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“Don’t lose your way”

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The Charles Close Society was founded in 1980 to bring together all those with an interest in the maps and history of the Ordnance Survey of Great Britain and its counterparts in the island of Ireland. The Society takes its name from Colonel Sir Charles Arden-Close, OS Director General from 1911 to 1922, and initiator of many of the maps now sought after by collectors.

The Society publishes a wide range of books and booklets on historic OS map series and its journal, *Sheetlines*, is recognised internationally for its specialist articles on Ordnance Survey-related topics.

***Don't lose your way:
putting historical rights of way back on the map***
***Jack Cornish*¹**

Paths criss-cross all OS maps (the GB1900 project identified over 360,000 “F.P.” and nearly 15,000 “B.R.” labels in their project).² Whilst the current rights of way network in England and Wales is extensive (140,000 miles at the last count) there are many historical paths, often shown on older OS maps, which are not recorded and need to be registered by 1 January 2026 or they will be lost.

Surveying authorities (county councils or unitary authorities, except for inner London boroughs) have a statutory duty to maintain a definitive map (and accompanying statement) of all the rights of way in their area. Members of the public can apply for rights of way to be added to the definitive map. In broad terms there are two classes of evidence which can be referred to by the public when making the case that a right of way should be on the definitive map (these are made through a ‘Definitive Map Modification Order’ (DMMO) application):

- If it can be demonstrated that the public have used the way, without interruption, for at least 20 years then there is a presumption that it has been dedicated as a public right of way. To support these claims, applicants will primarily be collecting user evidence forms.
- If evidence can be found to show that historically the way was a public right of way. Under the legal mantra “once a highway, always a highway”, unless a right of way has been extinguished through a legal process it remains a right of way, regardless of whether it is physically present on the ground or currently being used by the public.³

It is this second category of evidence which will no longer be able to be used after the cut-off date in 2026 (essentially meaning that rights of way that existed on 1 January 1949 but are not on the definitive map on the cut-off date will be extinguished). It is unknown exactly how many of these ways there are to be restored to the definitive map – in 2002 the Countryside Agency⁴ estimated that there were 20,000 ‘lost ways’ in England whilst the Countryside and Community Research Unit⁵ said that there are 10,000 miles of unrecorded rights of way (which would add 8.5% to the rights of way network).

The 2026 cut-off date was introduced in the Countryside and Rights of Way Act 2000 (probably most famous for opening up large areas of access land to the public) and in the intervening 18 years, members of the Ramblers (and other organisations)

¹ The author is Project manager, *Don't Lose Your Way*, The Ramblers.

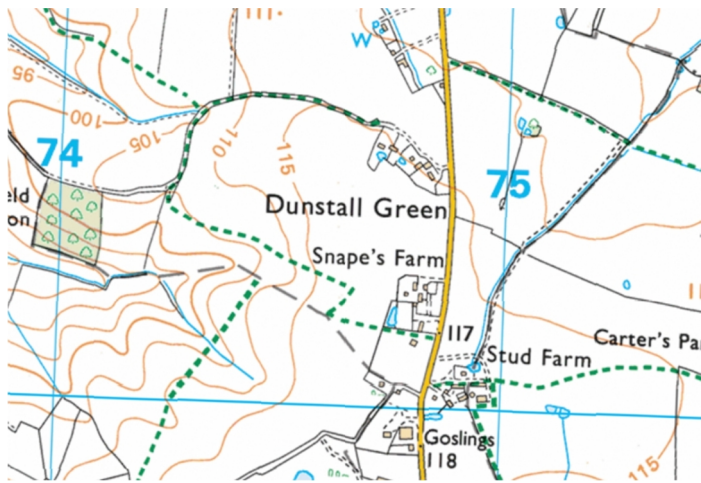
² Data downloaded from Vision of Britain website: <http://visionofbritain.org.uk/data/>

³ John Riddall and John Trevelyan, *Rights of Way: A Guide to Law and Practice*, fourth edition, Ramblers' Association and Open Spaces Society. 2007, p. 12.

