



**KIRKLEES COUNCIL INVESTIGATION REPORT**

**S140199 MEAN LANE, MELTHAM**

**Mark Drydale, Definitive Map Officer**

**06/01/2024**

# CONTENTS

- LIST OF FIGURES .....4
- SUMMARY .....5
- APPLICATION.....8
- CHARACTER OF APPLICATION ROUTE .....11
- STATUTORY PROVISIONS.....14
  - Highways Act, 1980.....14
- 1797 PLAN OF MELTHAM .....17
  - Background .....17
  - Cadastral Maps and Inclosure .....17
  - Evidential Weight.....18
  - Analysis .....19
- THE MELTHAM INCLOSURE ACTS OF 1817 & 1830.....22
  - Background .....22
  - Highways, Private Roads & Maintenance.....24
  - Lords of the Manor .....26
  - Allotment of Land.....27
  - Summary of Meltham Inclosure Acts .....28
- THE MELTHAM INCLOSURE AWARD 1832 .....30
  - Background .....30
  - Public Roads and Maintenance .....31
  - Private Carriage Roads, Public Bridleways, and Maintenance .....31
  - Bridge Houses Road .....35
  - Evaluation.....36
  - .....38
- 1861 Lancashire & Yorkshire Railway Plans & Book of Reference.....39
  - Background .....39
  - Analysis .....40
  - .....43
  - .....44
- ORDNANCE SURVEY MAPS.....45
  - Comparing the 1854 & 1892 OS Maps.....47
  - .....51
  - .....52
- LOCAL GOVERNMENT MINUTES (1888 – 1897) .....53
  - Background .....53

Analysis .....	57
THE FINANCE (1909-10) ACT, 1910 .....	59
Background .....	59
Valuation Reference Maps .....	63
Evaluation.....	66
THE NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949 .....	69
Background .....	69
Analysis .....	69
.....	71
.....	71
DISCUSSION .....	72
USER EVIDENCE .....	76
Evidence of Use .....	76
Brought into Question.....	76
As a way.....	77
Sufficiency .....	78
Pedal Cycle .....	79
Horse Riding.....	80
As of Right.....	81
Force .....	81
Secrecy .....	81
Permission/License .....	82
Without Interruption .....	84
Challenges .....	84
Locked Gate .....	85
Signs .....	88
Lack of Intention to Dedicate .....	89
Adjacent Landowner 2.....	91
Width .....	92
Limitations .....	92
User Evidence Evaluation .....	97
.....	98
RECOMMENDATION.....	99
CONCLUSION.....	99
REFERENCES .....	100
CASES .....	103

# LIST OF FIGURES

Figure 1: Extract of Current Definitive Map and statement covering area of Mean Lane, Meltham.....9

Figure 2: S140119 Application Map.....10

Figure 3: Photos taken on 24/04/2023 showing the physical characteristics of the application route .....13

Figure 4: Extracts of ‘Plans of the Inclosed LANDS within the Township of Meltham in the Parish of Almondsbury’ 1797 by John Johnson (Source: West Yorkshire Archive Service, Kirklees: DD/WBE/pl/1).....21

Figure 5: The Six Key Stages directed by the 1817 Meltham Inclosure Act to be followed in the subsequent Inclosure Award.....29

Figure 6: Extract of The 1832 Meltham Inclosure Map showing the extension of Mean Lane and the Application route (Source: West Yorkshire Archive Service, Kirklees: QD5/3/Vol 3/8).....38

Figure 7: Extracts of The 1832 Meltham Inclosure Award showing the award of Bridge Houses Road (Source: West Yorkshire Archive Service, Kirklees: WYK1978/2/MT1832) .....38

Figure 8: 1861 Lancashire & Yorkshire Railway Plan & Section for Branch to Meltham (Source: West Riding Archives Wakefield Ref: QE20/1/1860/10).....43

Figure 9: Extract of 1861 Yorkshire & Lancashire Book of Reference .....44

Figure 10: 1854 OS Six Inch Map (Source: NLS Maps) .....51

Figure 11: 1892 OS 1:2,500 Yorkshire [West Riding] CCLX.9 & CCLX.10 (Source: NLS Maps).....52

Figure 12: Chronological List of Council Minutes Relating to Colders Lane between 1888 to 1897 Collated from Meltham Local Urban Sanitary District Board Council Minutes (Source: West Riding Archives: KMT26/1/1/6) and British Newspaper Archive .....55

Figure 13: IR 134/6/73 and 134/6/74 1910 Valuation Reference Maps (Source: The National Archives) .....65

Figure 14: Extract of Draft Definitive Map & Statement and 1955 Meltham UDC Representation & British Railway Commission Objection.....71

Figure 15: Aerial & Google Streetview Images of Eastern end of Application Route (Source: Google Earth & Google Maps) .....96

## SUMMARY

1. In June 2017, Kirklees Council received a Schedule 14 application (reference [S140199](#)) under the 1981 Act, to record Mean Lane, Meltham, on the Definitive Map and Statement as a Public Bridleway ('the application route'). The application provided user and documentary evidence in support of the claim.
2. The 1797 Plan of Meltham shows the application route as an ancient private occupation way leading through ancient enclosures to a property known historically as 'The Lathe', at Folly Dike. Mean Lane was extended at the western end by a 15ft wide private carriage and occupation road called 'Bridge Houses Road' in the 1832 Meltham Inclosure Award.
3. Bent Ley Mill was built on Huddersfield Road by Charles Brook in 1840. In 1860, Charles Brook invited the Lancashire & Yorkshire Railway Company to invest in a railway to Meltham to increase the profitability for Mill Manufacturers and bypass the tolls on turnpike roads. The application route, Bent Ley Mill, and the railway, are all interlinked.
4. The silk mill attracted workers from Nottingham and the Midlands, who settled in nearby Helme. The workers walked from Helme to the silk mill, via a new bridge over Meltham Dike, acquiring a public right of way on foot, as shown in the 1861 Lancashire & Yorkshire Railway plans and book of reference. The alignment at the eastern end of the ancient Mean Lane changed between 1861-1892, moving the route away from 'The Lathe', creating the current configuration.
5. The western end of Mean Lane was widened, improved, and adopted between 1891 and 1896, in association with the new Jubilee Recreation Ground, by Meltham Urban District Council as a vehicular highway up to the southwest corner of the Cricket Ground, which is consistent with today's List of Streets and Definitive Map and Statement records.
6. Based on an overall assessment of the documentary evidence, on the balance of probabilities, the current highway status records held by Kirklees Council are

correct and no historical higher rights subsist along the application route above public footpath status. The application has therefore been determination based on user evidence.

7. The public right to use the application route was brought into question in 2017. The relevant period to consider the user evidence under section 31 of the Highways Act 1980 is therefore 1997-2017. Fifteen (15) user evidence forms (UEFs) were submitted in support of the application. However, the user evidence from five (5) respondents have been discounted as their use was either: not as a 'way', 'by right', or not consonant to the dedication of a public bridleway.
8. Ten (10) respondents rode a horse along the full width of the application route during the relevant period, with the frequency ranging from weekly, monthly, and yearly. Six (6) used the application route throughout the full relevant period, and four (4) for parts of it. All users saw other members of the public riding a horse or cycling along the application route. There is no evidence that use of the application route by these ten (10) respondents was by force, secrecy, or permission during the relevant period. Users were specifically questioned on whether they used the application route to access stables and/or the Meltham Greenway.
9. There is evidence that from 2011 onwards, some users were challenged by the owners of 223 Huddersfield Road, either verbally, by a locked gate, and/or signs. These events interrupted use of the eastern end of the application route for some respondents, and their period of use has therefore been amended. However, these events were not overt acts brought to the public's attention by, or on behalf of, the landowner.
10. The only legal interest the owners of 223 Huddersfield Road have in the application route, is a private right of way. Whilst they have a license to use the field opposite their property, they do not own the fee simple of the eastern section of the application route and are therefore not able to demonstrate a lack of intention to dedicate a public right of way by the landowner.

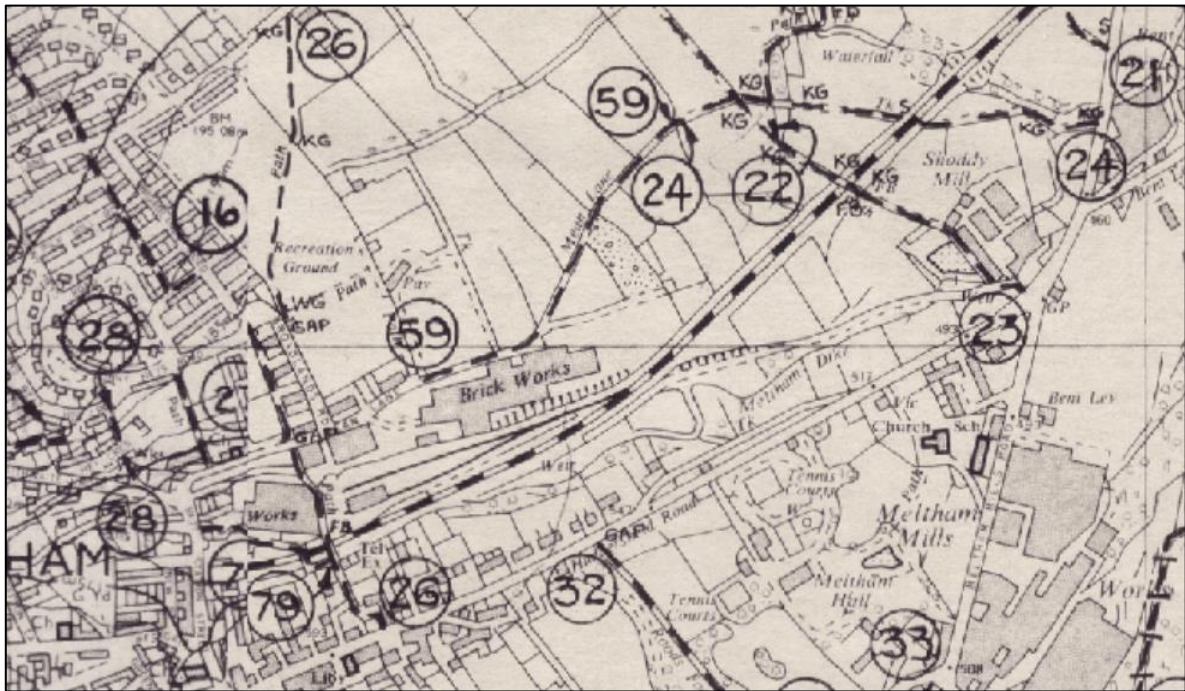
11. Consequently, whilst some of the challenges may be sufficient to demonstrate that the public right to use the way was brought into question at an earlier date, should new evidence become available, there is currently no available evidence to rebut the presumption that a public bridleway has been dedicated. Accordingly, on the balance of probabilities, the application route subsists as a public bridleway based on user evidence and a Definitive Map Modification Order should be made to amend the legal record of public rights of way.

## APPLICATION

12. On the 28<sup>th</sup> June 2017 Kirklees Bridleways Group and The British Horse Society ('the Applicant') submitted an application ([S140199](#)), to the Council, under [section 53\(5\)](#) of the Wildlife and Countryside Act 1981 ('WCA'), to modify [West Yorkshire County Council Definitive Map and Statement for the Kirklees Area](#) ('DMS'), as shown in Figure 1.
13. The application, as shown highlighted yellow between Points A-B in Figure 2, seeks to upgrade both Meltham Footpath Nos. 24 & 59, Mean Lane, Meltham, to a public bridleway, which is defined in [section 329\(1\) of the Highway Act 1980](#) as a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of on horseback or leading a horse, with or without a right to drive animals of any description along the highway. [Section 30 of the Countryside Act 1968](#) states that any member of the public shall have, as a right of way, the right to ride a bicycle, not being a mechanically propelled vehicle, on any bridleway, but in exercising that right cyclists shall give way to pedestrians and persons on horseback.
14. The application was properly made under the requirements of [Schedule 14 of the WCA](#) and the submission gave as evidence in total: eleven (11) User Evidence Forms, 1861 Lancashire & Yorkshire Railway Meltham Branch Railway Plan, 1910 Finance Act Map, extract from 'The Story of Meltham' by Richard Orton, Rights of Way Law Review extract of 'The Thoroughfare Principle, along with various Ordnance Survey and Commercial Maps. The application was supplemented by four (4) further User Evidence Forms. On the 29<sup>th</sup> June 2017, the applicant certified to Kirklees Council that the requirements of paragraph 2 of Schedule 14 of the WCA had been complied with and the relevant landowners and occupiers have been notified of the application.



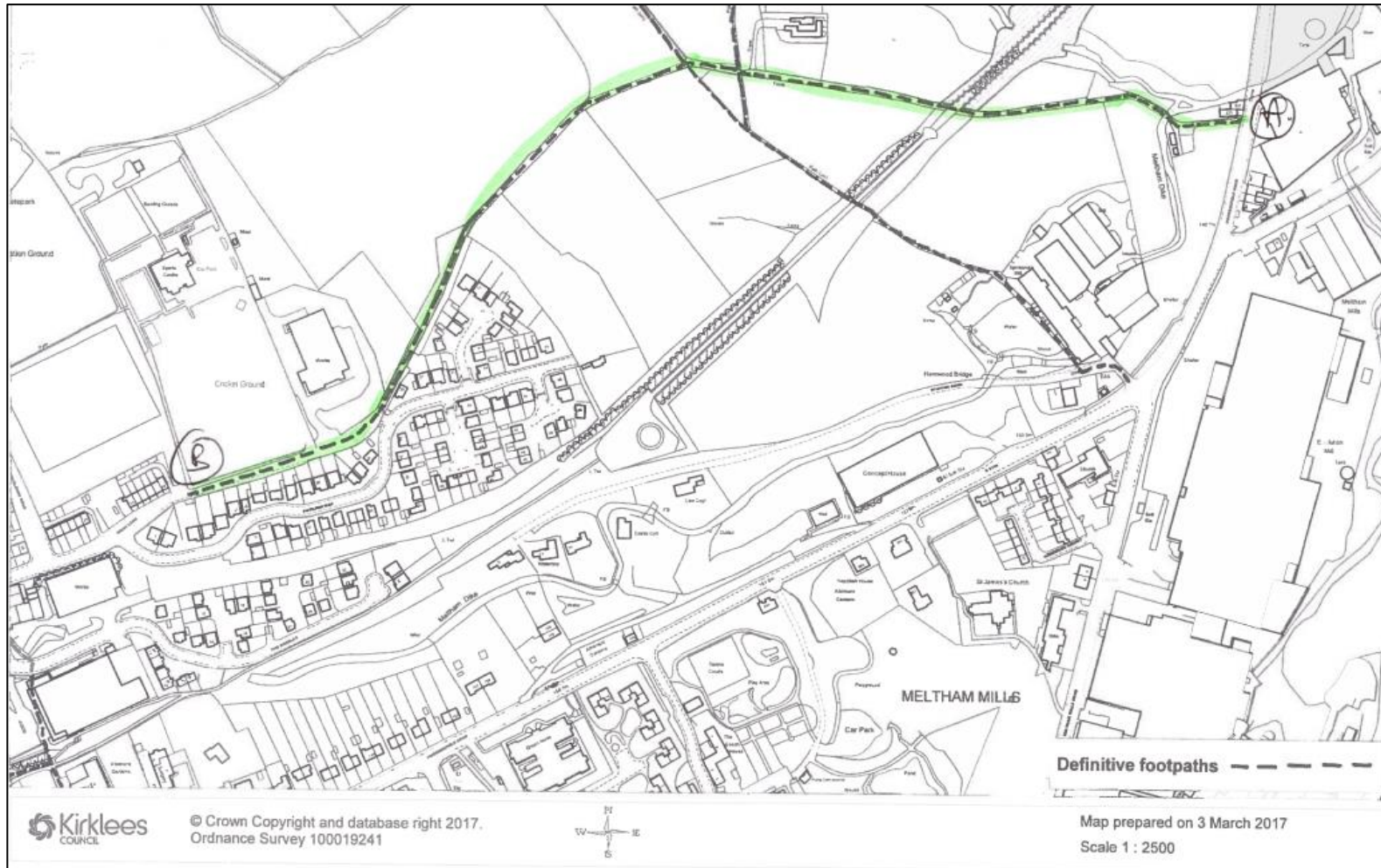
**Figure 1: Extract of Current Definitive Map and statement covering area of Mean Lane, Meltham**



Path No.	Map Ref	Description of Route	Nature of Surface	Length (m)	Width (m)
024	SE01SW 1011	Footpath commencing at its junction with Mean Lane Path No. 59 and proceeding eastward to its junction with the Huddersfield Road B6108 opposite Bent Ley Mill.	Ash	499	1.2
059	SE01SW 1011	Footpath from its junction with the western end of Path No. 24 and proceeding in a southwesterly direction along Mean Lane to the adopted portion at the southwestern corner of the Cricket Field.	Ash and Roughly Metalled	110	1.2

**Figure 2: S140119 Application Map**

(Point A: Huddersfield Road (B6108): [Google Street View](#); Point B: Mean Lane (Public Carriageway): [Google Street View](#))



## CHARACTER OF APPLICATION ROUTE

15. The application route is an old historic way known as Mean Lane, which is currently recorded on the Definitive Map and Statement as Meltham Footpath Nos. 24 & 59. It is located in the town and civil parish of Meltham, within the Metropolitan Borough of Kirklees, in the West Riding of Yorkshire. It is approximately 4.5 miles southwest of Huddersfield in the Holme Valley below Wessenden Moor, near the Peak District National Park. The application route connects the rural countryside to the north-west urban area of Meltham and leads between two termini: the section of Mean Lane that is maintained at public expense by Kirklees Council as a vehicular highway, shown at Point B on the Application Map in Figure 2 and Photo 1 in Figure 3; and Huddersfield Road (B6108), shown at Point A on the Application Map in Figure 2 and Photo 10 in Figure 3, which is a public carriageway connecting Meltham to Huddersfield. Point B is approximately 177m above sea level ('asl') and the application route slowly descends to 169m asl until it is joined by Meltham Footpath Nos. 22 & 23 and turns east-south-easterly and continues towards Huddersfield Road at Point A, at which point it is 156m asl.
16. Commencing from Point B on the Application Map and Photo 1 in Figure 3, the application route is waymarked with a 'Public Footpath' waymark and leads north-easterly for approximately 90m in length and is roughly 6m wide between the drystone wall on the northern side, and fenced boundaries of the residential properties along Pavilion Way to the south. As the application route reaches the manufacturing factory of 'Dathan Tool & Gauge Ltd', it widens to a maximum of 9m wide until it is joined by a stepped access path from Pavilion Way, as shown in Photo 2, where it narrows to a minimum of 4m. From the start of the application route at Point A to the property of No. 35 Pavilion Way, a distance of approximately 150m, the application route is well maintained with a sealed tarmac surface and four street light columns.
17. At this point, as shown in Photo 3, a notice is displayed on the adjoining fence stating: 'STOP No Vehicular Access to Dolly Folly. Footpath only'. The application route then turns north-north-easterly for approximately 135m and narrows in width to 3.5m wide. The surface transitions from poorly metalled

irregular tarmac to levelled gravel adjacent the new residential development that bounds the application route on its northern side, as shown in Photo 4. An access path leading from Thomas Wroe Way joins the application route on its northern side. The application route then continues along a sealed metalled surface and turns north-easterly for some 120m leading between drystone walls on either side, as shown in Photo 5, which are partly dilapidated, of the adjacent agricultural fields, and then east-north-easterly for some 75m, where the northern edge of the application route is bounded by a stock proof fence.

18. Here, the application route is crossed by Meltham Footpath No. 23, as shown in Figure 1, which leads between the village of Helme and Station Road. The application route turns east-south-easterly for some 190m, descending in elevation and is crossed by Meltham Footpath No. 22, which leads to Folly Dike and Highburton. On the western side of the application route is a new agricultural building in the position of an ancient site known as 'The Lathe'. Significantly, the application route leads under the disused railway line, which is now a permissive bridleway known as the 'Meltham Greenway', as shown in Photo 6. A track leads from the southern side of the application route and up the embankment to join the permissive bridleway. The surface of the application route is no longer metalled. It is very waterlogged in places and difficult to traverse, but there is a visible layer of stones that is mostly covered in mud and earth.

19. The application route turns east-north-easterly for some 115m and is approximately 4.5m in width. It becomes progressively more vegetated and waterlogged due to a stream of water leading along the centre of the way, as shown in Photo 7. The application route leads south-easterly for some 40m and a significant brick bridge with railings on either side carries the application route over Meltham Dike, as shown in Photo 8. A padlocked field gate with a tight kissing gate is located across the application route at the west end of No. 223 Huddersfield Road, as shown in Photo 9. Two notices are displayed on the gate and a fence stating 'Private'. The application route then joins Huddersfield Road and is waymarked with a 'Public Footpath' sign, as shown in Photo 10.

**Figure 3: Photos taken on 24/04/2023 showing the physical characteristics of the application route**



Photo 1: Application route commences at the south west corner of the Cricket Ground, east of No. 43 Mean Lane (Point B on the Application Map in Figure 2). First 150m of Application route is metalled with four street light columns and the width is predominantly 6m but varies between 9m and 4m and is accessed.



Photo 2: Application route leads east-north-easterly and is accessed via a link from Pavilion Way.



Photo 3: Application route leads north-north-easterly and narrows in width to approximately 3.5m. A sign adjacent the Application route states: 'STOP No vehicle access to Folly Dolly Footpath only'. The surface is poorly metalled and irregular.



Photo 4: Application route is joined from the north by an access path from Thomas Wroe Way, a new residential development. The surface of the path is levelled with gravel.

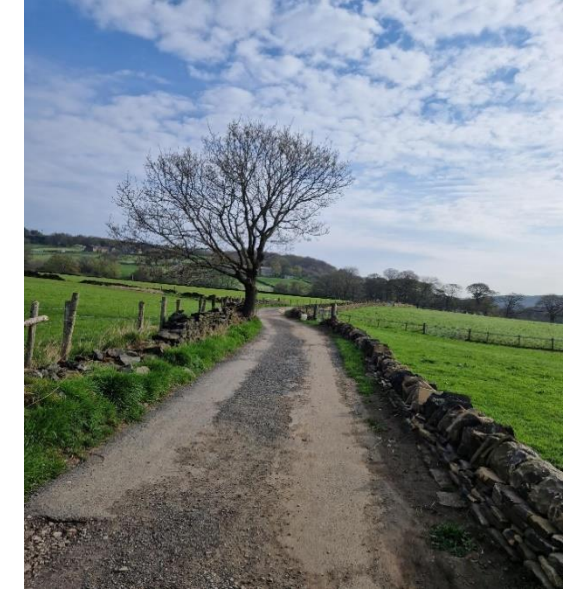


Photo 5: Application route starts to meander and leads north-easterly and east-north-easterly between drystone walls and agricultural fields. The surface of the Application route is tarmacked and is eventually joined by Meltham Footpath Nos. 22 & 23 on either side.



Photo 6: Application route turns sharply east-south-easterly and leads under the disused railway line, which is now a permissive bridleway called the 'Meltham Greenway'. A worn path leads up the embankment and links the Application route with the permissive bridleway. The surface is waterlogged in parts and predominantly made up of earth and stone (Photo direction is west-north-westerly)

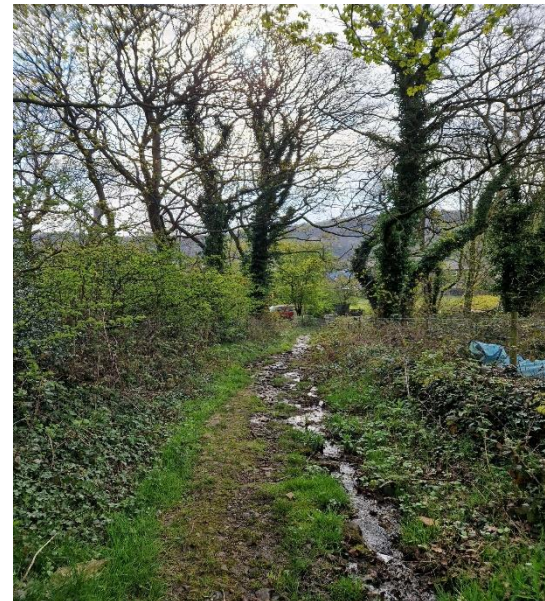


Photo 7: Application route turns east-north-easterly, south-easterly, then easterly towards Huddersfield Road. A stream of water leads along its centre and the surface is muddy and vegetated.



Photo 8: Application route leads over Meltham Dike watercourse via a brick bridge with railings on either side.

