

Agenda item:

Roads and Rights of Way Committee

6

Dorset County Council



Date of Meeting	1 July 2013
Officer	Director for Environment
Subject of Report	Application for a definitive map and statement modification order to upgrade Bridleway 22, Winterborne Kingston and Bridleway 7, Anderson (White Lane) to byway open to all traffic
Executive Summary	In response to an application to upgrade Bridleway 22, Winterborne Kingston and Bridleway 7, Anderson (one continuous route known as White Lane) to a byway open to all traffic this report considers the evidence relating to the status of the route.
Impact Assessment:	<p>Equalities Impact Assessment: An Equalities Impact Assessment is not a material consideration in considering this application.</p>
	<p>Use of Evidence:</p> <p>The applicant submitted documentary evidence in support of his application.</p> <p>Documentary evidence has been researched from sources such as the Dorset History Centre and the National Archives.</p> <p>A full consultation exercise was carried out in December 2012 and January 2013, involving landowners, user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application.</p> <p>In addition notices explaining the application were erected on site.</p> <p>Any relevant evidence provided has been discussed in this report.</p>

	<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;</p> <p>(b) An order be made to modify the definitive map and statement of rights of way to record Bridleway 22, Winterborne Kingston and Bridleway 7, Anderson as shown A – A1 – B – C on Drawing 12/35/1 as a restricted byway; and</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(c) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee.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) Subject to (b) below the byway open to all traffic claimed does not subsist nor can be reasonably alleged to subsist;</p> <p>(b) The available evidence shows, on balance, that a highway shown on the definitive map and statement as a bridleway 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 the claimed route; and</p> <p>(c) The evidence shows, on balance, that the route claimed should be recorded as a restricted byway. Accordingly, in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.</p>
<p>Appendices</p>	<p>1 - Drawing 12/35/1</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"> ▪ 1910 Finance Act Maps – sheets 33.14 and 33.15 ▪ 1847 Winterborne Kingston Inclosure Map showing roads ▪ 1848 Winterborne Kingston Inclosure Map ▪ 1844 Winterborne Kingston Tithe Map ▪ 1845 Bloxworth Tithe Map ▪ 1840 Piddletown and Wimborne Turnpike plan and Index

Background Papers	<p>The file of the Director for Environment (ref. RW/T408)</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/T408, which will be available to view at County Hall during office hours.</p>
Report Originator and Contact	<p>Name: Roger Bell Rights of Way Officer</p> <p>Tel: (01305) 221670</p> <p>Email: r.bell@dorsetcc.gov.uk</p>

1 **Background**

- 1.1 An application to upgrade Bridleway 22, Winterborne Kingston between Marsh Lane and the A31 road, White Lane, to a byway open to all traffic as shown on Drawing 12/35/1 was made by Mr David Oickle on 16 November 2005.
- 1.2 Parish boundary changes brought about by the North Dorset District Council Parishes Order 2008 resulted in part of Bridleway 22, Winterborne Kingston (White Lane) moving to Anderson parish. Therefore the northernmost 34 metres of White Lane (between points A and A1) is now Bridleway 7, Anderson and the remainder (between points A1 and C) is Bridleway 22, Winterborne Kingston.
- 1.3 The route claimed commences at its junction with the road (Marsh Lane), west of Anderson village at point A. It continues south with a grassed surface along its entire length and is wide and appears to be well used. There are banks with hedges along both sides and mature trees grow within the hedges. The northern section has a poorly drained surface with a stream running alongside, which crosses it to the west of Marsh Farm. The claimed route continues south with hedges and mature trees on both sides. At point B the route becomes more open, with no mature trees and the hedges are managed. At point C it terminates where it joins the trunk road (A35).
- 1.4 The claimed route is owned by three landowners, the Chichester family, the Morden Estates, and the Highways Agency.
- 1.5 The width of the route varies between 6 and 9 metres.

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's 'Analysis of Documentary Evidence' submitted with the application can be viewed in full in the case file RW/T408.
- 3.3 In summary, the applicant states: "There is a weight of evidence to indicate it is more likely that this route carries public carriageway right rather than any lesser rights. Therefore we believe there is evidence to support our claim that this road carries vehicular rights."

4 **Additional evidence in support of the application**

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

5 Evidence opposing the application (copies available in the case file RW/T408)

5.1 Three submissions were received before the consultation started and two letters were received as a result of the consultation.

Name	Comments
P D H Chichester	“The northern section of White Lane has been owned by the Chichester family since the 1960s..... Due to the overgrown nature of the hedges on their lengths of White Lane it has never, to [the previous tenant farmer’s] knowledge been used by motorised vehicles, not even tractors..... The Chichester family do not believe that White Lane has ever been a byway open to all traffic and object to the proposal to upgrade this bridleway to a byway open to all traffic.”
Morden Estates Company Limited (Charborough Estate)	The Agent, on behalf of the landowners of the route from point B to just before point C, states that “there is no history of vehicular access along Bridleway 22 or a need for such a right to be established. The Charborough Estate does not believe that White Lane has ever been a byway open to all traffic and object to the proposal to upgrade this bridleway to a byway open to all traffic”.
Lower Winterborne Parish Council Mrs Hilary Cox Dorset County Councillor Mr F Shaxson	Issues were raised such as: - <ul style="list-style-type: none"> • Safety • Damage to the surface • Disruption to residents, wildlife and the natural environment • Suitability • Dangerous junctions

6 Other submissions received (copies available in the case file RW/T408)

Name	Comments
Claire Pinder, Senior Archaeologist, Dorset County Council	“There are at present no other recorded archaeological finds or features or historic buildings on or in the very immediate vicinity of the route affected. The very slight curves in White Lane indicate that it is associated with a medieval open field system and so is at least medieval in origin”.
Natural England	This path order will not affect a statutory site for nature conservation.
British Horse Society Ramblers’ Association Graham Plumbe	No evidence given.

7 Analysis of documentary evidence

Finance Act 1910

- 7.1 The most important documents in this case are those relating to the **Finance Act of 1910**. The maps reveal that the claimed route shown fenced is excluded from taxation throughout its length between points A and C. It is depicted in the same manner as other public carriageways to which it connects. Without evidence to the contrary, the exclusion of a route from valuation provides very strong evidence that it was a public carriageway and supports the existence of higher public rights in respect of the claimed route between points A and C.

