



Order Decision

Site visit made on 8 May 2019

by Martin Elliott BSc FIPROW

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 13 June 2019

Order Ref: ROW/3198280

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as The Lancashire County Council Definitive Map and Statement of Public Rights of Way Moor Lane and Cob Castle Road, Haslingden (Definitive Map Modification) Order 2013.
- The Order is dated 27 November 2013 and proposes to modify the Definitive Map and Statement for the area by adding a section of public bridleway and upgrading existing public footpaths to public bridleways as shown in the Order plan and described in the Order Schedule.
- There were three objections outstanding when Lancashire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed.

The Main Issues

1. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 in consequence of events specified in section 53(3)(c)(i) and (ii). The main issues are:
 - i) Whether the discovery by the authority of evidence, when considered with all other relevant evidence, is sufficient to show that a right of way which is not shown in the map and statement subsists over land in the area to which the map relates (53(3)(c)(i), the addition of a section of public bridleway D-E-F-G¹).
 - ii) Whether the discovery by the authority of evidence, when considered with all other relevant evidence, is sufficient to show that a right of way which is shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description. (53(3)(c)(ii), the upgrading of footpaths 85, 86, 87, 88, 110, 111 (pt), 117(pt), 151, 164, 178 and 180 to public bridleways (A1-B-C-D, G-H-I-J-K-L-M-N-O-P-Q and B1-B2).
2. The test to be applied to the evidence is on the balance of probabilities.
3. The Council rely on documentary evidence in support of their case. One of the objectors (Rossendale Ramblers) contend that there is no evidence of a statutory dedication under section 31 of the Highways Act 1980 (the 1980 Act). Whilst this may be so the Council make no case that a statutory dedication has

¹ Letters A to Q (and also numbers in respect of points A and B) identified in this decision relate to points shown on the Order map.

arisen under section 31 of the 1980 Act. Subsequent submissions from the Rossendale Ramblers indicate that they have no objection to the upgrading of the various footpaths to bridleways subject to these sections being made safe for walkers where required. As noted below (paragraph 9) I am unable to take issues of safety into account in reaching my decision.

Reasons

4. The Order route² is shown to varying degrees on the early commercial maps dating from 1786. The Order route is identified as a 'cross road' or 'road'. The Order route A1 to Q forms a significant through route with the section of Order route B1-B2 linking to the route. The maps depict a route which was likely to be a minor highway but with a higher status than public footpath.
5. Ordnance Survey maps from 1893 show the physical existence of the Order route. Ordnance Survey maps were not produced with a view to recording the status of public highways and the maps therefore do not provide any evidence as to status. Nevertheless the maps are consistent with the commercial maps in showing the Order route.
6. None of the objectors make any submissions to suggest that the documentary evidence considered by the Council does not support the existence of a bridleway. A petition also submitted in opposition does not raise any evidential matters and therefore does not assist in determining the Order. However, one objector contends that there is no history of the southerly section of the Order route being used other than as a footpath and a former access to quarryman's cottages and farmsteads. Whilst there is no historic evidence of use as a bridleway this does not mean that higher rights cannot be shown to subsist. The documentary evidence points towards a route of a higher status than public footpath.
7. The Rossendale Ramblers make the point that the route D-E-F-G is not recorded on the definitive map, nor was it shown on preparatory maps, and no objections were raised to its omission. Whilst the route is not included on the definitive map that does not mean that the way does not carry public rights. The definitive map is conclusive of the particulars contained therein but does not preclude other rights from being shown to exist at a later date. It may be the case that when the definitive map was prepared this section of the Order route was not considered to be public. However, the Council have discovered evidence which shows the existence of public rights.
8. Having regard to all of the evidence, whilst it is not substantial, and in the absence of any evidence to the contrary, it is more likely than not that the Order route is at least a public bridleway.

