

Agenda item:

Roads and Rights of Way Committee

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Dorset County Council



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| Date of Meeting | 2 July 2012 |
| Officer | Director for Environment |
| Subject of Report | Application for a definitive map and statement modification order to upgrade Footpath 21, Verwood to bridleway |
| Executive Summary | In response to an application to upgrade Footpath 21, Verwood to bridleway, this report considers the evidence relating to the status of the route. |
| Impact Assessment: | Equalities Impact Assessment: An Equalities Impact Assessment is not a material consideration in considering this application. |
| | Use of Evidence: The applicant submitted documentary evidence in support of his application. Documentary evidence has been researched from sources such as the Dorset History Centre, and the National Archives. A full consultation exercise was carried out in April 2012, involving landowners, user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. In addition notices explaining the application were erected on site. 22 user evidence forms from users of the claimed route were submitted during the investigation. Any relevant evidence provided has been discussed in this report. |

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| | <p>Budget/ Risk Assessment:</p> <p>Any financial/risk implications arising from this application are not material considerations and should not be taken into account in determining the matter.</p> |
| <p>Recommendations</p> | <p>That:</p> <p>(a) The application be refused for the part of the claimed route as shown A – B – C on Drawing 12/10/1 but an order be published to modify the definitive map and statement of rights of way to upgrade this part of the claimed route, currently recorded as Footpath 21, Verwood, to a restricted byway;</p> <p>(b) The application be accepted for the part of the claimed route as shown C – D – E – F as shown on Drawing 12/10/1 and an order be published to modify the definitive map and statement of rights of way to upgrade this part of the claimed route, currently recorded as Footpath 21, Verwood, to a bridleway.</p> <p>(c) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee.</p> |
| <p>Reasons for Recommendations</p> | <p>(a) The available evidence shows, on balance, that part of the claimed route shown on the definitive map and statement as a public footpath ought to be shown as a public vehicular way. As the application was submitted after 20 January 2005, and no other exceptions apply, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for motor powered vehicles and therefore an order should be made for a restricted byway over part of the claimed route;</p> <p>(b) The available evidence shows, on balance, that part of the claimed route shown on the definitive map and statement as a public footpath ought to be shown as a bridleway; and</p> <p>(c) The evidence shows on balance that the route claimed is a restricted byway and bridleway. Accordingly, in the absence of objections to an Order upgrading the route to reflect this, the County Council can itself confirm the order without submission to the Planning Inspectorate.</p> |
| <p>Appendices</p> | <p>1 - Drawing 12/10/1</p> <p>2 - Law</p> <p>3 - Documentary evidence</p> <ul style="list-style-type: none"> • Table of documentary evidence • Extracts from key documents <ul style="list-style-type: none"> ▪ 1847 Verwood Tithe Map ▪ 1910 Finance Act map |

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| | <ul style="list-style-type: none"> ▪ 1950 Verwood Parish Survey map ▪ 1887 Ordnance Survey First Edition map scale 6 inches:1 mile ▪ 1906 Ordnance Survey map scale 1 inch:1 mile (coloured) ▪ 1826 Greenwoods' Map of Dorset <p>4 - User evidence</p> <ul style="list-style-type: none"> • Table of user evidence • Charts to show periods and level of use |
| <p>Background Papers</p> | <p>The file of the Director for Environment (ref. RW/T396)</p> <p>Most of the original historic maps referred to are in the custody of the Dorset History Centre, except for the Finance Act maps, which are at the National Archives, Kew and some, which are the applicant's own copies.</p> <p>Copies (or photographs) of the documentary evidence can be found on the case file RW/T396, which will be available to view at County Hall during office hours.</p> |
| <p>Report Originator and Contact</p> | <p>Name: Phil Hobson, Rights of Way Officer Tel: (01305) 221562 Email: p.c.hobson@dorsetcc.gov.uk</p> |

1 Background

- 1.1 An application to upgrade Footpath 21, Verwood (Crab Orchard Way) to a bridleway as shown A – B – C – D – E – F on Drawing 12/10/1 (Appendix 1) was made by Mrs Jean Heaton on behalf of the British Horse Society on 10 October 2005.
- 1.2 The route claimed commences at point A, its junction with the B3072 road, the 'Verwood Road', and follows a gravel/stone track, which has recently been surfaced with road planings. This part of the route has ditches and hedges or fences to both sides and follows a north westerly direction for a distance of approximately 600 metres through point B, its junction with Footpath 22, Verwood, to point C its junction with Footpath 8, Horton and the Parish boundary. The width of the this part of the route is approximately 11 metres throughout this length.
- 1.3 From point C the route follows a south south westerly direction for approximately 25 metres to point D, its width being approximately 7 metres. From point D the route continues in a south south westerly direction for approximately 320 metres through point E to its junction with Bridleway 20, Verwood at point F. The 'surfaced' route terminates at point D and it continues as a narrow 'earth' path. In the past it would have been considerably wider but it is now extensively overgrown, reducing its width in places to less than one metre.

2 Law

- 2.1 A summary of the law is contained in Appendix 2.

3 Documentary evidence (Appendix 3)

- 3.1 A table of all the documentary evidence considered during this investigation is contained within Appendix 3. Extracts from the key documents are also attached.
- 3.2 The applicant included 21 user evidence forms completed by riders who have used or do use the route and an extract from a Geographia Road Map depicting the route as a minor road.
- 3.3 A further four completed user evidence forms were submitted in response to the consultation.
- 3.4 The applicant has not made any formal statement in respect of the application other than to confirm that the application complies with paragraph 2 of Schedule 14 of the Wildlife and Countryside Act 1981.

4 User evidence (Appendix 4)

- 4.1 A table of user evidence summarised from witness evidence forms together with a chart showing their periods of use forms Appendix 4. An analysis of the user evidence is contained at paragraph 9 of this report.

5 Additional evidence in support of the application

- 5.1 No additional evidence has been submitted in support of this application.

6 **Evidence opposing the application** (copies available in the case file RW/T396)

6.1 One objection was received in response to the application in 2005.

7 **Other submissions received** (copies available in the case file RW/T396)

7.1 Five further submissions were received in response to the consultation. East Dorset District Council and the Ramblers' Association offer no evidence for consideration and Natural England has no comments to make.

7.2 Although offering no evidence for consideration, the British Horse Society's representative Mrs Shoopman and the local member for Verwood fully support the application.

8 **Analysis of documentary evidence**

8.1 The Cranborne Chase Inclosure map 1829 refers to the Verwood area but does not cover the area affected by the claimed route.

