

Ordnance Survey 1:2,500 plan, sheet 37.12, first edition, surveyed 1885, published 1887

GLEAM Appendix 1



## Ordnance Survey Maps - 25 inch 1st edition, Scotland, 1855-1882

### Introduction

### Map content, printing and colouring

#### In this section

- [Background, coverage, and sheet numbering.\[info1.html\]](#)
- Map content, printing and colouring

### Detailed map content

The Ordnance Survey 25 inch maps are a standard topographic authority, depicting practically all human and natural features in the landscape with great accuracy. As for the six inch maps, every road, railway, field, fence, wall, stream and building is shown. There are over 10 different symbols for types of woodland, and uncultivated ground is distinguished into marsh, bog and rough grassland.

The 25 inch scale is four times larger than the six inch, and shows more features in a clearer way:

- Greater detail for all buildings, including divisions between contiguous houses, and even smaller features such as projecting bay windows and steps
- Pavements, garden paths and positions of free standing trees
- Railway tracks and stations in plan form, with many smaller features, such as signal boxes
- Industrial premises, quarries, lime kilns
- Docks, harbours, and quaysides
- All public boundaries, including civil parishes, municipal wards, as well as burgh and county boundaries.



Town detail from Alva,  
Clackmannanshire.

### Acreages and Books of Reference

The 25 inch maps record acreages of all land parcels. Land parcels were numbered consecutively within each parish, and acreages of fields were recorded in separate Parish Area Books or [Books of Reference](#). [ [books-of-reference/](#) ]. For all of Scotland, apart from Orkney and Shetland, these Books of

Reference include land use information. On the map 1.0018 square inches on the map equals one acre on the ground.

- Browse [list of Books of Reference \[books-of-reference/\]](#) by county and parish
- [View Books of Reference \[https://digital.nls.uk/97363649\]](#) by volume (with parishes ordered alphabetically)

No. of Sheet.	No. on Plan.	Area in Acres.	Description.
XIX. 1.	1	49.086	Hellmuir Loch (part of).
XIX. 2.	2	772.455	Mountain grass land, &c.
XIX. 5.	3	.170	Pasture.
"	4	.067	Pasture, &c.
"	5	.508	Arable.
"	6	.309	Pasture.
XIX.	7	1076.427	Mountain grass land, streams, &c.
XIX. 6.	8	13.830	Rough pasture, stream, &c.
"	9	2.515	Arable.
"	10	3.110	Arable.
"	11	.237	Arable.
"	12	.323	Arable.
"	13	.605	Houses, garden, yard, &c.

Detail from a Book of Reference.

## Printing

Unlike the six inch and one inch maps that were engraved on copper plates, the 25 inch maps were produced by zincography.

Zincography was significantly cheaper, corrections were easier to make, and it was suited to the bold lines and large fonts of the 25 inch scale. The process involved drafting a manuscript plan with litho transfer ink on tracing paper, and the impression transferred to a prepared zinc plate. The zinc plate was then etched with nut galls and phosphoric acid, cleaned, and litho printing ink applied for printing impressions using a hand press.

Lithographic stones had been used at Ordnance Survey from the 1840s, but zinc plates increasingly replaced them from the 1850s. Zinc plates had the advantages of being lighter, and impressions from other copper or zinc plates could be easily copied onto them through electrotyping.

From the 1880s, photo-zincography allowed the automatic reduction of 25 inch maps to the six inch scale through photographic methods, allowing further economies in map production. For this reason, the 25 inch maps developed a bold style and large lettering suitable for reduction to a quarter of the size.

## Colouring

Not all sheets were coloured. Those that were coloured used:

- Blue for water features
- Burnt sienna for roads
- Carmine for buildings made of brick or stone
- Grey for buildings made of wood or iron.

The colour was applied by hand, initially by boys paid on a piece work basis, and later by women.

- [View the colours and symbols on the maps \[../townplans/symbols.html\]](#) and their meaning



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17<sup>th</sup> May 1911

No.	Account	Particulars	£	s	d
		Brought forward			
20	Ludley Water	Washbourne salary	7	10	16
	"	Commission		6	
	"	Commission	13	6	
	"	Packages	1	6	3
21	"	Alcester Chronicle	7	6	22
	"	Laud and others		2	9
	Stationery		4	0	2
22	Great Alne Bridge	Kings Broom	4	7	8
23	"	"		2	9
				2	5
			4	5	3
			10		

Recommended That cheques for the above accounts be now drawn, and that the Treasurers be credited in the ledger and the said several accounts debited accordingly.

Footpaths

The committee have received from Mr Gauder the following statement of the footpaths repaired by him during his term of office as Highway Surveyor viz:-

Footpaths repairable by the District Council in different parishes:-

Alcester. The Croft, Shalford Road. Birch Abbey, Wesham St to field. Wesham St to Legs Lane. Bulls Head Yard & Moor fields to the Priory. Priory to Whitehall. Birch Abbey to Bleachfield Street.

Arnos. Church path - Rock Hill to Church. Side of Ragley Path to Meekley.

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17<sup>th</sup> May 1911

Alcester. Mill & Mrs Churchyard. Also part of Bridle Road, to Newnham.

Great Alne. Buff cap to Great Alne Lodge except piece outside Churchyard & W. Spencers yard. Path from Road to Church.

Bidford to Kings Broom and a short piece from W. Hughes field to Broom (Bridge St) of Bidford to Marlcliff except piece across green field Bidford to Barton.

Coughton. Church path & part across to Bidford for Sambourne. Part of footpath Middleton to Spewalish & to footpath repairable.

Spernal. " "

Exhall. " "

Oversley. " "

Kasebor. Church path, Malcott's Village (Mrs Churchyard) to footpath repairable except short piece along by Mill stream.

Ipsley. Back Road from Hough's shop to Reddick Road (piece across Newlands new Road to Crooks Lane and across fields Crooks Lane to Bromsgrove Road have been repaired by the Parish) Summers Lane some of ashes were put on after the sewer was laid and where it was sunk it was afterwards filled up by order of the Council.

Shredley. Church path to Rectory. Part of Roman Road to the Church. No footpath repairable.

Morton Bogot. Church path to Rectory.

Mixford. Part of Roman Road to the Church.

Salford. No footpath repairable.

Oldberrow. " "



159

17 May 1911Footpaths.

The foregoing are the only footpaths I have had to repair and in 1896 I took over all the footpaths that had been previously repaired.

The Committee have also considered the letters from the Bidford Parish Council as to the repair of various footpaths in that parish and recommend that the Surveyor be instructed to do the necessary repairs to the footpaths at Bidford which are repairable by the Council, in accordance with W. Sanders report.

Great Alne Bridge.

The Committee have considered a letter from the Engineer for Great Alne Bridge enclosing certificate for the payment to the Contractor of £29.4.0 and also suggesting that the retention money (£50) should be also paid.

Recommended That £25 be paid to the Contractor on account of the retention money in addition to the £29.4.0 in accordance with the certificate and that the question of further payment be considered at the next meeting.

Pitch & Creosote.

The Committee have considered the adjourned tenders for pitch and creosote oil and

Recommend That the tender of Robinson Bros Ltd for the supply of creosote oil

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17 May 1911.

at 3<sup>d</sup> per gallon + pitch @ 4/6 per ton be accepted.

