

Agenda item:

Roads and Rights of Way Committee

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Dorset County Council



Date of Meeting	1 July 2013
Officer	Director for Environment
Subject of Report	Application for a definitive map and statement modification order to upgrade Bridleway 11, Weymouth, Bridleway 24, Osmington and Bridleways 5 & 9, Poxwell to byways open to all traffic (part of the South West coast Path National Trail)
Executive Summary	In response to an application to upgrade Bridleway 11, Weymouth, Bridleway 24, Osmington and Bridleways 5 and 9, Poxwell (one continuous route) to a byway open to all traffic this report considers the evidence relating to the status of the route.
Impact Assessment:	<p>Equalities Impact Assessment:</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 December 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>No user evidence forms have been submitted.</p> <p>Any relevant evidence provided has been discussed in this report.</p>
	<p>Budget/ Risk Assessment:</p> <p>Any financial/risk implications arising from this application are not material considerations and should not be taken into account in determining the matter.</p>
<p>Recommendations</p>	<p>That:</p> <p>(a) The application be refused;</p> <p>(b) An order be made to modify the definitive map and statement of rights of way to record Bridleway 11, Weymouth, Bridleway 24, Osmington and Bridleways 5 and 9, Poxwell as shown A – B – C – D – E – F – G – H – I – J – K – L – M – N – O – O1 – P on Drawing 12/39/1 as a restricted byway; and</p> <p>(c) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee.</p>
<p>Reasons for Recommendations</p>	<p>(a) Subject to (b) below the byway open to all traffic claimed does not subsist nor can be reasonably alleged to subsist;</p> <p>(b) The available evidence shows, on balance, that a highway shown on the definitive map and statement as a bridleway ought to be shown as a byway open to all traffic. As the application was submitted after 20 January 2005, and no other exceptions apply, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for motor powered vehicles and therefore an order should be made for a restricted byway over the claimed route; and</p> <p>(c) The evidence shows, on balance, that the route claimed should be recorded as a restricted byway. Accordingly, in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.</p>
<p>Appendices</p>	<p>1 - Drawing 12/39/1</p> <p>2 - Law</p> <p>3 - Documentary evidence</p> <ul style="list-style-type: none"> • Table of documentary evidence • Extracts from key documents <ul style="list-style-type: none"> ▪ 1845/46 Southampton and Dorchester Railway Plans ▪ 1845/47 Poxwell Turnpike Dispute <ul style="list-style-type: none"> – Undated map

	<ul style="list-style-type: none"> – Letter from the Trustees of the Mico Charity Estate Trustees to the Trustees of the Weymouth and Dorchester Turnpike Roads – Letter from Rev George Pickard to the Trustees of the Mico Charity 30 September 1845 – Letter from Job Gill to the Trustees of the Mico Charity Estate 3 October 1845 ▪ 1794 Sutton Poyntz Inclosure Award map and Award transcript ▪ 1795 Plan of the Parish and Manor of Preston and Sutton Pointz and key ▪ 1771 Weld Estate Atlas
Background Papers	<p>The file of the Director for Environment (ref. RW/T411)</p> <p>Most of the original historic maps referred to are in the custody of the Dorset History Centre, except for the Finance Act maps, which are at the National Archives, Kew and some, which are the applicant's own copies.</p> <p>Copies (or photographs) of the documentary evidence can be found on the case file RW/T411, which will be available to view at County Hall during office hours.</p>
Report Originator and Contact	<p>Name: Phil Hobson Rights of Way Officer Tel: (01305) 221562 Email: p.c.hobson@dorsetcc.gov.uk</p>

1 Background

- 1.1 An application to upgrade Bridleway 11, Weymouth, Bridleway 24, Osmington and Bridleways 9 and 5, Poxwell (one continuous route) as shown between points A to P on Drawing 12/39/1 was made by Mr David Oickle on behalf of the Trail Riders' Fellowship on 21 November 2005.
- 1.2 The route claimed commences from its junction with an unclassified road, Bridleway 11, Broadmayne and Footpath 3, Weymouth shown as point A on Drawing 12/39/1. There is a gap at point A of approximately 3.5 metres in width as measured between the adjacent banks. The route heads south east, turning east to point C, at which point there is a padlocked field gate 3.2 metres wide with an adjacent bridle gate approximately 1.7 metres wide. The surface comprises mainly a mixture of gravel/stone and flints.
- 1.3 From point C the route continues east following the northern margin of an open pasture field to point D, its junction with Bridleway 26 and Footpath 23, Osmington, at which point there is a padlocked field gate approximately 3.7 metres wide with an adjacent bridle gate 1.7 metres wide located to its southern side. The route continues east through point E, its junction with Bridleway 8, Poxwell, to point F at which point there is an unlocked field gate approximately 3.6 metres wide with an adjacent bridle gate 1.7 metres wide. The surface between points C and F consists of grass and earth and the route is bounded to the north by a stock fence/hedge, the southern extent of the route being undefined.
- 1.4 Between points F and G the route is enclosed by barbed wire fences, with a width of approximately 4.5 metres and a grass surface. There is a gap approximately 3 metres wide at point G (the parish boundary) from where the route continues east, being defined by a hedge to the south and a wire fence to the north, the width between hedge and fence being approximately 5 metres. There is a gap of approximately 5 metres at point H. The surface between points F and H remains as grass.
- 1.5 The route continues east from point H towards point I being defined by a hedge to the south but unenclosed to the north, its present northern extent being defined by the edge of an arable field. The width from field edge to hedge is approximately 5 metres. At point I there is gap/gateway approximately 9 metres wide as measured from the end of the hedge located to the northern side and the fence to the southern side. Towards the centre of this gap, approximately 3.7 metres from the end of the hedge, a gatepost is located. The route continues east from point I to point J where there is a field gate approximately 3.7 metres wide. The extent of the route is defined by a hedge to the south and a fence to the north, its width being approximately 5 metres and its surface comprising grass.
- 1.6 The route continues east from point J before turning south east approaching point K, at which point there is a further field gate approximately 3.6 metres wide. The width of approximately 12 metres is defined by the adjacent hedges and the surface remains grass.

- 1.7 From point K the route continues south along the western margin of a pasture field and through a field gate, approximately 3.7 metres wide, at point L to a further field gate, approximately 3.7 metres wide, at point M. The western boundary is defined by a hedge and boundary wall and the eastern boundary is unenclosed, the extent of the route being defined by the worn track. The width taken from the hedge/boundary wall is approximately 4 metres.
- 1.8 From M, its junction with a route recorded as Bridleway 6, Poxwell and as an Unclassified County Road D21224, the route continues south east following a well worn track, approximately 3 metres wide, to a field gate, approximately 3.7 metres wide, located at point N. The surface is stone/flint. The route continues undefined across an open pasture field to point O where there is a gap/depression approximately 3 metres wide through the remains of a boundary wall before continuing undefined to point O1. The surface from N to O1 is grass. At O1 a discernible track can be seen to commence from the edge of an old quarry, its width being approximately 2.5 metres and its surface comprising stone/flints. It continues to the termination point of the route at its junction with the A353 shown as point P, at which point there is another field gate of approximately 3 metres in width.
- 1.9 The claimed route between points A and D forms part of both the South West Coast Path National Trail (inland route) and the South Dorset Ridgeway.

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/T411.
- 3.3 In summary, the applicant states: "...we believe there is sufficient evidence to support our claim that this road carries vehicular rights".

4 User evidence

- 4.1 No user evidence has been submitted with the application. The applicant is relying on the documentary evidence submitted with 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/T411)

- 6.1 Six submissions were received before the consultation started and 78 letters were received as a result of the consultation.

Name	Comments
Submissions in response to application made in 2005/06 (6)	
Mr M Hart (2 letters)	Concerns as to safety, desirability and suitability
The Osmington Society	Never seen MPV (mechanically propelled vehicle) users on route although one individual advised him of an encounter with 12 motorcyclists.
Capt J R Jones	Opposed to application but offers no evidence for consideration.
The Sutton Poyntz Society	Opposed to application - cites issues of safety, desirability, but offers no evidence for consideration
Mr P Simpson	Asked the date of the application.
Mrs Ryall	Asked to whom she should make an objection. No evidence given.
Objections/Submissions in response to consultation 2012 (78)	
Mr M Hart	Objects on grounds of desirability, suitability and safety.
R Starling	Has never witnessed any MPV use other than agricultural.
H Critchell	Has never come across any vehicles on these bridleways.
Mrs J Critchell	Has never witnessed any MPV use other than agricultural.
Dr A Heathershaw	Has never witnessed any MPV use other than agricultural.
Mr D Brierley	Has never witnessed any MPV use other than agricultural.
Mrs E Brierley	Has never witnessed any MPV use other than agricultural.
Mrs I Brierley	Has never witnessed any MPV use other than agricultural.
Mr D Emery	Has never witnessed any MPV use other than agricultural. Cannot recall hearing a motor cycle or quad bike using the track more than four or five times.
M H Pressly	Has never witnessed any MPV use other than agricultural
A Mackinder	Has never witnessed any MPV use other than agricultural.
T R Maidment	Has never witnessed any MPV use other than agricultural
Ms M Tepper	Has never witnessed any MPV use other than agricultural.
Cyclist's Touring Club	No recollection of any MPV use. Recall notices stating private unsuitable for motor vehicles. Does not believe the application satisfies any exemption within NERC.

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Name	Comments
Mr G Plumbe	No comments unless it is considered that the route is a BOAT.
Comdr W Norman	Resided adjacent route since 1962 and during this time has not witnessed any public MPV use.
Claire Pinder (Senior Archaeologist)	No finds, features or historical buildings on or in vicinity of route but has concerns as to possible increased use leading to damage to surrounding area.
K Gocher (Ramblers' Association)	No documentary evidence for consideration, does not support the application but would not object to the route being recorded as a restricted byway.
South West Coast Path Association	No documentary evidence for consideration, does not support the application but would not object to the route being recorded as a restricted byway.
Mrs Shoopman, BHS	No evidence but would support restricted byway.
Mr & Mrs G Lampard	Have lived in Poxwell since 1948 and have never seen or come across any motorised vehicles on the claimed route.
Mrs S Biddiss	Used route regularly for 20 years has never witnessed any MPV use other than agricultural.
D Squibb	Has never witnessed any MPV use other than agricultural.
Mrs R Evans	Has never witnessed any MPV use other than agricultural.
T Bevins	Has never witnessed any MPV use other than agricultural.
Mr P & Mrs R Riley	Have never witnessed any MPV use other than agricultural.
Mrs S Ayling	Has never witnessed any MPV use other than agricultural.
D Thomas	Has never witnessed any MPV use other than agricultural.
Mrs P Bugler & family	Have never witnessed any MPV use other than agricultural.
Mr A R Bugler	Has never witnessed any MPV use other than agricultural.
Mr R Porter	Has never witnessed any MPV use other than agricultural
J Sutherland	Has never witnessed any MPV use other than agricultural.
P N Jones	Has never witnessed any MPV use other than agricultural. One motorcycle used between points A and C, which may have been in connection with the renovation of the White Horse.
I Locke	Has never witnessed any MPV use other than agricultural.

