

Claim for a Publicly Maintainable Highway at Mellow Lane, Ipstones

1. Purpose of Report

- 1.1 To consider a request from the Staffordshire Moorlands Bridleways Preservation Group (“SMBPG”) to add Mellow Lane, Ipstones to the list of streets that are highways maintainable at the public expense, maintained by the Director for Economy, Infrastructure and Skills under the requirements of Section 36(6) of the Highways Act 1980 on the grounds that it has ancient highway status. For the purposes of this report, an ancient highway is a highway that has been in existence prior to 31 August 1835.
- 1.2 A copy of the request letter dated 15 January 2004, which also contains a summary of the evidence relied upon, is attached at Appendix A to this report. A map of the highway alleged to be maintainable at the public expense is attached at Appendix B to this report. This route between points A and B is currently a footpath known as PF82 Ipstones.
- 1.3 The County Council as Highway Authority has to decide whether the route is a highway and if so, whether it is liable to maintain the alleged highway. If historical evidence supports the existence of a highway at Mellow Lane prior to 31 August 1835, the contention that it is an ancient highway maintainable at the public expense will be established, provided the highway rights have not been subsequently extinguished.
- 1.4 The County Solicitor has delegated power to determine this matter in accordance with the County Council’s Constitution.

2. Section 36 of the Highways Act 1980.

- 2.1 Section 36(6) of the Highways Act 1980 provides that the County Council must keep a list of streets within its area which are highways maintainable at public expense (“the Section 36 list”). The definition of “street” in the Highways Act 1980 is wide and includes any highway, road, lane, footway, passage, square or court etc. The Section 36 list is separate from the Definitive Map and Statement of Public Rights of Way (“the Definitive Map”), which are both kept by the Director for Economy Infrastructure and Skills. Rights of way included on the Definitive Map may or may not be maintainable at the public expense.
- 2.2 Section 36(5) of the Highways Act 1980 provides that a highway is a publicly maintainable highway either if it was already a highway which existed before 31 August 1835, or it became a highway after that date and has at some time been maintainable by the inhabitants at large of any area or a highway maintainable at the public expense. The County Council as Highway Authority has a duty to keep the Section 36 list correct and up to date.
- 2.3 Section 36 of the Highways Act 1980 does not specify a procedure by which the Highway Authority must carry out its duty. In particular, there is no requirement for consultation with parties such as affected landowners or occupiers who may have an interest in the matter. No procedure is provided under the Highways Act 1980 for objections to be made to a decision by the Highway Authority to either add or refuse to add a route to the Section 36 list.

- 2.4 There are two key questions for the County Council to consider. Firstly, whether or not the route is a highway. A highway is a public right of way, of whatever character, over a defined route. The evidence in any particular case may or may not provide sufficient proof that a highway exists on the alleged route.
- 2.5 Secondly, should it be found that a highway exists, the County Council must determine whether or not relevant evidence is available that shows the route to be publicly maintainable.
- 2.6 If the County Council is satisfied that above two questions will be answered in the affirmative, it must add the route to the Section 36 list kept by the Director of Economy, Infrastructure and Skills.
- 2.7 The standard of proof required is based on the civil test, namely, on the balance of probabilities. The exact status or nature of the route, in terms of its use, width or condition, are irrelevant considerations under Section 36 of the Highways Act 1980.
- 2.8 For the purposes of this report, if it can be shown that Mellow Lane has been in existence prior to 31 August 1835, the criterion of Section 36(5) of the Highways Act 1980 will be met, and the route will be considered to be a highway maintainable at the public expense, provided that the highway rights have not subsequently been extinguished.

3 Background

- 3.1 Mellow Lane, Ipstones, is also the subject of an application made by Mr Brian Smith on behalf of the Staffordshire Moorlands Bridleways Preservations Group ("SMBPG") to upgrade the route as a restricted byway to the Definitive Map under Section 53 of the Wildlife and Countryside Act 1981 ("the 1981 Act"). His application is dated 6th May 2014. The route is currently a footpath known as PF82 Ipstones.
- 3.2 The historical evidence referred to in sections 4 and 5 of this report is evidence submitted in support of the application provided by the SMBPG under Section 36 of the Highways Act 1980. Mr Smith has provided the same evidence as that provided by the SMBPG.
- 3.3 Mellow Lane is located within the Parish of Ipstones, within the boundaries of Staffordshire Moorlands District Council.
- 3.4 Mellow Lane is very roughly 1 kilometre in length and runs in a north eastly/south westly direction between Bridleway 85 Ipstones and Dog Lane shown as points A to B on the map attached at Appendix B. Dog Lane appears on the Section 36 list. Neither Mellow Lane nor Bridleway 85 are currently on the Section 36 List.
- 3.5 At the northern-most point of Mellow Lane, the lane turns at right angles to join Bridleway 85 on a track which was known as Newbarn Lane. From this point the bridleway heads in a south easterly direction for three quarters of a kilometre leading to the Ellastone Road. It is unclear whether this additional stretch of route is currently known as Mellow Lane or Newbarn Lane.

4. Evidence submitted by the Staffordshire Moorlands Bridleways Preservation Group

- 4.1 The SMBPG has submitted evidence in support of their application made under Section 36 of the Highways Act 1980. Their letter of application can be found at Appendix A
- 4.2 The SMBPG has submitted a copy of William Yates' map of Staffordshire dated 1798 with their application which indicates a visible feature on the map in approximately the same area as that of the current Mellow Lane. The route has been highlighted by the SMBPG. The Key ("Explanation") has also had the words "cross roads" highlighted by the SMBPG (the relevance of which will be explained in the comments section below). Yates' map can be found at Appendix C.
- 4.3 The SMBPG has supplied Smith's Map of Staffordshire dated 1817 which again shows a physical feature on the map in approximately the same area as that of the current Mellow Lane. The route has been highlighted by the SMBPG. The Key ("Explanation") has also had the words "cross roads" highlighted by the SMBPG. As mentioned, please see the comments section below for the relevance of this. A copy of Smith's map can be found at Appendix D
- 4.4 The SMBPG has provided a copy of Teesdale's map of Staffordshire dated 1831/2 in which they have highlighted a physical feature which they consider to be Mellow Lane. A copy of Teesdale's map can be found at Appendix E.
- 4.5 The SMBPG has also supplied a map of Staffordshire dated 1806 which has been noted as being John Cary's map. This again shows a physical feature which they have highlighted, in the general area that they believe to be Mellow Lane. This map can be found at Appendix F.
- 4.6 An Ordnance Surveyors drawing OSD:348 from 1836 has been provided by the SMBPG. This shows a physical feature described as "Mellow Lane" on the drawing which has been highlighted. A copy of this can be found at Appendix G.
- 4.7 The SMBPG has also submitted a copy letter from a Director for Highways and Transport at the Planning Inspectorate dated 2nd May 1997 to a representative of the British Driving Society Access Committee explaining the meaning of "cross road" in relation to old maps. A copy of this letter can be found at Appendix H.
- 4.8 The SMBPG has submitted a copy of the 1910 Finance Act field book (revised 1922), listing Mellow Lane as a public road. The excerpt states Mellow Lane as *a public road branching off highway Rd about 10 chains north of Cockintake and extending in a northerly direction to about 12 chains south of Black Brook (new name)*". A copy of the relevant page of the field book can be found at Appendix I.
- 4.9 The SMBPG has also submitted a copy of the Definitive map at the time of the application showing the route as public footpath 82 Ipstones. They have highlighted the current footpath on the map. A copy of this may be found at Appendix J

5 Evidence discovered by Staffordshire County Council

- 5.1 Officers have conducted research into historical documentation at the County Council's Record Office and examined the Parish Survey Cards and draft of the Definitive map in 1954 which shows the alleged route of Mellow Lane marked as CRF(82). A copy of the relevant route on the draft Definitive Map of 1954 and Survey Cards can be found at Appendix K.

- 5.2 In May 2014 whilst collating information concerning the section 53 Wildlife and Countryside Act 1981 application, the owners of Mellow Lane Farm were identified. Officers corresponded with the owners and an initial consultation letter was sent to them advising of the application although there is no response on file. A recent search of the Land registry shows Mellow Lane to be part of two separate Land Registry titles.
- 5.3 In September 2015 enquiries were made by a firm of Solicitors acting on behalf of a couple who wished to buy a house on the route and details were provided.
- 5.4 In the course of investigations into the s53 claim statutory consultees and district and parish council were contacted. A response was received from Ipstones Parish Council on 10th November 2014. The members had no objections to the application but did not provide any evidence concerning the route. The Peak & Northern Footpath society also responded on 9th November 2014 supporting an upgrade to the route although did not provide any evidence. The Byways and Bridleways trust also supported the application to upgrade and the representative advised that he had ridden his motorcycle on the route on a number of occasions in the 1970s and 1980s.

6 Comments on available evidence

- 6.1 The southern end of Mellow Lane ends at a publicly maintainable highway which appears on the County Council's list of publicly maintainable streets as such. This publicly maintained road is now known as Dog Lane. The northerly end of Mellow Lane ends on Bridleway Ipstones 85. This Bridleway links the Ashbourne Road and the Ellastone Road, Winkhill both of which are publicly maintainable.
- 6.2 The SMBPG supplied a copy of Yates's map of 1798 which depicts a physical feature on the ground which suggests the route of a highway. If this map is compared with the OS drawing of 1836 which has Mellow Lane labelled as a way, the routes do appear to follow the same line. Yates' map does not however convey what the status of the route is.
- 6.3 The key to the route on Yates' map has been highlighted as a cross roads. The significance of which is that a cross roads depicts the route's status. The SMBPG supplied a letter dated 2nd May 1997 addressed to a representative of the British Driving Society Access Committee from a Director, Highways and Transport at the Planning Inspectorate at Bristol.
- 6.4 The Director explained in his letter that a cross road in archaic English denotes "a road running across between two main roads or a by-road". The Director cited Justice Howarth's comments in the unreported case of Hollins v Oldham when considering an old map. In consideration of Burdett's Map of Cheshire 1777 Mr Justice Howarth noted that Burdett had identified two types of road in a key to the map. These roads were "turnpike roads..... and secondly other types of roads which may be called cross roads". Justice Howarth concluded that a cross road "it seems to me, must mean a public road in respect of which no toll was payable". The Director went on to explain that at inquiries into definitive map orders, maps showing cross roads may be produced as historical evidence that public rights have existed over the order route. The Director did however go on to explain that each case must be decided on its merits.
- 6.5 In light of the Director's letter therefore, the route shown in Yates' map does suggest Mellow Lane to be a public highway which existed before the 1835 Highway's Act.
- 6.6 With regard to Smiths map of 1817, this again depicts a physical feature in the same area as that of Yates map, which when compared to the OS map 19 years later is identified as Mellow Lane. A key has been provided which again shows the depicted way on the map as a cross roads. With regard to the route's status, is it unclear

whether it is public or not, but note must again be taken of the Director's explanation in relation to Yates' map.

- 6.7 John Cary's map of 1806 and Teesdale's map of 1831/2 both show a physical route in the same approximate area as that of Mellow Lane although the scale is very small. Such small scale maps do however suggest that only carriage roads and those with higher rights would be shown. It is unclear as to whether the route on either map could be considered a cross road as there is no key with either map, but the routes follow a similar line to that of Smith and Yates' maps and are contemporaneous in terms of dates. The fact that they appear on the maps prior to 1835 suggest that they were public roads, were in existence prior to the 1835 Act.
- 6.8 In relation to their value as evidence, it must be recognised that during the 16th, 17th, and 18th centuries there were several maps drawn up by private individuals. These maps are often known by the name of the person who was responsible for drawing or surveying them. The primary purpose for the mapmaker may have been monetary in that they could sell copies to interested parties. Individually therefore they do not carry much legal and evidential weight. Furthermore, mapmakers often plagiarised each other's work.
- 6.9 The Ordnance Survey drawing of 1836 shows a physical feature on the ground which identifies Mellow Lane. It cannot however be considered to be evidence as to the status of the route and therefore whether it was a public or private right of way. The map however is further confirmation that the route was in existence in 1835.
- 6.10 The SMBPG provided as evidence a revised 1910 Finance Act Name Book. This revision was dated 1922. There is a descriptive remark referring specifically to Mellow Lane as being "*a public road*" although there is no associated map provided with the Name Book.
- 6.11 The relevance of the 1910 Finance Act is that District valuation offices required the completing of a national survey of land on behalf of the Inland Revenue so that incremental value duty could be levied when ownership of land was transferred. In this case, Mellow Lane is identified and described as being a public road. Such land could be excluded from payment of taxes on the grounds that it was a public highway.
- 6.12 Claims for deductions were investigated by the valuers to ensure that these were valid. The legislation set out that it was an offence to make a false claim under the Act and was punishable by a fine and up to 6 months imprisonment. Given this consideration it would have been most unlikely that a landowner would have made a claim unless it was well founded. This document is therefore good evidence that in 1922 the route was still known to be in existence and continued to be considered as a public road.
- 6.13 The Parish Survey cards were studied in order to assist in the understanding as to how the route was established as a footpath and also whether there was any further information that could be gleaned. At the time of the drafting of the first definitive map in 1954, both Mellow Lane and Ipstones 85 were known as cart roads which were predominantly used as footpaths.
- 6.14 They show that at the time of the survey, Mellow Lane was listed as CRF 82 on the draft Definitive map. The relevant Parish Card which can be found at Appendix K explained that the route was public due to "*common usage by public for more than 30 years without objection*". Mellow Lane starts at the Ipstones Edge – Casey Head Road (now known as Dog Lane) and joins up with Newbarn Lane being CRF No 85 (now known as Bridleway 85). The fact that the route is on the Definitive Map shows the route is recognised legally to be in existence and still has public rights.
- 6.15 Additionally, it appears that part of Mellow Lane is listed in the National Street Gazetteer as a private route. This however is immaterial because one of the

characteristics of real property law is that several interests can exist in the same piece of land at the same time. Consequently, a public right of way can be established over privately owned land. This however has no bearing on the application either for or against the claim.

7 Summary

- 7.1 The evidence from the various map providers give an indication to the fact that there has been a highway known as Mellow Lane between Dog Lane and PF85 Ipstones most likely since the early C17.
- 7.2 Yates Map of 1798 and Smith's Map of 1817 show the route as a cross road. The route is shown on the plans and if we rely on Justice Howarth's comments this carriage way would be available to the public. These plans therefore support the fact that Mellow Lane was an "ancient highway" which was maintainable at public expense prior to 31st August 1835. This would fulfil the criterion of Section 36(5) of the Highways Act 1980 that a public highway in existence prior to 31st August 1835 would be a highway maintainable at the public expense.
- 7.3 The maps provided by John Cary and Teesdale also show there to be a route along Mellow Lane although do not provide the same weight of evidence as to whether the routes shown were public or not. If however the Yates and Smith maps are accepted then these plans show further evidence that the route was of a public nature and in existence prior to 1835.
- 7.3 The Finance Book provides evidence that the route has been recognised as a public road some 87 years after the Highways Act 1835 and more recently the Parish Survey cards also show that there is a public way albeit currently shown as a public footpath on the Definitive Map.
- 7.4 In the case of the Attorney General -v- Watford Rural District Council [1912] 1 Ch 417, Lord Justice Parker stated that once a way is proven to be a public highway the burden of proof lies upon the Highway Authority to prove that it is not publicly maintainable rather than another party having to prove that it is.
- 7.5 If it is accepted that Mellow Lane was part of a cross roads between the main Leek to Ashbourne Road and the Ipstones Edge/Casey Head Road since the middle ages which was in existence prior to 31st August 1835 and used by the public then, in the absence of evidence to contrary, it would be reasonable to assume that the route was used by the types of vehicular traffic in use at that time, namely, horse drawn vehicles and is now maintainable at public expense.

8 Conclusion

- 8.1 County Council officers consider that the evidence proves that the route is a public highway, which existed before 1835. Consequently, the route should be added to the list of publicly maintainable highways kept by the Director of Economy, Infrastructure and Skills.

9 Recommendation

- 9.1 It is for the County Solicitor to consider all of the relevant evidence available but, on the basis of the evidence, County Council officers consider that the following recommendations can be made:-
 - (a) That the route marked "A to B" shown on the map attached as Appendix B to this report be added to the list of publicly maintainable highways kept by the Director for Economy, Infrastructure and Skills.