The Committee have considered a letter addressed to the Chairman by Mr J. Smith with reference to the account against him for extension of water mains and sewer at Shidley and

Recommend That the Clerk inform him the account must be paid in full.

The Committee have received the following report from the Highway Surveyor viz:-

I wish to report that since your last meeting I have made up the road at Milford. I have yet to make up the back of the road in places with soil, and for the road about 3 yards wide in the centre

I hope to complete this week the making of the old road to meet the new approaches at Great Alne Bridge and ask for instructions as to fencing.

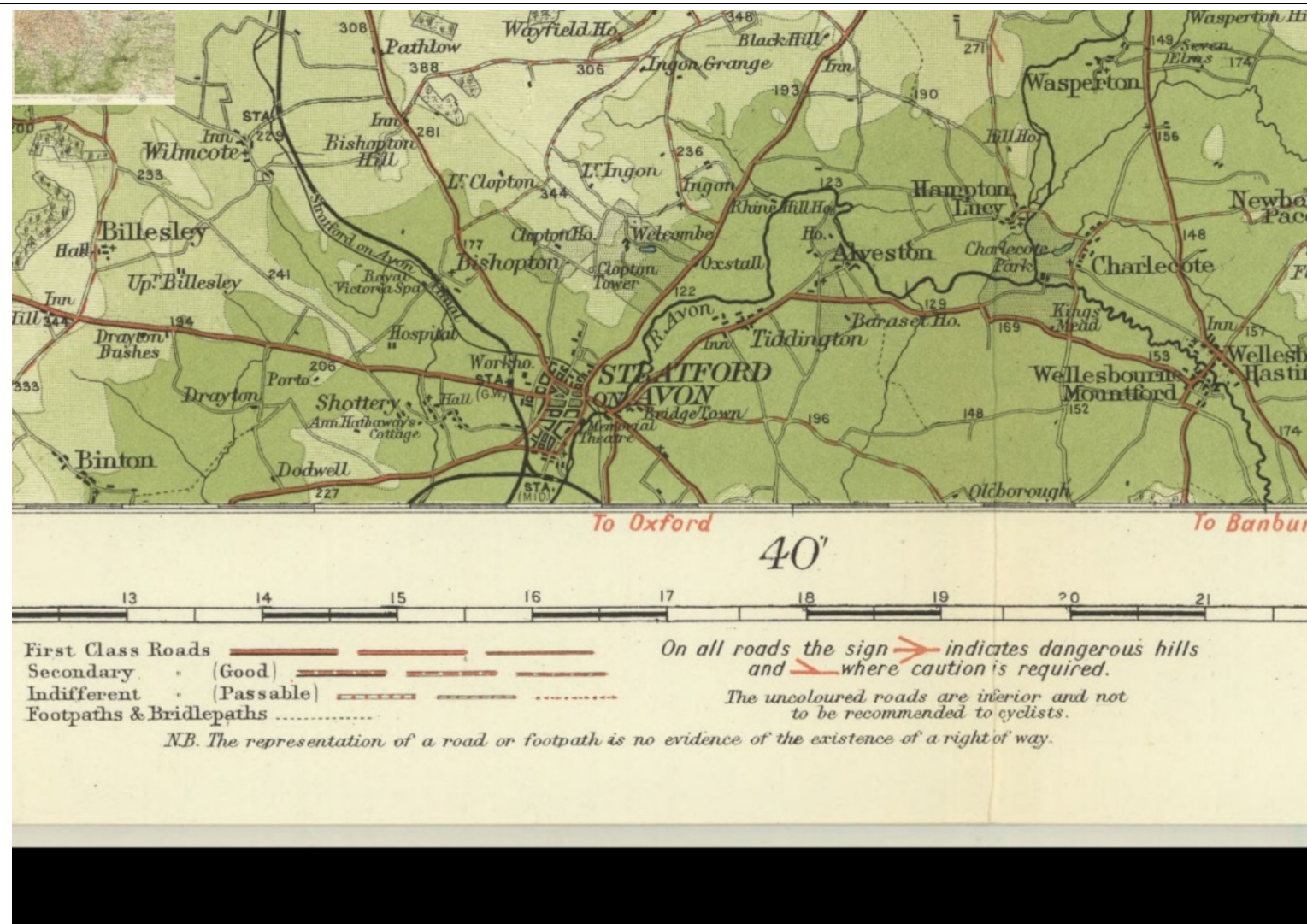
Recommended That this matter be adjourned until the next meeting.

I have finished with the skane roll and sent it home on Monday evening.

I have obtained a price from the



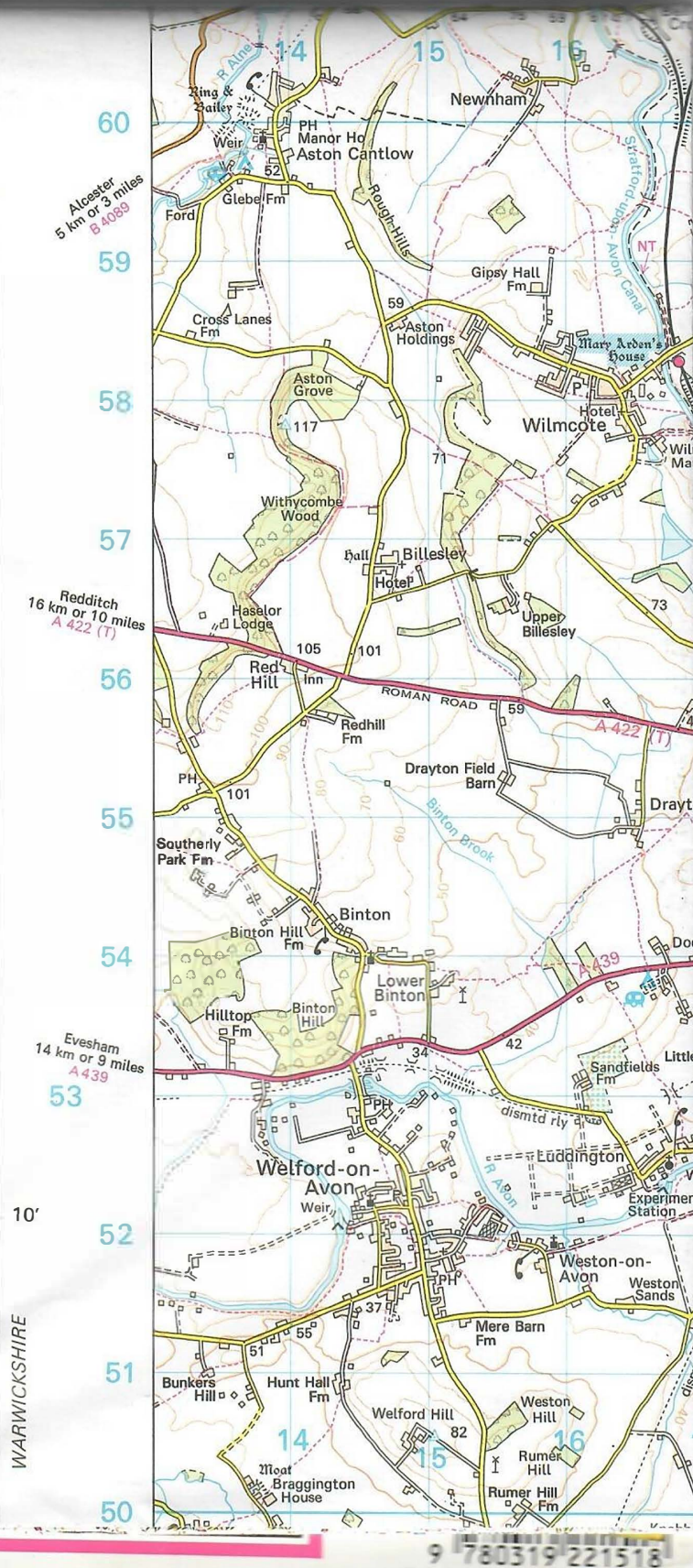
Key to Bartholomew map sheet 18, published 1903 (Mr Hobson's Appendix 4)



