

# Investigation into Highway Responsibility Eastgate Mire (North Cave Beck)

A public highway can be described as a way over which the public have a right to pass and repass.

The council as a highway authority has to ensure that the public have safe passage along the highway and the highway is not dangerous for traffic.

In undertaking these obligations, the highway authority may introduce infrastructure that aides public movements, however the authority rarely owns the subsoil. Only in special circumstances, such as the construction of a bypass, does the authority purchase the land that a highway runs over.

The presumption relating to ownership of the soil is that the owner of the adjoining section owns up to the middle line of the highway (*ad medium filum*). This is described in the Land Registry's guidance.

<https://www.gov.uk/government/publications/land-registry-plans-boundaries/land-registry-plans-boundaries-practice-guide-40-supplement-3>

## North Newbald and South Newbald Inclosure Award 1784

In the case of Eastgate, North Newbald, the council has investigated the North Newbald and Enclosure Award (RDB BG/4/3) of 1784 for clarification of the area. The associated parliamentary inclosure act empowered the commissioners to set out public roads, private roads, watercourses and specify maintenance responsibilities.

With regards to public roads, the award sets out that

*“And We do set out and appoint the several Common Publick Roads or Ways hereinafter mentioned and **We do order Determine and Award that the same shall respectively be Forty Feet broad between and Exclusive of the Ditches in and over all the Lands and Grounds by the said Act directed to be divided and Inclosed and of such Width and breadth as the same have been and now are in the Ancient Lanes** and shall be used in and over the same Lands and Grounds as and where such Roads or Ways have been respectively Staked out by our direction and are laned or Fenced off or against which Fences are herein or hereby directed to be made and shall respectively for ever hereafter be maintained as Common Highways according to the direction of the said Act (that is to award set out the say)”*

the highways are exclusive of ditches

specifically Eastgate is awarded as

*“And We do also order Award and direct that the Antient Highway or Road leading from the Beverley Road in North Newbald herein Awarded along East Gate over the Green and through the Town of North Newbald to the Antient Inclosures at the West End of the said Town”*

With regards the maintenance of ditches and drains, the Award does not set it out to the highway surveyor, but as 'heretofore have been'


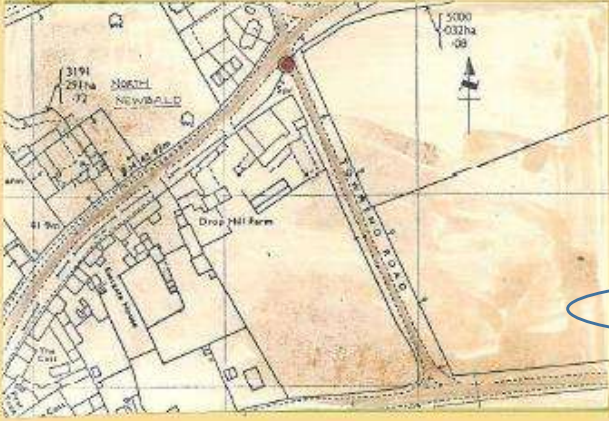
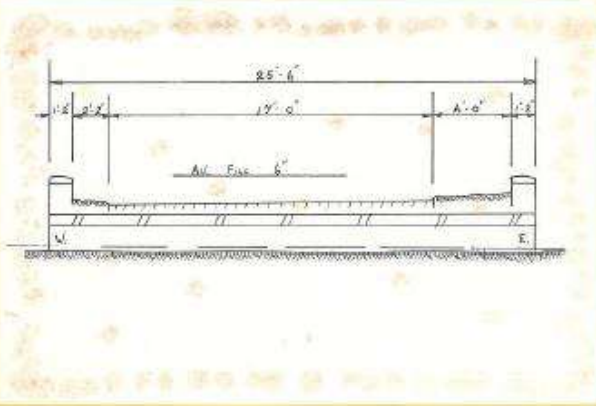
***And We do also order Determine and Award that the Antient Drain or Water Course called the Mill Beck and also the ditches or Drains in or belonging to any Antient Inclosed Lands or Grounds in the said Parish of North Newbald shall continue and be cleansed and repaired as the same respectively have heretofore been and the several Ditches made or to be made for dividing the several parcels or Allotments of Land hereinbefore Awarded one from another or from any Road or Ancient Inclosure adjoining thereon or in or through which any Water ought to Flow or run of or from any Lands or Grounds within the said Townships or either of them according to the true meaning hereof shall from time to time for ever be scoured cleansed and kept in good repair and of Sufficient Width and Depth to receive and admit all the Water which ought to Flow or pass in or along the same freely to run therein without Stoppage to and in to the proper Drains or Sewers for taking off the same And that such last mentioned Ditches shall not be of less Width Depth and Dimensions than are hereinafter expressed (that is to say) in the several Allotments in and upon the Low Fields and Low Common in the said Township of North Newbald and also in and upon the Low Fields and Common in the said Township of South Newbald four Feet and an half Wide at the Top Six Inches Wide at the Bottom and three Feet Deep Perpendicular at the least and in the Allotments in and upon the High Fields and High Common in the said Township of North Newbald and also in and upon the High Fields in the said Township of South Newbald three Feet and an half Wide at the Top Six Inches Wide at the Bottom and two Feet Deep Perpendicular at the least and that the Quickwood shall be set or planted one Foot from the Hough or Edge of the said Ditches and shall be Guarded with good and sufficient Posts and Rails untill such Quickwood shall be of itself a Sufficient Fence***