⁴ *Stepping Forward - The Stakeholder Working Group on Unrecorded Public Rights of Way: Report to Natural England*: <http://publications.naturalengland.org.uk/publication/40012>.

⁵ Quoted in *Finding the Way Forward, Final Report, December 2007*: http://imba.org.uk/wp-content/uploads/DLW_Report.pdf

have been identifying, researching and submitting applications for rights of way to be added to the definitive map.



These routes take a variety of forms, some of which seem to originate in the process of drawing up the original definitive maps. The definitive map process was undertaken parish by parish with the surveying authorities consulting with district and parish councils to determine the rights of way which existed. Documentary evidence was consulted and organisations such as the Ramblers and the Open Spaces Society (or the Commons, Open Spaces and Footpaths Preservation Society as it then was) provided both user and documentary evidence.

The parish by parish nature of the first surveys has led to some strange anomalies in the rights of way network. The modern OS map shows many instances of rights of way which stop, or change status, at the parish (or district) boundary. For instance, figures 1 & 2 show a network of footpaths north of the village of Ousden, Norfolk in 1898 which has been 'broken' with gaps on the modern OS. Or figures 3 & 4 in the fields outside Market Drayton, Shropshire where there is a surprising change from bridleway to footpath status at the parish boundary (although interestingly on the 1901 25-inch this whole route is shown as a footpath).⁶

As well as these anomalies there are whole routes which have simply disappeared from the ground. An application submitted for a route in Kent can be seen in figures 5 & 6.⁷ This route (being applied for as a restricted byway) is made up of an existing public footpath (with another dead-end at the parish boundary), a farm track which is not currently registered as a public right of way and open field with no existing physical evidence of a path.

There is no specific requirement for a particular number of documents to be cited when making a DMMO application and it is rare that a 'smoking gun' piece of evidence is unearthed (although it does happen). The application shown in figure 5 references over 40 documentary sources and a typical application

⁶ I don't know the history or circumstances of these particular paths – just found them by browsing the modern OS maps on *bing.com*.

⁷ Reproduced from an application made to Kent County Council by Hugh Craddock (on behalf of the British Horse Society). The full application, including evidence replied on, can be accessed here: <http://www.craddocks.co.uk/apps/blacklane/index.htm>

