

Agenda item:

# Roads and Rights of Way Committee

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**Dorset County Council**



Date of Meeting	17 January 2013
Officer	Director for Environment
Subject of Report	Application for a definitive map and statement modification order to upgrade Bridleway 4, Winterbourne Steepleton, Bridleways 9 (part), 43 and 11, Portesham and Bridleways 17 and 8, Winterborne St Martin to byways open to all traffic
Executive Summary	In response to an application by the Trail Riders' Fellowship to upgrade Bridleway 4, Winterbourne Steepleton, Bridleways 9 (part), 43 and 11, Portesham and Bridleways 17 and 8, Winterborne St Martin to byways open to all traffic (one continuous route from Smitten Corner to Gould's Bottom) this report considers the evidence relating to the status of the route.
Impact Assessment:	<p>Equalities Impact Assessment:</p> <p>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 July 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.</p>

	<p>Nine user evidence forms from users of the claimed route were submitted during the investigation.</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:</p> <p>(i) Correct the recorded route of part of Bridleway 8, Winterborne St Martin from the route shown X – Y – Z to the route as shown X – Z on Drawing 12/38/1; and</p> <p>(ii) Upgrade the resulting (modified) route of Bridleways 4, Winterbourne Steepleton, Bridleways 9 (part), 43 and 11, Portesham and Bridleways 17 and 8, Winterborne St Martin to restricted byways as shown A – B – C – D – E – F – G – H – I – J – K – L – M – N – O – Q – R – S – T – U on Drawing 12/24/2;</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)(ii) 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:</p> <p>(i) The route of part of Bridleway 8, Winterborne St Martin subsists on the proposed modified line and not the current definitive line; and</p> <p>(ii) Highways shown on the definitive map and statement as bridleways ought to be shown as public vehicular ways. 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 restricted byways over the claimed route; and</p> <p>(c) The evidence shows, on balance the route claimed is a restricted byway on the route shown on Drawing 12/24/2. Accordingly, in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.</p>

<p>Appendices</p>	<ol style="list-style-type: none"> <li>1 - Drawing 12/24/1 (Showing the routes as currently recorded)</li> <li>2 - Law</li> <li>3 - Documentary evidence <ul style="list-style-type: none"> <li>• Table of documentary evidence</li> <li>• Extracts from key documents: <ul style="list-style-type: none"> <li>▪ Rights of Way Act 1932 – 1934 Statutory Declaration Map and Statement</li> <li>▪ 1864 Winterbourne Steepleton Inclosure map</li> <li>▪ 1841 Winterbourne Steepleton Tithe plan</li> <li>▪ 1841 Winterbourne Martin Tithe plan</li> <li>▪ 1952 Winterbourne Steepleton Parish Survey and schedule</li> <li>▪ c1952 Portesham Parish Survey and schedule</li> <li>▪ c1952 Winterborne St Martin Parish Survey and schedule</li> </ul> </li> </ul> </li> <li>4 - User evidence <ul style="list-style-type: none"> <li>• Table of user evidence</li> <li>• Charts to show periods and level of use</li> </ul> </li> <li>5 - Drawing 12/38/1 showing mapping anomaly</li> <li>6 - Drawing 12/24/2 (Showing the modified route proposed to be upgraded)</li> </ol>
<p>Background Papers</p>	<p>The file of the Director for Environment (ref. RW/T409)</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 are the applicant's own.</p> <p>Copies (or photographs) of the documentary evidence can be found on the case file RW/T409, 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</p> <p>Tel: (01305) 22 1562 Email: p.c.hobson@dorsetcc.gov.uk</p>

## 1 Background

- 1.1 An application to upgrade Bridleway 4, Winterbourne Steepleton, Bridleways 9 (part), 43 and 11, Portesham and Bridleways 17 and 8, Winterborne St Martin to byways open to all traffic as shown between points A and U on Drawing 12/24/1 was made by Mr D Oickle on behalf of the Trail Riders' Fellowship on 16 November 2005.
- 1.2 The route claimed commences at point A, its junction with the C122 road, continuing generally south east to a 10 feet wide field gate located at point F. The surface of this section comprises a stone/gravel track with a splay of 3.5 metres at point A, quickly narrowing to a width of 2.5 metres to point B with grass and scrub verges either side. From point B the route has a bank with a stock proof fence to the north western side and a hedge to the south western side. The width between points B and E is 4 metres between hedge and fence, widening to 6 metres between fences at another field gate 4.5 metres wide at point F. The surface from point E to F is grassed.
- 1.3 At point F the width is 6 metres between the fences located to either side and the route continues south east to a further 4.5 metre wide field gate at point G. The width of this section is 3.5 metres with a grass and stone surface. There is a stock proof fence defining the south western boundary but the north eastern boundary is unfenced.
- 1.4 The route continues south east, following a well defined 3.5 metres wide stone and grass track before reaching a further 3.3 metre wide field gate at point J. From point J the route continues east, mainly undefined and passing through an area of open scrub and rough grassland to a further 3 metre wide field gate at point K.
- 1.5 From K the route continues east then north east to point L as a well defined stone and grass track 3.5 metres wide. From L the route continues parallel to the south eastern boundary of a pasture field to a field gate with adjoining bridle gate at point M, its width being undefined. The route continues east following the southern margin of an arable/pasture field to another 3 metre wide field gate at point O, then along the southern margin of an arable/pasture field and through another 3.3 metre wide field gate at point Q, to another 3.3 metre wide field gate at point R, its width being undefined.
- 1.6 From R the route continues east, following a well defined 4 metre wide track located on the southern margin of an arable field to point T and then through two further 4.5 metre wide field gates located at points T1 and T2 before continuing along a 4.5 metre wide stone surfaced track to point T3 and then a 2.5 metres wide grass/stone track to a further 3 metre wide field gate at its termination point with the B3159 road, Gould's Hill, at point U on drawing 12/24/1.
- 1.7 The claimed route forms part of the inland South West Coast Path National Trail.

1.8 The claimed route has several owners or tenants. The ownership of the western end to point E is unclear but is bounded to the north by land farmed by Goldcombe Farm. From E to F it is farmed by C L & E A Grindle, and from F to I by A J & R G Barber, Maryland Farm. From I to K ownership is unknown and from K to M it is farmed by A J & R G Barber. From M to O it is owned by Mr G Duke and farmed by Bryce Farms Ltd and from O to U it is owned by W & P Marsh and Son.

## 2 Law

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

## 3 Documentary evidence (Appendix 3) (copies available in the case file RW/T409)

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/T409.

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 rights rather than any lesser rights. Therefore, we believe there is evidence to support our claim that this road carries vehicular rights".

## 4 User evidence (Appendix 4) (copies available in the case file RW/T409)

4.1 A table of user evidence summarised from witness evidence forms together with charts showing their periods and level of use form 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/T409)

6.1 Four objections were received after the application was made in 2005, none of which offered any evidence for consideration.

6.2 20 letters from 25 signatories were received as a result of the consultation, 13 of whom objected to the application.

### **2006 response to application**

<b>Name</b>	<b>Comments</b>
Winterborne St Martin Parish Council	No evidence provided.
Mrs D P F Bailward	No relevant evidence provided.
Mrs D Daw	See 2012 letter below.
A Daw	No relevant evidence provided.
Mr G Duke	Requested more information.

### **2012 response to consultation**

<b>Name</b>	<b>Comments</b>
Savills on behalf of Yuill Farms Ltd (owners south of P)	Strongly objects to proposed upgrade. No evidence provided.
J L Bryce Farms Ltd	Objects to “the changing of the current situation”. “No recollection of any vehicular use of the bridleway and no evidence on the ground of any use.” Parts are “too narrow to allow any vehicles access”.
Noel J Marsh, J W & P Marsh & Son	No relevant evidence provided.
Dave Searle Alex Hogg Darren Cook Dave Searle Mike Durham	Observed use by motorbikes.
Mrs D Daw	Never seen motor vehicles or carts on bridleways. Refers to Duke Declaration 1934 and says that it is “extremely tenuous to base any change of status on this”.
Paul Tomlinson	No relevant evidence provided.
Winterborne St Martin Parish Council	The statement of Mr A B Duke is “insufficient to satisfy the relevant legal test that mechanically propelled vehicular rights exist over the route....There is no mention of mechanically propelled vehicles in the statement. The map ...indicates that only sections of the route were recognised as a cart road”. Also refers to Parish Council comments from the Special Review Inquiry in 1981 that the route should remain as a bridleway as it was unsuitable.
Gerald Duke	His grandfather’s declaration’s purpose was to establish a prescriptive right following 20 years of private vehicular use of the bridle path along the claimed route. Aware that motorcyclists have been using the route and has challenged them on occasions. Erected signs in the 1970s and 80s. In late 1970s he padlocked a field gate at point M and erected a wicket gate.
Simon Millington	Has never encountered a motor vehicle in 18 years.

6.3 Eleven people included the following issues in their opposition to the upgrading of the bridleway: -

- Safety
- Damage to the surface
- Disruption to residents, wildlife and the natural environment
- Noise
- Pollution
- Suitability
- Dangerous junctions
- Disruption and damage to the historical environment
- Other alternatives available
- Impact on farming practices

6.4 None of these issues are relevant in determining what rights exist over the route.

## 7 **Other submissions received** (copies available in the case file RW/T409)

<b>Name</b>	<b>Comments</b>
Rosemary Bramah, Ramblers' Association (Jubilee Trail Co-ordinator)	No evidence to support application but would support the recording of a Restricted Byway should evidence demonstrate the route held vehicular rights.
Mrs K Gocher, Ramblers' Association South Dorset Group	Objected to the application but offered no evidence in support of this position.
Steve Church, Secretary, South West Coast Path Association	Has no objection to a restricted byway but would object to a byway open to all traffic. He offers no evidence in support of this position.
Mrs C Wakeford (ROWLO Winterbourne Steepleton)	Requested further information.
Mr T Pratelli	Requested further information.
Mr S Millington	Has never encountered a motor vehicle of any description.
B Fraser	Has not witnessed any vehicular use of the route other than agricultural vehicles.
Mr R Fraser	Has not witnessed any vehicular use of the route other than agricultural vehicles.
Natural England	No evidence provided.
Carol Shoopman, BHS	No evidence for or against the claim.
G Plumbe	No evidence provided.
Claire Pinder, Senior Archaeologist DCC	Should traffic increase a number of monuments may be affected.

## 8 Analysis of Documentary Evidence

### Rights of Way Act 1932 - Statutory Declaration Map and Statement 1934

- 8.1 The claimed route, as shown between approximately points F to I and K to O is clearly depicted upon the plan accompanying the declaration, which was made in 1934 by the landowner at the time, Colonel A B Duke, in respect of his Martinstown Estate. Both sections of the route are coloured green and designated as number 2, reference to the key reveals that 'route' 2 is defined as a "Cart Road", a vehicular highway, commencing "from extreme south-eastern corner of the estate running along the southern boundary to the western boundary".
- (a) The correspondence accompanying the plan is from "Hy Duke & Son, Chartered Surveyors, Land Agents, Auctioneers and Valuers" and states the following, "We beg to hand you herewith a plan showing the rights of way admitted by Col A B Duke on his Martinstown Estate". The schedule accompanying the plan is entitled "Rights of Way Act 1932 Statement of the position of rights of way admitted by the Martinstown Estate, Dorset" and is signed "A Barnaby Duke".
- (b) It is reasonable to assume that the admission of these highways was based on the Estate's knowledge and reputation of them. Therefore, it is considered that this declaration provides conclusive evidence to the fact that the Martinstown Estate admitted the existence of a public vehicular highway as shown between points F to I and K to O.

### Inclosure Award

- 8.2 The **1864 Winterbourne Steepleton Inclosure Award** was undertaken under powers conferred by "**The Acts for the Inclosure, Exchange, and Improvement of Land**" and is believed to refer to the "**Act to amend and further extend the Acts for the Inclosure, Exchange, and Improvement of Land 1852**" (see Law, Appendix 2).
- 8.3 This Inclosure Award differs from general Inclosure Awards in that although the Valuer did have the power to "set out and make public roads" it may only have been concerned with the division or exchange of existing inclosures. However, the annexed plan does identify a number of public roads, one of which is Public Road No 20, which in the opinion of the applicant provides support to the application as it is annotated as leading "To Weymouth" and would therefore have continued along the claimed route, crossing Whaddon Down and leading to Upwey.
- 8.4 In total, five 'public roads' are identified on the Inclosure plan, the majority of which are currently recorded as public highways, including several public carriageways. All of these routes are shown in exactly the same manner being colour-washed in brown and annotated with their origins and destinations. These details, which follow the conventional method for the depiction of public carriageways on maps of this period, may suggest that all these routes were considered as being vehicular.



