



Parish Survey Card – Footpath 47, 1951

Heathwaite to Outrake  
DISTRICT..... ULVERSTON R.D. .... PARISH..... CONISTON ..... NO. 47 ✓  
MAP SHEET NO. .... 7 ..... LENGTH 0.36 miles  
(to two decimal places)  
BRIEF DESCRIPTION (Field F.P. or otherwise)  
..... Heathwaite Yard to Outrake Farm .....

DETAILED DESCRIPTION (giving starting point, means of passage and general condition).  
From Heathwaite Farm yard through gate on left in southerly direction proceeding through  
two pasture fields across Ghyll Beck out into road leading from Catholic Church to Banner-  
side. Proceeding still southwards by footpath between two walls (This section very rough  
loose cobble stones and water) leaving Outrake Farm on left out into County Road at  
Park Gate crossing.

SURVEYED BY .. NAME H. Satterthwaite,  
ADDRESS Station House,  
Date July 25th 1951 ..... Coniston .....

Old Man Road to Heathwaite ..... NO. 48

In Lancashire there were two sets of draft maps produced, the first of these were informal 'working copy' parish submission maps. The below excerpts from a Lancashire County Council Highways and Bridges Meeting Agenda help distinguish the sequence of the draft maps. It may have been viewed as unnecessary to document or legally record alterations made from the working copy maps in the subsequent 'statutory' draft map – the opportunity for formal objection was only after publication of the statutory draft map.

*Excerpts from Lancashire County Council Highways and Bridges Meeting Agenda, 1952*

The Borough and Urban District Councils are preparing and submitting to the County Council a map and schedule of the public rights of way in their areas, the County Council rendering any assistance required in its preparation.

In the Rural Districts, where the County Council are the highway authority, the procedure is a little more involved.

Two sets of maps have been provided for each of the 235 parishes in the County, one set being "working maps" on which the Parish Councils have marked the public rights of way or alleged rights of way in their Parish.

They have also given a description and particulars of each path on reference cards specially provided for that purpose, and in order to do this it has been necessary for the numerous volunteers who have done the work to walk most of the paths.

After approval by the Parish Meetings, these Maps and Cards have been returned to the Rural District Councils, who have then passed them to the Lancashire Branch of the Council for the Preservation of Rural England, for the observations of the Ramblers' Associations and other kindred societies.

On receiving these observations, the Rural District Councils have advertised locally that the maps and schedules were open for inspection by any interested persons, and their observations have been collected.

This has been completely informal and does not deprive any person of the right of objection at a later stage when the Statutory Draft Map for the entire County is advertised and deposited for inspection.

Similar procedure, so far as informal publication of the Survey is concerned, has also been followed by the Borough and Urban Authorities.

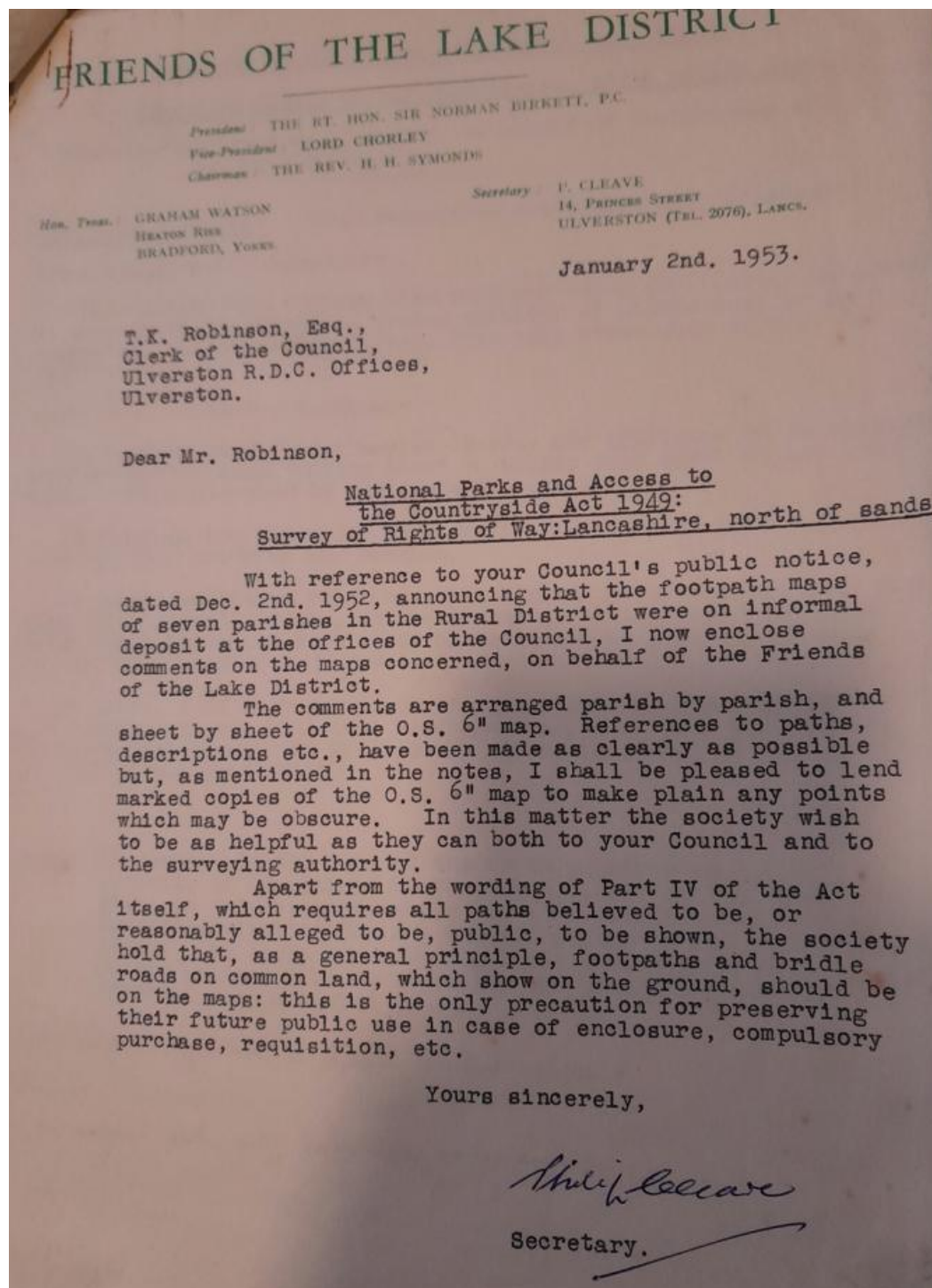
Few objections have been received as a result of the informal publication of the Survey, but it is not possible to say that this can be taken as an indication that there will be few objections when the wider publication of the Survey for the whole of the County is undertaken by the County Council.