Other documents

Inclosure Award

- 7.2 The **1847 Winterborne Kingston Inclosure Map** has the title “Public and Private roads as set out by the Commissioner 1847”. It shows the claimed route between points A and B and has the notation “White Lane”. White Lane is coloured the same as the other routes on the map, which are now public roads.
- (a) Other routes on the map are annotated ‘occupation’ roads, meaning that they are for private use but White Lane is not. This supports the route having public status and the colouring indicates that it is a public road.
- 7.3 The **1848 Winterborne Kingston Award** records “One other Public Carriage road or highway of the breadth of thirty feet called the Anderson Road commencing at the East end of a certain close of Land called Ropers Land and extending in an Easterly direction over a certain Common Meadow called East Mead to White Lane”. This does not give the claimed route a width and does not describe White Lane. It merely mentions the claimed route as where the Anderson Road extends to within this Inclosure.
- 7.4 The **1848 Winterborne Kingston Inclosure map** shows the claimed route on the very edge of the Inclosure plans. The annotations “White Lane” alongside and “to Muston Farm” north of point A are clearly marked. White Lane is coloured the same as the other routes on the maps, which are now public roads.
- 7.5 On both Inclosure maps most of the public routes have a width and a description of where they lead, for example “Anderson Road 30ft” and “to Anderson”. The absence of this in relation to White Lane may indicate that it was a pre-existing route at the time of enclosure and the Inclosure Commissioner did not need or have the power to set out this highway within the Inclosure Award. This indicates that the claimed route would already, at that time, have public rights.

Tithe map and apportionment

- 7.6 The **1844 Winterborne Kingston Tithe Map** shows the claimed route uncoloured between points A and B and as double solid lines. As the map has no key none of the routes depicted have their status shown and so the solid lines may indicate that the route was fenced. There are no annotations on the claimed route.
- 7.7 The **1845 Bloxworth Tithe Map** shows the whole of the claimed route. The claimed route is shown uncoloured as the other routes on the map, which are currently either public rights of way or public roads. It does not have any annotation at the ends of the route showing destinations as some of the other routes on this map.
- 7.8 Tithe maps were not drawn for the purposes of establishing or recording public rights of way. Although the route shown on the maps gives no indication of the status of the route, it does provide evidence as to its existence at that time.
- 7.9 Although tithe apportionments were not concerned with identifying public highways, public highways can often be identified as they form the boundaries to apportionments. In many cases, particularly in the case of footpaths and bridleways, public highways were included within apportionments as a crop, such as hay, could be taken from the surface. In this instance the route is not included in any apportionment.
- 7.10 **Analysis of other supporting documents**
- 7.11 **The 'Piddletown and Wimborne Turnpike' Plans**
- 7.12 A turnpike road was a stretch of road maintained and improved by trusts, who levied tolls on users at gates across the road. They originated in the eighteenth Century and were wound up in the late nineteenth Century.
- 7.13 The 1840 Piddletown and Wimborne Turnpike plan shows the claimed route, numbered "488a" as a Parish Road. Under the heading "Description of Property" the Index records it as a "Parish Road leading to Blandford" and under "Ownership" it records "the Surveyors of the Highways of the Parish of Bloxworth".
- 7.14 This strongly indicates that, at this time, the claimed route was a parish road so therefore was a highway with public vehicular rights.

Ordnance Survey maps

- 7.15 The **1805 Ordnance Survey Drawing** was made in preparation for the publication of the First Edition of the 1 inch:1 mile scale maps but was drawn at a larger scale of 2 inches:1 mile and therefore generally contains more detail than the later 1 inch:1 mile scale maps. This shows the claimed route as a fenced highway.

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- 7.16 The **1811 First Edition Ordnance Survey map** at a scale of 1 inch:1 mile, which was produced for military purposes, shows the claimed route similarly to the 1805 Ordnance Survey drawing above, capable of accommodating vehicular traffic and with no gates or barriers to prevent or control such use.
- 7.17 The **1887 First Edition Ordnance Survey map** at a scale of 6 inches:1 mile (1:10560), sheets 33SE and 33SW, shows the claimed route with double solid lines (fenced) and has the annotation "White Lane" alongside. At point A there is a line across the lane indicating a gate or bank. At point C a bench mark obscures the junction.
- 7.18 The **1901 Second Edition Ordnance Survey map** at a scale of 1:2500 (25 inches:1 mile), sheets 33.14 and 33.15, shows the claimed route fenced and has the annotation "White Lane". At point A there is no gate or bank marked and at point C there is a bench mark and measurement pecks across the junction.
- 7.19 The **1902 Second Edition map** at a scale of 6 inches: 1 mile (1:10560), sheets 33SE and 33SW, depicts the claimed route as the Ordnance Survey 25 inches:1 mile scale maps of 1901, although being to a smaller scale there is less detail.
- 7.20 The applicant also provided extracts from several other **Ordnance Survey** maps in support of the application:
- The **1892 Ordnance Survey map** scale 1 inch:1 mile shows the claimed route as a "Minor Road".
 - The **1906 Ordnance Survey Second Edition map** scale 1 inch:1 mile (colour) shows the claimed route as a unmetalled road.
 - The **1912 Ordnance Survey map** scale 1 inch:1 mile shows the claimed route fenced along the whole route and as an unmetalled road.
 - The **1926 Ordnance Survey map sheet 141** scale 1 inch:1 mile shows the route as a "Minor Road"
 - The **1937 Ordnance Survey map sheet 140** scale 1 inch:1 mile shows the claimed route as an unmetalled road.
 - The **1945 Ordnance Survey map sheet 178** scale 1 inch:1 mile shows the claimed route as an unmetalled road.
- 7.21 The evidence provided by the **Ordnance Survey Maps** suggests the existence of a route quite capable of accommodating vehicular traffic. The claimed route is consistently shown in the same manner as other public carriageways in the vicinity, being clearly defined for the majority of its length by hedges or fences. None of the Ordnance Survey maps introduced as evidence depict the route with any annotation such as 'B.R.' or 'F.P.', which suggests that if it were considered to be a public highway it would be of a higher status than a footpath or bridleway. Although the Ordnance Survey maps provide evidence in support of the application they do not, on their own, provide conclusive evidence as to the status of the route.

