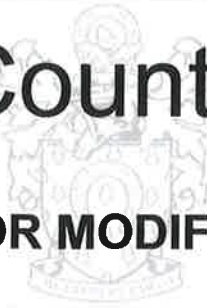


tel. 01572 811183

mob. 07960 418382

email. McNallyUK@aol.com

Rutland County Council



APPLICATION FOR MODIFICATION ORDER

WILDLIFE & COUNTRYSIDE ACT 1981
DEFINITIVE MAP MODIFICATION ORDERS

(This form to be completed by the applicant and served on Rutland County Council)

To: **Public Rights of Way Officer, Rutland County Council, Catmose, Oakham LE15 6HP**

APPLICATION

I/We PETER McNALLY
of GARDEN HOUSE, THE AVENUE, EXTON, RUTLAND Post Code LE15 8AH
hereby apply for an order under Section 53 of the Wildlife & Countryside Act, 1981, to
modify the Definitive Map & Statement for the area by:-

(Delete any of the following sections that do not apply)

Deleting the footpath/bridleway/byway (delete as appropriate)

From To

OR

Adding the footpath/bridleway/byway (delete as appropriate)

From THE GRANGE, THE AVENUE, EXTON To EXTON LANE, BURLEY

OR

~~**Upgrading/Downgrading the footpath/bridleway/byway to a
footpath/bridleway/byway/restricted byway (delete as appropriate)**~~

From ~~THE GRANGE, THE AVENUE, EXTON~~ To ~~EXTON LANE, BURLEY~~

OR

Varying the particulars of the footpath/bridleway/byway (delete as appropriate)

From ~~THE GRANGE, THE AVENUE, EXTON~~ To ~~EXTON LANE, BURLEY~~
by providing that

(in all cases) and shown on the map annexed hereto.

I/We attach copies of the documentary evidence (including statements of witnesses) in support of this application.

Signed

Dated

24 August 2022

From: McNally mcnallyuk@aol.com
Subject: Fwd: Footpath
Date: 25 Aug 2022 at 15:28:01
To: Peter McNally mcnallyuk@aol.com

Date: 25 August 2022 at 10:05:47 BST
To: McNally <mcnallyuk@aol.com>
Subject: Fwd: Footpath

From: Fay & Dan Howison <fayanddan1@waitrose.com>
Date: 24 August 2022 at 21:32:16 BST
Subject: Footpath

Hi Peter

I was interested that you had been looking at the possibility of reopening that footpath. The only drawback is that as you will have seen from the map it doubles back on itself when it reaches the track leading to Cow Close Farm, leaving rather a long stretch of road (Exton Lane) to negotiate. The ideal would be to negotiate a "permissive" path from that point on, but I have no idea whether that would be possible. I don't even know who owns that bit of land (Burley Estates ?). It would certainly offer an alternative to the rather dreary - and dangerous - slog up the Avenue, which, beautiful as it is, is not very walker-friendly. When I was putting together a plan to rationalise and reinstate the footpaths in Exton park I found it very useful to discuss my proposals with the Ramblers and the Leics. Footpath Association (in a pub!); but I expect you have thought of this.

Anyway, good luck wih your project.

Best wishes,

Dan.

From: **McNally** mcnallyuk@aol.com
Subject: **Fwd: Exton Solar farm: Evidence of a public right of way -
Witness statement**
Date: **24 Aug 2022 at 13:36:35**
To: **Peter McNally** mcnallyuk@aol.com

Begin forwarded message:

From: David Holland <davidnholland@hotmail.com>
Date: 7 August 2022 at 14:28:59 BST
To: McNally <mcnallyuk@aol.com>
Subject: Exton Solar farm: Evidence of a public right of way - Witness statement

Hi Peter,

"Witness statement"

It's come to my attention that a public right of way footpath that once started at the junction to Exton village and ran across the beautiful rolling Rutland countryside to Burley on the hill has been removed (evidence can be found in my previous email of the path being shown in various maps).

I am not sure why the land owners at the time (now Campden's and Hanbury's) did not maintain the path, but due to it not being maintained people did not use it and subsequently the path was removed from recent ordinance survey maps.

I would like the path reinstated one because it links Exton to Burley, I can use it to walk along with my family and also because there are no public footpaths in the immediate section of countryside in question.

Thanks



36

493 Burley

Burley on the Hill

Top Lo.
445

Hall

Exton

Tun

370

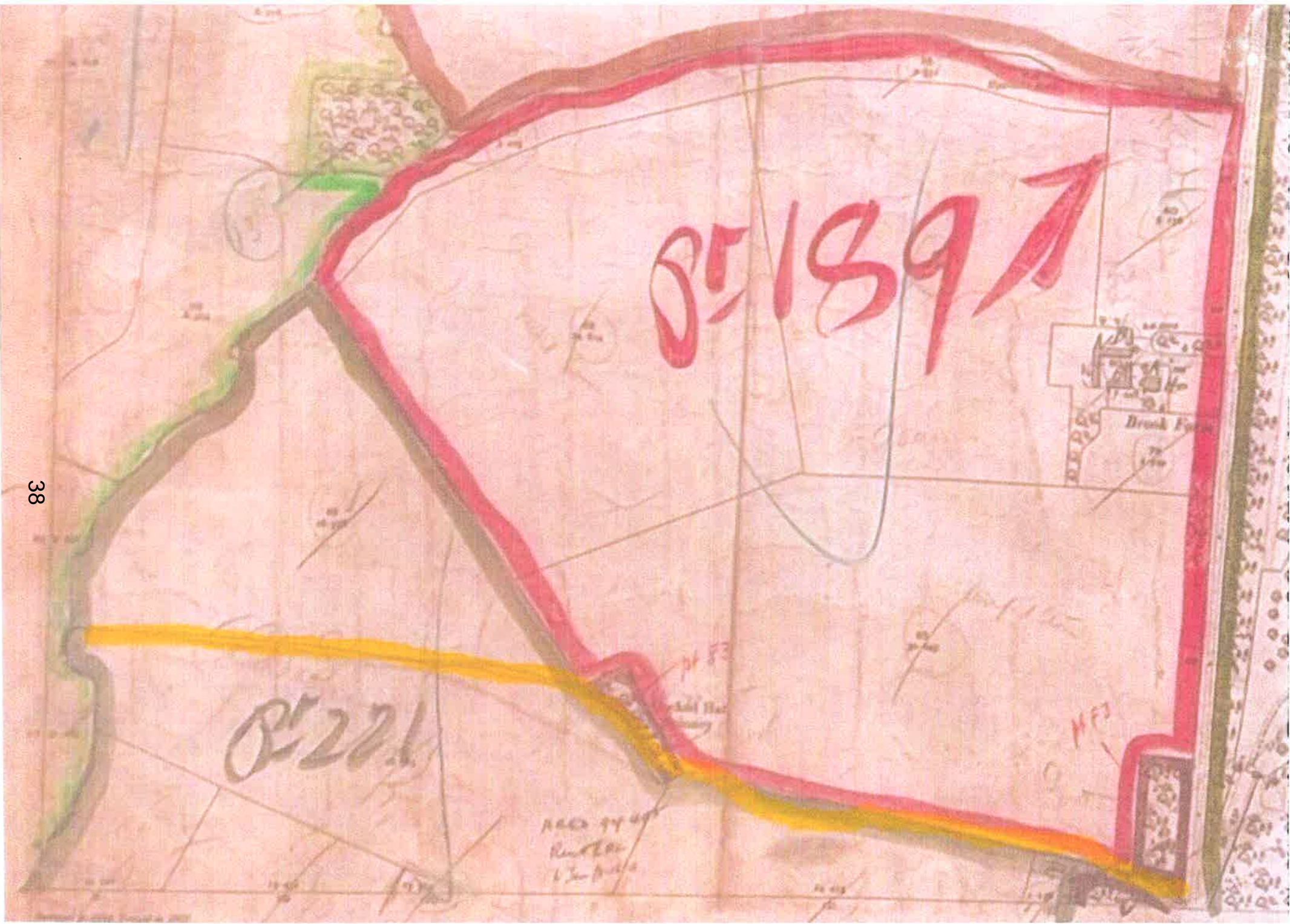
389

548

AISTOE HO

Ho.

OS req?