The next stage of the work is the preparation of the Statutory Draft Map, and Statement annexed, and this is now in hand and so far as the Boroughs and Urban Districts are concerned is being done by the District Councils.

Two copies of this map are required, one for deposit and public inspection at the Borough or Urban Offices and one at the County Hall.

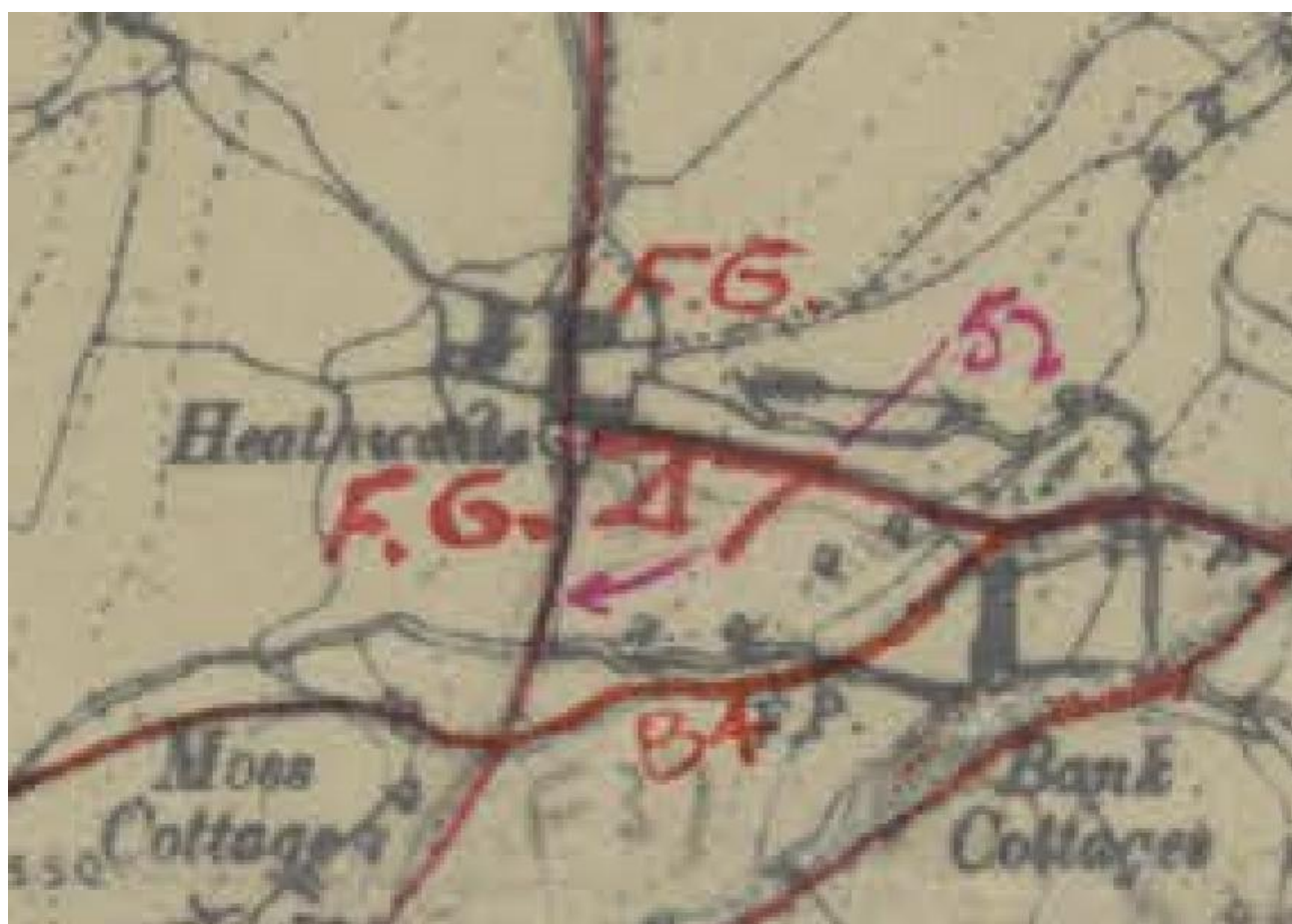
Friends of the Lake District (FoLD) submitted comments on this initial Survey of ROW. They did not make any comments regarding Paths 47 and 48, but did highlight a correction relating to the path shown as 52 on the working copy draft map, which appears to have been accepted as it was not shown on later maps (including the statutory draft map). The documents we have from FoLD include a letter which refers to these responses being on maps on 'informal deposit'. This further contributes to the view that the working copy draft map was somewhat informal.

