

RIGHTS OF WAY SECTION

ADVICE NOTE NO 4 - July 1999

ADVICE ON THE DEFINITION OF “CROSS ROAD”

Introduction

1. The purpose of this note is to set out for Inspectors considering a definitive map order under the Wildlife and Countryside Act 1981 the Planning Inspectorate's view on the evidential value of the expression “cross road” when considering documentary evidence. This is intended for guidance only, ultimately the meaning of the term in a particular document is a matter that only the Courts can decide.
2. In modern usage, the term “cross road” and “crossroads” are generally taken to mean the point where two roads cross. However, old maps and documents may attach a different meaning to the term “cross road”. These include a highway running between, and joining, other highways, a byway and a road that joined regional centres. Inspectors will, therefore, need to take account that the meaning of the term may vary depending on the road pattern/markings in each map.

An illustrative case

3. An example of this was considered in the case of *Hollins-v-Oldham* decided in October 1995, which established the rights that existed over a route called Pingot Lane. In considering the evidence of Burdett's Map of Cheshire 1777, His Honour Judge Howarth stated:

“Burdett's map of 1777 identifies two types of roads on its key: firstly turnpike roads, that is to say roads which could only be used upon payment of a toll and, secondly, other types of roads which are called cross roads. That does not mean a place where two roads cross (as one would understand it to be in this case) but a road called a cross road.”

4. An Inspector will need to consider the effect of the term “cross road” in relation to a particular map or document. The fact that a cross road appears on an old map or document does not automatically indicate public rights: the designation of a way on a map will depend on analysis of the particular map and in particular, categorisation of other ways shown on the map. If the Inspector reaches a conclusion on the view taken by the map maker or author of the status of a way in a particular map or document, that again does not automatically lead to the conclusion that the way is a public right of way or of the status of those rights. The Inspector will need to consider the weight to be attached to a particular piece of evidence as well as all other relevant evidence.
5. Again *Hollins-v-Oldham* is illustrative of this approach. The Judge analysed the two categorisations and concluded that the category known as “cross road” must mean a public road in respect of which no toll was payable. The Judge gave his reason for this view, stating:

“This latter category, it seems to me, must mean a public road in respect of which no toll is payable. This map was probably produced for the benefit of wealthy people who wished to travel either on horseback or by means of horse and carriage. The cost of such plans when they were produced would have been so expensive that no other kind of purchaser could be envisaged. There is no point, it seems to me, in showing a road to such a purchaser which he did not have the right to use.”

6. The Judge further acknowledged that just because a mapmaker regarded a way as a public right of way of a particular status does not mean that he was necessarily correct. He stated:

“Pingot Lane must have been considered, rightly or wrongly, by Burdett as being either a bridle way or a highway for vehicles.”

7. Therefore, in reaching a conclusion in relation to a particular piece of evidence, it is necessary to consider it with the totality of all other relevant evidence. Again *Hollins-v-Oldham* illustrates this:

“The whole of the documents have to be examined to assess their reliability. It seems to me that I have to assess each piece of documentary evidence to see how far I can rely upon it. This applies just as much to official documents such as the definitive map or ordnance survey sheets or tithe surveys as it does to other records such as commercially produced maps. They have all been produced by human beings and are so liable to error to some extent.”

Summary

8. In considering evidence, it should be borne in mind that the recording of a way as a cross road on a map or other document may not be proof that the way was a public highway, or enjoyed a particular status at that time. It may only be an indication of what the author believed (or, where the contents had been copied from elsewhere – as sometimes happened – that he accepted what the previous author believed). In considering such a document due regard will not only need to be given to what is recorded, but also the reliability of the document, taking full account of the totality of the available evidence in reaching a decision.

Savings

9. This note replaces any other advice given by the Planning Inspectorate on this topic.
10. This note is publicly available. It is not an authoritative interpretation of the law.