

RESPONSE OF STAFFORDSHIRE MOORLANDS BRIDLEWAYS GROUP TO THE REPORT OF THE DIRECTOR OF CORPORATE SERVICES TO THE COUNTRYSIDE AND RIGHTS OF WAY PANEL IN RESPECT OF APPLICATION TO UPGRADE CHEADLE PUBLIC FOOTPATH 14 TO A RESTRICTED BYWAY

1. AMENDMENTS REQUIRED TO THE OFFICERS REPORT

The following amendments are required to the officers report to correct factual inaccuracies :-

Paragraph 2 states "The route connects with a carriageway to the north east, which is not named". This carriageway is the northernmost section of Tean Road. The Enclosure Award states " and continuing nearly in a northwardly direction to or near to a certain place called the Old Furnace, and which said road leaves towards Oakamoor.

Paragraph 2 continues "The route runs across plots 2, 7, 8, 11 and 12 and alongside Old Inclosure. The route is in fact is alongside all these numbered plots and does not run across them.

Paragraph 3 states "The title of the Award is Public Carriage Drift and Foot Roads" but omits the crucial wording of the fact the application route is "thirty feet wide".

Paragraph 5 incorrectly includes some wording that relates to sections of Tean Road which are not the subject of this application. The wording that relates to the claimed route is "and out of the said Cheadle and Alton Turnpike Road about an equal distance between the said Counslow Toll Gate and the Green Man Inn and continuing nearly in a northwardly direction"

2. STAFFORDSHIRE MOORLANDS BRIDLEWAYS GROUP RESPONSE TO THE REPORT

Paragraph 3 should be amended as stated above so that the wording is "The title of the section within the Enclosure Award is Public Carriage Drift and Foot Roads thirty feet wide".

Staffordshire Moorlands Bridleways Group (SMBG) is of the opinion that this wording should be taken to mean that the thirty feet wide routes carry all three types of Roads - Public Carriage, Drift AND Foot Roads due to the reasons set out below.

An extract of Section 8 of the Inclosure Consolidation Act of 1801 is set out below:

"Be it further enacted, That such Commissioner or Commissioners shall, and he or they is and are hereby authorized and required, in the first Place, before he or they proceed to make any of the Divisions and Allotments directed in and by such Act, to set out and appoint the publick Carriage Roads and Highways, through and over the Lands and Grounds intended to be divided, allotted, and inclosed, and to divert, turn, and stop up, any of the Roads and Tracts, upon or over, all, or any Part of the said Lands and Grounds, as he or they shall judge necessary, so as such Roads and Highways shall be, and remain thirty Feet wide at the least, and so as the same shall be set out in such Directions as shall, upon the Whole, appear to him or them most commodious to the Publick, and he or they are hereby further required to ascertain the same by Marks and Bounds and to prepare a Map in which such intended roads shall be accurately laid down and described, and to cause the same, being signed by such Commissioner"

The stated width of thirty feet in the Enclosure Award is that set out in statute for public carriage roads, and is in excess of that required if the route was either a Drift and/or the Foot Road.

This is supported by the wording further on in the Award "Private Bridle and Foot Roads of the width of six feet" (which are shown on Plan II).

Paragraph 13 states "Unfortunately, only an extract of the Award has been provided and not the full award and also the preamble to the Award has not been provided and therefore it is not clear exactly what powers the commissioners had" The Cheadle Enclosure Award, maps and Act 1831 are held in Staffordshire Record Office (some 5 minutes walk away from the offices of the Legal Services team). SMBG have asked that County Council officers view this documentation and provide the relevant sections in the report so that all parties are fully aware of the facts of the case.

By virtue of s53(3)(c) Wildlife & Countryside Act 1981, the County Council are required to consider the matters raised by the application taking into account the evidence provided by SMBG ("the discovery by the authority"), "when considered with all other relevant evidence available to them". As noted above, The Cheadle Enclosure Award, Maps and Act 1831 are already in the possession of SCC at their Staffordshire Record Office and therefore as a statutory minimum, your Council is required to review this material and take it into account in your evaluation of the application.