*FoLD letter with comments on the Survey of Rights of Way, 1953*



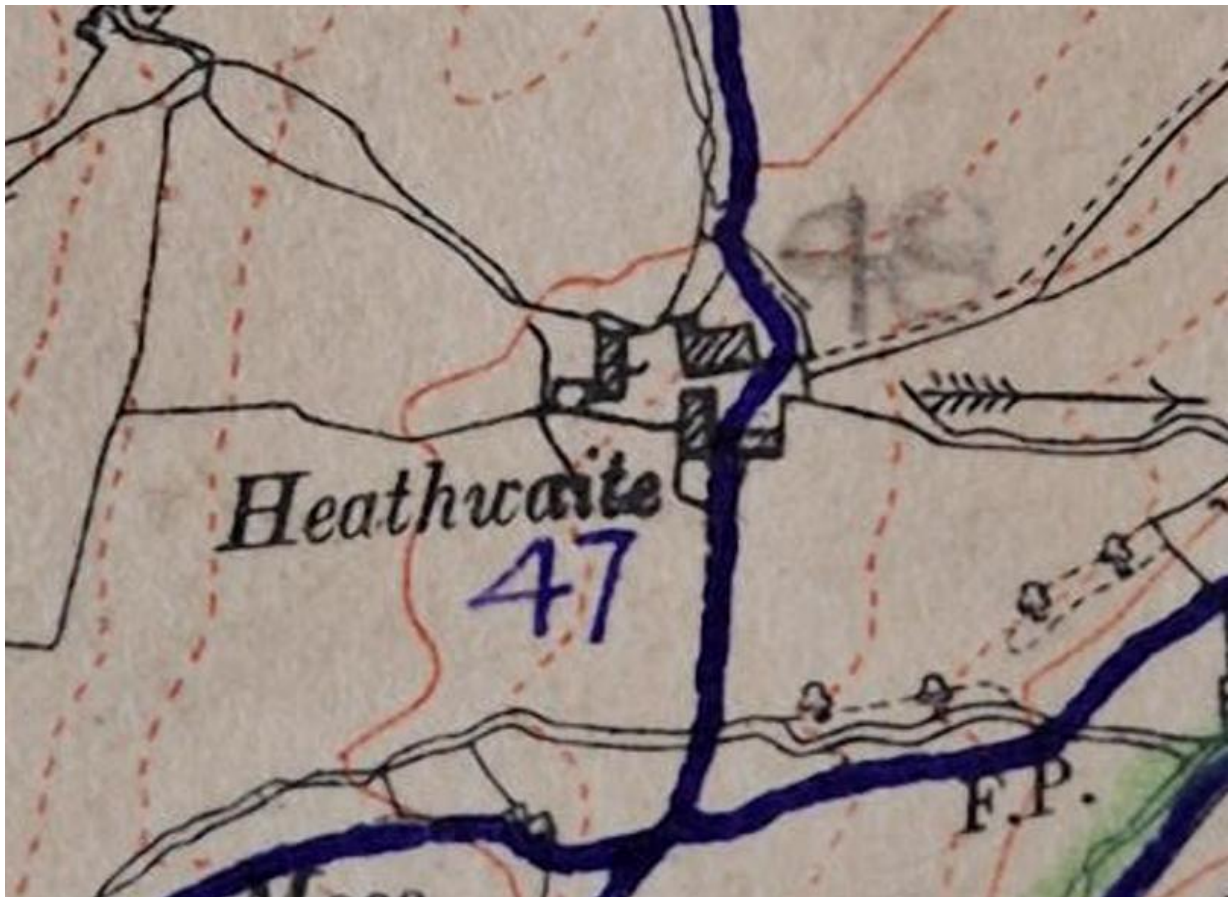
The depiction of the paths at Heathwaite on the working copy draft map is a little confusing as based on the description on the survey cards one would expect path 48 to have a spur to the end of the road (point C on our plan – although Westmorland & Furness Council have not responded to our requests for evidence to confirm what was considered the extent of the U-road at this time). No link with the U-road is shown (unless it was considered that the public road extended further westwards than currently mapped). The line drawn also heads straight through some of the buildings. These points potentially indicate the informal nature of this map (this map also features the inaccurately shown Path 52 which was removed from the subsequent maps).