Verwood (Fairwood) Tithe Apportionment and Plan

8.2 The Verwood Tithe Apportionment and Plan 1847 depicts that part of the claimed route as shown between points A and C on Drawing 12/10/1. The route is not apportioned, having no number and is shaded light brown in the same manner as other roads. It is also annotated with the name 'Crab Orchard Lane'. This evidence suggests that this part of the route was considered to be a public highway, possibly a public carriageway.

Finance Act 1910

8.3 The 1910 Finance Act plan clearly shows that the part of the claimed route shown between points A and C was excluded from valuation, which is indicated by there being no hereditament number and suggests that this part of the claimed route was considered to be a public carriageway.

8.4 That part of the claimed route from point C to point F was contained within hereditament 936. While the valuation Field Books for Verwood could not be found at the National Archives the Valuation Book held at the Dorset History centre was examined and revealed that hereditament 936 was described as "Waste" with no deductions for public rights of way. In this particular case it is considered that the term "waste" relates to the condition of the land e.g. unoccupied and non-productive rather than to any public highway status

Other Documents

National Parks and Access to the Countryside Act 1949 – Parish Survey

8.5 The **Verwood Parish Survey** of rights of way originally recorded the claimed route as a Carriage or Cart Road used as a Bridleway (CRB) on the schedule and as a Carriage or Cart Road used as a Footpath (CRF) on the accompanying plan. The claimed route was surveyed on the 10 September 1950 and was given the number 18 for identification. The route is described as leading to "Horton Common via Railway Crossing" and being 10 feet in width with public rights established through ancient usage.

- 8.6 The 'CRB' designation was later changed to that of a footpath and was probably done in response to the decision taken by the National Parks Sub-Committee on 23 June 1958, following a discussion about the recording of those rights of way "defined as Public Carriage or Cart Roads or Green (un-metalled) Lanes mainly used as (i) Footpath (C.R.F.) or (ii) Bridleway (C.R.B.)". The Sub-Committee determined that the designation of certain rights of way as CRFs or CRBs would be abandoned and in future these ways would be shown as either footpaths or bridleways.
- 8.7 The Parish Survey evidence suggests that the Parish Council were aware that the route was used mainly by the public on horse or foot and also with vehicles. Having been issued with guidance on this subject by the Open Spaces Society they would also have been aware that such a route ought to have been recorded as a CRF or CRB.
- 8.8 Although not conclusive, this evidence provides support to the application as it would suggest the existence of higher public rights, possibly vehicular, over the application route.

Draft, Provisional and First Definitive Maps

- 8.9 The information collated during and immediately following the parish surveys was used in the production of the draft map of public rights way, which in turn resulted in the publication of the provisional and first definitive maps.
- 8.10 The draft map for the East area was published in 1959 and the claimed route is shown on it as Footpath 18. This designation was objected to in June 1959 by Verwood Parish Council on the basis that they had claimed the route as a carriage and bridle road. Following a response from Dorset County Council in July 1959 in which the Parish Council were informed that only footpaths and bridle routes were being recorded this objection was later withdrawn.
- 8.11 On the provisional map, published in 1964 and the first definitive map, 1967, the claimed route is shown as Footpath 21.

Special Review of Rights of Way

- 8.12 In response to the Special Review the Parish Council undertook a survey of Footpath 21 (the claimed route) in October 1971. The Parish Council submitted a claim "that a path shown on the present Definitive Map should be upgraded to a higher status" and that apart from the period of a dispute with the Stone family the route had been used regularly for at least 50 years.
- 8.13 On 14 November 1973 the Special Review Committee determined that there was insufficient evidence that public vehicular rights existed over the route and consequently its designation as a footpath remained.

Revised Draft Map and Current Definitive Map

- 8.14 On the revised draft map 1974 and the current definitive map, 1989, the claimed route is shown as Footpath 21.

- 8.15 Although the fact that the whole of the claimed route is currently recorded on the definitive map as a public footpath is regarded as conclusive evidence as to the existence of these rights it is not prejudicial to the existence of any higher rights over the route.
- 8.16 As consideration was given to the possibility of recording the route as a 'CRB' during the time of the Parish Survey it suggests that evidence or reputation of public vehicular use of the route existed. This suggestion is further supported by the Parish Council's attempt to upgrade the route during the Special Review in 1973.

Ordnance Survey Maps

- 8.17 Although **Ordnance Survey maps** are not conclusive of public status they do show the physical characteristics on the ground at the date of the map.
- 8.18 The **Ordnance Survey Drawings**, which were made in preparation for the publication of the First Edition one inch map (the 1811 map), are drawn at a scale of 2 inches:1 mile and therefore generally contain more detail than the later one inch maps. The drawing that includes the area of Verwood parish was completed in 1807 and clearly depicts the part of the route claimed as shown between points A and C. It is defined by two parallel solid lines, suggesting that it was fenced or hedged throughout its length and is shown in the same manner as other public roads in the vicinity. The route connects two open areas, Woolbridge Common at point A and Horton Heath at point C. The part of the claim between points C and F is not shown.
- 8.19 The **Ordnance Survey map 1811** at a scale of 1 inch:1 mile depicts the same situation as the drawing of 1807.
- 8.20 The **First Edition Ordnance Survey map 1887** at a scale of 6 inches:1 mile shows the whole of the claimed route A to F. A to B is defined by two parallel solid lines and forms a significant linear feature. The part between points C and F is defined by two parallel broken lines, which may suggest the extent of the 'worn' route, which was otherwise unfenced or hedged. The route is not annotated with any name or symbol e.g. 'F.P.'.
- 8.21 The **Second Edition Ordnance Survey map 1902** at a scale of 6 inches:1 mile also shows the whole of the route A to F. A to C is also defined by two parallel solid lines and is also depicted as a significant linear feature. The part between points C and F is defined by a broken line to its western side and a solid line, the fence or hedge, to its eastern boundary. This part of the route is also annotated with the letters 'F.P.', which would suggest that the surveyor considered it to be a footpath.
- 8.22 The **Second Edition Ordnance Survey map 1902** at a scale of 25 inches:1 mile depicts a very similar situation to that shown on the First Edition 6 inches:1 mile map, with the part shown A to C being defined by two parallel solid lines, that part between points C to F being defined by two parallel broken lines and there being no annotations along the route.
- 8.23 The **Ordnance Survey coloured map 1906** at a scale of 1 inch:1 mile depicts the route in a similar manner to the other Ordnance Survey maps.

