

## **Countryside and Rights of Way Panel**

Friday 19 April 2024

**10:00**

Oak Room, County Buildings, Stafford

The meeting will be webcast live and archived for 12 months. It can be viewed at the following link: <https://staffordshire.public-i.tv/core/portal/home>

John Tradewell  
Deputy Chief Executive and Director for Corporate Services  
11 April 2024

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### **Agenda**

- 1. Apologies**
- 2. Declaration of Interest**
- 3. Minutes of meeting held on 15th March 2024** (Pages 3 - 6)
- 4. Wildlife and Countryside Act 1981 - Application to Upgrade Public Footpath 10 Waterhouses Parish to a Restricted Byway** (Pages 7 - 50)
- 5. Exclusion of the Public**

The Chairman to move:

“That the public be excluded from the meeting for the following items of business which involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 indicated below”.

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#### **Part Two**

(All reports in this section are exempt)

<b>Membership</b>	
Jak Abrahams	Carolyn Trowbridge
Robert Pritchard	Jill Waring
David Smith (Vice-Chair)	Mark Winnington (Chair)
Paul Snape	

## **Notes for Members of the Press and Public**

### **Filming of Meetings**

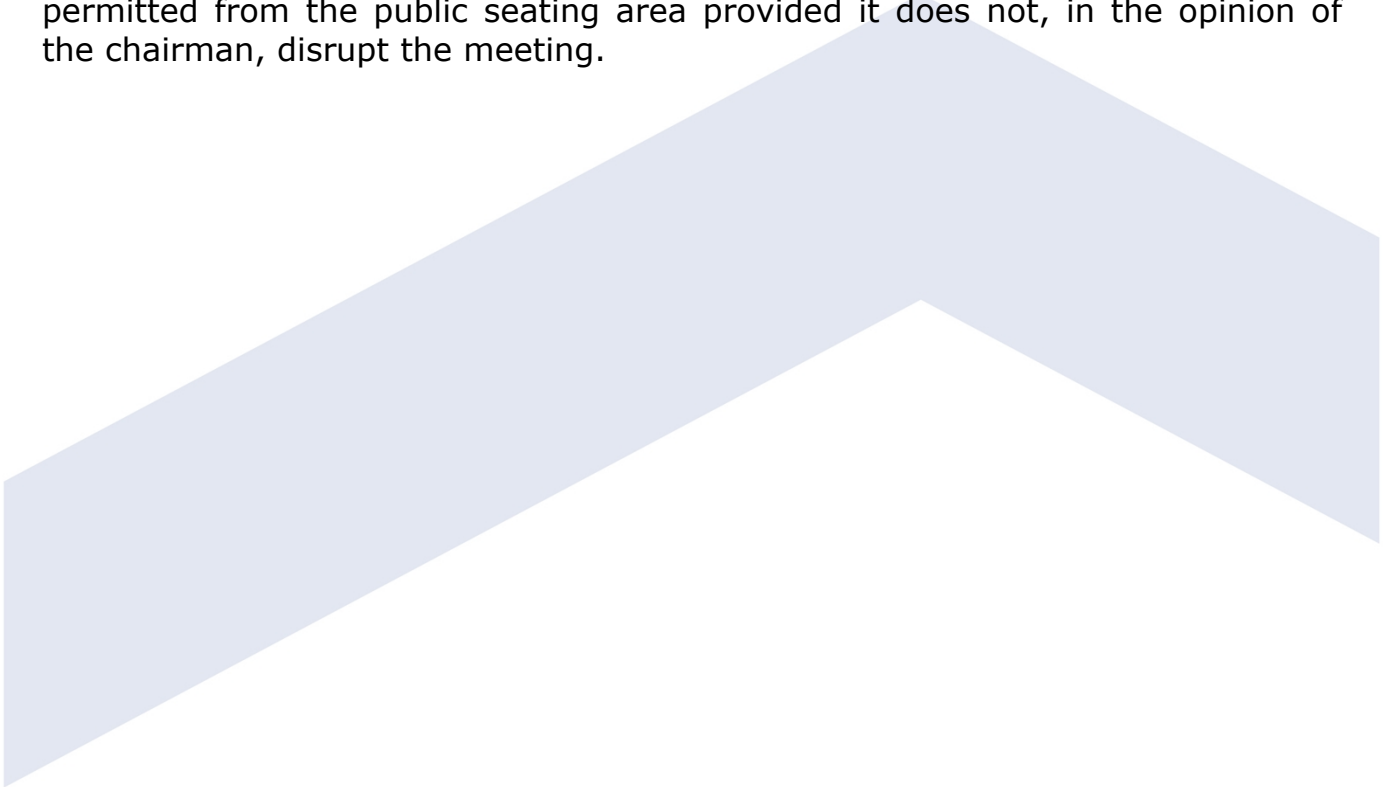
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The webcast will be live on the County Council's website and recorded for subsequent play-back for 12 months. The recording will also be uploaded to YouTube. By entering the meeting room and using the seats around the meeting tables you are deemed to be consenting to being filmed and to the possible use of those images and sound recordings for the purpose of webcasting.

If you have privacy concerns about the webcast or do not wish to have your image captured, then please contact the Member and Democratic Services officer named at the top right of the agenda.

### **Recording by Press and Public**

Recording (including by the use of social media) by the Press and Public is permitted from the public seating area provided it does not, in the opinion of the chairman, disrupt the meeting.



**Minutes of the Countryside and Rights of Way Panel Meeting held on 15 March 2024**

Present: Mark Winnington (Chair)

<b>Attendance</b>	
Jak Abrahams	Paul Snape
David Smith	Carolyn Trowbridge

**Also in attendance:**

**Apologies:** Robert Pritchard and Jill Waring

**Part One**

**50. Apologies**

Jill Waring, Robert Pritchard

**51. Declaration of Interest**

There were no declarations of interest on this occasion.

**52. Minutes of meeting held on 16th February 2024**

**Resolved** – That the minutes of the meeting held on 16 February 2024 be confirmed and signed the Chairman.

**53. Wildlife and Countryside Act 1981 - Application to Upgrade Public Footpath 82 Ipstones Parish and Public Bridleway 85 Ipstones Parish to a Restricted Byway**

The Panel considered a report from the Director for Corporate Services for an application to upgrade Public Footpath 82 Ipstones Parish and Public Bridleway 85 Ipstones Parish to a Restricted Byway.

The report was presented verbally to take Members through the historical evidence relevant to the application. Members were made aware that they should examine the evidence in its totality. During their consideration of the application, Members had regard to the Appendices attached to the report including:

- Copy of application and plan
- Plan of claimed route
- Applicant's Evidence
- Staffordshire County Council Evidence

- Landowner responses
- Evidence from Statutory consultees and user groups

The Panel decided that the available evidence submitted by the applicant and that discovered by the County Council was sufficient to show that, on the balance of probabilities, both Public Footpath, 82 Ipstones and Public Bridleway 85 Ipstones should both be added as highways of a different description, namely Restricted Byways to the Definitive Map and Statement of Public Rights of Way for the District of Staffordshire Moorlands.

**Decided** – That (a) the evidence submitted by the applicant and that discovered by the County Council was sufficient to show that, on the balance of probabilities, Public Footpath, 82 Ipstones should be added as a highway of a different description, namely a Restricted Byway to the Definitive Map and Statement of Public Rights of Way for the District of Staffordshire Moorlands.

(b) the evidence discovered by the County Council was sufficient to show that on the balance of probabilities Public Bridleway, 85 Ipstones should be added as a highway of a different description, namely a Restricted Byway to the Definitive Map and Statement of Public Rights of Way for the District of Staffordshire Moorlands.

(c) an Order be made under Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by upgrading Public Footpath 82, Ipstones to a Restricted Byway along the route shown between points A to B, and by upgrading Public Bridleway 85, Ipstones to a Restricted Byway along the route shown between points C to D on the plan attached at Appendix B at page 23.

#### **54. Wildlife and Countryside Act 1981 - Application for the upgrade of Public Footpath 41, Sheen to a Restricted Byway, Sheen**

The Panel considered the report from the Director of Corporate Services regarding the proposed Agreement with Derbyshire County Council under section 101 of the Local Government Act 1972 for the discharge of functions from one local authority to another in relation to the matter of determining an application made under section 53 Wildlife and Countryside Act 1981 which crosses the county boundary for the application for the upgrade of Public Footpath 41, Sheen to a Restricted Byway.

**Decided** – That (a) an agreement be entered into with Derbyshire County Council under Section 101 of the Local Government Act 1972 for Derbyshire County Council to delegate its powers to Staffordshire County Council to determine an application made under Section 53 of the Wildlife

and Countryside Act 1981 as the alleged right of way forms one continuous route that crosses the Staffordshire/Derbyshire County Border.

(b) In accordance with such arrangements as may from time to time be agreed between the Director for Corporate Services and the appropriate officer of Derbyshire County Council.

## **55. Exclusion of the Public**

**Resolved** – That the public be excluded from the meeting for the following items of business which involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 indicated below.

**Chair**



Local Members' Interest	
CLlr Gill Heath	Staffordshire Moorlands – Leek Rural

## Countryside and Rights of Way Panel

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### Wildlife and Countryside Act 1981

#### Application to Upgrade Public Footpath 10 Waterhouses Parish to a Restricted Byway

#### Report of the Director for Corporate Services

#### Recommendation

1. That the evidence submitted by the applicant and that discovered by the County Council at Appendix A is **sufficient** to show that a right of way with the status of a Restricted Byway and marked A to B on the plan attached at Appendix B of this report subsists.
2. That an Order **should** be made to upgrade the right of way shown marked A to B on the plan attached at Appendix B to a Restricted Byway on the Definitive Map and Statement of Public Rights of Way for the District of Staffordshire Moorlands.

#### PART A

#### Why is it coming here – What decision is required?

1. Staffordshire County Council is the authority responsible for maintaining the Definitive Map and Statement of Public Rights of Way as laid out in section 53 of the Wildlife and Countryside Act 1981 (“the 1981 Act”). Determination of applications made under the Act to modify the Definitive Map and Statement of Public Rights of Way, falls within the terms of reference of the Countryside and Rights of Way Panel of the County Council’s Regulatory Committee (“the Panel”).
2. The Panel is acting in a quasi-judicial capacity when determining these matters and must only consider the facts, the evidence, the law and the relevant legal tests. All other issues and concerns must be disregarded. The purpose of this investigation is to establish what public rights, if any, already exist even though they are not currently recorded on the Definitive Map and Statement of Public Rights of Way.
3. To consider an application attached at Appendix A from Mr Brian Smith dated 5<sup>th</sup> February 2019.
4. The application is for a Definitive Map Modification Order to modify the Definitive Map and Statement for the District of Staffordshire Moorlands.

5. The effect of such an Order, should the application be successful, would be to upgrade the full extent of Public Footpath 10, Waterhouses to a Restricted Byway.
6. The line of the alleged Restricted Byway which is the subject of the application is shown highlighted and marked A to B on the plan attached at Appendix B.
7. To decide, having regard to and having considered the Application and all the available evidence, and after applying the relevant legal tests, whether to accept or reject the application.

### **Application Details- Documentary Evidence Submitted by the Applicant.**

The applicant has provided in support of the application:

1. A Quarter Session Order dated 1<sup>st</sup> May 1823. This document refers to the stopping up and diverting of part of a highway known as Roods Lane. The accompanying map appears to show the northern section of the alleged restricted byway marked C – D.
2. A copy of the Order and map can be found at Appendix C .
3. The applicant has also provided a selection of Tithe Maps as follows:-
4. Mayfield: Calton Township Tithe Map dated 1848 shows the alleged restricted byway, following the same line as it does today. The full extent of the route is shown and is unnumbered. It passes alongside various numbered parcels of land and does not appear to cut across any of these plots. The route is shown coloured brown and at both ends joins to routes depicted in the same way (coloured brown).
5. A copy of the Mayfield Calton township Tithe can be found at Appendix D.
6. Blore: Calton Township Tithe Map dated 1848 shows the alleged restricted byway following the same line as it does today. The route is shown unnumbered, and the surrounding area does not show any plot numbers. The route is shown coloured brown and joins to routes depicted in the same way (coloured brown)
7. A copy of the Blore Calton township Tithe can be found at Appendix E.
8. Waterfall: Calton Township Tithe Map dated 1848 shows the alleged restricted byway, following the same line as it does today. The route is unnumbered and passes alongside various numbered parcels of land, it does not appear to cut across any of these plots. The route is shown coloured brown and at both ends joins to routes depicted in the same way (coloured brown).
9. A copy of the Calton Township Tithe can be found at Appendix F.
10. The applicant has also provided a Staffordshire County Council Survey of Rights of Way statement with accompanying draft map dated 27<sup>th</sup> November 1954.