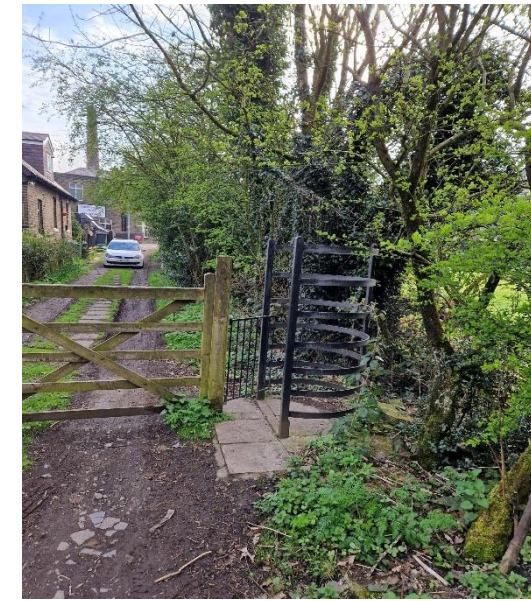


Photo 9: To the west of No. 223 Huddersfield Road, the Application route is obstructed by an unauthorised gate and side access, which is located in the wrong position. The gate is locked with a padlock and there are two signs stating 'PRIVATE'.



Photo 10: Termini of Application route opposite Riverside Works with the Public Footpath waymark (Point A on the Application Map in Figure 2).

## STATUTORY PROVISIONS

20. [Schedule 14, Paragraph 3 of the WCA](#) sets out that as soon as reasonably practicable after receiving a valid application the Council shall investigate the application and decide whether or not to make an Order. The need for a Definitive Map Modification Order ('DMMO') to be considered when evidence is submitted in support of a claim that a public right of way which is already shown on the Definitive Map and Statement is submitted to additional public rights is dealt with under section 53(2)(b) and 53(c) of the WCA. Section 53(3)(c)(ii) of the WCA provides that the Council has a duty to make a DMMO upon the discovery of evidence which, when considered with all other relevant evidence available, shows:

- *that a highway of a particular description ought to be there shown as a highway of a different description.*

21. Under the provisions of section 53(3)(c)(ii) there is no 'reasonably alleged to subsist' test, as is found in subsection 53(3)(c)(i). Therefore, the test by which the available evidence is to be considered is the civil standard of proof; that is, the balance of probabilities: does the claimed public right of way subsist? This requires clear evidence in favour of the appellant and no credible evidence to the contrary. The evidence submitted with the Schedule 14 application, and all research conducted by the Council, will therefore be judged to such standard of proof.

### **Highways Act, 1980**

22. The relevant statutory provision, in relation to the dedication of a public right of way, is found in [section 31 of the 1980 Act](#) ('the 1980 Act') The legislation sets out that where a way has been enjoyed by the public as of right and without interruption for a full period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The period of twenty years is to be calculated retrospectively from the date when the public right to use the way was brought into question.

23. Evidence is usually presented through the completion of evidence questionnaires by users of the route. It is possible for a public right of way to come into existence through long usage if the people using the route have used it 'as of right', which means the use must have been without force, secrecy, or permission. Additionally, if a landowner can show he has taken steps to prevent a right of way coming into existence, then the presumed dedication is rebutted. These steps must make the public aware that the landowner has no intention to dedicate the way for public use, for example, by placing notices on site stating that the route is 'not a public right of way' or use 'is by permission', gates can be erected and locked or by verbally telling users that it is not a public right of way. A presumed dedication will also be rebutted if the use constituted a public nuisance. A right of way can also come into existence in less than 20 years under common law if it can be proven that the landowner dedicated the route, and the public accepted it.
24. There is no statutory minimum level of use required to show sufficient use to raise a presumption of dedication, but it must have been by a sufficient number of people to show that it was use by 'the public', which may vary from cases to case ([Definitive Map Consistency Guidelines 2022](#)). Alternatively, user evidence can be considered at common law, which requires evidence of public use over a period of time to contribute to a justifiable conclusion of implied dedication by the landowner(s) based on their actions.
25. [Section 32 of the 1980 Act](#) requires a court or other tribunal, before determining whether a way has or has not been dedicated as a highway, to take into consideration any plan, plan, or history of the locality or other document which is tendered in evidence. Each document shall be applied evidential weight justified by the circumstances, such as the antiquity of the document, the purpose and status of the document, and the custody in which it has been kept and produced.

## **MAIN ISSUE**

26. Following a representation by the Applicant, the Council have been directed by the Planning Inspectorate, on behalf of the Secretary of State for Environment, Food, and Rural Affairs, pursuant to paragraph 3(2) of Schedule 14 of WCA, to determine the Schedule 14 application referenced S140119, no later than 22<sup>nd</sup> May 2022. As the evidence submitted with the application is both historical and user to 'upgrade' two public footpaths, the application will be determined based on the balance of probabilities, firstly by analysing documentary evidence to assess whether a public bridleway, or higher public rights, subsists along the application route by presumed dedication at common law. If not, then it will be necessary to consider the user evidence under statute and common law.



# DOCUMENTARY EVIDENCE

## 1797 PLAN OF MELTHAM

### Background

27. A cadastral survey of Meltham by John Johnson, Land Surveyor, was made in 1797 entitled '*Plans of the Inclosed LANDS within the Township of Meltham in the Parish of Almondsbury*' ('the 1797 Plan of Meltham'), as shown in Figure 4. The plan was drawn at a scale of 3 chains (approximately 80 metres) to an inch. Unfortunately, no definitive information is available regarding the provenance or purpose of this map. Nevertheless, the objective of the survey may be surmised by the area covered in the plan and its contents. The 1797 Plan of Meltham is a comprehensive survey of inclosed land in the settlement of Meltham and shows the township within an agrarian system, providing an accurate portrayal of buildings, roads, watercourses, common land, and referenced ancient piecemeal enclosures. The map was most likely supplemented by a book of reference containing the size of each unit of land and the name of each landowner or landholder and their rates of assessment. The annotation of 'encroachments' of recently enclosed lands into common land is very valuable and shows that the purpose of the 1797 Plan of Meltham was made to ascertain legal land use and ownership.

### Cadastral Maps and Inclosure

28. The 1797 Plan of Meltham is notably similar to the later 1832 Meltham Inclosure Plan and shows the bare essentials of the landscape. The information contained in the 1797 Plan of Meltham and its focus on the inclosed and common land indicates that it may have been produced with a view to enclosure on behalf of local landowners. Enclosure (or 'Inclosure') is defined as the removal of communal rights, controls or ownership over a piece of land and its conversion into private ownership (Kain *et al.* 2004). There were three methods of enclosure: piecemeal, agreement, and parliamentary act. The process of

general enclosure began long before any formal measures or legal documentation was produced or achieved with discussions among interested parties as to the desirability and viability of enclosure taking place over decades (Partida, 2014).

29. The use of maps to determine the existing cadastre and to record the new cadastre became an integral part of enclosure by parliamentary act from the middle of the eighteenth century onward (Kain & Baigent, 1992). By 1760, enclosure maps developed into a distinct genre and though usually encountered accompanying parliamentary enclosure, they occasionally complemented formal agreements; a non-parliamentary legally binding document requiring a majority consensus of persons interested in the land. Agreements were often used where possible, and parliamentary acts where necessary. Private owners were pushed into the expense of an act when an agreement ran into difficulties (Chapman & Seeliger, 1994). It was important that all existing tenorial and land use arrangements were well known to the commissioners and some pre-enclosure cadastre maps were made for this purpose. Decisions about each new allotment were judged a fair equivalent of pre-existing open lands and common rights (Delano-Smith & Kain, 1999). The 1797 Plan of Meltham is therefore likely to have formed part of the early stage of the later parliamentary enclosure.

### **Evidential Weight**

30. The 1797 Plan of Meltham provides an accurate and impartial pre-Inclosure cadastre of the landscape and road system that existed in 1797; in contrast to the 1832 Inclosure Plan, which depicts the landscape being imposed. The map does not contain a key or annotation to indicate whether a road was considered to have public or private status. Valuably however, the map recorded ancient piecemeal enclosures; probably to determine the commutation of tithe dues based on ownership and acreage (Oliver & Kain, 1998). Piecemeal enclosure was the incremental engrossing of land, generally involving a negotiated agreement involving a single landowner or tenant purchasing or swapping strips in the open fields in order to consolidate their holdings in one place

(O'Donnell, 2015). The long process of piecemeal enclosure created a landscape of small, irregularly shaped contiguous fields (Spooner, 2016). Field shapes can provide a vital clue as to the chronological development of the landscape as, typically, the spatial arrangement of pre-existing roads determined the relative size, shape, arrangement and structure of the later piecemeal enclosures (Chapman & Seeliger, 1997; Forman *et al.* 2003). Additionally, annotates thoroughfare routes that continued beyond the area recorded on the map to public destinations, and are today all-purpose highways. Therefore, by comparison, it may be possible to deduce whether the ancient Mean Lane led to a public destination and/or was a thoroughfare.

## Analysis

31. The 1797 Plan of Melham is the first cartographical map available which shows the physical existence of the application route. The primary purpose of the map was to record inclosed lands; however, the surveyor has made a deliberate effort to distinguish between highways and private roads. Therefore, by analysing the land use, it is possible to deduce the status of Colders Lane by applying the highway law at the time the document was produced. In 1793, the distinction between highways and private ways was defined as (Burn, 1793):

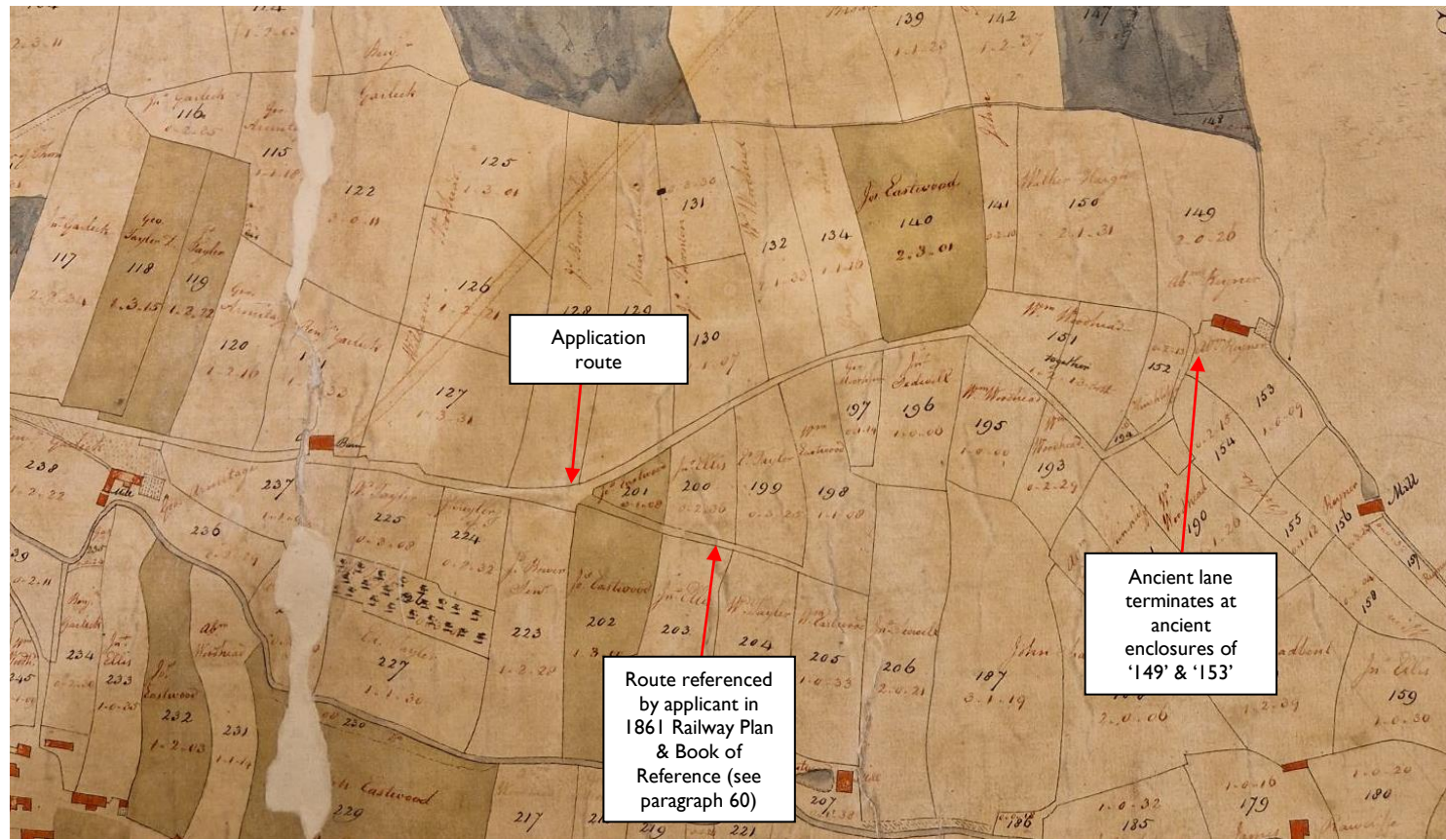
*“... that every way from town to town may be called a highway, because it is common to all the king’s subjects;... but that a way to a parish church, or to the common fields of a town, or to a private house, or perhaps to a village which terminates there, and is for the benefit of particular inhabitants of such parish, may be called a private way, but not a highway, because it belongeth not to all the king’s subjects, but only to some particular persons...”.*

32. Three routes are shown on the 1797 Plan of Meltham leading out of the township and are annotated as leading to public destinations: Helms Lane is named in bold letters and leading ‘To Huddersfield’, one route leads out of the township ‘To Honely’, and another ‘To Crosland’. Furthermore, another route is shown with two parallel dashed lines leading over common land and is named in bold black letters as ‘Marsden Road’. Lastly, one route is shown by two solid

lines as 'Manchester Road'. These were clearly recognised as highways because they were thoroughfares between public settlements.

33. On the other hand, the application route is shown with reference to the adjacent enclosures, prior to the Parliamentary Inclosure of the common land in the area. The application route is not annotated with a name or that it leads to a settlement, but it is shown as leading between ancient enclosures and terminating as a cul-de-sac at the ancient enclosures numbered '149' and '153' at a building west of Folly Dike, known as 'The Lathe'. At this period of time, there is no continuation of the occupation road along which Meltham Footpath No. 24 subsists towards Huddersfield Road (B6108), which did not yet exist.
34. The very eastern section of the ancient lane also follows a different course to the present day and instead leads south-westerly along the northern boundary of the ancient enclosures referenced '193' and '195', then east-north-easterly along the southern boundary of ancient enclosure referenced '195', and then finally north-north-easterly to its termination. Today, the route follows a curved course through the northern section of ancient enclosures referenced '151' and '152'. Notably, there appears to be drafted on the map a scheme for a route connecting the ancient lane, at a building annotated as 'Barn' to the west of the ancient enclosure referenced '127', to the highway called 'Helmes Lane', which continues 'To Huddersfield'. The term 'private' defines a restriction upon who can use the particular way. It can therefore be inferred from the 1797 Plan of Meltham that the primary use of the ancient Mean Lane at that time was as a private occupation road for the use of the adjacent owners and occupiers of ancient enclosed land within the township of Meltham.

Figure 4: Extracts of 'Plans of the Inclosed LANDS within the Township of Meltham in the Parish of Almondsbury' 1797 by John Johnson (Source: [West Yorkshire Archive Service, Kirklees: DD/WBE/pi/1](https://www.west-yorkshire.gov.uk/record-office/records/land-enclosure))



## THE MELTHAM INCLOSURE ACTS OF 1817 & 1830

### Background

35. It is no coincidence that the historic evidence available to assist determining the status of the Application route at this period of time derive from Inclosure and Turnpike documents, as the two processes were intertwined. Investments in turnpikes enhanced the prospects for subsequent investment in enclosure, and vice versa, by making it more feasible to increase the profitability and modernisation of agricultural land (Albert, 1972). At Meltham, the actual enclosure process was a lengthy, expensive, and bitterly contested affair (Reed, 1984).
36. After ascertaining the ancient enclosures, as shown on the 1796 Plan of Meltham, 'An Act for inclosing Lands in the Manor of Meltham, in the Parish of Almondbury, in the West Riding of the County of York' was made in 1817 ([the 1817 Meltham Inclosure Act](#)). The preamble to the 1817 Inclosure Act recites: '*An act for consolidating in One Act certain provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*' ('the 1801 General Inclosure Act'). Together, the two Acts of Parliament were the enabling legislation establishing the procedural framework for the appointment of commissioners, surveyors, and provided the commissioners with all necessary powers for setting out, dividing, and allotting the area in question.
37. The preamble lists John Beaumont, Joseph Green Armytage, Thomas Shaw, Joseph Eastwood and Timothy Dyson as the Lords of the Manor of Meltham and owners of the soil of the commons and waste grounds, coal mines, lands, and minerals. As they also owned lands, tenements, and hereditaments within the Manor of Meltham, along with James Miller, Phillip Tinker, James Taylor, and Joseph Brooke, and 'others', they were entitled to Rights of Common. The proprietors sought to increase the economical productivity of these lands by consolidating their rights and interests into allotted freehold land; this was the sole purpose of the parliamentary Inclosure.

38. The 1817 Meltham Inclosure Act appointed William Rayner and John Buckley as commissioners for executing the two Acts, as well an umpire, Thomas Gee, for settling any difference or dispute between the two commissioners. Section 9 of the 1817 Meltham Inclosure Act appointed three surveyors of the commons, moors, waste grounds, and ancient inclosed lands: James Bulmer, William Porter, and John Johnson; the land surveyor that produced the 1796 Plan of Meltham. The surveyors were primarily tasked with conducting a survey, admeasurement plan, and valuation of the Manor of Meltham showing every proprietors' distinct property and providing the area of the land in acres, roods, and perches; the statute measure at the time. The survey plan was to be reduced into a written Award by the Commissioners, which would specify and describe the location, situation, abuttals, boundaries, quantity's and contents of each allotted parcel of land with measurements provided in acres ('a'), roods ('r'), and perches ('p'). The Inclosure Map is therefore a pictorial illustration of the Award text. The reorganised allotments are identified on the map with the abbreviated name of the individual owner and the size of the plot given, together with the lines of the named new roads, paths, stone pits, hedges, fence, drains and other topographical features. The ancient enclosures are given their own reference number, which is reproduced in the Award.

39. The commissioners, surveyors, and umpire could be replaced where necessary and were required to take an oath or affirmation legally verifying their work, which was annexed and enrolled with the subsequent Inclosure Award. Thirteen years passed and no Award was made. In that time, the 1821 Inclosure Act was made to amend certain aspects of the law regarding Inclosure. Additionally, Thomas Gee and John Buckley passed away, and William Rayner became bankrupt. Consequently, an additional Act of Parliament was passed in 1830 entitled: '*An Act to Amend an Act of King George the Third, intituled An Act for inclosing Lands in the Manor of Meltham in the Parish of Almondbury in the West Riding of the County of York*' ([the 1830 Meltham Inclosure Act](#)), which appointed James Taylor and Frederick Robert Jones as the new commissioners and Daniel Tuke as umpire. The 1830 Meltham Inclosure Act introduced various other procedures for conducting the Inclosure and demanded that the subsequent Inclosure Award was to be

executed within two years of the said Act and enrolled in the Register Office at Wakefield. The Meltham Inclosure Award should therefore be legally verified with an oath and signed by James Taylor and Frederick Robert Jones as commissioners, Daniel Tuke as umpire, and James Bulmer, William Porter, and John Johnson as surveyors, unless anyone of them should require a replacement within the stated two years.

### **Highways, Private Roads & Maintenance**

40. As part of this exercise, it was necessary to first deal with the crucial issue as to the provision of both public and private ways in through and upon the land to be inclosed, and the ancient inclosed land. Before the allotment of land parcels, Section 17 of The 1817 Meltham Inclosure Act, together with Sections 8 and 10 of the 1801 General Inclosure Act, empowered commissioners to:

- Create public carriage roads 30ft wide over land to be inclosed, which were to be fenced on either side
- Divert, extinguish, or alter existing carriage roads (except Turnpike Roads), bridleways, and footpaths over land to be inclosed. Public Carriage Roads not extinguished until new routes are safe and convenient for Horses, Cattle, and Carriages
- Create public carriage roads, private carriage roads, bridleways, or footpaths through ancient inclosures, with landowners compensated
- Divert, extinguish, alter, or widen existing public carriage roads (up to 30ft), bridleways, or footpaths through ancient inclosures with the concurrence of two Justices of the Peace

41. The Acts, in effect, define four categories of way, namely public carriage roads, private carriage roads, bridleways and footpaths. The commissioners were clearly vested with extensive powers to substantially improve the highway and private ways network to maximise the productivity of the land, and for the convenience of the public and local proprietors. However, they had no authority



over Turnpike Roads and importantly, there was no deeming provision that automatically extinguished pre-Inclosure highways or public ways within ancient inclosures or common land. Therefore, any ancient rights of way would continue unless the commissioners actively sought to modify them. The new route network was to be accurately drawn and described on the accompanying Inclosure Map. Section 9 of the 1801 General Inclosure Act states that once the new public roads were brought up to a standard fit for the travelling public and carriages, they were to be maintained in the same manner as existing public carriage roads were by law to be amended and repaired.

42. Highways are governed by both common and statute law. The outstanding highway legislation at time of the 1817 & 1830 Meltham Inclosure Acts was the 1773 Highways Act. Highway maintenance had evolved into a system whereby repairs could be discharged through statute labour, a highway assessment rate not exceeding sixpence in the pound per year, fines, and also turnpike tolls. Money generated could be used to hire labourers to repair, amend and enlarge highways (Clifford, 1968; Jackman, 1966; Webb & Webb, 1913). In 1822, the Lockwood and Meltham Turnpike Trustees, the prosecutor, indicted the inhabitants of Meltham township, the defendants, at Wakefield Sessions for the non-repair of a highway known as Town Street, Meltham. Although the Lockwood and Meltham Turnpike Road was predominantly financed by toll charges, the prosecution shows that at common law, Meltham township, as the 'inhabitants at large', was bound by custom (prescription) and had the same footing as a parish, with respect to repairing highways lying within its own boundary. Highway maintenance was conducted by enforced statute labour and demonstrates that the new public carriage roads created in the subsequent Inclosure Award would be repaired in the same manner.

43. Contrastingly, Section 10 of the 1801 General Inclosure Act did not prescribe a defined width for private carriage roads, bridleways, or footpaths and it was left to the commissioners to determine the most appropriate width according to necessity and their use. Furthermore, they were to be made, and at all times forever thereafter be supported and kept in repair, by and at the expense of the owners and proprietors for the time being of the lands and grounds directed to

be divided and inclosed, in such shares and proportions as the commissioners shall award, order, and direct.

44. As there is no public right of pass and repass for the legitimate purpose of travel over private roads, they were not held in trust by royal government to possess, control, manage, and supervise the property for public benefit. Consequently, the private roads were not legislated, not automatically repairable by 'inhabitants at large', not subject to a highway rate or statute labour, and Justices of the Peace at Quarter Sessions had no jurisdiction to impose fines, orders, or indictments for non-repair. Sections 9 and 10 of the 1801 General Inclosure Act therefore highlight the distinct difference between the existing highway laws automatically governing the old and new public roads, and the necessity to mandate the maintenance of private ways.

45. The 1801 General Inclosure Act together with the 1817 Meltham Inclosure Act provided a systematic code of all roads and ways over the subject matter of the proposed Inclosure. The commissioners could therefore retain existing roads and ways, alter the course of existing roads and ways, extinguish them altogether and also layout wholly new routes. Before the allotment of land parcels, commissioners were also required to set out watercourses, water places and appoint one or more public stone quarries, not exceeding 10 acres for the purpose of forming and repairing the new and existing public and private ways in the Manor of Meltham, but also for every owner, occupier, and tenants for the purposes of upkeep and improvement of their estates. The grass and herbage was vested in the Surveyor of Highways to let, and the profits were put towards the repair of the highways in the Manor of Meltham. Once the stone quarries were exhausted, the land became vested in the Churchwardens and Overseers of the Poor of Meltham, and in the Surveyor of Highways, to be sold at auction for the profits shall be applied for public benefit.

### **Lords of the Manor**

46. In lieu of and as full compensation for the rights, shares, and interests in the soil, mines, metals, and minerals (except coal mines) of the land to commons,

moors, and waste grounds, the 1817 Meltham Inclosure Act stated that the Lords of the Manor of Meltham were awarded and allotted one-sixteenth part of the remaining land to be inclosed. The allotment was to be divided among the Lords of the Manor in proportion to their respective shares of the Manor along with all underlying mines, stones, veins, metals, minerals, and beds or seams of coal associated with each division; discharging the other Lords of the Manor from all rights of claims to the land. The same applied to any allotments made by virtue of the 1817 Meltham Inclosure Act they were entitled to as proprietors of messuages, cottages, lands, and grounds, with rights of common.