- (b) That in response to the application made under Section 36 of the Highways Act 1980, the SMBPG be informed that the route referred to in paragraph (a) above is a highway, that it should be shown on the list of publicly maintainable highways.

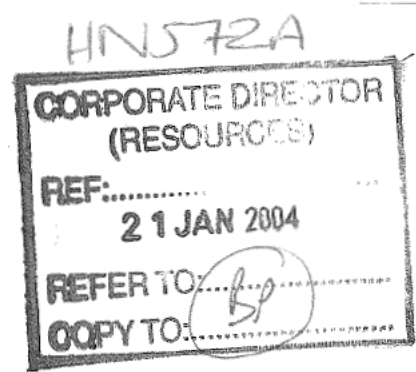
Report Author: Stephanie Clarkson
Contact number: 01785 276292
File reference: 023965

List of Appendices

- | | |
|------------|---|
| Appendix A | Copy letter from Staffordshire Moorlands Bridleway Preservation Group dated 15 th January 2004 |
| Appendix B | Copy map of the highway alleged to be maintainable at the public expense |
| Appendix C | A copy of William Yates' map of Staffordshire dated 1798 |
| Appendix D | A copy of Smith's Map of Staffordshire dated 1817 |
| Appendix E | A copy of Teesdale's map of Staffordshire dated 1831/2 |
| Appendix F | A copy of John Cary's map of Staffordshire dated 1806 |
| Appendix G | A copy of Ordnance Surveyors drawing OSD:348 from 1836 |
| Appendix H | A copy letter from a Director, Highways and Transport of the Planning Inspectorate dated 2 nd May 1997 to a representative of the British Driving Society Access Committee |
| Appendix I | A copy of 1910 Finance Act field book (revised 1922) |
| Appendix J | A copy of the Definitive map at the time of the application showing the route as public footpath 82 Ipstones. |
| Appendix K | Parish Survey Cards and draft of the Definitive map in 1954 |

Appendix A

Application



STAFFORDSHIRE MOORLANDS BRIDLEWAYS PRESERVATION GROUP

15 January 2004

The Corporate Director of Resources
Staffordshire County Council
Martin Street
Stafford
ST16



Dear Sir

MELLOW LANE, FP82, IPSTONES PARISH

Please find enclosed an Ancient Highway Claim in respect of the above, as we have evidence to suggest that the way is a vehicular road.

Enclosed are copies of the following old maps.

Ordnance surveyors drawing OSD348 ser. 317 showing the name Mellow Lane.

Wm. Yates map of Staffordshire dated 1817 depicting Mellow Lane as a 'cross road'.

Smith's map of Staffordshire dated 1817 depicting Mellow Lane as a 'cross road'.

A section of Teesdales map of Staffordshire dated 1831/2 clearly showing the way.

A small scale map of Staffordshire by John Cary dated 1806.

A copy of Greenwoods map of Staffordshire could not be made, but is available in the Wm. Salt Library.

Also submitted is a name book connected with the 1910 Finance Act obtained by Kew Research from the Public Record Office, showing Mellow Lane as a public road.

A copy of a letter from the Planning Inspectorate explaining the meaning of 'cross road' when referring to old maps.

We would ask that this information is considered, and if satisfactory, should be added to the List of Streets maintainable at public expense as a 'Byway open to all traffic'.



2

We would like to draw the County Council's attention to the fact the Mellow Lane Farm is advertised 'for sale'. We would like to think that anyone carrying out a rights of way search would be informed of our application.

We look forward to hearing from you by return.

Yours sincerely




Secretary
Staffordshire Moorlands
Bridleways

Appendix B

Map of claimed publicly maintained highway

 Section 53

**Public Rights of Way
Legal Orders**

 may alter the
course of a right
of way shown
on the Definitive
Map

 Parishes



APPENDIX B

© Crown Copyright and database rights 2020.
Ordnance Survey 100031282.

2000 Aerial Photography by UKPerspectives.com.
License Number UKP/048/SCC.

2010 Aerial photography copyright Getmapping (2006-10).
You are not permitted to copy, sub-license, distribute
or sell any form of this data to third parties in any form.
Produced by Staffordshire County Council 02/09/2020.










Ordnance Survey data © Crown copyright and database right 2020.
Ordnance Survey data © Crown copyright and database right 2020. OS
100030994.

0 0.1 0.2 0.3 0.4 Kilometres

Appendix C

Yates' map 1798

EXPLANATION

- Market Towns in Capitals as LEEK
- Parishes in Print Endon
- Villages, Farm Houses &c.
- Parks of the Nobility and Gentry 
- Gentlemen's Houses 
- Heaths 
- Woods 
- Great Roads 
- Croft Roads** 
- Rivers 
- Canals 
- Forges and Water Mills 

FROM COUNTY RECORD OFFICE.

THE COUNTY OF STAFFORD,

from the
Red Map in Six Sheets

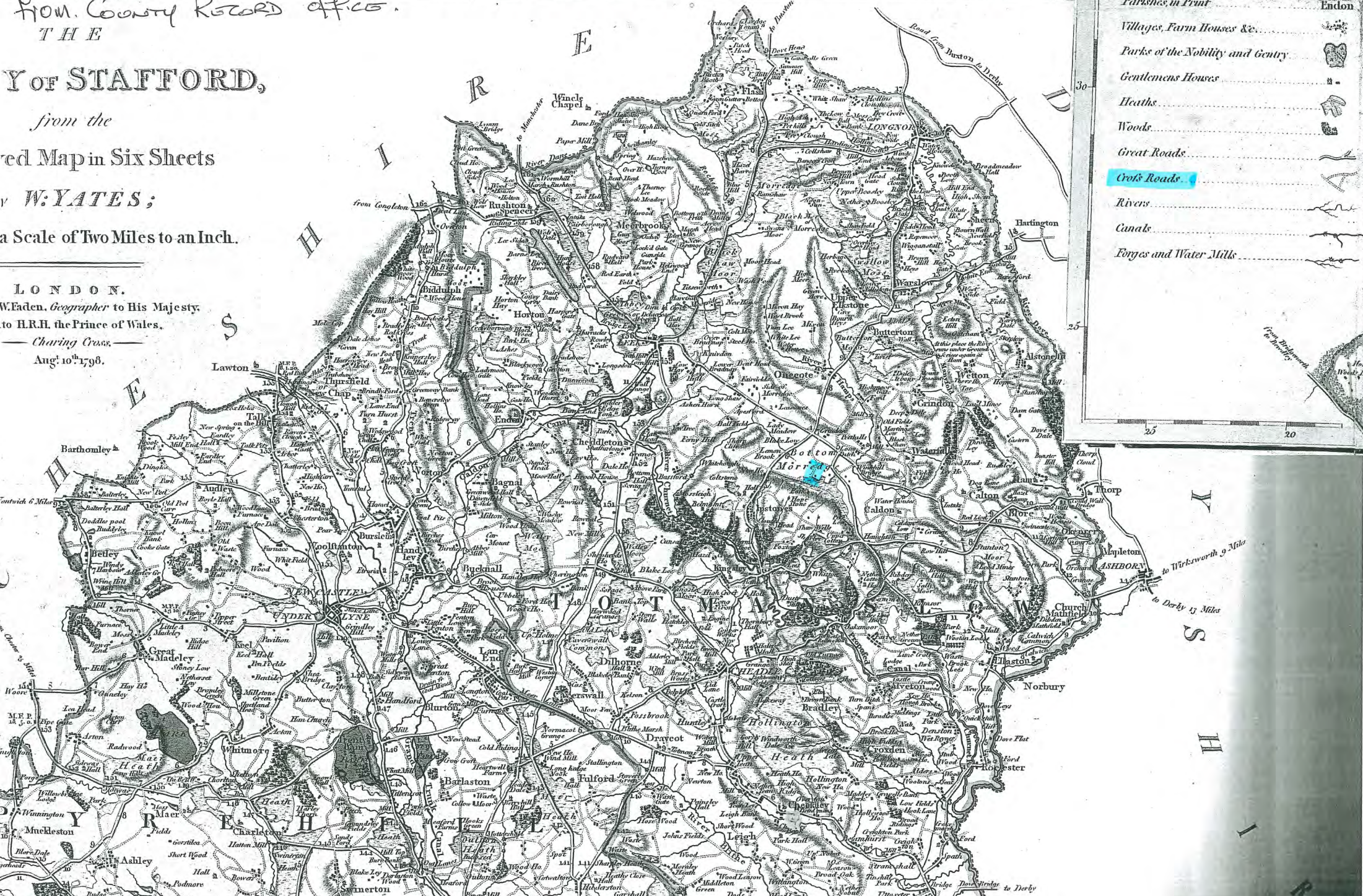
by W. YATES;

at a Scale of Two Miles to an Inch.

LONDON.

W. Eaden, Geographer to His Majesty,
to H.R.H. the Prince of Wales,

Charing Cross,
Aug^r. 10th 1798.



Appendix D

Smith's map 1817

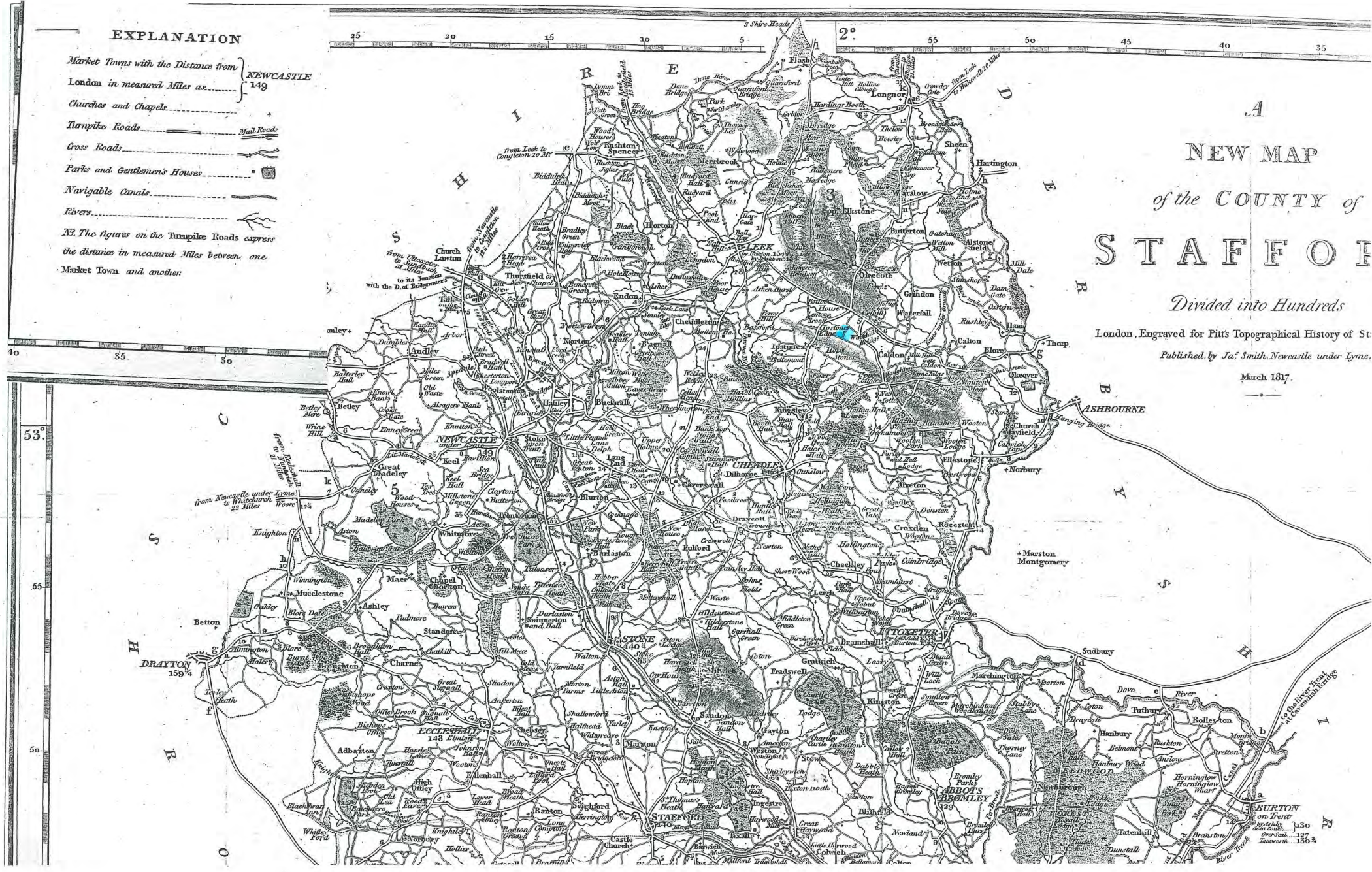
SMITH'S MAP of 1817
 COUNTY RECORD OFFICE

EXPLANATION

- Market Towns with the Distance from } **NEWCASTLE**
 London in measured Miles as ----- } 149
- Churches and Chapels -----
- Turnpike Roads ----- *Mail Road*
- Gross Roads -----
- Parks and Gentlemen's Houses -----
- Navigable Canals -----
- Rivers -----
- N.B.* The figures on the Turnpike Roads express
 the distance in measured Miles between one
 Market Town and another.

NEW MAP
 of the **COUNTY OF**
STAFFORD
 Divided into Hundreds

London, Engraved for Pitt's Topographical History of St.
 Published by Jas. Smith, Newcastle under Lyme.
 March 1817.



