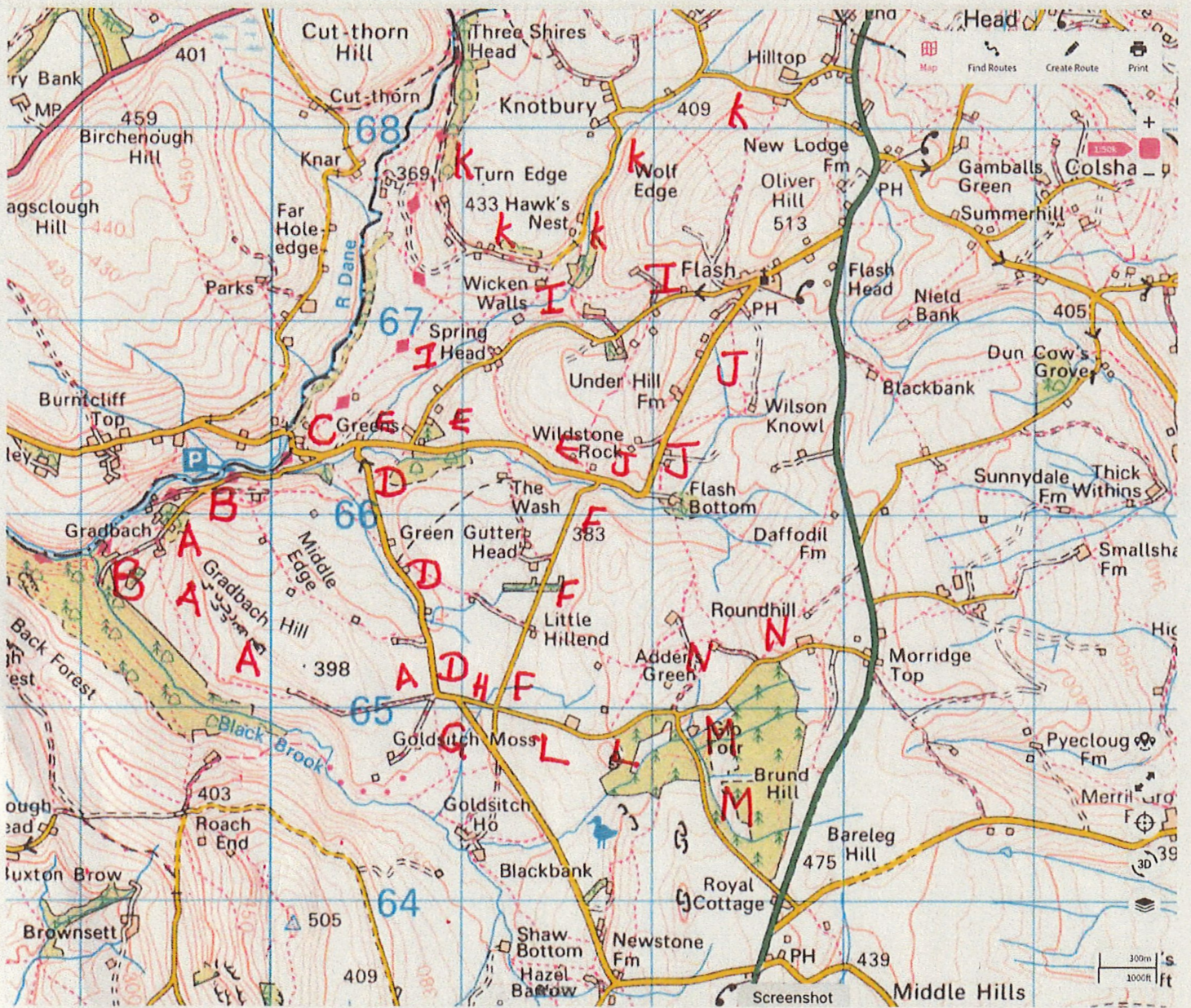


Ordnance Survey Map showing current status of routes marked on 1929 Leek Rural District Handover Map