Commercial Maps

- 8.24 **Isaac Taylor's Map of 1765** shows the part of the claimed route between points A and C. It is defined by two solid parallel lines and reference to the accompanying key suggests that it was designated as a "Road enclosed with Hedges". That part of the claim between points C and E is not shown.
- 8.25 **Greenwoods Map of Dorset 1826** shows the part of the claimed route between points A and C and is also defined by two parallel solid lines. Reference to the accompanying key shows that it was designated as a "Cross Road".
- 8.26 Several other commercial maps depict the route A to C. However, **Johnstons' Map of Dorset**, date of publication unknown, depicts the whole of the claimed route as shown A to F.
- 8.27 The commercial maps provide supporting evidence to the physical existence of that part of the claimed route as shown A to C.

Aerial Photographs

- 8.28 The whole of the claimed route can be easily seen in the **1947 aerial photograph**. In particular, it demonstrates that at this time the section of the route C to F was not overgrown, being relatively free of vegetation and the 'worn' path being clearly visible.
- 8.29 By **1972** the section of the route from C to E appears to have become overgrown or has been planted with trees or shrubs. E to F remains relatively free of undergrowth although the 'worn' path is no longer readily discernible.
- 8.30 By **1997** the whole of the section between points C and F has become overgrown or has been planted with trees and there is little change by **2009**.

9 Analysis of user evidence supporting the application

- 9.1 A total of 25 written forms of user evidence have been submitted by the applicant, Mrs Heaton. A summary of these forms of evidence is set out below (in addition to the table and chart at Appendix 4), but reference should be made to the actual forms contained within the file of the Director of Environment Ref RW/T396 for all the information.
- 9.2 One witness states that their use of the route commenced in 2007, two years after the application was made. As this postdates the date of challenge, 2005 (see paragraph 9.8 below), this individual's evidence of use falls outside the 'qualifying period of use in respect of Section 31 of the Highways Act 1980 and has been disregarded.
- 9.3 None of the witnesses have been personally interviewed. The information has been taken from the forms of evidence, which have been signed stating: "I hereby certify that to the best of my knowledge and belief the facts that I have stated are true".

- 9.4 All of the witnesses state that they have used the route, either individually or with other users, as shown between points A to F on Drawing 12/10/1. Their use was mainly for pleasure although three witnesses state that they also used the route for work.
- 9.5 The earliest date of use is 1970 with the latest being 2012, encompassing a period of 36 years. Frequency of use varies from 10 or 12 times per annum to approximately 300.
- 9.6 During this period of use none of the witnesses recall being challenged, having been given permission or having seen any notices to suggest that the route was not a public bridleway. All of the witnesses recall meeting or seeing other users and the majority are of the opinion that the landowner(s) must have been aware of their use due to the number of users, the regularity of their use and the timescale over which their use took place. Several witnesses comment that they are not aware of any owner of the land. One witness recalls there being a gate across the route, which they state was unlocked, otherwise none of the witnesses recall there being any structures or other obstructions across the route.
- 9.7 Although Section 31 of the Highways Act 1980 does not specify the minimum number of users required to raise a presumption of dedication it does require that their use must have been for a minimum period of 20 years preceding the date the right to use the route (in this case, with horses) was brought into question.
- 9.8 There is no evidence of challenge or other action that could be considered sufficient to have brought the use of the route with horses into question. Consequently, as the application was made on 10 October 2005 this is taken to be the date of bringing such use into question.

10 Analysis of evidence opposing the application

- 10.1 One landowner evidence form was submitted in October 2005 by Mr R Wood, on behalf of Mrs S Wood, who owns the land affected as shown from point F on Sandy Lane for a distance of approximately 130 metres north north east to point E.
- (a) The land has been in Mrs Wood's ownership since 1999 but Mrs Wood has been aware of the route since 1955 and believes it to have the status of a footpath. Mrs Wood is aware of public use of the route although she believes that it is "seldom used by walkers" and "used by only 2 regular horse riders".
- (b) Mrs Wood acknowledges that neither she, nor anyone acting on her behalf, has turned back or stopped anyone from using the route, has told anyone using the route that it was not public or erected any sign or notice stating that the way was not public.
- (c) Mrs Wood states that there were at one time gates and stiles but that they were removed by persons unknown in approximately 1980.

- (d) Mrs Wood acknowledges that she has not taken any action to prevent public use of the route nor to prevent the accrual of public rights over it. Mrs Wood states that there have been gates and stiles along the route although she does not say whether the gates were locked or not. Although she believes the route to have the status of a footpath she also acknowledges that horse riders have used the route and that she has never challenged this use.

10.2 The majority of the other submissions relate to issues that cannot be taken into account when determining whether or not the claimed rights exist.

11 Analysis of other submissions

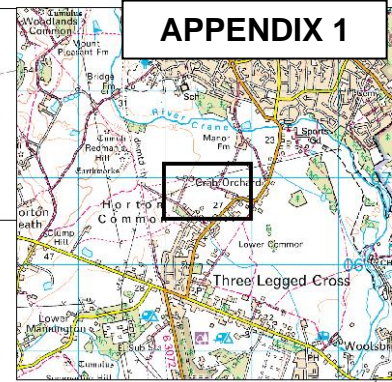
11.1 The other letters contain no evidence to be considered.

12 Conclusions

- 12.1 As the route is currently recorded as a footpath it is necessary for members to decide whether, on the balance of probability, the highway shown on the map and statement as a footpath ought to be shown as a highway of a different description.
- 12.2 The documentary evidence derived from the Tithe, Finance Act and parish records suggests that part of the claimed route, as shown A to C is a public vehicular highway. This conclusion is supported by the evidence from the Ordnance Survey and commercially produced maps.
- 12.3 The documentary evidence is considered sufficient to demonstrate, on balance, that a public right for vehicles subsists along that part of the claimed route as shown A to C. It is insufficient to draw any conclusions as to the status of the rest of the route as shown C to F.
- 12.4 If members are not satisfied that the documentary evidence shows on balance that a public vehicular right subsists then they should consider whether it, in conjunction with the user evidence, shows on balance that a public bridleway subsists on the claimed route.
- 12.5 The relevant period of use by members of the public, as of right and without interruption, to establish rights by presumed dedication under Section 31 of the Highways Act 1980, is taken to be 20 years or more prior to the date of the application in October 2005.
- 12.6 The evidence of use on horseback covers the period from 1970 to 2005. However, the relevant period used in order to satisfy the presumption of dedication is taken to be 20 years between 1985 and 2005. In 1985 there were a total of 7 regular users of the route on horseback and in 2005 there were 22 regular users of the route on horseback.
- 12.7 On balance, a presumed dedication under Section 31 of the Highways Act 1980 is satisfied with 20 or more years use of the way by the public and no evidence has been produced to show a lack of intention to dedicate during the relevant period. Therefore, taken by itself, the user evidence is sufficient to demonstrate that a public bridleway exists along the whole of the claimed route.

