

APPLICATION FOR A MODIFICATION ORDER

The Cumbria County Council Definitive Map and/or Statement within the Lake District National Park - Wildlife and Countryside Act 1981

To: The Lake District National Park Authority
Of: Murley Moss, Oxenholme Road, Kendal, Cumbria LA9 7RL

I: D Brooksbank, for and on behalf of The British Horse Society
Of: C/O Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

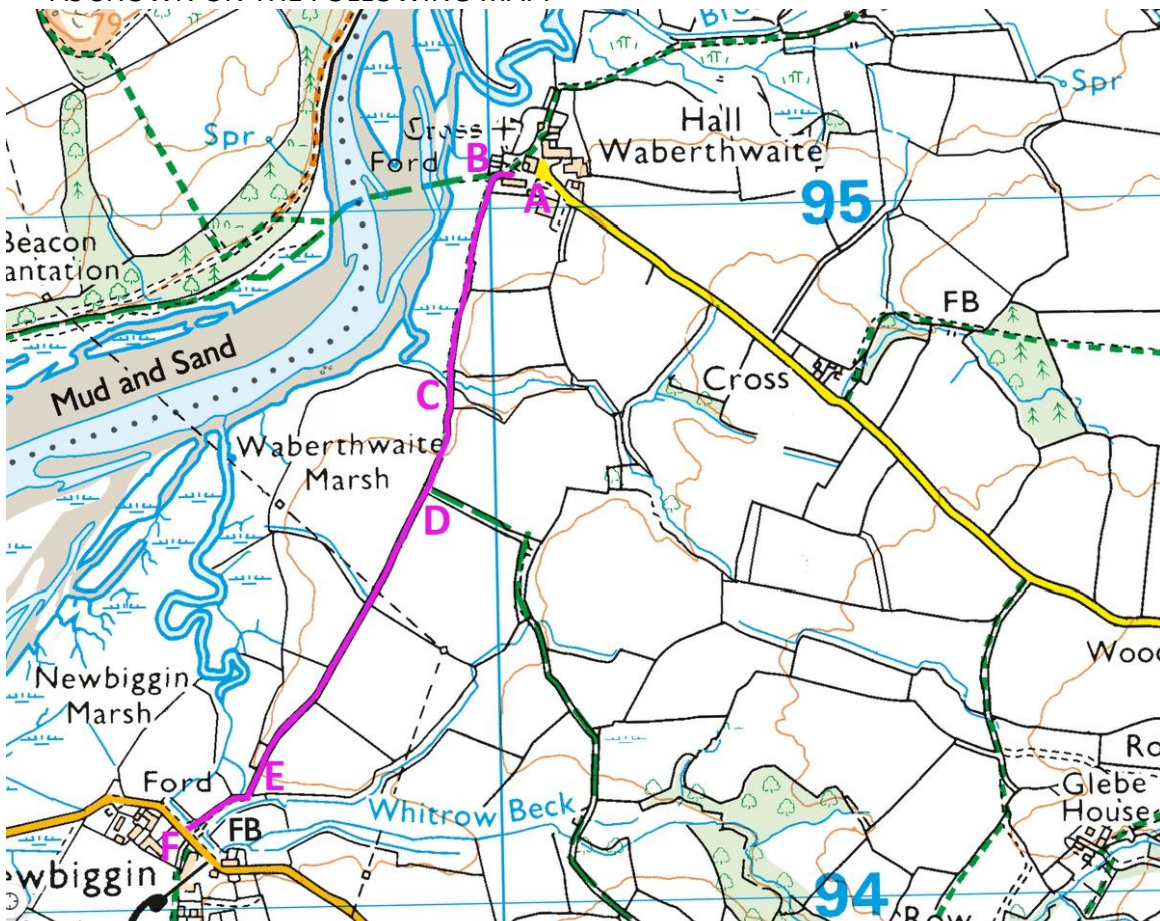
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

3. Upgrading to BRIDLEWAY part of the footpath 428019 – NEWBIGGIN LANE, Parish: Waberthwaite, District: Copeland

FROM: End of Unclassified Road U4058, Parish: Waberthwaite, Grid Ref: SD 1003 9505 (A)

TO: Junction with Classified Road C4027, Parish: Waberthwaite, Grid Ref: SD 0954 9411 (F)

AS SHOWN ON THE FOLLOWING MAP:



Application Route: Identified by: **A, B, C, D, E, F**

Copyright Designs and Patents Act 1988 Section 46 - This copy is made for the purposes of initiating a statutory inquiry and so does not infringe Copyright. Further copies should not be made.

This map should print at 1:12,000 scale when printed on A4 paper. See Appendix D for an unmarked copy of this map.

Note: All **MAUVE MARKS AND LETTERING** on Map and other Evidence have been added by applicant to help locate Application Route. They in no way represent the route itself.

Description of Application Route:

The Application Route is approximately 1100 metres long.

At Point A the route heads west from the end of Unclassified road U4058 to a field gate with signpost. The route then goes through the gate and heads south on a good farm track following the field boundaries on the left. There is also a recent fence on the western side, separating the track from the open marsh, although this is not shown on the current OS map.

After crossing a small stream the route enters a hedged lane at Point C. At Point D another track turns off east, this is where Bridleway 428022 terminates on the application route. The hedged lane continues south to reach another track junction in a wider area. Here the route turns right and follows the track to ford Whitrow Beck, which also has a footbridge, and reach Classified Road C4027 at Newbiggin.

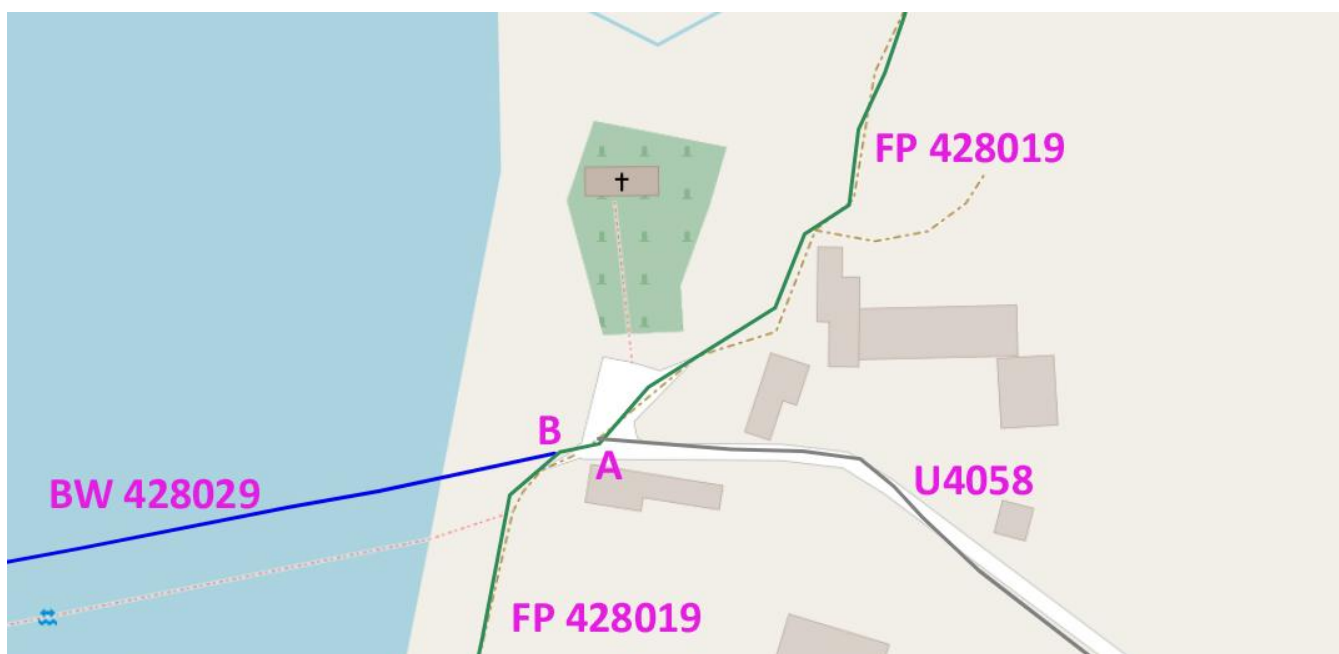
Current Recorded Status:

The route is recorded on the Definitive Map as part of footpath 428019.

The route is not recorded on the List of Streets.

Notes:

- It has not been possible to exactly ascertain the Grid Reference of Point A, as the end of Unclassified Road U4058 is shown in different places on various maps and records. The intention of this application is for the Application Route to be contiguous with Unclassified Road U4058.
- Currently, the section of the route between Points A and B appears to be recorded as footpath. This would seem to be anomalous as there is a gap between the end of Unclassified Road U4058 and Bridleway 428029 as seen on Cumberland Council's online Public Rights of Way map:



Source: https://legacy.cumberland.gov.uk/roads-transport/public-transport-road-safety/countryside-access/Rights_of_way/Map.asp

- It is reasonable to assume that there would always have been a public highway between the hamlet of Newbiggin and the Parish Church of St John at Hall Waberthwaite at least useable on horseback. It is equally improbable that the bridleway from Lane End would not continue to reach the church, rather than terminate at Point D on the application route. A plaque over the church door is dated 1778 but the Church of England believes it was founded in 12th Century.
<https://facultyonline.churchofengland.org/CHR/ChurchDetails.aspx?id=2127#Home>
- The Inclosure Award for Bootle and Waberthwaite 1869 was only concerned with the area known as Eskmeals and did not impact on the application route.

Summary and Statement of Reasons:

This route is supported by a sufficient body of evidence to be recorded as a **BRIDLEWAY**.

While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence presented in this application demonstrate highway reputation spanning over 200 years, indicating that the route does indeed have highway status at least equal to Bridleway, even though it is only recorded on the Definitive Map as a footpath.

Although its importance has diminished over time, no evidence has been found to suggest its public highway status has been extinguished.

Evidence presented in this application:

1. **Greenwood's** large scale map of 1823 clearly shows the application route and it is depicted as a cross road.
2. **Cary's Road Atlas** of 1832 also shows the application route clearly. It is depicted as a Parochial Road.
3. Several old small scale Cumberland and Lake District Maps also show the application route. These include Greenwood 1834, Garnett-Bartholomew 1870, Stanford 1886 and Murray-Stanford 1889. This is further evidence that the route was considered a public road at that time.
4. The Application route is largely shown on the **Waberthwaite Tithe Plan**, surveyed in 1838, with the exception of the section over Waberthwaite Marsh which was not included in the titheable lands. The rest of the route is listed at the end of the Tithe Apportionment as "Road and Wastes" in the Landownership and Occupation of the Parish of Waberthwaite. This is good evidence the route was considered a public parish road at that time.
5. The application route is clearly shown as a through road on all historic **Ordnance Survey Maps** inspected, from the earliest 25 inch map of 1863 up to the 6 inch map of 1956. Many examples are presented.
6. The **Ordnance Survey 25in First Edition Map** of 1863 shows the entire route in its own plots on sheets LXXXII.11 and LXXXII.15. Plot numbers 24, 21, 46 and 84 in Waberthwaite Parish are listed as "Public road" in the Book of Reference. This is strong evidence that the application route was considered a through public road at that time.
7. **George Joseph Bell was the County Surveyor and Bridge Master for Cumberland county**. His Road Map of 1892 is considered to be a highly accurate representation of the road network at that time.

The application route is clearly depicted as a “District Road”. This is good evidence that the application route is under-recorded.

8. The **Ordnance Survey** published **Quarter-inch to the mile** maps which stripped out much detail to focus on the road network. Being smaller scale, each sheet covered a much larger area and they were welcomed by motorists. The application route was considered important enough to feature on all editions of these maps.
9. It is shown as a public road on **Bartholomew’s Maps**. As a commercial Map maker, Bartholomew’s would aim to show only highways that their customers (largely motorists and cyclists) could use, so would not knowingly include private roads.
10. On the **Finance Act 1910 Maps**, the central section of the route from Point C to Point E is shown as a “white road”- that is, excluded from adjoining hereditaments, which is good evidence the route was considered a public highway.
11. The **Ministry of Transport Half-inch Maps** of 1922-3 were based on the Ordnance Survey maps and showed the new road classifications prominently. Developed specifically for sale to motorists, the maps aimed to show only public roads. The application route is shown as a road, which is a good indication this route was considered a public highway.
12. The **Ordnance Survey 1in Map of 1965** (7th Series) showed public rights of way based on the Definitive Map as supplied by the County Council at that time. Compared to the map published in 1955, some rights of way markings now replaced the tracks marked in black (cf BW 428029) however, the application route is still shown as a Metalled Untarred Road Under 14ft, with the footpath right of way markings along it. Significantly, current BW428022 is not marked as a RoW on this map. It is reasonable to infer it was added at a later draft of the Definitive Map, although it is highly unlikely this bridleway was considered a dead-end, even though that is how the map is currently defined.
13. There are no stopping up orders found relating to any part of the application route.

I attach copies of the following documentary evidence in support of this application:

A: EVIDENCE FROM MAPS

A1: Greenwood Map 1823

A2: Cary Road Atlas 1832

A3: Small scale Old Cumberland and Lake District Maps

Greenwood 1834, Garnett-Bartholomew 1870, Stanford 1886, Murray-Stanford 1889

A4: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)

1st Edition 1863, 2nd Edition 1899

A5: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)

1867, 1900, 1956

A6: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)

1865, 1897, 1918, 1947, 1955, 1965

A7: Ordnance Survey, 1:25,000 maps of Great Britain

1946, 1952

A8: Ministry of Transport ½ inch Road Map of Great Britain 1922-23 (Drawn scale 1:126,720)

A9: Ordnance Survey Maps – Quarter-inch (Drawn Scale 1:253,440)

1901, 1921, 1934, 1958

A10: Bartholomew's Half Inch to the Mile Maps England and Wales (Drawn Scale 1:126,720)
1903, 1924, 1941

B: PRIMARY EVIDENCE

B1: Tithe Records – Waberthwaite Parish 1843

B2: Public Road Network Map of Cumberland by Bell, County Surveyor 1892

B3: Finance Act Map 1910

LXXXII.11 and LXXXII.15

C: OTHER EVIDENCE

C1: The Gazette - Stopping Up search

D: MAP AND PHOTOGRAPHS OF THE APPLICATION ROUTE

D1: Current OS 1:25,000 map of Applicant Route

D2: Photographs of the route

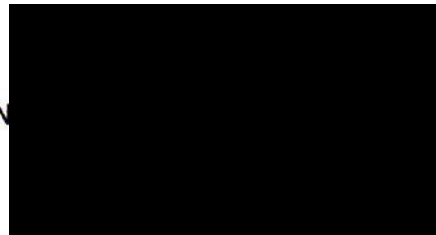
Photos 1 – 3

D3: Aerial Photographs of the route

Photos 1 – 2

DATED: 04/12/2023

SIGN



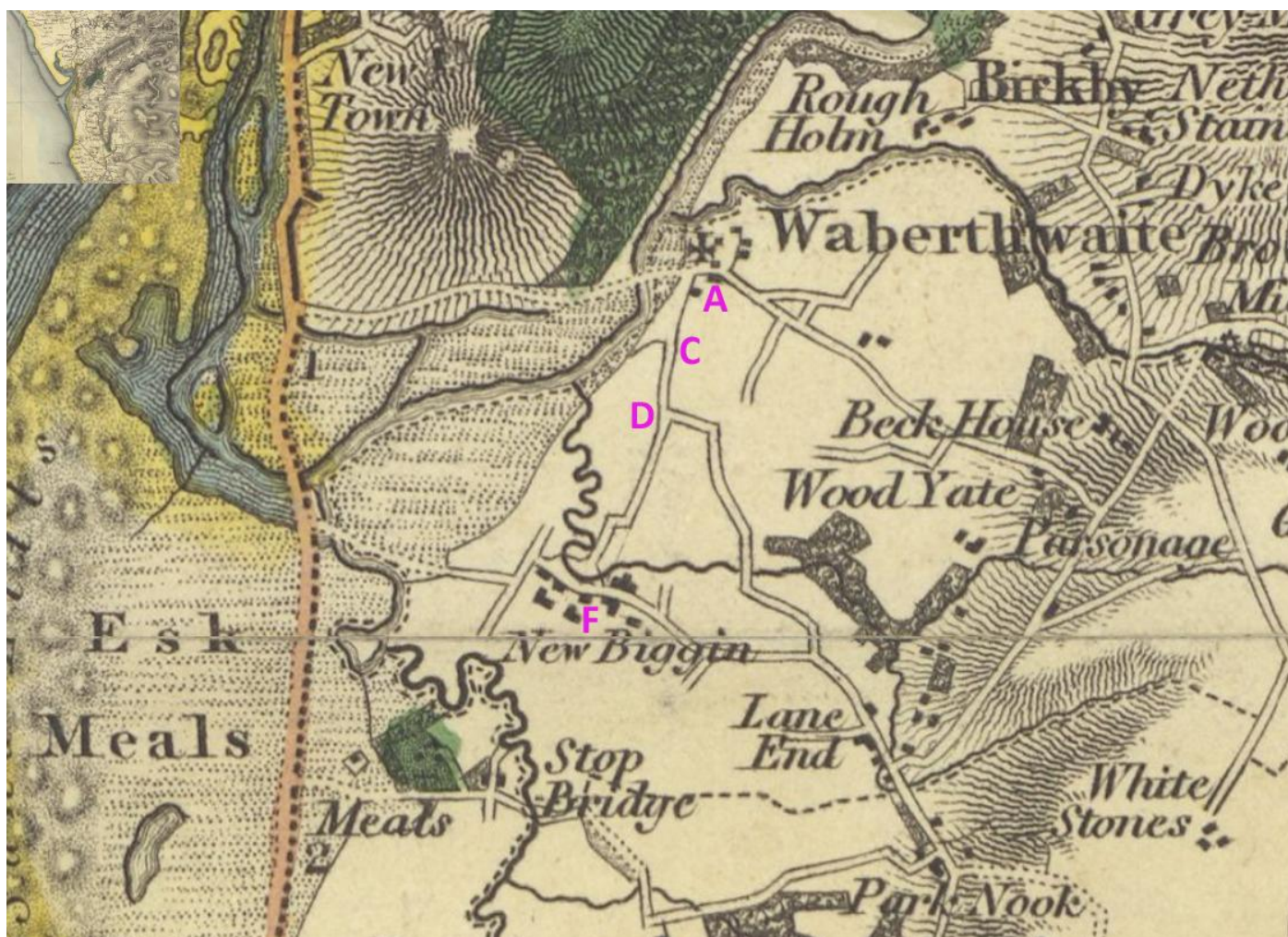
Application for a Modification Order 3. Upgrading to BRIDLEWAY part of the footpath 428019 – NEWBIGGIN LANE, Parish: Waberthwaite, District: Copeland

Appendix A: EVIDENCE FROM MAPS

Note: All **MAUVE MARKS AND LETTERING** on Map Evidence have been added by applicant to help locate Application Route. They in no way represent the route itself.

A1: Greenwood Map 1823

Greenwood's Maps were developed for sale to the gentry, coach drivers and the increasing numbers of travelling public. This larger-scale map is drawn at approximately 1 mile to 1 inch. The Application Route is shown as a through road, mostly enclosed. The Explanation on this map shows Turnpike Roads and Cross Roads but not bridle roads or footpaths, so the representation of the route on his map is consistent with a cross road.



Greenwood Legend:



Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

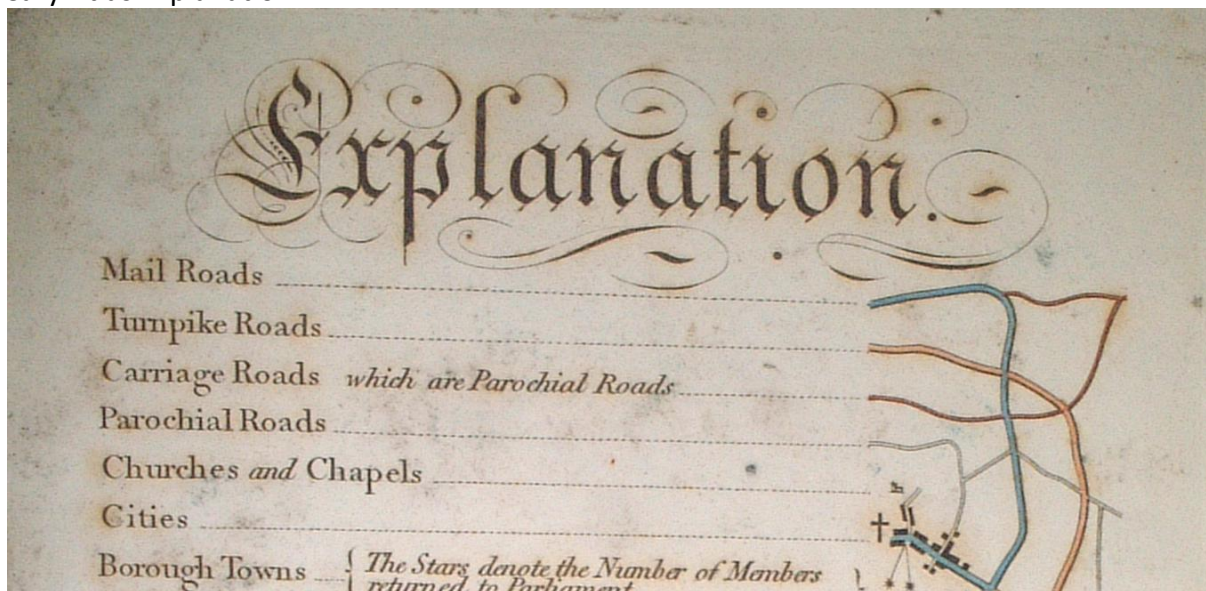
A2: Cary's Road Atlas 1832 (Sheet 52)

Cary was commissioned by the Postmaster General in 1794 to map the road network of Britain, as postal charges were related to distance. He continued to produce many maps, but his 1832 Atlas is considered one of the best general maps available before the introduction of the Ordnance Survey. Drawn at a scale of 2 miles to 1in, it clearly showed what was considered to be the public road network just before the Highways Act of 1835.

The Application route is clearly shown as a through route. The route is depicted with two thin solid lines. This is consistent with his key for "Parochial Roads", and good evidence the route was used as a public road at that time.



Cary Atlas Explanation:



Source: Photographed at North Yorkshire County Records Office and can be viewed at BHS evidence library

<https://u.pcloud.link/publink/show?code=kZLO9RkZEePXXuqXb1knwhKBobBto5c1e5ey#folder=4298818357&tpl=publicfoldergrid>

A3: Small Scale Old Cumberland Maps

Other county maps were published at much smaller scales, and necessarily showed much less detail. They were sold to the travelling public, so it can be reasonably inferred that routes shown on these maps were considered to be public highways throughout that time.