- 11.** The survey refers to the alleged route as "Path no 10" with the "Type of Path" noted as an R.P – *road used as a public path*. On the accompanying draft map, the alleged route is depicted following the same line as it does today and is numbered 10. It is also annotated with CRB – carriage road used as a bridleway.
- 12.** A copy of the Staffordshire County Council Survey of rights of way statement and map can be found at Appendix G.
- 13.** The applicant also provided a copy of an email dated 20<sup>th</sup> April 2017 from the National Library of Scotland - with accompanying Staffordshire XIV.6 Map dated 1881.
- 14.** The email states that "*The Ordnance Survey painted roads in burnt sienna (brown) shade so Donkey Lane would be considered a road by the OS in 1880*".(sic) The email is annotated to and reads "*Donkey Lane is the local name given to FP10 Waterhouses Parish, it's correct name is Roods Lane*".
- 15.** The accompanying map shows a route annotated with the number 20 and it appears to follow the same line as the alleged restricted byway.
- 16.** A copy of the email and map can be found at Appendix H
- 17.** The applicant also provided a Staffordshire County Council Survey of Rights of Way dated 7<sup>th</sup> April 1952.
- 18.** The survey card completed by FH Cotton, refers to Footpath 10 Waterhouses Parish. It stated that FP10 is a "*seldom used metal road now grassed over not used at all for vehicular traffic*". It states that the grounds for believing the path to be public were that it has "been used by the public over a great number of years". A copy of the survey card can be found at Appendix I.
- 19.** The applicant also provided a freedom of information request letter and subsequent email response. Letter dated 31<sup>st</sup> March 2017 from Julie Turner to SCC Information Governance Unit. This requested further information on a possible cycle route that would run the length of FP10 Waterhouses. A response was received dated 17<sup>th</sup> August 2017 stating that the cycle route had not yet been considered. A copy of the FOI request and response can be found at Appendix J.
- 20.** The applicant also provided an Extract and Key from an O.S. map for Dovedale and Tissington, of the 1:25000 Pathfinder series. The extract shows FP10 highlighted in yellow by the applicant.
- 21.** The route is shown as a dashed line, the corresponding key (also highlighted by the applicant) states routes shown as a dashed lines are RUPPs – Road Used as a Public Path. A copy of the extract and key can be found at Appendix K
- 22.** Subsequent evidence was provided by the applicant after the application had been accepted.
- 23.** This included a selection of Bartholomew Maps dated 1902, 1924 and 1941 – where all maps show the alleged route.

24. A Greenwood Map dated 1828 showing the alleged route
25. An extract from the 1910 Finance Act Map showing the alleged route
26. A copy of this additional evidence can be found at Appendix L

### **Analysis of Documentary Evidence**

#### Quarter Session Order

27. Quarter Session Orders are Court Orders, the Justices of the Peace held Highway Sessions 3 times a year and parishes which had failed to maintain routes could be indicted.
28. The Orders indicate the public nature of a way and its status and can only be overturned by another Order or Act of Parliament.
29. Post 1773 these Orders could also widen, divert & extinguish routes. A diversion only took effect when the new route was had been laid out and certified by the Justices. If the diverted route was not laid out and approved the old route may still exist.
30. In some instances there may be no certificate of completion and other evidence may be needed to support the route's existence. As we know a route already exists a certificate of completion is not needed in this instance to indicate the public status of the route.
31. The Quarter Session Order that has been provided by the applicant clearly states that part of the route known as Roods Lane was to be stopped up and diverted.
32. It is marked on the accompanying map as C to D and referred to in the Order.
33. It states Rev. Bernard Port agreed to the part of the route being stopped up and diverted through his lands.
34. The width of the route is stated as being 12ft, (today this would convert to 3.65metres). However once the part of the route marked C to D was diverted the width would be recorded as 11ft (3.35metres)

#### Tithe Maps

35. Tithe maps and their accompanying apportionments were produced solely for the purpose of identifying tithable land, and were not concerned with recording or establishing public rights of way. They do however provide some of the earliest accurate large-scale mapping available to us and can provide good evidence of the physical existence of a route. If a route was excluded from adjoining land it may be supporting evidence that a route *has* public status, however, this is not conclusive and there may be other reasons for the land being excluded, and so on its own it is not sufficient to draw any such conclusion.
36. The applicant has provided three Tithe maps, Mayfield: Calton Tithe map dated 1848, Blore: Calton Tithe Map dated 1848 and Waterfall: Calton Tithe map also dated 1848.

37. All three maps show the route following the same line, and show it as having the same distinctive curve at the northern end of the route. All three of the maps show the route coloured brown. At the time this route was recorded the brown colouring *may* have indicated it was used as a highway – however again this is not conclusive.
38. As always with Tithe maps, there are no features depicted on the map to discern the nature of the rights over the route. However, on inspection of the Mayfield: Calton Township Tithe map index it refers to plot 24 as “between roads”, however there is no other evidence pointing to the status of the route and it is not mentioned in any other entries for the surrounding plot numbers.

### Ordnance Survey Map

39. Ordnance Survey Maps provide excellent evidence of the physical existence of the features they show at the time of the survey, but they do not indicate the status of a route.
40. From the 1880’s onwards the maps included a disclaimer to the effect that the depiction of any path, track or way is not evidence of the existence of any public rights of way.
41. In Moser v Ambleside Urban District Council (1925) 89 JP 118 at 119, Pollock MR stated: “If the proper rule applicable to ordnance maps is to be applied, it seems to me that those maps are not indicative of the rights of the parties, they are only indicative of what are the physical qualities of the area which they delineate.....”.
42. The Applicant has provided an extract from an Ordnance Survey map for the area of Dovedale and Tissington and is dated 1978. They have also provided the key which accompanies the map. The physical existence of the route is not in question as we know the route is a footpath (FP10 Waterhouses) and we can clearly see the route marked on the map as a dashed green line. The key states that a this indicates the route is a Road Used as a Public Path (a RUPP).
43. As we know RUPP’s were created when the National Parks and Countryside Act 1949 came into force. All routes were to be recorded as either a Footpath, a Bridleway or a RUPP – a Road Used as a Public Path.
44. Section 27(6) of the 1949 Act defined a RUPP as “*a highway, other than a public path, used by the public mainly for the purposes for which footpaths or bridleways are so used*”.
45. Section 32(4) of the 1949 Act said that once the Definitive Map and Statement had been prepared, what was shown on it was conclusive evidence as follows:
  - (a) where the map shows a footpath, the map shall be conclusive evidence that there was at the relevant date specified in the statement a footpath as shown on the map

- (b) where the map shows a bridleway, or a road used as a public footpath, the map shall be conclusive evidence that there was at the said date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than the rights aforesaid'
- 46.** The Applicant also provided a Map from the National Library of Scotland, Staffordshire XIV.6 dated 1881.
- 47.** This map, which is a type of O.S. map, shows the alleged restricted byway coloured brown, and is annotated with the number 20.
- 48.** As there was no book of reference provided, your Officers contacted the National Library of Scotland to request a copy of any index or reference book they may have. A reply was received stating that no book of reference/index is stored there.
- 49.** Both of the O.S. maps are good evidence that a route does exist here, however this is not in question, as a public footpath already runs along this line . The O.S. maps do not provide us with the information we require to strengthen the argument that the route has higher rights than a footpath.

Staffordshire County Council Survey of Rights of Way Statement

- 50.** The first Definitive Map and Statement came into being as a result of the National Parks and Access to the Countryside Act 1949. All County Councils in England and Wales carried out a survey of their area and produced a map that showed all the public footpaths, bridleways and Roads Used as Public Paths which were, or could reasonably be alleged to be, public rights of way.
- 51.** The Applicant has provided a copy of a Staffordshire County Council survey of rights of way statement with accompanying draft map dated 27<sup>th</sup> November 1954. The survey refers to the alleged route as "Path no 10" with the "Type of Path" noted as an R.P – road used as a public path. On the accompanying draft map, the alleged route is depicted following the same path as it does today and is numbered 10. It is also annotated with CRB – carriage road used as a bridleway.
- 52.** The applicant also provided a copy of the Staffordshire County Council Survey of Rights of way statement notes dated 7<sup>th</sup> April 1952, this also refers to Footpath 10 as a RUPP.
- 53.** The surveyor notes "*seldom used metal road now grassed over not used at all for vehicular traffic*".(sic) It is also noted that the route had "*been used by the public for a number of years*". It does not state that this route was used for anything other than a public footpath. There is no reference to the route being used as a bridleway and it clearly states that it is not used by vehicular traffic.

FOI Request regarding a possible cycle track

54. The applicant has submitted a copy of a Freedom of Information request regarding a proposed cycle track in which the applicant stated the proposed cycle route would run along part of FP10 Waterhouses with the majority of the route running along Farwell Lane.
55. A response was received from the Information Governance Unit IGU stating that the proposed cycle route formed part of a countywide draft cycle route network. The routes were only suggested and no decisions had been made.
56. Your Officers made enquiries with the Council's Rights of Way team to see if the proposed cycle track was to go ahead. The ROW Team had no further knowledge of the proposed route. Having reviewed this evidence it is clear that, this has no bearing on the status of the route. If a cycle route is added, it would not affect the current footpaths status or subsequent decisions that are made regarding the status of the route.

**Additional Evidence Submitted by the Applicant**

Extract of 1910 Finance Act Plan

57. The Finance Act 1910 was created with the purpose of mapping lands throughout the United Kingdom for the purpose of taxation. The Finance Act material consists of three documents, the Field Book, the Valuation Book and the Increment Value Duty Plan.
58. The Finance Act plan was based on large-scale Ordnance Survey plans. The 1910 Act required all land to be valued, but routes shown on the base plans which correspond to known public highways, usually vehicular, are not normally shown as included in the hereditaments, i.e. they will be shown uncoloured and unnumbered.
59. In this instance the applicant has only provided an extract of the plan. No copy of the Field Book or Valuation Book was provided. However, the extract clearly shows all but the northern tip of the alleged route which is shown marked white/uncoloured and unnumbered.
60. The fact that the alleged route is marked as a white/uncoloured unnumbered route shows that the route was unvalued. This means that it was not part of the surrounding land holdings.
61. This suggests that as the alleged route was not recorded as being owned by the local authority or government department, that it could have belonged to a highway authority.
62. This extract, though not complete, offers good supporting evidence which could suggest that the alleged route possibly had higher rights than a footpath or a bridleway.



Bartholomew Maps dated 1902, 1924 and 1941

63. The Bartholomew Maps provided by the applicant show the alleged route clearly on all three versions.
64. These maps were created with the public in mind and detailed public footpaths and cycle routes.
65. The 1902 Map shows the alleged route marked white with red dots running along the length. On inspection of the corresponding key we can see that the route is marked down as "indifferent (Passable)".
66. The 1924 map depicts the alleged route much in the same way as the 1902 map, white with red spots. The corresponding key confirms that the route is "indifferent" however it does note that the route is "Passable for cyclists".
67. The 1941 map depicts the alleged route as the previous maps however when looking at the corresponding key the route is now marked as "a good secondary road".
68. This could indicate that the route was known to have higher rights than a footpath or bridleway.

Greenwood Map dated 1828

69. The applicant provided an extract from a Greenwood Map dated 1828. The alleged route is depicted as not following the exact same path as on later maps. However, on inspection you can clearly see the same markers indicating that this is the same as the claimed route.
70. No key was provided so it is not clear what the rights over the route were. However, when looking at the map as a whole you can clearly see that the alleged route is depicted in the same way as the other routes.
71. Ordinarily maps created at this time did not tend to depict anything other than routes that the public could use.
72. As the alleged route is shown in the same way as all surrounding routes it is possible that the alleged route had the same rights. This could indicate that the route has higher rights than that of a footpath or bridleway.

**Evidence Submitted by the Landowners**

73. The relevant Landowners were contacted when the application was received, however no responses were received.

**Comments Received from Statutory Consultees**

74. Staffordshire Moorlands Bridleway Group stated that they fully support the application, however they did not provide any further evidence in this regard to support the claim.