The award does not set out maintenance of bridges to the highway surveyor, but directs the maintainer of the ditch to make sufficient bridges, tunnels or goatstocks

***And We do also order determine and Award and direct that the several and respective Owners and Proprietors of all and every the Allotments Lands and Grounds in the said Townships of North Newbald and South Newbald or either of them to whom the making supporting or repairing of any Fence or Ditch do or doth or shall belong or by whom such Fence or ditch is hereby Awarded or directed to be made or maintained or through which the aforesaid Publick Drain is divided to be made or their respective Tenants Lessees or Assigns shall make and forever sufficiently maintain good and Sufficient Gates with proper Posts or Jambs for the same to Hang upon and fall against Ways into their respective Lands Grounds or Allotments or out of one Allotment into another and also Sufficient Gateways for Crossing the said Publick Drain (except as next herein after provided) And shall also from time to time make and for ever maintain Sufficient Bridges Tunnells or Goatstocks over the Ditch or Ditches Drain or Drains in or across which any such Gateway shall be made of Sufficient Width and Depth and in such manner that the said Ditches and Drains may always be kept open and that the Water may have a Free Passage under or through all such Bridges Tunnells or Goatstocks in all times to come without being obstructed thereby***

## Highway Authority Structure Records

The council does hold a number of 'bridge cards' recording information relating to structures within the highway. The records along the Mires (North Cave Beck) do not record the responsible authority. Similar records for highway structures, such as Whale Bridge on the A1034, set out the responsible authority and ERCC bridge number.

93/17/40

BRIDGE NUMBER

JAN
FEB
MAR
APR
MAY
JUN
JUL
AUG
SEP
OCT
NOV
DEC

UNCL (TOWNEND RD. NORTH NEWBALD)

CONSTRUCTION  
BRICK ARCH

TYPE OF FOURS-PIN

DATE OF CONSTRUCTION

CLEAR SLOAM SPAN  
0.90m. (2'-11 1/2")

