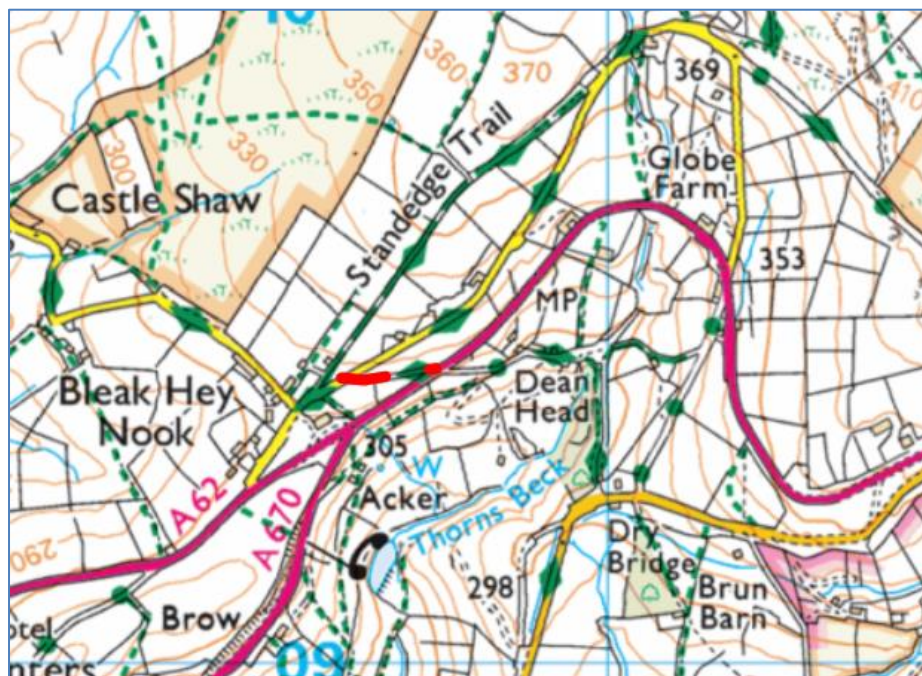


Wildlife and Countryside Act 1981

Summary of Evidence

Definitive Map Modification Order Application

For a route in the Parish of Saddleworth to be shown as a Public Bridleway marked on the map below by the red dashed line



Applicant's Reference: GRE -0043

Application Route shown in red dashes.

08/02/2021

Quick reference path facts to assist the Surveying Authority in its investigation.

OS Explorer series map 1:25 000 scale

The Peak District OL1

Grid references of ends of route
(approximate) SE00590943 SE00730945

Standedge Foot Road to Huddersfield Road.

My name is Mark Corrigan. I am the applicant for the order, for and on behalf of The British Horse Society (BHS). I am employed by The BHS as Access Field Officer Yorkshire. My rights of way experience stems from Kirklees Bridleways Group affiliated to The British Horse Society from 2010-2020. I have successfully completed 'Access and Rights of Way Training' up to level 3 with The British Horse Society and also 'Restoring the Record' in conjunction with The Ramblers. I am a horse owner and rider who has been riding for forty eight years and have lived in the area for forty nine years.

1. This application is made because, on the cut off day, 1st January 2026, the effect of s.53(1) and (2) Countryside and Rights of Way Act 2000 on a public path that existed prior to 1949, still exists on the cut-off date, and hasn't been a highway of a different description in between, and is not shown in the definitive map and statement at all is to extinguish all rights on that route. (This applies if the route is determined to be a footpath or bridleway.)

2. I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981, when introduced, because:

- a. This application statement includes explanations as to how the evidence applies to the application route, and
- b. The application contains one or more of the following forms of supporting evidence:
 - i. Legal document(s) relating specifically to the right of way that is the subject of the application (such as Railway Act, Inclosure Act and Award, Finance Act, Court Order or Main Roads Order evidence).
 - ii. Evidence of reputation in legal document(s), even though not written specifically about the right of way that is the subject of the application (such as Tithe Awards and Maps).
 - iii. Documentary evidence of expenditure that would be unlawful unless the way was a public highway, for example Highway Board records.
 - iv. Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.
 - v. Maps and other documents which, over a period of time, and taken together, provide evidence of reputation that the order route is part of the public road network.