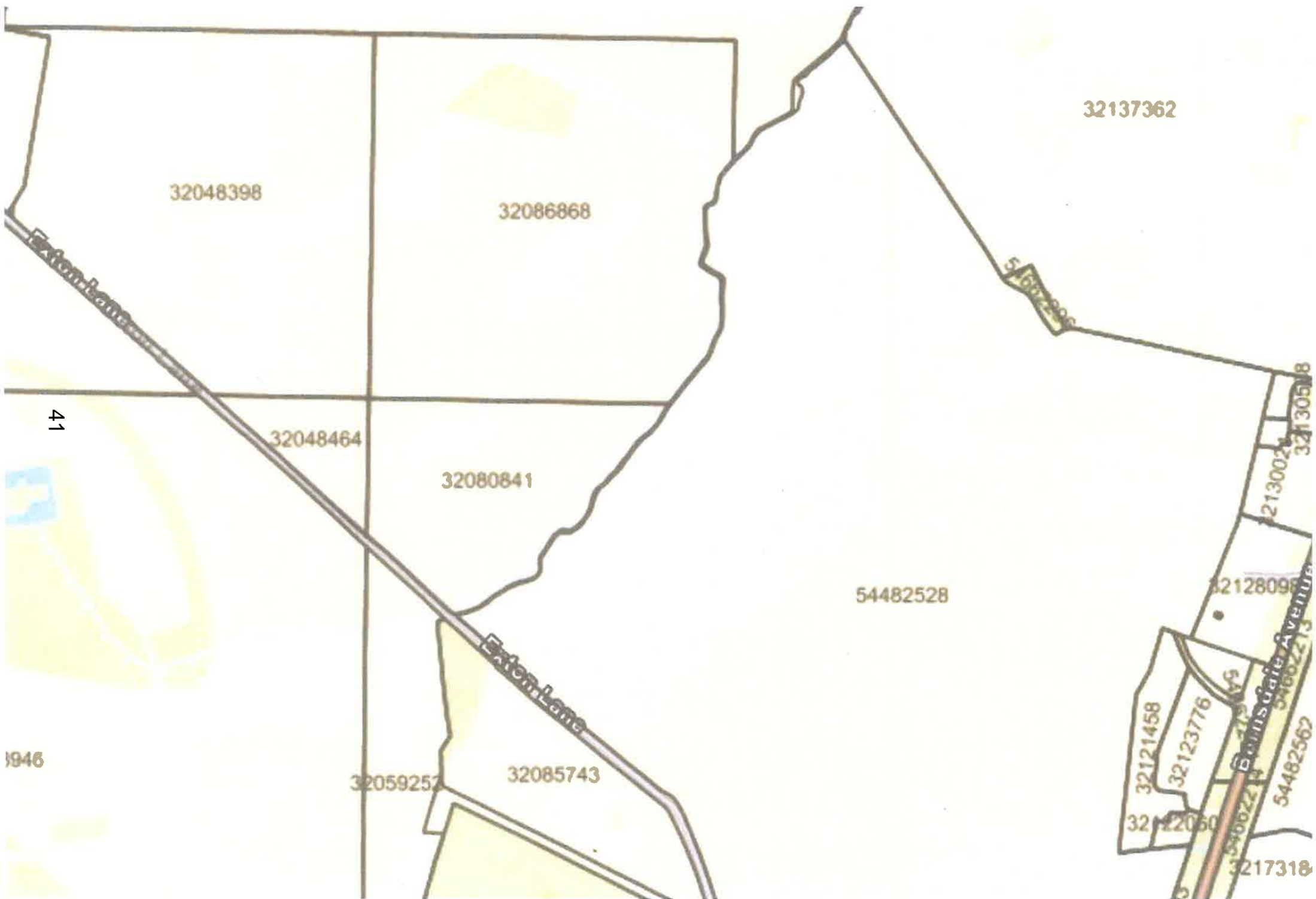
1860 94 49
 Rindler
 12-1-1860



early OS?

can double check

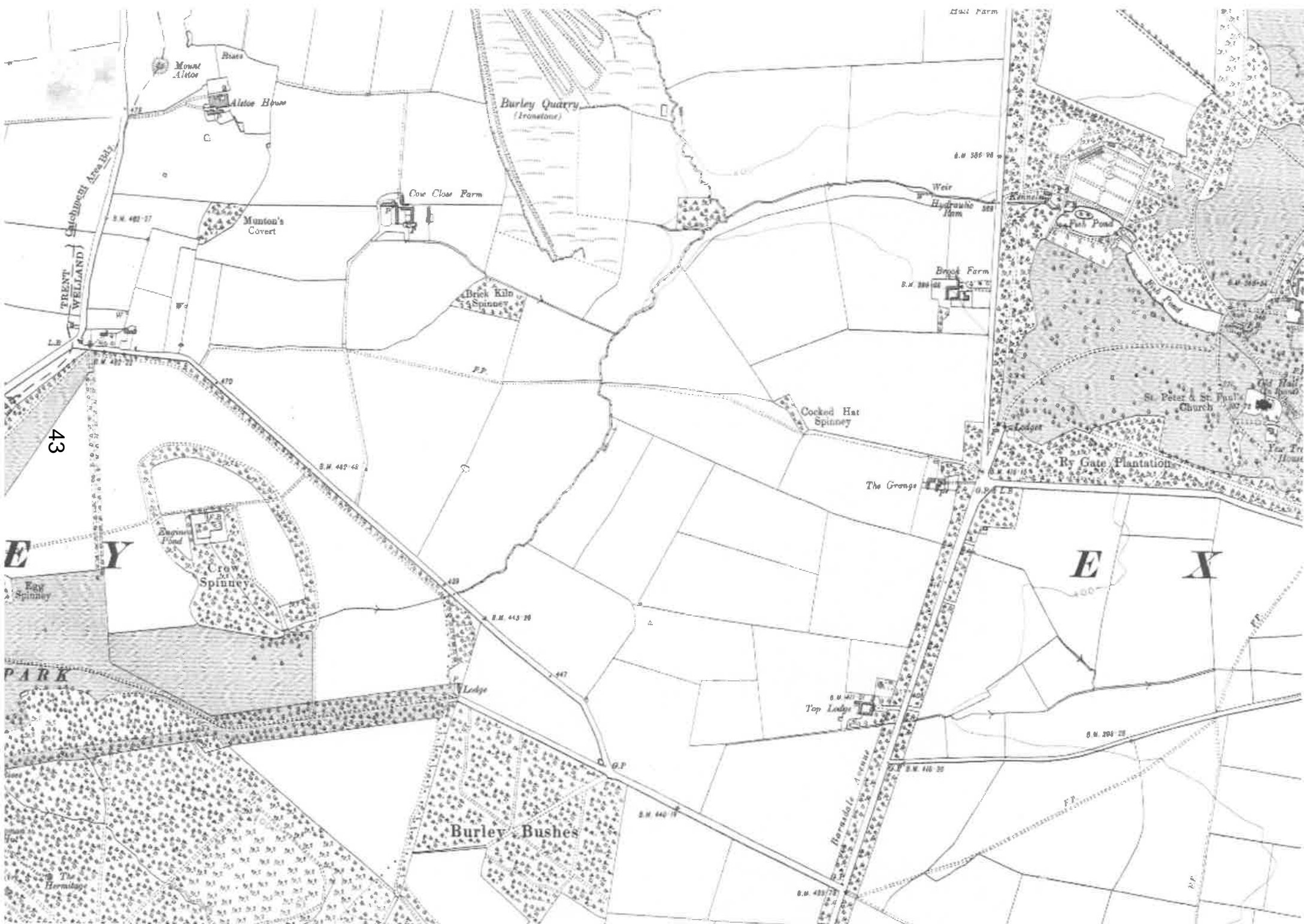
'enclosure map for the area' Kew Archives.



41

1946

Land Registry.



43

EY

PARK

E X

Burley Bushes

Crow Spinney

Burley Quarry
(Ironstone)