Extract from key to  
Bartholomew map  
sheet 18, published  
1920 (Mr Hobson's  
Appendix 5)









# Ordnance Survey

## Stratford-upon-Avon

Sheet 151

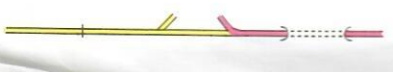
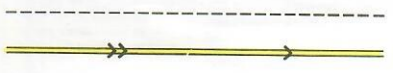
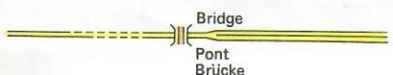
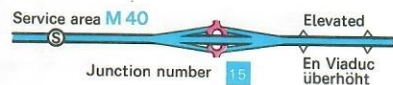


1:50 000 Landranger Series

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### ROADS AND PATHS

Not necessarily rights of way



Motorway (dual carriageway)  
Autoroute (chaussées séparées) avec aire de service et échangeur avec numero de l'échangeur  
Autobahn (zweibahnig) mit Versorgungs- und Anschlussstelle sowie Nummer der Anschlussstelle

Motorway under construction  
Autoroute en construction  
Autobahn im Bau

Trunk road  
Route de grande circulation  
Fernverkehrsstrasse

Main road  
Route principale  
Hauptstrasse

Main road under construction  
Route principale en construction  
Hauptstrasse im Bau

Secondary road  
Route secondaire  
Nebenstrasse

Narrow road with passing places  
Route étroite avec voies de dépassement  
Enge Strasse mit Ausweich-Überholstellen

Road generally more than 4 m wide  
Route généralement de plus de 4 m de largeur  
Strasse, Minimalbreite im allg. 4 m

Road generally less than 4 m wide  
Route généralement de moins de 4 m de largeur  
Strasse, Maximalbreite im allg. 4 m

Other road, drive or track  
Autre route, allée ou sentier  
Sonstige Strasse, Zufahrt oder Feldweg

Gradient: 1 in 5 and steeper 1 in 7 to 1 in 5  
Pente: 20% et plus de 14% à 20%  
Steigungen: 20% und mehr 14% bis 20%

Gates  
Barrières  
Schrannen

Ferry (passenger)  
Bac pour piétons  
Personenfähre

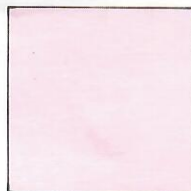
Ferry (vehicle)  
Bac pour véhicules  
Autofähre

### VOIES DE COMMUNICATIONS VERKEHRSNETZ

### PUBLIC RIGHTS OF WAY (Not applicable to Scotland)

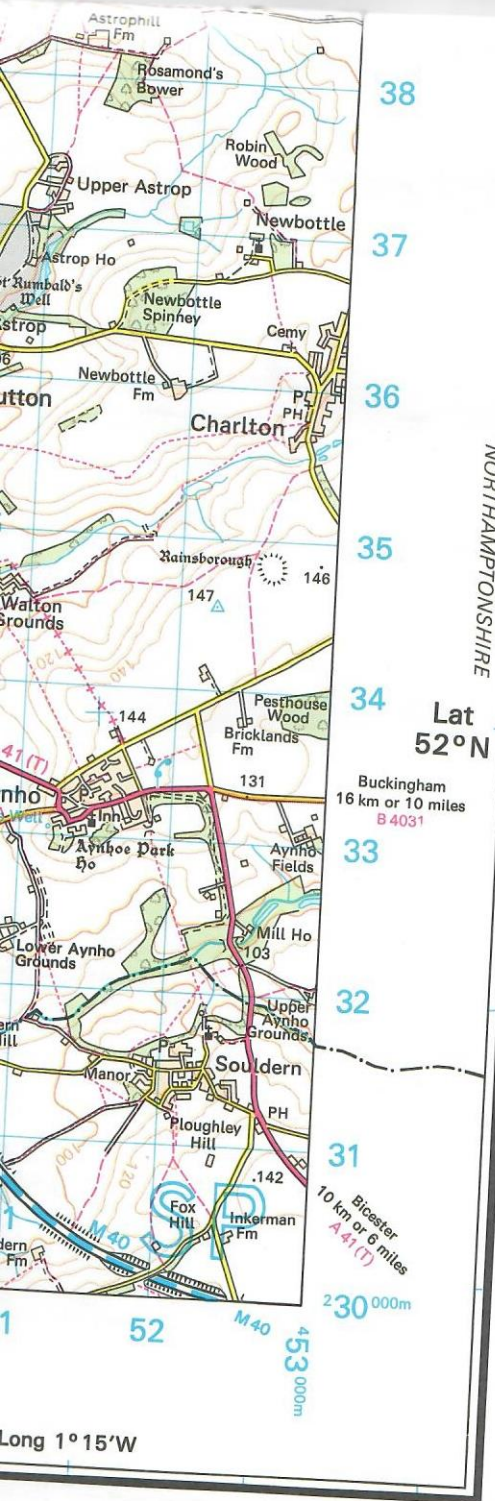
- Footpath
- Bridleway
- Road used as a public path
- Byway open to all traffic

### DROIT DE PASSAGE PUBLIC ÖFFENTLICHE WEGE



Extent of available information

Public rights of way indicated by these symbols have been derived from Definitive Maps as amended by later enactments or instruments held by Ordnance Survey on 1st May 1989 and are shown subject to the limitations imposed by the scale of mapping. Later information may be obtained from the appropriate County or London Borough Council. The representation on this map of any other road, track or path is no evidence of the existence of a right of way.



3 AND THEN QUOTE NORTHINGS  
Locate first HORIZONTAL grid line BELOW point and read LARGE figures labelling the line either in the left or right margin or on the line itself.  
Estimate tenths from grid line to point.

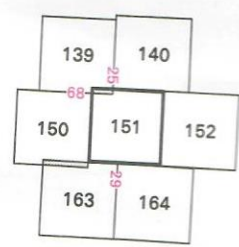
IGNORE the SMALLER figures of any grid number; these are for finding the full coordinates. Use ONLY the LARGER figure of the grid number.

EXAMPLE: 413 000m

SAMPLE REFERENCE

For local referencing grid letters may be omitted.