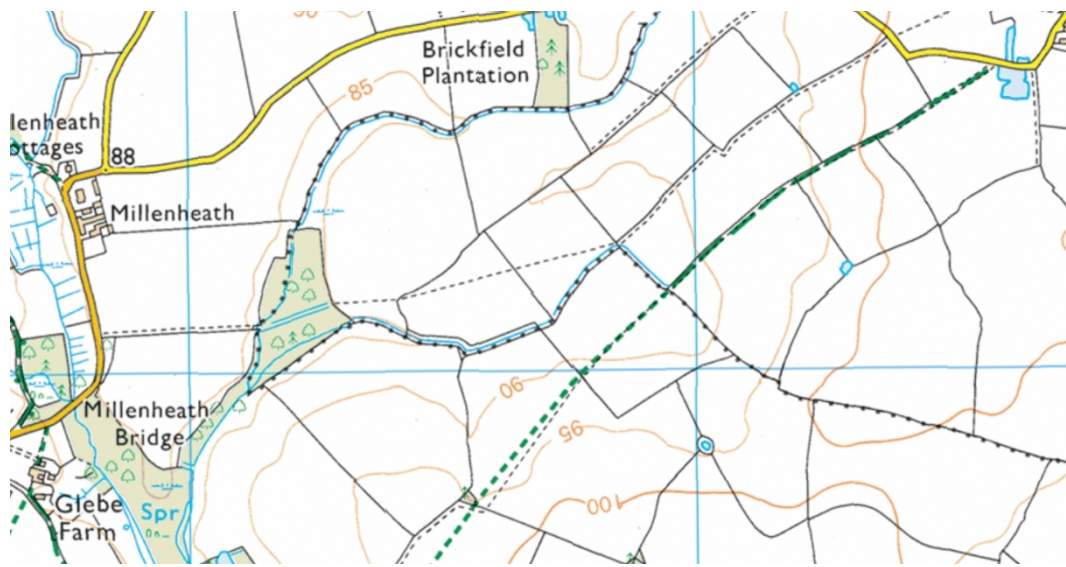


Figure 3

Opposite page:
Figures 1 (far left) and 2



Figure 4

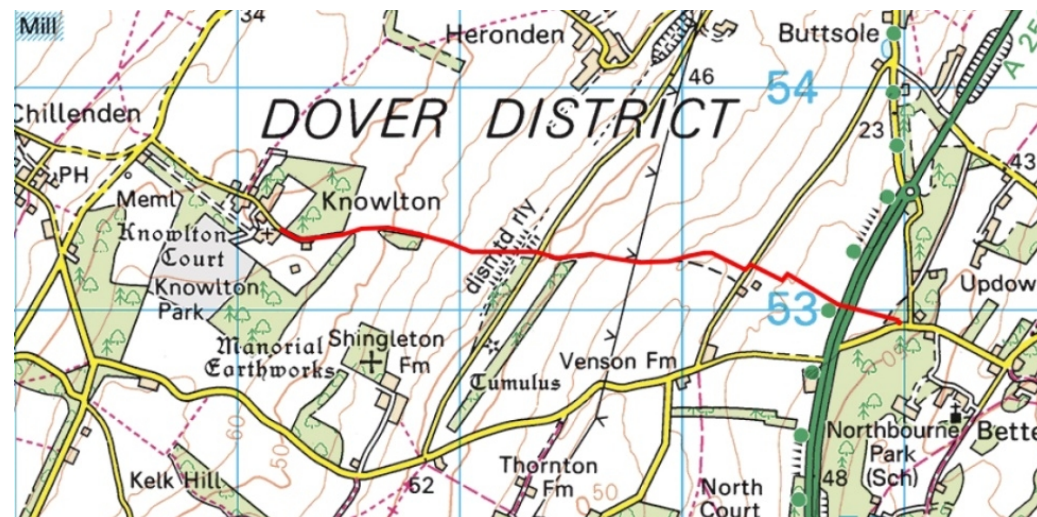


Figure 5

Historic maps
reproduced by kind
permission of the
National Library of
Scotland

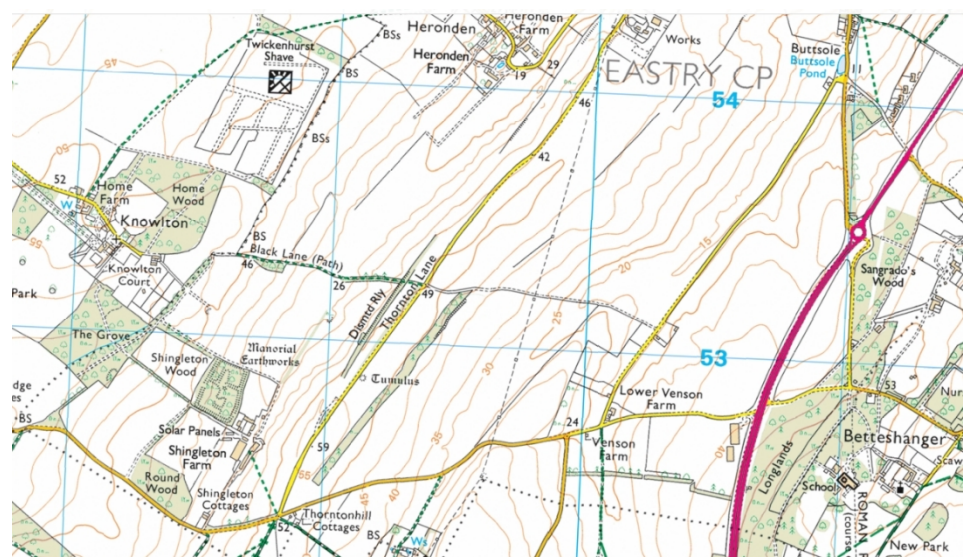


Figure 6

based on historical evidence (if there is such a thing!) will cite 10-20 sources to support the claim. *Rights of Way: Restoring the Record* by Sarah Bucks and Phil Wadey is an invaluable reference book which sets out the common sources of evidence and gives some values to the evidentiary weight of these sources (a “star-rating” system). Some of these common sources that most DMMO applications will refer to are as follows (I’ve particularly focused on the sources which might be of most interest to CCS members):