- 8.5 There is also a public quarry, allotment 16, which is located alongside two of the roads included within the Award and was awarded to the Waywardens of the Parish in order to provide a source of materials for their ongoing maintenance and repair. In all probability horse drawn carts and wagons would have been used to distribute this material by way of the roads identified and although not strong evidence of status would suggest that the roads identified were of a sufficient standard for the passage of vehicles.
- 8.6 In addition to the above, the accompanying schedule demonstrates that the owners or occupiers of the allotments adjacent these roads, including Public Road No. 20, were required to erect and maintain fences against them, a requirement that suggests these routes were more than footpaths or bridleways.
- 8.7 The schedule also contains details as to the area of land occupied by the roads, which in the case of No. 20 was 2 acres and 3 perches or approximately 9,771 square yards. By reference to the Ordnance Survey Second Edition map scale 6 inches:1 mile it can be calculated that the length of Public Road No. 20 equates to approximately 1000 yards. In dividing 9,771 yards by 1000 yards the approximate width of the road can be ascertained, which in this case is approximately 30 feet ( $9771 / 1000 = 9.771$  yards = 29.32 ft), which, coincidentally, is the required minimum width of a public carriage road under the Inclosure legislation from 1801.
- 8.8 This document was created through a legal process and its accuracy confirmed by the application of the Commissioners' seal. Although it is not clear that it was directly concerned with the creation or alteration of the highway network it does nevertheless provide evidence as to the existence of a number of public roads and a public quarry that was awarded for their ongoing repair. The widths of these public roads have been determined as being approximately 30 feet, which exceeds the minimum width of 20 feet that was required in respect of public cart roads or carriageways under the **1835 Highway Act** and would be considered a generous width were they to be only footpaths or bridleways. In addition all of these roads were also required to be fenced, which was a statutory requirement contained under **Section LXV** of the **1845 Inclosure Act** in respect of Public Carriage or Cart Roads.
- 8.9 Whilst, on balance, this evidence would suggest that public road No. 20 was indeed a public carriageway and the plan is annotated in such a way as to suggest it continued towards Weymouth, it is not actually shown to extend beyond point A on Drawing 12/24/1. Therefore, although it is reasonable to suggest that the route may have continued towards Weymouth by way of the claimed route it is also plausible that it may have continued by way of the public carriageway via Martinstown.
- 8.10 Therefore, for the reasons outlined above it provides no evidential weight as to the status of the claimed route.

### **Tithe Maps and Apportionments**

- 8.11 The **1841 Winterbourne Steepleton Tithe Apportionment and Plan** depicts that part of the claimed route as shown from point A to point D. It is shown to be within the apportionment numbered 77 but is uncoloured and clearly defined by two parallel lines, the one to the southern side being unbroken (unfenced) and the one to the northern side being broken (fenced). At the point that coincides with point D the plan is clearly annotated as leading “to Weymouth”.
- 8.12 The **1841 Winterbourne Martin (Martinstown) Tithe Apportionment and Plan** depicts a route that generally corresponds to that part of the claimed route as shown from point K to point U on Drawing 12/24/1. It is colour-washed brown and shown in the same manner as other routes on the plan, the majority of which are currently recorded as public carriageways. At point U the route connects with two other routes, both of which are recorded as public carriageways and this junction is also annotated as leading “to Weymouth”.
- 8.13 The **1860 Portisham Tithe Apportionment and Plan** has little detail on it but does show parts of the route from approximately A to F and J to K. The route is defined by two parallel lines either broken or unbroken or a combination of both.
- 8.14 By themselves Tithe Apportionments rarely, if ever, provide conclusive evidence as to the status of the ways shown upon them. However, they can and do provide positive evidence that a particular route physically existed at the time of the apportionment. Although opinion is divided some experts argue that when a route is colour-washed and annotated with a destination and/or origin this may indicate that it was regarded as a public highway, probably a public carriageway. In this particular case, on their own the Tithe Apportionments may be considered to provide some support to the claim as evidence to the physical existence of the route at the time.

### **Parish Map and Conveyance and Mortgage documents**

- 8.15 The **1778** plan of the **Parish and Manor of Winterbourne Steepleton** depicts a number of routes including that part of the claimed route as shown between points A and D. It is shown in the conventional manner that public roads were shown on maps and plans of the period, being colour-washed brown and is annotated at approximately point D as leading to Weymouth. At approximately point A, Smitten Corner, it connects with the road from Martinstown to Portesham and Abbotsbury. At this point it also connects with other routes leading west of point A, which are also annotated as leading from Abbotsbury and Littlebredy, suggesting that it was part of a through route between these locations.

- 8.16 A **conveyance of landholdings** within the parishes of Winterbourne Steepleton and Winterbourne Abbas between F H Lambert and W C Lambert in March **1869** includes a plan of the area showing the lands to be exchanged. The plan also shows the surrounding area and depicts a number of roads, including the claimed route as shown from A to D. The route is defined by two parallel lines, the one to the northern side being broken and that to the south being solid. At what would correspond to point D it is annotated as leading to Weymouth, the annotation being in the same style as that shown at either end of the section of the road leading from Martinstown to Portesham. There is no indication that the land occupied by these roads was considered to be included within the surrounding allotments and the manner in which they are braced together across the roads suggests the opposite.
- 8.17 A further document, the date of which is difficult to distinguish but is possibly from around the same period, concerns the **mortgage** of an estate at Winterbourne Steepleton, the area concerned being the same as that of the conveyance above. The parties involved were W C Lambert and Sir W Erle and others and the document includes a plan which, although similar to that accompanying the conveyance, is drawn in a different style. This plan shows the same roads as the conveyance plan, including that part of the claimed route from A to D. On this plan the claimed route is not annotated at point D although both it and all the other roads are defined by two parallel solid lines and are colour-washed in pale yellow, segregating them from the surrounding allotments.
- 8.18 In respect of these three documents only the mortgage plan has an accompanying key and that is concerned only with land ownership. The majority, if not all, of the routes shown are recorded as public highways and the manner in which the route is depicted upon them suggests it was not part of any adjacent landholding. The bold depiction, colour-washing and annotation of the route suggests it was considered to be a public carriageway but the status of the route cannot be determined from these plans alone and consequently, whilst providing good evidence of the routes physical existence, they provide no conclusive evidence towards its status.

### **Finance Act 1910**

- 8.19 The claimed route passes through or is adjacent **Hereditament 258** in Winterbourne Steepleton, **Heraditaments 130, 133, 140 and 160** in Winterborne St Martin (Martinstown) and **Heraditament 23** in Portesham. No part of the route is excluded for the purpose of valuation, although by reference to the accompanying valuation books it can be seen that the affected hereditaments were all subject to deductions for public rights of way or user. Hereditament 258 received a reduction of £100 and Hereditaments 130, 133, 140 and 160 received deductions of £125, £250, £230 and £750 respectively. Hereditament 23 received a deduction of £250.
- 8.20 The deductions received represent substantial sums with respect to the acknowledged public rights of way and user within these hereditaments. However, they are all generally large areas covering many acres of land and the information contained within the valuation books is insufficient to establish which of these routes had been the subject of these deductions.

- 8.21 Although the exclusion of a way upon the **Finance Act plans** provides good evidence towards the status of the way being that of a public highway, possibly a public carriageway, the non-exclusion of a way and the lack of any deduction in respect of it does not provide any conclusive evidence that the way was not a public highway. Although there were severe penalties for wrongfully claiming tax relief there were no penalties for not acknowledging the existence of public highways. Consequently, this evidence cannot be given any weight for or against the claimed status of the route and is therefore considered as being neutral.

## **National Parks and Access to the Countryside Act 1949**

### **Parish Surveys**

- 8.22 The **Winterbourne Steepleton Parish Survey** recorded that part of the claimed route as shown A to D as **CRB 1**. CRB is described in the advice used as a practical guide for parish councils as a "Public Carriage or Cart Road or Green (unmetalled) Lane mainly used as a Bridleway". The Schedule reveals that the path was surveyed in September 1952, the route described as commencing from Smitten Corner and leading to the parish boundary with Portesham. The Schedule also notes that there were no obstructions, no gates or stiles and the reason for claiming the path was based on there being evidence of 50 years or more of public use.
- 8.23 The **Portesham Parish Survey** map records that part of the claimed route as shown from point D to E as **CRB 45 (part)** but does not appear to record that part shown from point E to F. The part from I to K is shown in green and is also included in the Schedule as **CRB 42**. The survey sheets contain little detail in addition to the route numbers and their classification. **CRB 45** is described as leading "from CRB 32 north of Bench to Winterborne Ph Bdy on Bronkham Hill". **CRB 42** is described as commencing from "Path No 4 Wint St Martin to Path No 4 Wint St Martin".
- 8.24 From the depiction upon the **Parish Survey map** it appears that **Winterborne St Martin** (Martinstown) parish recorded that part of the claimed route as shown from D to U as **CRB 4**. This suggests that the parish may have mistakenly claimed some parts of the route that fell within Portesham parish, although from the description in the Schedules this appears to have been resolved later. The original Parish Survey sheets are missing, the only notes remaining on the file being those following the completion of the Parish Survey and the production of the draft map. These notes reveal that the majority of the claimed CRBs in the parish were reclassified as Bridleways, although CRB 4 was retained as a CRB, the route being described as "No 4 Ridge Hill Rd CRB From Goulds Hill - Hamar's Plantation".

### **Draft, Provisional and First Definitive Maps**

- 8.25 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.

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- 8.26 The entire route was recorded as a **CRB** on the **draft map** for the South Area, which was published in January 1955. That part of the claimed route within Winterbourne Steepleton as shown A to D was identified as **CRB 1**. The parts in Winterborne St Martin (Martinstown) as shown E to I and K to U was recorded as **CRB 4**. The parts within Portesham as shown D to E was recorded as **CRB 45** and that part between points I and K as **CRB 42**.
- 8.27 The entire route was recorded as a bridleway on both the **1964 provisional map** and the **1967 first definitive map**. On both maps that part in Winterbourne Steepleton as shown A to D was identified as Bridleway 4, those parts in Winterborne St Martin (Martinstown) as shown E to I and K to U as Bridleway 8 and those parts within Portesham as shown D to E and I to K as Bridleways 9 and 11.
- 8.28 There are no records of any objections that may have led to the re-designation of the route from a CRB to bridleway so it is assumed that this was in response to the decision taken by the National Parks Sub-Committee that met on 23 June 1958 to discuss 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.)”.
- (a) The Sub-Committee determined that the National Parks and Access to the Countryside Act 1949 (NPAC 49) required the County Council to establish public rights on footpaths and bridleways only and that references to any other uses should be omitted. As a consequence of this decision 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.
- (a) The conclusion of the National Parks Sub-Committee that the County Council were required to establish public rights on footpaths and bridleways only was incorrect as Section 27 of the NPAC 49 Act also required the surveying authority to show those ways which were, or were reasonably alleged to be, Roads Used as Public Paths (RUPPs).
- 8.29 The evidence derived from the records leading to the publication of the first definitive map provides some support towards the claimed public rights as it indicates that the parishes concerned understood that their surveys were to include the recording of all footpaths, bridleways and RUPPs (CRBs, CRFs). The recording of the route as a CRB throughout its length during the parish survey and as published on the draft map suggests that during the surveys and investigations that led to the publication of the draft map the Parish Council and Dorset County Council had discovered evidence of or acquired knowledge to the reputation of the route being that of a public vehicular highway.

### **Special Review and revised draft map**

- 8.30 During the **Special Review of public rights of way**, which led to the production of the **1974 revised draft map** and ultimately the publication of the **current 1989 definitive map** a claim that the route, which was referred to as the Bronkham Hill Track, ought to be shown as a byway open to all traffic (BOAT) was made by the British Motorcyclists Federation (BMF) in April 1973.

- (a) The file also contains two letters of objection to the suggestion that the route may be considered for upgrading. The first was from Mr H O B Duke, an owner of land affected by the route, who stated that “for much of its length it is used as a farm track and has always been and to my knowledge rights in this respect have been reserved and granted when the land has changed hands to permit of access to adjoining land. When motoring, Service or other organisations have wished to use it they have done so with specific permission”.
- (b) The second letter was from Mr J W Marsh, Manor Farm, Martinstown. Mr Marsh did not provide any evidence that would have been helpful in determining its status but expressed concern that the use of the route with motorcycles would result in the disturbance of livestock.

8.31 The records from the Special Review suggest only that the recorded status of those parts of the route in Winterbourne Steepleton, Bridleway 4 from A to C and Winterborne St Martin, Bridleway 8 from E to I and K to U, were considered by the Special Review Committee. However, the grid references provided and the references to Portesham within the text indicates that the whole of the route was considered, including the two small sections within Portesham, Bridleways 9 and 11 from D to E and I to K.

- (a) The Special Review Committee were advised that in Winterborne St Martin (C to U) the route consisted of a “hard gravel track” at its eastern end, the remainder comprising a “good grass track along the edge of fields” and that “the section may be negotiated with care by private vehicles in dry weather, but in less clement conditions is suitable for use by farm vehicles only”. In Winterbourne Steepleton (A to C) they were advised that the route was “badly rutted in places and is used by and suitable for use for farm vehicles only”.
- (b) On 30 August 1973, having considered the available evidence, the Special Review Committee determined that the route should be retained as a bridleway as they concluded that public vehicular rights were not shown to exist over it.

8.32 In accordance with the Committee’s decision the entire route, A to U, was recorded on the **revised draft map** as a bridleway. However, in 1975 in response to this decision, objections were received from Mr F E Furlong on behalf of the BMF and Mrs R Colyer on behalf of the Ramblers’ Association.

8.33 In his statement of 28 April 1975, Mr Furlong said that he held a “statement of old user who in pre-war days drove an ordinary car from the A354 at [GR] 670860 West to Hardy’s Monument” and also evidence of use by car up to a few years previously.

8.34 In her statement of April 1975 Mrs Colyer also claimed that the route should have been re-classified as a BOAT, the grounds for her objection being due to the danger of the route being ploughed.