**INCIDENCE OF ADJOINING SHEETS**  
The red figures give the grid values of the adjoining sheet edges



**NORTH POINTS**

Difference of true north from grid north at sheet corners

N W corner	N E corner	S W corner	S E corner
0° 09' (3 mils) W	0° 37' (11 mils) W	0° 09' (3 mils) W	0° 36' (11 mils) W

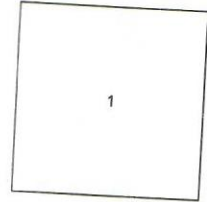
Magnetic north varies with place and time. The direction for the centre of the sheet was about 5½° (98 mils) W of grid north in 1991 decreasing by about ½° (9 mils) in the next three years. To plot the average direction of magnetic north join the point circled on the south edge of the sheet to the point on the protractor scale on the north edge at the angle estimated for the current year

**COMPILATION AND REVISION**

Base map constructed on Transverse Mercator Projection, Airy Spheroid, OSGB (1936) Datum  
Vertical datum mean sea level (Newlyn)  
Revised 1988  
Major roads revised 1989

**Derivation of contours**

- 1 From contours surveyed at 1:10 000 scale and 10m vertical interval
- 2 By interpolation from contours surveyed at 1:10 560 scale and 25ft vertical interval



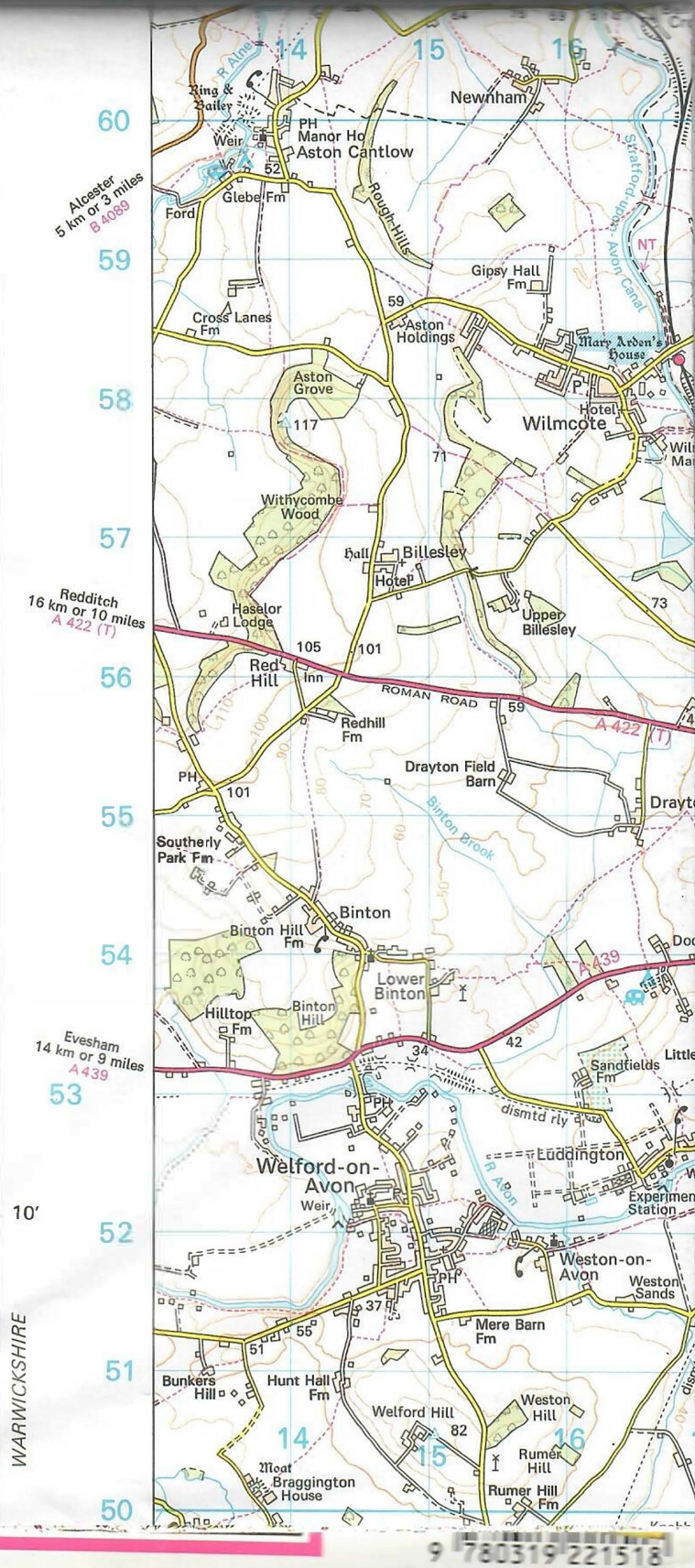
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B Made and published by the Ordnance Survey, Southampton

**1:50 000 Second Series Sheet 151**

Series M 726  
Sheet 151  
Edition 4-GSGS  
4/90/900297 S





# Ordnance Survey

## Stratford-upon-Avon

Sheet 151

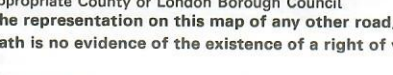
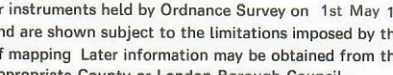
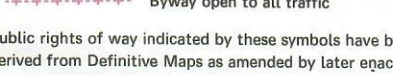
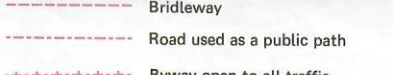
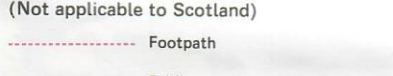
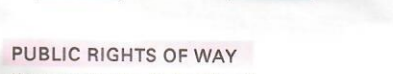
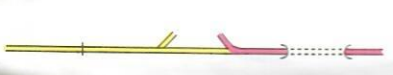
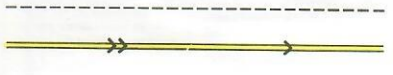
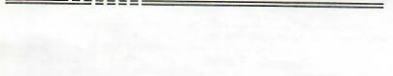
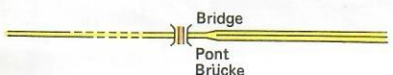
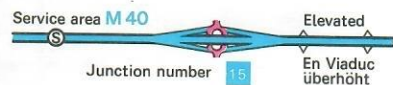


1:50 000 Landranger Series

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### ROADS AND PATHS

Not necessarily rights of way



### VOIES DE COMMUNICATIONS VERKEHRSNETZ

Motorway (dual carriageway)  
Autoroute (chaussées séparées) avec aire de service  
et échangeur avec numéro de l'échangeur  
Autobahn (zweibahnig) mit Versorgungs- und  
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Motorway under construction  
Autoroute en construction  
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Trunk road  
Route de grande circulation  
Fernverkehrsstrasse

Main road  
Route principale  
Hauptstrasse

Main road under construction  
Route principale en construction  
Hauptstrasse im Bau

Secondary road  
Route secondaire  
Nebenstrasse

Narrow road with passing places  
Route étroite avec voies de dépassement  
Enge Strasse mit Ausweich-Überholstellen