*Lancashire Working Copy Draft Definitive Map, 1952*



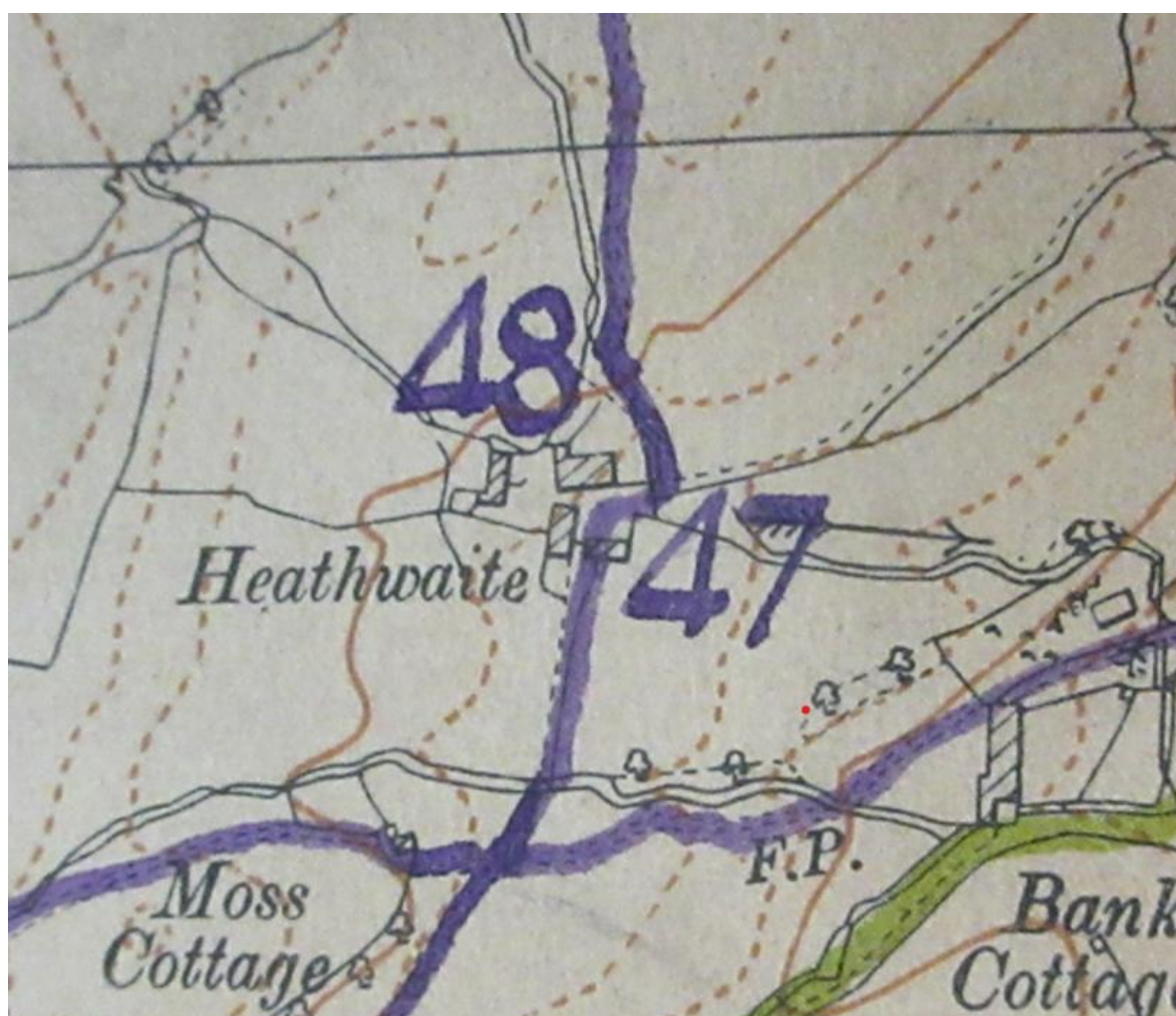
The statutory draft map showed the path on essentially the same alignment as the current definitive map. We have not found any evidence relating to why the routes of the paths were shown differently on the working copy and statutory draft maps, and what appears to have been the submission made by the Parish Council was discarded. However, this was a distinct change, so it seems unlikely that this was merely a drafting error.