### **Allotment of Land**

47. After the commissioners had deducted and allotted lands for the roads and ways and the before-mentioned allotments, the commissioners were ordered to set out and allot the remaining residue of land. The 1817 Meltham Inclosure Act directed that the commissioners were to adjudge and proportionally distribute the remaining lands and grounds to be inclosed amongst the proprietors of ancient messuages, cottages, and toftheads, and ancient inclosures in the Manor of Meltham (except illegal encroachments). The proportion to be allotted was determined according to the annual value of the estates, which was settled by the commissioners or umpire and was in full compensation for their respective rights of common, or other rights of interests, in, over, and upon the lands to be inclosed. The allotments were to be set out as contiguous to their respective estates as conveniently possible and were to be fenced. The Act permitted the exchange of rights and interests in the land with the consent and approbation of the commissioners, which was entered into the Award.

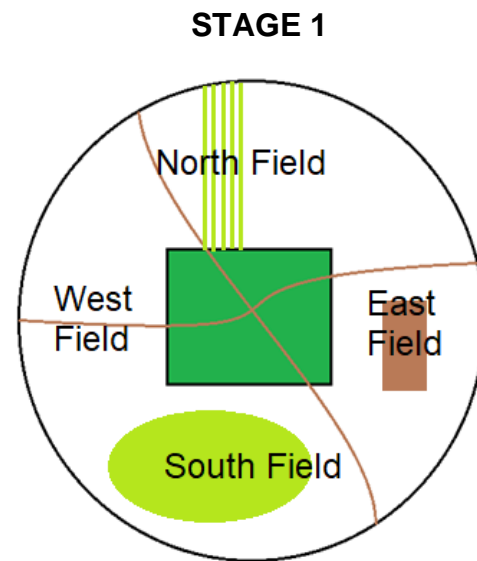
48. Additionally, by virtue of Section 11 of the 1801 General Inclosure Act, the proprietors of lands and grounds adjacent private or public ways were vested with the grass and herbage arising, up to the crown of the road. However, the Lords of the Manor retained the rights, title, and interests to the mines, beds, or seams of coal under the residual land to be allotted and had the power to

work mines and extract the coal under the allotments, ways, roads, and passages, provided they pay the respective owners double the annual value of the land, levelled the roads, and returned the land to a proper state of cultivation. The Act included a general saving to the King, his heirs and successors, and all and every other person(s), bodies politic or corporate, of all such rights and interests in respect of the lands and grounds directed to be inclosed, to which they not been assigned allotments of land or compensated by virtue of the Act.

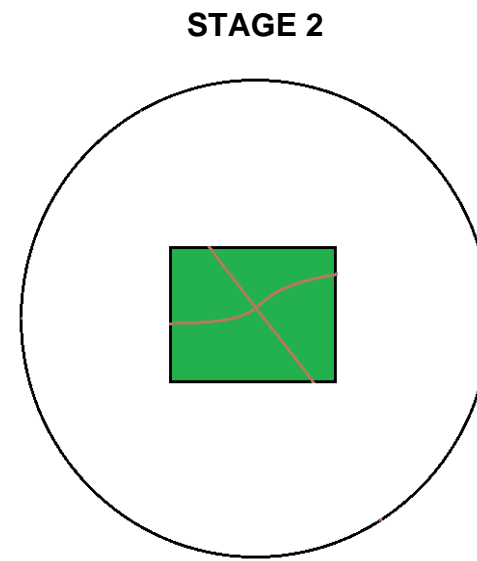
### **Summary of Meltham Inclosure Acts**

49. The wording of the Inclosure Acts is clear that, except the general saving clause and rights reserved to the Lords of the Manor, the objective and intention of the legislation was to extinguish all rights of ownership and rights of common over the lands and grounds to be divided and inclosed, creating a blank canvas in which the equivalent compensatory allotment of property could be provided. The 1817 Meltham Inclosure Act provides a strict order in which the land was to be divided and inclosed. The allotment of land to the Lords of the Manor and the residual land to proprietors is contemplated as distinct from the improvement and provision of public and private ways, watercourses, watering places, and stone quarries, which were to be set out first, as shown in Figure 5.

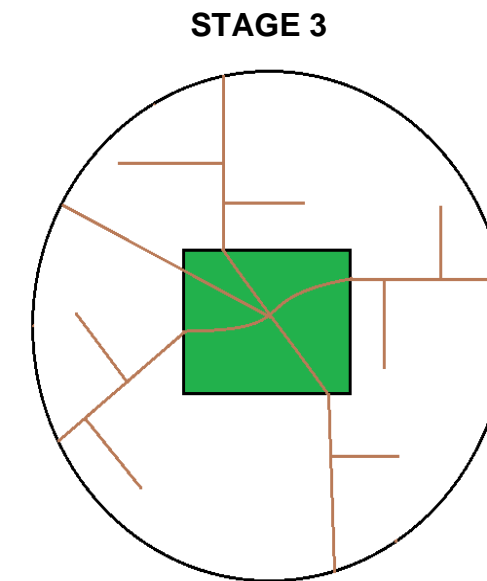
**Figure 5: The Six Key Stages directed by the 1817 Meltham Inclosure Act to be followed in the subsequent Inclosure Award**



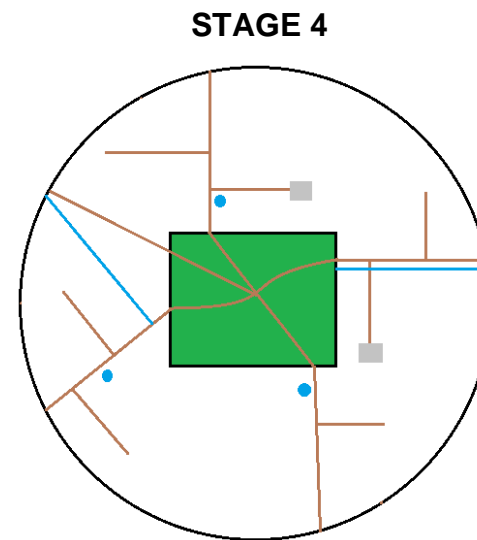
Pre-Inclosure arrangement of common land as open fields used for communal arable and pastoral farming around the ancient enclosed settlement. For centuries it formed the basis of the country's economy, but it was no longer profitable during the agricultural and industrial revolution.



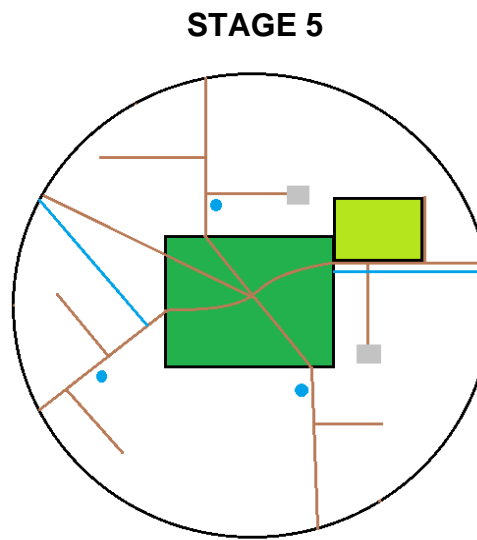
The 1817 Meltham Inclosure Act created a blank canvas by extinguishing all rights, interests, shares, and ownership in the common land in order to improve the land arrangement and yield greater profits from agriculture by intensive farming; leaving the ancient inclosed land (dark green) and existing road network behind (shown by brown lines).



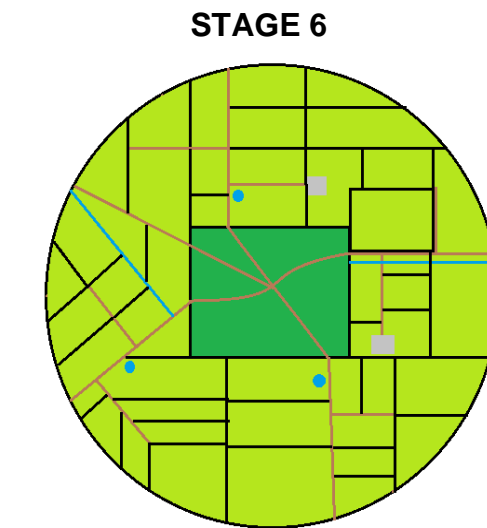
Whilst the existing public and private way network could be preserved, the Act envisages their improvement. This could be to make them more convenient to the travelling public, easier to maintain, and provide greater access to the numerous allotments to be awarded (roads shown by brown lines).



Subsequently, watercourses (blue lines), watering places (blue circles), and stone quarries (grey squares) were to be set out. The remaining land was now ready to be allotted and shared out.



Firstly, the Lords of the Manor were to be compensated for their original ownership of the soil of the common land with an allotment of land (light green rectangle). However, they retained the rights to the mining of coal under all the land to be inclosed.



The residual area of land was to be distributed amongst the remaining proprietors in compensation for their right of common (light green). Their shares were to be consolidated into freehold land, which was fenced off, to bring more land into effective agricultural use. This would form the Inclosure Map, which would be written down into the Award.

## THE MELTHAM INCLOSURE AWARD 1832

### Background

50. The 1832 Meltham Inclosure Award was signed and sealed by Frederick Robert Jones and James Taylor, the Commissioners, and enrolled at Wakefield Register Office in 1832. The oaths and affirmations of William Rayner & John Buckley (commissioners), Thomas Gee (previous umpire), Joseph Taylor & Frederick Robert Jones (the commissioners), Daniel Tuke (umpire), and Joseph Hall (surveyor), who replaced John Johnston following his resignation, are affixed to the Inclosure Award, legally verifying the contents therein. Another oath of John Walker for the status of umpire was also included, but he does not appear to have been sworn in. The preamble recites the relevant Acts of Parliament, setting out the statutory purpose of the Award and the powers vested in the commissioners. The Award states that the survey, admeasurement, and plan of the land to be inclosed had been made by the surveyor and reduced into writing, which was made, published and declared by the commissioners as their award, order, and determination.

51. The 1832 Meltham Inclosure Award is a written transcription of the accompanying large-scale cadastre map titled: '*Plan on the Manor of Meltham in the Parish of Almondbury in the County of York*', which was drawn by Joseph Hall ('the 1832 Meltham Inclosure Map') and signed by the two commissioners: James Taylor and Frederick Robert Jones. The 1832 Meltham Inclosure Map shows the ancient enclosures coloured in blue/green and names the respective proprietors. Some buildings are annotated with their names, but all are shown with dashed grey colouring. Watercourses and watering places are coloured in blue. Existing and new roads, whether public or private, are coloured in sienna but only the new routes are named along with their defined width. Finally, all parcels allotted by the award as freehold land are uncoloured, but their extents are defined by black lines, includes the area side in acres, roods, and perches, and provides the name of the new proprietors. Some parcels of land were too small to provide such information and instead include a reference number that

corresponds to a list on the map that shows '*allotments sold*' and '*allotments to proprietors*'.

52. Based on the 1832 Meltham Inclosure Map, the Award then registers the distribution, conversion and improvement of previously unenclosed commons, moors, and waste grounds. The 1832 Meltham Inclosure Award firstly awards carriage roads of two kinds, public and private, in through and upon the lands and grounds to be inclosed and ancient inclosed lands in the township of Meltham. The distinction accurately describes the twofold object which the commissioners had borne in mind.

### **Public Roads and Maintenance**

53. On the one hand, thoroughfare public roads were to be straightened, widened, diverted, maintained, regulated and, if need be, provided, to improve public access and maximise the land available to be allotted (*Cubitt v Maxse*, 1873). The 1832 Meltham Inclosure Award sets out and describes eleven public carriage roads, between 30-36ft wide, that were awarded into and over the commons, moors, and waste grounds to be inclosed, between the fences of the new allotments to be awarded, and in the most commodious direction for the public, as shown in Table 1. In accordance with the preceding 1801 General Inclosure Act & 1817 Meltham Inclosure Act, the public carriage roads were authorised by two Justices of the Peace and were to be maintained in the same manner as existing public roads in the township of Meltham.

### **Private Carriage Roads, Public Bridleways, and Maintenance**

54. On the other hand, access to various buildings and new allotments was required. Under the heading 'Private Carriage Roads', the 1832 Meltham Inclosure Award created thirty-eight private carriage roads in through and upon the lands and grounds to be inclosed, with each of varying widths between 10 and 35 feet. Two of the routes were awarded with co-existing public bridleway status. They were named and awarded as shown in Table 1. A declaration at the end of the awarding of private carriage roads states that the routes were for

the sole of exclusive use of owners and occupiers of land adjacent each respective route. The maintenance was directed to be at the general expense of the owners or occupiers based on a rate of assessment.

55. The taxation method introduced in the 1832 Meltham Inclosure Award was distinct from, but in parallel too, the collection of a highway rate that would be introduced a few years earlier in the 1835 Highways Act. Levying a rate or assessment according to the proprietors shares and proportions of the land allotted to them was an equitable system of fairly spreading the cost of maintaining private roads, resolving potential disputes, and producing a more professional standard of repair. The Award is absolutely clear beyond doubt that the private carriage roads were for the use of the owners and occupiers of adjacent allotted land as occupation roads and were to be privately maintained. The interpretation of the term 'private' was considered in the case of [Dunlop v Secretary of State for the Environment and Cambridgeshire County Council \(1995\)](#), in which Sedley J held that such a term was used to distinguish a particular road according to the rights existing over it from those roads and ways over which the public at large had a right of passage for all purposes.

56. The two public bridleways were to be maintained in the same manner as pre-existing bridleways were by law required to be maintained and kept in repair. Notably, eight public footpaths were awarded and described leading into, through, and over awarded allotted land; the owners and occupiers of which were responsible for maintaining the public footpath and its structures. This contrasts with the public/private carriage roads and public bridleways, which were specifically set out between fences, raising the question, who was allotted the freehold land of these latter routes? This could have implications for the analysis of future documents, specifically the 1910 Finance Act Valuation Map and Reference Book, which is primarily focused on land ownership at the antecedent date of 30<sup>th</sup> April 1909.



**Table 1: List of Routes Awarded in 1832 Meltham Inclosure Award organised by status and width (see the [Story of Meltham](#) by Richard Orton for basic description of routes)**

Name	Width
<b>PUBLIC CARRIAGE ROADS</b>	
<i>Mill Moor Road</i>	36
<i>The Meltham Mills &amp; Austonely Road; The Holt Head Road; Netherthong Road; Mill Bank Road; Wilshaw &amp; Holmfirth Road; Royd Road; Mill Moor Road; Blackmoor-Foot Road; Huddersfield Road; Netherthong &amp; Bradshaw Road; Wash Road</i>	30
<b>PRIVATE CARRIAGE ROADS &amp; PUBLIC BRIDLEWAYS</b>	
<i>Shambles Road</i>	35
<i>The New Bridge Road; Weadley Moor and Deer Mill Bent Road; Blackmoor &amp; Deer Hill End Road; Colders Lane Bottom Road; Staithwaite Road; The Cop Road</i>	30
<i>Thickollings Road; Harding Hill Road; Harding Moss Road; The Royd &amp; Bradshaw Road (also public bridleway); Hayes Stone Quarry Road; Bed Grains Road; Hassocks Road; The Helme Road; Mill Moor Bottom &amp; Badger Gate Road</i>	24
<i>The Hebble Road; Fox Royd Green Bottom Road; Woodheads Road; Royd Edge Quarry Road; Green Slack Road; The Golden Hill Road; Golden Hill Quarry Road; Owlens Bar Road; Colders Lane Top Road; Moor Head Road; Ball Bents Road; Little Moor Road; Linthwaite Cross Quarry Road; The Sun Royd Road; Royd Edge Road; Cop &amp; and Holme Road (also public bridleway)</i>	18
<i>Mill Bank Bottom Road; Calf Close Well Road; Bridge Houses Road</i>	15
<i>Pickhill Brow Road; Hey Green Road</i>	10
<b>PUBLIC FOOTPATHS</b>	
<i>(Leading from) Blackmoor-Foot Road; Helme Road; Hebble Road; Royd Edge Road'; The Sun Royd Road; Royd &amp; Bradshaw Road x 2; Owlens Bar Road;</i>	5
<i>Pickhill Road</i>	3

**Table 2: List of 1832 Meltham Inclosure Award Maintenance Clauses**

<b>Status</b>	<b>Maintenance</b>
<b>Public Carriage Roads</b>	We the said Commissioners Do hereby award order and direct that all the said respective public carriage roads and highways above mentioned and kept in repair by such persons and in like manner as the other public roads within the said Manor or Township of Meltham are by Law to be amended and kept in repair.
<b>Private Carriage &amp; Occupation Roads</b>	Which said private carriage and occupation roads and ways before mentioned we have set out and appointed for the sole and exclusive use of the owners and occupiers of the estates and allotments lying adjacent to any of the said roads and to which such roads respectively lead. And we do direct that the said several roads.... by us so set out (whether the same be set out jointly with public bridleways or not and so much thereof and so wide as is necessary for private carriage and occupation roads, and not as public bridle roads) so far as the same are private carriage and occupation roads, and also the said several other private carriage and occupation roads by us so set out and appointed shall for ever hereafter be supported maintained and kept in repair by and at the general expense of the owners or occupiers of allotments upon the said commons moors and waste grounds, in the shares and proportions mentioned and specified in the rate or assessment hereunto annexed, and marked or entitled "The Rate or Assessment referred to at five pence in the pound by which the owners or occupiers of allotments on the commons moors and waste grounds, within the said Manor of Meltham in the Parish of Almondbury for the time being, are to proportion the expense of the roads set out and awarded in and over the said commons moors waste grounds and the allotments thereof"...
<b>Public Bridleway</b>	And we do hereby award order and direct that the several and respective public bridle roads or ways by us so set out as aforesaid and whether they be set out jointly along with the private carriage and occupation roads, or not, shall (so far, and so wide, as is necessary for Bridle Ways) be made, and for ever afterwards supported and kept in repair by such persons and in like manner as the other public Bridle Roads within the said Manor or Township of Meltham are by Law required to be amended, and kept in repair
<b>Public Footpath</b>	And we do award order and direct that the owners or occupiers for the time being of the several allotments respectively, into or through and over which any of the hereinbefore awarded public footways, or paths shall lead, shall make support and for ever hereafter maintain food and sufficient gates or stiles, and bridges or footplanks over such of the fences and ditches of their respective allotments of allotment as such owners or occupiers are ordered and directed in and by this our award to make and maintain. And we do order and direct that all footways, excepts as hereinbefore mentioned shall be of the width of five feet, and that wheresoever any person shall fence them off, they shall to the width of five feet exclusive of fences and ditches (except where otherwise provided in the conditions of any of the allotments sold under by virtue of the said second hereinbefore recited act if any such there be, except the one hereinbefore mentioned.

## **Bridge Houses Road**

57. The 1832 Meltham Inclosure Award created a private carriage and occupation roads called Bridge Houses Road at 15ft wide, as shown in Figure 6 and Figure 7. The private road commenced on the main highway through Meltham, now known as Station Road, at Mesne Bridge, and joining the western end of an ancient lane called 'Mesne Lane':

*“One other private carriage and occupation road of the width of fifteen feet, as and where the same is now staked and set out, commencing from or near the Mesne Bridge and extending thence in a northwardly direction to the west end of a lane running through old Inclosures there commonly called Mesne Lane, and which we call Bridge Houses Road”.*

58. 'Mesne' is an Anglo-French term, which translates to 'intermediate or intervening', which is likely a reference to the bridge. It is pronounced as 'meen', but also 'meien' and 'mean', which explains why the application route is now known as Mean Lane. Bridge Houses Road was awarded as a private carriage and occupation road, and it is reasonable to assume that the ancient Mean Lane was analogous to that status, as a private carriage road. The 1832 Meltham Inclosure Award confirms the analysis of the 1797 Plan of Meltham, which showed Mean Lane as, on the balance of probabilities, a private occupation road bounded by ancient piecemeal enclosures and terminating as a cul-de-sac at an ancient enclosure. The corroborative evidence shared between the 1797 Plan of Meltham, and the Inclosure documents is incontrovertible that the status of Mean Lane was a private carriage road at the time the 1832 Meltham Inclosure Award was published, declared, and enrolled.

59. The ancient Mean Lane is shown on the 1832 Meltham Inclosure Map, Figure 6, in exactly the same manner as the 1797 Plan of Meltham, leading through ancient enclosures and terminating as a cul-de-sac at the building west of Folly Dike. Most of the application route is coloured blue, in the same manner as the adjacent land parcels and where land parcels on either side of Mean Lane are within the same ownership, the owners name is written stretching across the

application route, such as: 'Meltham Curacy', 'Thomas Shaw Esquire', 'Joseph Haigh', 'Messrs Woodheads', and 'James Murphy'. On the other hand, where land parcels on either side of Mean Lane are in separate ownership, the names are recorded within the land parcel. Writing the names leading across Mean Lane may be to signify that they also owned that section of Mean Lane, and could also be for convenience, rather than repeating the same name twice.

60. The 1832 Meltham Inclosure Map also shows a bridge at the eastern end of ancient Mean Lane, north of 'The Lathe', over Folly Dike. As Bridge Houses Road was not awarded with a co-existing public footpath, the footbridge may have only been used at this time to access 'The Lathe' from the settlements of Helme and Highbrow. On the other hand, the 1832 Meltham Inclosure Map also shows a footpath, annotated as a dashed black line, commencing on Helme Lane and leading southerly through ancient enclosures to join Bridge Houses Road within the ancient enclosure of 'Joseph C Armitage', opposite the water body known as 'Mill Pond', which today is recorded as Meltham Footpath No. 26 on the Definitive Map and Statement. The ancient footpath would have been a cul-de-sac route if the public could not continue along Bridge Houses Road.

61. However, as stated at paragraph 41, there was no deeming provision that would automatically extinguish a highway over the land to be inclosed, or ancient enclosures. Consequently, if a public footpath existed along the land over which Bridge Houses Road was awarded prior to the 1832 Meltham Award, then it continued to so afterwards. As the bridge over Folly Dike at 'The Lathe' is recorded on the 1854 OS Map onwards as a 'Foot Bridge' (see paragraph 76), the depiction of the bridge on the 1832 Meltham Inclosure Map may indicate that a public footpath existed leading from the bridge along Mean Lane to and over Bridge Houses Road (currently recorded as Meltham Footpath Nos. 22, 24, & 59).

## **Evaluation**

62. The 1832 Meltham Inclosure Award created a new private carriage and occupation roads over common land, known as Bridge Houses Road, that

extended a pre-existing private occupation road. The new private road was for the sole use of the owners and occupiers of adjacent lands, who had the right of herbage and ownership of the roads up to their centres and were to be privately maintained by a rate of assessment. The ancient Mean Lane must have had a status analogous to that of the private road that extended it, which is supported by the analysis of the 1796 Plan of Meltham. The analysis of the 1832 Meltham Inclosure Map shows that a public footpath may have subsisted over the ancient Mean Lane at this time, leading from the foot bridge at Folly Dike to and over Bridge Houses Road. Even if this was not the case, it would not preclude the way from becoming a highway through the subsequent acquisition of public rights by dedication.