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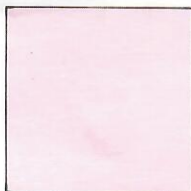
Gates Road tunnel  
Barrières Tunnel routier  
Schrannen Strassentunnel

Ferry (passenger) Ferry (vehicle)  
Bac pour piétons Bac pour véhicules  
Personenfähre Autofähre

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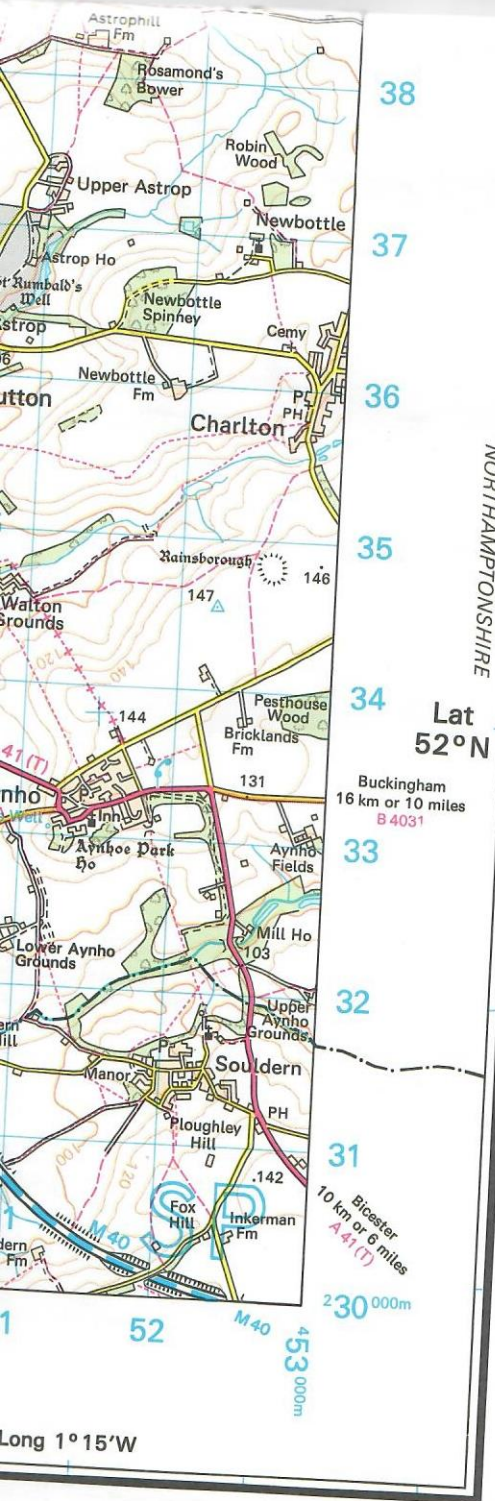
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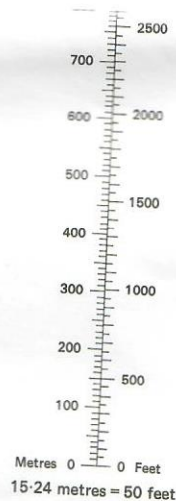
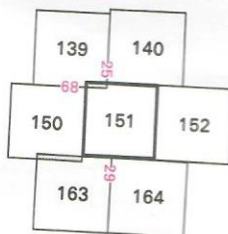
EXAMPLE: **413** 000m

SAMPLE	REFERENCE
44	44
44	44

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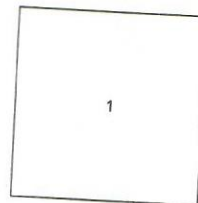


#### COMPILATION AND REVISION

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Vertical datum mean sea level (Newlyn)  
Revised 1988  
Major roads revised 1989

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B

Made and published by the Ordnance Survey, Southampton

## 1:50 000 Second Series Sheet 151

Series M 726  
Sheet 151  
Edition 4-GSGS  
4/90/900297 S

# THE OXFORD ENGLISH DICTIONARY

BEING A CORRECTED RE-ISSUE  
WITH AN  
INTRODUCTION, SUPPLEMENT, AND BIBLIOGRAPHY  
OF  
A NEW  
ENGLISH DICTIONARY  
ON HISTORICAL PRINCIPLES

FOUNDED MAINLY ON THE MATERIALS COLLECTED BY  
The Philological Society

VOLUME II  
C

OXFORD  
AT THE CLARENDON PRESS

*Clap*, a Distemper to which Horses are sometimes liable.  
15. *Comb.* (In some of these, *clap* is the stem of the verb.) † *Clap-bait*, a kind of worm used as bait in angling; *clap-bill* (see 13); *clap-cake* = *CLAP-BREAD*; *clap-door*, *clap-gate*, a small door or gate which shuts when slammed, or which swings to of itself; see also quot. 1888; *clap-man*, a public crier; † *clap-mill*, a clapper turned by the wind, etc. for scaring away birds; † *clap-shoulder*, *a. (nonce-wd.)*, that lays the hand on a person's shoulder (in arrest); *clap-sill* (*Hydraulic Engineering*), the sill or lowest part of the frame against which a lock-gate shuts; *clap-stick*, a watchman's clapper. Also *CLAP-BOARD*, *-BREAD*, *-DISH*, *-NET*, *-TRAP*.

## CLAP.

1681 CHETHAM *Angler's Vade-m.* iv. § 10 (1689) 39 The other bob, found under a Cow-turd .. is also called \*clap-bait in some places. 1799 G. SMITH *Laboratory* II. 253 Cow-dung bob, or clap-bait. 1625 K. LONG tr. *Barclay's Argenis* l. v. 12 A secret way .. which divided into three wayes, hath as many \*clap-doores opening into several fields. 1847-78 HALLIWELL, \**Clap-gate*, a small horse-gate. *East.* 1888 ELWORTHY *West Somerset Word-bk.*, *Clap-gate*, a kind of wicket, called in many parts a kissing-gate. Also a small hunting gate just wide enough for a horse to pass. 1613 MARKHAM *Eng. Husbandman* l. ii. ix. (1635) 159 On the toppes of those poales you shall place certaine \*Clapp-milles, made of broken trenchers joyned together like sayles. 1620 — *Farew. Husb.* ii. xvii. (1668) 75 *Clap-mils.* .. which make a great noise. 1630 J. TAYLOR (Water P.) *Wks.* (N.), \**Clap-shoulder* serjeants. .. bringing men in thrall. 1834-39 SOUTHEY *Doctor* l. (D.), He was Not disturbed .. by the watchmen's rappers or \*clap-sticks.

**Clap** (klæp), *sb.*<sup>2</sup> *Obs.* in polite use. [Of un-





# Order Decisions

Inquiry held on 28 April 2009

**by Barney Grimshaw BA DPA**  
MRTPI (Rtd)

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**02 June 2009**

## Order Ref: FPS/U1050/7/40M referred to as Order A

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Derbyshire County Council (Bridleway along Silly Dale – Parishes of Great Hucklow and Grindlow) Modification Order 2006. It was sealed on 30 November 2006.
- The Order proposes to add to the Definitive Map and Statement a bridleway running from the Foolow to Great Hucklow Road southwards to join another bridleway as detailed on the Order Map and Schedule.
- In accordance with Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 I have given notice of my proposal to confirm the Order with modifications to alter the status of the route from bridleway to Byway Open to All Traffic (BOAT) and to describe the width of the route more precisely.