Greenwood 1834

Drawn at 3 miles to 1in, this map showed much less detail than his earlier 1 mile to 1in map. The Application route is clearly shown as a through road.



Bartholomew – Garnett 1870

Map drawn by Bartholomew to a scale of 2 miles to 1 inch and was published by Garnett with the title "Garnett's Map of the Lake District of England". The application is clearly shown as a through route in the same manner as other routes which are public roads and bridleways today.



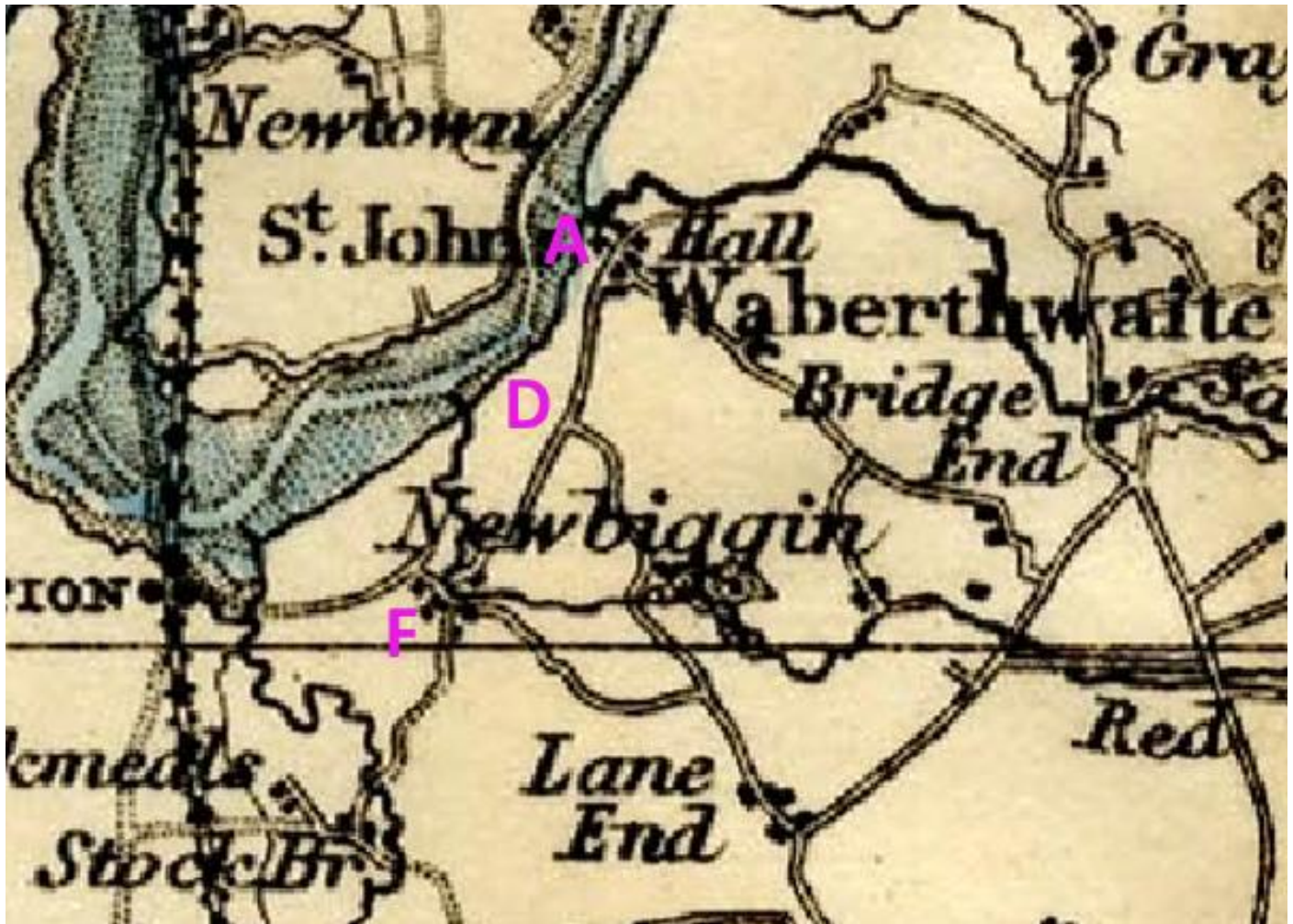
Stanford 1886

Titled, "Stanford's Map of the English Lake District", this map was drawn at a scale of 1 mile to 1 inch. The application route is clearly shown as a through route in the same manner as other routes which are public roads and bridleways today.



Murray-Stanford 1889

Murray published this "New Map of the Lake District" at a scale of 2 miles to 1 inch. It is credited to "Stanford's Geographical Establishment" but includes the caveat "Chiefly from the Ordnance Survey". The application route is clearly shown as a through road.



Source: Lakes Guides - <http://www.lakesguides.co.uk/html/maps/mapsfram.htm>

A4: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)

The **1st Edition** of Cumberland maps was surveyed in 1860 and published in **1863**. The evidence from the 1st Edition of Ordnance Survey indicates that the application route had the reputation of a public road at that time.

Sheet LXXXII.11 shows the northern part of the Application Route from Point A to Point B as an enclosed lane in its own plots, numbered 24 and 21, separate to abutting land. The section from Point B towards Point C is also shown in its own plot, numbered 46. Plot 46 is written in the margin of the map sheet to indicate the plot continues onto the adjoining sheet. All 3 plots are depicted with pecked lines, indicating they are unenclosed from the surrounding land, but with broken braces across the route to indicate they are separate entities.

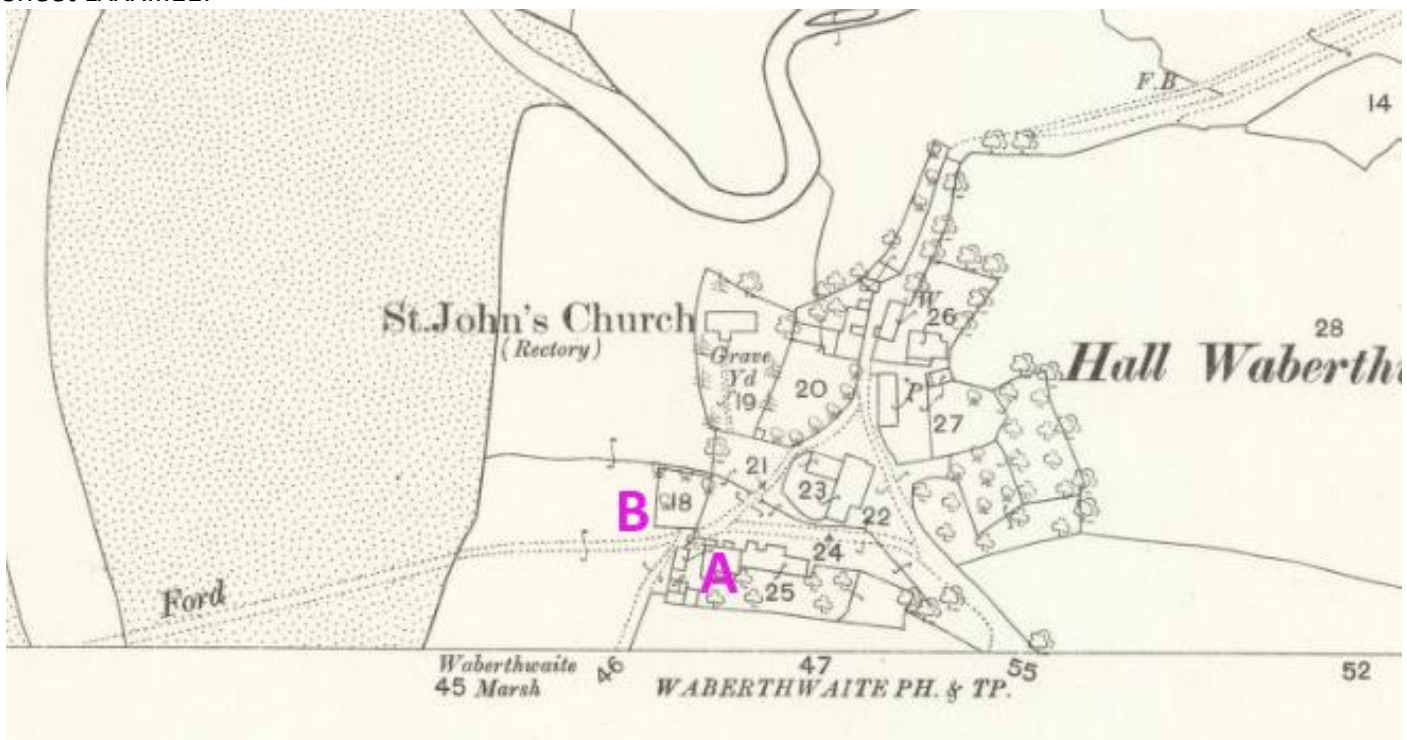
Sheet LXXXII.15 shows the southern part of the route with Plot 46 continuing south to Point D. Where the section across Waberthwaite marsh is unenclosed, there are broken braces across the route to show it is a separate entity to the surrounding land. From Point D to Point F the route is numbered 84. Again where it is unenclosed between Point E and Point F there are broken braces across the route. The entire route on this sheet has been coloured sienna.

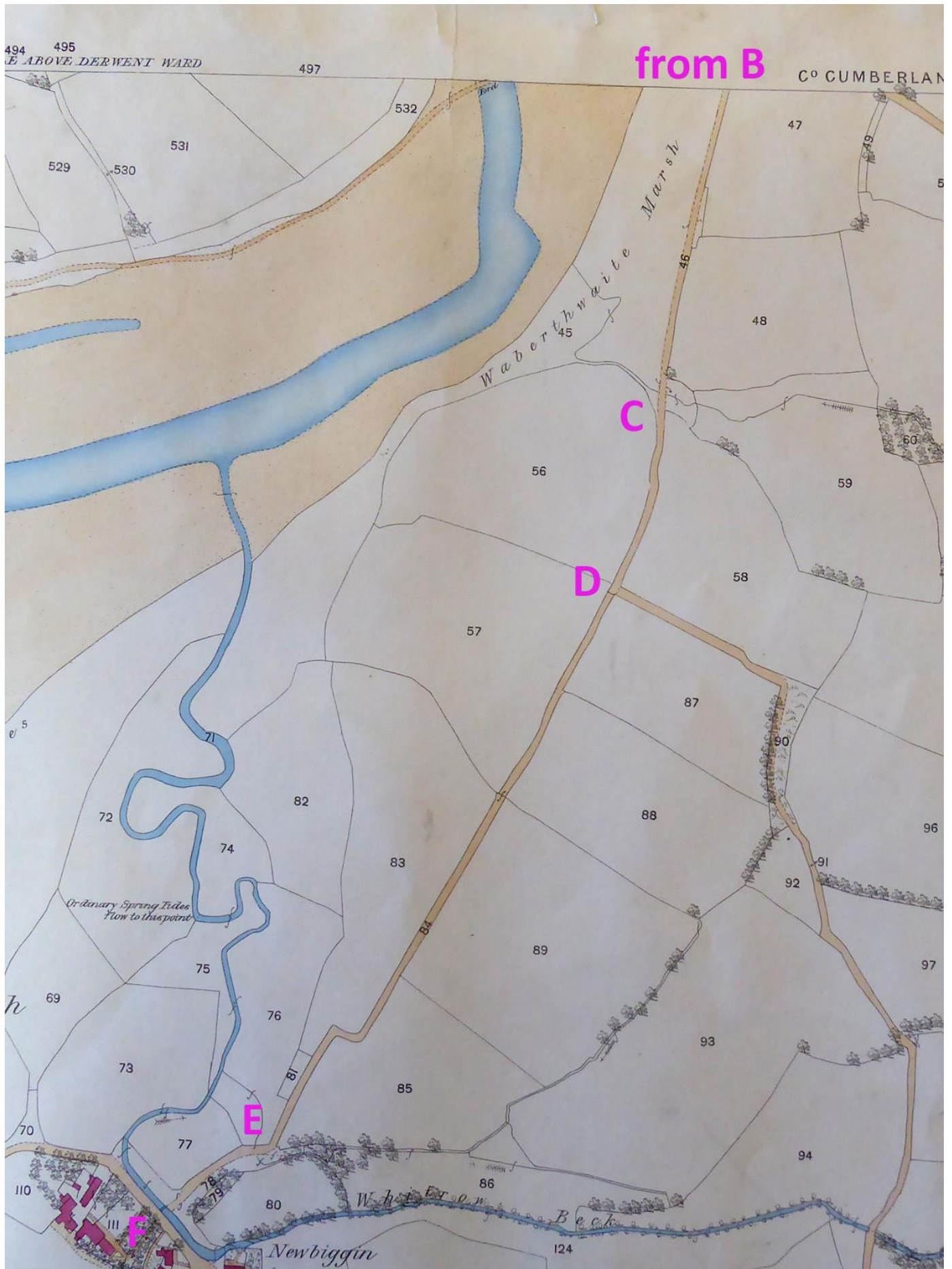
The **Ordnance Survey Book of Reference for Waberthwaite parish**, to accompany the 1st Edition maps, lists Waberthwaite Plots 21, 24, 46 and 84 as “Public Road”.

The application route is therefore treated in exactly the same manner as current Unclassified Road U4058, (Plot 55) and Bridleway BW428022 (Plot 91) which are both listed as “Public Road” in the book of reference.

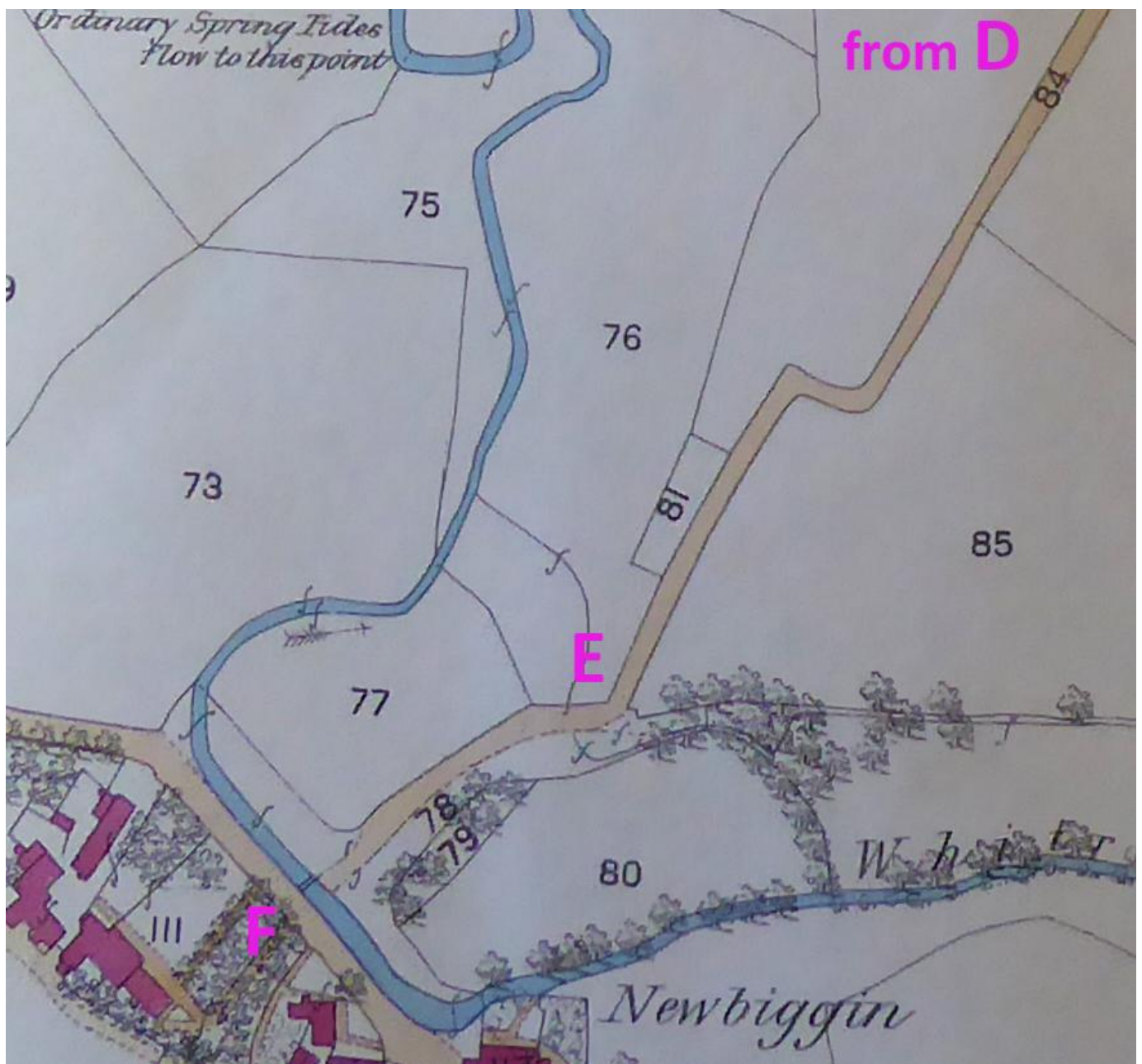
This contrasts with the treatment of current bridleway BW428029 which fords the River Esk from Point B. It is shown braced to the land around it – Waberthwaite Marsh (Plot 45). The book of reference lists this plot as “Salt pasture, stream, and cart road”.

Sheet LXXXII.11:





Close-up showing Plot 84 and broken brace across route north of Point F:



329

PARISH OF WABERTHWAITE,

IN THE

COUNTY OF CUMBERLAND.

TOWNSHIP OF WABERTHWAITE.

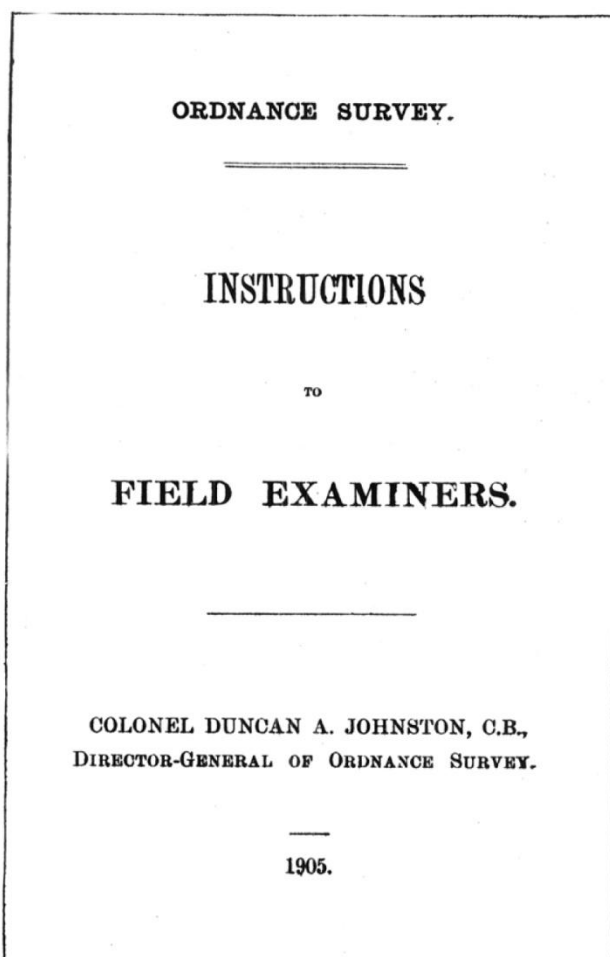
No. of Sheet.	No. on Plan.	Area in Acres.	Description.
LXXXII. 11.	1	·913	Pasture.
"	2	·180	Pasture & cart road.
"	3	1·053	Nodell Plantation.
"	4	3·807	Arable.
"	5	4·253	Pasture.
"	6	·122	Wood.
"	7	7·613	Arable.
"	8	4·206	Arable.
"	9	·668	Pasture.
"	10	4·305	Salt pasture.
"	12	6·397	Salt pasture, streams, cart road, &c.
"	13	3·014	Pasture, part of stream, & furze.
"	14	·494	Pasture.
"	15	·642	Pasture.
"	16	·104	Wood & part of stream.
"	17	2·158	Pasture.
"	18	·081	Pasture & trees.
"	19	·342	St. John's Church grave yard, &c.
"	20	·409	Houses, yards, garden, &c.
"	21	·062	Public road.
"	22	·635	Green & stream.
"	23	·134	Houses & garden.
"	24	·053	Public road.
"	25	·394	Houses, yards, garden, &c.
"	26	·216	Houses & gardens.
"	27	·864	Houses, yards, gardens, & orchards.
"	28	8·100	Arable.
"	29	3·843	Arable.
LXXXII. 12.	30	·129	Plantation.
"	31	·812	Pasture.
"	32	·687	Pasture & part of stream.
"	33	·270	Occupation road.
"	34	3·297	Pasture & streams.
"	35	·510	Wood.
"	36	2·927	Arable.
"	37	1·465	Pasture & part of stream.
"	38	4·260	Pasture, stream, part of stream, &c.
"	39	2·805	Pasture.
"	40	4·051	Pasture, arable, & stream.
"	41	3·568	Arable.
		79·843	Carried forward.

TOWNSHIP OF WABERTHWAITE.			
No. of Sheet.	No. on Plan.	Area in Acres.	Description.
		79.843	<i>Brought forward.</i>
LXXXII. 12.	42	5.727	Pasture, part of stream, & stream.
"	43	7.148	Pasture & part of stream.
"	44	6.804	Arable & stream.
LXXXII. 15.	45	12.385	Salt pasture, stream, & cart road.
"	46	.665	Public road.
"	47	4.014	Arable.
"	48	4.171	Pasture.
"	49	.129	Occupation road.
"	50	1.990	Pasture.
"	51	7.734	Arable.
"	52	6.165	Arable & garden.
"	53	3.114	Arable.
"	54	2.070	Arable.
"	55	2.167	Public road.
"	55a	2.271	Arable.
"	56	6.556	Pasture.
"	57	6.753	Arable.
"	58	5.239	Arable.
"	59	5.528	Arable & streams.
"	60	.386	Orchard & stream.
"	61	.687	Arable & trees.
"	62	.386	Occupation road.
"	63	.613	Wood.
"	64	6.658	Arable & stream.
"	65	4.860	Arable & stream.
"	66	20.519	Salt pasture & stream.
"	67	3.352	Pasture.
"	68	3.909	Pasture.
"	69	1.917	Pasture.
"	70	.154	Pasture.
"	72	4.111	Pasture.
"	73	3.324	Arable & part of stream.
"	74	1.424	Pasture & part of stream.
"	75	1.163	Pasture & part of stream.
"	76	2.796	Pasture, stream, & part of stream.
"	77	.918	Arable.
"	78	.730	Pasture, streams, & waste.
"	79	.123	Orchard.
"	80	1.263	Pasture.
"	81	.114	Arable.
"	82	3.233	Pasture.
"	83	5.650	Pasture.
"	84	.918	Public road.
"	85	3.981	Arable.
"	86	2.647	Pasture, stream, part of stream, &c.
"	87	3.624	Arable.
"	88	4.994	Arable.
"	89	7.149	Arable & stream.
"	90	.406	Waste & furze.
"	91	.948	Public road.
		263.430	<i>Carried forward.</i>

Instructions to OS Field Examiners - Although OS maps from 2nd Edition onwards carry the disclaimer "The representation on this map of a Road, Track or Footpath is no evidence of the existence of a right of way", and the instructions to field examiners states "The Ordnance Survey does not concern itself with rights of way", the instructions also included the caveat "**N.B. A clearly marked track on the ground is not in itself sufficient to justify showing a path, unless it is in obvious use by the public.**"

This indicates that the aim was to show only publicly used routes on the maps, but also to protect the organisation from legal action should they make a mistake. If the purchaser of a map could not use it with some degree of confidence that the routes shown were public rights of way, they would be unlikely to buy the maps.