Alton House

Cow Close Farm

Muntou's
Covert

Brick Kilo
Spinney

Top Lodge

The Grange

Cuckoo Hat
Spinney

Birds Farm

Weir
Hydraulic Farm

Ry Gate Plantations

St. Peter & St. Paul's
Church

Bay Spinney

Bay Pond

Hermitage

S.M. 206 28

S.M. 440 30

S.M. 440 18

S.M. 443 20

S.M. 447 45

S.M. 482 27

S.M. 586 98

S.M. 388 48

S.M. 365 54

S.M. 365 54

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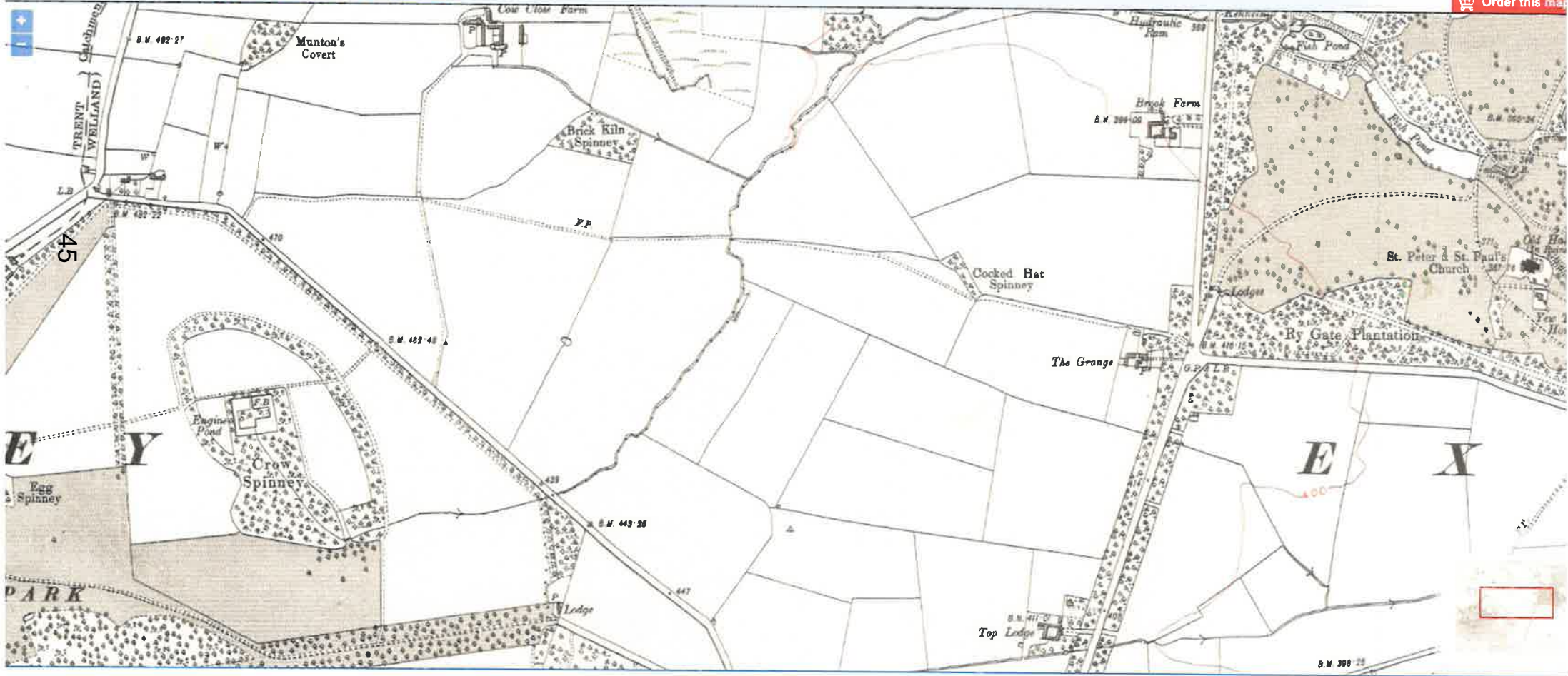
S.M. 365 54

S.M. 365 54

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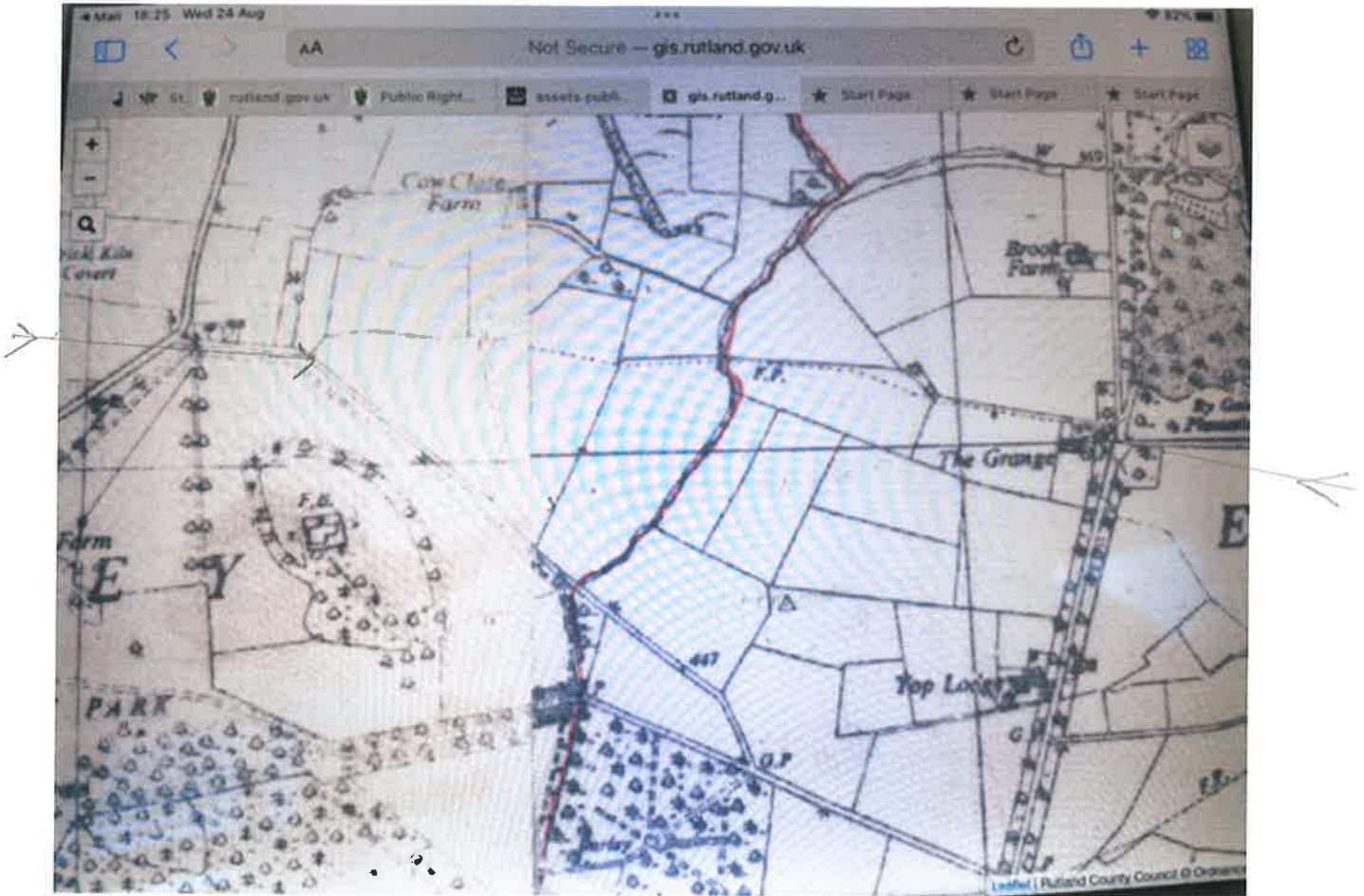
Scottish 28



Scattered os

From: McNally mcnallyuk@aol.com
Subject: Definitive map
Date: 24 Aug 2022 at 18:40:56
To: Peter McNally mcnallyuk@aol.com

RCC



Sent from my iPhone

*Taken from "old definitive maps for the County"
filed at Rutland C.C.*



GRANGE FARM END OF
HISTORIC FOOTPATH TO BURLEY
(NOTE P.O., LETTER BOX)



LOOKING FROM GRANUC FARM,
THE AVENUE TO THE EXTON ESTATE



EARLY PART OF FOOTPATH THROUGH
WOODLAND



CONTINUATION FROM WOODLAND
INTO FOOTPATH (NOW A TRACTOR DRIVE
LEADING ALONG WHEAT FIELD)



THE ENTRANCE/EXIT TO EXTON LANE
OF THE FOOTPATH.



"TOLL BAR HOUSE", EXTON LANE
AT THE END OF THE PATH



EXTON LANE JUNCTION
WITH BURLEY ROAD
(RED PILLAR BOX ON LEFT.)

54

APPENDIX D



Wildlife and Countryside Act 1981

Definitive Map Modification Order Application

For a route from Main Street, Barrow to Burley Road, Cottesmore via Ashwell Road, Cottesmore to be added as a footpath

Applicant's Reference: LP2

07 Dec 2022

Quick reference path facts to assist the Surveying Authority in its investigation	
OS County series map	Rutland: Sheets V3 and V7
Modern OS Explorer map	234 Rutland Water 247 Grantham
Grid references of ends of route (approximate)	From: Barrow (SK 891151) To: Burley Road (SK 893127) Via: Ashwell Road (SK 893135)

Applicant:	Mick & Jackie Piper on behalf of Ways Around Cottesmore (WARCs)
Reason for application:	The route is currently missing on the definitive map and statement, but there is strong documentary evidence that it was previously a footpath, with public right of way status.

1 Introduction

This application is made because, on the cut off day, the effect of s.53(3) and (4)(c) Countryside and Rights of Way Act 2000 on a public highway that existed prior to 1949 is to extinguish the rights on a route not shown in the definitive map and statement.

I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981 because:

This application statement includes explanations as to how the evidence applies to the application route, and the application contains one or more of the following forms of supporting evidence:

- I 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).
- II 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).
- III Documentary evidence of expenditure that would be unlawful unless the way was a public highway, for example Highway Board records.
- IV Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.
- V 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 route network.