Appendix E

Teesdale's map 1831



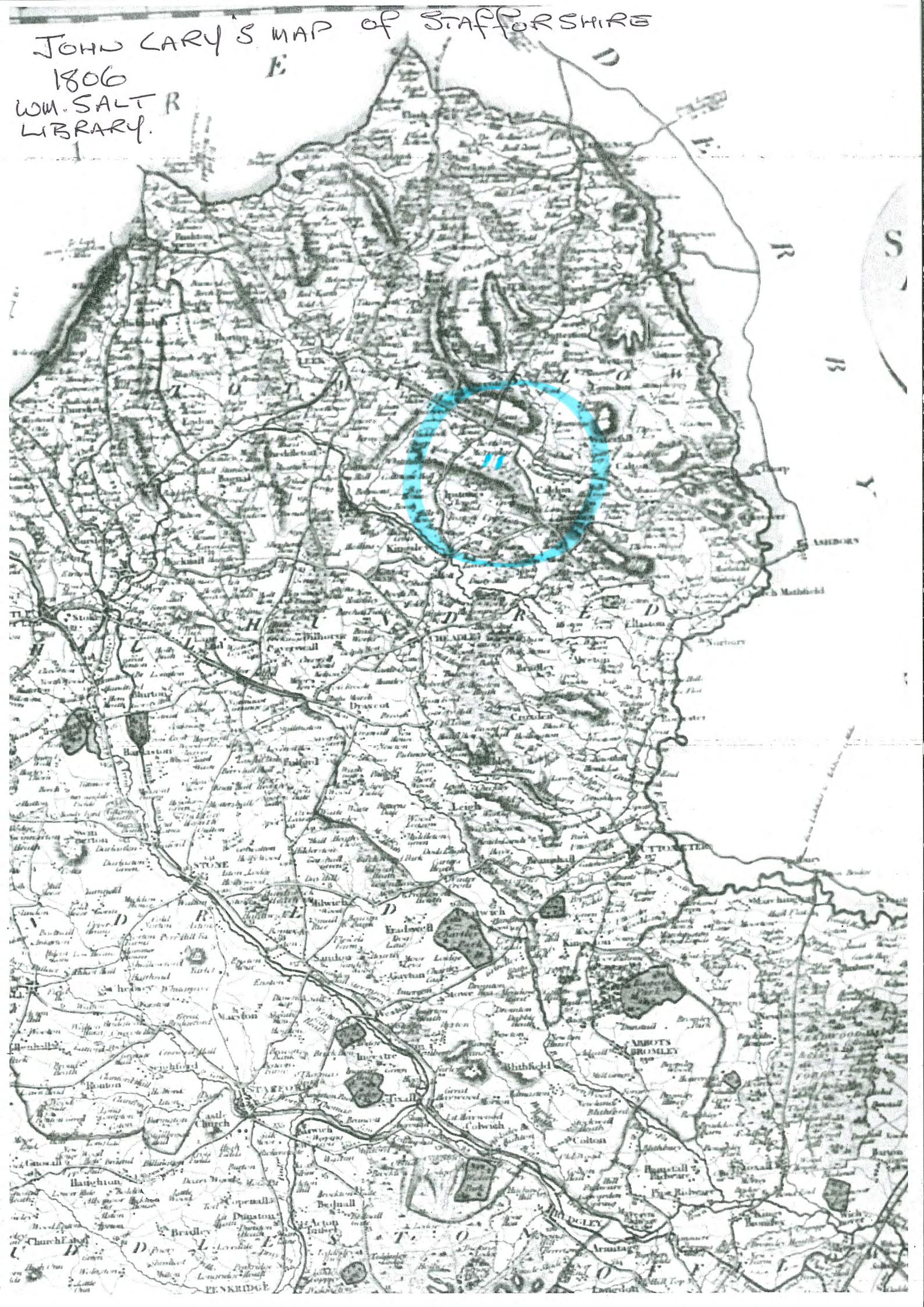
Appendix F

John Carey's map 1806

JOHN CARY'S MAP OF STAFFORDSHIRE

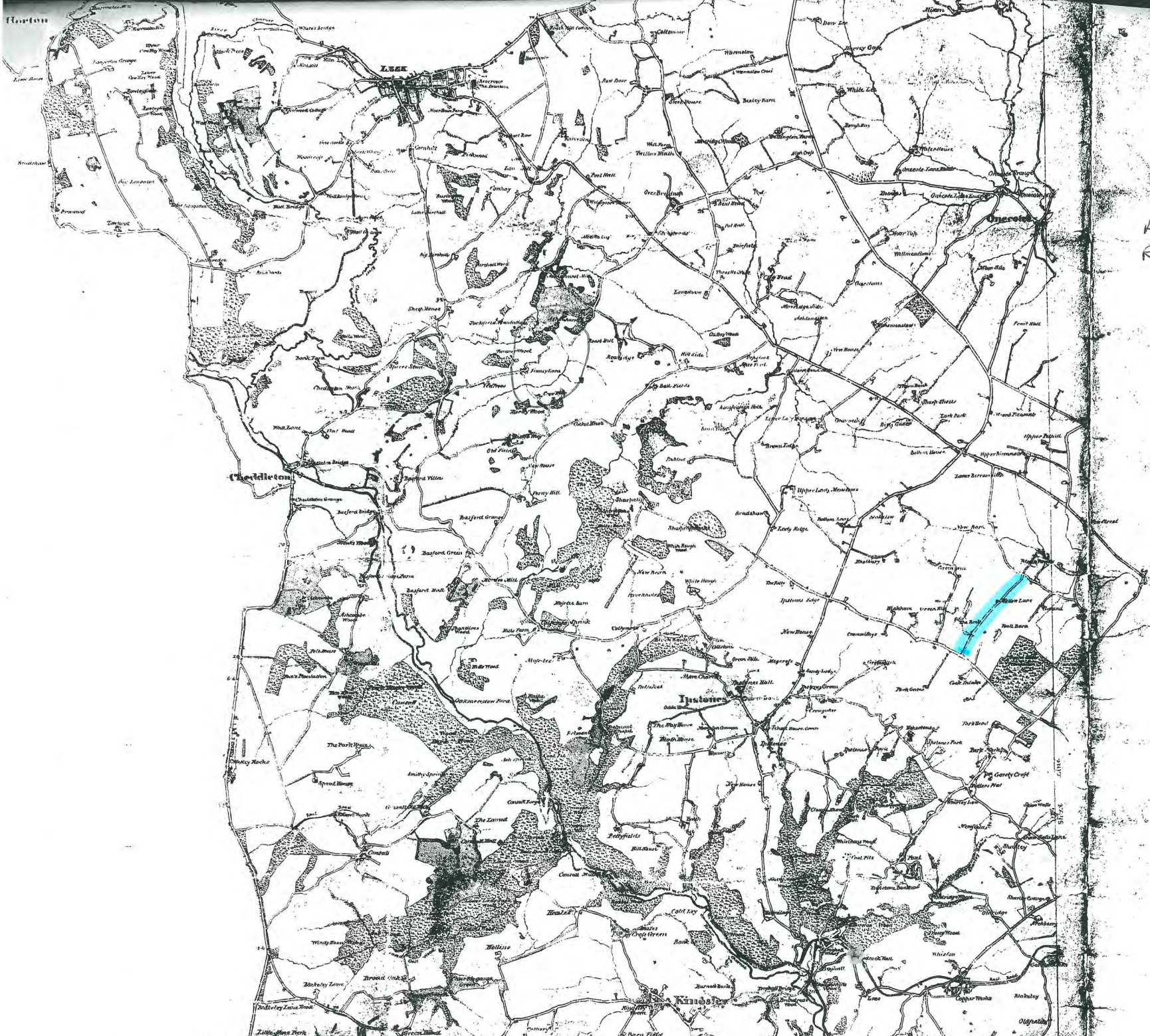
1806

W.M. SALT R
LIBRARY.



Appendix G

Ordnance Survey map 1836



ORDNANCE SURVEYORS
DRAWING.
OSD. 348 SER. 317.
1836.

AVAILABLE IN COUNTY
ROAD OFFICE.

Appendix H

Letter Re: Cross roads

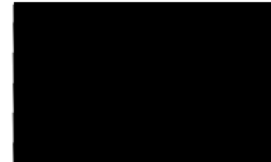


Environmental Inspectorate
An Executive Agency in the Department of the Environment and the Welsh Office

HNS72A

Room 1502C
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line
Switchboard
Fax No
GTN



[Redacted]
British Driving Society -
Access Committee
[Redacted]
West Yorkshire
[Redacted]

Your Ref:
Our Ref: R12
Date: 2 May 1997

Dear [Redacted]

At the User Group Meeting on 19 March 1997, I undertook to draw the question of the meaning of 'cross road' to Inspectors undertaking Rights of Way inquiries.

I have now done so, in the following terms:

DEFINITION OF 'CROSS ROAD'

In modern usage the term 'crossroad' or 'crossroads' is generally taken to mean the point where two roads cross each other. There is however an archaic meaning of 'cross road', denoting a road running across between two main roads, or a by-road. Old maps showing such ways may be produced as evidence in definitive map order cases that public rights exist.

The meaning of 'cross road' in this context was considered by Mr Justice Howarth in his unreported judgement in the case of *Hollins -v- Oldham*. In considering in evidence an old map, *Burdett's Map of Cheshire 1777*, Mr Justice Howarth found that:

" ... Burdett's Map of 1777 identifies two types of roads in the key: first turnpike roads, that is to say roads which could only be used upon payment of a toll and, secondly, other types of roads which may be called cross roads. That does not mean a place where two roads cross ... but a road called a cross road. This latter category, it seems to me, must mean a public road in respect of which no toll was payable."

At inquiries into definitive map orders, maps showing cross roads may be produced as historical evidence that public rights have existed over the order route. Each case must be decided on its merits, but where the meaning of the term 'cross road' is at issue, Inspectors should bear in mind the above judgement when reaching their conclusions.

I do hope that this will satisfy your concerns.

Yours sincerely



Director, Highways and Transport

29 April 1997

cc



Cross Roads

Appendix I

Cover of Finance Act Name Book

Finance Act Name Book

OS35/6454

NAME BOOK

REVISED 1922

Containing Plans:-

13 N.E. 3, 4, 7, & 8

STAFFORDSHIRE

No change on this page
 a 24 Sept. 1922
 11/16 Sept 1922

Map of Ipstones Sheet XIII. 8. N.E.

Names revised Sept. 1922

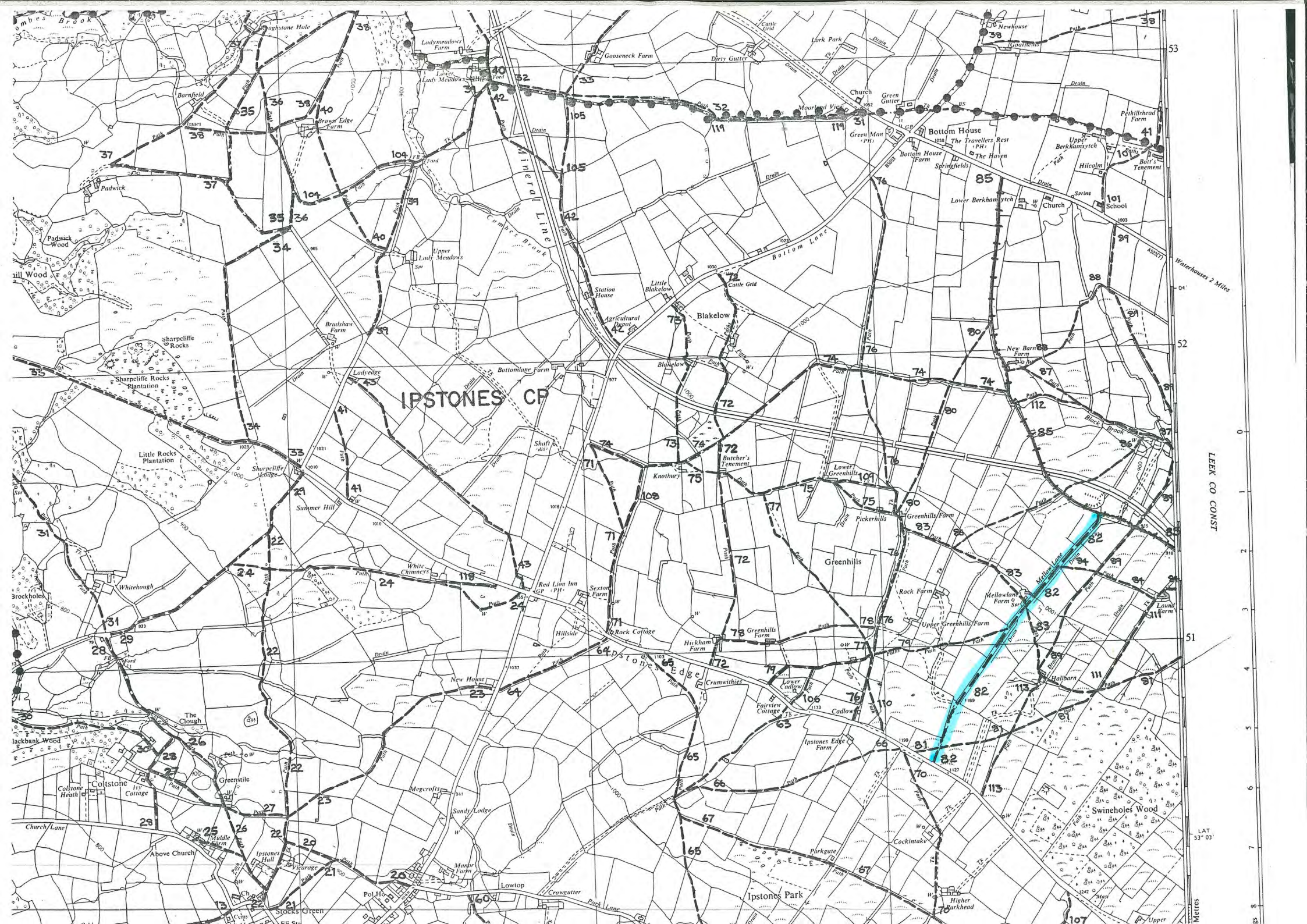
15

Names collected & entered by Madeline Ghan in March 1898.

List of Names as written on the Plan	Various modes of Spelling the same Name	XIII. 8. 1 Spelling	Sheet	Pl	Tres	Descriptive Remarks, or other General Observations which may be considered of Interest
Butcher's Tenement (St.)	Butcher's Tenement.	Mr. J. Barks. Occupier Mr. J. Birch. Mellow Lane Farm Mr. J. Bowler. Cadlow.	XIII	8	1	A farm. Shedding situated about six chains east of Knotbury & north-west of Greenhills The property of Mr. W. Salt. Middleton Park Alkington Park or Dirty. new name.
<u>Mellow Lane</u> (St.)	Mellow Lane.	as above.	XIII	8	2.315	A public road branching off highway R. about 10 chains north of Knotbury & extending in a northerly direction to about 12 chains south of Black Brook. new name
Parkgate. (St.)	Parkgate.	Mr. J. W. Clows. Occupier Mr. C. Massey. Cockintake. Mr. J. Barks. Hallbarn.	XIII	8	4	A cottage tenement situated on the north side of Ipstones Park & about a quarter of a mile south of Cadlow. The property of Mr. Benson. Big Birch. N. Leek. new name

Appendix J

Copy of Definitive map



IPSTONES CP

LEEK CO CONST

LAT 53° 03'

METRES

Appendix K

Parish Card 82

Parish Card 82 narrative

Definitive map draft 1954 showing CRF82

of last walking
ling the path :

21/10/51

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.

Staffordshire County Council : Survey of Rights of Way

LOCAL AUTHORITY :

Cheddle R.D.

PATH No., as on map :

82. ✓

PARISH :

Ipstones

PATH SYMBOL, as on map :

CR.F

Note—The survey should be carried out as described in the pamphlet "Survey of Rights of Way."

Path starts at : Near badlow.

Ipstones Edge - basey Head Rd.

Path finishes at :

Jones C.R.F No. 85

6" quarter Ordnance Sheet No. :

XIII. N.E.

Names and addresses of persons making the survey :

Survey started on 10th Sept 1950

Survey finished on 28th Aug. 1952.

R blowes.

Sandycroft, Ipstones.

Grounds for believing path to be public ; please mention Enclosure Award Maps, Tithe Maps, and any other relevant documentary evidence

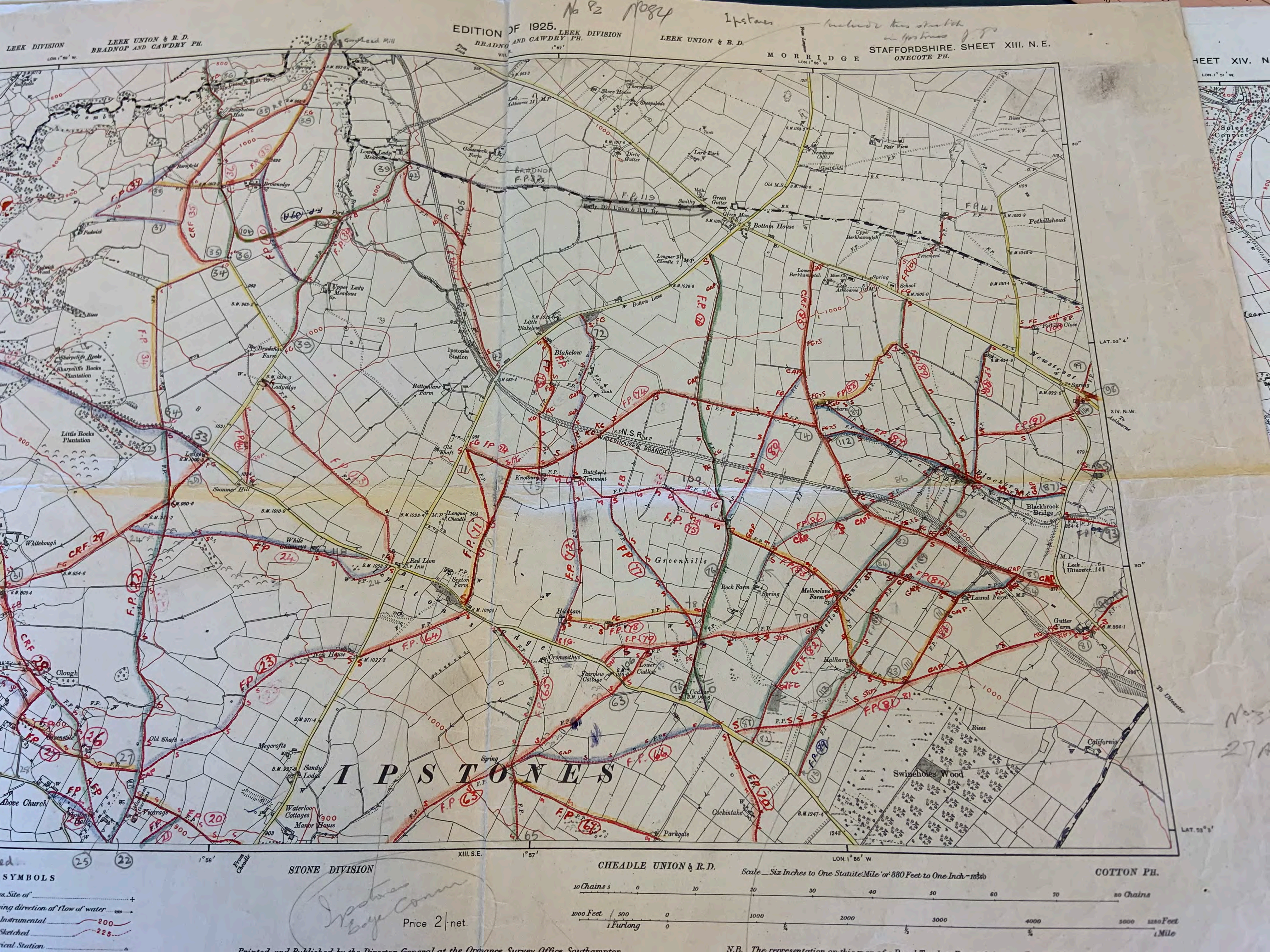
Common Usage by Public for more than 30 yrs without objection.