Instruction booklet title page and page 19:



19

94. Grass and mud roads have the words written to them. ^{Grass roads} These terms include public roads wide enough for wheeled traffic, but unmade. They are generally, but not always, fenced. The dots for cart-tracks, bridle roads, or foot-paths, are not to be shown inside a grass road, whether fenced or unfenced.

95. Bridle roads are shown to scale, and the words (or con- ^{Bridle roads} traction B.R.) are written to them. They are sometimes the width of the cart-tracks, sometimes only of foot-paths.

96. Except as specified below, all clearly marked and per- ^{Foot-paths} manent footpaths (i.e., gravelled, paved, or with gates or stiles), whether public or private, should be shown.

The Ordnance Survey does not concern itself with rights of way, and Survey employes are not to enquire into them.

All gravelled and paved paths in public parks, gardens, and recreation grounds should be shown.

The principal paths in market and allotment gardens, and those only, should be shown.

No footpaths should be shown in private gardens or yards, except the principal ones in very large gardens.

Mere convenience footpaths for the use of a household, cottage, or farm; or for the temporary use of workmen, should not be shown; but paths leading to any well-defined object of use or interest, as to a public well, should be shown.

N.B.—A clearly marked track on the ground is not in itself sufficient to justify showing a path, unless it is in obvious use by the public.

Extensive shooting rides in woods should be shown, but not mere private paths.

Temporary cart tracks should not be shown.

Except in gardens, or where the omission is not likely to mislead, the initials F.P. should be inserted to foot-paths, with the object of avoiding the chance of their being mistaken on the plans for roads traversable by horses or wheeled traffic.

97. When occupation roads or cart-tracks are fenced on one ^{Roads or} side only, or are within 10 links of a fence, their outer line ^{tracks} of dots only is shown; but when foot-paths run close to and ^{fenced on} parallel to a fence, both lines of dots are shown to distinguish ^{one side} them from roads.

98. When a bridge with a proper name is kept in repair ^{County} by the county, it is so stated in the name sheet, and (County) ^{bridges} is written below the name on the trace.

Closeup of instruction:

use or interest, as to a public well, should be shown.

N.B.—A clearly marked track on the ground is not in itself sufficient to justify showing a path, unless it is in obvious use by the public.

Extensive shooting rides in woods should be shown, but

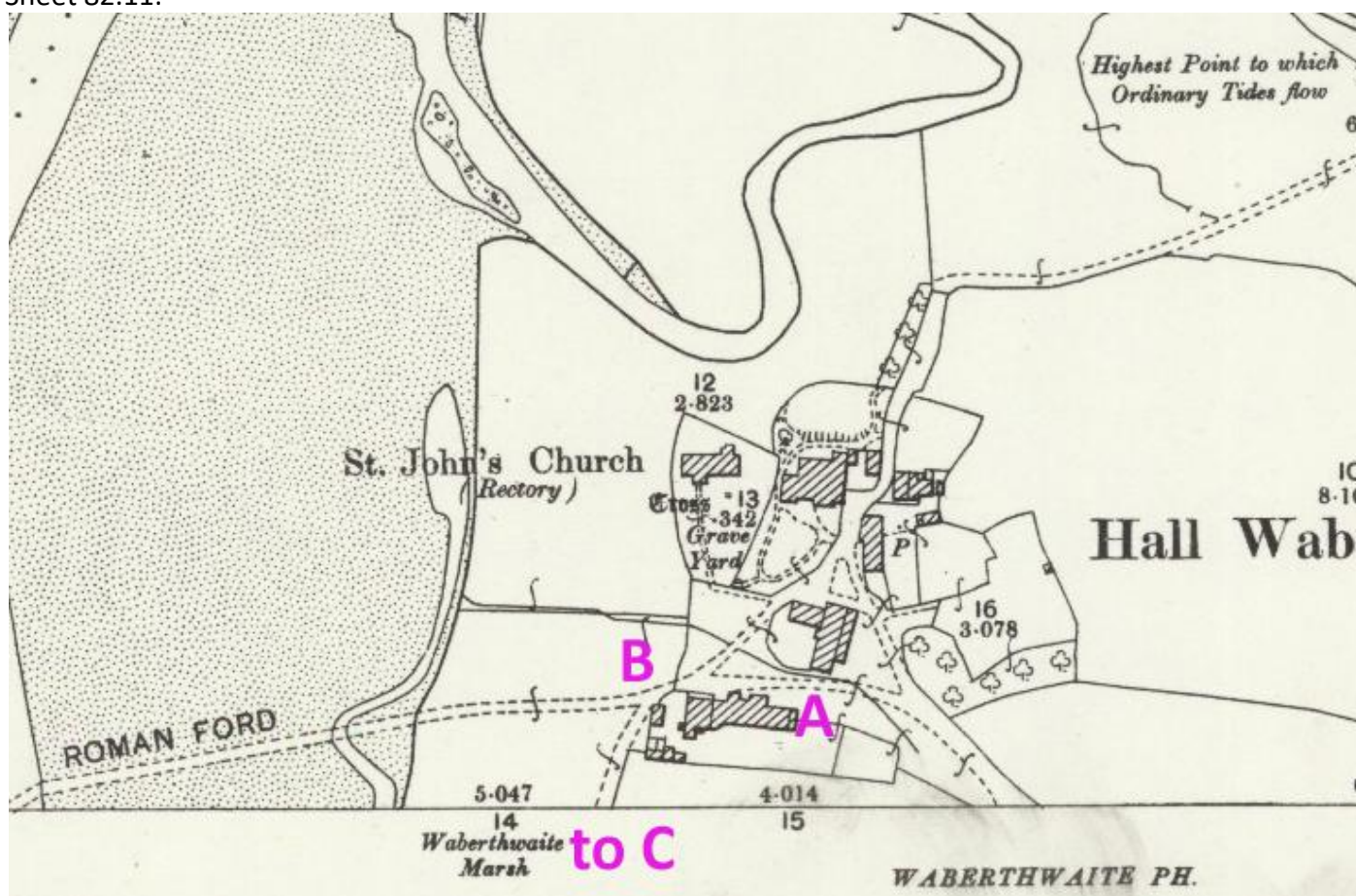
The 2nd Edition Map, published 1899, shows the central section of the Application Route from Point C to Point E as an enclosed lane in its own plot, numbered 46. At Point D there is a line drawn across the route, probably representing a gate, but there is a brace across the line indicating the same plot continues along the full length of the enclosed lane. This section of the application route is depicted in the same manner as current Bridleway BW428022, which terminates on the application route at Point D.

The northern section from Point A to Point B is part of Plot 16, which also includes part of present Unclassified Road U4058. From Point B to Point C the route is braced to Waberthwaite Marsh, in the same manner as BW428029.

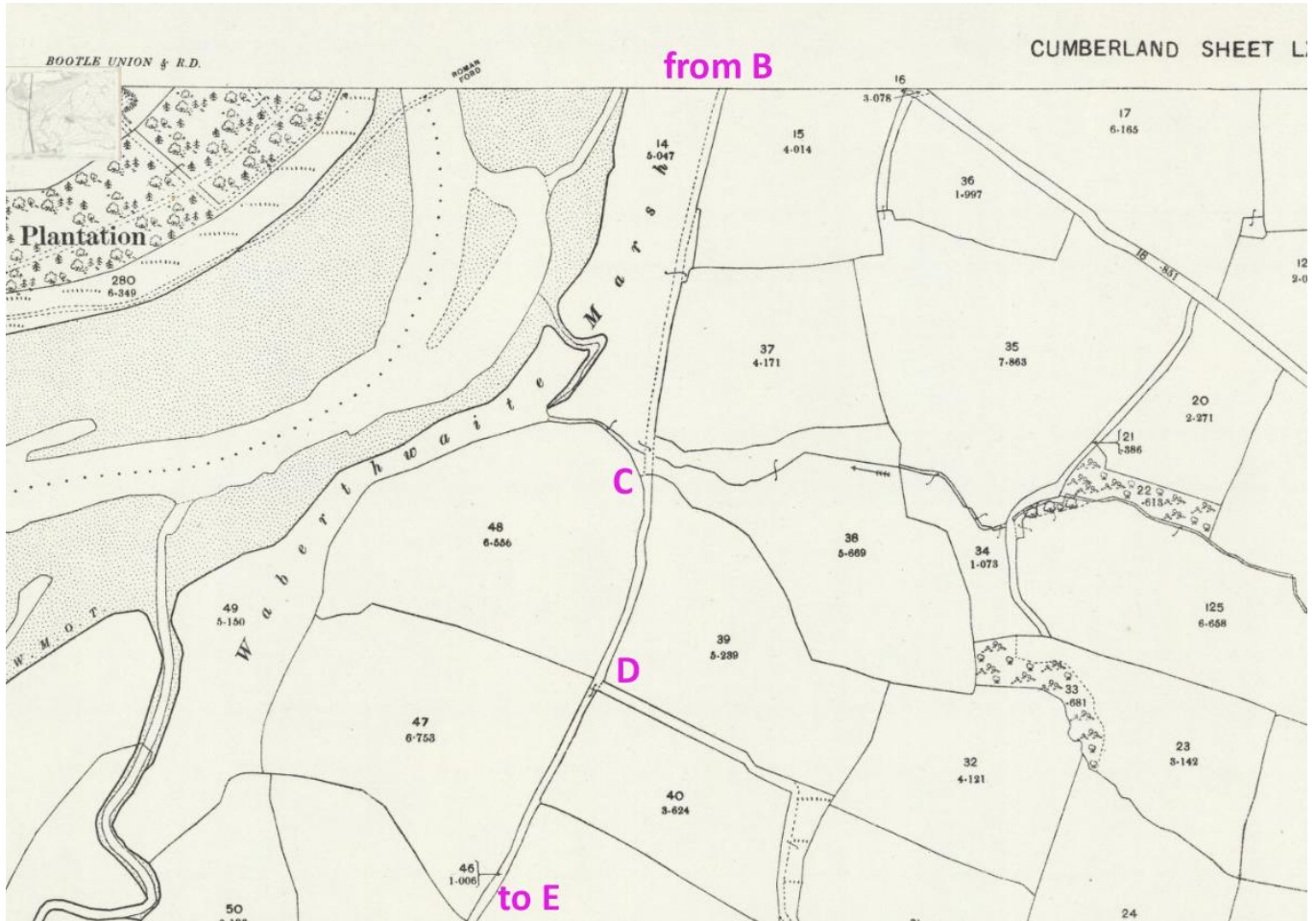
At Point E the route enters a wider lane to cross Whitrow Beck by Ford, with a footbridge to the side, immediately reaching the current Classified Road C4027 at Point F.

The 2nd edition maps labelled routes as footpaths (FP) or Bridle Roads (BR) if they were not suitable to use with vehicles. The route is not labelled which infers it was useable with horse and carriage or cart at that time.

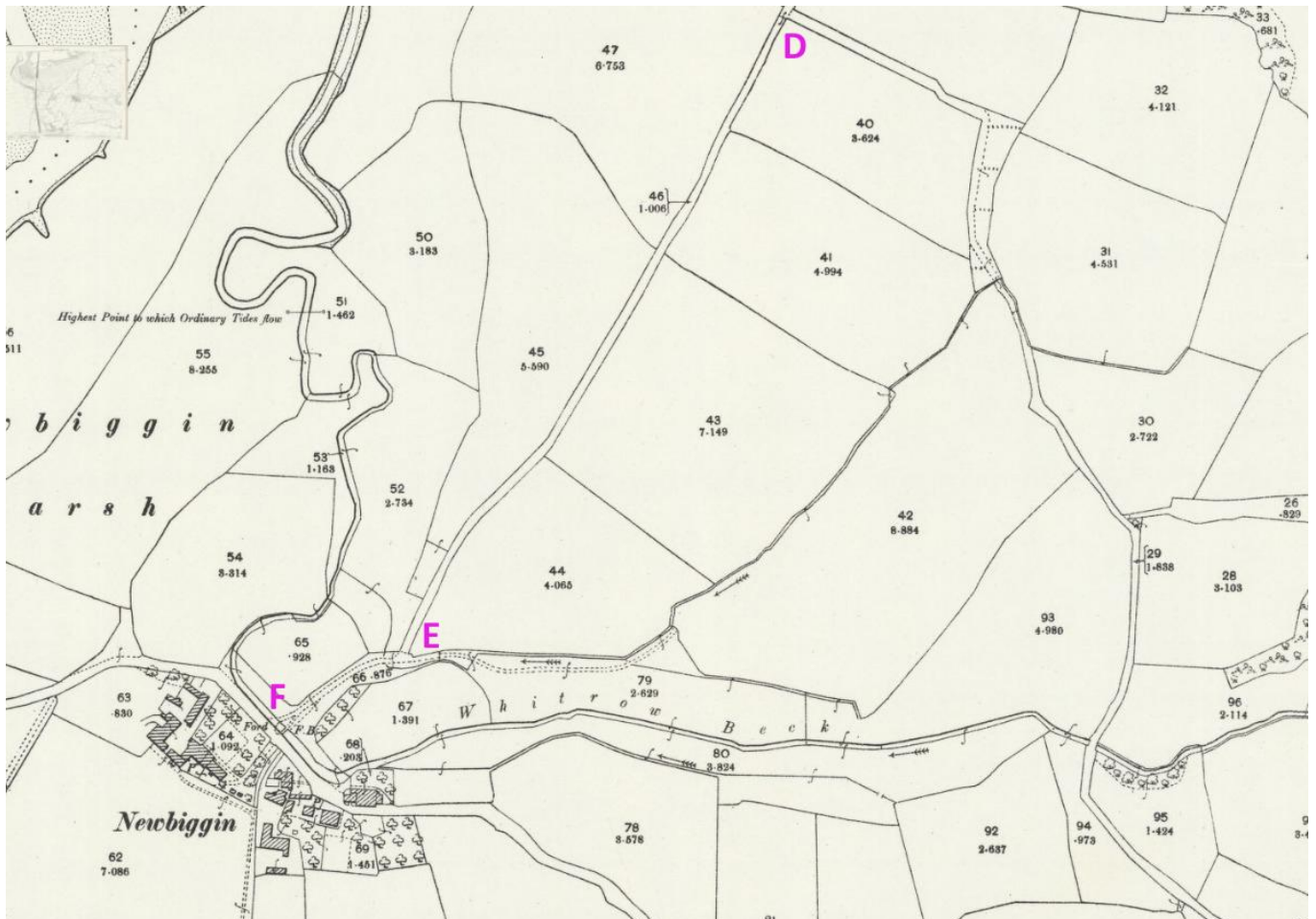
Sheet 82.11:



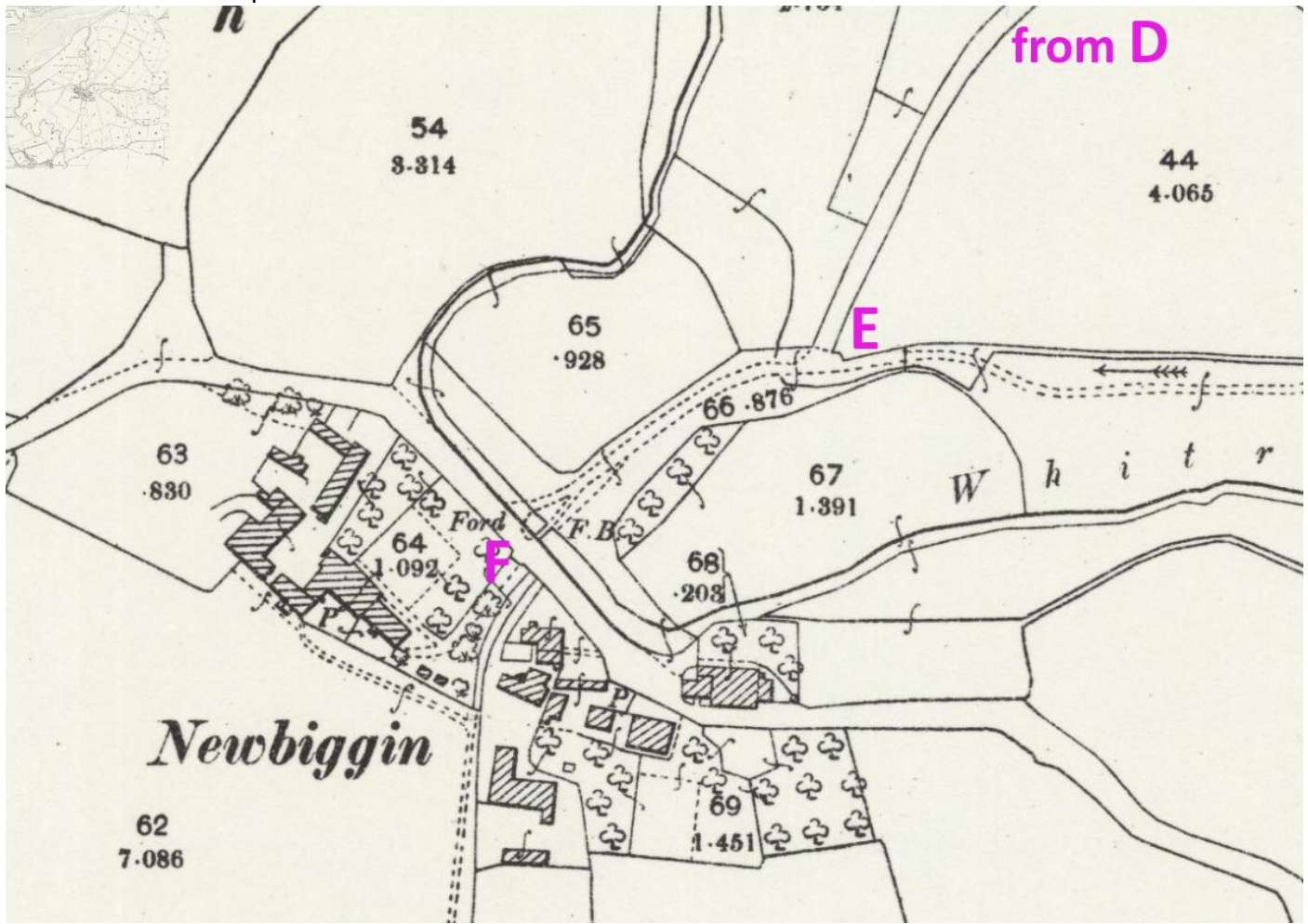
Sheet 82.15 north:



Sheet 82.15 south:



Sheet 82.15 – closeup Point E to Point F:



Source: 1st and 2nd Edition Maps - National Library of Scotland Online Map database <https://maps.nls.uk/>

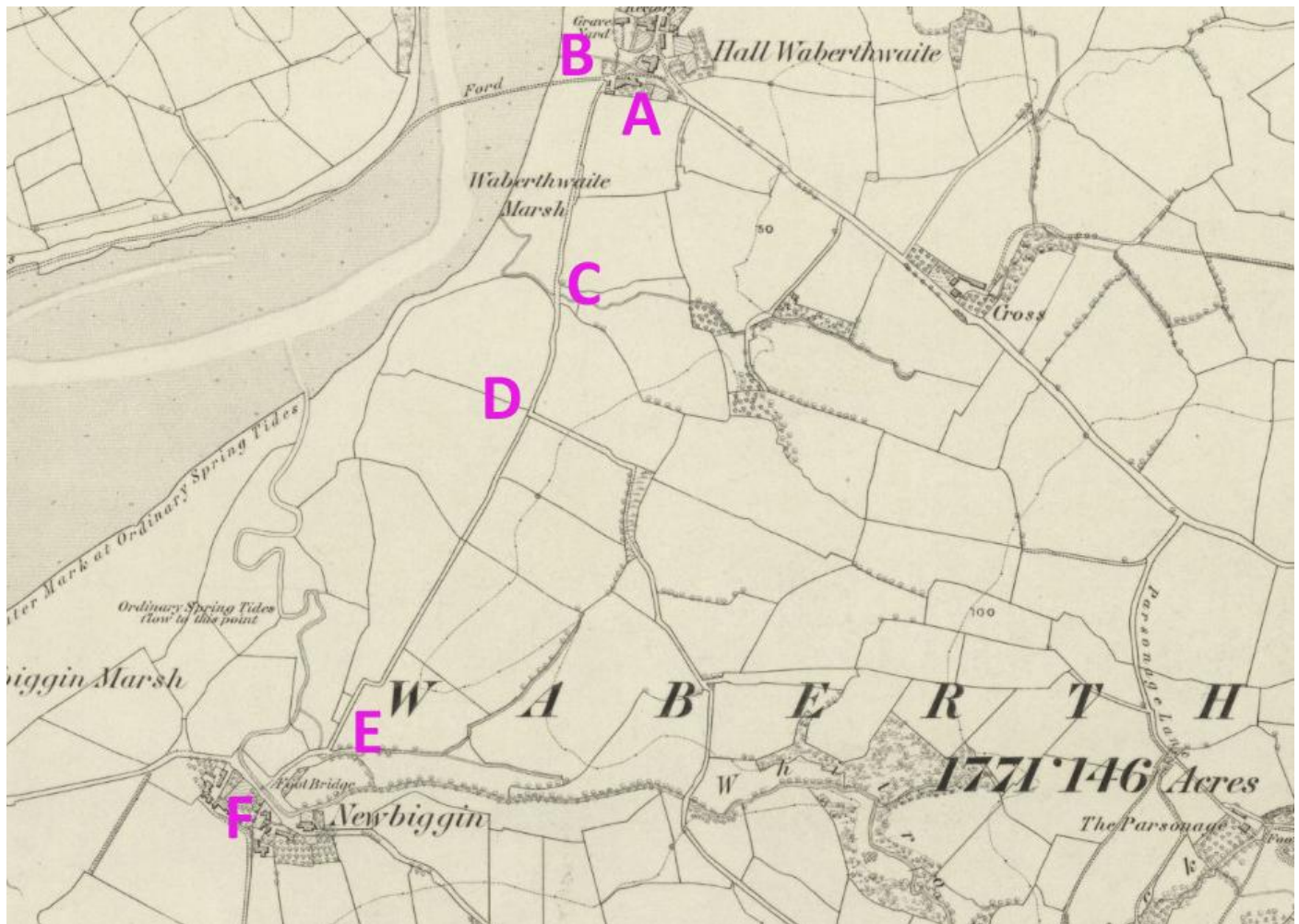
And: 1st Edition Map and Book of Reference photographed by applicant at Carlisle Archives available to view on BHS Evidence Library <https://u.pcloud.link/publink/show?code=kZiM4RXZ5MUKO6kIBHRE7N4Q7jUWYyKdq89X#folder=9177643243>