Other Matters

9. The objections raise concerns in respect of safety, suitability, livestock management, the effect on water supplies and misuse by vehicles. Concerns are also raised relating to the cost to the public purse, the potential for anti-social behaviour and issues relating to dogs. Whilst I note and can appreciate these concerns they are not matters which I can take into account in considering the determination of the Order. My determination must be based on the evidence before me measured against the relevant criteria set out at

² References to the Order route mean the route A1 to Q and B1 to B2

paragraphs 1 and 2 above. Issues of suitability, desirability and need are not matters relevant to the determination of an order under the 1981 Act.

Conclusion

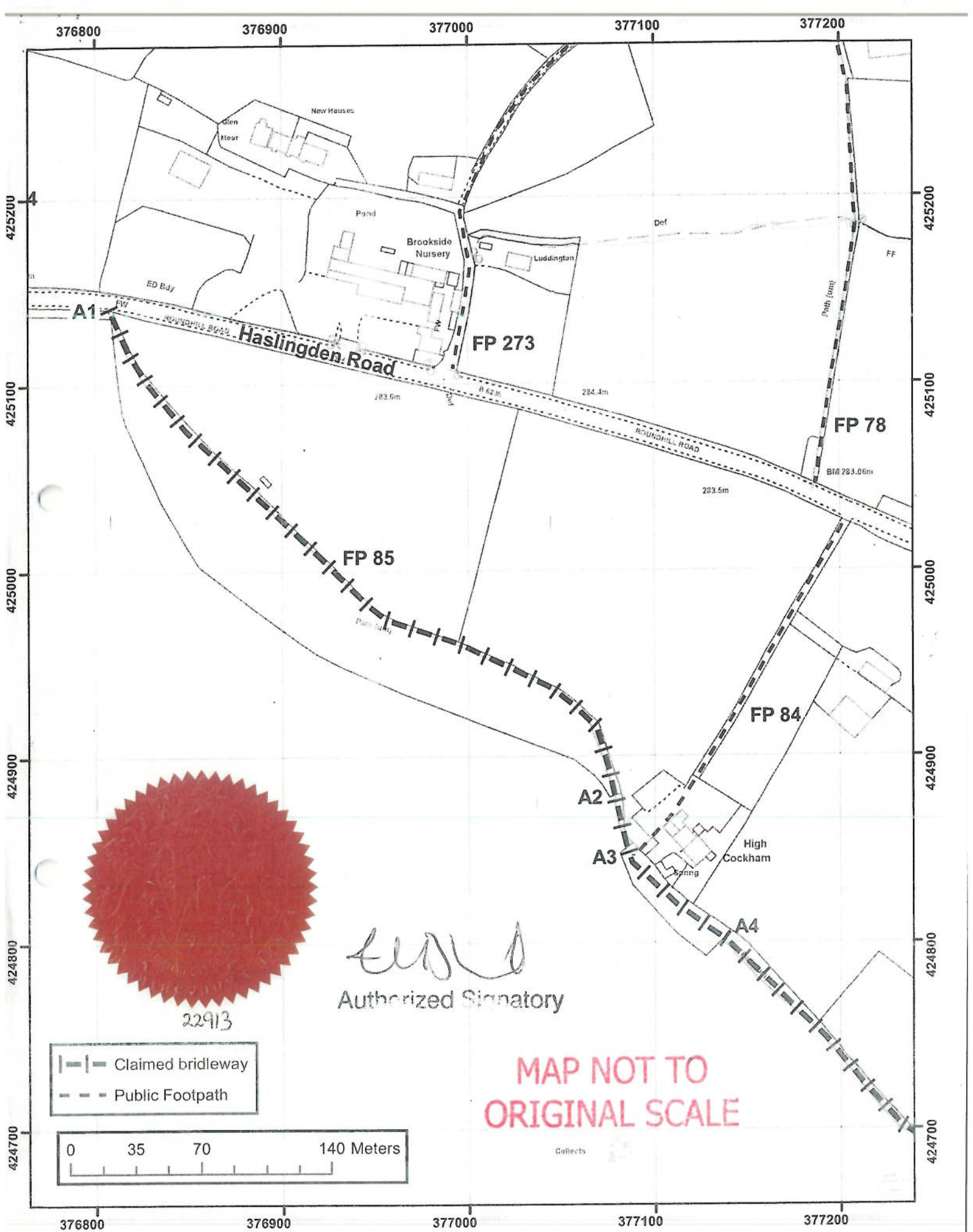
10. Having regard to these and all other matters raised in the written representations I conclude that the Order should be confirmed.