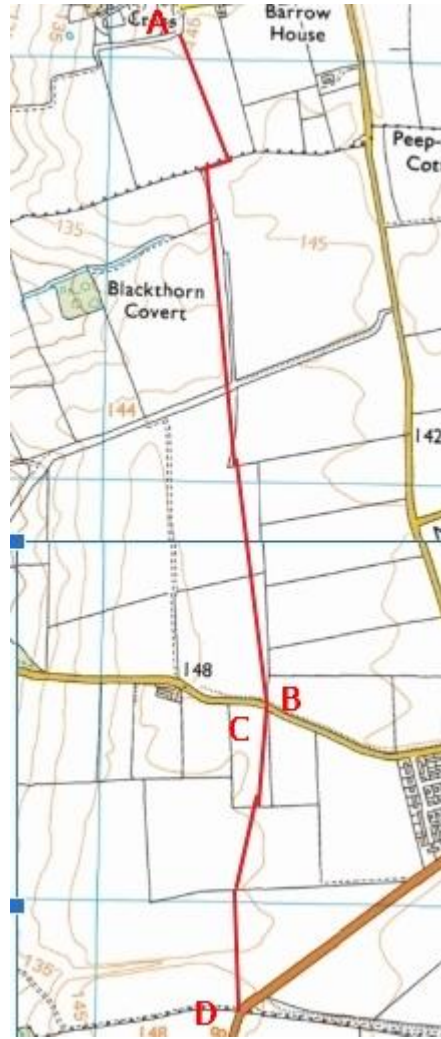
2 The Application Route

The application route is shown on the plan below:

Point A white lane off Main Street, Barrow
Point B is Ashwell Road, north side
Point C is Ashwell Road, south side
Point D is Burley Road, north side

The application route is not currently shown on the definitive map of rights of way for Rutland:

The application route is also not currently shown on the online list of streets.



Ordnance Survey 1:25000 scale map extract showing application route as a red line



Photograph 1 from Point A looking South



Photograph 2 from Point B looking North



Photograph 3 from point C looking South



Photograph 4 from Point D looking North

3 Documentary Evidence of Highway Status

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.

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."

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.

The documentary evidence has been ordered chronologically to show evidence of the routes existence and access rights over time.

Below is a table of summary of documentary evidence provided in support of the application

Earliest Date route seen	Description of Evidence
1884	Ordnance Survey Six-inch map
1885	Ordnance survey 25 inch map
1910	Finance Act Records
1947	Ordnance survey One inch map
>1952	Definitive map Parish Survey returns
1954	Rutland Council Roads and Bridges sub committee minutes

3.1 (1884) Ordnance Survey Six-Inch (County Series)

Date: 1884 OS Sheet Rutland V.NE

Relevance: These maps were made for sale to the travelling public. They showed physical features that appeared on the ground, so if the route became overgrown and unused it would no-longer show on the map. The map has a key in which different types of routes are differentiated.

Archive: Multiple publications of these maps ranging from 1884 to 1933 have been located and all show the same evidence. They are held by the British Library and can also be viewed online at the National Library of Scotland.

Published Date	Link to map via the National Library of Scotland
1884	https://maps.nls.uk/view/101599640
1904	https://maps.nls.uk/view/101599637
1931	https://maps.nls.uk/view/101599634
1933	https://maps.nls.uk/view/102191616

Meaningful feature: The application route is clearly shown on the OS map as a footpath. The route is denoted in the same format used for other known footpaths which exist with public right of way status today.

Assessment: Considering the context of published ordnance survey maps as documentary evidence given in Appendix A: and the presence of the route on the map as a footpath is evidence it was a through public route. It is also significant evidence that the route goes close to a windmill. A windmill would have been a valuable public amenity of the local residents and as such this route would have been the only logical access.



Extract from the Ordnance Survey Six-Inch (Country Series) 1904 Sheet Rutland V.NE. Clearly showing the footpath on the map



*Extract from the Ordnance Survey Six-Inch (Country Series) 1884 Sheet Rutland V.NE.
Showing map of the area and highlighted windmill*



Extract from the Ordnance Survey Six-Inch (Country Series) 1931 Sheet Rutland V.NE. Clearly showing the footpath to the Ashwell Road on the map

3.2 (1885) Ordnance Survey First Edition 25 inch (County Series)

Date: 1885 OS sheet Rutland V.3. & V.7

Relevance: The early first edition county series (25 inch) OS maps are some of the most detailed maps available.

Archive: Copies of the first edition Ordnance Survey 25" maps are held by the British Library. As well as originals, they have created microfiche copies, which can be inspected by the public. Copies can also be viewed at <http://www.old-maps.co.uk> and some sheets are available from the National Library of Scotland at <http://maps.nls.uk/os/25inch-england-and-wales/index.html>.

Published Date	Map Sheet	Link to map via the National Library of Scotland
1885	Rutland V3	https://maps.nls.uk/view/115398902
	Rutland V7	https://maps.nls.uk/view/115399034
1904	Rutland V3	https://maps.nls.uk/view/115398917
	Rutland V7	https://maps.nls.uk/view/115399061
1930	Rutland V3	https://maps.nls.uk/view/115398932
	Rutland V7	https://maps.nls.uk/view/115399076

Meaningful feature: The application route is clearly shown as a footpath on the OS map.

Assessment: Considering the context of published ordnance survey maps as documentary evidence given in Appendix A: and the existence of the route on this most detailed OS map, is good evidence that route existed. As the map again shows the route as a through route passing close to the windmill again supports that the route would have been the only public access route to the public amenity. The 1904 version of the map shows the installation of a footbridge over the mine railway indicating the importance of the route justifying the expense and effort to construct.





Extracts from the Ordnance Survey 1904 25" map of the area sheets Rutland V3 and V7, showing the route as a footpath.



Extract from the Ordnance Survey 1904 edition 25" map of the area and evidence of the windmill and footbridge

3.4 (1910) Inland Revenue Valuation

Date. The valuation records were produced in the few years following 1910, those in Cottesmore were mostly created in 1914.

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. Each property/parcel of land was given a parish Hereditament number which was annotated onto a copy of the 1904 25-inch Ordnance Survey map. The surveyor made notes about the details of the holding in a Field Book, and then a summary valuation was prepared. Both documents record if deductions for footpaths or bridleways as public rights of way were claimed.

Section 25 of the Act authorised discounts for footpaths and bridleways crossing a property if they were claimed by the landowner. There was no obligation for a landowner 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.”

Archive. The extracts below are from the records that were passed from the IR Valuation Offices to The National Archives at Kew where they are available for public viewing.

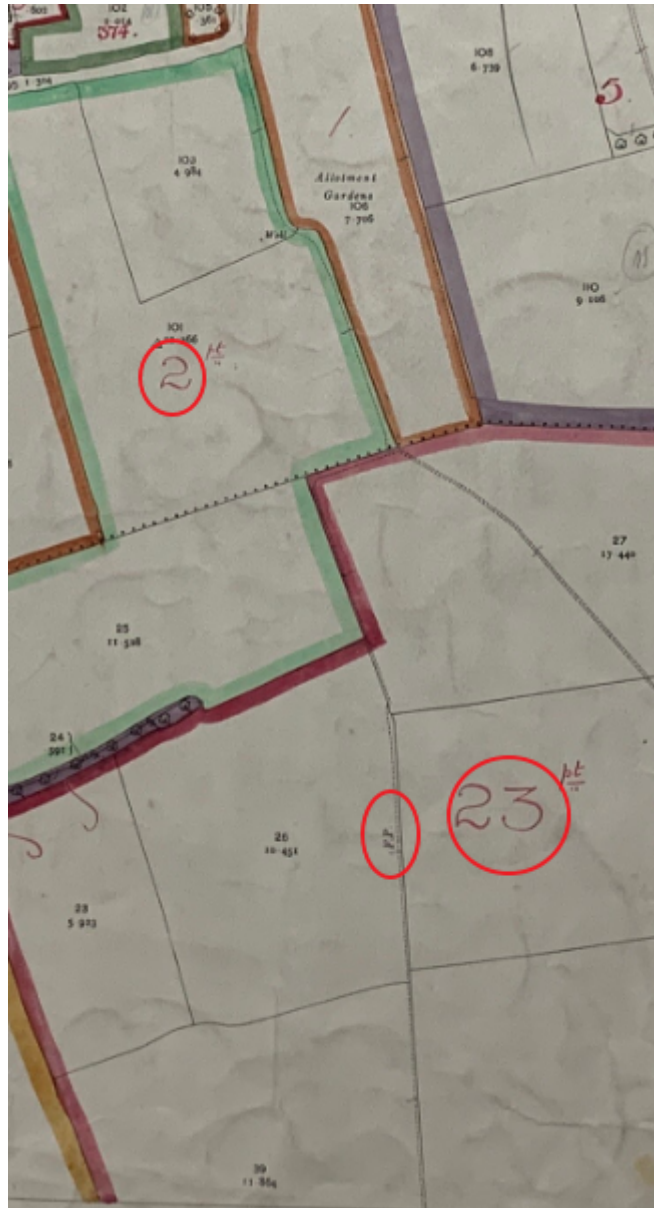
National Archive Reference Number	Record Description
IR 130/6/485	Inland Revenue Finance Act 1910 valuation map OS Sheet V3
IR 130/6/489	Inland Revenue Finance Act 1910 valuation map OS Sheet V7
IR 58/76841	Inland Revenue Finance Act 1910 Field book (Hereditaments 1 to 100)
IR 58/76842	Inland Revenue Finance Act 1910 Field book (Hereditaments 101 to 200)

Meaningful Feature.

