

Agenda item:

Roads and Rights of Way Committee

9

Dorset County Council



Date of meeting	2 July 2012
Officer	Director for Environment
Subject of report	Application for a definitive map and statement modification order to upgrade Bridleways 44 and 45, Kingston Russell and Bridleway 3, Long Bredy to byways open to all traffic
Executive summary	In response to an application by the Trail Riders' Fellowship, this report considers the evidence relating to the status of the route from the A35 road south to Long Bredy Farm.
Impact Assessment:	<p>Equalities Impact Assessment: An Equalities Impact Assessment is not a material consideration in considering this application.</p> <p>Use of Evidence: The applicant submitted documentary evidence in support of his application. Documentary evidence has been researched from sources such as the Dorset History Centre, and the National Archives. A full consultation exercise was carried out in December 2011, 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. No user evidence forms from users of the claimed route were submitted during the investigation. Any relevant evidence provided has been discussed in this report.</p>

	<p>Budget/risk implications: Any financial/risk implications arising from this application are not material considerations and should not be taken into account in determining the matter.</p>
Recommendations	<p>That:</p> <p>(a) The application be refused;</p> <p>(b) An order be made to modify the definitive map and statement of rights of way to record Bridleways 44 and 45, Kingston Russell and Bridleway 3, Long Bredy as shown A – B – C – D – E – F – G – H – I – J and K – L – M – N – O – P – Q – R – S – T on Drawing 11/62/1 as restricted byways; and</p> <p>(c) if the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee.</p>
Reasons for Recommendations	<p>(a) Subject to (b) below the byways open to all traffic claimed do not subsist;</p> <p>(b) The available evidence shows, on balance, that the claimed route shown on the definitive map and statement as public bridleway ought to be shown as a public vehicular way. As the application was submitted after 20 January 2005, and no other exceptions apply, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for motor powered vehicles and therefore an order should be made for restricted byways over the claimed route; and</p> <p>(c) The evidence shows, on balance, that the route claimed is restricted byway. Accordingly, in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.</p>
Appendices	<p>1 - Drawing 11/62/1 2 - Law 3 - Documentary evidence –</p> <ul style="list-style-type: none"> • Table of documentary evidence • Extracts from key documents: <ul style="list-style-type: none"> ▪ 1939 Statutory Declaration by the Duke of Bedford - plan and key ▪ 1901 Finance Act maps - Sheets 46.2, 39.14 and 39.15 ▪ 1839 Kingston Russell Tithe map ▪ 1750 Plan of the Manor of Kingston Russell ▪ 1859 Long Bredy Exchange Plan ▪ 1750 Plan of part of the Manor of Kingston Russell (Figure 2 from C J Bailey's paper "The Bedfords, Michels, and Kingston Russell") ▪ 1769 Plan accompanying Indenture Bedford and Michel

Background Papers	<p>The file of the Director for Environment (ref. RW/T410)</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 some, which are the applicant's own copies and those from the Bedford Archives held at the Devon Record Office, Exeter.</p> <p>Copies (or photographs) of the documentary evidence can be found on the case file RW/T410, which will be available to view at County Hall during office hours.</p>
Report Originator and Contact	<p>Phil Hobson Rights of Way Officer Tel: (01305) 221562 email: p.c.hobson@dorsetcc.gov.uk</p>

1 Background

- 1.1 An application to upgrade Bridleways 44 and 45, Kingston Russell and Bridleway 3, Long Bredy as shown between points A and T on Drawing 11/62/1 (Appendix 1) was made on behalf of the Trail Riders' Fellowship by Mr D Oickle on 21 November 2005.
- 1.2 The route claimed commences at point A, its junction with the A35 Trunk road, and follows the route of Bridleway 44, Kingston Russell heading south east through a field-gate to point B before continuing in a generally south westerly direction along the western margin of an arable field and through further field gates located at points C and E. The width of this section of the route is generally undefined, having a post and wire fence to its western boundary and the surface being mainly cultivated, with an uncultivated margin of variable width adjacent the fence. From point E the route continues in a south westerly direction along the western margin of a pasture field to a further field gate at point F. The width of this section of the route is also undefined, having a post and wire fence to the western boundary and a grass surface.
- 1.3 From point F the route continues in a generally south westerly direction through a field gate with a bridlegate to its eastern side at point G, a further field gate at point H and a pair of 'ornate' gates at point I. The width of this section of the route varies between approximately 4 metres to approximately 5 metres, the western boundary being defined by a hedge atop a bank and the eastern boundary by the steeply rising ground.
- 1.4 From point I the route continues in a south westerly direction to a field gate at point J, its junction with Little Bredy Road. This section of the route is bounded by hedges and banks to either side with a tarmac surfaced 'carriageway' in the centre, the width of which is approximately 3.5 metres.
- 1.5 The claimed route recommences at point K following the route of Bridleway 45, Kingston Russell via a gap on the eastern side of a short length of post and rail fence in a south westerly direction to point M. This section of the route has a grass surface and is bounded by hedges to either side, the width being approximately 4 metres throughout.
- 1.6 From point M the route continues south westerly, bounded by a wall of the adjacent property to the west. The surface is grass, changing to gravel as it enters the driveway of the property continuing to its junction with Footpath 50 at point N and through a ford at point O, with a footbridge located to its western side, before continuing southerly along a tarmac surfaced driveway to a gateway at point P and then westerly along a tarmac surfaced road to the parish boundary at point Q. The width of this section of the route varies from approximately 4 metres at point M to 3.5 metres at point Q.
- 1.7 From point Q the route continues westerly along a tarmac surfaced road following the route of Bridleway 3, Long Bredy to its junction with Abbotsbury Lane and the D11905 road at point T. The width of this section of the route is approximately 4.5 metres including verges.

2 **Law**

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

3 **Documentary evidence (Appendix 3)**

3.1 A table of all the documentary evidence considered during this investigation is contained within Appendix 3. Extracts from the key documents are also attached.

3.2 The applicant's 'Analysis of Documentary Evidence' submitted with the application can be viewed in full in the case file RW/T410.

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". An analysis of the documentary evidence is contained at paragraph 8 of this report.

4 **User evidence (Appendix 4)**

4.1 No user evidence has been submitted in support of the application

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/410)

6.1 One objection was received on 23 November 2005 in response to the application.

6.2 Four objections were received in response to the consultation, three of which cited a number of reasons for opposing the upgrading of the bridleway such as: -

- 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

7 **Other submissions received** (copies available in the case file RW/410)

7.1 A further nine submissions were made requesting or providing information but offering no evidence for consideration, including those from Natural England, Kingston Russell and Long Bredy Parish Council and the County Council's Senior Archaeologist.

- 7.2 One further submission from the British Horse Society offered no evidence but supported the recording of the route as a restricted byway.

8 Analysis of documentary evidence

Statutory Declaration – Rights of Way Act 1932

- 8.1 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 (refer to paragraph 2.3 in the Law section, Appendix 2).
- 8.2 The part of the claimed route that was the subject of the declaration, as shown between points A to Q on Drawing 11/62/1, is clearly depicted upon the plan accompanying the declaration, which was made in 1939 by the landowner at the time, the Duke of Bedford. It is coloured red and designated as number 5.
- (a) The plan also shows the continuation of the claimed route westwards as shown from point Q towards R although this was not part of the declaration. Reference to the key reveals that 'route' 5 is defined as a "Wheel Road" commencing "from milestone (Dorchester-7) on 2 to Lower Kingston Dairy House & Cottages". (It should be noted that the reference to route '2' refers to another dedicated wheel road described as "From Bridport to Dorchester" now known as the A35 Trunk Road).
- (b) The key accompanying the map defines the dedicated highways as Foot Paths, Pack Tracks or Wheel Roads and it is reasonable to conclude that these definitions correspond with the present day designations of footpaths, bridleways and byways open to all traffic or carriage roads.
- 8.3 The correspondence accompanying the documents is from the Duke's Steward and Agent, Mr Bliss, and states the following, "On behalf of his Grace the Duke of Bedford, K.G., I enclose two 6-inch scale maps with Schedules and Statements indicating what ways he admits have been dedicated as highways within the County of Dorsetshire".
- 8.4 It is reasonable to assume that the dedication 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 Bedford Estate admitted the existence or dedication of a public vehicular highway as shown between points A to Q.

Finance Act 1910

- 8.5 The claimed route passes through or is adjacent **hereditaments** numbered **12, 427, 428, 429** and **434**. It is not excluded for the purpose of valuation and reference to the accompanying valuation book reveals that all of these hereditaments were part of the Duke of Bedford's Estate.

- 8.6 From point A to point Q the route falls within **Hereditament 12**, for which there is a sum of £400 deducted in respect of public rights of way or user. The valuation book suggests that this was attributed to a total of 25 rights of way.
- 8.7 From Q to S the route falls within **Hereditament 428** for which there was no deduction for public rights of way or user. However, there is a note within the entries for **Hereditaments 427, 428 and 429** which states that their particulars, descriptions, etc, were formerly recorded under **Hereditament 45**. The entry for **Hereditament 45** indicates that a deduction of £350 had been granted in respect of public rights of way or user. However, written across the page in red ink are the words "Amended see references 429 to 432".
- 8.8 From point S to point T the route falls within **Hereditament 434**. The route was not excluded but there was a deduction of £75 granted for public rights of way.
- 8.9 Whilst these records show that deductions were granted in respect of **Hereditaments 12 and 434**, (A to Q and S to T) through which the claimed route passes, there is insufficient information to determine conclusively whether the deduction was in respect of the claimed route and, if it were, what its status was. However, in the knowledge that the Duke of Bedford had acknowledged that the route from A to Q was a public road this evidence demonstrates that not all public roads were excluded on Finance Act plans and that a proportion of the deductions granted may have been in respect to the claimed route.
- 8.10 With respect to the remainder of the route, Q to T, the records provide no conclusive evidence as to its status.