Figure 6: Extract of The 1832 Meltham Inclosure Map showing the extension of Mean Lane and the Application route (Source: [West Yorkshire Archive Service, Kirklees: QD5/3/Vol 3/8](#))

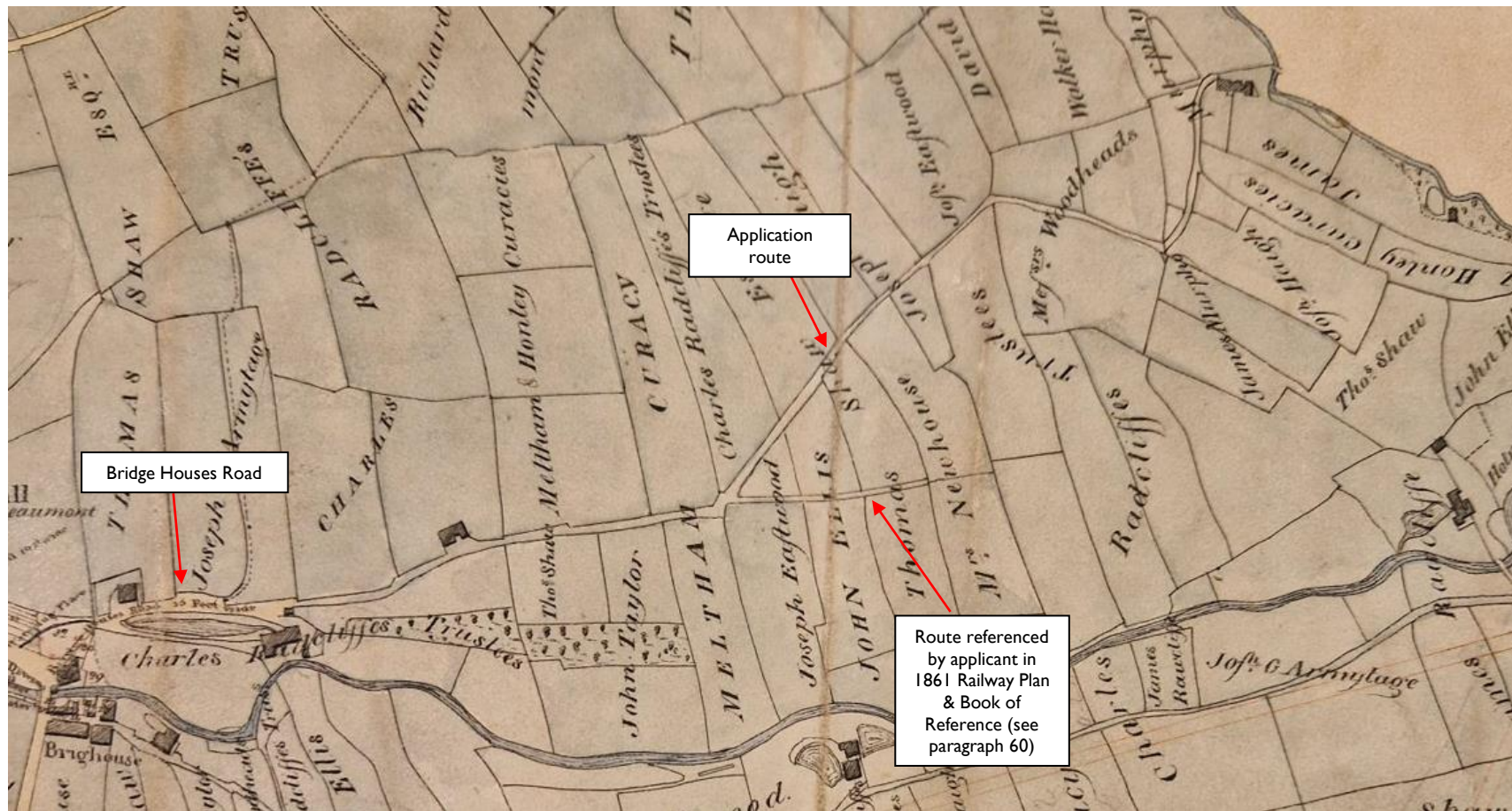


Figure 7: Extracts of The 1832 Meltham Inclosure Award showing the award of Bridge Houses Road (Source: [West Yorkshire Archive Service, Kirklees: WYK1978/2/MT1832](#))

Bridge Houses road which we call "The Mill Moor Bottom and Badger Gate Road". One other is private Carriage and occupation road of the width of fifteen feet, as and where the same is now staked and set out, commencing from or near the Mill Bridge and extending thence in a northwardly direction to the West end of a lane running through old Inclosures there commonly called the Mean Lane and which we call "Bridge Houses Road". One other private Carriage and occupation

## 1861 Lancashire & Yorkshire Railway Plans & Book of Reference

### Background

63. In 1861, the Lancashire & Yorkshire Railway Company deposited plans and a book of reference with the Clerk of the Peace for the West Riding of Yorkshire, and with the bill before parliament, in order to obtain parliamentary approval to the railway schemes, which included a 5.6km railway branch from Lockwood (Huddersfield), via Netherton, to Meltham. The bill was opposed by Mr Bentley Shaw of 'Bentley and Shaw', which aggrieved the inhabitants of Netherton and South Crosland: "*We... resolve that we will refrain from drinking any ale, beer, or porter brewed by the firm of Bentley and Shaw, till the train shall run on the said line through our village*". The plans and book of reference were scrutinised by a committee, whilst Mr Bentley received the concession of a new carriage road to his property at Woodfield House and '[The Lancashire and Yorkshire Railway \(Dewsbury, & Branches\) Act, 1861](#)' ('The 1861 Act') received royal assent on the 7<sup>th</sup> June 1861 and stated in the preamble:

*"And whereas Plans and Sections showing the lines and levels of the proposed Railways and other works, and the lands which the Company are by this Act empowered to acquire and appropriate, and Books of Reference to those Plans, containing the names of the owners or reputed owners, lessees or reputed lessees and occupiers of the said lands, have been deposited with the Clerk of the Peace for the county of Lancaster, and with the Clerk of the Peace for the West Riding of the county of York respectively".*

64. The 1861 Act incorporated '[The Railways Clauses Consolidation Act, 1845](#)' ('the 1845 Act'), which was a general act of parliament that consolidated repeated provisions usually included in private Acts authorising the making of railways. The information contained in the plans, sections, and book of reference can therefore be evidentially valuable to ascertaining the existence, or otherwise, of public rights of way at the time the land was surveyed, and the documents were produced.

## Analysis

65. The railway was closed to passengers on 21<sup>st</sup> May 1949, and was formally closed on 5<sup>th</sup> April 1965 and the track dismantled in 1966. Today, it known as 'The Meltham Greenway', a permissive route for walkers, riders, and cyclists. Today, the application route [leads under a bridge of the dismantled railway](#). In [Dartford Rural District Council v Bexley Heath Railway Co. \[1898\] AC 210](#) it was held that the 1845 Act did not impose a duty upon a railway company to carry a footpath over the railway, or the railway over the footpath by means of a bridge. As a result, the Definitive Map Consistency Guidelines advise that, unless there is specific provision in the 1861 Act, any public route requiring a bridge is of at least bridleway status. However, today Meltham Footpath No. 24 coexists with a private occupation road. Section 49 of the 1845 Act required that:

*“Every Bridge to be erected for the Purpose of carrying the Railway over any Road shall (except where otherwise provided by the Special Act) be built in conformity with the following Regulations; (that is to say,)*

*The Width of the Arch shall be such as to be leave thereunder a clear Space of not less than Thirty-five Feet is the Arch be over a Turnpike Road, and of Twenty-five Feet if over a public Carriage Road, and of Twelve Feet if over a private Road;*

*The clear Height of the Arch from the Surface of the Road shall not be less than Sixteen Feet for a Space of Twelve Feet if the Arch be over a Turnpike Road, and Fifteen Feet for a Space of Ten Feet if over a public Carriage Road; and in each of such Cases the Clear Height at the springing of the Arch shall not be less than Twelve Feet:*

*The Clear Height of the Arch for a Space of Nine Feet shall not be less than Fourteen Feet over a private Carriage Road.*

*The Descent made in the Road in order to carry the same under the Bridge shall not be more than One Foot in Thirty Feet is the Bridge be over a Turnpike Road, One Foot in Twenty Feet if over a public Carriage Road,*



*and One Foot in Twenty Feet if over a public Carriage Road, and One Foot in Sixteen Feet if over a private Carriage Road....”.*

66. The width of the bridge has remained unchanged since the railway was constructed and has a minimum width of 18ft and a maximum width of 21ft, based on the 'OS Premium Stack Greyscale' base map on KOMPASS. This indicates that it was built for a private carriage road, as it is less than the twenty-five required for a public carriage road. Extracts from Sheet 3 of the 1861 Lancashire & Yorkshire Railway Plan, and the accompanying section, is provided in Figure 8, which has been reorientated to northerly. The features shown on the plan, specifically the Turnpike Road, stream, footpath, and Folly Dyke have been correlated to the features annotated on the cross-section drawing. Elsewhere in the plans and cross sections, features are annotated as 'Occupation Roads', 'Footways', or 'Public Carriage Roads'. Interestingly, neither Meltham Footpath Nos 23 or 24 are annotated as a footpath on the cross-section drawing, even though provision was made for their access via a footbridge for the former, and a bridge for the latter.

67. On the other hand, the routes are shown on the plan extract as dashed lines. Meltham Footpath No. 24 is shown commencing on the ancient Mean Lane just south of the building known as 'The Lathe', within the field referenced '3'. The footpath is shown leading easterly, across the line of the proposed railway, over Meltham Dike via a bridge and joining the Turnpike Road opposite Bent Ley Mill. This is the first time the route is shown in such a manner and is discussed in greater detail at paragraph 74 onwards. The Book of Reference, as provided below in Figure 9, shows that the field referenced '3' was described as a 'meadow and footpath' in the ownership of the Surveyor of Highways of the Township of Meltham and the Local Board of Health of Meltham. The evidence strongly indicates that the application route was a public footpath maintained by the relevant highway authority at public expense. This was sufficient for the British Railway Commission to withdraw their objection to recording the footpaths on the Definitive Map and Statement (see paragraph 116).

68. The plans show that the application route is beginning to take on its present configuration. However, the ancient Mean Lane is still shown as leading easterly and then northerly to 'The Lathe'. A diversion of the private road/public footpath may have taken place at a later date. Based on the current available evidence, on the balance of probabilities, there is no evidence that the section of the application route shown on the 1861 Railway Plans has a higher status than that of public footpath.

69. The ancient Mean Lane is not shown within the limit of delineation of the railway in Figure 8 and is therefore not referenced. However, the applicant also provided a copy of the railway plans and sections in their submissions supporting the Schedule 14 application. Specifically, the applicant highlighted a cul-de-sac route that offshoots from Mean Lane and terminates at ancient enclosures. The road is shown in Figure 4 and Figure 6 and in the book of reference was described as an 'Occupation Road' in private ownership and occupation. However, the documents specifically relate to that private road, which has since been adopted as a vehicular highway 'Pavilion Way'. The indications afforded by the documentary evidence indicate that the occupation road was synonymous in status to the ancient Mean Lane to which it joined, however, as it is a separate entity, no evidential weight can be appropriated to the application route.

Figure 8: 1861 Lancashire & Yorkshire Railway Plan & Section for Branch to Meltham (Source: West Riding Archives Wakefield Ref: [QE20/1/1860/10](#))

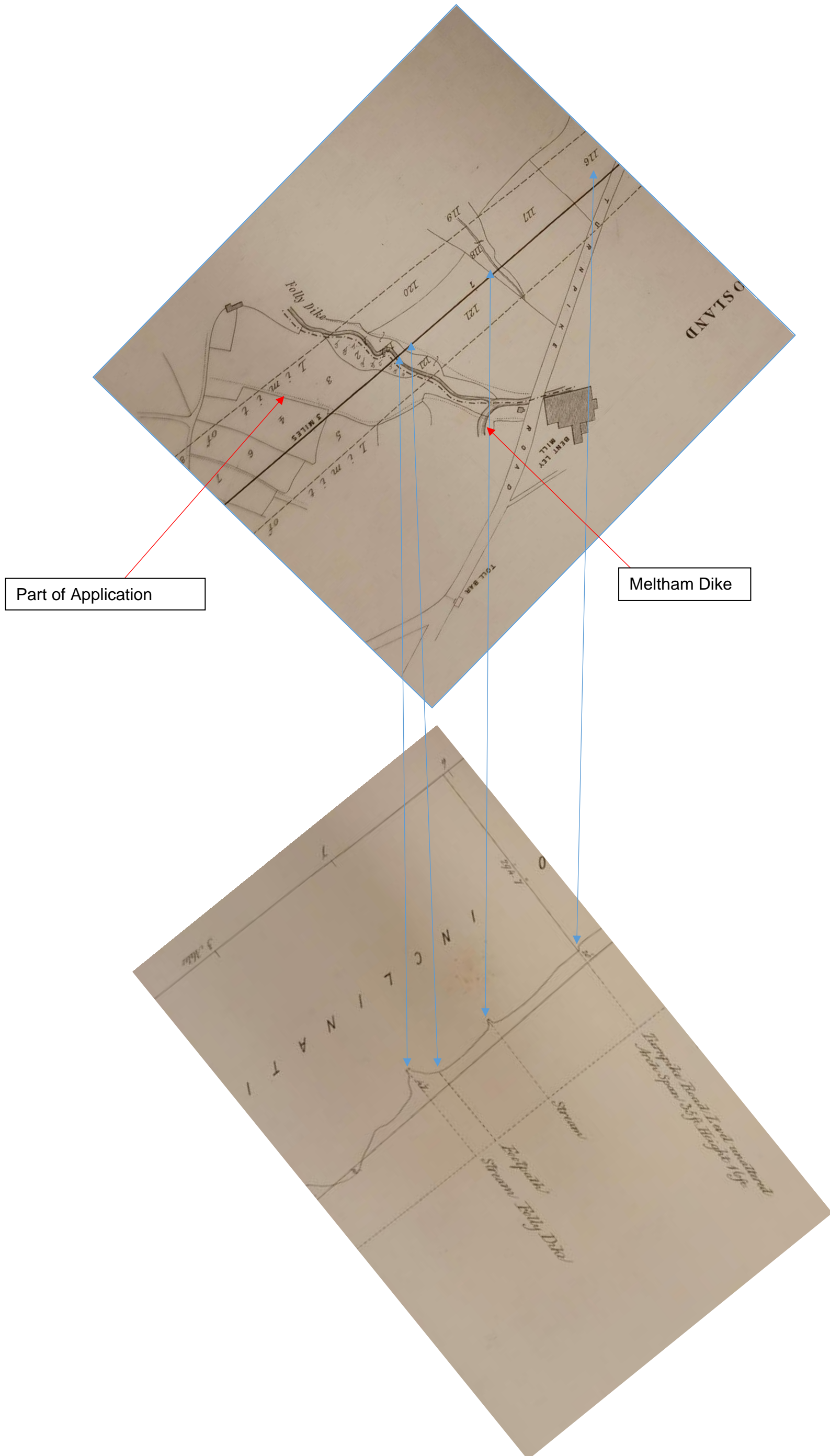


Figure 9: Extract of 1861 Yorkshire & Lancashire Book of Reference

The Township of *Meltham* in the Parish of *Almondbury* in the West Riding of the County of *York*

	Number on Plan.	OWNERS or REPUTED OWNERS.	LESSEES or REPUTED LESSEES.	OCCUPIERS.	DESCRIPTION of PROPERTY.
	1	<i>Sir Digby Cayley Baronet, and Henry Frederick Beaumont Esquire, and Charles Brooke Senior Esquire some or one of them</i>			<i>Watercourse and Well dividing the Townships of Meltham and South Oatesland</i>
	2	<i>Charles Brooke Senior</i>		<i>Himself</i>	<i>Wood land called "Tolly Lyke Wood."</i>
	3	<i>Ditto - and the Surveyors of the Highways of the Township of Meltham, the Local Board of Health of Meltham, Charles Brooke Senior Chairman and George Taylor Surveyor to the Local Board of Health of Meltham Township or some or one of them.</i>		<i>Ditto</i>	<i>Meadow and footpath</i>
	4	<i>Charles Brooke Senior</i>		<i>Himself and Edwin Eastwood or one of them</i>	<i>Meadow and footpath</i>
	5	<i>Charles Brooke Senior and the Local Board of Health of Meltham Charles Brooke Senior Chairman and George Taylor Surveyor or one of them.</i>		<i>John Anley Joseph Taylor and Edwin Eastwood or one of them</i>	<i>Meadow and public footpaths</i>
	6	<i>Charles Brooke Senior</i>		<i>John Anley and Joseph Taylor</i>	<i>Meadow</i>

15

## ORDNANCE SURVEY MAPS

70. The Ordnance Survey are the official mapping agency in the United Kingdom. The organisation collects and maintains uniform datasets with national coverage, containing detailed mapping of the built and natural physical topography of the landscape; transport networks including road, rail, waterways, tracks and paths; terrain and height data; administrative and electoral boundaries information; and geographical names (Commons, 2008). The Ordnance Survey originated for military purposes, however, rapid urbanisation and new transport networks required accurate large scale maps and in 1841 '*An Act to authorise and facilitate the Completion of a Survey of Great Britain, Berwick upon Tweed, and the Isle of Man*' ([the 1841 Act](#)) granted the Ordnance Survey was granted the right to enter land and map physical and administrative boundaries (Fletcher, D, 1999).
71. Section 12 of the 1841 Act specifically states that the Ordnance Survey does not provide, and has no remit to ascertain and record, any map with property boundaries, or information about ownership of physical features (Aldridge, 1997). Ordnance Survey maps are therefore topographical and do purport to fix or record the invisible line of a legal property boundary (*Willsher v Scott* (2007) EWCA Civ 195). The invisible property boundary may run parallel to but a few metres distance from the visible boundary of a fence or hedge in the middle of a highway or private road, based on the *ad medium filum* presumption. Nevertheless, property boundaries may depend or be coincident with surveyed map features, such as: fences, walls, hedges, similar visible objects and naturally occurring divisions (Tyler, 1876) (Brown, Robillard, & Wilson, 1995).
72. The Ordnance Survey has produced a series of topographic maps at different scales, notably: one inch, six inch, and 1:2500. The detailed, large scale 1:2500 maps from the 1870's onwards provide the best evidence of the position and width of routes and the presence of any structures on them. The Ordnance Survey 1:2,500 scale maps identify each parcel of land by field numbers, which refer to books of reference in which the acreage and, until about 1880, the land use of each parcel were recorded. Field numbers derive from the requirement that was placed on the Ordnance Survey to measure the area of every county,

borough, district, ward, and parish in the United Kingdom (Kain, R J P & Baigent, E, 1992). The ownership and occupation is not recorded in these books. Consequently, Ordnance Survey maps are universal as a secondary source for cadastre maps, such as the 1910 Finance Act.

73. Ordnance Survey maps provide good evidence of the physical existence of routes at the time the map was surveyed (*Attorney General v Antrobus* (1905)). When compared with earlier, less accurate maps they can help corroborate the existence of routes. Ordnance Survey maps show features that physically exist and may label routes as footpaths and bridleways (*Attorney General v Horner* (1913)). Additionally, if shading of a route resembles the depiction of known highways, an inference may be drawn that the status is analogous. However, the disclaimer which has been added to editions since the 2nd edition maps, along with official guidance to the surveyors of the maps at the time, states that the representation of any track or way is no evidence of a public right of way (*Masters v Secretary of State for the Environment, Transport, and the Regions* [2000] 4 PLR 134). Nevertheless, the available Ordnance Survey maps covering the Meltham area prior to the 1910 Finance Act Valuation Reference Maps may provide evidence to support the Meltham Local Urban Sanitary District Board Minutes and provide evidence of the topographical changes the application route has undergone over the years.

## Comparing the 1854 & 1892 OS Maps

74. The 1854 OS Map, as shown in **Error! Reference source not found.**, was surveyed between 1848 to 1851 and was published in 1854 at a scale of six inches to the mile and shows the entirety of the application route. On the other hand, the application route is divided across two Yorkshire [West Riding] Sheets numbered CCLX.9 & CCLX.10, as shown in Figure 11, covering the areas of Meltham and Helme, which were surveyed in 1891, and published in 1892 at scale of 25:344 inches to a statute mile, or rather 1:2.500. The maps were available as two options: coloured, which was more expensive; and uncoloured as a cheaper alternative. The Definitive Map Officer has used the National Library of Scotland to source these maps, which only shows CCLX.9 in colour, whilst CCLX.10 is uncoloured. In this respect, CCLX.9 is more informative, particularly when attempting to identify clues that distinguish between public and private roads, whilst keeping in mind that the map includes a disclaimer stating: *'The representation on this map of a Road, Track or Footpath, is no evidence of the existence of a right of way'*.
75. For instance, on CCLX.9, main thoroughfares and all-purpose carriageways like Helme Lane, Station Street, Huddersfield Road, and even estate roads such as Back Station Street, are coloured yellow. By contrast, the application route and the occupation roads leading from Spark Green to Upper Hey or from Crading Hole to Helme via Helme Hall, are shown uncoloured. The colouration is not a coincidence and most likely reflects routes that were in a good standard of repair, which would often be highways maintainable at public expense or newly created estate roads. This in turn may provide a differentiation between public carriageways and occupation roads. This is valuable information to attract investment and purchases of the pricier OS map. Notably, as the 1892 OS Map was surveyed in 1891, it predates the creation of the Recreation Ground, Cricket Ground, the Cottages, and the adoption of a section of Mean Lane up to the southwest corner of the Cricket Ground. Consequently, this section is also shown uncoloured.
76. The 1892 OS Map records several differences compared to the preceding 1854 OS Map. Firstly, as previously discussed, the Lancashire and Yorkshire

Railway branch to Meltham was built to the south and then over Mean Lane. Secondly, the eastern section of Mean Lane, along which Meltham Footpath No. 24 subsists, is shown. Thirdly, in contrast to the 1854 OS Map, 1892 CCLX.10 OS Map shows a bridge leading over Meltham Dike at the eastern end of the Application route to join Huddersfield Road opposite Bent Ley Mill. Thirdly, a route leading from Helme, through 'The Heys' to Helm Lane and continuing to the Application route, is shown for the first time. This continues to a footbridge over the railway to Spinks Mire Mill and Huddersfield Road. Today, this route is recorded on the Definitive Map and Statement as Meltham Footpath No. 23. The [Helme Conservation Area Appraisal](#) report comments:

*“Charles Brook (senior) lived at Healey House until his death in 1869 and was buried in Helme churchyard with his wife. He built a silk mill and a few cottages for the skilled workers in nearby Bent Ley in 1840 but many of the workers who had emigrated from Nottingham and the Midlands settled in Helme. This may explain why historical maps show the development of a well-trodden path from Helme to Bent Ley”.*

77. Similarly, Rev. Joseph Hughes states in '[The History of the Township of Meltham, Near Huddersfield \(1866\)](#)':

*“Another interesting object in this part of the district which next claims attention, is the handsome and well ventilated silk mill at Bentley, erected by Mr. Charles Brook, of Healey House, in the year 1840. Adjoining this are several neat dwelling-houses for the overlookers and some of the skilled workmen connected with the establishment, which were built about the same time. In this factory, as in that of a cotton thread at Meltham Mills, great numbers of women and young girls find employment, preference being given in both to females, because of their superior delicacy of touch, which peculiarly fits them for the handling of slight material, whether silk or cotton, which has to pass through their fingers. Precisely the same harmony is observed to exist here between the employers and employed, as at Meltham Mills; nor would it be easy in any locality to find masters more*



*deeply interested in the welfare of their workpeople than those at Bentley Factory*'.

78. In '[The Story of Meltham](#)' (1977), Richard Orton writes:

*"Two paths cross there, one from Meltham to High Brow past the brickworks, and the other from Helme to Bent Ley. Before the turnpike road was built up the valley these paths would have been much used. Dolly Folly would be quite a busy cross roads"*.

79. However, the Definitive Map Officer has reviewed the plans submitted for the Turnpike Road from Lockwood to Meltham & Meltham Mills (Huddersfield Road) at West Riding Wakefield Archives (Reference Numbers: [QE20/2/6](#); [QE20/2/19](#); [QE20/2/29](#)) and there is no indication within the documents that the eastern section of Meltham Footpath No. 24, and therefore the application route, existed prior to the creation of the Lockwood and Meltham Turnpike Road. Newspaper reports in the 1850/60s reveal that the Meltham branch of the Lancashire & Yorkshire Railway was instigated by Charles Brook, along with the firm Jonas Book & Bros, and other Meltham Mill owners and manufacturers to bypass the fees levied on the Lockwood and Meltham Turnpike Road. In October 1860, the proposal was brought before the directors of the Lancashire and Yorkshire Railway Company ([Huddersfield Exposed – Meltham Branch Line](#)).

80. Bent Ley Mill, the railway, and the footpath are all interlinked. Bent Ley Mill attracted workers from Nottingham and the Midlands since 1840, who settled in Helme. As there was no pre-existing highway from Helme to Bent Ley Mill, they walked the route of Meltham Footpath No. 23. Charles Brook, the owner of Bent Ley Mill attracted the Lancashire & Yorkshire Railway Company to invest in the Meltham railway to increase profitability for the Mill manufacturers. In turn, the railway made provision for the preservation of the link between Helme and Bent Ley Mill via the creation of an underpass for the public footpath now recorded as Meltham Footpath No. 24. The bridge over Meltham Dike is not shown on the 1854 OS Map, but is shown on the 1861 Railway Plan, which would suggest it was created within that narrow time period.

81. Lastly, as discussed in paragraph 34, the eastern section of Mean Lane at 'The Lathe' undergoes a transformation. The 1892 OS Map CCLX.9 is the first historic document that records this change. The ancient Mean Lane is shown on the 1854 OS Map as leading directly to the west of 'The Lathe', exactly as it is shown on the 1797 Plan of Meltham and the 1832 Meltham Inclosure Map and continues to the 'Foot Bridge' across Folly Dike, north of Folly Dolly waterfall. Starting at the current western termini of Meltham Footpath No. 24, the ancient Mean Lane is shown leading east-south-easterly and then northerly to 'The Lathe'.
  
