

# Report to the Chairman of the Regulatory Committee and the Service Director, Highways and Emergency Planning

## Dorset County Council



<u>Local Member(s):</u> Deborah Croney – Member for Hambledon	
<u>Lead Officer(s)</u> Anne Brown, Definitive Map Technical Officer (DMMO)	
<b>Subject of Report</b>	<b>Application for a definitive map and statement modification order to add a footpath to part of School Lane, Pimperne.</b>
Applicant	Pimperne Parish Council
Executive Summary	In response to an application to add a footpath this report considers the evidence relating to the status of the claimed route.
Impact Assessment:	Equalities Impact Assessment: An Equalities Impact Assessment is not a material consideration in considering this application.
	Use of Evidence: 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 October / November 2017, which included landowners, user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. The County Councillor for Hambledon was also consulted. In addition, notices explaining the application were erected on site.

	<p>Thirty user evidence forms from users of the claimed route were submitted during the investigation or with the application. Any relevant evidence provided has been discussed in this report.</p>
	<p><b>Budget:</b> Any financial implications arising from this application are not material considerations and should not be taken into account in determining the matter.</p>
	<p><b>Risk Assessment:</b> As the subject matter of this report is the determination of a definitive map modification order application the County Council's approved Risk Assessment Methodology has not been applied.</p>
	<p><b>Other Implications:</b> None</p>
<p>Recommendations</p>	<p><b>That:</b> (a) An order be made to record a footpath as shown between points B – B1 – C – D on Drawing 17/29/1 (Appendix 1). (b) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Service Director, Highways and Emergency Planning or the Regulatory Committee.</p>

<p>Reasons for Recommendations</p>	<p>The evidence shows, on balance, that:</p> <ul style="list-style-type: none"> <li>(a) The route B – B1 – C – D should be recorded as a footpath</li> <li>(b) The evidence shows, on balance, that the route should be recorded as a footpath as described, accordingly, in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.</li> </ul> <p>Decisions on proposals for definitive map modification orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-19 Outcomes Framework:</p> <p>People in Dorset are <b>Healthy</b>:</p> <ul style="list-style-type: none"> <li>• To help and encourage people to adopt healthy lifestyles and lead active lives</li> <li>• We will work hard to ensure our natural assets are well managed, accessible and promoted.</li> </ul> <p>Dorset's economy is <b>Prosperous</b>:</p> <ul style="list-style-type: none"> <li>• To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently</li> </ul>
<p>Appendices</p>	<ul style="list-style-type: none"> <li>1 - Drawing 17/29/1 – plan</li> <li>2 - Drawing 17/29 – application consultation plan .</li> <li>3 - Law</li> </ul>
	<ul style="list-style-type: none"> <li>4 - Documentary evidence <ul style="list-style-type: none"> <li>• Table of documentary evidence</li> <li>• Extracts from key documents <ul style="list-style-type: none"> <li>▪ Finance Act Plan and Field Book 1910</li> <li>▪ Dorset County Council List of Streets 1974</li> <li>▪ Dorset County Council Extent of Highway</li> <li>▪ Provisional map 1964</li> <li>▪ First definitive map 1966-7</li> <li>▪ Revised Draft Map 1974</li> <li>▪ Ordnance Survey Map 25":1mile 1886</li> <li>▪ Ordnance Survey Map 1:2,500 1961</li> <li>▪ Aerial photographs 1947,1972, 2005</li> </ul> </li> </ul> </li> <li>5 - User evidence <ul style="list-style-type: none"> <li>• Table of user evidence</li> <li>• Charts to show periods and level of use</li> </ul> </li> </ul>

	<p>The file of the Director for Environment and the Economy (ref. RW/T501).</p> <p>Most of the original historic maps and documents referred to are in the custody of the Dorset History Centre, except for the Finance Act maps, which are at the National Archives, Kew.</p> <p>Copies (or photographs) of the documentary evidence can be found on the case file RW/T501, which will be available to view at County Hall during office hours.</p>
Report Originator and Contact	<p>Name: Anne Brown Definitive Map Technical Officer (DMMO) Regulation Team, Dorset Highways Tel: (01305) 221565 Email: Anne.K.Brown@dorsetcc.gov.uk</p>

## 1 Background

- 1.1 An application to add a footpath as shown A – B - B1 – C - D on Drawing 17/29/1 (Appendix 1) was made by Pimperne Parish Council on 17 September 2010. A full consultation in respect of the application was conducted during October / November 2017.
- 1.2 The claimed route commences at point A, the south-west boundary of School House, where there is a break in the tarmac surface of School Lane. From here the claimed route proceeds in an east north-easterly direction for approximately 33 metres to point D, where it terminates at a gate into the sports field of the former Pimperne First School.
- 1.3 From point A the claimed route rises on a bank between a fence on the south, and the boundary hedge of School House on the north. It is at least 2.5 metres wide in this section. At point B there is pedestrian access into School House.
- 1.4 From point B to point B1 the claimed route widens slightly to 2.9 metres and is bounded on the south by the fence and on the north by the boundary hedge of School House.
- 1.5 At B1 the route widens on the northern boundary to 4.9metres and gradually narrows to 3.7 metres at point C. It is still bounded by the fence to the south and initially by a low wall / hedge on the north and then by the concrete hard-standing for the vehicular entrance to School House.
- 1.6 At point C the boundary fence on the southern side adjoins the perimeter fence of the former school playing field. The concrete hard-standing on the northern side provides vehicular access to the garage of School House.
- 1.7 From point C, the southern boundary fence continues and the concrete hard-standing for School House forms the northern boundary. The route widens slightly to 4.2 metres at D where it terminates in a hedge and pedestrian gate into the former school playing field.
- 1.8 The pedestrian gate at D is 0.9 metres wide, is latched but not locked and displays a sign "**NO DOGS Please consider our children's health**".
- 1.9 The application route has a tarmac surface throughout. There are no signs apart from the one on the gate at point D.
- 1.10 That part of the application route from point A – B – B1 – C is unregistered with the Land Registry, but that part from C – D is registered to JR Vaughan and S Vaughan as part of School House. This registration as part of School House first occurred in 1997 and prior to this it was unregistered.
- 1.11 The former school playing field is the subject of an application for registration as a Town or Village Green, application reference VG83.

## 2 Law

- 2.1 A summary of the law is contained in Appendix 3.

**3 Documentary evidence (Appendix 4)** (copies available in the case file RW/T501 )

3.1 A table of all the documentary evidence considered during this investigation is contained within Appendix 4. Extracts from the key documents are also attached.

**4 User evidence (Appendix 5)** (copies available in the case file RW/T501)

4.1 A table of user evidence summarised from witness evidence forms together with charts showing their periods and level of use form Appendix 5. An analysis of the user evidence is contained at paragraph 9 of this report.

**5 Additional evidence in support of the application** (copies available in the case file RW/T501)

5.1 Two submissions were received in support of the application.

Name	Comments
Mr T Harman (user) (04/11/2017)	Email claiming use of 'the route for 23 years on an occasional basis', alone and with others. Used openly and without permission, not challenged and not seen signs dissuading him. Supports claim.
Battens Solicitors (on behalf of Mr & Mrs Vaughan, owners School House) (13/11/2017)	Letter, photographs and documents detailing use of the route by the public, removal of former signs stating that the route was private, and declaration that they had informed members of the public that the route was for pedestrian use only. Documents included Land Registry documents and statutory declarations dealt with in Documentary Evidence.

**6 Evidence opposing the application**

6.1 No submissions were received opposing the application.

**7 Other submissions received** (copies available in the case file RW/T501)

7.1 A further eight submissions were received, six of which were in response to the consultation.

Name	Comments
Mrs J Jackson (former landowner) (18/10/2010 & 28/10/2010)	Email requests for clarification of the DMMO application and accompanying documents.
Scottish and Southern Electricity Networks (24/05/2017)	Request to Highway Searches for information relating to the ownership and highway maintenance status of that part of the application route from A-B-B1-C.
Southern Gas Networks (12/10/2017 & 16/10/2017)	A link sent by email which appears to show no infrastructure within the immediate area of the application.
Linesearch (16/10/2017)	On-line search revealed that, of the LSBUD members, only Southern Gas had assets in the vicinity of the application route.

Name	Comments
DCC Senior Archaeologist (16/10/2017)	Does not feel that historic environmental considerations constitute a constraint in the context of this proposal.
Land Registry (24/10/2017)	Confirmation that in 1986, none of the application route was registered. In 1996 an application was made to register the whole of the application route as part of School House, DCC was consulted and consented to the registration. This application was partly accepted and that part of the route C – D was registered, with a claimed private right of way over A – B – B1 – C.
The Ramblers (03/11/2017 & 6/11/2017)	No direct knowledge of the application route, but refers to depiction on OS map of 1887.
Openreach (10/11/2017)	Email sending plan of apparatus in the area, but none appears to be immediately on the application route.

## 8 Analysis of documentary evidence

### Inclosure Award

8.1 The **Pimperne Inclosure Map (1814)** covers the area of the application, however, School Lane and the application route is not depicted.

- This provides no support for the application.

### Finance Act 1910

#### Finance Act Plans 1910

8.2 The base maps used in compiling the Finance Act were Ordnance Survey Second Edition 25 inch: 1 mile, Pimperne is on sheet number Dorset XIV.16 (1900).

8.3 The application route, as shown between points A and D on Drawing 17/29/1, is shown on the Finance Act Plan **IR 125/2/152**. That part of the route from A – B is excluded from valuation, as defined by the colour wash to either side, thereby excluding it from adjacent hereditaments. The resulting parcel lacks any hereditament number.

8.4 That part of the route from B - C - D is included in **Pimperne Hereditament 13**, a very large hereditament spread over 2 maps.

- The fact that part of the route, as shown from A to B was excluded from valuation provides a strong indication that it was considered to be a public highway.
- Vehicular roads were typically depicted in this manner, suggesting that School Lane from A – B may have been regarded as a public carriageway at that time.