## Order Ref: FPS/U1050/7/44M referred to as Order B

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Derbyshire County Council (Bridleway from Trot Lane, including Upgrading of Footpath No 15 – Parish of Great Hucklow to Foolow Road – Parish of Grindlow) Modification Order 2007. It was sealed on 7 June 2007.
- The Order proposes to add to the Definitive Map and Statement a bridleway running from Trot Lane, Great Hucklow to Foolow Road, Grindlow as detailed on the Order Map and Schedule.
- In accordance with Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 I have given notice of my proposal to confirm the Orders with modifications to delete part of the route, alter the status of the rest from bridleway to part BOAT and part Restricted Byway and to describe the width of the route more precisely.

**Summary of Decisions: Both Orders are confirmed subject to modifications that do not require advertising.**

## Preliminary Matters

1. I held a public inquiry into these Orders on Tuesday 24 and Wednesday 25 June 2008 at the United Reform Church Hall, Tideswell. I made an unaccompanied site inspection on Monday 23 June and a further inspection on 25 June when I was accompanied by parties who appeared at the inquiry.

2. Following advertisement of the notice and deposit of the associated documents relating to the proposed modifications, 7 objections were received within the statutory period specified. I therefore held a second inquiry on Tuesday 28 April 2009 at the United Reform Church Hall, Tideswell. I made a further unaccompanied site inspection on Monday 27 April. At the second inquiry the parties agreed that a further accompanied inspection was not necessary.
3. For convenience in writing this decision I have referred to a plan based on the Order B Map but showing both routes with various points on each marked; a copy of this plan is attached as Appendix 1.
4. The effect of these Orders, if confirmed with the modifications I proposed in paragraph 65 of my interim decision dated 28 August 2008 would be to add to the Definitive Map for the area a BOAT running along Silly Dale southwards from the Foolow Road (Point A on the attached map) to a junction with another route (Point B) and another Byway running from Stanley House Farm (Point X) to Foolow Road (Point D). This second Byway would be part BOAT (Point X to Point B) and part Restricted Byway (Point B to Point D).

### **The Main Issues**

5. With regard to the modifications proposed in my interim decision dated 28 August 2008, the main issues that now require consideration are:
  - i) whether the modifications proposed were justified, and;
  - ii) whether there is any new evidence that has a bearing on the proposed modifications to the Order as submitted.
6. Much of the evidence in this case, including the new evidence now submitted, relates to usage of the routes. In respect of this, the requirements of Section 31 of the Highways Act 1980 (the 1980 Act) are relevant. This states that where it can be shown that a way over land, other than a way that could not give rise to such a presumption at common law, has been enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The period of 20 years is to be calculated retrospectively from the date when the right of the public to use the way was brought into question.
7. As I proposed that most of the Order routes ought to be recorded as Byways Open to All Traffic (BOATs) or Restricted Byways, it is also necessary to have regard to the provisions of Section 67 of the Natural Environment and Rural Communities Act 2006 (the 2006 Act) which extinguished rights of way for mechanically propelled vehicles (MPVs) subject to certain exceptions.

### **Reasons**

8. The objections made to my proposed modifications can be categorised as follows:
  - i) There is insufficient evidence of vehicular use of the routes before the early 1990s to raise the presumption that they have been dedicated as public vehicular routes;



- ii) Use of the routes by vehicles has caused public nuisance and should not therefore be considered as lawful use for the purposes of either the provisions of the 1980 Act or the 2006 Act;
- iii) The "List of Streets" maintained by Derbyshire County Council is not in the form required by the 1980 Act and the inclusion of parts of the routes in it does not therefore justify the prevention of rights for MPVs from being extinguished under the provisions of the 2006 Act;
- iv) The main use of the westernmost (tarmac) section of the Order B route (Point A2 to X) is by walkers and horse riders not vehicles and it could therefore be recorded as a BOAT;
- v) With regard to the eastern section of the Order B route (Points B to D, "the Foolow Arm"), too little weight was given to the testimony of people who gave evidence at the first inquiry of their use of this section with vehicles or completed User Evidence Forms (UEFs). As a result it was wrongly concluded that MPV rights had been extinguished by the 2006 Act. This section should therefore be reclassified as a BOAT.

I deal with each of these categories of objection separately below.

### ***Evidence of Vehicular Use***

9. In my interim decision, I took the relevant period required before dedication of public rights along the routes could be presumed under the 1980 Act to be 1983 to 2003; 2003 being the date when applications for the routes to be recorded as BOATs were made. No further evidence has been submitted to suggest that this period was not the appropriate one.
10. I have therefore reviewed the evidence of vehicular use of the routes during this period. Having done this, I find that after discounting any UEFs that were incomplete with regard to the period of use claimed or could otherwise be regarded as unreliable, e.g. as a result of being unsigned, a minimum of 20 people still claim to have used the Silly Dale (Order A) route with vehicles in any individual year throughout the 20 year period and a minimum of 15 people the whole length of the Order B route.
11. The evidence of both those claiming to have used the routes with vehicles and others suggests that vehicular use has increased significantly since the early 1990s. It is also the case that the frequency of vehicular use claimed is not high with most people having used the routes monthly or less. Nevertheless, the number of people providing evidence is in my view sufficient to indicate use of both Order routes by the public with vehicles throughout the relevant period.
12. As I reported in my interim decision, ownership of the routes is not clear and there is little evidence of actions having been taken by possible landowners to indicate a lack of intention to dedicate the routes for public vehicular use. It was alleged that a number of large boulders had been placed on the routes to prevent vehicular use and, although further evidence indicated that these may have been placed by a named owner of adjacent land, it was not suggested that this person claimed to own any part of the Order routes.
13. I therefore still conclude, as I did in my interim decision, that public rights to use both Order routes with vehicles can be presumed to have been dedicated

as a result of the amount of public use during the period 1983 to 2003 so long as such use met the other criteria set out in Section 31 of the 1980 Act.

