

FORM A



FORM A

APPLICATION FOR A MODIFICATION ORDER
The Cumbria County Council Definitive Map and/or Statement
within the Lake District National Park - Wildlife and Countryside Act
1981

To: *The Lake District National Park Authority, Murley Moss, Oxenholme Road, Kendal, Cumbria, LA9 7RL*

I, Hilary Carroll, for and on behalf of the British Horse Society
Of The Access and Rights of Way Dept., Abbey Park, Stareton, Kenilworth, Warks, CV8 2XZ
hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981
modifying the definitive map and/or statement for the area by:

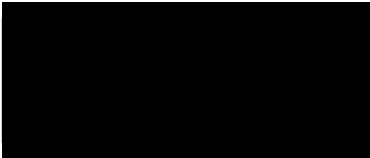
Upgrading part of the footpath numbered 221009 from point S (grid reference NY 3239 3799) to point X (grid reference NY 3339 3848) via point T (grid reference NY3276 3834), point U (grid reference NY3294 3837, point V (grid reference NY3305 3841 and point W (grid reference NY 3325 3846) to a restricted byway.

Adding a restricted byway from point X (grid reference NY3339 3848) to point Y (grid reference NY3342 3851).

Upgrading part of the footpath numbered 221059 from point W (grid reference NY3325 3846) to point Z (grid reference NY3319 3861) to a restricted byway.

and shown on the map accompanying this application

I **attach copies** of the documentary evidence [including statement of witnesses] in support of this application as listed overleaf

Signed  .[Applicant(s)]

Date 10th May 2024...

Notes

For historical evidence it is essential to know the date, author, purpose and present whereabouts of the documents listed. Please give as much information as possible.

For statements by witnesses, a form is available from the National Park Authority which suggests the relevant questions to be addressed.

Documentary Evidence in support of application (including witness statements).

- BHS Application statement and supporting evidence documents
- Donald and Hodgkinson's Map of Cumberland dated 1774
- Cary's Map of Cumberland dated 1787
- Christopher and John Greenwood's map of Cumberland dated 1823
- Pre-inclosure map (undated)
- Netherrow Common Field Inclosure Award and map dated 1839
- General Inclosure Act 1836
- Caldbeck parish tithe map and apportionment dated 1852
- Ordnance Survey First Edition 25 Inch map and Book of Reference 1862-1864
- Bell's Map of Cumberland dated 1892
- Inland Revenue Finance Act map 1910
- Historical OS maps produced between 1863 and 1964
- Caldbeck Parish Council path survey forms 1950 and undated
- Land Registry INSPIRE map April 2024

Other Relevant Information

Not applicable

I/We enclose with this application:

- X A map clearly showing the route(s) referred to in this application at a good scale
- X Copies of documentary evidence to support this application, as listed above.
- User evidence (**FORM E**) to support this application – all with a map and signed.
- X A completed form to certify that I/we have served notice on all landowners and occupiers affected by this application (**FORM C**), or a letter explaining why I/we have been unable to ascertain the landowners/occupiers affected by this application and that identifies the steps I/we have taken to find this information (**FORM D**).

Application route S-T-U-V-W-X-Y and W-Z marked in red.



Grid References: S: NY3239 3799 T: NY3276 3834 U: NY3294 3837 V: NY3305 3841 W: NY3325 3846 X: NY3339 3848 Y: NY3342 3851 Z: NY3319 3861

Map produced from extract of Ordnance Survey 1:25,000 scale mapping. When printed on A4 paper the scale will be not less than 1:25,000 and thus meets the requirement of regulation 2 and regulation 8(2) of The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993.

Signed



Dated 10th May 2024

FORM G



FORM G

**CERTIFICATE OF SERVICE OF NOTICE OF
APPLICATION FOR MODIFICATION ORDER
The Cumbria County Council Definitive Map and/or Statement
within the Lake District National Park - Wildlife and Countryside Act
1981**

To: Lake District National Park Authority, Murley Moss, Oxenholme Road, Kendal, Cumbria
LA9 7RL

PATH DETAILS:-

PARISH: Caldbeck

BELIEVED STATUS OF PATH: Restricted Byway

FROM: Public road U2237 at point S (grid reference NY 3239 3799) via point T (grid reference NY3276 3834), point U (grid reference NY3294 3837, point V (grid reference NY3305 3841), point W (grid reference NY 3325 3846) and point X (grid reference NY 3339 3848)

TO: point Y (grid reference NY3342 3851) on public road U2150 at Street Head

and

FROM: Point W (grid reference NY3325 3846)

TO: Point Z (grid reference NY3319 3861) on public road U2150 'The Street'.

I, Hilary Carroll

Of The Access and Rights of Way Dept., Abbey Park, Stareton, Kenilworth, Warks, CV8 2XZ

Have carried out research at the County Records Office, The County Council Rights of Way Department and/or the Public Records Office and wish the following documents to be considered in support of my application [see notes on reverse of **FORM A**]:

Document *Delete as appropriate

CRO/PRO Reference

Inclosure Award and Map* - Carlisle Archive Centre (CAC) Ref Q/RE/1/94

Tithe Apportionment and Map*- TNA-(via the Genealogist website) Ref IR/29/7/36 & IR/30/7/36

Finance Act Maps*- CAC Map sheets XLVII.4, XXXVII.16 & XXXVIII.13

Ordnance Survey Maps* - National Library of Scotland website

~~Railway/Canal Survey Maps and Schedules*~~

~~Estate Maps and Records*~~

~~Parish Council and Highway Board Minute Books* - CAC Ref C/C/1/17/2~~

Definitive Map Records* -Definitive Map Path Survey-Held by Cumberland Council Countryside Access
Dept

Others [please state]

Bell's Road Map of Cumberland - CAC Ref C/H/9/3/1 or online at www.lakesguide.co.uk

County Maps -Donald and Hodgkinson's Map of Cumberland, John Cary's Map of Cumberland (1787) can both be viewed on www.lakesguide.co.uk. Greenwood's map of Cumberland (1823) can be viewed on the National Library of Scotland website.

Pre inclosure map- CAC Ref DBEN/BOX412-413/Stray plans/61

Land Registry Inspire Polygon Mapping can be viewed at [ArcGIS - Land Registry Inspire Polygon Index Map-Copy](#)

Signed.



...Date 10th May 2024.



Evidence statement in support of a DMMO application

The applicant requests that the surveying authority:-

- upgrade to a restricted byway part of the footpath numbered 221009 from point S (grid reference NY 3239 3799) to point X (grid reference NY 3339 3848) via point T (grid reference NY3276 3834), point U (grid reference NY3294 3837, point V (grid reference NY3305 3841 and point W (grid reference NY 3325 3846) a distance of approximately 1180 meters.
- add a restricted byway from point X (grid reference NY3339 3848) to point Y (grid reference NY3342 3851) a distance of approx 65 meters
- upgrade to a restricted byway part of the footpath numbered 221059 from point W (grid reference NY3325 3846) to point Z (grid reference NY3319 3861) a distance of approximately 180 meters.

Map: Application route in red marked S-T-U-V-W-X-Y and W-Z



Grid References: S: NY3239 3799 T: NY3276 3834 U: NY3294 3837 V: NY3305 3841 W: NY3325 3846 X: NY3339 3848 Y: NY3342 3851 Z: NY3319 3861

Map produced from extract of Ordnance Survey 1:25,000 scale mapping. When printed on A4 paper the scale will be not less than 1:25,000 and thus meets the requirement of regulation 2 and regulation 8(2) of The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993.

Description of application route and grounds for application:

The application route is the eastern end of a longer route, which is shown as a road on early county maps (Donald, Cary and Greenwood), and runs from Hesket Newmarket village via Street Head in the east, to Longlands in the west, which today is a combination of unclassified roads, unsealed road and public footpaths.

The application route is entirely within Caldbeck parish and is approximately 1245 meters long (points S-T-U-V-W-X-Y on the application map) with a side extension of approximately 180 meters (points W-Z on the application map). The majority of the route is over a well defined track within boundary hedges, fences or walls. With the exception of approximately 65 meters (between points X-Y) the entire application route is classed a public footpath; numbered 221009 (section S-T-U-V-W-X) and 221059 (section W-Z).

The application route starts to the north east of Nether Row hamlet on public road U2237 101 at point S. The application route runs roughly in a north easterly direction along a made up enclosed lane for approximately 525 meters to point T, where a modern metal gate, which when closed spans the application route, is situated. An old field barn is situated adjacent to the application way near point T.

From point T the application route continues east northeast along a made up enclosed track for approximately 185 meters to point U, the junction with a lane (FP221027) leading to Hudscapes. There are a number of gates hung along the application route near to the junction with the lane to Hudscapes, which when closed, act as a stock catching pen. The application route crosses the lane to Hudscapes where a post and rail fence, with stile over, has been erected across the full width of the application route.

The application way continues for approx 120 meters from point U to point V along a lane bounded by a hedge and fence on one side, both of which are in disrepair hereby allowing stock to enter the application route at this location. The boundary of the other side of the application route appears to have been an old drystone wall, now collapsed.

At point V the application route enters a field through an opening in a drystone wall. A stile over rails is erected in the opening in the wall. From point V the application route continues across the field for approximately 210 meters to a field gate at point W. A grassed track is visible crossing the field between points V and W.

Once through the field gate at point W the application route is crossed by public footpath 221059. At this location the application route splits into two. Section W-X-Y

heads to public road U2150 at Street Head, a farmstead. The application route between W and X is along a lane similar in character to section U-V. At point X the application route passes through a field gate then over a grassy track adjacent to Street Head farmstead, through another field gate and terminates at point Y on public road (named The Street) numbered U2150. In 2022 a order was made under section 119 Highways Act 1980 to divert footpath 221009 from the grassy track between points X-Y into an adjacent field. This DMMO application is made on the original line of FP 221009 (between points X-Y) prior to the diversion order being granted. However, if this application is successful the British Horse Society would not object to an application to divert the route onto the new line of FP221009.

The final section of the application route is from point W to public road U2150 at point Z. Old maps show that the application route from point W to Z was historically an enclosed route bounded on both sides. Today, one of the boundaries has been removed meaning that the application route now runs along the perimeter of a field. Section W-Z of the application route is the northern end of public footpath 221059. The boundary between Caldbeck High and Haltcliff townships runs along part of the application route between W and Z.

The route is not recorded on the list of streets held by the Cumberland Council under section 36(6) of the Highways Act 1980. The effect of section 67 of the Natural Environment and Rural Communities Act 2006 is to extinguish public rights for mechanically propelled vehicles where none of the exceptions in section 67 apply. The application is therefore made for a restricted byway. No stopping up orders have been identified.

In order 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.

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 para. 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 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.

Paragraph 2.17 of The Planning Inspectorate Consistency Guidelines states

If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g. an Ordnance Survey map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly increase the collective impact of those documents.

The DMMO application is based on the below documentary evidence which where possible has been presented in chronological order. All map extracts downloaded from the National Library of Scotland website are reproduced with the permission of the National Library of Scotland as per the terms and conditions on their website.

Donald and Hodgkinson's Map of Cumberland

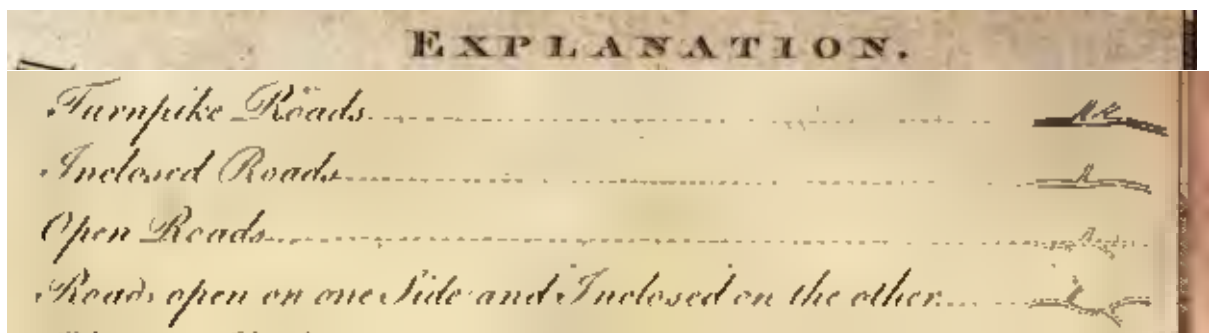
Date: 1774

Archive: Reproduced from the Lakes Guide website www.lakesguide.co.uk with the original map being held at Carlisle Library.

The application route on Donald's Map of Cumberland circled



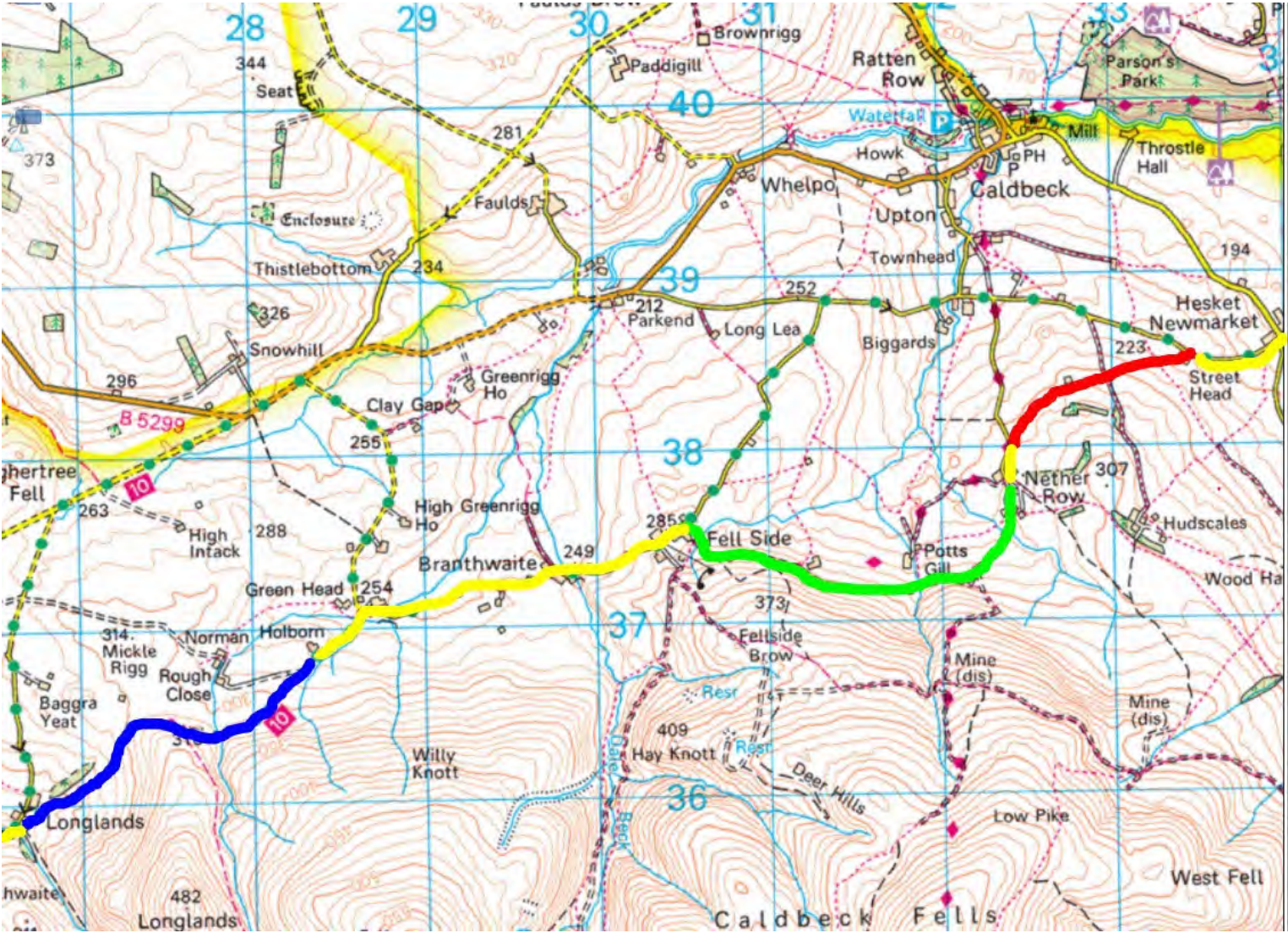
The key or explanation on Donald's map shows Turnpike Roads, Open Roads, Inclosed Road and Roads open on one Side and Inclosed on the other. The map does not show footpaths or bridleways.



Donald's Map of Cumberland showing the application route at the east end of a longer route from Street Head to Langlands (Longlands)



The through route as depicted on Donald's, Cary's and Greenwood's maps is shown below on an Ordnance Survey 1:25,000 scale map. The application route is shown in red, unclassified county roads in yellow, unsealed county roads in blue and public footpaths in green.



Relevance: The inscription at the top of the map states 'To the nobility gentry clergy and freeholders of the county of Cumberland this map is most humbly inscribed by their most obedient and devoted servants Jos Hodgkinson and Thos. Donald'. In the lower left hand corner the map is inscribed 'The county of Cumberland Survey Anno MDCCLXX and MDCCLXXI by Thos. Donald at the request of the late Mr Jeffreys Geographer to the King and engraved by J. Hodgkinson MDCCLXXIV'.

Paul Hindle University lecturer (retired), researcher, author and editor of North West Geography, the journal for Manchester Geographical Society states

This map [Donald's Map of Cumberland] was one of the most important steps in the mapping of England. Many new county maps were encouraged by the offer of prizes by the Society of Arts (from 1759) for new and accurate surveys. The Society stipulated that the maps must be based on a trigonometrical survey, have accurate road distances, correct latitude and longitude, that the survey should be completed in one, or at most two years, and that a scale of at least one inch to one mile be used.

Mr Hindle goes on to say

This map is the first to give a clear depiction of the more important minor roads, though the full road network is far from being shown.

and

The map was financed by the map buyers and what the map shows is related to their interests, thus it shows the towns and main roads especially well but lacks detail in the hills.

and

Overall, this map, and those detailing the rest of England, are an extremely valuable record of the geography of England in the second half of the eighteenth century.

Source North West in Maps Thomas Donald's map of Cumberland, 1774 - Paul Hindle published in North West Geography volume 2 number 1 2002 ISSN 1476-1580 which can be downloaded from [North West Geography – Manchester Geographical Society \(mangeogsoc.org.uk\)](http://mangeogsoc.org.uk).

Meaning: The entire application route is depicted on the map. The eastern end of the application route is shown as an 'Inclosed Road' and the western end as an 'Open Road'. The route is indistinguishable from adjacent routes depicted in the same way on Donald's Map which are public roads today.

Assessment: The depiction of the application route on the map is evidence in favour of the proposition that the application route was considered to have public vehicle rights in 1774 because Donald's Map did not depict footpaths or bridleways and the map was produced for sale to the travelling public. The application route is at the eastern end of a longer through route between Hesketh Newmarket via Street Head, Nether Row, Fell Side, Branthwaite, Bumblethwaite to Longlands (Langlands). The application route would

have been a vital alternative road to the turnpike road for local people living along the fell side to travel to the market at Hesketh Newmarket. Furthermore, if an 'Inclosed Road or 'Open Road' were not public carriageways in 1774 then large areas of what was then Cumberland would have been inaccessible because there were few turnpike roads in the County.

John Cary's Map of Cumberland

Extract of Cary's map, the application route circled in red and shown as part of a longer route from Hesketh Newmarket to Longlands.



Date: 1787

Relevance: The title of the map is 'Cumberland By John Cary Engraver' and inscribed at the bottom of the map is 'London : Published as the Act directs Sepr. 1st. 1787 by J. Cary, Engraver, Map & Print seller No.188 the corner of Arundel Street, Strand.'

Cary was an engraver and publisher and this map of Cumberland was included in Cary's *New and Correct English Atlas* published in 1787 which became a standard reference work in England.

John Higham writes in *The Antique County Maps of Cumberland* 1997

The map [Cumberland by John Cary] contains a wealth of detail, showing small villages as well as market towns. Considerable attention is paid to the roads and the main roads are continued beyond the county boundary to show where they lead.

Cary's *New Map of England and Wales* published in 1794 was the first atlas to adopt the meridian of Greenwich. In 1794 Cary was commissioned by the Postmaster General to survey England's roads. This resulted in *Cary's New Itinerary* (1798), a map of all the

major roads in England and Wales. In 1804 Cary was awarded the Royal Society of Arts Gold medal for the accuracy of his works. Cary also produced Ordnance Survey maps. The map does not have an explanation or key.

Archive: The map can be viewed on the Lakes Guide website www.lakesguide.co.uk

Meaning: Section S-T-U-V-W-X-Y of the application route is depicted on Cary's map in the manner as other adjacent routes which are public roads today. The application route is the eastern end of a longer route depicted on Cary's map between Heskett Newmarket, Fell Side, Green Rigg and Longlands.

Assessment: The depiction of section S-T-U-V-W-X-Y of the application route on Cary's map, in the same manner as other routes which are public roads today, is evidence in favour of the proposition that the application route was considered to have public vehicle rights at the time the route was surveyed. The inclusion of this map in *The New and Correct English Atlas* is evidence in favour that the route was of some status and not purely a route for local landowners and tenants to reach their fields. The application route is depicted as one end of a thoroughfare or through route along the fell edge from Heskett Newmarket to what is today Longlands.