Tithe Apportionment and Plan

- 8.11 The **Kingston Russell Tithe Plan 1839** depicts part of the route as shown between a point just to the south of point K to point Q. It is un-apportioned, having no identifying number and is clearly defined from the surrounding land by means of two solid parallel lines. At point Q it appears to continue in a westerly direction although there is no annotation at this point or at the point to the south of point K to suggest either an origin or destination.
- 8.12 Although this evidence provides nothing conclusive as to the status of the route as a whole it does provide evidence as to the route's existence from south of point K to point Q and, as it was un-apportioned, suggests that it was most likely regarded as a public highway.

Estate Plan

- 8.13 The **Plan of the Manor of Kingston Russell of 1750** defining the extent of the Duke of Bedford's lands depicts a route that would generally correspond with that of the claimed route shown from point F to point P. At point F it connects with a route annotated upon the plan as being "Weymouth Road", which corresponds to what is currently recorded upon the definitive map as Bridleway 46, Kingston Russell. At point P the route continues westerly along a route that is annotated as being the "Long Bredy Road".

- 8.14 Although not conclusive as to status the annotation shown at point P suggests a public road, namely a cart or carriageway. The fact that the route also continues to the north through a junction with another road in the vicinity of point M called the Little Bredy Road and then on to its junction with the Weymouth Road, point F, would also suggest that the whole route was most likely of the same status and therefore this evidence provides some support to the application.

Long Bredy Inclosure Exchange

- 8.15 An Inclosure Act or Award has not been discovered for the parish of Kingston Russell. However, a plan accompanying the **Long Bredy Inclosure Exchange 1859** includes part of the claimed route as shown between points S and T. Although this document is not concerned with actual enclosure it was undertaken under powers conferred by Inclosure Acts for the exchange of enclosed land between different parties. In this instance the two parties concerned were Prince Albert, Prince of Wales, Duke of Cornwall and Lord of the Manor of Ryme Intrinseca alias Long Bredy and Major General John Michel of Dewlish.
- 8.16 The text of the document states that the exchange was undertaken by means of the **“Acts for 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”**.
- (a) **Section 34 of the 1852 Act** 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.”**”
- (b) **Section 30 of the 1852 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”.
- 8.17 The **Exchange Plan** clearly depicts part of the claimed route from approximately point S to point T. Having no parcel number the route was not included within the exchange nor was it included within any of the adjacent landholdings. It is defined and coloured in exactly the same manner as other public roads including the one to which it connects at point T, namely the D11905, a public carriageway that leads to Long Bredy village.
- 8.18 Although there is nothing to suggest that this document resulted in the creation of or alteration to any public highways, it is nevertheless reasonable to conclude from the ways shown upon it that it did include the depiction of a number of public highways the majority of which, with the exception of the claimed route and that of a further claim awaiting determination, are presently recorded as public carriageways.

- 8.19 The document was created through a legal process and its accuracy confirmed by the application of the Commissioners seal. Consequently, although not conclusive to status, it would suggest that the part of claimed route shown S to T was considered as a public highway, namely a carriageway, therefore providing supporting evidence to the claimed status of the route.

The Bride Valley, The Bedfords, Michels and Kingston Russell

- 8.20 Two documents, a book and a paper, both researched and written by C J Bailey relate to the history of the **The Bride Valley and The Bedfords, Michels and Kingston Russell**. They both include references to and maps of the area immediately surrounding Kingston Russell House. The maps depict part of the claimed route from point A to just east of point Q. A summary of references made to the application route within these documents follows but for full details reference should be made to the extracts included in the file of the Director of Environment T410.
- 8.21 In *The Bride Valley*, published in 1982, Mr Bailey describes the route as follows
- “The main way out of the medieval village, the most easterly of the two roads, is still visible today as the hollow-way which is followed up over the down by a bridlepath. The other road, a little to the west, connected the mansion with the valley road and ran on, round the foot of the hill, to Longbredy Church. Some time during the last century new approach roads were made to the north gate of the house; these, today have become the public road which accounts for the acute bend by the gate”.***
- 8.22 In the introduction to his paper on *The Michels and Bedfords*, published in 1986, Mr Bailey refers to the discovery of the Estate maps stating:
- “The maps were drawn from surveys made in 1750 to define clearly the boundaries between the Bedford Estate, who were the owners of about 900 acres of land in Kingston Russell parish, and the Michels, owners of Kingston Russell House and about 120 acres. The very confused distribution of the various holdings (Figure 2) which led to much ill-feeling between the parties concerned was resolved by an exchange in 1769. The position after the exchange is shown on one of the maps. Together they provide a complete picture”.***
- 8.23 Figure 1 in Mr Bailey’s paper shows the claimed route from A to just east of point Q. Figure 2, which is an enlargement of the inset in Figure 1 redrawn from the original large-scale Bedford plan, shows that part of the claimed route from point Q westwards annotated as the “Road to Long Bredy” (see Appendix 3). That part between points L and N is annotated as “Back Lane” whilst the continuation northwards is annotated as the “Road to Higher Kingston Russell”.
- 8.24 Mr Bailey states that Figure 4 is:

“Redrawn from the 1750 Bedford map and the layout of the medieval village is still clear. Nine cottages remain inhabited and the main street forms the approach to the Michels' house, now rented by Thomas Masterman. The early road system still serves the village which has its own direct route up on to the downs and the Dorchester to Bridport high road. The grounds of the house (shown stippled) form a neat rectangle between the village street and the parish boundary”.

8.25 Figure 5 is based on an 1870 estate map. “The cottages have all gone and the street has been engulfed by the rearranged grounds of the house and the park land surrounding them. The house has lost part of its east wing and a new approach has been made from the north, changing the line of the Long Bredy to Littlebredy road. A house and two cottages have been built by the Bedford Estate, which has now acquired the Michel land both in Long Bredy and Kingston Russell” and Back Lane “remains open as a public road”.

8.26 Figure 6 depicts “the mid-20th century situation resulting from the purchase of the land in question by George Gribble in 1913. While the drive to the north remains a new approach has been made from the west. The house has completely lost its east wing and the Michels' west wing has been extended at each end. Its six acres of laid out grounds and gardens lie between the parish boundary” and Back Lane, which is now a bridleway, as is the former road”.

1750 Plan of part of the manor of Kingston Russell

8.27 This plan is one of those to which Mr Bailey refers in his paper, discussed above. The claimed route, approximately as shown between points L and M, is clearly depicted on this plan being annotated as “Back Lane to Kingston Russell”. Back Lane is described by Mr Bailey as a public road which then leads into the road to Higher Kingston Russell.

8.28 The plan also shows an additional route which continued north from the ford at point O and then north-east to join the claimed route at point L. This route is annotated as “Road to Kingston Russell” and is the route Mr Bailey describes as having been the street engulfed by the rearranged grounds of the house.

Indenture Bedford and Michel 1769

8.29 The details of the exchange of land in 1769, referred to by Mr Bailey, are contained in an Indenture located in the Bedford archives held at the Devon Record Office. The additional route the “Road to Kingston Russell” described in paragraph 8.28 above appears to have been assigned to Michel being described in the Indenture as follows:

“....Property of the waste road or way leading from a bound stone situate at the north corner of an Orchard in the said map marked with the number 31 To a stone bridge at the corner of Sisters Barton in the said map or plan marked with the number 23 on the west side of the several pieces or parcels of land in the said map or plan marked with the numbers 31, 32, 34, 35, 30 and 38 with liberty for the said David Robert Michel his heirs and assigned to enclose the said waste or road and to keep the same so enclosed or to convert the same to such use as he or they shall think proper”.

8.30 The claimed route is also described within the Indenture as follows:

“...And likewise the drainage and soil of all that waste and road leading from a gate at the southwest corner of Sticklands to the stone bridge aforesaid he the said David Robert Michel his heirs and assignd at his and their own expense supporting and maintaining and keeping the said last mentioned road and also the said bridge and the washing pool and pound on part of the said last mentioned waste or road or some other pound and washing pool on some other part of the said last mentioned waste or road in good and sufficient repair which said last pound and washing pool are now the property of the said John Duke of Bedford and the same or such other pound and washing pool to be made by the said David Robert Michel his heirs or assignd on some part of the said last mentioned waste or road shall for ever thereafter belong unto and be the sole right of the said John Duke of Bedford his heirs and assignd which last mentioned road runs by the west side of Marsh Meadow and is to remain a public road”.

8.31 This evidence confirms that the part of the claimed route from Sticklands, point K, to the stone bridge at the ford at point O was considered by the landowner, the Duke of Bedford, to be a public road both at and prior to the time of the exchange in 1769 and that it was to remain as such. Whilst not being entirely conclusive, on balance, the language used and the annotation shown upon the accompanying plans would support the suggestion that the remaining parts of the claimed route as shown A to K and O to T were also public roads. This status was confirmed again by the Duke of Bedford's declaration made under the Rights of Way Act 1932 and discussed in paragraphs 8.1 to 8.4 above.