**Legal Tests**

75. With regard to the status of the routes, the burden is on the applicants to show, on the balance of probabilities, that it is more likely than not, that the Definitive Map and Statement are incorrect.

- 76.** The existing classification of the routes, as a Public Footpath must remain unless and until the Panel is of the view that the Definitive Map and Statement are wrong. If the evidence is evenly balanced then the existing classification of the routes as Public Footpath on the Definitive Map and Statement prevails.

## **Summary**

- 77.** The application is made under Section 53(2) of the 1981 Act, relying on the occurrence of the event specified in 53(3)(c) (ii) of the Act.
- 78.** The Panel need to be satisfied that, on the balance of probabilities, the evidence that has been discovered shows that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
- 79.** The evidence provided by the applicant certainly proves that a right of way exists. However, we must remember that the existence of a route is not in question. We know that Public Footpath 10 Waterhouses exists.
- 80.** The tithe maps show the existence of a route, however it is not possible to discern the rights over this route as tithe maps did not give the status of the route.
- 81.** The Quarter Sessions order (stopping up order) is excellent evidence that the route exists and is referred to as a highway. However we must remember that any route with any rights over it could be referred to as a highway.
- 82.** The O.S. maps do show the physical existence of the route, however they do not provide supporting evidence as to the status of the route.
- 83.** The Finance Act Plan extract is also excellent evidence that the route exists and that it is possible the route has higher rights than that of footpath or bridleway. The route is depicted in the same way as all other surrounding routes.
- 84.** It is coloured white and was not part of any surrounding land holdings. There is no evidence to suggest that the route was owned by the Local Authority or Government. This suggests that the route was owned by the Highway Authority.
- 85.** The Bartholomew Maps prove the existence of the route and the corresponding key provides some good evidence as to the status of the route at that time, however these alone are not conclusive proof of the status of the route.
- 86.** The Greenwood Map much like the tithe maps show the physical existence of the route however it does not provide any clarification on the status of the route.

## **Conclusion**

- 87.** In light of the evidence, as set out above, it is your Officers opinion that the evidence **does** show on the balance of probabilities that a public right of way, with the status of restricted byway, which is not shown on the Definitive map and statement subsists.
- 88.** It is the opinion of your Officers that the County Council should make a Modification Order to upgrade Public Footpath 10 Waterhouses to a restricted byway on the Definitive Map and Statement of Public Rights of Way.

## **Recommended Option**

- 89.** To **accept** the application based upon the reasons contained in the report and outlined above and to decide to make an Order to upgrade the alleged route to a Restricted Byway and add it the Definitive Map and Statement of Public Rights of Way with a recommended width of 3 metres.

## **Other options Available**

- 90.** The Panel has the authority/discretion to reach a different decision and therefore can reject the application to make an Order to upgrade the route or could suggest the lower status of Bridleway is applied to the alleged route and amend the Definitive Map and Statement of Public Rights of Way as such.

## **Legal Implications**

- 91.** The legal implications are contained within the report.

## **Resource and Financial Implications**

- 92.** The costs of determining applications are met from existing provisions.
- 93.** There are, however, additional resource and financial implications if decisions of the Registration Authority are challenged by way of appeal to the Secretary of State for Environment, Food and Rural Affairs or a further appeal to the High Court for Judicial Review.

## **Risk Implications**

- 94.** In the event of the Council making an Order any person may object to that order and if such objections are not withdrawn the matter is referred to the Secretary of State for Environment under Schedule 15 of the 1981 Act. The Secretary of State would appoint an Inspector to consider the matter afresh, including any representations or previously unconsidered evidence.
- 95.** The Secretary of State may uphold the Council's decision and confirm the Order; however there is always a risk that an Inspector may decide that the County Council should not have made the Order and decide not to confirm it. If the Secretary of State upholds the Council's decision



and confirms the Order it may still be challenged by way of Judicial Review in the High Court.

- 96.** Should the Council decide not to make an Order the applicants may appeal that decision under Schedule 14 of the 1981 Act to the Secretary of State who will follow a similar process to that outlined above. After consideration by an Inspector the County Council could be directed to make an Order.
- 97.** If the Panel makes its decision based upon the facts, the applicable law and applies the relevant legal tests the risk of a challenge to any decision being successful, or being made, are lessened. There are no additional risk implications.

### **Equal Opportunity Implications**

- 98.** There are no direct equality implications arising from this report.

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J Tradewell

Director for Corporate Services

**Report Author: Rebecca Buckley**

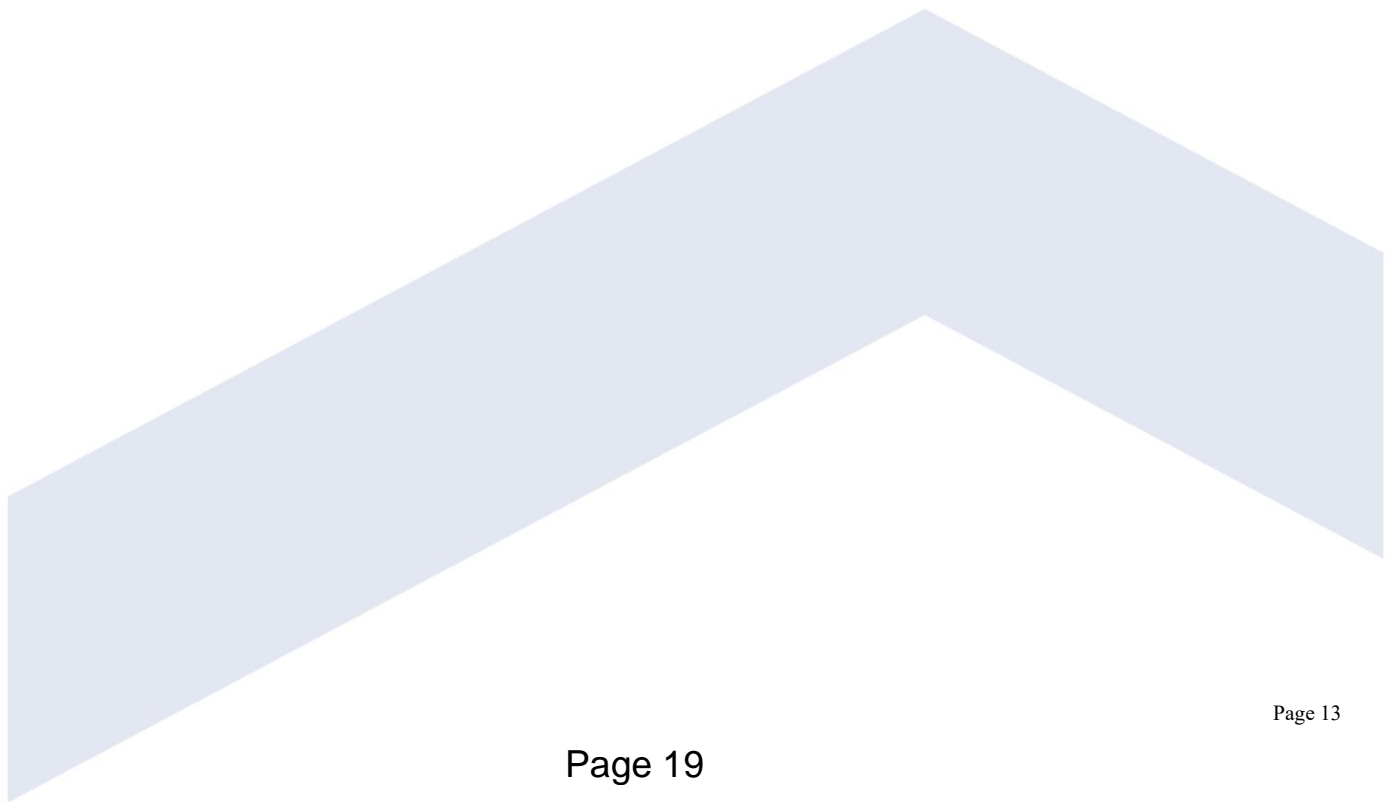
Ext. No: 276165

**Background File:**017595DW

## INDEX TO APPENDICES

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Appendix B	Plan of claimed route
Appendix C	Copy of 1823 Justices Order to stop up and divert part of the highway known as Roods Lane
Appendix D	Mayfield: Calton Township Tithe Map dated 1848
Appendix E	Blore: Calton Township Tithe Map dated 1848
Appendix F	Waterfall: Calton Township Tithe Map dated 1848
Appendix G	A Staffordshire County Council survey of rights of way statement with accompanying draft map dated 27 <sup>th</sup> November 1954
Appendix H	A copy of an email dated 20 <sup>th</sup> April 2017 and Map from the National Library of Scotland with accompanying Staffordshire XIV.6 Map dated 1881
Appendix I	Staffordshire County Council Survey of Rights of Way dated 7 <sup>th</sup> April 1952
Appendix J	Freedom of information request letter and subsequent email. Letter dated 31 <sup>st</sup> March 2017
Appendix K	Extract and Key from O.S. map for Dovedale and Tissington, 1:25000 Pathfinder series

Appendix L	Additional Evidence Supplied by the applicant: Extract from 1910 Finance Act Map, Greenwoods map dated 1828, Bartholow Maps and Keys Dated 1902, 1924, 1941
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STAFFORDSHIRE COUNTY COUNCIL

12 FEB 2019

PROPERTY OFFICER,  
GOVERNMENT HOUSE,  
STAFFORD

1 2 3 4

C  
Form 1

APPLICATION FOR MODIFICATION ORDER  
WILDLIFE AND COUNTRYSIDE ACT 1981

Definitive Map and Statement – Staffordshire County Council

District of STAFFORDSHIRE MOORLANDS

Parish of WATERHOUSES

To: Staffordshire County Council, 1 Staffordshire Place, Stafford ST16 2LP

1. BRIAN SMITH

of BALLFIELDS FARM, BRADNAP,  
LEEK ST13 7EU

hereby apply for an order under Section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statement of Public Rights of Way for the area by:

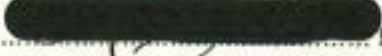
~~\* deleting the (footpath) (bridleway) (byway open to all traffic) (restricted byway)  
from .....  
to .....~~

~~\* adding the (footpath) (bridleway) (byway open to all traffic) (restricted byway)  
from .....  
to .....~~

\* (upgrading) (~~downgrading~~) to a (footpath) (bridleway) (~~byway open to all traffic~~) (restricted byway) the (footpath) (bridleway) (~~byway open to all traffic~~) (restricted byway)  
from BACK LANE, CALTON (FP10) GRID REF SK 100 503  
to FARWALL LANE, CALTON. OS GRID REF. SK 101 510  
THE FULL EXTENT OF FP 10 - ROODS LANE

~~\* (varying) (adding to) the particulars relating to the (footpath) (bridleway) (byway open to all traffic) (restricted byway) from .....  
to ..... by  
providing that .....~~

and shown on the map accompanying this application.

Signed:  Date: 5th Feb 2019

on behalf of Staffordshire Moorlands  
Bridleways Group




I attach copies of the following documentary evidence (including statements of witnesses) in support of this application.

**List of Documents**  
(including reference numbers where appropriate).

- DEFINITIVE MAP
- STAFFORDSHIRE XIV. 6 MAP 1881 - NATIONAL LIBRARY OF SCOTLAND MAPS
- EMAIL FROM NATIONAL LIBRARY OF SCOTLAND DATED 20 APRIL 2017
- JUSTICES ORDER TO STOP UP - DIVERT PART OF A HIGHWAY CALLED ROODS LANE - STAFFS RECORD OFFICE REF Q/5B/1823 T/182, 2a-b
- BLORE: CALTON TOWNSHIP TITHING MAP - STAFFS RECORD OFFICE REF B/A/15/70/1
- MAYFIELD: CALTON TOWNSHIP TITHING MAP - STAFFS RECORD OFFICE REF: B/A/15/70/2
- WATERFALL: CALTON TOWNSHIP TITHING MAP - STAFFS RECORD OFFICE REF: B/A/15/70/3
- WATERHOUSES PARISH SURVEY OF RIGHTS OF WAY - STAFFS RECORD OFFICE REF: C/P/138/72
- FREEDOM OF INFORMATION REQUEST Q A 5278 + REPLY
- EXTRACT + KEY - FROM MAP OS DOUGDALB - TISSINGTON SK 05/15 1:25000 PATHFINDER SERIES.