SKEW ANGLE

EFFECTIVE SPAN

DESIGN LOADINGS

WINDGUARD ESTIMATION & DATE

HEADROOM

RESPONSIBLE AUTHORITY

PRIORITY RATING FOR RECONSTRUCTION

DIVERSION ROUTE

NAME OF DISTRICT  
Rimley

NAME OF DRAINAGE BOARD

DRAINAGE AUTHORITY

DETAILS OF SERVICE

IS WATERWAY NAVIGABLE?  
NO

IS BRIDGE REGISTERED AT ASCENT MONUMENT

OTHER REMARKS

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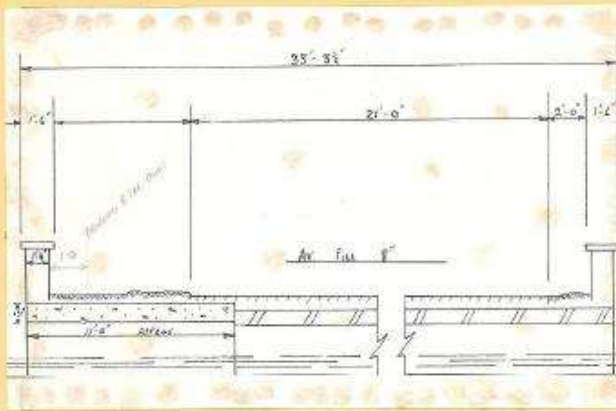
ADP / HUMBERSIDE C.C.

CARTER-PARLATT (OVERSEAS) LTD  
431 TOTTEN, S.W.15

TD 12-210

VISION RECORD

93/05/99



BRIDGE NUMBER	DATE
	JAN
	FEB
	MAR
	APR
	MAY
	JUN
	JUL
	AUG
	SEP
	OCT
	NOV
	DEC

DRAWING NO. 909/359  
 NAME OF BRIDGE: WHALE BRIDGE  
 ROAD NO. A 1034  
 CONSTRUCTION: BRICK ARCH - R.C. SLAB EXTENSION (0.33m DEEP)  
 TYPE OF FOUNDATION:

CLEAR SQUARE SPAN: SLAB - 2.52m  
 (8'-3 1/2") ARCH - 2.00m (8'-2 1/2")  
 CLEAR SKEW SPAN: EFFECTIVE SPAN:

DESIGN LOADING: 11.04 TONS  
 BRIDGE/GUARD ASSESSMENT & DATE: 5th DECEMBER 1974

RESPONSIBLE AUTHORITY: HCC  
 BRIDGE NO IN ENRCC RECORDS:

NO	DATE	BY	FOR

DIVERSION ROUTE:  
 NAME OF DISTRICT: Buxton  
 NAME OF DRAINAGE BOARD:  
 NAME OF RESPONSIBILITY:  
 DETAILS OF SERVICES: PROPOSED 6" TEL. DUCT w/ VERGE  
 IS WATERWAY NAVIGABLE: NO  
 IS BRIDGE SCHEDULED AS ANCIENT MONUMENT:  
 OTHER REMARKS:

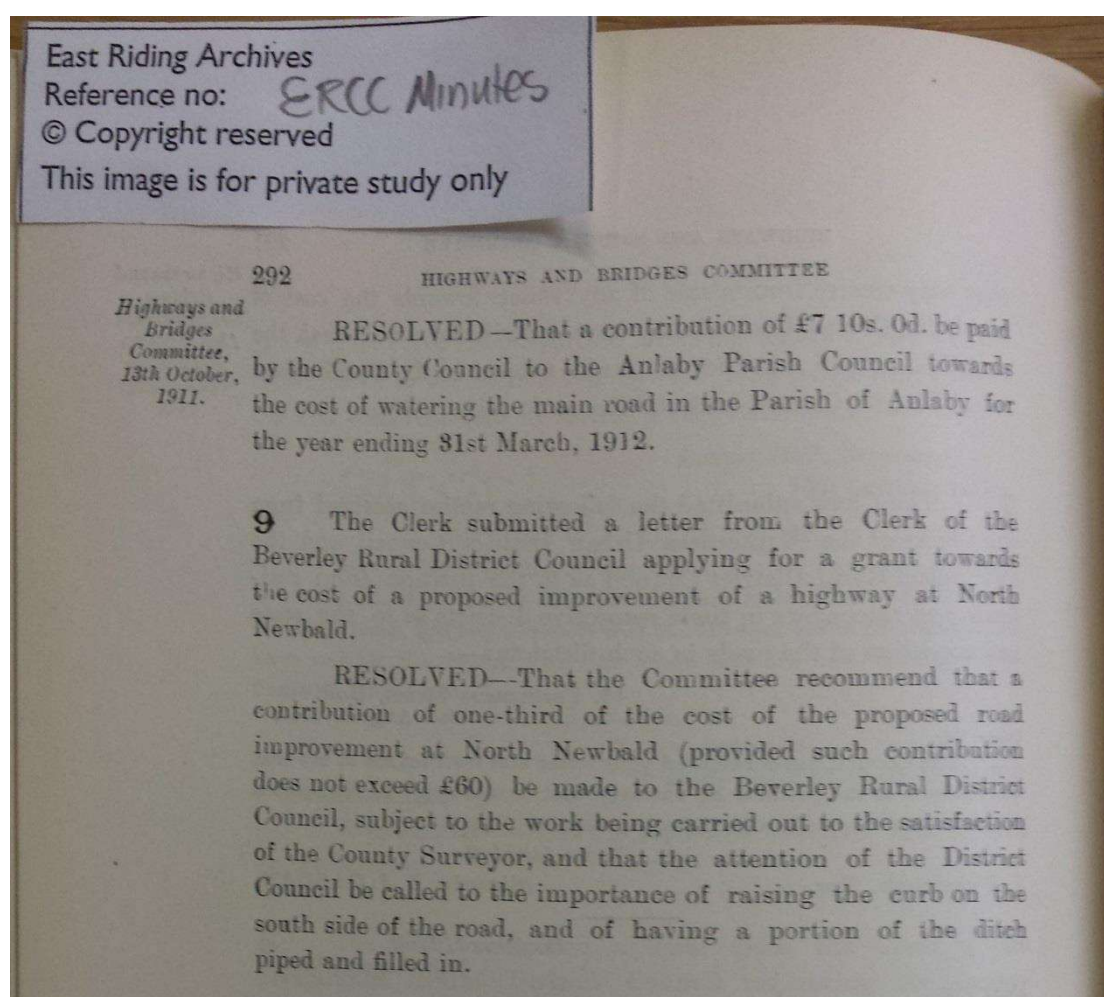
## East Riding Council Minutes 1910-1974

East Riding County Council minutes were inspected for references to works on the Beck.

Records were found in 1911 & 1914 relating to a proportional contribution made to a 'contribution of one-third of the cost of the proposed road improvement at North Newbald', and attention raised to curbing 'the south side of the road and having a proportion of the **ditch** piped and filled in.'

No mention of which road is being referred to, or who was to fund the remaining two thirds of the work, though the proposed contribution was to Beverley Rural District Council. It is unclear whether the contribution is solely for the road improvement or includes ditch piping. The minute refers to the piping of a ditch rather than the construction of a bridge over the stream.

Minutes of the Beverley Rural District Council are not available for 1911-1914.



East Riding Archives  
 Reference no: ERCC Minutes  
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*Highways and  
 Bridges  
 Committee  
 23rd January  
 1914.*

RESOLVED—That the Committee adhere to the recommendation contained in the 9th resolution on their minutes of the 13th October, 1911, and approved and confirmed by the County Council at their meeting held on the 30th of October, 1911, and that a contribution of one-third of the cost of the proposed road improvement at North Newbald (provided such contribution does not exceed £60) be made to the Beverley Rural District Council, subject to the work being carried out to the satisfaction of the County Surveyor, and completed within 12 months from the 6th February, 1914, and that the attention of the District Council be called to the importance of raising the curb on the south side of the road and of having a portion of the ditch piped and filled in.

In 1918, minutes refer to the construction of a New Bridge over Beck at Newbald, however this was dealt with by the Smallholdings Committee and not the Highway Committee suggesting the bridge in question did not form part of the public highway.