### **Public Inquiry**

- 8.35 In light of the objections to the revised draft map a **Public Inquiry** was held at Abbotsbury on 13 October 1981. A brief summary of the Inspector's findings follows.
- 8.36 The Inspector heard arguments from the objectors and other interested parties. However, it should be noted that the Inquiry was conducted under different terms of reference than apply today. At the Inquiry issues such as suitability and hardship were relevant considerations.
- 8.37 With respect to the objectors, Mr Cockrell on behalf of the BMF provided evidence of sporadic public vehicular use dating from the 1930s to 1981 and map evidence derived from Tithe Apportionments and Inclosure Awards and also Ordnance Survey and Commercially produced maps. Mr Cox, acting independently, provided evidence of use when he accompanied his grandfather in a car during the 1930s and of his own use on horseback during the 1960s and 1970s when he met a number of car drivers and motorcyclists using the route.
- 8.38 With respect to the interested parties who provided evidence or statements (16 in total), in opposition to the upgrading of the route, Major H O B Duke, whose family had owned or occupied a two mile length of the route, suggested that any vehicular use of the route was by express permission and otherwise it had been used solely for walking or horse riding.
- (a) Mr Griffiths, who managed the land at the western end of the route, stated that he rarely witnessed any vehicular use of the route and although he was aware of some infrequent use by motorcycles he considered the route unsuitable for vehicles.
  - (b) Mr Marsh, who farmed the land at the western end of the route, stated that he had never seen a motorcycle and of the few vehicles that he had seen using the route most were public utility vehicles.
  - (c) The remaining statements referred to issues such as desirability, suitability and safety, issues which today cannot be taken into consideration in determining the application.
- 8.39 In his 'findings of fact' the Inspector acknowledged the evidence of vehicular use and of the landowners' statements that such use by motorcycles was without permission and illegal. He also acknowledged the map evidence, Inclosure, Tithe, Ordnance Survey and Commercial maps, submitted in support of the claim.
- 8.40 In his conclusions, bearing in mind his 'findings of fact', the Inspector stated that, with respect to the Ordnance Survey and Commercial maps, although they provided physical evidence of a route they did not demonstrate that public rights existed over it. The public road shown on an adjoining Inclosure Award did not in itself provide evidence that the Inquiry route was a public road and the fact that the route was shown in a similar way to other public roads on the Tithe Award indicated only that it was not subject to tithe.

- 8.41 With respect to the evidence of vehicular use the Inspector concluded that the majority of this use took place after 1967 and whether or not it was with the permission of the landowners it was not sufficiently adequate to justify the changing of the route's status to that of a BOAT and he therefore dismissed the claim.
- 8.42 Based on an understanding of how the Inquiry was conducted the Inspector's conclusions are reasonable. However, it should be acknowledged that they were reached under the legal tests that applied at the time. The Inspector rightly concluded that the documentary evidence available to him provided little support to the claim and subsequently dismissed it. However, strong evidence towards the existence of public vehicular rights over part, if not all, of the route is contained within the 1934 declaration made under the 1932 Rights of Way Act (see paragraph 8.1 above), which was not made available either to the Special Review Committee or to the Inspector. Had this evidence been available to either party some significant weight may have been given to it and in turn this may have added some additional weight to both the documentary and user evidence that was available at the time.
- 8.43 Having dismissed the documentary evidence the Inspector's conclusions relied solely upon the user evidence and that provided by the landowners and other interested parties opposing the upgrade. It is reasonable to assume, although it is not expressly stated, that he applied some weight to the latter.
- 8.44 Under the current regulations the majority of the landowner and other interested parties' evidence would be dismissed as being irrelevant to the investigation, whilst Major Duke's assertion that any public vehicular use was with express permission conflicts with his father's public declaration and acknowledgment that the route was a public cart road. With respect to the evidence provided by Mr Griffiths and Mr Marsh, the question of suitability would be considered as being irrelevant, whilst the evidence of public use in vehicles would need to be taken into account.

#### **Current definitive map - anomaly**

- 8.45 During this investigation evidence was discovered indicating that an anomaly was introduced onto the revised draft definitive map, which resulted in the route of Bridleway 8, Winterborne St Martin being shown incorrectly to follow the route as shown X – Y – Z on Drawing 12/38/1. (Appendix 5). This error has been repeated on the current definitive map. The correct route, as claimed by the Parish Council during their survey of rights of way, should follow the route as shown between points X and Z. (The location of this anomaly is near point O on Drawing 12/24/1).
- 8.46 On balance, it is considered that this anomaly arose as a result of a drafting error and no evidence has been discovered to suggest that the route as originally claimed by the Parish Council was incorrect or had been the subject of any subsequent objection or diversion.



### Ordnance Survey Maps

- 8.47 The **Ordnance Survey Drawings**, which were made in preparation for the publication of the first edition of the one inch 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 the claimed route was completed in **1806** and clearly depicts the route throughout its length (A to U). The route is defined by two parallel lines both of which are, in the main, broken, suggesting that no fences or hedges were present. However, there are also stretches defined by solid lines, suggesting that here fences or hedges were present. The route is shown as a through route and is depicted in the same or similar manner as other public highways within the vicinity. It is also annotated boldly as the “Ridgeway”.
- 8.48 The **1811 Ordnance Survey First Edition map** at a scale of 1 inch:1 mile shows a route that corresponds to both that of the 1806 drawing and that of the claimed route throughout its length from A to U. It is clearly defined by two parallel lines, sometimes solid and sometimes broken, denoting whether hedges or fences were present. The route is depicted in the same manner as other routes in the vicinity, many of which are now recorded as public highways, including public carriageways. The manner in which it is depicted suggests that it was a significant through route capable of accommodating vehicular traffic and had no gates or barriers to prevent or control such use.
- 8.49 The **1888 Ordnance Survey First Edition map** at a scale of 6 inches:1 mile (1:10560) depicts a route that corresponds with that of the claim. The route stretches over Ordnance Survey sheets 46 NE and 47 NW and SW. The map depicts the route for the majority of its length with the exception of a short section between points N to Q where a route is shown slightly further north connecting to what are now recorded as Bridleways 7 and 11, Winterborne St Martin.
- (a) Both the **Second Edition, 1903** and the later **1930 Edition maps** at the same scale depict the route throughout its length, A to U.
- (b) Both the **First and Second Edition maps** at this scale are annotated with the words “Smitten Corner” at point A. The claimed route is defined by two parallel lines, sometimes solid and sometimes broken (fenced or unfenced). There is no line across the entrance at point A or at the termination point shown as U, which suggests that at this time the route was not gated against the adjoining public carriageways. However, the depiction of solid lines or bars through the route suggests that gates or barriers were located at points I, E, M, O, R, S, and T. There are also several abbreviations annotated along the route: ‘F.F.’ (face of fence) and ‘F.W.’ (face of wall) denoting the position of the parish boundary. Both First and Second Editions are annotated ‘B.R.’ (Bridle Road) at one location on one sheet along the route indicating that this may have been the status the Surveyor thought the route held.
- 8.50 The **1902 Ordnance Survey Second Edition map** at a scale of 25 inches:1 mile (1:2500) depicts the same or a very similar situation as the Ordnance Survey 6 inches:1 mile Second Edition map.

- 8.51 The applicant also provided extracts from several other Ordnance Survey maps in support of the application.
- (a) The **Reduced Ordnance Survey one inch map** produced by **G Richmond**, Birmingham, circa early **1900s**, has no key but the route claimed is prominently defined by two parallel solid or broken lines from point A to point U, being depicted in the same manner as other public roads in the vicinity.
  - (b) The **Ordnance Survey Second Edition one inch map (coloured) c1906** shows the majority of the route from A to P and Q to U. It is clearly depicted with a combination of two parallel solid or broken lines apart from the section between P and Q where the route shown from P follows a north easterly direction to connect with what is now recorded as Bridleway 11, Winterborne St Martin. Reference to the accompanying key reveals that sections A to P and Q to U were defined as an 'Unmetalled Road'.
  - (c) The **Ordnance Survey one inch map 1912 (uncoloured)** shows the claimed route in the same manner as the 1906 coloured one inch map.
  - (d) The **Ordnance Survey one inch maps, sheets 140 1937 and 178 1945**, appear to show the entire route, their respective keys defining it as an unfenced minor road.
- 8.52 The evidence provided by the **Ordnance Survey maps** show a route that was capable of accommodating vehicular traffic. The claimed route is generally shown in the same manner as other public carriageways located in the vicinity and, with the exception of part P to Q on the earlier one inch maps, it is clearly defined throughout its length on all of them. However, although these maps provide evidence as to the physical existence of the route they do not, on their own, provide any conclusive evidence as to the status of the route.

#### **Commercial Maps (including Bartholomew's maps)**

- 8.53 The applicant provided a number of extracts from various commercially produced maps of Dorset at both large and small scales, most of which are held at the Dorset History Centre Ref DC/BTB:R5. Several other maps have also been submitted and or examined as part of the investigation.
- 8.54 **Bartholomew's maps** are based on Ordnance Survey data and were extremely popular and widely referred to by the public, including cyclists, who through the Cyclists' Touring Club provided information used in their continued revision. They provided information on first, second and 'indifferent' classes of roads as well as footpaths and bridleways.
- 8.55 The **Bartholomew Road Map of England & Wales Sheet 11 (1913)** at a scale of 4 inches:1 mile shows the whole of the claimed route from A to U. It is defined by two parallel solid lines and reference to the accompanying key reveals that it was identified as an 'other road'. From around 1920 onwards the **Bartholomew Revised Surveys** at a scale of 1 inch:2 miles depict the route by means of a single broken line and reference to the accompanying keys indicate that it was identified as a footpath or bridleway.

- 8.56 The extracts from the **Small & Large Scale Maps of Dorset** examined or submitted in evidence by the applicant, or examined as part of the investigation, 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, despite their relatively small scale, all of them (with the exception of Ogilby's and the later Bartholomew's) show the entire route clearly and prominently and those with keys define it as a 'road' or 'cross road' rather than a footpath or bridleway. Consequently, it is considered that this evidence, whilst providing nothing conclusive, may be seen as adding some support to the claim, although no significant weight has been attached to them.

### **Aerial Photographs**

- 8.57 The aerial photographs from 1947 and 1972 show the entire route from point A to U, which is shown very clearly and suggests the route was quite capable of accommodating vehicular traffic. The later photographs from 1997 and 2009 show a similar situation and do not reveal anything to suggest the route was not capable of accommodating vehicular traffic. However, although the photographs can confirm the route physically existed during this period and was capable of and appears to have been used by vehicular traffic, they do not provide any conclusive evidence as to the status of the route.

## **9 Analysis of user evidence supporting the application**

- 9.1 A total of nine written forms of user evidence were submitted by the applicant. A summary of these forms of evidence is set out below, but reference should be made to the actual forms contained within the file of the Director of Environment Ref RW/T409 for all the information.
- 9.2 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".
- 9.3 All of the witnesses state that they have used the route on motorcycles and also on foot, horse or bicycles and one in a car, either individually or with other users, as shown between points A to U on Drawing 12/24/1. Their use was for pleasure and the majority of the witnesses were aware of other users either on foot, motorcycles, bicycles, cars or horses.
- 9.4 The earliest date of use is 1966 with the latest being 2005, encompassing a period of 40 years. Frequency of use varies from 1 or 2 times a year to 10 times a year.
- 9.5 During this period of use none of the witnesses recalls being challenged, turned back or having been given permission to use the route and although several were aware of 'bridleway' signs they did not recall seeing any other notices prohibiting the use of vehicles. The majority of the witnesses are of the opinion that the landowner(s) must have been aware of their use of the route due to the tyre tracks left and one witness recollects waving to and being acknowledged by farm workers.

- 9.6 All of the witnesses recall the presence of gates along the route, eight of the witnesses state that these gates were always unlocked and one witness does not state whether they were locked or not.
- 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 mechanically propelled vehicles) was brought into question.
- (a) As no confirmed date of challenge has been identified that would be considered sufficient to have brought the use of the route with vehicles into question, the date that the application was made, 1 July 2005 will be taken to be the date of bringing such use into question.

## 10 Analysis of evidence opposing the application

- 10.1 The majority of the objections or submissions relate to issues that cannot be taken into account when determining whether or not the claimed rights exist. However, several objectors raise issues or have provided evidence requiring more detailed examination. A summary and analysis of these submissions follows.
- 10.2 Mr S Millington, B Fraser and Mr R Fraser have not witnessed any vehicular use of the route other than with agricultural vehicles.
- Whilst there is no reason to doubt the sincerity of these witnesses it is assumed that they did not keep the route under continuous observation and consequently use may have taken place without their knowledge. Several other witnesses have observed such use and nine user evidence forms were submitted with the application.
- 10.3 The Winterborne St Martin Parish Council are of the opinion that the Statutory Declaration made by Mr A B Duke in 1934 is insufficient to satisfy the legal test that mechanically propelled vehicular (MPV) rights exist over the claimed route. They also note that there is no mention of any MPV rights within the document and only certain sections of the route were designated as a Cart Road, which they feel was probably a personal definition used by Mr Duke to instruct farm workers, nor is there any evidence that MPV rights were acquired prior to 1 December 1930. In addition they feel it unlikely that MPV vehicles would have been in general use prior to the 1950s.
- The Parish Council are correct that the declaration on its own would be insufficient to conclude that public MPV rights have survived the presumed extinguishment under the provisions of the Natural Environment and Rural Communities Act 2006 (NERC). However, it does provide very strong evidence in respect of determining whether or not public vehicular rights existed over the route prior to the commencement of NERC.

- As discussed earlier in the report the Statutory Declaration was made under the Rights of Way Act 1932. It followed legal procedure and the correspondence accompanying the declaration provides no evidence to the effect that the procedure was not fully understood by the landowner or his Agent. This document provides strong evidence to the fact that the Martinstown Estate admitted the existence or dedication of a public vehicular highway as shown between points F to I and K to O.
- With respect to MPV use prior to the 1950s, evidence to that effect was provided to the Public Inquiry in 1981. It should be noted that mechanically propelled vehicles have been in existence well before the start of the last century (1900).