Parish Map

8.32 The **Plan of the Parish of Kingston Russell 1870**, which also includes parts of Long Bredy and Litton Cheney, depicts the whole of the claimed route. Although not named as such the plan is coloured in a manner to suggest that it may have been produced for the Kingston Estate, the extent of which is shaded in pink and the boundary of which is in a darker shade of pink.

8.33 From point A to point B (approximately) it is within the Estate's landholding and is clearly excluded, being unshaded and the Estate boundary line is broken where it crosses the route. It is also depicted in exactly the same manner as the A35 from where it commences at point A. Between approximately points B to K, M to Q and R to S the route is clearly not within the landholding of the Estate but is adjacent and, for the most part, forms its eastern or southern boundaries. Between B to K it is defined by two parallel broken lines, suggesting that it was unfenced, and between points M to T the boundaries are mostly solid, suggesting the presence of fences, walls or hedges. From a point just south of point K (Little Bredy Road) to point M and also from Q to R it is encompassed within the Estate but is shown to be excluded, being unshaded, and the Estate boundary line is broken where it crosses the route.

8.34 Although not conclusive as to status it is considered that the fact that it is excluded from the Estate landholding and the manner in which it is depicted provides supporting evidence to the application.

Kingston Estate Sale Documents

- 8.35 Part of the Kingston Estate, the property of the Duke of Bedford, was disposed of by public auction on 19 July 1913. The eastern boundaries of Lots 1, 2 and 3 were adjacent but did not include that part of the claimed route shown between points A to Q, which remained within the ownership of the Bedford Estate. That part of the route shown Q to R was within Lot 2 and that part shown R to T was adjacent parcels 186 and 187 of Lot 4 but was not included within it.
- 8.36 Records would suggest that Lot 1, which abuts but does not include the claimed route as shown from point A to F, was purchased by Major Gribble. Major Gribble disposed of this land by public auction on 23 August 1919.
- 8.37 This evidence would confirm that the land over which that part of route shown A to Q passes was not included within the sale but was instead retained by the Bedford Estate. It would also demonstrate that the part shown R to T was excluded from the sale, not being included within the adjacent land parcels, whilst Q to R was included within parcel 182, being described within the schedule as "road and waste".

National Parks and Access to the Countryside Act 1949

Parish Survey

- 8.38 The **Long Bredy / Kingston Russell Parish Survey** of rights of way originally recorded that part of the route claimed as shown between points A to P on the survey maps coloured in red, and the section P to T coloured green. The northern map shows the route annotated with a number 3 in several places. The southern map shows 'CRB 3' annotated alongside in green between points K and L and between points P and T. It is described in the accompanying schedule for number 3 with the designation of "Bridle", commencing from "The Ford, Kingston Russell NNE to main road at Higher Kingston Russ. The survey of the claimed route took place during October 1953.
- 8.39 The schedule was later altered to read from "Abbotsbury Lane via The Ford, Lower Kingston Russell NNE to main road at Higher Kingston Russ" and the status changed to 'CRB'.
- 8.40 The notes and papers attached to the parish schedule suggest that the part of the claimed route shown between points O to P may originally have been recorded as Footpath 1, a designation that was then changed to CRB 3 (Carriage or Cart Road Bridleway).

Draft, Provisional and First Definitive Maps

- 8.41 The **1954 draft map** for the south area, clearly designates the whole route from A to T as CRB 3 - a Cart or Carriage Road used mainly as a Bridleway, suggesting that evidence had been produced to indicate that the route did have public vehicular rights over it.

- 8.42 The designation as a CRB on the draft map was objected to and subsequently on both the 1964 provisional and the 1967 first definitive maps the route was designated as Bridleway 3 throughout its length from A to T.

Special Review

- 8.43 In July 1973 the **Special Review Committee** considered reclassifying Bridleway 3 in light of the evidence of dedication as a 'Wheel Road' by the Duke of Bedford under the Rights of way Act 1932. Under the tests then in force contained within the Countryside Act 1968 the Committee determined to "Retain as a bridleway – although public vehicular rights are shown to exist, the re-classification of this way as a bridleway will not cause any undue hardship as per test 3 in the Countryside act 1968".

Revised Draft Map

- 8.44 Following the decision of the Special Review Committee the route was designated as Bridleway 3 on both the **1974 revised draft map** and the **1989 current definitive map**.
- 8.45 The fact that the route was shown as a CRB on the **draft map of 1954** suggests that evidence came to light to indicate the existence of higher 'vehicular' rights over the route. The evidence of the **Duke of Bedford's 1939 declaration** that it was a public vehicular route was put forward during the **Special Review in 1973** and although the Special Review Committee determined that it should remain as a bridleway they did acknowledge that public vehicular rights existed over it. Consequently, this evidence provides strong support to the claimed status.
- 8.46 Although the fact that the whole of the claimed route is presently recorded upon the definitive map as a public bridleway is regarded as conclusive evidence as to the existence of these rights, it is not regarded as being prejudicial to the existence of any higher rights over the route.

Ordnance Survey Maps

- 8.47 The **1806 Ordnance Survey Drawings**, which were made in preparation for the publication of the first edition of the one inch map in 1811, 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 around Kingston Russell parish was completed in 1806 and clearly depicts the route claimed throughout its length A to T. From points A to K it is defined by two parallel lines, solid to the west and broken to east, suggesting it was not fenced to the eastern side. From K to S both boundaries are defined by solid lines, suggesting that this part of the route was 'enclosed'. The route claimed is shown in the same manner as other public roads in the vicinity
- 8.48 The First Edition **1811 Ordnance Survey One inch to One Mile map** also depicts the claimed route throughout its length between points A and T. It is defined in the same manner as the earlier drawing. The route is shown to be open at either end and throughout its length with no indication of the presence of any gates or other barriers. Although not conclusive as to its status it is shown in a similar manner as other routes in the vicinity that are known to be public highways, namely public carriageways.

- 8.49 The **1888 Ordnance Survey First Edition Map and the 1903 Second Edition Map** at a scale of 6 inches:1 mile show a very similar picture to the earlier one inch map. From point A to point K the route is clearly depicted, being defined by two broken parallel lines denoting that no fences or hedges were present, although in comparison to the earlier one inch map it is now shown to be located a little distance from the parish boundary, which is shown as the solid line to the west. From point K to point R the route is shown to be within or defined by two parallel solid lines, suggesting that the route was fenced or otherwise enclosed, with the exception of the northern boundary between points Q and R, which is depicted as a broken line. No gates or barriers are shown at either end although solid lines shown at several places across the route would suggest the location of gates. Both maps also clearly identify the location of the ford at point O.
- 8.50 The **1902 Ordnance Survey Map** at a scale of 25 inches:1 mile depicts the same or a very similar situation as the Ordnance Survey six inch maps, although being to a larger scale there is more detail.
- 8.51 The applicant also provided extracts from several other Ordnance Survey maps in support of the application. The **Reduced Ordnance Survey around Wimborne One Inch Map** produced by G Richmond, Birmingham, circa late 1800s, has no key but the route claimed is prominently defined by two parallel solid or broken lines from point A to point M depicting it in the same manner as other public roads in the vicinity. The **Ordnance Survey 1 inch Contoured Road Maps 1919 and 1945** show the route in exactly the same manner and reference to the accompanying keys shows it to be defined as an unmetalled road, fenced to either side for the majority of its length.
- 8.52 The evidence provided by the **Ordnance Survey Maps** would suggest the existence of a route that was capable of accommodating vehicular traffic. The claimed route is consistently shown in the same manner as other public carriageways in the vicinity, being clearly defined for the majority of its length by hedges or fences. It is also clearly annotated with its name, suggesting the public nature of the route. The guidepost located at point A may indicate that the route was clearly signed in order to assist the travelling public. Although this provides evidence in support of the application it does not, on its own, provide any conclusive evidence as to the status of the route.

Commercial Maps

- 8.53 The applicant made reference to a number of small scale maps of Dorset held at the Dorset History Centre Ref DC/BTB:R5 and has provided extracts from a variety of Bartholomew and other Commercial Maps in support of the application.
- 8.54 **Taylor's Maps of Dorset 1765 and 1796 and J Bayly's Map of Dorset 1773** depict that part of the route that generally corresponds with that of the claim as shown between approximately point F and point T. Reference to the accompanying keys suggest it was designated as a "road enclosed with hedges" and a "cross road".