*Lancashire Statutory Draft Rights of Way Map, 1955*



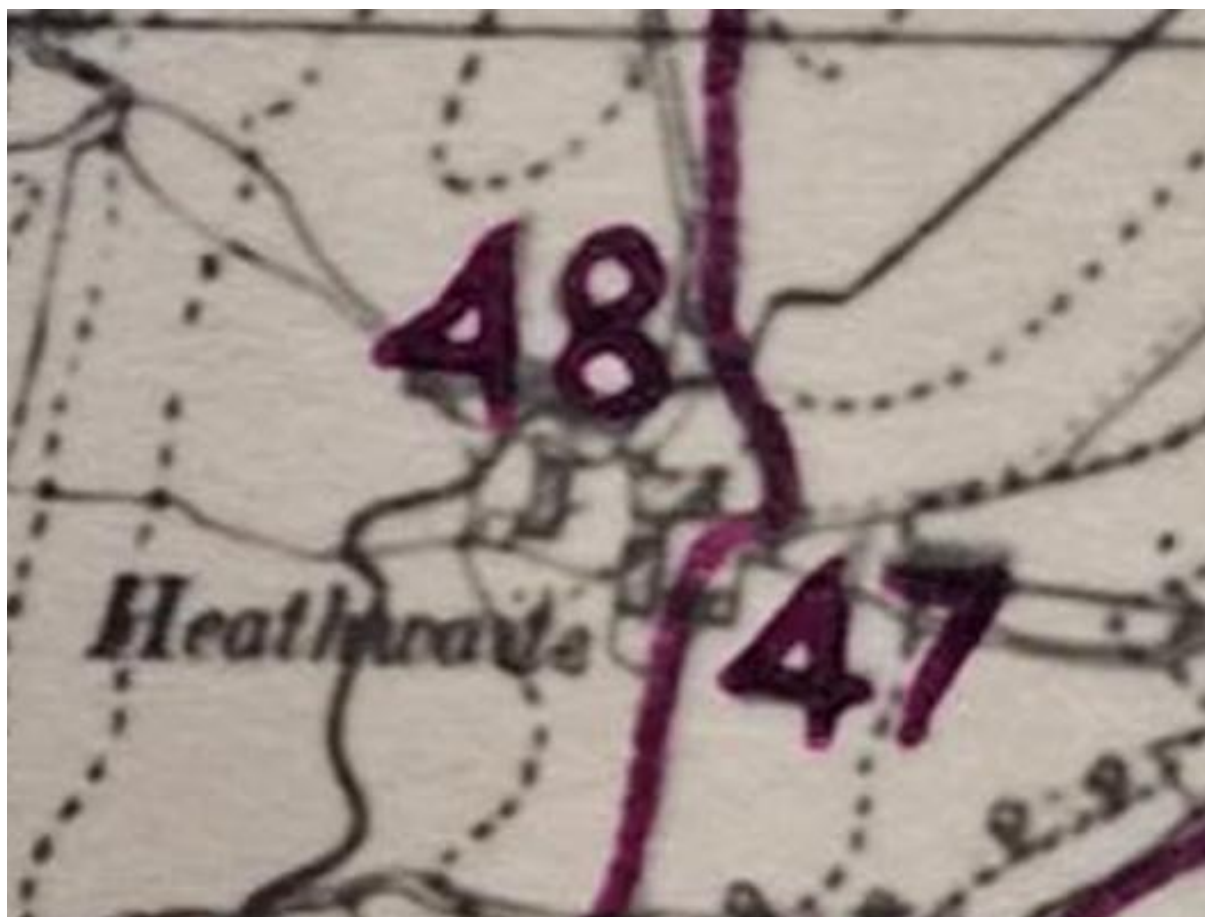
After formal public consultation, the draft map was followed by the Lancashire Provisional Map. This shows the path following a route approximately akin to the A to B route shown on our plan (the applicant's proposed diversion route) – in the field east of the beck. It appears potentially that this line was a little closer to the beck than A-B, though from our available aerial photography the trees were fairly mature at this time, so presumably any route to the east of the beck would have stayed east of these too. The line also partially covers a building, although the intention clearly appears to have been that it passed between the buildings (between points G and F on our plan). Again unfortunately we have found no legal record of why the route drawn was changed from that shown on the statutory draft map – and legal processes were required in order for this to happen correctly.

*Lancashire Provisional Definitive Map, 1960*



The Lancashire Definitive Map (published 1962 but with a relevant date of 1953) – shows the footpaths on the same routes as the Provisional Map with the alignment being to the east of the beck.

