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## Taking action

### Highways under threat

This article is a reprint from our  
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and is the third in a series on **Taking action**

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March 2016

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**In the third of a series about preserving unrecorded rights of way from extinguishment on the cut-off day, 1 January 2026, our vice-chairman Phil Wadey looks at the use of tithe and inclosure records as evidence of highway status.**

We saw last time (OS autumn 2015 page 8) how to be systematic in examining the 1910 Inland Revenue (IR) valuation-maps and related records in order to extract the most information from them. The aim was to look at each document just once (and photograph it) and to record each feature that might or could assist in proving a highway (footpath, bridleway or byway).

The method can be applied to other documents. After the IR documents the next most useful are the records relating to tithes and inclosures. These documents often reveal footpaths and bridleways as well as roads, whereas the IR documents might not show the exact routes of footpaths and bridleways for which tax deductions were claimed.

### **Tithes**

From the ninth century tithes were paid in kind by parishioners and landowners to support the church and the parish priest. The tithe was 10 per cent of the produce of the land (for example, crops, animals and wool). In the nineteenth century, there was a move to make this easier to handle, and the rector or vicar preferred money to goods.

Once the procedures in the Tithe Act 1836 had been followed, all remaining tithe charges were commuted, and the church received money instead.

As part of the process, the land in the parish or tithe district was mapped. Each land parcel was given a number, and the use of the parcel and its acreage are listed in the apportionment document that accompanies the map.

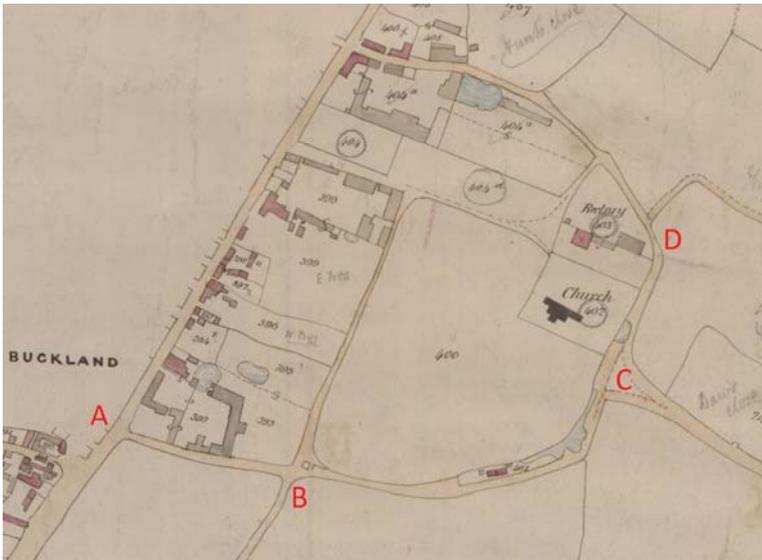
Land that was not subject to tithes was generally accepted to be public or owned by the church or crown estate. Such land would not have an apportionment number on it. Public roads were also exempt from tithes (unless a crop could be taken) and so were often unnumbered. In many cases, highways were coloured in sienna (light brown), but this is not universal.

### **Apportionment**

For our purposes, it is good to check each tithe map for its highways. These are frequently roads but sometimes bridleways. If there is doubt, other evidence will be needed to help determine which they are. The apportionment should be checked as this will often list the routes as roads so helping to determine status at the time.

For each untithed route, check whether it is a public road today, and if not, whether it is shown on the definitive map. Any missing or under-recorded routes should be added to your index of paths under investigation.

Do remember to take photographs of the whole of the tithe map and apportionment once it has been obtained from the archive, so that you need not look at it again. Take close-up photographs of routes that have been added to the index of paths and of any key to the map.



Part of the 1844 tithe map of Buckland, five miles south of Royston in Hertfordshire. The route A-B is today recorded as a footpath. B-C-D is unrecorded. Both have now been applied for at restricted byway status. Supporting evidence included the route's depiction on pre-1835 maps which were sold to the travelling public, and the fact that it was unvalued on the IR survey. Credit: Karin Frapporti.

## Inclosures

Inclosure records were compiled when a few landowners grouped together to combine and reallocate lands in order to improve methods of agriculture and their profits. This process reduced the common-grazing areas. The landowners would apply to parliament for an inclosure act to be passed, after which commissioners were appointed to carry out their survey, prepare map(s), make the distribution or award and set out the new road network and land ownership allocations. Inclosure affected especially the Midlands, Lincolnshire, the East Riding and Norfolk.

The most important point here is that new highways were set out, and some old highways were left in place. As it was a process conducted under an act of parliament, and had to be agreed by the majority of landowners affected, it has high evidential value. Each inclosure map should be examined for the presence of highways. For each one, check whether it is a public road today, and if not, check whether it is shown on the definitive map. Any missing or under-recorded routes should be added to the index of paths under investigation.

The map alone is not sufficient. It is always necessary to read the award in which the commissioners described what was being set out; this should reveal whether a route on the map was a new highway or an existing one, and whether a new highway was a road or just a bridleway. The act of parliament that authorised the particular inclosure should also be read in case there are provisions that affect the setting out or retention of highways.

## Project work

The nature of these documents lends itself to project work that various people could undertake. Examination of all tithes in a county would be an enormous piece of work for an individual, but if it is shared among a research team, with results sent back to a co-ordinator, the workload becomes manageable. Volunteer helpers, once familiar with what is needed, can examine each document, extracting the relevant information for use, with corroborating evidence in definitive map modification order applications.

Further information on locating and interpreting tithe and inclosure documents can be found in *Rights of Way: Restoring the Record* by Sarah Bucks and Phil Wadey. OSS members get a 10 per cent discount on purchases direct from the publishers (<http://www.restoringtherecord.org.uk>).