Estate maps

- 7.22 The **1841 Winterborne Kingston Parish Map** is very similar to the **1844 Winterborne Kingston Tithing map**. It shows the claimed route from A to B as the other routes on the map, which are now public roads. As the map has no key none of the routes depicted have their status shown and so the solid lines may indicate that the route was fenced.

Commercial Maps

- 7.23 The applicant makes reference to a number of **small scale maps** of Dorset held at the Dorset History Centre and has provided extracts from a variety of Bartholomew and other commercial maps in support of the application.
- 7.24 The **1765 Taylor's Map of Dorset** depicts a route that generally corresponds with that of the claim and is described in the key as a "road enclosed with hedges". The **1796 Taylor's Map** also shows the route quite distinctly and, although it has no key, the route is shown in the same manner as other roads known to be public carriageways in the vicinity.
- 7.25 The **1805 J Stockdale's Map of Dorset** shows the route similar to the claimed route. The **1826 C & J Greenwood's Map of Dorset** shows the claimed route clearly, fenced. The **early 1900s Gall & Inglis Visitors' map of the Environs of Bournemouth** and **early 1900s George Richmond's Reduced Ordnance Survey One Inch Map** show the claimed route. The **1930s Bacon's Motoring and Cycling Road Map** shows the claimed route and the **1940s Geographia large scale Road Map of Dorsetshire** scale 1 inch:2 miles show the route in the category "Other Roads". The **1950s Ward Lock's Bournemouth Poole and District Map** shows the route as a minor road.
- 7.26 **Bartholomew's maps** are based on Ordnance Survey data and were extremely popular and widely referred to by the public. They provided information on first, second and 'indifferent' classes of roads as well as footpaths and bridleways. The extracts from the **Bartholomew Maps** submitted in support of the application cover a period from 1911 to 1951 and depict the route quite prominently in exactly the same manner as other public roads in the area. Reference to the accompanying map keys indicates that the route was designated as a 'Serviceable Road'. Earlier editions from 1911 and 1920 show it as an uncoloured 'Inferior' road.
- 7.27 The extracts from the **Small Scale Maps of Dorset** submitted in evidence by the applicant are mainly of a commercial nature and in all probability derive their data from other surveys such as the Ordnance Survey. Very few, if any, are wholly independent surveys and several have no accompanying key. However, they do all show the route clearly and prominently and consequently it is considered that this evidence, whilst providing nothing conclusive, supports the claim, although no significant weight has been attached to it.

Winterborne Kingston Parish Council minutes

- 7.28 On 22 May 1896 the claimed route was discussed at the Winterborne Kingston Parish Council meeting. Under the heading "White Lane" the minutes record that the Clerk was instructed "to write to the Wareham District Council calling their attention to the bad state of White Lane & ask them to repair the same carried unanimously".
- 7.29 On 11 July 1896 at the Winterborne Kingston Parish Council meeting the claimed route was again discussed. The minutes state that "The Clerk read a letter from the Wareham District Council stating that R.D.C. did not admit any liability to repair same".
- 7.30 This shows that in 1896 the Wareham Rural District Council considered that the claimed route was not maintainable at the public expense.

Parish Surveys & Rights of Way maps

- 7.31 The **1950 Winterborne Kingston Parish Survey** of rights of way shows the claimed route on the edge of the parish on two maps. A blue line shows the parish boundary between Bloxworth to the east and Winterborne Kingston to the west. There is red pen running the length of the claimed route and "White Lane" annotated twice alongside. A number "22" is also written in red alongside but is crossed out. Annotated in blue with red pen circling is the note "Claimed by Bere Regis (BR 2)". As the path was in Bloxworth at the time it is unsure why this 'correction' was made.
- (a) The schedule of paths records the path originally numbered as 22 was claimed as a 'C.T' (Cart Track). This has been crossed out and the wording "Claimed by Bere Regis (BR 2)", as on the Survey map, added in blue.
- 7.32 The **1951 Bloxworth Parish Survey** of rights of way shows the southern part of the claimed route between points B and C as a bridleway and numbered 2.
- 7.33 The **1955 draft map for the south east area** (for Bloxworth) shows the claimed route as bridleway 2 in the parish of Bloxworth.
- 7.34 The **1959 draft map for the east area** (for Winterborne Kingston) shows the claimed route as the parish boundary. It is not coloured as other routes that are claimed.
- 7.35 The **1964 provisional map, 1967 first definitive map** and the **1974 revised draft map** all show the claimed route as Bridleway 22, Winterborne Kingston and Bridleway 11, Bloxworth.
- 7.36 The claimed route was therefore recorded on the **current definitive map** (sealed 1989) similarly. (As mentioned previously, there has been a parish boundary change, which has changed the numbering but the claimed route is currently recorded as a bridleway.) Although this is regarded as conclusive evidence as to the existence of these rights, it is not regarded as being prejudicial to the existence of any higher public rights over the route.

8 Analysis of evidence opposing the application

- 8.1 **P D H Chichester** states that the claimed route has never been used by motorised vehicles. However, documentary evidence provided and researched within this report from the 18th, 19th and early 20th centuries suggests a route with public vehicular rights.
- 8.2 **Morden Estates Company Limited's (Charborough Estate)** statement regarding there being no history of vehicular access along Bridleway 22, nor a need for such access, is again refuted by the documentary evidence, which indicates public rights higher than the currently recorded status.
- 8.3 The majority of the other submissions relate to issues that cannot be taken into account when determining whether or not the claimed rights exist.

9 Analysis of other submissions

- 9.1 The other letters contain no evidence to be considered.