### ***Public Nuisance***

14. Notwithstanding the above, it has since 1930<sup>1</sup> been illegal to use a motor vehicle without lawful authority on footpaths, bridleways or elsewhere other than on roads. It was decided in the *Bakewell*<sup>2</sup> case that such lawful authority could be given by a landowner and could therefore also be presumed in some circumstances so long as use by vehicles did not result in public nuisance to other legitimate users of the route.
15. I concluded in my interim decision that documentary evidence indicated that the Order routes had probably been public bridleways since the Great Hucklow Enclosure Award of 1815. It would therefore follow that walkers and horse riders were already legitimate users of the Order routes in 1983 at the beginning of the 20 year period during which it is claimed that public vehicle rights can be presumed to have been acquired. It is argued by a number of objectors that lawful authority for vehicular use cannot subsequently be presumed to have been given because such use caused nuisance to other users and to owners of adjoining land.
16. The Order routes vary in width but between Points A and B and B and D they are relatively narrow for the most part and are bounded on both sides by stone walls; the available width being as little as 2 metres in some places. The routes are also uneven and contain some sharp bends. This means that they are not easily negotiated by four-wheeled vehicles. However, such vehicles are reported to use them, despite alleged efforts by adjoining landowners to prevent such use by placing large boulders on the routes. As there are several areas on the routes where it would be difficult or impossible for a horse rider or even a pedestrian to pass a four-wheeled vehicle, use by such vehicles must have the potential to cause nuisance to other users.
17. The routes are also used by adjoining landowners to gain access to their land and sometimes this involves driving cattle or sheep on foot along the routes, as modern agricultural vehicles cannot negotiate them. Again, it seems inevitable that a meeting between a herd of animals and a four-wheeled vehicle, or indeed any MPV, could lead to difficulties.
18. There is visible evidence of damage to the surface of the routes which appears to have been caused by MPVs. This takes the form of deep ruts both in the centre of softer sections of the routes and at both edges, possibly resulting from the use of motorcycles or four-wheeled vehicles respectively. Ruts were visible in some places on my visits, which all took place during relatively dry periods. Witnesses provided verbal and photographic evidence that at wetter times conditions are often considerably worse. Some horse riders and adjoining landowners gave evidence that they had either stopped using the routes because of the damage to the surface and/or the risk of meeting MPVs or had restricted their use to times when they felt they were unlikely to meet such vehicles.

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<sup>1</sup> Road Traffic Act 1930

<sup>2</sup> *Bakewell Management Ltd (Respondents) v Brandwood* 2004



19. There is also visible and photographic evidence of damage to stone walls alongside the routes which it was alleged had been caused by vehicles. It is difficult to know with any certainty what the cause of this damage actually was but some of the visible damage was in areas where there are sharp bends in the route and where ruts have been made immediately adjacent to the foundations of walls suggesting that vehicles may have been involved. Typically, this sort of damage seems to have led to sections of wall falling onto the routes and thereby partially obstructing them.
20. Around 100 additional UEFs were submitted before the second inquiry, primarily by people who used the routes for walking or horse riding. These forms were mainly not standard county council forms and specifically referred to my proposed modifications of the Orders and invited people to comment on the effects of other users on the routes and their enjoyment of them. Although it could be argued that the design of these forms might encourage certain responses, they did not in my view contain questions which specifically led respondents. However, even if allowance is made for the nature of the forms, some significant results still emerged. By my count, around 85 people referred to increased rutting of the routes caused by MPVs, 54 indicated that it was difficult for other users to pass MPVs on the routes and 31 suggested that walls had been damaged by MPVs. Large numbers also referred to themselves or animals being disturbed by the noise of MPVs and of potential danger to other users from MPVs. It was also stated that the local school has stopped using Silly Dale for nature walks because of potential danger to children and the state of the route.
21. A few other specific examples of incidents involving MPVs causing damage to the route or problems for other users were also referred to by witnesses. For example, Mrs Middleton described damage to a wall and gate in an incident that was reported to the police and Mrs Maxted reported that her horse had fallen as a result of rutting in the Foolow Arm section. It was also stated by witnesses that individuals and Great Hucklow Parish Council had made complaints to Derbyshire County Council, the police and the National Park Authority regarding vehicular use of the routes but no action had resulted, possibly as a result of uncertainty regarding their status.
22. In my view, public nuisance can arise when actions materially affect the reasonable comfort and convenience of members of the public in the exercise of their legal rights. In the context of a highway this would include actions whereby members of the public are prevented from freely, safely and conveniently passing along it. The judgement in the *Mathias*<sup>3</sup> case suggests that public nuisance could result from the use of vehicles on a footpath (or bridleway) if such use “...prevents the convenient use of the way by passengers”. In the present case, evidence now available suggests that the use of vehicles on the Order routes has caused nuisance to other users as a result of damage to the surface and walls and difficulty in passing to the extent that some users have felt it necessary to restrict or cease their use of the routes.
23. I therefore conclude, in the light of the new evidence now available, that use of the Order routes by vehicles, particularly four-wheeled vehicles, between Points A and B and B and D appears to have caused and is likely to continue to cause

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<sup>3</sup> *R v Mathias 1861.*

nuisance to other users of the routes and adjoining landowners. It follows that use by vehicles cannot therefore be regarded as having raised a presumption that public vehicular rights have been dedicated on these routes in accordance with the provisions of the 1980 Act.

24. This conclusion does not necessarily extend to the remainder of the Order B route (Point A2 to B) which is wider than other sections and where vehicular use seems unlikely to have given rise to a similar degree of nuisance. Virtually all the specific evidence of nuisance appeared to relate to the Silly Dale route and the Foolow Arm. This raises the possibility that this section of route could be recorded as a cul de sac vehicular route of some sort. However, in my view this would make no sense. I am aware of no reason why any member of the public would wish to drive from Trot Lane (Point A2) to Point B simply to then turn round and drive back. There would appear to be nothing in the vicinity of Point B which could reasonably be regarded as a place of public resort and I therefore take the view that it cannot be appropriate to separate consideration of the use of the section A2 to B from use of either section B to A or B to D. Therefore, if vehicular use of these latter sections gave rise to public nuisance, use of the section A2 to B effectively contributed to this and, in any event, this section does not form a viable public vehicular route in isolation as it lacks a proper terminus at one end.

### ***The “List of Streets”***

25. Section 36(6) of the 1980 Act requires each county council to make and keep up to date a list of streets within its area which are highways maintainable at the public expense. In Derbyshire, this “list” takes the form of maps showing all the maintainable highways which the County Council has resolved should serve as its “List of Streets” for the purposes of the 1980 Act.
26. The whole of the Order A route and the western part of the Order B route (Points A2 to B) are shown on the maps as non-classified highways (NCHs). The particular significance of this is that Section 67(2)(b) of the 2006 Act states that MPV rights over a route would not be extinguished if the route was shown in the council’s List of Streets. Objectors argue that because Derbyshire does not maintain such a ‘list’, if the normal meaning of the word is accepted, then this section of the 2006 Act does not apply and any MPV rights that might have been acquired would have been extinguished in 2006.
27. The matter is to some extent further complicated by the fact that the term NCH used on the maps does not apparently mean that the routes so described are necessarily public vehicular roads.
28. However, as section 36(6) of the 1980 Act does not specify the form that the list of streets should take, then the fact that Derbyshire County Council’s list is a map does not in my view preclude the inclusion on it of routes from triggering the exception contained in Section 67(2)(b) of the 2006 Act. Furthermore, that section does not require a route to be described as being of any particular status to trigger the exception.
29. Overall, therefore, it is my view that, if public vehicular rights had been established over any parts of the Order routes before 2006, MPV rights would not have been extinguished when the 2006 came into operation.



***The Tarmac Road (Trot Lane to Stanley House Farm, Point A2 to X)***

30. In my interim decision, I concluded that public vehicular rights had been acquired over this section of the Order B route but that it was not used by the public mainly for the purpose for which footpaths and bridleways are so used. I therefore felt that it could not appropriately be recorded on the Definitive Map as a BOAT but that it should be regarded as a public vehicular road.
31. Additional evidence of use is now available and, although much of this is not particularly precise regarding usage of different sections of the Order routes, the quantity of evidence of use by walkers and horse riders along with the additional testimony of witnesses at the second inquiry provides a clear indication that the main use of this section of route is by walkers and horse riders and not vehicles. In the light of this additional evidence, I accept that it should not be regarded as a public vehicular road and could be appropriately recorded as a BOAT, if public vehicular rights were established along it, subject to other circumstances (see para. 24).