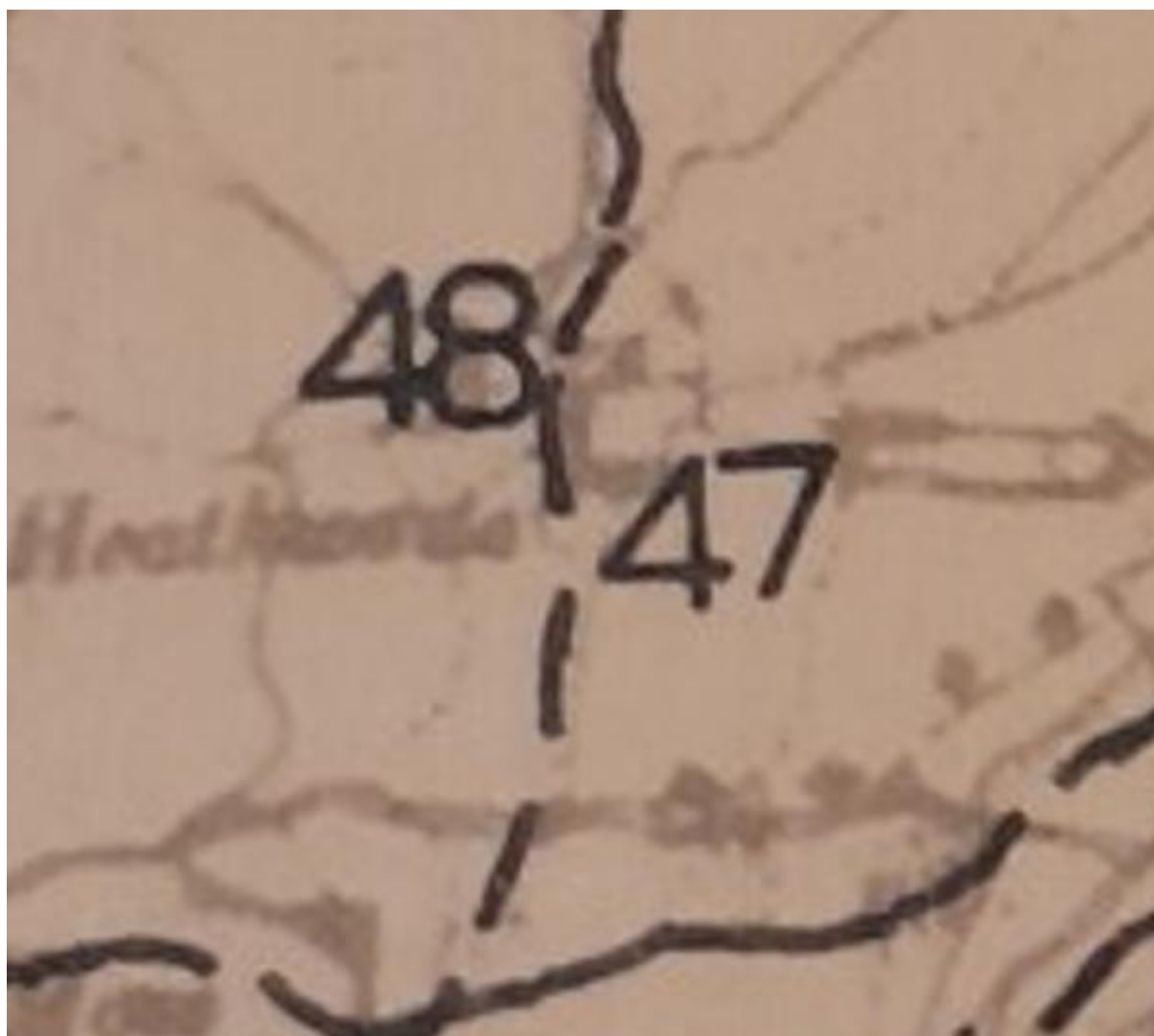
*Lancashire Definitive Map, published 1962, relevant date 1953*



Following this, Lancashire began the first review of their Definitive Map in 1966, and the Provisional First Review Map was published in 1973. This process was never completed for the areas which became part of Cumbria due to the impending round of local government reorganisation. We have a list of the amendments proposed to be made as part of the first review – none for paths 47 and 48 were formally put forward or recorded (other than amending the other end of FP 47 at Outrake Farm).

However, the paths are again shown differently on the Provisional First Review Map – heading more directly through the property once more. This and the Lancashire working copy draft were the only maps to show the footpath taking a direct route through the property which could be interpreted as following the farm track.