With regard to documentary evidence I certify that where appropriate I have obtained informed consent for all third party materials from the copyright owners. (Please see guidance notes).

Signed  Date: 5th February 2019  
On Behalf of Staffordshire Moorlands Bridleways Group

**Please note** The Freedom of Information Act 2000 provides a general right of access to all information held by Staffordshire County Council. The Environmental Information Regulations 2004 provide a similar right of access to environmental information held by the Council. This means that the information that you supply may be disclosed to any individual making the appropriate request. This information (and a copy of this form and accompanying map) will also be included in the Register of Definitive Map Order Applications and will be available on both the Staffordshire County Council website and on view at the Council's offices.

## WILDLIFE AND COUNTRYSIDE ACT 1981

## DEFINITIVE MAP AND STATEMENT - STAFFORDSHIRE COUNTY COUNCIL

CERTIFICATE OF SERVICE OF NOTICE OF APPLICATION  
FOR MODIFICATION ORDER

To: Staffordshire County Council  
of: 1 Staffordshire Place, Stafford, ST16 2LP

1 BRIAN SMITH  
of BALLFIELDS FARM, BRADNAP, LEEK  
ST13 7EU

hereby certify that the requirements of paragraph 2 and Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with.

Dated: 5th February 20 17

Signed: 

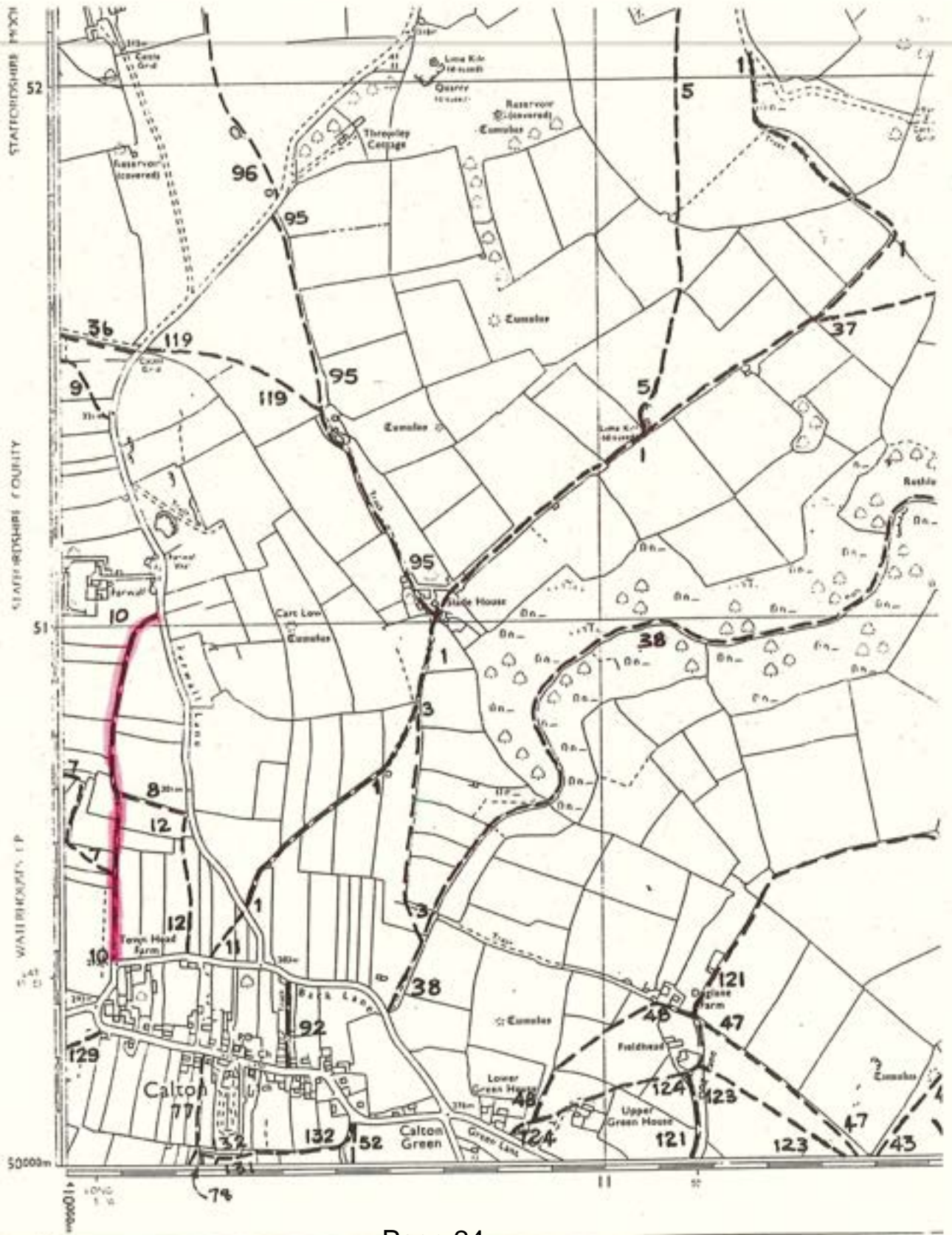
On Behalf of Staffordshire Moorlands  
Brillways Group

Names and addresses of owners and occupiers of land on whom notice has been served that an application for a Modification Order has been made:

- MR F BRADBURY, 35 CRUSO ST, LEEK ST10 8BJ
- MR R HULME, TOWN HEAD FARM, BACK LANE,  
CALTON, STOKES ON TRENT ST10 3JX
- MR P HAMBLETON, UPPER GREEN HOUSE, GREEN LANE,  
CALTON, STOKES ON TRENT ST10 3LA
- MR D. C. POYSER, FARWALL FARM, FAR WALL LANE,  
CALTON, STOKES ON TRENT ~~ST10~~ ST10 3JZ
- MRS J. HAMBLETON, GREENDALE FARM,  
COMMON LANE, CALTON, STOKES ON TRENT ST10 3LD
- MR & MRS L. HALSETY, 138 ASHBOURNE ROAD,  
LEEK ST13 5BJ



EXTRACT FROM DEFINITIVE MAP





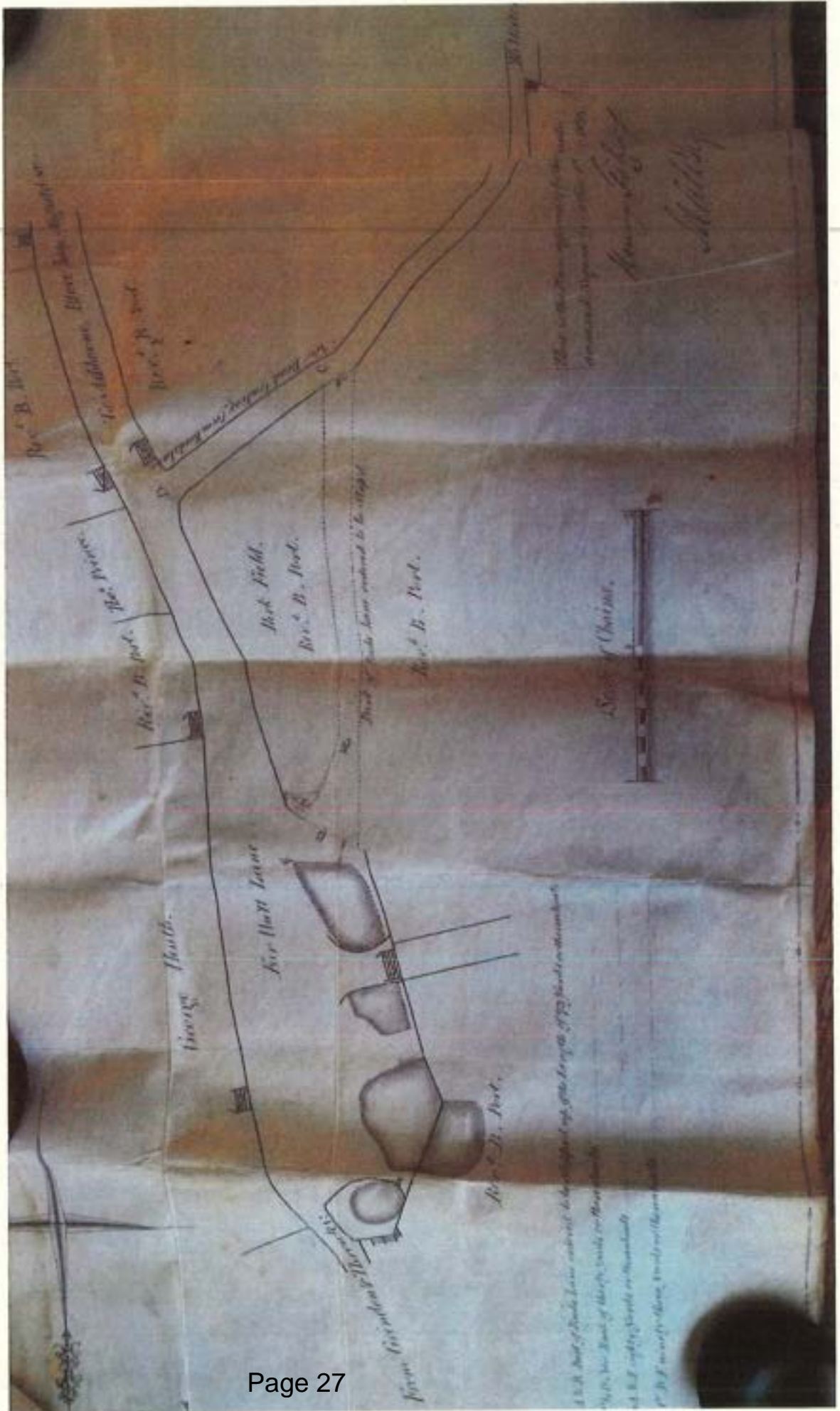
The Reverend Bernard Port of  
the County of Stafford Clerk being owner  
of the Lands described in the Plan as  
of part of the High which part of a certain  
hundred lying between Calton and Throoley both in  
Highway County of Stafford is intended to be diverted  
the said County of Stafford is intended to be diverted  
and hence in consideration of the old Highway being  
sold throughout and vested in me do hereby consent  
to the making and continuing such new Highway  
through my said Lands Given under my hand  
and seal this first day of May One thousand  
eight hundred and twenty three.