A5: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)

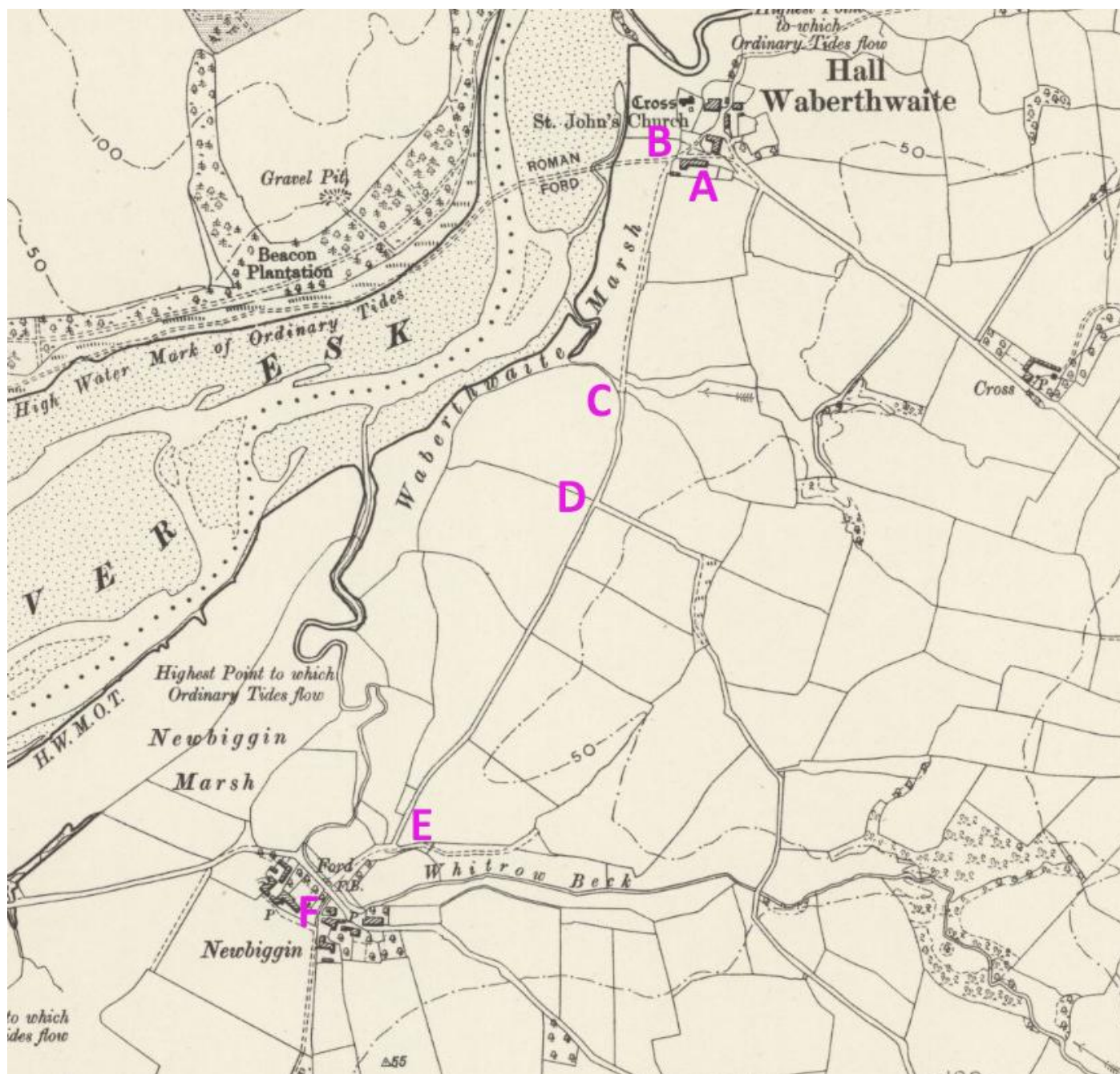
1867 and 1900 – these maps were based on the same 1st and 2nd edition surveys as the 25in maps. Both editions show the application route as an enclosed lane from C to E, unenclosed but following the field boundary on the edge of Waberthwaite Marsh north of Point C. The 1900 edition labels both Ford and Footbridge at Point F although the 1867 edition only labels the footbridge.

1956 – based on the new national grid, this map also depicts the route as an enclosed lane from Point C to Point E and labels both Ford and Footbridge at Point F. This is good evidence the route continued to be considered a public highway.

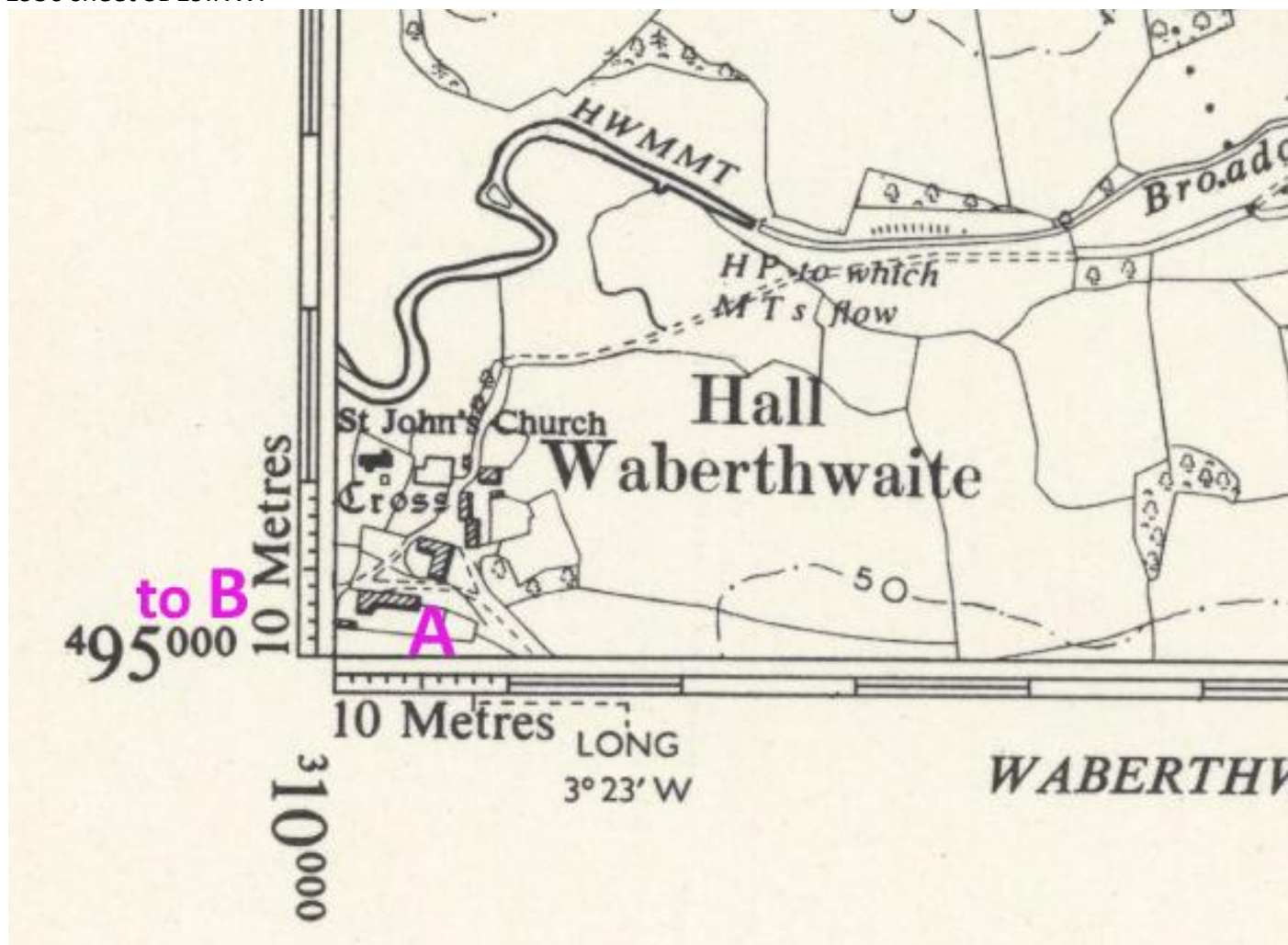
1867:



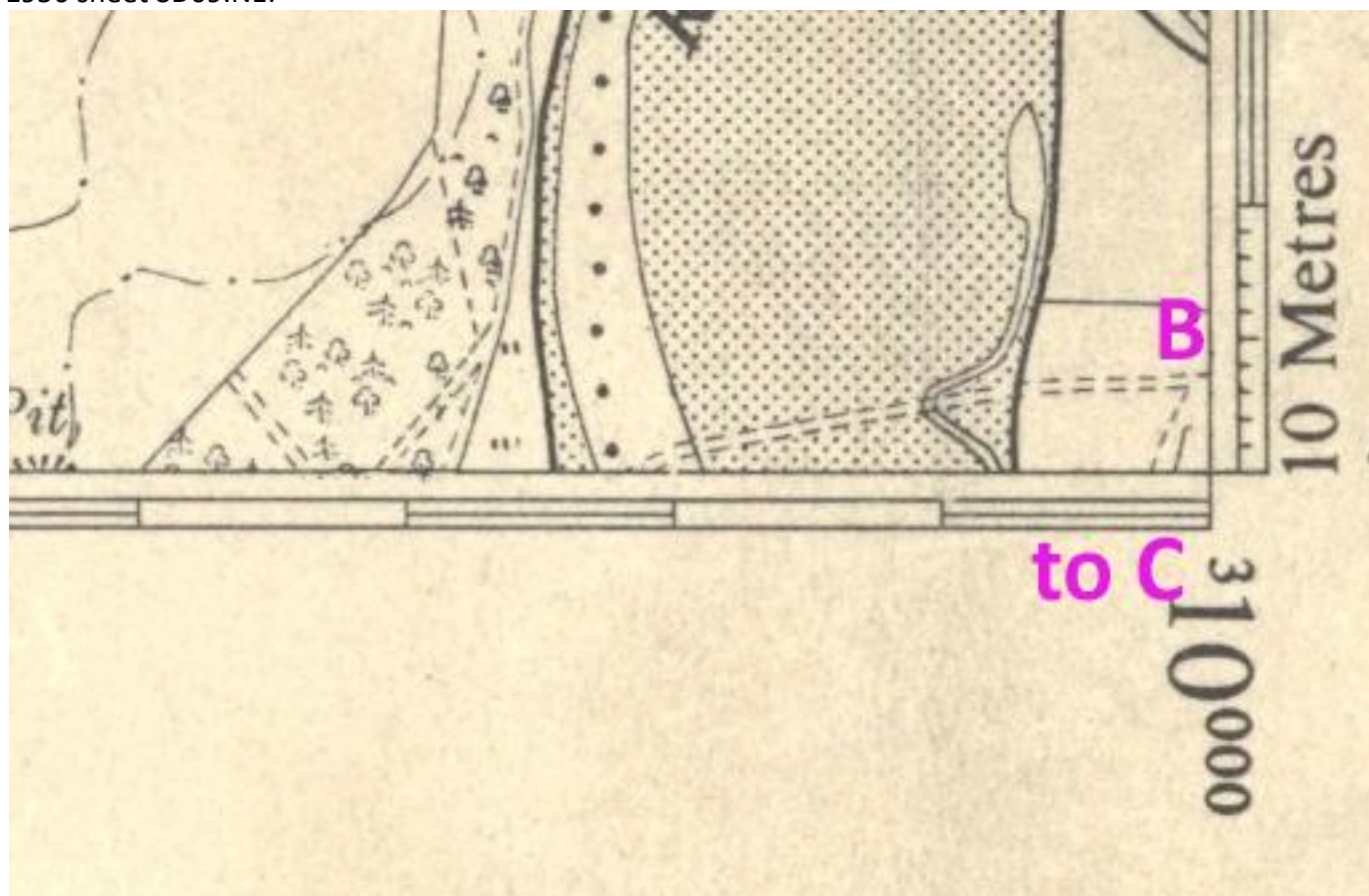
1900:



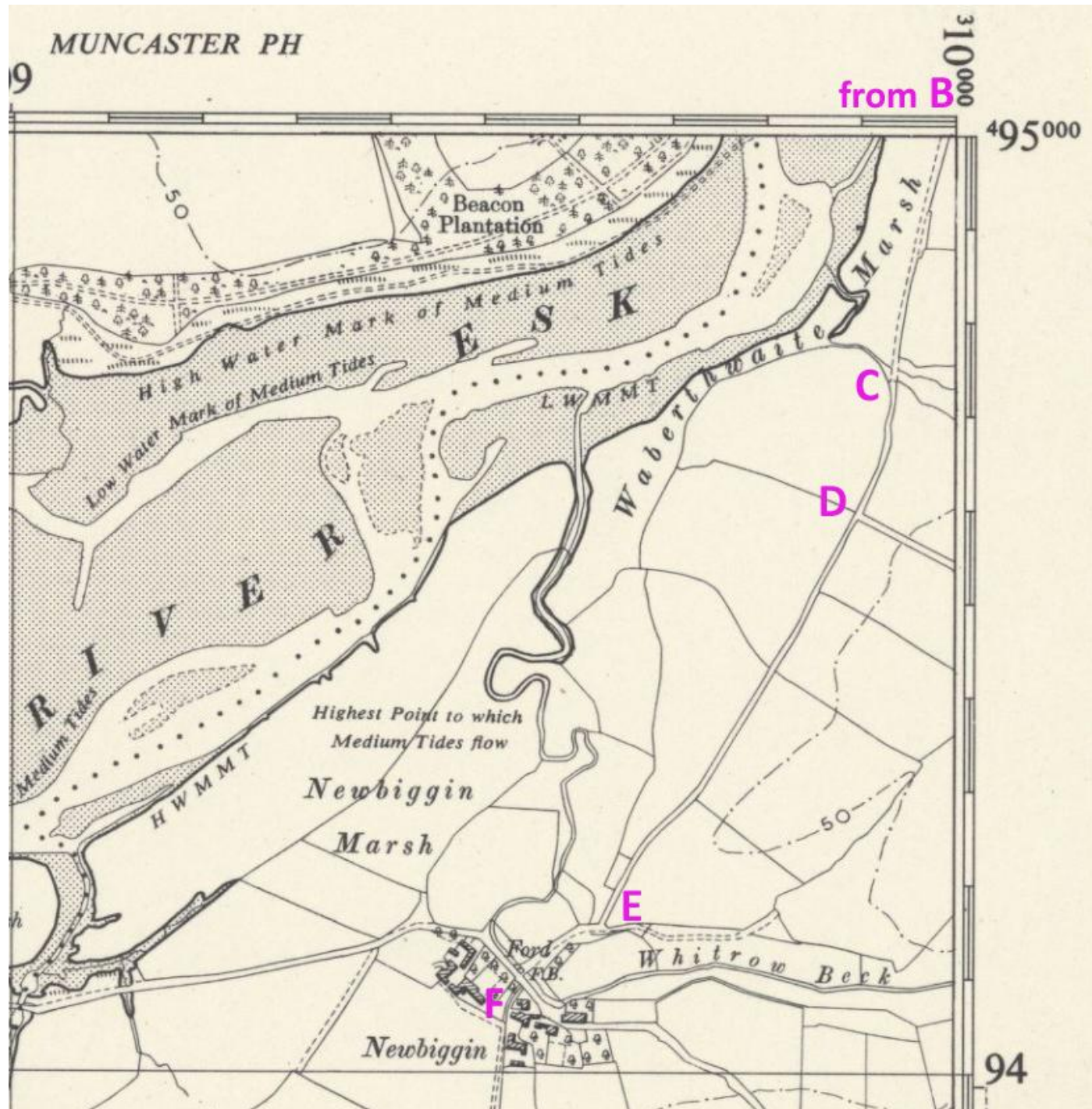
1956 sheet SD19.NW:



1956 sheet SD09.NE:



1956 sheet SD09.SE:



Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

A6: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)

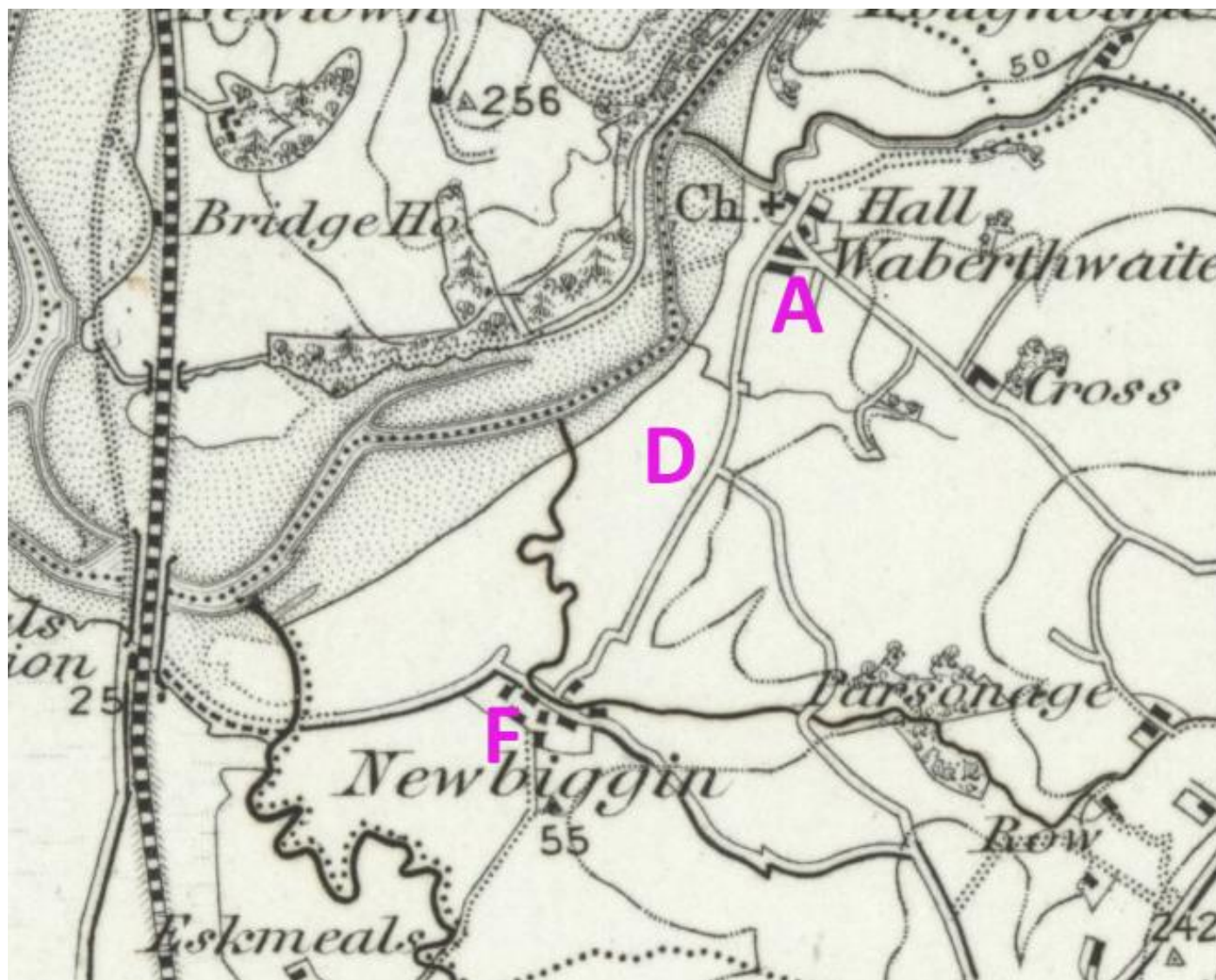
Whilst the 6in and 25in maps were considered 'professional' maps, these 1in maps were expressly developed for sale to the general public and focussed on showing routes and features which would be of significant interest to them. The depiction of roads, paths, etc on these maps varied from edition to edition.

1861 – no key is available for this map. The application route is shown clearly throughout its length. It is shown in the same manner as other routes which are public roads and bridleways today.



Source: Source: David Rumsey Historical Map Collection – Ordnance Survey 1in 1st Ed Kendal
<https://www.davidrumsey.com/luna/servlet/detail/RUMSEY~8~1~244863~5514076:98--Kendal>

1897 - the route is shown as a "Third Class Road" throughout its length, in the same manner as other routes which unclassified roads and bridleways today.