Date of last walking
riding the path : 21/10/51

Description of route :

C.R.F. to Newbarn & Lower Beekhampton.
Starts from the Istones Edge - basey Head road some 500 yds
East of Cadlow on North side of road - S.S. & F.G. and cart track
over rough common land to second S.S. & F.G. leading into
Mellow Lane. This continues past Mellow Lane Farm and joins
up with Newbarn lane being C.R.F. No 85.
Road very rough and little used for vehicular traffic, except
by local farmers. No obstruction
This road is known locally as Mellow Lane.

Date of last walking
riding the path : 17/5/52.



EDITION OF 1925. LEEK DIVISION
BRADNO AND CAWDREY PH. MORRIDGE
LEEK UNION & R. D. STAFFORDSHIRE SHEET XIII. N. E.
ONECOTE PH.

LEEK DIVISION
LEEK UNION & R. D.
BRADNO AND CAWDREY PH.

MORRIDGE
STAFFORDSHIRE SHEET XIII. N. E.
ONECOTE PH.

SHEET XIV. N.
LON. 1° 51' W.

I P S T O N E S

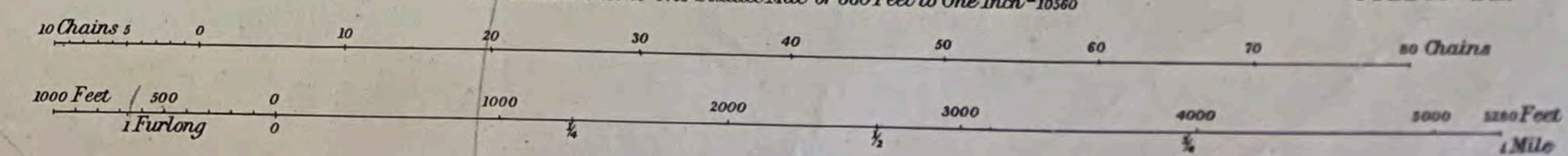
- SYMBOLS**
- Site of
 - Direction of flow of water
 - Instrumental
 - Sketched
 - ical Station

STONE DIVISION

CHEADLE UNION & R. D.

COTTON PH.

Scale Six Inches to One Statute Mile or 880 Feet to One Inch - 1880



*Ipsstones
Boys' Corner*

Price 2 net.

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Addendum to Report

Comments provided by a representative of the British Horse Society

To: Stephanie Clarkson, Legal Officer

Date: 11/11/2022

S36 Application for publicly maintainable highway, Ipstones, Staffordshire Moorlands

Dear Stephanie

Thank you for your email. In addition to the evidence referred to in the application, the Parish Survey records clearly identify footpath Ipstones 82 as a former RUPP, therefore it is arguable that the route has higher rights than that of a footpath. At the time of the production of the first Definitive Map and Statement in Staffordshire, three categories of public rights of way could be recorded, public footpath, public bridleway and road used as a public path (RUPP).

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FAQs	
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Located At	Staffordshire Record Office
Level	Item
Alt Ref No	C/P/138/99
Title	Ipstones: parish rights of way survey
Date	Jun 1950-Jun 1958
Description	Includes: OS map sheets: 13SE, 13SW, 13NE,13NW and 14NW

82. Road used as public path from county road about 250 yards north of Cockintake, to road used as Public Path 85 about 400 yards northeast of Mellowlane Farm (known as Mellow Lane) (description of route). Map reference: 13NE

Also, please note that a DMMO application under s.53 HA1980 was submitted to SCC and accepted on 21/08/2014 reference 008636 for Restricted Byway. Prior to reclassification (former RUPP) the route conclusively carried at least bridleway rights and thus only limited new evidence of higher

rights will be necessary to enable a DMMO, to give effect to this application, to be made and confirmed.

The British Horse Society supports the case for higher rights to be recorded on this route although from the road Dog Lane, Ipstones Edge SK 04160 50629.

Kind regards

Access Field Officer West and East Midlands

The British Horse Society

Comments provided by a representative of the Ramblers Association

To: Stephanie Clarkson, Legal Officer

Date 11/11/2022

S36 Application for publicly maintainable highway, Ipstones, Staffordshire Moorlands

Hi Stephanie

Regarding public Ipstones footpath 82 to be upgraded and maintained by the highway authority.

I have no evidence for or against the proposal as long as it will only be used by ramblers and horse riders.

Thank you.

**Comments provided by a representative of the Byways and
Bridleways Trust**

To: Stephanie Clarkson, Legal Officer

Date 15/11/2022

**S36 Application for publicly maintainable highway, Ipstones,
Staffordshire Moorlands**

Dear Ms. Clarkson,

re: Mellow Lane, Ipstones

Thank you for your letter of the 11th instant, with its enclosure.

Clearly, in view of my previous comments in respect of Mr. Smith's s.53 application, I fully support the present s.36 application.

At the risk of repeating myself ad nauseam, this is yet another example of the failure of the Council fully to consider any evidence when this CRF was wrongly reclassified as a mere FP.

Kind regards,

Comments received from the North Staffordshire Bridleways Association

To: Stephanie Clarkson, Legal Officer

Date: 16th November 2022

S36 Application for publicly maintainable highway, Ipstones, Staffordshire Moorlands

Dear M/s Clarkson, Thankyou for your notification to N. Staffs. Bridleways Assoc.

We would definitely hope that the route WILL be added to the list of streets so that it can be legally used by horse traffic. While we hold copies of the several County maps shown in your Report, we would have no extra 'evidence' to submit as the route is more within the area of operations of the Staffs. Moorlands Bridleways Protection Group. We note that the Report mentions them.

We really appreciate being kept informed of such matters in and around 'our' area.

Yours sincerely

█ NSBA Research Officer.

Comments received from a representative of Staffordshire Moorlands Bridleway Group

To: Stephanie Clarkson, Legal Officer

Date: 28th November 2022

S36 Application for publicly maintainable highway, Ipstones, Staffordshire Moorlands

Hello Stephanie

Thank you for your report. Staffordshire Moorlands Bridleways Group have nothing further to add to this.

As you are aware, SMBG submitted a s.53 application in May 2014 to have this route upgraded to a restricted byway. PINS directed that this application should be dealt with by 31 March 2019 but nothing has been done. I would ask that this application is dealt with as soon as possible, and that your findings in your s.36 report be included as evidence.

Kind regards

Rights of Way Officer
Staffordshire Moorlands Bridleways Group

Evidence Provided by Solicitors to Landowner 1

To: Stephanie Clarkson, Legal Officer

Date: 7th December 2022

**S36 Application for publicly maintainable highway, Ipstones,
Staffordshire Moorlands**

Dear Sirs,

Please find correspondence attached.

Yours faithfully,

Natasha Thomas

Solicitor

A.H Brooks & Co



AHBROOKS & CO
SOLICITORS

Our Ref: NT/KLJ/FRI013/003
Your Ref: 023965

Staffordshire Legal Services
Staffordshire County Council
1 Staffordshire Place
Tipping Street
Stafford
ST16 2DH

LEEK
Derby House
Derby Street
Leek
Staffordshire
ST13 6JG

Tel: 01538 383201
Fax: 01538 387074

CHEADLE
Central Buildings
High Street
Cheadle
Stoke-on-Trent
Staffordshire
ST10 1AR

Tel: 01538 754253
Fax: 01538 755698

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Email: lawyers@ahbrooks.co.uk
www.ahbrooks.co.uk

We do not accept service by electronic means

And by e-mail to:
legal.services@staffordshire.gov.uk
stephanie.clarkson@staffordshire.gov.uk

7 December 2022

Dear Sirs,

Re: s36 Alleged Publicly Maintainable Highway along FP82, Mellow Lane, Ipstones

We have been instructed on behalf of [REDACTED] to reply to your letter dated 9 November 2022 in respect of the above.

[REDACTED] would like to make the following information known, to be considered by the County Solicitor.

A copy of the Land Registry plans showing our clients ownership are attached having Title Numbers SF659757, SF279746, SF313717, SF271937 and SF536712.

The route proposed to be adopted, running from points A to B, is land owned by our client which spans the length of the property known as Mellow Lane Farm.

At the time of our client and her late husband's purchase of the property in 2015, her solicitors made enquiries to Staffordshire County Council as to the upgrading of the Mellow Lane footpath. In a reply received on 14 September 2015 (attached) her solicitors were advised that the application was to upgrade the current footpath to a restricted byway.

They were advised that this would allow pedestrians, riders on horseback or leading a horse and none mechanically propelled vehicles and further that no other vehicle would be permitted as to do so would be an offence under the Road Traffic Act 1988.

Having now received the report produced and sent to her on 9 November 2022, our clients principal concern is that the Application in question refers to the route being a vehicular road

Directors: Greta Williamson Lee Pointon Sarah Hooper
Solicitor: Peter J. Haycock Natasha Thomas Calum McManus
Chartered Legal Executive: Gillian Harrison
Paralegal: Viv Thomson



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and actually applies to have the route maintained at the public expense and to be a 'Byway open to all traffic'.

Our client recalls being advised that a previous owner, in around the 1970-80's had problems with motorbikes using the area and that a restriction was put in place or confirmed to prevent this. We would be grateful for confirmation as to whether it was on this basis that the Council provided the information that it did in the e-mail dated 14 September 2015, i.e. that it would be a restricted byway. If not, we would be grateful for further information in this regard. We would also be grateful if to receive copies of or information pertaining to any such restriction, as our client is not in receipt of any.

Our client's objections to the adoption of the proposed route and concerns regarding it are as follows:

- That providing an adopted highway, being a byway open to all traffic, would allow motor vehicles to access her property using her driveway. This would be both a nuisance and would cause her safety concerns, especially as she lives alone.
- Furthermore, allowing access to her property via motor vehicle would put her livestock at risk who reside in the fields either side of the lane and require access to a water source located in one of the fields.
- That she has livestock grazing on the lane and is concerned that giving access to road users other than pedestrians, risks the gates not being closed and the livestock escaping. This is currently not a problem as the footpath gates are spring loaded.
- That allowing vehicles to use the route could result in vehicles inappropriately using the area for parking to access local footpaths, which would obstruct access to her property.
- That the proposals would permit a throughfare by the public to access an area which only requires residents access, to the detriment of residents who need to access Mellow Lane.
- That parts of the route are not suitable for use by motor vehicle and that as a safety concern, there are no safe passing places.
- Even if the land were to be adopted and used as a restricted byway, that at the end where it would connect it to the bridleway (Ipstones 85), there is no sufficient access for a vehicle. However, there is a concern that vehicles would mistakenly access the area in any event, causing further access issues.
- That Ipstones 85 is already connected to other adopted highways and therefore no detriment should be caused if the application was rejected. Ipstones 82 is currently designated as a footpath, appropriately so, in our clients view (see maps attached).

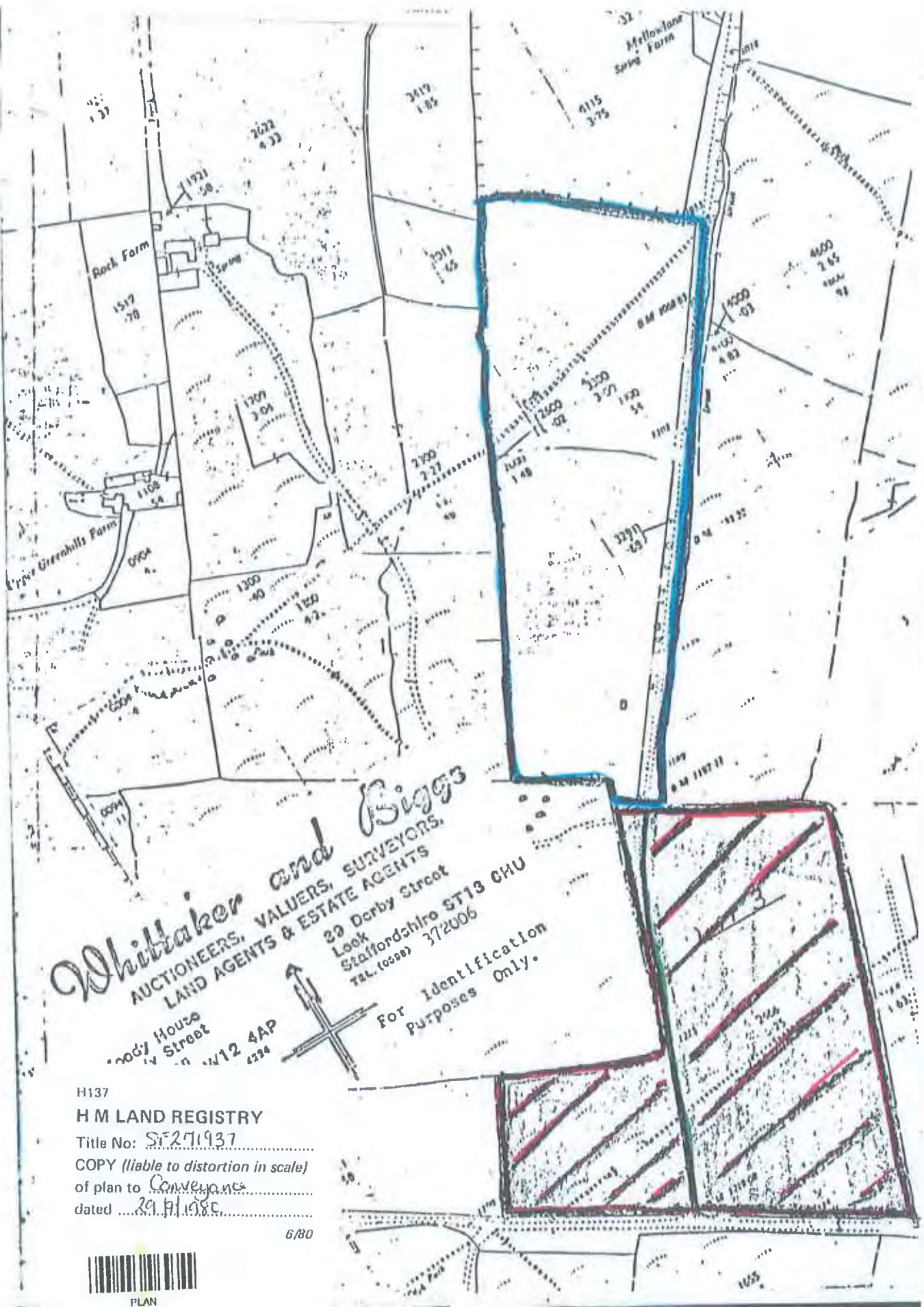
Our client would be grateful to receive your response along with confirmation as to the proposed type of highway; whether a restricted byway or one permitted to be accessed by all vehicles, as the information provided has been contradictory.

Should the route be adopted in any way, which our client is not in favour of, as part of any further consultation process she would be grateful for proposals for suitable signage.