Name	Comments
P Critchell	Has never witnessed any MPV use other than agricultural. Has occasionally challenged people attempting to use the route.
Dr J J Crisp	Early 80s for brief period people drove to top of White Horse to transport hang gliders <i>[with permission]</i> .
R Backwell	Has never witnessed any MPV use other than agricultural.
Mrs M B Morris	Has never witnessed any MPV use other than agricultural and route is unsuitable for such use.
Mrs C Pressly	Has never witnessed any MPV use other than agricultural.
Mr G & Mrs C Codd	Have never witnessed any MPV use of the bridleways.
Mr & Mrs M E Drake	Have never encountered any type of motorised vehicles.
S Emblen	Has never witnessed any MPV use other than agricultural.
C Hubbard	Has never witnessed any MPV use other than agricultural.
Mrs J Backwell	Has never seen motorised transport there.
Mr D& Mrs G Caddy	Have never witnessed any MPV use other than agricultural.
W B Goldsack, E F Saunders & Sons Ltd	Farms land in area. Used by agricultural vehicles. Saw a motorbike on bridleway near point G, stopped it and turned them back. Sometimes may be used by poachers at night.
G Embley	Has never witnessed any MPV use on any of the tracks.
Natural England	Part SSSI and part of South West Coast Path. Refers to past correspondence with DCC in respect of use by 4 wheel drive vehicles and that regular vehicular use could lead to damage to site.
Mrs D Emblen	Has never witnessed any MPV use other than agricultural.
Mrs D Daw	Opposes use of vehicles, comments relate to issues of suitability, desirability or safety.
W Craig, Craig's Farm Dairy	Has never witnessed or challenged any MPV use.
W & R Egerton	Have never witnessed any MPV use other than agricultural.
Miss M Kempe	Sees no merit in the application, no evidence for consideration.
T Blake	Has never witnessed any MPV use other than agricultural.
M Hart	Stopped one motorcyclist 2011 and another several years before that.
J & P Lane, Jock Lane Farms	Have never witnessed any MPV use other than agricultural.

Name	Comments
B Harrison	Has never witnessed any MPV use other than agricultural.
M Burgess	Has never witnessed any MPV use other than agricultural other comments relate to suitability, desirability or safety.
S Miller	Has never witnessed any MPV use.
W Norman	Has never witnessed any MPV use other than agricultural.
J Desmond	Has never witnessed any MPV use other than agricultural.
T Maggs	Challenged 'unauthorised' users, no dates given.
T Newton	Has never witnessed any MPV or carriage use other than agricultural.
Cllr T Seall	Has never witnessed any MPV use other than agricultural.
C Bird	Has never witnessed any MPV use other than agricultural
M Seall	Has never witnessed any MPV use other than agricultural.
P Saunders	Has never witnessed any MPV use other than agricultural.
B Alsop	Has never witnessed any MPV use other than agricultural.
Mrs L Hood	Has never witnessed any MPV use other than agricultural.
The Osmington Society	Do not contest that the evidence would indicate the route is a byway, but do not believe that the application satisfies any of the exemptions to presumed extinguishment of MPV rights under NERC. Upgrading should be to restricted byway status.
H Ballard	Has never witnessed any MPV use other than farm vehicles.
E Craig	Have never witnessed any MPV use. Other comments relate to issues of suitability, desirability or safety.
Mrs M Parker	Route never used by MPVs. Is aware of motorcyclists being challenged, no dates provided.
P Warrick	Challenged motor bikes and quad bikes on route C – M but otherwise no MPVs apart from agricultural.
Mrs R Craig	Has never witnessed any MPV use other than agricultural.
Miss E D Saunders	Has never witnessed any MPV use.
P Stein	Has never witnessed any MPV use other than agricultural.
J Carey	Has never witnessed any MPV use other than agricultural.

Name	Comments
J Hayes Senior Ranger, County Council	Is not aware of any MPV use.
Wessex Water	See 7.1 below
Many of the above submissions	<p>Issues were raised such as: -</p> <ul style="list-style-type: none"> • Safety • Damage to the surface • Disruption to residents, wildlife and the natural environment • Noise • Pollution • Suitability • Disruption, damage to the historical environment • Current and past use

7 Other submission received

7.1 Mr T Parker submitted a response on behalf of Wessex Water dated 8 February 2013. There follows a brief summary of this submission although for full details reference should be made to the file RW/T411.

7.2 Mr Parker expressed concern as to the potential impact vehicular use of the way could have on the Sutton Poyntz spring water supply, stating that “the dedication of the bridleway as a ‘byway open to all traffic’ would increase the threat of hydrocarbon contamination”. Mr Parker notes that the route is located within a ‘Source Protection Zone 1’, concluding that prior to the bridleway being granted BOAT status Wessex Water would seek an immediate review of the potential risks.

8 Analysis of documentary evidence

Railway Plans

8.1 In 1845 the **Southampton and Dorchester Railway** proposed to construct a branch line from Moreton to Weymouth via Warmwell, Poxwell, Osmington and Preston. Reference to the plan reveals that the main line would have crossed the claimed route in the vicinity of point L, shown on the railway plan as being approximately 5 miles 5.5 furlongs from the proposed terminus of the line at Weymouth. The Railway Plan also reveals that this section of the line was to be tunnelled through the hill, under the claimed route. The plan depicts a small section of the claimed route, approximately between points K and M and shown by two parallel lines. It is not numbered or noted within the accompanying **Book of Reference**.

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- 8.2 In **1846** the **Southampton and Dorchester Railway** submitted a further, revised plan, which contains details of the route finally selected. The railway would have crossed the claimed route in the same place, point L. The claimed route is shown on the plan and is annotated as being a **“Public Road unaltered”**. The short section shown L to M is numbered 3 and 4 but the **1846 Book of Reference** does not appear to have been deposited with the plan or has been subsequently lost or destroyed and therefore cannot be examined.
- 8.3 Although the claimed route was not directly affected by the proposed railway construction, due to the fact that the railway was to pass through a tunnel beneath it, the railway company was obliged to identify those parties, public and private, who may have been affected by its construction. The fact that on the **1845 Plan** the route was shown but was not given a parcel number, whereas on the **1846 Revised Plan** it was numbered and identified as a public road, is of significance as, being a public road, the ‘owner’ within the Book of Reference would most likely have been identified as the Surveyor of Highways. Nevertheless, as the route is positively identified as a public road on the plan it is considered that it provides strong evidence to the fact that the part of the claimed route, as shown between points K and M, was recognised as a public carriageway, which in turn reinforces the conclusions in respect of the earlier evidence derived from the diversion of the Turnpike road at Poxwell.

Turnpike Diversion Plans

- 8.4 In **1830** the **Weymouth, Melcombe Regis and Dorchester Turnpike Trust** diverted part of the old Turnpike road, which ran from Osmington church to Poxwell church (presently recorded as a public bridleway). The documents discovered suggest that the land occupied by the former turnpike route was to be exchanged for the land acquired for the new route. A long dispute followed, relating to, amongst other things, the status and obstruction of the old turnpike. It was argued that it was an ancient highway prior to being made a turnpike and therefore the land it occupied could not be exchanged, as on abandonment by the Turnpike Trust it reverted to its former status of an ordinary highway.
- 8.5 In connection with the dispute, which involved at least two court appearances, a number of plans were produced of the area around Osmington and Poxwell that depict the routes of both the former and new turnpikes and, in addition, several other roads within the area. In addition to the two turnpike routes the **1845 plan** clearly shows the claimed route throughout its length between points A and P. It is colour washed in green and annotated on the plan as the “Down Road”, extending east from point A, annotated as **“Harveys Barn Gate”**, to point K, its junction with a **“Packway to Warmwell Mills”** and then south east through point M, annotated as **“Blackwey Gate”**, terminating at point P, its junction with the A353 road.
- 8.6 The **1847 plan** shows that part of the claimed route from approximately point J through to point P. The road is colour washed in brown and is annotated as being the **“Parish Road from Winfrith to Culliford Tree”**. The accompanying key also identifies the brown road as **“Brown is the Parish Road from Winfrith towards Culliford Tree”**.

- 8.7 A further plan, its source unknown and which is undated but most likely from the same period, as it refers to the obstruction of the old Turnpike in 1844, depicts the route from approximately point C to point P. It is annotated at the western end as leading “**to Culliford Tree, Martin’s Town and Bridport**”. From approximately point C to point M the route is defined by two parallel solid lines and is lightly colour washed in brown. The accompanying key defines this part of the route as “**Highway leading from Poxwell Hill to Bridport. &c.**”. From point M to point P the route is defined by a single broken line, which the key defines as “**An ancient Mule Tract impassable for Carriages**”.
- 8.8 The plans also identify several landholdings adjacent the route. Of particular note is that belonging to the **Mico Charity Estate**, its approximate location being in the vicinity of points G and H. Access to this land was the subject of an exchange of letters between the trustees of the **Mico Estate**, the **Weymouth and Dorchester Turnpike Trust**, **Mr Job Gill** and the **Rev George Pickard**, the brother of the former owner of the land at the time the diversion of the turnpike road was proposed.
- 8.9 The correspondence refers mainly to the proposed stopping up of the route of the old turnpike but provides some useful information in respect of the claimed route. In brief, on **22 September 1845** the **Trustees of the Mico Charity** wrote to the **Trustees of the Weymouth & Dorchester Turnpike** in respect of their forthcoming meeting at which they were to discuss an application made by the **Rev G Pickard** to stop up the ancient highway that led from the Mico estate to the Turnpike Road by the Church at Poxwell (G to M and then east along what is now recorded on the definitive map and statement as **Bridleway 6, Poxwell** and on the **List of Streets** as an **unclassified road D21224**). They referred to the earlier court cases, stating that the route was an ancient highway, the use of which they had enjoyed unhindered “**within the memory of man**” and that they would resist by every means in their power the attempt by Mr Trenchard to deprive them of a right that they had always enjoyed.
- 8.10 On **30 September 1845** Mr Pickard responded to the Mico Charity Trust disputing the period over which the old turnpike road had been closed to the public and to the claim of its status being that of an ancient public highway. However, of particular interest to this case is his reference to the several other roads that provided access to all parts of the Mico Charity Estate.
- (a) The first of these he describes as being “**a few hundred yards beyond Poxwell on the Weymouth Road, there is a road over the hill which is and always has been leading to the higher part of the Mico Charity Estate, which road is regularly used by Mr Andrews of Upton with his horses and wagons**”. The road to which Mr Pickard refers is the claimed route, which leads from point P to the Mico Charity Estate at point G, the same route shown on the turnpike diversion plans and described as “**a parish road from Winfrith to Culliford Tree**”, also referred to as the **Down Road**.

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- (b) Mr Pickard describes three further roads, one leading from Owermoigne and one from Broadmayne and another road ***“out of the Parish of Osmington leading past the other part of the Mico Estate and on to the upper part of the same near the White Horse”*** before concluding ***“thus from every possible point there is free and easy access to the Mico Estate without the piece of road in question, which, I beg to say, never did exist as a public road until it was made a turnpike”***.

8.11 **Mr Job Gill** responded to Mr Pickard’s letter on **3 October 1845**. He describes himself as ***“Yeoman and Rentor of the Mico Charity Estate in the Parish of Osmington”***.

- (a) In respect of the alternative roads suggested by Mr Pickard to be available to the Estate, Mr Gill states that the first of these, the Down Road, ***“is impassable for loaded wagons, from the said Turnpike Road to the Charity Estate; and, consequently, can be of no use to that property”***.
- (b) With respect to the roads from Owermoigne and Broadmayne Mr Gill states that he was not aware of the existence of the former and in respect of the latter ***“the distance is so great that it is useless as contrasted to the utility of the road obstructed by Poxwell Church”***.
- (c) Mr Gill concludes by stating ***“the only road practicable at present, in consequence of the obstruction of the Old Turnpike Road, and by which the Upper Part of the Charity Estate can be approached, is the road leading from the village of Osmington to the White Horse, and it requires at least ten horses to take a load to that part of the Estate, which number of horses I do not keep”***.

8.12 These documents provide good evidence towards both the status of the claimed route and its extent. It is reasonable to conclude that the road from Poxwell over the hill leading to the Mico Charity Estate to which both Mr Pickard and Mr Gill refer is that of the claim, the Down Road. Neither Mr Pickard nor Mr Gill refer to any private or permissive rights existing over this or any of the other roads mentioned, indeed Mr Pickard is on record as stating ***“thus from every possible point there is free and easy access to the Mico Estate”***, suggesting that all the routes were regarded as being public. Furthermore, their use with wagons leads to the conclusion that they were all regarded as being public carriageways. Additionally, the Down Road is described as a parish [public] road from Poxwell to Culliford Tree on the turnpike diversion plans and the fact that is described and shown to continue past the Mico Charity Estate towards Culliford Tree suggests that the claimed route was not a cul-de-sac but a through route.