- 12.8 As no exception to the provisions contained in Section 67 of the Natural Environment and Rural Communities Act 2006 appears to apply to the claimed route, the public mechanically propelled vehicular rights have been extinguished.
- 12.9 Therefore, it is recommended that an order be made to record that part of the claimed route as shown between points A and C as a restricted byway and that part shown between points C and F as a public bridleway.
- 12.10 If there are no objections to a modification order, the County Council can itself confirm the order if the criterion for confirmation have been met.

Miles Butler
Director for Environment
June 2012



GRID REFERENCES

- A SU 08830677
- B SU 08590687
- C SU 08280700
- D SU 08270698
- E SU 08200679
- F SU 08150667

KEY

- DEFINITIVE FOOTPATHS
 - DEFINITIVE BRIDLEWAYS
 - CLAIMED BRIDLEWAY
- A B C D E F

WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION TO UPGRADE FOOTPATH 21, VERWOOD 'CRAB ORCHARD WAY' TO BRIDLEWAY.

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 12/10/1

Date: 02/05/2012

Scale 1:3500

Drawn By: ACH

Cent X: 408464

Cent Y: 106810

GEOGRAPHICAL INFORMATION SYSTEMS



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LAW

General

1 Wildlife and Countryside Act 1981

- 1.1 Section 53 of the Wildlife and Countryside Act 1981 requires that the County Council keep the definitive map and statement under continuous review and in certain circumstances to modify them. These circumstances include the discovery of evidence which shows that a highway shown on the definitive map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
- 1.2 Section 53 of the Act also allows any person to apply to the County Council for an order to modify the definitive map and statement of public rights of way in consequence of the occurrence of certain events. One such event would be the discovery by the authority of evidence which, when considered with all other relevant evidence available to them, shows that a highway shown on the definitive map and statement as a highway of a particular description ought to be shown as a highway of a different description.
- 1.3 The Committee must take into account all relevant evidence. They cannot take into account any irrelevant considerations such as desirability, suitability and safety.
- 1.4 The County Council must make a modification order to alter the status of a route on the definitive map and statement if the balance of evidence shows that a highway shown in the map and statement ought to be shown as a highway of a different description.
- 1.5 An order can be confirmed if, on the balance of probability, it is shown that the route should be recorded with the proposed status.
- 1.6 Where an objection has been made to an order, the County Council is unable itself to confirm the order but may forward it to the Secretary of State for confirmation. Where there is no objection, the County Council can itself confirm the order, provided that the criterion for confirmation is met.

2 Highways Act 1980

- 2.1 Section 31 of the Highways Act 1980 says that where a way has been used by the public as of right for a full period of 20 years it is deemed to have been dedicated as highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The 20 year period is counted back from when the right of the public to use the way is brought into question.
 - (a) 'As of right' in this context means without force, without secrecy and without obtaining permission.
 - (b) A right to use a way is brought into question when the public's right to use it is challenged in such a way that they are apprised of the challenge and have a reasonable opportunity of meeting it. This may be by locking a gate or putting up a notice denying the existence of a public right of way.

- (c) An application under Section 53 (5) of the Wildlife and Countryside Act 1981 for a modification order brings the rights of the public into question. The date of bringing into question will be the date the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.
- 2.2 The common law may be relevant if Section 31 of the Highways Act cannot be applied. The common law test is that the public must have used the route 'as of right' for long enough to have alerted the owner, whoever he may be, that they considered it to be a public right of way and the owner did nothing to tell them that it is not. There is no set time period under the common law.
- 2.3 Section 32 of the Highways Act 1980 says that the Committee must take into consideration any map, plan or history of the locality. Documents produced by government officials for statutory purposes such as to comply with legislation or for the purpose of taxation, will carry more evidential weight than, for instance, maps produced for tourists.

3 Human Rights Act 1998

- 3.1 The Human Rights Act 1998 incorporates into UK law certain provisions of the European Convention on Human Rights. Under Section 6(1) of the Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1) and that he is (or would be) a victim of the unlawful act, may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.
 - (a) Article 8 of the European Convention, the Right to Respect for Private and Family Life provides that:
 - (i) Everyone has the right to respect for his private and family life, his home and his correspondence.
 - (ii) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
 - (b) Article 1 of the First Protocol provides that:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Case specific law

4 Finance Act 1910

- 4.1 The Finance Act 1910 required the Commissioners of Inland Revenue to cause a valuation of “all land in the United Kingdom” and plans were prepared identifying the different areas of valuation. In arriving at these valuations certain deductions were allowed, including deductions for the existence of public rights of way.
- 4.2 Public ‘fenced’ roads were generally excluded from the valuation. Where public rights passed through, for example a large field and were unfenced, they would be included in the valuation and a deduction would be made in respect of the public right of way.

5 National Parks and Access to the Countryside Act 1949

- 5.1 The National Parks and Access to the Countryside Act 1949 required the County Council as “Surveying Authority” to compile the record of the public rights of way network and the District and Parish Councils were consulted to provide the County Council with information for the purposes of the survey.