10.4 Mr G Duke also disputes the validity of the declaration made by his grandfather Mr A B Duke. Mr Duke refers to the fact that on the same declaration his grandfather identified a footpath as “No. 1”, which was later recorded as Bridleway 10, Winterborne St Martin and, as a consequence, the accuracy of the status of the claimed route identified as a “Cart Road” on the plan is open to question

- The Statutory Declaration is summarised and analysed at paragraph 8.1 above and also in the response to the same question at paragraph 10.3 above.
- The route identified by Mr Duke’s grandfather in his declaration as a footpath is currently recorded as Bridleway 10, Winterborne St Martin on the definitive map, which represents a higher status than was initially acknowledged by his grandfather. To establish whether an error may have been made would require the examination of additional evidence that, on balance, would support Mr Duke’s suspicions.
- However, the evidence examined during the investigation is insufficient to overcome the initial presumption that the 1934 declaration was correctly made. Indeed, much of the evidence would support this presumption. For example, the Parish Survey and the draft definitive map recorded both Bridleway 10 and the claimed route, in addition to several other routes over the Martinstown Estate that are currently recorded as bridleways, as Cart or Carriage Roads used mainly as a Bridleways (CRB). This suggests that, at that time, the Parish Council were aware that all of these routes had been or were being used by the public in vehicles in addition to any public use on foot and horseback.

10.5 Mr Duke states that it is most relevant that his grandfather’s declaration was made 22 years after his purchase of the Martinstown Estate, which he believes was done in order to establish a prescriptive right following 20 years of private use of the route.

- The declaration was concerned with the landowner's acknowledgement of existing public rights of way and the prevention of the accrual of any additional public rights of way over their land. It has nothing to do with any private rights that may have existed separately over the route as these were a matter for the respective owners of the land and not the public. Mr Duke's conjecture as to the timing of the declaration has little evidence to support it and it seems more probable that it relates to the fact that the legislation under which it was made, the Rights of Way act 1932, had been only recently introduced.

10.6 Mr Duke continues by stating that during his management of the estate he was aware of motorcyclists using the route and that on occasions he stopped them and either turned them back or permitted them to continue. He also states that he erected signs between the 1970s and 90s, advising motorcyclists they were trespassing but these were either defaced or removed very quickly. During the late 1970s Mr Duke padlocked the field gate at point M, which later fell into disrepair and was replaced with a wicket gate, which has recently been replaced with another field gate.

- Mr Duke acknowledges that the route was being used with motorcycles during his ownership/management of the estate (1976 – 2010). Although he states that on occasions he successfully challenged users none of the user witnesses acknowledge being challenged during this period and no other witnesses have come forward to confirm they had been challenged.
- None of the user witnesses recall the existence of any signs or notices other than bridleway or coastal path signs. In addition, on his own admission, they were not erected for a sufficient period of time to have brought any message they may have contained to the attention of the users.
- With respect to the locking of the gate in the late 1970s, if corroborated this may be considered sufficient to bring public rights into question. However, none of the witnesses recall any locked gates along the route.
- It should also be noted that without lawful authority the padlocking of the gate by Mr Duke and also its later replacement with a wicket gate would constitute an unlawful obstruction as it would prevent use over the full extent of the bridleway by the public.

10.7 Mr Duke refers to his father's statement made during the Public Inquiry in 1981 and adds that he too gave consent to the armed forces to use vehicles over that part of the route from O to M.

- In light of the 1934 declaration any public use of this section of the route in vehicles would be considered as being as of right and therefore did not require the landowner's consent.

10.8 Mr Duke enclosed photographs of that part of the claimed route as shown between points M and N, one taken in 2006 and the other in 2012. He comments that there is no sign of any motorcycle use on them and no tyre marks, just a path well trodden by walkers and therefore the claim of frequent use by motorcyclists cannot be justified.

- It should be noted that these photographs are taken after the application date of 2005.

## 11 **Analysis of other submissions**

11.1 The other letters or submissions contain no evidence to be considered.

## 12 **Conclusions**

12.1 As the whole of the claimed route is already recorded upon the definitive map and statement as a public bridleway it is necessary for members to determine whether, on the balance of probability, the highways (or parts of them) shown in the definitive map and statement as bridleways ought to be shown as highways of a different description.

12.2 It is considered that the most significant piece of evidence is that of the **Statutory Declaration of 1934** made under the **Rights of Way Act 1932**, which was not made available either to the Special Review Committee in 1973 or to the Inspector appointed by the Secretary of State to undertake the Public Inquiry in 1981. It provides persuasive evidence towards the status of two sections of the route as shown F to I and K to O being that of a public vehicular highway, it being made with the landowner's knowledge of the route's reputation and use. As a consequence this lends weight to the additional supporting evidence, both documentary and user, which though not insignificant may otherwise be considered as being inconclusive or insufficient on their own.

12.3 Some 20 years after the 1934 statutory declaration the recording of the route as a CRB by all of the parishes concerned during their **Parish Surveys**, undertaken during the early 1950s, lends further weight to the conclusion that the entire route was considered as and held the reputation of being a public vehicular highway.

12.4 The evidence provided from the various **Tithe Apportionments** and also the **Parish Map, Conveyance and Mortgage Plans, Ordnance Survey and Commercial Maps**, which although on their own may be considered as being inconclusive to the status of the route may, nevertheless, in light of all the other available evidence, be attributed some weight and provide some supporting evidence to the application.

- 12.5 Following the **Public Inquiry** held in 1981, the Inspector acknowledged that there was evidence of public vehicular use. He also acknowledged the evidence made available from the Inclosure, Tithe, Ordnance Survey and Commercial maps but concluded that, on its own, this evidence was not sufficiently adequate to demonstrate that public vehicular rights existed over the route. However, it is considered that, had the Inspector had the benefit of examining the evidence provided by the Statutory Declaration and, in addition, been able to apply the current legal tests to both it and the rest of the available documentary evidence, he would have been persuaded by its collective weight and that, on balance, public vehicular rights existed over the route.
- 12.6 The cumulative weight of the documentary evidence analysed in paragraph 8 provides strong evidence towards the existence of public vehicular rights over the whole of the claimed route as shown between points A to U on drawing 12/24/1. It is considered sufficient to demonstrate, on balance, that the claimed public rights exist and an order should be made.
- 12.7 As discussed at paragraphs 8.45 and 8.46 above the documentary evidence examined during the investigation of this application demonstrates that an error was introduced onto the revised draft definitive map. This has resulted in part of the route of Bridleway 8, Winterborne St Martin being shown incorrectly on the current definitive map, which requires correction by means of a definitive map modification order.
- 12.8 If members are not satisfied that the documentary evidence shows, on balance, that a public vehicular right exists they should consider whether it, in conjunction with the user evidence constitutes a deemed or inferred dedication.
- 12.9 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 2005.
- 12.10 There is evidence of use provided by nine members of the public with vehicles dating from 1966. It is considered as being sufficient to fulfil the requirement of 20 or more years use by the public, as of right and without interruption, prior to the date public rights were brought into question.
- 12.11 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.
- 12.12 Therefore it is recommended that a definitive map modification order be made to:
- (a) Correct the existing anomaly in respect of part of the route of Bridleway 8, Winterborne St Martin as shown on Drawing 12/38/1.
  - (b) Upgrade the resulting modified route from public bridleways to restricted byways as shown between points A to U on Drawing 12/24/2.



Page 25 Application for a definitive map and statement modification order to upgrade Bridleway 4, Winterbourne Steepleton, Bridleways 9 (part), 43 and 11, Portesham and Bridleways 17 and 8, Winterborne St Martin to byways open to all traffic

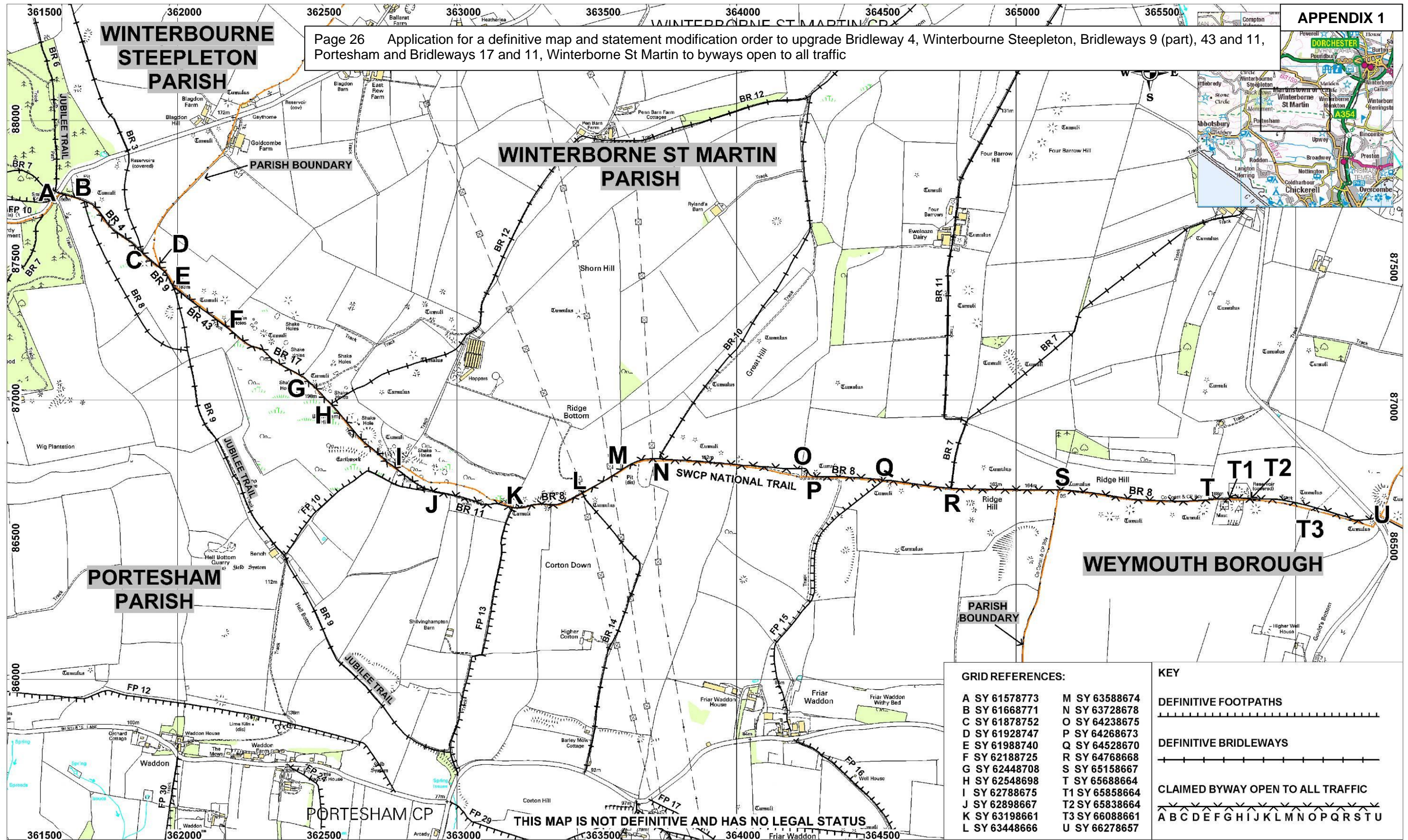
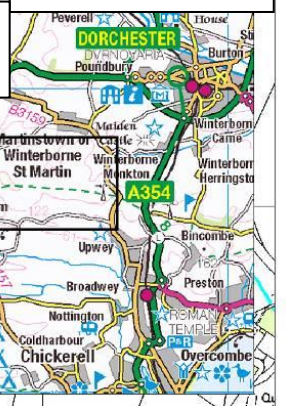
12.13 If there are no objections to a modification order, the County Council can itself confirm the order if the criterion for confirmation have been met.

**Miles Butler**  
**Director for Environment**

December 2012



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GRID REFERENCES:

- |               |                |
|---------------|----------------|
| A SY 61578773 | M SY 63588674  |
| B SY 61668771 | N SY 63728678  |
| C SY 61878752 | O SY 64238675  |
| D SY 61928747 | P SY 64268673  |
| E SY 61988740 | Q SY 64528670  |
| F SY 62188725 | R SY 64768668  |
| G SY 62448708 | S SY 65158667  |
| H SY 62548698 | T SY 65688664  |
| I SY 62788675 | T1 SY 65858664 |
| J SY 62898667 | T2 SY 65838664 |
| K SY 63198661 | T3 SY 66088661 |
| L SY 63448666 | U SY 66278657  |

KEY

- DEFINITIVE FOOTPATHS
  - DEFINITIVE BRIDLEWAYS
  - CLAIMED BYWAY OPEN TO ALL TRAFFIC
- A B C D E F G H I J K L M N O P Q R S T U

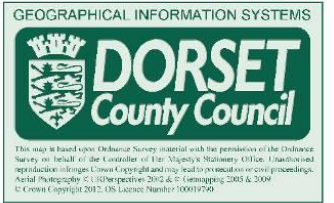
THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION TO UPGRADE BRIDLEWAY 4, WINTERBOURNE STEEPLETON, BRIDLEWAYS 9 (PART), 43 AND 11, PORTESHAM AND BRIDLEWAYS 17 AND 8, WINTERBORNE ST MARTIN TO BYWAY OPEN TO ALL TRAFFIC

SOUTH WEST COAST PATH NATIONAL TRAIL

Ref: 12/24/1  
 Date: 27/11/2012  
 Scale 1:8750 AT A2  
 Drawn By: ACH  
 Cent X: 363886  
 Cent Y: 86921





## 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:
  - (a) The discovery of evidence that indicates that any particulars contained on the definitive map and statement require modification; and
  - (b) 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:
  - (a) To vary the particulars of a right of way if the balance of evidence shows that a right of way subsists on the proposed modified line and not the current definitive line; and
  - (b) 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:
  - (a) Does exist on the modified line; and
  - (b) 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 Section 31(3) of the Highways Act 1980 says that where a landowner has erected a notice inconsistent with the dedication of a highway, which is visible to users of the path, and maintained that notice, this is sufficient to show that he intended not to dedicate the route as a public right of way.