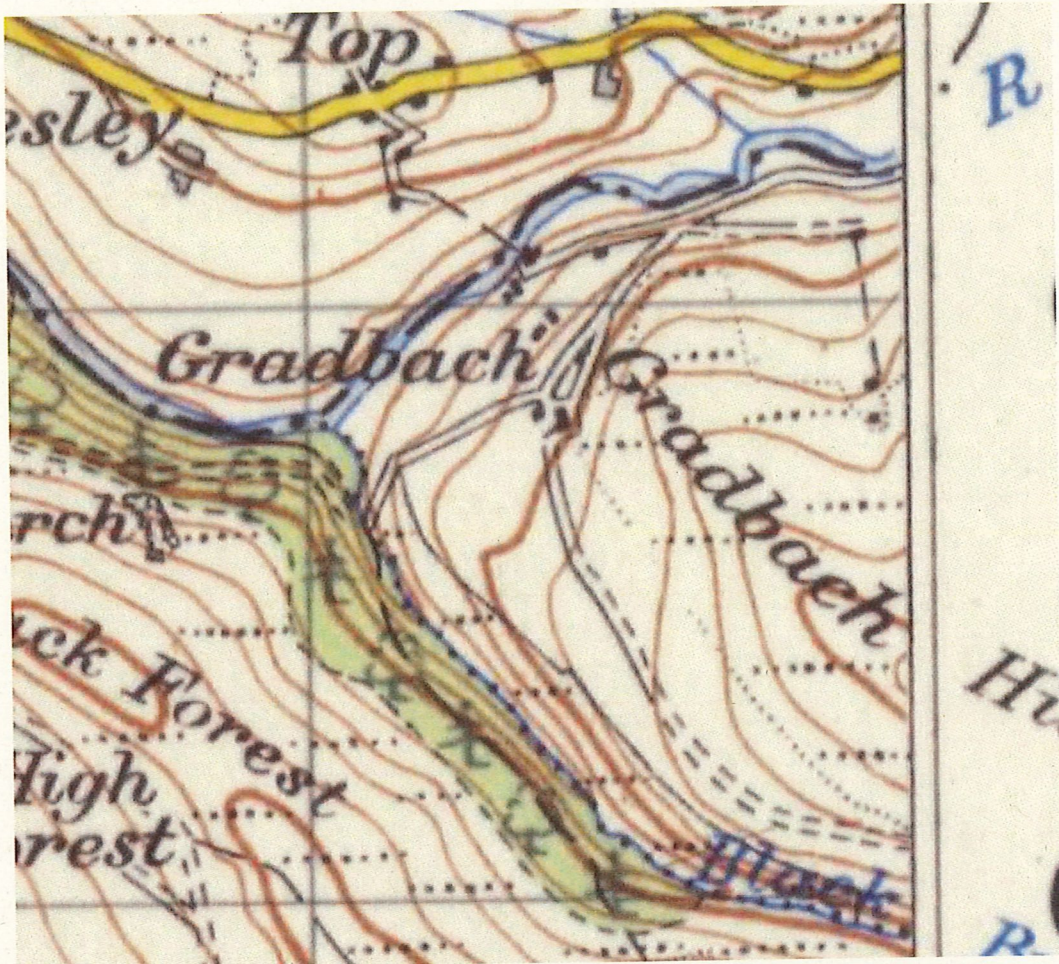


List of route shown on 1929 Handover Map for Quarnford area with current name and status

Table 1

Routes shown on 1929 Handover Map for Quarnford area		
Letter	Name	Status
A	Quarnford Footpath 18	Footpath
B	Gradbach Mill Lane Quarnford	HMPE D1042
C	Love Lane Quarnford	HMPE C0181
D	The Moss Buxton	HMPE C0194
E	Oldikes Quarnford	HMPE C0181
F	Goldsitch Moss Lane	HMPE D1043
G	Turn o'th Rake Quarnford	HMPE C0194
H	Moss Bar Quarnford	HMPE D1044
I	Back O'Th Cross Flash	HMPE D1036
J	New Road Flash	HMPE C0181
K	Dovehead and Three Shires Head Flash	HMPE D1035 and G1035
L	Moss Top Lane Morridge Top	HMPE D1044
M	Gibbtor Lane Morridge Top	HMPE D1044
N	Downsdale Morridge Top	HMPE G1044

Extract of Ordnance Survey 1" to 1 mile scale maps of Sheet 110 Stoke on Trent A Edition Revised 1949 Published 1953 and Sheet 111 Buxton and Matlock A Edition Revised 1948-1951 Published 1953 together with map key
Source: National Library of Scotland maps.nls.co.uk