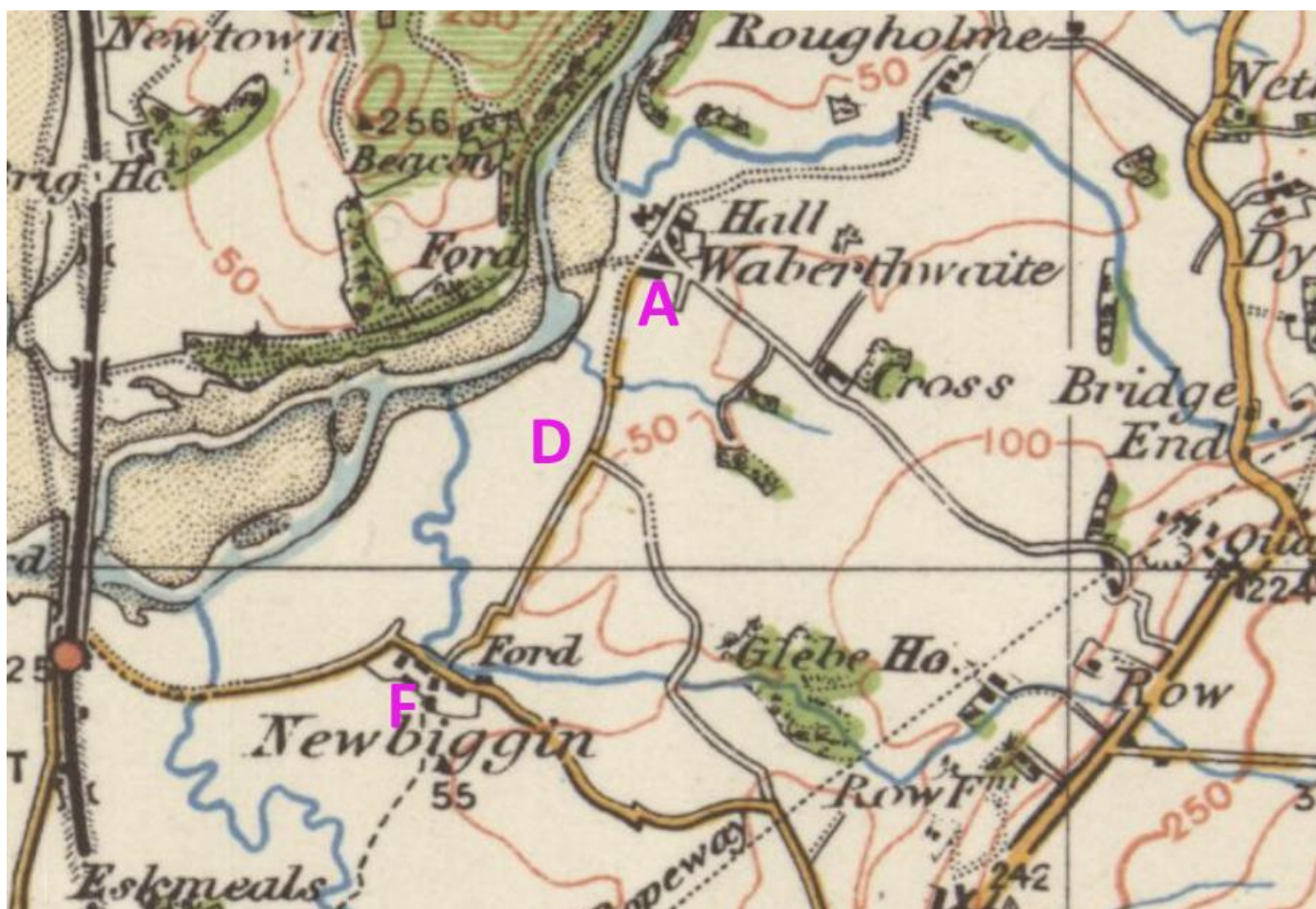
1898 map legend:

Metalled Roads; First Class	5 (Mile distance)		Church or Chapel with Tower	+
" " Second Class	Altitude 211		" " " " Spire	+
" " Third Class			" without Tower or Spire	+
Unmetalled Roads			Windmill	⊞
Footpaths			Letter Box	L.B.
Railways, Single Line	Level Crossing		Contours	300 200
" Two or more Lines	Cutting	Embankment	Boundaries, County	---
Mineral Lines and Tramways	Bridge Over	Bridge Under	" Parish	---
			At Villages	Post Office P. Post & Telegraph Office T.

Rivers and Streams when exceeding 15 feet in width are shewn with two lines.
For other information see Characteristic sheet.

Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

1925 – shown as a road under 14ft wide. The yellow dashes show it was considered an “Indifferent or winding road” at that time. It is depicted as higher status than current Unclassified Road U4058 and current Bridleways BW428022 and BW428029.

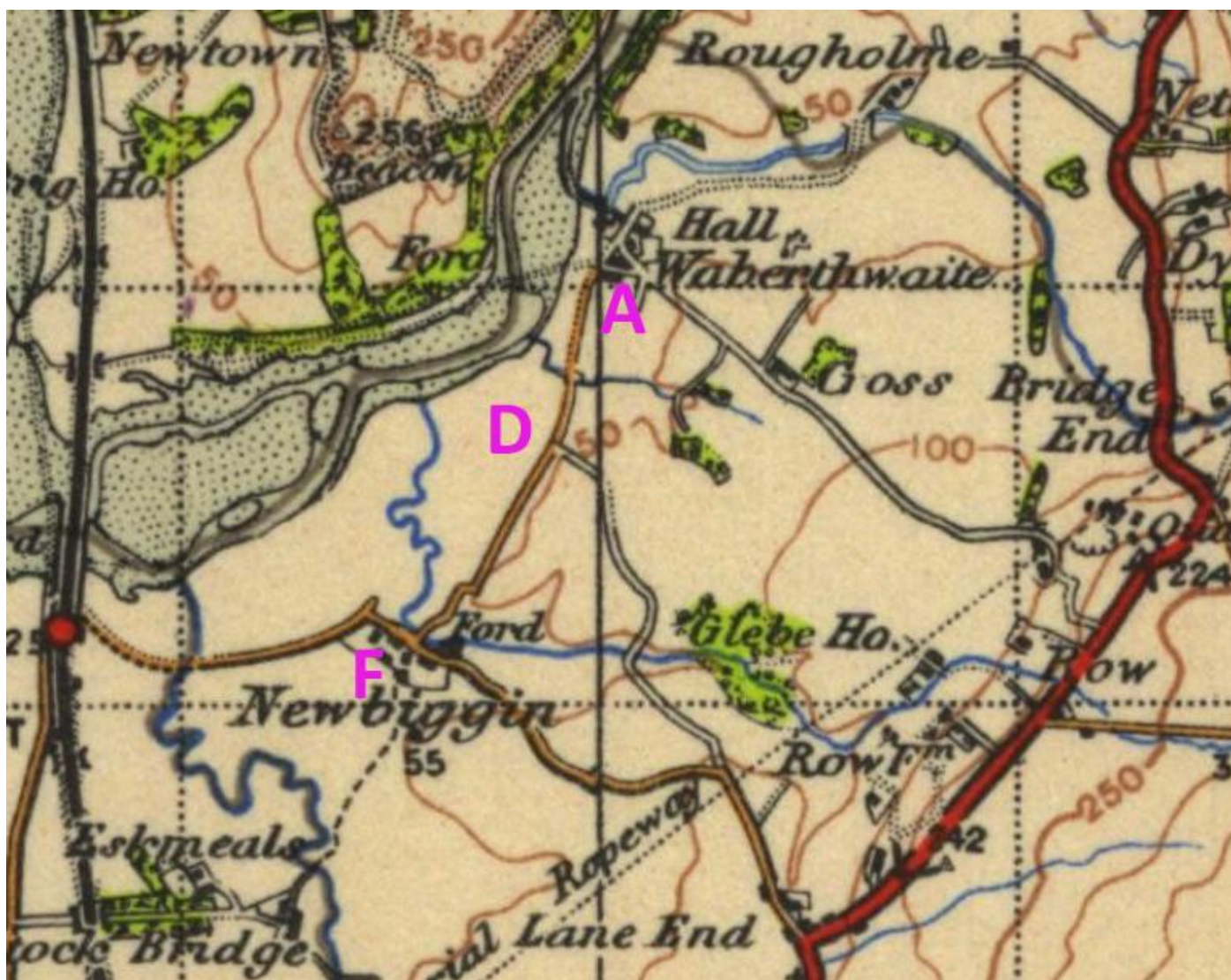


1925 map legend:

Main Routes between Towns	Surface over 14' of Metalling	Good & fit for fast traffic	Fit for ordinary traffic	Indifferent or winding road	Bad
Other Roads					
Roads under 14' wide					
Minor Roads					
Bridle & Footpaths					
(Private Roads are uncoloured Unfenced Roads are shown by dotted lines)					
Slopes steeper than 7					

Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

1947 - shown as a narrow Motor Road. The yellow colouring shows it was considered a "Good" road at that time. It is depicted as higher status than current Unclassified Road U4058 and current Bridleways BW428022 and BW428029.

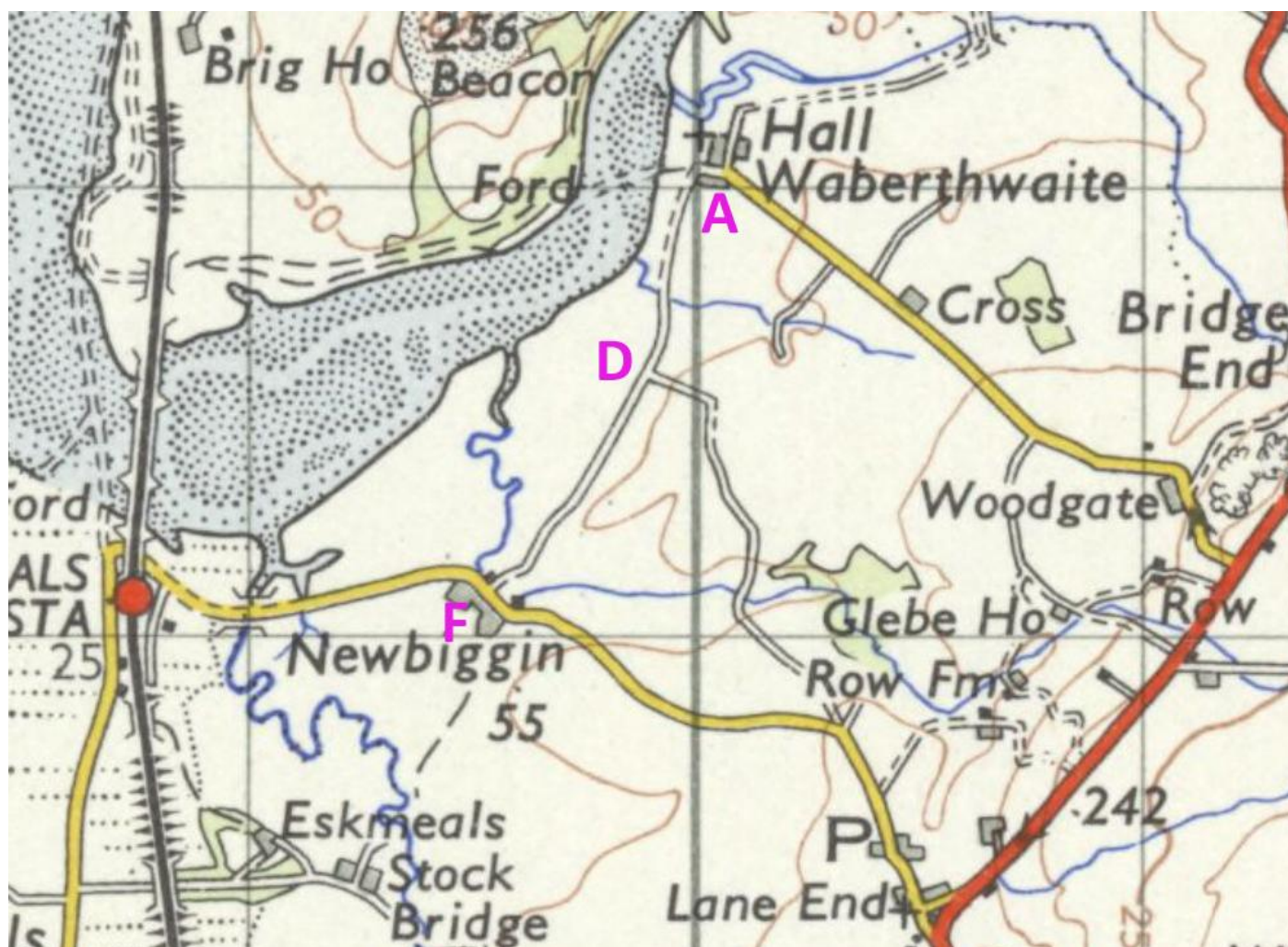


1947 map legend:

Ministry of Transport Roads	<u> A.66 </u>	<u> B.6260 </u>
Other Motor Roads	<u> </u>	<u> </u>
" " " narrow	<u> Good </u>	<u> Bad </u>
Minor Roads	<u> </u>	
Bridle & Footpaths	<u> </u>	
Unfenced Roads are shewn by dotted lines		
Gradients steeper than $\frac{1}{4}$	<u> </u>	
Toll Gates	<u> TOLL </u>	
Road Mileage	<u> </u>	

Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

1955 –it is shown as Under 14ft Metalled Untarred Road, in the same manner as current bridleway BW428022 which terminates on the application route at Point D.



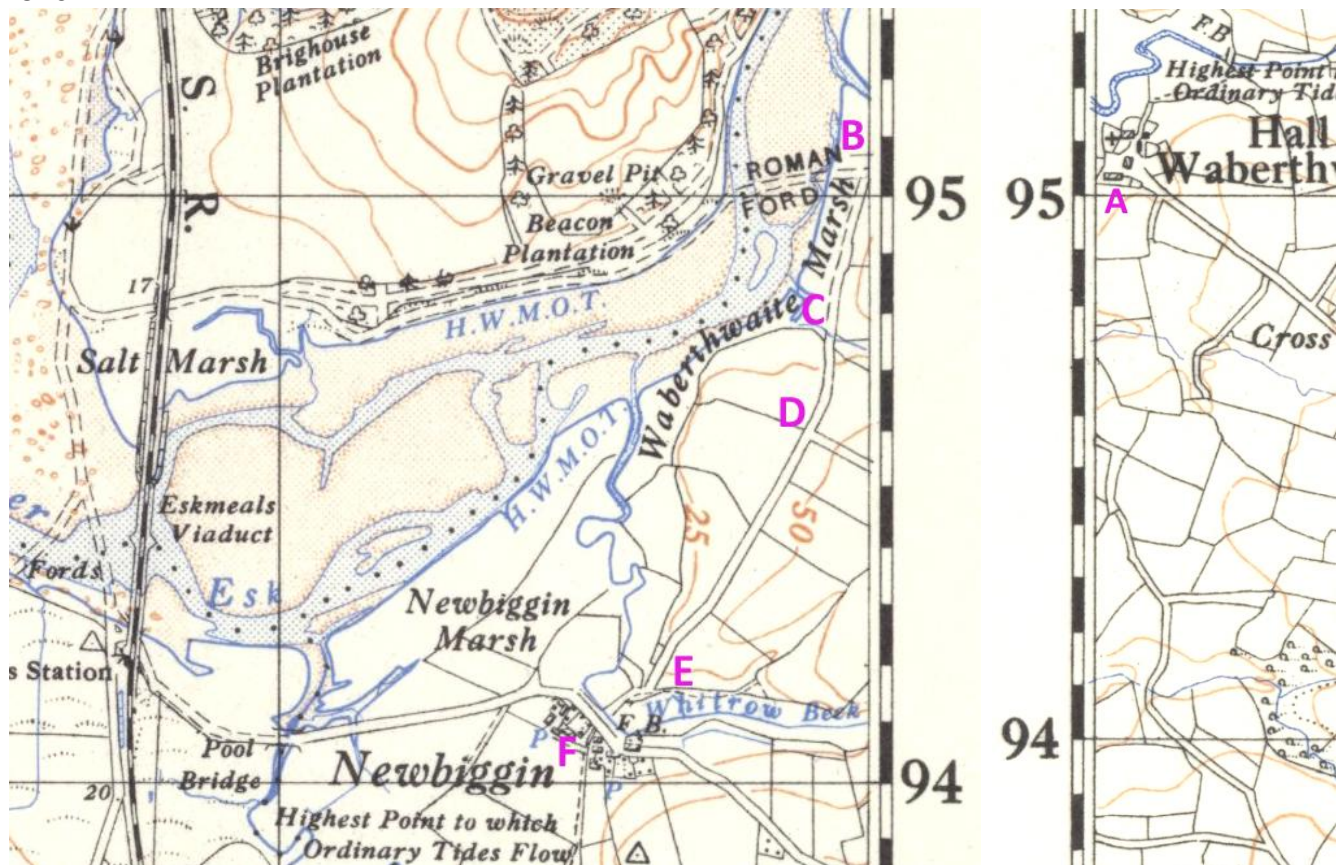
1955 map legend:

Roads	{	Ministry of Transport, Motorway		M1 or A6 (M)	
		{	Trunk	Single & Dual	A 66 (T)
			Class 1	Carriageway	A 592
			" 2		B 5305
			14 ft of Metalling & over (not included above)		
	Under 14ft of Metalling, Tarred " "		TOLL		
	" " " " Untarred " "		Gate		
	Minor Roads in towns, Drives and Unmetalled Roads (Unfenced Roads are shown by pecked lines)				
	Under construction				
	Steep Gradient 1 in 5 or steeper		1 in 7 to under 1 in 5		
Footpaths and Tracks					

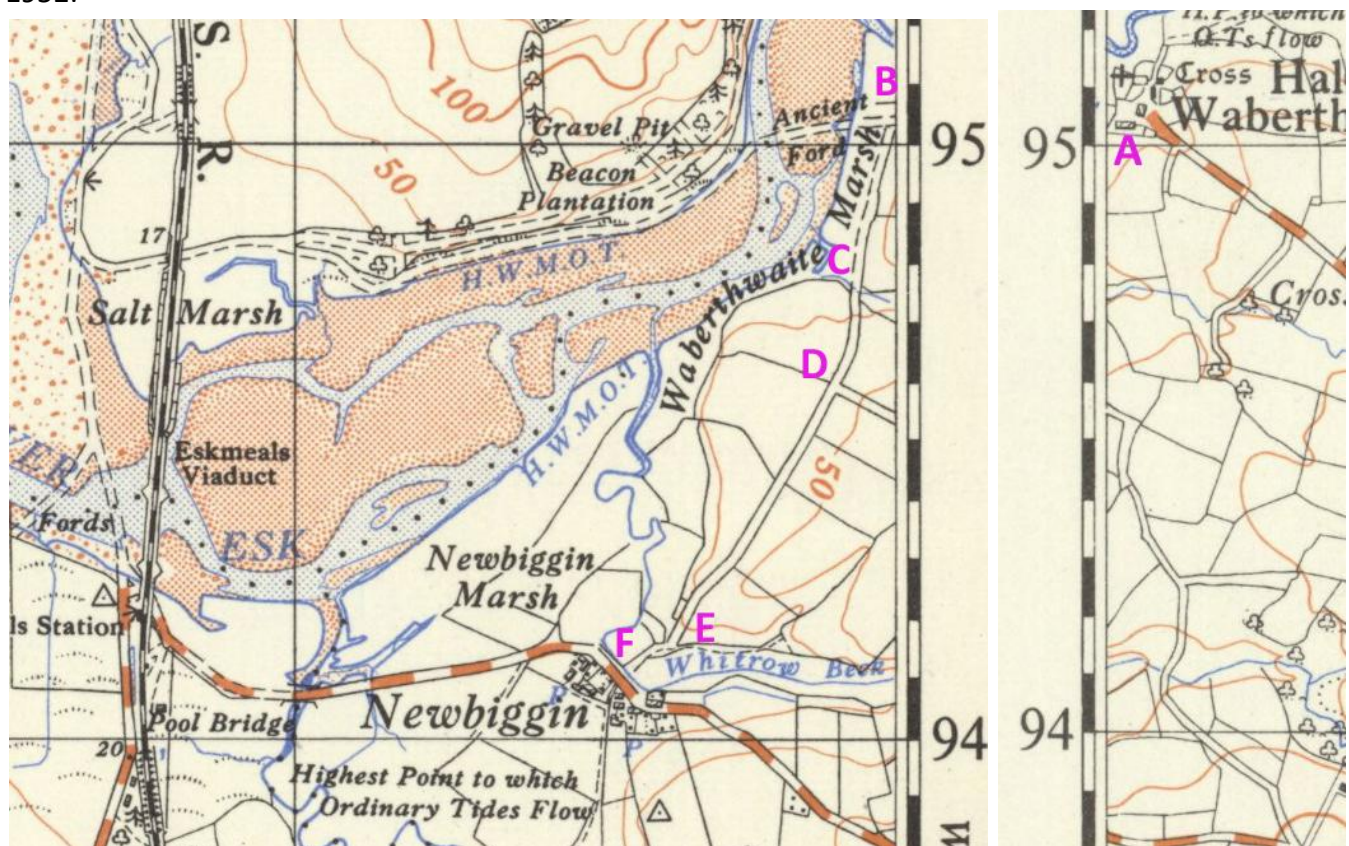
Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

A7: Ordnance Survey, 1:25,000 maps of Great Britain
1946 and 1952 - shown as a through route, enclosed from Point C to Point e.

1946:



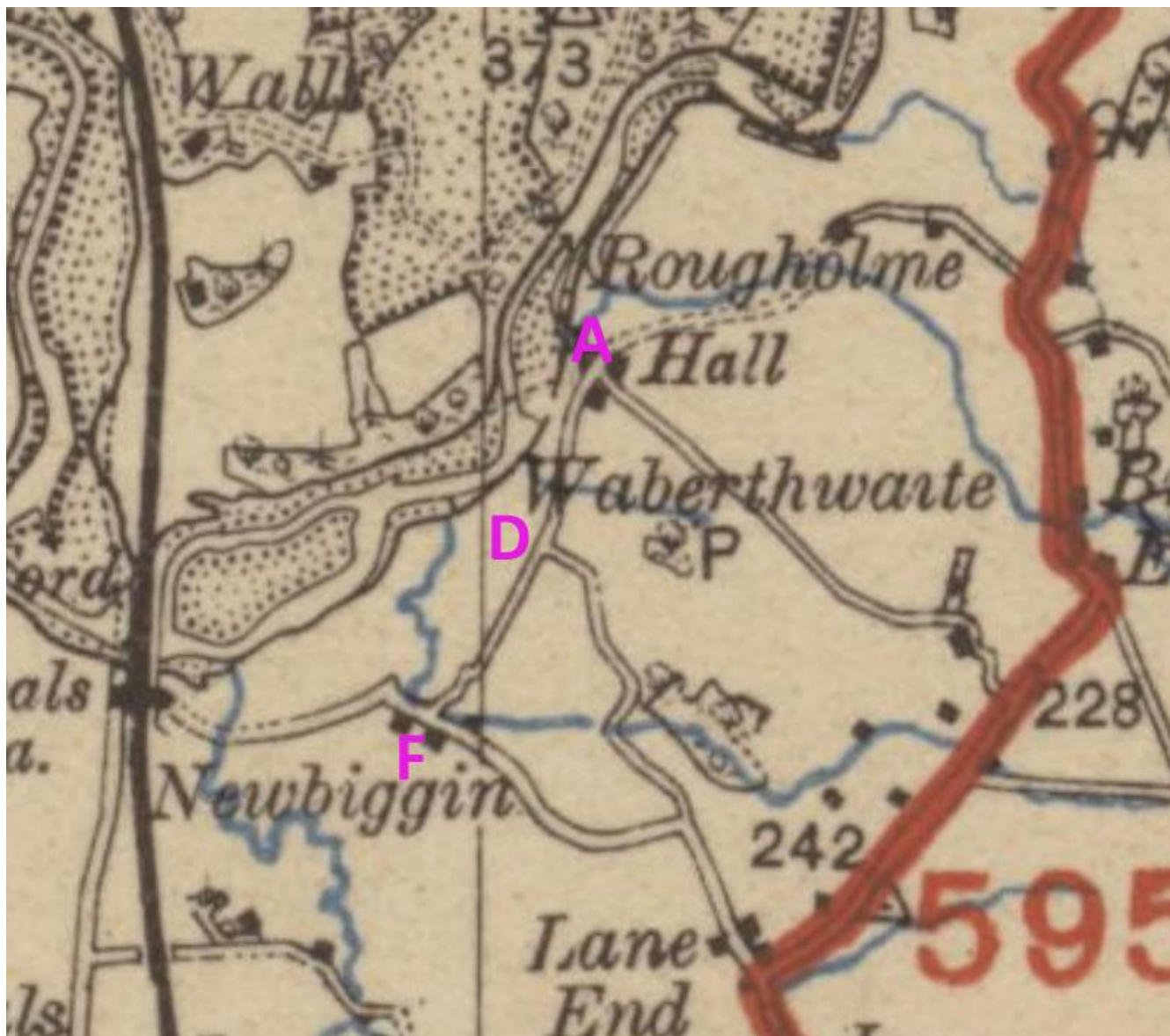
1952:



Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

A8: Ministry of Transport ½ inch Road Map of Great Britain 1922-23 (Drawn scale 1:126,720)

The Ministry of Transport Half-inch Maps of 1922-3 were based on the Ordnance Survey maps and showed the new road classifications prominently. Developed specifically for sale to motorists, the maps aimed to show only public roads and the application route is shown as an Other Road, in the same manner as other minor roads in the area, which is a good indication this route was considered a public highway.