10 Conclusions

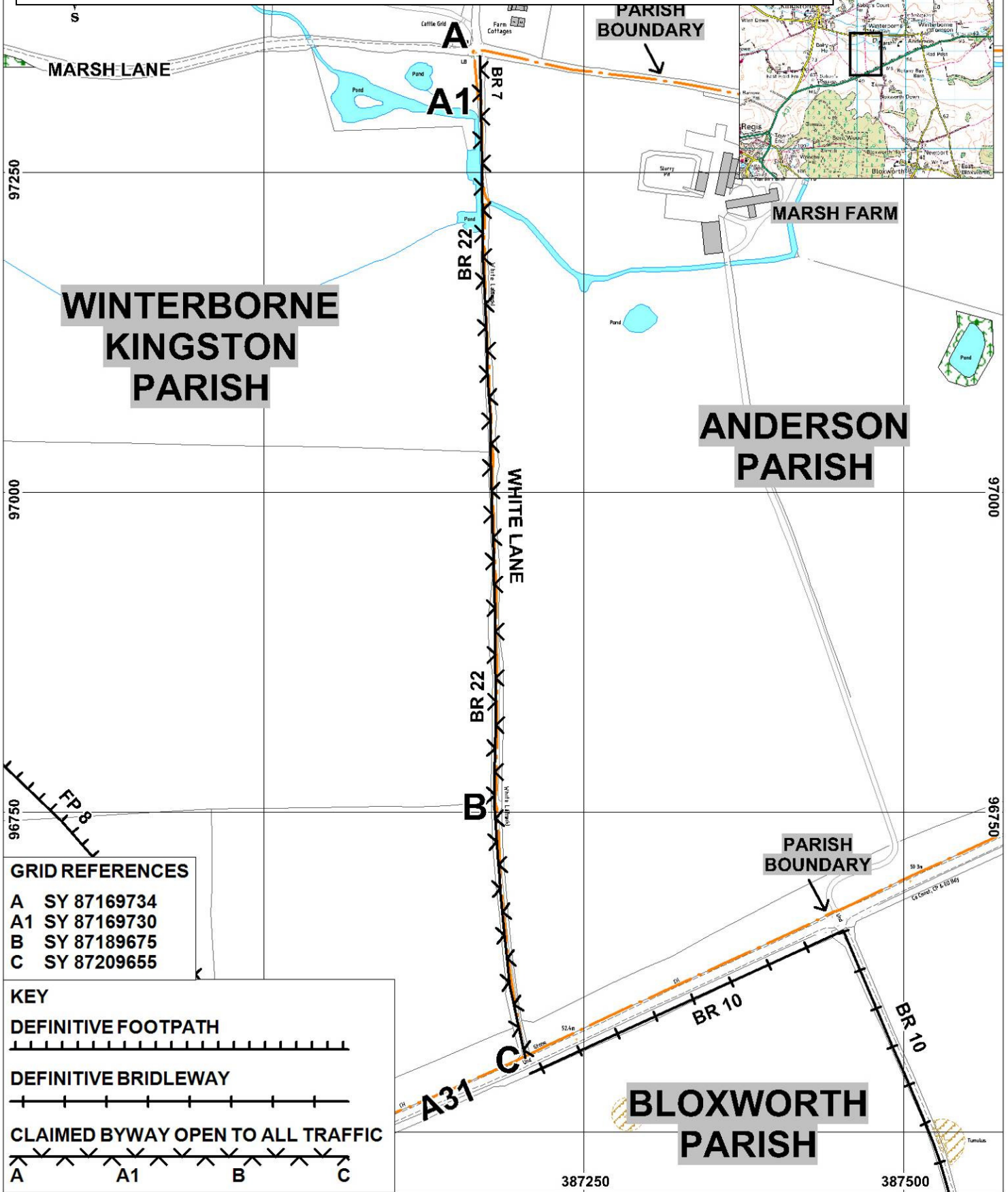
- 10.1 As the route is currently recorded as a bridleway it is necessary for members to decide whether, on the balance of probability, the highway shown in the map and statement as a bridleway ought to be shown as a highway of a different description.
- 10.2 The cumulative weight of the **documentary evidence** analysed in paragraph 7 provides strong evidence towards the existence of public vehicular rights over the whole of the claimed route as shown between points A – A1 – B – C on Drawing 12/35/1.
- 10.3 It is considered that the most important piece of documentary evidence is that provided from the **1910 Finance Act**. The Finance Act plan shows the route to be excluded from valuation throughout its length. Private roads were not excluded from valuation and consequently, without the discovery of any evidence to the contrary, this would strongly suggest that the claimed route was considered to be a public carriageway.
- 10.4 It is also considered that the **1844 Winterborne Kingston Tithe Map** and **1848 Inclosure Map** show the claimed route as part of the highway network as a through route and access to newly enclosed fields and titheable land.
- 10.5 The **1840 Piddletown and Wimborne Turnpike plan and Index** record the claimed route as a public "parish road" and leading to a market town of Blandford. This is strong evidence that this route was an old 'through route'.
- 10.6 In addition the Ordnance Survey documents, including the **1805 Ordnance Survey drawings** and **Ordnance Survey maps**, support the existence of higher public rights than the currently recorded bridleway status.

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- 10.7 The **1765 and 1796 Taylor's, 1805 J Stockdale and 1826 C & J Greenwood Maps of Dorset, the 1900s Visitors Map by Gall & Inglis, early 1900s Reduced Ordnance Survey One Inch Map of Dorset by G Richmond, 1930s Bacon's Motoring & Cycling road map, 1940s Geographia large scale Road Map and 1950s Ward Lock's Bournemouth, Poole and District map** also all show the claimed route as a significant route.
- 10.8 In the absence of user evidence the documentary evidence alone is sufficient to demonstrate, on balance, that a public right for vehicles exists in respect of the claimed route between points A and C on Drawing 12/35/1 and an order should be made.
- 10.9 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.
- 10.10 Therefore it is recommended that an order be made to record the claimed route as a restricted byway.
- 10.11 If there are no objections to a modification order, the County Council can itself confirm the order if the criterion for confirmation has been met.