Page 15 Application for a definitive map and statement modification order to upgrade Bridleways 44 and 45, Kingston Russell and Bridleway 3, Long Bredy to byways open to all traffic

- 8.55 **Greenwoods' Map of Dorset 1826** depicts those parts of the claimed route as shown from points A to F, points K to south of point M and points O to T. The accompanying key designates these parts of the claimed route as a 'cross road'.
- 8.56 **Arrowsmith's Map of Dorset 1815** shows that part of the claimed route between points F and T.
- 8.57 **Bacon's Geographical Map of Dorset** and **Revised Map of Dorset**, dates unknown, depict the route clearly, the accompanying keys respectively defining it under the designations of "Main & Cross Roads" and "other roads".
- 8.58 The **G Philip & Sons Botanical and Geological Maps of Dorset**, **Johnston's Map of Dorset** and **E Weller's Map of Dorset**, dates unknown, depict the claimed route in the same manner as other public roads but have no accompanying keys.
- 8.59 The **Geographia Road Map of Dorset, circa 1940** depicts the route clearly the accompanying key respectively defining it under the designation of "other road".
- 8.60 **Bartholomew's maps** are based on Ordnance Survey data and were extremely popular and widely referred to by the public. They provided information on first, second and 'indifferent' classes of roads as well as footpaths and bridleways. The extracts from the **Bartholomew Maps** submitted in support of the application cover a period from 1911 to 1951 and depict the route quite prominently in exactly the same manner as other public roads in the area. Reference to the accompanying keys designates the route as an 'inferior', 'indifferent' or 'serviceable' road.
- 8.61 **Stockdale's Map of Dorset 1805**, submitted in support of the application, does not shown the claimed route.
- 8.62 The extracts from and reference to the **Small Scale Maps of Dorset** submitted in evidence by the applicant are mainly of a commercial nature and in all probability derive their data from other surveys such as the Ordnance Survey. Very few, if any, are wholly independent surveys and several have no accompanying key. However, they do all show the route, or significant parts of it, clearly and prominently and 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 it.

Deposit – Section 31(6) Highways Act 1980

- 8.63 Mr R Morgan-Giles, Manor Farm, Long Bredy, deposited a map and statement dated 11 September 1989 in respect of his landholding within the parishes of Long Bredy and Kingston Russell. This land included that through which the claimed route passes approximately as shown between points F and L and acknowledges that the claimed route is part of Bridleway 3 (now Bridleway 44). The statement written on the plan suggests that it had been made under Section 31(6) of the Rights of Way Act 1932. However, this would appear to have been in error as it is apparent that the deposit was meant to have been made under Section 31(6) of the Highways Act 1980. Although this error may bring the validity of the deposit into question it nevertheless does provide evidence as to the lack of intention on the part of the owner to dedicate any further rights of way over his land at that time.
- 8.64 A correctly made deposit would have remained valid for 6 years requiring renewal on or before 11 September 1995. However, there is no record of any further deposit being made. Although a valid deposit would prevent the accrual of any additional rights across the land it does not act retrospectively and any unrecorded rights that existed prior to the deposit being made are not affected. In this particular case, although the deposit, if considered to be valid, would prevent any presumption of dedication as from 11 September 1989, which may therefore invalidate any user evidence from that time, it has no effect upon the validity of any evidence, user or documentary, prior to this date.
- 8.65 It should be noted that the declaration made by a previous owner of the land, the Duke of Bedford, which is discussed at paragraphs 8.1 to 8.4 above, precedes this declaration by some 50 years. Consequently, even if Mr Morgan-Giles deposit was considered to be valid it would have no effect on the rights already admitted to exist in the 1939 declaration.

Aerial Photographs

- 8.66 The aerial photographs from 1947 and 1972 suggest the existence of a significant linear route that for the majority of its length is readily discernible. These photographs also show the course of the additional route shown on the plan of the Manor of Kingston Russell 1750, which was sold to Michel in 1769 and then incorporated into the garden of Kingston Russell House.
- 8.67 The 1997, 2005 and 2009 aerial photographs show the part of the route from point F to point T quite clearly. That part from point A to point F whilst being clearly defined by the hedge/fence to its western boundary is not as easily discernible.
- 8.68 Although the aerial photographs provide no conclusive evidence as to the status of the route they do provide additional evidence as to its physical existence over a long period of time.

9 Analysis of evidence opposing the application

- 9.1 Mr I Thacker objected to the application in 2005, although he offered no relevant evidence in support of his objection. Mr Thacker responded to the consultation of 2011 stating that he no longer had any interest in the affected land.
- 9.2 Ms K Gocher, representing the Ramblers' Association (South Dorset Group), states that she has no evidence to refute the claim but objects to the application as she is opposed in principle to the use of mechanically propelled vehicles in the countryside. Ms Gocher adds that she would not oppose the recording of a restricted byway over the claimed route.
- As Ms Gocher's objection is based on opinion it is not relevant and therefore cannot be taken into account when determining whether or not the claimed rights exist
- 9.3 The objections received from Mr and Mrs Sykes and Mrs Frost relate to issues that cannot be taken into account when determining whether or not the claimed rights exist.
- 9.4 Mr Miller (Symonds and Sampson) made a detailed submission on behalf of Mr J Maltby, the owner of the land shown between points A to F on Drawing 11/62/1, in opposition to the application. It should be noted that the letters referred to by Mr R Miller in his submission relate to the Drawing used for the consultation exercise, which has been superseded by Drawing 11/62/1. To avoid confusion this analysis of Mr Miller's submission will use the letters on Drawing 11/62/1 (Appendix 1).
- 9.5 Mr Miller's submission opens by providing some background and a timeline of Mr Maltby's family connections with the land in question. Mr Maltby has owned this land since 2007 although his father purchased the neighbouring farm, Longbarrow Farm, which is located immediately to the west of the route, in 1929. Mr Maltby, who was born in 1943, has no recollection of any public mechanically propelled vehicle use of the route throughout his lifetime.
- Whilst this background information provides evidence as to Mr Maltby's knowledge of the locality his ownership and interest in the land affected by the application only commences in 2007. The information he provides does not in itself provide evidence as to the status of the route and although Mr Maltby may never have witnessed any use of the route by the public in vehicles it does not provide conclusive evidence that this did not or could not have taken place.
- 9.6 Mr Miller discusses the aerial photographs from 1947, which, due to the lack of any distinguishing marks on the ground, he believes provides evidence to refute the presence of a road or way from point A to D. He also notes a number of hayricks obstructing the route and suggests that although this would support the conclusion that the southern part of the route was used by farm vehicles it would not support the existence of a public through route towards the A35 at point A.

- The 1947 photographs clearly show a lighter shaded route generally corresponding to the application route and following a south-westerly direction parallel to and east of the boundary fence or hedge commencing from point A through B and beyond towards point C. It is acknowledged that as the route continues towards point C it is less discernible and that there are obstructions in the form of hayricks dotted along the route. However, these obstructions are both temporary and easily bypassed and from point C the route is once more easily distinguishable. Whilst it is considered that the photographs do provide evidence as to the existence of the claimed route and due to its width this may have been a vehicular route, they alone cannot provide any conclusive evidence as to its status.

9.7 Mr Miller introduces a further photograph that was included within the Higher Kingston Russell Farm sale documents of 1972. Mr Miller believes that the photograph was taken from a position some distance to the south-east of point D and whilst he acknowledges that the picture is “not absolutely clear” is of the opinion that this also provides evidence as to the lack of distinguishing marks to suggest the existence of a track.

- Due to the position and distance from which the photograph is taken it is not possible to provide any comment or judgement on its merit as evidence to the non-existence of any distinguishing mark or feature that could be attributed to either the physical presence of a track or any corresponding vehicular use of it.

9.8 Mr Miller refers to the Parish Rights of Way Survey undertaken in 1953 and notes the recording of the route as a CRB followed its original recording as a Bridle[way].

- The significance of this change of status is discussed in paragraph 8.45 above. The alteration to CRB suggests that evidence had been produced to indicate that the route did have public vehicular rights over it. This may well relate to the Duke of Bedford’s declaration that the route was a ‘Wheel Road’ in 1939, which is discussed in paragraph 8.2 above.

9.9 Mr Miller refers to the Duke of Bedford’s declaration under the Rights of Way Act 1932. Mr Miller acknowledges that this document provides weight to the application but suggests that there remain several questions as to the reality of the situation at the time and the actual use of the route by the public.

- (a) Mr Miller notes that the Bedford Estate’s Agent had an office in Tavistock and due to his location questions the Agent’s knowledge of the Estate in Dorset.

- Declarations made under the Rights of Way Act 1932 were not compulsory although it is reasonable to assume that an Estate Agent would readily make use of the protection such a declaration would afford. There is no evidence to suggest that the Duke of Bedford's Agent was not knowledgeable about either the land in question or the legal implications in making such a declaration. Whilst it was not necessary for public use to be actively taking place in order for the declaration to be made, it appears reasonable to suspect that the Estate would have had knowledge of such use or of the routes reputation prior to making it. There is no evidence to suggest that the declaration was made in error.
- (b) Mr Miller suggests that the aerial photograph of 1947 provides compelling evidence as to the lack of use of the route at its northern end.
- As discussed in paragraph 8.66 above it is considered that the 1947 aerial photograph provides no compelling evidence to suggest the route was not used by the public.

10 Analysis of other submissions

10.1 The remaining submissions contain no evidence to be considered.

11 Conclusions

11.1 It is necessary for Members to decide, by applying the relevant legal test to the evidence, whether or not the right of way claimed subsists. 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 on the definitive map and statement as bridleways ought to be shown as highways of a different description.

11.2 It is considered that the most important piece of documentary evidence is that provided from the **Duke of Bedford's 1939 Declaration** made under the **Rights of Way Act 1932** in which the Bedford Estate acknowledged the existence of a public vehicular route as shown from point A to Q. This act confirmed a much earlier acknowledgement of a public road as demonstrated within the **Indenture and Plan of 1769**, detailing an exchange of land between the Bedfords and the Michels and indicates that the route had been considered to be a public vehicular highway for in excess of 160 years.