MoT Legend:

Roads; Class I	712 (Altitude) 211	Church	+
Class II	726	Windmill	⊞
Other Roads		Windpump	×
Railways	Station	At Villages { Post Office	P
Bridges	under	Post & Telegraph Office	T
County Boundaries		Bridle and Footpaths	---

Diagram

"THE CLASS I AND CLASS II ROADS SHOWN IN THIS MAP ARE IN ACCORDANCE WITH THE CLASSIFICATION FOR THE YEAR 1922-23."

Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

A9: Ordnance Survey Maps – Quarter-inch (Drawn Scale 1:253,440)

1921, 1958

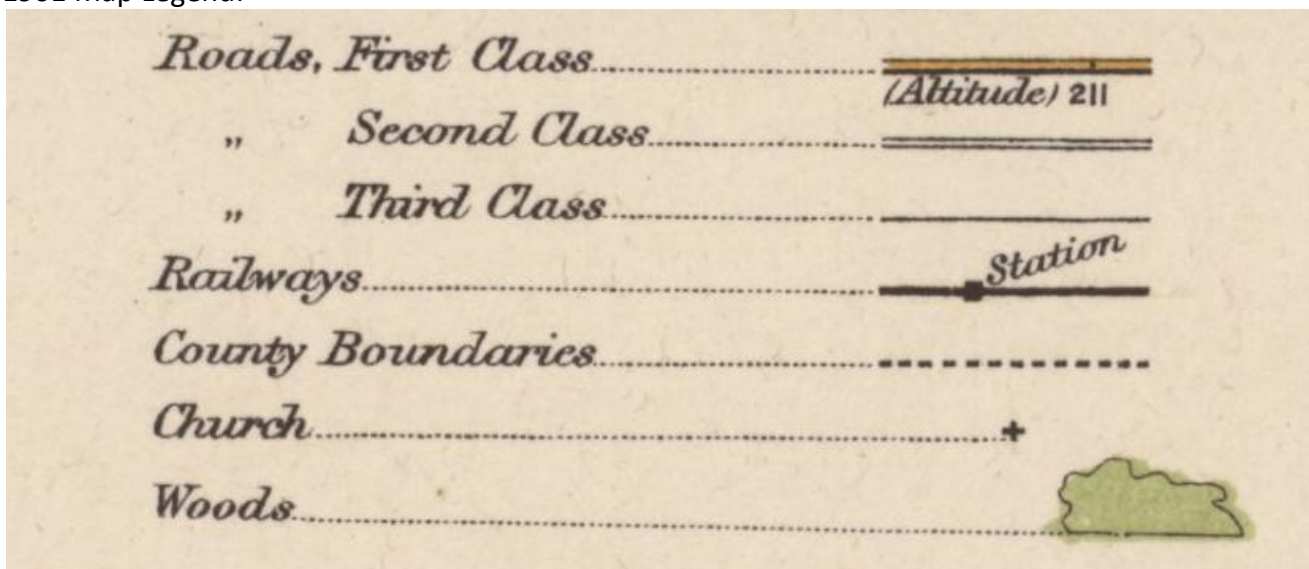
The Ordnance Survey published Quarter-inch to the mile maps which stripped out much detail to focus on the road network. Being smaller scale, each sheet covered a much larger area and they were welcomed by motorists. The 1st and 2nd editions of these maps showed 3 classes of road, but later editions simplified it to just 2 classes. In 1930s and 1940s special editions were printed specifically for Civil Aviation and later the War Office, as pilots could use linear features to navigate by.






The Application Route was considered important enough to feature on all editions of these maps.

1901 Map (1st Edition) – shown as a 3rd Class Road:

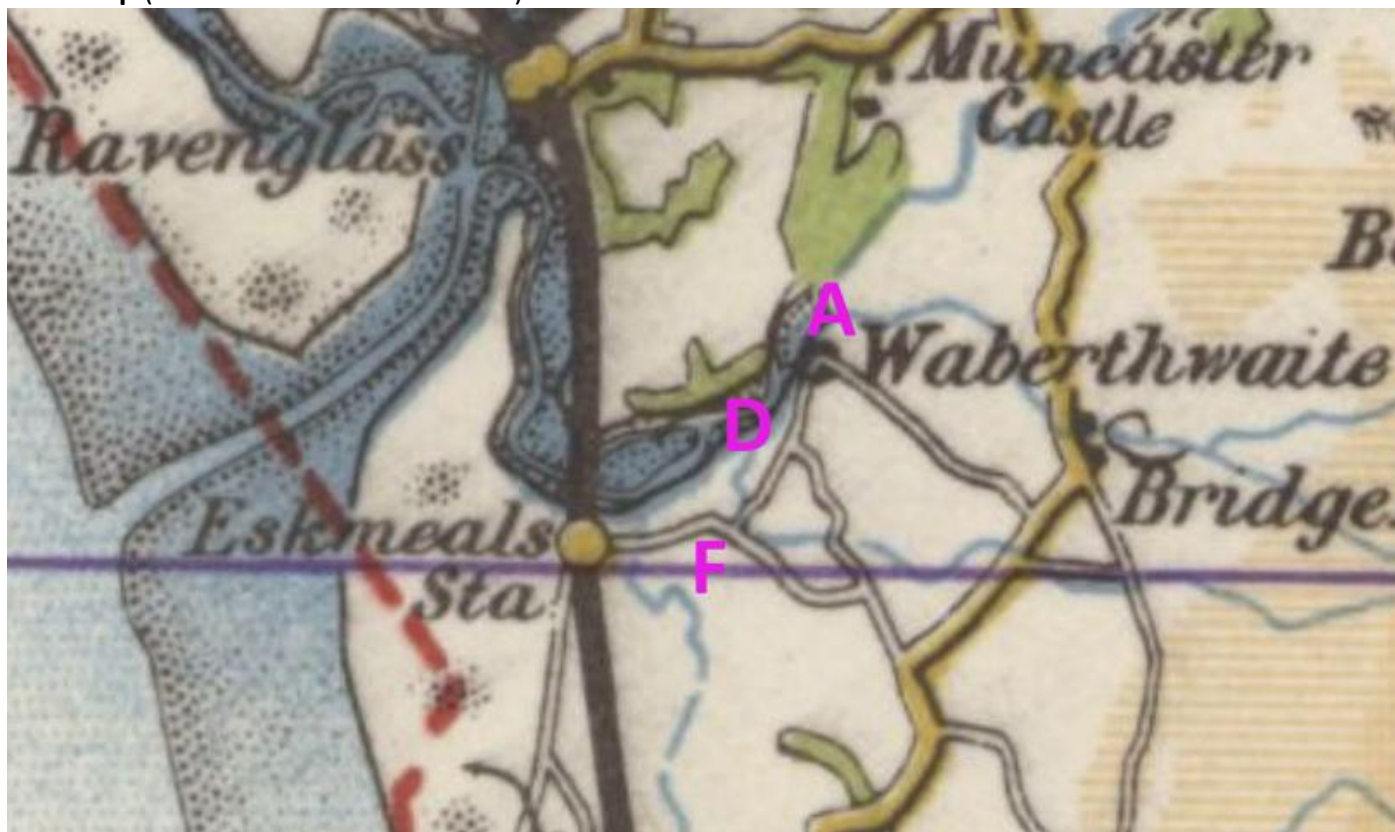


1901 Map Legend:



Main Roads between Towns 
Other Metalled Roads 
Railways  Station
Mineral Lines and Tramways 
County Boundaries 
Church or Chapel with Tower or Spire +

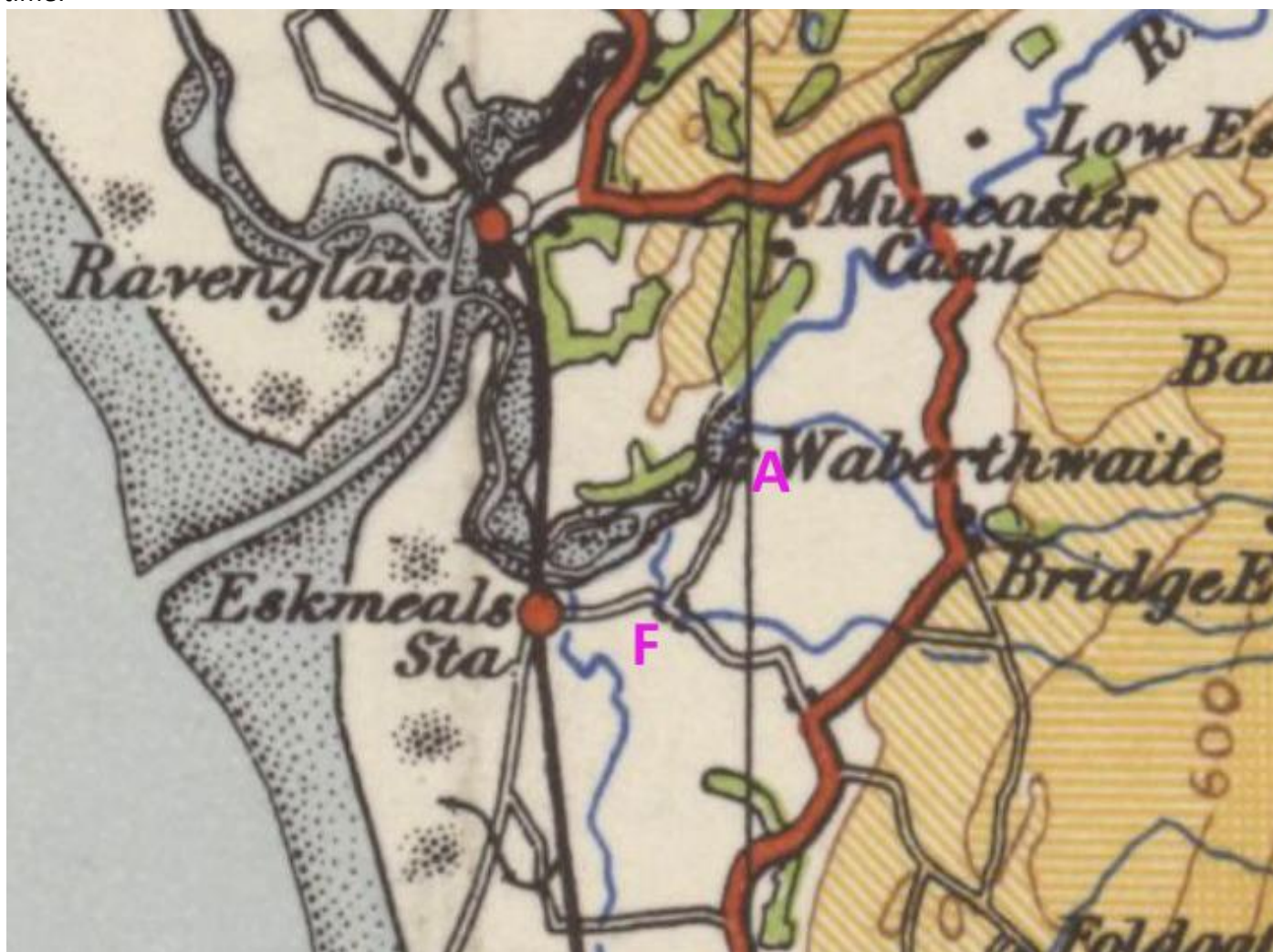
1934 Map (3rd Edition – Civil Air Edition) – shown as an Other Metalled Road:



1934 Map Legend:

Main Roads between Towns.....	=====	MOORING MAST FOR AIRSHIPS	L
Other Metalled Roads.....	=====	AIRWAY BEACON.....	★
Railways.....	----- Stations -----	MARINE LIGHT.....	★
Mineral Lines and Tramways.....	open closed	AERONAUTICAL W/T COMMUNICATION STN.	↑↓
Windmill.....	⌘	AERONAUTICAL W/T D/F OR BEACON STN.	↑↓
Church or Chapel with Tower or Spire.....	+	CUSTOMS FACILITIES.....	CROYDC
Lighthouse.....	⌘		★
Lightship.....	⌘		
AERODROME.....	⊙		
HEIGHT IN FEET ABOVE M.S.L.			
LANDING GROUND.....	○		
HEIGHT IN FEET ABOVE M.S.L.			
SEAPLANE STATION.....	⌘		

1958 Map (6th Edition) – shown as an Other Metalled Road. Note: current unclassified road U4058 is not shown on this edition, indicating the application route as the main route to Waberthwaite church at that time:



1958 Map Legend:

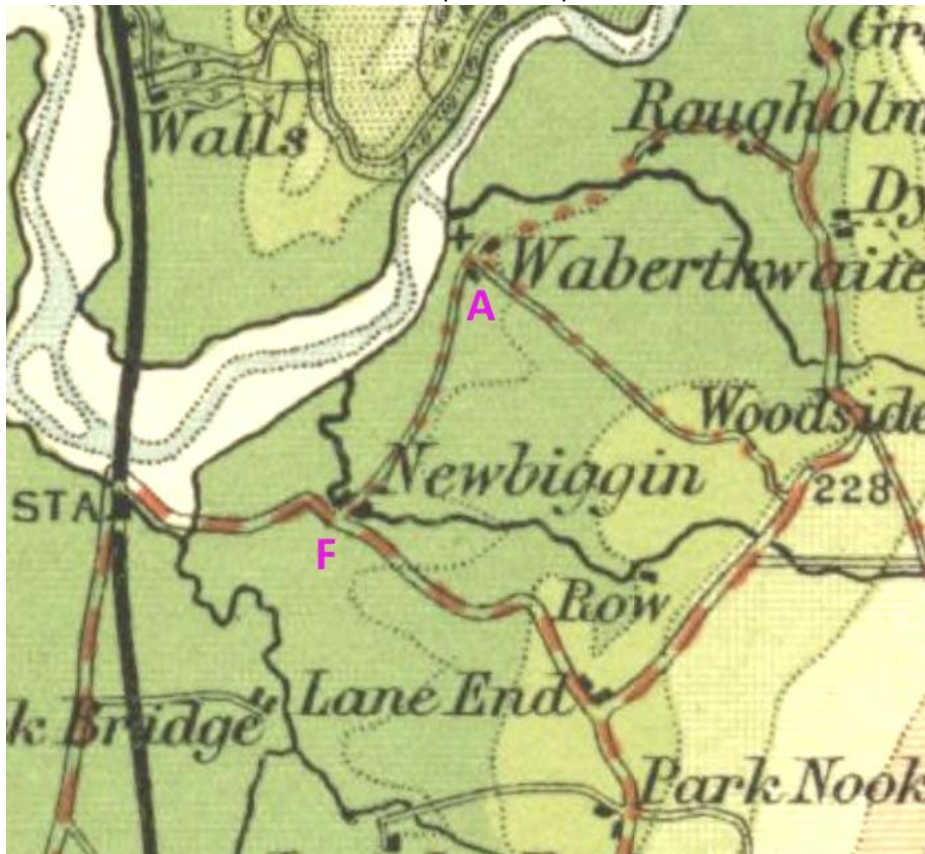
Main Roads with Ministry of Transport Nos.	A.68	B.6287
Other Metalled Roads		
Roman Roads		ERMINE STREET

A10: Bartholomew's Half Inch to the Mile Maps England and Wales (Drawn Scale 1:126,720)

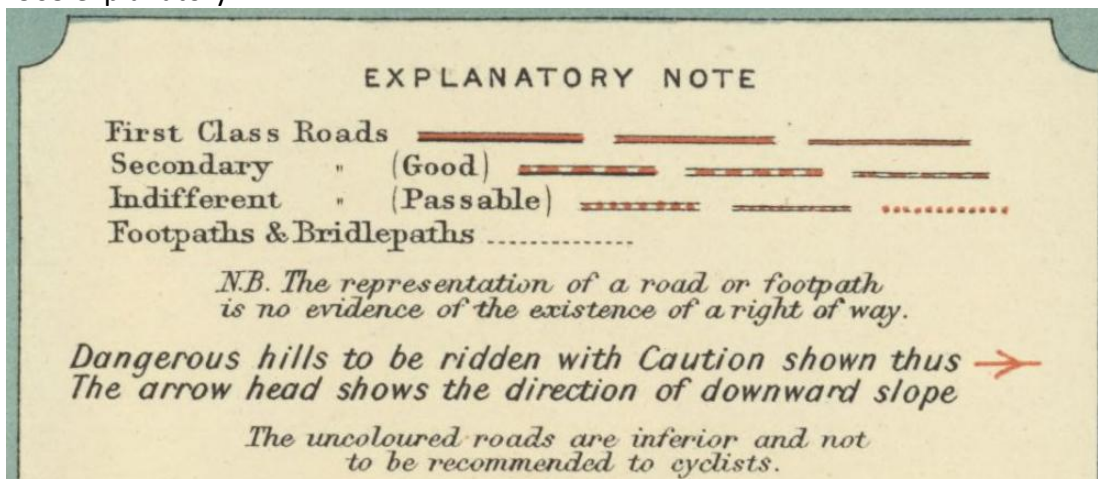
Although the map carries the standard disclaimer that the representation of a road or footpath is not evidence of a right of way, it remains the case that as a commercial Map maker, Bartholomew's would aim to show only highways that their customers (largely motorists and cyclists) could use, so would not knowingly include private roads. It seems likely that the disclaimer is to avoid the publishers from finding themselves in the midst of legal action, and that their true beliefs come from the fact that the Cyclists' Touring Club (CTC) reviewed the roads and assessed them as suitable or 'inferior'. It is appropriate therefore that at least a little weight be given to the evidence provided by these documents.

On the **1903** map the Application Route is shown as an Indifferent Road (Passable), on the **1924** map as an Indifferent Road (Passable by cyclists) and on the **1941** map it is shown as a Serviceable Road, in the same manner as other unclassified roads today.

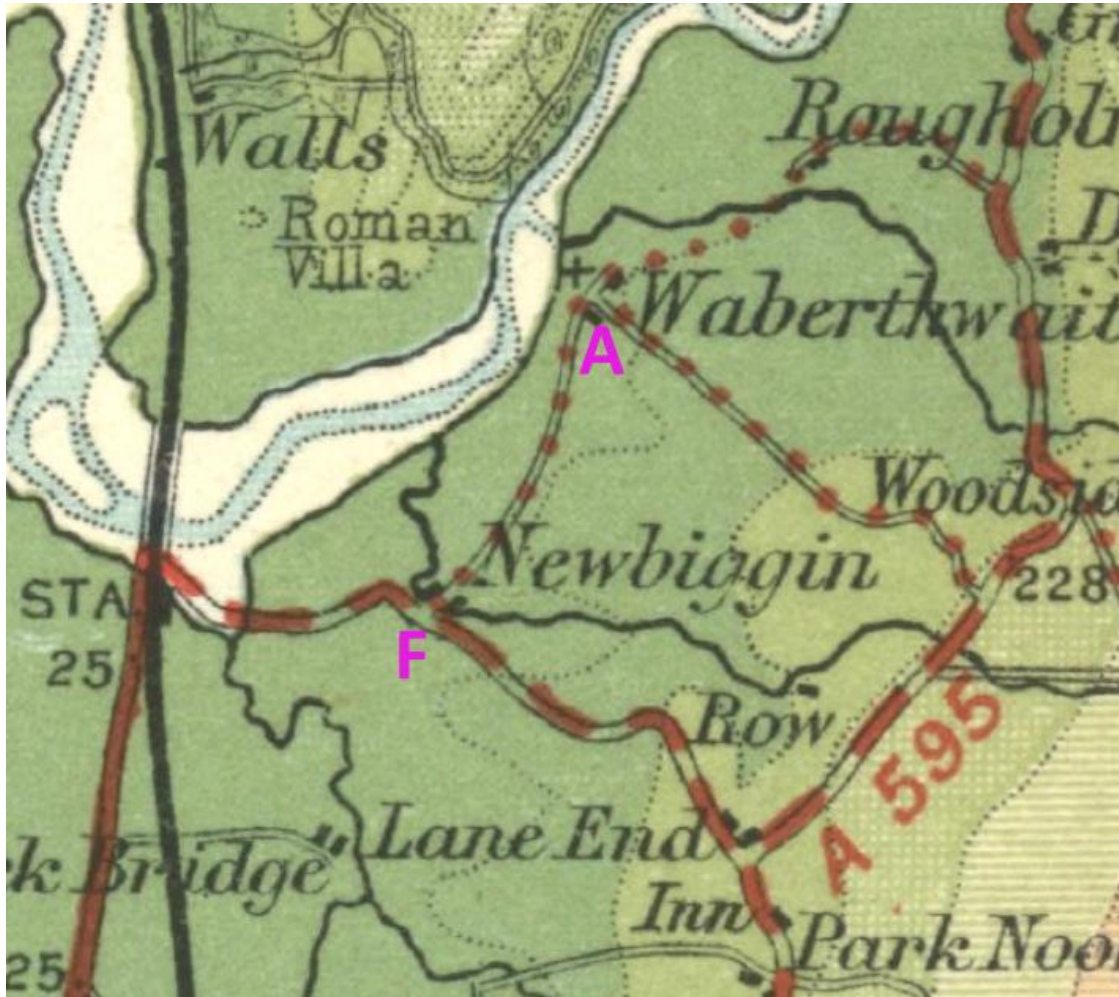
1903 - shown as Indifferent Road (Passable):