82. However, on the 1892 OS Map, the old section of Mean Lane adjacent 'The Lathe' no longer exists. Instead, it is replaced by a copse of trees, and the footpath is shown diverted around the copse of trees to the west, as it exists today. Again, leading from the current western termini of Meltham Footpath No. 24, Mean Lane now leads east-north-easterly, between OS Field Numbers 461 & 526, and then easterly, under the Lancashire & Yorkshire Railway, over the footbridge across Meltham Dike, to join Huddersfield Road opposite Bent Ley Mills. The northern section of Mean Lane, within OS Field Number 461, is shown as a dashed line, indicating that there was no physical boundary.

Figure 10: 1854 OS Six Inch Map (Source: [NLS Maps](#))

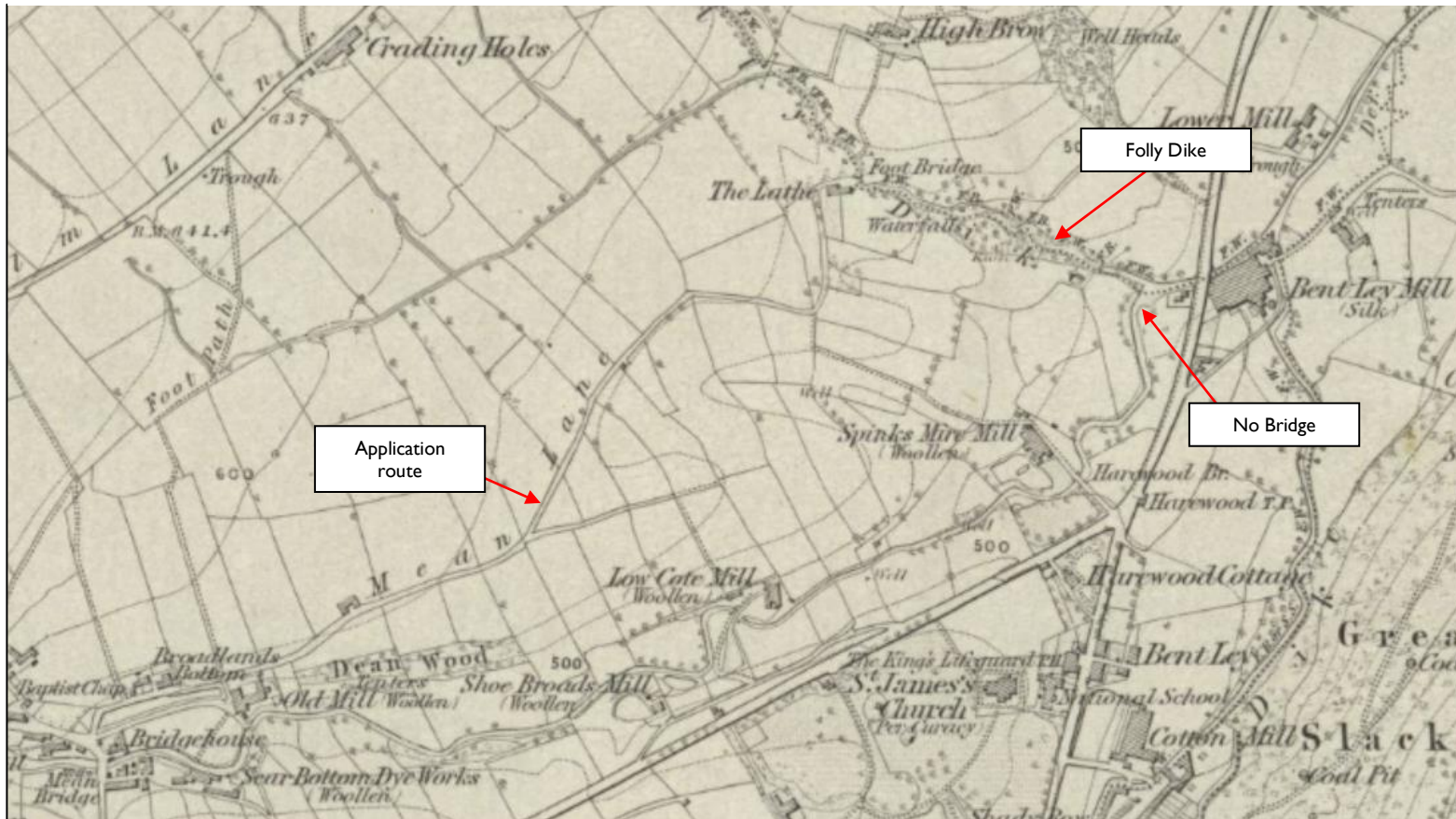
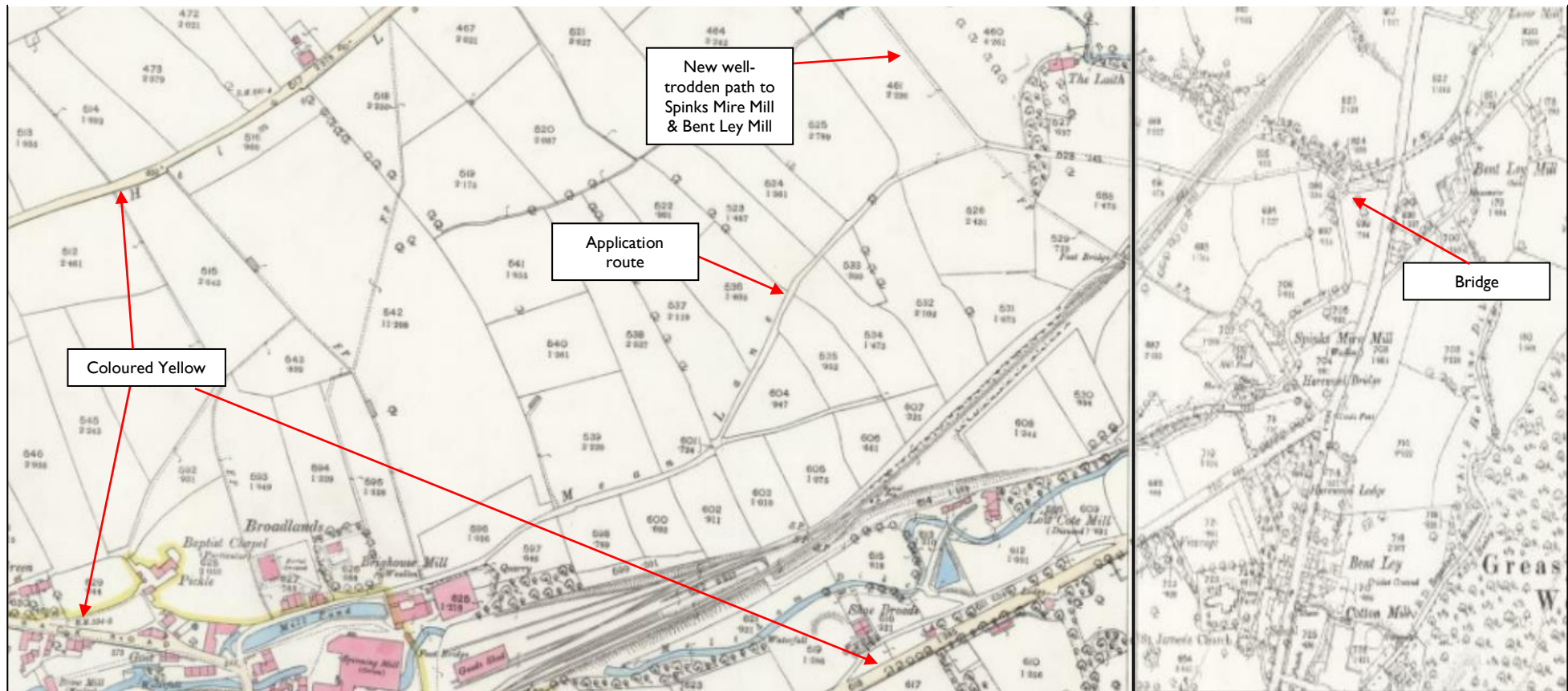


Figure 11: 1892 OS 1:2,500 Yorkshire [West Riding] [CCLX.9](#) & [CCLX.10](#) (Source: NLS Maps)



## LOCAL GOVERNMENT MINUTES (1888 – 1897)

### Background

83. Meltham Local District Board was formed in 1860 following The Public Health Act, 1848, and the Local Government Act, 1858, which permitted ratepayers to create local boards of health in populous areas. The Local Board was responsible for public health, sewerage, street cleaning, highways, water supply, burial grounds and building control. The country was divided systematically into urban and rural sanitary authorities under The Public Health Act, 1872, & [The Public Health Act, 1875](#). The Local Government Board was referred to as an Urban Sanitary District, reflecting the increased powers given to Local Boards to combat threats to public health. [The Local Government Act, 1894](#), ('the 1894 Act'), reorganised local administration in England and Wales and followed reforms at council level. A second-tier local government system within the county council areas created a network 535 Urban District Councils and 472 Rural District Councils, based on the earlier classification of sanitary districts. Meltham Local Urban Sanitary District Board was therefore superseded by Meltham Urban District Council in 1894 under section 21(1) of the 1894 Act.
84. Therefore, the township of Meltham was the authority responsible for the maintenance of highways repairable at public expense by the inhabitants at large before 1860. Highway liability was subsequently transferred to Meltham Local District Board in 1860, Meltham Urban Sanitary District Board, and then Meltham Urban District Council in 1895. The Local Government Minutes associated with the relevant Councils, together with newspaper articles documenting those meetings, can provide a record of their conducted duties as highway authority and can potentially yield strong evidence of both status of the application route and their responsibility to maintain it, or not.
85. The available evidence of Council Minutes date from 1891 to 1897 and cover the period just before the crossover from Meltham Local Urban Sanitary District Board to Meltham Urban District Council. The newspaper articles were obtained from the [British Newspaper Archive](#) and are of the Huddersfield Chronicle, Huddersfield Daily Chronicle and Huddersfield Examiner. They have been collated

chronologically and transcribed so that their contents can be easily analysed. The documents have to be viewed based on the preceding evidence that Mean Lane was a private carriage and occupation road that was privately maintained but with a co-existing public footpath. The Council Minutes can either confirm that, in the intervening fifty years or so, nothing changed, or the public acquired a bridleway or vehicular highway. In their submissions, the applicant provided an extract from 'The Story of Meltham' (Orton, 1977), which states that "Mean Lane became a public highway" in 1892.

**Figure 12: Chronological List of Council Minutes Relating to Colders Lane between 1888 to 1897 Collated from Meltham Local Urban Sanitary District Board Council Minutes (Source: West Riding Archives: [KMT26/1/1/6](#)) and British Newspaper Archive**

Meeting Date	Source	Minutes
22/09/88	Huddersfield Daily Examiner	A letter was received from Mr. E. H. Carlie, chairman of the Jubilee Committee, asking for the minimum alterations which the Board would required to be done to Mean Lane in order to qualify it for maintenance by the township. It was resolved to accept the road as a public highway as far as the east end of the recreation ground, if the road be coated with five inches of dross, pitched where required, and a drain consisting of twelve-inch earthenware pipes be laid the whole distance from the ground to the watercourse at Bridgehouse.
06/06/91	Huddersfield Daily Chronicle	MELTHAM JUBILEE MEMORIAL  To the Editor of the Huddersfield Daily Chronicle.  SIR,- It is now nearly 15 <sup>th</sup> months since I subscribed to a fund for repairing and widening the road leading from the gasworks to the entrance of the recreation ground and also for erecting some memorial gift of the ground by Mr. Edward Brook. From what I can gather nothing has yet been done, and if the present committee are as long-winded and dilatory in this matter as they have been in other matters concerned with the jubilee, the end of their labours is still in the remote future, and may for at the hands of the descendants and representatives a connecting link between the past jubilee and the next, whenever that comes round again. I believe there was nearly £300 collected, and it is time the subscribers knew where it is or what is going to be done with it. If the Committee have no practicable means of spending it let them return it to the subscribers, by the medium of those who collected it. Yours truly, A SUBSCRIBER
08/08/92	Supplement to The Huddersfield Examiner	Moved by Mr. W. Wood, seconded by that that portion of Mean Lane from the entrance to the recreation ground to its junction with Meltham Moor Road near Mean Bridge, having been widened, sewered, metalled, and freed from obstruction, the same be adopted and become a highway.
12/09/92	Huddersfield Daily Examiner	MEAN LANE IMPROVEMENT  A letter was read from the Jubilee Committee stating that they had now completed the improvement of the above lane leading to the Jubilee recreation ground, and had carried out all the suggestions of the Board, and now asked the Board to take over the lane as a highway, henceforth repairable at the public expense.- The Chairman stated that although the Board had offered to finish the work which the Jubilee Committee might be unable to do with the money they had in hand, he was glad to say that no part of the expense, so far, would fall on the board.- The Clerk stated that the Jubilee Committee had spent £233 odd on the improvement, and they still had over £4 in hand. Mr. Alder, architect, of Bishopgate Street, London, had prepared a sketch of a memorial stone to place at the entrance of the ground. The sketch was hand round and greatly approved. It contains the following inscription: "This stone was placed here as a memorial of the gift of the Recreation Ground by Mr. Edward Brook, Meltham Mills, June, 1887." The consideration of the latter business was adjourned, and the meeting broke up, having lasted over three hours.
13/10/94	Huddersfield Examiner	The Board's attention was called to the bad state of the road at the Mean Lane entrance to the recreation ground. It was decided that the road only be repaired.
22/06/95	Huddersfield Chronicle	Mr. Allen Hollingworth and Mr Kirk (Messrs. John Kirk and Sons) waited upon the Council in reference to the proposed purchase, by the former, of land for building purposes at the bottom of the Recreation Ground. Mr Kirk said the trustees of the Recreation Ground had asked 1 1/2d per square yard for the strip of land, and his object in coming before the Council was to request them to induce the trustees to accepted 1 1/4d. If they did so, and the trustees accepted 1 1/4d., it was proposed to take 1,800 square yards of land, and build 12 houses, but if the trustees adhered to the price of 1 1/2d. it was only proposed to take 1,200 square yards and to build six houses. He also asked the Council in any event to agree to make the road in front, and drain the same.- After some discussion, the Council resolved, having passed a resolution that the price be left with the trustees, not to take any further action in regard to the price, but they consented to make the road and drain the same for the six houses to be erected at the far end of Mean Lane. It was also decided, in view of putting the road into a proper state, to straighten the continuation of it, and a committee was appointed to view the place and mark it out.
07/08/95	The Huddersfield Examiner	Councillor Wood complained of Messrs. John Moorhouse and Co. tipping soil and gravel in Mean Lane, which was a private road for carts to get to the land, and also for foot passengers. If wet weather should come the road be impassable. He did not complain of the hollow parts of the road being filled up. That would be an improvement, but he did object to the material which was being tipped there as likely to make matters worse than they were.- The Clerk remarked that Messrs. Moorhouse and Co. had obtained the consent of the owners of the land on each side of the road, so far as he knew.- Councillor Wood said they were taking no notice of some of the owners.- It was resolved that notice be given to Messrs. J. Moorhouse and Co. to stop tipping in Mean Lane until the place and material had been viewed by the Council.
31/10/95	Huddersfield Daily Chronicle	The Council resolved to widen, make, and sewer Mean Lane from the recreation ground gate up to the cricket field corner, the surplus digging to be put into the top part of the recreation ground.
02/11/95	Huddersfield Daily Examiner	A long discussion arose on the question of the widening of Mean Lane (opposite the recreation ground) and the advisability of tipping the digging in the upper part of the recreation ground to level up the hollow places. Eventually it was agreed to do as above stated, all voting for except the chairman.
13/11/95	Huddersfield Examiner	The Rev. James Brook wrote asking the Council to keep in repair the Park Field, Helme, footpath, remarking that he thought it was in every way a public way from Bent Ley to Cop and beyond. The

			lateral paths running into it from the church and schools he was quite willing to keep in repair. The Council to accede to the request.
13/11/95	Huddersfield Chronicle	Daily	The Rev. James Brook wrote asking the Council to keep in repair the Park of Churchfield (Helme) footpath, remarking that he thought it was in every respect a public way from Bent Ley, and also from Meltham, and to Cop and beyond. The lateral paths running into it from the Church Schools he was quite willing to keep in repair. The Council decided to accede to the request, and to repair the footpath mentioned in the letter.
07/03/96	Huddersfield Examiner		Mr. Riley, from the office of Messrs. John Kirk & Son, architects, attended before the Council, and explained Mr. Hollingworth's request respecting the widening of Mean Lane opposite to his newly erected cottages. When Mr Riley had left, after some discussion, it was agreed that, providing Mr Hollingworth can make satisfactory arrangements with the Spinning Company as to the strip of land opposite his cottages, and the Council consents to the deviation on condition that he previously presents plans to the Council, pays costs of the removal of the fence, and all other charges in connection therewith.
30/05/96	Huddersfield Chronicle	Daily	Messrs. Brook, Freeman, and Batley, solicitors, Huddersfield, wrote stating that they were about to complete the lease to Messrs. James and Henry Hollingworth or 920 yards of land on the south end of the recreation ground. The land to be leased adjoining Mean Lane and the eastern approach road to the recreation ground. It was to be for the term of 999 years, and the first half years rent was to be paid on the 1 <sup>st</sup> January 1897. Messrs. Hollingworth would covenant to fence on the west side of the plot of land, and the existing fence on the north and east appeared to belong to the recreation ground. With regard to the south, they understood that the District Council were constructing a sewer in Mean Lane and that Mean Lane and the sewer and footway would be paid for by the District Council, and afterwards kept in repair by them so that would be no obligation on Messrs. Hollingworth in respect of these. If the District Council had any observations to make on these conditions, or any other suggestions to make, they would be glad to hear from them at an early date, so that they might complete the matter without delay. It was decided to reply informing Messrs. Brook, Freeman, and Batley that the Council would bear the entire cost of forming the road.
14/04/97	Huddersfield Examiner	Daily	MELTHAM RECREATION GROUND  This was given by Mr. Edward Brook, in commemoration of Her Majesty's jubilee, by deed of the 6 <sup>th</sup> September, 1888, which granted to the Local Board of Meltham a plot of land, near Mean Lane and Helme Lane, 10a. 0r. 11p. in extent, to be used as a recreation, exercise, and play ground for children and young persons. No buildings were to be put on it, and it was not to be laid out as a car park or pleasure grounds, nor to be used by cricket clubs nor for meetings, particularly of a religious or political character, and no games were to be allowed on Sundays. Circuses and shows may be erected on the ground temporarily at Meltham Feast. By another deed of the same date Mr. Edward Brook gave an additional 1a. 1r. for the recreation ground.



## Analysis

86. The Highways Act, 1835, ([‘the 1835 Act’](#)) abolished a 300 year old system of statute labour imposed on parishes as ‘the inhabitants at large’, which was commuted into a parish highway rate levied on inhabitants. The powers, duties, and liabilities within each parish was vested in a remunerated and annually elected ‘Surveyor of Highways’. The duty of the surveyor was not to the public but to the parish as their employer. Additionally, before 20<sup>th</sup> March 1836, when the 1835 Act came into operation, a landowner could dedicate land as a vehicular highway and it automatically became the liability of the parish to maintain. No distinct act of adoption was necessary, whether the road was of great utility or not. To ensure that the parish became responsible for roads that served a public purpose, section 23 of the 1835 Act established an unequivocal responsibility as to future maintenance and stated that, after the 20<sup>th</sup> March 1836 Act, no private road or occupation road could become a highway maintainable at public expense unless the landowner followed a prescribed adoption procedure.
87. Consequently, public vehicular roads that came into being through express or implied dedication and acceptance by the public after 1835, in respect of which the section 23 procedure had not been observed, were highways not maintainable at public expense (*Cababe v Walton-on-Thames Urban District Council* (1914)). Footpaths, and presumably bridleways, that came into existence through long public use continued to be highways maintainable by the inhabitant’s at large (*Robinson v Richmond (Surrey) Borough Council* (1995)).
88. The evidence from the collated press articles demonstrates that only a section of Mean Lane was adopted as a vehicular highway maintainable at public expense up to the southeast corner of the Jubilee Recreation Ground in 1892, which was widened and improved up to the southwest corner of the cricket ground in 1896. This corroborates with the current List of Streets held by Kirklees Council and also the terminus of Meltham Footpath No. 59 on the 1985 West Riding Definitive Map and Statement (see Figure 1).

89. In 1955, Meltham Urban District Council made a representation, which is also discussed later, to the Draft Definitive Map and Statement prepared under Part IV of the National Parks and Access to the Countryside Act, 1949 that this route was a public footpath, which stated, under 'Description of Route':

*"Footpath from its junction with the western end of Path No.24 and proceeding in a south westerly direction along Mean Lane to its junction with the District Road at the south western corner of the Cricket Field"*.

90. Mean Lane is described in 1895 as a private cart road for adjacent landowners with a co-existing public footpath. Additionally, the record of Rev. James Brook in 1895, and the subsequent acceptance of highway maintenance by Meltham Urban District Council, that the route leading through Helme led to both Bent Ley Mill and Meltham shows that the Application route was used as a public path by the public, which is consistent with the 1861 Yorkshire & Lancashire Railway Meltham Branch plan and the current Definitive Map and Statement. Whilst they have different reference numbers for administrative purposes, Meltham Footpath Nos. 22, 23, and 24 form one continuous highway depending on the direction travel.

91. Consequently, there is no available evidence to indicate, on the balance of probabilities, that the application route was adopted as a vehicular highway. The implication is that from 1896 onwards, the application route remained a private occupation road that was privately maintained, saving the coexistence of a public footpath.

# THE FINANCE (1909-10) ACT, 1910

## Background

92. The Finance (1909-10) Act, 1910, ([‘The 1910 Finance Act’](#)) received Royal Assent on 29<sup>th</sup> April 1910 and introduced four new land taxes: increment value duty, reversion duty, undeveloped land duty, and mineral rights duty. To calculate the tax to be paid on the occurrence of a qualifying event under the four land duties, section 26(1) of the 1910 Finance Act required the valuation of all land in the United Kingdom under separate occupation at the antecedent date of 30<sup>th</sup> April 1909. The basic value ‘datum line’ was obtained using a series of subtracting calculation methods under section 25 of the 1910 Finance Act, each known as: the gross value, full site value, total value, and assessable site value (Short, B & Reed, B, 1986).
93. Valuation Books were the first major documentation of units of valuation based on rating tax records, including estimated extent. Each hereditament was assigned a unique reference number. Landowners were issued with forms and required to furnish the extent of their land and if it was subject to public rights of way or easements. Total value of land was calculated by deducting from the gross value the amount public rights of way or easements diminish use of the hereditament. Knowingly making a false statement was a criminal offence. The data was transcribed into a Field Book followed by a property inspection. Landowners were given notice of the provisional valuation, which after any appeals, became final (Beech, G & Mitchell, R, 2004).
94. The Valuation and Field Books were accompanied by an administrative graphical index using Ordnance Survey maps typically printed at 1:2500 scale, or enlarged 1:1250 scale for urban areas. Two sets of reference maps were created: working and reference plans. Valuation Officers transcribed in red ink the unique reference hereditament number and their extent was shown by a colour wash along fixed physical boundaries (David & Cuthbert, 1910). The project was completed in 1915 but the legislation was repealed in 1920. However, the comprehensive survey resulted in detailed volume of historic data known colloquially as ‘the New Domesday’ (Short, 1986).

95. Legal judgements known as [Maltbridge](#); *Robinson Webster (Holdings) Ltd v Agombar* [2001] EWHC 510 (Ch) ([‘Agombar’](#)); *Commission for New Towns and Another v JJ Gallagher Ltd* [2002] EWHC 2668 (Ch) ([‘Gallagher’](#)); *Todd & Anor v Secretary of State for Environment Food and Rural Affairs* [2004] EWCA 1450 ([‘Todd’](#)); *R (on the application of Ridley) v Secretary of State for the Environment, Food and Rural Affairs* [2009] EWHC 171 ([‘Ridley’](#)); *Fortune & Others v Wiltshire County Council & Another* [2010] EWHC B33 (Ch) ([‘Fortune 2010’](#)); & *Fortune & Others v Wiltshire County Council & Another* [2012] EWCA Civ 334 ([‘Fortune 2012’](#)); considered the 1910 Finance Act documents to be viable corroborative evidence to establish the existence of highways.