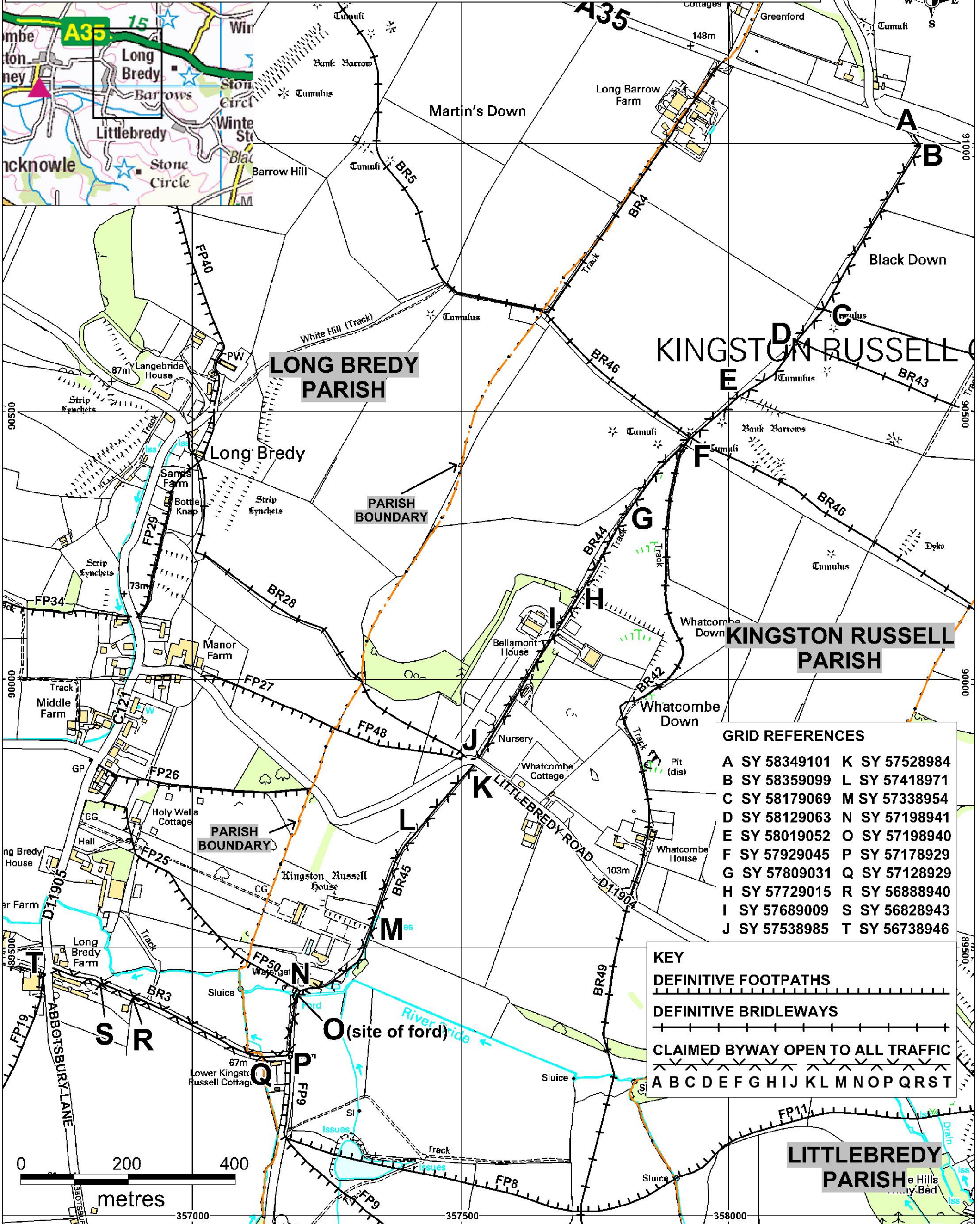
11.3 In addition to the above there are other documents, including the **Kingston Russell Tithe Plan 1839**, the **Long Bredy Inclosure Exchange 1859**, the **Kingston Russell Parish Map 1870** and the two **Plans of the Manor of Kingston Russell 1750** that provide good supporting evidence towards the conclusion that the route claimed was and remains a public vehicular highway.

Page 20 Application for a definitive map and statement modification order to upgrade Bridleways 44 and 45, Kingston Russell and Bridleway 3, Long Bredy to byways open to all traffic

- 11.4 Additional supporting evidence arises from the process leading to the production of the **first definitive map** during which the route had originally been identified as a CRB, suggesting public vehicular rights. In addition during the **Special Review** the Committee acknowledged that the route was a public vehicular highway, although under the tests that then applied they chose not to record it as such.
- 11.5 Although not conclusive as to status, further supporting evidence as to the physical existence of a significant route over a considerable period of time is provided by the **Ordnance Survey** maps and the **Commercial maps**.
- 11.6 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 show between points A to T on Drawing 11/62/1. It is considered sufficient to demonstrate, on balance, that the claimed public rights exist and an order should be made.
- 11.7 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.
- 11.8 Therefore it is recommended that an order be made to record the claimed route as a restricted byway.
- 11.9 If there are no objections to a modification order, the County Council can itself confirm the order if the criterion for confirmation have been met.

Miles Butler
Director for Environment

June 2012



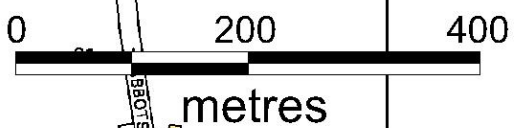
GRID REFERENCES

A	SY 58349101	K	SY 57528984
B	SY 58359099	L	SY 57418971
C	SY 58179069	M	SY 57338954
D	SY 58129063	N	SY 57198941
E	SY 58019052	O	SY 57198940
F	SY 57929045	P	SY 57178929
G	SY 57809031	Q	SY 57128929
H	SY 57729015	R	SY 56888940
I	SY 57689009	S	SY 56828943
J	SY 57538985	T	SY 56738946

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



WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION TO UPGRADE BRIDLEWAY 3, LONG BREDY AND BRIDLEWAYS 44 AND 45, KINGSTON RUSSELL TO BYWAY OPEN TO ALL TRAFFIC

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 11/62/1
 Date: 29/05/2012
 Scale 1:6500 AT A3
 Drawn By: ACH
 Cent X: 357552
 Cent Y: 90165

GEOGRAPHICAL INFORMATION SYSTEMS

DORSET
County Council

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LAW

General

- 1 Wildlife and Countryside Act 1981
 - 1.1 Section 53 of the Wildlife and Countryside Act 1981 requires that the County Council keep the definitive map and statement under continuous review and in certain circumstances to modify them. These circumstances include the discovery of evidence which shows that a highway shown on the definitive map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
 - 1.2 Section 53 of the Act also allows any person to apply to the County Council for an order to modify the definitive map and statement of public rights of way in consequence of the occurrence of certain events. One such event would be the discovery by the authority of evidence which, when considered with all other relevant evidence available to them, shows that a highway shown on the definitive map and statement as a highway of a particular description ought to be shown as a highway of a different description.
 - 1.3 The Committee must take into account all relevant evidence. They cannot take into account any irrelevant considerations such as desirability, suitability and safety.
 - 1.4 The County Council must make a modification order to alter the status of a route on the definitive map and statement if the balance of evidence shows that a highway shown in the map and statement ought to be shown as a highway of a different description.
 - 1.5 An order can be confirmed if, on the balance of probability, it is shown that the route should be recorded with the proposed status.
 - 1.6 Where an objection has been made to an order, the County Council is unable itself to confirm the order but may forward it to the Secretary of State for confirmation. Where there is no objection, the County Council can itself confirm the order, provided that the criterion for confirmation is met.
- 2 Highways Act 1980
 - 2.1 Section 31 of the Highways Act 1980 says that where a way has been used by the public as of right for a full period of 20 years it is deemed to have been dedicated as highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The 20 year period is counted back from when the right of the public to use the way is brought into question.
 - (a) 'As of right' in this context means without force, without secrecy and without obtaining permission.
 - (b) A right to use a way is brought into question when the public's right to use it is challenged in such a way that they are apprised of the challenge and have a reasonable opportunity of meeting it. This may be by locking a gate or putting up a notice denying the existence of a public right of way.

- (c) An application under Section 53 (5) of the Wildlife and Countryside Act 1981 for a modification order brings the rights of the public into question. The date of bringing into question will be the date the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.
- 2.2 The common law may be relevant if Section 31 of the Highways Act cannot be applied. The common law test is that the public must have used the route 'as of right' for long enough to have alerted the owner, whoever he may be, that they considered it to be a public right of way and the owner did nothing to tell them that it is not. There is no set time period under the common law.
- 2.3 Section 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 Human Rights Act 1998
- 3.1 The Human Rights Act 1998 incorporates into UK law certain provisions of the European Convention on Human Rights. Under Section 6(1) of the Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1) and that he is (or would be) a victim of the unlawful act, may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.
 - (a) Article 8 of the European Convention, the Right to Respect for Private and Family Life provides that:
 - (i) Everyone has the right to respect for his private and family life, his home and his correspondence.
 - (ii) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
 - (b) Article 1 of the First Protocol provides that:

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

Case specific law

4 Inclosure Consolidation Act 1801

- 4.1 Section 8 of the Inclosure Consolidation Act required Commissioners to set out and appoint the public carriage roads and highways and to divert, turn or stop up any roads or tracks upon or over the lands to be allotted prior to the land being enclosed.
- 4.2 Section 9 of the Act required carriage roads to be well and sufficiently fenced on both sides and made it unlawful for any gate to be erected across them.
- 4.3 Section 10 of the Act, amongst other things, empowered commissioners to appoint private roads, bridleways and footpaths in, over, upon and through the allotments to be made.
- 4.4 Section 11 of the Act determined that after the public and private roads and ways had been made and set out any remaining roads, paths and ways over, through and upon such lands and grounds, which had not been set out as required, would be extinguished and deemed to be taken as part of the lands and grounds to be enclosed.
- 4.5 The Inclosure Consolidation Act 1801 could be accepted in whole or excluded in whole or part by local acts relevant to the area to be enclosed.