Inclosure Award

- 8.13 The **1794 Sutton Poyntz Inclosure Award** describes an awarded public carriage road labelled '*F*' on the plan and of 40 feet wide as "***being part of an ancient road or way leading from Broadmayne and Poxwell towards Martinstown***". This awarded public carriageway is part of what is now recorded as the C54 Chalky Road. It is a continuation of the road onto which the claimed route terminates at point A but located a little further west of this point. The **Inclosure plan** depicts this small section of awarded carriage road being bounded in the west by the Parish of Bincombe and in the east by a parcel of land labelled as being North Down Farm. The awarded road is annotated at the western end as leading "***to Martinstown***" and at the eastern end as being "***from Broadmayne & Poxwell***".
- 8.14 The continuation of this road towards Broadmayne is currently recorded as a road and turns to the north east at its junction with the claimed route at point A. In all probability the continuation of the road to Poxwell would have followed the claimed route from point A.

Preston and Sutton Pointz Parish Map

- 8.15 The **1795 Plan of the Parish and Manor of Preston and Sutton Pointz** appears to be based upon the **Inclosure Award Plan of 1794**, which in turn shows remarkable similarities to the plans contained within the **Weld Estate Atlas 1771**. It depicts that part of the claimed route as shown between points A and C. At what would equate to point C the route is annotated as leading "***to Poxwell***" and the accompanying key or "Explanation" defines the route as a road.

Weld Estate Atlas

- 8.16 The **1771 Weld Estate Atlas** contains plans of all of the landholdings of the estate and includes a plan of North Down Farm. This plan depicts that part of the claimed route as shown between points A and C, which is annotated as leading "***To Poxwell***", at what would equate to point C. The annotation of the route in this manner suggests that it may have been considered as being a public road leading to Poxwell, the most probable route being by way of the claimed route.
- 8.17 These documents provide evidence as to the existence of a road of ancient origin that lead from Poxwell. The accompanying plans are very similar, sharing many features and may all be based upon the original Weld Estate Plans. The Inclosure Award refers to the ancient road from Broadmayne and Poxwell whilst the Parish and Estate plans show a small section of a road leading towards Poxwell. It is considered that these references relate to that part of the claimed route as shown between points A and C and therefore provide further evidence in support of the application.

Poxwell Tithe Apportionment and Plan

- 8.18 The **1839 Poxwell Tithe Apportionment and Plan** shows part of the route from point J to point M. From J to K it is defined by two parallel solid lines and from K to M by a solid line to the western side and a broken line to the eastern side. It also shows a small section of the route from point P north west towards point O terminating at the site of a quarry. The latter section is colour washed in brown. The part from J to M is uncoloured and appears to be un-apportioned.
- 8.19 By themselves Tithe Apportionments rarely, provide conclusive evidence as to the status of the ways shown upon them. In this particular instance, although it does show two small sections of the route it is considered that on its own it provides no supporting evidence to the application.

Finance Act 1910

- 8.20 The claimed route is clearly visible on the Ordnance Survey 25 inches:1 mile scale map used as the base map for the **Finance Act plans**. The claimed route between points A and P passes through **Hereditaments 77, 45, 59, 34 and 119**. No part of the route is excluded for the purpose of valuation although the accompanying **Field Books** record that a deduction of £75 for public rights of way or user was granted in respect of Hereditament 77, £40 for 45, £10 for 59, £50 for 34 and £150 for 119. Although some of these deductions represent significant sums of money the Hereditaments to which they were allocated are also of considerable size and may contain a number of public rights of way. Due to the size of each Hereditament it is difficult to determine which right of way the deductions may have related to.
- (a) In relation to this difficulty there is an interesting comment added by the Valuer in respect of **Heraditament 45**, which states ***“There are public rights of way over the farm and other ways the nature of which could not be ascertained or stated without great expense and time but otherwise the owner is not aware of any rights or easements. This must not however be taken in prejudice if any further rights or easements are found to exist”***.
- 8.21 Although the exclusion of a way within these documents provides strong evidence towards the conclusion that the route was regarded as a public carriageway the reverse is not necessarily true. Whilst there were severe penalties for wrongfully claiming tax relief there were no penalties for not acknowledging the existence of public highways. Consequently, in this instance, the documents provide no evidence for or against the claimed status of the route and are therefore considered as being neutral.

List of Streets

- 8.22 The schedule of roads on the List of Streets records a route that connects with the claimed route at point M and heads east towards Poxwell Church and its termination point with a public road, the A353. It is described as the **Old Turnpike, Poxwell** comprising of 0.44 miles (0.71km) of unpaved road and has been given the reference number D21224. The fact that there is no record as to when the road was formally adopted suggests an historical origin.
- 8.23 The inclusion of the former Turnpike road east from point M towards Poxwell Church (which was the subject of the dispute discussed from paragraph 8.4 above) on the List of Streets as an unclassified road suggests that the outcome of the dispute may have been in favour of the complainants, the Mico Charity Trust. Recording the road on the List of Streets may be seen as supporting their argument that the former Turnpike Road had been an ordinary public carriageway prior to it being turnpiked and when subsequently dis-turnpiked should have reverted to the status of an ordinary public road.
- 8.24 In light of all other available evidence, in particular that from the Railway Plans and the Turnpike Dispute, it is considered that this evidence provides additional support to the claimed status of the way.

National Parks and Access to the Countryside Act 1949

Parish Surveys

- 8.25 It should be noted that the corrections and or alterations found within the parish schedules and described in the following paragraphs were, in all probability, entered by the County Council.
- 8.26 That part of the claimed route as shown from A to C fell within the **Borough of Weymouth** and was surveyed in August 1950. The results of the **Weymouth Surveys** were submitted as a draft map to the County Council in **1954**. This part of the claimed route was part of a route identified as number 11 and described as ***“B.R. (Branch off of 10 B.R.) leaves the Borough and continues along the Borough boundary”***.
- 8.27 From point C, the parish boundary, the claimed route continues east through **Osmington** parish to point G, the parish boundary with **Poxwell**. It is not clear at which time the **Osmington Parish Survey** was undertaken. However this part of the route was claimed as a ***“Carriageway CRB”*** and given the number 17 for identification. [For explanation of CRB refer to ‘1949’ in the evidence table at Appendix 3]. It is described as commencing ***“from Borough of Weymouth Boundary leading to Pixon Barn Poxwell Boundary”***. Pixon Barn has been crossed through and ***“Ph”*** [Parish] and ***“White Horse Hill”*** added in pencil. The path was described as leading from Came Wood to Poxwell. Its condition was described as ***“one section overgrown”*** and although the type of gates, stiles, etc are not described their condition is described as ***“some good others bad”***. The reason given by the parish for believing the path to be public was due to ***“use thereof”***.

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- 8.28 From point G, the parish boundary, the claimed route continues east through **Poxwell** parish to point K before turning south east to the Weymouth road at point P. It is not clear at which time the **Poxwell Parish Survey** was undertaken although one of the paths is dated as being surveyed in 1953.
- (a) That part of the claimed route from point G to point M was claimed as a **“BR CRB BR”** and given the number 2 for identification. (It should be noted that the original parish claim recorded the path as continuing eastward of point M, along the old turnpike road now recorded as **Bridleway 6, Poxwell** and also as an **unclassified county road D21224**, before terminating at the **County Road A353** near Poxwell Church). The letters BR CRB are crossed through and CRB added, leaving **“BR & CRB”**. It is described as commencing **“from Parish Boundary leading to Poxwell”**. This description is also crossed through and the description from **“Pixon Barn east of Poxwell”** to **“Ph boundary at White Horse Hill”** added in pencil. The path was described as continuing beyond the parish to **“West Knighton Parish”** and **“Weymouth Borough”**, which has also been crossed through and **“Northdown Barn and Bincombe”** added in pencil.
- (b) Its condition was described as **“fair, but parts very muddy in winter”**. It is also stated that there were field gates along the route and that their condition varied. It was further stated that it was not maintained for use as a bridlepath and the reason for believing it to be public was **“Over 20 years Owners declaration”**.
- 8.29 Although that part of the claimed route from point M, Pixon Barn, south east to point P was not claimed by Poxwell parish it was added to the Parish Survey map, being drawn in yellow and given the letter A for identification. It also has a number of annotations alongside it referring to certain features such as gates. No notes or references to this additional route have been discovered on the file.

Draft, Provisional and First Definitive Map

- 8.30 The information collated during and immediately following the parish surveys was used in the production of the draft maps of public rights way, which in turn resulted in the publication of the provisional and first definitive maps.
- 8.31 That part of the claimed route as shown between points A and M was recorded as a **CRB** on the **draft map** for the **South Area**, which was published in **January 1955**. It was **CRB 11** from point A to C in **Weymouth**, **CRB 17** from C to G in **Osmington** and **CRB 2** from G to M in **Poxwell**. That part of the claimed route between points M and P was unrecorded.
- 8.32 On both the **provisional map** published in **1964** and the **first definitive map** published in **1967** the whole of the claimed route was shown as a bridleway. It was **Bridleway 11** in **Weymouth** (A to C), **Bridleway 24** in **Osmington** (C to G) and **Bridleways 9** (G to M), **and 5** (M to P) in **Poxwell**, this latter part being added following the review of the draft map.

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- 8.33 The original claim of **Weymouth Borough** that the part of the claimed route as shown A to C was a bridleway was revised to CRB on the draft map. As there is no record of any objections to the original or revised claims and designations of the route as shown between points A to M as a carriageway or CRB, it is presumed that the change in status of this part of the route – reverting to bridleway - on the provisional map was due to the determination in 1958 of the National Parks Sub-Committee 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.).

Special Review – Revised Draft Map – Current Definitive Map

- 8.34 **Bridleway 11, Weymouth, Bridleway 24, Osmington, and Bridleway 9, Poxwell** were all subject to investigation during the **Special Review of Rights of Way (1973)**, either because they had been identified as being potential RUPPs (Road Used as a Public Path) or due to objections being made in respect of their recorded status.
- (a) The Special Review Committee was advised that **Bridleway 11, Weymouth** had been *“shown on the original Draft Map as carriage road / bridleway, now shown on the Definitive Map as bridleway 11. The Weymouth Borough Council are of the opinion that no public vehicular rights exist however and the path should remain as a bridleway”*.
- (b) The Committee was also advised that **Bridleway 24, Osmington** was recorded on the Parish Survey and draft maps as a *“Carriage Rd BR N^o 17* and that the route was *“an old Roman Road with a stone bottom, gated and only used by farm vehicles. In summer months this track is used by tourists but can only be used by cars in dry weather. Entered on the O.S. Map in existing status of BR”*.
- (c) **Bridleway 9, Poxwell** was reviewed as Bridleway 9 in Osmington. The **Ramblers’ Association, Dorset Rights of Way Group (DRWG)** claimed that the route should be upgraded to a higher status and provided six user evidence forms. The précis of the claim was that the route was suitable for vehicular use, was part of the prehistoric ridge way known as the South Dorset Ridgeway and an old coaching road.
- (d) Of the six users who provided evidence of use, none of them provided any evidence of use in a vehicle throughout their respective periods of use. One had no knowledge of the route at all whilst another knew of it but had no experience of using it. The remaining witnesses had used the route on foot but not very often.
- 8.35 On **4 December 1973** the Committee determined:
- (a) **Bridleway 11, Weymouth** - *“Retain as bridleway – Recommendation of the Borough Council accepted”*.
- (b) **Bridleway 24, Osmington** - *“Retain as a bridleway - public vehicular rights not shown to exist”*.

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(c) **Bridleway 9, Poxwell** - the claim of the DRWG was overruled due to *“insufficient evidence of public vehicular use”*.

