

1 Old Stanhope Road Route 6

2 At its northern end Old Stanhope Road commences on the B6278 road approximately 5 miles south of Stanhope and follows in a generally southerly direction close to the road (B6278 between Stanhope and Eggleston) for approximately 5800 metres (or 5300 metres not including the sections overlapping the existing B6278), intersecting with it twice more before finally terminating, where it intersects with the road once more, around 1.5 miles north of Eggleston. A detailed plan is shown at Document 6A.



3 The entire length of Old Stanhope Road is within land that is recorded on the Eggleston Award, however the route itself is not shown. A route is recorded on the 1st edition Ordnance Survey (OS) maps onwards.

4 The land is owned by Weardale Estates Ltd who are represented by Oglethorpe, Sturton and Gillibrand Solicitors.

Documentary Evidence

5 The earliest known documentary evidence of Old Stanhope Road are plans prepared by lead mining companies dating from 1822. The 1st edition OS maps also show the full route.

6 The route is not described in the text of the Eggleston Inclosure Award nor shown on the Plan. However, the area of land crossed by Old Stanhope Lane is labeled as 'Eggleston Common Now Stinted Pasture' and was not 'enclosed'. The Award Plan is shown at Document 0E.

First Edition Ordnance Survey Maps

- 7 The whole route of Old Stanhope Road is shown by double pecked lines on the first edition OS map. A copy of the 1st edition OS map is available at Document **6B**. The northern section (also Public Footpath 45 Eggleston) has been shown consistently on 1:10,000 OS maps throughout the 19th and 20th centuries while the remaining was shown on the 1st edition map and partly on the 2nd edition map and then did not appear again until the 1970's and has been shown since.
- 8 It should be noted that the depiction of a route on an OS map cannot per se be used as evidence of the status of a route but is evidence of the physical existence of a route.

Other Maps

- 9 Lead mining companies operating in the area kept relatively detailed maps and records. A plan 'of the Mineral Ground of Flakebrigg' dated 1822 illustrates a route matching Old Stanhope Road and is annotated at its northern end as 'Road from Stanhope to Egglestone'. A reduced copy of the plan is shown in Document **6C**.
- 10 A map dating from 1835 titled 'A Map or Plan of the Road proposed to be made Turnpike from near Frosterley to Middleton in Teesdale with a branch therefrom to Eggleston' depicts a route matching the B6278 but not the claimed route. A reduced copy of this plan is shown in Document **6D**.
- 11 A route is also shown on the Greenwood's Map of 1820, however it is not clear that this represents the same route. A reduced copy of the Greenwood's map is shown in Document **0C**.

Evidence on the ground

- 12 The route crosses heather moorland with underlying sandstone substrata which is exposed where tracks exist.
- 13 For the majority of Old Stanhope Road a route can be made out on the ground. Looking at Document **6A** from the northern end, the first 850 metres (points **A** to **B**) is a very well defined sunken trackway which rejoins the B6278, overlapping with this road for the next 210 metres (points **B** to **C**). For the next 1100 metres, a grassy trackway matching the route can be made out in places before again intersecting with the B6278 (points **C** to **D**). The next 220 metres continues to overlap this road (points **D** to **E**). The remaining approximately 3400 metres across the moors edge is less distinct (points **E** to **F**).

Aerial Photography

- 14 Using aerial photography from 1940, 2001 and Google Maps (up to date) the route is clearly visible along the majority of its length (Document **6E** 3 pages).

Existing Public Rights of Way

- 15 The northern section of Old Stanhope Road coincides with the following public right of way as recorded on the Definitive Map: -

Eggleston	Public Footpath no 45	849 metres
-----------	-----------------------	------------

In this case the public footpath follows the distinct trackway and matches the OS data accurately. A reduced copy of the Definitive Map is shown in Document **6F**.

Objections

- 16 Objections and/or concerns have been lodged by the landowners, Natural England, the Barnard Castle and the Crook groups of the Ramblers' Association and the Allen Valleys Action Group. The proposals are supported by the Trail Riders Fellowship and the Open Spaces Society. Responses received are shown in Document **OL**.

The main thrust of the objections and concerns relate to:

- a) Environmental issues including impact on habitats – Old Stanhope Road crosses land designated as a Site of Special Scientific Interest (SSSI) which itself is situated within the North Pennines Special Protection Area (SPA) and Special Area of Conservation (SAC) and damage/conflict by vehicles
- b) that the application was not properly 'made' (due to the evidence submitted with the application) under the provisions of paragraph 1 of the Wildlife and Countryside Act 1981 such that any rights for mechanically propelled vehicles would be extinguished

Response

- a) *The determination of a Modification Order application is constrained by the criteria which have been set out in paragraph 3 of the introduction to this report. Taking into account other considerations would therefore be outside the remit of the Committee. However, the Council has a policy that the use of byways should be subjected to an environmental impact assessment and measures taken to ensure that use is environmentally sustainable. At present an impact assessment is being carried out with a view to consultation on appropriate management options.*
- b) *As described at paragraph 13-15 of the introduction to this report the advice of Counsel was sought as to whether this and the other applications were properly 'made' in view of the Court of Appeal case described. The advice concluded that the applications did contain adequate material to be considered as 'qualifying' applications.*

Recommendations and Reasons

- 17 For the reasons set out by Counsel in Document **OM** and in particular the conclusions outlined in paragraphs 48 to 51 of that document, it is accepted

that the application for this route was properly made in that it contained sufficient material to satisfy the statutory requirements of paragraph 1 of Schedule 14 to the 1981 Act. Therefore any byway status demonstrated by the evidence outlined above is not extinguished by the provisions of Section 67 (1) of the NERC Act.

- 18 The route of Old Stanhope Road has existed since at least 1822 (Lead Mining Plans) and when shown on OS mapping has remained a distinct feature.
- 19 A mining plan (Document **6C**) dated 1822 shows the route as a double pecked line which continues northwards and is annotated as the 'Road from Stanhope to Egglestone'. It also diverges at its northern end to another route annotated 'Road from Wolsingham'. From this plan, the claimed route appears to have served the purpose of highway linking Stanhope, Eggleston and Wolsingham. The existing B6278 is not shown on this mining plan; however a map of a road to be made a turnpike, from a later date (1835) does match the B6278. It is considered that the original (and claimed) route is likely to have fallen out of use following the creation of the turnpike.
- 20 Although the route is not shown on all OS maps, its alignment has been shown consistently. In this case the current vector mapping matches the routes shown on previous OS maps, aerial photography and on site and can be taken to be the most accurate depiction of the route of Old Stanhope Road.
- 21 Taking the evidence together, from old mining maps, OS maps, ground conditions and aerial photography, indicating a route between Stanhope and Eggleston which was superseded by a turnpike road, it is considered reasonable that this route should be recorded as a public byway.
- 22 In conclusion, on the balance of probabilities, there is sufficient evidence of the dedication of a public byway under Section 32 of the Highways Act 1980 and the requirements of the Wildlife and Countryside Act 1981 Section 53(c)(i) and (ii) have been fulfilled.
- 23 It is recommended that a Modification Order is made to record Old Stanhope Road as a public byway, including the reclassification of Eggleston Footpath no 45 to public byway, all at a width of 5 metres. The route, **A** to **B**, **C** to **D**, and **E** to **F** is as depicted in Document **6B**.