2.3 Section 31(6) of the Highways Act 1980 permits landowners to deposit with the Council a map and statement indicating what ways over the land (if any) he admits to having been dedicated as highways. A statutory declaration can be made at intervals of not more than 10 years stating no additional ways have been dedicated since the date of the deposit. In the absence of proof to the contrary, this is sufficient to establish that no further ways have been dedicated. Prior to the Highways Act 1980 a similar facility was available under the Rights of Way Act 1932 and the Highways Act 1959.

2.4 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 Rights of Way Act 1932

3.1 Prior to the Highways Act 1980 (see 2.3 above) the Rights of Way Act 1932 allowed landowners to make statutory declarations acknowledging the existence of public rights of way and declaring that they had no intention of dedicating any further public rights of way over their land, thereby preventing the accrual of any 'new' public rights of way.

4 Human Rights Act 1998

4.1 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**

5 Act to amend and further extend the Acts for the Inclosure, Exchange, and Improvement of Land 1852

5.1 Section 34 states “In citing this Act, the said recited Acts, and the Acts passed in pursuance of the annual or any special reports of the commissioners, or any or either of them, in other Acts of Parliament, in conveyances, documents, and legal instruments, it shall be sufficient to use the expression, “The Acts for the Inclosure, Exchange, and Improvement of Land.”

5.2 Section 30 of the Act states “The Commissioners may, if they shall think fit, direct the Valuer to annex to his award, in substitution for the Map referred to by his report, a copy thereof, of which the Accuracy shall be certified under their Seal”.

6 Finance Act 1910

- 6.1 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.
- 6.2 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.

7 National Parks and Access to the Countryside Act 1949

- 7.1 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.

8 Natural Environment and Rural Communities Act 2006

- 8.1 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**

<b>Date</b>	<b>Document</b>	<b>Comment</b>
1656	J Ogilby's Exeter to Weymouth Road Map	Shows eastern end of route (U) described as being "The upper way to Waddon" - tended to identify only the more significant connecting routes.
1765	Isaac Taylor's Map of Dorset	Shows all of the route A to U. Key defines as 'road over open heath'
1773	J Bayly's Map of Dorset	Shows all of the route A to U. Key defines as 'Cross Road'*
1778	Plan of the Parish and Manor of Winterbourne Steepleton	Shows part of route A to D
c1787	J Cary's map of Dorset	Shows all of the route A to U - depicts the more significant routes throughout the county
1796	Isaac Taylor's Map of Dorset	Shows all of the route A to U. No key
1805	J Stockdale's Map of Dorset	Shows all of the route A to U. No key. It appears to show only the most significant routes, which consist predominantly, if not entirely, of public carriageways.
1805	Bradley's map of the Hundreds and Liberties of Dorset	Shows all of the route A to U key defines it under the heading of "Turnpikes and Principal Roads"
1806	Ordnance Survey Drawing	Shows all of the route A to U
1811	Ordnance Survey First Edition Map	Shows all of the route A to U
1815	Arrowsmith's Map of Dorset	Shows all of the route A to U defined by a single bold black line, possibly indicating a minor road. Although there is no accompanying key this map also appears to show only the more significant routes upon it.
1826	Greenwood's Map of Dorset	Shows all of the route A to U key defines route as a "Cross Road"*
c1832	Pigot & Co's Map of Dorset	Shows all of the route A to U key defines route as a "Cross Road"
1841	Winterbourne Steepleton Tithe Apportionment and Plan	Shows part of route A to D it is un-coloured and un-apportioned At point D the plan is clearly annotated as leading "to Weymouth"
1841	Winterbourne Martin (Martinstown) Tithe Apportionment and Plan	Shows part of route K to U it is colour-washed brown, un-apportioned and at point U is annotated as leading "to Weymouth".
1860	Portisham Tithe Apportionment and Plan	Shows parts of the route from approximately A to F and J to K.

Date	Document	Comment
c1860	Weller's Map of Dorset	Shows all of the route A to U clearly defined by two parallel lines. No accompanying key but the manner in which it is depicted suggests that at that time it was regarded as a route of some significance
1863	Cruchley's Railway and Station Map of the County of Dorsetshire	Shows all of the route A to U defined by two parallel broken lines. Although shown in the same manner as other public roads in the vicinity there is no accompanying key to suggest its status.
1864	Winterbourne Steepleton Inclosure Award	Shows public roads in adjoining parish and indicates a continuation "To Weymouth" but does not show any part of the claimed route
1869	Conveyance & Plan	Shows part of route A to D
1800s	Mortgage & Plan	Shows part of route A to D
1884	NOTE: The classification of roads by administrative status was practiced on Ordnance Survey maps from 1884. All metalled (not un-metalled) public roads for wheeled traffic were to be shaded.	
1888	Ordnance Survey First Edition 6 inches:1 mile	Shows the route A to O and Q to U, annotated on one sheet B.R. (Bridle Road)
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 un-metalled roads are shown without shading.	
1902	Ordnance Survey Second Edition 25 inches:1 mile	Shows all of the route A to U annotated on one sheet B.R. (Bridle Road)
1903	Ordnance Survey Second Edition 6 inches:1 mile	Shows all of the route A to U annotated on one sheet B.R. (Bridle Road)
c1906	Ordnance Survey Second Edition 1 inch:1 mile map (coloured)	Shows parts of the route A to P and Q to U defined in key as an 'Unmetalled Road'
c1906	Richmond's Map of Dorset	Shows all of the route A to U
Early 1900s	George Philip & Son Botanical map of Dorset	Shows all of the route A to U. clearly defined by two parallel broken lines which suggests a route of some significance but no key.
Early 1900s	George Philip & Son Geological map of Dorset	Shows all of the route A to U clearly defined by two parallel broken lines which suggests a route of some significance but no key.



Date	Document	Comment
Undated	G W Bacon's Geographical, Revised and Cycling maps of Dorset	All show a route that generally corresponds to that of the claim, clearly defined by two parallel solid or broken lines. Keys suggest it was an 'other road' or a 'main or cross road'.*
1910	Finance Act plans	No part is excluded from valuation. Passes through several hereditaments in all three parishes, all of which were subject to deductions but as they cover large areas it cannot be identified if the claimed route is one of those included.
1912	NOTE: The system of classification adopted on Ordnance Survey maps in 1896 was abolished in November 1912.	
1912	Ordnance Survey 1 inch:1 mile map uncoloured	Shows parts of the route A to P and Q to U
1913	Bartholomew Road Map 4 miles: 1 inch	Shows all of the route A to U defined in key as 'Other Road'
1920	Bartholomew 2 miles: 1 Inch	Shows all of route A to U defined in key under heading of "Footpaths & Bridlepaths"
1924	Harding's Guide Map to the District of Dorchester	Shows all of the route A to U defined in key as 'Other Road'
1930	Ordnance Survey map 6 inches:1 mile	Shows all of the route A to U annotated on two sheets as 'B.R.'
1934	Rights of Way Act 1932 Declaration	Those parts of route shown between points F to I and K to O declared to be a Public Cart Road (public carriageway)
1937	Ordnance survey map 1 inch:1 mile sheet 140	Shows all of the route A to U defined in key as 'unfenced minor road'
1945	Ordnance survey map 1 inch:1 mile sheet 178	Shows all of the route A to U defined in key as 'unfenced minor road'
1947	Aerial photograph	Shows all of the route A to U
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.	
1952	Winterbourne Steepleton Parish Survey	Route claimed from point A to D as CRB suggesting vehicular rights over the route
c1953	Portesham Parish Survey	Route claimed from point D to E as CRB and from point I to K as CRB suggesting vehicular rights over the route. E – F not claimed.

Date	Document	Comment
c1953	Winterborne St Martin (Martinstown) Parish Survey	Route claimed from point E to U as CRB suggesting vehicular rights over the route
1955	Draft Map	Recorded within Winterbourne Steepleton (A to D) as CRB 1, in Winterborne St Martin (Martinstown)( E to I and K to U) as CRB 4 and within Portesham (D to E) CRB45 and (I to K) CRB 42. CRB suggests vehicular rights over the route.
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.)	
1964	Provisional Map	Entire route A to U recorded as bridleway (see 1958 Note above)
1967	First Definitive Map	Entire route A to U recorded as bridleway
1972	Aerial photograph	Shows all of the route A to U
1973	Decision of Special Review Committee	Concluded that public vehicular rights were not shown to exist over route
1974	Revised Draft Map	Entire route A to U recorded as bridleway
1975	Objections from Mr Furlong & Mrs Colyer	Objections were that the revised draft map should show the route as a byway open to all traffic
1981	Public Inquiry	Considered representations and objections made in respect of the revised draft map
1984	Inspector's decision	Insufficient evidence to determine existence of vehicular rights over route
1989	Current definitive Map	Entire route A to U recorded as bridleway
1997	Aerial photograph	Shows all of the route A to U
2009	Aerial photograph	Shows all of the route A to U

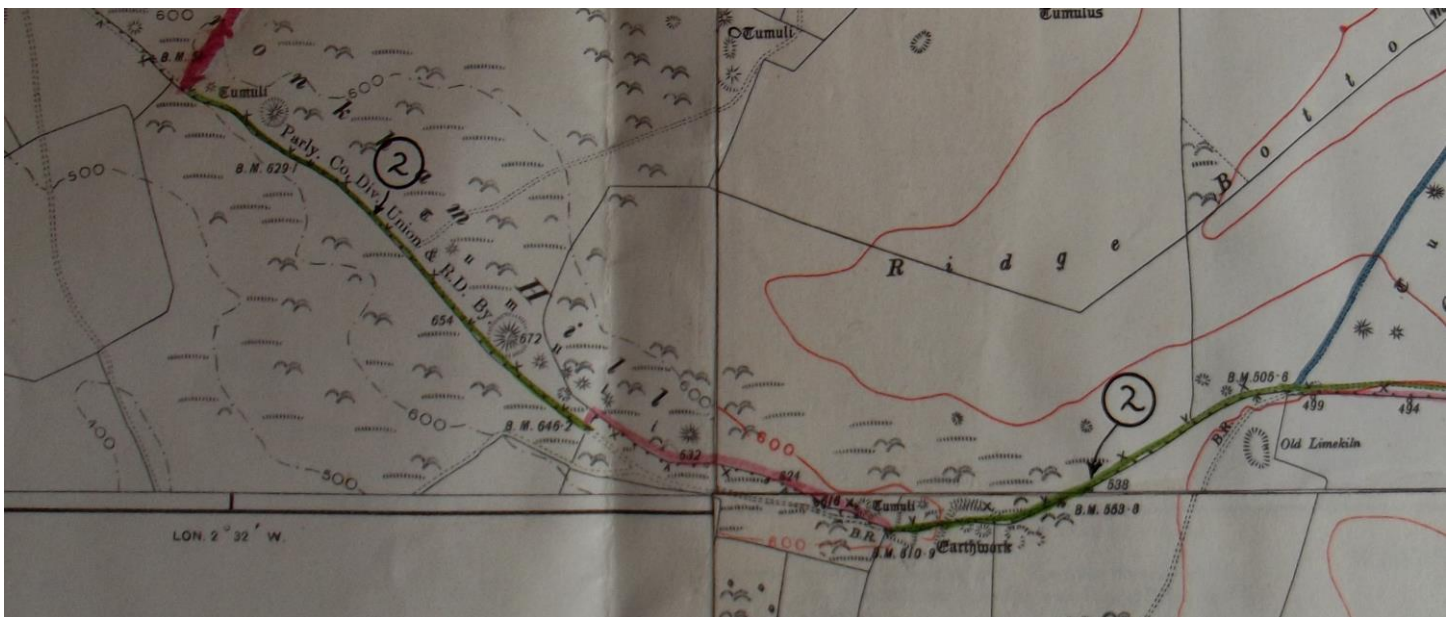
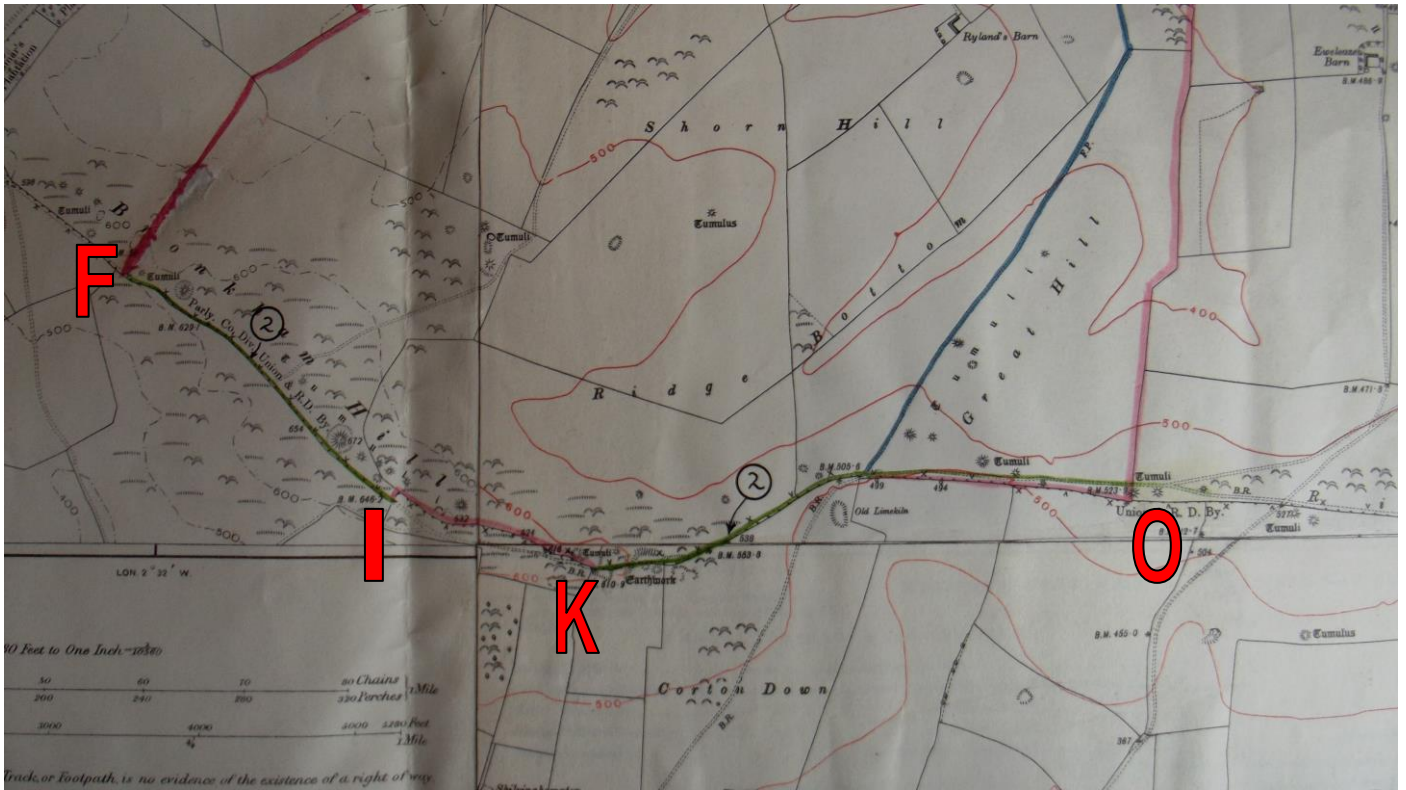
\*There is no definition for the historic use of the term 'cross road', although the modern definition would be the point where two roads cross. Historically, the term cross road used in an old map or document may have applied to a highway running between and joining other highways. However, this does not necessarily mean that it was a public highway and may only be an indication as to what the author believed at that time. In considering such evidence regard must be given to the purpose and reliability of the document alongside all other relevant evidence.