### Finance Act Field Books

- 8.5 **Pimperne Hereditament 13.** Within this Hereditament there are 3 paths depicted on the Ordnance Survey base map; 2 leading off the Salisbury Road in the vicinity of Pimperne Long Barrow, marked 'FP', and one coinciding with the application route from point B – B1 – C – D and continuing across a field to where there used to be 'Allotment Gardens', this is also marked 'FP'.
- 8.6 The Field Book entry for **Hereditament 13** records that a deduction of £50 was allowed for '**Rights of Way**' under "**Charges, Easements and Restrictions affecting market value of Fee Simple**".
- 8.7 Under the heading "**Charges, Easements, Common Rights and Restrictions**" it describes: "**Halter path across Down from entrance in Salisbury Road to corner of Long Barrow ? across ? from East to West, Road across ? from top of Long Barrow to exit in Salisbury Road of adjoining Down. Road in Paddock at rear of Robats' premises leading to the allotment field.**"
- The three paths marked 'FP' on the base-map within Hereditament 13 are consistent with the descriptions of the halter path and two roads listed under Charges, Easements, Common Rights and Restrictions.
  - It has not been possible to establish where "**Robats' premises**" were but it seems likely to assume that villagers would have had public access from the village to the allotments. The lane now known as School Lane, and its continuation as the application route and the path across the former school playing field is the only such route marked on the Ordnance Survey base map.
  - Although it is unusual for 'Road' to be listed under 'Charges, Easements, Common Rights and Restrictions', a road that was a public vehicular highway but which ran across pasture, and provided a grazing crop, may have been included within the hereditament and be the subject of a deduction.
  - Without any evidence to the contrary it seems reasonable to suggest that the deductions made may be attributed to paths shown 'FP' on the base map (Ordnance Survey – Dorset Sheet XIV.16 (1900)).
  - Thus these documents could be suggestive of the application route having public rights, however, the details given do not enable status to be determined.

### Dorset County Council List of Streets

- 8.8 The List of Streets 1974 describes School Lane as the D32414, extending from map reference 905094 to 906094 and being 0.05 miles in length and a paved road. No other information is given.
- 8.9 The plan accompanying the list of streets depicts a road, coloured blue, extending from the junction with Down Road, at point E, to point C.
- The plan accompanying the list of streets was only advisory and carried no legal status.



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- The grid references and length of paved road of School Lane detailed in the list of streets are insufficiently precise to determine the exact eastern terminus of School Lane. However, taking these parameters into account, the terminus could lie anywhere between point A and point C.

8.10 The current **Highway Extent** (as of October 2017) shows School Lane extending from point E – A - B.

- This extent has been deduced using information from the List of Streets 1974 and the land excluded from the Finance Act 1910.
- This is supportive of that section of the application route from point A to point B being a road maintainable at public expense. The status of that road cannot be determined from these documents but it is most likely a carriage road.

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

#### **Parish Survey**

8.11 The **Pimperne Parish Survey Plan (1951)** does not claim any rights of way in the vicinity of School Lane, and none is described on the **Parish Survey Statement**.

#### **Draft map**

8.12 The **Draft map for the Pimperne area (1959)** does not show any rights of way in the vicinity of School Lane.

#### **Provisional map**

8.13 The **Provisional map of 1964** shows the whole of School Lane E – A – B – C - D, including the application route, coloured brown, indicating that it was considered to be an unclassified county road.

#### **First definitive map**

8.14 The **First definitive map of 1967** replicates the provisional map for this area and shows the lane E – A – B – C – D with an orange broken line indicating it was an unclassified county road.

#### **Revised draft map**

8.15 The **1974 Revised draft map** shows the lane E – A – B – C – D with an orange broken line indicating it was an unclassified county road.

- Although these depictions of an unclassified county road are an indication of the believed status of School Lane at the dates of the maps, the purpose of the definitive map was to record rights of way, not unclassified county roads. Therefore, little weight can be given to this evidence.

### **Current definitive map**

- 8.16 The current **Definitive map (sealed in 1989)** does not depict School Lane and the application route with any status.
- 8.17 Although School Lane and the application route are not recorded on the definitive map as a public right of way, this is not prejudicial to the existence of any public rights over them.
- There is some indication on the Revised Draft Map and earlier maps made in pursuance of the National Parks and Access to the Countryside Act that the whole of the route E – A – B – C – D was considered to be an unclassified county road. It was not the purpose of these maps to record such information, but this may account for rights of way not being claimed along the route. That part of School Lane shown E – A – B is now adopted road but from A – B the adjoining landowner has previously maintained the surface.

### **Tithe Maps**

- 8.18 The **Tithe Map** covering Pimperne Parish is unavailable.

### **Other documents**

#### **Ordnance Survey maps**

#### **Drawings**

- 8.19 The **Ordnance Survey drawings**, which were made in preparation for the publication of the First Edition 1 inch: 1 mile scale map, are drawn at a scale of 2 inches: 1 mile and therefore generally contain more detail than the later 1 inch: 1 mile scale maps.
- 8.20 The drawing that includes the area of Pimperne Parish was completed in **1808** and does not depict School Lane.

#### **One Inch Series**

- 8.21 The **1811 First Edition Ordnance Survey map** at a scale of 1 inch: 1 mile also does not depict the route.
- 8.22 The **1898 Revised New Series Ordnance Survey Map** at a scale of 1 inch: 1 mile depicts a lane corresponding to School Lane with solid lines both sides and across both ends, but it is difficult to determine the extent of the lane due to the small scale of the map.
- 8.23 The **1945 New Popular Ordnance Survey Map** at a scale of 1 inch: 1 mile depicts a lane corresponding to School Lane as an uncoloured road extending to a building on the northern boundary and on the southern boundary. These buildings would appear to be in approximately the same locations as School House and the old school.

- 8.24 The **1960 7<sup>th</sup> Series Ordnance Survey Map** at a scale of 1 inch: 1 mile depicts School Lane as an uncoloured road, open at the eastern end and terminating at a building on the southern boundary, in approximately the same location as the old school.
- These maps indicate that the lane now called School Lane has been in existence as a minor road since before 1898. But owing to the small scale, it is not possible to determine whether it extended over the whole of the claimed route A – B – C - D on Drawing 17/29/1.

#### **Six Inch Series (1:10560)**

- 8.25 The area of Pimperne is covered by Sheet XIV.SE of the **1887 First Edition Ordnance Survey Map, surveyed in 1886** at a scale of 6 inches: 1 mile (1:10560). It shows a lane corresponding to School Lane from Point E, its junction with Down Road, to point B, defined by two parallel solid lines indicating that it was fenced or hedged on both sides. It then depicts from points B – C – D with parallel pecked lines indicating an unfenced path. It is not annotated 'F.P.' or 'B.R.'. There is a solid line across the lane at point B possibly indicating a gate or barrier, and at point E, the junction of School Lane with Down Road, there is a solid line across which may indicate that a gate or barrier was present.
- 8.26 The **1902 Second Edition Ordnance Survey Map, surveyed in 1900** at a scale of 6 inches: 1 mile (1:10560) shows a lane corresponding to School Lane in a similar manner to the earlier 1887 map.

#### **25 Inch Series (1:2500)**

- 8.27 The area of Pimperne is covered by sheet XIV.16 of the **1887 First Edition Ordnance Survey Map (surveyed in 1886)** at a scale of 25 inches: 1 mile (1:2500). This depicts a lane corresponding to School Lane (uncoloured), as shown between point E and point B. The unfenced path B – C – D is shown in a similar way to the six inch scale map of the same year, although the suggested gate or barrier at point B now shows a brace joining the lane to the field. Neither part of the route is annotated 'FP' or 'BR'.
- 8.28 The **1901 Second Edition Ordnance Survey Map, revised in 1900**, at a scale of 25 inches: 1 mile (1:2500), (which is the map used for the Finance Act valuation), depicts the claimed route in a similar manner to the 1897 edition with the exception that the path shown corresponding to that between points B – C – D is now annotated 'F.P.'.
- 8.29 Sheet ST9009 of the **Ordnance Survey Map revised 1960**, at a scale of 25 inches : 1 mile (1:2500) names and depicts 'School Lane' with parallel solid lines up to the entrance to the school, it is open to Down Road at the western end suggesting any previous barrier is no longer present. There are pecked lines possibly indicating the bank between School House and the school and at approximately point C on Drawing 17/29/1 there is a line across the lane, possibly indicating a gate / barrier. Between points C and D, and continuing eastwards, there is a route between parallel solid lines leading to small plots of land with buildings, some of which are labelled 'Poultry Houses'. The route is not braced with the land parcels.

8.30 The **1972 Ordnance Survey Plan** at a scale of 1:2500 annotates the lane as “School Lane”, depicting it with two parallel lines from its junction with Down Road at point E to point A, and with parallel pecked lines from point A – B – C. At point C there is no indication of a barrier and from point C to D the lane is not depicted, and nor is the footpath heading eastwards from point B across the field now annotated ‘Sports Field’.

- Although not conclusive as to status, Ordnance Survey maps do provide evidence of the physical existence of ways on the ground at the time of the survey. In respect of School Lane, the Ordnance Survey maps demonstrate that the section shown from point E – A – B on Drawing 17/29/1, has existed as a fenced / hedged road since at least 1886.
- The maps indicate that the section from point B – C was an unfenced / hedged path since at least 1886 and at some point before 1900 it was considered a footpath (though not necessarily a public footpath).
- The section C - D was an unfenced / hedged path from 1886 to 1900, but at some point between 1900 and 1960 it became fenced / hedged. Between 1960 and 1972 the field became a Sports Field and any gate / barrier at C was removed. The route between point C and D may not have been clearly delineated at this time.

#### **Commercial maps**

8.31 The route is not depicted on any known commercial maps, prior to the Ordnance Survey. Any commercial maps since the Ordnance Survey are likely to have been based on Ordnance Survey data.

#### **Portman Estate Map and Book of Reference (reportedly dated 1890)**

8.32 The Portman Estate Map (provided by the Portman Estate) appears to be similar to a tithe map and the plot numbers were believed to have been taken from the tithe map.

8.33 A lane corresponding to School Lane is depicted between points E – A – B with parallel solid lines and a line across the ends at A and B. It has no plot number and is bounded on the north by plot 60, and on the south by plot 61.

8.34 A route approximately corresponding to the claimed route between points B – B1 – C – D is depicted with a single pecked line across plot 71. No key is provided.

8.35 No rights of way or easements are mentioned in the book of reference, as reported in an email by the Portman Estate.

- These documents provide no support or otherwise for the claimed route except to confirm its existence at the time.