Miles Butler
Director for Environment

June 2013



GRID REFERENCES

- A SY 87169734
- A1 SY 87169730
- B SY 87189675
- C SY 87209655

KEY

- DEFINITIVE FOOTPATH
 - DEFINITIVE BRIDLEWAY
 - CLAIMED BYWAY OPEN TO ALL TRAFFIC
- A A1 B C

WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION TO UPGRADE BRIDLEWAY 7, ANDERSON AND BRIDLEWAY 22, WINTERBORNE KINGSTON, 'WHITE LANE' TO BYWAY OPEN TO ALL TRAFFIC

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 12/35/1

Date: 07/03/2013

Scale 1:4000

Drawn By: ACH

Cent X: 387187

Cent Y: 96950

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 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 Inclosure Consolidation Act 1801

4.1 Section 8 of the Inclosure Consolidation Act required Commissioners to set out and appoint the public carriage roads and highways and to divert, turn or stop up any roads or tracks upon or over the lands to be allotted prior to the land being enclosed.

4.2 Section 9 of the Act required carriage roads to be well and sufficiently fenced on both sides and made it unlawful for any gate to be erected across them.

4.3 Section 10 of the Act, amongst other things, empowered commissioners to appoint private roads, bridleways and footpaths in, over, upon and through the allotments to be made.

4.4 Section 11 of the Act determined that after the public and private roads and ways had been made and set out any remaining roads, paths and ways over, through and upon such lands and grounds, which had not been set out as required, would be extinguished and deemed to be taken as part of the lands and grounds to be enclosed.

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4.5 The Inclosure Consolidation Act 1801 could be accepted in whole or excluded in whole or part by local acts relevant to the area to be enclosed.

5 Finance Act 1910

5.1 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.

5.2 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.

6 National Parks and Access to the Countryside Act 1949

6.1 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.

7 Natural Environment and Rural Communities Act 2006

7.1 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 should be recorded as a restricted byway rather than a byway open to all traffic.

Table of documentary evidence

Date	Document	Comment
1765	Isaac Taylor's map	Shows a route very similar to claimed route
1796	Isaac Taylor's map	Shows the claimed route
1805	J Stockdale's Map of Dorset	Shows a route similar to claimed route
1807	Ordnance Survey drawings	Shows the claimed route fenced
1811	Ordnance Survey 1 First Edition scale 1 inch:1 mile	Shows the claimed route fenced
1826	C & J Greenwood Map of Dorset	Shows the claimed route fenced
1840	Piddletown and Wimborne Turnpike plan	Shows the junction at point C. It is numbered 488a and is described as a Parish Road leading to Blandford
1841	Winterborne Kingston Parish Map	Shows the claimed route between points A and B
1844	Winterborne Kingston Tithe Map	Shows the claimed route between points A and B
1845	Bloxworth Tithe Map	Shows the whole of the claimed route
1847	Inclosure Map showing roads	Shows the claimed route as White Lane between points A and B
1848	Inclosure Map and Award	Shows the claimed route between points A and B. The Award does not award the claimed route as a public highway as many of the other routes do (indicates that the claimed route was already in existence at time of enclosure)
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 map scale 6 inches:1 mile sheets 33SE and 33SW	Shows the claimed route named as 'White Lane'
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.	
1892	Ordnance Survey map scale 1 inch:1 mile	Shows the claimed route fenced
1896	Winterborne Kingston Parish minutes	The Parish Council asked the District Council to repair the claimed route. They replied, stating the "R.D.C did not admit any liability to repair"

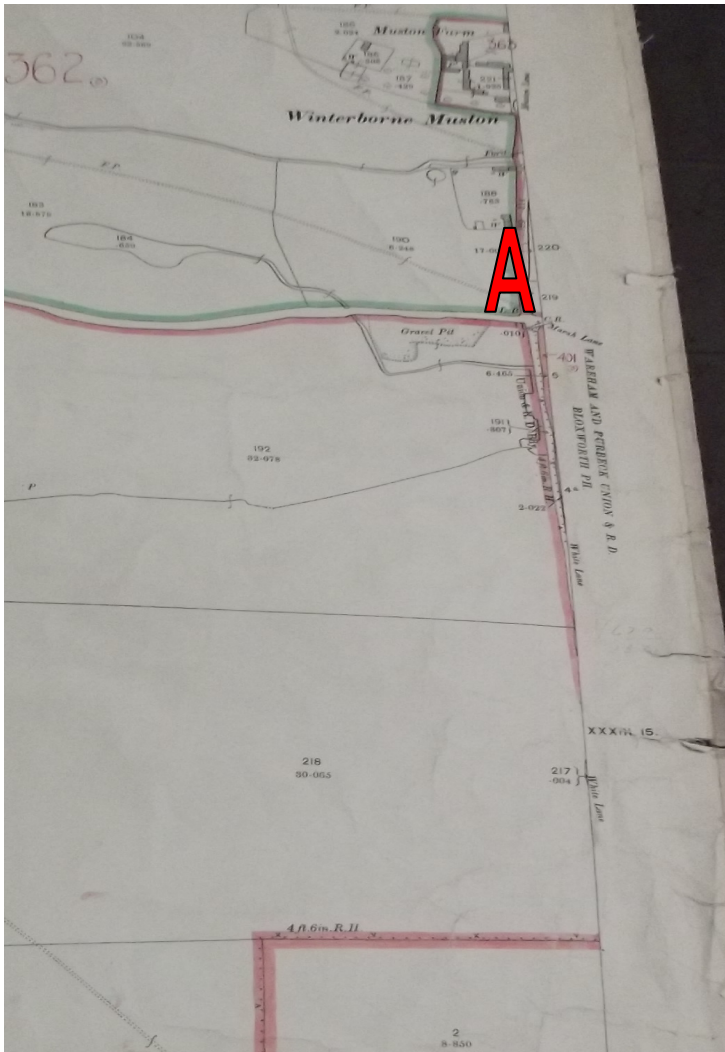
Date	Document	Comment
1896	NOTE: By 1896 roads on Ordnance Survey maps were to be classified as first or second class according to whether they were Main or District roads, other roads were to be classed as second class if they were metalled and kept in good repair. Both first and second class roads are shown on published maps in the same way, by shading on one side. Third class metalled and unmetalled roads are shown without shading.	
Early 1900's	Gall & Inglis Visitors' map of the Environs of Bournemouth	Shows the claimed route
1902	Ordnance Survey map scale 6 inches:1 mile sheets 33SE & 33SW	Shows the claimed route - not shaded therefore may indicate a 'Third Class Road'
1902	Ordnance Survey map scale 25 inches:1 mile sheets 33.14 & 33.15	Shows the claimed route in more detail
1906	Ordnance Survey map scale 1 inch to 1 mile (coloured)	Shows the claimed route as an 'unmetalled road'
1910	Finance Act plans	The claimed route is excluded from taxation
1912	NOTE: The system of classification adopted on Ordnance Survey maps in 1896 was abolished in November 1912.	
1911	Bartholomew's Tourists & Cyclists map	Shows the claimed route as uncoloured 'inferior' road
1912	Ordnance Survey map scale 1 inch:1 mile	Shows the claimed route fenced along the whole route
Early 1900's	Reduced Ordnance Survey Map by G Richmond	Shows the claimed route
1920	Bartholomew's Tourists & Cyclists map	Shows the claimed route as uncoloured 'inferior' road
1926	Ordnance Survey map scale 1 inch:1 mile sheet 141	Shows the claimed as a 'minor' road
1930s	Bacon's Motoring and Cycling road map	Shows the claimed route
1937	Ordnance Survey map scale 1 inch:1 mile sheet 140	Shows the claimed route as an 'unmetalled road'
1940s	Geographia large scale Road Map	Shows the claimed route as 'other roads'
1944	Bartholomew's map scale 1/2 inch:1 mile	Shows the claimed route as a 'serviceable road'
1945	Ordnance Survey map scale 1 inch:1 mile sheet 178	Shows the claimed route as a 'unmetalled road'