East Riding Archives  
 Reference no: ERCC Minutes  
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*Small Holdings  
 and Allotments  
 Committee,  
 8th July,  
 1918.*

RESOLVED—That the report be received and entered on the Minutes, and that the action of the County Land Agent be approved and confirmed.

**11** The Clerk submitted estimates prepared by the County Land Agent for work required on the following farms:—

	<i>£ s d.</i>
Everthorpe .....	
Draining on Holdings Nos. 262 and 263 (Additional to £35 sanctioned July, 1917) .....	65 0 0
New gates and fixing fencing to above 20 .....	0 0 0
New buildings on Holding No. 251 .....	100 0 0
New pump and bore on Holding No. 254 .....	20 0 0
Newbald .....	
New Bridge over Beck .....	12 10 0
Bridlington .....	
Fencing to road and grass field .....	20 0 0

RESOLVED—That the estimates be approved, and that the County Land Agent be authorised to carry out the necessary work.

In 1952, the Highways Committee makes resolved to widen the North Newbald to South Newbald road and kerb the carriageway through the village green in order to demark the highway from the village green.

East Riding Archives

Reference no:

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Highways and Bridges Committee,  
3rd March, 1952.

434

(b) *York—Hull Trunk Road: Footpath—Heslington.*

That the Ministry of Transport be asked to consider favourably the question of providing a footpath on the south side of the York—Hull Trunk Road from its junction with Thief Lane to its junction with Mill Lane.

(c) *Skipwith—Little Skipwith Road.*

That the carriageway at the bend in the Skipwith—Little Skipwith Road at the west end of the village of Skipwith be widened by the incorporation in the carriageway of a small area of grass verge.

(d) *Southfield Road, Wetwang.*

That the request made by the Driffield Rural District Council for the construction of a footpath on Southfield Road, Wetwang, for the purpose of providing improved means of access to two houses erected by the Rural District Council on land adjoining that road, be not granted.

(e) *Deposit of litter.*

That the Committee do not favour the erection of notices near omnibus stopping places giving warning that it is an offence to deposit litter on the highway; that it be suggested to Rural District Councils who provide baskets for the receipt of litter that suitable notices should be attached to such baskets.

**Widening of North Newbald—South Newbald Road (Class III)**

**Kerbing of Village Green, North Newbald**

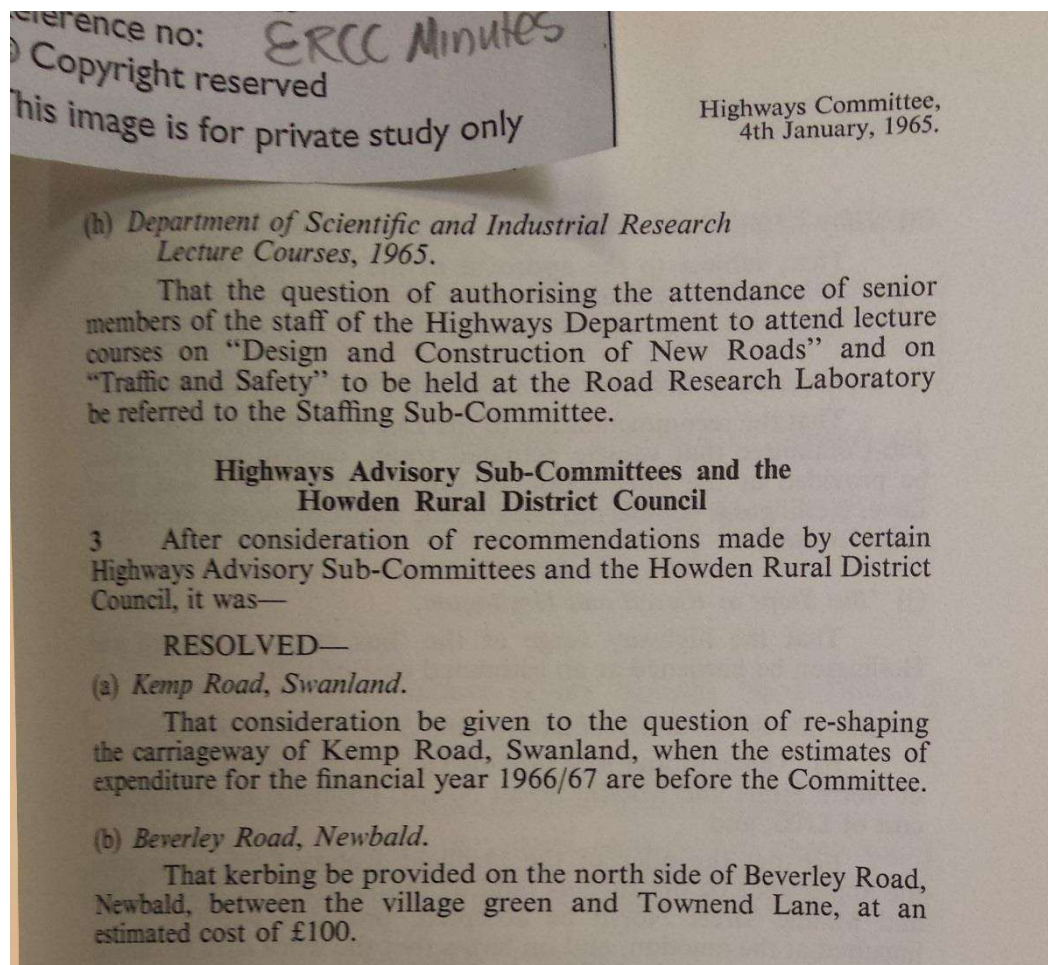
5 The Committee considered recommendations made by the Chairman of the Committee and the Chairman of the Beverley Highways Advisory Sub-Committee for widening the North Newbald—South Newbald Road at St. Nicholas's Church, North Newbald, and for kerbing the carriageway through the village green.