Bernard Port

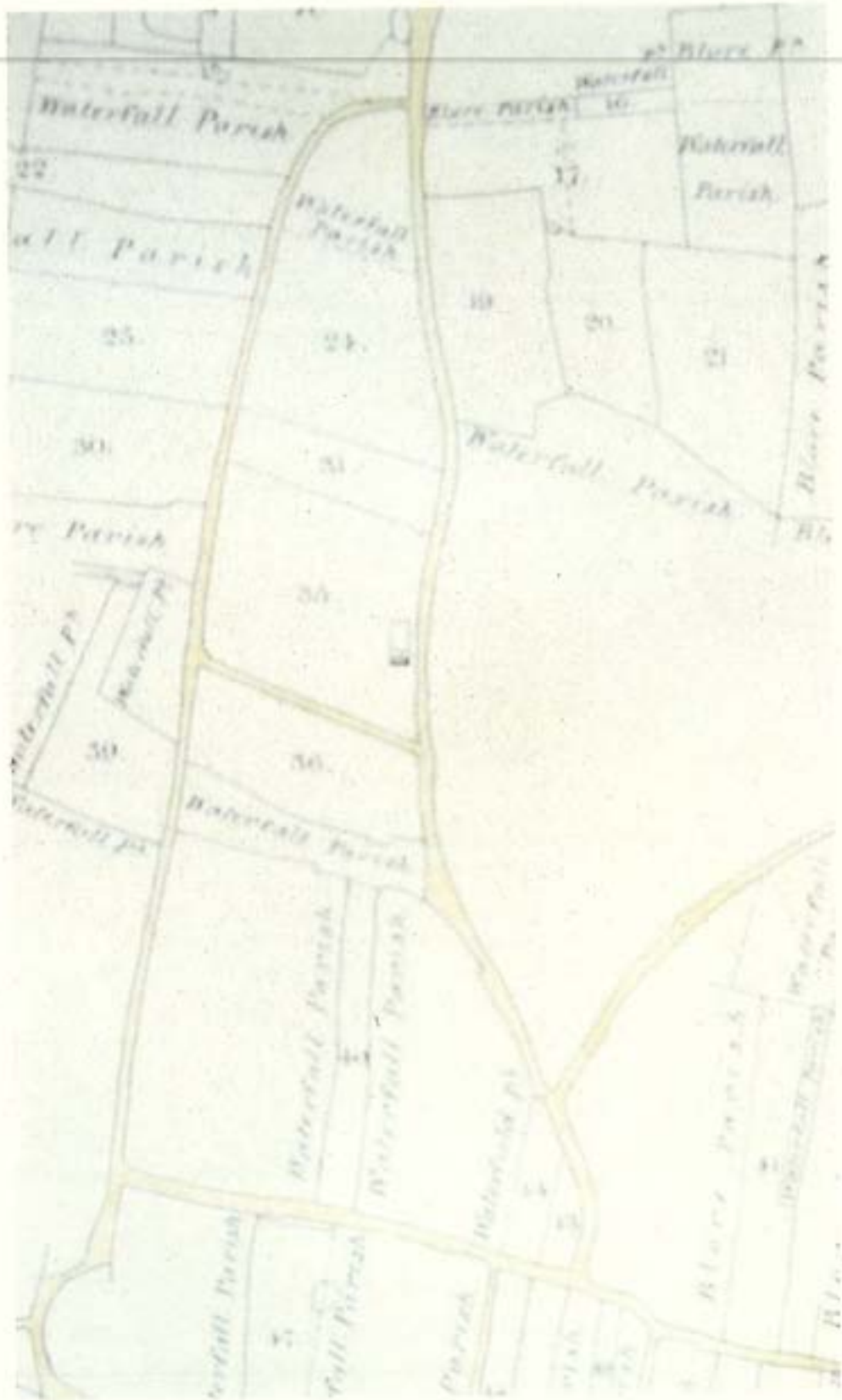




JUSTICES ORDER TO DIVERT AND STOP UP PART OF A HIGHWAY CALLED ROODS LANE, CALTON DATED 1 MAY 1823 - PAGE 3  
STAFFORDSHIRE RECORD OFFICE REFERENCE Q/SB/1823 T18/2, 2a - b

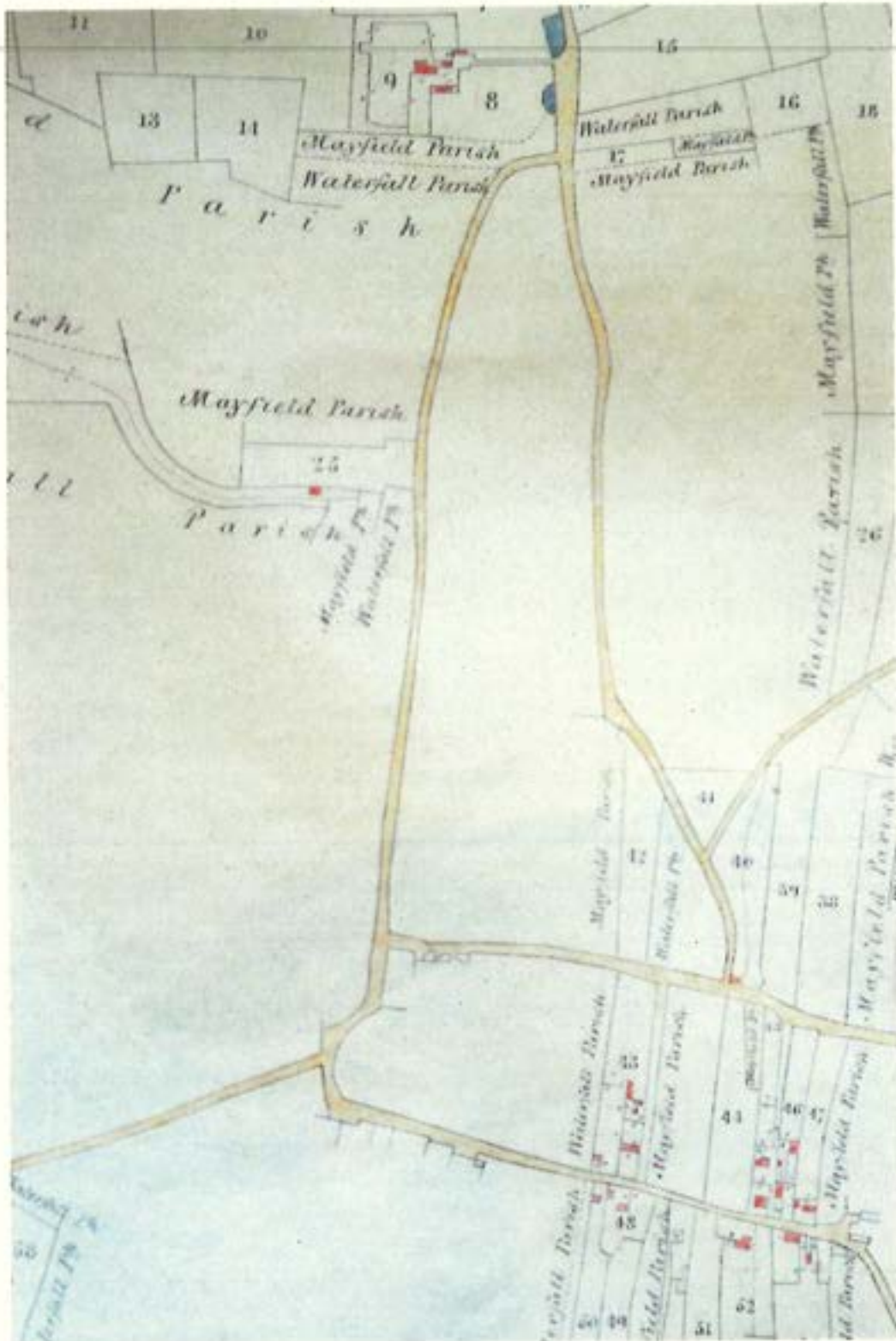


**Mayfield: Calton Township Tithe Map**  
**Waterhouses Parish FP 10 shown coloured brown (road)**  
**Staffordshire Record Office Ref: B/A/15/70/2**

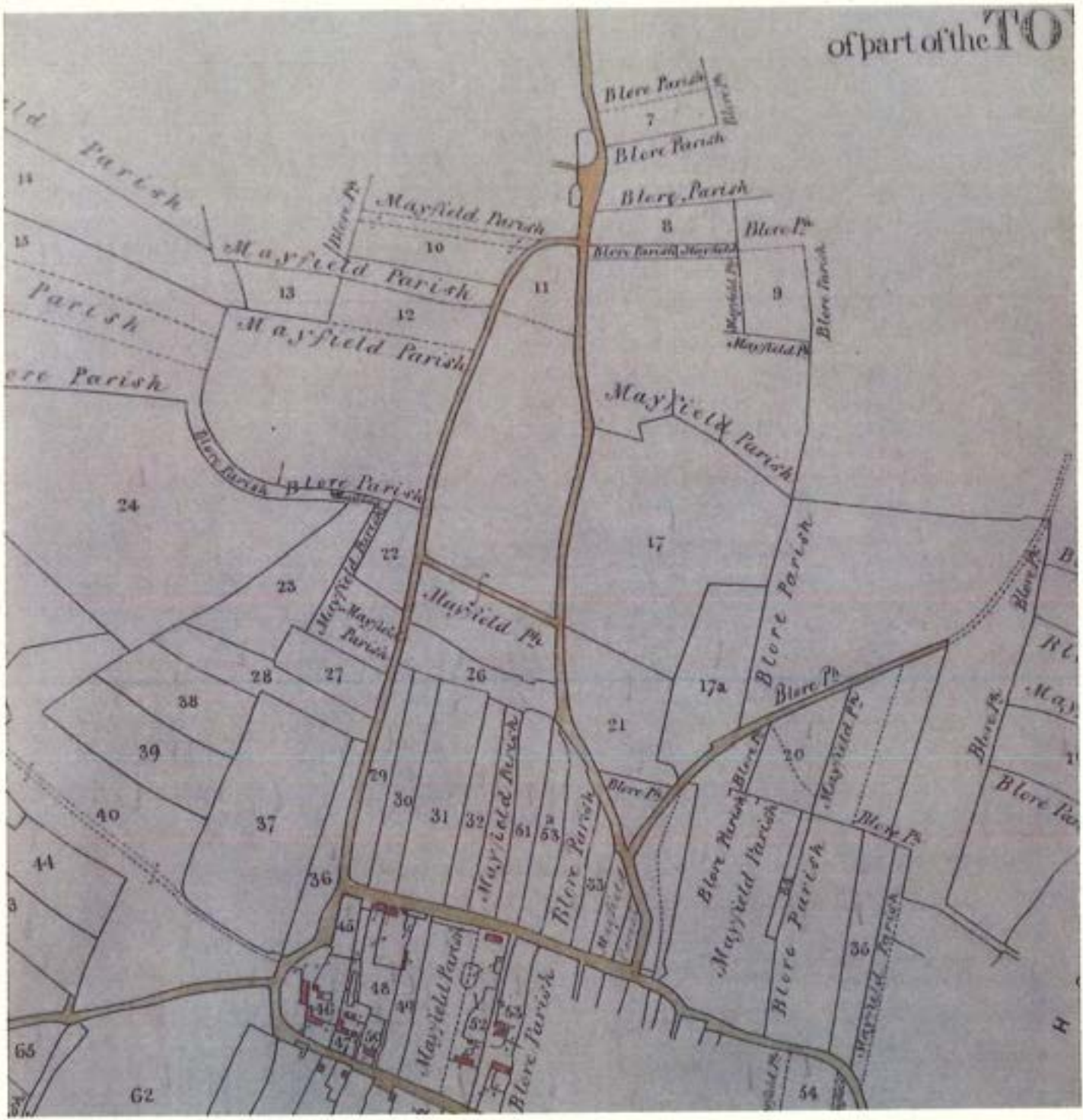




**Blore: Calton Township Tithe Map**  
**Waterhouses Parish FP 10 shown coloured brown (road)**  
**Staffordshire Record Office Ref: B/A/15/70/1**



**WATERFALL: CALTON TOWNSHIP TITHE MAP 1848**  
**ROODS LANE - FOOTPATH 10 WATERHOUSES PARISH SHOWN COLOURED BROWN**  
**(ROAD)**  
**STAFFORDSHIRE RECORD OFFICE REFERENCE B/A/15/70/3**





**Staffordshire County Council - Survey of Rights of Way  
 Statement Accompanying Draft Map - Routes over which a public right of way is alleged to subsist on 27  
 November 1954  
 Waterhouses Parish Path No. 10 shown as RP - a RUPP**

STAFFORDSHIRE COUNTY COUNCIL.  
 National Parks and Access to the Countryside Act, 1949 (Part IV).

**SURVEY OF RIGHTS OF WAY.**

**STATEMENT ACCOMPANYING DRAFT MAP.**  
 Routes over which a public right of way is alleged to subsist on the 27th day of November, 1954.

Statement No. 174.

1/425000 Maps Nos. 43/04, 43/05,  
 43/14 & 43/15

*Documents treating or modifying the right  
 of way and other relevant information.*

County District: CHEADLE R.D.