- **Tithe Awards and maps:** These records are associated with the commutation of tithes to money rents (the majority of parishes were surveyed in the early 1840s). The Tithe Survey was established to find out which areas were subject to tithes, who needed to pay and how much was payable.⁸ Detailed maps, with a colour coding set out by parliament, are accompanied by associated tithe awards.⁹ Whilst these maps were not produced to specifically show public rights of way they are a key source in supporting an application as an inference can be made that non-tithable land was public land, such as a public highway (although it could also be barren land or belong to the church or the crown estate). Helpfully, in some parishes all roads were given apportionment numbers and roads were listed as being in the ownership of the surveyor of highways and thereby giving very good evidence that they are public.¹⁰
- **Enclosure records:** The records associated with the process of Parliamentary enclosure (the consolidation of small landholdings into larger units as well as the occupation of commons by large landowners)¹¹ in the 18th and 19th centuries are particularly valuable for establishing public rights of way. Commissioners, empowered by the enclosure act, were empowered to often set out a whole new road network¹² and because they are part of a process authorised by parliament they are highly conclusive with regards to public rights of way (although it should be noted that enclosure only affected about one-seventh of the total area of England).¹³
- **Published OS maps:** Despite the familiar statement “The representation on this map of a road, track or footpath is no evidence of the existence of a right of way” (appearing since 1888),¹⁴ published OS maps are still useful in identifying

⁸ *Research Guide: Tithes*, National Archives: <http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/tithes/>

⁹ Rights of Way Review Committee, Practice Guidance Note 5: investigating the existence and status of public rights of way, second edition, December 2007, p. 5: <https://www.ramblers.org.uk/~media/Files/Go%20walking/Rights%20of%20Way%20Review%20Committee%20Practice%20Guidance%20Notes.doc?la=en>

¹⁰ Sarah Bucks and Phil Wadey, *Rights of Way: Restoring the Record*, second edition, Bucks & Wadey publishing. 2017, p.77.

¹¹ *Research Guide: Enclosure Awards*, National Archives: <http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/enclosure-awards/>

¹² Bucks and Wadey, p. 50.

¹³ Rights of Way Review Committee, p. 5.

¹⁴ Richard Oliver, *Ordnance Survey Maps: a concise guide for historians*, third edition, The Charles Close Society, 2013, p. 114.

potential routes and providing supporting evidence for a DMMO application. The first edition 25-inch maps are particularly useful as they were accompanied by books of reference ('Area Books') which give a greater insight into the historical public use of the route (for instance a route described as a "road" in the area book can be compared to other existing public roads in the locality).¹⁵

- **OS boundary records:** The records associated with the duty of OS to ascertain and record all public boundaries (in the Ordnance Survey Act 1841) are particularly useful. Consulting the Boundary Remark Book (or the Boundary Sketch book where the remark book isn't available) can uncover notes that a route is "to/from somewhere" which supports public use or there may be notes about the public maintenance of a route that crosses a boundary.¹⁶

- **OS Object name books:** Like the Area Books, these documents contain information about named roads and lanes (often with an identification as public or otherwise) which are useful when making an application.¹⁷ Weight is given to the records by the fact that local worthies (clergy, owners, overseers, solicitors etc.) were often consulted when establishing the correct name.¹⁸