Paragraph 13 continues "That the evidence submitted by the applicant and that discovered by the County Council — — —" No evidence has been discovered by the Council in the report - the only evidence is that submitted by SMBG.

Paragraph 14 states "There is nothing to differentiate between the public carriage, drift and foot roads on the map". This supports SMBG's interpretation of the Award wording that the routes listed under this heading were for all three types of roads.

Paragraph 15 states "There is nothing in the text of the Award to identify the status of Tean Road". SMBG disagree with this statement as the Award states that it is a public carriageway, drift and Foot Road thirty feet wide". It does not use the word "or".

Paragraph 15 continues "there is nothing to identify the status of Alton Turnpike Road". SMBG does not agree with this statement - turnpike roads were the main public roads of the day, used by carriages. The section of Tean Road that is the subject of this application is described in the Award as "and out of the said Cheadle and Alton Turnpike Road " This is evidence to support SMBG's case that the application route was used by carriages.

Appendix 1 is a map of Cheadle Turnpike Roads in the 19th Century, showing the Alton Turnpike Road as the 4th (Alton) District Cheadle Consolidated turnpike road.

Paragraph 15 continues "There is nothing in the Award to indicate who had responsibility of the maintenance of the alleged route" and "In this case it is not clear". This issue could be clarified if Council Officers were to inspect the Award.

Paragraph 15 also states "nowhere in the Award does it refer to the nature of any rights of any part of Tean Road." SMBG disagree with this statement - the wording "Public carriage, Drift and Foot Roads thirty feet wide" must mean that all three types of Road status are granted for Tean Road (and indeed for all other Roads listed under this heading in the Award) as there is no distinction where a Road is listed as being of only one or two of the above types.

Paragraph 16 states " There is nothing in the Award that specifies the rights of the alleged route and although it is clear the route is a road and therefore is more likely to have rights over it higher than a footpath, there is nothing to indicate the exact nature of any rights over it"

Paragraph 16 continues "It is likely at the time the Award and map were created and the fact that the route is identified as a road that carts and carriages may have used the route in the 1830's but there is nothing in the Award that makes this clear and therefore there is nothing to implicitly suggest that the route should be reclassified as a public restricted byway"

SMBG disagrees with these statements as Tean Road is listed in the Enclosure Award under the heading "Public carriage, Drift and Foot Roads thirty feet wide"

STAFFORDSHIRE MOORLANDS BRIDLEWAYS GROUP ADDITIONAL EVIDENCE

SMBG consider that the wording of the Enclosure Award "Public carriage, Drift and Foot Roads thirty feet wide" under which Tean Road is listed is sufficient evidence to upgrade Cheadle Footpath 14 to a restricted byway.

The Cheadle Enclosure Award 1831 is in simple terms a legal event which SMBG interprets as meaning that the awarded paths and roads as set out in the award cannot be the subject of any objections or representations. Any public path orders made further to the Award reflect the conclusion of procedures which in this case was a statutory Act of Parliament which was used to create the Enclosure Award.

Additional work has been carried out on the routes listed under the heading "Public carriage, Drift and Foot Roads thirty feet wide" in the Enclosure Award to support SMBG's case.

Appendix 2 is an extract from the Ordnance Surveyors Drawing (Ref: No 347 Cheadle) and is dated 1837. The application route can be clearly seen in the bottom right-hand corner in an orange circle. This map is the closest in date to the 1831 Enclosure Award and because this map is the nearest date to the Award, it can be inferred that this map is conclusive evidence that the application route was correctly set out as shown in the Award.

Appendix 3a is an extract of the Ordnance Survey First Series Sheet 72 dated 1856.

Appendix 3b is information on the key for the Ordnance Survey First Series maps.

The application route is shown within an red circle. This map is conclusive evidence that the application route was correctly set out as as shown in the Award. The application route is shown as "Other road" as shown in the legend in Appendix 3b. The application route is shown in the same manner as all other roads in the locality. This map was produced for sale to the public and it is unlikely to show routes that the public could not use. This map shows roads only - not bridleways or footpaths. This is evidence that Cheadle Footpath 14 was a road at the date of this map.