6 Natural Environment and Rural Communities Act 2006

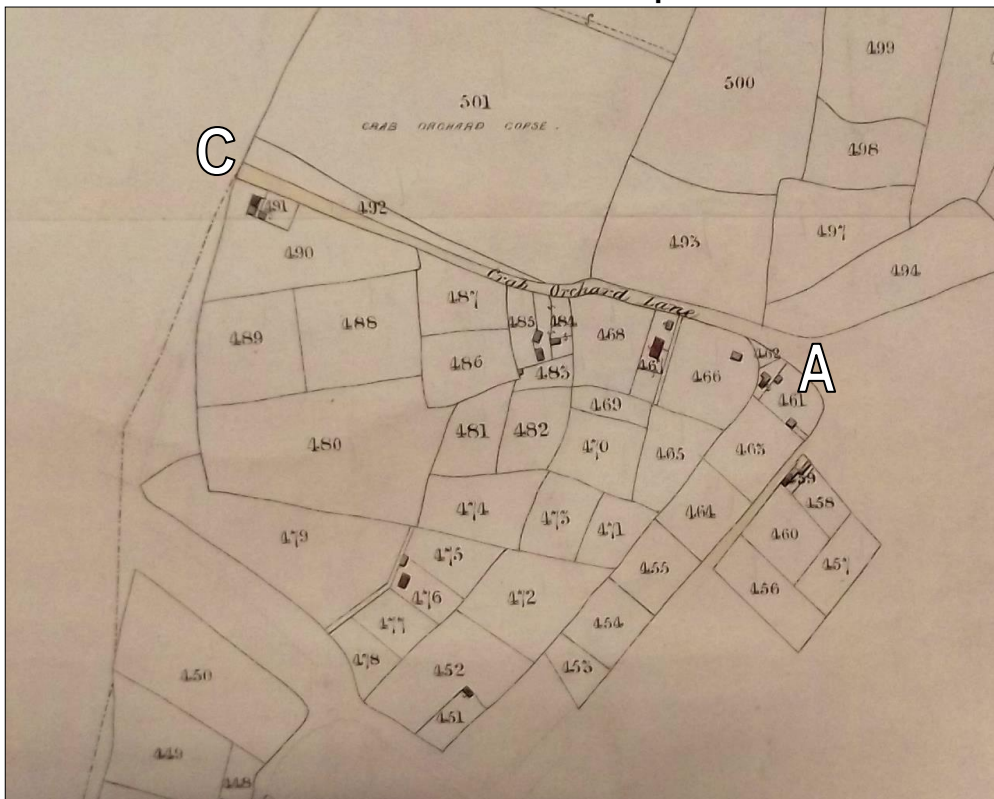
- 6.1 Section 67 of the Natural Environment and Rural Communities Act 2006 (NERC) extinguishes (subject to certain exceptions) unrecorded rights of way for mechanically propelled vehicles. Where it is found that a route was historically a public vehicular route before NERC, that route may be recorded as a restricted byway rather than a byway open to all traffic.

Table of documentary evidence

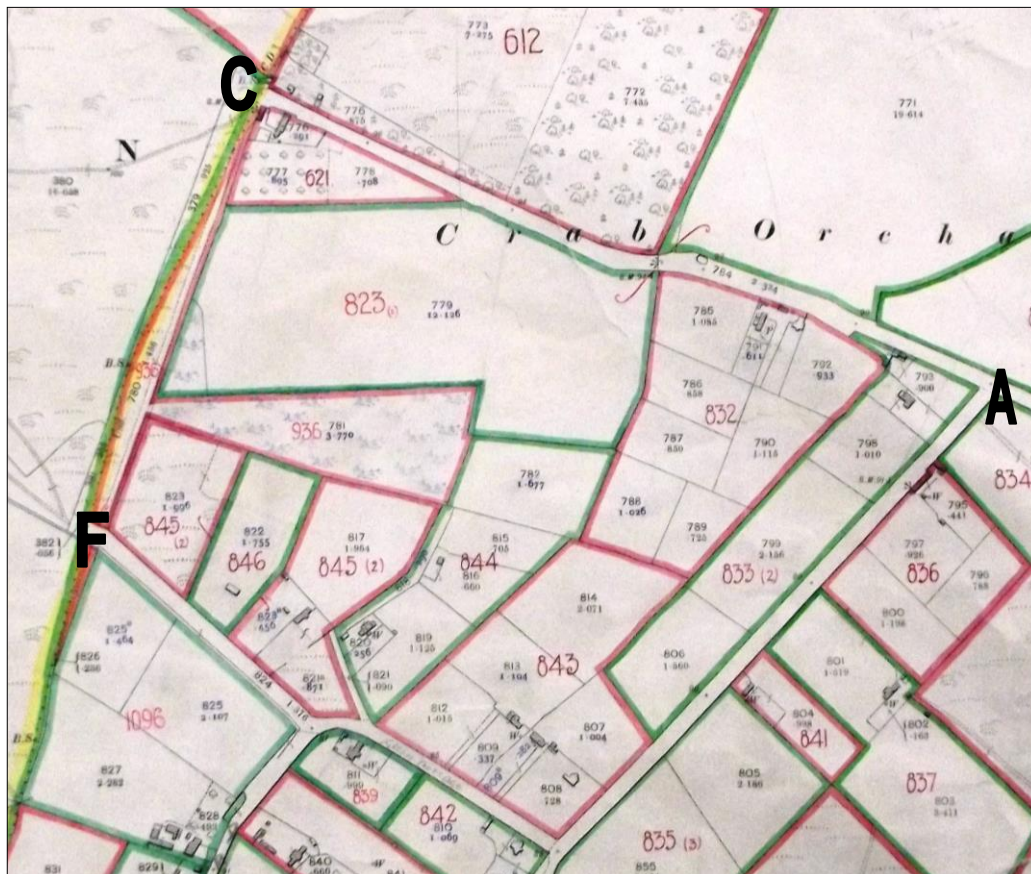
| Date | Document | Comment |
|---------|--|---|
| 1765 | Taylor's Map of Dorset | Shows part of claimed route A to C. Key defines it as a "Road enclosed by Hedges" |
| 1807 | Ordnance Survey Drawing 2 inches to 1 mile | Shows part of route A to C |
| 1811 | Ordnance Survey 1 inch to 1 mile map | Shows part of route A to C |
| 1826 | Greenwoods' Map of Dorset | Shows part of claimed route A to C. Key defines it as a "Cross Road" |
| 1829 | Cranborne Chase Inclosure map | Area of claimed route not covered |
| 1847 | Verwood (Fairwood) Tithe Apportionment and Plan | That part shown A to C excluded from Tithe evaluation and annotated as "Crab Barn Lane" |
| 1884 | | NOTE: The classification of roads by administrative status was practiced on Ordnance Survey maps from 1884. All metalled public roads for wheeled traffic were to be shaded. |
| 1887 | Ordnance Survey 6 inches to 1 mile First Edition | Shows whole of route A to E |
| 1889 | | NOTE: The statement that "the representation on this map of a road, track or footpath is no evidence of a right of way" has appeared on Ordnance Survey maps since 1889. |
| 1896 | | NOTE: By 1896 roads on Ordnance Survey maps were to be classified as first or second class according to whether they were Main or District roads, other roads were to be classed as second class if they were metalled and kept in good repair. Both first and second class roads are shown on published maps in the same way, by shading on one side. Third class metalled and unmetalled roads are shown without shading. |
| 1902 | Ordnance Survey 6 inches to 1 mile Second Edition | |
| 1902 | Ordnance Survey 25 inches to 1 mile Second Edition | |
| 1906 | Ordnance Survey 1 inch to 1 mile (Coloured) | Shows whole of route |
| 1910 | Finance Act | That part shown A to C excluded from valuation. Part C to E in Hereditament 936 described as 'Waste' in Valuation Book. |
| 1912 | | NOTE: The system of classification adopted on Ordnance Survey maps in 1896 was abolished in November 1912. |
| Undated | Johnston's Map of Dorset | Shows whole of claimed route |
| C1940 | Geographia Map | Shows whole of route defined as minor road |
| 1947 | Aerial Photograph | Shows whole of claimed route |