The application route crosses 6 hereditaments shown on sheets V3 and V7 valuation maps.

- Barrow hereditament 2: crossing two fields south from a lane shown as a white road (not part of any hereditament and likely authority maintainable) in Barrow to the parish boundary.
- Barrow hereditament 23, crossing three fields south towards Ashwell Road
- Cottesmore hereditament 105, crossing 3 fields south towards Ashwell Road
- Cottesmore hereditament 123 crossing one field south towards Burley Road
- Cottesmore hereditament 109 crossing one field south towards Burley road
- Cottesmore hereditament 58 crossing one field south towards Burley Road

Cross referencing the hereditament numbers with the survey notes in the surveyors field books and provisional valuation records shows the landowners of each of the hereditament landowners, except 123 claimed for a value deduction due on their land because of a footpath running between Cottesmore and Barrow.



The above extract is from the Inland Revenue Valuation Map V3 showing the hereditament numbers 2 and 23 for the northern end of the application route near Barrow



The above extract is from the Inland Revenue Valuation Map V7 showing the hereditament numbers 105, 123, 109 & 58 for the southern end of the application route near Cottesmore

Reference No. 2 *PY 2/12/13* Map No. V.3

Situation *late E. Barrow, farm Barrow*

Description *farm lands & garden*

Extent *95.492 links*

Gross Value { Land £ *118-3-3* Rateable Value { Land £ *915.9*
 Buildings £ *152.6* Buildings £ *152.6*

Gross Annual Value, Schedule A, £

Occupier *Arthur Dalby*

Owner *Earl of Sandwich, Eaton Park, Catterick*

Interest of Owner

Superior interests

Subordinate interests

Occupier's tenancy, Term *Yearly* from *6 April 1909*

How determinable *Agreement*

Actual (or Estimated) Rent, £ *46.4.0*

Any other Consideration paid

Outgoings—Land Tax, £ *5.5.0* paid by *L*

Tithe, £ paid by

Other Outgoings

Who pays (a) Rates and Taxes (b) Insurance *L*

Who is liable for repairs *L*

Fixed Charges, Easements, Common Rights and Restrictions
Footpaths, Barrow to Cottismore High Lane to Cottismore

Former Sales. Dates

Interest

Consideration

Subsequent Expenditure

Owner's Estimate. Gross Value

Full Site Value

Total Value

Assessable Site Value

Value Deductions claimed *Yes*

Drains and Sewers. Dates of Expenditure

Amounts

about 29 acres under lease & if there are any minerals in the rest of the farm, they belong to the owner.

Lease.

Reference No. *3044*

Particulars, description, and notes made on inspection
*fields 407130 are unimproved grass
 - 41,101 & 25 Cottismore, are good light loam
 the remainder of the farm is stony grass
 the house is old the buildings & fruit are adequate*

*107a On 3p
 Cottage is one of 4*

Charges, Easements, and Restrictions affecting market value of Fee Simple

*Reps 15% AV x 226p = £ 317
 L Tan £ 5.12 x 25p = £ 140
 557*

Footpath. £ 1 x 25p = £ 25

Valuation.—Market Value of Fee Simple in possession of whole property in its present condition

*£ 107 x 20p = £ 2140
 less Reps + L Tan 557
 2223
 that 6/100 ann x 15p = £ 40
 40
 2260*

Deduct Market Value of Site under similar circumstances, but if divested of structures, timber, fruit trees, and other things growing on the land

Difference Balance, being portion of market value attributable to structures, timber, &c. *685*

Divided as follows:—

Buildings and Structures.....£ *520*

Machinery.....£

Timber.....£ *10*

Fruit Trees.....£

Other things growing on land.....£ *155*

Market Value of Fee Simple of Whole in its present condition (as before).....£ *2260*

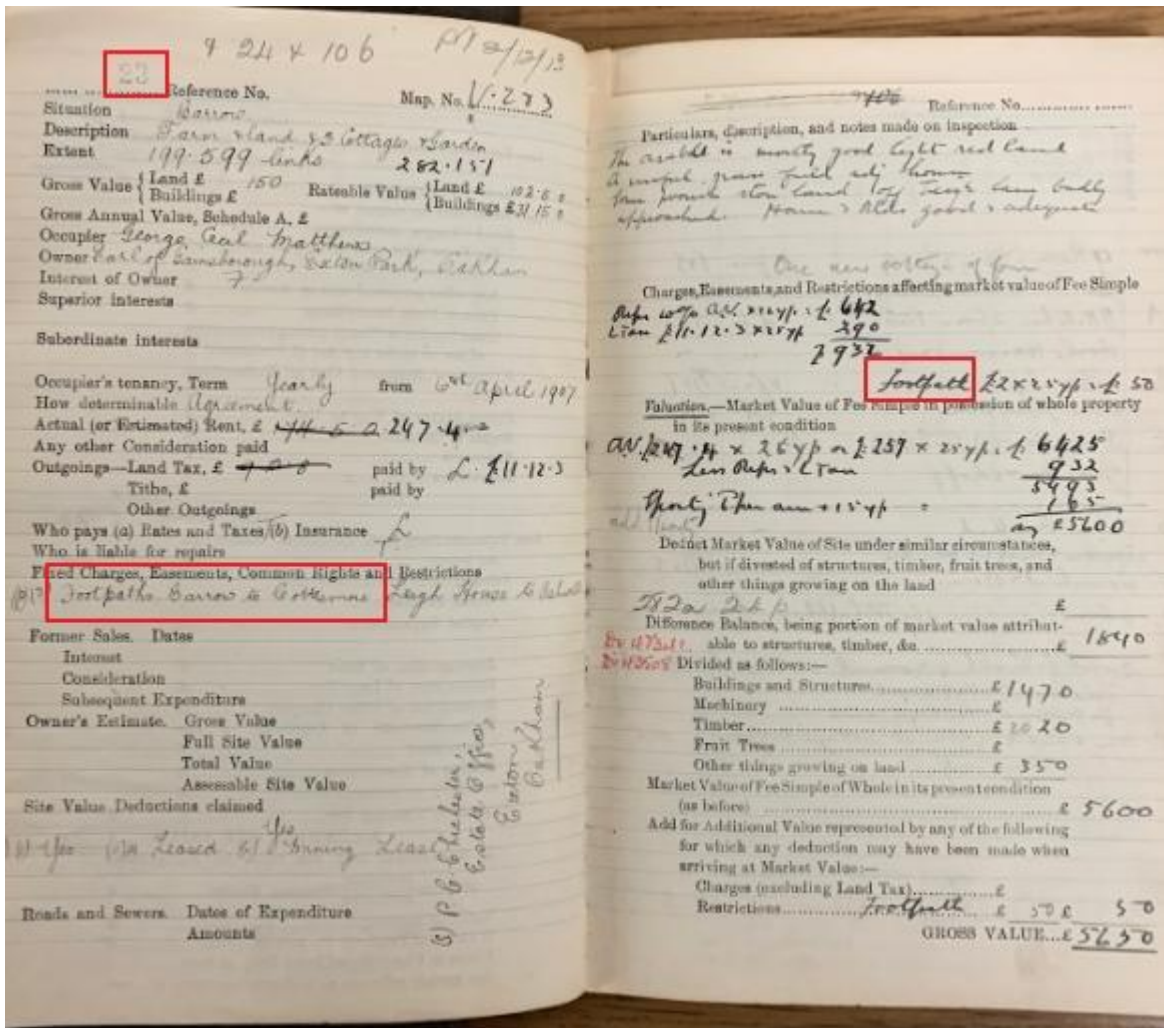
Add for Additional Value represented by any of the following for which any deduction may have been made when arriving at Market Value:—

Charges (excluding Land Tax).....£

Restrictions.....*Footpath*.....£ *25* £ *25*

GROSS VALUE.....£ *2285*

Extract from Inland Revenue field book IR 58/76841 Hereditament 2



Extract from Inland Revenue field book IR 58/76841 Hereditament 23

Part Map No. 362. 100 Reference No. 111 Map No. V.2.3.67/10
 Date 30/1/14.

Situation opposite Lily Cottage & in the Parish.
 Description 2 Farms & lands including 3 cottages &c.
 Extent 501.803 a. r. p.