***The Foolow Arm (Point B to D)***

32. In my interim decision, I concluded that public vehicular rights had been acquired over this section of the Order B route but that none of the exceptions in the 2006 Act were applicable and therefore MPV rights over it had been extinguished in 2006. Accordingly, I proposed that it should be recorded as a Restricted Byway.
33. It is suggested that as evidence of use with vehicles was provided by UEFs completed by a number of people, several of whom appeared in person at the first inquiry whereas most evidence of other forms of use had been based on assumptions and unsupported allegations, then the former should have been given more weight leading to the conclusion that the main use of this part of the route in the 5 years prior to 2006 had been vehicular. Such a conclusion would have triggered the exception set out in Section 67(2)(a) of the 2006 Act, meaning that MPV rights were not extinguished and the route should be recorded as a BOAT.
34. There is now a considerable amount of additional evidence of use of the Order routes by walkers and horse riders. Much of this does not give precise details of the frequency of use of different sections but, overall, the number of references to the Foolow Arm both in the UEFs submitted since the first inquiry and the evidence given by witnesses at the second inquiry, tends to confirm my view that the main use of this section of route in the 5 years prior to 2006 was not vehicular use. I therefore still conclude that, if vehicular rights had been acquired over this section of the route, MPV rights would subsequently have been extinguished in 2006.

***Summary of Conclusions***

35. With regard to the categories of objection that I identified earlier (para. 8), my conclusions now are therefore as follows:
- i) The amount of evidence of vehicular use of both Order routes is enough to raise the presumption that they have been dedicated for public

vehicular use under the 1980 Act, if all the other relevant criteria are also met;

- ii) However, such use of the routes has given rise to public nuisance and cannot therefore be regarded as use which could lead to such a presumption. Although such nuisance arose primarily on certain sections of the routes, the remainder cannot sensibly be considered as a public vehicular route in isolation;
- iii) If MPV rights had been established over all or parts of the Order routes, they would not have been extinguished over those sections included on the maps which serve as Derbyshire County Council's List of Streets;
- iv) Use of the Tarmac Road section (Point A2 to X) is mainly for the purposes for which footpaths and bridleways are used. Therefore, if public vehicular rights were established along this section, it could appropriately be recorded as BOAT;
- v) Use of the Foolow Arm (Point B to D) between 2001 and 2006 was mainly by walkers and horse riders. Therefore, if public vehicular rights had been established along it, MPV rights would have been extinguished under the provisions of the 2006 Act.

### ***Common Law***

36. In my interim decision, I concluded that it could not reasonably be inferred that the Order routes had been dedicated for public use of any sort at common law. There is nothing in the representations made since or the new evidence to lead me to reach any other conclusion at this stage.

### **Other Matters**

37. A number of submissions referred to my conclusions in my interim decision regarding the documentary evidence available. It now seems to me that some of these may have been based on a misunderstanding. In my interim decision, I concluded that the documentary evidence showed that the Order routes were public bridleways at least and may also have had public vehicular rights over them. Perhaps I did not adequately clarify the fact that, on balance, I did not think that the documentary evidence then available was sufficient to justify a conclusion that public vehicular rights did subsist over any part of the routes. No further substantive documentary evidence has since been submitted; my view therefore remains as before and I have not felt it necessary to re-examine the previously available evidence in any detail.
38. Order B incorrectly describes the provisions of Section 53(3)(c)(ii) of the 1981 Act which is concerned with the alteration of the description of highways already recorded in the Definitive Map rather than the addition of previously unrecorded highways. This section is relevant only to a small section of the total route and I was convinced from the nature of the representations made both in writing and at the first inquiry that no party had been misled or disadvantaged by the error in the Order. I therefore originally proposed to take no further action on this matter. However, the OMA has now requested that the opportunity be taken to correct this error and I propose to modify the Order accordingly.



39. Order A describes the route (Points A to B) as having a width varying from 3 to 11 metres between Points A and B and from 3 to 9 metres between Points B and C. Order B describes the other route as having a width varying from 3 to 5 metres between Points A and B, 3 to 4 metres between B and C and 2 to 4 metres between C and D. Measurements taken during my accompanied site visit suggested that these widths are correct in so far as they go but, as a result of the significant variations along both Order routes, the widths as stated do not describe the actual width available at any particular point. It is currently regarded as good practice for orders such as these to specify the width of routes that are to be recorded as precisely as possible so as to avoid problems occurring in the future with regard to the management or enforcement of them. I therefore proposed to add references to the routes as shown on the OS 1:2500 map of 1898. This was the map that was used as the base for the Finance Act survey and I have no evidence to indicate that the width of the Order routes has changed significantly since it was prepared. No further representations have subsequently been received regarding the width of the routes and I therefore still propose to make the same modifications.

### **Overall Conclusions**

40. Having regard to these and all other matters raised in the written representations and at the inquiry, I conclude that both the Orders should be confirmed subject to the modifications mentioned above.

### **Formal Decision**

41. I confirm both Orders subject to the following modifications:

#### Order A

In the Schedule to the Order, Parts I and II, add the words "as shown on the OS 1:2500 map of 1898" after the description of the width of the path.

#### Order B

Delete Paragraph 2 of the Order and replace with the following:

"And, in consequence of the occurrence of an event specified in section 53(3)(c)(ii) of the Act, namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that the right of way referred to in this order shown in the definitive map and statement as a highway of a particular description ought to be there shown as a highway of a different description."

In the Schedule to the Order, Parts I and II, add the words "as shown on the OS 1:2500 map of 1898" after the description of the width of the path.

*Barney Grimshaw*

**INSPECTOR**

## **APPEARANCES**

### **For the OMA**

Mary Fairman	Solicitor, Derbyshire County Council (DCC)
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Who called:

Peter Jackson	Senior Legal Assistant, DCC
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### **Objectors**

Henry Folkard	The Bungalow, Grindlow Great Hucklow SK17 8RJ
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Who also called:

Michael Hunt	Vale Cottage, Foolow Eyam, Hope Valley S32 5QR
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Eleanor Nancolas	South Barn, Foolow Eyam, Hope Valley S32 5QR
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Christopher Taylor	Croftside, Foolow Eyam, Hope Valley S32 5QA
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Mr K Waterhouse	Artis Farm Great Hucklow SK17 8RF
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John Darley	Stanley House Farm Great Hucklow SK17 8RL
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Brenda Middleton	Annes Cottage, Grindlow Great Hucklow SK17 8RJ
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Roland Butcher	Chair, Great Hucklow Parish Council Tor Cottage Great Hucklow SK17 8RF
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## **DOCUMENTS**

1. Proof of Evidence of Peter Jackson, DCC
2. Statement of Case with annexes and Speaking Notes of H Folkard.
3. Proof of Evidence of JH & JK Parkinson.
4. Proof of Evidence of Andrew Dunlop.