### Sales Documents

- 8.36 **Particulars, Plans and Conditions of Sale documents** for part of the **Portman Estate 1924** include 2 plans, both of which appear to be based on an Ordnance Survey 1:2,500 scale maps of unknown date. School Lane and the application route from point A to point C are excluded from the sale.
- 8.37 The field boundaries are not in the same location as presently and it appears that land equating to the application route from point C to point D would have been included in the land sold.
- 8.38 Plan no 1 shows the field, which later became the school playing field including that part of the application route from point C to point D, coloured in blue and labelled Plot 91.
- 8.39 Plan no 3 shows the field, which later became the school playing field including that part of the application route from point C to point D, as part of Lot no 7 and described as "pasture". No relevant rights of way, easements or access are described.
- 8.40 Plan no 3 shows the School House and its grounds as Lot no 19, it is described in the sale document as "the Schoolmaster's House". No rights of way, easements or access are described, except an easement to drain into an adjoining plot.
- 8.41 Plan no 3 shows the school and its immediate grounds as Lot no 19, it is described in the sale document as "Pimperne Mixed Elementary School. No rights of way, easements or access are described except an easement to drain into the adjoining Lot 7.
- 8.42 The **Sales Particulars** and **Map of Stud House Farm (1941)** shows School Lane and that section of the application route from point A to point C adjoining some plots, and excluded from the sale. There is no mention of access / rights of way / easements in the accompanying lot descriptions.
- 8.43 That section of the application route from point C to point D was included within a land parcel sold as part of Lot 2. There is no mention of relevant access / rights of way / easements in the particulars for Lot 2.
- Each of the plots could only be accessed using School Lane but none was described as having any private rights or easements along it. This may suggest that none was needed as School Lane, including the application route from point A – point C, was already considered to be a public highway.
  - The fact that sales particulars for that part of the route from point C to point D do not describe any rights of way over this route does not preclude their existence.

### **Conveyance, Indenture and Contracts for Sale Documents**

- 8.44 The **Contract for Sale, Indenture and Conveyance** for the school and School Master's House of **1924** do not describe any rights of way or access except right to drainage. The southern boundary of the plot was set back from the application route between points B and C on Drawing 17/29/1, as is the case at present.
- 8.45 The **Indenture of 1925 for Pimperne School** includes a plan showing that the land sold extends to the southern edge of School Lane (approximately the edge of the current route). An easement is described into the adjoining plot for the running of water and soil, and a right of access for maintaining such.
- 8.46 The **Conveyance of 1968** between AG Lukins and Dorset County Council for the northern part of the school playing field, appears on the plan to include that part of the application route from point C – point D on Drawing 17/29/1. However, an earlier **Deed of Exchange 1964** between AG Lukins and Dorset County Council of on the eastern border of the grounds of School House suggests that the plan for the later conveyance was inaccurate and should only have included land which is now the school playing field. No rights of way or other access rights are mentioned except an easement to lay a sewer east of point C/D.
- 8.47 The **Conveyance of 1986 for School House** depicted the plot as occupying a smaller area than is currently shown on Land Registry Title DT140410, the boundary with the application route between point A and point B is further north. Boundaries required to be maintained include the boundary with the application route.
- The boundaries of the plots in these documents do not correspond to the boundaries of the lane as depicted in the Finance Act Plans of 1910. However, the application route from point A – B – C on Drawing 17/29/1, as defined by current boundaries, was not included in the sales.
  - The fact that no easement or right of access to the land was mentioned would suggest that none was needed and thus School Lane up to at least point B may have been considered to have public rights.
  - That part of the route from point C – point D may have been included in the conveyance of 1968 and although no public rights were mentioned, this does not preclude the existence of such rights.

### **Dorset County Council Correspondence**

- 8.48 A **memo** from Dorset County Council Rights of Way Department to the Education Department (**3 April 1997**) responds to an enquiry and confirms there is no public footpath across the school playing field, and that School Lane is adopted along its whole length, including the application route from point A to point D on Drawing 17/29/1.

- 8.49 A **letter** from Dorset County Council Highways Department to Gulliford and Gregory (Solicitors) (**10 May 2002**) accompanies a plan showing that the extent of highway for School Lane includes the whole of the application route from point A to point D. In the letter it is stated that should an application be made to register an area of adopted highway, an objection would be registered.
- 8.50 A **memo** from Dorset County Council Eastern Highways Office to Legal Services (**13 June 2008**) requests a letter be sent to the owner of School House requesting removal of a gate across the highway in School Lane. The accompanying photograph shows a gate across the application route apparently located between points B and C on Drawing 17/29/1. The letter states that *'an adopted length of 114m is shown for School Lane'* and estimates that the gate is *'10m or so short of the adopted length'*.
- The length quoted does not correspond with the length of School Lane recorded in the List of Streets (1974) which is 0.05 miles (80 metres).
- 8.51 A **letter** from Dorset County Council Legal and Democratic Services to the owner of School House (**25 June 2008**) requests the removal of a gate *'across the highway known as School Lane.'* A plan was attached but has been lost. The letter requests any evidence that this land is not highway.
- 8.52 A **letter** from Dorset County Council Legal and Democratic Services to Humberts (Estate Agents) (**24 July 2008**) explains that the old highway records have yet to be located, but encloses a digitised plan showing the extent of highway for School Lane, taken from old records. The plan shows highway extent terminating at a point consistent with a location mid-way between points C and D on Drawing 17/29/1. The letter confirms that highway rights do not extend to the school boundary.
- 8.53 A **letter** from Bailey & Co (Solicitors) to Dorset County Council Legal and Democratic Services (**25 July 2008**) states that the owner of School House intends to remove the gate across School Lane, but does not accept that School Lane is publicly maintained highway. She claimed to have been told verbally by Dorset County Council Highways Department that the adopted area of School Lane stopped at the entrance to the School yard. She claimed to have purchased the 'private driveway' from Mr Lukins in 2002 and subsequently tarmacked it and put in a kerb to mark the boundary with School Lane.
- No supporting evidence was supplied.
- 8.54 A **letter** from Dorset County Council Legal and Democratic Services to Eddowes, Perry, Adams, Roberts & Co (Solicitors) (**4 September 2008**) confirms that the Highways Department *'have agreed that highway rights will cease to exist over the land between the previously erected gate and the school boundary'*. A plan is attached which shows the area in question and this corresponds to the application route between point C and point D on Drawing 17/29/1. The letter also confirms that there are no rights of way documented on the Definitive Map between the end of School Lane and the school boundary, or across the school playing field.

- No evidence is supplied or cited. There is no evidence that any highway was stopped up so, despite the inference from the letter, either highway rights never existed over this land, or they continue to exist.

8.55 A **letter** from Dorset County Council Legal and Democratic Services to Bailey & Co (Solicitors) (**9 September 2008**) states that Highways Department investigations have concluded that highway rights do not extend as far as the school boundary in School Lane.

- These correspondences reveal considerable confusion and conflicting opinion as to the extent of highway in School Lane. No evidence is cited in reaching the conclusions stated. Therefore, it is considered that they offer little support for the claim and should be given little weight.

### **Statutory Declaration and Assent**

8.56 The **Statutory Declaration** by John William Lukins dated 12<sup>th</sup> March **1995** states that his father AG Lukins farmed Stud House Farm from 1941 and erected gates across the application route at a point between point B and point C on Drawing 17/29/1.

8.57 Mr Lukins believed that part of the application route from point B to point D was 'in the exclusive and uninterrupted possession of his father from 1941 to 1960' when the field was conveyed to Dorset County Council, but the track leading to it was not.

8.58 AG Lukins died in 1975 resulting in an assent to JW Lukins of 'the pieces of land in Pimperne' see paragraph 8.59 below. He attached a plan illustrating the land. JW Lukins declares that he knows of no other person who has better title than himself to the land corresponding to the application route as shown point A to point C on Drawing 17/29/1.

8.59 The **Assent** between the Executors of the estate of AG Lukins and J Lukins (**1978**) describes the 'vesting in the beneficiary of all those pieces or parcels of land situate at Pimperne... forming part of the highway verge or bank of the highways known as ... and School Lane'. The plan which showed the relevant highway has been lost, but Mr Lukins provided a separate plan illustrating the land with his Statutory Declaration (see paragraph 8.56)

- Mr Lukins provides no evidence for his 'ownership' of the application route between point A and point C and no conveyance has been located.
- The assent document describes land as 'highway verge and bank' which, if this refers to the same land as that highlighted on Mr Lukins' map, provides some support for the application route between points A and C.



Page 17 Application for a definitive map and statement modification order to add a footpath to part of School Lane, Pimperne.

8.60 The **Statutory Declaration** and plan by ADG Babington dated 2008 declares that she has used a right of way along School Lane outside School House since 1992, parked her car on the section marked B – C on Drawing 17/29/1, and resurfaced at her own expense that section of School Lane A – C.

- The rights described are consistent with private rights and this provides no evidence for or against the application route.

### **Land Registry**

8.61 That part of the application route as shown from point A to point C is currently unregistered.

8.62 The land adjoining School House was first registered in **1986**, Title number **DT140410**, when the frontage with the application route was set further back, parallel to and close to the southern boundary of the house.

8.63 In **1996** an application was made to Land Registry to register the whole of the application route as part of the School House plot. Statutory Declarations by JW Lukins (a former owner) were submitted in evidence. Dorset County Council consented to the registration on 14 January 1997. (See communications with Land Registry).

8.64 After consideration, the Assistant Land Registrar added only the eastern-most part of the land, and a narrow strip of the western-most part of the land to the land register, and recorded a claimed right of way (private right of way) over the route from point A to point C on Drawing 17/29/1.

8.65 That part of the application route from point C to point D is registered with School House to James Vaughan and Sacha Vaughan, (DT 140410).

- The fact that public rights are not mentioned does not preclude the existence of such rights.
- The registration of that part of the route from point C – point D on Drawing 17/29/1 does not negate any public rights over the land.

8.66 None of the other surrounding plots provide any information of rights over the application route.

### **Aerial Photographs**

8.67 The aerial photograph of **1947** shows School Lane running eastwards from point E on Drawing 17/29/1, it appears to be bounded on northern and southern boundaries by hedges / walls. At a point west of point A it appears to widen and continue wide through points A, B and C, bounded by the school building and School House. It is difficult to determine the eastern terminus of the lane but darker shading around point C suggests it may have terminated around point C at a hedge / fence. To the east of the apparent boundary is a field.

- 8.68 The **1972** aerial photograph is not as clear as that of 1947, although it does appear to suggest a similar situation from point E to point A. From point A to point D shading suggests the lane may be more clearly defined in its current location although the southern boundary is indistinct. The field is now surrounded by houses, and lighter shading suggestive of access points, may indicate that it is now used as a school playing field.
- 8.69 The **1997** aerial photograph also lacks clear definition, but indicates that the route from point A to point D is bounded on the south by a grassed area, possibly a bank.
- 8.70 The **2002** aerial photograph also lacks clear definition, but indicates there may be a hedge / fence across the end of the application route at D.
- 8.71 The boundary at D can be seen more clearly in the **2005, 2009 and 2014** aerial photographs. These photographs indicate that during these years the route was surfaced and that the southern boundary was clearly defined, perhaps with a kerb, and there was a grassed area to the south (possibly a bank). There is a clear boundary between different surfaces at point A.
- 8.72 The **2009** photograph has shadows indicating there was possibly a fence and small gate across the route at point D.
- 8.73 The **2014** photograph depicts a defined narrow path leading west northeast across the school field from point D.
- The aerial photographs from 1947 – 2014 confirm the existence of a route on the ground corresponding to the application route.