Gross Value Land £ 491.15.0 Rateable Value Land £ 388.7.0
 Buildings £ Buildings £ 53.15.0

Gross Annual Value, Schedule A, £
 Occupier Joseph Bourne Marriott
 Owner Earl of Sandwich, Exton Park, Batham
 Interest of Owner
 Superior interests

Subordinate interests

Occupier's tenancy, Term Yearly from 6 April 1914
 How determinable Agreement
 Actual (or Estimated) Rent, £ 495.15.0
 Any other Consideration paid

Outgoings—Land Tax, £ 14.14.8. paid by L
 Tithes, £ paid by
 Other Outgoings

Who pays (a) Rates and Taxes (b) Insurance L
 Who is liable for repairs L & T

Fixed Charges, Easements, Common Rights and Restrictions
 (1) Footpath Gotesmore to Barrow
 (2) Ashwell to Barrow

Former Sales. Dates
 Interest
 Consideration
 Subsequent Expenditure
 Owner's Estimate. Gross Value
 Full Site Value
 Total Value
 Assessable Site Value
 Site Value Deductions claimed

Yes 382 acres about, under lease. If there are any mineral
 and the rest of the farm they belong to the owner.
 part of the farm forming parcel 50.

Roads and Sewers. Dates of Expenditure
 Amounts

Particulars, description, and notes made on inspection
 88 acres of good grass north of Village. Home
 Park, the Warren farm & other planted
 land in good light soil. The Warren farm
 buildings are good. There are 3 cottages
 the rent is paid on the valuation being taken on a simple
 3 cottages, but included which stand in Village.
 timber also is not included in T.V.

Charges, Easements and Restrictions affecting market value of Fee Simple
 Dep't w/o val. £ 49.10
 Lien 14.14.8
 64.4.8
 £ 1606 Footpath £ 1 x 25 yf. £ 25

Valuation.—Market Value of Fee Simple in possession of whole property
 in its present condition
 at £ 495 x 25 yf = £ 12375
 Less Dep't. Lien 1606
 10769
 Part of the sum x 25 yf → 241
 11016 → £ 11015

Deduct Market Value of Site under similar circumstances,
 but if divested of structures, timber, fruit trees, and
 other things growing on the land

Difference Balance, being portion of market value attribut-
 able to structures, timber, &c. £ 3275

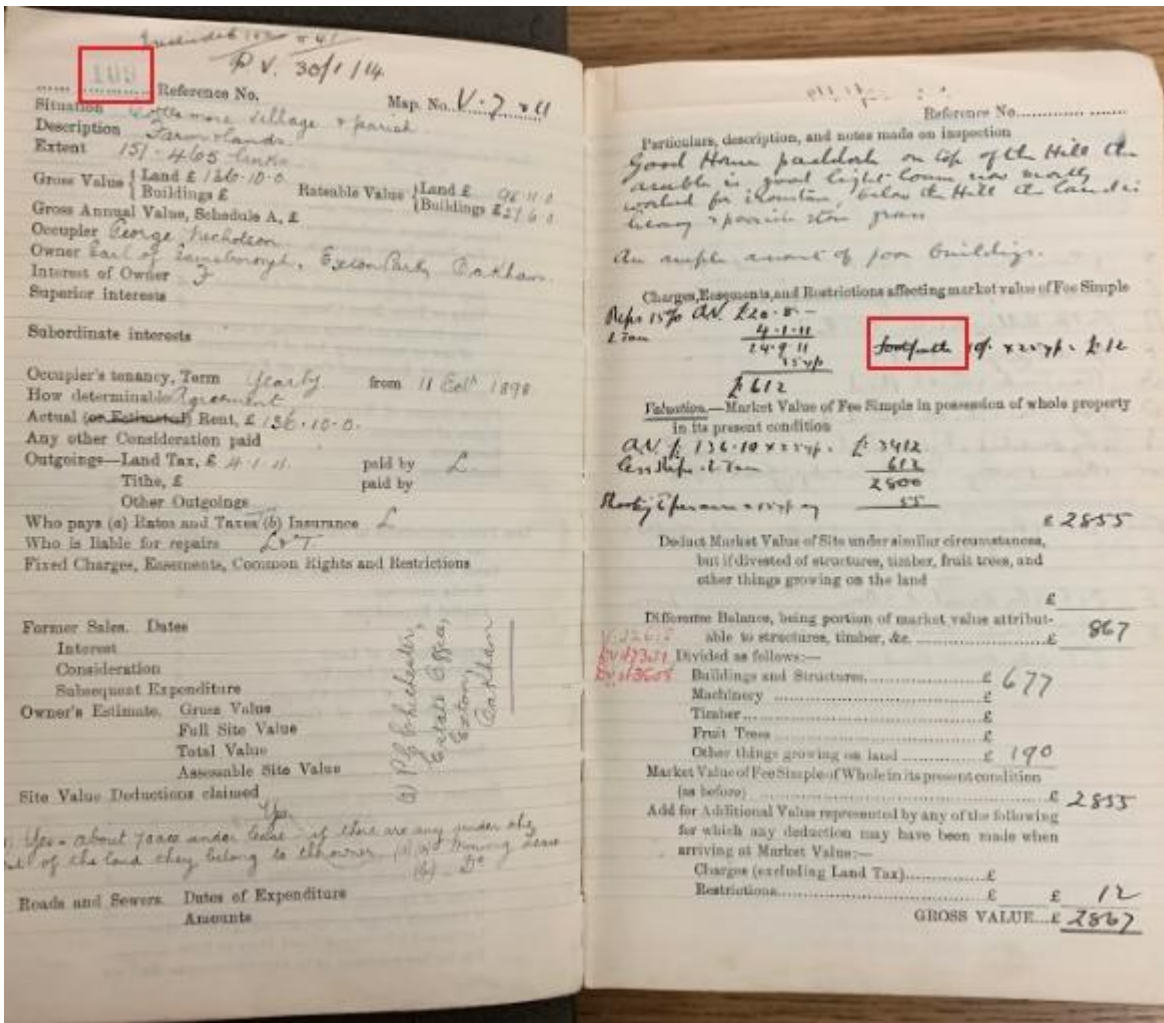
Divided as follows:—
 Buildings and Structures £ 2585
 Machinery £
 Timber £ 65
 Fruit Trees £
 Other things growing on land £ 625

Market Value of Fee Simple of Whole in its present condition
 (as before) £ 11015

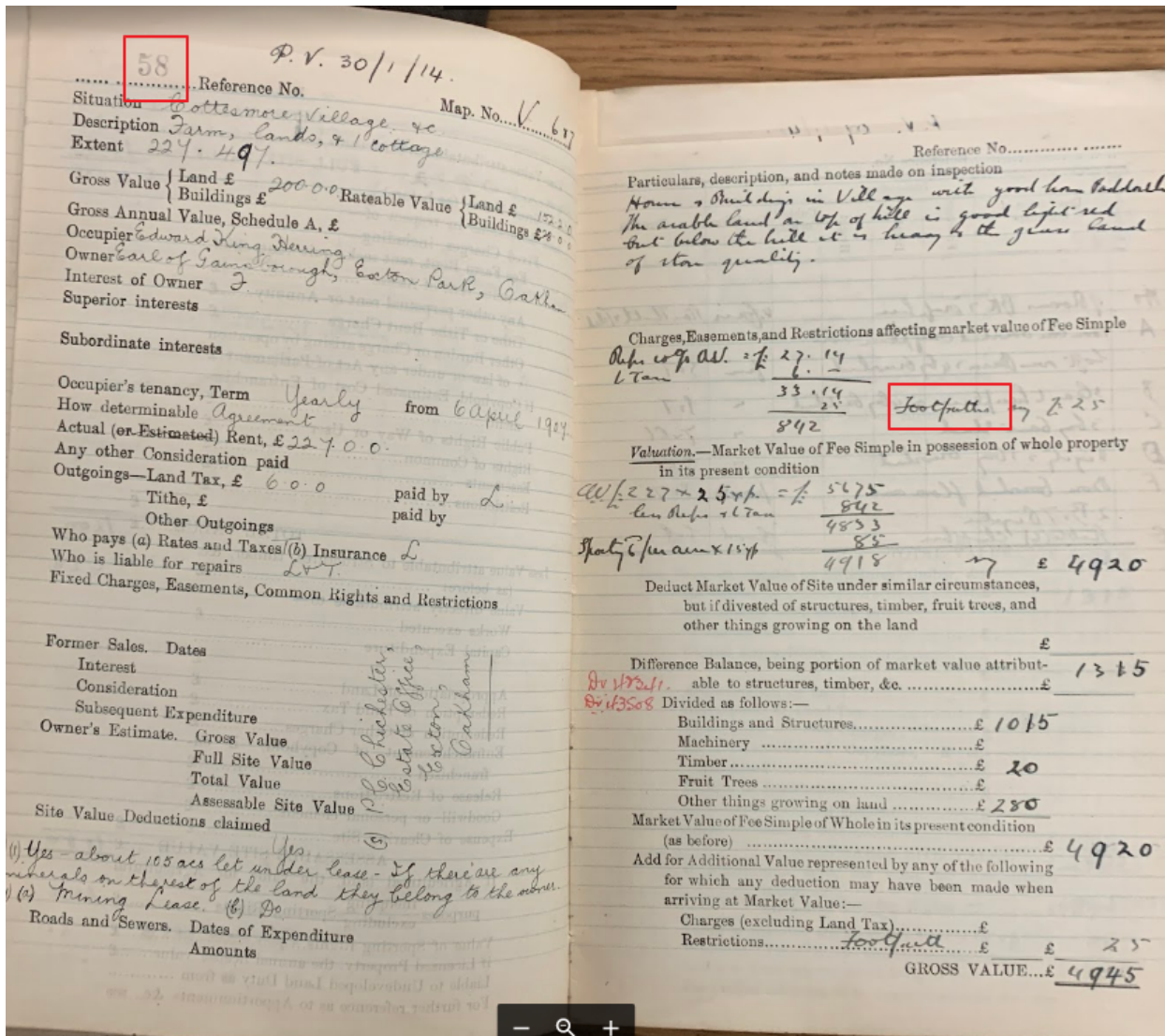
Add for Additional Value represented by any of the following
 for which any deduction may have been made when
 arriving at Market Value:—
 Charges (excluding Land Tax) £
 Restrictions, Footpaths £ 25