{	<i>Ministry of Transport, Trunk</i>	A 6 (T)
	" " " <i>Class 1</i>	A 524
	" " " " <i>2</i>	B 5035
	<i>14 ft of Metalling & over (not included above)</i>	
<i>Under 14 ft of Metalling, Turred</i> " ".....	TOLL Gate	
" " " " <i>Untarred</i> " ".....		
<i>Minor Roads in towns, Drives and Unmetalled Roads</i>		
<i>(Unfenced Roads are shown by pecked lines)</i>		
<i>Steep Gradients 1 in 5 or steeper</i>		←←
<i>1 in 7 to under 1 in 5</i>		←
<i>Footpaths and Tracks</i>		
<i>Heights in feet above Mean Sea Level</i> {		
<i>surveyed by levelling</i>		275
<i>not surveyed by levelling</i>		109/
<i>Triangulation Station</i>		△
<i>Intersection, Lat & Long at 5' intervals</i>		+
<i>(not shown where it confuses important detail)</i>		
<i>Youth Hostel</i>		▲
<i>Bus & Coach Station</i>		■



**Protective Marking Scheme Level 3
RESTRICTED**

Via e-mail
Julie Turner
[REDACTED]

Kate Loader
County Solicitor
Staffordshire Legal Services
Staffordshire County Council
1 Staffordshire Place
Tipping Street
Stafford, ST16 2DH

DX 712320 Stafford 5
Service: legal.services@staffordshire.gov.uk
Please ask for: Hannah Titchener
Telephone: [REDACTED]
e-mail: [REDACTED]

My Ref: 016104DW **Your Ref:**

Date: 24 March 2023

Dear Julie,

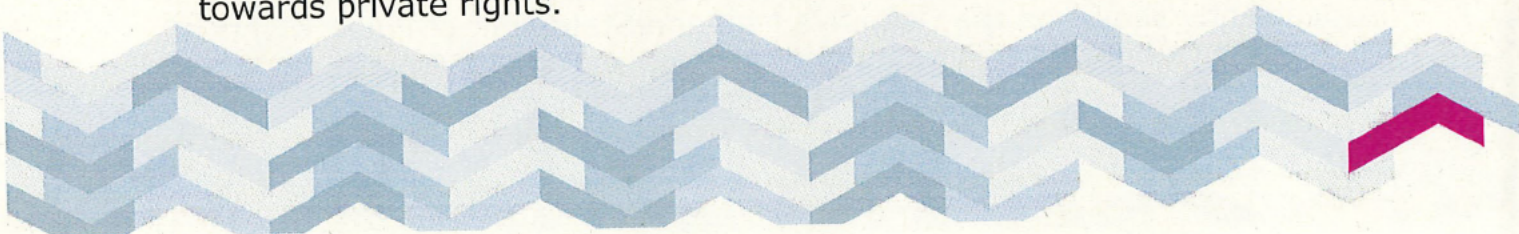
**Re: S53 application to upgrade FP 18 Quarnford to a restricted
byway**

We write in response to your letter dated 20 December in relation to the above matter, the contents of which are noted.

In relation to the Alstonefield Inclosure Award & Map dated 1839 officers have had the map georeferenced with current mapping and Stone Pit Road and Quarnford 18 do share the same route along the eastern end of the public right of way and therefore the Inclosure Map is a reasonable fit to the modern mapping.

The preamble to the Award has not been provided but it is assumed that the Inclosure Commissioners had the powers to create routes as the Award is clearly referring to the setting out and creation of new routes. The way the text reads is suggestive that the route is private and not public as it refers to the owners and occupiers of lands within the "Township of Quarnford" being responsible for maintenance of the route and the Award states that the route is for the use of all persons whose Lands adjoin the same...", indicating that this was not considered to be public but for people using the adjacent land.

The documentation does support the existence of the way as a Carriage and Drift Road, which is supportive of the route having rights over it higher than a footpath. A drift road was typically a private road for local farmers to drive cattle along and therefore any reference to a drift road always leans towards private rights.



Also, the Inclosure Award does not show the entirety of the alleged route, it only shows the eastern end of the route. The route depicted in the Inclosure Award does not connect to another highway to the north, it appears to stop in the middle of a field, at a "Stone pit" as described in the Award.

Officers acknowledge that evidentially Inclosure Awards are considered to be strong pieces of evidence. In this case the Award shows the physical existence of part of the alleged route, depicted as a Carriage Road. However, from the Award it would appear that the route was considered private rather than a route for the wider public, although from later evidence it would appear that over time the route has become an extended route and a public right of way with the status of footpath. Whilst this document holds some evidential weight of the route having rights over it higher than a footpath, the evidence does not show the existence of the entirety of the route and therefore the exact status or rights over the route in its entirety.