#### **Summary of Documentary Evidence**

- 8.74 The Ordnance Survey maps (1887 onwards) confirm the existence of a route on the ground for the whole application route from points A – B – B1 – C – D on Drawing 17/29/1. This is confirmed in the aerial photographs from 1972 – 2014.
- 8.75 The Finance Act Map and Field Book (1910) may be suggestive of public rights over the whole of the application route A – B – B1 – C – D although the status of any rights from point B – B1 – C – D is unclear.
- 8.76 The recording of the whole of the application route A – B – B1 – C – D as an unclassified county road on the Provisional Map (1964), The First Definitive Map (1967) and the Revised Draft Map (1974) adds some weight to the application but is not conclusive.
- 8.77 Evidence from the List of Streets (1974), the Finance Act Map (1910) and the current Highway Extent (2017) provide strong evidence that the section of the application route from points A – B is highway maintainable at public expense with carriageway status.

## 9 Analysis of user evidence supporting the application

- 9.1 A total of thirty user evidence forms were submitted by thirty witnesses with the application in 2010. No further evidence was submitted following the public consultation, which was conducted in October / November 2017.
- 9.2 A summary of these forms of evidence is set out below, but reference should be made to the actual forms contained within the file of the Director of Environment and the Economy Ref RW/T501 for all the information.
- 9.3 All thirty of these witnesses stated that they used the route, as shown between points A and D on Drawing 17/29/1 (Appendix 1) and that this use was on foot, one witness also used the route on a pedal cycle. All of the witnesses stated they had seen others using the route on foot, all witnesses observed use on foot and four also saw users on pedal cycles.
- 9.4 All thirty of the witnesses used the route for leisure, recreation or pleasure, and 7 also used it for business or work.
- 9.5 The earliest date of reported use was 1962 and the application was made in 2010, this is the last date of recorded use. This encompasses a period of 49 years of continuous use.
- 9.6 The number of users in each year rose from one in 1962 to 16 in 1990 and 28 in 2010. During the 20 years leading up to the application in 2010 the number of users ranged from 15 to 29.
- 9.7 Frequency of use per person ranged from '**several**' times a year to 500 times a year. The evidence indicates the route received use, on average, between 4 and 12 times per day during the 20 years prior to the application in 2010.
- 9.8 Twenty four witnesses referred to a gate at the entrance to the old school field (at point D on Drawing 17/29/1/1). Twenty two witnesses referred to a gate between point A and point D although thirteen of these witnesses specified that the gate was only temporary (estimates ranged from a duration of '**10 days**' to a '**few weeks**'). None specified the exact location of this gate and all who observed it said it was not locked. Witnesses who estimated the date when this gate was in position suggested it was in 2008.
- 9.9 All witnesses reported there were no other obstructions (except 2 witnesses who encountered a parking cone), none of the witnesses had been challenged, and none had used it with permission.
- 9.10 Eleven witnesses did not know who the owner of the route was, some speculated that it was the owner of School House, Mr Bevan (of School House), or the County Council.
- 9.11 All thirty witnesses thought the owner / occupier was aware of public use. The reasons given included that the route was well used, was close to the house, had been used for a long time, the owner had seen people / chatted to people / acknowledged people as they passed, and the owner had never challenged users.

- 9.12 Twenty four witnesses recalled there being a notice on the route. Nineteen witnesses thought this had been erected between March and May 2010, or '**Spring 2010**', 3 witnesses described the sign as appearing '**recently**' when they completed the forms in August 2010, and 2 witnesses did not estimate the date the sign appeared.
- 9.13 Twenty four witnesses described the wording on the sign. This was described variously as '**Private Drive**' '**School House Private Drive**' '**Private**' and '**Private Property**'.
- 9.14 All thirty witnesses stated that the route has always followed the same course, nineteen of the witnesses stated a width for the route and estimates ranged from 2-3 metres to 3-4 metres and '**vehicle width**'.
- 9.15 Several witnesses thought the route was a public right of way, and one had been told verbally by Dorset Highways in 2008 that it was a public highway up to the playing field gate.

### **Summary of User Evidence**

- 9.16 Considering the 20 years leading up to the application, the user evidence is of sufficient quality and quantity to establish rights on foot for a deemed dedication under Section 31 of the Highways Act 1980.

### **10 Analysis of other evidence in support of the application**

- 10.1 Two written submission were received in response to the consultation, in support of the application.
- 10.2 One user sent an email claiming use of the application route for 23 years, prior to 2017. Use was occasional, alone and with others. It was engaged in openly, without permission, without challenge and no signs were seen which dissuaded him. The witness supports the claim.
- This evidence adds support to the claim, but carries less weight than the evidence fully documented on signed evidence forms.
- 10.3 Battens Solicitors wrote on behalf of Mr & Mrs Vaughan, owners of School House since 2013.
- 10.4 Mr & Mrs Vaughan confirm that the application route is used by pedestrians, on foot, to access the school field and Walters Drive. It is also used by mowing equipment to access the school field.
- 10.5 No actions have been taken by Mr & Mrs Vaughan to prevent the public from using the application route as a public right of way. They have informed members of the public that he right of way is for pedestrian use only.
- 10.6 Mr and Mrs Vaughan removed signage left by the previous owners which stated that the driveway was private.

10.7 Mr and Mrs Vaughan do not disagree with the application, however they wish to outline the boundaries and areas of driveway in their ownership (from point C – D) and draw attention to their private right to use that part of the route from point A – B – B1 – C with vehicles. Documents were sent as evidence.

- All provided documents have been considered in Section 8 above.
- This evidence adds some support to the application route, but falls outside the time period of the bulk of user evidence.

## 11 Analysis of evidence opposing the application

11.1 No submissions opposing the application were received.

## 12 Analysis of other submissions

12.1 Eight other submissions were received.

- None of these submissions contained or were accompanied by any evidence which can be taken into consideration.

## 13 Date public use was brought into question

13.1 In respect of the application, although **Section 31 of the Highways Act 1980** does not specify the minimum number of users required to raise a presumption of dedication, it does require that their use must have been for a minimum period of 20 years preceding the date the right to the use the route was first brought into question. During this 20 year period there must be no indication that the landowner did not intend to dedicate the route.

13.2 Possible dates for consideration:

- The erection of a gate across the route in **2010**, the gate was not locked, and was removed shortly afterwards in response to request from Dorset County Council.
- The erection of signs on the route, reported to read “Private”, “Private Drive” or “Private Property” in April **2010**.
- The application, made on 17 September **2010**.

13.3 Discussion

- As the gate was not locked it cannot be considered to have brought home to users that their use of the route was being challenged.
- The wording of the sign “Private”, “Private Drive” or “Private Property” is considered insufficient to negate a right of way.

13.4 On balance it is considered that the earliest date of challenge which brought into question the right of the public to use the claimed route, as shown between points A and D on Drawing 17/29/1, is September 2010, when the application was made.

## 14 Conclusions

- 14.1 As that section of the application route from point A – point B on Drawing 17/29/1 is highway maintainable at public expense, it already has higher rights than claimed in the application and need not be considered here.
- 14.2 It is necessary for the Chairman and the Service Director, Highways and Emergency Planning to decide if a right of way not shown in the definitive map and statement subsists or is reasonably alleged to subsist (in the respect of the proposed route B – B1 – C - D) as this route is not currently recorded with public right.
- 14.3 The documentary evidence, in particular that provided by the Finance Act Map and Field Book (1910), Provisional Map (1964), First Definitive Map (1967) and Revised Draft Map (1974), and the Ordnance Survey maps (1887 onwards) provide some support for the claimed right of way from point B – B1 – C – D on Drawing 17/29/1, but it is considered insufficient to demonstrate, on its own, that the claimed rights subsist or are reasonably alleged to subsist.
- 14.4 If the Chairman and the Service Director are not satisfied that the documentary evidence shows, on balance, that a public footpath exists along the proposed route B – B1 – C – D they should consider whether the documentary evidence, in conjunction with the user evidence constitutes an inferred dedication, or whether the user evidence alone is sufficient to demonstrate a deemed dedication under Section 31 of the Highways Act 1980.
- 14.5 The relevant period of use by members of the public, as of right and without interruption, to establish rights between points B and D by presumed dedication under Section 31 of the Highways Act 1980, is taken to be 20 years or more prior to the date of challenge in 2010.
- 14.6 The evidence of use on foot covers the period from 1962 - 2010. However, the relevant period used in order to satisfy the presumption of dedication is taken between 1990 and 2010. In 1990 there were 16 users on foot, and in 2010 there were 28 users of the route on foot as shown between points A and D. During this period the minimum number of users was 15, and the maximum was 29.
- 14.7 If Section 31(1) of the Highways Act 1980 is considered not to apply, the evidence of use, together with the historical documentary evidence, is considered, on balance, sufficient to raise a reasonable allegation of an inference of dedication of a public right of way on foot on the proposed route between points B – B1 – C – D, under common law.

14.8 The County Council must make a modification order if the balance of evidence shows either

- (a) that a right of way subsists or
- (b) that it is reasonably alleged to subsist.

It is considered, taken by itself, that the user evidence is sufficient to satisfy (a). It is therefore recommended that an order be made to record a footpath as shown between points B – B1 – C – D on Drawing 17/29/1.

14.9 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. An order can be confirmed if, on the balance of probability, it is shown that the route as described does exist. It is considered that the evidence is sufficient to satisfy this test.