5 Finance Act 1910

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

6 National Parks and Access to the Countryside Act 1949

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

Page 25 Application for a definitive map and statement modification order to upgrade Bridleways 44 and 45, Kingston Russell and Bridleway 3, Long Bredy to byways open to all traffic

7 Natural Environment and Rural Communities Act 2006

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

Table of documentary evidence

Date	Document	Comment
1750	Plan of Manor of Kingston Russell	Shows claimed route from point F to point P
1765	Taylor's Map of Dorset	Shows route generally corresponding to the claimed route between points F to T defined in key as "road enclosed with hedges"
1769	Indenture Bedford & Michel	Landowner stated that part of claimed route K – O was and should remain a public road.
1773	J Bayly's Map of Dorset	Shows route generally corresponding to the claimed route between points F to T defined in key as "Cross Road "
1795	Taylor's Map of Dorset	Shows route generally corresponding to the claimed route between points F to T defined in key as "road enclosed with hedges"
1806	Ordnance Survey Drawing scale 1 inch:2 miles	Shows claimed route from point A to point T
1811	Ordnance Survey scale 1 inch:1 mile map	Shows claimed route from point A to point T
1815	Arrowsmith's Map of Dorset	Shows claimed route from point F to point T
1825	Greenwoods' Map of Dorset	Shows parts of claimed route from points A to F, K to M and O to T key defines these as a 'Cross Road'
1859	Long Bredy Inclosure Exchange Plan	Shows part of claimed route from point S to point T it is excluded from the exchange and depicted in the same manner as other public roads in the vicinity
1870	Plan of the Parish of Kingston Russell 1870	Shows claimed route from point A to point T route excluded from estate landholding
Late 1800s	Reduced Ordnance Survey around Wimborne One Inch Map	Shows claimed route from point A to point J
Undated	Bacon's Geographical Map of Dorset	Shows claimed route from point A to point J key defines route under designation of 'Main and Cross Road'
Undated	Johnstons' Map of Dorset scale 1 inch:3 miles	Shows claimed route from point A to point J
Undated	Bacon's Revised Map of Dorset	Shows claimed route from point A to point J key defines route as 'Other Road'
Undated	E Weller's Map of Dorset	Shows claimed route from point A to point J
Undated	G Philip & Sons Botanical and Geological Maps of Dorset	Shows claimed route from point A to point J

Date	Document	Comment
Undated	Pigot & Son Map of Dorset	Shows claimed route from point A to point J. Key defines route as 'cross road'
1884		NOTE: The classification of roads by administrative status was practiced on Ordnance Survey maps from 1884. All <u>metalled</u> public roads for wheeled traffic were to be shaded.
1888	First Edition Ordnance Survey map 6 inches:1 mile	Shows claimed route from point A to point J route un-shaded
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.
1901	Ordnance Survey Object Name Book Sheet 39 Northwest	Claimed route identified as Broom Hill Lane described as "A public road extending from the Roman Road [Point J] near the British Village to the County Road near North Barn [Point A]".
1901	Ordnance Survey Object Name Book Sheet 39 Southwest	Claimed route identified as Broom Hill Lane described as "Lane extending from the District Road [point A] to the Roman Road [point J]"
1902	Second Edition Ordnance Survey map scale 25 inches:1 mile	Shows claimed route from point A to point J route un-shaded
1903	Second Edition Ordnance Survey map scale 6 inches: 1 mile	Shows claimed route from point A to point J route un-shaded
c1906	Ordnance Survey map scale 1 inch:1 mile (Coloured)	Shows claimed route from point A to point J key defines route as un-metalled road
1906	Ordnance Survey map scale 1 inch:1 mile	Shows claimed route from point A to point J key defines route as un-metalled road
1910	Finance Act	Route excluded for valuation from point C to J. A to C included in Hereditament 43 for which £500 deducted for public rights of way
1911	Bartholomew map scale ½ inch:1 mile	Shows claimed route from point A to point J key defines route as an inferior road
1912		NOTE: The system of classification adopted on Ordnance Survey maps in 1896 was abolished in November 1912.
1919	Sale Documents Kingston Estate	Shows claimed route from point A to point J route excluded from sale.

Date	Document	Comment
1920	Bartholomew map scale ½ inch: 1 mile	Shows claimed route from point A to point J key defines route as an inferior road
1920	Conveyance	Shows claimed route from point A to approximately point H. A to C included in conveyance C to H excluded.
1922	Sale Documents Dowerfield Estate	Shows claimed route from point A to approximately point H. A to C included in conveyance C to H excluded.
1923	Ministry of Transport Road Map	Shows claimed route from point A to point J. Key defines route as 'other road'
1924	Hardings' Guide to the District of Dorchester scale ½ inch:1 mile	Shows claimed route from point A to point J. Key defines route as 'other road'
1939	Statutory Declaration – Duke of Bedford	Part A – P defined as a “Wheel Road”
1940	Geographia Map of Dorset	Shows claimed route from point A to point J key defines route as minor road
1944	Bartholomew map scale ½ inch:1 mile	Shows claimed route from point A to point J key defines route as a serviceable road
1947	Aerial photograph	Shows the claimed route
1951	Bartholomew map scale ½ inch:1 mile	Shows claimed route from point A to point J key defines route as a serviceable road
1953	Long Bredy / Kingston Russell Parish Survey	Described both as bridleway and CRB
1954	Draft map	Whole route designated CRB
1964	Provisional map	Bridleway 3, LongBredy/Kingston Russell
1967	First definitive map	Bridleway 3, LongBredy/Kingston Russell
1972	Aerial photograph	Shows claimed route
1974	Revised draft map	Bridleway 3, LongBredy/Kingston Russell
1989	Current definitive map	Bridleway 3, Long Bredy and Bridleways 44 & 45, Kingston Russell
1989	Statutory Declaration – Bedford Estate	Acknowledges existence of F – L as bridleway
1997	Aerial photograph	A – F not readily seen but F – T clearly shown
2005	Aerial photograph	A – F not readily seen but F – T clearly shown
2009	Aerial photograph	A – F not readily seen but F – T clearly shown

Page 29 Application for a definitive map and statement modification order to upgrade Bridleways 44 and 45, Kingston Russell and Bridleway 3, Long Bredy to byways open to all traffic

Extracts from key documents

(See the Director for Environment's file RW/T410 for copies of other documents mentioned)

1939 Statutory Declaration by the Duke of Bedford - plan

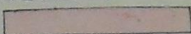


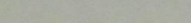


Key

— HIGHWAYS —

Admitted to have been dedicated
to the
— Public —
by
His Grace the Duke of Bedford, K.G.
on his
Dorset Property
in the
Rural District of Dorchester
in the
Parish of Kingston Russell

Reference to Colours:-

Estate Boundary	
Wheel Road	
Pack Track	
Foot Path	

— WHEEL ROADS —

- ① From Compton Abbas to Winterborne Abbas
- ② " Bridport to Dorchester
- ③ " West side of Kingston Russell Farm joining ① and ②
- ④ From East side of Kingston Russell Farm joining ① and ②
- ⑤ From Milestone (Dorchester-7) on ② to Lower Kingston Dairy House & Cottages.
- ⑥ From Long Bredy to Little Bredy from ⑤

— PACK TRACKS —

- 1 Fishway Lane crossing Kingston Russell Farm joining ③ and ④
- 2 From ⑤ going East crossing Black Down
- 3 From ⑤ going East crossing Black Down
- 4 Along the Southern boundary of Estate passing near the Stone Circle at the S.E. corner of the Estate.