Christopher and John Greenwood's Map of Cumberland

Date: 1823

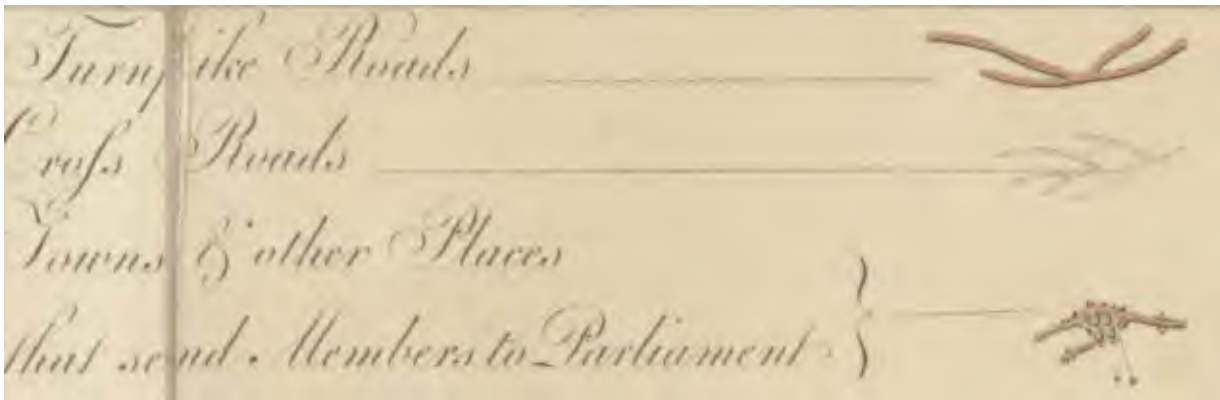
Relevance: The title of the map is 'Map of county of Cumberland, from an actual survey made in the years 1821 and 1822 by C & J Greenwood. Most respectfully dedicated to the Nobility, Clergy & Gentry of the County by the Proprietors. London Published by Geo Pringle Junr 70 Queen Street, Cheapside April 10th 1823'. In *Hollins and Oldham* (1995), Judge Howath examined various maps produced from 1770 to 1830, including Greenwood's, Bryant's and Burdett's maps and concluded that maps of this age which showed Cross Roads and Turnpikes, were maps for the benefit of wealthy people and were very expensive to produce. There was 'no point showing a road to a purchaser if he did not have the right to use it'. The key on Greenwood's map shows Turnpike Roads and Cross Roads. The map does not show footpaths or bridleways.

Archive: Reproduced from the National Library of Scotland on-line library [View map: North sheet - Map of the county of Cumberland, from an actual survey made in the... - Counties of Scotland, 1580-1928 \(nls.uk\)](#). Several copies of Greenwood's map are also held at Carlisle Archive Centre.

The application route on Greenwood's Map of Cumberland circled



Greenwood's map key



Greenwood's Map of Cumberland showing the application route at the east end of a longer through route from Hesket Newmarket via Street Head, Nether Row and eventually to Langlands (Longlands)



Meaning: The entire application route is shown on Greenwood's map as a 'cross road'.

Assessment: The application route is depicted on Greenwoods map as a through route connecting with what is today public road U2237 (also depicted as a cross road on Greenwood's map) at Nether Row and public road C2055 (depicted as a turnpike road on Greenwood's map) at Street Head. The application route is indistinguishable from adjacent routes depicted on Greenwood's map of Cumberland as cross roads and which are public roads today; C2055 Hesket Newmarket to Caldbeck, U2153 Hesket Newmarket to Woodhall, U2237 The Street to Nether Row. The depiction of the application route as a 'cross road' is evidence in favour of the proposition that the application route was considered to have vehicle rights in 1823, being a public carriageway or by-road open to horse riders and horse drawn carriages and coaches. If a cross road was not a public carriageway in 1823 then large areas of what was then Cumberland would have been inaccessible because there were few turnpike roads in the County.

In *Fortune and Others v Wiltshire Council and Another* [2012] EWCA Civ 334, the Court of Appeal reviewed the High Court consideration of a Greenwood map in determining the status of Rowden Lane. Lewison LJ said:

54. Greenwood was a well-known commercial map-maker who produced maps of many English counties. The judge considered that this map also showed a thoroughfare which included Rowden Lane. Prof Williamson agreed. It was not coloured in the same way as the Bath road; but nor were a multitude of other roads linking disparate settlements. The legend of the map showed that the colouring of the Bath Road meant that it was a turnpike or toll road, whereas that of Rowden Lane meant that it was a "cross road". As the judge pointed out, in 1829 the expression "cross road" did not have its modern meaning of a point at which two roads cross. Rather in "old maps and documents, a "cross road" included a highway running between, and joining other, regional centres". Indeed that is the first meaning given to the expression in the Oxford English Dictionary ("A road crossing another, or running across between two main roads; a by-road"). Prof Williamson agreed in cross-examination that a "cross road" was a reference to a road forming part of a thoroughfare. The judge gave a further explanation of the significance of the expression later in his judgment (§ 733) by reference to guidance given to the Planning Inspectorate:

'In modern usage, the term "cross road" and "crossroads" are generally taken to mean the point where two roads cross. However, old maps and documents may attach a different meaning to the term "cross road". These include a highway running between, and joining, other regional centres. Inspectors will, therefore, need to take account that the meaning of the term may vary depending on a road pattern/markings in each map.'

55. The guidance went on to urge caution as the judge recognised: In considering evidence it should be borne in mind that the recording of a way as a cross road on a map or other document may not be proof that the way was a public highway, or enjoyed a particular status at the time. It may only be an indication of what the author believed (or, where the contents had been copied from elsewhere –

as sometimes happened – that he accepted what the previous author believed). In considering such a document due regard will not only need to be given to what is recorded, but also the reliability of the document, taking full account of the totality of the evidence in reaching a decision.

56. The judge concluded that Greenwood's map supported “the emerging picture” of an established thoroughfare. In our judgment the label “cross road” added further support.

In *Trafford v St Faith's Rural District Council* [1910] 74 JP 297, the Chancery Division of the High Court held that a Greenwood map, produced from the British Museum by the proper official, was admissible as some evidence of reputation as a public road.

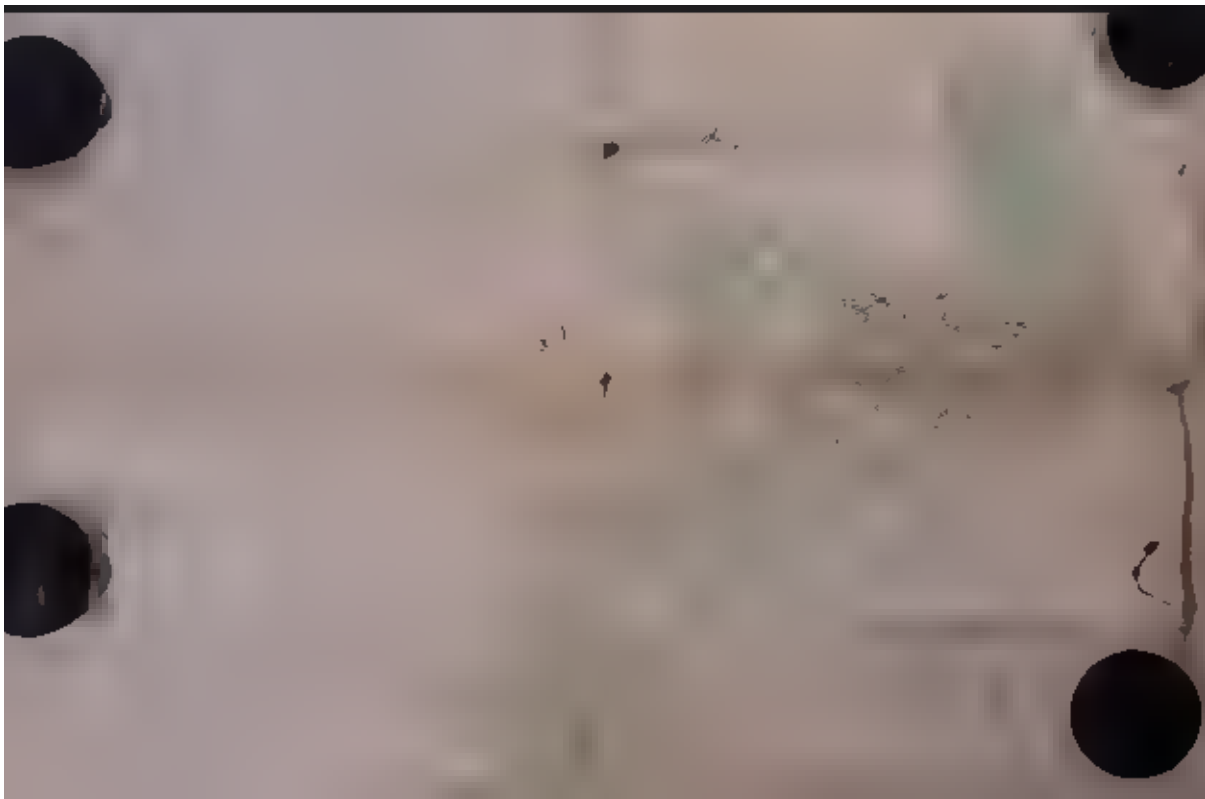
In *Ridley v Secretary of State Environment, Food & Rural Affairs* [2009] EWHC 171, in the High Court, the judge stated (para. 24)

I agree to some extent that the routes would be unlikely to be shown on small-scale maps unless they were available for public use.

and continued further down the paragraph

I consider that the overall weight of evidence I can give to these maps is small, but I find them suggestive of a route with a higher status than footpath.

Netherrow pre inclosure map



Section S-T of the application route shown on the pre-inclosure map.



Date: Undated but Cumbria Archive Centre has catalogued the map as pre 1840.

Relevance: The map has neither a title, date or scale. The Cumbria Archive Centre has catalogued the map as Nether Row open field pre-inclosure map.

Archive: Carlisle Archive Centre under reference number DBEN/BOX412-413/Stray plans/61

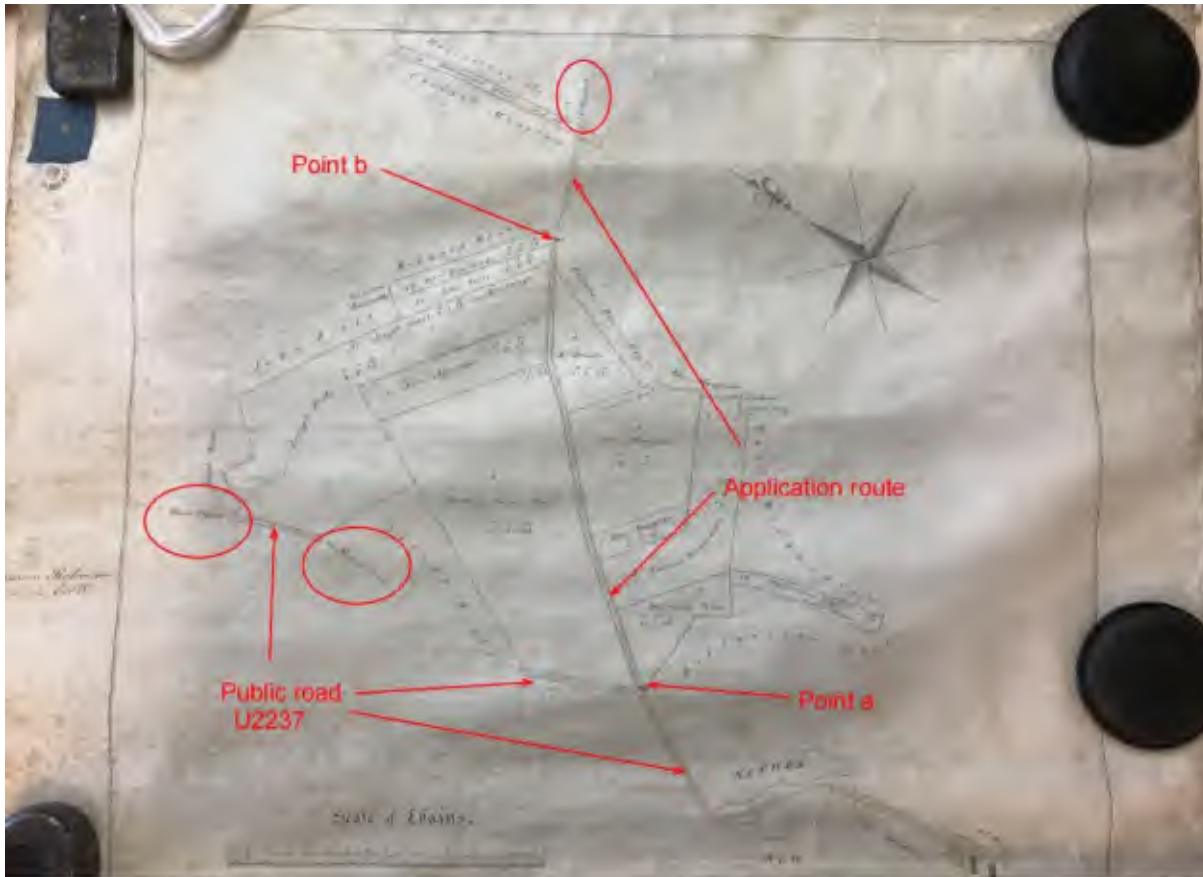
Meaning: The map shows the pre inclosure landscape predominantly to the north of Nether Row including the road layout including section S-T of the application route coloured sienna and part of what is today public road U2237 also coloured sienna.

Assessment: The pre-inclosure map shows that there was a route in the same location as section S-T of the application route prior to inclosure. The route on the pre-inclosure map corresponds to that depicted on Donald's, Cary's and Greenwood's County maps.

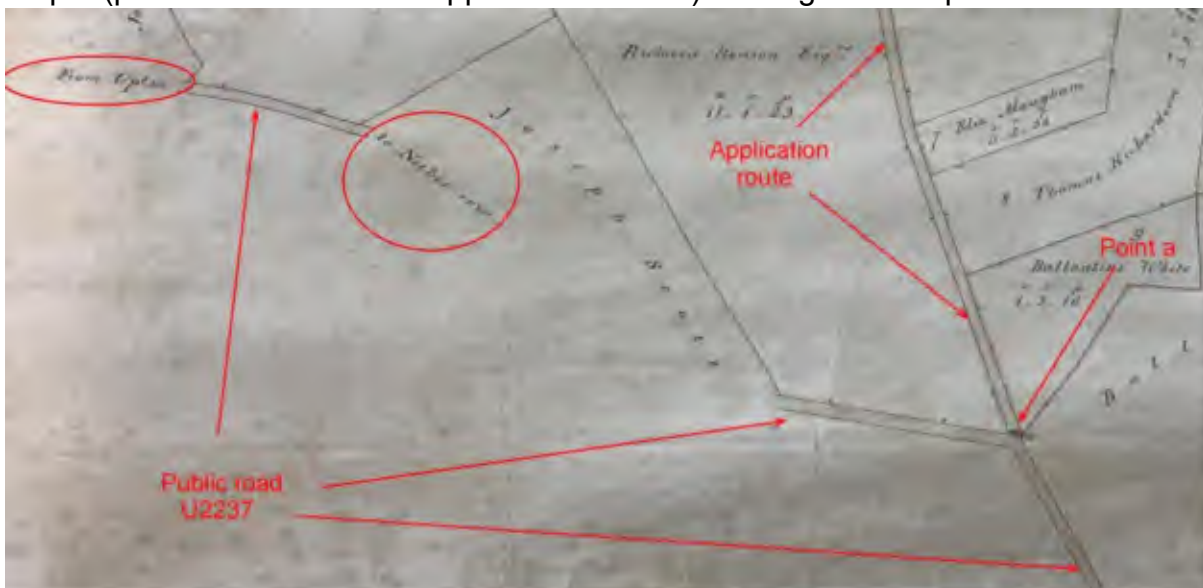
Common Field Inclosure Award and Map

Date: 1839

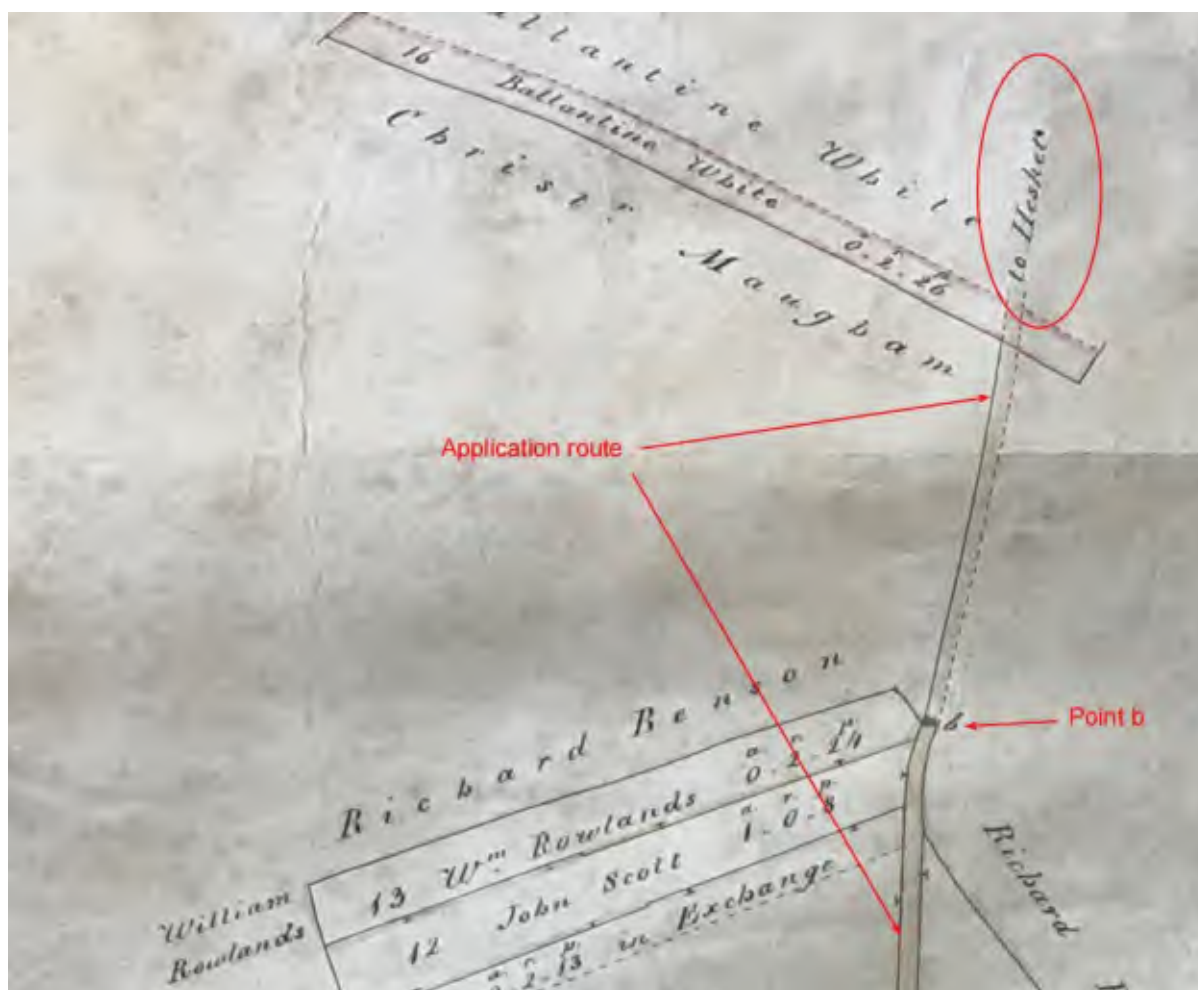
Nether Row Common Field Inclosure Map showing the awarded public highway and carriage road, points a and b, public road U2237 and 'To Hesket', 'From Upton' and 'To Nether-row' circled.



Close up of Netherrow Common Field Inclosure map showing point a on the inclosure map (point S on the application route) along with public road U2237.



Close up of Netherrow Common Field Inclosure map showing point b on the inclosure map and 'To Hesket' circled.



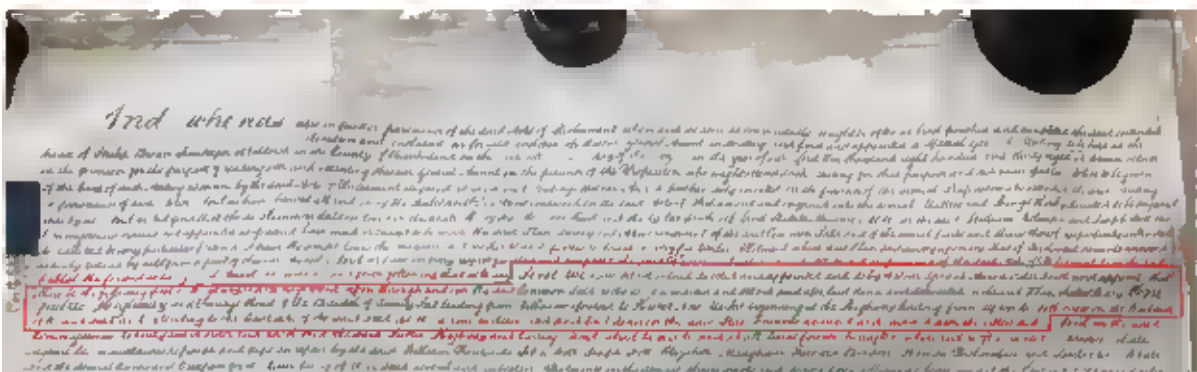
Relevance: There were essentially two broad categories of enclosure, these were 'formal' or 'informal' agreements. Formal enclosure was achieved either through an Act of Parliament or by a written agreement signed by all parties involved. The written record would probably also include a map. Netherrow Common Field inclosure award is a formal award and authorised under the provisions of an Act of Parliament 'passed in the sixth and seventh years of this Reign of his late Majesty King William the fourth intitled "an Act for facilitating the Inclosure of open and arable field in England and Wales"' i.e The General Act of 1836. By this Act two thirds in number and value of proprietors in land and common rights in Arable Common Fields could appoint Commissioners for enclosure, provided such fields were not within ten miles of London, or three miles from the centre of a town of over 100,000 inhabitants, or within certain smaller distances of smaller towns. Enclosure so effected was only recorded locally. Awards had to be deposited in the parish churches; but no confirming local Act of parliament was needed.