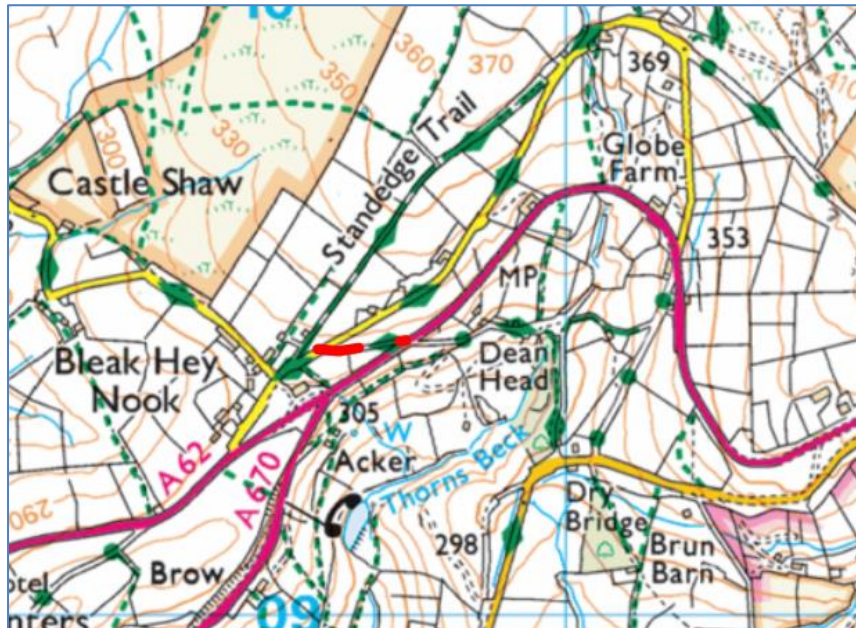
THE APPLICATION ROUTE

3. The application route is shown approximately on the plan below:

- a. The start of the application route is at Standedge Foot Road SE00590943 the Eastern termination at Huddersfield Road SE00730945

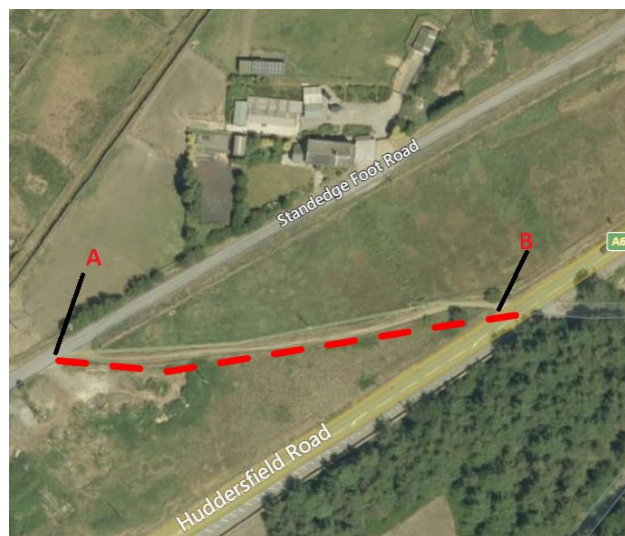
4. The application route is not recorded on the Council's definitive map. It is not on the current list of streets.

5. The route's width should be recorded as shown uncoloured on the Inland Revenue Valuation Plan.



Extract of Ordnance Survey 1:25000 scale map showing application route as Red dashed line (not to scale)

6. Photograph 1 from Google.



Photograph 1 is a Google Aerial View with the route indicated from A to B. The route is a clear landscape feature, typical of an old enclosed highway.



Photograph 2- A Photograph taken from the start of the route looking towards Huddersfield road.



Photograph 3- Route looking towards Huddersfield Road. Metalled surface clearly visible as are horse hoof prints. Path width 12-18 feet



Photograph 4. Looking towards Huddersfield Road, metalling clearly visible.



Photograph 5. End of application route joining Huddersfield Road.

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

7. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. The use of the 'balance of probabilities' test rather than 'beyond reasonable doubt' was confirmed by the High Court in *Todd, Bradley v SOS for EFRA* [2004] 4 All ER 497.
8. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another* [2012] EWCA Civ 334, Lewison LJ said, at paragraph 22,

'In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in R v Exall (1866) 4 F & F 922:

"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength."
9. While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006, there were full vehicular rights.

home > OS 25 inch England and Wales, 1841-1952



10. Ordnance Survey County Series 25 inch Maps.

a. Date. The First Edition of OS sheet Yorkshire CCLX.1 was surveyed in 1891 and published in 1892

b. Relevance. The OS County Series 25 Inch mapping was predominantly used for professional purposes rather than for navigation. They are detailed enough to show gates / barriers on roads, tracks and paths. Parcels of land are numbered, and areas shown either under the parcel number or in separate "Area Books" (on some First Edition sheets). Second edition and later maps generally carry the disclaimer "The representation on this map of a Road, Track or (Foot)path is no evidence of the existence of a right of way". However, scrutiny of some of the detail contained along with contemporary published guidance allows some inferences as to status of routes to be drawn. Additionally, on the first edition only, colour was used on some sheets to give significance to certain features (roads, buildings, water features, etc.)

c. Archive. The extracts from this sheet below were obtained from the National Library of Scotland.

d. Meaning. The route is shown as a single parcel of land number 2228 with an area of .147 separated and separately numbered from the adjoining fields. There are no boundaries or gates shown at any point on the route separating it from the wider road network. The route appears in an almost identical way on the 1905 edition of the sheet.

e. Assessment. The depiction of route, in the same manner as the surrounding ordinary road network provides a strong inference that it was also considered to be part of that road network. This inference is reinforced by the absence of any boundaries separating it from the network.