| Date | Document | Comment |
|------|---|---|
| 1949 | National Parks and Access to the Countryside Act 1949 NOTE: Parish Councils received advice on the recording of public rights of way in a booklet provided to them by the Open Spaces Society. The booklet included information on the different classes of rights of way which included the designations of CRB (Carriage or Cart Road Bridleway) and CRF (Carriage or Cart Road Footpath). Parish Councils were advised that a public right of way used mainly by the public on foot but also with vehicles should be recorded as a CRF and a route mainly used by the public on foot or horseback but also with vehicles should be recorded as a CRB. | |
| 1950 | Parish Survey | Route recorded as CRB 18 in the schedule and CRF 18 on the plan |
| 1958 | | NOTE: In 1958 the National Parks Sub-Committee determined that the designation of certain rights of way as CRF or CRB be abandoned and that in future such rights of way be shown only as footpaths (F.P.) or bridleways (B.R.) |
| 1959 | Draft Map | Route recorded as Footpath 18 |
| 1959 | Objection Letter | Parish Council object to showing of route as footpath claiming it to be a carriageway and bridleway |
| 1959 | Objection withdrawn | Parish Council withdraws objection after response from Dorset County Council |
| 1964 | Provisional Map | Route recorded as Footpath 21 |
| 1967 | First Definitive Map | Route recorded as Footpath 21 |
| 1972 | Aerial Photograph | Shows whole of claimed route |
| 1973 | Special Review | Determined insufficient evidence of public vehicular rights |
| 1974 | Revised Draft Map | Route recorded as Footpath 21 |
| 1989 | Current definitive Map | Route recorded as Footpath 21 |
| 1997 | Aerial Photograph | Shows whole of claimed route |
| 2009 | Aerial Photograph | Shows whole of claimed route |

Extracts from key documents
Letters on extracts relate to positions shown on Drawing 12/10/1
(See the file RW/T396 for copies of other documents mentioned)
1847 Verwood Tithe map