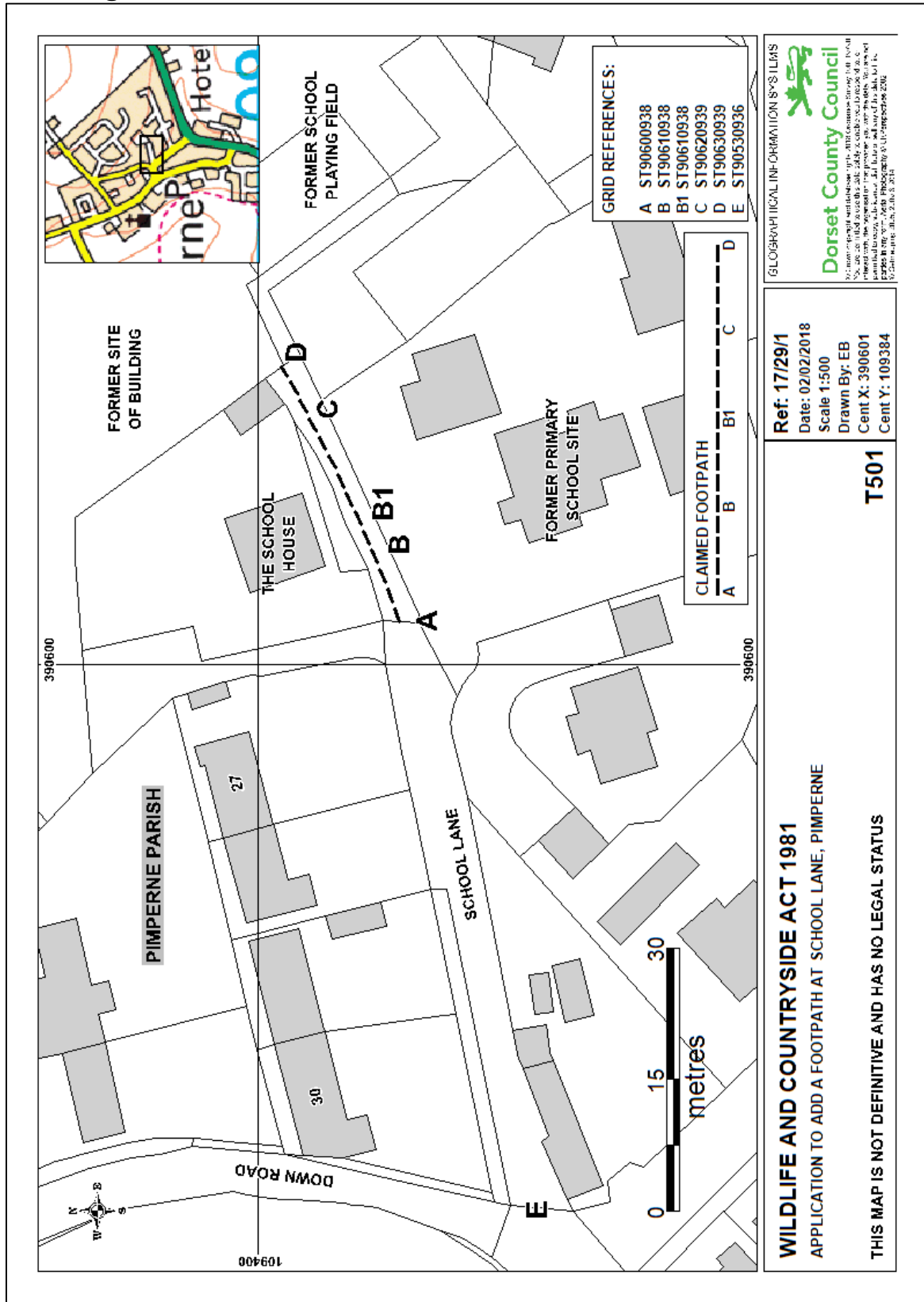
**Andrew Martin**

Service Director Highways and Emergency Planning

September 2018

**APPENDIX 1**

**Drawing 17/29/1**





## 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 right of way not shown in the definitive map and statement subsists or is reasonably alleged to subsist.
- 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 right of way not shown on the definitive map and statement subsists.
- 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 add a right of way to the definitive map and statement if the balance of evidence shows either:
- (a) that a right of way subsists or
  - (b) that it is reasonably alleged to subsist.
- The evidence necessary to satisfy (b) is less than that necessary to satisfy (a).
- 1.5 An order can be confirmed if, on the balance of probability, it is shown that the route as described does exist.
- 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(3) of the Highways Act 1980 says that where a landowner has erected a notice inconsistent with the dedication of a highway, which is visible to users of the path, and maintained that notice, this is sufficient to show that he intended not to dedicate the route as a public right of way.
- 2.4 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 criteria for definitive map modification orders are strictly limited to matters of fact and evidence. In all cases the evidence will show that the event (section 53) has already taken place. The legislation confers no discretion on a surveying authority or the Secretary of State to consider whether or not a path or way would be suitable for the intended use by the public or cause danger or inconvenience to anyone affected by it. In such situations where the primary legislation offers no scope for personal circumstances to affect the decision on the order, the Planning Inspectorate's recommended approach is to turn away any human rights representations.
- 3.2 A decision confirming an order made under the Wildlife and Countryside Act 1981 would be lawful (under domestic law) as provided by Section 6.2 of the Human Rights Act 1998 even in cases where the Convention was apparently infringed, where it was impossible to interpret the 1981 Act in such a way that it is compatible with the Convention rights (section 3 Human Rights Act 1998).

### **Case specific law**

#### **4 Finance Act 1910**

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

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

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

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

#### **6 Natural Environment and Rural Communities Act 2006**

6.1 Section 67 of the Natural Environment and Rural Communities Act 2006 (NERC) extinguishes (subject to certain exceptions) unrecorded rights of way for mechanically propelled vehicles. DEFRA guidance states that 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**

<b>Document (Date)</b>	<b>Summary of Evidence</b>
Taylor's Map (1765)	Does not depict School Lane
Pimperne Inclosure Map (1808)	Does not depict School Lane (date of award 1814)
Pimperne Tithe Map (?)	Document not actually in DHC, either as copy or original. No Tithe Map Pimperne available at NA either.
OS Drawings 2 inches : 1 mile (1808)	Does not depict School Lane
OS 1 inch : 1 mile 1 <sup>st</sup> Ed (1811)	Does not depict School Lane
Greenwoods Map (1826)	Does not depict School Lane
OS 25 inches : 1 mile 1 <sup>st</sup> Ed (1886)	Depicts School Lane as uncoloured road, bounded by solid lines both sides and across both ends. It is braced with the field at E end. Parallel broken line path depicted continuing over field to E.
OS 6 inches : 1 mile 1 <sup>st</sup> Ed (1886)	Depicts School Lane as bounded by solid lines both sides and across both ends. Parallel broken line path depicted continuing over field to East.
Portman Estate Plan (1890)	Plan is believed to have been drawn from the Tithe Map of Pimperne (now lost). It depicts School Lane with parallel solid lines, then across the field a path is depicted with a single pecked line. There is no key to symbols. There are plot numbers marked; the plot to the north of School Lane is 60, that to the south is 61 and the field to the east is 71.
Portman Estate Plan Book of Reference (1890)	Plot 60 was divided into parts, listed as 'cottages' and tenants were: NH Marsh, E Barnett, A Kaile and C Kaile Plot 61 was divided into 2 parts; a 'cottage workshop & garden' (T Blandford) and 'Elementary School' (planned) Plot 71 was listed as 'Paddock' and tenant was NH Marsh No specific mention of (School) Lane or the path to the east.
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.
OS 1 inch : 1 mile Revised New Ed (1898)	Depicts School Lane as bounded by solid lines both sides and across both ends.

<b>Document (Date)</b>	<b>Summary of Evidence</b>
OS 25inches : 1 mile 2 <sup>nd</sup> Ed (1900)	Similarly depicted to 1886 version at same scale, no shading on School Lane. Path extension at E end is now labelled 'FP'. Still braced.
OS 6inches : 1 mile 2 <sup>nd</sup> Ed (1900)	Depicted similarly to the 1886 map of the same scale.
Finance Act Plan (1910)	School Lane shown excluded from valuation from E – A – B, then eastwards marked as FP on basemap, through Hereditament 13 (part). There are a total of 3 paths marked 'FP' on the basemap in Hereditament 13
Finance Act Hereditament 13 Pimperne (1910)	Lists 3 routes under 'Fixed Charges, Easements, Common Rights and Restrictions'; one 'halter path' and 2 'roads'. A deduction of £50 is allowed for 'Rights of Way'.
1912	NOTE: The system of classification adopted on Ordnance Survey maps in 1896 was abolished in November 1912.
Sale particulars and conditions of sale of Portman Estate (1924)	2 plans cover the area of School Lane, Plan1 Pt 7, and Plan 3 Pts 7,17,18 and 19. School Lane was not included in the sale and no Pt mentioned access / easement / RoW.
Indenture / Conveyance for School Master's House (29/09/1924)	Conveyance between Viscount Portman and DCC. No rights of way or access described except right to drain / access cess pool.
Indenture for the school in Pimperne (1925)	Depicts on a plan that the land sold extends to the edge of School Lane (approximately the edge of the current route). Describes an easement for the running of water and soil, and a right of access for maintaining such. Stipulates the uses to which the premises may be put. (hand written note adds that the school house was sold to the LEA in 1924)
Sale particulars and map of Stud House Farm (1941)	Plan shows School Lane adjoining some plots but no mention of access / rights of way / easements in accompanying lot descriptions. School Lane not part of the sale.
OS 1inch : 1 mile New Popular Ed (1945)	Depicts School Lane as uncoloured and bounded by a solid line and a pecked line, and open at the eastern end.
1949	National Parks and Access to the Countryside Act 1949 NOTE: Parish Councils received advice on the recording of public rights of way in a booklet provided to them by the Open Spaces Society. The booklet included information on the different classes of rights of way which included the designations of CRB (Carriage or Cart Road Bridleway) and CRF (Carriage or Cart Road Footpath). Parish Councils were advised that a public right of way used mainly by the public on foot but also with vehicles should be recorded as a CRF and a route mainly used by the public on foot or horseback but also with vehicles should be recorded as a CRB.