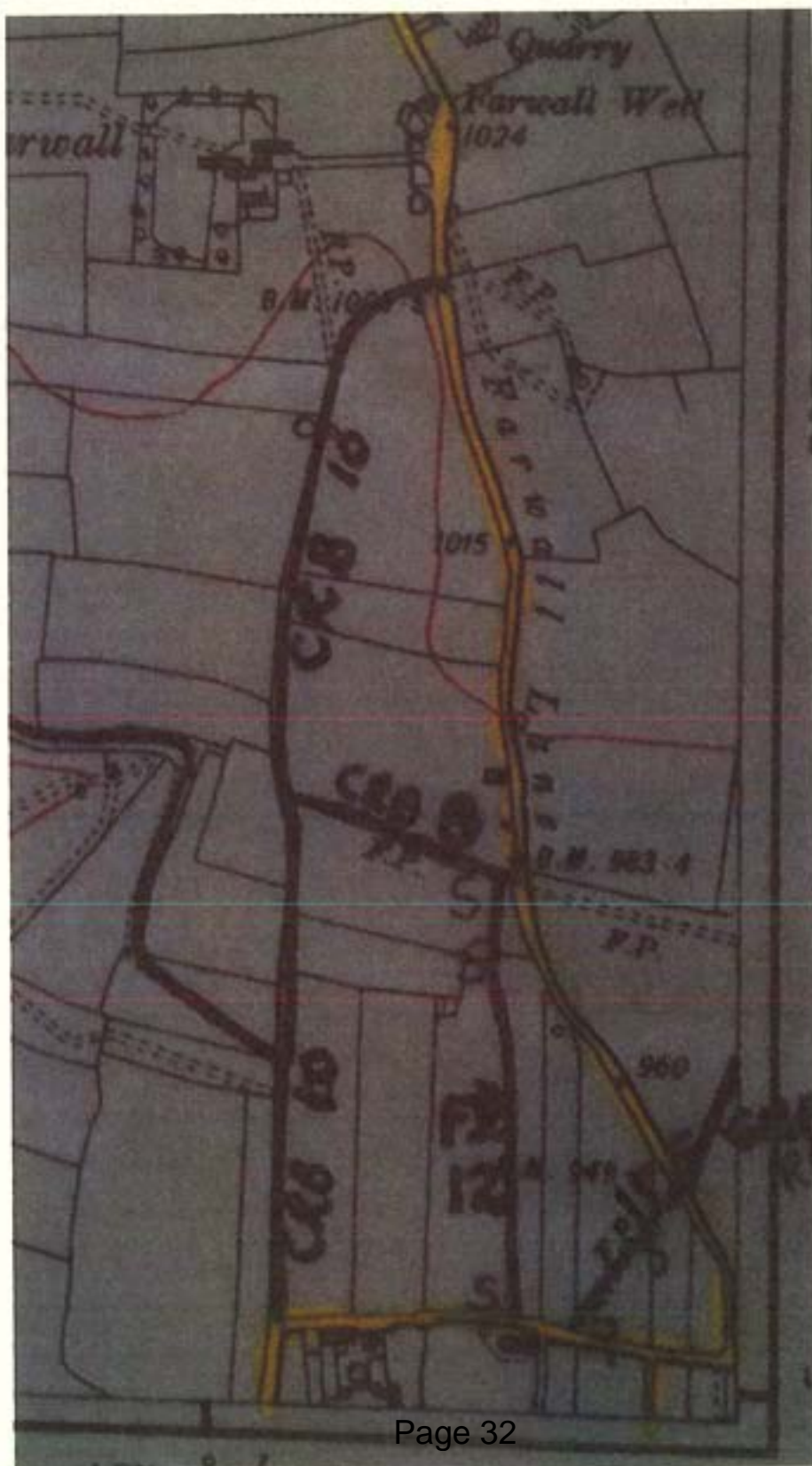
Parish: WATERHOUSES.

County District: CHEADLE R.D.

Parish: WATERHOUSES.

Path No.	Type of Path	Path commences at	Path finishes at
1	RP	County road, about 450 yds. N.E. of Longcote Barn	Farwall Lane, Calton
2	RP	End of Whitefields Lane, N. of Three Steeps	County road near Greensides
3	FP	F.P. 28, near Calton	R.P. 1, about 175 yds. S. of Slade Hoase
4	FP	Whitefields Lane, about 150 yds. N.E. of The Flatts	County road E. of Pitchings Farm
5	FP	County road, about 100 yds. S. of Throwley Hall	R.P. 1 at the Old Limekilns, S. of Longcote Barn
6	RP	Pikefloe Lane, about 200 yds. S.E. of Pikefloe Farm	F.P. 17, N.E. of Lamber Low
7	FP	County road S. of Sparrowlee Bridge	R.P. 10, N. of Calton
8	RP	Farwall Lane, S.W. of Cart Low	R.P. 10, about 150 yds. to the W. of Farwall Lane, about 150 yds. N. of Old Limekiln
9	FP	F.P. 34, about 550 yds. E. of Lee House	Farwall Lane, about 125 yds. S.E. of Farwall
10	RP	County road at Calton	County road, about 100 yds. to the S.E.
11	FP	Farwall Lane, opposite R.P. 1	County road, about 150 yds. E. of R.P. 10
12	FP	R.P. 8, near junction with Farwall Lane	Whitefields Lane, N.E. of The Flatts
13	FP	Rocaster Lane, S. of Pinfield	Rocaster Lane, almost opposite F.P. 12
14	FP	Waterfall Lane, near Beech-hole house	F.P. 26 at Throwley Moor House
15	FP	County road at Mere Hill	F.P. 20, about 100 yds. W. of Lee House
16	RP	County road, N.E. of Redwycloose Bars	Whitefields Lane, S.W. of Lamber Low
17	FP	County road at Sparrowlee Bridge	Waterfall Lane, near Cheatsie House
18	FP	Leek-Ashbourne road, near the George Inn, Waterhouses	

**Staffordshire County Council Rights of Way Survey Plan 1954**  
**Showing route of CRB 10 Waterhouses Parish (now FP 10)**  
**Staffordshire Record Office Ref: C/P/138/72**





**Staffordshire XIV.6 Map 1881**  
**Source: National Library of Scotland online maps**  
**(maps.nis.uk)**

**Waterhouses Parish Footpath 10 shown coloured brown (road)**



From [redacted]  
Sent [redacted]  
To [redacted]  
Subject: RE: From the National Library of Scotland

Map Enquiry Reference: Map 680/17

Thursday, 20 April 2017

RE: From the National Library of Scotland

Thank you for your email received on 12<sup>th</sup> April 2017

Dear Julie Turner,

The Ordnance Survey (OS) painted roads a burnt sienna (brown) shade. So Donkey Lane would be considered a road by the OS in 1880. The OS have their own definition and classification system for roads. Prior to 1896, all roads were the same class but the instructions for shading a road were as follows:

*...All metalled public roads for wheeled traffic kept in good repair by highway authority will in future be shaded... Source: Oliver et al (2005).*

The unshaded roads or paths may not have met the OS's definition and so were not classified as roads.

Later on the OS devised a classification system for roads (1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> class). 1<sup>st</sup> and 2<sup>nd</sup> class roads were distinguished by shading on one side and 3<sup>rd</sup> class roads did not have any shading.

I hope we have been of some help. If you have any further questions, please do not hesitate to contact us at: [maps@nls.uk](mailto:maps@nls.uk) or call us on 0131 623 4660.

Sincerely,

Louise Speller  
Map Assistant

National Library of Scotland  
159 Causewayside, Edinburgh EH9 1PH  
Map Tel [redacted]

Email [redacted]

 National Library of Scotland  
Leabhraichean na h-Alba

\* Donkey Lane is the local name given to FB10 Waterhouses Parish. It's correct name is ROODS LANE

Oliver, R., & Charles Close Society for the Study of Ordnance Survey Maps. (2005). *Ordnance survey maps: A concise guide for historians* (2nd, rev. and expand ed.). London: Charles Close Society.

National Library of Scotland, Scottish Charity, No: SCO11086

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Before you print please think about the ENVIRONMENT



**Staffordshire County Council: Survey of Rights of Way**  
**Survey notes for CRP 10 Waterhouses Parish (now FP 10) dated 7 April 1952**  
**Staffordshire Record Office Ref: C/P/138/72**

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949. <b>Staffordshire County Council: Survey of Rights of Way</b>		LOCAL AUTHORITY: <i>Council for Staff</i>	PATH No., as on map: <i>10.</i>
Note—The survey should be carried out as described in the pamphlet "Survey of Rights of Way."		PARISH: <i>Waterhouses</i>	PATH SYMBOL, as on map: <i>R.P.</i>
Path starts at: <i>Off Back Lane tunnel Rd</i>	Path finishes at: <i>Commons by Well Lane at Point near farm occupation, Rd</i>	6" quarter Ordnance Sheet No.: <i>XIV NW</i>	Survey finished on: <i>7/4/1952</i>
Names and addresses of persons making the survey: <i>F. H. Cotton</i> <i>Seldom used metal Road now grassed over not used at all for vehicular traffic.</i>		Grounds for believing path to be public: please mention Enclosure Award Maps, Title Maps, and any other relevant documentary evidence <i>Been used by Public ever a great number of years</i>	

CHV—52486



**Subject:** Freedom of Information Request GA5278 - Public Footpath No 10 Waterhouses  
GA5736

**From:** [REDACTED]

**Date:** 17/08/2017 14:09

**To:** [REDACTED]

Dear Julie,

I have attached a further two plans showing the suggested cycle track route which runs along Farwell Lane. Our records show that the proposed route(s) forms part of a countywide draft cycle route network and at the moment are only suggested routes. At this stage, the route is not incorporated in any firm programme and implementation will depend upon the level of resources available for cycling; as well as the satisfactory outcome of associated consultation and legal procedures. Therefore, it could take a while before this particular cycle route is considered, and even then there might be a more suitable alternative put forward as certain cycle facilities may well be deemed inappropriate for reasons of safety.

I am not aware if Sustrans has been involved in this proposal.

I think the best person who might be dealing with any future proposals would be Will Spencer, Connectivity Strategy Officer.

Many Thanks

**Gemma Allen**

Access to Information Officer  
Information Governance Unit  
Staffordshire County Council  
Staffordshire Place 2  
Tipping Street, Stafford  
ST16 2LP  
Tel: [REDACTED]

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Staffordshire County Council

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#### Disclaimer

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Telephone 

Email 

31 March 2017

Staffordshire County Council  
Information Governance Unit  
Strategy, Governance and Change  
Third Floor -2 Staffordshire Place  
Tipping Street  
Stafford  
ST16 2LP

Dear Sir

**FREEDOM OF INFORMATION REQUEST – PROPOSED CYCLEWAY ALONG  
FOOTPATH 10, CALTON, Near WATERHOUSES**

I wish Staffordshire County Council to supply me with the following information under the Freedom of Information Act :-

I attended an auction held by Bury and Hilton, Estate Agents, on 22 March 2006 to bid for a block of land situated on the edge of Calton as shown coloured red on the attached plan. However, I did not succeed in purchasing this land.

The land adjoins the track along which Footpath Number 10 runs from Calton village to Farwall Lane in Waterhouses Parish. The track is shown highlighted yellow on the plan.

The Land Searches prepared for the auction sale advised that Staffordshire County Council were proposing a cycleway along the route of Footpath 10.

I wish to see the Committee report and any accompanying papers when this proposed cycleway was approved. I do not wish to see any financial information relating to this proposed scheme and any such information can be redacted from the papers that I am requesting be sent to me.

Yours faithfully



Mrs Julie Turner





EXTRACT FROM O.S. DOVE DALE & TISSINGTON  
1:25000 PATHFINDER SERIES  
SK 05/15 SHOWING ROODS LANE, CALTON,  
WATERHOUSES PARISH (FP 10) AS A RUPP  
KEY TO THIS MAP ATTACHED AS PAGE 2





# SHEET SK 05/15

## ROADS AND PATHS

Not necessarily rights of way

- M1 or A4(M) Motorway
- A20(T) Trunk road
- A35 Main road
- B207+ Secondary road
- A35 Dual carriageway
- Road generally more than 4m wide
- Road generally less than 4m wide
- Other road, drive or track
- Unlicensed roads and tracks are shown by pocked lines
- Path

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

- Public path
- Footpath
- Bridleway
- Road used as a public path

Public rights of way indicated by these symbols have been derived from Definitive Maps as amended by later amendments or instruments held by Ordnance Survey on 1st Mar 1979 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.

## BOUNDARIES As notified in 1-3-79

- County (England and Wales) Region or Islands Area (Scotland)
- District
- London Borough
- Civil Parish (England) Community (Wales)
- Constituency (County, Borough or Burgh)

Concise boundaries are shown by the first appropriate symbol opposite.  
For Ordnance Survey purposes County Boundary is deemed to be the limit of the parish structure whether or not a parish area adjoins.