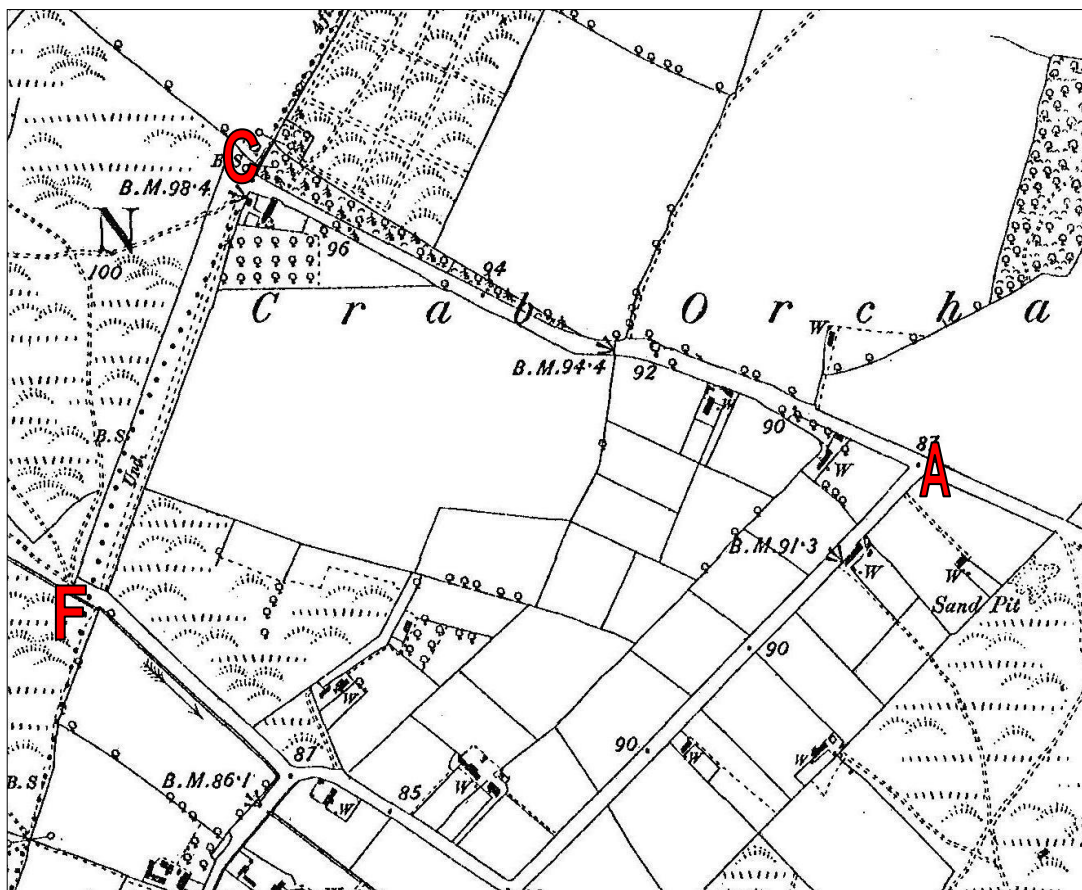
1910 Finance Act map



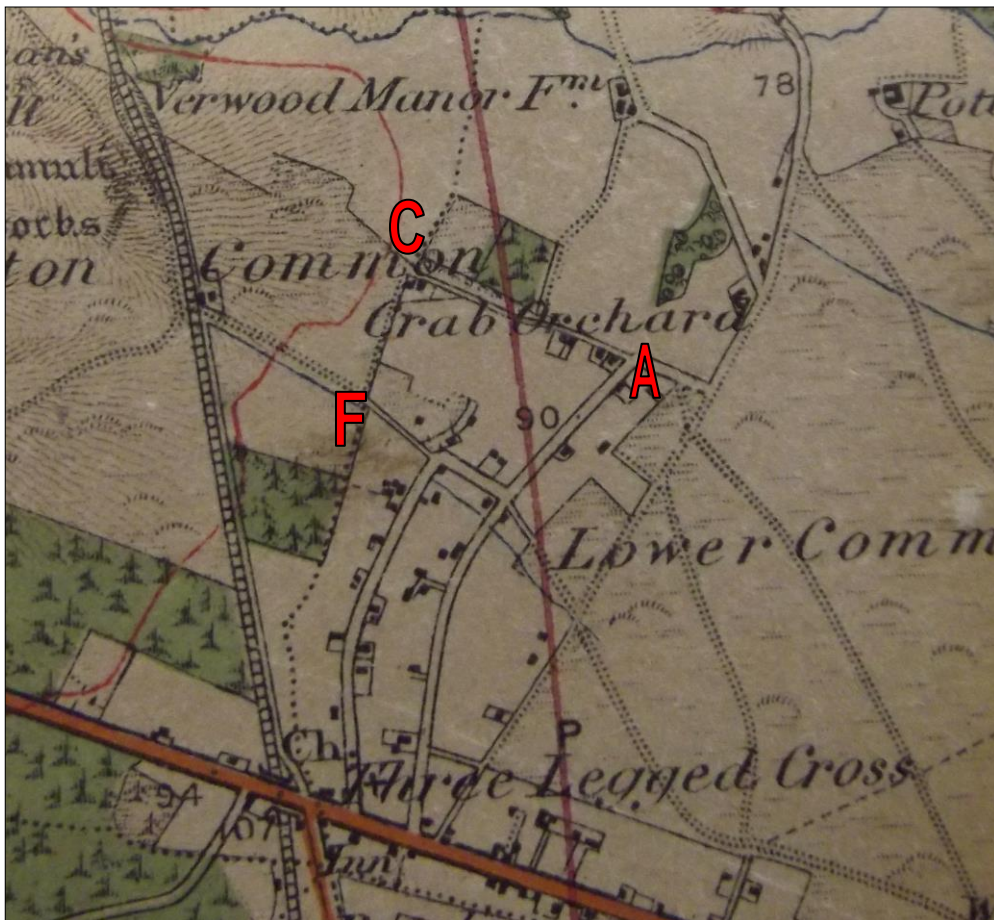
1950 Verwood Parish Survey map



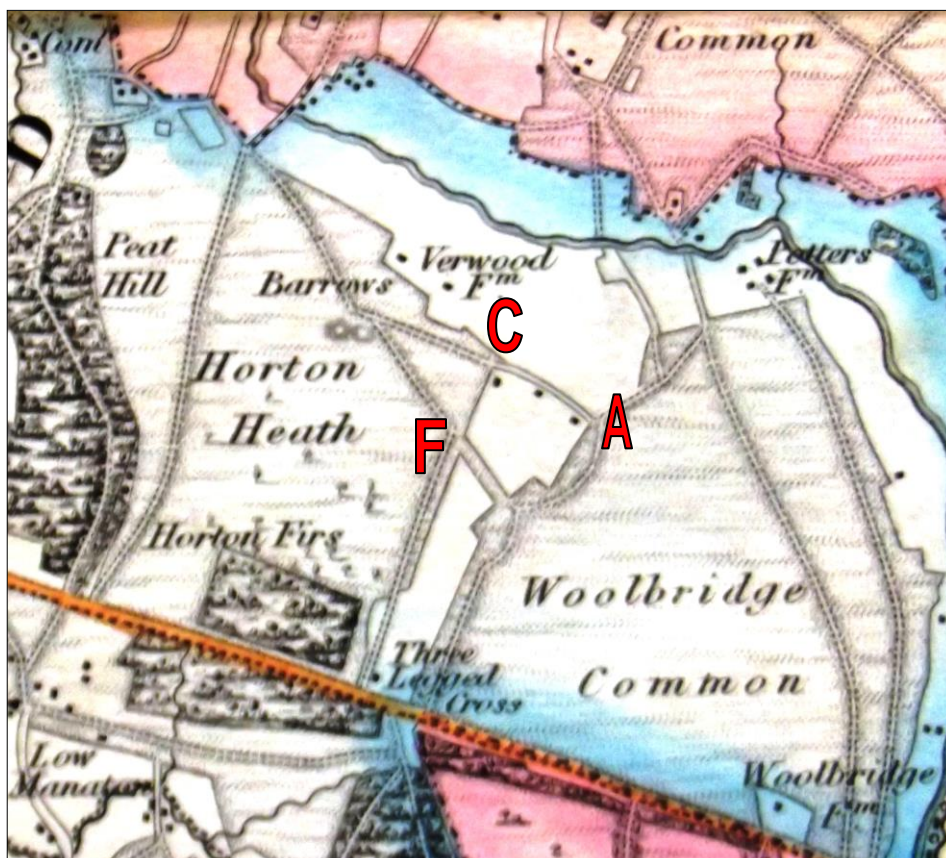
1887 Ordnance Survey First Edition map scale 6 inches:1 mile