*Lancashire Provisional First Review Map, 1973*



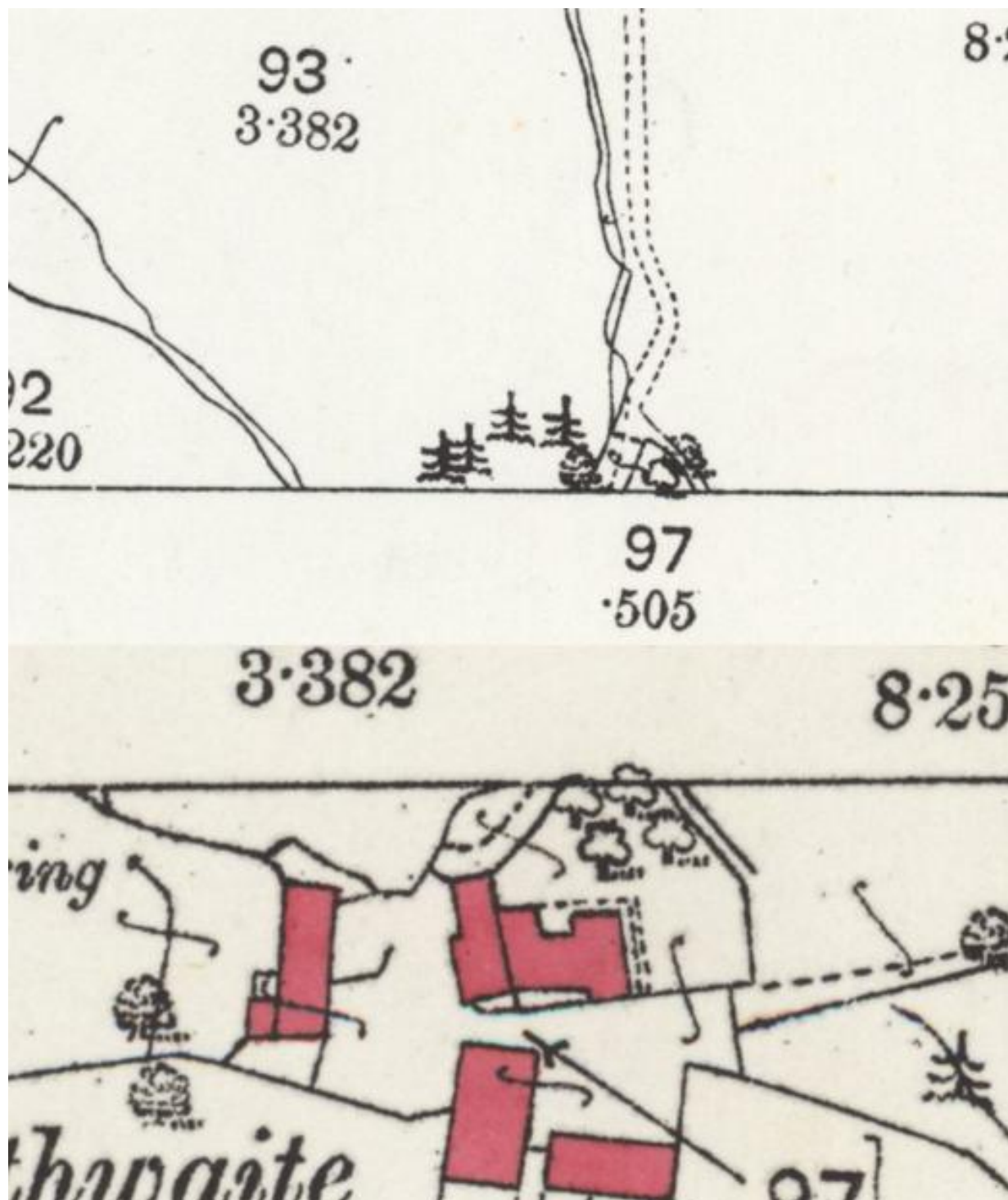
During the preparation of the current Definitive Map the two paths (47 and 48) were combined into one (512021) fitting the numbering system to be used by Cumbria County Council. The route of the footpath shown on the Cumbria map appears very similar to that shown on the statutory draft Lancashire map around the inner side of the boundary of the property. We have found no evidence that the intention was to change the recorded route of the footpath here (and again a legal process was required to do this) – and so are not sure why this change occurred from what was shown on the Lancashire Definitive Map. There appears a possibility that this was a drafting error – potentially resulting from trying to fit the line to the OS basemaps being used, which show a dashed line to the south and west of a solid line.