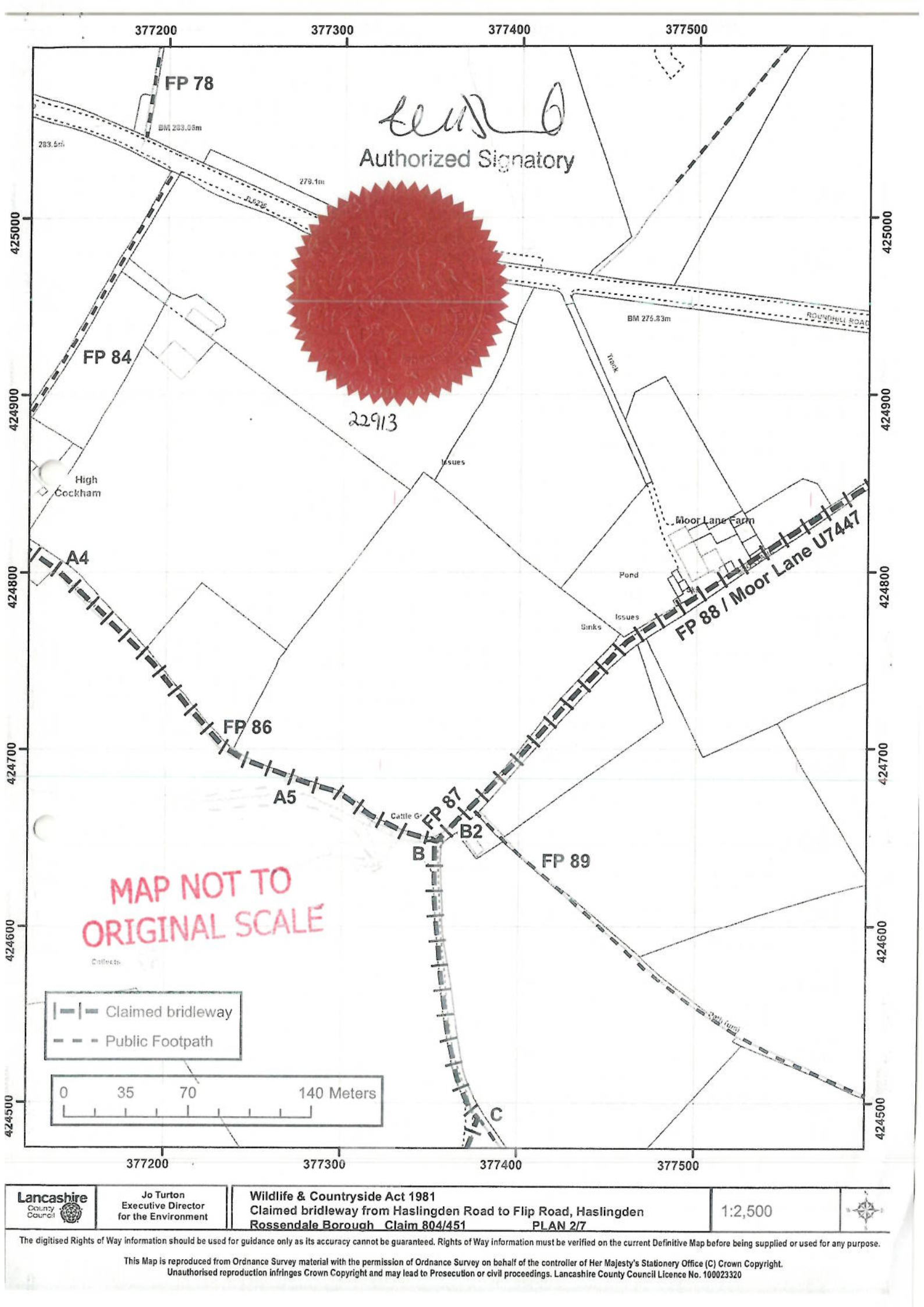
Formal decision

11. I confirm the Order.

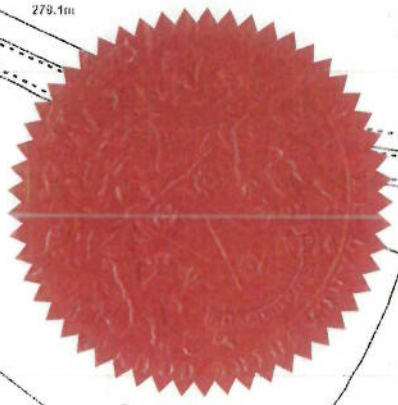
Martin Elliott

Inspector





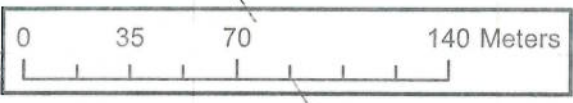
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MAP NOT TO ORIGINAL SCALE

Claimed bridleway
 Public Footpath



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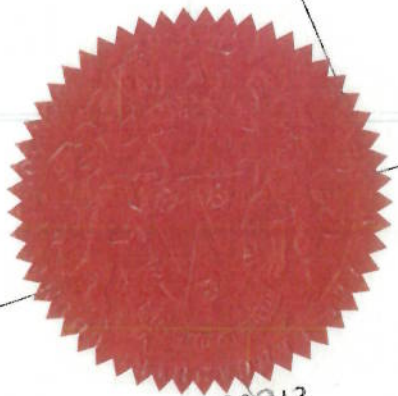
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FP 79