11. Ordnance Survey 6 inch Maps.

- a. Date. OS sheet Yorkshire 260 was surveyed in 1848 and published in 1854.
- b. Relevance. The 6" maps were based on and derived from the 25" series. Consequently they seldom show any topographical differences from the larger scale. However, useful information can sometimes be derived from the particular conventions used to show detail.
- c. Archive. The extracts from this sheet below were obtained from the National Library of Scotland.
- d. Meaning. The Characteristics Sheet for the 6" Maps differentiate between main and other roads through the use of a bold boundary on one side of a road. The claimed route is shown as a through road.
- e. Assessment. This series of maps supports the inference drawn from the 25" maps, that the route is part of the full vehicular road network.

National Library of Scotland
 Leabharlann Nàiseanta na h-Alba

Yorkshire 259 (includes: Colne Valley.)
 Surveyed: 1848 to 1850
 Published: 1854

home > OS Six-inch England and Wales, 1842-1952



12. Ordnance Survey 1 inch Maps.

- a. Date. OS sheet 260 Yorkshire was published in 1898.
- b. Relevance. These maps were made for sale to the travelling public and thus would only generally show routes of some significance that were available to them.
- c. Archive. The extracts from this sheet below were obtained from the National Library of Scotland at.
- d. Meaning. The route is shown as a third class fenced metalled road.
- e. Assessment. Other through routes shown in a similar manner are now largely part of the ordinary road network and thus this is evidence in support of the route being a public vehicular carriageway.

National Library
of Scotland
Leabhrairinn Nàiseanta
na h-Alba

Sheet 86 - Glossop (Hills)
Publication date: 1896

Home > OS One-Inch to the mile, England and Wales, Revised New Series



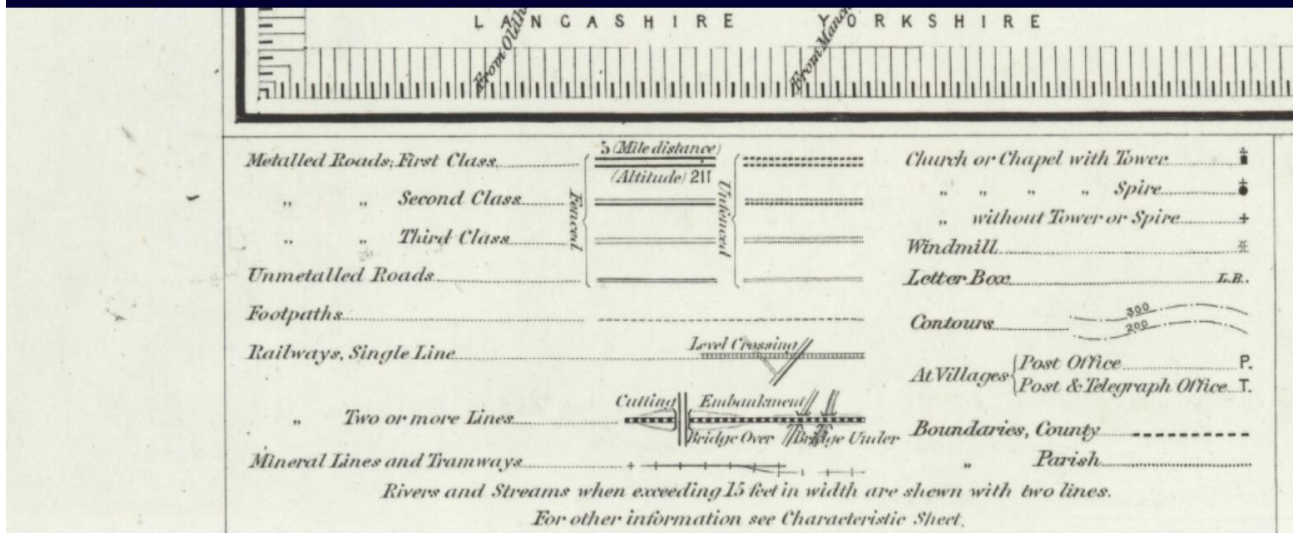
Extract from OS 1" Map showing the application route as a third class fenced metalled road.