Archive: The Netherrow Common Field Inclosure Award and map are held at Carlisle Archive Centre under reference number Q/RE/1/94.

Meaning: The inclosure commissioners for this award were William Robinson of Gillfoot in the parish of Caldbeck and Joseph Scott of Woodhall in the said parish of Caldbeck. The area to be inclosed totalled thirty seven acres.

The award sets out at page two one public highway and carriage road (within the red lines on the below photograph) and one private or occupation way or road. The transcript of the section of the inclosure award contains the entry

First we have set out ordered directed and appointed and do by this our general award order direct and appoint that there be the following public highway and carriage road upon through and over the said Common Field as the same is marked and set out also laid down and delineated on the said plan that is to say. One public highway and carriage road of the breadth of twenty feet leading from Netherrow aforesaid to Hesket New Market beginning at the highway leading from Upton to Netherrow on the west side of the said field and extending to the east side of the said field and the same is delineated and laid down on the said plan hereto annexed and marked with the letters a.b.



The inclosure award states that the public highway and carriage road is to be repaired as follows.

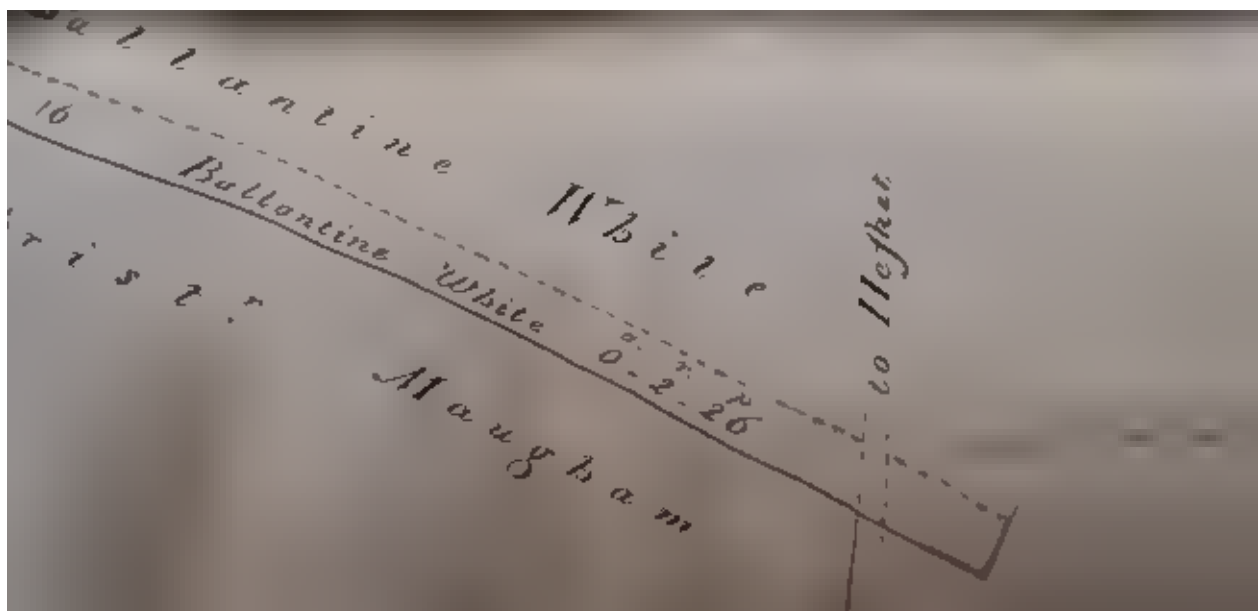
And we the said commissioners to hereby award order and direct that the said public highway and carriage road shall be made and at all times forever hereafter when and as often as needed or occasion shall require be maintained repaired and kept in repair by the said William Rowlands, John Scott, Joseph Scott, Elizabeth Maugham Richard Benson, Thomas Richardson and Ballantine White and the several owners and occupiers for the time being of this said several and respective allotments in the several shared parts and proportions following (beginning at the east end of the said public highway and carriage road marked on the said map or plan with the letters b) that is to say the said William Rowlands shall make and thereafter maintain and keep in repair sixty links in length of the said public highway the said John Scott eighty two links the said Joseph Scott two chains and twenty four links the said Elizabeth Maugham four chains and fifty links the said Richard Benson eleven chains and twelve links the said Thomas Richardson two chains and ninety three links and the said Ballanatine White the remainder of the said public highway.

The inclosure award continues

And we do award order and direct that these be the following private or occupation way or road upon through or over the said Common Field as the same is delineated and laid down upon the said map or plan that is to say. One private or occupation road of the breadth of eight feet leading from the said public highway and carriage road over and across the allotment number six set out to the said Elizabeth Maugham to a Close called Haglett belonging to Andrew Green Esquire for the use

of the owners and occupiers for the time being of the said close called Haglett and delineated and laid down on the said map or plan.

Point S of the application route is identified as point a on the inclosure map and award, point b on the inclosure map and award is approximately 30 meters west of point T on the application route. The inclosure map shows the application route continuing past point T and is marked 'To Hesket'. The application route is coloured sienna on the inclosure map.

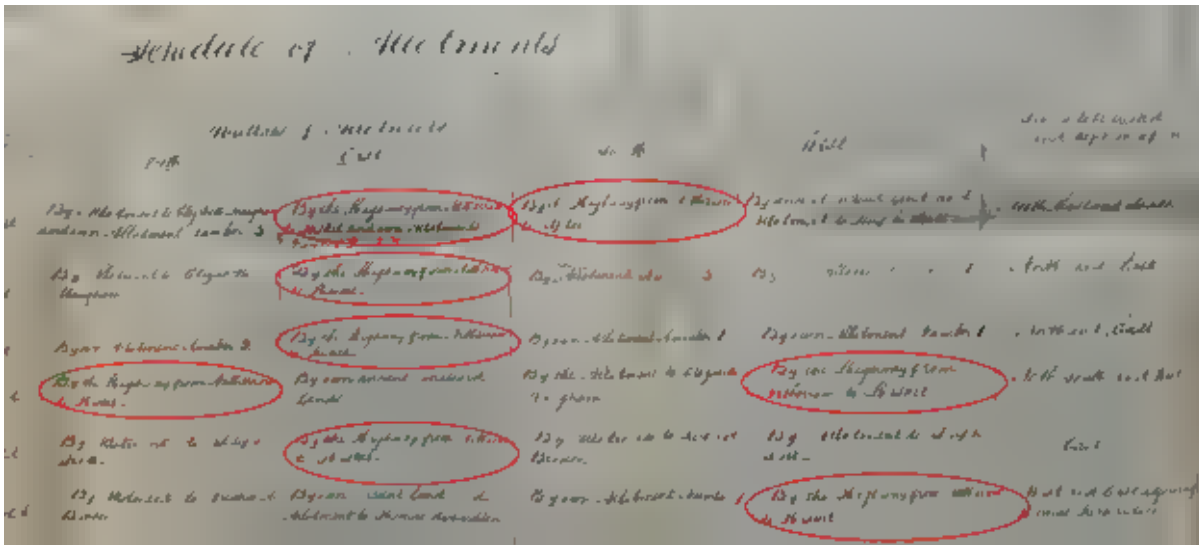


The inclosure map extends to the hamlet of Nether Row and shows two sections, coloured sienna, of what is today public road U2237 101, an unclassified public vehicle highway from Nether Row to Upton. One section of the U2237 101 is marked at either end 'From Upton' and 'To Nether-row'.

The 'schedule of allotments' lists who is awarded each numbered allotment, the size and abutments of each allotment along with which boundary fences each allotment holder is to erect and keep in repair.

There are thirteen allotments listed on the 'schedule of allotments'. All except allotment number 13 has at least one boundary shared with the application route. Allotments number 1 and 10 also have a boundary shared with what is now public road U2237 101. Where an allotment has a boundary shared with the application route the schedule of allotments records it as 'By the highway from Netherrow to Hesket'. The southern boundary of allotment 1 is described in the schedule of allotments as 'By the highway from Netherrow to Upton' and the western boundary of allotment 10 is described in the schedule of allotments as 'By own ancient land and road from Netherrow to Upton'.

Close up of schedule of allotments showing abutments for allotments 1-6. Boundaries circled described as 'By the highway from.....'



Assessment: The inclosure was effected under the General Inclosure Act of 1836 meaning that there was no requirement for a local inclosure act and none was made.

It is clear from the wording of the inclosure award that a pre-existing 'public highway and carriage road' went 'from Netherrow aforesaid to Heskett New Market'. As this public highway and carriage road ran through what was Netherrow Common Field the inclosure commissioners restated the existence of the public highway and carriage road in the inclosure award.

The fact that the inclosure award refers to a public highway and carriage road 'leading from Netherrow aforesaid to Heskett New Market' and both ends of this route are currently public roads (the U2237 at Nether Row and U2150 between Street Head and Heskett Newmarket) is further evidence that the entire route incorporating the application route should also be a public highway (notwithstanding that due to section 67 of the Natural Environment and Rural Communities Act 2006 public rights for mechanically propelled vehicles to use the application route have been extinguished).

The application route is labelled 'To Heskett' on the inclosure map indicating that the route continued to Heskett Newmarket. What is now public road U2237 is also labelled on the inclosure map 'To Nether-row' and 'From Upton'.

In *Commission for New Towns & Anor v JJ Gallagher Ltd*, Neuberger J heard evidence from two expert witnesses and states (at paragraph 90)

It was agreed between both experts that the designation "from X" or "to X" on a road was indicative of highway status. A specific description of a lane as leading from one village to another, particularly when one bears in mind that it was a carriageway (albeit that its status as a public carriageway is in issue) does provide some support for the notion that it was a public carriageway.

The fact that in the schedule of allotments the application route and what is today public road U2237 (Nether Row to Upton) are both described in the same way; 'By the highway from' is further evidence that the application way and what is today public road U2237 had the same status in 1839. Seven individuals are awarded allotments in the former common field, and all with the exception of William Rowlands had at least one boundary abutting the application route. Not only did the seven named individuals have the responsibility to maintain, repair and keep in repair the public highway and carriage road but they also had to 'make and erect and at all times forever here after uphold maintain and keep in good and sufficient repair such part of the boundary or outside fence of the said Common Field adjoining their respective allotments as adjoin upon the said public highway and carriage road or any other public highway and carriage road'. It is highly unlikely that the seven named individuals would of agreed to the terms of the Netherow Common Field inclosure award if it contained inaccuracies i.e if the road 'leading from Netherrow aforesaid to Hesket New Market' was not a public highway and carriage road. Likewise, the inclosure commissioners were local men, both living within a mile and a quarter of the application route so it would be highly unlikely that they would describe, in a legally binding document, the application route as a public highway and carriage road leading from Nether Row to Hesket Newmarket if it were not so.

Tithe Map for Caldbeck Parish

Date: 1852

Relevance: The Tithe Commutation Act 1836 enabled tithes (literally a tenth of the produce of the land) to be converted to a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid. The Act was amended in 1837 to allow maps produced to be either first class or second class. First class maps were conclusive of the quantities of land shown, while second class maps were less accurate in the areas shown. First class maps were sealed and signed and are a legal and accurate record of all matters shown.

The tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. Non-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass drovers' routes could carry a tithe as they were used as pasture. It was in the interest of the landowners for untithed roads to be shown correctly to minimise their payments. Footpaths and bridleways were more likely to be at least partially productive (for example as pasture). An unenclosed or partially enclosed public field road on which animals could graze might be liable to a tithe notwithstanding that it was a also a public road.

In 1838 a standardised way of preparing tithe maps was proposed by Lt RK Dawson and it was recommended but not made mandatory that roads were coloured sienna or light brown.

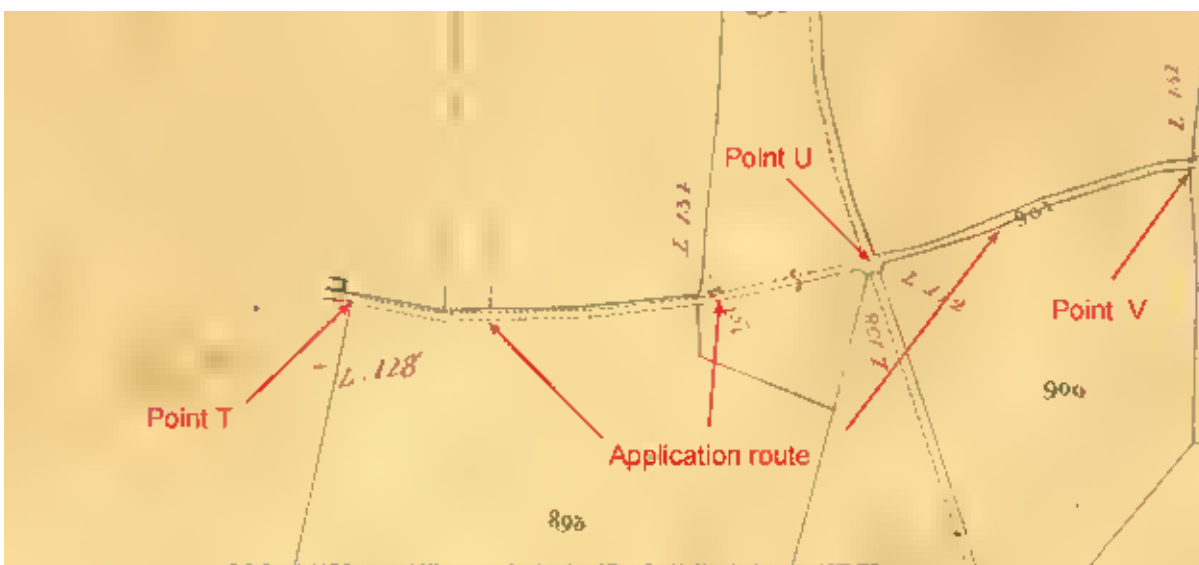
Although the tithe process was not directly concerned with rights of way, inferences can be drawn from tithe documents regarding the existence of public rights, and in particular, public vehicular rights.

Archive: The National Archives hold two tithe maps under reference number IR/30/7/36 for Caldbeck parish and an apportionment under reference number IR/29/7/36. The tithe maps and apportionment, for a fee, can also be downloaded from The Genealogist website and have been reproduced courtesy of The National Archives under Copy Right.

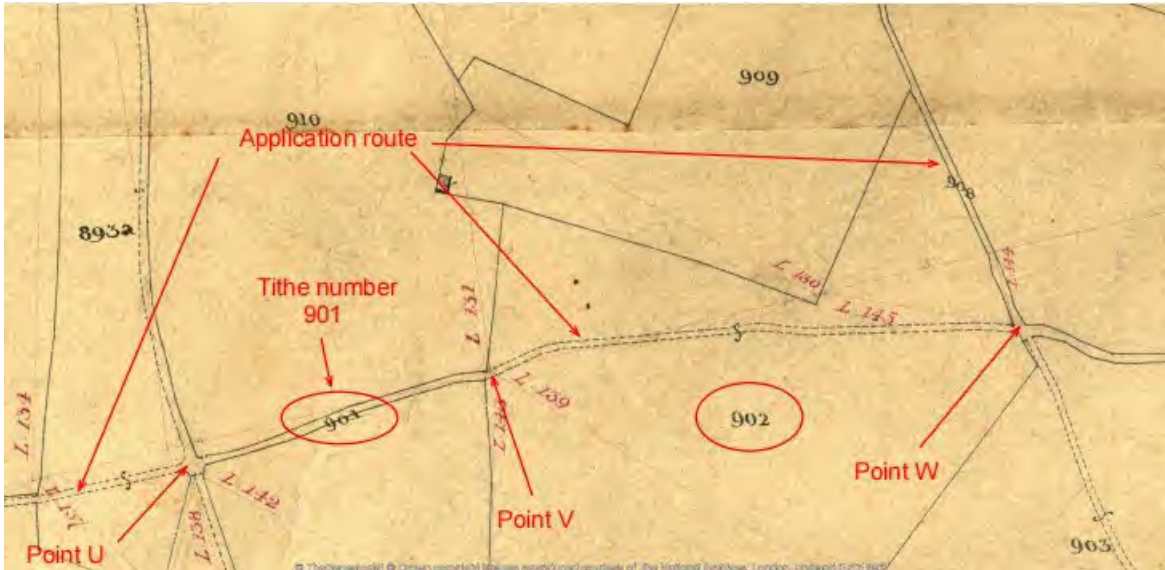
Caldbeck Parish tithe map number 2 showing the application route annotated with letters S and T along with public road U2237.



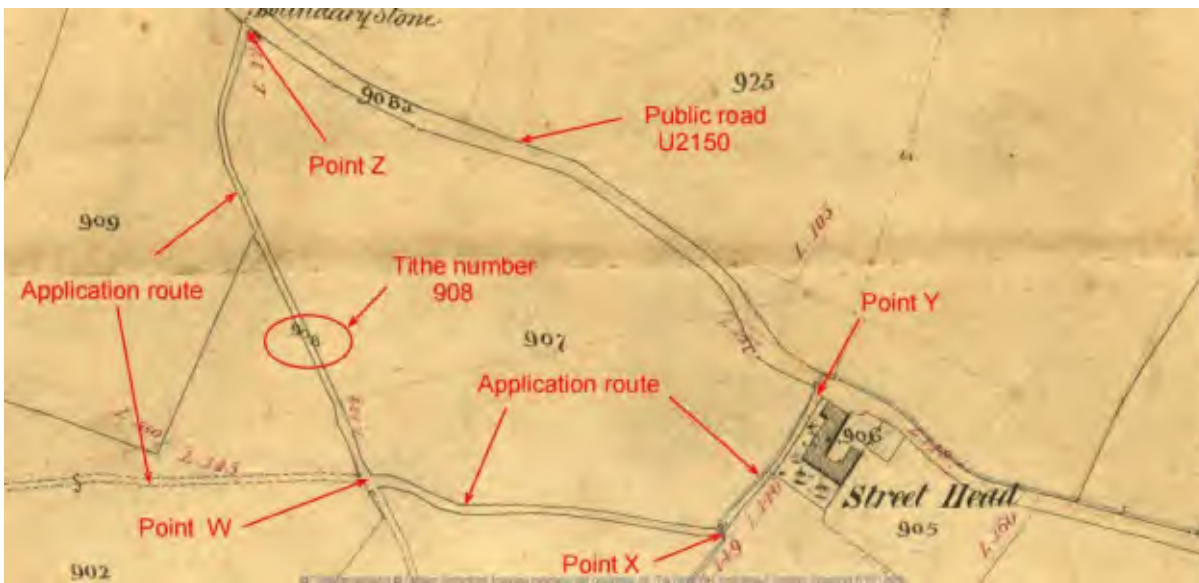
Caldbeck Parish tithe map number 1 showing section T-U-V of the application route



Caldbeck Parish tithe map number 1 showing section U-V-W of the application route



Caldbeck Parish tithe map number 1 showing sections W-X-Y and W-Z of the application route



Meaning: The tithe apportionment lists several land parcels under the heading 'Public Roads Waste Grounds'. The allotments listed under this title are described as one of the following- Road and Streets, Public Road, Road and Waste, Waste Ground, Road, Waste and Road, Lane, Lane and Waste and Waste and Pinfold. None of the land parcels recorded under the heading of 'public roads waste grounds' have a landowner or occupier listed in the tithe apportionment.

The entire application route is clearly depicted on the tithe map, which is a first class map. The table below summarises the tithe land parcel numbers associated with the application route.

Applic route	Land parcel No.	Rent charge	Shown on map as	Description in apportionment	Landowner	Occupier
S to T	2155	No	Fully enclosed road	Public road and waste- Road	None listed	None listed
T to U	893	Yes	Field edge road	Lime Kiln Close-Arable	Ballantyne Whyte	Thomas Hetherington
	893a	N/K	Unenclosed road	Unable to locate an apportionment entry for this land parcel		
U to V	901	No	Fully enclosed road	Lane	Jennings John	Thomas Richardson
V to W	902	Yes	Unenclosed cross field road	Broad Leases-Arable	Wilkin Irving	Elizabeth Hunter
W-X-Y	908	No	Fully enclosed road	Public road and waste- Road	None listed	None listed
W to Z	908	No	Fully enclosed road	Public road and waste- Road	None listed	None listed

Assessment: Sections S to T, W-X-Y and W-Z of the application route are recorded in the tithe apportionment as a road under the heading 'public roads and waste grounds'. Other land parcels so described in the tithe apportionment are numbers 908a and 913a which today are public road U2150 'The Street' from Hesket Newmarket to Wath and parcel numbers 992a and 998a which are public road B5299 between Hesket Newmarket and Caldbeck.

Section U-V of the application route (tithe land parcel no 901) is recorded as being a 'lane' with an owner and occupier but not titheable. The application way at this point is unmetalled and the owner of the lane would have the right to graze the lane and therefore the lane should have been subject to a rent charge. The logical conclusion for the exclusion of land parcel 901 from a rent charge is that despite this section of the application way being privately owned (according to the tithe award) it was deemed to be a public road.

The application route is depicted as double pecked lines between points T-U and V to W and clearly identifiable as part of the through route from Nether Row to Hesket Newmarket despite the fact that it is braced with the adjoining land parcels. The application route at these locations would have been grazed as part of the adjoining land parcels and therefore subject to a rent charge notwithstanding that it was still a public highway and carriage road from Nether Row to Hesket Newmarket.