Haslingden Road

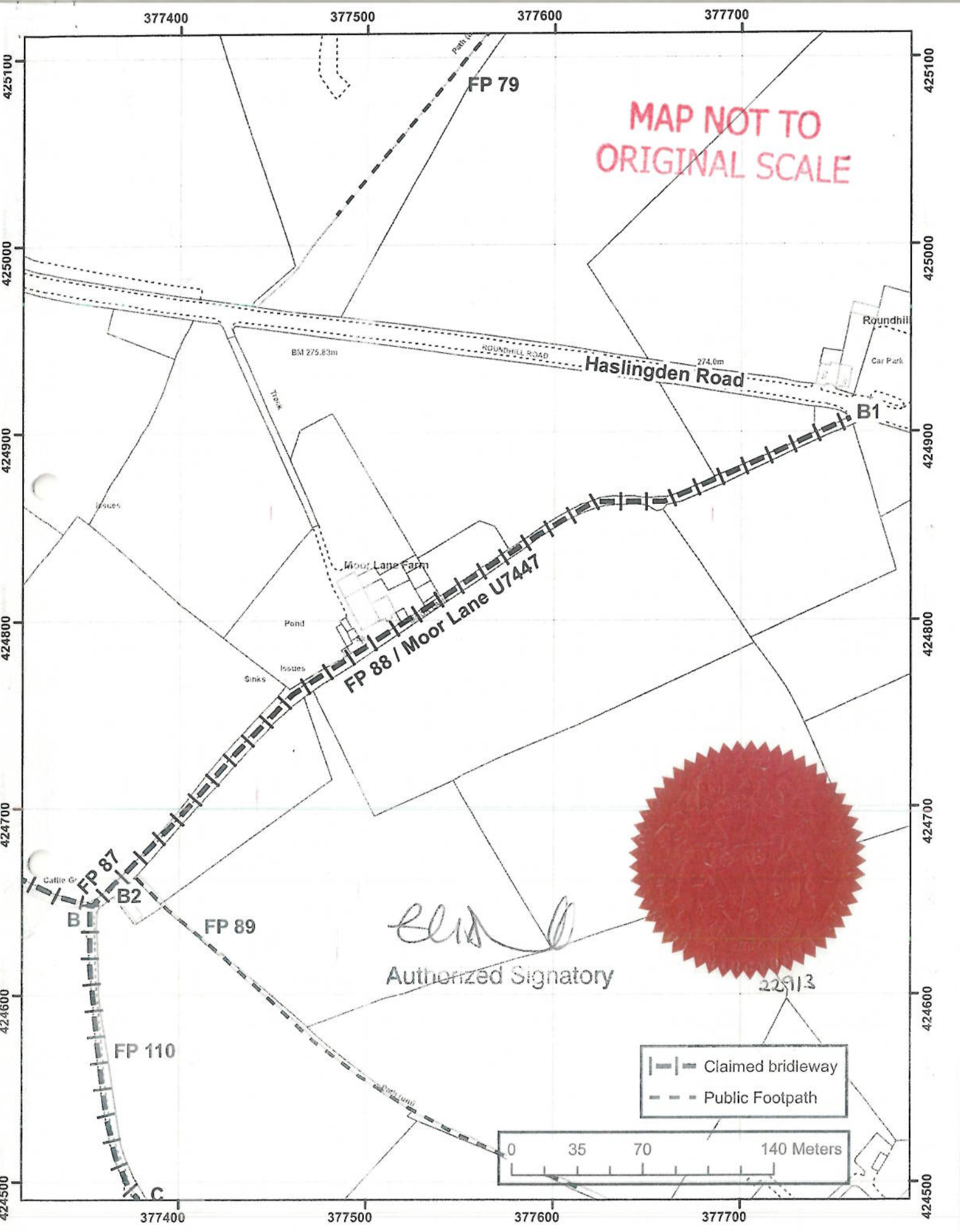
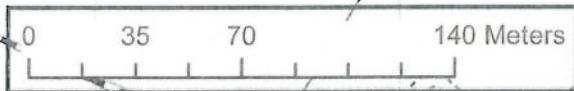
FP 88 / Moor Lane U7447

Authorized Signatory



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Legend: Claimed bridleway (dashed line with vertical bars), Public Footpath (dashed line)



Jo Turton Executive Director for the Environment

Wildlife & Countryside Act 1981 Claimed bridleway from Haslingden Road to Flip Road, Haslingden Rossendale Borough Claim 804/451 PLAN 3/7