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.	
1951	Bartholomew's map scale ½ inch:1 mile	Shows the claimed route as a 'serviceable road'
1950s	Ward Lock's Bournemouth, Poole and District map	Shows claimed route as a 'Minor Road'
1950	Winterbourne Kingston Parish Survey	Shows White Lane on two maps with the parish boundary between Bere Regis and Bloxworth down the centre. The lane itself is annotated "22" in red, crossed out and replaced with "Claimed by Bere Regis (BR 2)".
1951	Bloxworth Parish Survey	Shows the southern part (B – C) as bridleway 2
1955	Draft map for the south east (Bloxworth)	The Lane is shown in yellow as a parish boundary
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 for the east (Winterborne Kingston)	The Lane is shown in yellow as a parish boundary and also coloured green as a bridleway, numbered 2
1964	Provisional map	Shows the claimed route as Bridleway 22, Winterbourne Kingston and Bridleway 11, Bloxworth
1967	First definitive map	Shows the claimed route as Bridleway 22, Winterbourne Kingston and Bridleway 11, Bloxworth
1974	Revised draft Map	Shows the claimed route as Bridleway 22, Winterbourne Kingston and Bridleway 11, Bloxworth
1989	Sealed definitive Map	Shows the claimed route as Bridleway 22 Winterbourne Kingston
2013	Working copy, definitive map	Shows the claimed route as Bridleway 22, Winterborne Kingston and Bridleway 7, Anderson

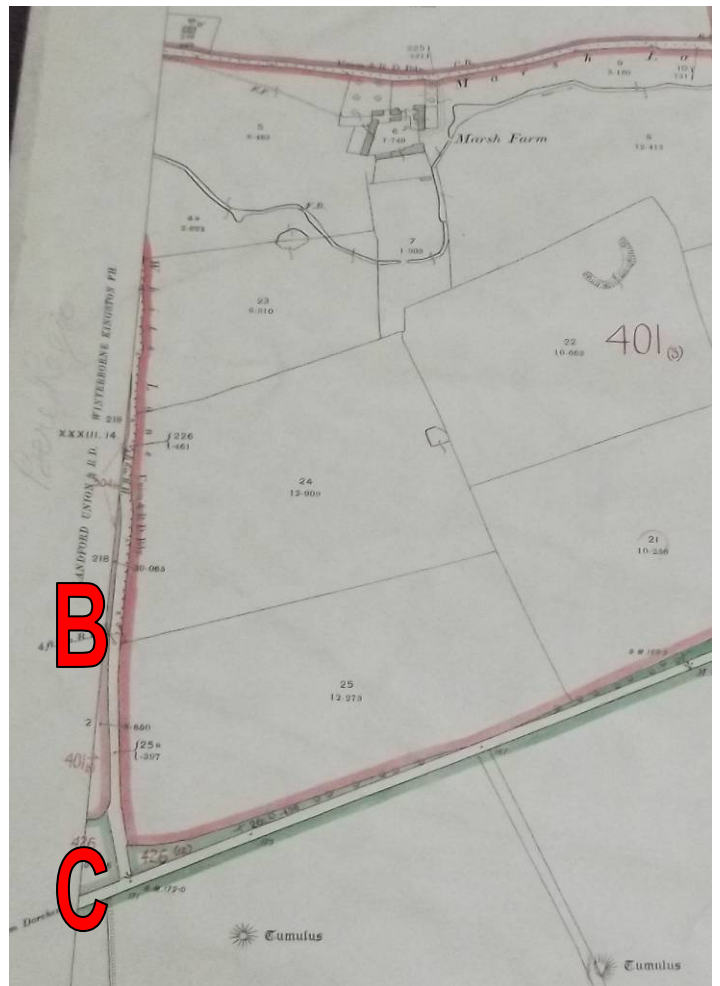
Extracts from key documents
(See the Director for Environment's file RW/T408 for copies of other documents mentioned)