Extract from Key to OS 1" Map

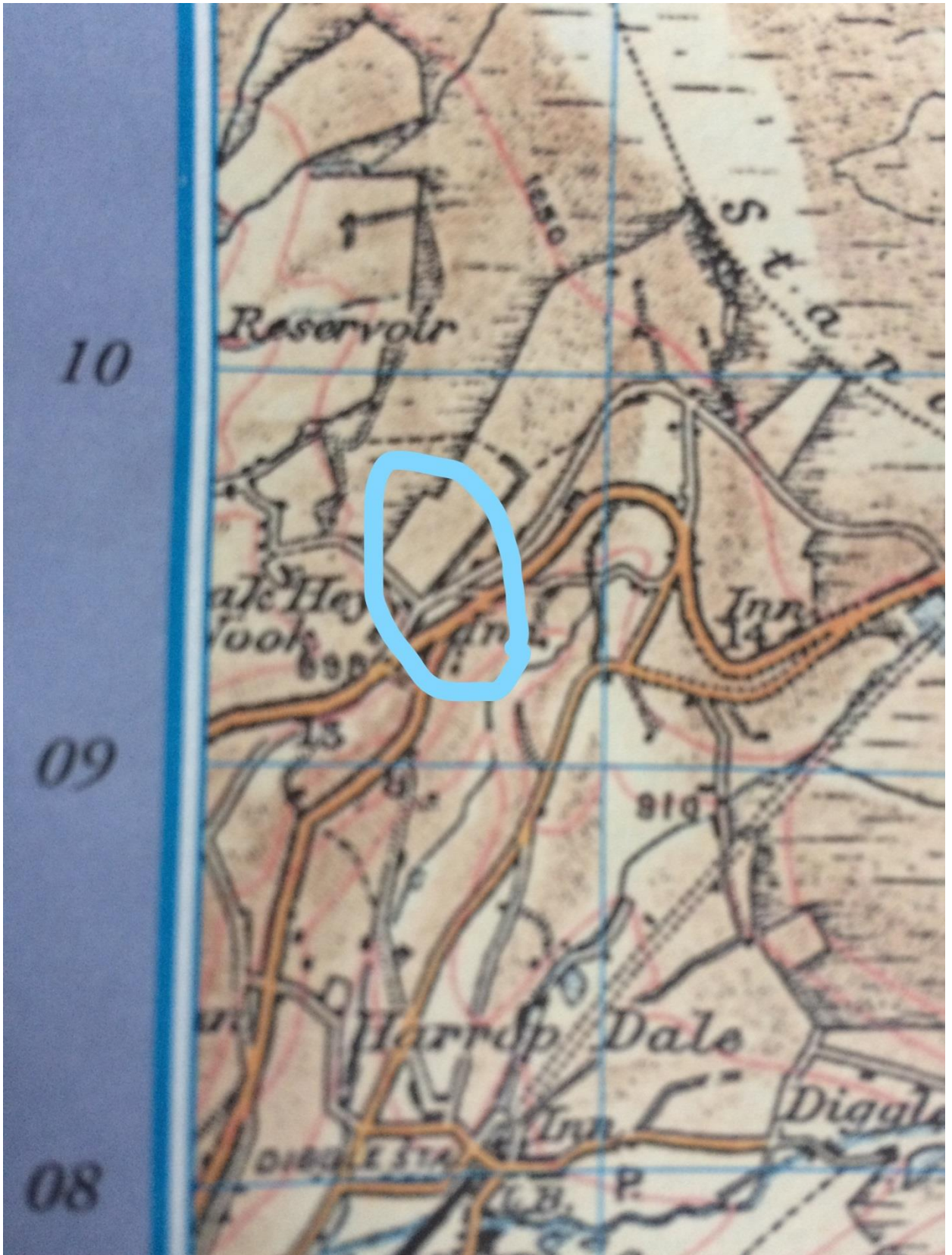
National Library
of Scotland
Leabharlann Nàiseanta
na h-Alba

Sheet 77 - Huddersfield (Hills)
Publication date: 1896

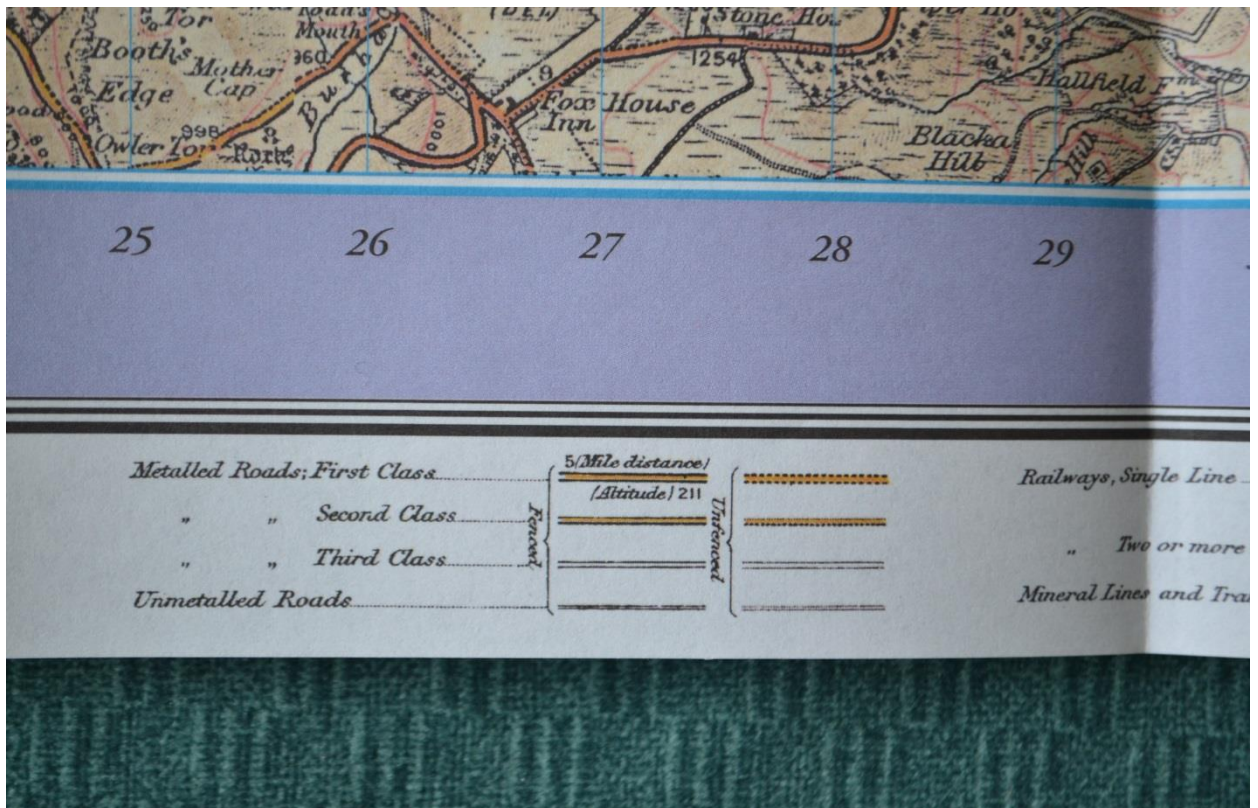
home > OS One-Inch to the mile, England and Wales, Revised New Series