<b>Document (Date)</b>	<b>Summary of Evidence</b>
Pimperne Parish Survey (1951)	School Lane and path to the west depicted on the base map, but not claimed as a right of way.
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.)
Draft Definitive Map (1959)	School Lane and path to the west depicted on the base map, but not claimed as a right of way.
OS 12inches:1mile Revised (1960) Sheet ST 9009	Depicts and names School Lane, shows it from A -B – C bounded in the south by a pecked line, possibly indicating the bank, and on the north by a solid and a pecked line. At C there is a line across the lane. From C – D it is bounded on both sides by solid lines and open at D, leading to poultry houses and small plots of land.
OS 1inch : 1 mile 7 <sup>th</sup> Series (1960)	Depicts School Lane as uncoloured and bounded by parallel solid lines, and open at the eastern end.
Provisional Definitive Map (1964)	The whole of School Lane up to the boundary with what is now school playing field, is coloured brown to indicate Unclassified County Road
Deed of Exchange (25/09/1964)	Exchange of land between AG Lukins and DCC with the effect of straightening the boundary between garden of School House and school field. Includes coloured plan. No mention of access / easements / RoW. Does not include any of application route.
First Definitive Map (1967)	The whole of School Lane up to the boundary with what is now school playing field, is depicted with brown dashes to indicate Unclassified Road
Conveyance (10/01/1968)	Conveyance of land from AG Lukins to DCC, comprising the 'FP' east of point C and field to the north of this point. No mention of access or RoW.
OS 25inch : 1 mile (1972)	School Lane depicted and named with parallel solid lines up to school land, then parallel broken lines to point approx. corresponding to original start of field. Path across field not depicted.
Revised Draft Definitive Map (1974)	The whole of School Lane and extending across what is now school playing field, is depicted with brown dashes to indicate Unclassified County Road
List of Streets (1974)	School Lane is listed as D32414, 0.5miles long, map ref: 905094 - 906094
List of Streets Plan (1974)	School Lane is coloured blue and the colouring extends past School house and almost to the boundary of the school on the southern side (point C)
Assent by J Lukins concerning Highway verges in School Lane (1978)	No plan attached so verges mentioned cannot be identified.

Document (Date)	Summary of Evidence
Conveyance of School House Title DT 140410 (1986)	School House is depicted as occupying a smaller plot than is currently shown on Land Registry Title DT140410, less of the application route part of School Lane is included. Boundaries required to be maintained include the boundary with the application route. (The boundary at D across School Lane is indicated as being maintained by someone else.)
Current Definitive Map (1989)	School Lane is depicted on the base map, but there are no records of a right of way.
Declaration of JW Lukins (1995)	States that prior to 1960 the application route A – B was in the possession of his father (farmer), and was an un-made track that was only used by the farmer and resident of School House. Says there were originally gates at C into a field. In 1960 field was 'given' to DCC but track was not.
Notice to adjoining owner of proposed registration, with plan (1996)	Plan shows whole of application route A – D as subject to proposed registration. DCC gave consent for School Lane from A – D to be registered by the owner of School House.
Letter from Education Dept to Rights of Way (1997)	Requesting advice on whether there was a public footpath across the school's playing field, and the extent of highway along School Lane.
Memo reply from Rights of Way Officer to Education Dept (1997)	Confirms there is no public footpath across the school playing field, and that School Lane is adopted for its complete length, including A – B – C - D
Letter from DCC Highways information office to solicitors for Bowmoor House (2002)	Attaches a plan showing School Lane, up to point D, with cross hatching and describing this as 'highway maintainable at public expense'. States that any attempt to register part of the lane will be subject to objection.
Letter from A.M Douch DCC Legal & Democratic Services to solicitor of owners of School House (2008)	Confirms that "Highways Dept have agreed that highways rights will cease to exist over the land..." The accompanying plan indicates that this applies to C – D. Suggests possibility of creating a permissive footpath.
Letter from Legal & Democratic Services to estate agent selling School House (2008)	Encloses an aerial photo with overlay showing extent of highway stopping just west of point D (east of gate at C).
Letter from DCC Highways Technical Officer to Legal Services (2008)	Requests Legal to write to owner of School House concerning the erection of a gate across School Lane. Claims adopted length is 114m of which 10m has been obstructed with the gate.

Document (Date)	Summary of Evidence
Letter from Legal & Democratic Services to owner of School House (2008)	Requests removal of a gate which has been erected across the 'highway' in School Lane. Accompanying photo shows a gate at a point west of point C.
Letter from solicitor for owner of School House to Legal Services (2008)	Letter disputes that upper part School Lane is publicly maintained highway. Claims drive was purchased in 2002 as private drive, and was then tarmacked with kerb at A which they believe marks the boundary.
Letter and email from Legal Services to solicitors and ? (2008)	States that as a result of investigation, highway rights only extend as far as point C on School Lane.
Statutory Declaration of ADG Babington (2008)	Declares that the lane outside School House has a right of way leading to the garage for her property, and that she has used the widened part of the lane outside the house to park her car. She says the lane has been used 'for all purposes connected with the property' She paid for this section of lane and the parking space to be resurfaced in 2000.
Statutory declaration BEG Bevan (unsigned, undated)	Claims possessory title to part of School Lane not affected by the application.
Land Registry Title DT140410 (School House and land)(2017)	Describes right of way on the part of the land adjoining the highway 'School Lane'
GIS Extent of Highway Plan (2017)	Depicts the whole of School Lane, including A – B as highway maintainable at public expense. Depicts the old school field as being owned by DCC.



**Extracts from key documents**

(See the Director for Environment's file RW/T  
for copies of other documents mentioned)

**Finance Act Plan (1910) (IR125/2/152)**



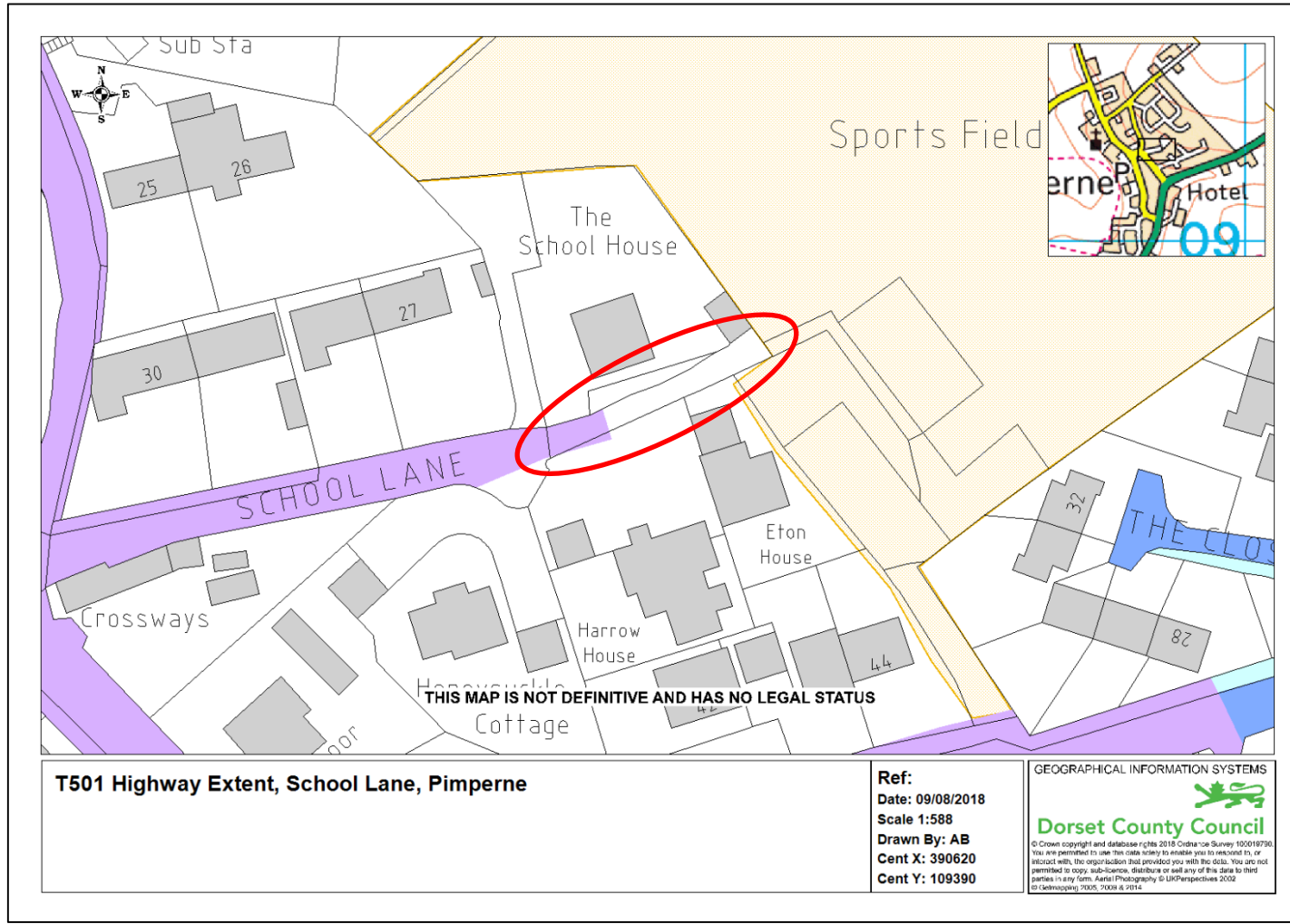
**Finance Act Field Book, Hereditament 13 (1910) (IR58/67829)**

How determinable	
Actual (or Estimated) Rent, £	94. 0. 0
Any other Consideration paid	
Outgoings—Land Tax, £	4. 6. 7 1/2 paid by owner
Tithe, £	10. 15. 10 paid by "
Other Outgoings	
Who pays (a) Rates and Taxes (b) Insurance	(a) occupier (b) owner
Who is liable for repairs	inside occupier, outside owner
Fixed Charges, Easements, Common Rights and Restrictions	
Former Sales. Dates	Road of adjoining farm Road in Paddock & near
Interest	of Robert's premises leading to the bottom end.
Consideration	Field
Subsequent Expenditure	
Owner's Estimate. Gross Value	
Full Site Value	
Total Value	

**Dorset County Council List of Streets (1974)**

ROAD NO.	CLASS OF ROAD: UNCLASSIFIED	SCHEDULE OF ROADS						DIVISION NO. 3
		DISTRICT: NORTH DORSET		PARISH: IWERNE STEEPLETON PIMPERNE, TARRANT HINTON, TARRANT GUNVILLE				
	DESCRIPTION	MAP REFERENCE	DATE ADOPTED	PAVED ROADS	UNPAVED ROADS	GREEN LANES	REMARKS	LENGTH
D324	1. Steepleton - Everley - Beckford Lodge	866116 - 877121 877121 - 884118		0.80	0.40 (0.40)			1.20
	2. Everley Hill - Blacksmith Shop, Tarrant Gunville	889120 - 926127		2.50				4.02
	3. Glebe Farm Road, Tarrant Gunville	919124 - 923127		0.32				0.51
	4. Bussey Stool Road, Tarrant Gunville	921134 - 923139		0.37				0.60
	5. School Lane, Tarrant Gunville	926127 - 928128	19.7.56	0.10				0.16
	6. Bartons Drove, Tarrant	924115 - 931119			0.51 (0.51)			0.76
	7. Northfield, Tarrant Hinton	937114 - 938114	15.4.53	0.10				0.16
	8. Chalk Walk, Tarrant Hinton	931120 - 935121 935121 - 940124		0.26	0.31 (0.31)			0.57
	9. Church Hill, Tarrant Hinton	936111 - 937111		0.06				0.10
	10. Newfield Farm Road, Pimperne	904096 - 903108		0.71				1.00
	11. Poor Delf Drove, Pimperne	903103 - 900106			0.25 (0.25)			0.36
	12. St Peters Close, Pimperne	904095 - 905096	1951	0.16				0.26
	13. Manor Farm round back of Pimperne	904095 - 905094		0.22				0.30
	14. School Lane, Pimperne	905094 - 906094		0.05				0.08
	15. Farquharson Arms - Pimperne Cross	905089 - 905094		0.28				0.45
DORSET COUNTY COUNCIL								
ENVIRONMENTAL SERVICES DIRECTORATE								

