

# Rights of Way



## Documentary evidence – sources of evidence relevant to support applications to modify the definitive map

### **Introduction**

When applying to modify the Definitive Map of Public Rights of Way, you can rely on *user evidence* and/or *documentary/historic evidence*. Copies of any evidence to support your claim should be submitted to Somerset County Council.

Several sources of documentary or historic evidence can be particularly useful in determining whether a route was regarded as having public rights in the past. While not exhaustive, the following list of sources outlines the main points of importance with regard to some of those documents and includes details of where they can be viewed.

The list is not organised in order of the importance of any particular source and they should be interpreted carefully. Contact details of organisations who hold collections of historic documents are shown at the end of this document. Many of the documents can be found at the Somerset Heritage Centre (SHC) in Norton Fitzwarren.

### **Finance Act 1910 records (SHC reference: DD/IR)**

#### What are they?

Finance Act records in the form of maps and valuation books were kept following the Finance Act of 1910, which provided, among other things, for the levy and collection of a duty on the incremental value of all land in the United Kingdom. Land could be excluded from payment of taxes on the grounds that it was a public highway, and reductions in value were sometimes made if land was crossed by a public right of way.

#### Research tips – what to look for

Records will show whether a reduction in tax was claimed by a landowner for the existence of a public highway that existed on their land in one of two ways. Either by the exclusion of a route from a taxable area on the map or by

the recording of a reduction in value of the land due to the existence of a public right of way.

#### Where can they be found?

Valuation books and some working copies of the Finance Act maps are held at the SHC under reference code DD/IR followed by the particular reference code for each map or valuation book. Once the survey was completed, field books and record plans were drawn up. Most of these are held by The National Archives in Kew.

### **Inclosure Acts, Awards and Maps (SHC reference: Q/RDE)**

#### What are they?

Inclosure Awards resulted from a need by landowners to rationalise their lands and fence in their common lands. An Act of Parliament was needed and then an inclosure Commissioner appointed. Land was divided into individual plots and fields and redistributed amongst existing owners; those with rights of common were compensated by awarding them plots of land.

The Awards provide statutory evidence of the existence of certain types of highway and, in some cases, enabled public rights of way to be either created as necessary, confirmed and endorsed and sometimes stopped up.

#### Research tips – what to look for

Inclosure Awards come in the form of a map showing land that has been enclosed with numbers assigned to each parcel of land and an accompanying schedule showing details of the landowner or allottee. A route that was public at that time may be shown on the map and described as such in the accompanying award. The Inclosure Act relevant to the award must also be studied to ensure that the Inclosure Commissioners had the necessary power to implement the changes set out in the Award document.

#### Where can they be found?

Inclosure Awards for Somerset are held at the SHC. A brown reference book entitled Enclosure Awards contains a list of awards by parish name. This should be consulted initially when visiting the SHC to see if the parish within which your route is situated was subject to inclosure. Inclosure Awards can also be found listed at the SHC in an A5 book entitled 'Somerset Inclosure Acts and Awards' by W E Tate. The numbers referring to each can be prefaced by Q/Rde to order the document, e.g. Q/ Rde 157.

## **Tithe Apportionments and Maps (SHC reference: D/P)**

### What are they?

The “Tithe Commutation Act” was passed in 1836, and this placed a rent charge on landowners which replaced the previous ‘payment in kind’ system where one tenth of the produce of the land was given over to maintain the incumbent of the parish church. A map was produced by the Tithe Commissioners which showed parcels of land with unique reference numbers, and these were referred to in the apportionment document, which contained details of the land including its ownership, occupation and use.

### Research tips – what to look for

Public roads are normally shown on tithe maps as exempt from tithe liability as they were included in the category of ‘barren lands’. Private access or occupation roads could sometimes be exempted for the same reason and therefore maps cannot always be used to distinguish between public and private roads. Tithe apportionments and maps cannot be used as definitive evidence regarding the public status of a route, however they can provide useful supporting evidence.

### Where can they be found?

For each area, at least three tithe maps were produced, one for the parish, one for the Church Commissioners (now at the National Archives) and one for the Diocese. The original Diocesan tithe map and apportionment can be viewed at the SHC, and sometimes the parish map is also there. If these documents are not available, microfiches of the Commissioners’ map are also held at the SHC and at the Somerset Studies Library.

## **Highway Records**

### What are they?

The responsibility for maintenance of highways was transferred from Rural and Urban District Councils to County Councils by the Local Government Act of 1929. ‘Handover Maps’ and schedules were prepared that showed all roads that were to be maintained by the County Council at that time. Subsequent maps showing roads for which the County Council was liable to maintain were produced in the 1930s and 1950s.