Yours faithfully

A handwritten signature in black ink, appearing to read 'NATASHA THOMAS', written over a horizontal line.

NATASHA THOMAS
Solicitor
A.H Brooks & Co
natashathomas@ahbrooks.co.uk



Whittaker and Biggs
 AUCTIONEERS, VALUERS, SURVEYORS,
 LAND AGENTS & ESTATE AGENTS
 29 Derby Street
 Leek
 Staffordshire ST13 6HU
 Tel. (0506) 372006

W12 4AP
 1224

For Identification
 Purposes Only.

H137
 HM LAND REGISTRY
 Title No: SF271937
 COPY (liable to distortion in scale)
 of plan to Conveyance
 dated 29.11.88

6/80



PLAN

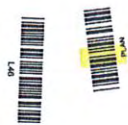
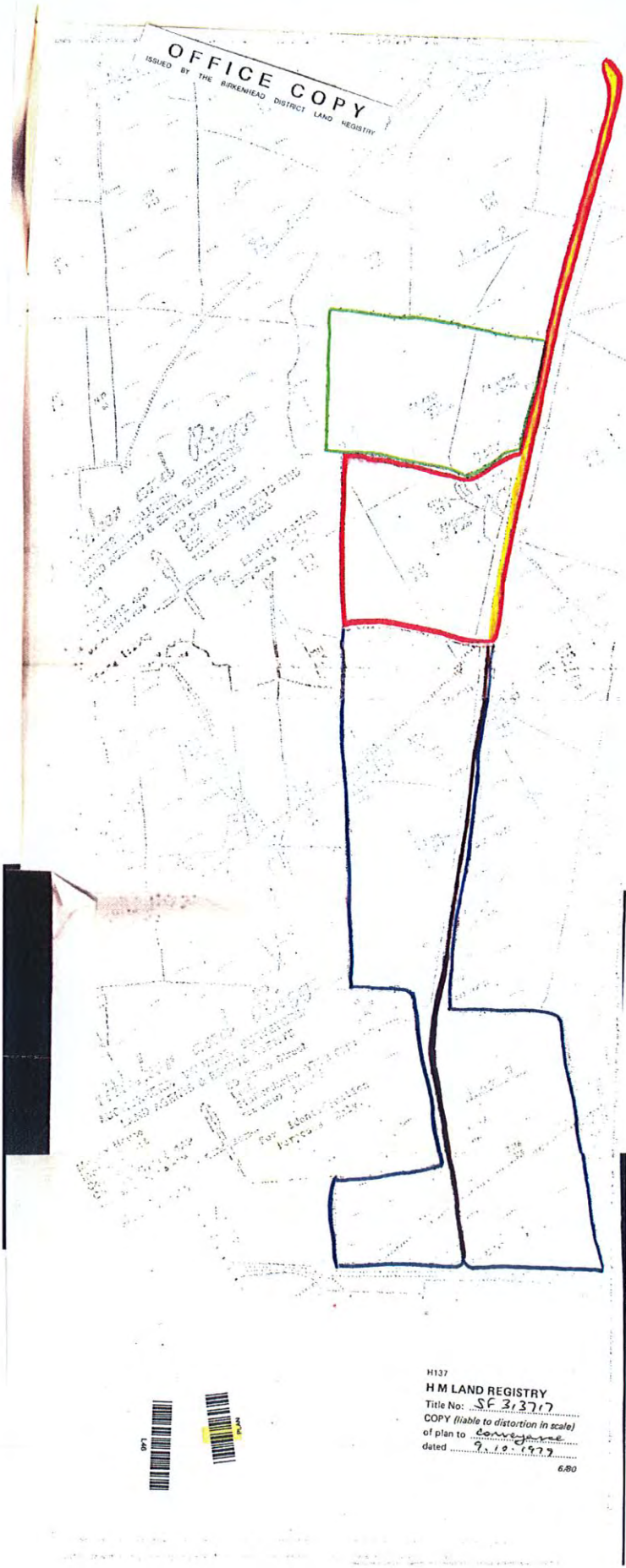


SEQ128

OFFICE COPY

ISSUED BY THE BIRKENHEAD DISTRICT LAND REGISTRY

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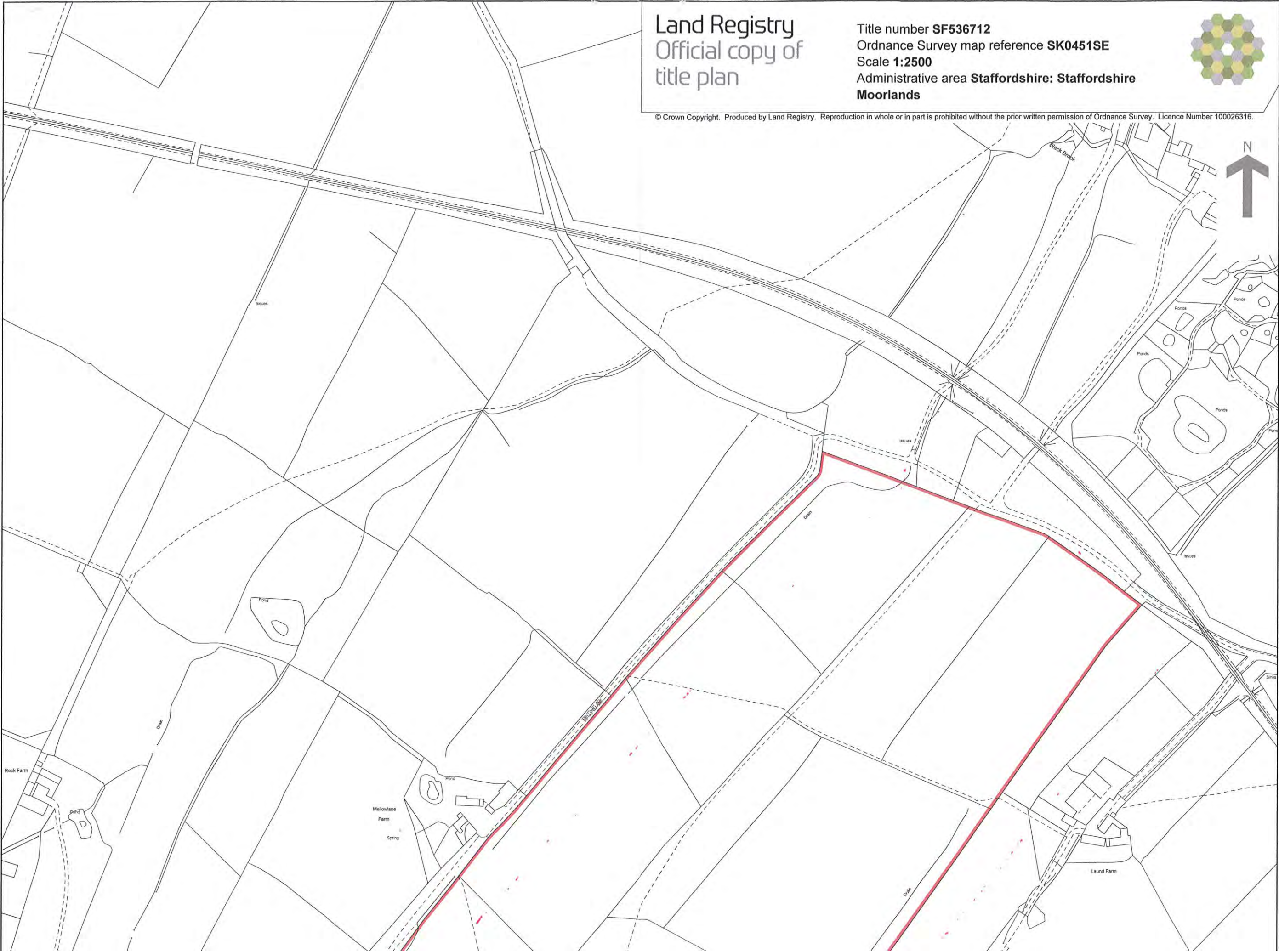
H137
H M LAND REGISTRY
Title No: SF 313717
COPY (liable to distortion in scale)
of plan to conveyance
dated 9.12.1977
6.80

Land Registry
Official copy of
title plan

Title number **SF536712**
Ordnance Survey map reference **SK0451SE**
Scale **1:2500**
Administrative area **Staffordshire: Staffordshire**
Moorlands



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This official copy issued on 2 September 2014 shows the state of this title plan on 1 September 2014 at 14:27:10. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).
This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.
See Land Registry Public Guide 19 - Title Plans and Boundaries.
This title is dealt with by Land Registry, Coventry Office.



Official copy of register of title

Title number SF279746 Edition date 22.10.2020

- This official copy shows the entries on the register of title on 17 Nov 2020 at 14:45:04.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 17 Nov 2020.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry Birkenhead Office.

A: Property Register

This register describes the land and estate comprised in the title.

STAFFORDSHIRE : STAFFORDSHIRE MOORLANDS

- 1 (29.03.1990) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land lying to the North West of Mellow Lane, Leek.
- 2 (29.03.1990) The mines and minerals are excepted.
- 3 (29.03.1990) The Conveyance dated 15 March 1990 referred to in the Charges Register contains a provision as to light or air.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (22.10.2020) PROPRIETOR: [REDACTED] of Mellow Lane Farm, Mellow Lane, Winkhill, Leek ST13 7QS.
- 2 (22.10.2020) The price stated to have been paid on 12 June 2020 was £ [REDACTED]

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (29.03.1990) A Conveyance of the land in this title dated 15 March 1990 made between (1) The British Railways Board (the Board) and (2) Thomas John Bettany (Purchaser) contains restrictive covenants.

NOTE: Original filed.

- 2 (29.03.1990) The land is subject to the rights reserved by the Conveyance dated 15 March 1990 referred to above.

Title number SF279746

End of register

H.M. LAND REGISTRY

TITLE NUMBER

SF279746

ORDNANCE SURVEY
PLAN REFERENCE

SK 0451

SECTION

Scale
1/2500

COUNTY

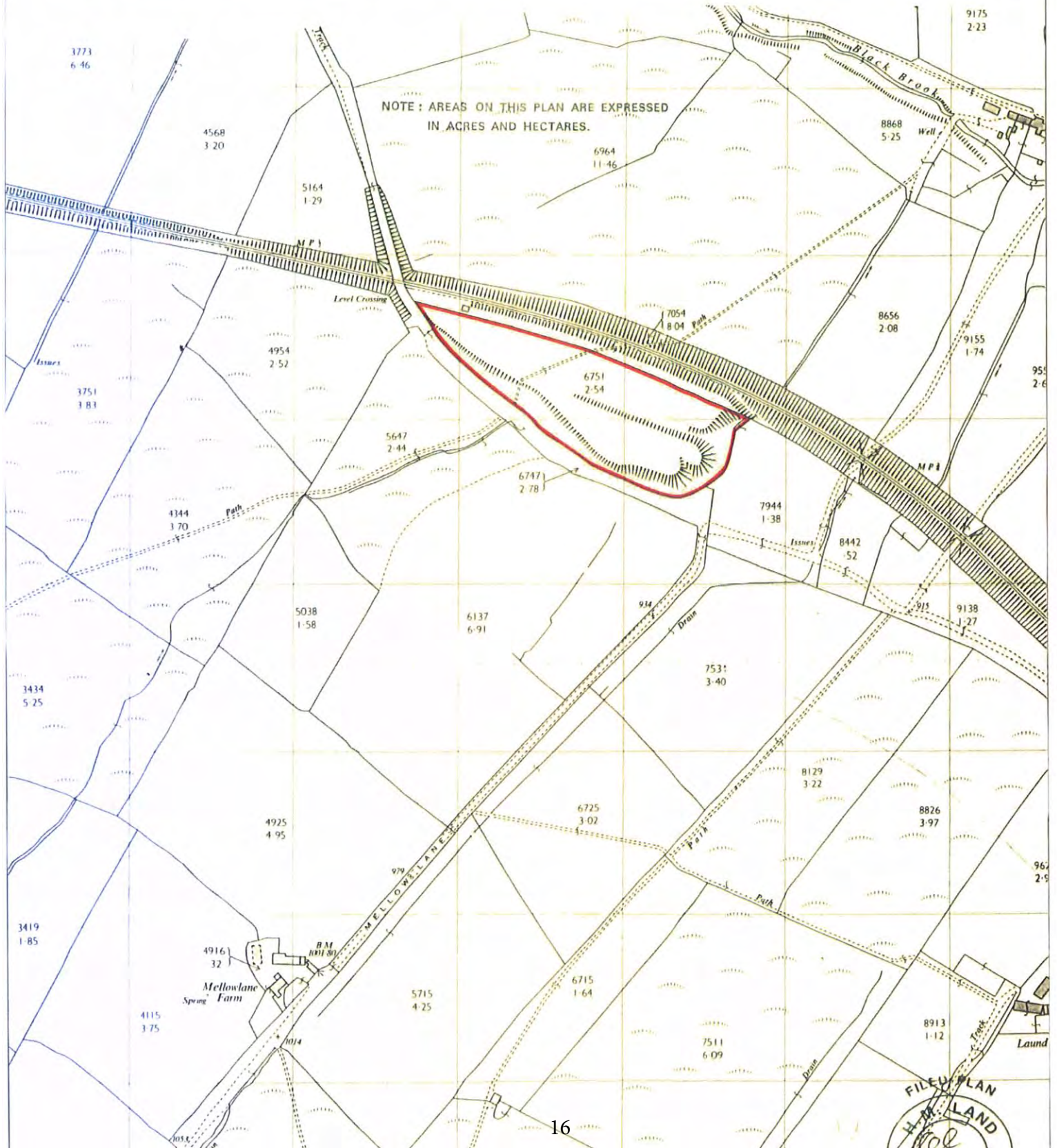
STAFFORDSHIRE

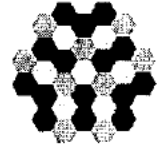
DISTRICT STAFFORDSHIRE MOORLANDS

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NOTE: AREAS ON THIS PLAN ARE EXPRESSED
IN ACRES AND HECTARES.





Official copy of register of title

Title number SF659757 Edition date 20.07.2020

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- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 17 Nov 2020.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry Birkenhead Office.

A: Property Register

This register describes the land and estate comprised in the title.

STAFFORDSHIRE : STAFFORDSHIRE MOORLANDS

1 (20.07.2020) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land on the north-west side of Mellow Lane, Winkhill, Leek.

2 (20.07.2020) The land tinted blue on the title plan has the benefit of any legal easements granted by a Conveyance thereof dated 10 August 1979 made between (1) Robert Aldridge and (2) Thomas John Bettany but is subject to any rights that are reserved by the said deed and affect the registered land.

NOTE: Copy filed.

3 (20.07.2020) The land tinted pink on the title plan has the benefit of any legal easements granted by a Conveyance thereof dated 19 October 1979 made between (1) Robert Aldridge and (2) Thomas John Bettany but is subject to any rights that are reserved by the said deed and affect the registered land.

NOTE: Copy filed.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

1 (20.07.2020) PROPRIETOR: ██████████ of Mellow Lane Farm, Mellow Lane, Winkhill, Leek ST13 7QS.

2 (20.07.2020) The price stated to have been paid on 12 June 2020 was £██████

Title number SF659757

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (20.07.2020) The land tinted pink on the title plan is subject to any rights that are granted by a Conveyance of Mellow Lane Farm dated 9 October 1979 made between (1) Robert Aldridge and (2) Terence Keith Stubbs and Kathleen Stubbs and affect the registered land.

NOTE: Copy filed.

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

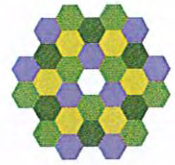
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This official copy is issued on 17 November 2020 shows the state of this title plan on 17 November 2020 at 14:45:06. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Birkenhead Office .

HM Land Registry
Official copy of
title plan

Title number **SF659757**
Ordnance Survey map reference **SK0451SE**
Scale **1:2500**
Administrative area **Staffordshire :**
Staffordshire Moorlands



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From: Buckley, Rebecca (D,L&T) [rebecca.buckley@staffordshire.gov.uk]
Sent: 14 September 2015 12:33
To: [REDACTED]
Subject: Mellow Lane Upgrading of PF - ***PMS MARKING 3***

Hi [REDACTED]

Apologies for only just getting back to you, I have been on leave.