*Ordnance Survey 1:10,560 map, 1966*



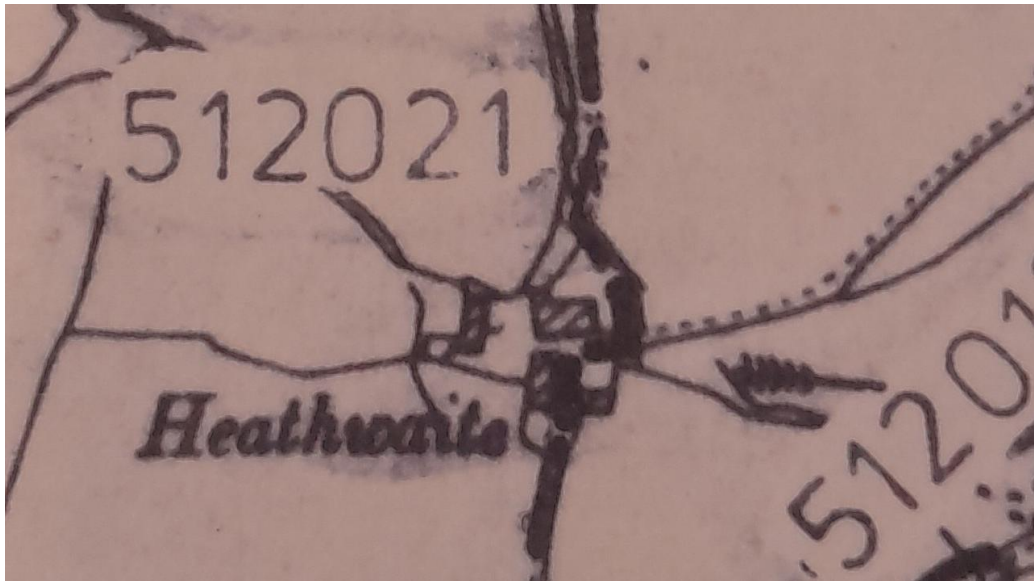
The OS 25-inch maps (1890 version shown below) are also interesting here, though it's still difficult to conclude what the solid and dashed lines were intended to denote. It appears possible that the inner line is the wall / inner bank and the outer line probably the beck - as it ends at the same point that the beck is shown ending on modern OS basemapping (even though it doesn't physically end there). It appears possible that those drafting later maps then tried to fit their definitive lines to those shown on the OS maps, misconstruing what they were showing.

*Ordnance Survey 25-inch map, 1890*



Whatever the reason, the Cumbria Definitive Map (published 1989 but with a relevant date of 1976) shows the footpath on this alignment which appears to be west of the beck and in the garden. The Cumbria map retains the sharper angle of the corner where the footpath meets the road which was shown on the Lancashire Definitive Map, rather than the less exaggerated bend shown on the Lancashire statutory draft map. This may further indicate that there was no intention to change the recorded route of the footpath on the Cumbria maps.

*Cumbria Draft Revised Definitive Map, 1978*



*Cumbria Definitive Map, published 1989, relevant date 1976*



The Definitive Statement accompanying the Cumbria Definitive map for this footpath reads: *Waterfall at Miners Bridge to the Walna Scar Road and continuing through Heathwaite farm to Outrake Farm*. The statement refers to the FP going through Heathwaite Farm – but this is not much help in reaching a conclusion as some of the path heads through the property with each of the routes which have been recorded at some stage. But, if the path had gone on the A-B route shown on our plan, then C-D-G-E, it is perhaps unusual that no reference was made to the path joining the end section of the U5013 road into the farmyard (as mentioned above we have not as yet found any evidence regarding the original extent of the U-road), or that 512021 wasn't kept as two separate footpaths if there was a discontinuity where it met the road.

A recent case (2024 - [Derren Mcleish & Anor v The Secretary of State for Environment Food and Rural Affairs & Anor - Find Case Law - The National Archives](#)) considered the mapping of a footpath which had 'drifted' gradually over several re-drafts of a Definitive Map without any Order being made relating to the footpath in question or any change on the ground. The Authority in this case concluded that there had been no deliberate realignment of the ROW and made a DMMO to correct their 2013 Definitive Map. An objection against the DMMO was dismissed first by the Secretary of State, and then on appeal by the courts. The judge agreed with the principle that if it could be shown there had been a copying error on the latest Definitive Map, then the evidential presumption that the ROW shown on the Definitive Map was correct could be applied to the previous version.

Taking this into account it is difficult to reach a conclusive view as to where the definitive line of the footpath at Heathwaite should have been recorded. It appears reasonably probable that the alignment shown on the Cumbria Definitive Map was a drafting error (based on the physical difficulty of using this route, and possibility that the person drafting the map attempted to fit the footpath to the OS map markings).

The plausible alternatives are essentially A-B (option 4.1a or 4.1b) or A-F-G (option 4.1c). A route in the field to the east of the beck (A-B) is what was recorded on the 'formal' Lancashire maps, following which no legal Order has been made to alter the alignment of the footpath(s). This route also appears to have been physically usable.

However, it's also difficult to entirely rule out that a route more directly through the farmyard (akin to A-F-G) was not the intention, this would generally be more typical of footpaths at the time. This appears to have been what the parish council submission intended, but there is then a dearth of information as to why the routes recorded on the formal Lancashire maps differed and an apparently deliberate decision was made to disregard the parish submission. It's even possible that both the routes on the farmyard track and to the east of the beck were in use by the public, but only one ended up being recorded as a footpath (but with some later indecision about which route was the ROW).