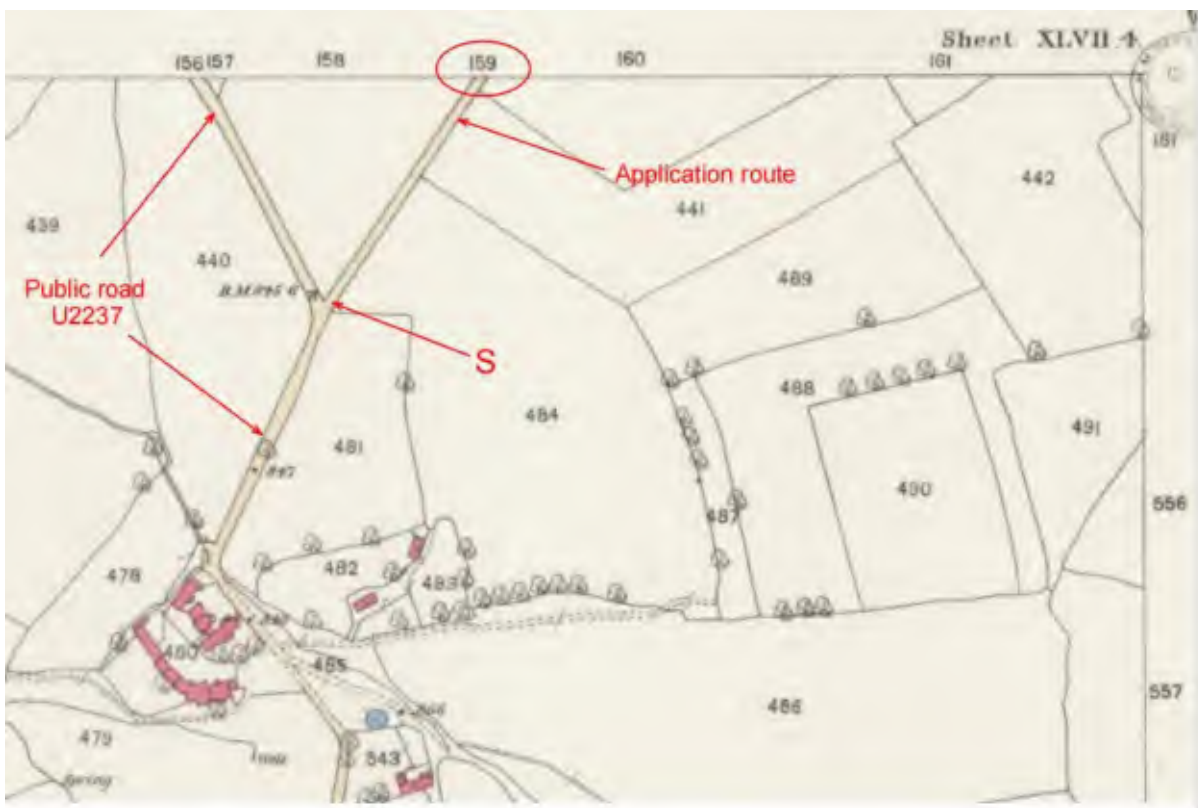
Overall the tithe map and award provides further evidence that the application route was considered to be a public road from Nether Row to Hesket Newmarket.

Ordnance Survey First Edition 25 inch map and Book of Reference for Caldbeck parish

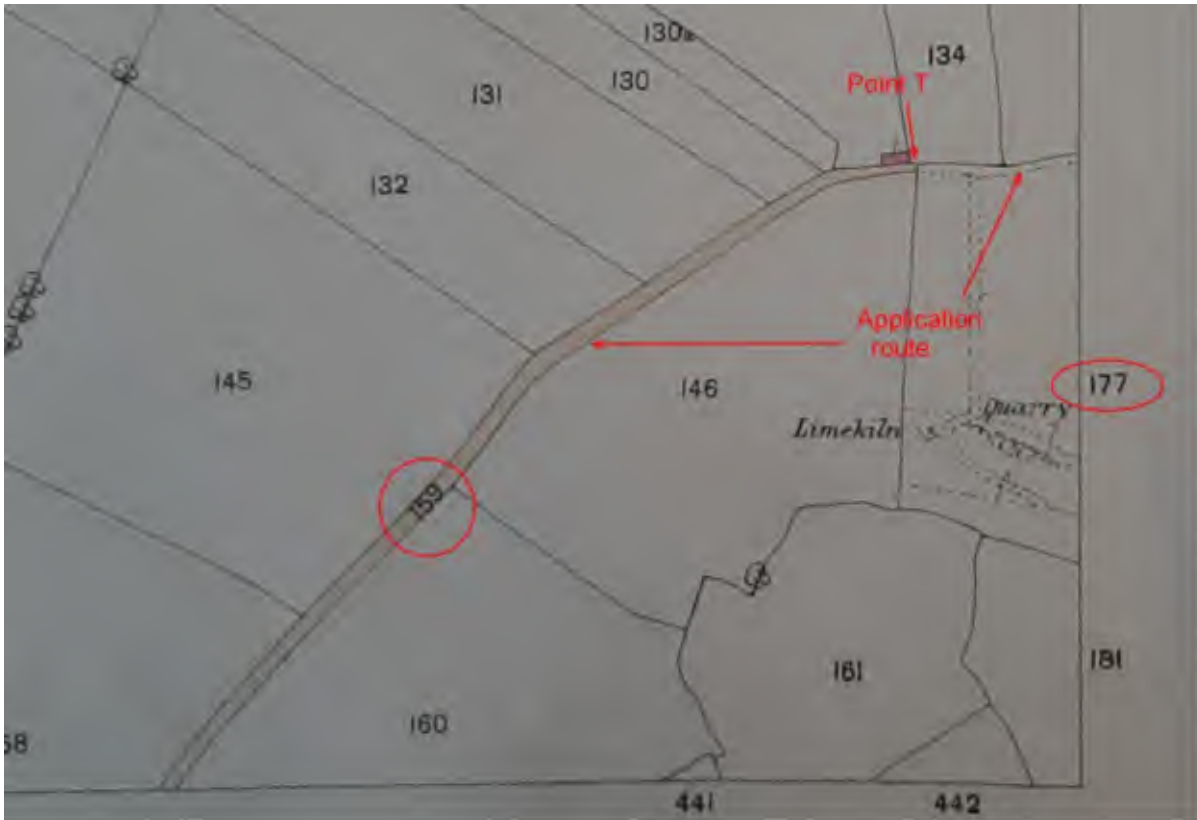
Date: Ordnance Survey 25 inch First Edition Cumberland sheet XLVII.4 was surveyed in 1863 and published in 1865, Cumberland sheet XXXVII.16 was surveyed in 1863 and published ca. 1864 and Cumberland sheet XXXVIII.13 was surveyed in 1862 to 1863 and published ca. 1864.

Relevance: The Ordnance Survey First County Series Mapping was 25 inches to the mile scale which would predominately have been used for professional purposes. The maps were detailed enough to show gates or barriers on the roads, tracks and paths and included the size (acreage) of numbered land parcels. Separate Books of Reference, often called 'Area Books' were published to go with them.

Extract from Ordnance Survey 25 inch First Edition Cumberland sheet XLVII.4



Extract from Ordnance Survey 25 inch First Edition Cumberland sheet XXXVII.16



Extract from Ordnance Survey 25 inch First Edition Cumberland sheet number XXXVIII.13



Caldbeck parish Ordnance Survey Book of Reference land parcel number 159 (Township of Caldbeck High) is described as Occupation Road.

159	·765	Arable.
160	4·890	Occupation road.

Caldbeck parish Ordnance Survey Book of Reference land parcel number 177 (Township of Caldbeck High) is described as Arable, &c.

177	6·389	Occupation road.
		Arable, &c.

Caldbeck parish Ordnance Survey Book of Reference land parcel number 174 (Township of Caldbeck High) is described as Arable.

174	2·589	Arable.
175	6·504	Arable.

Caldbeck parish Ordnance Survey Book of Reference land parcel number 176 (Township of Caldbeck High) is described as Occupation Road.

176	·105	Pasture.
177	6·000	Occupation road.

Caldbeck parish Ordnance Survey Book of Reference land parcel number 75 (Township of Haltcliff) is described as Pasture, &c.

75	7·682	Occupation road.
		Pasture, &c.

Caldbeck parish Ordnance Survey Book of Reference land parcel number 74 (Township of Haltcliff) is described as Occupation Road.

74	·313	Occupation road.
75	7·000	Pasture.

Caldbeck parish Ordnance Survey Book of Reference land parcel number 172a (Township of Caldbeck High) is described as Occupation Road.

172a	·047	Arable.
173	5·000	Occupation road.

Archive: Copies of the First Edition Ordnance Survey 25 inch maps are held by the British Library. As well as originals, they have created microfiche copies, which can be inspected by the public. Some sheets are available to view at the National Library of Scotland and on their website at <http://maps.nls.uk/os/25inch-england-and-wales/index.html>. Carlisle Archive Centre also hold some copies of the First Edition 25

inch map and the extracts from sheets XXXVIII.13 and XXXVII.16 reproduced in this evidence statement are from maps held at Carlisle Archive Centre. The Ordnance Survey Caldbeck parish Book of Reference is held in the reference section of Carlisle Archive Centre.

Meaning:

- i. Section S to T (sheets XLVII.4 and XXXVII.16) of the application route is depicted as an enclosed route with no obstructions or barriers and is coloured light brown indicating that the surface is metalled and is described in the book or reference as an occupation road (land parcel number 159).
- ii. Section T to U (sheets XXXVII.16 and XXXVIII.13) of the application route is depicted initially as an unenclosed road along the perimeter of land parcel 177, described as arable &c and then through land parcel 174 (arable) also as an unenclosed (double pecked lines) road.
- iii. Section U to V (sheet XXXVIII.13) of the application route is depicted as an unmetalled enclosed route and is described in the book of reference as an occupation road (land parcel 176).
- iv. Section V to W (sheet XXXVIII.13) of the application route is depicted as an unenclosed route across land parcel 75 described as arable &c.
- v. Section W-X-Y (sheet XXXVIII.13) of the application route is depicted as an unmetalled enclosed route and is described in the book of reference (land parcel 74) as an occupation road.
- vi. Section W to Z (sheet XXXVIII.13) of the application route is depicted as an unmetalled enclosed route and is described in the book of reference (land parcels 74 and 172a) as an occupation road.

Assessment: The entire application route is depicted on the first edition 25 inch Ordnance Survey maps as a through route. The sections of the application route which are enclosed in 1862/63 (S-T, U-V, W-V-Y and W-Z) are described as occupations roads. Two sections of the application route (T-U and V-W) are depicted as unenclosed and two of the three land parcels through which the route passes between T-U and V-W are described as arable &c indicating that the land parcels include another feature in addition to it being arable.

None of the documents examined during the research of this application specify that the application route was restricted as to user or for the use of named individuals despite being referred to as an occupation road in the Ordnance Survey Book of Reference. The right of specific individuals to use the application route to access their property/land (i.e their use of the application route as an occupation road), may have arisen in the first instance because the route existed as a common way before the land on either side was inclosed. The lack of a private easement granting a right of way would further support this hypothesis; the landowners relying on the fact that access to their property was along a common way or public highway.

The use of the terms occupation road and public highway are not mutually exclusive. A public highway is also likely to be an occupation road (used by the adjacent landowners to gain access to their property) and an occupation road which is a through route is likely to be a public highway.

The applicant submits that the categorisation of the application route as an occupation road in the OS Book of Reference would not have prevented members of the public using the route in the 1860's as if it were a public road.

The applicant believes that there are approximately 90 separately numbered public rights of way within Caldbeck Parish of which only ten are bridleways, there are no restricted byways. Due to the topography of the parish and land use only short sections of three public bridleways were historically enclosed lanes, these being bridleway numbers 221002, 221013 and 221023.

Bridleway 221002 runs from Branthwaite to Clay Gap then across Ellerbeck Common. The first edition 25" Ordnance Survey map (Cumberland sheet XLVII.3) shows that the first section of the bridleway at Branthwaite runs over an enclosed lane which is described as an occupation road in the book or reference (land parcel 335 Caldbeck High township).

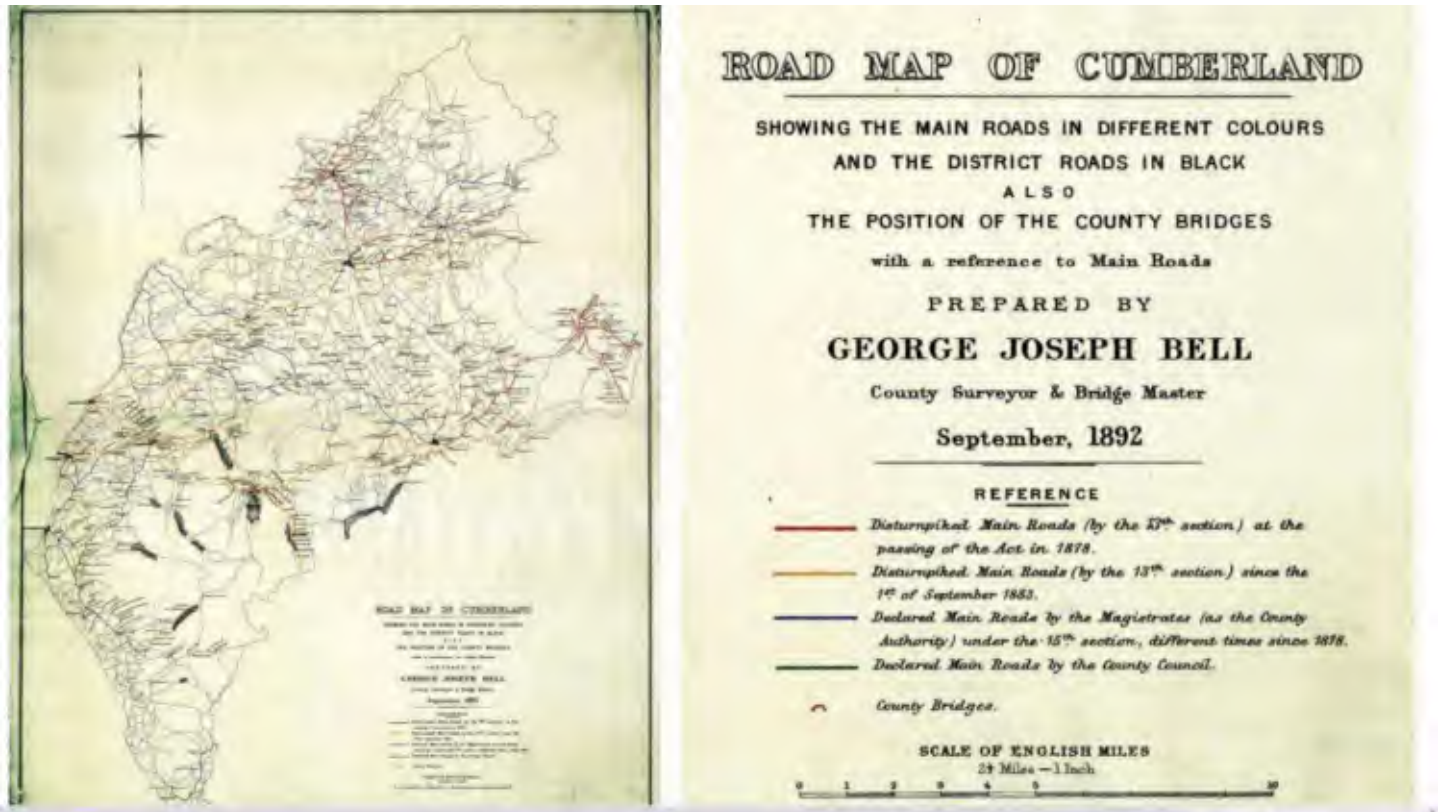
Bridleway 221013 runs between public roads U2121 and U2150 via Longlea. The northern end of the route between Longlea and public road U2150 is shown on the first edition 25" Ordnance Survey map (Cumberland sheet XXXVII.16) as an enclosed lane which is described as an occupation road in the book or reference (land parcel 94 Caldbeck High township).

Bridleway 221023 runs between The Green at Caldbeck to public road C2004 via Brownrigg. The eastern end of the route is shown on the first edition 25" Ordnance Survey map (Cumberland sheet XXXVII.12) as an enclosed lane which is described as an occupation road in the book or reference (land parcel 98 Caldbeck Low township).

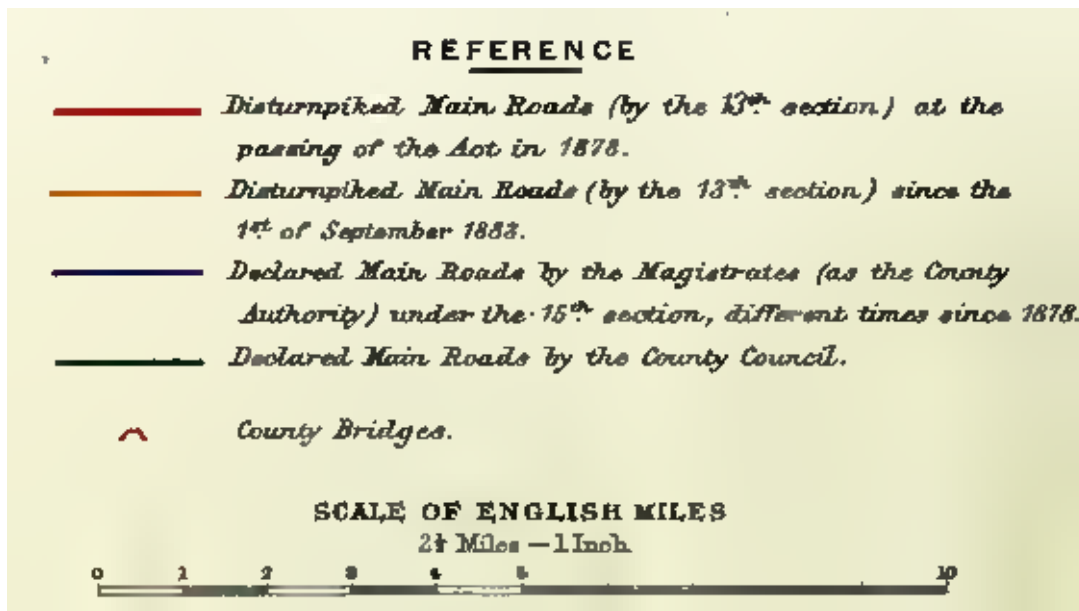
The fact that three enclosed lanes described as occupation roads in the 1860's are now public bridleways is further evidence that a lane classified as an occupation road did not preclude it being a route used by the public on horseback in the 1860's or becoming one in the preceding years.

Finally, the alternative route (not using the application way) from Nether Row to Hesket Newmarket would have been via public road U2237 northwards to Wath (near Upton) then along 'The Street' public road U2150, a distance of approx. 2.90 kilometers compared to approx 2.00 kilometers via the application route. The application route is therefore approximately 900 meters or just over half a mile shorter than the alternative route. An individual, travelling by foot, on horse back or driving a horse and cart would be unlikely to take the longer route when there was a shorter and more direct route leading from village to village and market.

Bell's Road Map of Cumberland



Reference on Bell's Road Map of Cumberland

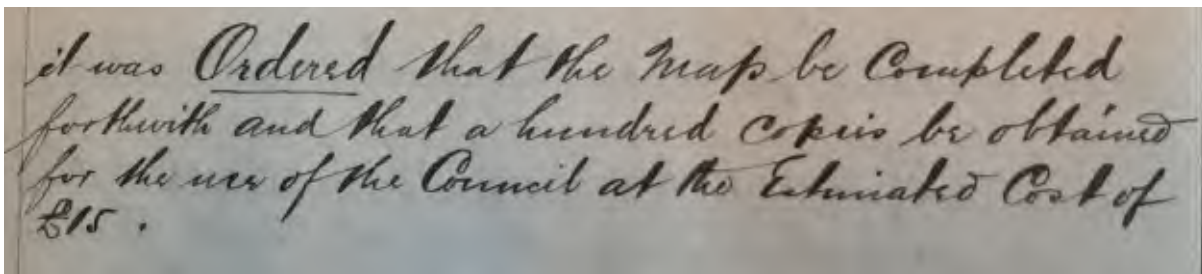
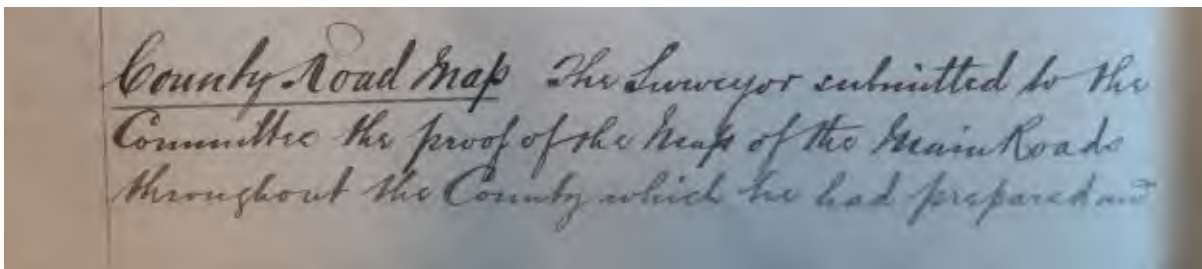


Extract from Bell's Road Map of Cumberland with section W-Z of the application route circled and some of today's public roads in the vicinity of the application route labelled.



Extract from the minutes of the Cumberland County Council Highway Committee for a meeting held on 8th January 1892.

County Road Map The Surveyor submitted to the Committee the proof of the Map of the Main Roads throughout the County which he had prepared and it was Ordered that the map be completed forthwith and that a hundred copies be obtained for the use of the Council at the estimated cost of £15.