With regards the above, the application is to upgrade the current footpath to a restricted byway. If it was successful it would mean that the footpath would be open to pedestrians, people on horseback or leading a horse and non mechanically propelled vehicles such as bicycles and horse drawn carriages. Any other vehicle would not be permitted as it is an offence under the Road Traffic Act 1988 to drive a motorised vehicle down a restricted byway.

As I said in my previous email, this application is some way of determination (as it's currently 232 on the list) and if and when the application is dealt with your clients, should they purchase the property, would have the opportunity to put forward any objections they may have.

I hope this has been helpful.

If you require any further information please feel free to contact me.

Kind regards,

Rebecca

Rebecca Buckley, Solicitor
Staffordshire Legal Services
The Courthouse, 100, High Street, Stafford, Staffordshire, ST16 2LH
Tel: 01785 276166
Fax: 01785 276175
UK: 012320 Stafford S
E-mail: rebecca.buckley@staffordshire.gov.uk

www.staffordshirelegalservices.org.uk

008636DW\01270791

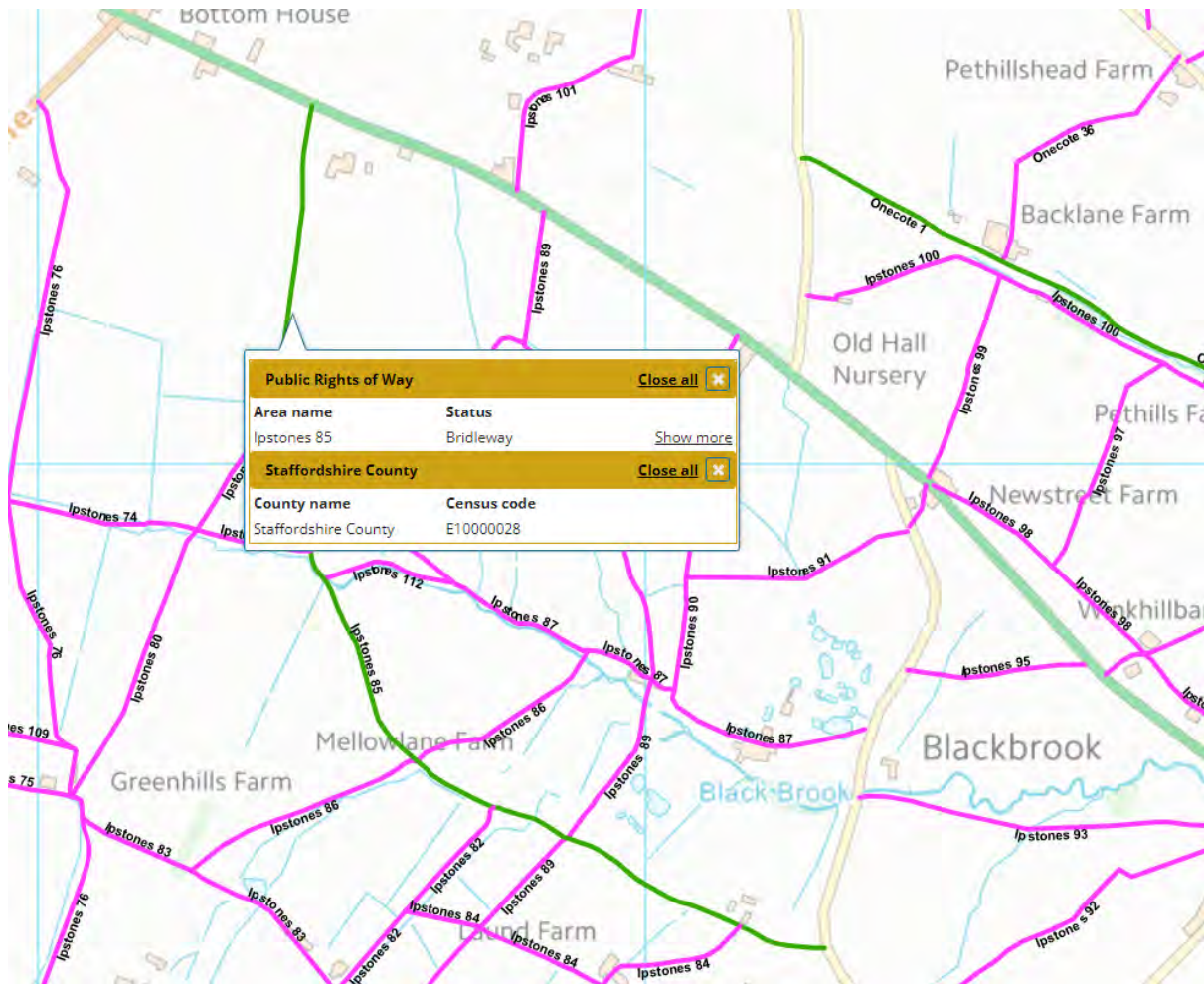
Staffordshire County Council

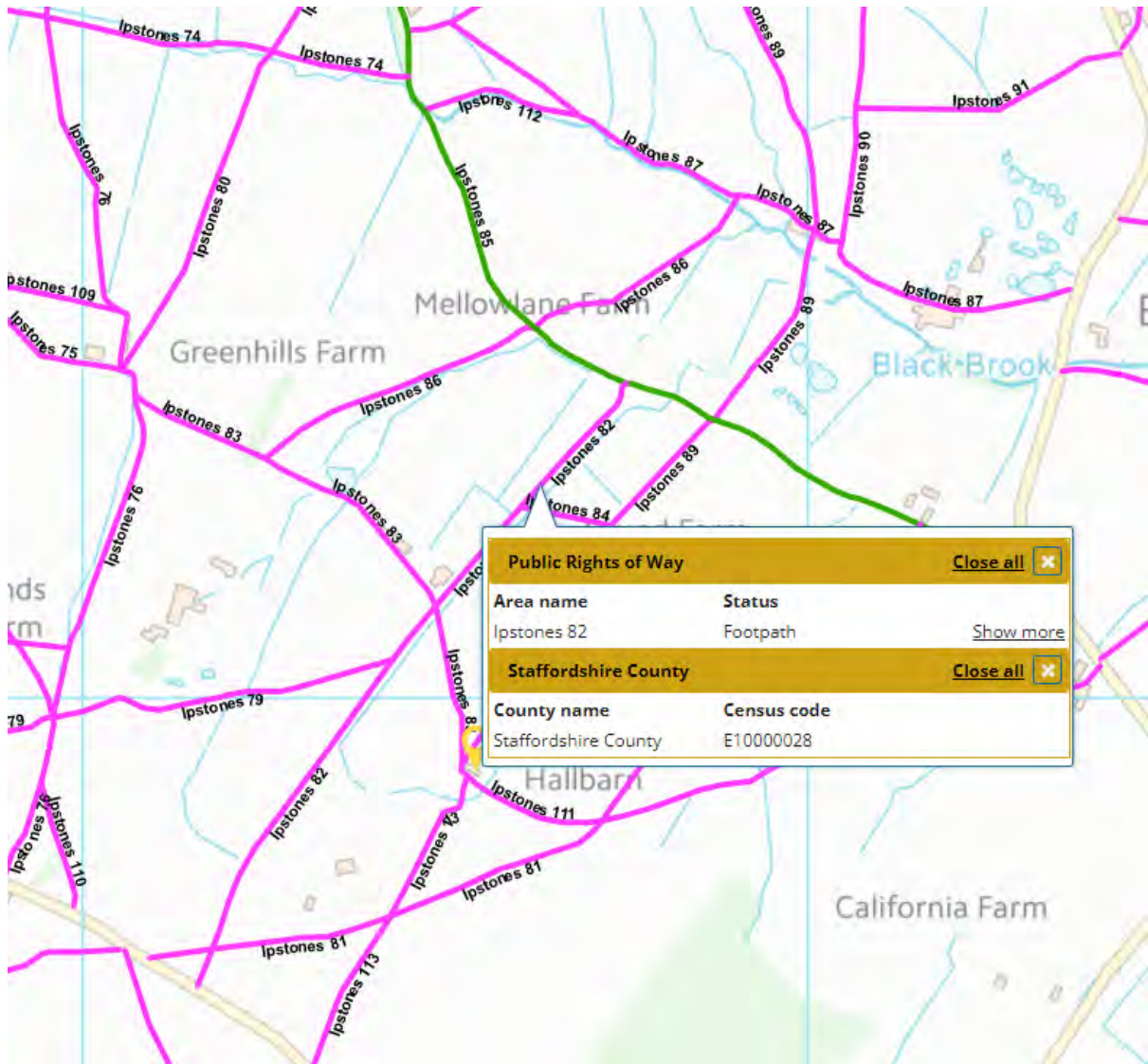
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Response to Solicitors of Landowner 1

Protective Marking Scheme Level 3

Ms N Thomas
Solicitor
A H Brooks & Co, Solicitors
Derby House
Derby Street
Leek
ST13 6JG

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: Stephanie Clarkson
Telephone: 01785 276292
e-mail:
stephanie.clarkson@staffordshire.gov.uk

My Ref: 023965

Your Ref:

Date: 13 December, 2022

Dear Ms Thomas,

Re: S36 Alleged Publicly Maintainable Highway along FP82, Mellow Lane, Ipstones

Many thanks for your letter on behalf of your client dated 7th December 2022, together with its attachments regarding the alleged publicly maintainable highway along Mellow Lane.

Before responding specifically to each of your individual points, it is worth noting that Staffordshire County Council currently has two separate applications under different legislation that are pending along this lane. This has led to an element of confusion.

Firstly, there is a s36 Highways Act 1980 application to provide the route with Ancient Highway status and thus making it maintainable at public expense. It is this matter which I am currently dealing and corresponds with the report and supporting documentation which was forwarded to your client on 9th November 2022.

There is also a second, more recent application made in 2014 which has been submitted under s53 Wildlife and Countryside Act 1981 to upgrade the current Footpath 82 to a Restricted Byway. This second application will be considered on conclusion of the section 36 Highways Act 1980 application.

In response to your letter, you informed me that at the time of your client and her late husband's purchase of the property in 2015, enquiries were made of the Council regarding the upgrading of Mellow Lane. The email in response from Rebecca Buckley would have been in relation to the s53

application which I suspect would have appeared in the Purchaser's Pre-Contract Enquiries. The contents of Mrs Buckley's email are correct. As mentioned, this application is currently on hold.

With regard to the s36 report and documentation, although the applicant requested that the route have Byway open to all Traffic status, the request is misleading because a s36 application is simply to establish whether or not the route is publicly maintainable and is not linked to its status. There is no application for a Byway open to all Traffic within our system.

I have made enquiries as to any restrictions that may have been put in place as a result of the issues of motorbikes within the area. The Council however does not appear to have any records or information regarding this.

I note your client's objections regarding the proposed route and the information that you have provided on behalf of your client will be added to an addendum to the report for the County Solicitor. I will be in further contact once the County Solicitor has considered the report.

I hope that this clarifies the current position regarding the application.

Yours sincerely

Stephanie Clarkson

Stephanie Clarkson
on behalf of Kate Loader, County Solicitor.

SC5 / 023965

**Email from xxxxxxxxx Head of Asset & Network Management,
E,I&S, Staffordshire County Council**

To: Stephanie Clarkson, Legal Officer

Date: 15th March 2023

**S36 Application for publicly maintainable highway, Ipstones,
Staffordshire Moorlands**

Thanks for the extra days to review. In terms of the report and evidence as you conclude, this does appear to point to the route being an ancient highway.

My understanding is that inclusion on the S36 simply defines its status as a highway that is maintainable at public expense but does not infer any specific entitlement to the type of use. I note that paragraph 7.5 indicates that it would be reasonable to assume that the route was used by the types of vehicular traffic in use at that time, namely, horse drawn

vehicles and hence, if we were asked that question by groups such as the trail riders federation or other off road motorised vehicle groups that would be our position. Is that correct?

I have only been able to look at the aerial photographs of the route and note that the road appears to consist of a section at each end that is either metalled or, consists of a stone surface and the centre section appears to be across a field and has the nature of a 'green lane'.

From the aerial photographs it would appear the middle section has gates at both ends which I assume may mean that on designation as an 'ancient' highway these 'obstructions' could be challenged by users. Gates are also referred to in the letter from the landowner. There is also the risk that on addition to the S36 list it comes to the attention of some of the groups described above and I can see us quickly ending up with an issue between the highway authority and landowner once the S36 list is changed.

I will arrange a visit to the road by one of our inspection team to review the whole of the route as I suspect there may be other issues which we would deal with in accordance with our approach to unsurfaced highways. Should we wait for the S36 to be concluded before we visit?

Can you please advise further on who would be able to support the highway service should issues such as the above arise and, what options may be available to prevent such use and resolve any issues of obstruction if they are found on inspection.?

I note that there is also a separate S53 application for the route to be upgraded to a restricted byway, is there a timescale for this decision as this may help with the issues that may arise as described above (i.e. that it is open to walkers, mobility scooters, horse-riders, and drivers/riders of non-motorised vehicles (such as horse-drawn carriages and pedal cycles)). I'm hoping that decision can be accelerated to minimise likely issues that may arise.

Of its easier to discuss any of the above, please let me know and I'll arrange a catch up.

Kind Regards,

Email to xxxxxxxxxxxx

From: Stephanie Clarkson, Legal Officer

Date: 24th March 2023

Dear David,

Many thanks for your response to the report.

In answer to your queries, you are correct in thinking that generally the inclusion on the s36 list simply defines its status as a highway that is maintainable at public expense but doesn't infer any specific entitlement to the type of use (especially in relation to footpaths and bridleways). In this situation however the surface will need to be maintained to the standard of a restricted byway, should the decision be made in line with the recommendation.

I note your concerns with regard to the present nature of the route as a green lane and that there are gates currently along its length. This reflects its current recorded status on the Definitive Map and Statement of Public Rights of Way which is that of a public footpath. If the route is added to the s36 list as an ancient highway, then the Council will have a liability to maintain the route in accordance with its status although as you are no doubt aware there is no obligation for the County as the highway authority to provide a metalled carriageway. As you rightly recognise, the gates will have to be removed unless there is a lawful reason for them to remain – (e.g. a highway authority can licence gates for stock control reasons) and there may be issues between the landowner and the highway authority arising from the requirement to remove the gates. These are of course legitimate concerns. However questions as to safety, suitability, maintenance of anything other than

information relating to existence of otherwise of a public right or the status have to be disregarded when considering whether the ancient highway exists or not under the law as it currently stands.

With regard to the site visit that you are anticipating, it may be worth waiting for the s36 to be concluded before your visit because, as yet we still have to establish whether or not the route is an ancient highway and the decision with this will rest with Kate Loader the County Solicitor.

In relation to the highway service support, if it is determined to be a Restricted Byway, the Rights of Way team will be the appropriate team to manage any issues such as obstructions, and the Rights of Way Legal Team will provide legal support as necessary.

You rightly note that there is a separate s53 Wildlife and Countryside Act application to upgrade footpath PF82 Ipstones to that of a Restricted Byway. The evidence does suggest the existence of the ancient highway, (which would have been carriageway). Once I have received a response from the County Solicitor as to whether she considers that the route exists as ancient highway, I will be in a position to write the report for the Countryside and Rights of Way panel with a recommendation as to whether or not to add the route to the Definitive Map and Statement of Public Rights of Way as a Restricted Byway. Should the recommendation be to upgrade the path and the recommendation be accepted, the process for upgrading this path through the s53 route however is slow with many opportunities to appeal decisions (for both the parties for and against) and so it may be some years before a final decision is made as to whether the route is upgraded or not, depending on whether or not the legal order is objected to.

I hope that this answers your queries but of course please let me know if you have further questions and we can arrange a meeting to discuss.

Kind regards,

Stephanie

Additional Evidence Provided by Landowner 2

To: Stephanie Clarkson, Legal Officer

Date: 24th April 2023

S36 Application for publicly maintainable highway, Ipstones, Staffordshire Moorlands

In regards to the report sent to me concerning Mellow Lane, as an affected landowner I fully support the application to add the route to the list of Publicly Maintainable Highways.

The report appears to prove that this was an ancient highway and as such, should remain so in public records.