OS One Inch map Key.



Cassini 1903 Sheffield & Huddersfield Sheet 110. Application route Circled in blue.



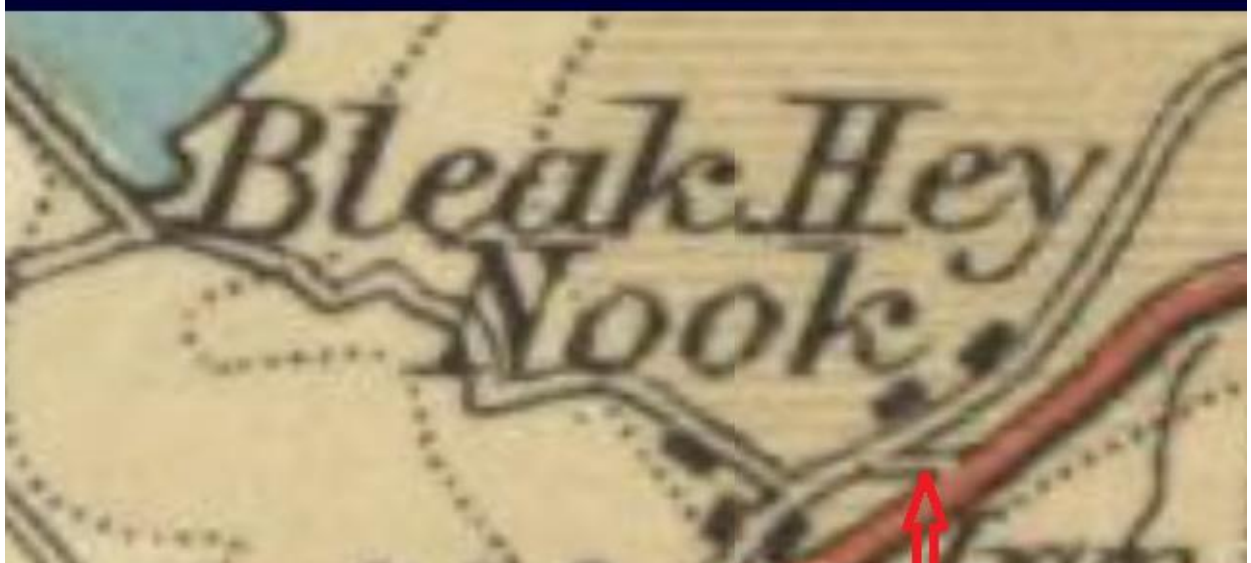
13. Cassini 1903 Map Key.

The application route is shown as a fenced metalled third class road according to the map key.