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### Extracts from key documents

(See the Director for Environment's file RW/T409 for copies of other documents mentioned)

### Rights of Way Act 1932 – 1934 Statutory Declaration map



**1934 Statutory Declaration – Statement**

THE RIGHTS OF WAY ACT 1932.  
-----  
STATEMENT OF THE POSITION  
OF  
RIGHTS OF WAY ADMITTED BY THE MARTINSTOWN ESTATE, DORSET.  
-----

No on Plan.	Position.	Colour on Plan.
1.	Footpath from main road opposite Church down the eastern boundary of the estate to the extreme Southern boundary.	Blue.
2.	Cart Road from extreme South-eastern corner of the estate running along the Southern boundary to the western boundary.	Green.

I hereby state that the above are the only rights  
of way admitted on the Martinstown Estate.

*A. Barnaby Duke.*

*Martinstown*  
*8/10/34*



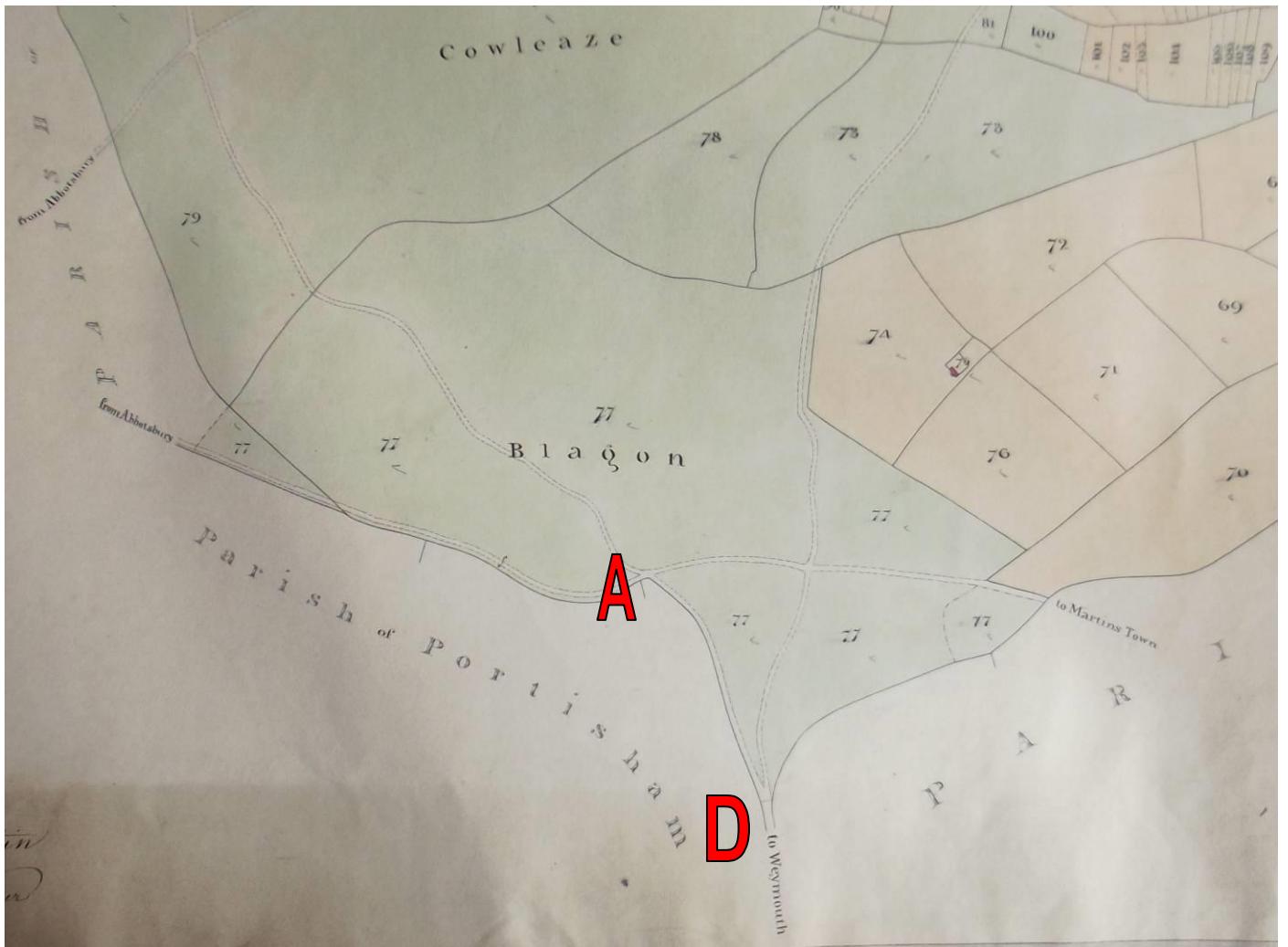
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**1864 Winterbourne Steepleton Inclosure map**

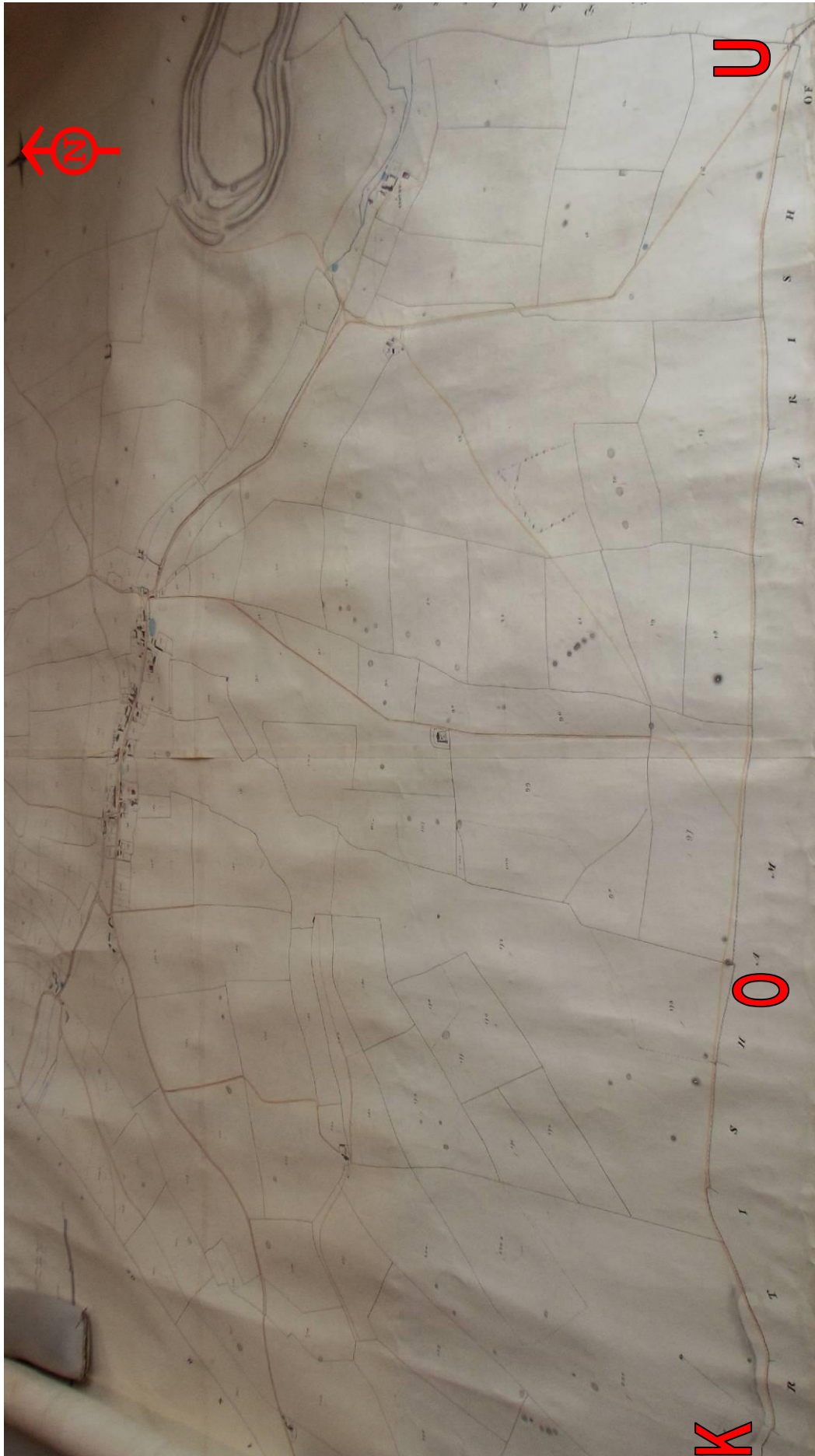


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### 1841 Winterbourne Steepleton Tithe plan

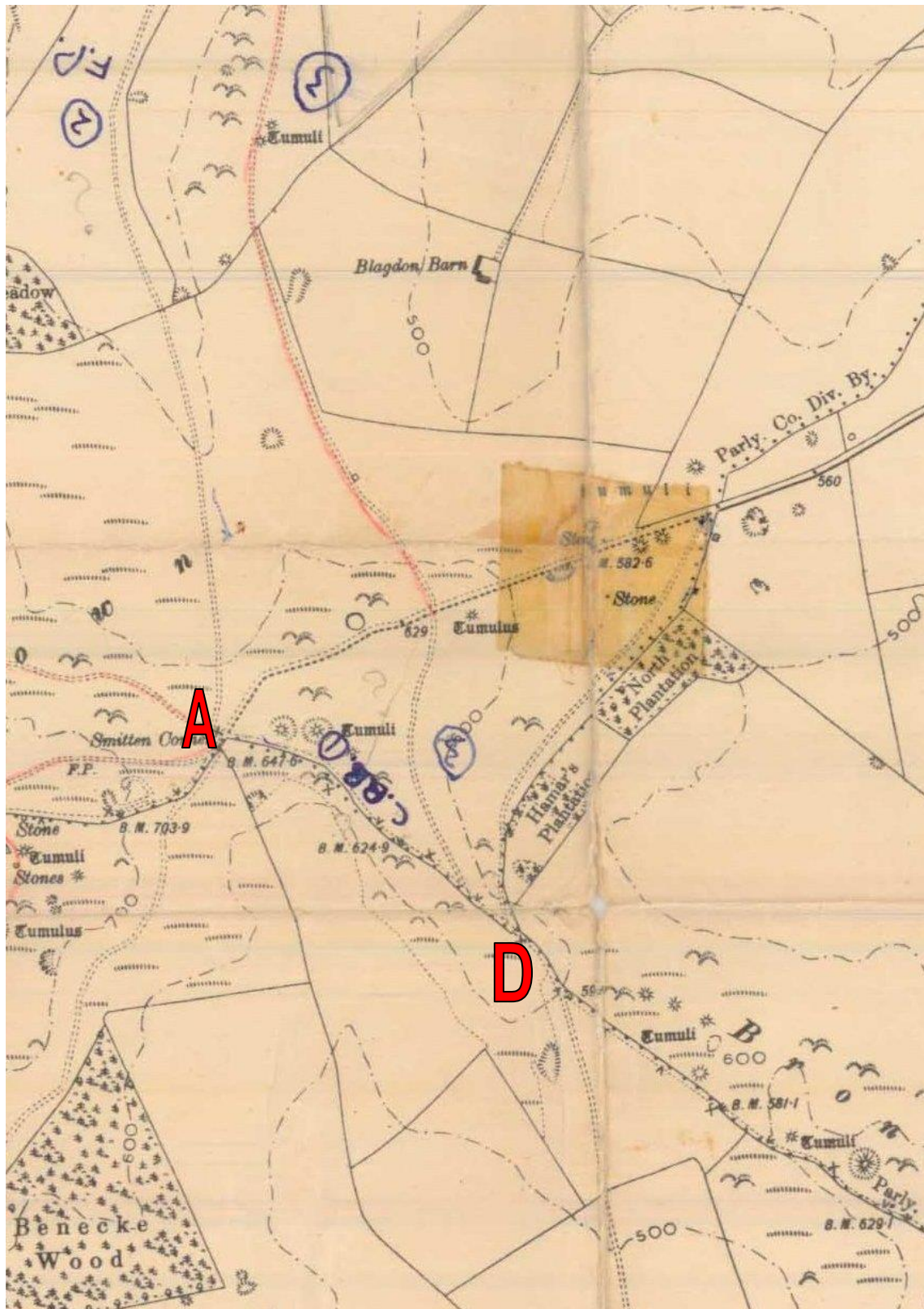


**1841 Winterbourne Martin Tithe plan**





**1952 Winterbourne Steepleton Parish Survey and schedule**





DORSET COUNTY COUNCIL  
RIGHTS OF WAY SURVEY.