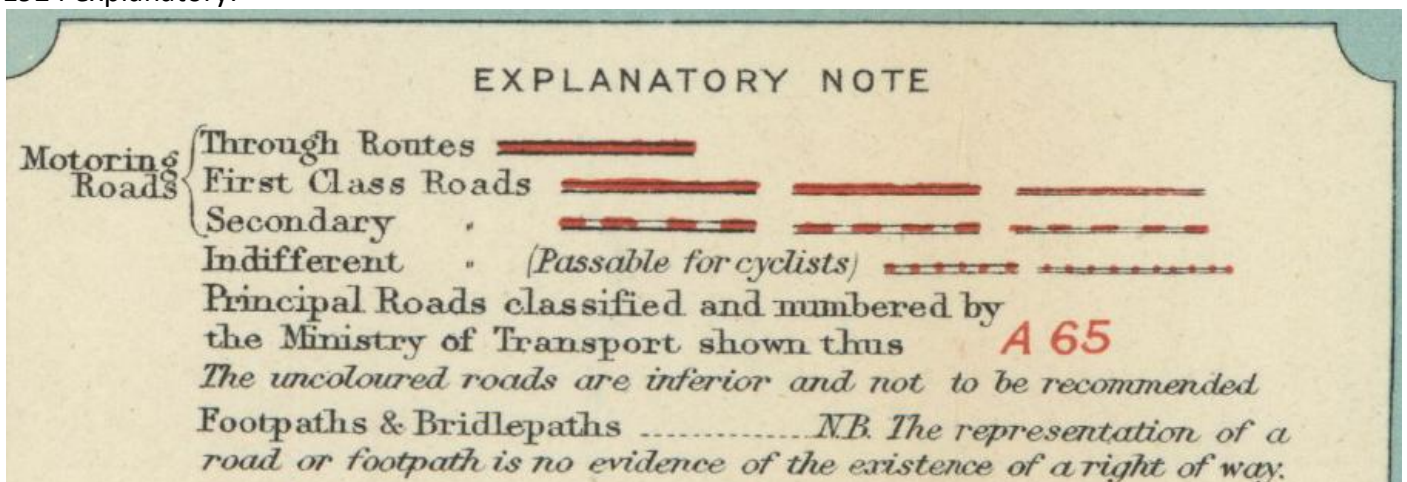
1903 explanatory:



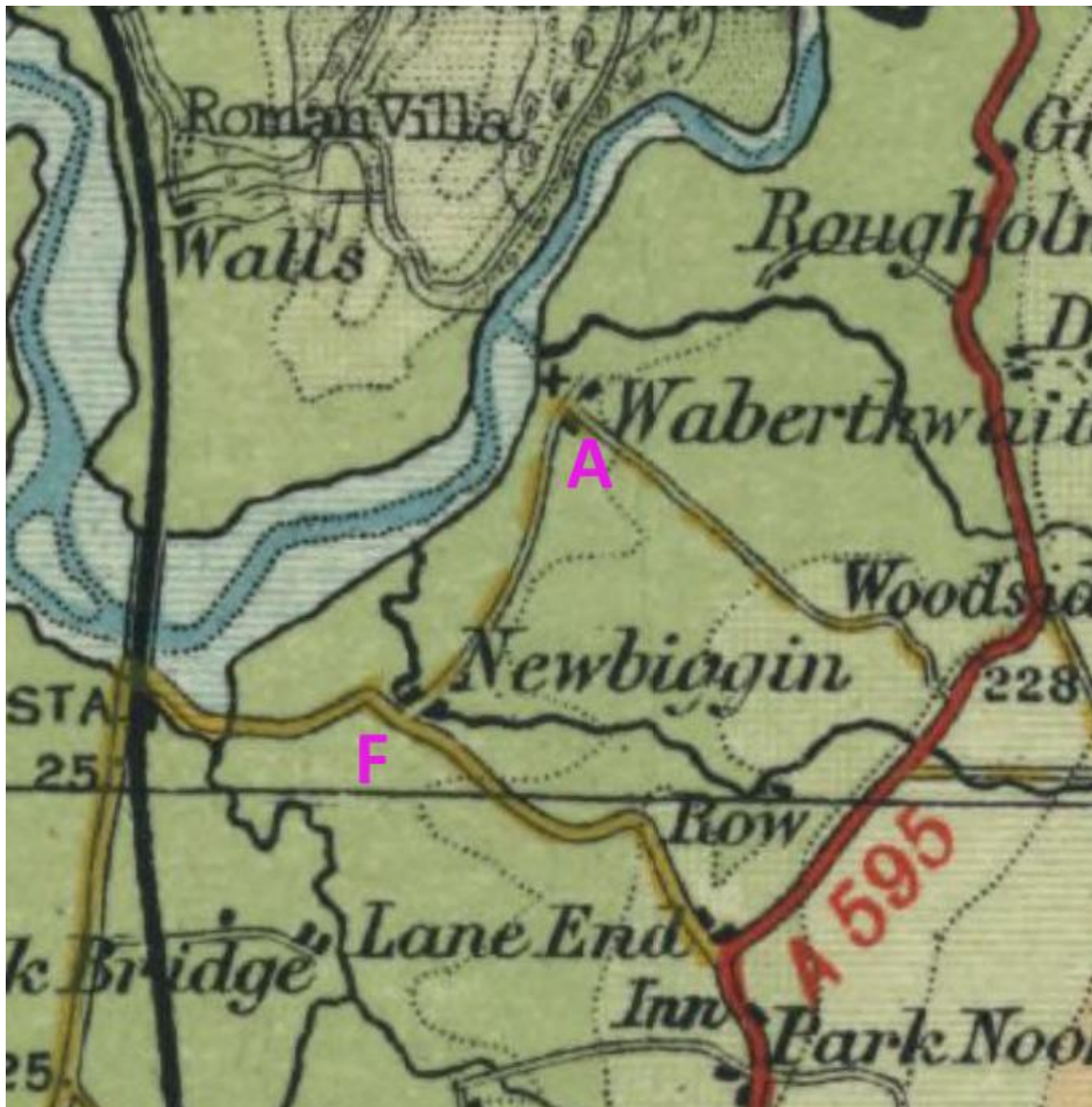
1924 - shown as Indifferent Road (Passable for cyclists):



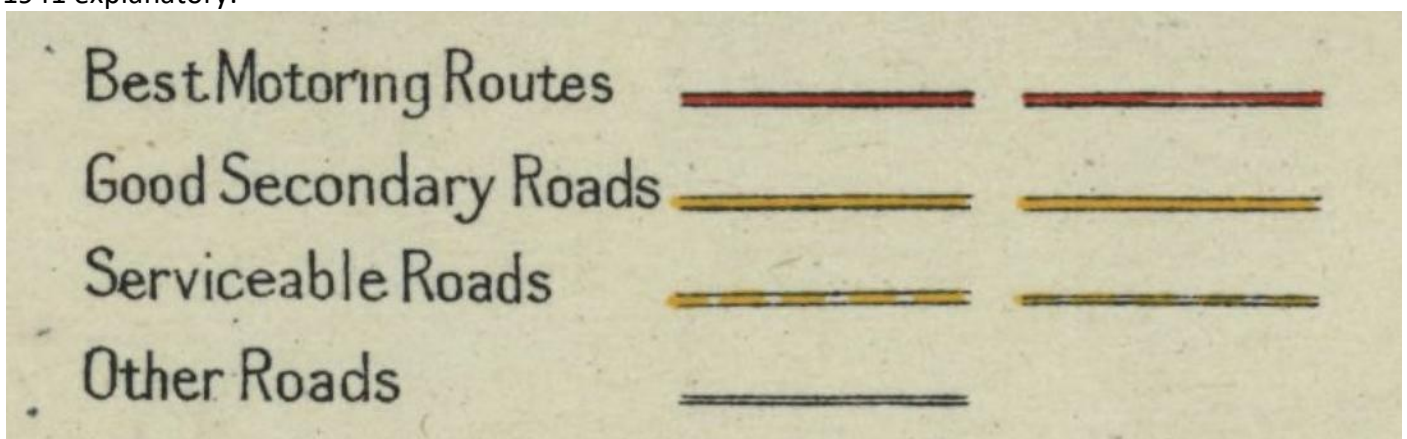
1924 explanatory:



1941:



1941 explanatory:



Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

Application for a Modification Order 3. Upgrading to to BRIDLEWAY part of the footpath 428019 – NEWBIGGIN LANE, Parish: Waberthwaite, District: Copeland

Appendix B: PRIMARY EVIDENCE

Note: All MAUVE MARKS AND LETTERING on Map and other Evidence have been added by applicant to help locate Application Route. They in no way represent the route itself.

B1: Tithe Records – Waberthwaite Parish 1843

The primary purpose of Tithe Plans was to record ownership of the land parcels in a parish, so that tithes could be levied. Roads are not always shown on tithe plans, but were usually identified where they were enclosed and separate to the titheable lands.

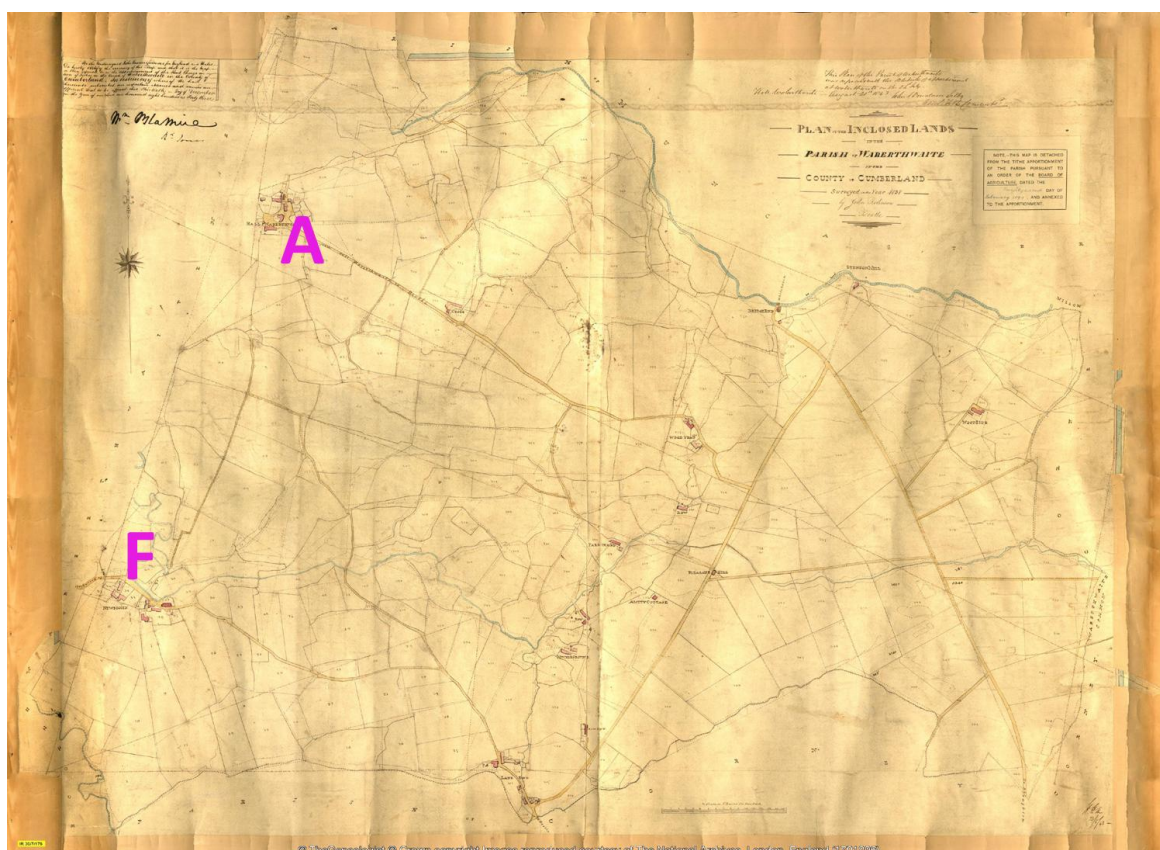
The Application route is largely shown on the Waberthwaite Tithe Plan, surveyed in 1838. The northern section from Point A to Point B is included in Plot 174 which is labelled “Road from Hall Waberthwaite to Bootle” and coloured sienna.

The area of Waberthwaite Marsh is not numbered and not shown in the apportionment, so it is reasonable to infer it was excluded from titheable lands. The application route is not shown crossing the marsh, but nor are any other routes or features, so this cannot be taken to assume it did not exist.

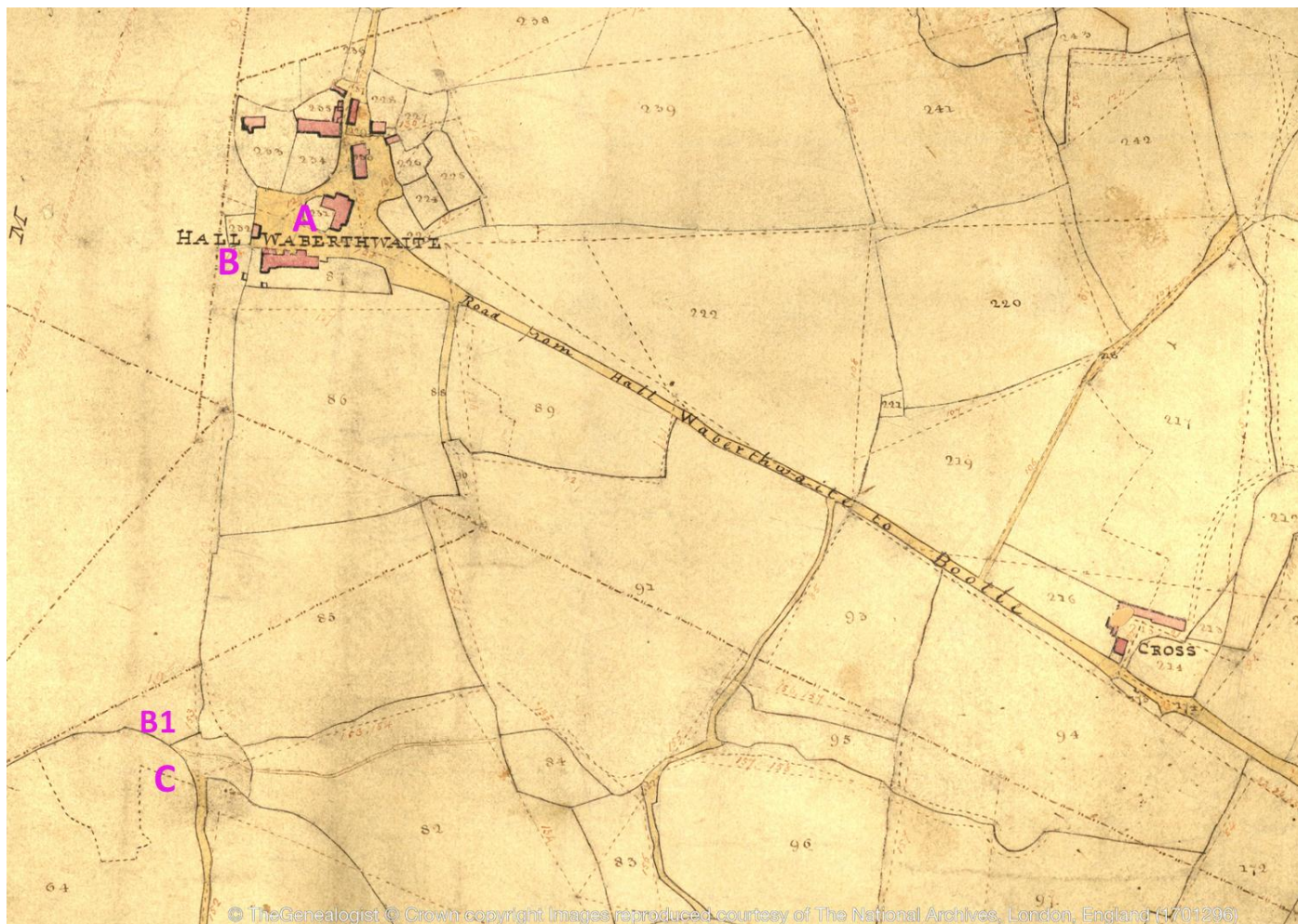
From Point B1 to Point E the route is shown as an enclosed lane, coloured sienna, and Plot 65 is written along this section. It is depicted in the same manner as current bridleway BW428022 which is numbered Plot 67 on this plan. From Point E to Point F the route passes through Plot 55.

The Tithe Apportionment lists Plots 55, 65, 67 and 174 as “Road and Wastes” in the ownership and occupation of Waberthwaite Parish at the end of the list. This is good evidence that the application route was considered a public road at that time.

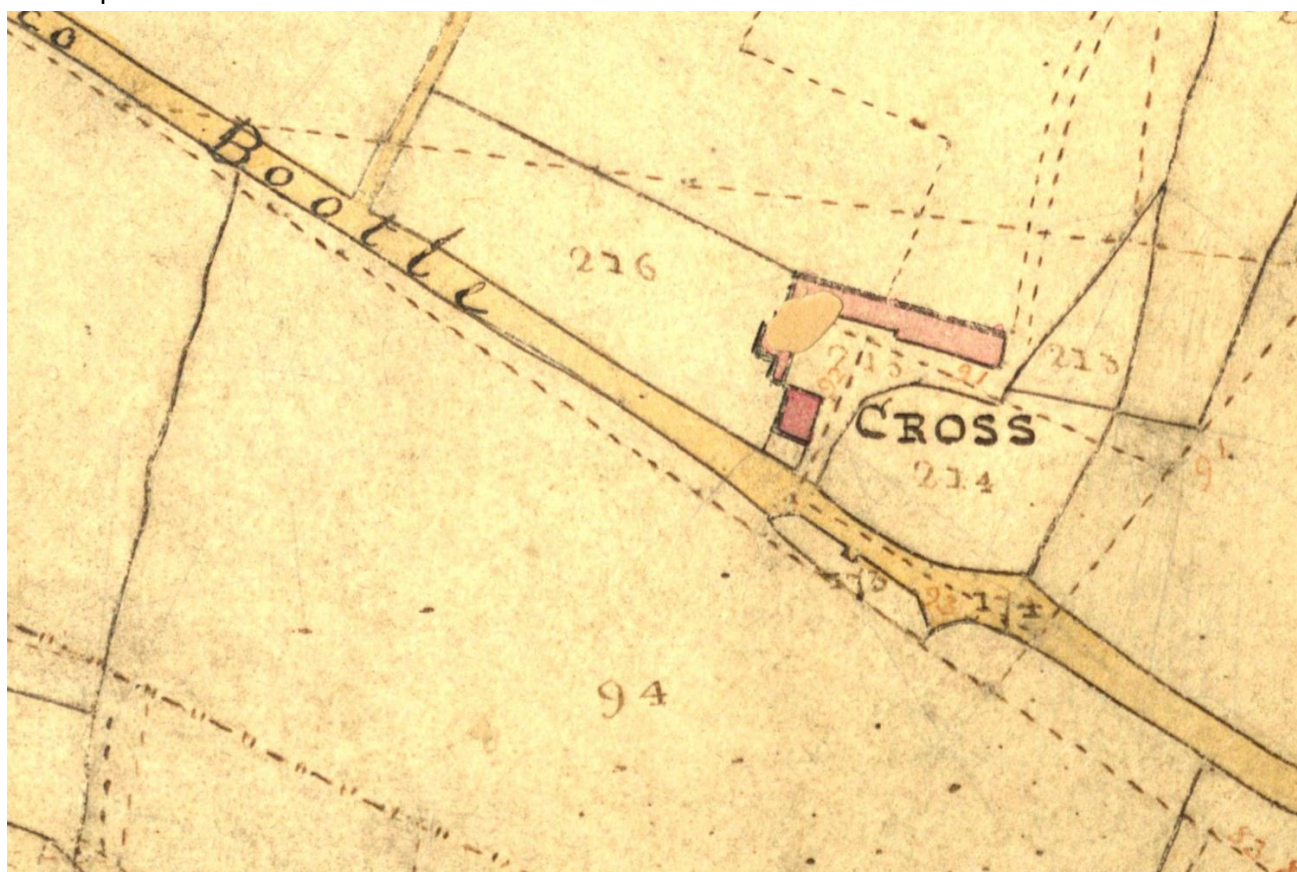
Waberthwaite Plan:



Close-up of route (north):



Close-up of Plot 174:



Close-up of route (south):



63

66

68

67

152

160

165

160

165

D

to E

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A historical map of Newbiggin, showing a river, roads, and numbered plots. The map is hand-colored with blue for the river, yellow for roads, and red for buildings. The name 'NEWBIGGIN' is printed in large, bold letters. The map includes various numbers (e.g., 57, 56, 55, 54, 53, 52, 51, 50, 49, 48, 47, 46, 45, 44, 43, 42, 41, 40, 39, 38, 37, 36, 35, 34, 33, 32, 31, 30, 29, 28, 27, 26, 25, 24, 23, 22, 21, 20, 19, 18, 17, 16, 15, 14, 13, 12, 11, 10, 9, 8, 7, 6, 5, 4, 3, 2, 1) and letters (E, F) marking specific locations. A road is labeled 'To Ravenglass'.