96. Specifically, as the most authoritative judgements, *Agombar* stated at paragraph 47:

*“The fact that the Blue Land was not shown as falling within the hereditament of any private individual, but is shown as part of the general road network... is a most powerful indication that the Blue Land was at that time thought to be in public ownership and vested in and maintainable by the District Council, which was the highway authority”.*

97. Almost identically, *Fortune 2010* also stated at paragraph 766:

*“The Lane was not shown as falling within the hereditament of any private individual, but was shown as part of the general road network... that factor is a powerful indicator that those sections of Rowden Lane were at the time thought to be in public ownership and vested in and maintainable by the highway authority”.*

98. *Fortune 2012* stated 1910 Finance Acts are not definitive but form one part of the puzzle to be considered along with other relevant evidence. Routes shown excluded from private hereditaments on the 1910 reference maps are therefore inferred to be in public ownership and vested in the relevant highway authority, which are considered to be exempt from the four duties under section 35(1) of the 1910 Finance Act (Breen, 2017). However, at the antecedent date of 30<sup>th</sup> April 1909, highway ownership was dependent on geographical classification

between Urban & Rural District Councils, and maintenance liability. Main Roads were vested in County Councils by virtue of [section 11\(6\) of the Local Government Act, 1888](#). Urban District Councils owned the surface of all highways maintainable at public expense by virtue of [section 149 of the Public Health Act 1875](#) (Coverdale v Charlton (1878)). The only statutory vesting of highways in Rural District areas was in the case of Main Roads (see above); all other dedicated highways remained in private ownership (Royal Institution of Chartered Surveyors, 1901).

99. Two criteria therefore have to be satisfied to infer public ownership of an uncoloured route on a 1910 Valuation Reference Plan at the antecedent date:
  - a) the route is within the jurisdiction of an Urban District Council or is a Main Road.
  - b) the route is a highway maintainable at public expense.
  
100. The '[Instruction to Valuers \(No.560\)](#)' detailed that based on the *ad medium filium* presumption, the owner of land generally owns half of the adjoining street; collectively forming the gross unit of valuation area (Q. C. Braham, D, 2002). [Section 4 of the 1875 Public Health Act](#) provides the most credible definition of the term street and encompasses all types of highway maintainable at public expense listed under section 5 of the 1835 Act; not limited to public carriageway status. Only the net unit of valuation area, excluding the adjoining highway, was to be recorded in the Valuation Book and on the reference plan. However, according to legal custom and at the landowner's request, the gross unit of valuation area, including the adjoining street, could be recorded on the reference plan.
  
101. [A discussion of the land valuation process in the House of Commons in 1911](#) (House of Commons Hansard, Volume 31, dated 14 November 1911) provides evidence that it was the practise of District Valuers to only record the net unit of valuation area that was in sole and separate occupation on the reference plan, to the exclusion of private 'tenfoots' used in common by various owners and occupiers; conforming with section 26(1) of the 1910 Finance Act. Land dedicated as a highway in perpetuity and private ways with multiple easements,

particularly in urban areas, are not in the exclusive, or beneficial, occupation of the landowners. Accordingly, it cannot be automatically inferred that the existence of a highway is the only plausible explanation to account for an uncoloured route on the reference plan. The 1910 Finance Act reference plan needs to be corroborated with other documentary sources.

102. Recording the net unit of valuation area on the reference plan creates a powerful correlation between uncoloured routes and enclosed boundaries, which also reflects the limitations of the valuation base map. Ordnance Survey maps are topographical and do not show invisible legal property boundaries, such as within the middle of a highway or private way. Consequently, land registry and conveyances utilise the effective general boundaries rule based on visible topographical features as a practical and economical alternative to the onerous 'fixed boundaries' approach first prescribed under the [Land Registry Act, 1862](#) (Lampert & Woodley, 1991). The 1910 Valuation Reference Map is an administrative graphical index and can never be a definitive map of exact property titles.

103. The hereditament colour wash adjoining an uncoloured route identifies the net unit of valuation and a physical feature to which the gross unit of valuation and invisible property boundary is related. For the purposes of section 35(1) of the 1910 Finance Act, where an excluded route could potentially be a highway vested in an urban district council, and thereby a rating authority, it does not appear that the four duties could be imposed on highways in public ownership by default. A highway fee simple cannot be sold, leased, developed, and does not include possession of the subterranean minerals, which had a constant value of zero by virtue of section 23(2) of the 1910 Finance Act. Equally uncoloured land in private ownership did not qualify for a reduction under sections 25(3) and 25(4)(c) of the 1910 Finance Act because ownership of an enclosed highway or private route is generally based on the *ad medium filum* presumption, which could subsequently be rebutted by the actual owner of the fee simple, such as the Lord of the Manor in some cases.

104. The 1910 Finance Act documents are a non-uniform dataset and there is unlikely to be a uniform explanation for uncoloured routes. In practise, there are numerous variables to account for the depiction of a route on the reference plans, such as whether the landowner appeals a provisional valuation or requests the gross unit of valuation is recorded on the reference plan; and whether any section of a route is physically enclosed. However, the primary information recorded on the Valuation Reference Map are net units of valuation that are in separate occupation.
105. Therefore, a reasonable conclusion that can be elucidated from the fact an area of land leading between hereditaments is shown uncoloured on a Valuation Reference Map is that, based on a legal presumption, it forms part of the gross unit of valuation of those hereditaments but is not in the exclusive occupation of the landowner(s); leaving open the question of whether multiple occupation is due to a public or private way. The 1910 Finance Act documents have to be recognised for their purpose and investigated objectively within the context of the encompassing historical facts to establish the existence of a highway.

### **Valuation Reference Maps**

106. The applicant provided two working copies of the 1910 Valuation Reference Maps. The record sheet plans are held at The National Archives in Kew under catalogue No. [IR 134/6/73](#) & [134/6/74](#) and also at West Riding Archives in Wakefield using catalogue finding no: [C243/246](#). The Ordnance Survey Yorkshire [West Riding] base map sheets are: [CCLX.9](#) and [CCLX.10](#) at a scale of 1:2500, which were revised in 1904 and published in 1906. The available maps show that a significant section of Mean Lane, between Station Street to the south-west corner of hereditament 1585, including part of the application route, is shown as uncoloured and excluded from the adjacent hereditaments of: 337 Pt, 370, 656, 1306, 1316, 1436, 1602 Pt, 1603, 1620, 1657, 1666, 1879. Hereditament 1602 Pt bounds the application route on either side and is shown with a red brace to link the two land parcels together. The remainder of Mean Lane and the application route is shown leading within the hereditaments of 1583, and a land parcel of 337 Pt.

107. The applicant also provided a text extract from an unknown source, which states:

*“The Finance (1909-1910 Act 1910 provided for land valuations to take place across the country so that the increase in its value could be taxed. Deductions from the assessable value could be claimed by landowners where the land was crossed by a (public) footpath or bridleway. Where a public vehicular highway crossed land, it was usually omitted from the valuation, excluded from adjacent hereditaments, and shown on the Inland Revenue’s plans as a “white road”. If the route were a private vehicular way, then it could be developed, increase in value and so be taxed. Accordingly, private tracks were not usually excluded from the assessable hereditaments”.* A note from the applicant on the 1910 Finance Valuation Map states: *“Shown Mean Lane as a White Road”.*

108. Therefore, the applicant is inferring that, as a section of Mean Lane is shown uncoloured and excluded from adjacent hereditaments, it is a public vehicular highway. Whereas, the remainder of the route shown within the assessable hereditaments must be a private vehicular way.



Figure 13: IR 134/6/73 and 134/6/74 1910 Valuation Reference Maps (Source: [The National Archives](#))



## Evaluation

109. The application route satisfies Test A, as stated at paragraph 99 above and was located within the authority of Meltham Urban District Council, creating the potential for it to be in public ownership via statutory vesting. A significant section of Mean Lane, and therefore the application route, is shown excluded from the adjacent hereditaments, which may also indicate that Test B is also satisfied, based on an inference that it was excluded from valuation because it was a highway maintainable at public expense and therefore vested in Meltham Urban District Council.
110. Public ownership is therefore one possible theory to explain why this section of Mean Lane, and the application route, was excluded from the adjacent hereditaments. The conclusions provided by Agombar and Fortune therefore could be applicable to this case. Nevertheless, it is apparent that the 1910 Finance Act documents provide no evidential weight in isolation and must be considered within the context of the surrounding historic evidence, pre- and post-dating the record. The analysis of the local government minutes between 1891 to 1897 show that Mean Lane was only adopted as a vehicular highway up to the south-west corner of the Cricket Ground, which is the start of the application route. The fee simple of this section of Mean Lane was, and is, undoubtedly vested in the relevant highway authorities. As stated at paragraph 88, this corroborates the highway records held by both Meltham Urban District Council in 1955, and Kirklees Council in the present day.
111. The physical condition of most of the application route is also shown in an aerial image from [1936 of Meltham Brickworks from Historic England Archive](#) copyrighted images, which is from a similar time period. The image shows that Mean Lane has remained virtually the same for almost a century. The row of cottages at the bottom of the recreation ground is shown to the left of the image, abutting the widened metalled and levelled section of Mean Lane. A gate is shown to the right of No. 43 Mean Lane leading to the recreation ground, along with access to the Cricket Ground. Mean Lane then leads east-north-easterly, bounded to the north by a dry-stone wall, and to the south by the Brickworks. For the most part, the continuation of the application route between agricultural

land is enclosed by a dry-stone wall, except for one field through which Meltham Footpath No. 23 leads and is actually shown by a trodden line. This field is only bounded by a dry-stone wall on the southern side and there is no boundary demarking the northern extremity of the application route. The transition from dry-stone wall to open field on the northern side is terminus of Meltham Footpath No. 24, which was the only section originally claimed for inclusion on the First Definitive Map, resulting in the representation discussed in paragraph 88.

112. The section of Mean Lane, and the application route, excluded from valuation stops at a specific point at the southwest corner of hereditament 1585. At this point, a line leading across Mean Lane is shown on CCLX.9; perhaps a gate. This feature is not shown on any other Ordnance Survey map before or after 1906 or the 1936 aerial photo and therefore may have been relatively temporary. Nevertheless, the fact that a section of the application route was including within the hereditament shows that landowner was able to prove ownership to the District Valuers. Most of the remainder of the application route, leading north-easterly and easterly to Huddersfield Road, is presently recorded on Land Registry within the single ownership of proprietors, which is consistent with the 1910 records.
113. The remainder of the application route on the 1910 Finance Act Maps, leading from the southwest corner of the Cricket Ground, was not adopted as a vehicular highway maintainable at public expense at the antecedent date and, saving the existing of a public footpath, remained in private ownership, mostly based on the rebuttable *ad medium filum* presumption. Half of the application route up to its centre formed part of the gross unit of valuation of the adjoining hereditaments, whereas the District Valuers only recorded the net area of property that was in sole occupation up to the dry-stone wall enclosures, as per section 26(1) of the 1910 Finance Act. Consequently, as at least private status exists along the entirety of the application route, the Valuation Book should possibly record a deduction for the existence of either a public right of way or easement when calculating the Total Lane Value under section 25(3) of the 1910 Finance Act.

114. However, potential ownership of the ancient section of Mean Lane by the Lord of the Manor, or any other person, casts sufficient doubt on the *ad medium filum* presumption, which could one day be rebutted. The hereditaments therefore did not qualify for a discount unless they could prove ownership to the District Valuers. Ultimately, most of Mean Lane, and the application route, was never likely to have been shown as included within the valuation of hereditaments, regardless of its status, because for centuries it was permanently separated from land parcels by physical boundaries of a dry-stone wall. The 1910 Finance Act documents are relatively neutral and do not provide any significant evidential weight to determine whether the application route is a public or private route, on the balance of probabilities.

# THE NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949

## Background

115. In preparation for the first Definitive Maps of Public Rights of Way, local councils were required, under section 38 Part IV of the National Parks and Access to the Countryside Act, 1949, ([the 1949 Act](#)), to conduct a survey of all footpaths, bridleways, and roads used as public paths in their areas and pass them onto the surveying authority. Section 27(6) of the 1949 Act defined a 'public path' as a highway being either a footpath or bridleway; and a 'road used as a public path' as a highway, other than a public path, used by the public mainly for the purposes for which footpaths or bridleway are so used. Public Carriageways, not being a public path or used as a public path, were therefore excluded from the claims. This is indicated in the definition of a road in section 93(8) of the 1949 Act: "*In this section the expression "road" means a highway other than a public path (as defined in Part IV of this Act)*". Although it should be noted that the meaning is prefaced with 'in this section', however, no other definition of 'road' is given in the 1949 Act.

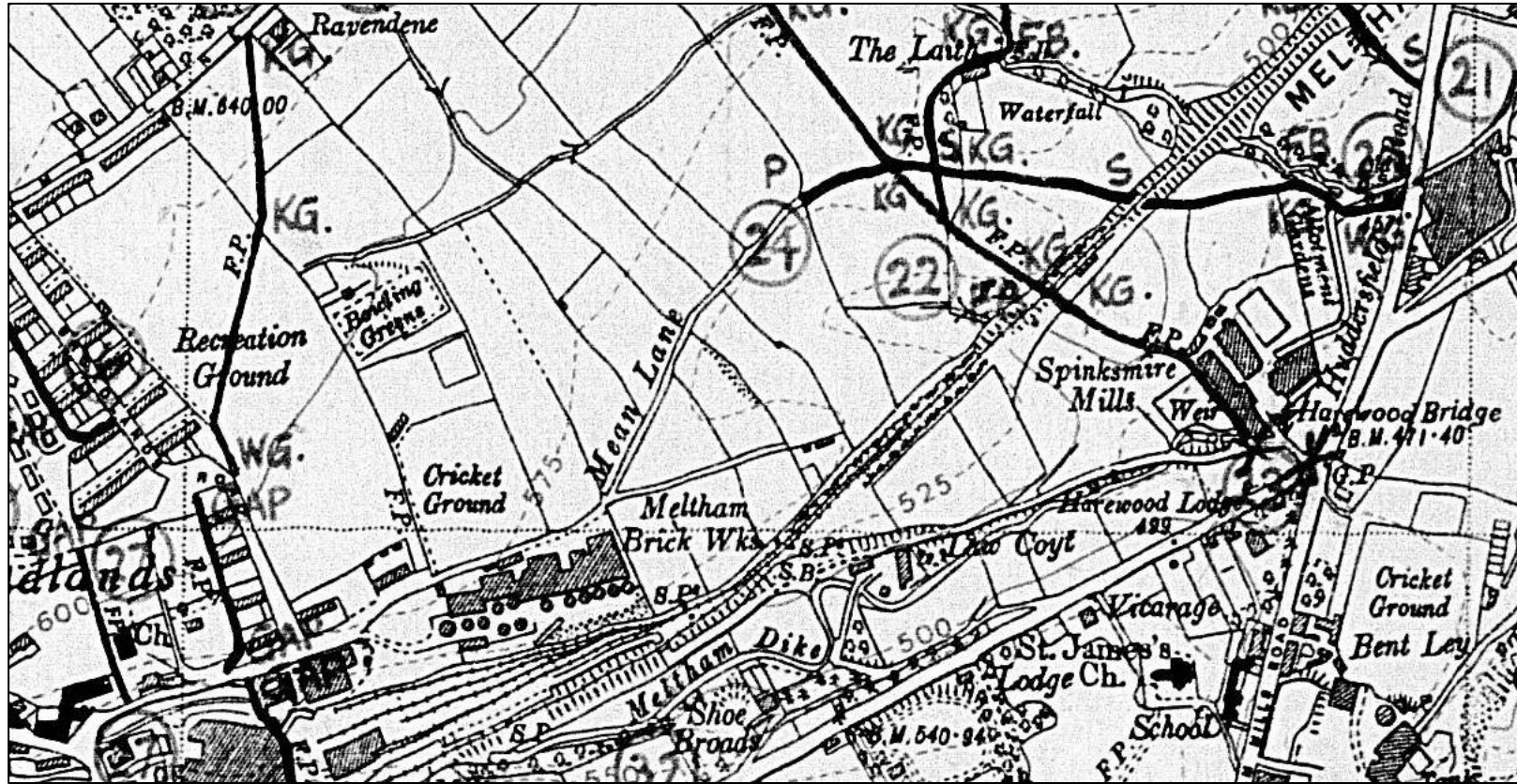
## Analysis

116. Meltham Footpath No. 24 was recorded when the surveys for the preparation of the First Definitive Map and Statements were being conducted by the survey for Meltham Urban District Council in 1951, as shown in Figure 14. This was objected to by the British Railway Commission in 1953. West Riding County Council presented evidence that the route was shown on the 1894 Ordnance Survey Map and had written statements from two members of the public of their user evidence of 57 years. The British Railway Commission withdrew their objection and stated:

*"I am now able to withdraw the Commission's objection to Path No. 24 Meltham Urban District as it has now been confirmed that the Authorising Act references a public (the word further is crossed out) footpath under the Meltham Branch Railway at Bridge No. 16".*

117. Meltham Urban District Council also made a representation to the Draft Definitive Map and Statement in 1956, also shown in Figure 14, to essentially extend Meltham Footpath No. 24 so that the public footpath is recorded as joining the vehicular highway at the southwest corner of the cricket ground. As previously discussed at paragraph 88, this is entirely consistent with the historic and current records that Meltham Urban District Council only adopted a section of Mean Lane in associated with the Recreation Ground, Cricket Ground, and new cottages.
118. By objecting to the Draft Definitive Map and Statement, Meltham District Council demonstrated their view that the section of Mean Lane east of the southwest corner of the Cricket Ground to Huddersfield Road remained a private carriage and occupation Road with a coexisting public footpath. This is the legal position that is held to this very day. This was in contrast to the original maps and schedules prepared by Meltham Parish Council, which did not claim a significant section of Mean Lane as a public footpath because they considered it was not within the remit of the Definitive Map and Statement; presumably because it was viewed as a public carriageway.
119. However, this is more than likely due to the physical character of the application route at the junction of Meltham Footpath Nos. 25 & 59, which transitions from a field edge track, unbounded on the northern side, to a track fully enclosed by old dry-stone walls. Meltham Urban District Council were the highway authority for District Roads at this time, so their intervention is significant evidence.

Figure 14: Extract of Draft Definitive Map & Statement and 1955 Meltham UDC Representation & British Railway Commission Objection



B.R. 76017

BRITISH TRANSPORT COMMISSION

S. F. SMITH, F.R.I.C.S.  
Estate Surveyor

C. L. SMITH, F.R.I.C.S.  
Assistant Estate Surveyor

Telephone  
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SURVEYOR RAILWAY YORK

Our Reference TP/RH/C.

Your Reference NP.11/Z/2.

ESTATE SURVEYOR  
NORTH-EASTERN REGION  
YORK

19 JAN 1955

18th January, 1955.

For the attention of Mr. Gowling.

Dear Sir,

National Parks & Access to the Countryside  
Act, 1949. Part IV. Survey of Rights of Way.  
Meltham Urban District. Path No.24.

With reference to your letter of the 26th March last,  
I am now able to withdraw the Commission's objection to  
Path No.24 Meltham Urban District as it has now been con-  
firmed that the Authorising Act references a ~~foot-~~ foot-  
path under the Meltham Branch Railway at Bridge No.16.

NATIONAL PARKS & ACCESS TO THE COUNTRYSIDE ACT, 1949 - PART IV.

REPRESENTATIONS

DISTRICT: Meltham Urban  
PARISH:

Path Ref.	Map Ref.O.S. No.	Description of route.	Nature of representation.	Representation made by	Recommended modification to Draft Map and Statement.	Remarks.
59	260 S.W.	Footpath from its junction with the western end of Path No.24 and proceeding in a south westerly direction along Mean Lane to its junction with the District Road at the south western corner of the Cricket Field.  Ashed and roughly metalled. 0.25 4 ft. No direction signs.	That this is a public footpath.  7.3.56	Meltham Urban District Council per Mr.H.Harris, Clerk.	Add	

EVIDENCE.

## DISCUSSION

120. The chronological formation of the application route over 200 years has been schematically simplified in Table 1, bringing together the story of Mean Lane, based on the available documentary evidence. The 1797 Plan of Meltham shows that the application route has an archaic origin and existed as a private occupation road leading through ancient enclosures from common land to land parcels at a building known as 'The Lathe'. The piecemeal enclosures bounding the application route created its irregular width.
121. The 1832 Meltham Inclosure Award is very important and creates the palimpsest to which the modern day urbanisation of Meltham is superimposed. The Commissioners created an extension to the ancient Mean Lane at the western end and awarded a 15ft private carriage and occupation road called 'Bridge Houses Road', which joined the public carriageway network at Mean Bridge. On the balance of probabilities, the application route was a private carriageway in 1832.
122. The eastern section of the application route, commencing from Point A on the Application Map in Figure 2 at Huddersfield Road and leading westerly to approximately 75m west of its junction with Meltham Footpath No. 23, is a relatively new feature. This section of the application route appears to have been created by a necessity for workers situated at Helme to reach the silk mill at Bent Ley Mill, which was created in 1840. The public footpath is shown as a dashed line in the 1861 Yorkshire & Lancashire Meltham Branch Railway Plan and described as a footpath in the ownership of the surveyor of highways in the book of reference, which was sufficient for the British Railway Commission to withdraw their objection to the inclusion of Meltham Footpath No. 24 on the First Definitive Map and Statement. The railway line facilitated the coexisting occupation road and public footpath by creating an overbridge.
123. In association with the Jubilee Recreation Ground and a row of new residential cottages, a section of Mean Lane, including the route known as 'Bridge Houses Road', was widened, improved, and adopted up to the southwest corner of the Cricket Ground by Meltham Urban District Council as a vehicular highway between 1888 and 1896. This is completely compatible with today's records

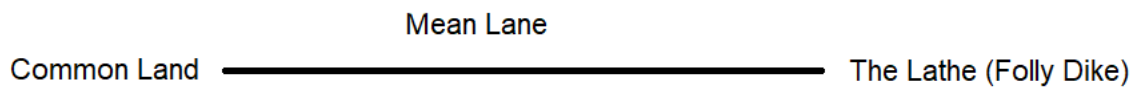


held by Kirklees Council, namely the 1985 Definitive Map and Statement, and the List of Streets (or Highways Register), which confirm the same extent of adopted vehicular highway.

124. This evidence alone reveals that no part of the application route was a vehicular highway maintainable at public expense before this event, which in turn is the relevant data that must be applied to the 1910 Finance Act records. There are various rational explanations to explain why a section of the application route was shown uncoloured and excluded from adjacent hereditaments as a cul-de-sac at a seemingly random location that was not a place of popular resort. However, based on the available evidence, on the balance of probabilities, only the section of Mean Lane up to the southeast corner of the Cricket Ground was in public ownership and vested in the highway authority.
125. The 1797 Plan of Meltham and the 1832 Meltham Inclosure Award both strongly indicate that the ancient Mean Lane was a private occupation road. This implies that the remaining section of Mean Lane that was excluded from the net unit of valuation of hereditaments, leading easterly from the Cricket Ground, was because of its physical character as an enclosed track bounded by dry stone walls and in multiple occupation. Furthermore, the gross unit of valuation that would encompass this section of the application route would be based on multiple *ad medium filum* presumptions, as it is today, which could one day be rebutted, such as by the Lord of the Manor. The document is therefore of limited weight and its influence turns on the interpretation of the surrounding documentary evidence.
126. There is no available documentary evidence to indicate that, on the balance of probabilities, that the Definitive Map and Statement is incorrect, and that Meltham Footpath No. 24 should be shown as a highway of a different status. The documentary evidence shows that the application route is a private carriageway with a coexisting public footpath. The next stage is to analyse the user evidence to determine whether the evidence of public use is sufficient to show on the balance of probabilities that the application route subsists as a public bridleway.