Date: 1892

Relevance: Highway Boards were created by the Courts of Quarter Sessions following the Highway Act 1862 to discharge highway functions for groups of rural parishes. The

Local Government Act 1894 started the process of transferring the responsibilities of highway boards to the relevant rural councils or for more important roads the County Councils. Often the newly formed highway board would have compiled a map to show the routes for which they were responsible. As highway boards were created under statutory authority to execute statutory powers their documents have more evidential weight than private documents.

The title of the map states

Road Map of Cumberland showing the main roads in different colours and the District Roads in black also the position of county bridges with reference to Main Roads prepared by George Joseph Bell County Surveyor and Bridge Master September 1892.

Archive: The Road Map of Cumberland is held at Carlisle Archive Centre under reference C/H/9/3/1. An on-line copy can also be viewed at www.lakesguides.co.uk/html/maps/mapsfram.htm. George Bell recorded 'A brief history of Office as a county official' in a notebook which is held at Carlisle Archive Centre under reference DX300/12 which provided a brief history of his employment with Cumberland County Council. The Cumberland County Council Highways Board Committee minutes of 8th January 1892 are held at Carlisle Archive Centre under reference C/C/1/17/2.

Meaning: George Bell was appointed by the Highways and Bridges Committee for the Cumberland County Authority as County Road Surveyor in January 1879 and in 1887 he was appointed County Road and Bridge Surveyor. In January 1892 George Bell was appointed Cumberland County Road and Bridge Master. George Bell was a member of the Institution of Civil Engineers and President of the County Surveyors Society. He was an expert in the design of oblique or skew arch bridges and published a book on the same. The Road Map of Cumberland was prepared by George Bell for the new County of Cumberland as a result of the new Local Government Act 1888. The Cumberland County Council Highway Committee Minute Book records that on 8th January 1892 the surveyor [George Bell] submitted to the committee the proof of the Road Map of Cumberland.

The map shows main roads in different colours and district roads in black and county bridges as at September 1892. The Highway Board minutes record the decisions of Cumberland County Council Highway Board and record that the County Council ordered 100 copies of the Road Map of Cumberland at a cost of £15 for the use of the council.

Assessment: Section W-Z of the application route is shown on the map coloured black indicating that in 1892 it was considered to be a district road. The application route is indistinguishable from other district roads depicted on the map which are public roads today.

George Bell was a highly qualified and published engineer and surveyor and at the time the map was produced he had been employed by Cumberland County Council for 13 years. George Bell in his 'brief history of office as a county official' stated that he had 'engineered, that is, drawn plans for and seen built, rebuilt and widened 70 bridges' and overseen the repair of 'about 300 of the worst of the old bridges'. It is therefore highly

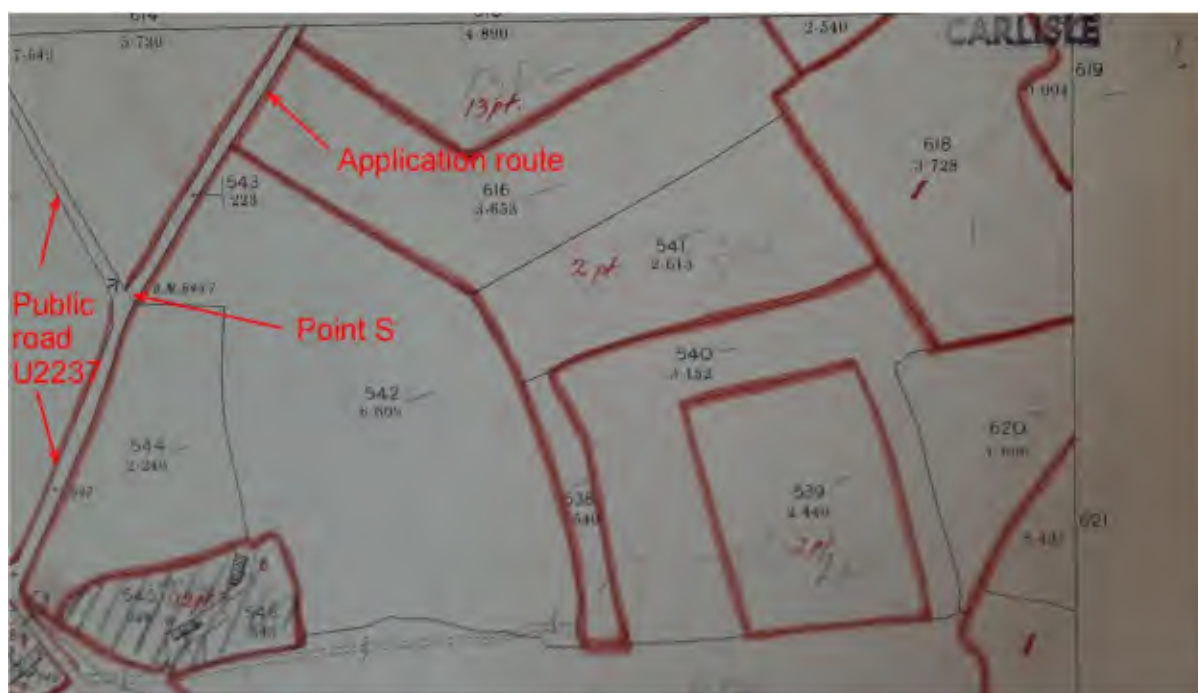
unlikely that George Bell would have prepared a map and presented it to the Highway Board that identified routes in 1892 as main and district roads that were not so. The Cumberland County Council Highway Board, whose members were drawn from the Cumberland area and who would have knowledge of the road system in the area, was presented with the proof map. The committee were obviously satisfied with the accuracy of the map because they authorised that 100 copies should be produced for the use of the council at a cost of £15. It is highly unlikely that the Highway Board members would have done this if there had been any doubt regarding the routes depicted on the map being public roads as this would have meant that Cumberland County Council would have been potentially spending money on private roads. This would have been unlawful.

The depiction of section W-Z of the application route as a district road is good evidence in favour of the proposition that it was considered to have public highway rights in 1892.

Inland Revenue Draft Valuation Map

Date: The valuation records and maps were produced in the few years after 1910.

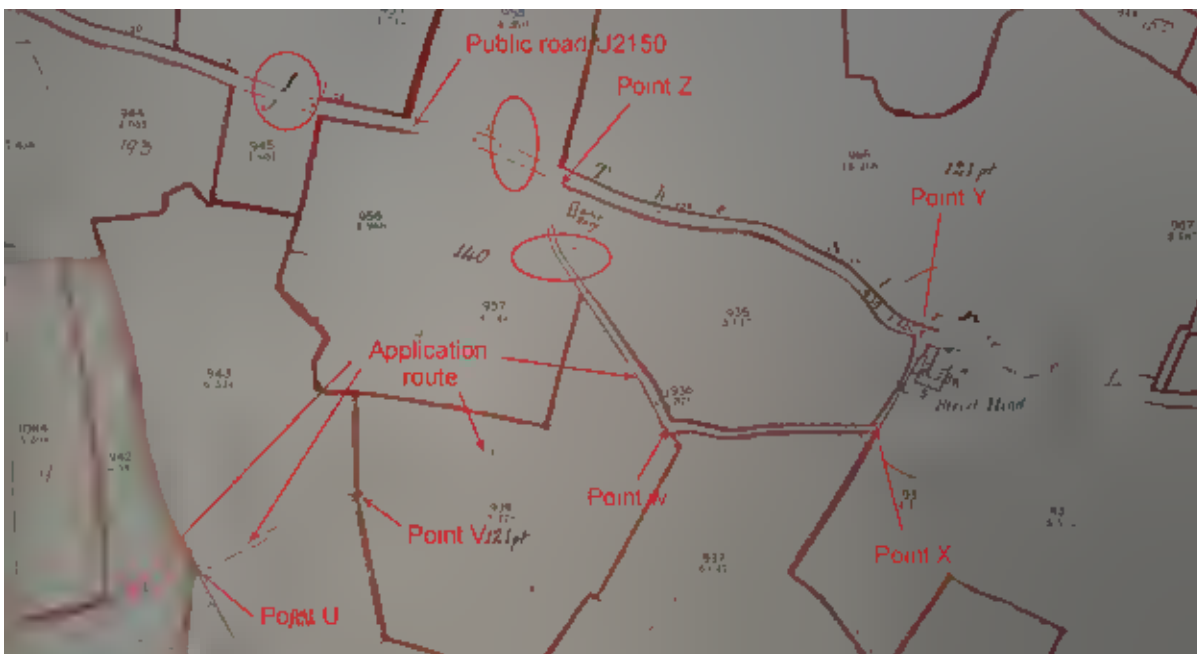
Extract from sheet XLVII.4 showing application route from point S north eastwards.



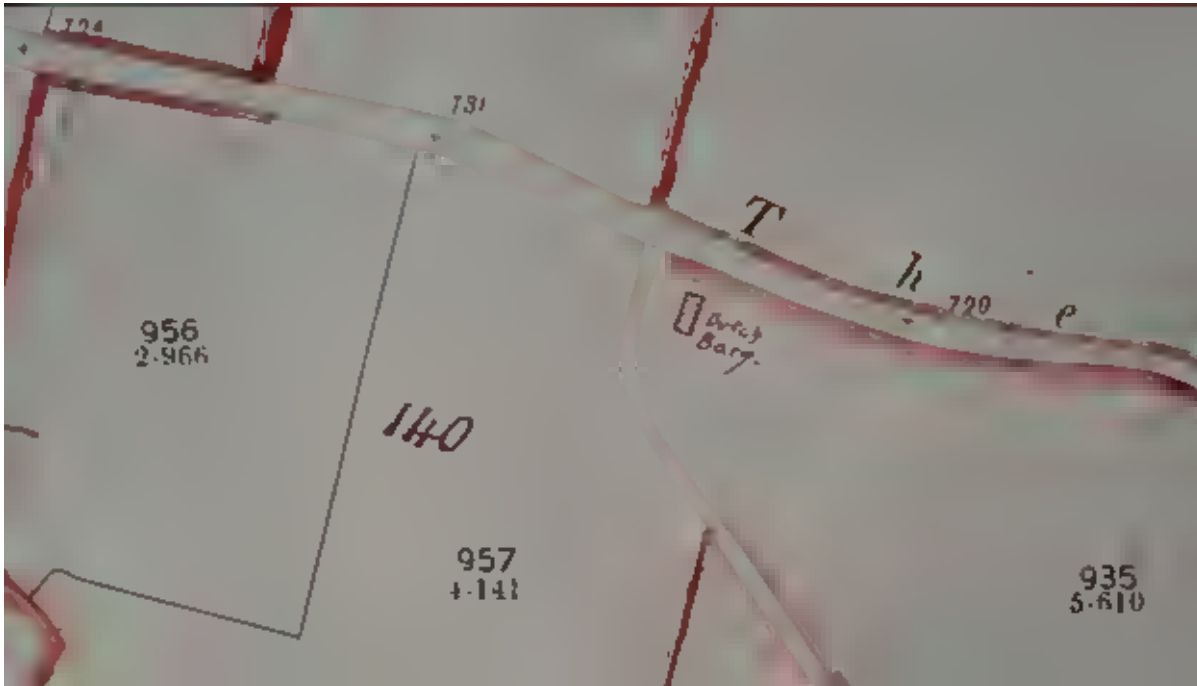
Extract from sheet XXXVII.16 showing the application route and point T.



Extract from sheet XXXVIII.13 showing application route between points U-V-W-X-Y-and points W-Z.



Close up showing the braces across the application route and public road U2150 'The Street'.



Relevance: The Finance (1909-1910) 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 vehicle 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 provided:

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

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 public rights of way 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 purposes 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.

Archive: The maps is held at Carlisle Archive Centre under reference TIR Ordnance Survey Cumberland sheets XLVII.4, XXXVII.16 and XXXVIII.13.

Meaning: Sections S-T, W-X-Y and W partway to Z are clearly shown as a white road excluded from the adjacent hereditaments and from land to be valued. A brace which appears to be marked in pencil is drawn across the application route on section W-Z indicating that the fields on either side if the application route are part of the same hereditament (numbered 140).

Assessment: Those sections of the application route shown separately from the adjoining hereditaments were excluded from land to be valued, which suggests that the land 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 the highway authority. Had it been a footpath or bridleway, the Inland Revenue would 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.

Several cases support the assertion that 'white roads' provide some evidence of public, probably vehicular, status. In *Fortune v Wiltshire County Council* [2010] EWHC B33 (Ch) HHJ McCahill QC said (para.753)

In my judgment, the probable explanation for sections A and B being untaxed is because they were regarded as a full vehicular highway.

and (para. 770)

the treatment of Rowden Lane in the 1910 Finance Act Map is clear and cogent evidence that Sections A and B of Rowden Lane were acknowledged to be a public vehicular highway in 1910.

On appeal, Lewison LJ upheld the judgement stating (para.71)

The consensus of opinion, therefore, is that the fact that a road is uncoloured on a Finance Act map raises a strong possibility or points strongly towards the conclusion that the road in question was viewed as a public highway.

In *Robinson Webster (Holdings) Ltd v Agombar*, Etherton J said (para.47) said

The 1910 Finance Act map and schedule are, in my judgement, most material evidence in relation to the status of the Blue Land at that time. ... 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, in a survey which would have been undertaken by local officers of the Commissioners, and following consultation with the owners of private hereditaments, 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.

In *Commission for New Towns v JJ Gallagher Ltd*, Neuberger J found (para.106) that

The maps are not unambiguous in this regard, and they appear to have been prepared in something of a hurry. ... Accordingly, at least if taken on their own, the Finance Act maps are of only slight value in tending to support the Commission's case [that the way is public].

In *R (on the application of Ridley) v Secretary of State for the Environment, Food and Rural Affairs*, Walker J said (para.65) that

The point of the Finance Act was to identify taxable land and, taking account of the cases mentioned, I consider that this [Chapel and Primrose Lanes being uncoloured and excluded from surrounding hereditaments] provides strong evidence that both Chapel and Primrose Lanes were recognised as public vehicular highways at this time.

Section T-W of the application route is not excluded from adjoining hereditaments on the draft map and is therefore included in the land to be valued. A check of the Caldew Parish Finance Act land valuation book held at Carlisle Archive Centre shows that not one landowner in Caldew parish made a claim to reduce the land value for public rights of way that crossed their land. The fact that sections of the application route were not excluded from land to be valued and there was no deductions for public rights of way crossing the land at these locations is not evidence that there were no public rights of way, only that no deduction was claimed at these locations.

A short section of the application route between point W and Z is also not excluded from land to be valued but a pencil brace is shown crossing the application route linking the hereditaments either side of the application route at this location. Braces drawn in pencil across public road U2150 'The Street' can also be seen at two locations (circled on the photo above). The public road is not shown separately from the adjoining hereditaments at these two locations. The applicant asserts that this is evidence that the application route between point W-Z is a public road as it is depicted on the draft map in the same way as what is today public road U2150 The Street.

The applicant asserts that the exclusion of the route from adjacent numbered hereditaments provides strong evidence, taken with the other historical documents, that the entire length of the application route was considered to be a public vehicle highway.

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

Ordnance Survey historical maps

See the accompanying evidence document for map extracts.

Dates: 1863 to 1964

Relevance: The one and six inch maps were made for sale to the travelling public. The old maps of the 1:2,500 scale sometimes referred to as the County Series or 25 inch map were generally not on sale to the public but were produced at such a scale that they provide detailed information about field and road boundaries, field numbers and acreages, the presence of trees in hedgerows and obstructions. The Second Edition County Series were used as the base maps for the 1910 Finance Act information.

Archive: Reproduced from the National Library of Scotland on-line library.

Meaning: Ordnance Survey six inch series Cumberland sheet XLVII surveyed 1863 published 1867, Cumberland sheet XXXVII surveyed 1863 published 1868 and Cumberland sheet XXXVIII surveyed 1861 published 1868. The entire application route is shown in it's entirety connecting to the current public highway network at points S, Y and Z.

Ordnance Survey one inch series sheet 23 - Cockermouth was surveyed 1860-1864, revised 1895 and published in 1897. Despite being a small scale map the entire application route is depicted in it's entirety connecting to the current public highway network at points S,Y and Z.

Ordnance Survey 25 inch sheet Cumberland XLVII. 4 revised 1898 published 1935 and sheets XXXVII.16 and XXXVIII.13 both revised 1899 published 1900. The entire application route is shown in it's entirety connecting to the current public highway network at points S, Y and Z.

Ordnance Survey six inch series Cumberland sheets XLVII.NE revised: 1898, published: 1900 and sheets XXXVII.SE and XXXVIII.SW both revised: 1898, published: 1901. The entire application route is shown in the same manner and location as on the earlier six inch maps.

One inch Ordnance Survey sheet 23 Cockermouth surveyed 1860-1864, revised 1903, published 1905. The entire application route is shown in the same manner and location as on the earlier one inch map. The key depicts the route as a minor road some of it fenced and some unfenced.

One inch Ordnance Survey sheet 9 Carlisle revised 1920 to 1921 and published 1925. The key depicts the application route as a minor road. Footpaths and bridleways are depicted by a dashed line.

Ordnance Survey six inch series Cumberland sheets XXXVII.SE and XXXVIII.SW both revised: 1898, published: ca 1935. The entire application route is shown in the same manner and location as on the earlier six inch map sheets.

Ordnance Survey six inch series Cumberland sheets XXXVII.SE and XXXVIII.SW revised: 1898, ca published: 1945. The entire application route is shown in the same manner and location as on the earlier six inch map sheets.

Ordnance Survey one inch 7th edition sheet 82 Keswick A edition revised 1951 to 1958 published 1954 reprinted 1958. The entire application route is depicted as a 'minor road in towns, drives and unmetalled roads'.

Ordnance Survey one inch 7th edition sheet 83 Penrith A edition revised 1951 published 1955. The entire application route is depicted as a 'minor road in towns, drives and unmetalled roads'.

Ordnance Survey one inch 7th Series Lake District Tourist map - C*/* Edition revised 1962 to 1964, roads 1971, published 1966 reprinted 1972. A public footpath is depicted along the entire application route. The only section of the application shown as being enclosed is S-T despite the fact that sections U-V and W-X-Y are today still enclosed.

Assessment: The Ordnance Survey maps indicate that from 1863 to 1958 the entire application route is shown as an enclosed (fenced) and unenclosed (unfenced) route and as a minor road (one inch 1903 revised edition sheet 23 Cockermouth and sheet 9 Carlisle revised 1920).

The Ordnance Survey maps are not usually of use for rights of way purposes as they usually purport only to show physical features and not legal rights. Many Ordnance Survey maps carry a statement that depiction of a path, track or road on the map is not indication of a public right of way. However, contemporary wisdom was that this was simply to avoid the potential of litigation, as declared in *The Countryside Companion* (1948 page 320),

In practice the qualifying statement of the Ordnance Survey may be regarded as a Safeguarding clause to absolve them from being involved in any footpath litigation.....A path which is shown, may, however, generally be presumed public.

Definitive Map Surveys and definite statement

Path Survey for 33009 (221009)

FORM F.P.L.
Page No. 9

**CUMBERLAND COUNTY COUNCIL.
HIGHWAYS AND BRIDGES DEPARTMENT.**

**NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949
SCHEDULE ACCOMPANYING SURVEY MAPS.**

PARISH OF Caldbeck in the Rural District of
Wigton

(Delete whichever is inapplicable)
~~through~~
~~Urban District~~) of _____
(Delete whichever is inapplicable)

1. Number of highway on Map 33009 2. Kind of Path (i.e. F.P., B.R.) OR FP
3. Beginning at Nether Row and ending at Street Head
4. Name of Path (if any) Nether Row Leaning
5. Is the Path well defined? Yes
6. Is the Path metalled? If so, define length Part
7. If its width can be stated, insert here —
8. What is the present condition of the path, stile, etc.? Fair
9. Is it subject to being ploughed out? No
10. Details of any notice boards, direction signs or warning signs against trespassers, stating their location, wording on them, their condition and date of erection, if known.
None
11. Grounds for believing the path to be public (if known, e.g. "Awarded," "Repaired at Public Expense," (with date) or "mentioned in Minutes of Parish Council" or any other evidence such as that of an old inhabitant.)
Not repaired at Public Expense

(Continue overleaf if necessary).

12. Have persons been prevented from using the highway? None
13. Give particulars of any obstructions None
14. Names of owners of freehold and previous owners, if known, for past 30 years.
Various
15. What maps have been consulted, and where are they deposited?
Old maps kept by Parish Council Clerk
16. What records have been consulted, and where are they deposited?
Local records kept by Clerk to Parish Council
17. Any other relevant information
None

Surveyed by	Address	Date of Survey
[REDACTED]	Upton Caldbeck	1950

Sheet No. of Map on which Highway is shown

47 / N I / 37 SE ← 4 / 10 / 38 SW

CUMBERLAND COUNTY COUNCIL.
HIGHWAYS AND BRIDGES DEPARTMENT.

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949
SCHEDULE ACCOMPANYING SURVEY MAPS.

PARISH OF Caldbeck in the Rural District of Wigton
Borough }
Urban District } of _____
(Delete whichever is inapplicable).

1. Number of highway on Map 33059 2. Kind of Path (i.e. F.P., B.R.) F.P.
3. Beginning at F.P. No 33029 and ending at NW of Woodhall
4. Name of Path (if any) _____
5. Is the Path well defined? _____
6. Is the Path metalled? If so, define length _____
7. If its width can be stated, insert here _____
8. What is the present condition of the path, stiles, etc. ? _____
9. Is it subject to being ploughed out? _____
10. Details of any notice boards, direction signs or warning signs against trespassers, stating their location, wording on them, their condition and date of erection, if known. _____
11. Grounds for believing the path to be public (if known), e.g. "Awarded," "Repaired at Public Expense," (with date) or "mentioned in Minutes of Parish Council" or any other evidence such as that of an old inhabitant. _____

**Shown on the map deposited by the
Wigton E.D.C. in accordance with the
Rights of Way Act, 1932.**

(Continue overleaf if necessary).