- 8.36 As a consequence of these decisions the whole of the claimed route was recorded on the **revised draft map (1974)** as a bridleway, **Bridleway 11** in **Weymouth** (A to C), **Bridleway 24** in **Osmington** (C to G), and **Bridleway 9** between points G and M and **Bridleway 5** between points M and P in **Poxwell**.
- 8.37 On **28 April 1975** the Ramblers' Association objected to the decision in respect of **Bridleway 9, Poxwell** and in addition to the recording of **Bridleway 5, Poxwell**. The objection in respect of Bridleway 9 appears to have been dismissed as it had already been considered whereas the objection in respect of Bridleway 5 was regarded as a new claim and therefore would have been considered at the next review.
- 8.38 The **current definitive map (1989)** records the same situation as that shown on the revised draft map, showing the route as a bridleway throughout its length from A to P.
- 8.39 The evidence derived from the records leading to the publication of the first definitive map provide some support towards the claimed public rights over the route, as shown A to M, as it would indicate that both the parishes and the County Council were aware that the survey was to include the recording of all footpaths, bridleways and RUPPs (CRBs & CRFs). The recording of this part of the route as a CRB suggests that during the surveys and investigations that led to the publication of the draft map the parishes and County Council had discovered evidence or had knowledge of the reputation of the route being that of a public vehicular highway. For example, this is demonstrated in the comments made to the Special Review Committee that Bridleway 24, Osmington was used by the public in vehicles during the summer months.

Other documents

Ordnance Survey Maps

- 8.40 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 during **1805/06** and that part of the claimed route, A to M, is clearly depicted being defined by two parallel broken lines. That part of the route from M to P is not shown.
- 8.41 The **1811 Ordnance Survey First Edition map** at a scale of 1 inch:1 mile shows the same part of the claimed route as shown on the earlier drawing and defines it in the same or a very similar fashion. That part of the route from M to P is not shown.

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- 8.42 The **1888 Ordnance Survey First Edition map**, at a scale of 6 inches:1 mile, depicts a route that corresponds with that of the claim throughout its length from A to P. The route is defined by a combination of two parallel lines being broken (unfenced) or solid (fenced) lines from A to M and by two parallel broken lines from M to P. A number of solid lines across the route may indicate the presence of gates or barriers across the route. The route has **no** annotations such as 'F.P.' or 'B.R.' and a number of quarries are indicated as being adjacent the route between points M and P.
- 8.43 The **1903 Second Edition** and the **1929 Ordnance Survey maps**, also at a scale of 6 inches:1 mile similarly depict the route throughout its length, A to P. In all respects the manner in which the route is depicted and the features shown are the same as on the first edition.
- 8.44 The **1902 Second Edition and 1929 Ordnance Survey Maps** at a scale of 25 inches:1 mile show the course of the route to follow that as shown on the Ordnance Survey 6 inch:1 mile scale maps. In all other respects the features shown and outlined are the same as or very similar to those on the six inch maps.
- 8.45 The applicant also provided extracts from several other Ordnance Survey maps in support of the application. The **1892 Ordnance Survey One inch Map** depicts the route in the same or very similar manner as the larger scale maps. Although there is no accompanying key the route is defined in the same style as minor public roads in the vicinity. The **Ordnance Survey One inch maps of 1906, 1919 and 1945** depict the route in a similar fashion as the earlier map. However, these do have accompanying keys, which define the route as a "**drive**" or "**un-metalled minor or third class road**".
- 8.46 The **1923 Ministry of Transport Road Map of Weymouth, Yeovil and Taunton** was produced by the Ordnance Survey and based on the Ordnance Survey 1 inch:1 mile scale map of 1903-08 (being reduced to a scale of 1/2" inch to one mile). The map was produced as a result of the classification of roads in Great Britain undertaken by the Minister of Transport under Section 17(2) of the Ministry of Transport Act 1919. These maps were produced to provide general information as to the classification system for roads, which was dictated by the value of a road as a means of through communication, but did not guarantee the condition of any given road. Roads were classified as Class 1, Class 2 and "all other roads". Other roads were not numbered and were uncoloured. The fact that a road was uncoloured did not necessarily mean that it was inferior, many being described as excellent, but being less important channels of communication were not classified.
- (a) Reference to the map key reveals that the part of the claimed route as shown between points A and M was considered as an "**other road**". That part between points M and P was not shown. Although it should be noted that the map does carry the usual disclaimer "the representation upon this map of a Road, Track or Footpath, is no evidence of the existence of a right of way", consideration ought to be given to the authority under which the map was produced, namely the Ministry of Transport.

- 8.47 The early **1805/06 Ordnance Survey Drawing** and the **1811 one inch map**, indicate that at this time the route as shown A to M did physically exist and would have been capable of the passage of horse drawn carts and carriages. The fact that the part as shown between points M and P is not shown does not necessarily mean that it did not exist but, as described by Mr Gill in 1845 (see paragraph 8.11(a) above), it may have been considered as being unsuitable for passage with a loaded wagon or gun carriage. By the time of the publication of the **1888 First Edition six inch Map** it can be seen that the whole of the route is shown. The manner in which the route is shown indicates that it was capable of the passage of vehicles and the route lacks any annotation such as 'F.P' or 'B.R.', which suggests that if it was considered as being a public highway this was not with the status of footpath or bridleway. The evidence provided by the **1903 Second Edition six inch map** and the **1902 Second Edition 25 inch map** supports the conclusions reached in respect of the earlier maps. The later **Ordnance Survey one inch maps of 1906, 1919 and 1945** suggest that the route was considered to be a **minor or third class public road** and the **Ministry of Transport Road Map of Weymouth, Yeovil and Taunton 1923** also defines the majority of the route (A to M) as a **minor "other" road**.
- 8.48 In conclusion it is considered that the Ordnance Survey Maps do provide evidence as to the existence of the route and of its ability to accommodate vehicular traffic and in that respect provide some support to the claimed rights.

Commercial Maps

- 8.49 The applicant provided a number of extracts from various commercially produced maps of Dorset at both large and small scales, some 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.
- 8.50 The following commercially produced maps of Dorset all show the claimed route or one that may be considered as generally corresponding to it, in a similar manner to other roads in the vicinity the majority of which, if not all, are known to be public carriageways.
- **1765 Taylor's Map of Dorset (A – P. Key - Road)**
 - **1773 Map of Dorset by J Bayly**
 - **1796 Taylor's Map of Dorset**
 - **1805 Map of Dorset by J Stockdale**
 - **Brayley Map of Dorset**
 - **1815 J Arrowsmith's Map of Dorset**
 - **1826 Greenwood Map of Dorset (A to M, Key - Cross Road)**
 - **1848 Pigot & Son Map of Dorset (A to M, Key - Cross Road)**
 - **1863 Crutchleys Railway Map of Dorset**
 - **1900s Map of Dorset by George Richmond (A to M)**

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- **1900s Weller Despatch Atlas (A to M)**
- **Undated Gray & Son Map of Dorset**
- **1900s Wallis (A to M)**
- **1900s G Philip & Son Botanical Map of Dorset (A to M)**
- **1900s G Philip & Son Geological Map of Dorset (A to M)**
- **1900s Bacon's New Revised Map (A to M. Key - Other Road)**
- **1900s Bacon's Geographical Map (A – P. Key - Main or Cross Road)**
- **1900s W & A K Johnston 3" Map of England**
- **1924 Harding's Map of Dorchester District (A – P. Key - Other Road)**
- **1930s Bacon's Motoring & Cycling Road Map (A – P. Key – Other Road)**
- **1940s Geographia Large Scale Road Map of Dorsetshire (A – P. Key - Other Road)**

Bartholomew Maps

- 8.51 The applicant also provided several extracts from **Bartholomew Maps published in the years 1911, 1920, 1944 and 1951**. They are all produced at a scale of 2 miles:1 inch and depict a route that corresponds with that of the claim. Reference to the accompanying keys reveals that the route is defined on the 1911 and 1920 maps as an **inferior or indifferent road**. The maps from 1944 and 1951 define it as a **serviceable road**.
- 8.52 The extracts from the **commercially produced Maps of Dorset**, examined or submitted in evidence by the applicant, or discovered during the investigation will have, in all probability, derived their data from other surveys such as the Ordnance Survey. Few are wholly independent surveys and several have no accompanying key. However, it is of note that those that do have keys all define the route as a minor road or crossroad. In addition, all of the maps examined show the route, several from point A to point M and the remainder throughout its length (A to P), or one that generally corresponds to it, in a similar and consistent manner over a period of approximately 200 years. Consequently, they do provide evidence as to the physical existence of the route during this period and may be considered as providing some support to the application.

Aerial Photographs

- 8.53 The **Aerial Photographs** from the years **1947, 1972, 1997 and 2009** all show the route clearly, it being particularly well defined on the later photographs from 1997 and 2009. Although this demonstrates that a route corresponding to that of the claim has physically existed throughout this period the photographs by themselves provide no evidence as to the status of the route.

9 Analysis of user evidence supporting the application

- 9.1 Although the submissions received in response to the consultation suggests some limited use of the way by the public in vehicles has taken place this has not been corroborated by the users themselves. The applicant has not provided any user evidence in support of the application and is relying wholly on the documentary evidence submitted or discovered during the investigation.
- 9.2 During the investigation of the route as part of the Special Review in 1973 six user evidence forms were submitted. However, none of these witnesses claim to have used the route with a vehicle.
- 9.3 Consequently, the question as to whether a presumed dedication may have occurred under Section 31 of the Highways Act 1980 or under common law does not arise.

10 Analysis of evidence opposing the application

- 10.1 Of the nine objections received (including two dating from the time of the application), three relate to issues of desirability, suitability or safety and therefore cannot be taken into consideration in determining this application.
- 10.2 The remaining objections rely on each individual's personal experience of not witnessing any use of the route by vehicles other than agricultural vehicles. However, whilst this may be the experience of the individuals concerned it is unlikely that they kept the route under constant observation and other submissions and documents examined during the investigation do provide some evidence of public use in vehicles.
- 10.3 Likewise, the majority of the remaining submissions relate to the lack of any observation of the use of the route with vehicles or issues that cannot be taken into account when determining whether or not the claimed rights exist.
- 10.4 The comments of Natural England are noted but relate to management issues that may arise if the application were successful. However, they are not issues that can be taken into account when determining whether or not the claimed rights exist.
- 10.5 The South West Coast Path Association and the Ramblers' Association offered no documentary evidence for consideration. They do not support the application but would not object to the route being recorded as a restricted byway.
- 10.6 The Osmington Society is of the opinion that the evidence submitted indicates that the route is, on balance, a byway open to all traffic. However, they are of the opinion that the application does not satisfy any of the exemptions to presumed extinguishment contained within the Natural Environment and Rural Communities Act 2006 and conclude that the route ought to be upgraded to a restricted byway.
- 10.7 The other letters contain no evidence to be considered.

11 Analysis of Other Submissions

- 11.1 Wessex Water has provided no evidence for consideration but has expressed its concerns in respect of any potential threats to the local water supply through the dedication/creation of public vehicular rights over the route. However, it should be noted that no additional rights are being dedicated or created and should the investigation determine that higher rights do exist over the route then these would be rights that already exist, the only change being to the status of the way as shown on the definitive map and statement. The concerns expressed by Wessex Water are those in respect of site management and have no relevance to the status of the application route.