C.—London: Printed and Published (By Authority) by Shaw & Sons, 137 & 139, FETTER LANE.														
LANDOWNERS.	OCCUPIERS.	Number of the Plot.	NAME AND DESCRIPTION OF LANDS AND PREMISES.	STATE OF CULTIVATION.	QUANTITIES BY STATUTE MEASURE.			Amount of Rents and other payments due, for several years, 1811 & 1812, by statute.						REMARKS.
					Acres.	Roods.	Poles.	PAYABLE TO			PAYABLE TO			
Bishop of Bathurst	Rev. Geo. Selwyn	142	Dear Court	Brought over	1	3	4							
		143	Dear Court	Grass	1	2	3							
		144	Dear Court Plantation	Plantation	1	1	1							
		145	Dear Court Plantation	Plantation	1	3	2							
		146	Dear Court Plantation	Grass	2	3	2							
		147	Dear Court Plantation	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	148	Dear Court	Grass	2	3	2							
		149	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	150	Dear Court	Grass	1	3	2							
		151	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	152	Dear Court	Grass	1	3	2							
		153	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	154	Dear Court	Grass	1	3	2							
		155	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	156	Dear Court	Grass	1	3	2							
		157	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	158	Dear Court	Grass	1	3	2							
		159	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	160	Dear Court	Grass	1	3	2							
		161	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	162	Dear Court	Grass	1	3	2							
		163	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	164	Dear Court	Grass	1	3	2							
		165	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	166	Dear Court	Grass	1	3	2							
		167	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	168	Dear Court	Grass	1	3	2							
		169	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	170	Dear Court	Grass	1	3	2							
		171	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	172	Dear Court	Grass	1	3	2							
		173	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	174	Dear Court	Grass	1	3	2							
		175	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	176	Dear Court	Grass	1	3	2							
		177	Dear Court	Grass	1	3	2							
Bishop of Bathurst	Rev. Geo. Selwyn	178	Dear Court	Grass	1	3	2							
		179	Dear Court	Grass	1	3	2							

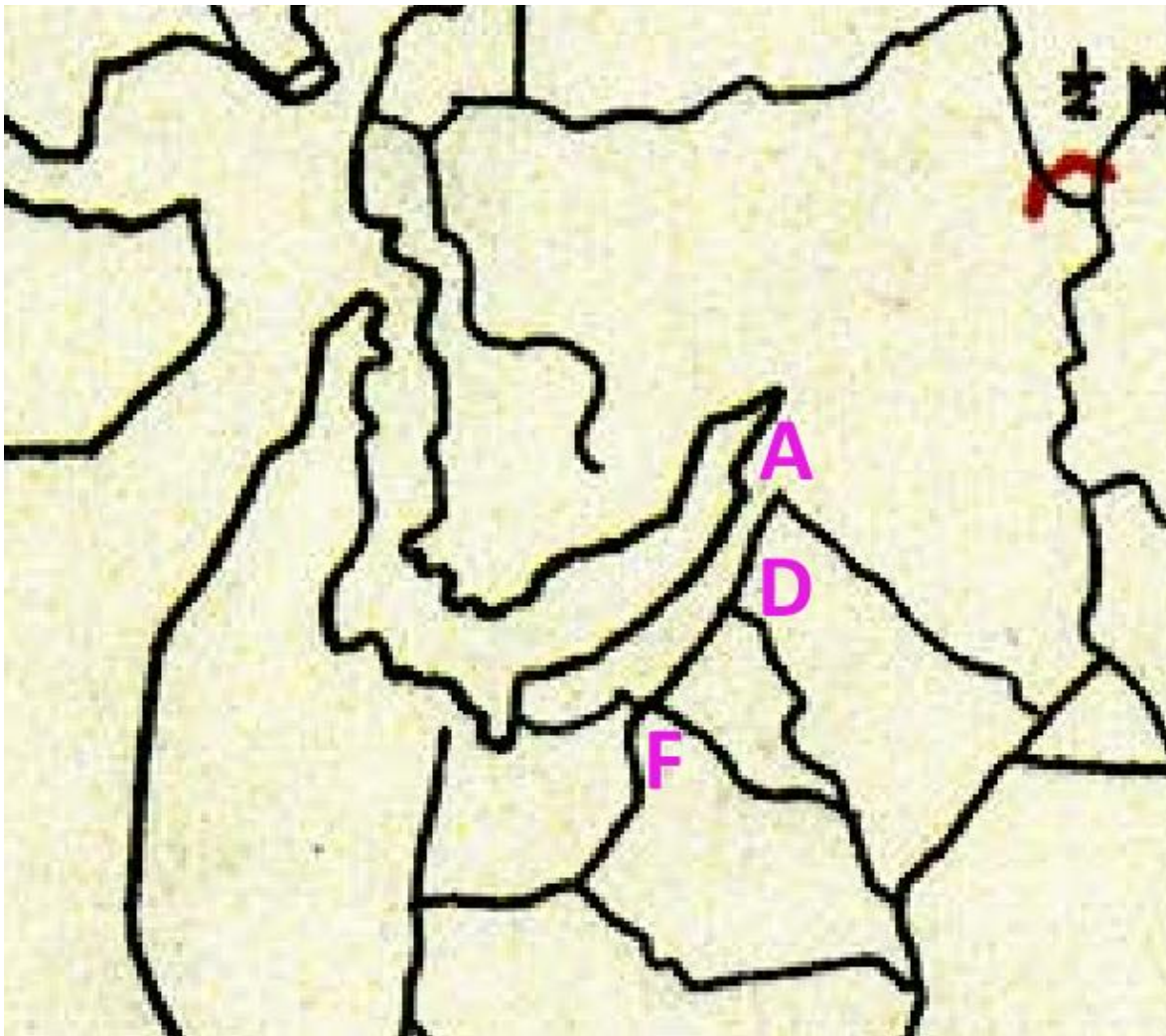
[illegible]

B2: Public Road Network Map of Cumberland by Bell, County Surveyor 1892

County Surveyor George Bell's map of the public road network and county bridges of Cumberland was presented to the Highways Committee in 1892. It was drawn at a scale of 2.5 miles to 1 inch and, although a simple representation, it is highly accurate when compared to current maps. The coloured "Main Roads" were the responsibility of the County Council to maintain, and the black "District Roads" were maintainable by the responsible body in each of the local areas. It is generally accepted that any road on Bell's map was a public highway repairable by the public in 1892, and acknowledged as such by the highway authorities.

The application route is shown on Bell's map as a District Road, in the same manner as other routes which are public roads and bridleways today.

Bell 1892:



Source: Lakes Guides - <http://www.lakesguides.co.uk/html/maps/mapsfram.htm>

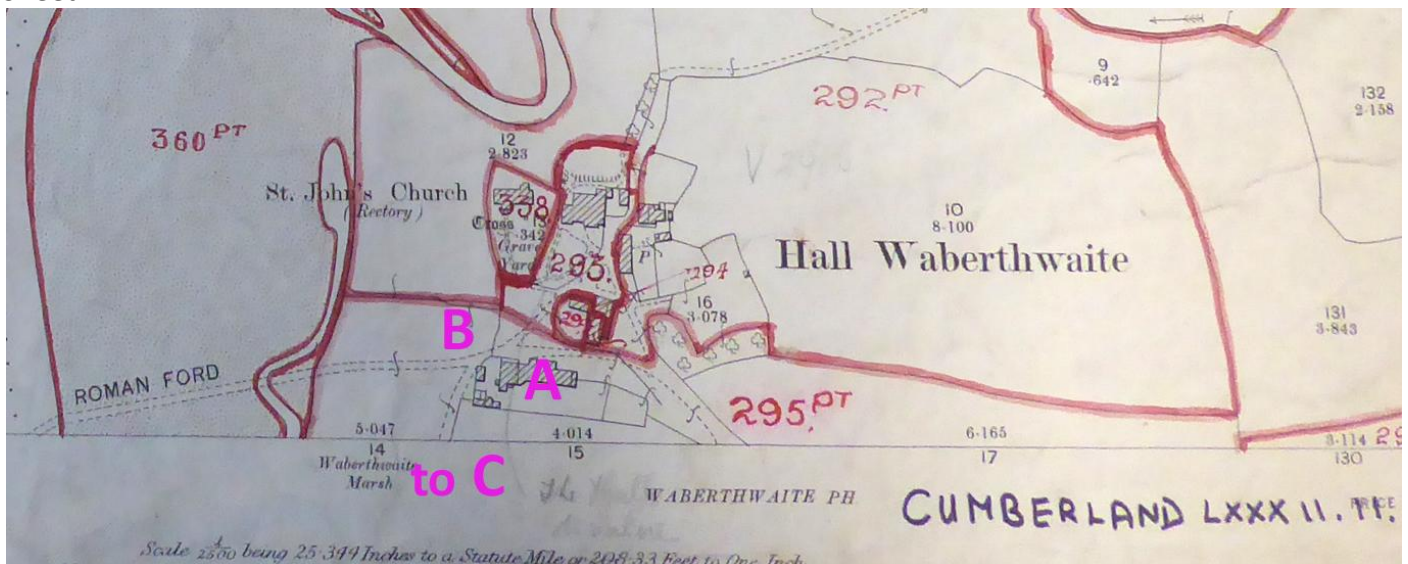
B3: Finance Act Map 1910

The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The purpose was to charge a tax on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways: public vehicular roads were usually excluded from adjoining landholdings and shown as 'white roads', and discounts could be requested for land crossed by footpaths or bridleways.

On the Finance Act 1910 Map sheets LXXXII.11 and LXXXII.15 the northern section from Point A to Point C is included in Land Parcel 295 which also includes part of BW428029 and part of Unclassified Road U4058. The southern section is included in a Land Parcel which is labelled "275 PT 279 PT". It is unusual to have 2 references within a land parcel, although this same is marked on a section of Newbiggin Marsh slightly west of the application route. Without sight of the Field Book, no inference can be drawn from this information.

The central section of the application route from Point C to Point E is excluded from adjoining hereditaments. As this land is unvalued, this suggests it belonged to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority, which is good evidence the route was considered a public road at that time.

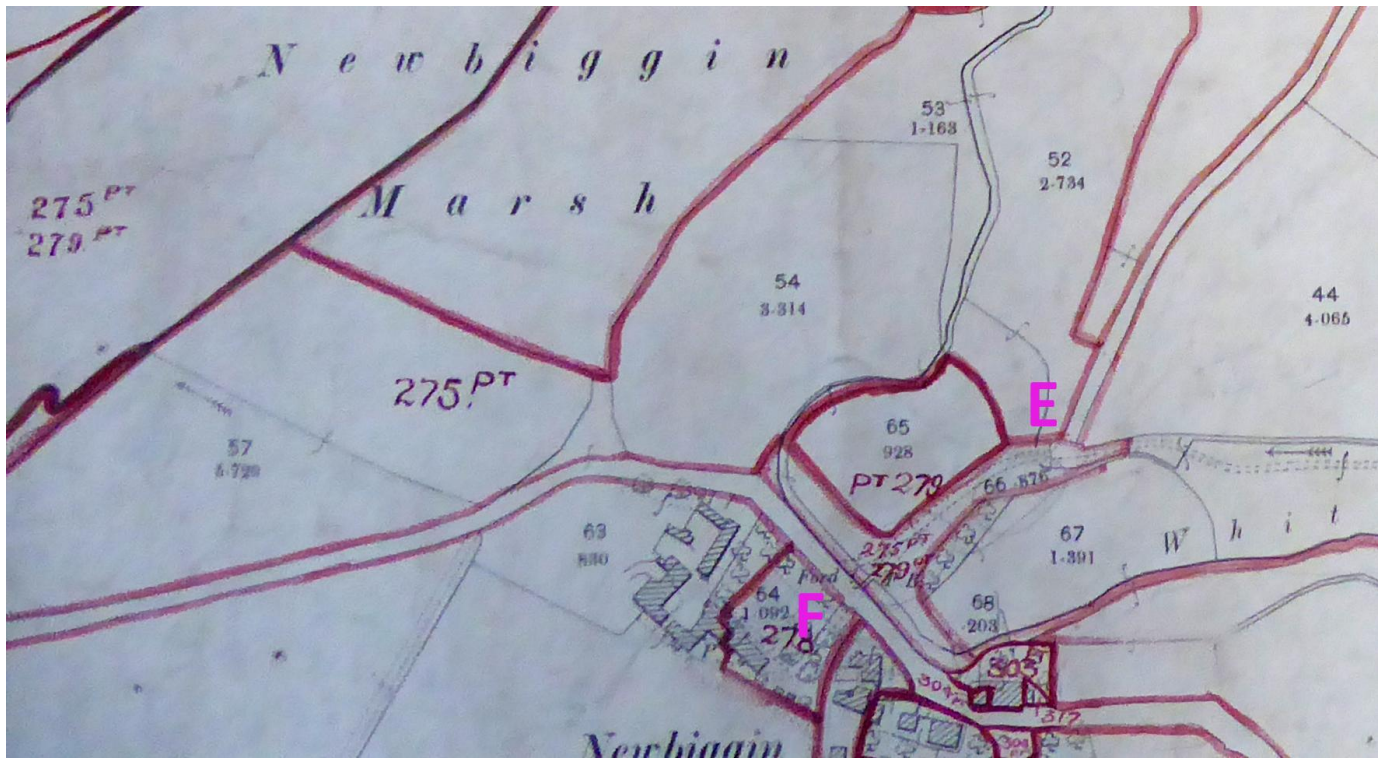
Sheet LXXXII.11:



Sheet LXXXII.15:



Close-up Points E – F and Newbiggin Marsh showing 275 PT and 279 PT in same land parcels:



Source: Photographed by applicant at Carlisle Archives Cumberland sheets 82.11 and 82.15, available to view on BHS Evidence Library <https://u.pcloud.link/publink/show?code=kZiM4RXZ5MUkO6kIBHRE7N4Q7jUWYyKdg89X#folder=9450213242>

Application for a Modification Order 3. Upgrading to to BRIDLEWAY part of the footpath 428019 – NEWBIGGIN LANE, Parish: Waberthwaite, District: Copeland


Appendix C: OTHER EVIDENCE

Note: All BLACK and MAUVE MARKS AND LETTERING on Map Evidence have been added by applicant to help locate Application Route. They in no way represent the route itself.

C1: The Gazette - Stopping Up search

Stopping Up Order – a generic search on “Stopping Up Waberthwaite Cumberland” returned 1 record, which does not affect the application route.

The one notice from 1866 relates to the Furness railway.



THE
GAZETTE
OFFICIAL PUBLIC RECORD

Published by Authority | Est 1665

All noticesCoronavirus noticesResourcesThe Gazette: 350 Years

Search and filterclear all

[Help with search](#)

Update results

Text searchclear

Please use this option to search all Gazette data and specifically for notices published before 1998. You can also filter using the publication date and Gazette edition below.

stopping up waberthwaite cumberl

E.g. keyword, company name, company number or person

Notice typeclear

Please only use the search function below for notices appearing from 1998 onwards. This will search all main Gazette editions (excluding supplements).

All notices

1 - 1 of 1 notices

Sort by: Default Show: 10

Publication Date27 November 1866

[The London Gazette, Issue 23191, Page 6598](#)

into the several parishes, townships, and extra-parochial or other places following, or spine of them, that is to say: Beetham, Arnside, Hazel-slack and Storth, rlaverbrack, Heversham, Hever-sham-...

Actions

[Take advantage of The Gazette research service](#)

Resources

[Six ways to grow your business during challenging economic times](#)

With the current economic uncertainty, Shaun Barton of Company Closure highlights six ways you can grow your company.

Date: 27 November 2023

[How to get government grants for your business](#)

Whether you're operating a start-up or running a company with a long-established trading history, Karl Hodson of UK Business Finance explains how to get government grants for your business.

Date: 22 November 2023

Source: The Gazette official public record <https://www.thegazette.co.uk/all-notices/notice>

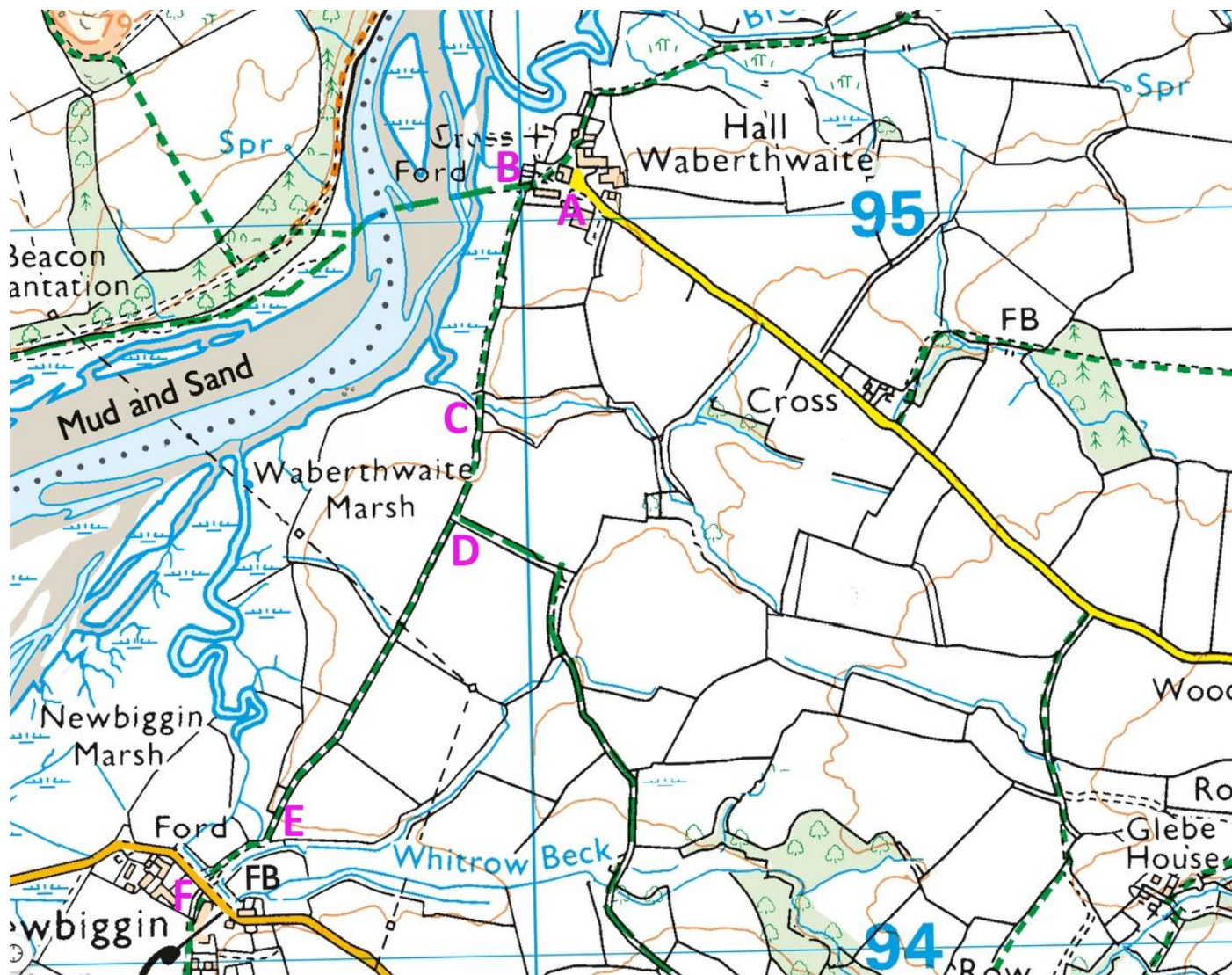
Application for a Modification Order 3. Upgrading to to BRIDLEWAY part of the footpath 428019 – NEWBIGGIN LANE, Parish: Waberthwaite, District: Copeland

Appendix D: MAP AND PHOTOGRAPHS OF THE APPLICATION ROUTE

Note: All **MAUVE MARKS AND LETTERING** on Map Evidence have been added by applicant to help locate Application Route. They in no way represent the route itself.

D1: Current OS 1:25,000 map of Applicant Route

Approximate scale when printed on A4 paper – 1:9,500.



Source: Outdoor Active personal subscription. Map data: Ordnance Survey, Crown copyright

D2: Photographs of the route

Photo 1 - Junction with Unclassified Road U4058 (Point A)

Looking west along the application route – the route goes through the gate ahead then turns left (south) at Point B. Waberthwaite churchyard is to the right through the brown gates.



Source: Google Streetview https://www.google.co.uk/maps/@54.343035,-3.385128,3a,55.5y,276.88h,88.83t/data=!3m6!1e1!3m4!1s18oej1-1AxsWpbz7pk_8Qg!2e0!7i13312!8i6656?entry=ttu

Photo 2 – approaching Point B

Looking west, there is a good stone track heading south along the application route. The closed gate ahead leads to the ancient Roman ford which is used by bridleway BW428029



Source: Google Streetview <https://www.google.co.uk/maps/@54.3430609,-3.3855474,3a,47y,263.48h,88.23t/data=!3m6!1e1!3m4!1sAxpXyuDHM5ryRV3dunRzqg!2e0!7i13312!8i6656?entry=ttu>

Photo 3 – point F looking north

The ford is in regular use by farm vehicles and there is a footbridge to the east of it.

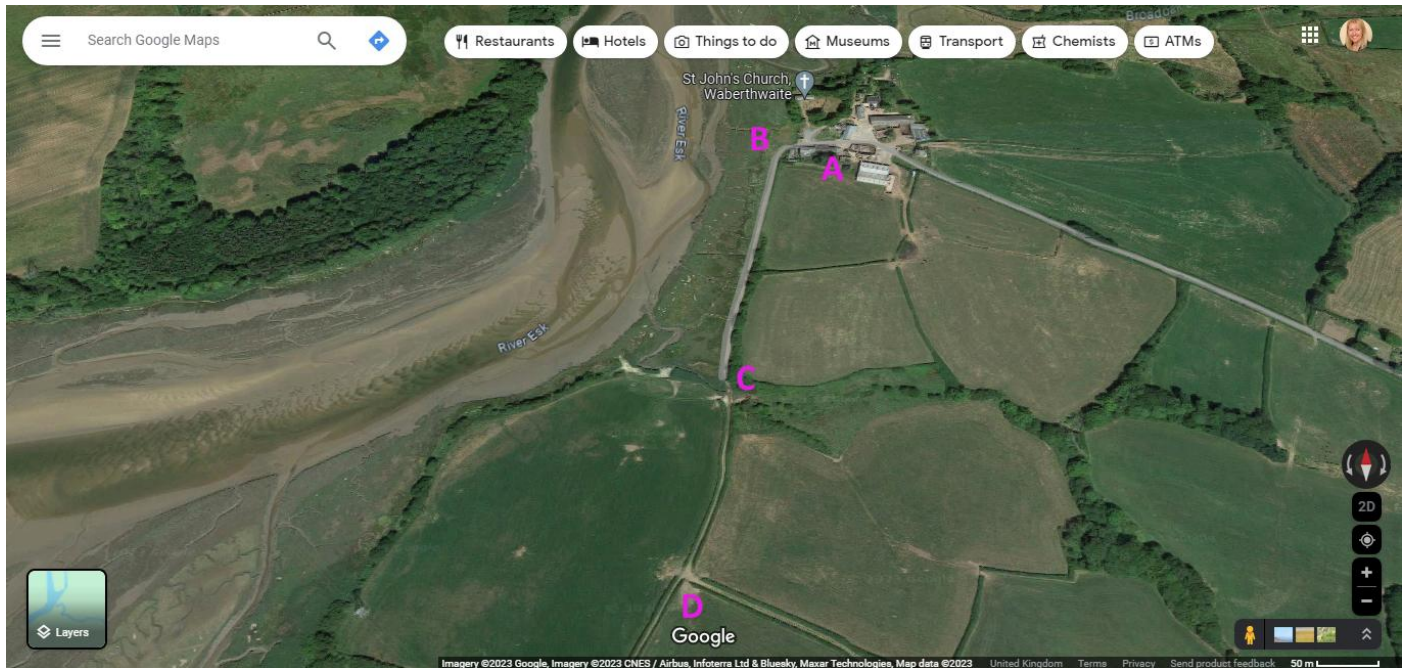


Source: Google Streetview <https://www.google.co.uk/maps/@54.3345744,-3.3927925,3a,89.5y,72.11h,72.67t/data=!3m6!1e1!3m4!1sMi33TbitzjYP0lk2xwACEA!2e0!7i16384!8i8192?entry=ttu>

D3: Aerial Photographs of the route

The route is very clear throughout and the hedges enclosing it are clearly seen from Point C to Point E.

Photo 1 – north



Source: Google <https://www.google.co.uk/maps/@54.3360357,-3.3870778,662a,35y,39.26t/data=!3m1!1e3?entry=ttu>

Photo 2 – south



Source: Google <https://www.google.co.uk/maps/@54.3313664,-3.3898714,656a,35y,39.26t/data=!3m1!1e3?entry=ttu>