### Research tips – what to look for

Most routes shown as coloured on the 1929 maps had been maintained as roads and at public expense at least up until this date. The maps produced after this date were the County Council’s internal working record of maintained roads and amendments including road improvements were recorded on them.

### Where can they be found?

These records are held in the Public Rights of Way Offices in County Hall, Taunton and may be viewed by prior arrangement with a member of staff. They are useful as they indicate whether routes were regarded as being public roads in 1929 and at other times since. However, routes regarded as having lower rights (i.e. rights of way) were unlikely to have been recorded even though they may have been publically maintainable.

## **Quarter Sessions Records (SHC reference: Q/SR)**

### What are they?

Diversion and extinguishments of rights of way were dealt with at the Court of the Quarter Sessions until 1974 and Justices' certificates in respect of the completion of the setting out of roads were also issued via Quarter Sessions. Many of these records are capable of providing evidence as to the status of routes.

### Research tips – what to look for

Plans showing the diversion or stopping up of a right of way along with a detailed description of a route, can confirm that a route was formally extinguished or diverted. Also, some parishes were penalised at the Quarter Sessions for not keeping highways in their area up to a suitable standard, and records of this type will show a list of such routes, one of which could be the subject of your application.

### Where can they be found?

Quarter Sessions documents are kept at the SHC and are arranged in bundles of all papers for each session. They can be viewed on microfiche. The numbers referring to each can be prefaced by Q/SR to order the document. You will need to check each relevant record for a particular parish, as most index entries do not specify the exact location of a route within a parish.

## **Deposited Plans (SHC reference: Q/Rup)**

### What are they?

Railways, canals, turnpike roads and other such undertakings all required an Act of Parliament to authorise construction. Detailed plans had to be submitted that showed the effect on the land, highways and private accesses crossed by the proposed projects. Plans were accompanied by Books of Reference, which itemised properties (fields, houses, roads etc) on the line of the utility and identified owners and occupiers.

### Research tips – what to look for

Where there is a reference to a highway or right of way these documents can generally be regarded as good supporting evidence of its perceived status at that date.

### Where can they be found?

Deposited plans for Somerset are held in the SHC, and can be located through reference to an index book (reference code Q/RUp).

## **Estate Maps and Records**

### What are they?

Several types of these documents are held at the SHC. These are estate maps, estate documents such as leases or indentures, sale documents where tracts of land or entire estates are sold and deeds/tenancy agreements.

### Research tips – what to look for

Deeds can provide evidence that a route was in existence long before the earliest map depicting roads and sometimes describe plots of land as abutting a highway.

### Where can they be found?

The Somerset Heritage Centre has a Parish index that lists Estate records that may cover the area over which a disputed right of way exists. In some cases documentation will be held elsewhere, for instance where the land agent was based outside of Somerset they may have deposited documents in the records office of a different county.

## **Ordnance Survey Maps**

### What are they?

The first maps of Somerset produced by the Ordnance Survey (OS) were published in 1802 at the scale of 1 inch to 1 mile [1:63,360].

The next set of maps of Somerset produced by the OS were called the "County Series" and were published at the scale of 1:2500 and 1:10560 (25 inches roughly and 6 inches to the mile respectively). There were three different editions published, as shown below:

- This first edition dating from between 1882-88 which covered all the historic county of Somerset

- A revised edition of 1900-03 (sometimes also known as the 'second edition' or 'first revision'), which was complete.
- A second but incomplete revision dated 1912 through to 1930.

### Research tips – what to look for

OS maps cannot be regarded as conclusive evidence of status, however they can indicate the physical existence of a path at the date of survey.

### Where can they be found?

Most of these maps are held in the SHC. A catalogue is also held there, which lists the editions available for study.

### **Others**

Other material that can be helpful on occasions includes: -

- Parish Minutes – either held at the SHC or by Parish Councils
- Local Histories – Somerset Studies Library
- Walking Guides – Somerset Studies Library
- Cycling and Touring Maps (e.g. Bartholomew's)
- Natural History Guides
- Perambulations - under 'P' at SHC are records of Parish "beating of bounds" which could help if the boundary coincides with a route being researched.

### **Useful Addresses**

Somerset Heritage Centre  
 Brunel Way  
 Norton Fitzwarren  
 Taunton, TA2 6SF  
**Tel:** 01823 278805  
**Web:** [www.somerset.gov.uk/archives/](http://www.somerset.gov.uk/archives/)  
**Email:** [archives@somerset.gov.uk](mailto:archives@somerset.gov.uk)

The National Archives  
 Ruskin Avenue  
 Kew, Richmond, TW9 4DU  
**Tel:** 0208 876 3444  
**Web:** [www.nationalarchives.gov.uk](http://www.nationalarchives.gov.uk)

This document is also available in Braille, large print, on tape and on disc and we can translate it into different languages. We can provide a member of staff to discuss the details.



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