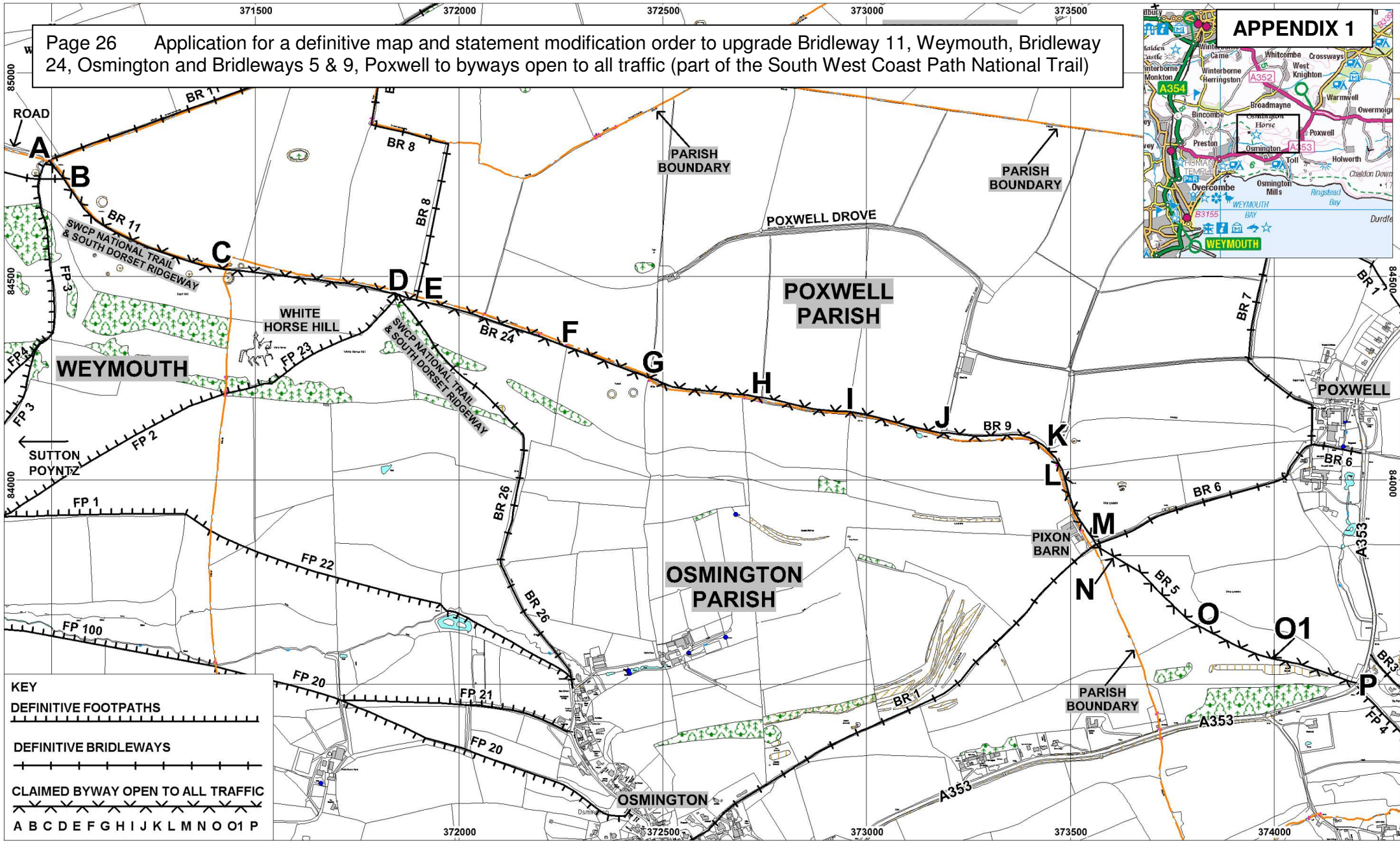
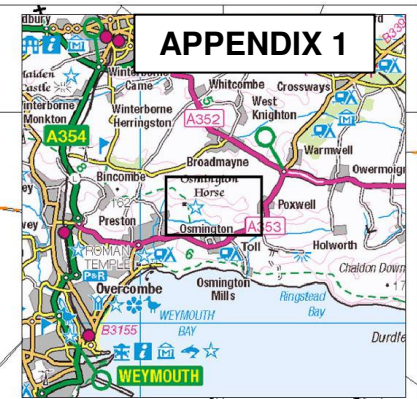
12 Conclusions

- 12.1 As the whole of the claimed route is currently 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 highway shown on the definitive map and statement as a bridleway ought to be shown as highway of a different description.
- 12.2 It is considered that the most significant pieces of evidence are those derived from the **1845/46 Southampton and Dorchester Railway Plans** and the papers relating to the **1845/47 Poxwell Turnpike dispute**. The records of the **Southampton and Dorchester Railway** provide strong evidence in support of the claimed rights as they indicate that, although the route was unaffected by the proposed railway line, as the line would have passed underneath the route by means of a tunnel, it was nevertheless identified within the records as a public road. This conclusion is corroborated by the evidence derived from the **Poxwell Turnpike dispute**, which occurred at the same time and from which the plans and the statements of the individuals involved provide further strong evidence that the route was considered to be a public carriageway.
- 12.3 Further supporting evidence can be derived from the records of the **1794 Sutton Poyntz Inclosure Award** that includes an awarded public carriageway described as ***“being part of an ancient road or way leading from Broadmayne and Poxwell towards Martinstown”***. In all probability the ancient road to Poxwell would be that of the claim, this conclusion being supported by the depiction and description of part of the claimed route (A to C) as a road on the **1795 Plan of the Parish and Manor of Preston and Sutton Pointz** and the **1771 Weld Estate Atlas** and the recording of the **Old Turnpike Road** as an unclassified road on the **List of Streets**.
- 12.4 The designation of the part of the route as shown from A to M as a **CRB** in the **parish surveys** and on the **1954 draft map** suggests that the route was regarded as a public vehicular highway and in light of all other available evidence is considered as providing further support to the application.
- 12.5 The evidence provided by the **Ordnance Survey and Commercial maps**, whilst providing no conclusive evidence towards the status of the claimed route, provide evidence as to the route’s physical existence throughout the period they encompass and in light of all other available evidence may be considered as providing some additional support to the application.

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- 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 P on Drawing 12/39/1. It is considered sufficient to demonstrate, on balance, that the claimed public rights exist and an order should be made.
- 12.7 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.
- 12.8 Therefore, it is recommended that an order be made to record the claimed route as a restricted byway.
- 12.9 If there are no objections to a modification order, the County Council can itself confirm the order if the criterion for confirmation has been met.

Miles Butler
Director for Environment
June 2013



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 O1 P

WILDLIFE AND COUNTRYSIDE ACT 1981
 APPLICATION TO UPGRADE BRIDLEWAY 11, WEYMOUTH, BRIDLEWAY 24, OSMINGTON AND BRIDLEWAYS 9 AND 5, POXWELL (PART OF THE SOUTH WEST COAST PATH NATIONAL TRAIL) TO BYWAY OPEN TO ALL TRAFFIC

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

GRID REFERENCES

A SY 70998478	G SY 72468425	M SY 73568384
B SY 71038474	H SY 72748420	N SY 73608381
C SY 71428451	I SY 72958416	O SY 73818364
D SY 71858445	J SY 73188411	O1 SY 74018355
E SY 71898444	K SY 73448407	P SY 74208350
F SY 72268432	L SY 73478402	

Ref: 12/39/1
 Date: 24/04/2013
 Scale 1:8500
 Drawn By: ACH
 Cent X: 372598
 Cent Y: 84143

GEOGRAPHICAL INFORMATION SYSTEMS

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LAW

General

- 1 Wildlife and Countryside Act 1981
 - 1.1 Section 53 of the Wildlife and Countryside Act 1981 requires that the County Council keep the definitive map and statement under continuous review and in certain circumstances to modify them. These circumstances include the discovery of evidence which shows that a highway shown on the definitive map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
 - 1.2 Section 53 of the Act also allows any person to apply to the County Council for an order to modify the definitive map and statement of public rights of way in consequence of the occurrence of certain events. One such event would be the discovery by the authority of evidence which, when considered with all other relevant evidence available to them, shows that a highway shown on the definitive map and statement as a highway of a particular description ought to be shown as a highway of a different description.
 - 1.3 The Committee must take into account all relevant evidence. They cannot take into account any irrelevant considerations such as desirability, suitability and safety.
 - 1.4 The County Council must make a modification order to alter the status of a route on the definitive map and statement if the balance of evidence shows that a highway shown in the map and statement ought to be shown as a highway of a different description.
 - 1.5 An order can be confirmed if, on the balance of probability, it is shown that the route should be recorded with the proposed status.
 - 1.6 Where an objection has been made to an order, the County Council is unable itself to confirm the order but may forward it to the Secretary of State for confirmation. Where there is no objection, the County Council can itself confirm the order, provided that the criterion for confirmation is met.
- 2 Highways Act 1980
 - 2.1 Section 32 of the Highways Act 1980 says that the Committee must take into consideration any map, plan or history of the locality. Documents produced by government officials for statutory purposes such as to comply with legislation or for the purpose of taxation, will carry more evidential weight than, for instance, maps produced for tourists.

3 Human Rights Act 1998

3.1 The Human Rights Act 1998 incorporates into UK law certain provisions of the European Convention on Human Rights. Under Section 6(1) of the Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1) and that he is (or would be) a victim of the unlawful act, may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.

(a) Article 8 of the European Convention, the Right to Respect for Private and Family Life provides that:

- (i) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (ii) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

(b) Article 1 of the First Protocol provides that:

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

Case specific law

4 Inclosure Consolidation Act 1801

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

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

5 Finance Act 1910

5.1 The Finance Act 1910 required the Commissioners of Inland Revenue to cause a valuation of “all land in the United Kingdom” and plans were prepared identifying the different areas of valuation. In arriving at these valuations certain deductions were allowed, including deductions for the existence of public rights of way.

5.2 Public ‘fenced’ roads were generally excluded from the valuation. Where public rights passed through, for example a large field and were unfenced, they would be included in the valuation and a deduction would be made in respect of the public right of way.

6 National Parks and Access to the Countryside Act 1949

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

7 Natural Environment and Rural Communities Act 2006

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

Table of documentary evidence

Date	Document	Comment
1765	Taylor's Map of Dorset	Shows claimed route A to P. Key defines as road
1771	Weld Estate Atlas	Shows part of route A to C annotated as leading "To Poxwell"
1773	J Bayly Map of Dorset	Shows claimed route A to P. Key defines as 'Cross Road'
1787	Cary Map of Dorset	Shows claimed route A to E. No Key
1794	Sutton Poyntz Inclosure Award	Describes ancient road from Broadmayne and Poxwell
1795	Plan of the Parish and Manor of Preston and Sutton Pointz	Shows part of route A to C and defined as a road
1796	Taylor's Map of Dorset	Shows claimed route A to P. .
1805	J Stockdale Map of Dorset	Shows a route generally corresponding to that of the claim. No Key
1805/6	Ordnance Survey Drawings	Shows claimed route A to M as parallel broken lines - unfenced.
1805	Brayley map of Dorset	Shows part of route A to M
1811	Ordnance Survey First Edition map scale 1 inch:1mile	Shows claimed route A to M.
1815	J Arrowsmith's Map of Dorset	Shows claimed route A to P.
1826	Greenwoods' Map of Dorset	Shows claimed route A to M. Key defines as 'Cross Road'
1839	Poxwell Tithe Apportionment & Plan	Shows part of claimed route J to M and short section from P towards O.
1845	Southampton to Dorchester Railway - Weymouth Branch Railway Plan & Book of Reference	Shows part of route K to M

Date	Document	Comment
1845/47	Poxwell Turnpike dispute plans	1845 Plan shows claimed route throughout its length A to P colour washed in green and annotated on the plan as the <i>"Down Road"</i> 1847 Plan shows part of the claimed route from J through to point P colour washed in brown and annotated as being the <i>"Parish Road from Winfrith to Culliford Tree"</i> key also defines as being the <i>"Parish Road from Winfrith towards Culliford Tree"</i> .
1845/47	Poxwell Turnpike Dispute Correspondence	Described and alluded to as a public carriage road within correspondence between Mico Charity Estate, Turnpike Trust, Mr Pickard and Mr Gill.
Undated c 1846	Poxwell Plan	Shows route from C to P annotated at western end as leading <i>"to Culliford Tree, Martin's Town and Bridport"</i> . From C to M accompanying key defines route as <i>"Highway leading from Poxwell Hill to Bridport. &c."</i> . From M to P key defines as <i>"An ancient Mule Tract impassable for carriages"</i> .
1846	Southampton to Dorchester Railway - Weymouth Branch Railway Revised Plan	Shows part of route L to M described as <i>"Public Road unaltered"</i>
1848	Pigot & Son Map of Dorset	Shows claimed route A to M. Key defines as 'cross-road'.
1863	Cruchley's Railway and Station Map of Dorsetshire	Shows claimed route A to P. No Key.
1884	NOTE: The classification of roads by administrative status was practiced on Ordnance Survey maps from 1884. All metalled public roads for wheeled traffic were to be shaded.	
1888	Ordnance Survey First Edition map scale 6 inches: 1 mile	Shows claimed route A to P. Not annotated as either 'F.P.' or 'B.R.'
1889	NOTE: The statement that <i>"the representation on this map of a road, track or footpath is no evidence of a right of way"</i> has appeared on Ordnance Survey maps since 1889.	
1892	Ordnance Survey Map scale 1 inch:1 mile	Shows claimed route A to P. Shown in same style as other minor public roads in the vicinity.