1906 Ordnance Survey map scale 1 inch:1 mile (coloured)



1826 Greenwoods' Map of Dorset

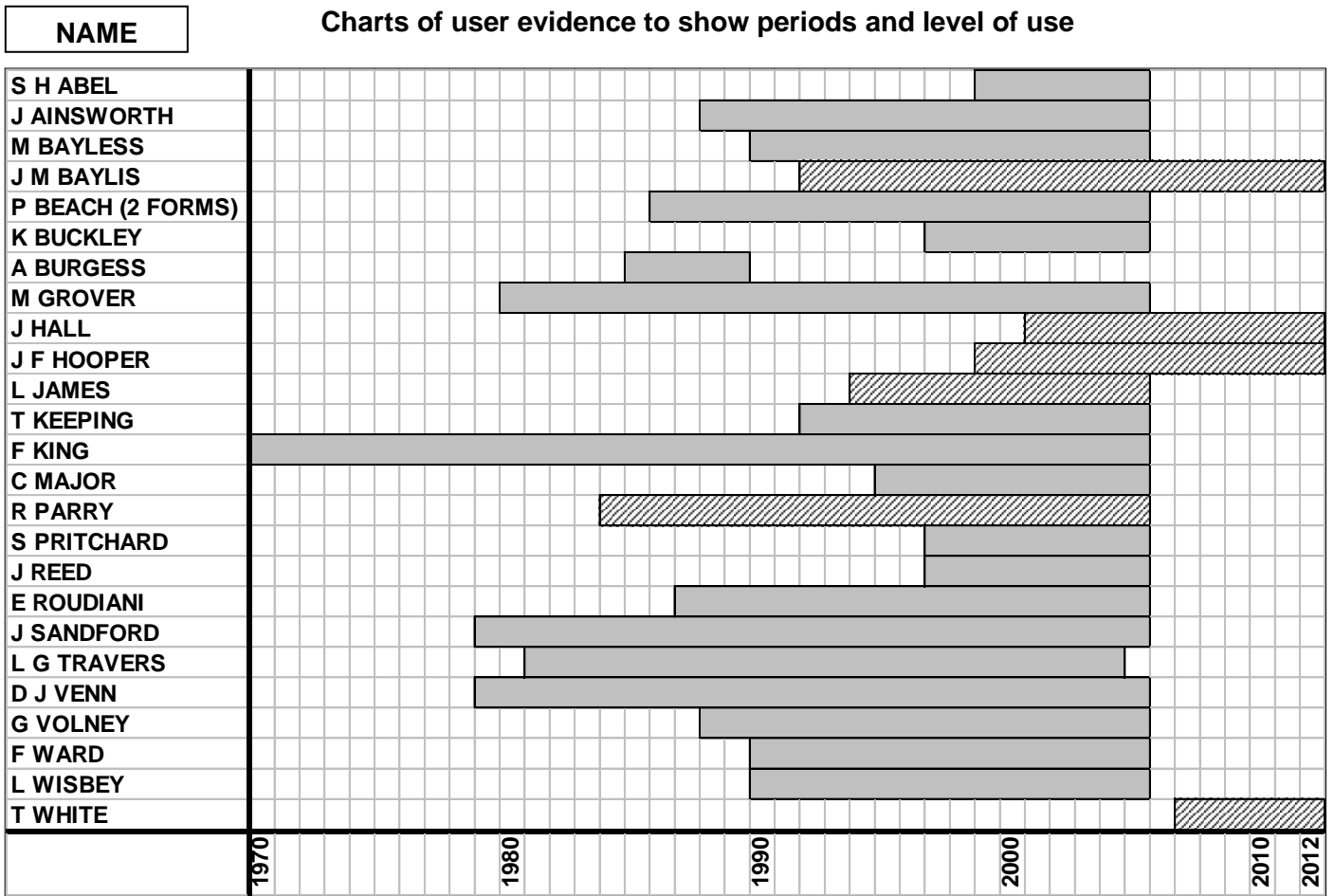


User Evidence
Table summarising user evidence from forms

| Name | Dates | Frequency of use | Type of use | Details of use / comments |
|---|--|--------------------------------|-----------------------|---|
| Miss S H Abel | 1999 - 2005 | 50 – 80 times a year | On Horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. The route was marked as a bridleway. |
| Mrs J Ainsworth | 1988 - 2005 | Once a month | On horseback | Used for pleasure. Others also used the route on horseback. No notices, stiles, gates or other obstructions. |
| Mrs M Bayless | 1990 - 2005 | 50 times a year | On horseback | Used for pleasure. Others also used the route on horseback. No notices, stiles, gates or other obstructions. |
| Mrs J M Baylis | 1992 to date (form completed in 2012) | At least 208 days a year | On foot and horseback | Used for pleasure. Others also used the route on foot and horseback. No notices, stiles, gates or other obstructions. Often used the route with other horse riders. Approx 3 metres wide. |
| Mrs P Beach (2 forms completed only 1 is dated) | 1986 - 2005 | 300 times a year | On horseback | Used for pleasure. Others also used the route on horseback. No notices, stiles, gates or other obstructions. Saw and spoke to the owner/occupier whilst using the route. |
| Miss K Buckley | 1997 - 2005 | Approx 45 times a year | On horseback | Used for pleasure. Others also used the route on horseback. No notices, stiles, gates or other obstructions. Regularly used. |
| Miss A Burgess | 1985 - 1989 | Approx 30 times a year | On horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. Sometimes over grown. |
| Miss M Grover | 1980 - 2005 | Around 80 times or more a year | On horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. Overgrown gorse, could duck under it. |
| Mrs J Hall | 2001 to present (form completed in 2012) | 100+ times a year | On foot and horseback | Used for pleasure and work. Others also used the route on foot and horseback. No notices, stiles, gates or other obstructions. |
| Mrs J F Hooper | 1999 to present (form completed in 2012) | Approx 30 times a year | On foot and horseback | Used for pleasure. Others also used the route on horseback. No notices, gates, stiles or other obstructions. |

| Name | Dates | Frequency of use | Type of use | Details of use / comments |
|------------------|--|-----------------------------|--------------------------------|---|
| Miss L James | 1994 - 2005 | 24 – 30 times a year approx | On foot and horseback | Used for pleasure. Others also used the route on foot and horseback. Gate in 2004. No notices, stiles or other obstructions. Collected and dropped off a horse owned by someone who lives on the route. |
| Miss T Keeping | 1992 - 2005 | “Loads” of times a year | On horseback | Used for pleasure. Others also used the route on horseback. No notices, stiles, gates or other obstructions. Seen the owner/occupier whilst using the route. |
| Mrs F King | 1970 - 2005 | Once a week | On horseback | Used for pleasure. Others also used the route. Not been prevented using the route. No notices, stiles or gates. |
| Miss C Major | 1995 - 2005 | Over 45 times a year | On horseback | Used for pleasure and work. Others also used the route on horseback. No notices, stiles, gates or other obstruction. Can be overgrown and some tree roots sticking up. |
| Mrs R Parry | 1984 - 2005 | Up to 20 times a year | On foot, horseback and bicycle | Used for pleasure. Others also used the route on foot and horseback. No notices, stiles, gates or other obstructions. Spoken to people in adjoining properties. |
| Miss S Pritchard | 1997 - 2005 | 20+ times a year | On horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. |
| Mrs J Reed | 1997 - 2005 | 15 times a year | On horseback | Used for pleasure. Others also used the route on horseback. No notices or stiles. Gates on route but not locked. Was asked not to trot only walk. |
| Miss E Roudiani | 1987 to present (form completed in 2005) | Twice a month at least | On horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. Hoof prints on route. A well used route. |
| Ms J Sandford | 1979 - 2005 | 50 – 60 times a year | On horseback | Used for pleasure. Others also used the route. No notices, stiles or gates. |
| Mr L G Travers | 1981 - 2004 | At least 100 times a year | On horseback | Used for pleasure. Others also used the route on horseback. No notices, stiles, gates or other obstructions. In the early years it was over grown. |

| Name | Dates | Frequency of use | Type of use | Details of use / comments |
|---------------|--|----------------------|-----------------------|--|
| Miss D J Venn | 1979 - 2005 | 50+ times a year | On horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. Could be over grown. |
| G Volney | 1988 - 2005 | 10 times a year | On horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. Saw the owner/occupier when using the route. |
| Mrs F Ward | 1990 - 2005 | Once fortnightly | On horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. |
| Mrs L Wisbey | 1990 - 2005 | Over 22 times a year | On horseback | Used for pleasure. Others also used the route. No notices, stiles, gates or other obstructions. Has spoken to the owner/occupier. |
| Mrs T White | 2007 to present (form completed in 2012) | At least weekly | On foot and horseback | Used for pleasure. Others also used the route on foot and horseback. No notices, stiles, gates or other obstructions. Used regularly. |



NO. OF USERS PER YEAR