The Inclosure Award supports the contention that private vehicular rights exist up to the point and along the stretch of the route depicted in the Inclosure Award but not for the entirety of the existing route, which is depicted on the current Definitive Map and Statement as having public rights with the status of a footpath. Therefore, officers do not consider the Inclosure Award to be strong enough to warrant the entirety of the route being upgraded to a Restricted Byway.

In relation to the Local Government Act 1929 Handover Map and Schedule it is noted that Appendix 3 lists the mileage of public highways in the parish of Quarnford. The term Unclassified County Roads came to be applied to routes that the Authority deemed they were liable for the maintenance of. This moniker has no legal status. The legal definition of a "road" is a highway which is a generic term defined in law as covering routes from a footpath to a major highway.

We note from Appendix 5 that FP18 Quarnford is marked on the map as a blue line.

It is further noted that FP18 Quarnford is the only route listed as footpath status on Appendix 7. There is no evidence as to why FP18 is the only route that is currently shown as a footpath in comparison to the other routes marked in a similar way to FP18 on the Handover Map. Fundamentally the purpose of Handover Maps is to show whether a route is a publicly maintainable highway, its main purpose is not dealing with the nature of the rights over a specific route as they are not a record of rights. It has already been determined that the route is a public right of way as it is currently shown on the Definitive Map and Statement of Public Rights of Way but from the documents provided there is no evidence as to the exact nature of the rights over the alleged route.

Overall, Handover evidence on its own is not evidentially strong, as it is not a record of public rights. There is nothing with the Handover documentation that specifically refers to FP18 or the nature of any rights over the route or the way in which the route was used. Therefore, this piece of evidence is not considered to be supportive in this case when determining the nature of the rights over the route.

In relation to the Ordnance Survey map dated 1953 we note that the map key shows the alleged route marked as "Minor roads in towns, Drives and unmetalled roads (Unfenced roads shown by pecked lines)". The route depicted on the map matches up with the definition given in the key. However, the entirety of the route is not shown from the two screenshots of the map provided.

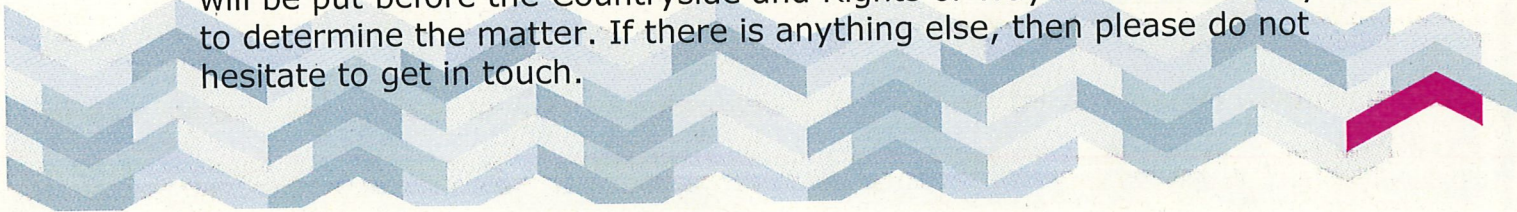
The purpose of Ordnance Survey maps is to show physical features on the ground, they do not distinguish between public and private rights of way. Evidentially this type of evidence is weak, but the map is suggestive for the sections of the route that are shown that the route was classed as a minor road, which would support the contention of the route having rights over it higher than a footpath and being a Restricted Byway, although as already stated this could be public or private.

In relation to the evidence submitted regarding the upgrade of Waterhouses FP's 95 and 96 we do not consider this application to be relevant in this case. Every application must be looked at individually and based on the evidence submitted relevant to that application. We would argue that even if a route is shown to be maintainable at public expense, this does not automatically mean that it has public vehicular rights over it.

Overall, the 1929 Handover evidence supports the existence of the route as a public right of way. The Parish Survey Card supports the existence of the route as a public footpath. The Alstonefield Inclosure Award supports for the section of the route shown that the route has private vehicular rights over it. The OS map supports the contention that the route was a road and had rights over it higher than a footpath, but these rights could be public or private.

Overall, when the evidence is reviewed in totality, officers' opinion is that the evidence is not strong enough on the balance of probabilities to show that the alleged route has the status of Restricted Byway and therefore officers recommendation that an Order should not be made to upgrade the route to a Restricted Byway remains.

Your comments and further evidence have been added to the report and will be put before the Countryside and Rights of Way Panel when they come to determine the matter. If there is anything else, then please do not hesitate to get in touch.



Yours sincerely



Hannah Titchener
on behalf of Kate Loader, County Solicitor.

HT2 / 016104DW