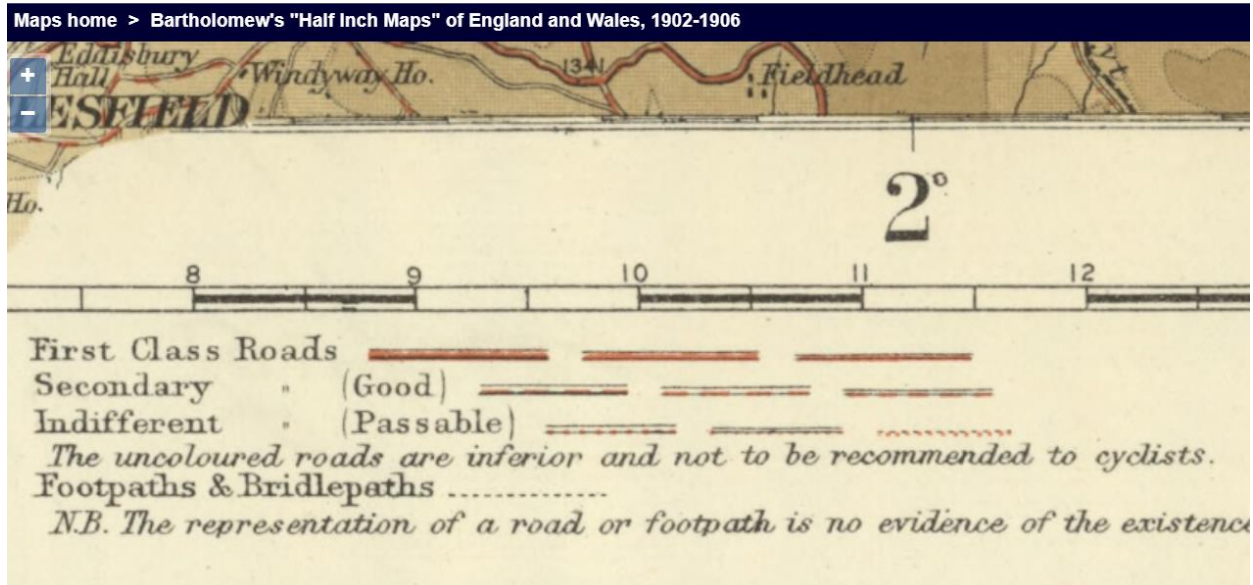
National Library
of Scotland
Leabharlann Nàiseanta
na h-Alba

Sheet 9 - Sheffield
Publication date: 1904

home > Bartholomew "Half Inch Maps" of England and Wales, 1902-1906



Bartholomew half Inch map 1904. Sheet 9 Sheffield. Red arrow highlights route.



Map Key Bartholomews 1904.

14 Bartholomew's Half-Inch Maps of England and Wales

- a. Date. This map was published in 1904.
- b. Relevance. The map was made for sale to the public, particularly for tourists and cyclists, and so is unlikely to show routes that the public could not use. It has a key in which different types of route are distinguished.
- c. Archive. An original of Sheet 9 Sheffield is held by the National Library of Scotland (NLS) and can be viewed via http://maps.nls.uk/series/bart_half_england.html.
- d. Meaning. The application route is shown as an 'inferior' road. That is, according to the key, a road which 'is not to be recommended to cyclists'.
- e. Assessment.

(1) Although the map carries the standard disclaimer that the representation of a road or footpath is no evidence of a right of way, it remains the case that this map was produced for sale to the travelling and cycling public, and the roads were revised by the Cyclists' Touring Club. It seems likely that the disclaimer is to avoid the publishers from finding themselves in the midst of legal action, and that their true beliefs come from the fact that the CTC assessed the roads as suitable or 'inferior'. In addition, the application route was shown as this 'inferior' road rather than as a footpath or bridleway, and cyclists at the time of publication (1903) had no right to use bridleways, having been declared to be carriages by s.85 Local Government Act 1888, so it is appropriate that at least a little weight be given to this document as evidence of vehicular status.

(2) The PINS Consistency Guidelines suggest that little weight can be given to this source, However, in *Commission for New Towns and Another v J. J. Gallagher Ltd* [2002] EWHC 2668 (Ch), the judge stated at para 108:

"Bartholomew's Map of England, 1901 and 1911 editions, has three categories of coloured roads. They are "first class roads", "secondary roads (good)", and "indifferent roads (passable)". There are two other

categories, namely uncoloured roads and "footpaths & bridlepaths". The application route is marked in each of the two editions as uncoloured road. The legend to each of the Bartholomew maps states that "the uncoloured roads are inferior and not to be recommended to cyclists". The implication of the demarcation of the application route on these maps appears to me to be that they are public carriageways. First, each of the other four categories is a public highway. Secondly, in a somewhat paradoxical way, the indication in the description of the uncoloured road is that they can lawfully be used by cyclists, which, as at 1901 and 1911, would have meant that they were public carriageways. However, it is important to mention that there is a note to the effect that "the representation of a road or footpath is not evidence of the existence of a right of way". **I do not consider that that means that one can cast aside what one could otherwise glean from Bartholomew as being of assistance**, but the disclaimer underlines the fact that one cannot place much weight on Bartholomew's Maps, or indeed on any map which does not have the positive function of identifying public carriageways."

(3) The conclusion is that at least some weight must be given to this source.

15. Inland Revenue Valuation / Finance Act 1910 Maps

- a. Date. The valuation records were produced in the few years after 1910.
- b. Relevance. The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The purpose was to charge a tax on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways: public vehicular roads were usually excluded from adjoining landholdings and shown as 'white roads', and discounts could be requested for land crossed by footpaths or bridleways. This is known because s.35 of the 1910 Act provided,

"No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority."

It is noted that a highway authority was a rating authority. There was no obligation for a land owner to claim any of the other discounts available (applying for discounts was an entirely voluntary act), but Section 25 authorised the discount for footpaths and bridleways if they were claimed:

"The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land, and ... [other exclusions]."