## SYMBOLS

- |  |   |       |                                   |  |   |
|--|---|-------|-----------------------------------|--|---|
|  | Church with tower   | VILLA | Roman antiquity (AD 43 to AD 420) |  | Water   |
|  | or with spire   | Cairn | Other antiquities                 |  | Sand, sand & shingle                                      |
|  | without tower or spire  |       | Site of antiquity                 |  | Mud   |
|  | Glasshouse, Youth hostel  |       | Size of battle (with date)        |  | Forestry Commission pedestrian only (observe local signs) |
|  | Bus or coach station  |       | Gravel pit                        |  | National Trust always open                                |
|  | Lighthouse, lightship, beacon   |       | Sand pit                          |  | National Trust opening restricted                         |
|  | Triangulation station   |       | Chalk pit, clay pit or quarry     |  | National Trust for Scotland                               |
|  | Triangulation point on church, chapel, lighthouse, beacon, building & chimney |       | Refuse or slag heap               |  | Electricity transmission line                             |
|  | Boundary Pass, Stone  |       | Sloping masonry                   |  | pylon   |
|  | Telephone, public, AA, RAC  |       | Well, Spring                      |  | pole  |
|  | Post office, Mile Post, Stone   |       |                                   |  |   |

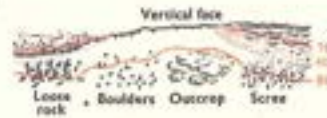
## VEGETATION

Units of vegetation are defined by positioning of the symbols but may be delineated also by pecks or dots

- Coniferous trees
- Non-coniferous trees
- Coppice
- Orchard
- Scrub
- Bracken, rough grassland
- Heath
- Marsh
- Saltings

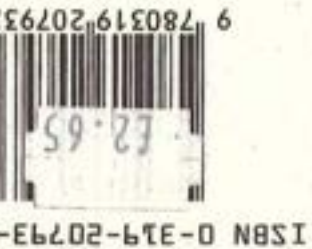
## HEIGHTS AND ROCK FEATURES

- 50 Determined by ground survey
  - 50 Determined by air survey
- Surface heights are to the nearest metre above mean sea level. Heights shown close to a triangulation pillar refer to the station height at ground level and not necessarily to the summit.



Contours are at 5 metres vertical interval

At the centre of this sheet true north is 0° 07' west of grid north. Magnetic north is estimated at 4° west of grid north for 1985 decreasing by about 1" in three years.  
This is an Ordnance Survey map of Scotland and Wales, published by the Ordnance Survey, Southampton. It is based on the Ordnance Survey maps of Scotland and Wales.  
Details of abbreviations used on this map can be provided on request.  
Made and published by the Ordnance Survey, Southampton.

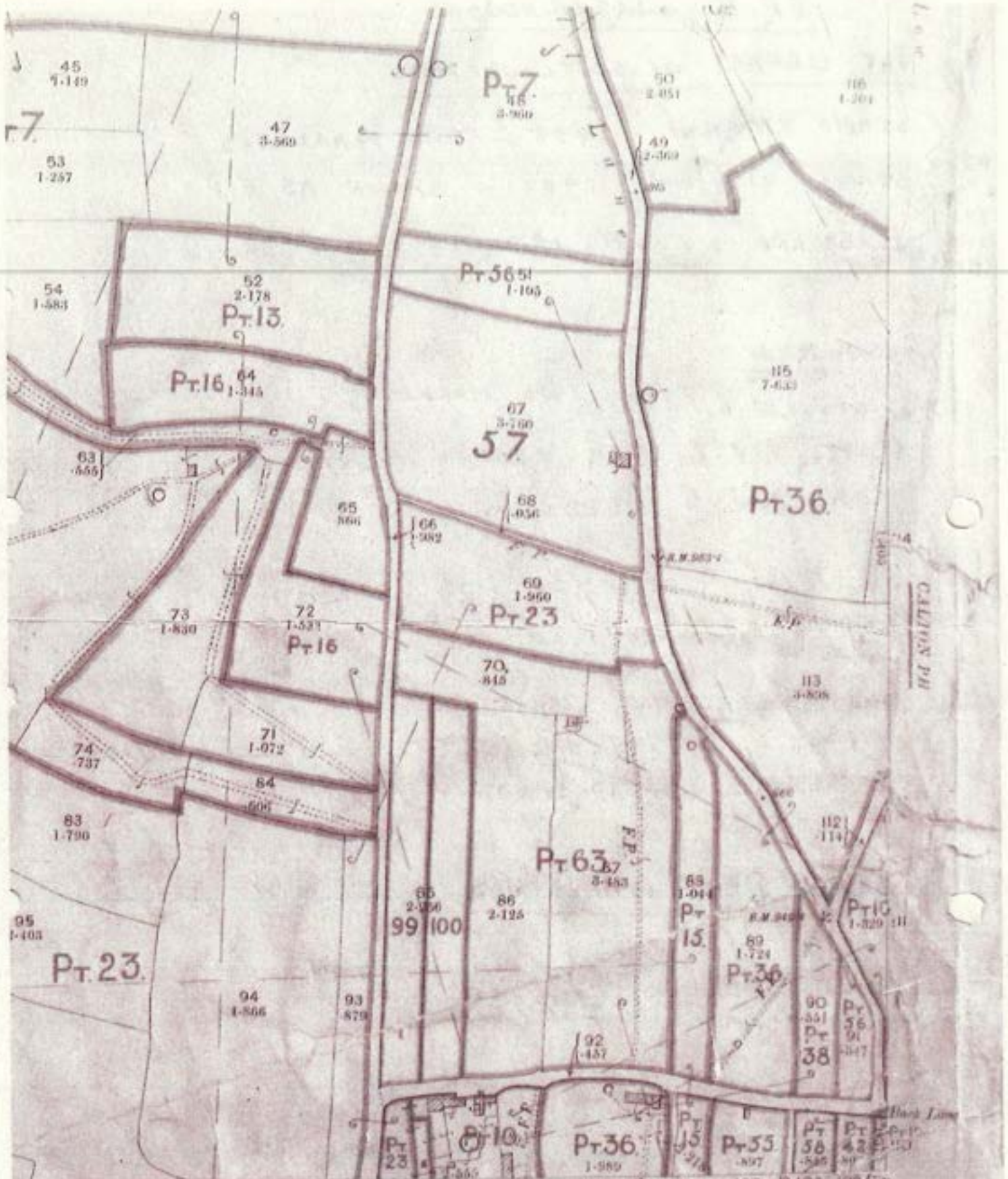


- Sliding
- Cutting
- Embankment
- Tunnel
- Road over & under
- Level crossing, station

Information not available in enclosed areas  
**DANGER AREA** - MOD range in the area. Danger! Observe warning notices.

This sheet has been compiled from 1:50 000 or 1:10 000 scale maps published 1971-79 which were made from surveys dated 1945-75.  
Published for the Ordnance Survey by the Ordnance Survey, Southampton.  
Major roads revised 1979.  
Forestry Commission information is supplied by the Forestry Commission.





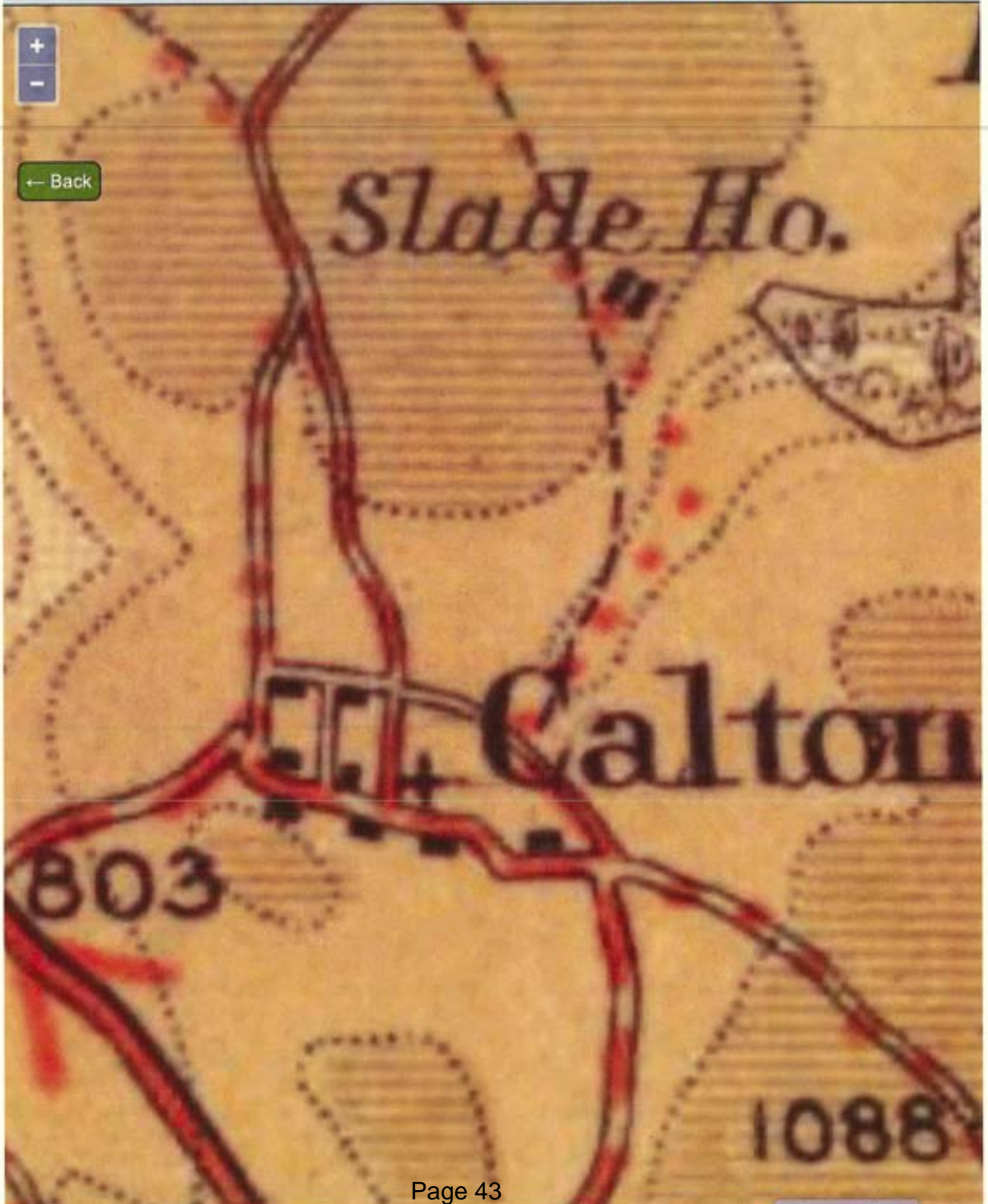
BOARD OF INLAND REVENUE VALUATION OFFICE: FINANCE ACT  
 CALTON 1910, RECORD SHEET PLANS, STAFFORDSHIRE XLV 6  
 REF: IR 132/5/128 (98248)

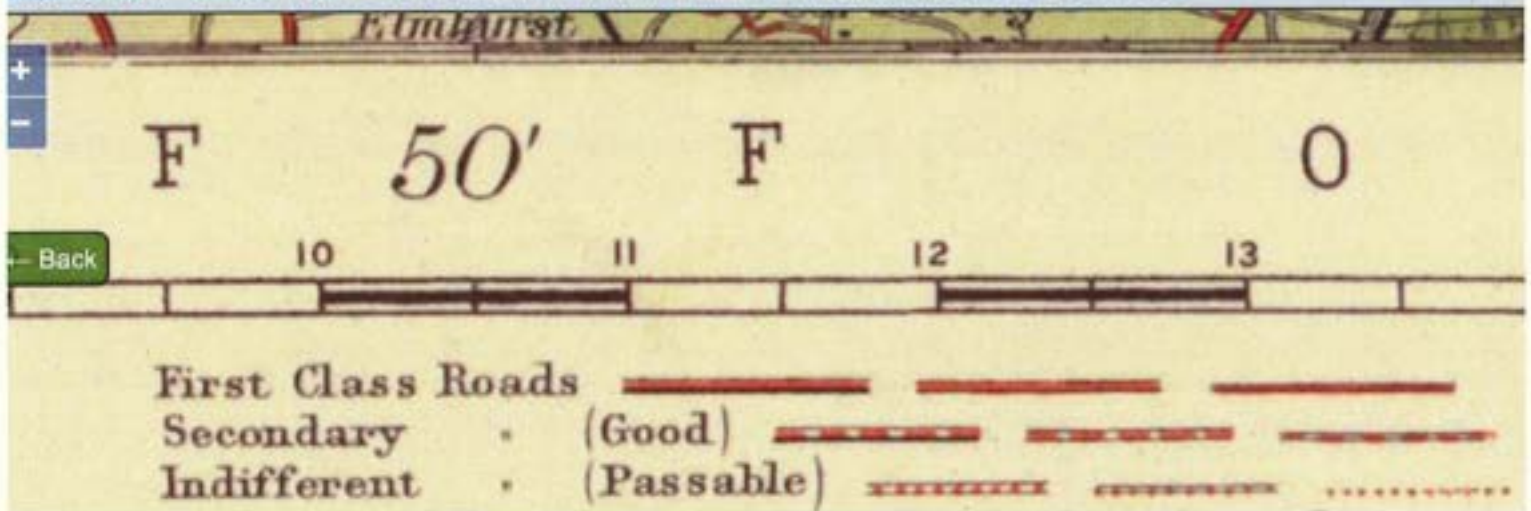
Scale: One Inch = 200 Feet  
 SOURCE: THE NATIONAL ARCHIVES, KEW