**RESOLVED—**

(a) That the highway alongside St. Nicholas's Church, North Newbald, be widened on its western side to provide a carriageway and footpath of 18 feet and 4 feet in width respectively at an estimated cost of £400.

(b) That for the purpose of protecting the grass and demarcating the carriageway, part of the village green at North Newbald be kerbed at an estimated cost of £45.

In 1965, further kerbing works were undertaken along the north side of Beverley Road between the village green and Townend Lane.



The 'village green' could refer to 'the Becks', however as the north side is not substantially kerbed, it more likely refers to 'The Green' and the road Eastgate rather than Beverley Road.

In summary, within the minutes examined, the Highways Committee approved work relating to the kerbing of the village green and Eastgate. ERCC also contributed to the piping of a ditch, though the location is not provided.

The only reference to maintenance of a bridge is made at the Smallholdings Committee and is likely to relate to the smallholdings held by the council further to the south.

No reference is made to the public maintenance of the beck.



## Conclusion

Within the records investigated, there is no indication that the highway authority is responsible for the maintenance of the beck. It would be exceptional for the highway authority to be responsible for the maintenance of a watercourse.

A highway is a way over which the public have a right to pass and repass. The Eastgate watercourse does not facilitate this passage.

Although there was opportunity (and the power) for the commissioners to explicitly determine that the watercourse was the responsibility of the highway surveyor, it did not do so. Highways set out in the Enclosure Award were set out exclusive of ditches. No reference of a ditch was made in the setting out of the ancient highway passing along Eastgate, instead the maintenance of ditches, was placed on those who undertook the works heretofore.

Similarly the no bridges, tunnels and goatstocks are awarded to the highway surveyor. The maintenance of such was awarded to those responsible for the maintenance of the ditches.

Records from the highway structures team do not assist in determining responsibility, though do show that the structures were not recorded amongst the structures ERCC accepted maintenance responsibility for.

Minutes for the East Riding County Council make reference to kerbing of the highway and part payment towards the piping of a ditch, but no reference to the maintenance of structures.

In the absence of further information, the presumption that the owner of the adjoining section owns up to the middle line of the highway (*ad medium filum*) would be adopted to determine responsibility.