All land had to be valued unless it was exempted by the Act. There were harsh penalties for making false declarations, and Section 94 provided:

"If any person for the purpose of obtaining any allowance, reduction, rebate, or repayment in respect of any duty under this Act, either for himself or for any other person, or in any return made with reference to any duty under this Act, knowingly makes any false statement or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding six months with hard labour."

As it appears to be a highway from other evidence, and no duty was assessed in the Inland Revenue Valuation, and the Inland Revenue were under a duty to collect all taxes applying, and hence value the land unless certain that an exemption applied, it is surely for anyone who argues that a different reason for the non-valuation of this white road to show which other exemption could have applied.

c. Archive. The extracts below are from the records that were passed from the IR Valuation Offices to The National Archives at Kew. This document is available at, the West Yorkshire Archives document reference C243 Sheet number 259/13.

d. Meaning. The extract below clearly shows the application route as a white road, separated from the adjoining hereditaments by continuous colour-washed boundaries. Where hereditaments continue either side of the route connected by braces broken over the route, that is an indication that the route did not form part of the hereditament.

e. Assessment.

(1) As this land is unvalued, this suggests it belonged to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority. Had it only been a bridleway, the Inland Revenue would probably have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy. Had it been held by a rating authority for another purpose there would be some evidence of that holding, yet none has been found.

(2) The legislation is sufficiently clear that anyone arguing that white road status means something other than the route is a public vehicular highway must show which other exception from valuation the route falls under.



Extract from the Inland Revenue Valuation Map Sheet 259/13 West Yorkshire Archive Ref C243



*Extract from the Inland Revenue Valuation Map Sheet 259/13 West Yorkshire Archive Ref C243
Red arrow highlights the route.*

INTRODUCTION

IN response to many inquiries from users of the Authentic Map Directories of London and Suburbs and South Lancashire and from many large business houses in the West Riding "Geographia" Ltd., the publishers of these famous Map Directories, decided to publish one of South-West Yorkshire, covering all the Industrial Area of the West Riding.

The Authentic Map Directory of South-West Yorkshire is an entirely new publication and has been specially designed to meet a demand for a large-scale, detailed street map of this important and populous area.

Never before has there been produced an Atlas of this part of the country of similar magnitude. It covers an area of over 1,200 square miles and extends from Harrogate on the North to Sheffield on the South, Doncaster on the East and Todmorden on the West.

During the past few years many new districts have been opened up and new streets and trunk roads made. The publishers have made every effort to incorporate all these developments in the Authentic Map Directory, and they gratefully acknowledge the assistance of the Municipal and District Surveyors who helped them in this connection.

The large scale of 4 inches to 1 mile adopted for the Sectional Map has made it possible to name all but the small, less-important thoroughfares, and even they will be found in the comprehensive Index with the name of the nearest street which appears on the Map.

All Public Buildings, Town Halls, Municipal Offices, Churches, Police Stations, Courts, Fire Stations, Railways and Stations, etc., are marked, and Public and Private Parks and Open Spaces are also shown.

Another novel feature is the selection of house numbers inserted at intervals along the principal thoroughfares in some of the chief towns. This makes it possible to approximately locate any address in these streets.