Date	Document	Comment
1896		NOTE: By 1896 roads on Ordnance Survey maps were to be classified as first or second class according to whether they were Main or District roads, other roads were to be classed as second class if they were metalled and kept in good repair. Both first and second class roads are shown on published maps in the same way, by shading on one side. Third class metalled and unmetalled roads are shown without shading.
1902	Ordnance Survey 25 inches to 1 mile 2 nd edition map	Shows claimed route A to P. Not annotated as either F.P. or B.R.
1903	Ordnance Survey 6 inches to 1 mile 2 nd edition map	Shows claimed route A to P. Not annotated as either F.P. or B.R.
1900s	Map of Dorset by George Richmond	Shows claimed route A to M.
1900s	Wallis Map	Shows claimed route A to M.
1900s	Gray & Son Map of Dorset	Shows claimed route A to P.
1900s	Brayley Map of Dorset	Shows claimed route A to P.
1900s	Weller Despatch Atlas	Shows claimed route A to M.
1900s	G Philip & Son Botanical Map of Dorset	Shows claimed route A to M.
1900s	G Philip & Son Geological Map of Dorset	Shows claimed route A to M.
1900s	Bacon's New Revised Map	Shows claimed route A to M. Key defines as 'Other Road'
1900s	Bacon's Geographical Map	Shows claimed route A to P. Key defines as 'Main or Cross Road'
1900s	W & A K Johnston 3" Map of England	Shows claimed route A to P. No Key.
1906	Ordnance Survey map scale 1 inch:1 mile	Shows claimed route A to P. Key defines as 'Minor or 3 rd Class Road'
1910	Finance Act Plans	Shows route A to P. Not excluded from valuation
1911	Bartholomew Map	Shows claimed route A to P. Key defines as 'Inferior Road'
1912		NOTE: The system of classification adopted on Ordnance Survey maps in 1896 was abolished in November 1912.
1912	Ordnance Survey map scale 1 inch:1 mile	Shows claimed route A to E. No Key
1919	Ordnance Survey map scale 1 inch:1 mile	Shows claimed route A to P. Key defines as 'Minor or 3 rd Class Road'
1920	Bartholomew Map	Shows claimed route A to P. Key defines as 'Inferior Road'

Date	Document	Comment
1923	Ministry of Transport Road Map of Weymouth, Yeovil and Taunton	Shows route A to M Key defines as 'Other Road'
1924	Harding's Map of Dorchester District	Shows claimed route A to P. Key defines as 'Other Road'
1929	Ordnance Survey map scale 25 inches:1 mile	Shows claimed route A to P. Not annotated as either 'F.P.' or 'B.R.'
1929	Ordnance Survey map scale 6 inches:1 mile	Shows claimed route A to P. Not annotated as either 'F.P.' or 'B.R.'
1930s	Bacon's Motoring and Cycling Road Map	Shows claimed route A to P. Key defines as 'Minor Road'
1936	Johnston Motoring & Touring map	Shows claimed route A to E.
1940s	Geographia Large Scale Road Map of Dorsetshire	Shows claimed route A to P. Key defines as 'Other Road'
1944	Bartholomew Map	Shows claimed route A to P. Key defines as 'Serviceable Road'
1945	Ordnance Survey map scale 1 inch:1 mile	Shows claimed route A to P. Key defines as 'Minor or 3 rd Class Road'.
1947	Aerial Photograph	Shows claimed route A to P. Route well defined
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 and horseback but also with vehicles should be recorded as a CRB.	
1950	Borough of Weymouth Survey	Shows part of claimed route in Weymouth as bridleway 11
1951	Bartholomew Map	Shows claimed route A to P. Key defines as 'Serviceable Road'
1953-4	Poxwell and Osmington Parish Surveys	Osmington: C – G recorded as CRB 17 Poxwell: G – M as BR CRB BR. M – P not claimed but added later.
1954	Draft map south area	CRB from A – M. M – P not recorded.

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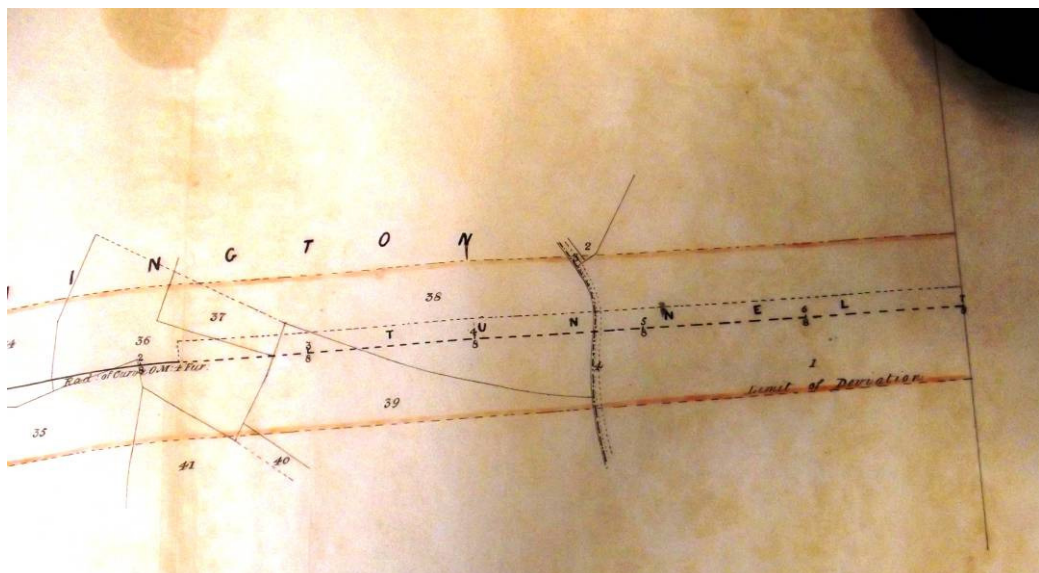
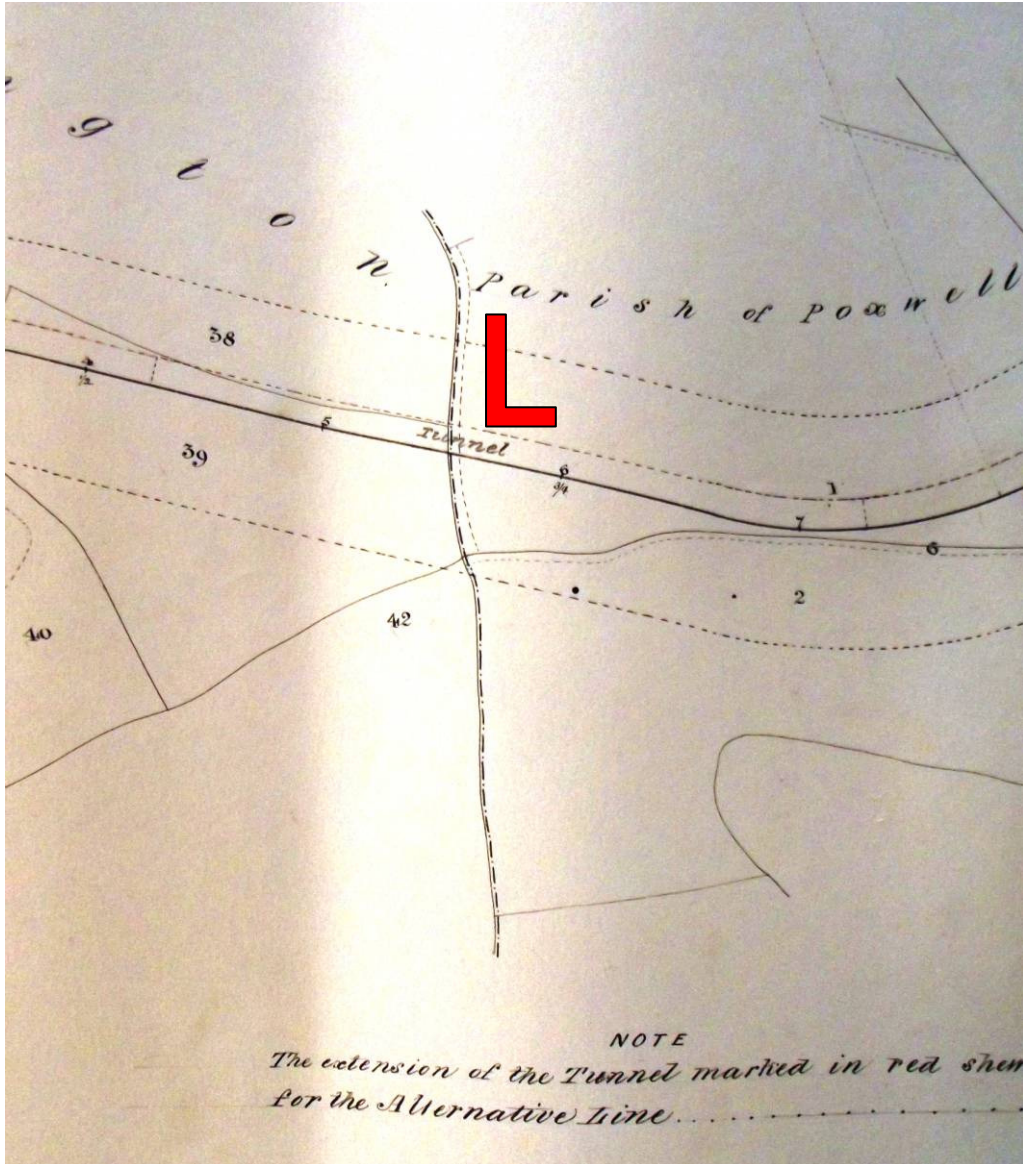
Date	Document	Comment
1958	NOTE: In 1958 the National Parks Sub-Committee determined that the designation of certain rights of way as CRF or CRB be abandoned and that in future such rights of way be shown only as footpaths (F.P.) or bridleways (B.R.)	
1964	Provisional Map	A to P recorded as Bridleway
1965	List of Streets	Route recorded as an unclassified unpaved road leading east from point M, Pixon Barn, towards Poxwell Church identified as the Old Turnpike no date of formal adoption suggesting historical origin
1967	First Definitive Map	A to P recorded as Bridleway
1972	Aerial Photograph	Shows claimed route A to P. Route well defined
1973	Special Review	Subject to claim for upgrading to higher public rights, not upheld (C – P)
1974	Revised Draft Map	A to P recorded as Bridleway
1975	Objection to revised draft map showing BRs 9 and 5 as bridleways	Not pursued – continuous review
1989	Current Definitive Map	A to P recorded as Bridleway
1997	Aerial Photograph	Shows claimed route A to P. Route very well defined
2009	Aerial Photograph	Shows claimed route A to P. Route very well defined