- **Early published maps:** Maps sold to the travelling public can provide solid supporting evidence that a route was public as its inclusion suggests that the purchaser could use that route. I particularly enjoy looking at the Bartholomew Maps which have been digitised by the National Library of Scotland.¹⁹ An interesting line of future research is the role that members of the Cyclists' Touring Club had in helping the Bartholomew Map Company update their maps to reflect changes in condition, use and status of roads and paths.²⁰

- **Inland Revenue valuation records:** Dubbed "Lloyd George's Domesday", the Finance Act (1910) involved the valuation of every property in England and Wales so that a tax could be levied on any increase in value when the property was Inherited or sold. The tax was based on the value of a site itself, irrespective of any value attached to buildings or crops on it. The presence of a right of way would affect the value of the land and therefore owners were able to claim some tax relief where rights of way crossed their land, although not all landowners claimed this.²¹ These records consist of hand coloured second edition County Series maps, with annotated plot numbers and associated field books. The field books show if a deduction was made for a right of way (although it is not always possible to pin-point exactly where this right of way was). In addition, these maps show 'white roads' which are left uncoloured as they were not taxable and therefore it is a good inference that these roads are public rights of way ('Rating Agencies', including the highway authority are not taxed).

¹⁵ Bucks and Wadey, p. 102.

¹⁶ Bucks and Wadey, p. 134.

¹⁷ Rights of Way Review Committee, p. 7.

¹⁸ Bucks and Wadey, p. 154.

¹⁹ <https://maps.nls.uk/mapmakers/bartholomew.html>

²⁰ A small sample of these letters have been published by the National Library of Scotland: <http://digital.nls.uk/bartholomew/duncan-street-explorer/cyclists-touring-club.html#item3>

²¹ Rights of Way Review Committee, p. 6.

- **Deposited plans for public works and utilities:** Maps of proposed railways, major roads, canals and drainage schemes have to be deposited with the appropriate public authorities (for instance all railway schemes had their own act of parliament). Where public rights of way cross or are affected by these schemes this is often shown on the plans (and are useful even if, in the event, works did not take place). Like the enclosure records this evidence is given extra weight by the official/parliamentary process which enabled them.
- **Quarter Sessions records:** The quarter sessions were the courts which presided over a whole range of local issues until they were replaced by the County Courts in 1971.²² The records of the quarter sessions are one of the key sources of evidence which are not directly based on maps. Any issue related to a route which was brought before the quarter session (such as a blocked route or one in disrepair) is valuable as only public highways would have been a matter for the quarter session.²³

This is just a small sample of the sources useful to a historical rights of way researcher and other good records include highways records, sales documents, the Ministry of Agriculture and Fisheries Farm Survey (1941-43), turnpike records, parish maps and estate maps, glebe terriers, evidence on the ground (for instance ancient stiles), aerial photography and local histories.

Whilst a trip to the archives is usually needed to complete an application (not a chore for CCS members!) there are already many of documentary sources available to explore from the comfort of your own computer screen. The Ramblers has recently created a directory of online digitised documentary sources, which is split between links to national/general sources and links to local sources (sorted by Local Authority). I hope that even for those who do not intend to research historical rights of way will find this an interesting resource: <https://www.ramblers.org.uk/get-involved/campaign-with-us/dont-lose-your-way-2026/finding-historical-sources-online.aspx>

The Don't Lose Your Way (DLYW) project at the Ramblers is focused on supporting volunteers to make DMMO applications so that we can make the most of the opportunity to record historical rights of way and try and make the definitive maps well...definitive. We are currently looking at a range of options which will hopefully help in this endeavour including using technology to better identify potential routes; more training, guidance and support for those researching and submitting applications; facilitating better access to archival material (including looking at projects to get more documents digitised), and how we can work closely with other organisations interested in this area (for instance volunteers of the British Horse Society have been doing a significant amount of work on historical rights of way).

If you would like to know more about historical rights of way or DLYW, I would love to hear from you. If you have come across any other sources that you think would be useful, please do get in touch with me at Jack.Cornish@ramblers.org.uk

²² *Quarter session*: https://en.wikipedia.org/wiki/Quarter_session

²³ Bucks and Wadey, p. 127.