1:2,500



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377300

377400

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377600

MAP NOT TO ORIGINAL SCALE

Collects

Cattle Gr

B2

FP 89

FP 110

C

FP 112

FP 111

FP 118

FP 117

FP 118

FP 117

- - - Claimed bridleway

 - - - Public Footpath

0 35 70 140 Meters



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Jo Turton

Authorized Signatory

Ponds

Copy Farm



Jo Turton
Executive Director
for the Environment

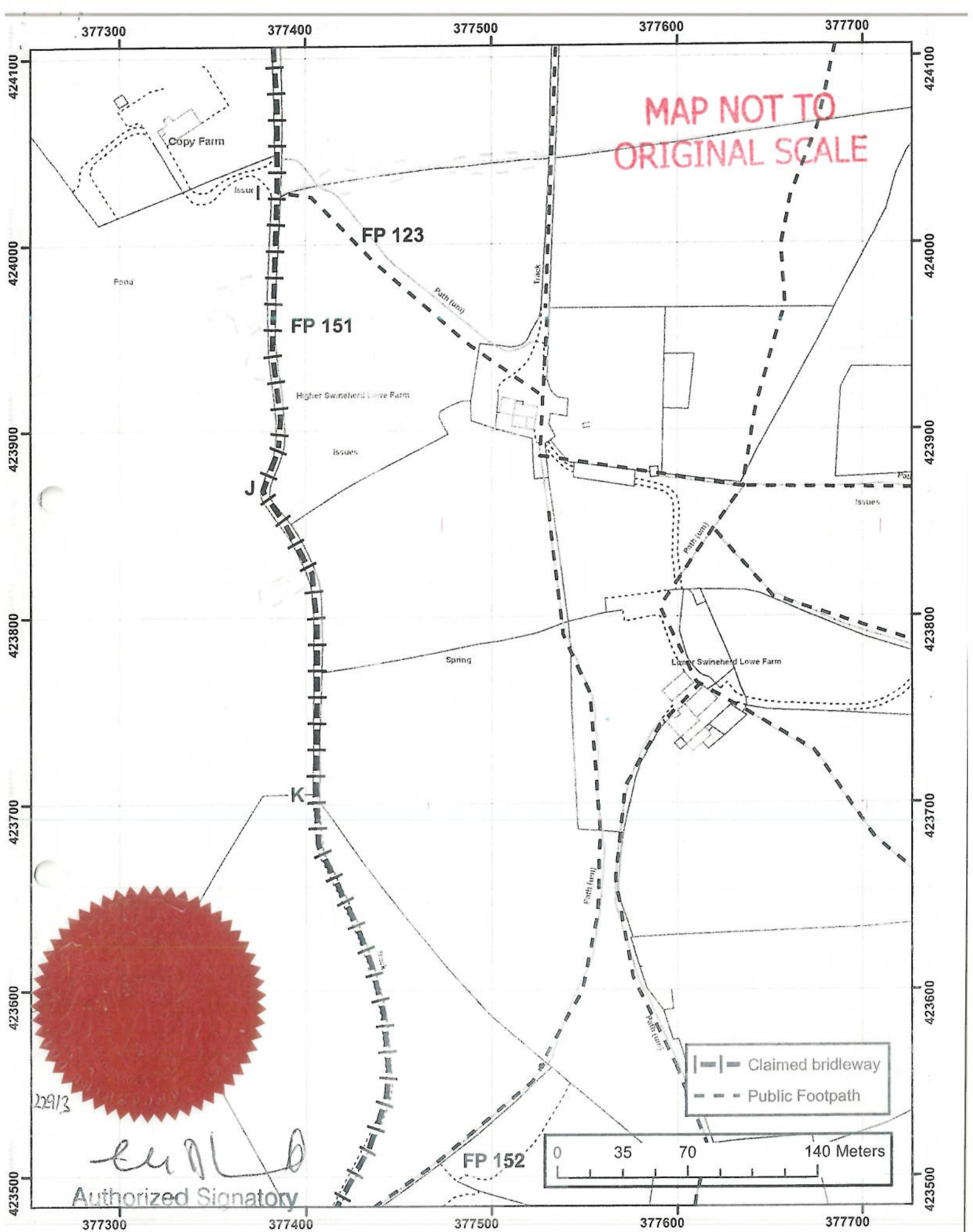
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Claimed bridleway from Haslingden Road to Flip Road, Haslingden
Rossendale Borough Claim 804/451 PLAN 4/7