Appendix 4 is the Ordnance Survey First Series Sheet 72 dated 1856 marked up to show the route of Tean Road and all other Roads listed under the heading "Public carriage, Drift and Foot Roads thirty feet wide" in the Enclosure Award and marked on Plan 1 in the Award. It can be seen from this marked up Ordnance Survey map that the whole extent of Tean Road and all other roads listed under this heading are shown in a identical manner to each other - there is no distinction made between the claimed route within the red circle on the map and all other routes.

Appendix 5 is an extract from the Ordnance Survey County Series 2nd Edition 25" to the mile (Sheet XIX.12) and dated 1900. Two points of interest regarding this map:

- 1) It is noted that there is a Mile Stone as in an orange rectangle with the destination of "Alton Towers 3" beside the application route. It is quite clear that if the application route was not a public carriageway then this Mile Stone would not have been put up at this location.
- 2) It is noted on the map that there is an abbreviation of F.P. meaning 'footpath' circled in orange. Once more if the application route was not regarded as a public carriageway then this 'footpath' would not have been created as effectively the public would have been trespassing on a private road and not have been able to get to this path and instead they used what is clearly a carriage road open to all.

Appendix 6 is an extract from the Ordnance Survey County Series 3rd Edition 25" to the mile (Sheet XIX.12) and dated 1924. The points made out concerning the Mile Stone and Footpath as outlined in the above are exactly the same for this map.

Appendix 7 is an extract from the Ordnance Survey Post War mapping series 1:2500 dated 1970. The points made out in the above two maps are still relevant albeit that the Mile Stone is still present on the ground but no direction feature. It is noted that the footpath is not shown. The most likely explanation for this is because it was not apparent on the ground. It does not mean that the footpath has been removed but simply not visible to the surveyor who drew this map.

Appendix 8 is four photographs of the application route. These show the application route as having a stoned surface on part of the route with a close up showing old stone tracks on both sides with ruts where metal rimmed carriage wheels would have run. This clearly demonstrates that horses and carriages once used this route. Two of the photographs show the mile stone marked on the various editions of the Ordnance Survey maps produced as evidence above.

CONCLUSION:

Main arguments

1. The Cheadle Enclosure Award dated 1831 lists Tean Road under the heading "Public carriage, Drift and Foot Roads thirty feet wide". This wording includes all three types of Roads and does not distinguish between them. Thirty feet is the minimum width stated in the Inclosure Consolidation Act 1801 for public carriage roads. The highest status of Tean Road is a public carriage road and not merely a footpath. On the balance of probabilities a thirty foot wide road would not be only a footpath. No evidence has been found that this route has been stopped up to equestrians.
2. There is no distinction made on the Enclosure Award map between the section of Tean Road that is currently recorded as Cheadle Footpath 14 and the rest of this long road. On the balance of probabilities this shows that whole of Tean Road would be a public carriage road.
3. There is no distinction made on the First Series One Inch Ordnance Survey Map dated 1856 between the section of Tean Road that is currently Cheadle Footpath 14 and the rest of this long road. On the balance of probabilities this shows that the whole of Tean Road would be a public carriage road.
4. There is no distinction made on either the Enclosure Award map and the First Series Ordnance Survey Map 1856 between Tean Road and the other Roads listed under the heading "Public carriage, Drift and Foot Roads thirty feet wide". On the balance of probabilities this shows that the whole of Tean Road would be a public carriage road.

SMBG therefore considers that Cheadle Footpath 14 based on the documentary evidence supplied and including the extra information in the appendices the application route should be upgraded to a Restricted Byway.

Please note that SMBG will submit an appeal to the Secretary of State for Environment, Food and Rural Affairs if the CROW Panel decides that Cheadle Footpath 14 should remain as a footpath.

Mrs Julie Turner
Rights of Way Officer
Staffordshire Moorlands Bridleways Group

Date: 24 March 2021

APPENDICES

Appendix 1 - a map of Cheadle Turnpike Roads in the 19th Century

Appendix 2 - an extract from the Ordnance Surveyors Drawing (Ref: No 347 Cheadle) dated 1837.

Appendix 3a - an extract of the Ordnance Survey First Series Sheet 72 dated 1856 which shows the application route within a red square.

Appendix 3b - Information on the key for the Ordnance Survey First Series maps.