From: Witchham Steepleton Path Section Number: 1.  
To: Smitten Lane S.E. To: Porshe Bding.

Kind of Path: B.R. C.R.B.

Where path leads to (if out of Parish): Portesham Ph. for Bridgeway etc

Condition of path: Fairly good.

Condition of adjoining hedges/fences: /

Width (in feet):  
If ever ploughed: /

Type of Gates, Stiles etc.:	Condition:
<u>No.</u>	

Details of Notice Boards, Direction Signs etc. : /

Details of Obstructions : No.

Whether maintained for use as Bridlepaths : /

Reasons for believing Path to be public : Used for 50 years or more.

Objectors Name and Address : \_\_\_\_\_

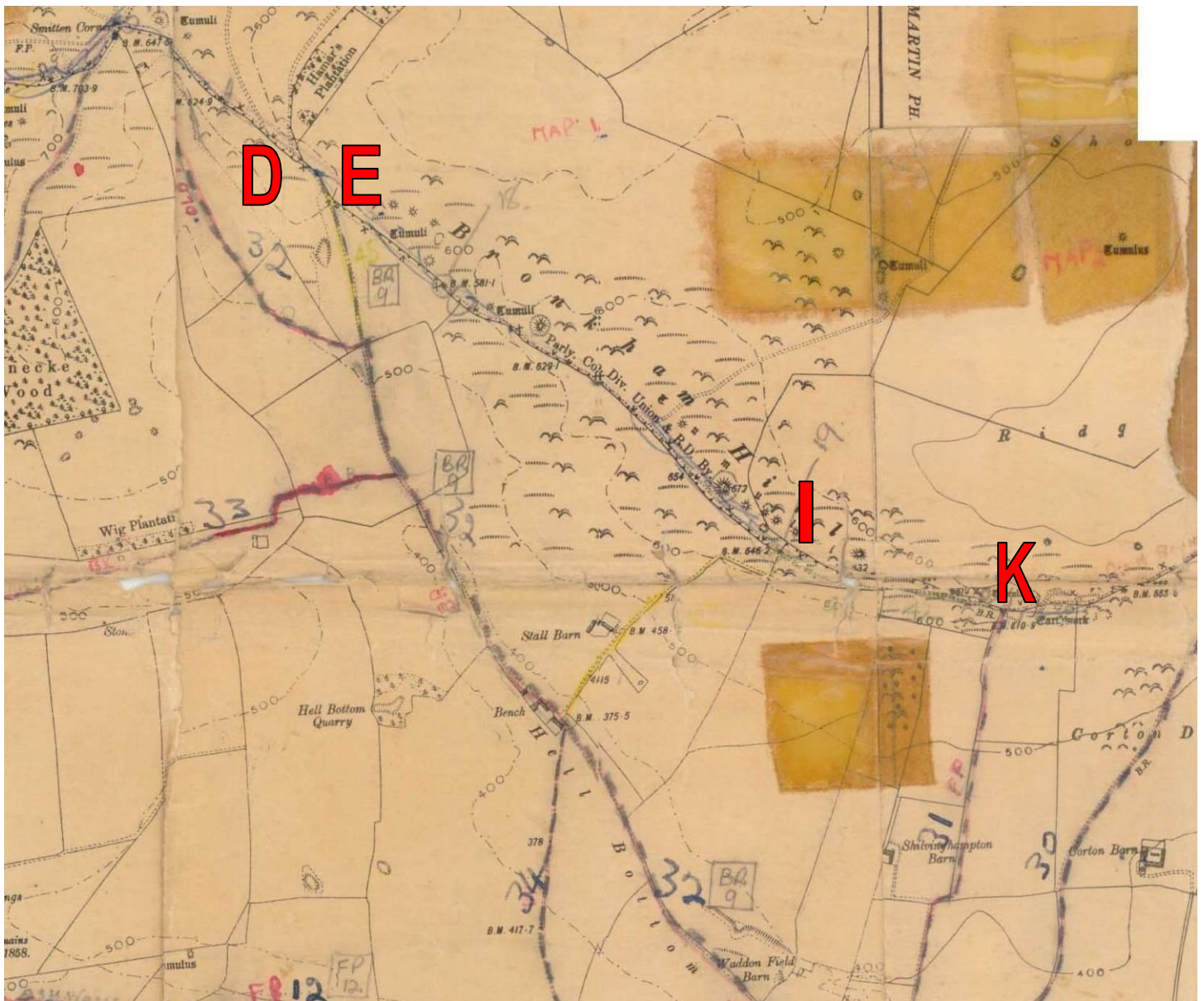
Reasons for objection : /

Improvements Necessary : \_\_\_\_\_

Surveyor:	DATE:
Address:	<u>30 Sept: 52</u>
<u>H. S. Trask</u> <u>Chairman of Parish</u> <u>Witcham</u>	

F.P. 1.

**c1952 Portesham Parish Survey and schedule**





DORSET COUNTY COUNCIL  
RIGHTS OF WAY SURVEY

Parish: Portesham Path Section No: 42

From: Path No 4 Wint. St Martin To: Path No 4 Wint St. Martin

Kind of Path: C.R.B.

Where path leads to (if out of Parish): \_\_\_\_\_

Condition of Path: \_\_\_\_\_

Condition of Adjoining hedges/fences: \_\_\_\_\_

Width (in feet): \_\_\_\_\_  
If ever ploughed: \_\_\_\_\_

Type of Gates, Stiles etc. : _____ _____ _____	Condition: _____ _____ _____
--	------------------------------------

Details of Notice Boards, Direction Signs etc. : \_\_\_\_\_

Details of Obstructions: \_\_\_\_\_

Whether maintained for use as Bridlepaths: \_\_\_\_\_

Reasons for believing Path to be Public: \_\_\_\_\_

Objectors Name and Address: \_\_\_\_\_

Reasons for Objection: \_\_\_\_\_

Improvements Necessary: \_\_\_\_\_

Surveyor: _____ _____ _____	DATE: _____ _____ _____
-----------------------------------	-------------------------------

Address: \_\_\_\_\_

F.P.1.



c1952 Winterborne St Martin Parish Survey and schedule



BR  
No 1 CRB  
Aisle (71)  
From East Parish Road to junction of  
main road at Bath Lane (6 field gates)  
✓ No 2 CRB  
From Maiden Castle to Monkton  
Road.  
✓ No 3 CRB  
From Ashton to Ridge Hill road  
No 4 (5 field gates)  
✓ No 4  
Ridge Hill Rd CRB  
From Goults Hill - Hamars  
Plantation  
✓ No 5  
No 4A CRB  
From Manor Farm Cottage past  
Ewelays Barn to join No 3 at  
Ridge Hill, 1 River Bridge  
4 field gates  
✓ No 6  
No 8 CRB  
From Village Green through Green  
to join No 4 at Great

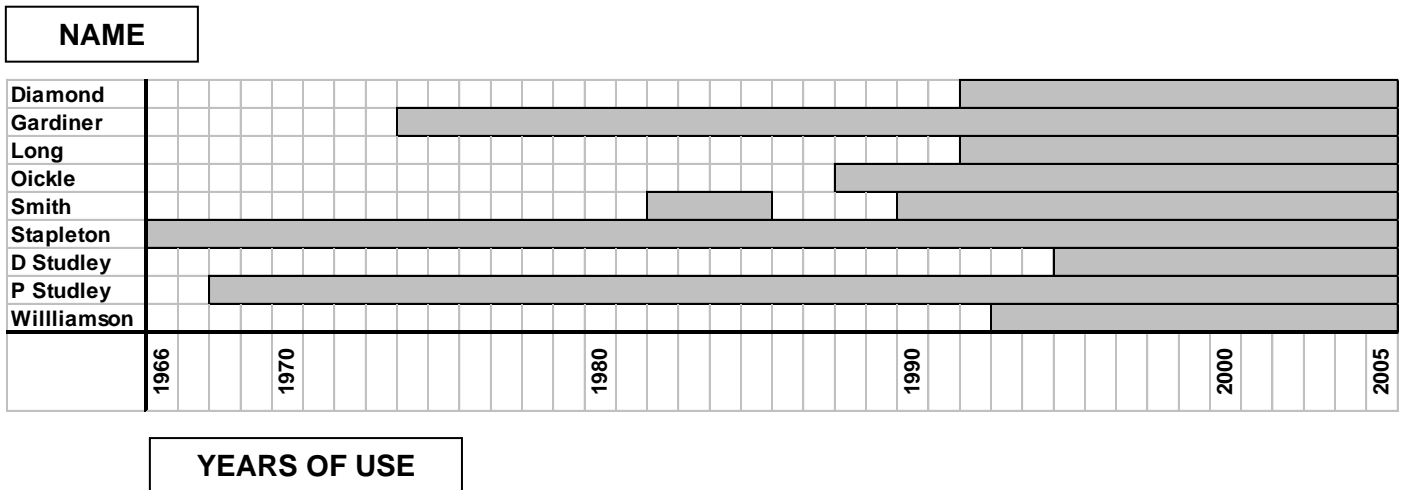
**User Evidence**  
**Table summarising user evidence from forms**

<b>NAME</b>	<b>DATES</b>	<b>FREQUENCY OF USE</b>	<b>TYPE OF USE</b>	<b>DETAILS OF USE / COMMENTS</b>
Mr M Diamond	1992 – 2005	5 – 10 times a year	Motorcycle and foot	Used for pleasure. Others also used the route on motorcycle, horse, bicycle and foot. No stiles or other obstructions. Gates were never locked. Bridleway notices. Was acknowledged by farm workers. Mainly grassed, always passable, 3 – 5 metres wide.
Mr M Gardiner	1974 to current (2005)	On average twice a year	Mainly motorcycle but sometimes on foot	Used for pleasure. Others also used the route on motorcycles, horseback, pedestrians and latterly cyclists. No stiles on the route. Gates were never locked. Notices saying bridleway and coast path. Regular usage, established vehicular way. Often considerably wider than gateways in places. Builders' rubble has been used to firm up the ground. Always useable even when very wet.
Mr J Long	1992 to date (2005)	Once or twice a year	Motorcycle	Used for pleasure to Abbotsbury. Others also used the route on motorcycles. Never saw any locks on gates. No other obstructions. Clearly defined route with some vehicular track marks. On several occasions encountered a farmer or herdsman who acknowledged their presence.
*Mr D Oickle	1988 – 2005	6 – 8 times a year	Motorcycle and on foot	Used for pleasure, circular route from Dorchester. Others also used the route on bicycle, horseback, foot and motorcycle. No stiles or other obstructions. gates were unlocked and bridleway notices. Tracks and hoof marks seen. Route has a firm surface and is approx 4 metres wide.