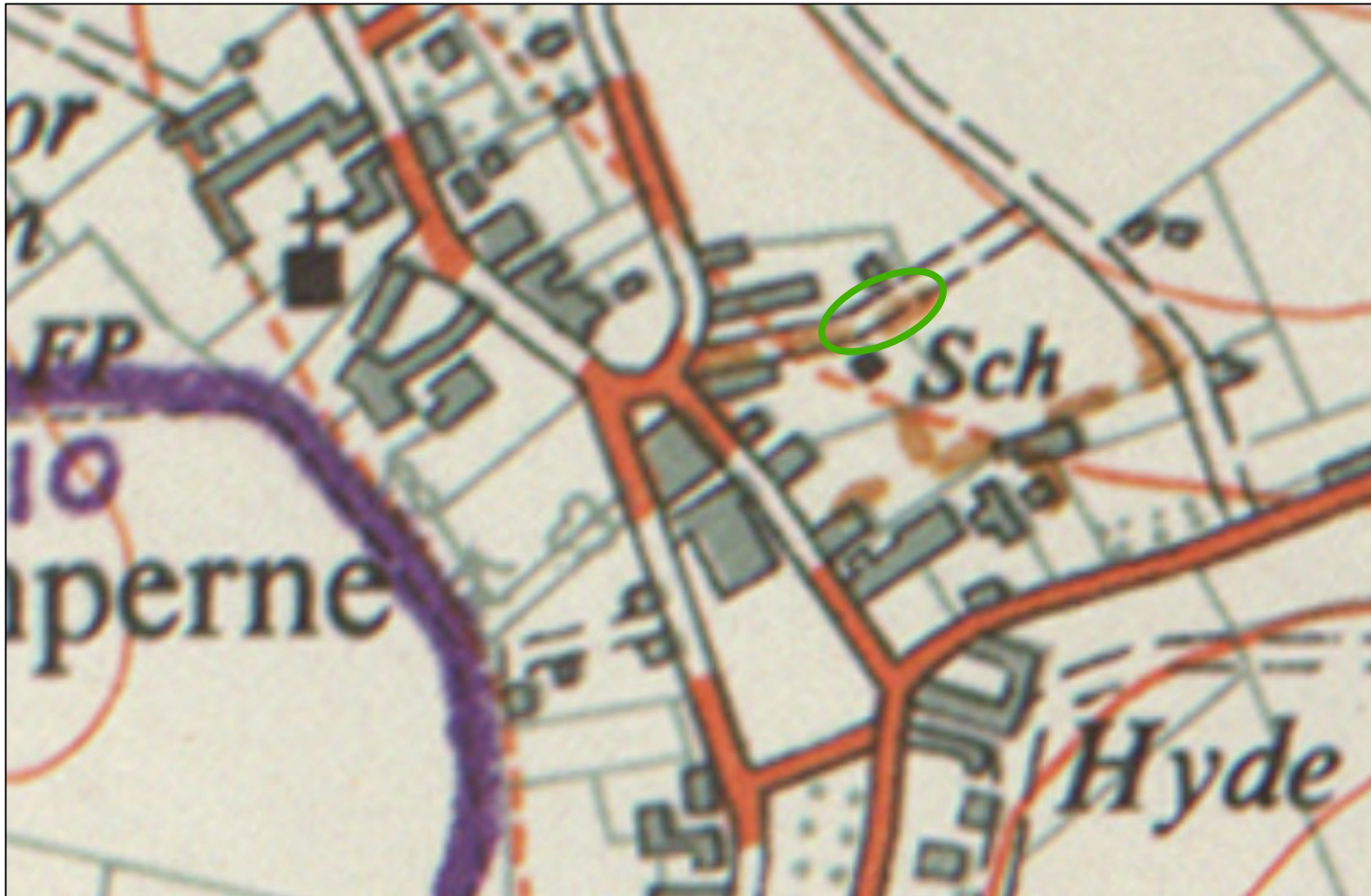
**Dorset County Council Extent of Highway (lilac shading) (2018)**



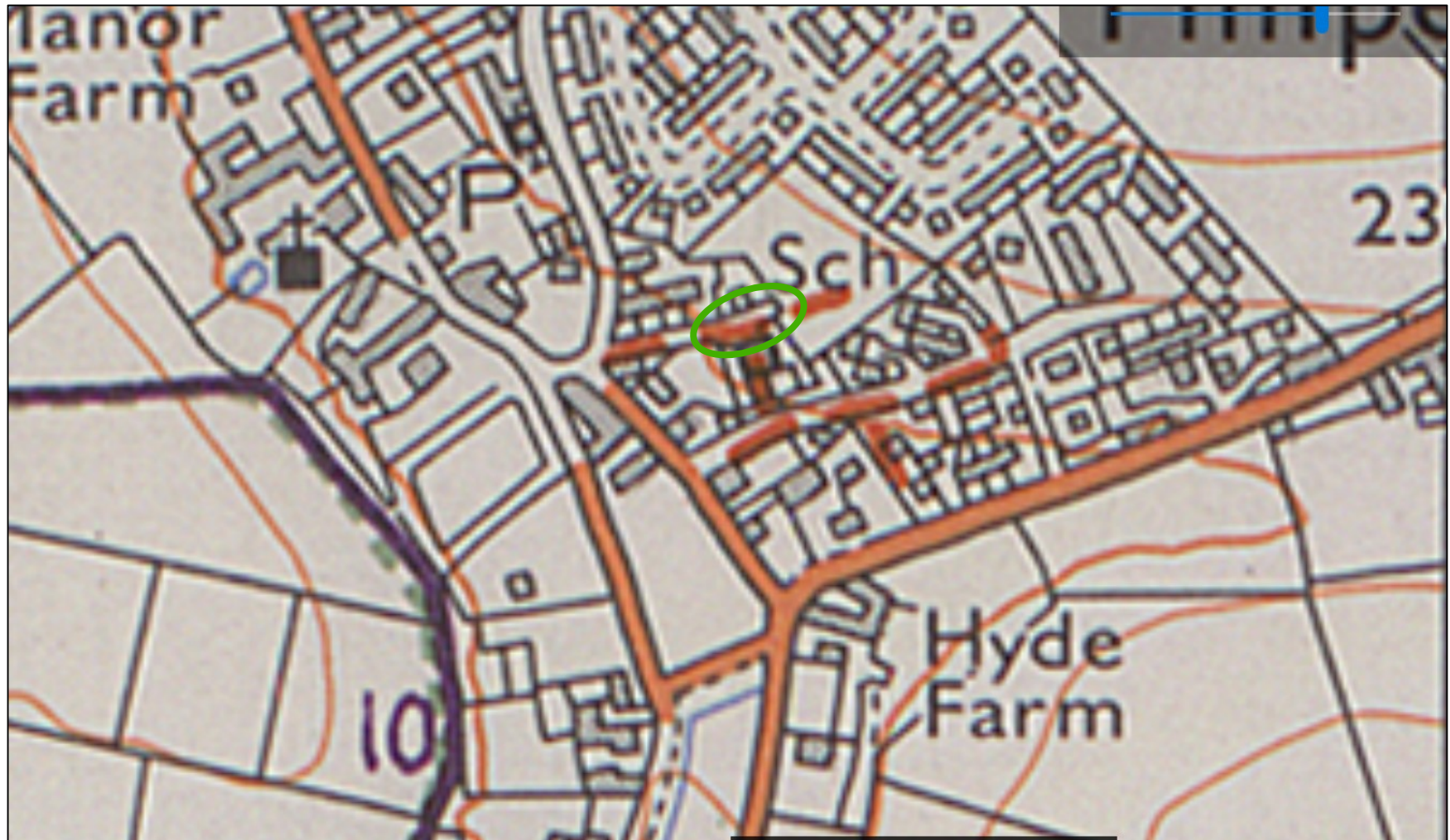
Dorset County Council Provisional Map (1964)