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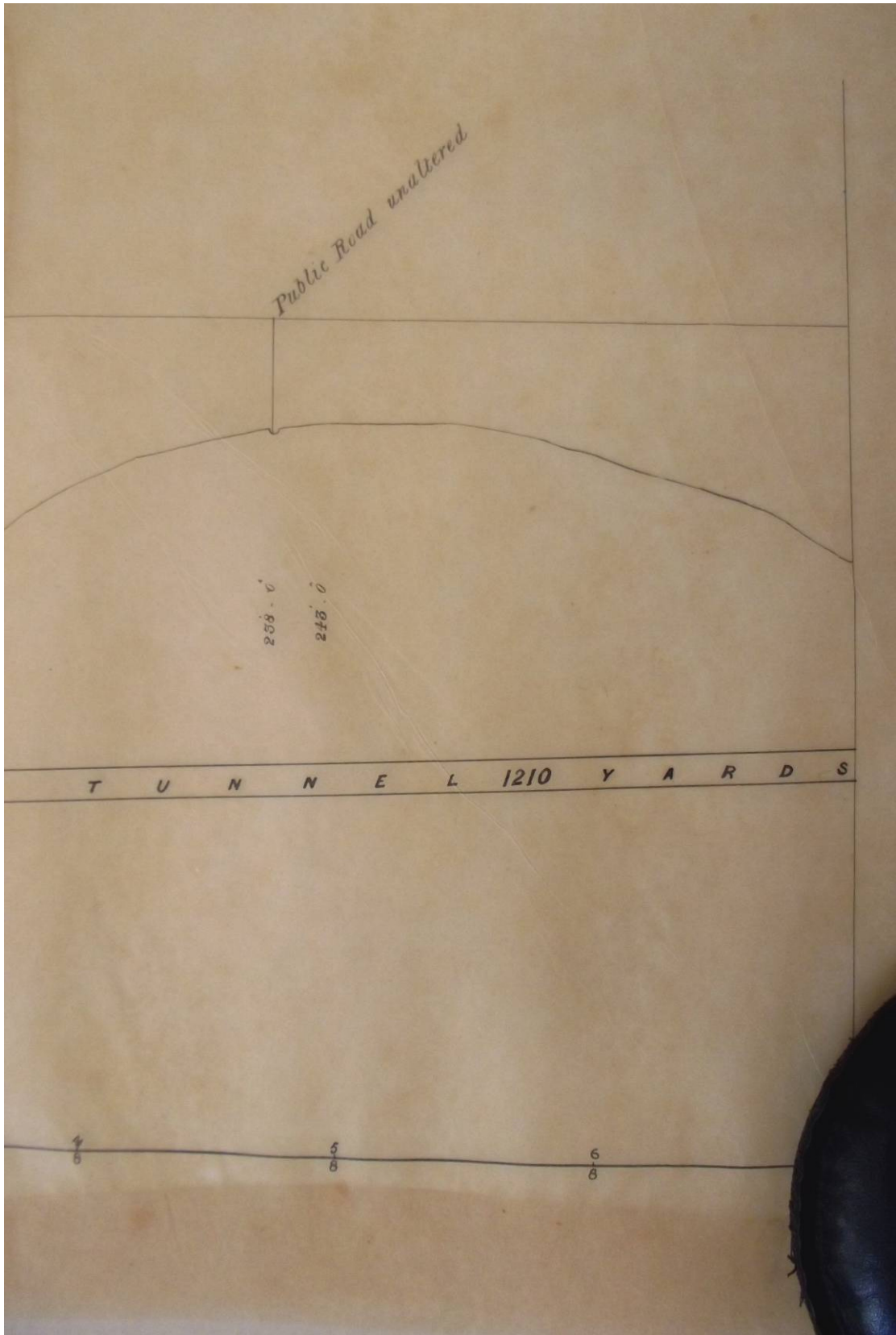
Extracts from key documents

(See the Director for Environment's file RW/T411 for copies of other documents mentioned)

1845/46 Southampton and Dorchester Railway Plans



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**Letter from the Trustees of the Mico Charity Estate Trustees to the Trustees of the Weymouth and Dorchester Turnpike Roads
22 September 1845**

TO THE TRUSTEES OF THE WEYMOUTH AND DORCHESTER TURNPIKE ROADS.

GENTLEMEN,

We, the undersigned, being the Trustees of an Estate in the Parish of Osmington, bequeathed by Sir Samuel Mico, for the maintenance and benefit of ten decayed seamen of the Port of Weymouth, have been informed that you are about to hold a Special Meeting at Dorchester, on the 4th of October next, to take into consideration an application made by the Rev. G. Pickard, for an order to stop the ancient Highway which leads from the said Estate to the Turnpike Road by the Church, at Poxwell; and being deeply convinced, not only of the great injustice, but also of the serious injury that would be done to the said Estate, by the granting of such an order, we hereby respectfully lay before you our most earnest protest against it.

Mr. E. A. Wood has so fully stated, in his printed Letter, the grounds on which such an application ought to be refused, that we will not occupy your attention further than to state one or two circumstances, which have occurred subsequent to the publication of that Letter, and which, have rendered it necessary for us to notice.

In the Newspaper report of a Meeting of Magistrates, held at Dorchester, on the 23rd of August last, when certain persons were brought up on a charge connected with an obstruction of the aforesaid road, it appears that the Rev. G. Pickard gave evidence to the effect that the said road was his brother's property, inasmuch as no road had existed there before a Turnpike Road was made. To refute this assertion we appeal to the Affidavit filed in the Queen's Bench, in the Appendix to Mr. Wood's letter, for confirmation.

Up to the year 1844, when Mr. Trenchard first obstructed the road against us, and was indicted by us for so doing, the Charity Estate had at no period within the memory of man, nor, as we believe at any recorded period whatever, been without the use and convenience of that road: and now that the construction of a Railway renders it of greater consequence than ever, we should be wanting in our duty as Trustees, were we not to resist by every means in our power the pertinacious attempts made by Mr. Trenchard to deprive these poor men whose interests are committed to our charge, of a right which they have always enjoyed, which is now on the point of becoming so much more valuable and important to them, and of which there is no ground but the whim of an individual for depriving them.

Whatever may be asserted or proved with regard to any authority which Mr. Billett may have received from other parties interested to assent to the stoppage of the road, he never received such authority from us or our predecessors, nor, as we believe, is it attempted to shew that he did so—it is therefore altogether inconceivable that you can for a moment entertain the question of ordering the stoppage of the road against the Charity Estate, be the right of other parties over it what they may.

We are the more earnest in appealing to you in the present stage of the business, because we are anxious not to be driven to expend in litigation those funds which we hold in Trust for the purposes of benevolence. It is true, that notwithstanding your refusal of the order, we may be driven to that extremity; but we are satisfied that you have sufficient grounds for such refusal, and thereby may remove from yourselves the just odium which must attend the infliction of injury and loss on the poor Seamen who are dependent for their subsistence upon the funds arising from the Mico Estates.

We have the honor to be, with the greatest respect,

GENTLEMEN,

Your obedient Servants,

JOHN CREE
J. A. DEVENISH
J. FLOWER
GEO. C. WELSFORD
WM. LANGRISH

JOSEPH AYLING
W. J. HILL
HENRY RAGGETT
F. PITMAN

Weymouth, September 22nd, 1845.

Letter from Rev George Pickard to the Trustees of the Mico Charity
30 September 1845

TO THE TRUSTEES OF THE MICO CHARITY.

GENTLEMEN,

Having seen a Letter, published by the Mico Charity Trustees, addressed to the Trustees of the Weymouth and Dorchester Turnpike Roads, I think it right to call your attention to facts which you appear entirely to have overlooked.

Turnpike Trustees are empowered by the General Turnpike Act, to alter, divert, and widen Turnpike Roads for the benefit of the Public at large, and they are in no way bound or required to give any public Notice of their intention to enter into agreements for the purpose of effecting alterations; they have full power both to enter into such agreements and to fulfil them.

Your Letter shews that you have been misinformed respecting the period when the Road in question was closed against the Public: by reference to my last statement you will see that the old Turnpike Road from Osmington to Poxwell had been clearly closed against all Carts and Carriages for nearly fifteen years, and that when the new Turnpike was opened in 1830 that part of the old one running through the Poxwell Estate was taken possession of by the Owner of that Estate according to the agreement made with the Turnpike Trustees.

I also beg to inform you that there are several other Roads by which access can be had to all the different parts of the Mico Charity Estate—namely—a few hundred yards beyond Poxwell on the Weymouth Road, there is a Road over the Hill, which is and always has been leading to the higher part of the Mico Charity Estate, which Road is now regularly used by Mr. Andrews of Upton with his Horses and Waggon, as Tenant of the Osmington Estate. Besides this, if any Waggon has to pass to the Charity Estate from Ower Moigne (Mr. Cree's Estate) it should pass by Warmwell Cross—and from that point, the direct and easiest way to the higher Fence of the Mico Estate, is by the Dorchester Road to Warmwell Wood, turning there to the left over Warmwell Down, by the Mayne Enclosures, and so direct, without any steep Hill whatever, to the Mico Charity Estate.

There is also another Road leading from the Parish of Broad Mayne by the Mayne Enclosures to the Mico Estate. Then, there is also a Road out of the Parish of Osmington leading past the other part of the Mico Estate and on to the upper part of the same near the White Horse.

Thus from every possible point, there is a free and easy access to the Mico Estate without the piece of Road in question, which, I beg to say, never did exist as a public Road until it was made a Turnpike.

You are also under an erroneous impression in supposing that any authority could be required either from yourselves or your Predecessors, in order to effect the great benefit which the Public have derived (and your Charity as part of the Public) by means of that very Agreement which the Trustees made with the Owner of the Poxwell Estate, and without which Agreement the Public never could have had the benefit they now enjoy. They took my Brother's Land under a distinct Agreement to give in return the piece of old Turnpike running through his Estate: his Land was given up on the faith of it: he asks the fulfilment on their part of that Agreement, acknowledged by their Acts and confirmed in law by the Court of Queen's Bench. The Power of the Trustees to do him justice is clearly shewn by decided Cases,—(see De Beauvoir against Welch, &c. &c.) and my Brother has a right to expect the fulfilment of that Agreement as being due to him in honor and in Justice and in Law. This is all Mr. Trenchard has sought and still seeks and no infringement whatever of public rights.

It is not for me to interfere with the outlay of your Charity Funds, but as you hold them for purposes of benevolence it might be as well if you were cautious how you allow yourselves to be put forward in a proceeding carried on against Mr. Trenchard for private purposes.

Instead of Mr. Trenchard seeking in any way to deprive the poor Seamen of any advantage, or in the most remote degree to injure their interests, acts which would be very contrary to the habits of his life, he and I are most desirous of preventing the expenditure of the poor Seamen's Funds in a case in which they have not the slightest or most remote interest one way or the other.

I remain,

GENTLEMEN,

Your obedient Servant,

GEORGE PICKARD.

BLOXWORTH, September 30th, 1845.

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**Letter from Job Gill to the Trustees of the Mico Charity Estate
3 October 1845**

TO THE TRUSTEES OF THE MICO CHARITY ESTATE.

I, JOB GILL, of Radipole, Yeoman, the Rentor of the Mico Charity Estate, in the Parish of Osmington, in the County of Dorset, having seen a printed letter, dated September the 30th, 1845, addressed to the Trustees of the said Charity Estate, from the Rev. G. Pickard, respecting the Roads leading to the said Estate, do voluntarily and solemnly declare that the Road which is stated to be a few hundred yards beyond Poxwell (which I think is nearly a quarter of a mile) on the Weymouth Road, is impassable for loaded waggons, from the said Turnpike Road to the Charity Estate; and, consequently, can be of no use to that Property. Respecting the Road mentioned by Mr. Pickard, over Warmwell down by the Broadmayne enclosures, I was not aware that such a Road was in existence; another Road is mentioned from the Parish of Broadmayne, but the distance is so great that it is useless as contrasted with the utility of the Road obstructed, by Poxwell Church. The only Road practicable at present, in consequence of the obstruction of the Old Turnpike Road, and by which the Upper Part of the Charity Estate can be approached, is, the Road leading from the Village of Osmington to the White horse, and it requires at least ten Horses to take up a Load to that part of the Estate, which number of Horses I do not keep.