1910 Finance Act Maps

Sheet 33.14

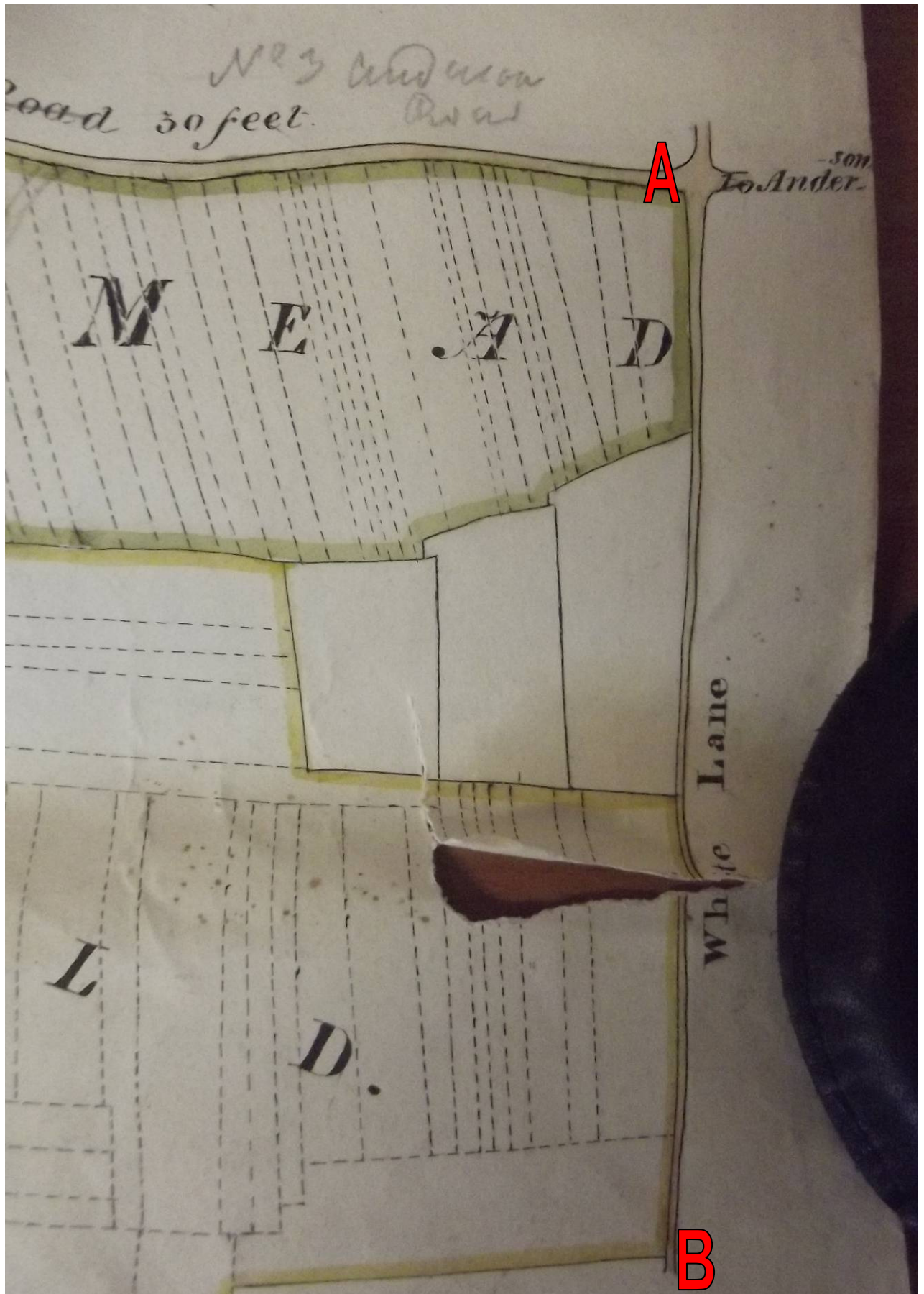


Sheet 33.15

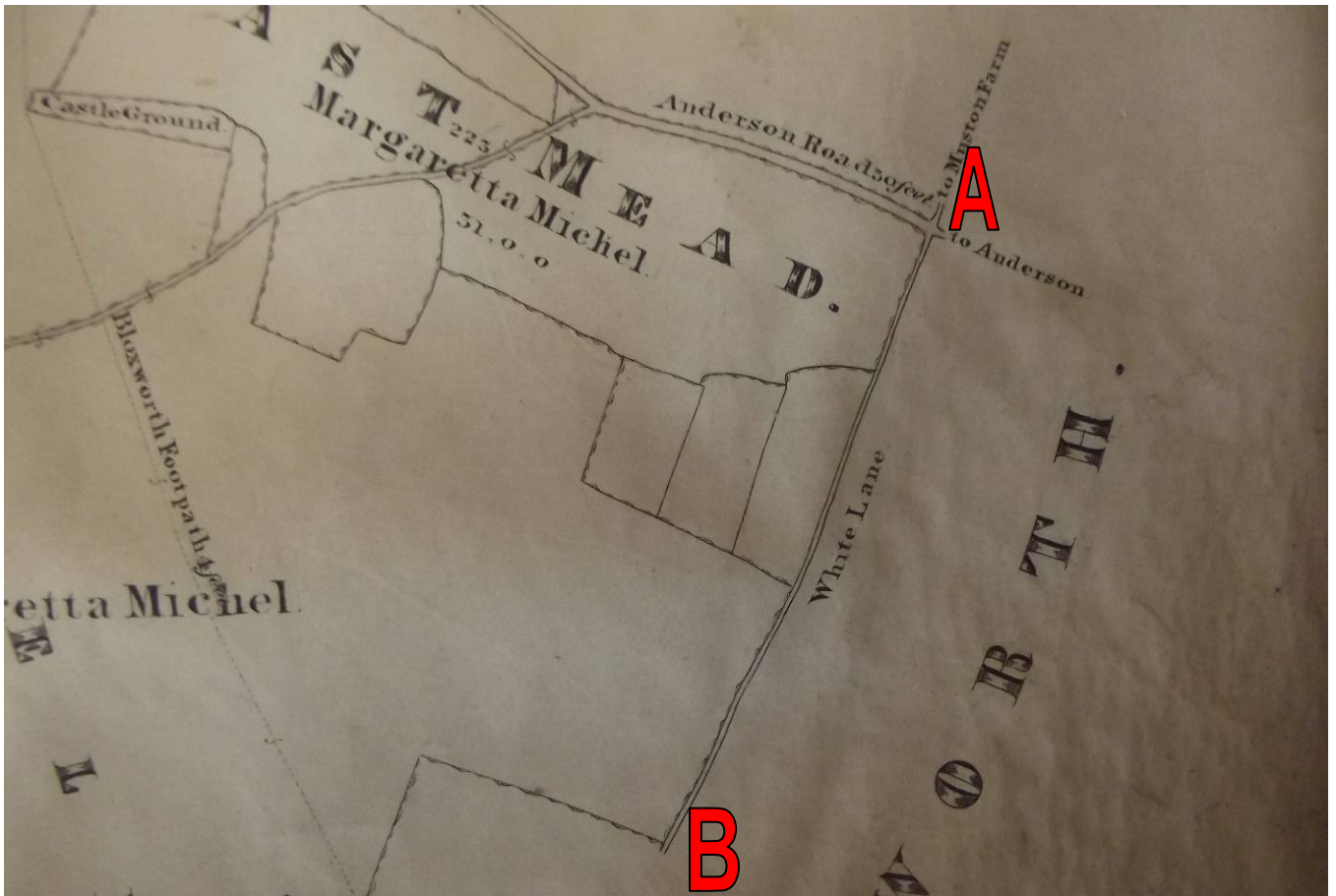


Page 21 Application for a definitive map and statement modification order to upgrade Bridleway 22, Winterborne Kingston and Bridleway 7, Anderson (White Lane) to byway open to all traffic

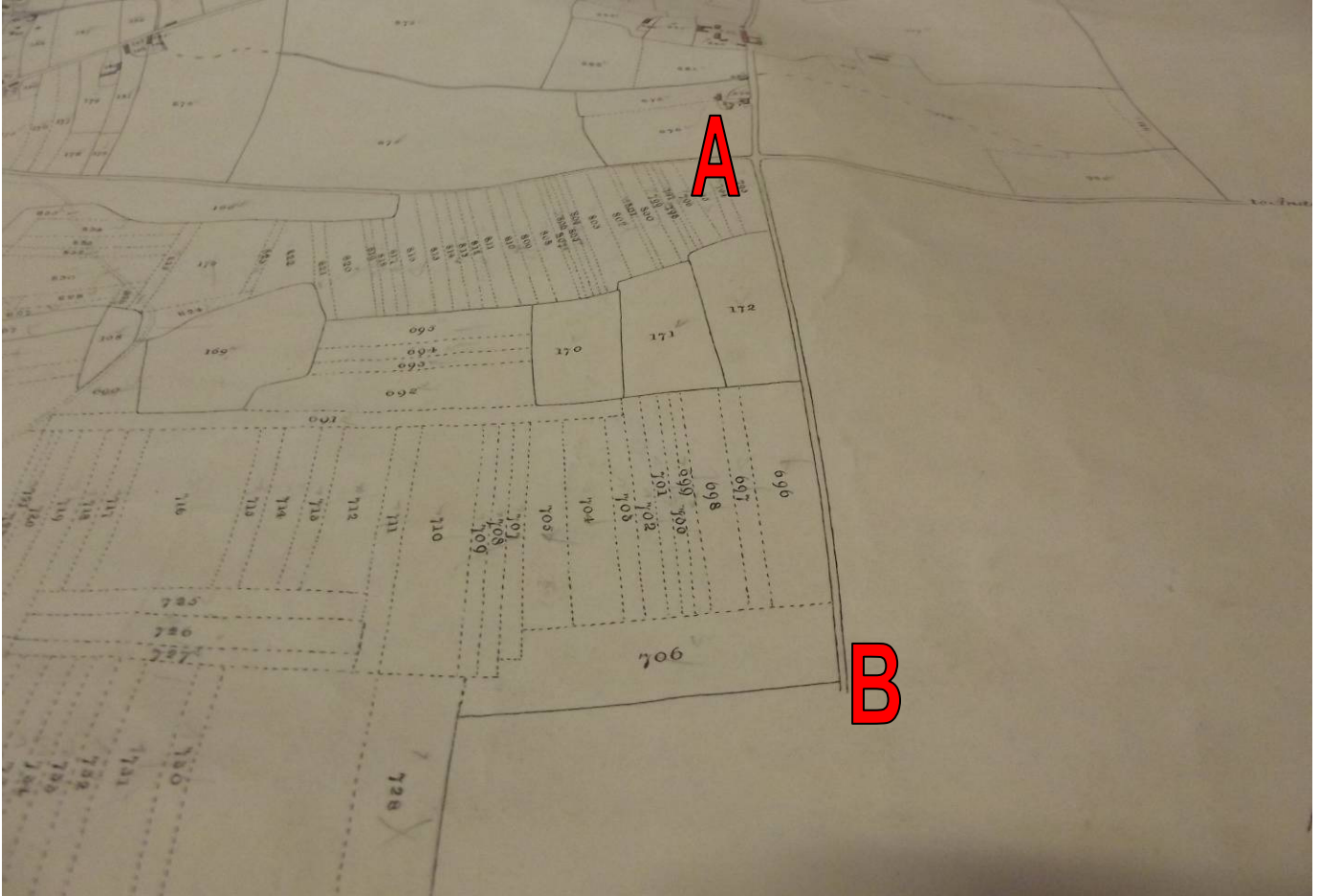
1847 Winterborne Kingston Inclosure Map showing roads



1848 Winterborne Kingston Inclosure Map



1844 Winterborne Kingston Tithe Map



1840 Piddletown and Wimborne Turnpike plan and Index



Piddletown and Wimborne Turnpike Index

The image shows a handwritten index table with two columns. The first column contains numerical identifiers and descriptions of land parcels or roads. The second column contains the names of the owners or surveyors. A red rectangular box highlights the entry for '400a Parish Road leading to Islandford'. Below the table, the text 'Parish of Winterborne' is written in cursive.

490	Arable Field	Honorable Robert Curzon and Reverend Robert Moore Justices for John Samuel Wanley Newbridge Esq Trax Esquire and Sarah Frances his Wife
491	Arable Field	Edward Richard Esquire
400a	Parish Road leading to Islandford	The Surveyors of the Highway of the Parish of Bloxworth

Parish of Winterborne