My current concern is that the lane has been closed to all but pedestrians by the current occupier of Mellow Lane Farm (a lock has been placed on a gate on the lane near to it's junction with the driveway to Rock Farm) Furthermore, the lane appears to have been fenced off nearer to Mellow Lane Farm where sheep are grazing. I am aware that the lane has been 'open' in previous years and I can provide evidence of it's use as a bridleway. I have personally ridden the length of it in recent years and also over 45 years ago when it was regularly used by Pelham Farm riding school.

Landowner at Mellow Lane

From: Kate Loader, County Solicitor, Staffordshire County Council

To: Stephanie Clarkson, Legal Officer

Date: 2/6/23

Dear Stephanie,

Thank you for your email dated 3rd May 2023 enclosing an application to have Mellow Lane, Ipstones listed as an Ancient Highway under the Highways Act 1981 and therefore maintainable at public expense.

I have considered, in detail, the Report and the Appendices that you have drafted in response to the Application. I can confirm that the evidence submitted by the Applicant together with that discovered by the County Council is in my opinion sufficient to show, on a balance of probabilities, that the route along Mellow Lane was in existence at the time of the Highways Act of 1835 as a public route carrying carriage rights and thus classified as an Ancient Highway.

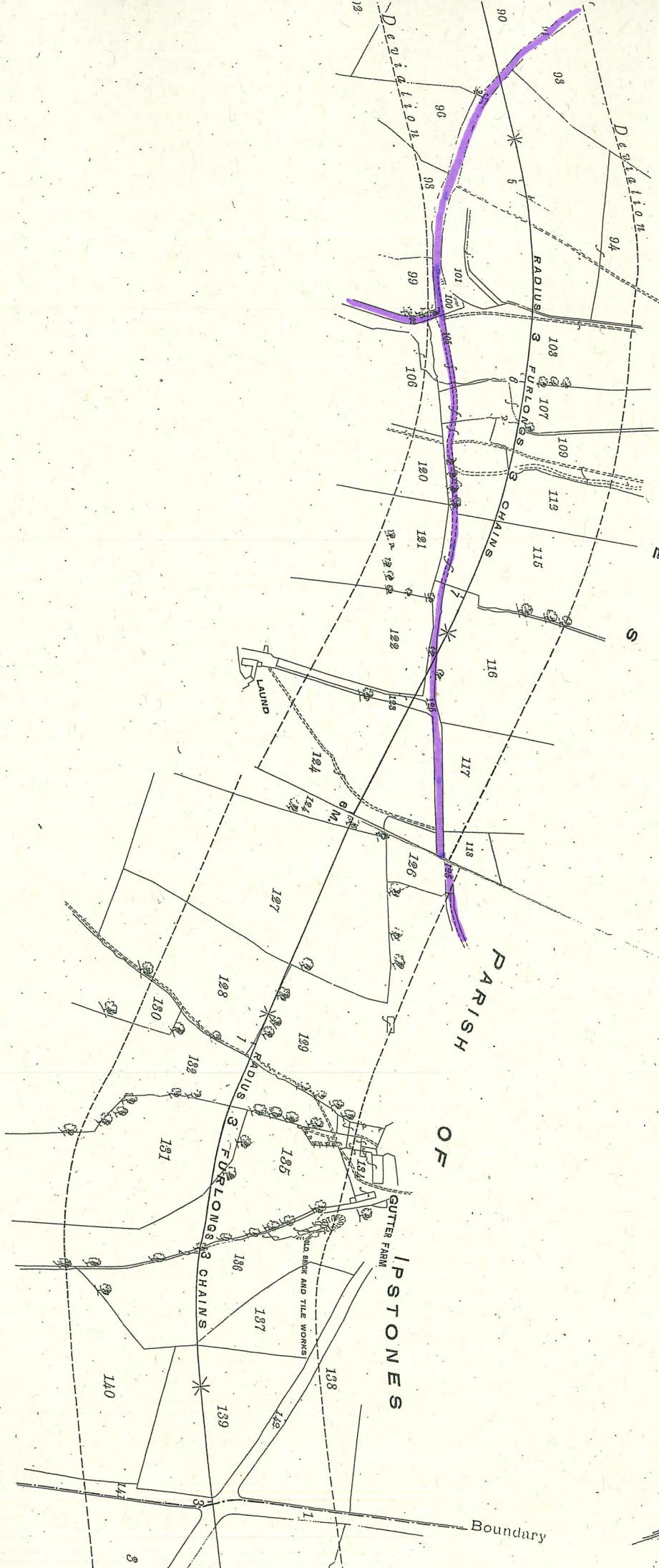
My decision is therefore that the claimed route should be added to the s36 list of Highways Maintainable at Public Expense.

Kind regards

Kate

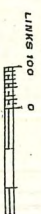
PARISH OF

IPSTONES



Parish

Boundary



Leek, Caldon Low, and Hartington Light Railways.

Railway No. 1.--continued.

Parish of IPSTONES, in the County of STAFFORD.

(CONTINUED)

Number on Plan	Description of Property	Owners or reputed Owners	Lessees or reputed Lessees	Occupiers
86	Field	Trustees of the Will of Richard Clowes Samuel Clowes Richard Clowes	...	Elizabeth Cope
87	Field	Trustees of the Will of Richard Clowes Samuel Clowes Richard Clowes	...	Elizabeth Cope
88	Field	George Hutchinson Milnes	...	Stephen Harrison
89	Field	George Hutchinson Milnes	...	Stephen Harrison
90	Field	George Hutchinson Milnes	...	Stephen Harrison
91	Road	Ipstones Parish Council Rural District Council of Cheadle	...	
92	Field and fowlhouse	George Hutchinson Milnes	...	Stephen Harrison
93	Field	Ellen Burnett	...	John Wilfred Ratcliffe
94	Field, fowlhouse, watercourse, and public footpath	Ellen Burnett Ipstones Parish Council Rural District Council of Cheadle	...	John Wilfred Ratcliffe
96	Field	Thomas Atkinson Argles	...	James Birch
98	Field	Thomas Atkinson Argles	...	James Birch
99	Field	Thomas Atkinson Argles	...	James Birch
100	Waste land	Thomas Atkinson Argles	...	James Birch
101	Field	Ellen Burnett	...	John Wilfred Ratcliffe
102	Road	Ipstones Parish Council Rural District Council of Cheadle	...	
103	Field, watercourses, and occupation road	Dryden Henry Sneyd Trustees of Ipstones Schools viz : Rev. Robert Henry Good- acre, junr., Dryden Henry Sneyd and Charles Bill	...	Joseph Keeling

Railway No. 1—continued

Parish of IPSTONES, in the County of STAFFORD.

(CONTINUED)

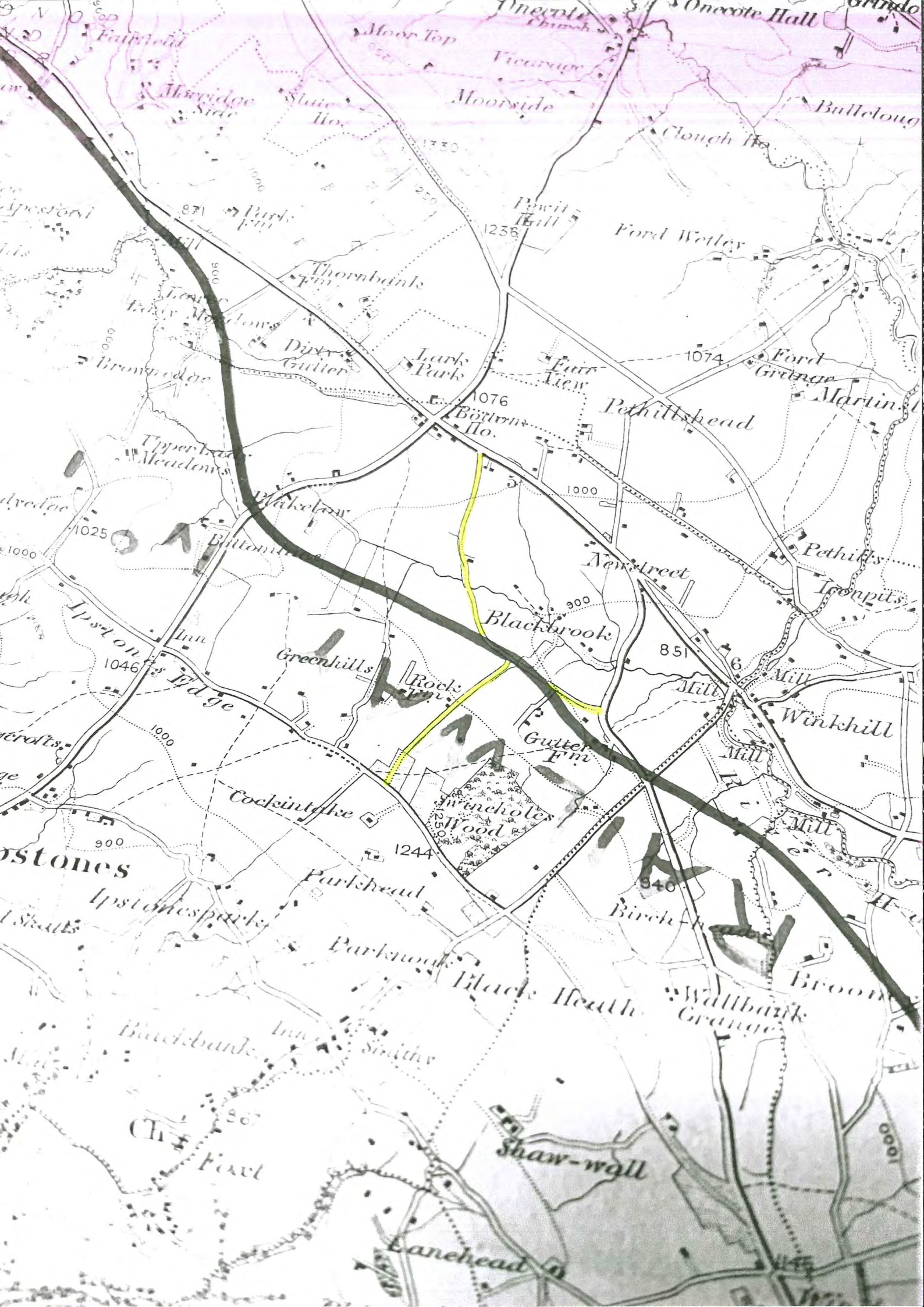
Number on Plan	Description of Property	Owners or reputed Owners	Lessees or reputed Lessees	Occupiers
105	Road	Dryden Henry Sneyd Trustees of Ipstones Schools Ipstones Parish Council Rural District Council of Cheadle
106	Field and watercourse	Rev. Thomas Close	...	John Barks
107	Field, watercourse and road	Mary Clowes Ipstones Parish Council Rural District Council of Cheadle	...	In hand
109	Field, watercourse public footpath and road	Hannah Boydon Ipstones Parish Council Rural District Council of Cheadle	...	Joseph Keeling
112	Field, roads, and public footpath	Mary Naylor Hannah Boydon Ipstones Parish Council Rural District Council of Cheadle	...	Mary Coxon
115	Field and road	Mary Naylor Ipstones Parish Council Rural District Council of Cheadle	...	Mary Coxon
116	Field and watercourse (glebe)	Rev. Robert Henry Good- acre, junr., Vicar The Freeholders of the Parish, Patrons	...	Joseph Smith
117	Field (glebe)	Rev. Robert Henry Good- acre, junr., Vicar The Freeholders of the Parish, Patrons	...	Joseph Smith
118	Field (glebe)	Rev. Robert Henry Good- acre, junr., Vicar The Freeholders of the Parish, Patrons	...	Joseph Smith
120	Field and public foot- path (glebe)	The Rev. Ernest Henry Nash, Vicar Dryden Henry Sneyd, Patron Ipstones Parish Council Rural District Council of Cheadle	...	Charles Clowes
121	Field (glebe)	The Rev. Ernest Henry Nash, Vicar Dryden Henry Sneyd Patron	...	Charles Clowes

Railway No. 1—continued.

Parish of IPSTONES, in the County of STAFFORD.

(CONTINUED).

Number on Plan	Description of Property	Owners or reputed Owners	Lessees or reputed Lessees	Occupiers
122	Field (glebe)	The Rev. Josiah Wright, Vicar Duke of Devonshire, Patron	...	George Finney
123	Occupation road and watercourse (glebe)	The Rev. Josiah Wright, Vicar Duke of Devonshire, Patron	...	
124	Field and occupation road (glebe)	The Rev. Josiah Wright, Vicar Duke of Devonshire, Patron	...	George Finney
125	Road	Ipstones Parish Council Rural District Council of Cheadle	...	
126	Field (glebe)	The Rev. Josiah Wright, Vicar Duke of Devonshire, Patron	...	George Finney
127	Field (glebe)	The Rev. Josiah Wright, Vicar Duke of Devonshire, Patron	...	George Finney
128	Field and public foot-path (glebe)	The Rev. Josiah Wright, Vicar Duke of Devonshire, Patron Ipstones Parish Council Rural District Council of Cheadle	...	George Finney
129	Field and cowhouse and public footpath (glebe)	The Rev. Josiah Wright, Vicar Duke of Devonshire, Patron Ipstones Parish Council Rural District Council of Cheadle	...	George Finney
130	Field	James Burnett	...	
131	Field	James Burnett	...	
132	Field and public foot-path	James Burnett Ipstones Parish Council Rural District Council of Cheadle	...	
134	Farmhouse, garden, yard and outbuildings, well and public foot-path	James Burnett Ipstones Parish Council Rural District Council of Cheadle	...	
135	Field and shed	James Burnett	...	
136	Field, old brickworks and watercourse	James Burnett	...	



Fairfield

Moor Top

Oncote Church

Oncote Hall

Grindon

Alberidge Side

State Ho.

Moorside

Bulleloug

Park Farm

Thornbanks

Powit Hill

Ford Wetley

Town Meadows

Dix's Gutter

Lark Park

Fair View

Ford Grange

Brownedge

Upper Meadows

Bottom Ho.

Pethillshead

Martin

Wakelaw

New Street

Blackbrook

Pethills

Ipsston

Greenhills

Rock Farm

Gutter Farm

Winkhill

Inn

Cockintoke

Swinholes Wood

Mill

Mill

Wedge

Parkhead

Parknook

Black Heath

Winkhill

Ipsstones

Parkhead

Parknook

Black Heath

Winkhill

Ipsstones Park

Parkhead

Parknook

Black Heath

Winkhill

Blackbank

Inn

Smiths

Birch

Winkhill

Blackbank

Inn

Smiths

Birch

Winkhill

Blackbank

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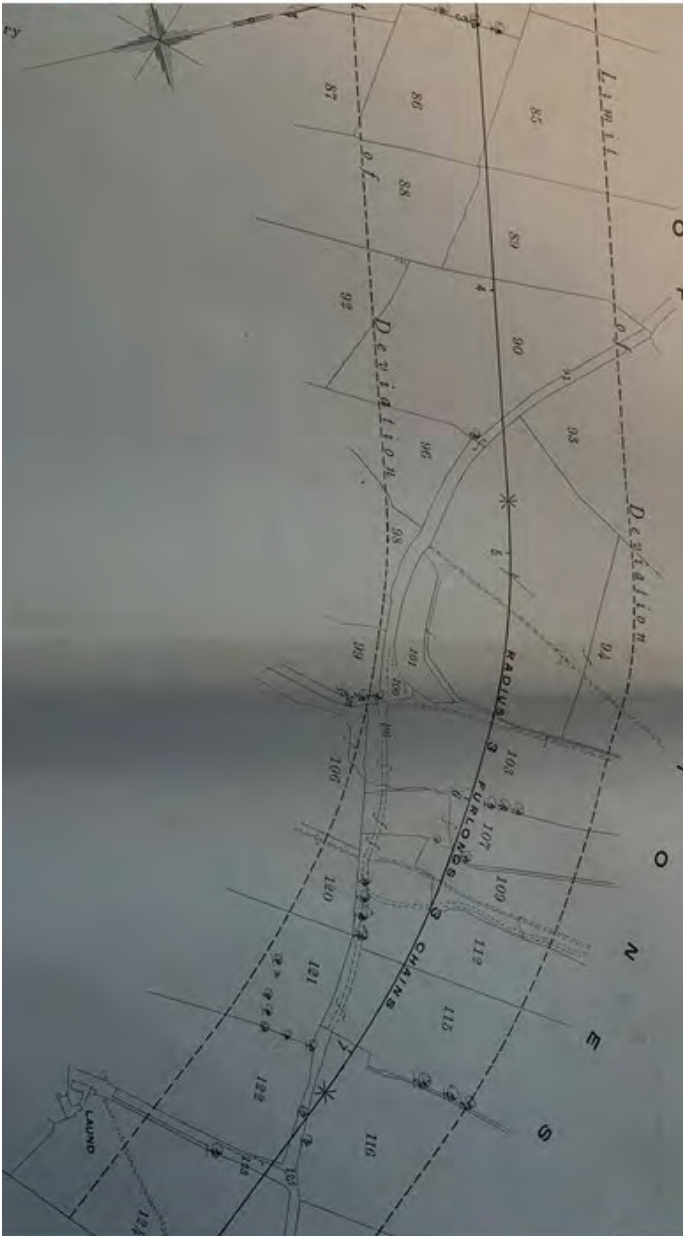
Smiths

Birch

Winkhill

O F S T A F F O R D .