GROSS VALUE... £ 11040

Extract from Inland Revenue field book IR 58/76842 Hereditament 105



Extract from Inland Revenue field book IR 58/76842 Hereditament 109



Extract from Inland Revenue field book IR 58/76841 Hereditament 58

3.3 1947 Ordnance Survey One-Inch (Revised New Series)

Date: 1947 OS 122 Sheet Melton Mowbray

Relevance. These maps were made for sale to the travelling public. They showed physical features that appeared on the ground, so if the route became overgrown and unused it would no-longer show on the map. It has a key to differentiate different types of routes.

Archive: Copies of these map are held by the British Library. Copies can also be viewed on line at the National Library of Scotland at : <https://maps.nls.uk/view/101167955>

Meaningful feature: The application route is clearly shown on the OS map as a footpath.

Assessment: Considering the context of published ordnance survey maps as documentary evidence given in Appendix A: and the presence of the route points A to B on the map as a footpath.



Extract from the Ordnance Survey One-Inch (Revised Edition New Series) map of the area key and footnote from sheet 122 Sheet Melton Mowbray

3.5 (>1952) Draft Definitive Map Parish Survey Returns

Date: Exact date is not known but it is believed to have been created between 1949 and 1952

Relevance: Part IV of the National Parks and Access to the Countryside Act 1949 laid the foundations for the definitive maps and statements of public rights of way in England and Wales. It required parish councils and parish meetings to co-operate with surveying authorities in preparing the draft map in each authority's area. The parishes' role was fundamental and ensured that public rights of way were correctly identified for inclusion on the definitive map.

Part IV of the 1949 Act required a surveying authority (the county council, or, at that time, a county borough council) to prepare a definitive map and statement of public rights of way. The authority was to 'carry out a survey of all lands in their area over which a right of way was alleged to subsist',

Under s.28(1) of the 1949 Act, it was required to consult with its district and parish councils on the arrangements for the provision of information to contribute to the draft definitive map.

Under s.28(3), those arrangements were required to include provision for each parish council to hold parish meetings, and for parish meetings to be held where there was no council for a parish.

And under s.28(4), every parish council had a duty 'to collect and furnish to the surveying authority such information, in such manner and at such time, as may be provided for by [the] arrangements agreed or determined'.

In practice, those arrangements typically called upon the parish council to conduct a parish survey and described in a schedule of paths. The survey might have been done by parish council members, local volunteers, or representatives of user groups.

The survey was then considered by the parish council and by the parish meeting, so that the parish council would put forward a revised version of the survey for adoption by the surveying authority.

Archive: Copies of the Parish Survey Returns are held at the records office for Leicestershire, Leicester, and Rutland under reference DE8719.

Meaningful feature: The survey conducted by the Ramblers Association (RA) clearly identified the existence of the application route as a right of way from Barrow, south to Ashwell Road, Cottesmore. It also captures the right of way determination by the parish councillors for Cottesmore and Barrow. There is no mention of the section of the application route south from Ashwell Road to Burley Road, which was likely heavily impacted by quarrying at the time of the survey.

Assessment: The evidence confirms the physical existence of the route on the ground observing kissing gates, stiles, wicket fences along the route. It's highly unlikely that landowners would have gone to the expense of installing these for a route for a personal or private use only. Additionally whilst the route is recognised as not being little used, Cottesmore Parish Council and the Barrow Parish Meeting are clear that under their authority and local knowledge they recognise the route as being a public right of way of importance which they clearly wanted to be retained and have added to the definitive map. It's not clear why the authority therefore didn't include the application route in the final definitive map, but regardless no evidence has been found to suggest the route was formerly subjected to a stopping up or diversion order.

COUNTY OF RUTLAND

National Parks and Access to the Countryside Act, 1949.

SURVEY OF RIGHTS OF WAY.
Cottesmore.
PARISH OF _____
R.A. _____
Survey Carried out by _____ O.S. Ref. No.'s _____
V.N.R. _____

Type of Right of Way Footpath. No 3.

DESCRIPTION.

This leads from the Ashwell Road North to Barrow. It starts by a stile on the North side of the Ashwell Road and follows ledge lines along the whole of its length to its termination at the Green Lane leading South from Barrow village.

It goes through gaps and field gates but only has the one stile at its commencement.

A few yards after its commencement a footpath leads off to the Market Overton Road due East. The footpath runs parallel to the Market Overton road all its length,

Extract from Draft Definitive Map Parish Survey Returns for Cottesmore Parish (DE8719)

COUNTY OF RUTLAND.
National Parks and Access to the Countryside Act 1949.
SURVEY OF RIGHTS OF WAY.
PARISH OF Barrow.
Survey carried out by E.A. O.S. Ref. No's. V.N.E.
Type of Right of Way Footpath. No. 3 & 4.
DESCRIPTION.
Commences at South of village and runs South to Cottesmore to connect to Footpath Nos. 3 and 4 for Cottesmore Parish.
From field gate due South along East hedge line of arable field to Field Gate and along East hedgeline of 2nd arable field to Gap and Parish Boundary. Connect to footpath Nos. 3 & 4. Cottesmore Parish.
Used very little. Ironstone workings moving Eastwards will eventually affect this path. Parish Meeting suggest retention as it is the only Footpath to the South and Cottesmore.

Extract from Draft Definitive Map Parish Survey Returns for Barrow Parish (DE8719)

