

Evaluation of Historical Documents

Early Commercial maps

A number of map-makers (such as Isaac Taylor, Thomas Milne and C & J Greenwood) were producing small-scale maps (often one inch to the mile or less) during the 17th – 19th centuries. They were often sponsored by local landowners, and purchased as works of art rather than aids to navigation. The quality of surveying varied, and prior to 1800 was generally poor compared with similar scale Ordnance Survey maps produced from 1808 onwards. They are nonetheless useful in proving the early origin of a highway. Although, of themselves, they do not prove the status of the roads and tracks shown on them, it is likely that only roads or tracks of some physical or strategic significance would be shown.

A set of strip maps showing main roads and their junctions first produced by Ogilby in the late 1600s, but later plagiarised by others carry similar weight.

Estate Maps and surveys

Prepared by landowners for their own estate management purposes, estate maps and surveys carry less evidential weight than maps which were prepared under statutory authority or with public scrutiny. They are however, extremely useful as they often contain more detail than other maps and have the strength of having been prepared by, or for, people with an intimate knowledge of the land in question. They were frequently made immediately before, or after, a land transaction, such as a sale or enclosure.

Inclosure Maps and Awards

Inclosure is the name given to the process whereby land was taken out of a communal, or common farming system and allotted to individuals who subsequently retained sole ownership of their individual parts of it. It had a major impact on the landscape, as large open fields previously cultivated in strips or blocks were divided by hedges into separate units, and waste or common land was similarly fenced or hedged and improved by its new owners.

During this process account had to be taken of the public roads and other highways crossing the land being inclosed. As a consequence, inclosure evidence is one of the few historic sources that can prove the exact status and location of highways. From the mid 18th century, most inclosures took place with the approval of Parliament, under the authority of commissioners, or latterly a Valuer, who could vary the existing highway network and set out new or additional highways, within the parameters of their statutory powers.

Documents evidencing informal inclosure agreements between landowners also survive. These do not have parliamentary authority and any changes to the highway network brought about by such agreements do not have legal force in the same way as changes made by Inclosure commissioners appointed by Parliament. The documents can, nonetheless, be good evidence of the reputation of highways or the intention of landowners to dedicate paths for public use.

Tithe maps and awards

The Tithe Commutation Act 1836 completed a process that had been going on piecemeal for some years, and required the payment of tithe (i.e. local taxes payable (usually) to the church or its representative) to be converted from a percentage of the produce of land, to a money payment, in order to calculate and record the titheable value of land detailed maps were drawn up for each parish. These are valuable pictures of land use and ownership at the relevant time (usually between 1838 and 1845). The way in which roads and tracks are recorded on the map and in the award can be helpful in determining their status (public roads, were often untitheable, because they did not have a value for agriculture and might be recorded in the 'Public Roads and Waste' section of the award). These maps have a high evidential value, because they were part of a statutory process which was open to public scrutiny. However, they were not prepared with a view to recording the existence or status of public highways and, in the past, their significance for rights of way has been overstated. It is impossible to apply a general set of interpretative rules for all tithe maps: different maps treat public highways in different ways and each must be studied and evaluated individually if any reliable conclusion is to be drawn from them.

Quarter Sessions and Petty Sessions Records

The Court of Quarter Sessions, and Magistrates (acting either independently or in Petty Sessions) used to carry out many administrative functions, including the maintenance and protection of highways. Minutes of proceedings, or papers lodged with either Sessions (although far fewer records survive for the business of the Petty Sessions or Magistrates than for the higher court) can provide strong evidence of the existence and status of highways. Stopping up and diversion orders made by the Quarter Sessions have the legal effect stated in the order in the same way as orders made by the County Council and Magistrates now do.

Ordnance Survey Maps and records

The first maps of Hampshire produced by the Ordnance Survey and commercially available date from the early 19th century and were a great improvement on contemporary maps of a similar genre. The most valuable series of maps are the 1:2,500 County Series maps, produced at intervals between the late 1860s and the 1940s. These maps provide an accurate picture of the landscape at the date of survey, and carry strong evidential weight, but it should always be borne in mind that the surveyors mapped physical features and not legal rights. Rarely can these maps alone be taken as evidence of the legal status of the paths and tracks shown on them.

Additional help in determining the status of a path can be found in other Ordnance Survey Records: the first edition County Series Map is accompanied by a Book of Reference, which identifies 'Roads', and sometimes 'Public Roads' or 'Occupation Roads'; the object name books (some have survived for the third edition, circa 1909) use local knowledge to describe features, including public roads; boundary books can record public highways where they also form parish boundaries and levelling records may also refer to roads and other features.

Highway Minutes

Minutes of the Turnpike Trusts, the local Vestry, Parish and District Councils can provide valuable evidence of the existence and status of highways and their management and these records have strong evidential weight.

Maintenance Maps (the 1929 'Handover' Map)

These maps were prepared by the Surveyor of each district within Hampshire when responsibility for the maintenance of rural, unclassified roads was transferred to the County Council. The maps must be given some weight because they are good evidence of what the highway surveyor believed to be publicly maintainable and, of anyone, he ought to have known which these roads were. Having said that, however, we do not know how rigorous were the inquiries that resulted in the colouring that appears on the maps, and there is the further complication that the key to the map does not make provision for the recording of bridleways.

The important thing about the maintenance maps is that they should reflect existing public responsibilities and should therefore be consistent with the known history of the roads shown on them at that date. They add weight to a body of evidence where they are consistent with it, but great care needs to be taken before attributing too much importance to them where they contradict earlier evidence of the use and status of a path.

Private conveyancing documents and sales particulars

These might provide useful supporting evidence but generally carry fairly low evidential weight.