Appendix 4 is the Ordnance Survey First Series Sheet 72 dated 1856 marked up to show the route of Tean Road and all other Roads listed under the heading "Public carriage, Drift and Foot Roads thirty feet wide" in the Enclosure Award and marked on Plan 1 in the Award.

Appendix 5 is an extract from the Ordnance Survey County Series 2nd Edition 25" to the mile (Sheet XIX.12) dated 1900.

Appendix 6 - an extract from the Ordnance Survey County Series 3rd Edition 25" to the mile (Sheet XIX.12) dated 1924.

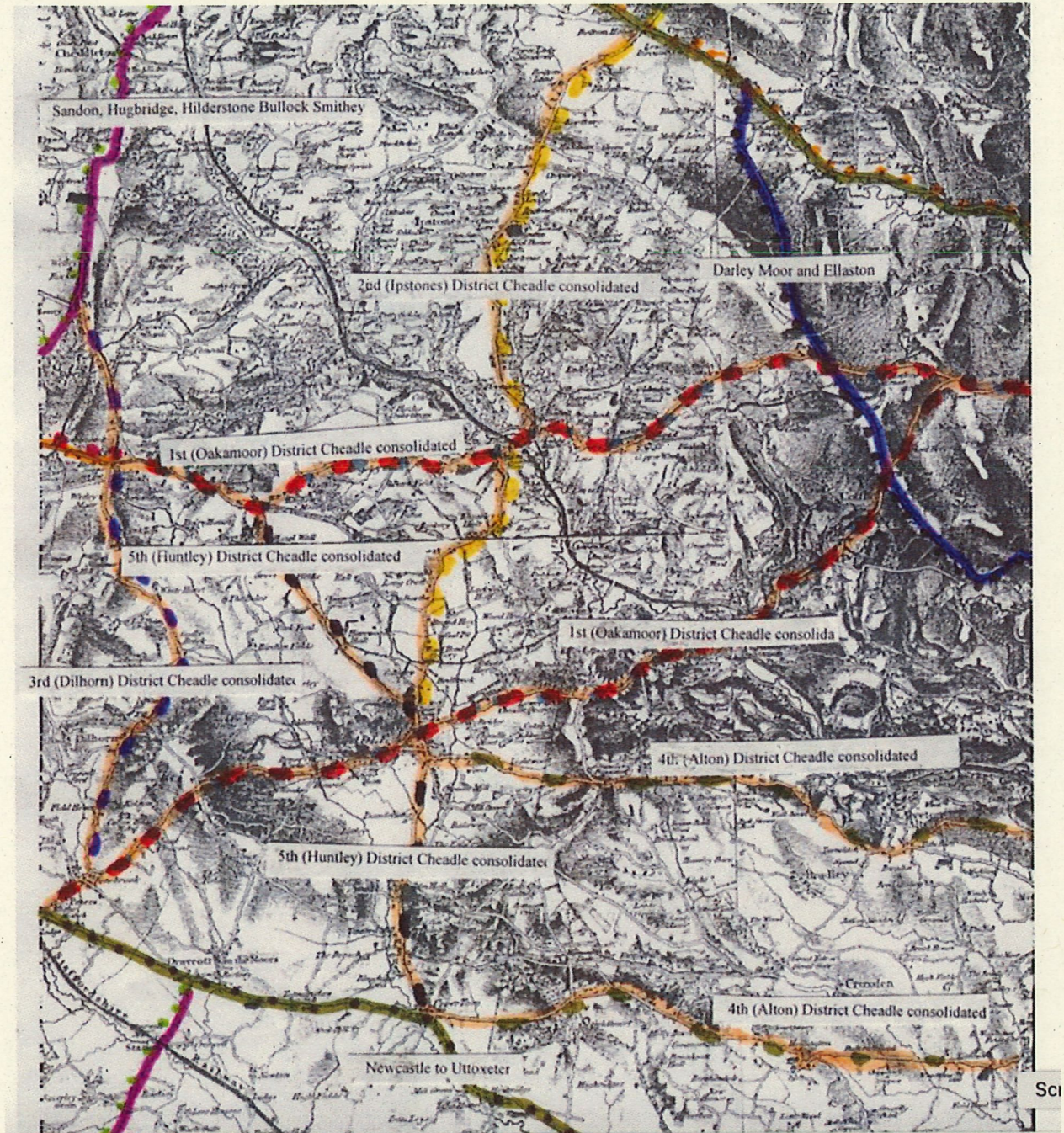
Appendix 7 - an extract from the Ordnance Survey Post War mapping series 1:2500 dated 1970.