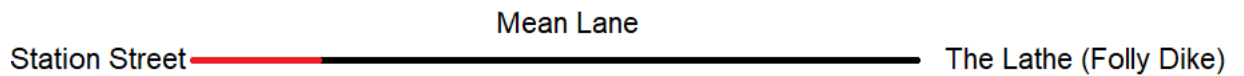
**Table 3: Schematic Chronological History of Mean Lane**

**(1) Before 1832 – Pre-Inclosure**



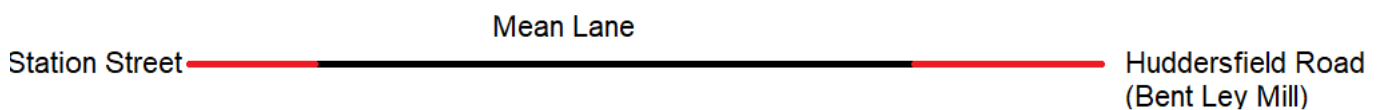
*Before 1832 the Application route was an ancient lane leading through ancient enclosures between common land to 'The Lathe' at Folly Dike*

**(2) 1832 – Inclosure**



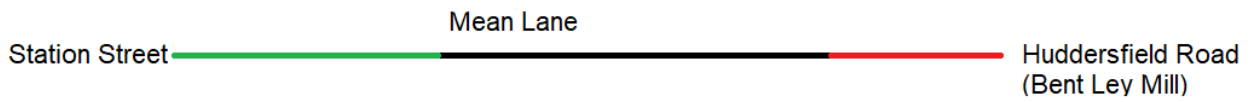
*The 1832 Meltham Inclosure Award extended the application route with a private carriage and occupation road, called Bridge Houses Road, at the western end (shown in red)*

**(3) After 1832 – Bent Ley Mill & Railway**



*The ancient Mean Lane was extended at its eastern end (shown in red) with a coexisting occupation road and public footpath leading easterly from the ancient Mean Lane to Bent Ley Mill on Huddersfield Road.*

#### **(4) 1892 – 1896 Jubilee Recreation Ground**



*The western section of Mean Lane was adopted as a vehicular highway (shown in green) by Meltham Urban District Council between 1882-1896 in association with the Jubilee Recreation Ground.*

#### **(5) 1952 Definitive Map & Statement**



*The application route was recorded on the Definitive Map and Statement as a public footpath (shown in purple)*

# USER EVIDENCE

## Evidence of Use

127. In total, fifteen (15) User Evidence Forms ('UEFs') were submitted in support of the Schedule 14 application, using Kirklees Council template information sheet, known as a 'WCA8'. Some UEFs repeated the historical evidence submitted with the Schedule 14 application to support the basis for unrecorded higher rights, such as an unspecified Ordnance Survey Map, the 1861 Yorkshire & Railway Plan and Book of Reference, and an extract from 'The Story of Meltham' stating that Mean Lane was adopted as a vehicular highway in 1892. However, these have all been thoroughly investigated and the conclusion remains that the application route is a private occupation road with at least a co-existing public footpath.
128. The structure of the inquiry under user evidence was set out in paragraph 36 of *Powell & Anor v Secretary of State for Environment, Food, and Rural Affairs* [2014] EWHC 4009 (Admin). Firstly, the user evidence must pass the preliminary threshold of whether or not the extent and quality of the use could properly be regarded as the assertion of the right which is claimed.

## Brought into Question

129. The Schedule 14 Application was made on 28<sup>th</sup> June 2017. In the absence of any evidence of another event which may have brought public use of the routes into question, [subsections 7\(A\) and B of the 1980 Act](#) allow the date of the application to be used to calculate the retrospective period of use. In this case, for the purposes of section 31(2) of the 1980 Act, it follows that the relevant twenty-year period to be considered for the purpose of statutory dedication is 28<sup>th</sup> June 1997 – 28<sup>th</sup> June 2017 ('the relevant period').
130. On the other hand, a photograph taken by a Definitive Map Officer in February 2017 shows that the field gate adjacent 223 Huddersfield Road was locked with a padlock, and the adjacent landowner has stated that they occasionally locked the gate since 2013, primarily for security. This matter is discussed under 'Lack of Intention to Dedicate – Locked Gate'. Currently, the available evidence

before 2017 is insufficient to demonstrate that an occasional locked gate was brought home to most users of the way, such to bring the public right to use the way into question, as the event occurred overnight. On the other hand, it may be rational to conclude that the photographic evidence of a locked gate in 2017 is sufficient to bring the public right of way into question. Either way, this does not affect the investigation to a great extent as the relevant period remains 1997 to 2017.

### **As a way**

131. Each of the UEFs were accompanied by a plan, pre-prepared by Kirklees Council showing the existing public footpaths recorded on the 1985 Definitive Map and Statement, over which the respondents highlighted the routes they had used. The WCA8 form states in bold capital letters that the map should be signed and dated, and the respondents should mark any notices, gates, stiles, or fences on the application route. The termini of the application route between the south-west corner of the Cricket Ground to Huddersfield Road, as a way, is consistent on nearly all the maps and, as it is a linear route between enclosures, there is no need for further investigation to determine its position/line. When questioned, users mentioned that the purpose of using the application route was as a circular, sometimes together with the Meltham Greenway, to reach Honley Woods via Huddersfield Road and Bent Ley Mills.
132. However, one respondent (Ref: 199/7) only rode the route as far as 'Meltham Greenway', a permissive bridleway along the disused railway, commenting: "*I do not ride the last 100 metres as it goes onto a very busy, fast road. I turn back under the Greenway to onto the Greenway*", which is the route shown in Photo 6 of Figure 3. In *Moser v Ambleside UDC* 919250 89 J.P. 118 it was established that a rural cul-de-sac highway can be established in some circumstances, such as where the highway led to a place of popular resort. There must exist special circumstances to justify the Meltham Greenway forming as constituting a place of popular resort.

133. The Meltham Greenway was not used by the respondent as a *terminus ad quem*, or place of popular resort, simply to return back along the same way of Mean Lane. The Meltham Greenway formed a continuation either back to Meltham as a circular route or onwards in the direction of Healey House. The license to use Meltham Greenway is with express permission, as shown by the Planning Application: [2007/48/94949/W3](#); and may be rescinded by the landowner at any time, or at some point, and lacks permanency to constitute a public destination. Therefore the use described by this respondent must be discounted (Ref: 199/7) as it does not have the necessary characteristics of a highway (*Kotegaonkar v Secretary of State for Environment, Food and Rural Affairs & Anor* [2012] EWHC 1976 (Admin)).
134. A witness questionnaire was conducted over the period of August-October 2023 to ask users specific questions arising from an initial investigation into the UEFs. Twelve (12) users responded to the witness questionnaire, including 199/7. Nine (9) other users also answered that they used the application route to access the Meltham Greenway, seven (7) of which were aware that it was a permissive route. For most users, this was in addition to using the full length of the application route between the Cricket Club and Huddersfield Road.

### **Sufficiency**

135. There is no statutory minimum level of user required to show sufficient use to raise a presumption of dedication, but it must have been by a sufficient number of people to show that it was use by 'the public', which may vary from case to case (Definitive Map Consistency Guidelines 2022). It is likely that in any given location, a public bridleway will not be used by all the inhabitants of the country, and it is also likely that use will be primarily by a relatively small number of people ordinarily resident within the vicinity of the application route. The user evidence is summarised in Table 4.

## Pedal Cycle

136. The status of public right of way claimed in the Schedule 14 is a public bridleway, which is defined in [section 329\(1\) of the Highway Act 1980](#) as a highway over which the public have a right of way on foot, horseback, or leading a horse. Specifically, the definition does not include bicycles, which the public are permitted to use on bridleways pursuant to [section 30 of the Countryside Act 1968](#). Subsection 4 of section 30 states that the statutory right does not affect any definition of a 'bridleway'. A bicycle is classed as a 'carriage' under [section 85 of the Local Government Act, 1888](#). [Government guidance](#) to the [Natural Environment & Rural Communities Act, 2006](#), in relation to the newly inserted subsection 1A(b) of the Highways Act, 1980, confirms that use of a way by non-mechanically propelled vehicles, such as a pedal cycle, is capable in appropriate circumstances of giving rise to a restricted byway, which is known as a restricted byway and defined under [section 48 of the Countryside & Rights of Way Act, 2000](#), as a public right of way on foot, horse, leading a horse, and for non-mechanically propelled vehicles.
137. At paragraph 42 in [Whitworth v Secretary of State for Environment, Food, and Rural Affairs \[2010\]](#) ('Whitworth'), Lord Justice Carnwath expressed the view that, under section 31 of the Highways Act, 1980, regular use by both horse-riders and cyclists is consistent with the dedication of a bridleway or a restricted byway at the start of the relevant period, as per [Turner v Walsh \[1881\]](#). As section 30 of the Countryside Act involved a statutory interference with private property rights, it is appropriate to infer the lesser burdensome form of dedication, which is a public bridleway. In such a scenario, how the matter would have appeared to the landowner is to be assessed objectively. A reasonable landowner, having dedicated a public bridleway at the start of the relevant period, may regard use by cyclists as being pursuant to the statutory right to be on land as a result of section 30 of the Countryside Act, 1968, such that the use is 'by right', so that no question of user 'as of right' can arise ([R \(on the application of Barkas\) \(Appellant\) v North Yorkshire County Council and another \(Respondents\) \[2014\] UKSC 31](#))

138. The resulting characterisation of the public right of way is therefore dependent on the balance of user. Four (4) users (119/8; 119/12; 119/13; & 119/15) cycled the application route during the relevant period, with only one (1) doing so at the start of the relevant period from 1997 to 2002. In considering the extent of the deemed dedication, the use by cyclists should therefore be disregarded as it is insufficient to represent use and enjoyment by the public with non-mechanically propelled vehicles. Nevertheless, their recollection of events along the application route and the public use they witnessed is still a relevant consideration. If the use by horse-riders is sufficient to infer dedication of a public bridleway at the start of the relevant period, it may be appropriate to infer that the use by cyclists was appurtenant to a statutory right, such that a least burdensome form of dedication by the landowner would be inferred in any case.

### **Horse Riding**

139. The remaining respondents all used the application route on horse; six (6) throughout the relevant period, although the evidence provided by two users is untested as they have not completed a witness questionnaire, and four (4) for part of the relevant period. It is not necessary that each respondent has themselves used the application route for all of the relevant period; it is their collective use during that period which is relevant (*Davis v Whitby* 1974). The claimed use is consonant with the status of a public bridleway. Additionally, all respondents saw other members of the public walking, cycling, and riding a horse along the application route. This may indicate that there is further evidence available that is not represented in the current UEFs, however, an opportunity to submit user evidence was provided in the informal consultation, which received zero (0) responses.

140. The application route was used on horseback by five (5) people weekly, four (4) people monthly, and one (1) person three-four (3-4) times a year. The frequency of use for 199/9 changes to six (6) per year after 2014, but they clarified that they didn't use the entirety of the application route after 2011, so the change in frequency is not critical. Overall, the nine remaining UEFs are a sufficient representative of the public to initially satisfy the preliminary quantity



and quality threshold. The weekly/monthly frequency of use is also sufficient, over a 20 year period, to alert an observant landowner(s) to the fact that, during the whole of the relevant period, a public bridleway right was been asserted over the full width of the Application route and the landowner(s) can resist or acquiesce to the use (R (Lewis) v Redcar and Cleveland Borough Council UKSC 11 (03 March 2010)).

### **As of Right**

141. The next question that arises in the investigation is whether any of the vitiating elements of the tripartite 'as of right' test apply. The tripartite test is to be applied judging the questions objectively from how the use would have appeared to the owner of the land. The phrase 'as of right' provides that for long usage to give rise to a presumption of dedication, the user had to be without force, without secrecy, and without permission.

### **Force**

142. None of the users indicate that they used force to secure passage along the application route

### **Secrecy**

143. One (1) UEF, 199/15 stated that their use of the application route was challenged in approximately 2013 but: "... *I continued to use Mean Lane, but always tried to slip through quietly thereafter, until it became clear that someone was trying to restrict the lane's use to a footpath, which seemed to happen round about the time of the Coronavirus Pandemic*". The use after 2013 by 199/15 was an attempt to use the application route in secret, as opposed to a member of the public openly using Mean Lane as if they had the right to use the way. In any case, the use by 199/15 was with a cycle, which has been discounted as it does not contribute towards the inference of dedication of a public bridleway. However, their recollection of challenge does corroborate with the adjacent landowner statement.

144. None of the remaining used the application route in secrecy.

### **Permission/License**

145. In 2008, a Ward Councillor reported to the highway authority that horse riders from a stable yard at the eastern end of the application route were using Mean Lane between Huddersfield Road (B6108) and Meltham Greenway, which conflicted with use by walkers along Meltham Footpath No. 24. Kirklees Council advised that the landowner has a right to use the application route with horses. User which is with the license or permission of the owner is not 'as of right' (R (oao Barkas) v North Yorkshire County Council [2014] UKSC 31). In this case, the stables were rented from a landowner by license with a private right of way over the application route by extension from the easement attached to the freehold ownership of the land. In turn, the license to use the application route would be extended by invitation to those that use and access the premises. Use in the association with a business is qualitatively different to enjoyment of the route as a member of the public and would be 'by right', which is how the user may have appeared to other reasonable landowners of the application route who may not be able to prevent use by a permitted visitor.

146. In 2017, the adjacent landowner stated in an email to Kirklees Council:

*"The footpath in question also serves as our driveway to our property as well as limited vehicle access for the various owners. We moved into this property six years ago, there had been some stables built on rented land by the previous owner, who allowed anybody to ride on the footpath past the property.*

*We were offered the stables as part of the deal but declined. These were sold on to somebody else who agreed to stop the riders using the path as it was technically illegal and the amount of damage being caused by the horse hoofs made it difficult to get any vehicle other than a four wheel drive up our driveway during winter or very wet weather. The stables were then sold to the current owner, who promptly told all her clients they could come and go as they pleased, this caused quite a few problems between us as I had*

*already spent a considerable amount of time and money repairing the damage caused to the drive and replacing the gates that had disappeared.*

*At this point the land owners, Sykes and Quarmby, stepped in and terminated the lease on the land where the stables had been built. They applied for planning permission to rebuilt further up the path on a field they owned. We supported this application with the proviso that they stopped using the driveway and provided access via Mean Lane. For the last six years I have maintained this footpath out of my own money to make it easier for us to get in and out and for the walkers to be able to use it. During this time both me and my wife have suffered verbal abuse and one threat of physical violence plus the threat of legal action involving the police when I have tried to point out to the riders that is not a bridlepath.”*

147. One user (Ref: 199/4) stated in their user evidence form that they used the application route to ride to and from two different stable yards with the owner of the stable yards, which were marked on their accompanying plan on the field opposite No. 223 Huddersfield Road, and at a new building at the site formerly known as ‘The Lathe’, which abuts Meltham Footpath No. 22. The first stable was closed in approximately 2011, and the second stable at ‘The Lathe’ was constructed following planning permission in 2012: [2012/62/91232/W](#). During the relevant period, there has been at least one stable along the application route. However, 199/4 clarified:

*“For Q8 I used the route both with implied permission as I was riding with the lady who lived there (Meltham road end) on one of her horses, and also without permission whilst riding on my own, just as an off road hacking route”.*

148. Further questioning revealed that 199/4 used the route with the owner of the stabled yards only between 2009-2011. Before, during, and after that period, 199/4 also used the application route as a hacking route on their own three (3) to four (4) times a year. Their user evidence has therefore also been re-evaluated from 1984-2017 to 1984-2009 & 2011-2017, as their use during the

period of 2009-11 was predominantly by license and would have appeared that way to a reasonable landowner.

149. Three (3) other users answered that they used the application route to access the stables; the question was primarily targeted at horse riders. Firstly, 199/12 used the application route on cycle but answered that they had implied permission to use Mean Lane, but also stated: "*No objection was made, the route seemed appropriate to use and seems connected*". It appears that the user has misunderstood the question, and the fact they no received no objection to their use equates to acquiescence, rather than use with permission. 199/2 answered that they used the application route to access the stables but without permission. The user clarified in a telephone call on 12/10/2023 with the Definitive Map Officer that they knew the occupiers of the stables and occasionally stopped for a chat, but they didn't actually use the premises for private/commercial purposes. Therefore, it is not considered that their use was by permission.

150. Lastly, 199/14 was also friends with the occupiers of the stable and answered that they drove down Mean Lane to the stables and then rode a horse along the application route. This type of use is entirely different from occasionally stopping for a chat as their access to the application route with a mechanically propelled vehicle and then horse was with the permission of the occupier and an extension of their private right of way. There is no indication in the eight (8) remaining UEFs that their use was in association with the two stables.

### **Without Interruption**

### **Challenges**

151. In the witness questionnaire, 199/9 stated that they were unable to use the section of Mean Lane between the Meltham Greenway and Huddersfield between approximately 2009-11 due to new adjacent landowners that challenged horse riders. Subsequently, they continued to use Mean Lane but only from the Cricket Club to the Meltham Greenway. Their period of use along

the full length of the application route has therefore been re-evaluated from 2003-2017 to 2003-2011.

152. Similarly, upon further questioning, 199/11 stated that they used the Meltham Greenway after it was built/maintained in approximately 2008-10, to reach Bluebell Wood, and also rode down the old railway line embankment from the greenway and continued easterly passed the houses at the eastern end of Mean Lane, Huddersfield Road (B6108). At the same time, they continued to use the full length of the application route to reach those destinations, but it depended on which horse they rode at the particular time. However, 199/11 stopped using the eastern end of Mean Lane, between the Meltham Greenway and Huddersfield Road (B6108), when the adjacent cottage was sold in 2011. This was due to a new gate and challenges to public use on horseback by the new homeowners. Consequently, their period of use has also been re-evaluated from 1989-2017 to 1989-2011.

153. User 199/14 also stated that their use was challenged “a few years back” by the owner of the houses and told them that they weren’t allowed to ride down the lane. Similarly, 199/15 also stated that their use was challenged by the owner of the house in approximately 2013. However, the use provided by both respondents has already been discounted from the investigation as 199/14 used the application route ‘by right’, whilst 199/15 cycled the application route, which does not contribute towards the dedication/acquisition of a public bridleway. Nevertheless, it corroborates the adjacent landowner statement that they challenged members of the public other than those on foot.

### **Locked Gate**

154. Photographs by a Definitive Map Officer show that the gate at the eastern end of Mean Lane was locked with a padlock in February 2017. Both 199/2 and 199/3 recalled encountering a locked gate in approximately 2015/16, as stated above. 199/3 recalled that they stopped using the section of the application route between Meltham Greenway and Huddersfield Road (B6108) since

approximately 2015/16 due to a locked gate the eastern end of the application route, and stated:

*“No idea who locked it or why. Presumably to prevent people like myself going through. I had to stop using this route”.*

155. The locked gate did dissuade 199/3 from riding along the application route and their period of use has also been re-evaluated from 2013-2017 to 2013-2015/16. 199/2 also encountered a locked gate during their period of use but could not recall the details. Notably, 199/2 did not acquiesce to the challenge and continued to use the application route on horse until the submission of the Schedule 14 application in 2017.

156. The witness questionnaire therefore asked users whether the gates were locked during their period of use. Ref 199/9 recalled:

*“I rode along Mean Lane then under the railway line (Greenway) and down passed the cottage onto Huddersfield Road. There is now a locked gate preventing useage of this route but it was open for many years and people who lived in the cottage ( Perkins) had no problem with the lane being used by horses. From memory the gate was set further back from the road, if the gate was as in the photo shown below it was always open when we used the track. as we used to use the garden wall near window shown to get back on the horse. We wouldn't have used that method of remounting if the gate was up to the edge of the path. I sold my land on Huddersfield Road around 2009 but still used Mean Lane for riding a few times a year. until it was inaccessible. I will answer NO to the question below as we were unable to access this route from about that time presume it was when The Perkins moved out and non horsey residents moved in. I do still ride on Mean Lane but now ride up onto the Greenway from the bridge and then ride along the Greenway to Huddersfield Road.”*

157. Of the five (5) other users that answered the witness questionnaire and encountered the gate(s), three (3) of which used the application with a horse during the relevant period, answered ‘no’ that the gate was not locked.

Additionally, no user stated that the gates were locked in their user evidence forms. The evidence is nevertheless consistent with the adjacent landowners' statement that the gate was locked on some occasions for the purpose of security when their vehicle was parked and was only locked overnight.

158. However, as stated below under 'Lack of Intention to Dedicate', the test is objective and what a reasonable user would have understood the intention to be. An interruption to use, by or on behalf of the landowner, must be with the intent to prevent the public if it is to prevent the dedication of a public right of way. Therefore, if the gate was locked when the majority of public users are not likely to be riding the application route, this would not have formed a sufficient interruption for statutory purposes (*Lewis v Thomas* [1950] 1KB 438). The closure should be meaningful, and actually interrupt most users, with landowners ensuring that they are clearly communicating the message that their land is not dedicated as a public right of way ([Ali v Secretary of State for Environment, Food and Rural Affairs and others \(2015\) EWHC 893 \(Admin\)](#)). Also, the occasional and brief locking of a gate may not be not sufficiently open and notorious, and may well be *de minimis* ([Billson, R \(on the application of\) v Secretary Of State For Environment \[1998\] EWHC Admin 189](#)).

159. Although the adjacent landowners have a legal interest over the application route for access, there is no evidence that such actions were undertaken by, or on behalf, of the owner of the fee simple of this section of the application route, which was formerly Quarmby & Sykes since 1945 and now SDC Enterprises Limited. In [Applegarth v Secretary of State for the Environment, Transport and the Regions \[2001\] EWHC Admin 48](#) ('Applegarth') the Court decided that actions by the person who had a private right of access over a route were not actions of the owner of the fee simple for the purposes of a lack of intention to dedicate.

160. Consequently, there is no evidence that the locked gate in 2015/16 was a lack of intention to dedicate and did not create a significant interruption/challenge to most users. With regard to the evidence of most users on this issue, it is not considered that the occasional locking of a gate was done to such an extent as

to bring it home to the public that their use along the application route was being questioned/challenged. Further corroboration by users may establish that it brought the public right to use the way route into question and throw the inquiry back into an earlier relevant period, but that is not possible to conclude based on the available evidence.

## **Signs**

161. Currently, three signs are located along the application route. The sign shown in Photo 3 of Figure 3 is not mentioned by the respondents, and it was not present when a Definitive Map Officer took photos of the application route in February 2017, This indicates that the sign is a relatively new feature erected after the relevant period and, in any case, the notice is intended to prevent public vehicular access along the application route to Folly Dolly Falls.
162. Two signs are located at the eastern end of the application route, positioned near 223 Huddersfield Road and Meltham Dike, which simply state 'Private'. The owners of 223 Huddersfield Road stated in their landowner evidence form that signs have been in place over the last ten (10 years), so between 2013-2023 reaffirming that the application route was only a public footpath, but the signs were vandalised. However, there is no proof or documentary evidence of the signs. Users were therefore asked in the witness questionnaire whether they witnessed the signs prior to 2017 and during the relevant period. Eight (8) people did not witness the signs, however two (2) answered that they did: 199/2 & 199/8.
163. The erection of a notice by or on behalf of the landowner in terms that the way is private can defeat the creation of a public right of way by demonstrating a lack of intention to dedicate and will usually also bring the public right to use the way into question. However, there is not necessarily always symmetry between the two concepts, and the erection of a sign by someone other than the landowner may constitute an event that only brings the public right to use the way into question ('Applegarth'; 'Godmanchester'). In the original UEF, 199/2 answered that they only saw public footpath waymarks at either end of



the application route, as did 199/15, but this use has already been discounted as it was with bicycle.

164. Whilst 199/2 & 199/8 have been asked questions regarding the signs they witnessed, they were unable to provide evidence of what the signs stated, where they were located, the date they were erected, and the duration they were maintained for. For instance, the current signs stating 'private' are not sufficient to demonstrate a lack of intention to dedicate a public right of way, even if they were erected by or on behalf of the landowner, as they are ambiguous and not expressed in clear terms that public use of the application route by horse riders was being challenged. Furthermore, there already exists a private road with a co-existing and recorded public footpath along the application route, so a reasonable user of the way would not necessarily equate the signs with a challenge to their use. None of the remaining users saw any notices inconsistent with the dedication of a public bridleway, any other structures, or obstructions.

### **Lack of Intention to Dedicate**

165. Only the owner(s) of the fee simple of the application route can demonstrate a lack of intention to dedicate a public right of way. Under section 31(3) or section 31(6) of the Highways Act, 1980. The term 'intention' means what the relevant audience, namely the users of the way, would reasonably have understood the owner's intention to be. The test is objective: not necessarily what the owners subjectively intended, nor what particular users of the way subjectively assumed, but what a reasonable user would have understood that the owner was intending ([R \(on the Application of Godmanchester Town Council\) \(Appellants\) v SSEFRA \[2005\] EWCA Civ 1597](#) and [R \(on the application of Drain\) \(Appellant\) v SSEFRA \[2007\] UKHL 28](#)) ('Godmanchester').

166. Public use along the eastern section of the application route, from Meltham Dike to Huddersfield Road, is where the presumption of dedication has been contentious. During the relevant period, this section of the application route was owned by Quarmby & Sykes (Holdings) Limited, who sold the land in 2018 to

SDC Enterprises Limited. The adjacent landowners have lived adjacent the application route since 2011. Additionally, since 19<sup>th</sup> December 2017, after the relevant period, they have been granted permission by the owner(s) of the fee simple, by a license agreement, to tenant the field directly opposite 223 Huddersfield Road, between Meltham Dike and Huddersfield Road, for the specific purpose of using the land in connection with the licensee's residential property, for storage, and the keeping of hens.