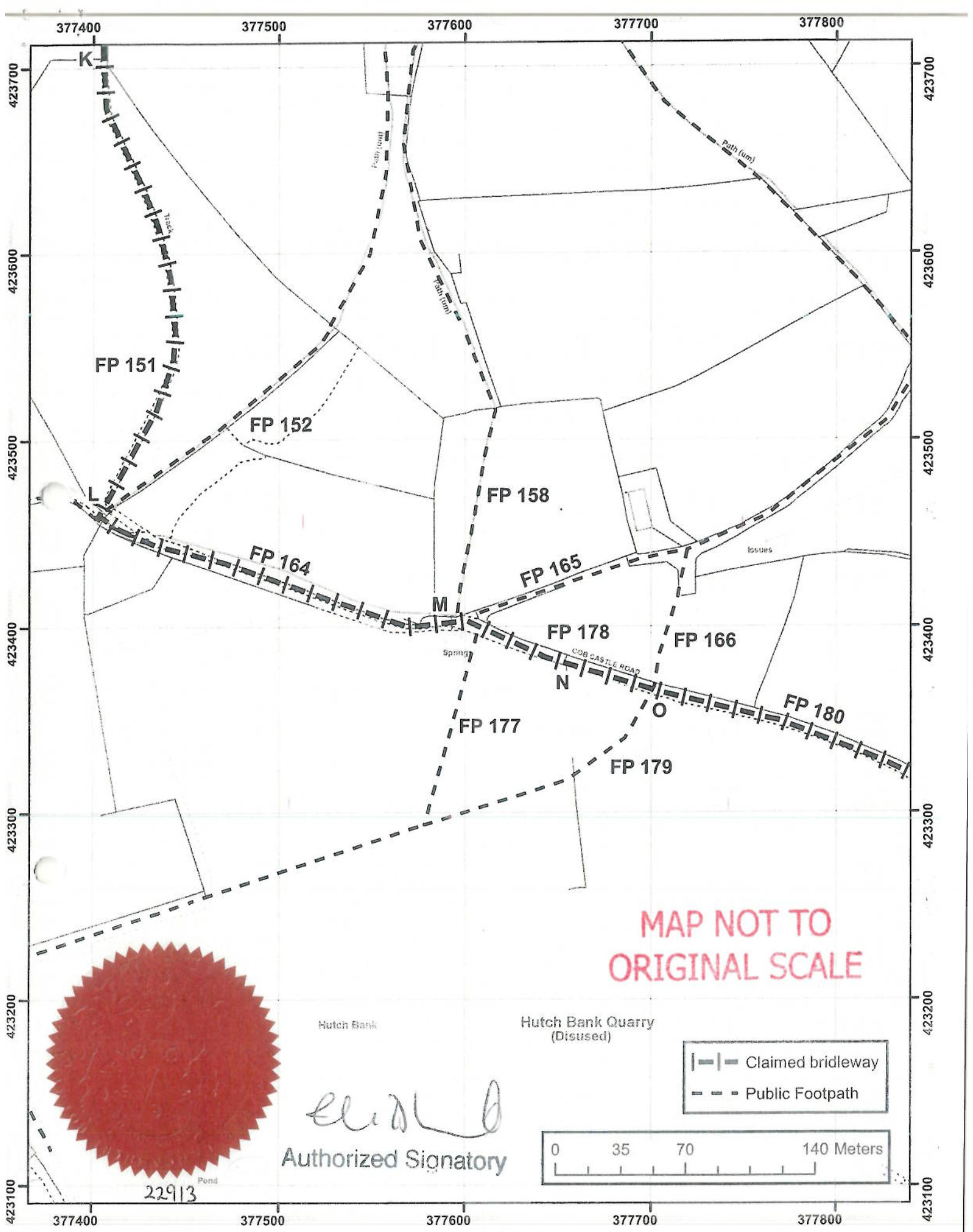
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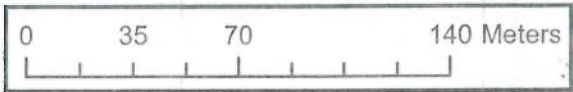




MAP NOT TO ORIGINAL SCALE

Hutch Bank
Hutch Bank Quarry (Disused)

- Claimed bridleway
- Public Footpath



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Jo Turton
Executive Director
for the Environment