Appendix 8 - four photographs of the application route.

APPENDIX 1

Map of Cheadle Turnpike Roads in the 19th Century

Source: <https://www.flickr.com/photos/tollhouses/15633532714>



The section of turnpike road adjoining the application route is the northern section of the 4th (Alton) District Cheadle consolidated turnpike road.

APPENDIX 2

Extract from the Ordnance Surveyors Drawing (Ref: No 347 Cheadle) dated 1837.

Source: [https://commons.wikimedia.org/wiki/File:Ordnance_Survey_Drawings_-_Cheadle_\(OSD_347\).jpg](https://commons.wikimedia.org/wiki/File:Ordnance_Survey_Drawings_-_Cheadle_(OSD_347).jpg)

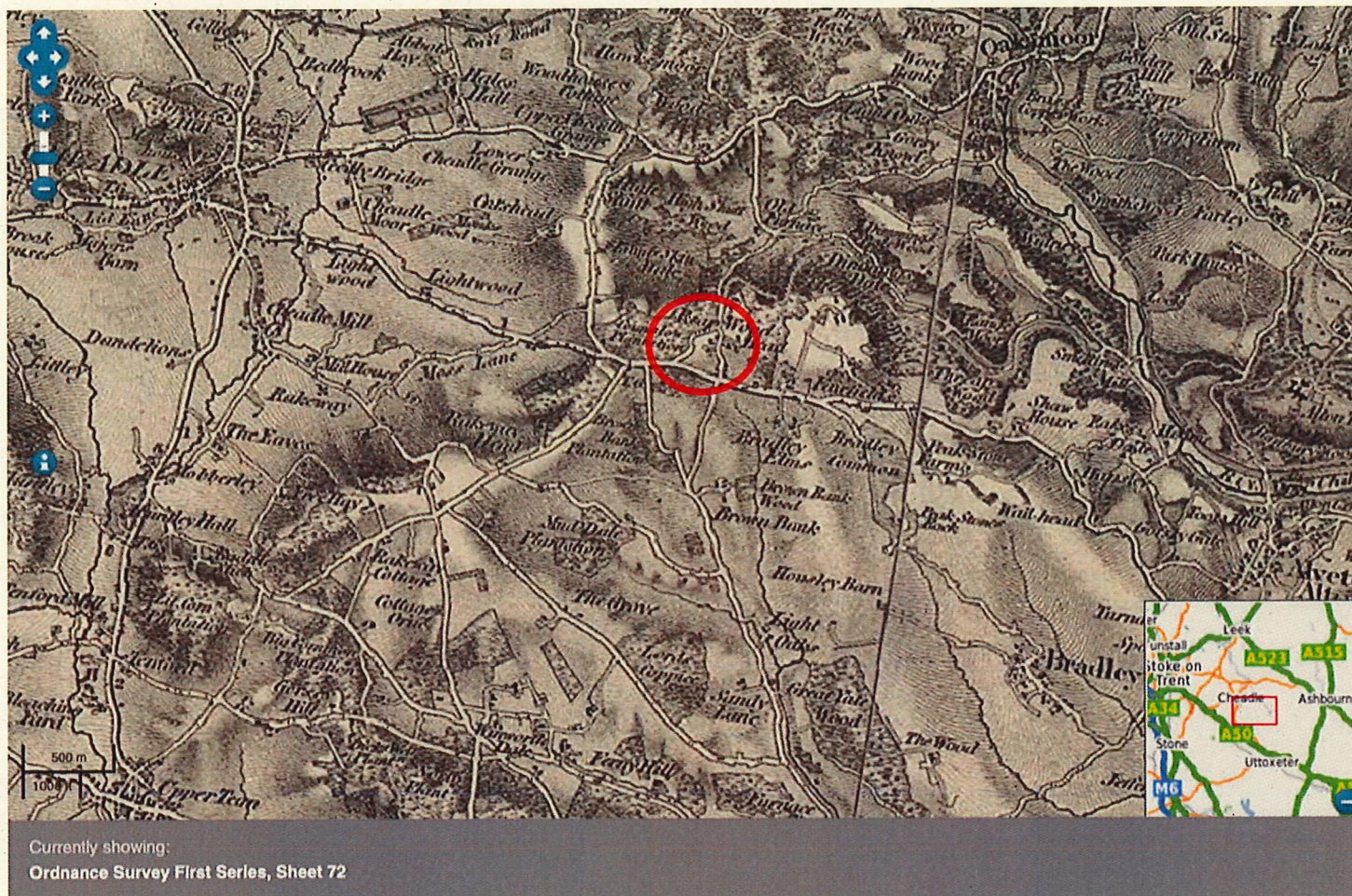


The application route can be clearly seen in the bottom right-hand corner in an orange circle. This map is the closest in date to the 1831 Enclosure Award and because this map is the nearest date to the Award, it can be inferred that this map is conclusive evidence that the application route was correctly set out as shown in the Award.

APPENDIX 3a

Extract of the Ordnance Survey First Series Sheet 72 dated 1856.

Source: <https://www.visionofbritain.org.uk>

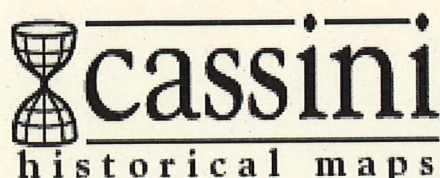


The application route is shown within an red circle. This map is conclusive evidence that the application route was correctly set out as as shown in the Award. The application route is shown as "Other road" as shown in the legend in Appendix 3b. This map shows roads only - not bridleways or footpaths. This is evidence that Cheadle Footpath 14 was a road at the date of this map.

The Alton to Cheadle Turnpike Road is shown as a "Turnpike or Main Road" as shown in the legend in Appendix 3b.

APPENDIX 3b

Information on the key for the Ordnance Survey First Series maps.
Source: Ancestry-maps-com



in partnership with  **ancestry.co.uk**

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Keys and Legends

Over the years the Keys and Legends (the two terms are interchangeable) shown on the various Ordnance Survey mapping series have changed as the features in the landscape have evolved. Over time the most important features on a map reflected the spirit of the day.