I P S T O N



LEEK, CALDON LOW AND HARTINGTON
LIGHT RAILWAYS.

RAILWAY No. 1.
Sheet No. 4.

of last walking
ling the path :

21/10/51

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.

Staffordshire County Council : Survey of Rights of Way

LOCAL AUTHORITY :

Cheddle R.D.

PATH No., as on map :

82. ✓

PARISH :

Ipstones

PATH SYMBOL, as on map :

CR.F

Note—The survey should be carried out as described in the pamphlet "Survey of Rights of Way."

Path starts at : Near badlow.

Ipstones Edge - basey Head Rd.

Path finishes at :

Jones C.R.F No. 85

6" quarter Ordnance Sheet No. :

XIII. N.E.

Names and addresses of persons making the survey :

Survey started on 10th Sept 1950

Survey finished on 28th Aug. 1952.

R blowes.

Sandycroft, Ipstones.

Grounds for believing path to be public ; please mention Enclosure Award Maps, Tithe Maps, and any other relevant documentary evidence

Common Usage by Public for more than 30 yrs without objection.

Date of last walking
riding the path : 21/10/51

Description of route :

C.R.F. to Newbarn & Lower Beekhampton.
Starts from the Istones Edge - basey Head road some 500 yds
East of Cadlow on North side of road - S.S. & F.G. and cart track
over rough common land to second S.S. & F.G. leading into
Mellow Lane. This continues past Mellow Lane Farm and joins
up with Newbarn lane being C.R.F. No 85.
Road very rough and little used for vehicular traffic, except
by local farmers. No obstruction
This road is known locally as Mellow Lane.

Date of last walking
riding the path : 17/5/52.

Staffordshire County Council: Survey of Rights of Way

LOCAL AUTHORITY:

Cheadle R.D.

PATH No., as on map:

85 ✓

PARISH:

Ipstones

PATH SYMBOL, as on map:

~~ERT~~ R.P.

Note—The survey should be carried out as described in the pamphlet "Survey of Rights of Way."

Path starts at: Ellastone Road

Path finishes at:

6" quarter Ordnance Sheet No.:

NR. Gutter Farm.

Lower Berkhamsyck.

XIII

Names and addresses of persons making the survey:

Survey started on 10th Sept 1950Survey finished on 28th Aug. 1952

R. blowes

Sandycroft, Ipstones.

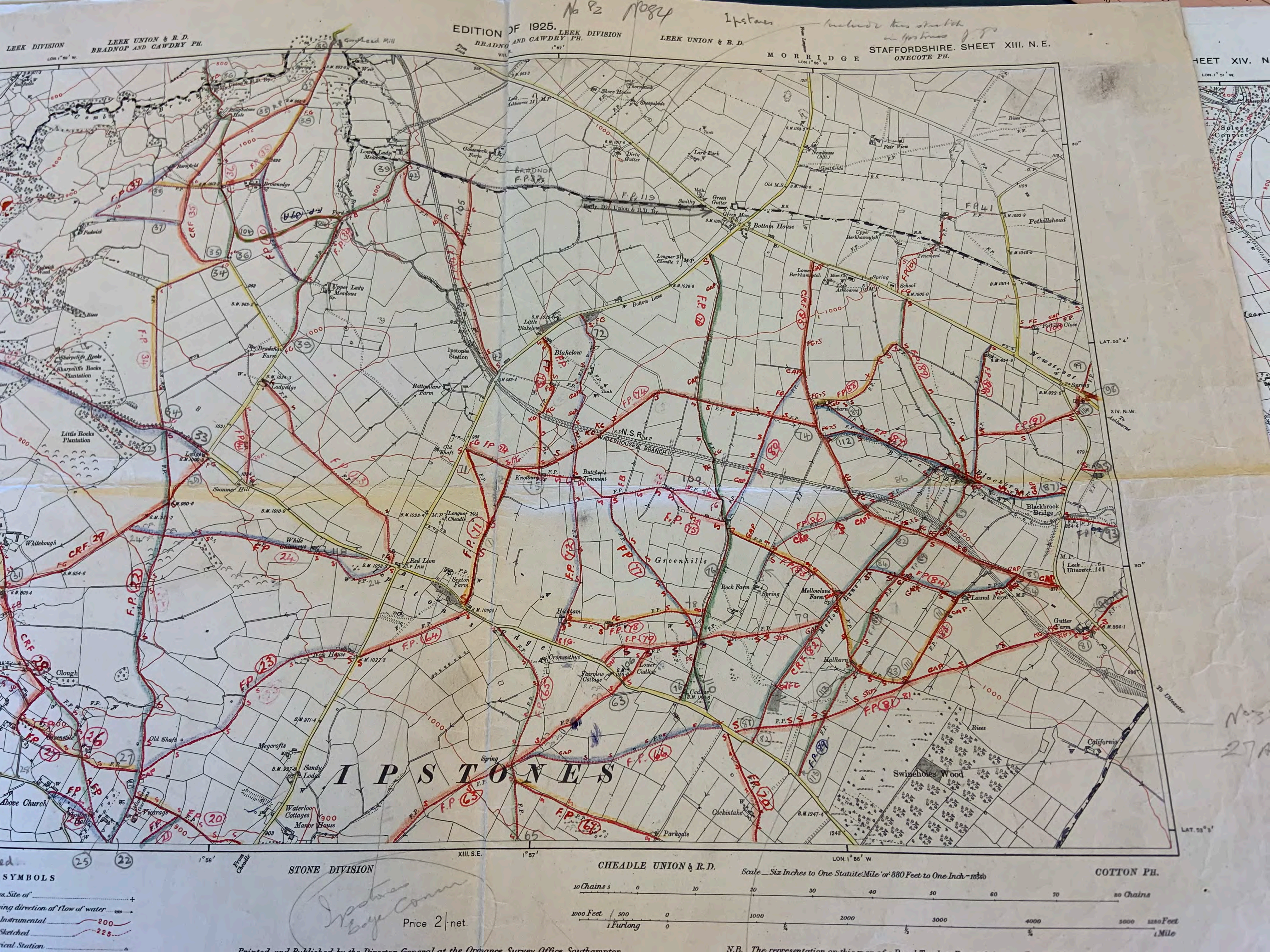
Grounds for believing path to be public: please mention Enclosure Award Maps, Tithe Maps, and any other relevant documentary evidence

Used by public for more than 30 years without objection.

C.R.F. 6 Lower Berkhamsyck.

Starts from the West side of Ellastone road almost midway between Blackbrook Bridge and Gutter Farm, open entrance from road and being cart road to three smallholdings at Blackbrook, open gate & stile after 200 yds and crossing railway at line level to open fieldgate after 30 yds and with three more fieldgates & stiles to where road is joined by Mellow Lane. Road again crosses railway and has fieldgates on either side of crossing and after a further 300-400 yds crossing Blackbrook and through F.G.T.S. passing Newbarn Farm and continues on through one more F.G.T.S. to exit by open gap onto the Leek-Ashbourne Road at Lower Berkhamsyck.

Road has variable surface and is apparently little used except by one or two local farmers. Stiles & gates in good order.



EDITION OF 1925. LEEK DIVISION
BRADNO AND CAWDREY PH. MORRIDGE
LEEK UNION & R. D. STAFFORDSHIRE SHEET XIII. N. E.
ONECOTE PH.

LEEK DIVISION
LEEK UNION & R. D.
BRADNO AND CAWDREY PH.

MORRIDGE
STAFFORDSHIRE SHEET XIII. N. E.
ONECOTE PH.

SHEET XIV. N.
LON. 1° 51' W.

IPSTONES

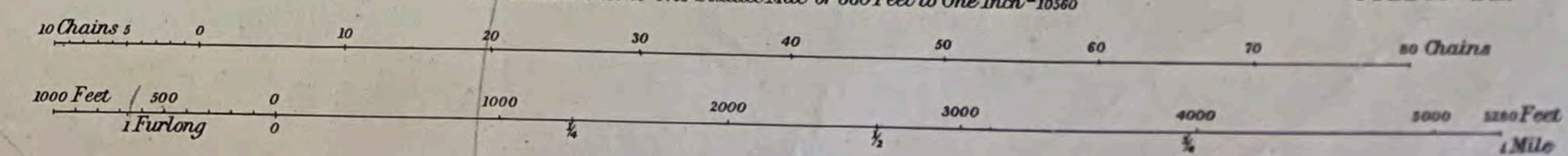
- SYMBOLS**
- Site of
 - Direction of flow of water
 - Instrumental
 - Sketched
 - ical Station

STONE DIVISION

CHEADLE UNION & R. D.

COTTON PH.

Scale Six Inches to One Statute Mile or 880 Feet to One Inch - 1880



*Ipsstones
Boys' Corner*

Price 2 net.

STAFFORDSHIRE COUNTY COUNCIL.
National Parks and Access to the Countryside Act, 1949 (Part IV).

SURVEY OF RIGHTS OF WAY.

STATEMENT ACCOMPANYING DRAFT MAP.

Routes over which a public right of way is alleged to subsist on the 27th day of November, 1954.

F.P. = Footpath.
 B.P. = Bridleway.
 R.P. = Road used as
 a public path.

County District : **CHEADLE R.D.**

Statement No. 171.

Parish : **IPSTONES.**

1/25000 Maps Nos. 33/94, 33/95,
43/04 & 43/05

36

<i>Path No.</i>	<i>Type of Path</i>	<i>Path commences at</i>	<i>Path finishes at</i>	<i>Documents creating or modifying the right of way and other relevant information</i>
1 ...	F.P. ...	Longnor—Cheadle road, at The Hermitage	... Junction with F.P. 6 and F.P. 7 at Booth's Hall	...
2 ...	F.P. ...	Longnor—Cheadle road, opposite Paddock Farm	... Cherryeye Bridge over canal	... Part shown on map deposited under Rights of Way Act, 1932
3 ...	F.P. ...	Far Lane, N. of The Grange	... Junction with F.P. 5, F.P. 6 and F.P. 9, N. of Booth's Hall	...
4 ...	F.P. ...	Far Lane, about 100 yds. S. of the Golden Lion P.H.	... F.P. 6, about 200 yds. S.W. of Littlestones	...
5 ...	F.P. ...	Junction with F.P. 3, F.P. 6 and F.P. 9, N. of Booth's Hall	... F.P. 2 at Cherryeye Bridge	...
6 ...	F.P. ...	County road, about 100 yds. W. of Littlestones	... F.P. 5, about 175 yds. S. of Booth's Farm	...
7 ...	F.P. ...	County road, about 175 yds. S.W. of Heath House	... Junction with F.P. 1 and F.P. 6 at Booth's Hall	...
8 ...	F.P. ...	F.P. 6 near Booth's Hall	... F.P. 5, about 200 yds. S. of Booth's Farm	...
9 ...	F.P. ...	Junction with F.P. 3, F.P. 5 and F.P. 6, N. of Booth's Hall	... Parish boundary, S.E. of Dalesprink Cottage	...
10 ...	F.P. ...	F.P. 9, S.E. of Railway Cottages	... Parish boundary, W. of the Flint Mill	...
11 ...	F.P. ...	County road near Chapel House	... Parish boundary, W. of the Black Lion P.H., Consallforge	...
12 ...	F.P. ...	R.P. 13, S.W. of St. Leonard's Church	... County road, junction with R.P. 13, N. of Littlestones	...
13 ...	R.P. ...	County road, near St. Leonard's Church	... County road, N. of Littlestones	...
14 ...	F.P. ...	County road, S.E. of Chapel House	... R.P. 13 at Oddo Hall	...
15 ...	F.P. ...	F.P. 14, near Hay House	... F.P. 16, N. of Chapel House	...
16 ...	F.P. ...	County road, about 75 yds. N.W. of Chapel House	... County road, about 300 yds. N.E. of Intake Farm	...
17 ...	F.P. ...	F.P. 16, at Intake Farm	... Parish boundary at Stakebank Wood	...



Historical maps for 1900's and 1940's provided by National Library of Scotland.

Markers Resource Grid

Show resource grid and markers

Click the button below to view resources in the area selected on the map. At marker level you can also click on the marker points (●) to view resources specific or near to that location.

[View Resources »](#)

Historic Maps

Select which map series you are viewing by selecting from the options below.

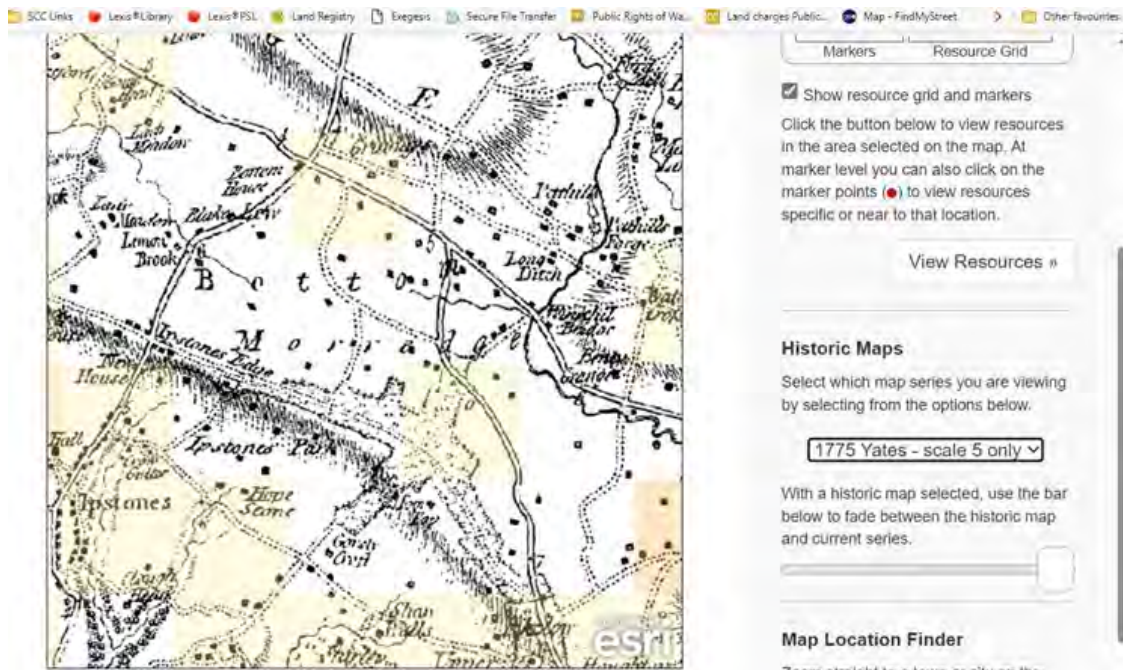
1900's Series ▾

With a historic map selected, use the bar below to fade between the historic map and current series.

Map Location Finder

Zoom straight to a town or city on the map

Select Location ▾



1775 -Yates map

National Library of Scotland

Staffordshire Sheet XIII.NE Surveyed 1878-1880. Published 1888



Sheet 111 – Buxton and Matlock B/Edition

Published 1967

