



Rights of Way

Rights of Way protect paths and tracks which members of the public can use to cross private land. If a member of the public strays off a right of way onto land which they have no other rights of access they may be committing a trespass against the landowner. However, it is a criminal offence to prevent the public exercising their Right of Way.

The 'Definitive Map' is produced by the council and shows all legally recorded rights of way. It provides conclusive evidence of the paths that it shows, although there may be paths that are unrecorded. An online copy is now available to view on the Northumberland County Council website here

<https://www.northumberland.gov.uk/About/Maps/Public-rights-of-way.aspx>

The phrase to remember is "once a highway, always a highway" if it can be established that a public right of way existed, then unless the rights have been deliberately and legally removed it will continue to exist. Listed below are some of the documentary evidence sources that can be used to establish public rights of way, it should be remembered that this list is not exhaustive.

Ordnance Survey Maps

1st edition 6 inch - These maps are a good starting point. Apart from the historical evidence they contain they can help identify the track in question and reflect original parish or district boundaries.

1st edition 25 inch - These include more detail than the 6 inch edition; for example, areas of highway waste - which were not normally used for passage - within a track were distinguished from the carriageway by broken lines. Fields and roads are numbered and relate to **Books of Reference** which record the acreage and description of each plot or, in the case of tracks, a description which may be simply 'road', but sometimes a 'public road' or an 'occupation road.' The description is not legally definitive, but it can be valuable evidence of the perceived status of the road at the time of the survey. There are no separate books of reference for later editions, which makes the first edition the only one to deal with the status of tracks.

Tithes Maps

These are large scale township maps with accompanying schedules, produced in the 1840s. Although concerned with identifying titheable lands they do mark roads

as untitheable and so can provide useful evidence. However, in most cases they do not distinguish between public and private roads. Footpaths are also rarely shown on tithe maps because the existence of a footpath over a field did not affect the level of tithe rent apportioned.

Finance Act 1910

Under the provisions of the Finance Act 1910 owners were able to apply for a reduction of the Increment Value Duty Tax if a public right of way existed across a particular plot of land. The map and the register may provide evidence of a right of way but not necessarily the exact route. If a reduction is indicated then this will reveal the existence of public rights of way across a piece of land. The status may not be confirmed, only that the way is public not private, although such routes are likely to be footpaths or bridleways not vehicular.

Quarter Sessions Records

If there is any indication that an order has been made to divert or stop a public right of way, then it's useful to check the Quarter Session records. Highway Orders have existed since the 18th Century and give details of any diversions or extinguishment of public paths or roads. Before 1949 these changes could only be made with authorisation from a Justice of the Peace.

Deposited Plans of Public Utilities

If a track is near a canal, turnpike road or railway then it's useful to consult the relevant plan. The track should be referred to in the schedule. Although not legally definitive this will indicate its status at the time the plan was drawn.

County Records (Records of County Council and Predecessor Authorities)

The County generates many records which can be useful when tracing rights of way, especially those that deal with the maintenance of roads. Particularly after the Highways Act of 1835 which provided that only public roads were maintainable at public expense.

Enclosure Awards

Although among the most important documents available for the research of public rights of way, enclosure awards do not exist for every parish and where they do, they do not normally cover the whole parish. It was not their primary purpose but the Enclosure Commissioners were authorised to extinguish or divert existing highways and set out new highways of any category (footpath, bridleway or road). Difficulties can arise because in some cases because although proposals for new roads may have been authorised, they might never have been actually carried out. Therefore it might be necessary to have other supporting evidence.

Other Records

- Take Over or Hand Over maps of highways made under the provisions of the Local Government Act 1929
- Deeds – Conveyances of property may record rights of way
- Sale catalogues – They may contain references to land being subject to rights of way.
- Newspapers – they may record disputes about rights of way, or carry notice about stopping up and diversion orders.
- Estate papers and correspondence – they may mention the use of rights of way by estate workers or others.

Northumberland Archives is committed to providing a quality service to all its users and therefore this information is also available in Large Print and via the Internet. The Internet address is

www.northumberlandarchives.com

© Northumberland Archives, 2018

Reviewed October 2018

Follow Us



historyp'n