One inch to the mile (1:63,360)

Old Series

These maps were the result of the first ever national survey of England & Wales. From the late 1790s until 1874, a small army of surveyors covered every corner of the what was still an almost entirely rural country. Their work provided a stunning portrait of the landscape, with every farm, track, copse and hamlet recorded. Many of these features would have been unchanged for centuries, reminders of ancient patterns of settlement dating back to Saxon times. The maps elegantly capture the age of the canal, the coaching inn and the horse-drawn cart: the final decades of an agrarian society that was soon to be over-run by new transport links, rapid population growth and urban expansion.

Old Series Surveyed 1791-1874, published 1805-1874

No legends existed on the original Old Series maps. Abbreviations and symbols were always employed but their usage, depiction and meaning evolved during the 70-odd years it took to complete the project. Although a comprehensive legend is therefore impossible, some signs were (with minor variations) consistently used: these are shown here. Note that as Cassini's maps have been created by joining original sheets which may have been published at different dates, it is possible that any one Cassini map might contain more than one style of abbreviation or symbol (and, indeed, other variations of design).

We would like to thank Dr Richard Oliver (B.A., D.Phil., F.B.Cart.S.) of the University of Exeter for his invaluable help in creating this legend.

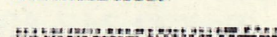
Turnpike or main roads



Other roads



Unfenced roads



Mileages; turnpike gates; toll gates

S T.P. T.G.

County boundaries



Parish or township boundaries (on some sheets only)



Church



Windmill



Lighthouse



Railways



Cuttings



Embankments



Tramways and freight-only railways



Woodland



Parkland



Foreshore: sand; boulders; rocks