3.6 Rutland Council Roads and Bridges Committee minutes

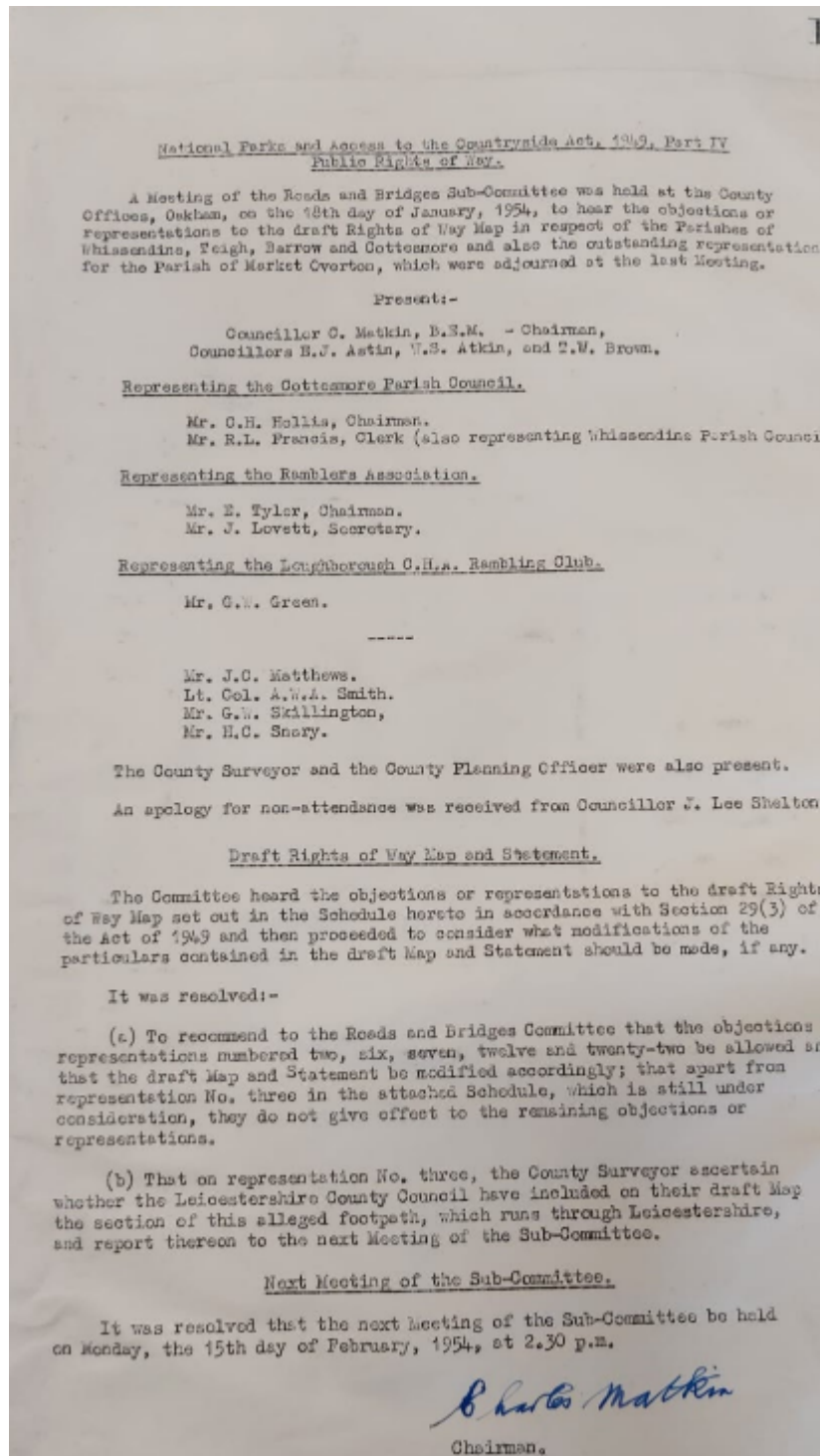
Date; 18th January 1954

Relevance; Rutland County Council Roads and Bridges committee held a meeting in accordance with the requirements of Part IV of the National Parks and Access to the Countryside Act 1949 to hear representations in relation to existing footpaths and their inclusion in the final Definitive map.

Archive; The minutes book is held at the records office for Leicestershire, Leicester, and Rutland under reference DE1381/119, this is a leather bound book with typed loose sheets glued to numbered pages within the book.

Meaningful feature; The minutes book clearly shows that the application footpath Number 3 was discussed and considered as an existing right of way at the time that meeting was held.

Assessment; The evidence confirms the existence of the route. There is no detail of any representations made at the meeting and it is not clear why the authority didn't include the application route in the final definitive map, but regardless no evidence has been found to suggest the route was formally subjected to a stopping up or diversion order.



Extract from Rutland County Council, Roads and Bridges minute book page 17 (DE1381/119)

-3-

20

R.A.L.A. L.C.R.C.	Commences in O.S. 90, bordering Moor Lane. Proceeds South towards Ashwell. Finishes S.E. corner O.S.159 near brook crossing the Teigh - Ashwell road.	That path should be included on Draft Map Representation.
<u>BARROW.</u>		
R.A.L.A. L.C.R.C. (See 18)	Commences South side of Barrow in O.S.95. Continues South eastwards to Parish Boundary. (Path connects with Path No.4. (Survey Map) (Cottesmore).	That path should be included in Draft Map Representation.
Barrow F.M. (J.C.Matthews Esq.)	Old green lane from South side of village street westwards then South Westwards to old canal to Ashwell Parish Boundary.	That the path so described shall be included in Draft Map Representation.
<u>COTTESMORE.</u>		
R.A.L.A. I.C.R.C. (Contn. of 16) Cottesmore P.C.	Commences N.W. O.S. 27 continues S.E. to Cottesmore Road. Crosses road to K.G. proceeds South Easterly, finishes field gate at O.S. 100 bordering Mill Lane. (Continuation of No.23. (Barrow).	That the path so described shall be included in Draft Map Representation.
R.A.L.A. L.C.R.C. Cottesmore P.C.	Barrow to Cottesmore Ashwell Road. Commences same point on Parish Boundary as previous (18) Proceeds N. to Northwest corner O.S.27. then South - continuing to Cottesmore Ashwell Road.	" "
R.A.L.A. L.C.R.C. Cottesmore P.C.	Cottesmore Glebe. Commences North West corner O.S.47. bordering Barrow Cottesmore Road. Crosses Mill Lane to K.G. and finishes South East corner O.S. 120.	" "
Cottesmore P.C.	Path commencing South West corner O.S.120 crosses O.S. 120 from West to East finishes in South East corner O.S.120.	" "

Extract from Rutland County Council, Roads and Bridges minute book page 20 (DE1381/119)

3.6 Stopping up orders and quarter session records

Stopping up orders and Quarter Session records have been examined, but no documented evidence has been found to reference any stopping up or diversion of the application route.

4 Conclusions

Each piece of evidence presented is either evidence of reputation of highway rights, or consistent with there being highway rights, or indicates that a civil servant thought that there were highway rights. While each document could possibly be explained away by another reason, there is no other reason that explains what all of the documents show. It is therefore more likely than not that the explanation for the evidence as a whole is that public highway rights existed at the times that the various documents were compiled. In examining the evidence as a whole, it will usually be found that the simplest explanation is the best. Suppose that there are three documents capable of being read as providing some evidence of highway status. Each of these documents might be able to be explained away by other reasons. The old maps might have shown a private footpath and the Inland Revenue evidence may relate to land held by a rating authority in its local education authority role. However, it is unlikely that all of these alternative explanations to highway status will be true for the same path. In such circumstances, the explanation of what the evidence shows is much more likely to be highway status than that the route used to belong to a wealthy owner, In the absence of positive evidence that these diverse explanations are actually true (as opposed to mere possibilities), the single explanation of the facts that a highway existed is compelling.

As a result of the common law maxim 'Once a highway always a highway', in the absence of a stopping up order, it follows that highway rights existed immediately before the operation of the Natural Environment and Rural Communities Act 2006. The antiquity of the route shows that the highway existed prior to 1883. It will therefore be a highway maintainable at the public expense,

and so should be added to the List of Streets maintained by the Council under s.36(6) Highways Act 1980.

The applicant requests the surveying authority to add the route to the definitive map as a public footpath.

Appendix A: Additional Context of Ordnance Survey Maps

The following additional details need to be considered in the assessment of the relevance of published Ordnance Survey maps as documentary evidence.

As with all evidence, it is vital that it is interpreted in line with contemporary expectations and wisdom, not with modern understanding, which can mislead. Ordnance Survey maps are sometimes belittled as having been produced 'for the military' but this is not so, they had widespread public sales and use and comments from the Director General of the OS make this clear.

Brigadier HSL Winterbotham, Director General of Ordnance Survey, said of the 'old series' one-inch maps, "*Administrative boundaries did not appear until long afterwards, and, what must have been a serious drawback, footpaths and inns are not shown.*" And, "*We are almost, without exception, interested in rights of way, either as landowners or as seekers after fresh air and exercise. But these are best seen on the six-inch plans...*" A Key to Maps, 1936.

"Contoured six-inch maps are almost indispensable for engineering projects, such as rail and road alignments, water and power supplies, and drainage, and for town and country planning. Town Planning schemes have had, in fact, by law to be exhibited on six-inch maps. Likewise, are they the statutory deposited maps illustrating acts and orders dealing with boundary alterations. Indeed, the six inch map has been acclaimed and adopted for a wide variety of uses." A Description of Ordnance Survey Medium Scale Maps, Director General of Ordnance Survey, 1949

Many Ordnance Survey maps carry a statement that depiction of a path, track or road on the map is not indication of a public right of way. However, contemporary wisdom was that this was simply to avoid the potential of litigation, as declared in The Countryside Companion (1948 page 320), "*In practice the qualifying statement of the Ordnance Survey may be regarded as a safeguarding clause to absolve them from being involved in any footpath litigation. A path which is shown, may, however, generally be presumed public.*"

Ordnance Survey surveyors were instructed not to investigate public status, but the Instructions to Ordnance Survey Field Examiners 1905 is clear in its direction that, "*Mere convenience footpaths for the use of a household, cottage or farm; or for the temporary use of workmen, should not be shown; but paths leading to any well-defined object of use or interest, as to a public well, should be shown. N.B. —A clearly marked track on the ground is not in itself sufficient to justify showing a path unless it is in obvious use by the public.*"

"The object of the insertion of F.P. being that the public may not mistake them for roads traversable by horses or wheeled traffic." (Ordnance Survey Southampton Circular 1883 signed by Major-General A C Cook). This infers those roads shown were public, since the letters FP were to distinguish those roads which were not suitable for horses and wheeled traffic

"Bridle roads will be shown in the same way as footpaths now are and the initial B.R. written along them." Ordnance Survey Southampton Circular 1884 signed by Major G Hub Bowland. "*Bridle roads are shown to scale and the words (or contraction B.R.) are written to them. They are sometimes the width of cart tracks, sometimes only of footpaths.*" Instructions to OS Field Examiners 1905.

Bridle roads were assumed to be public ways. The definition from this period of the words road and bridleway were:

1800 Johnson's Dictionary – Horse Way: is a broad open way.

1903 Webster's International Dictionary – Road: a place where one may ride, an open place or public passage for vehicles, persons and animals, a track for travel, forming a means of communication between one city or place and another and Bridleroad: same as Bridle path: a path or way for saddle horses and packhorses, as distinguished from a road for vehicles.

1905 Nuttall's Bijou Dictionary – Road: a public way and Bridleway: is a path for horsemen.

These definitions consistently show that prior to the motor age, when horses were used for transport, all roads.