25° TO 1 MILE OS MAP 1910 2ND EDITION



[Maps home](#) > [Series maps](#) > [Bartholomew "Half Inch Maps" of England and Wales, 1902-1906](#)



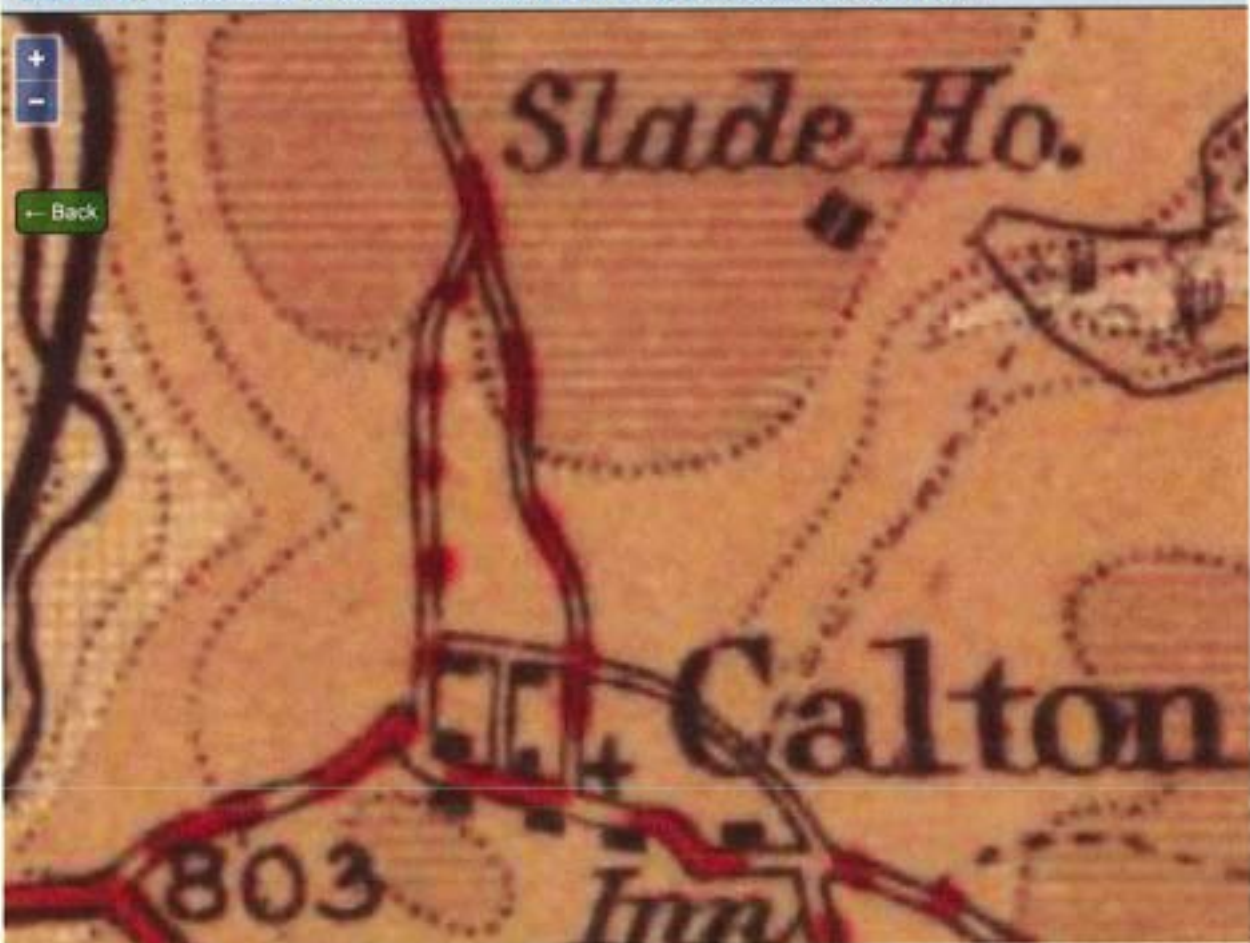


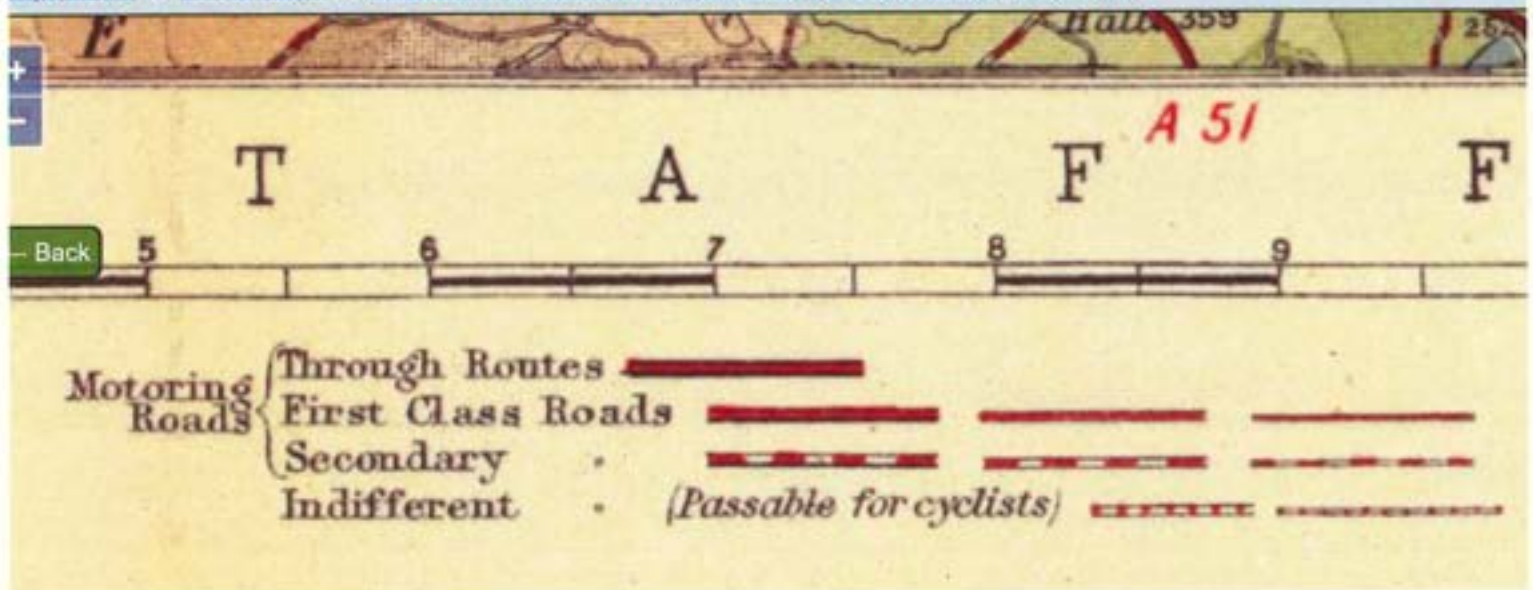




Sheet 13 - Derby & Nottingham  
Publication date: 1924  
Size: sheet ca. 56 x 77 cm (ca. 22 x 30 inches)

[Maps home](#) > [Series maps](#) > [Bartholomew "Half Inch Maps" of England and Wales, 1919-1924](#)







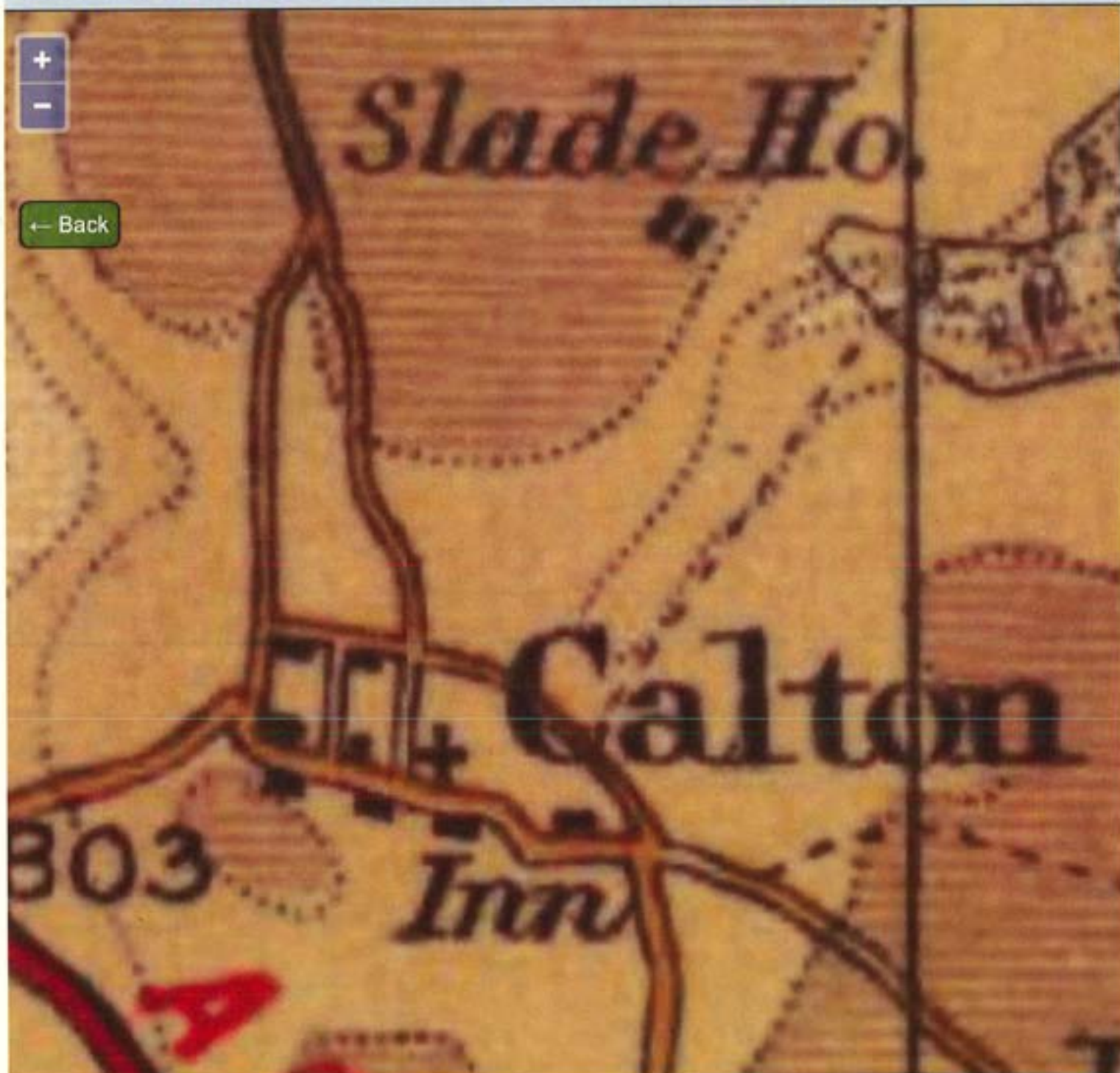
Bartholomew 1941 (L)

Great Britain, Sheet 24 (England & Wales No. 13). - Vale of Trent

Publication date: 1941

Size: sheet ca. 59 x 88 cm (ca. 23 x 35 inches)







[Maps home](#) > [Series maps](#) > [Bartholomew Revised Half-Inch Map, Great Britain, 1940-47](#)



[Maps home](#) > [Series maps](#) > [Bartholomew Revised Half-Inch Map, Great Britain, 1940-47](#)



[← Back](#)

Best Motoring Routes		
Good Secondary Roads		
Serviceable Roads		
Other Roads	