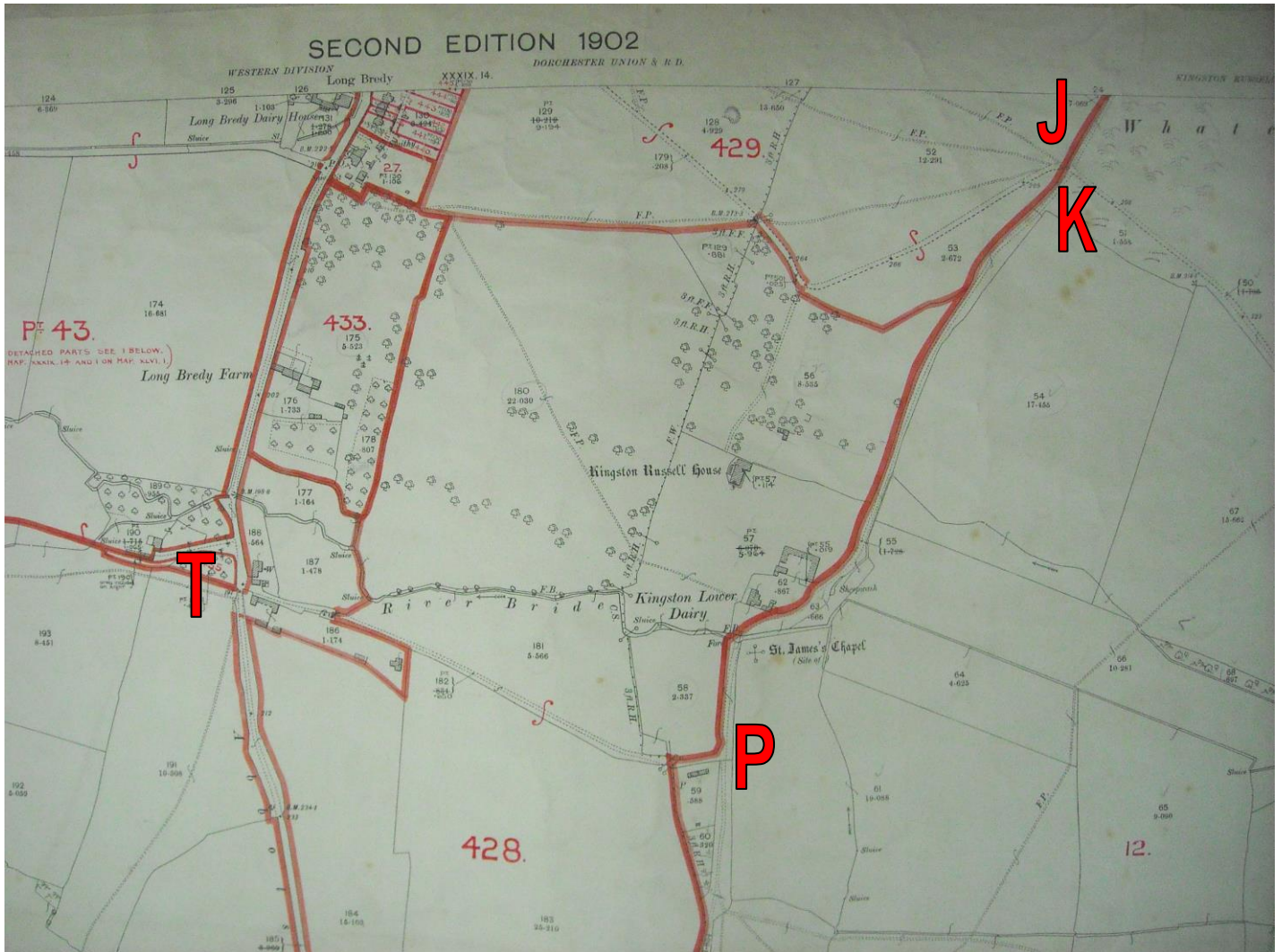
— FOOT PATH —

- 1 From Lower Kingston Russell Cottages ⑤ to S.E. end of 4, passing through the Stone Circle.

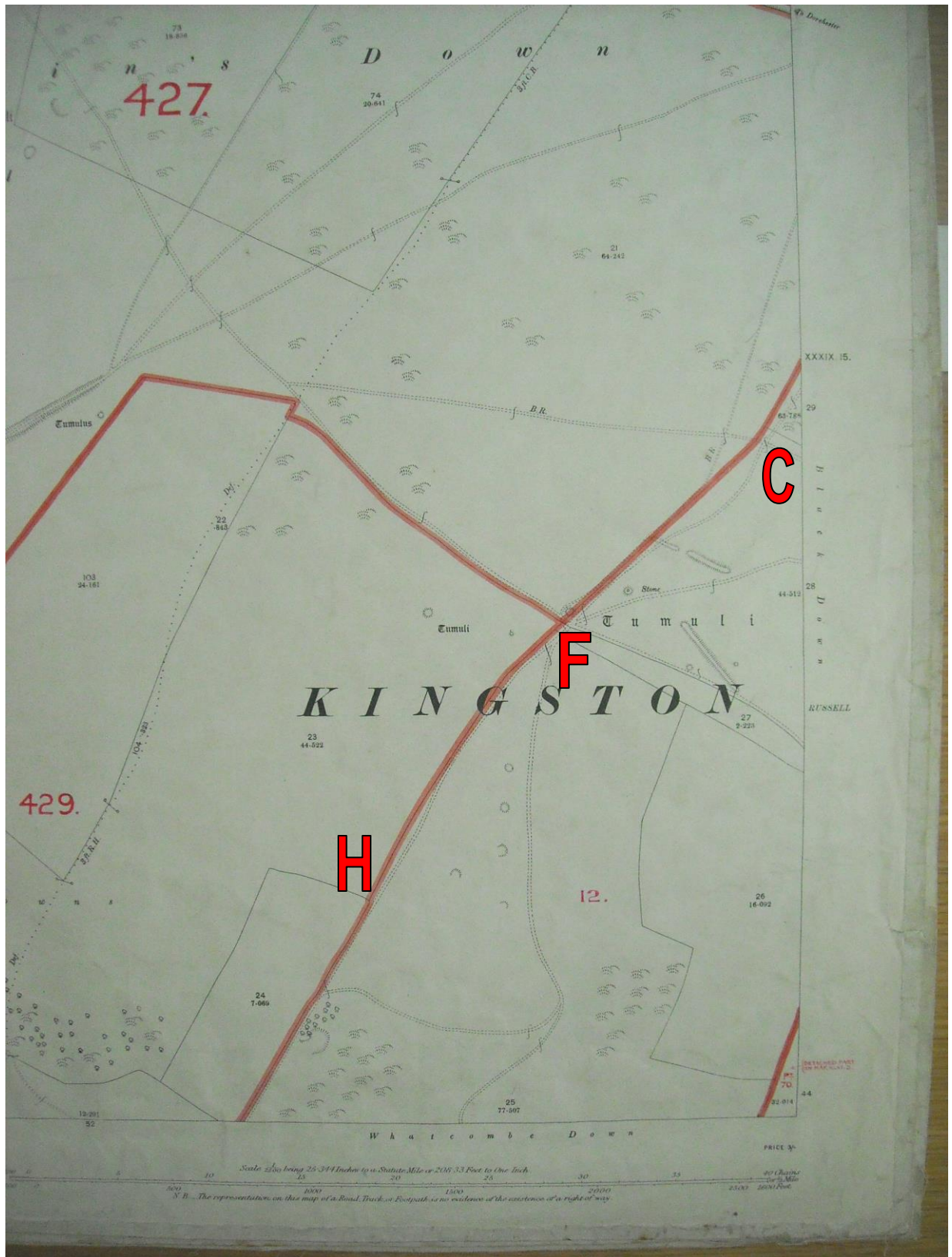
[Signature]
Agent to His Grace the Duke of Bedford, K.G.