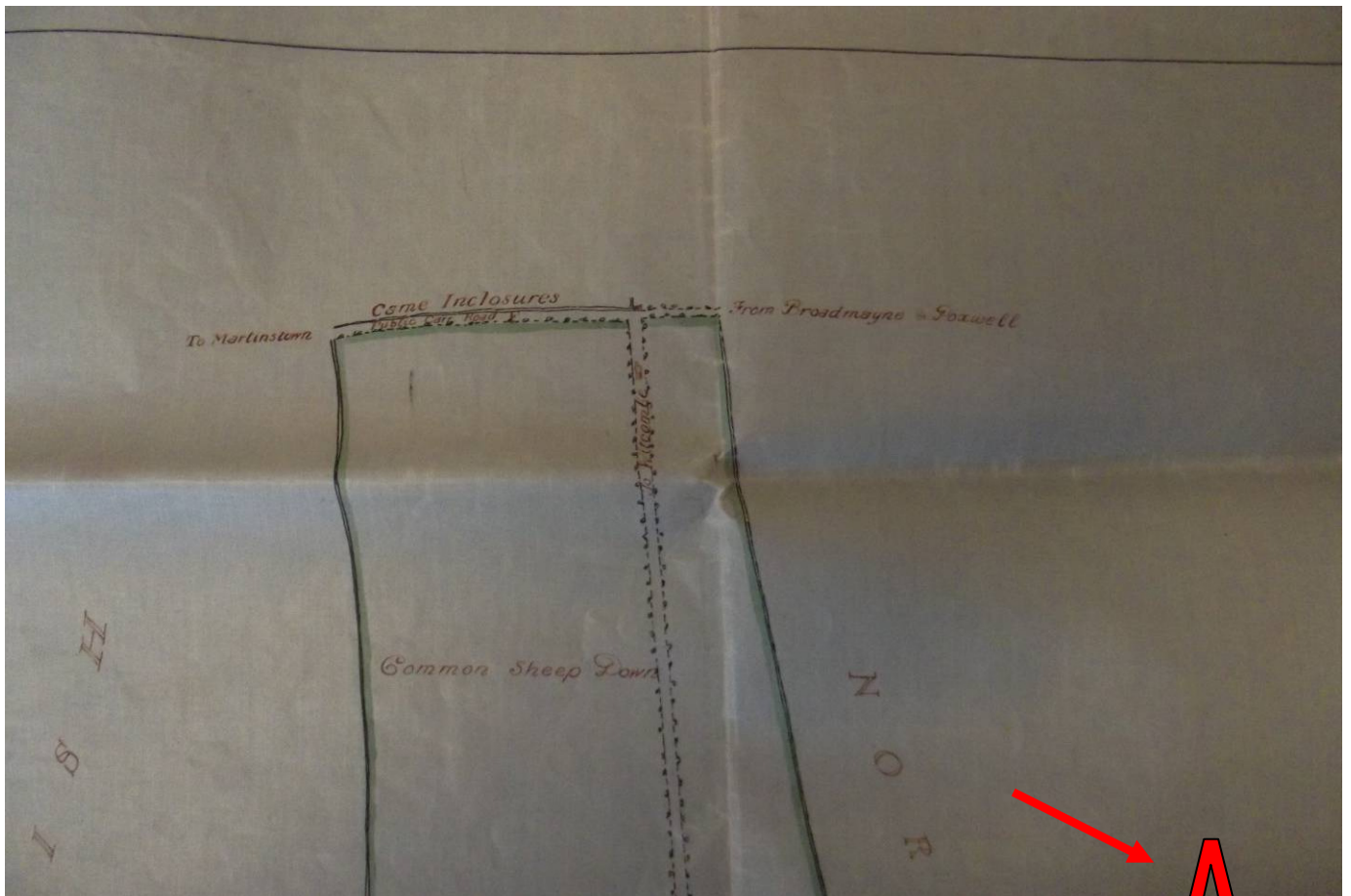
JOB GILL.

Osmington,

October 3rd, 1845.

*How long Mr Gill gave to
the Charity Estate for the last fifteen
years, whilst the Road has
been stopped.*

1794 Sutton Poyntz Inclosure Award map



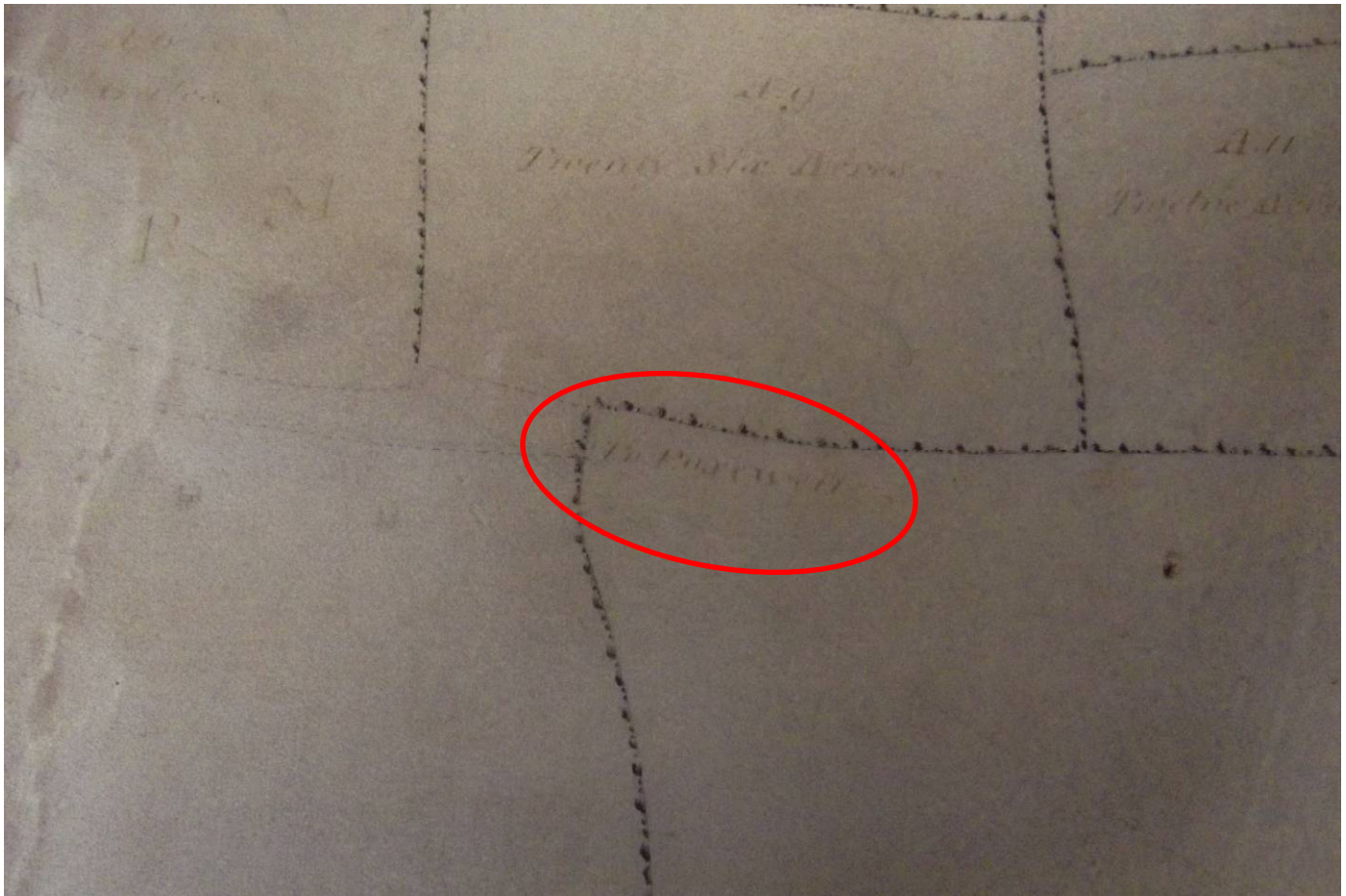
Award transcript

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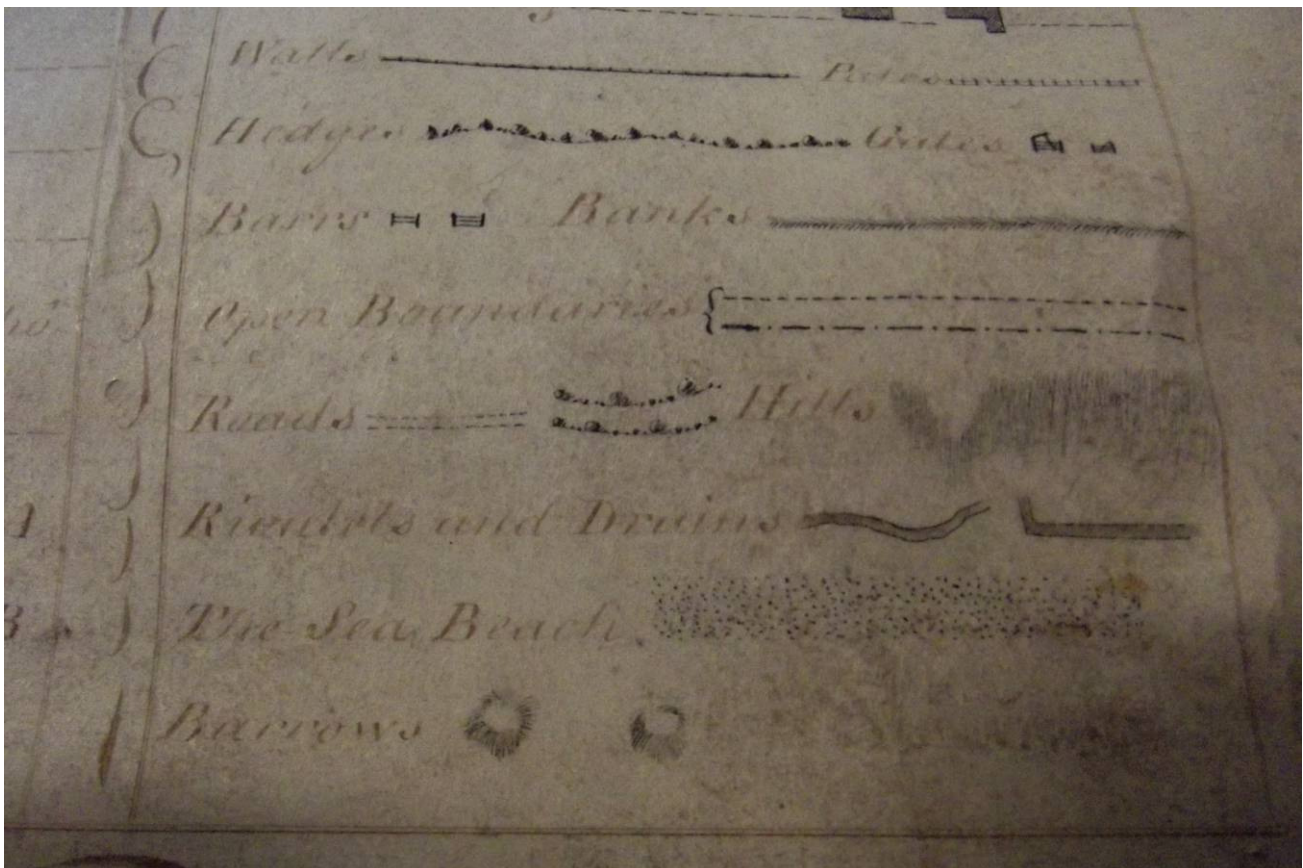
till it enters the said Parish of Bincombe ONE OTHER PUBLIC CARRIAGE ROAD OR WAY distinguished with the letter "F" in the said Plan of the like Breadth of Forty feet as the same is now marked and staked out being part of an ancient road or way leading from Broadmayne and Poxwell towards Martinstown in the said County beginning at the North East Corner of the said Common Sheep Down and extending Westward in or near its ancient course or direction through or over the north extremity of the said Common Sheep Down till it enters the said parish of Bincombe ONE OTHER PUBLIC CARRIAGE ROAD OR WAY AND FOOTPATH

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1795 Plan of the Parish and Manor of Preston and Sutton Pointz



Key



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1771 Weld Estate Atlas