12. Have persons been prevented from using the highway? _____
13. Give particulars of any obstructions _____
14. Names of owners of freehold and previous owners, if known, for past 30 years. _____
15. What maps have been consulted, and where are they deposited? _____
16. What records have been consulted, and where are they deposited? _____
17. Any other relevant information _____

Surveyed by	Address	Date of Survey
	COUNTY SURVEYOR'S DEPT., CARLISLE.	

Sheet No. of Map on which Highway
is shown
7 / 10 / 48NW

Definitive statement (1966) for path number 221059 (33059)

33059 • 48 87 Footpath
38 57

From Woodhall - Hasket-new-Market Road approx. 250 yards north of Woodhall, north-westerly through fields approx. 680 yards there crossing FP.33029 continuing north-westerly through fields approx. 650 yards there crossing FP.33009 west of Street Head, continuing north-westerly over lane approx. 200 yards to The Street.

Date: 1950 and 1960

Relevance: The National Parks and Access to the Countryside Act 1949 introduced the concept of a definitive map and statement and required surveying authorities (mostly County Councils) to initiate a survey in their area. The Path surveys were completed by the Parish Council, sometimes assisted by the Ramblers Association or other volunteers.

Archive: The path survey forms are held by Cumberland Council Countryside Access Department.

Meaning: The path survey form for path 33009 (221009) being section S-T-U-V-W-X-Y of the application route is dated 1950. The survey form is completed in ink. The 'kind of path' is recorded in pencil as F.P (footpath) but C.R (believed to be an abbreviation for cart road) written in ink has been struck through. The name of the path is recorded as Nether Row Lonning. In reply to the question 'What maps have been consulted, and where are they deposited?' the answer recorded is 'Old maps kept by Parish Council Clerk' and in answer to 'What documents have been consulted, and where are they deposited?' the answer given is 'Local records kept by the Clerk to the Parish Council'. In the section 'Grounds for believing the path to be public' the answer given in as 'Not repaired at public expense'.

Section W-Z of the application route is the northern end of public footpath 221059. The path survey form for 33059 (221059) is undated. The 'kind of path' is recorded as F.P (footpath). The beginning of path is recorded as 'F.P No. 33029' and the end as 'N.W of Woodhall'. In reply to the questions 'What maps have been consulted, and where are they deposited?' and 'What documents have been consulted, and where are they deposited?' the form has been left blank. In the section 'Grounds for believing the path to be public' the answer given in as 'Shown on map deposited by the Wigton R.D.C in accordance with the Rights of Way Act 1932'.

Assessment: It is clear from the survey form for path number 221009 (33009) that the path (application route S-T-U-V-W-X-Y) was originally considered to be a cart or carriage road but was changed to footpath. The reason for this change is unknown as no explanation is given and there is no indication when this change was made and by whom. The form records that 'old maps' were consulted during the survey period but no specific details are provided and there is no mention of the inclosure award being examined. If the inclosure award had been examined the applicant suggests that the route would have been recorded at a higher status than footpath.

The survey form for path number 221059 (33059) refers to the southern end of footpath 221059 only and not section W-Z of the application way. The survey forms indicate that the investigation and examination The fact that the northern half of path number 221059 is not identified on the survey form, despite it being included in the definitive statement,

indicates that the process for assessing the status of potential public rights of way was not carried out thoroughly and potential evidence of higher rights over the route were not investigated fully by the Parish Council.

Land Registry INSPIRE Polygon mapping

Date: Land Registry INSPIRE database extract show information current as at April 2024.

Relevance:The Land Registry records the ownership of land and property in England and Wales. The Land Registry must be informed when the ownership of land changes or when there is an interest affecting registered land or property, such as a mortgage or a lease. A search of land ownership can be made using the Land Registry INSPIRE Index Polygon Service. The Land Registry INSPIRE Index Polygon Service is a web based mapping service which contains the locations of freehold registered property in England and Wales. Polygons are shapes that show the position and indicative extent of a registered property. Each INSPIRE Index Polygon has a unique identification number called the Land Registry-INSPIRE ID that relates to a registered title.

Archive: The Inspire Index Polygon dataset can be found at [ArcGIS - Land Registry Inspire Polygon Index Map-Copy](#)

Inspire Polygon map showing the application route with points S, T, W, X, Y and Z



Meaning: Examination of the Inspire Index mapping indicates that from point S to east of point T and section W-X are not registered at the Land Registry despite the fact that the majority of the land on either side of the application route between these points is registered. Section W-Z of the application route is unregistered but so is the land parcel it runs along the edge of.

Assessment: The characteristics of unregistered strips of land bounded by registered land is typically found for vehicle highways of ancient origin, especially when the unregistered strip is along an enclosed lane or track. Other reasons could exist for the non registration but these are unlikely when the evidence taken as a whole appears to show that vehicle rights existed.

Where land adjoining the application route is not registered it is not possible to state whether the application route is included within the unregistered adjoining landowners title or whether it is a separate land parcel and excluded.

Summary and Conclusion

The DMMO application relies on the following evidence:-

- In 1774 the application route is depicted on Donald and Hodgkinson's map of Cumberland as an open road at the western end and an inclosed road at the eastern end.
- In 1787 the application route is depicted on Cary's map.
- In 1823 the application route is depicted as a cross road on Christopher and John Greenwood's map of Cumberland.
- Section S to T of the application route is shown on a 'pre-inclosure map'.
- The Netherrow Common Field Inclosure award of 1839 awards 'one public highway and carriage road of the breadth of twenty feet leading from Netherrow aforesaid to Hesket New Market beginning at the highway leading from Upton to Netherrow on the west side of the said field and extending to the east side of the said field'.
- Sections S to T, W-X-Y and W-Z of the application route are recorded in the Caldbeck Parish tithe apportionment (1852) as a road under the heading 'public roads and waste grounds'. Section U-V is recorded as a lane.
- The entire application route is depicted in the Ordnance Survey First Edition 25 inch map (1862-1864) as a through route. Where the application route is shown as an enclosed route it is described in the accompanying Ordnance Survey Book of Reference records as an occupation road.
- In 1892 section W-Z of the application route is shown as a district road on Bell's Road map of Cumberland
- Sections S-T, W-X-Y and W partway to Z of the application route are 'white roads' on the Inland Revenue draft finance map (1910 approx).
- The entire application route is shown of all historical copies of the Ordnance Survey maps (1863 to 1964).
- In 1950 Caldbeck Parish Council appear not to have examined the Inclosure award during the preparation of the paths survey. Section S-T-U-V-W-X-Y of the application route had been classified as a cart or carriage road on the path survey then the status was changed to footpath. Section W-Z of the application route is not mentioned on the path survey for path number 221059.
- Section S to part way between points T and U and section W-X of the application route are unregistered at the Land Registry, which is characteristic of being an old road.
- The physical appearance and location of the route, being partially metalled and enclosed, of a width that is compatible with being an old road and the fact that it is a through route which connects directly and historically to public roads at points S, Y and Z is not indicative of its status but in all probability such a route would not have been limited to foot only.
- No stopping orders have been found.

Each piece of evidence presented is either evidence of reputation of vehicle highway rights or consistent with there being vehicle highway rights, or indicates that a civil servant thought that there were vehicle highway rights over the application route.

Whilst no single piece of evidence is conclusive in its own right, taking the documents as a whole, it is more likely than not that public vehicle rights existed at the times the various documents were compiled.

As a result of the common law maxim 'Once a highway always a highway' in the absence of a stopping up order it follows that vehicle highway rights existed before the operation of the Natural Environment and Communities Act 2006.

Request

The applicant requests that the surveying authority-

- upgrade to a restricted byway part of the footpath numbered 221009 from point S (grid reference NY 3239 3799) to point X (grid reference NY 3339 3848) via points T (grid reference NY3276 3834), U (grid reference NY3294 3837), V (grid reference NY3305 3841 and W (grid reference NY 3325 3846) a distance of approximately 1180 meters.
- add a restricted byway from point X (grid reference NY3339 3848) to point Y (grid reference : NY3342 3851) a distance of approx 65 meters
- upgrade to a restricted byway part of the footpath numbered 221059 from point W (grid reference NY3325 3846) to point Z (grid reference NY3319 3861) a distance of approximately 180 meters.

Width of application route

The application route today is in the same location as depicted on all the Ordnance Survey maps and the boundaries also appear to be in the same locations. The width of the application route varies slightly along it's length. It is therefore sought that if a definitive map modification order is made, the route is surveyed, and the width declared to be the full width between the hedges or historical boundaries.

SUPPORTING DOCUMENTATION FOR DMMO

Nether Row to Street Head, Caldbeck parish BHS ref CUM-0418

Ordnance Survey map of the application route



Photographs of the application route

Point S



Between point S and T



Approx location of point b on Netherrow Common Field Inclosure Award map



Point T looking towards point U



Between point T and U



Point U



Point U looking towards point W



Between point U and W



Point V looking towards point U



Point V looking towards point W



Between point V and W



Point W looking along the application route (to the right of the tree line) towards point Z



Point W looking towards point X



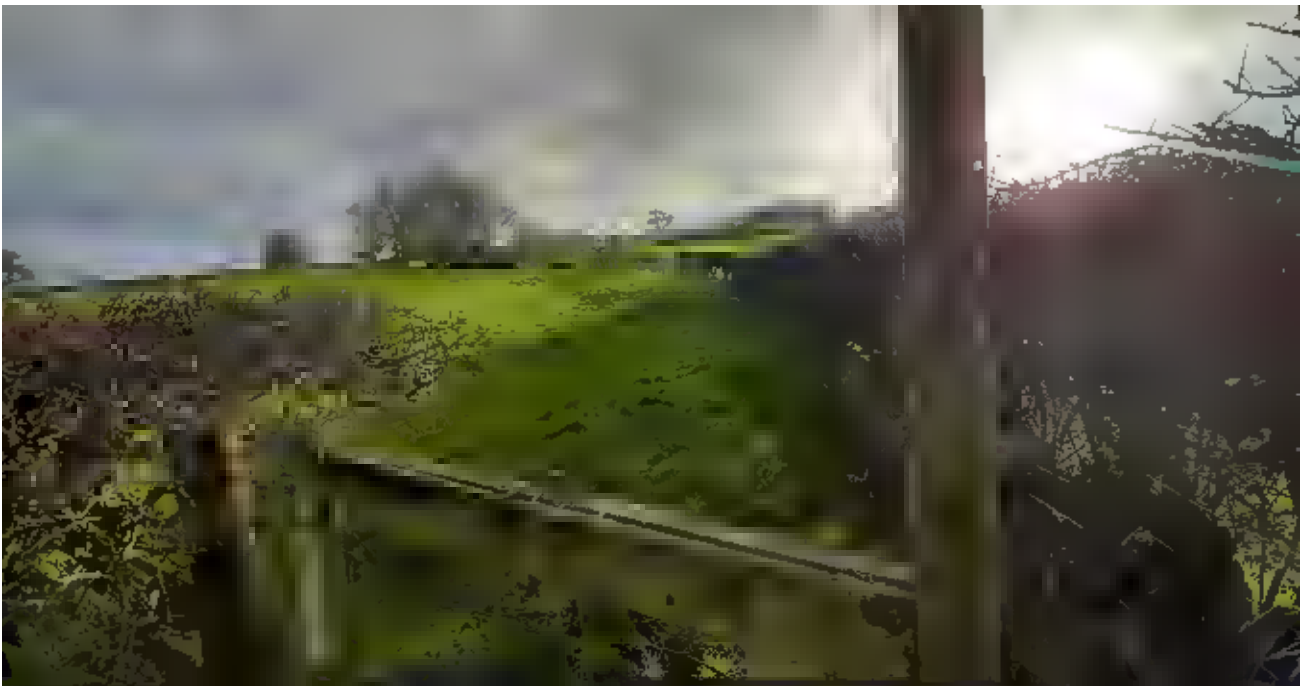
Point X looking towards point Y. The application route follows the line in red. The current public footpath follows the blue line.



Point Y looking towards point X (located near the tree)



Point Z looking towards point W. The application route runs along the perimeter of the field



Donald and Hodgkinson's Map of Cumberland 1744 reproduced from the Lakes Guide website www.lakesguide.co.uk with the original map being held at Carlisle Library



Hindle P. (2002) North West in Maps. Thomas Donald's map of Cumberland 1774. *North West Geography*, 2(1),32-34

ISSN 1476-1580



North West Geography

Volume 2, Number 1, 2002

North West in Maps

Thomas Donald's map of Cumberland, 1774

Paul Hindle

Manchester Geographical Society

This map was part of one of the most important steps in the mapping of England. Many new county maps were encouraged by the offer of prizes by the Society of Arts (from 1759) for new and accurate surveys. The Society stipulated that the maps must be based on a trigonometrical survey, have accurate road distances, correct latitude and longitude, that the survey should be completed in one, or at the most, two years, and that a scale of at least one inch to one mile be used.

There was also a strong local demand for new maps, and most maps were funded by subscription, subscribers paying part of the cost of the map in advance, whilst others paid extra to have their names inserted on the map. A total of 96 names are engraved on the map; two appear in the extract (*Brownrigg Esq* and *Mr Leathes*). Most of those named are rural landowners, as the scale of the map militates against subscribers in the towns being named. A valuable source of urban revenue was clearly missed, suggesting that the map was aimed at rural landowners rather than urban buyers. This is reflected in the title of the map, which is inscribed *To the Nobility Gentry Clergy and Freeholders* of the county.

Production

The map is one of three in northern England, devised in the late 1760s by the famous London cartographer and publisher Thomas Jefferys. His maps of Westmorland and Yorkshire were published in 1770 and 1772. Jefferys went bankrupt in 1766, principally because of the costs of new survey work for county maps, and his business was taken over by William Faden after Jefferys' death in 1771.

The survey must have begun with the precise measurement of a base line, and then other locations fixed by the use of triangulation. Filling in the topographical detail would have been done by the use of a mixture of theodolite, compass and plane table; the road distances would have been measured by a perambulator. Cumberland was surveyed in 1770-71 by Thomas Donald (perhaps assisted by John Ainslie), and it was published by Joseph Hodskinson.

The map was republished three times at the same scale (Hodskinson 1783, Faden 1802, Fryer 1818), and twice at half-inch scale (Hodskinson 1783, Faden 1810); in addition Faden and Donald produced an 'Environs of Keswick' extract (clearly aimed at the tourist trade) in 1789.

The map as an historical document

Despite the restrictions of time, money and scale, this map is far superior to any maps of the county produced before. Nevertheless, it should be used with care as an historical record; it depicts some features better than others. Perhaps the maps are best read alongside the contemporary descriptions in *Gray's Journal* (1769), *Arthur Young's Tour* (1770), *Hutchinson's Excursion* (1776) and *West's Guide* (from 1778).

The map has north-west almost at the top, so that the coast from St Bees to Drigg is parallel to the left hand edge of the map; thus the county fills the six sheets as well as possible. There are town plans of Cockermouth, Whitehaven and Carlisle.

For the modern map-reader, perhaps the oddest feature is the omission of so much detail in the Lakeland fells; many hills are poorly depicted, and many are unnamed. The reason for this is that the mountains were largely unvisited in the 1770s; the early tourists stayed on the roads in the valleys. The map shows settlements, from towns to individual cottages, though of course at the 1" scale much of the depiction is conventional, and must lack accuracy.

However, the depiction of turnpikes is one of the great values of this map, for it was surveyed immediately after the 'turnpike mania' in Cumberland, from 1739 to 1767. The map shows the original routes turnpiked, rather than any alterations made later. For example, the turnpike from Keswick to Penrith goes via the *Druid Stones* (Castlerigg Stone Circle), and then through Threlkield, Penraddock and Stainton, all avoided by later road improvements. The position of many toll bars is shown; they were often located just outside the main towns to collect maximum revenues, where it was difficult to avoid going around them. One is

shown on this extract, as *Turnp.*, just north of Keswick. Mileages are indicated along the turnpikes. The original Thirlmere, and the old road alongside it, are shown. This map is the first to give a clear depiction of the more important minor roads, though the full road network is far from being shown.

The map shows many mills, mines and industrial sites; on this extract there is a forge east of Keswick, and in Borrowdale the famous *Black Lead or Wadd Mines* are shown.

Conclusions

This map can be seen in many ways: as a work of art, as a collectable item, as the product of map-making technology, or as a depiction of the topography of the county. But it is also important to be aware of the context of the time in which it was surveyed; in particular, it is important to look at the mapmaker, and the map-buyer. Donald was an innovative cartographer, producing a totally new county map, rather than copying other surveyors' work. It was not until 1823 that Christopher Greenwood published a new survey of Cumberland, and not until 1865 that the Ordnance Survey completed its maps of the county.

The map was financed by the map buyers, and what the map shows is related to their interests; thus it shows the

towns and main roads especially well, but lacks detail in the hills. At 1" scale it could not show individual fields; it could have showed parish boundaries, but did not. There is an old adage that is especially true of maps like this: 'absence of evidence is not evidence of absence'. If the map does not show a feature, it does not mean it was not there; it means that the surveyor missed it, or that he was not concerned to map it in the first place.

Overall, this map, and those detailing the rest of England, are an extremely valuable record of the geography of England in the second half of the eighteenth century.

Later Mapping

In the early nineteenth century further large-scale county maps were surveyed and produced, pre-dating the Ordnance Survey by many years. None has been reprinted, but copies can usually be seen in the relevant County Record Offices.

Cumberland: Greenwood 1823.

Westmorland: Greenwood 1824, Hodgson 1828.

Lancashire: Greenwood 1818, Hennett 1830.

Cheshire: Greenwood 1819, Swire & Hutchings 1830, Bryant 1831.

Further Reading

Hindle B P 1998 *Roads and Tracks of the Lake District* Cicerone Press, Milnthorpe

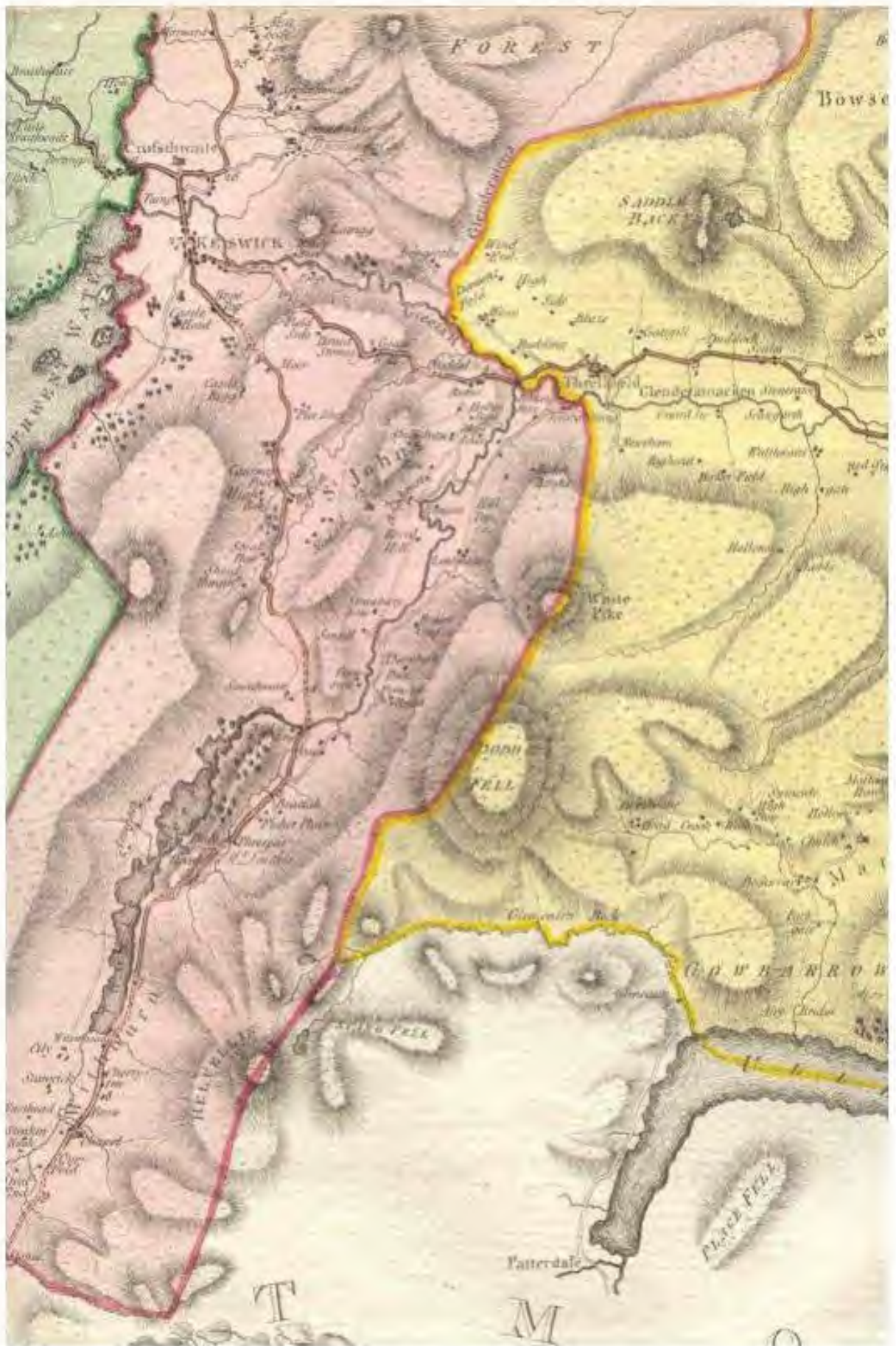
Hindle B P 1998 *Maps for Historians* Phillimore, Chichester