167. Unlike a lease, a license does create a legal interest in the land and does not confer the licensee 'exclusive possession' of the property; a license is only the permission to occupy the land, which would otherwise be an act of trespass. The distinction is important because, under the general law of conveyancing, where the owner of the fee simple makes a grant of his land, the soil of the ad medium filium, such as a river, highway, or private road, passes with the grant. This law applies to land of any tenure, whether freehold, copyhold, or leasehold ([Tilbury v Silva 1889 T. 201.](#)). In 2023, the owners of 223 Huddersfield Road stated:

*"Since around 2012 in line with the legal status of the footpath we have prevented horses from having access down the footpath, used signs, locking the gate on occasion and asking individuals to stop riding their horses down the footpath. Apart from it being illegal we had other reasons for preventing horses using the footpath".*

168. It appears that the field to the south of the application route, between Meltham Dike and Huddersfield Road, has been subject to a long tenancy and was the location of the stables prior to approximately 2012. Previous tenants welcomed horse riders along the application route and some users recalled encounters when they opened the gate for horse riders. In summary, the only legal interest the owners of 223 Huddersfield Road have in the application route is a private right of way and therefore they do not have any right to negate the landowner's intention. The owner of the fee simple of the eastern end of the application route was Quarmby & Sykes (Holdings) Limited during the relevant period and there

is no evidence that they demonstrated a lack of intention to dedicate a public right of way to rebut the presumption of the dedication of a public bridleway.

169. On the other hand, any action which challenges the status of a way may be a 'bringing into question' event, and it does not have to arise from the action of the owner(s) of the land or on their behalf ('Applegarth'). Nevertheless, whatever means are employed to bring the public's right to use a way into question must be sufficiently communicated to the users, so that at least some of the users are aware of the challenge. Therefore, it may be that the status of the Order route was also brought into question in 2011 due to challenges, and again in 2015/16 by occasional locked gates and/or signs, however, the events do not rebut the 1997 to 2017 relevant period.

170. Furthermore, the available user evidence is only marginally affected by these earlier relevant periods, as one (1) user (199/3) rode the application route between 2013-15, therefore their use would be discounted if the 1991-2011 relevant period was considered. Whilst another user (199/8) rode the application route between 2002-2017, thereby reducing their contribution to the total evidence of use if the earlier relevant periods were analysed, compared to the 1997-2017 relevant period. However, all of the remaining users commenced using the application route at, or prior to, 1991.

## **Adjacent Landowner 2**

171. One adjacent landowner ('AL 2') stated that they have owned land adjacent the application route, just west of Meltham Greenway, since 2013 and responded to the consultation by completing a landowner evidence form. AL 2 stated that they had seen people daily using the application route on foot, weekly using the application route with a pedal cycle, and occasionally seen horse riders. They only ever turned back members of the public using the application route with vehicles to reach Folly Dolly Falls. AL 2 also marked on a map that there was an open gate part way along the application route, approximately west of No. 47 Pavilion Way, Meltham, at the location of the sign that states: "STOP

*No vehicle access to Folly Dolly Footpath only*". The gate which was replaced with a bollard in 2020 to prevent vehicle access.

172. The purpose of the sign and bollard is to prevent public access with mechanically propelled vehicles, rather than use by horse riders. Furthermore, there is no reference to a gate, sign, or bollard in the user evidence forms and no evidence that they were in place during the relevant period. A Definitive Map Officer conducted a site visit in February 2017 and no obstructions are present. Another site visit was conducted in April 2023 and a bollard was seen but was removed and resting against a metal fence.

### **Width**

173. The estimated width of public use of the application route varied between three to six (3-6) metres, or car width, with the average been approximately 4m. The user evidence is consistent with public use over the full width of the application route between boundary to boundary, and the dedication by the landowner(s) of a public bridleway with a variable width between 3 metres and 10 metres.

### **Limitations**

174. Section 53(4)(b) of the WCA states that a DMMO shall include the addition to the statement of particulars as to any limitations, such as a gate or stile, or conditions affecting the public right of way thereover. Section 56(1)(e) of the WCA provides that the inclusion of such particulars is conclusive evidence that the way is subject to the limitations stated. In principle, any structure may be recorded as a limitation on the Definitive Map and Statement if the limitation is provided to be present at the time that the public right of way is dedicated.

175. The current Definitive Statement for Meltham 24 records two (2) kissing gates, one (1) post, two (2) stiles), and (1) wicket gate. It was held in Gloucestershire County Council v Farrow & Others [1985] 1 WLR 741 that if a right of way originally dedicated subject to a limitation or condition is subsequently used for

a twenty (20) year period during which time it is free from that limitation or condition, the highway is presumed to have been rededicated free from the limitation or condition under the terms of section 31(1) of the 1980 Act.

176. A wicket gate is defined by Oxford English Dictionaries as: “*a small gate, especially one at the side of a larger one*”. In the ‘Walking Schedule’ conducted by Meltham Urban District Council for Meltham 24 in preparation for the publication of the First Definitive Map and Statement under Part IV of the [National Parks and Access to the Countryside Act, 1949](#), the description of the public path states: “*Through wicket gate along South front of Cottage over cinder track – over watercourse...*”. The wicket gate was therefore located at the point where Meltham 24 joins Huddersfield Road. As a wicket gate is usually beside a larger gate, it is reasonable to presume that a larger gate was located at this location since the 1950’s. However, the larger gate is not recorded as a limitation in the Definitive Statement for Meltham 24. There is user evidence of a gate(s) at the Huddersfield Road termini, which require determination.

177. All respondents signed and dated the map, and eight (8) respondents recorded on their map, or described, that there was a gate at the eastern end of the route, adjacent the western side of No. 223 Huddersfield Road. One respondent (Ref: 199/4) initially didn’t acknowledge the presence of gates on their map or UEF but did so in the witness questionnaire. All users were questioned regarding the two (2) gates, and specifically if they used the application route when the gate directly abutted Huddersfield Road (B6108). Eight (8) answered ‘yes’, six (6) of which rode a horse along the application route during the relevant period. With regards to the gate directly abutting Huddersfield Road, one user (199/11) that rode the application route between 1989 to 2011 remarks:

*“When we rode this track there were no stables. It is only of late they have been built and signs erected. No gate was on the Meltham Road end of track at all”.*

178. Although they used the application route with a bicycle, which has been discounted, 199/12 used the application route between 2003 – 2022 and stated:

*“The gate to Huddersfield road was always open when I used the route. The gate further up the route was sometimes open but I don't remember seeing any signs saying that it was private / restricted etc...”*

179. It is unclear whether the reference to the gate being ‘open’ refers to it being physically ajar, or simply unlocked. However, 199/5 used the application route throughout the relevant period and provides support for the latter, stating:

*“The woman at the house would come out and open the gate for us if she saw us.”*

180. Google Map Streetview shows that a vehicular width field gate, with a side access for use on foot, was in place directly adjoining Huddersfield Road in [2008](#), as shown in photo 17 in **Figure 15**, and [2009](#), which is consistent with the 1985 Definitive Map of a kissing/wicket gate at this location. Similarly, aerial photos show the gate was in place in 2006. This gate has not been in place since at least [2016](#), based on Google Streetview. The new position of the gates to the west of the cottages has been in place since at least [2018](#) as shown in photo 16 in **Figure 15**, which is consistent with the new adjacent landowners moving the gate to use the application route as a driveway. Nevertheless, on the balance of probabilities, there is no credible evidence to conclude that this gate to the west of the cottages was in place at any stage during the relevant period.

181. Aerial photos similarly show that the gate directly abutting Huddersfield Road was in place in 2006, as shown in photo 15 in **Figure 15**. However, aerial imagery from 1999, 2002, 2003, and 2005, as shown in photos 11-14 in **Figure 15**, consistently show that a gate was not in place at this location, which is consistent with the evidence provided by 199/11. The gate to the west of the cottages is not shown on any available map until 2018, as shown in photos 16 & 18 in **Figure 15**, which is also consistent with Ordnance Survey Maps, which

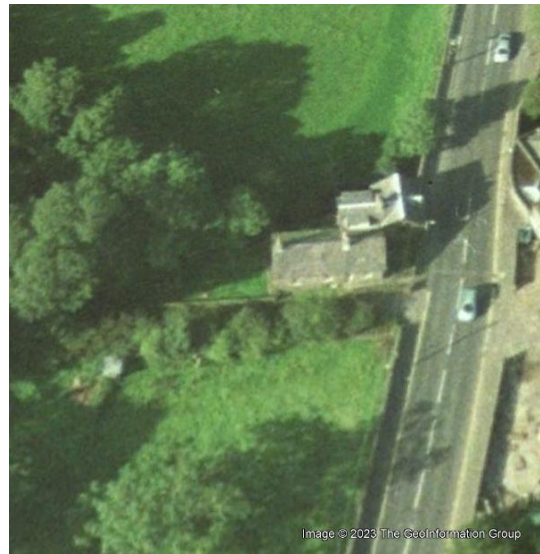
do not show a gate at this location until relatively recently. As neither gate was present at the beginning of the relevant period under consideration, when the public right of way is deemed to be dedicated by the landowner ([Turner v Walsh \[1881\]](#)), it is not considered that the application route was dedicated to the public subject to the presence of the gate at this location as a limitation.

182. It is therefore reasonable to conclude that, having regard to the totality of the user evidence which was not restricted by the presence of such structures, and on the balance of probabilities, no kissing gates, field gates, posts, or stiles should be recorded as limitations on the public bridleway.

**Figure 15: Aerial & Google Streetview Images of Eastern end of Application Route (Source: Google Earth & Google Maps)**



*Photo 11: 1999 Google Earth Image shows no gate at eastern end of application route.*



*Photo 12: 2002 Google Earth Image shows no gate at eastern end of application route.*



*Photo 13: 2003 Google Earth Image shows no gate at eastern end of application route.*



*Photo 14: 2005 Google Earth Image shows no gate at eastern end of application route.*



*Photo 15: 2006 Google Earth Image shows field gate at eastern end of application route abutting Huddersfield Road*



*Photo 16: 2018 Google Earth image shows field gate at western side of cottages. Not gate abutting Huddersfield Road.*



*Photo 17: 2008 Google Streetview Image showing gate directly abutting Huddersfield Road.*



*Photo 18: 2018 Google Streetview Image showing gate to the west of the cottages.*



## **User Evidence Evaluation**

183. The public right to use the way was brought into question by the Schedule 14 application submitted in 2017. The relevant period to be considered under section 31(1) of the 1980 Act is therefore 1997 – 2017. Five (5) UEFs have been discounted from the investigation: one user (Ref: 199/7) only used the application route as far as the permissive Meltham Greenway, and therefore not as a highway; similarly, the other user (Ref: 199/14) used the route to access the stables 'by right', whilst 199/12, 199/13, and 199/15 used the application route via bicycle, which is not consonant with the dedication of a public bridleway in this case.

184. The user evidence is therefore supported by ten (10) UEFS with overlapping evidence of use during the relevant period over the full width of the application route, predominantly weekly or monthly frequency of use, as of right, without interruption. Whilst there is evidence of challenges to some users by adjacent landowners, that may have brought the public right to use the way with horses at earlier dates of 2011 and/or 2015/16, there is no evidence of a lack of intention to dedicate a public bridleway by, or on behalf, of the landowner, sufficient to rebut the presumption of the dedication of a public bridleway over the full width of the application route during the 1997-2017 relevant period free of limitations.



## **RECOMMENDATION**

185. The documentary evidence is not sufficient to show that, on the balance of probabilities, the application route subsists as a vehicular highway. There is credible evidence to the contrary to demonstrate that the application route subsists as a co-existing private occupation road and public footpath. However, the user evidence of sufficient quantity and quality to represent public use and enjoyment of the full length and width of the application route, which is consonant with the status of a public bridleway, as of right, without interruption, and there is currently no evidence of a lack of intention to dedicate a public right of way that rebuts the presumption under section 31(1) of the Highways Act, 1980. There is clear evidence in favour of the appellant and no credible evidence to the contrary, that the application route subsists on the balance of probabilities as a public bridleway following dedication by the landowner(s).

186. Following the discovery by the authority of evidence which when considered with all relevant evidence available to them, and based on the most up to date Ordnance Survey base map, the Council determine that the 1985 West Riding Definitive Map and Statement of Public Rights of Way should be modified under section 53(3)(c)(ii) of the WCA, namely, that a highway shown in the map and statement of a particular description ought to be there shown as a highway of a different description.

## **CONCLUSION**

187. On the balance of probabilities, the application route subsists as a public bridleway following presumed dedication under Section 31 of the 1980 Act. It is recommended, based on the available evidence, that a Definitive Map Modification Order is made to upgrade Meltham Footpath Nos. 24 & 59 to public bridleway status on the Definitive Map and Statement.

## REFERENCES

- Aldridge, T. M. (1997). *Boundaries, Walls and Fences*. Sweet & Maxwell.
- Anderson, J. (2018). *Views of Political Geography in the Seven Years' War: Military Artists' Prints and British Consumers*. *Oxford Art Journal*, Volume 41, Issue 1, Pp 19-38.
- Arts, S. o. (1762). *Premiums Offered by the Society Instituted at London for the Encouragement of Arts Manufactures and Commerce*. London: Printed by Order of the Society.
- Aston, M. (1985). *Interpreting the Landscape: Landscape Archaeology and Local History*. Abington: B.T. Batsford Ltd.
- Beech, G & Mitchell, R. (2004). *Maps for Family and Local History: The Records of the Tithe, Valuation Office and Natural Farm Surveys of England and Wales, 1836-1943*. Toronto: The Dundurn Group.
- Boden, L. P. (2012). *Summary of current knowledge of the size and spatial distribution of the horse population within Great Britain*. BMC Veterinary Research.
- Boden, L. P. (2013). *An online survey of horse-owners in Great Britain*. BMC Veterinary Research.
- Breen, T. (2017). *Public or Private? An Analysis of the Legal Status of Rights of Way in Norfolk*. *Landscapes*, 18:1. Pp 55-70.
- Brown, C. M., Robillard, W. G., & Wilson, D. A. (1995). *Boundary Control and Legal Principles*. New York: John Wiley & Sons.
- Burn, R. B. (1793). *The Justice of the Peace, and Parish Officer... Continued to the Present Time*. United Kingdom: B Cadell.
- Chandler, J. (1998). *Printed Maps of Wiltshire 1787-1844: A Selection of Topographical, Road and Canal Maps in Facsimile*. Wiltshire: Wiltshire Record Society.
- Christensen, K. &. (2003). *Encyclopedia of Community From the Village to the Virtual World. English Parishes: Jones, A. . United States of America: Sage Publications*.
- Commons, H. o. (2008). *House of Commons: Communities and Local Government Committee. Ordnance Survey. Fifth Report of Session 2007-08. HC 268*. London: The Stationary Office Ltd.
- Coriden, J. (1991). *An Introduction to Canon Law*. New York: Paulist Press.
- Daspher, K. (2016). *Human-Animal Relationships in Equestrian Sport and Leisure*. Abingdon: Routledge.
- David, C. E., & Cuthbert, J. L. (1910). *Land Valuation Under the Finance (1909-10) Act, 1910: The New Land Duties, Licensing Duties, Stamp Duties and Alteration in Death Duties*. Estates Gazette Ltd.
- Davidson, C. W. (1860). *Davidson's Precedents and Forms in Conveyancing*. Dublin: William Maxwell.
- DEFRA. (2004). *A Report of Research on the Horse Industry in Great Britain*. London: DEFRA Publications.
- Delano-Smith, C., & Kain, R. J. (1999). *English Maps: A History*. London: British Library Studies in Map History; v.2.
- Eades, G. L. (2017). *The Geography of Names: Indigenous to Post-Foundational*. London and New York: Routledge Taylor & Francis Group.
- Fleet, C. (2012). *The Edinburgh History of the Book in Scotland. Vol 2. Enlightenment and Expansion 1707-1800. Map Engraving and Printing*. Edinburgh: Edinburgh University Press.

- Fletcher, D. (1999). *The Ordnance Survey's Nineteenth Century Boundary Survey: Context, Characteristics and Impact*. *Imago Mundi*. Vol. 51. Pp 131-146.
- Fordham. (1923). *An Address on the Evolution of the Maps of the British Isles*. Manchester: Manchester: At The University Press.
- Great Britain House of Commons. (1851).
- Gregory, F.-B. (2007). *Encyclopedia of the Age of Political Revolutions and New Ideologies, 1760-1815. Volume 1*. London: Greenwood Press.
- Harley. (1965). *The Re-Mapping of England, 1750-1800*. *Imago Mundi*. The International Journal for the History of Cartography. Pp 56-67.
- Harley, J B. (1962). *Christopher Greenwood, County Map-Maker and His Worcestershire Map of 1822*. Worcestershire Historical Society.
- Harley, J B; Laxton, P. (1974). *A Survey of the County Palatine of Chester*. London: The Historic Society of Lancashire and Cheshire Occasional Series, Vol. I.
- Harley, J. B. (1966). *The Bankruptcy of Thomas Jefferys: An Episode in the Economic History of Eighteenth Century Map-Making*. Vol. 20, pp 27-48. *Imago Mundi* Ltd.
- Henry, C.J. & Hose, T.A. (2016). *Appreciating Physical Landscapes: Three Hundred Years of Geotourism. The Contribution of Maps to Appreciating Physical Landscape: examples from Derbyshire's Peak District*. Pp 131-156. London: The Geological Society.
- Hodson, Y. (1999). *Popular Maps: The Ordnance Survey Popular Edition One-Inch Map of England and Wales, 1919-1926*. Charles Close Society.
- Hunter, R. (1896). *The Preservation of Open Spaces: And of Footpaths, and Other Rights of Way; a Practical Treatise on the Law of the Subject*. United Kingdom: Eyre and Spottiswoode.
- Jones, A. K. (1981). *The Maps of Yorkshire, Printed in the Period 1577-1857*. Leeds: Ph.D., The University of Leeds, School of Geography.
- Kain, R J P & Baigent, E. (1992). *The Cadastral Map in the Service of the State: A History of Property Mapping*. Chicago & London: The University of Chicago Press.
- Kain, R. J., & Oliver, R. R. (2001). *The Historic Parishes of England and Wales : An Electronic Map of Boundaries before 1850 with a Gazetteer and Metadata*. Colchester: History Data Service, UK Data Archive.
- Lampert, D., & Woodley, D. (1991). *Site Selection and Investigation: A Practical Handbook*. Brookfield: Gower Publishing Ltd.
- Macnair, A., Rowe, A., & Williamson, T. (2016). *Drury & Andrews' Map of Hertfordshire. Society and Landscape in the Eighteenth Century*. Oxford: Oxbow Books.
- Macnair, A; Williamson, T. (2010). *William Faden and Norfolk's Eighteenth Century Landscape: A Digital Re-Assessment of his Historic Map*. Oxford: Windgather Press. Pp. vi, 216.
- Oliver, R. (1993). *Ordnance Survey Maps: A Concise Guide for Historians*. Charles Close Society.
- Orton, R. (1977). *The Story of Meltham*. Meltham: Meltham Town Council.
- Parsons, E. (1834). *The Civil, Ecclesiastical, Literary, Commercial, and Miscellaneous History of Leeds: Halifax, Huddersfield: The Manufacturing District of Yorkshire*. United Kingdom: F.Hobson.
- Pedley, M. H. (2020). *The History of Cartography. Volume 4. Cartography in the European Enlightenment*. Chicago: University of Chicago Press.

- Pepler, J. (2014). *The Unknown A. Bryant and His County Maps*. *Imago Mundi. The International Journal for the History of Cartography*. Volume 67, Issue 1. Pp 90-103.
- Place, A. (1999). *Routes of Our Valley's Past*. Holme Valley Civic Society.
- Pounds, N. (2000). *A History of the English Parish: The Culture of Religion from Augustine to Victoria*. Cambridge: Cambridge University Press.
- Prince, H. (2008). *Parks in Hertfordshire since 1500*. Hatfield: Hertfordshire Publications.
- Q. C. Braham, D. (2002). *Uncoloured Roads on 1910 Finance Act Maps*. *Rights of Way Law Review*. Pp 153-158.
- Raymon, L. (1970). *Antique Maps and Their Cartographers*. Michigan: Archon Books.
- Reed, M. A. (1984). *The Georgian Triumph 1700-1830*. Routledge & Kegan Paul.
- Ristow, W. W. (1976). *Thomas Jefferys' American Atlas, 1776*. *The Geographical Journal. The Royal Geographical Society (with the Institute of British Geographers)*. Vol. 142, No. 2 (July., 1976), pp. 355-358.
- Royal Institution of Chartered Surveyors. (1901). *The Surveyors Institution. Transactions*. Vol. 33.
- Seward, W. W. (1797). *An Essay on the Rise and Progress of Geography in Great-Britain and Ireland: Illustrated with Specimens of our Oldest Maps*. London: J.Nichols, Printer to the Society of Antiquaries.
- Short, B & Reed, B. (1986). *An Edwardian Land Survey: The Finance (1909-10) Act 1910 Records*. University of Sussex.
- Short, B. (1986). *Landownership in Edwardian England and Wales: A New Source for Geographical Analysis*. The Royal Geographical Society (with the Institute of British Geographers).
- Skempton, A. (1996). *Civil Engineers and Engineering in Britain, 1600-1830. Volume 40, Number 1*. Aldershot: Joseph Hopkins University Press.
- Smith, D. (1982). *Antique Maps of the British Isles*. London: Batsford Ltd.
- Snell, K. (2006). *Parish and Belonging: Community Identity and Welfare in England and Wales 1700-1950*. Cambridge: Cambridge University Press.
- Spicer, J. (2016). *Beating the Boundaries: The Church God is Calling Us to Be*. New York: Morehouse Publishing.
- Tyler, R. H. (1876). *A Treatise on the Law of Boundaries and Fences: Including the Rights of Property on the ea-Shore and in the Lands of Public Rivers and other Streams, and the Law of Window Lights*. Albany: William Gould & Son.
- Whitaker, H. (2013). *A Descriptive List of the Printed Maps of Yorkshire and Its Ridings 1577 - 1900*. New York: Cambridge University Press.
- Whyte, N. (2009). *Inhabiting the Landscape: Place, Custom and Memory, 1500-1800*. Oxford: Oxbow Books.
- Winearls, J. (1996). *Thomas Jeffery's Map of Canada and the Mapping of the Western Part of North America, 1750-1768*. London: British Library Journal.
- Woolrych, H. W. (1850). *A Treatise on the Law of Rights of Common*. London: W. Benning.
- Wrigley, E. (1972). *Nineteenth-Century Society: Essays in the Use of Quantitative Methods for the Study of Social Data. The Census, 1801-1891: M.Drake*. Cambridge: Cambridge: University Press.

## CASES

Ali v Secretary of State for Environment, Food and Rural Affairs and others (2015) EWHC 893 (Admin).....	87
Applegarth v Secretary of State for the Environment, Transport and the Regions [2001] EWHC Admin 48.....	88
Billson, R (on the application of) v Secretary Of State For Environment [1998] EWHC Admin 189.....	88
Coverdale v Charlton (1878).....	62
Dartford Rural District Council v Bexley Heath Railway Co. [1898] AC 210 .....	41
Davis v Whitby 1974.....	81
Fortune & Others v Wiltshire County Council & Another [2010] EWHC B33 (Ch) .....	61
Fortune & Others v Wiltshire County Council & Another [2012] EWCA Civ 334.....	61
Gloucestershire County Council v Farrow & Others [1985] 1 WLR 741.....	93
Kotegaonkar v Secretary of State for Environment, Food and Rural Affairs & Anor [2012] EWHC 1976 (Admin).....	78
Lewis v Thomas [1950] 1KB 438 .....	87
Masters v Secretary of State for the Environment, Transport, and the Regions (2000) 4 PLR 134.....	47
Powell & Anor v Secretary of State for Environment, Food, and Rural Affairs [2014] EWHC 4009 (Admin).....	76
R (Lewis) v Redcar and Cleveland Borough Council UKSC 11 (03 March 2010).....	81
R (oao Barkas) v North Yorkshire County Council [2014] UKSC 31 .....	82
R (on the application of Barkas) (Appellant) v North Yorkshire County Council and another (Respondents) [2014] UKSC 31.....	80
R (on the application of Ridley) v Secretary of State for the Environment, Food and Rural Affairs [2009] EWHC 171 .....	61
Robinson Webster (Holdings) Ltd v Agombar [2001] EWHC 510 (Ch).....	61
Tilbury v Silva 1889 T. 201 .....	90
Todd & Anor v Secretary of State for Environment Food and Rural Affairs [2004] EWCA 1450.....	61
Willsher v Scott (2007) EWCA Civ 195.....	46