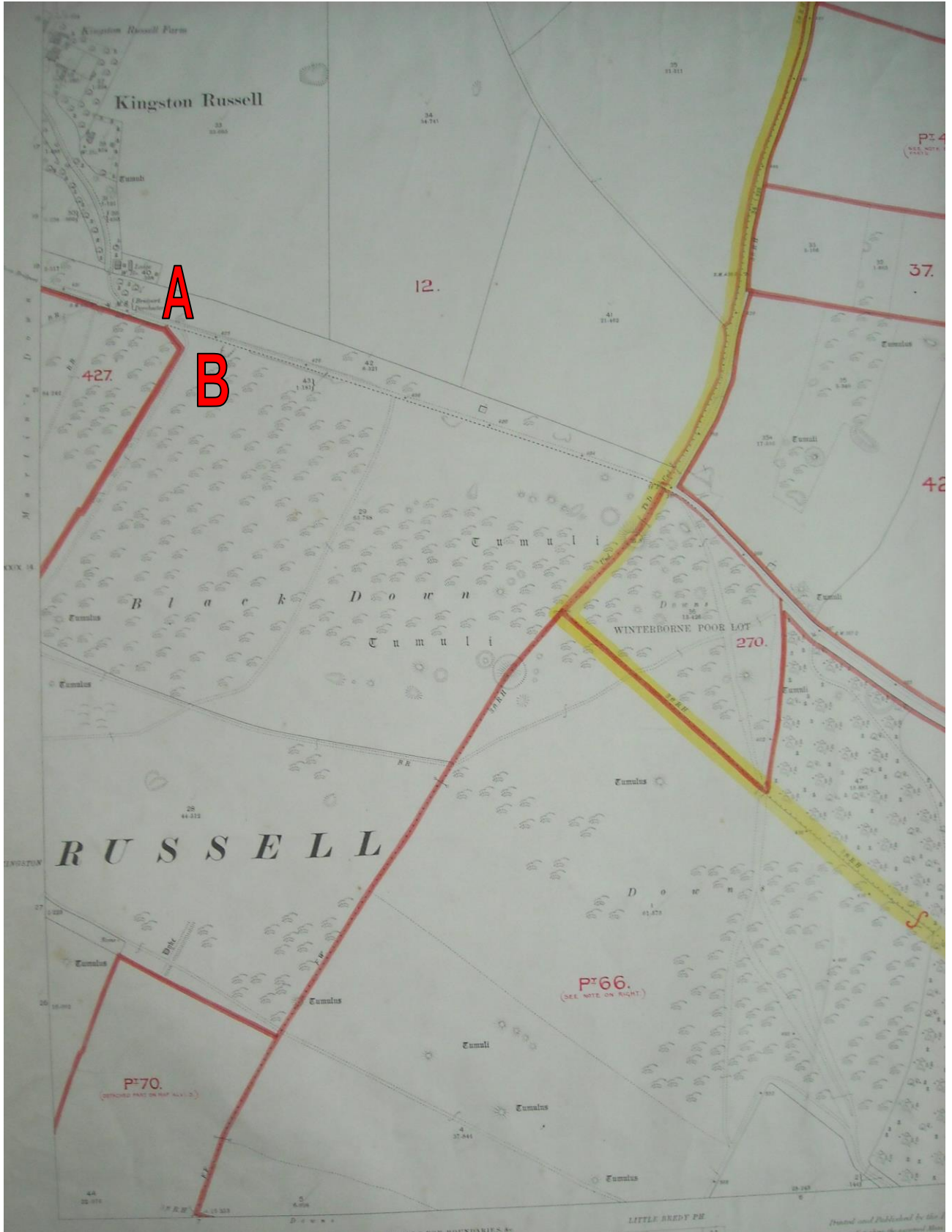
1901 Finance Act maps
Sheet 46.2



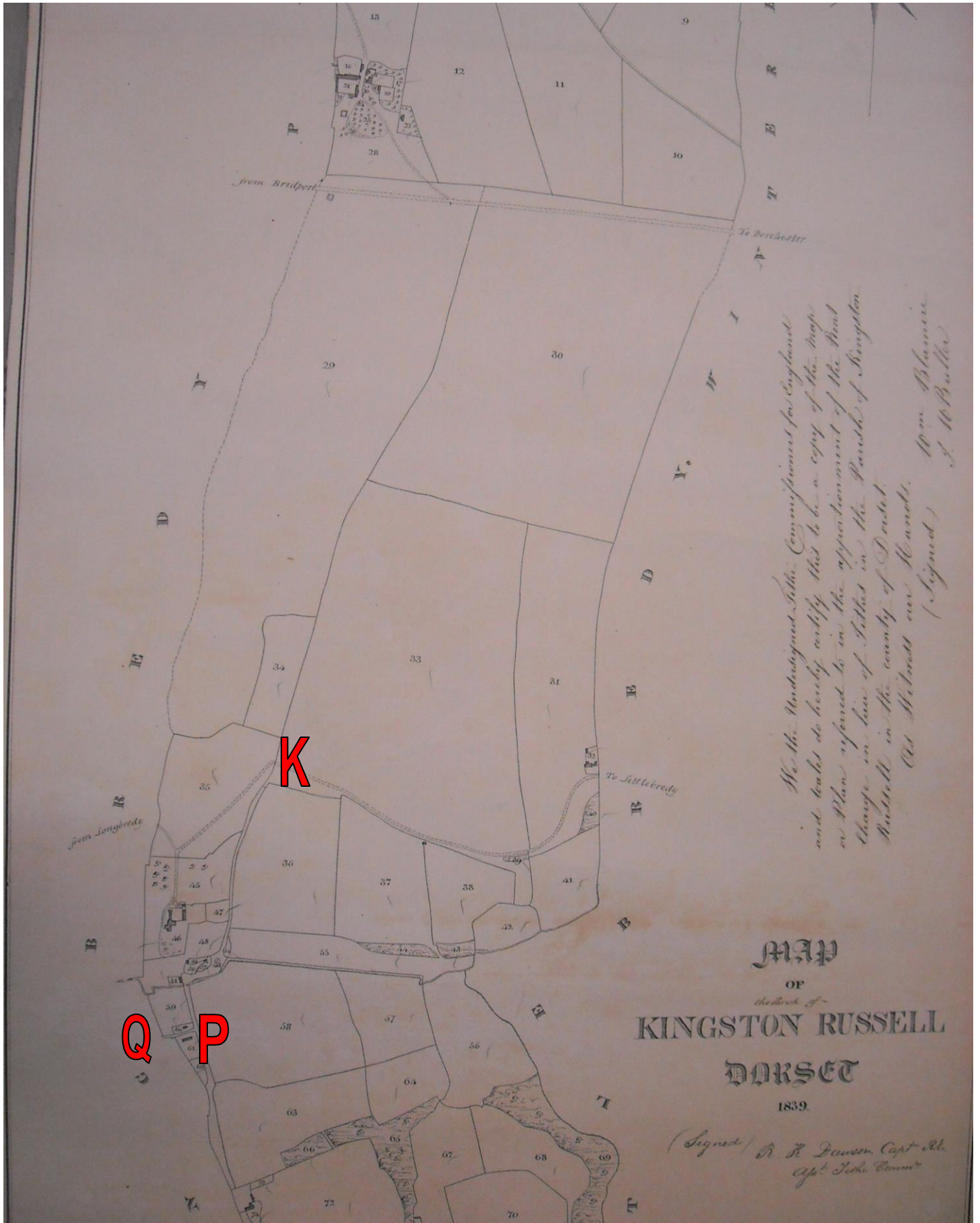
Sheet 39.14



Sheet 39.15



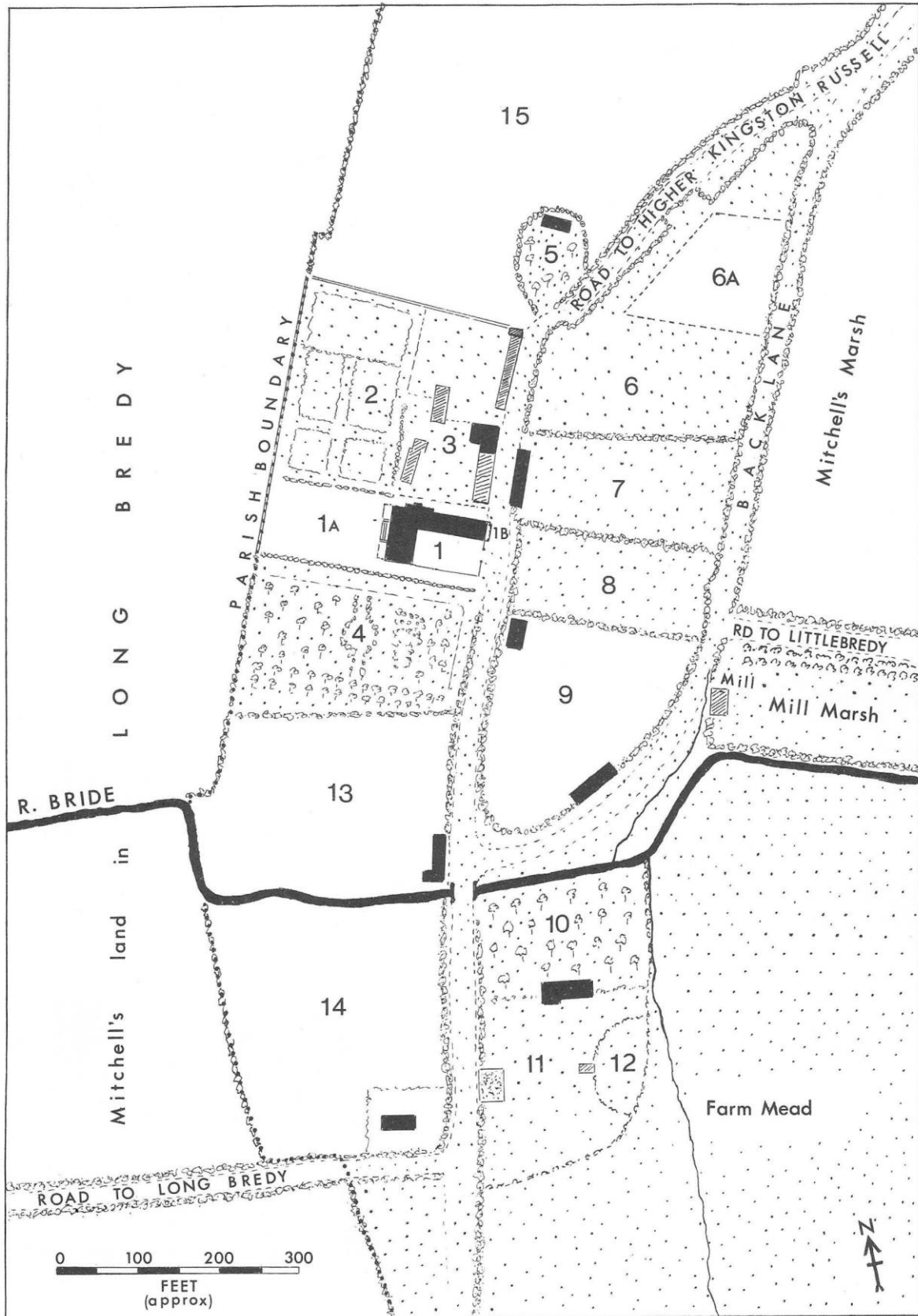
1839 Kingston Russell Tithe map



1859 Long Bredy Exchange Plan



1750 Plan of part of the Manor of Kingston Russell
(Figure 2 from C J Bailey's paper
"The Bedfords, Michels, and Kingston Russell")



1769 Plan accompanying Indenture Bedford and Michel