Reproductions

Donald's *Cumberland* and Jefferys' *Westmorland* have recently been reprinted by the Cumberland and Westmorland Antiquarian and Archaeological Society. Copies can be ordered from Ian Caruana, 10 Peter Street, Carlisle, CA3 8QP (£8.50, post free). A fuller description can be found in: Hindle B P 2001 *The first large scale county maps of Cumberland and Westmorland in the 1770s* *Transactions of the Cumberland and Westmorland Antiquarian and Archaeological Society* 1 139-53

Yates' *Lancashire* has been reprinted by Neil Richardson, 88 Ringley Road, Radcliffe, M26 9ET (£3-50, plus postage). A full description can be found in: Harley J B 1968 *A Map of the County of Lancashire, 1786 by William Yates* *The Historic Society of Lancashire and Cheshire*

Burdett's *Cheshire* was reprinted in: Harley J B and Laxton P 1974 *A Survey of the County Palatine of Chester, P. P. Burdett, 1777* *The Historic Society of Lancashire and Cheshire*



Cary's map of Cumberland 1878



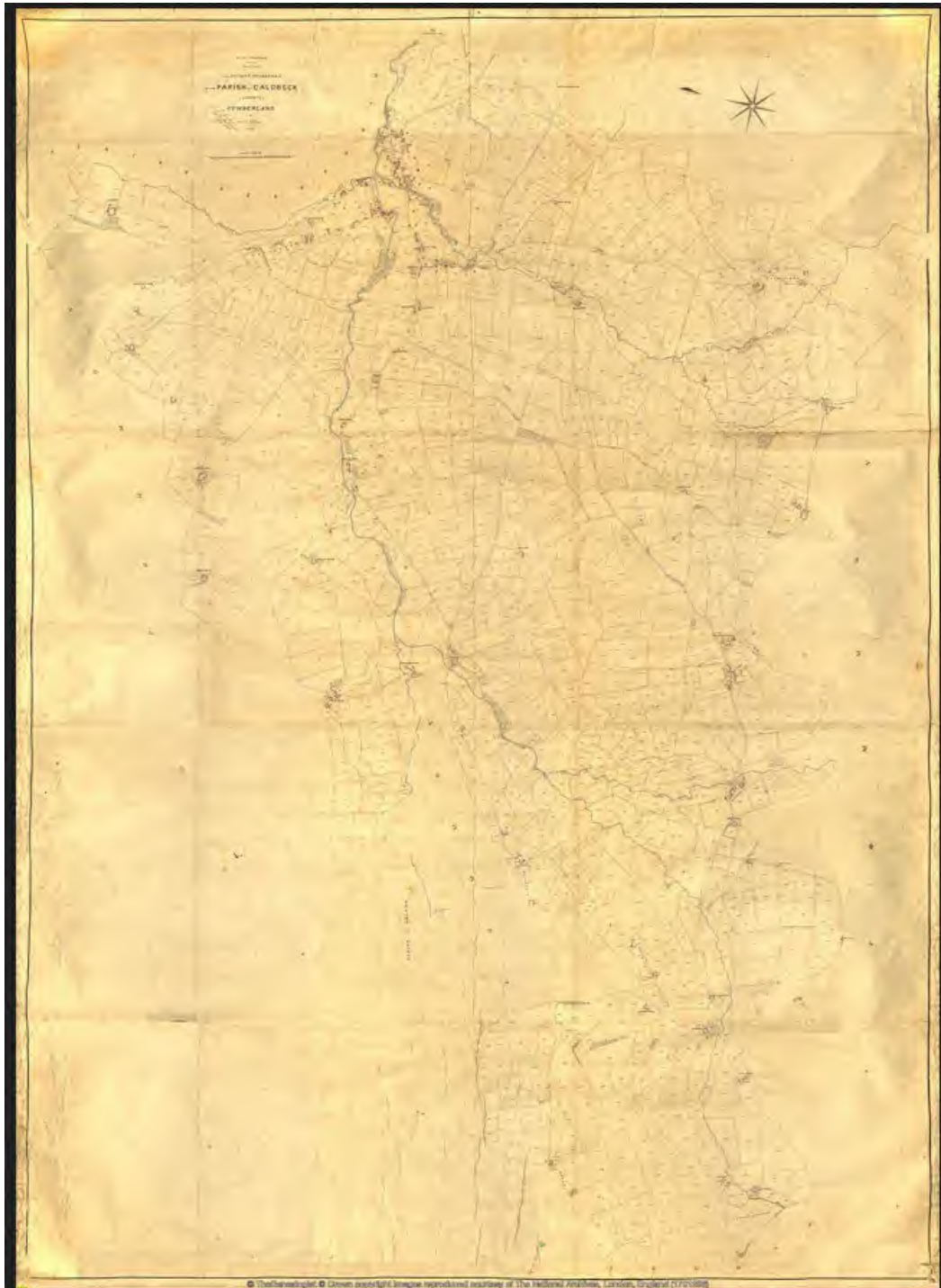
Greenwood's Map of Cumberland 1823



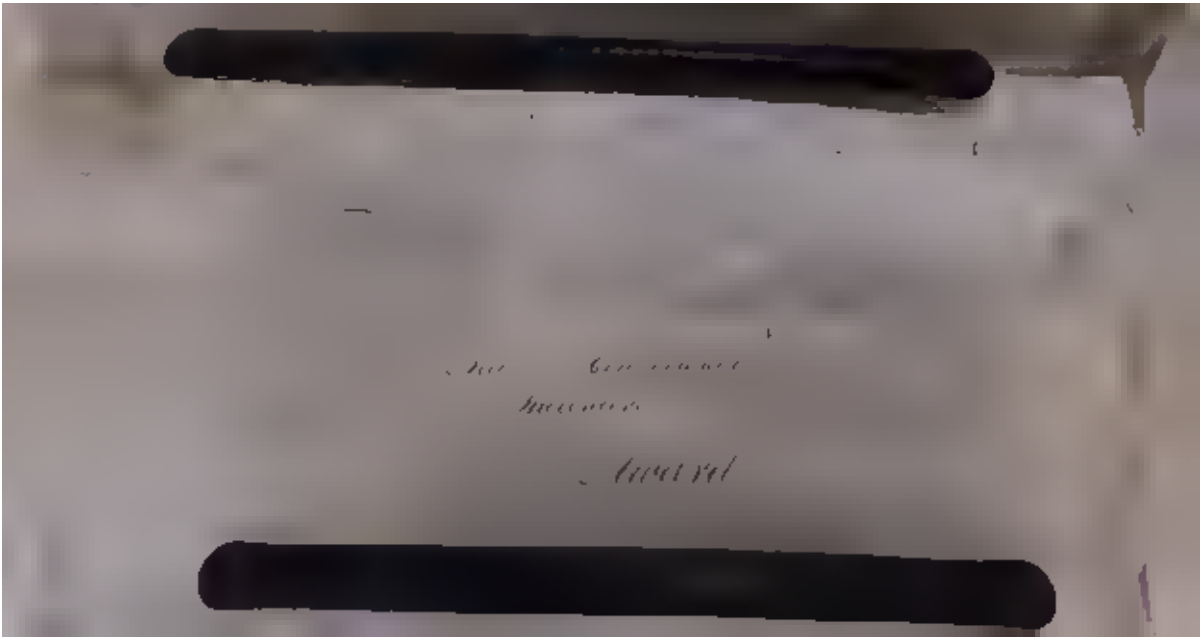
Caldbeck tithe map plan no. 1



Caldbeck tithe map plan no. 2



Netherrow Common Field Inclosure Award and map



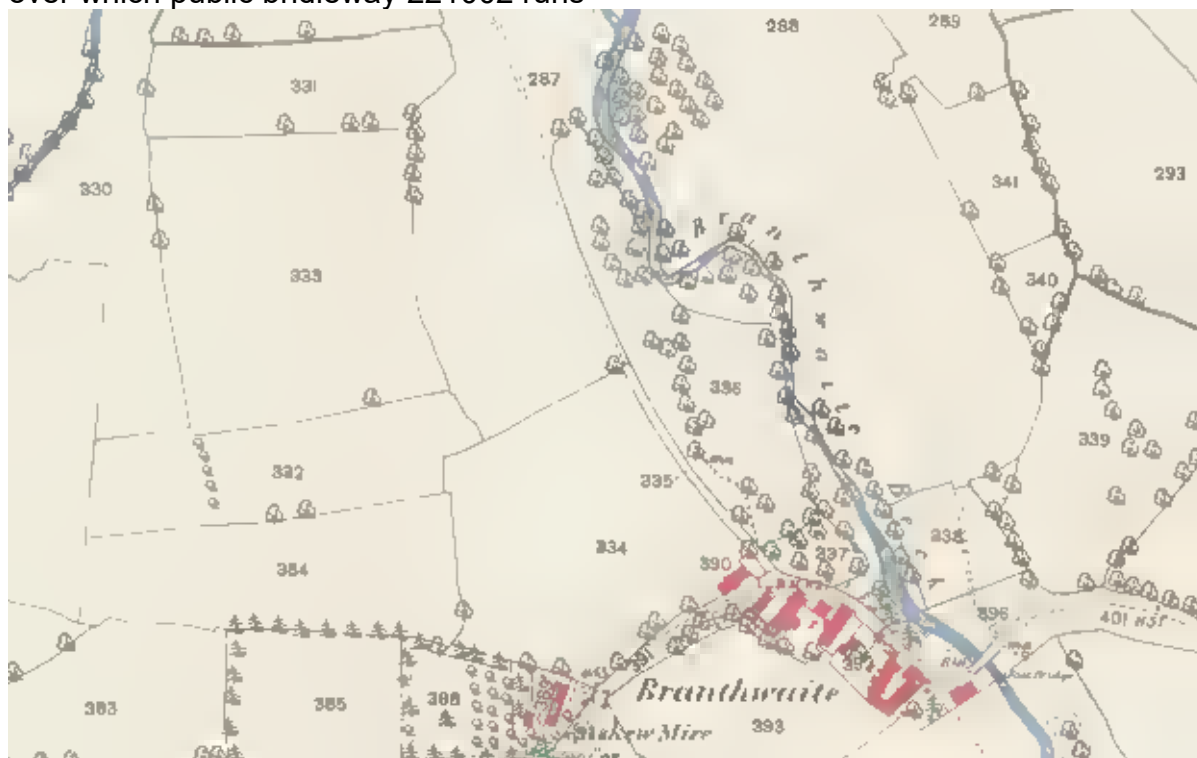
Handwritten notes on a page, possibly a list or index, with some faint markings and a small blue square on the left side.

Structure of Metamorphites

Number	Location	Structure	Orientation	Remarks
1
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Land parcels described as occupation roads in the 1860's over which public brideways run

Ordnance Survey 25" First edition Cumberland sheet XLVII.3 showing land parcel 98 over which public brideway 221002 runs



Land parcel no 335 -Caldbeck High township

335	·189	Occupation road.
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Ordnance Survey 25" First edition Cumberland sheet XXXVII.16 showing land parcel 98 over which public bridleway 221013 runs



Land parcel no 94 -Caldbeck High township

93	1 307	Arable.
94	252	Occupation road.
95	2 279	Arable.

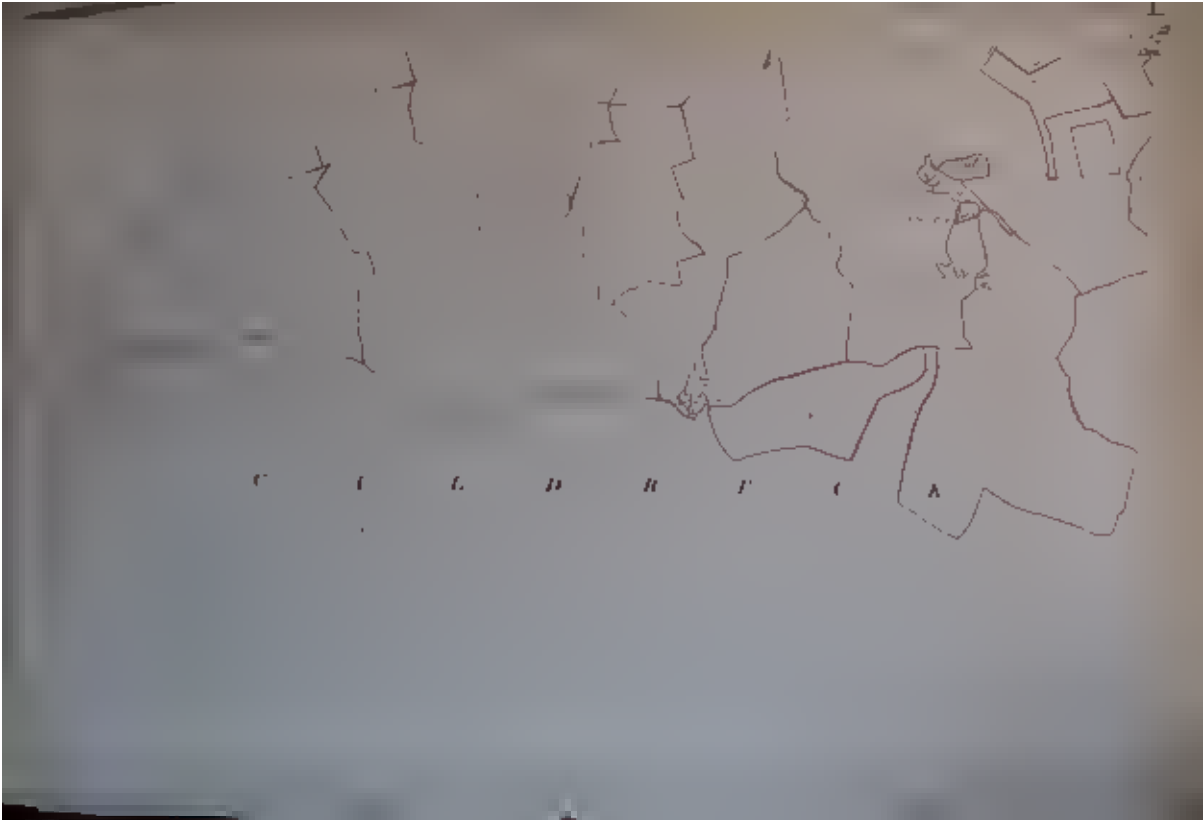
Ordnance Survey 25" First edition Cumberland sheet XXXVII.12 showing land parcel 98 over which public bridleway 221023 runs



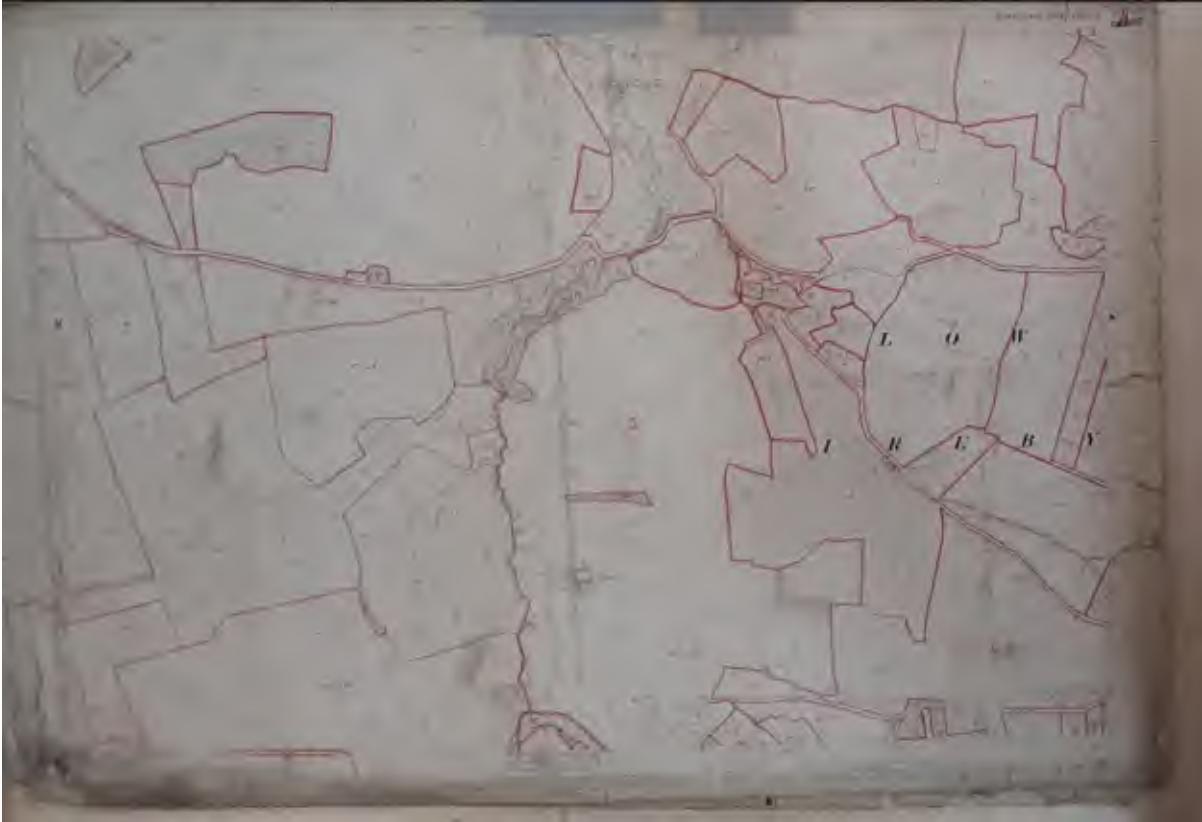
Land parcel no 98 -Caldbeck Low township

98	1 070	Pasture, &c.
99	9 515	Occupation road.