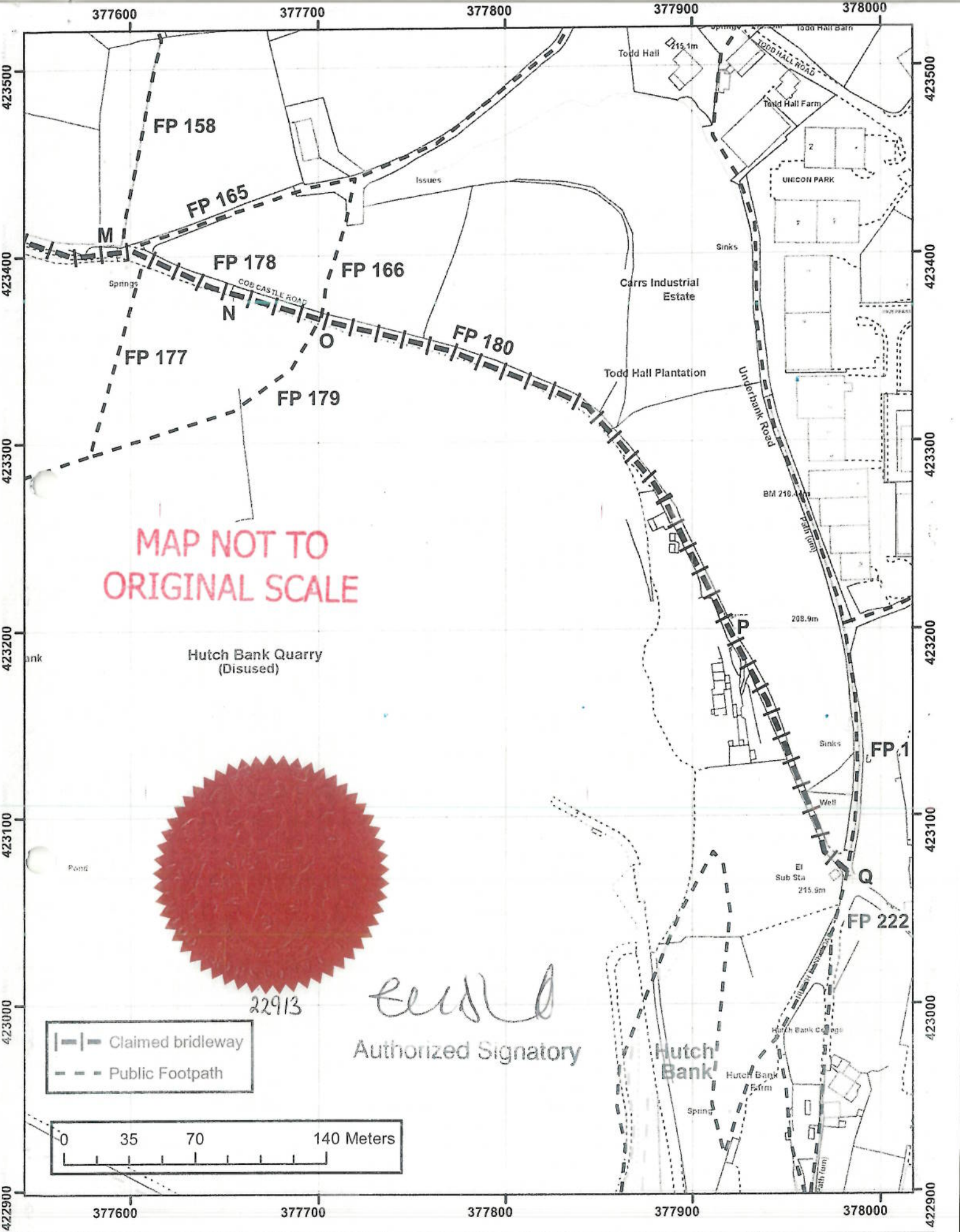
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Claimed bridleway from Haslingden Road to Flip Road, Haslingden
Rossendale Borough Claim 804/451
PLAN 6/7

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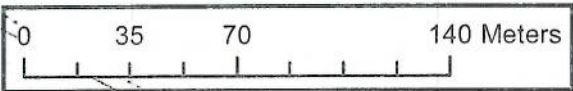
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MAP NOT TO ORIGINAL SCALE

 Claimed brideway
 Public Footpath



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