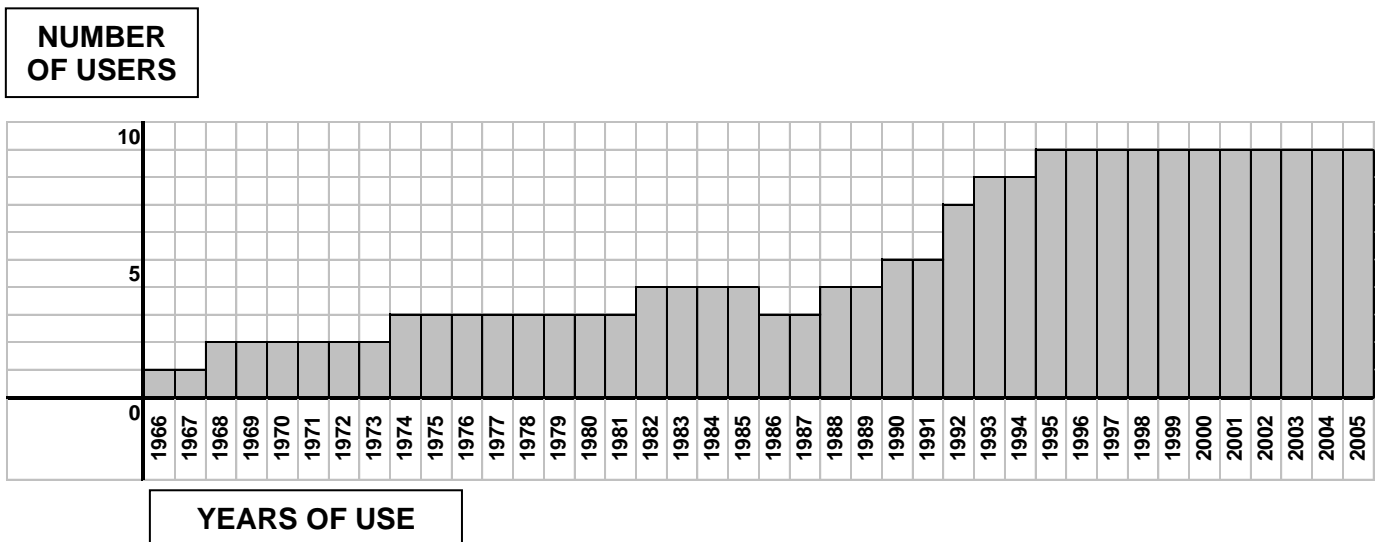
<b>NAME</b>	<b>DATES</b>	<b>FREQUENCY OF USE</b>	<b>TYPE OF USE</b>	<b>DETAILS OF USE / COMMENTS</b>
Mr C M Smith	1982 – 1985 and 1990 – 2005	5 – 6 times a year	Motorcycle	Used for pleasure from Dorchester. Others also used the route on horseback, foot, motorcycle and bicycle. No stiles or other obstructions. There were unlocked gates and notices saying bridleway and coastal path. Firm surface, accessible throughout the year. Width approx 12 -15 feet.
Mr T Stapleton	1966 – 2005	10 times a year	Motorcycles and cars	Used for pleasure to Osmington and back. Others also used the route on motorcycle and cars. Gates unlocked. Obstructions – dung heaps that he drove around. Tyre marks. Width up to 5 metres.
Mr D Studley	1995 – present (2005)	6 – 10 times a year	Motorcycle	Used for pleasure, circular route from Dorchester. Others also used the route on motorcycle, horseback and foot. Gates unlocked. Bridleway signs. Tyre marks. Width 3 – 5 metres.
Mr P Studley	August 1968 to present (2005)	5 – 10 times a year	Motor cycle	Used for pleasure on a round trip. Others who used route were walkers and other motor cyclists. Gate unlocked. Width 6 metres.
Mr W J Williamson	1993 – 2005	3 to 5 times a year	Motorcycle	Pleasure ride, to and from Dorchester. Others used on motorcycles, bicycles, horseback and foot. Gates not locked. Notices indicated bridleway and coast path. Tracks can always be seen. Firm gravel and grass in places, width varies from 15 to 20 feet.

\* Form completed in two different inks and has been amended.

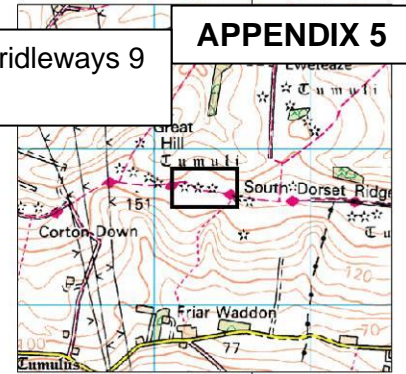
**Chart of user evidence to show periods of use**



**Chart to show level of use**

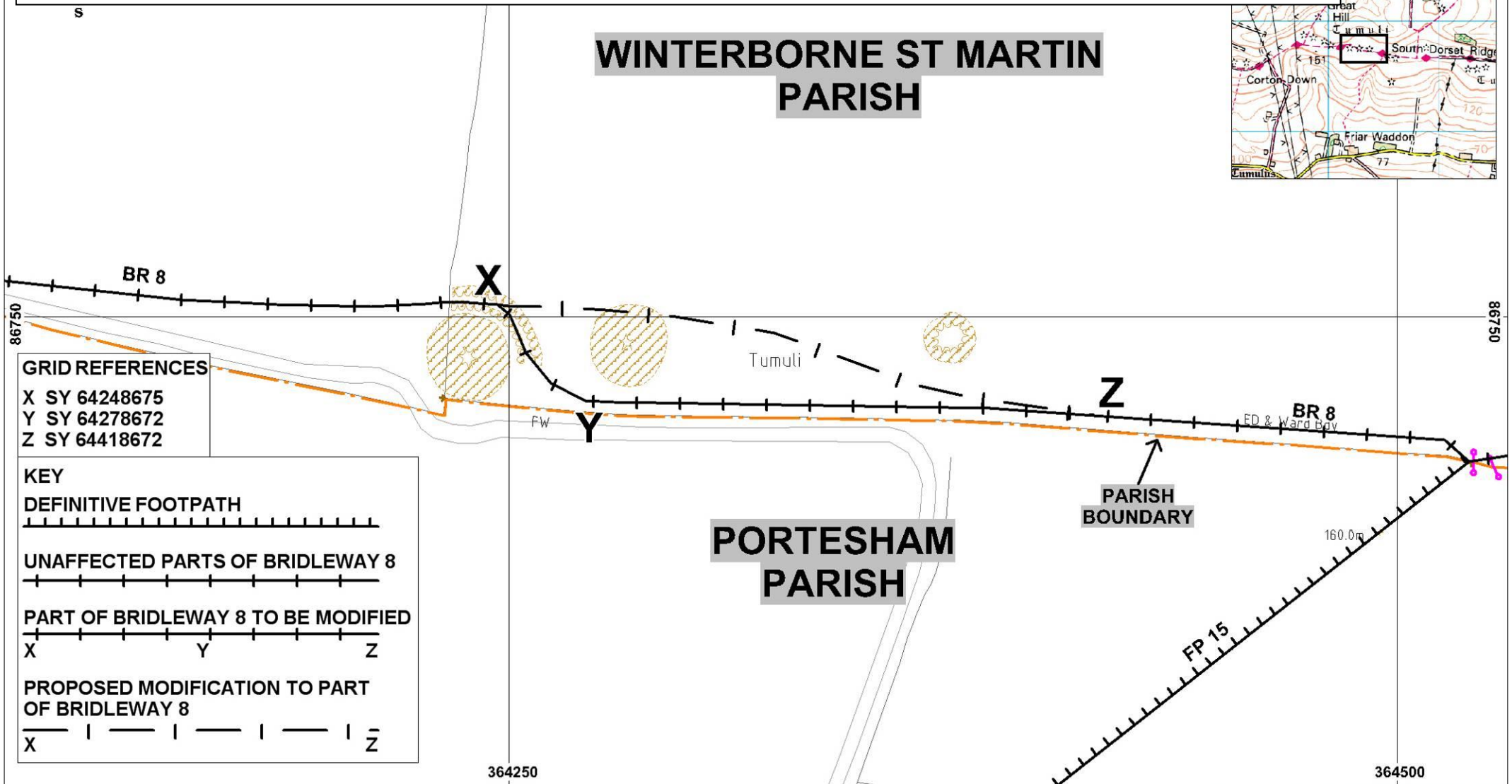


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# WINTERBORNE ST MARTIN PARISH

# PORTESHAM PARISH



### GRID REFERENCES

X SY 64248675  
 Y SY 64278672  
 Z SY 64418672

### KEY

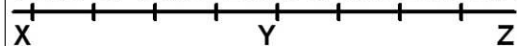
DEFINITIVE FOOTPATH



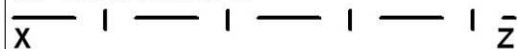
UNAFFECTED PARTS OF BRIDLEWAY 8



PART OF BRIDLEWAY 8 TO BE MODIFIED



PROPOSED MODIFICATION TO PART OF BRIDLEWAY 8



364250

364500

## WILDLIFE AND COUNTRYSIDE ACT 1981

PROPOSED MODIFICATION TO PART OF BRIDLEWAY 8, WINTERBORNE ST MARTIN

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 12/38/1

Date: 30/11/2012

Scale 1:1500

Drawn By: ACH

Cent X: 364320

Cent Y: 86741

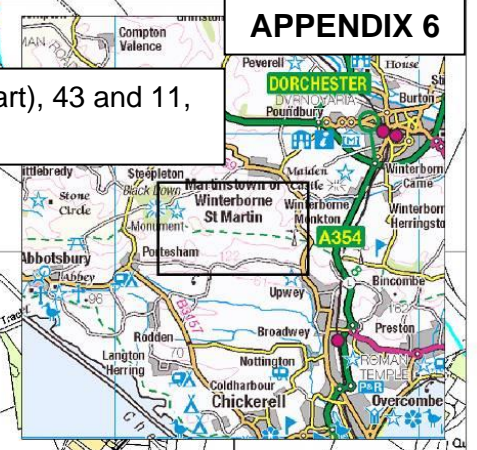
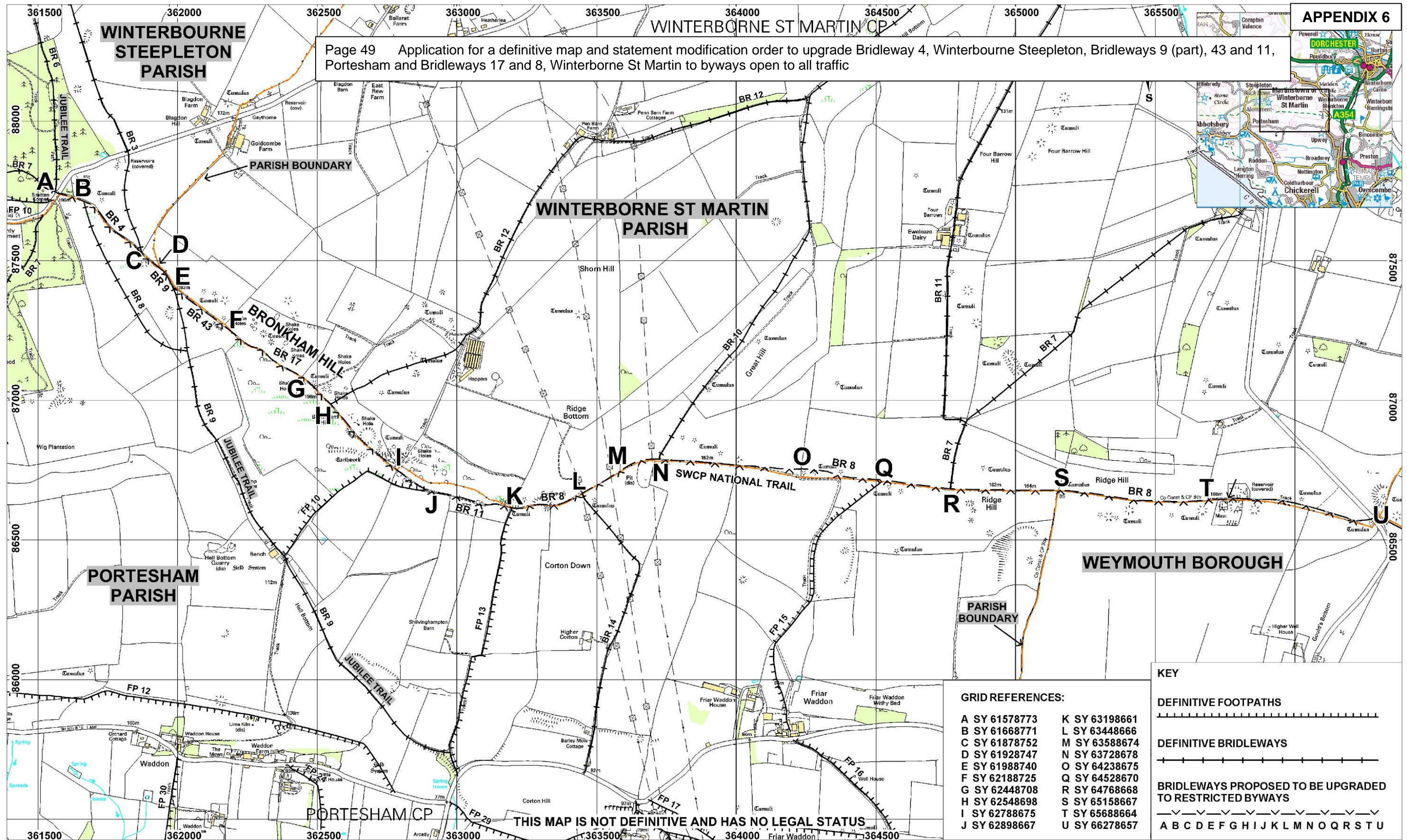
GEOGRAPHICAL INFORMATION SYSTEMS



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**GRID REFERENCES:**

A SY 61578773	K SY 63198661
B SY 61668771	L SY 63448666
C SY 61878752	M SY 63588674
D SY 61928747	N SY 63728678
E SY 61988740	O SY 64238675
F SY 62188725	Q SY 64528670
G SY 62448708	R SY 64768668
H SY 62548698	S SY 65158667
I SY 62788675	T SY 65688664
J SY 62898667	U SY 66278657

**KEY**

	DEFINITIVE FOOTPATHS
	DEFINITIVE BRIDLEWAYS
	BRIDLEWAYS PROPOSED TO BE UPGRADED TO RESTRICTED BYWAYS
<b>A B C D E F G H I J K L M N O Q R S T U</b>	

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

**WILDLIFE AND COUNTRYSIDE ACT 1981**

DEFINITIVE MAP MODIFICATION ORDER TO UPGRADE BRIDLEWAY 4, WINTERBOURNE STEEPLETON, BRIDLEWAYS 9 (PART), 43 AND 11, PORTESHAM AND BRIDLEWAYS 17 AND 8, WINTERBORNE ST MARTIN TO RESTRICTED BYWAY

SOUTH WEST COAST PATH NATIONAL TRAIL

Ref: 12/24/2  
Date: 27/11/2012  
Scale 1:8750 AT A2  
Drawn By: ACH  
Cent X: 363886  
Cent Y: 86921