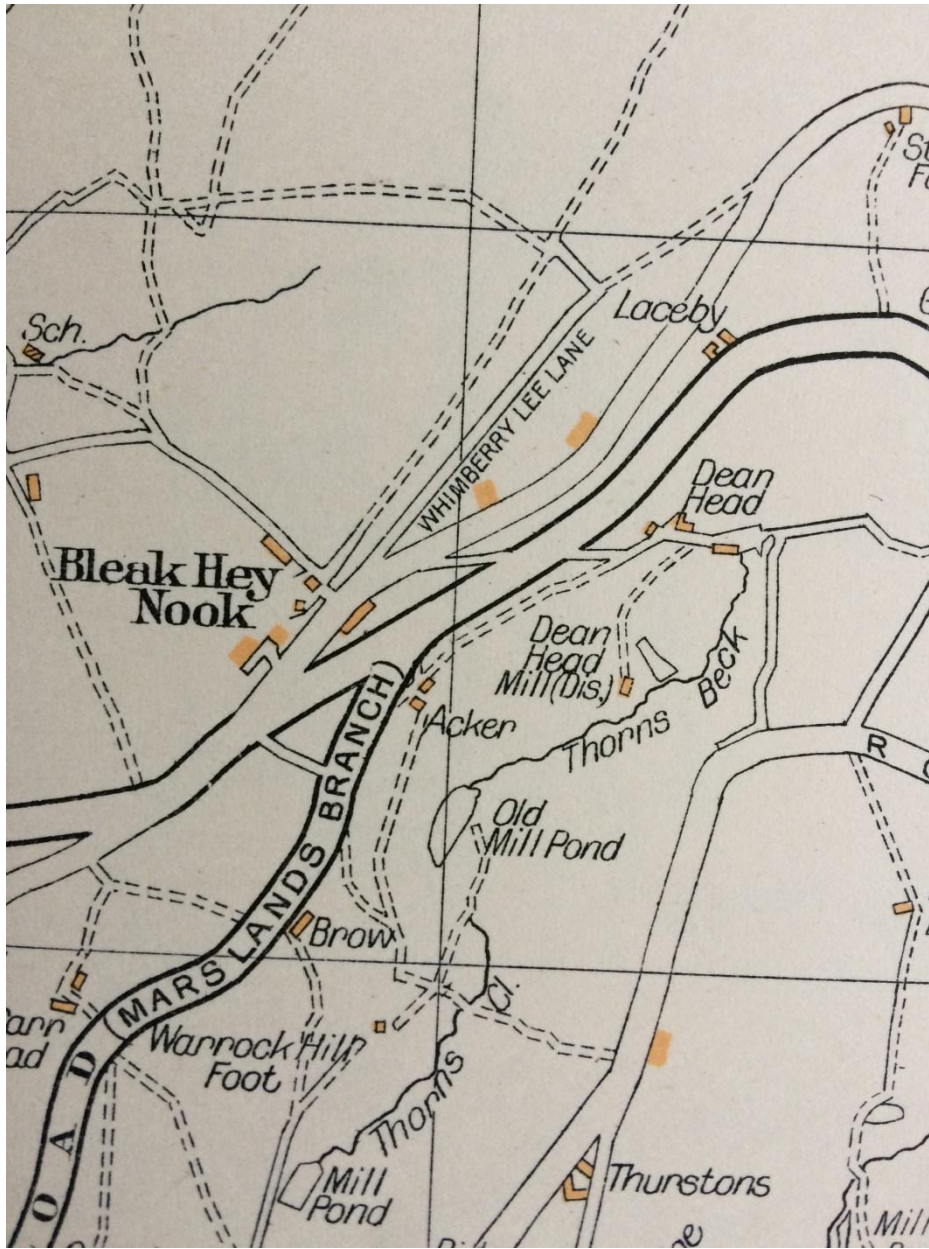
The Atlas also includes plates showing Parliamentary Divisions, Local Government areas and Railways.

The Index to Streets, etc., includes every thoroughfare named on the Maps, together with the Postal Division Numbers in the case of Leeds and Sheffield where the numbering system has been adopted, plate number and map square in the Atlas on which it will be found. There is a total of over 30,000 entries.

16. The Authentic Map Directory of South West Yorkshire 1938.

The Authentic map directory of South West Yorkshire was produced with the assistance of the Municipal and District surveyors. Source, Kirklees Bridleways Group Archives.

The application route is clearly shown as a through route.



The Authentic Map Directory of South West Yorkshire 1938.

17. Date. This extract from the INSPIRE database was taken on 06/02/2021.
- a. Relevance. The Land Registry INSPIRE Index Polygons Service is a Web Mapping Service which provides map images of HM Land Registry's INSPIRE index polygons. The INSPIRE index polygon dataset contains only freehold registrations, and the polygons indicate the location of registered land.
 - b. Archive. The publicly accessible dataset is found at <https://data.gov.uk/dataset/land-registry-inspire-view-service-and-metadata>. The extract below is taken from a screen shot taken by the Applicant on the date stated above.
 - c. Meaning. The application route is shown, indicated by a red arrow, separate from any registered landholding.

d. Assessment. Vehicular highways of ancient origin are often on unregistered land. Where the adjoining land on each side has been registered, but the ancient vehicular highway has not been claimed as part of either land ownership, this is supportive evidence of the ancient vehicular highway status. In the absence of any other explanation why neither adjoining landowner would lay claim to the land, the applicant draws the conclusion that this supports the view that the application route is a vehicular highway of ancient origin.



Extract from the INSPIRE mapping with approximate line of application route indicated by a Red arrow.

CONCLUSIONS

- 18 This document presents evidence from the last 180 years that consistently indicates that the application route was part of the wider roads network. Whilst no single piece of evidence is conclusive in its own right, taken as whole it paints a compelling picture of the existence of public vehicular rights.
- 19 Employing the well-established legal maxim 'Once a highway always a highway', in the absence of a stopping up order, it follows that vehicular highway rights existed immediately before the operation of the Natural Environment and Rural Communities Act 2006.
- 20 The Thoroughfare Principle: the order route runs as a thoroughfare between two public roads which means that it is public too. This principle was held in the 2010 Fortune case which went to appeal in 2012 and was upheld. Page 11 para.49, page 12 para.51 and page 27 para.126 vii.
<https://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Civ/2012/334.html>

- 21 The applicant requests the surveying authority to add the route to the definitive map as a bridleway. It is arguable that the evidence suggests that carriageway rights exist over the route, however due to the current construction of the law and the proposed extinguishment of unrecorded rights in 2026, the application will be made for bridleway status with an acknowledgement that the surveying authority should make an order for Restricted Byway status if they consider that merited.

Name: Mark Corrigan AIPROW

Position: Access Field Officer Yorkshire.

Organisation: The British Horse Society.