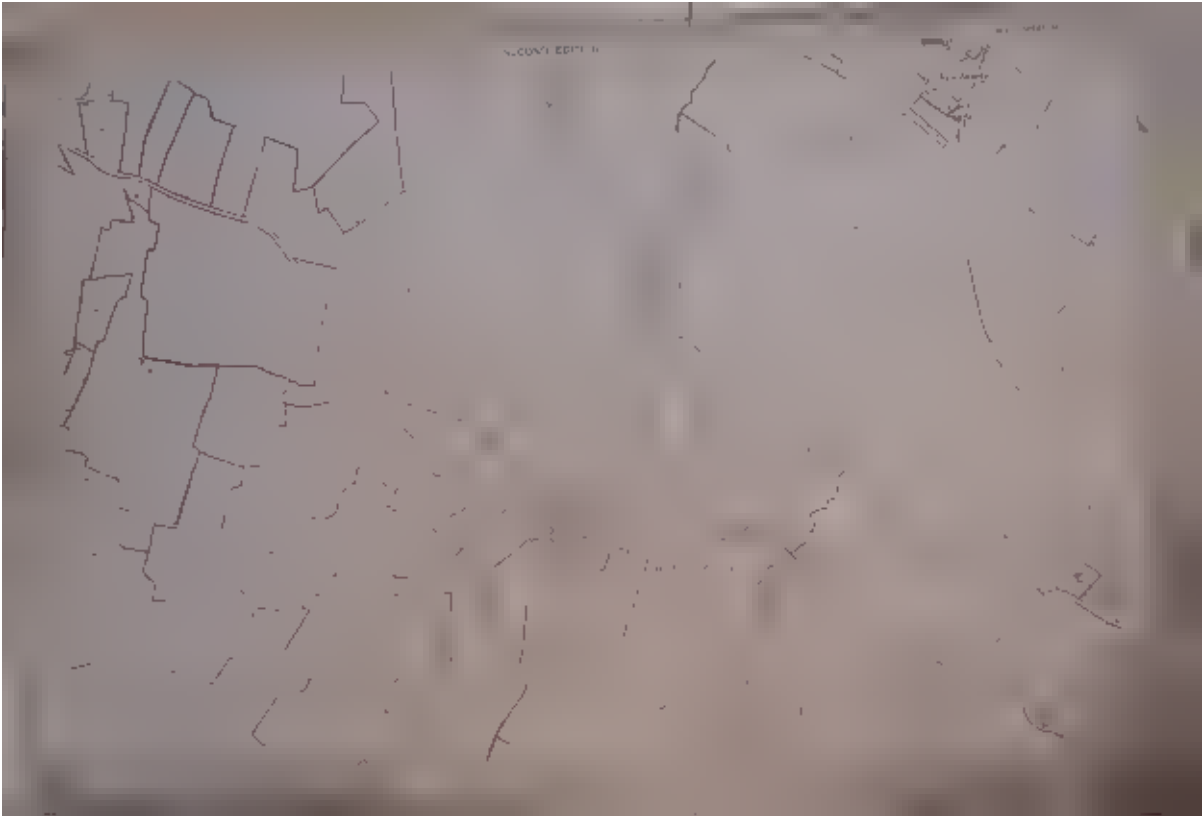
Finance Act Cumberland sheet XLVII.4



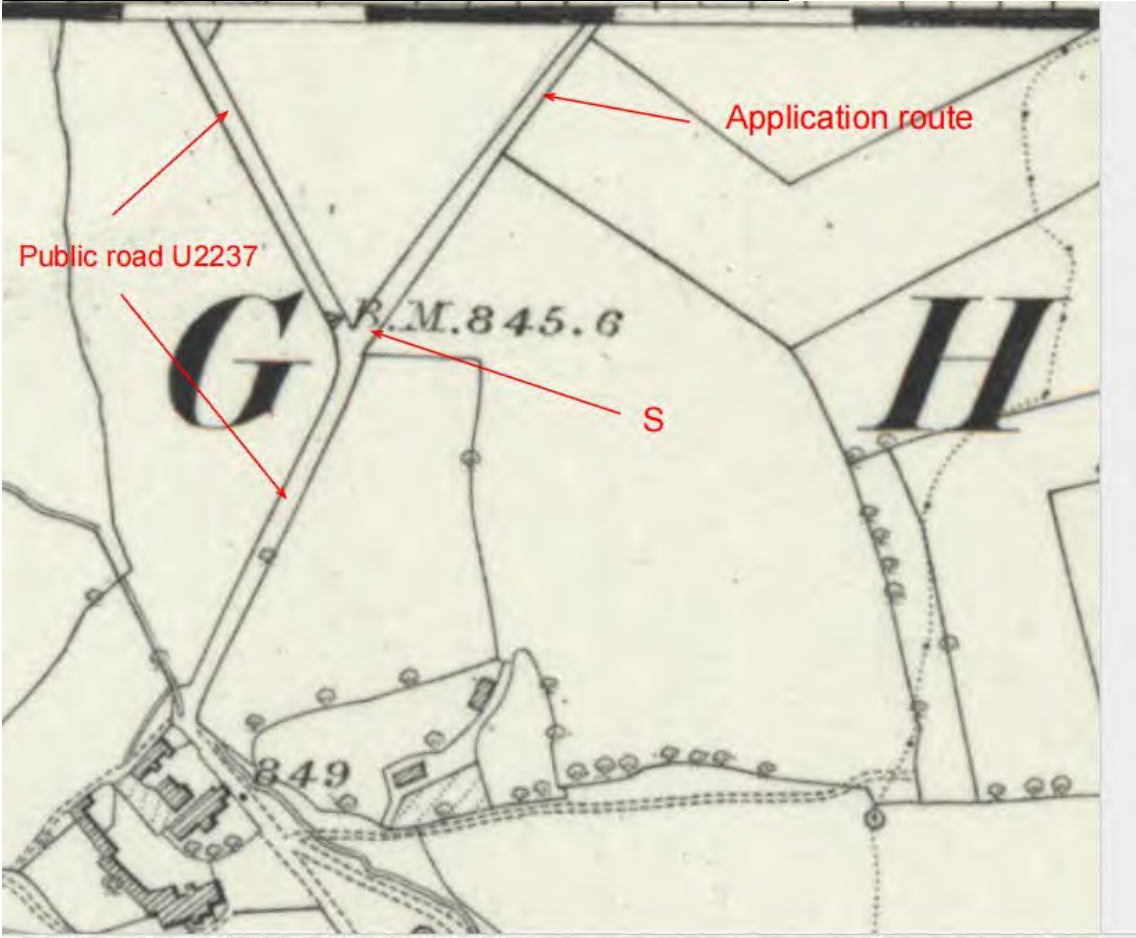
Finance Act Cumberland sheet XXXVII.16



Finance Act Cumberland sheet XXXVIII.13

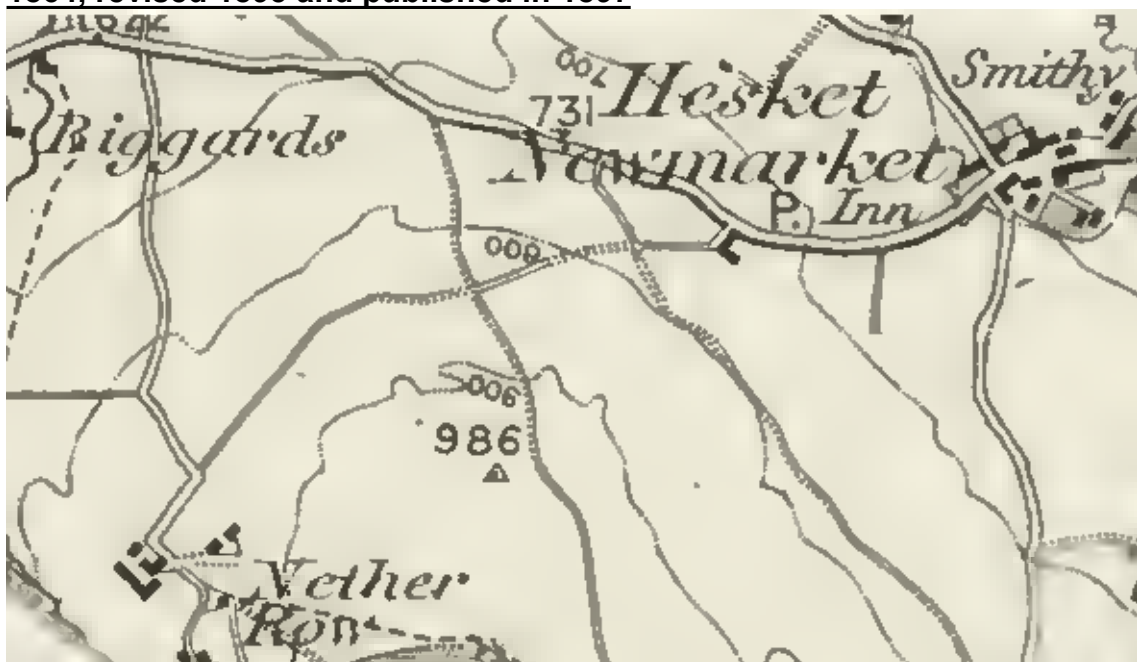


Six Inch Ordnance Survey Cumberland sheets XLVII surveyed 1863 published 1867, sheet XXXVII surveyed 1863 published 1868 and sheet XXXVIII surveyed 1861 published 1868





Ordnance Survey one inch series sheet 23 - Cockermouth was surveyed 1860-1864, revised 1895 and published in 1897



Ordnance Survey 25 inch sheet Cumberland XLVII. 4 revised 1898 published 1935.



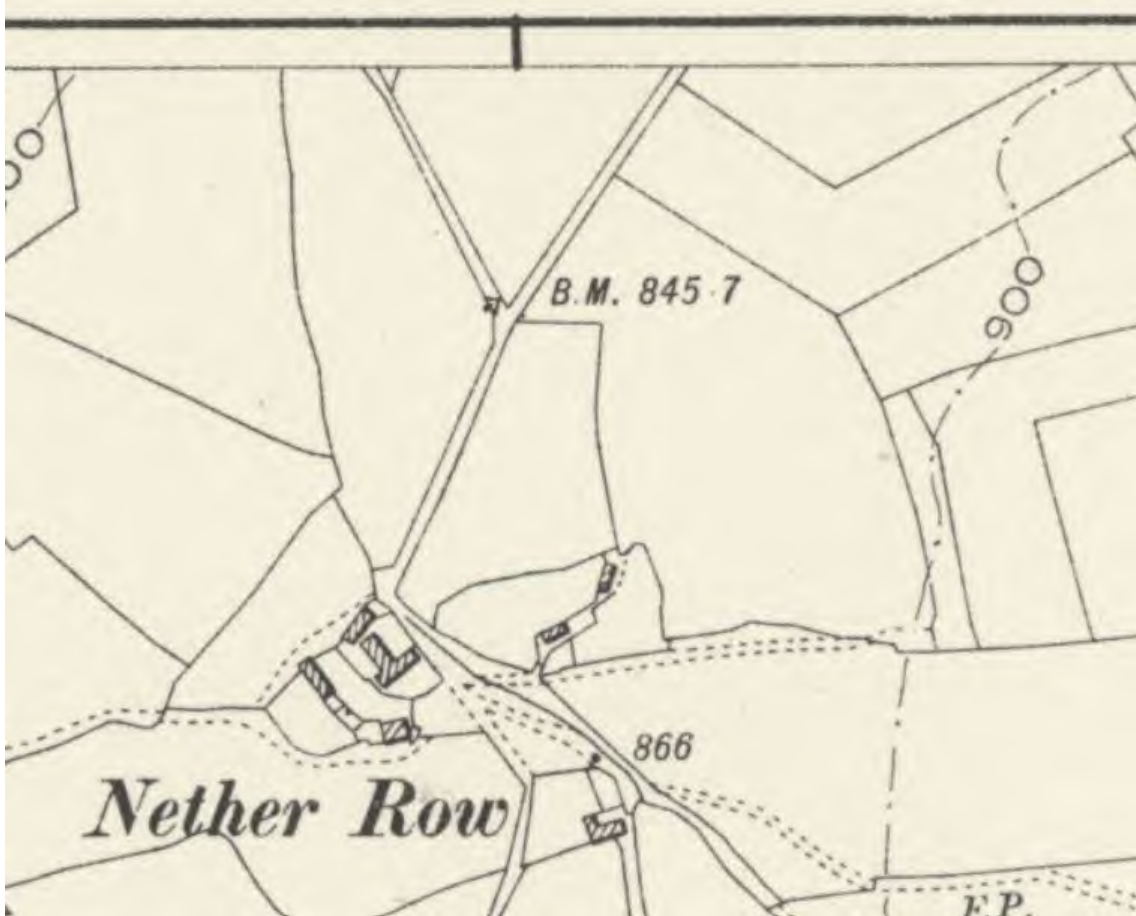
Ordnance Survey 25 inch sheet Cumberland XXXVII.16 revised 1899 published 1900



Ordnance Survey 25 inch sheet Cumberland XXXVIII.13 revised 1899 published 1900



Ordnance Survey six inch series Cumberland sheets XLVII.NE revised: 1898, published: 1900 and sheets XXXVII.SE and XXXVIII.SW both revised: 1898, published: 1901





One inch Ordnance Survey sheet 23 Cockermouth surveyed 1860-1864, revised 1903, published 1905.



Key

<i>Mettalled Roads: First Class</i>	<i>to 1/2 mile distance</i>	<i>Church or Chapel with Tower</i>	⊞
<i>Second Class</i>	<i>Altitude, 211</i>	<i>Spire</i>	⊞
<i>Third Class</i>		<i>without Tower or Spire</i>	+
<i>Unmetalled Roads</i>		<i>Windmill</i>	⊞
<i>Footpaths</i>		<i>Letter Box</i>	L.B.
<i>Railways, Single Line</i>	<i>Local Drainage</i>	<i>Contours</i>	100 120
<i>Two or more Lines</i>	<i>Cutting</i>	<i>Boundaries, County</i>	-----
<i>Mineral Lines and Tramways</i>	<i>Embankment</i>	<i>Parish</i>	-----
	<i>Bridge Over</i>	<i>As Village</i>	<i>Post Office</i>
	<i>Abutment</i>		<i>Post & Telegraph Office</i>
			P.
			T.

Rivers and Streams when exceeding 15 feet in width are shown with two lines.
For other information see Characteristic sheet.

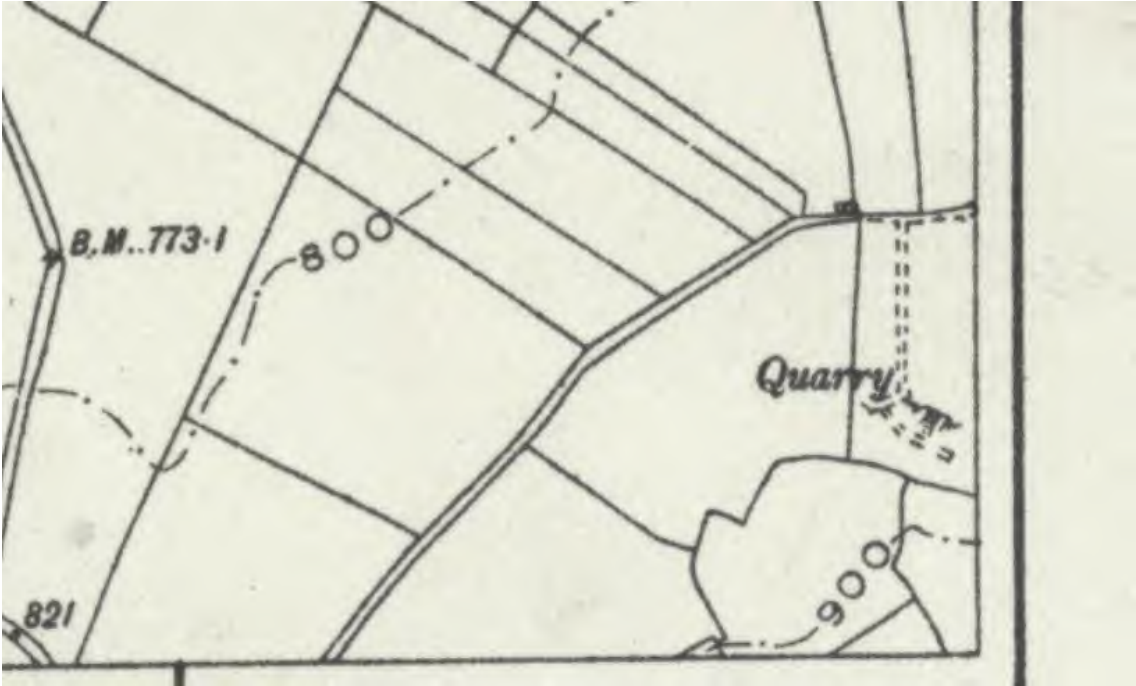
One inch Ordnance Survey sheet 9 Carlisle revised 1920 to 1921 and published 1925



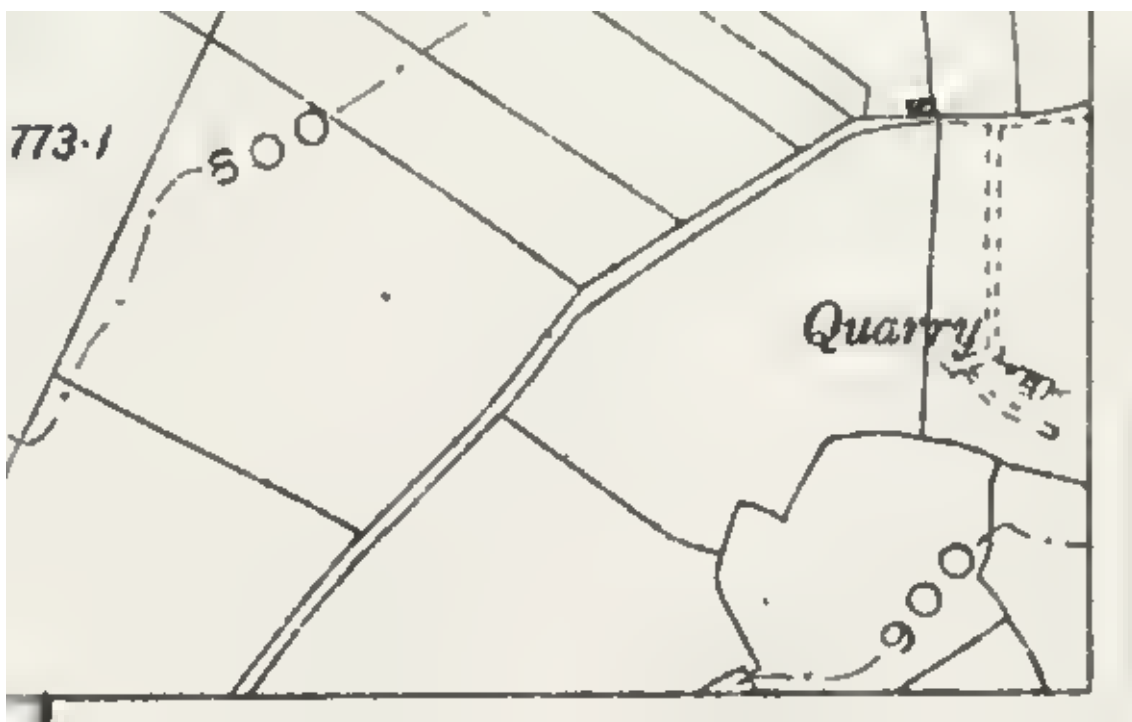
Key

Main Routes between towns	Surface - good & fit for fast traffic	Fit for ordinary traffic	Indifferent or winding road	Bad
Other Roads				
Roads under 14 wide	[Double line symbol]			
Minor Roads	[Single line symbol]			
Bridle & footpaths	[Dotted line symbol]			
Private Roads are unenclosed Unfenced Roads are shown by dotted lines				
Slopes steeper than 1/4 [Arrow symbol]				

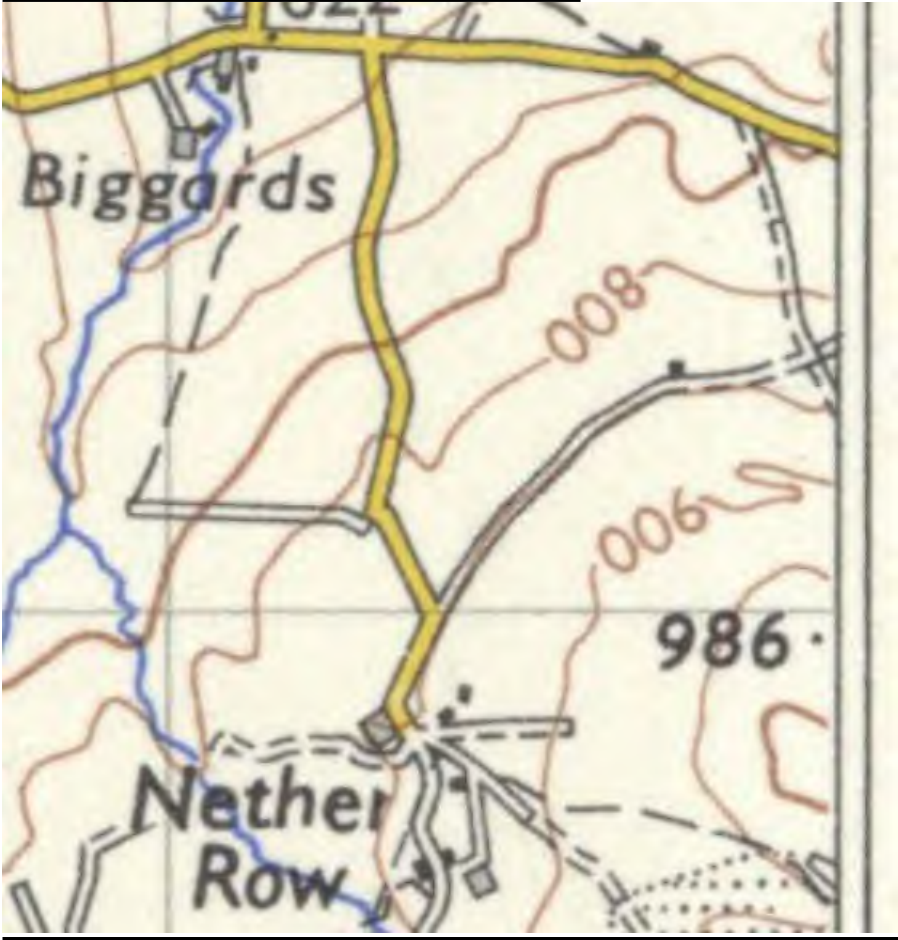
Ordnance Survey six inch series Cumberland sheets XXXVII.SE and XXXVIII.SW both revised: 1898, published: ca 1935.



**Ordnance Survey six inch Ordnance Survey Cumberland sheets
XXXVII.SE and XXXVIII.SW revised: 1899 Published ca 1945**



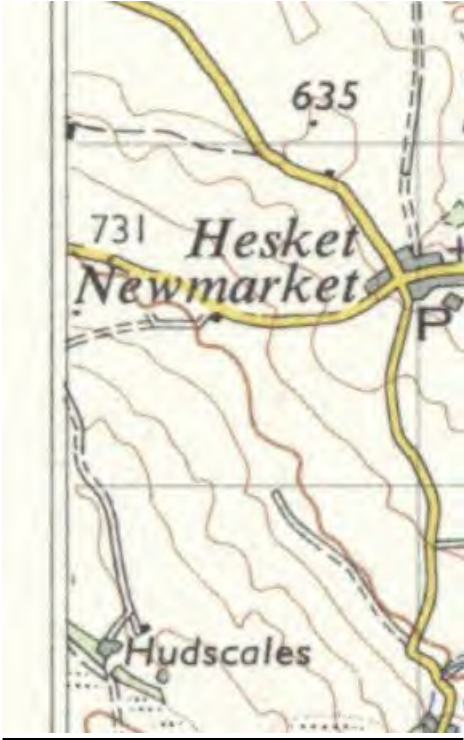
Ordnance Survey one inch 7th edition sheet 82 Keswick A edition revised 1951 to 1958 published 1954 reprinted 1958



Key

Roads	Ministry of Transport, Trunk	A 6(T)
	" " " Class 1	A 594
	" " " " 2	B 5359
	14 ft of Metalling & over (not included above)	
	Under 14ft of Metalling. Tarred " "	TOLL
" " " " Untarred " "	Gate	
Minor Roads in towns, Drives and Unmetalled Roads		
(Unfenced Roads are shown by pecked lines)		
Steep Gradients 1 in 5 or steeper		1 in 7 to under 1 in 5
Footpaths and Tracks		

Ordnance Survey one inch 7th edition sheet 83 Penrith A edition revised 1951 published 1955



Key




Roads	Ministry of Transport, Trunk	A 66 (T)
	" " " Class 1	A 592
	" " " " 2	B 5305
	14 ft of Metalling & over (not included above)	
	Under 14ft of Metalling. Tarred " "	TOLL
" " " " Untarred " "	Gate	
Minor Roads in towns, Drives and Unmetalled Roads		
(Unfenced Roads are shown by pecked lines)		
Steep Gradients 1 in 5 or steeper		1 in 7 to under 1 in 5
Footpaths and Tracks		

Ordnance Survey one inch 7th Series Lake District Tourist map - C*/* Edition revised 1962 to 1964, roads 1971, published 1966 reprinted 1972.



Key

PUBLIC RIGHTS OF WAY

	} Public paths {	Footpath
		Bridleway
	} Road used as a public path	

Public rights of way indicated by these symbols have been derived from Definitive Maps held by Ordnance Survey on 1st December 1971 as amended in part by later enactments or instruments and are shown subject to the limitations imposed by the scale of mapping.
The representation on this map of any other road, track or path is no evidence of the existence of a right of way