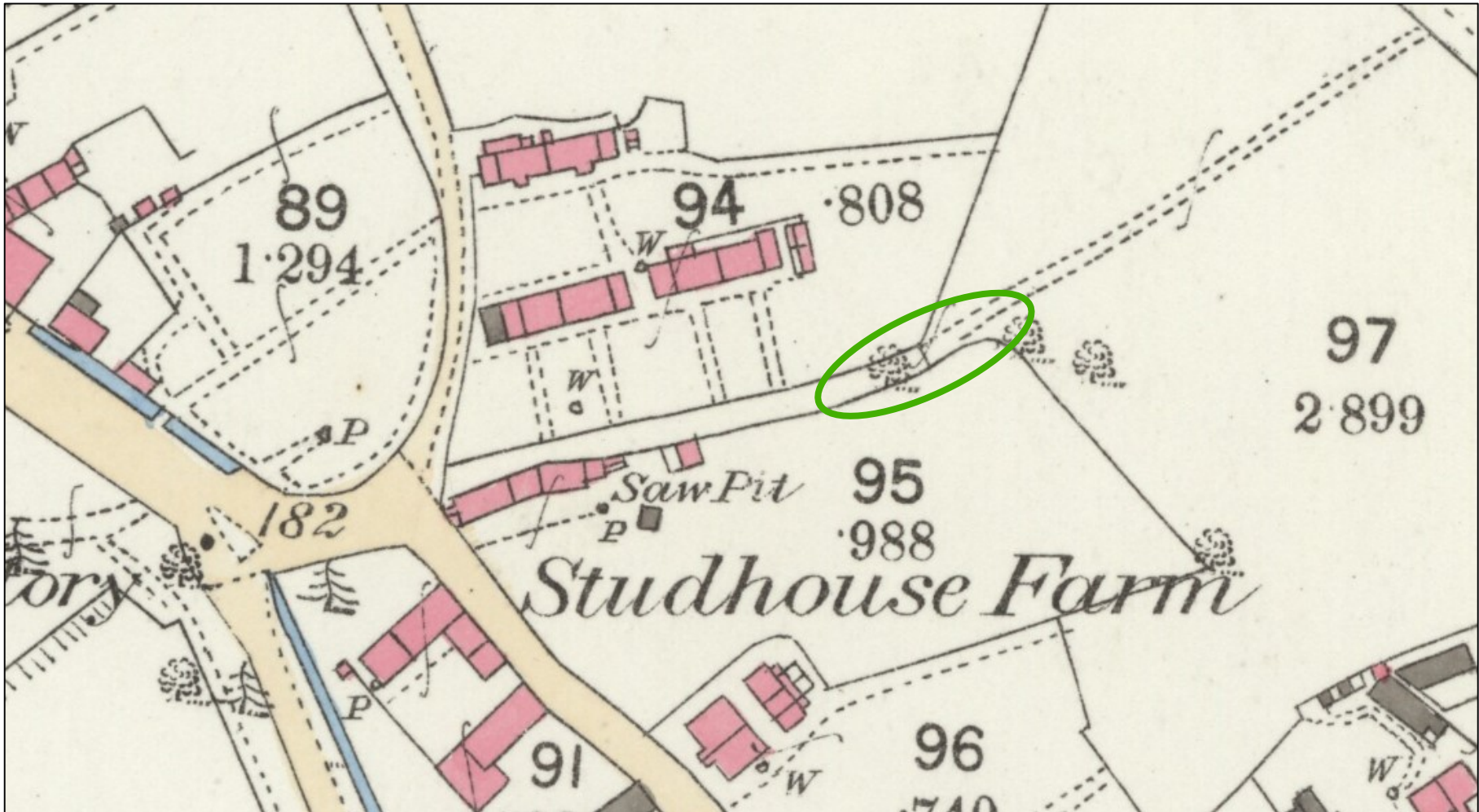
**Dorset County Council First Definitive Map (1967)**



**Dorset County Council Revised Draft Map (1974)**



Ordnance Survey Map at scale of 25 inches : 1 mile, surveyed 1886





**Ordnance Survey Map at a scale of 1 : 2,500 (1961)**



**Aerial Photographs**




**Aerial Photographs**



**T501 Pimperne, School Lane**  
VAP 2005

**Ref:**  
**Date:** 06/10/2017  
**Scale:** 1:304  
**Drawn By:**  
**Cent X:** 390624  
**Cent Y:** 109393

GEOGRAPHICAL INFORMATION SYSTEMS  
  
**Dorset County Council**  
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## APPENDIX 4

**User Evidence**  
**Table summarising user evidence from forms completed in 2010**

NAME	DATES	FREQUENCY OF USE	TYPE OF USE	DETAILS OF USE / COMMENTS
Mrs A Allan	1986 to Present (Form filled out in 2010)	24 times per year	Foot	Used to visit friends and for church business. Others also used the route on foot. Notices present in recent months 'School House - Private Drive'. Believes the land owner/occupier was aware of public use as "if the land is owned by the owner of the School House, they would have seen people using the way". "I have used this route to access the sports field since I moved into to Pimperne in 1986. It is a useful village short-cut (on foot)".
Mr D C Andrews	2004 to date (Form filled out in 2010)	Over 20 times per year	Foot	Used for pleasure to and from Stud Farm Estate. Others also used the route on foot and bicycle. Temporary unlocked gates present. 'Private Drive' notices since April 2010. Assumed route was a highway because "of such frequent use by so many people". Believes the land owner/occupier was aware of public use as "she regularly came out and joined them [users] in conversation". "Width at southwest point 3m 15cm; remains same until shortly before field where there is gated access".
Mrs V E Andrews	2004 to date (Form filled out in 2010)	20+ times per year	Foot	Used for pleasure to visit friends on Stud Farm Estate. Route also used by others on foot. Unlocked gates present for a couple of weeks. Notices present from April 2010 'Private Drive'. Believes the land owner/occupier was aware of public use as "we often stopped for a chat". Width 3m approx.
Mr A J W Bartlett	1992 to Present (Form filled out in 2010)	Several times per week	Foot	Used for pleasure. Others also used the route on foot. Unlocked temporary gates present. 'School House Private Drive' notices since April 2010. Believes land crossed by route belongs to the owners of School House. Believes the land owner/occupier was aware of public use as "owner often seen in vicinity". Estimated width 2-3m approx. Family members have also used route since 1992.
Mr K Churchill	1968-2010	At least 20 times per year	Foot	Used for pleasure to reach village shop and pub. Others also used the route on foot. 'Private Drive' notice seen. Believes the land owner/occupier was aware of public use as "previous owners never said no". Width 3-4m.

NAME	DATES	FREQUENCY OF USE	TYPE OF USE	DETAILS OF USE / COMMENTS
Mrs M Churchill	1968-2010	24 times per year	Foot	Used for business and pleasure, also to access village shop and pub. Others also used the route on foot. 'Private Drive' notice recently put up. Believes the land owner/occupier was aware of public use as they "have seen me". Width approx 3m. Children have used this route over the years "as it is safer".
Mr G C Coull	1962-2010	50 times per year	Foot	Used for pleasure. Others also used the route on foot. Unlocked gates approx 2 years ago. Believes land crossed by route is owned by Mr Bevin. Believes the land owner/occupier was aware of public use as "the owner would have seen people using the route". Has used this route since the age of 3.
Mr M R Cox	1968-1971	200 times per year	Foot	Used for pleasure to access shop, pub and church. Others also used the route on foot. Believes the land owner/occupier was aware of public use as "the owner has seen me". Width 2 metres +.
Mr A Crumplin	2002 to 2010	390 times per year 2006-2008 20-390 times per year 2002-2005 & 2008-2010	Foot	Used for pleasure and to access school, houses and the playing field. Others also used the route on foot and bike. Unlocked gates present from 2008. 'Private' notices from April 2010. Believes the land owner/occupier was aware of public use as the route is "used all the time". Approx 10 feet wide.

NAME	DATES	FREQUENCY OF USE	TYPE OF USE	DETAILS OF USE / COMMENTS
Mrs P Crumplin	2002 to 2010	390 times per year 2006-2008  20-390 times per year 2002-2005 & 2008-2010	Foot	Used for pleasure and to access school. Others used the route on foot and bike. Temporary gates in 2008 but not locked. 'Private' notices from Apr 2010. Thought that land crossed by the route was owned by DCC. Believes the land owner/occupier was aware of public use as "frequently used – gate at the end leads to field". "Contacted DCC – Highways in 2008 when gate was put up to make sure I was allowed to use. They confirmed verbally that it was a public highway right up to the playing field gate".
Mrs B J Emery	1994 to 2010	300 times per year	Foot	Used for pleasure and to pay bills at the Post Office. Also to visit church and friends. Others also used the route on foot. Unlocked gates added 2 ½ years ago for 2-3 weeks. 'School House Private Drive' notices in March/April 2010. Presumed owners of land crossed by route were the owners of School House. Believes the land owner/occupier was aware of public use as they "must have seen people passing by". Approx 2-3 metres wide. "Many people have used this path over the years".
Mr T D M Hart	1997-2010	24 times per year	Foot	Used for "parish council & recreational". Others also used the route on foot. Gates "but short term and not locked". Believes that the land crossed by the route is part owned by DCC and part by the School House. Believes the land owner/occupier was aware of public use "because it has always been used". 10-12 feet wide.
Ms D C Hewlett	1968 – 2009	500 times per year	Foot	Used for leisure; to visit shop church, hall, post etc. Others also used the route on foot. Believes that land crossed by route belongs to the 2owner of School House, I would imagine". Believes the land owner/occupier was aware of public use as they "must have seen walkers go by daily". 10-12ft width. Used the route "regularly for over 40yrs and found it extremely useful and convenient. Nobody has ever attempted to stop me".

NAME	DATES	FREQUENCY OF USE	TYPE OF USE	DETAILS OF USE / COMMENTS
Mrs J Jenner	1986 – 2010	10 times per year but from 1994-2003	Foot	Used for “work, shopping, leisure”. Others also used the route on foot. ‘Private Drive’ notices since April 2010. Believes that the owners of the land crossed by the route are the “owners of School House”. Believes the land owner/occupier was aware of public use as “the path runs beside their house”. 2-3 metres wide. “My family have always used this route to the centre of the village”.
LT Col M D Oliver	1978-2010	50 times per year approx	Foot	Used for pleasure and business. Others also used the route on foot. Unlocked gate across road, about 2 years ago. ‘Private Drive’ notices April 2010. “I would imagine the owners of school house” own the land crossed by the route. Believes the land owner/occupier was aware of public use as has “been seen by the owner”. Width approx 3 metres. “People in the village have used this route for as long as I can recall – ie to shop & church and pub”.
Mr P A Orme	Since 1998 (Form filled out in 2010)	365 days per year	Foot	Used for “pleasure & shop ie P.O”. Others also used the route on foot. Two years ago unlocked gates added but removed ten days later. ‘School House Private Drive’ notice since March/April 2010.
Mr M Peter	Last ten years (Form filled out in 2010)	350 times per year	Foot	Used for pleasure and business. Others also used the route on foot. Unlocked gates present. ‘Private Drive’ notice in April 2010. Land crossed by route may be owned by “School House?”. Believes the land owner/occupier was aware of public use as [the property] “observes it in use”. The passage is vehicle width.
Mrs P L Peters	1999-2010	300 times per year	Foot	Used for pleasure to access shop, church pub etc. Others also used the route on foot. Unlocked gates present 2 years ago. ‘Private Drive’ notices put up in April 2010. Believes the land crossed by the route may be owned “by School House?”. Believes the land owner/occupier was aware of public use as the “owners see people using it”. “The whole family use this path including our unaccompanied children as this is a safer way to the shop. Width of road”.
Mr P A Slocombe	1978-2010	100 times per year	Foot	Used for business and pleasure to reach school and parish council etc. Others also used the route on foot. Unlocked gates present. Notices since April 2010 ‘Private Drive’. Believes owner of land crossed by route belongs to the owner of School House. Believes the land owner/occupier was aware of public use as “many people have used this way for many years”. Width approx 3m.

NAME	DATES	FREQUENCY OF USE	TYPE OF USE	DETAILS OF USE / COMMENTS
Mr C Smith	1987-2010	20 times per year approx	Foot and cycle.	Used for pleasure to access church, shop and friends. Others also used the route on foot. Unlocked gates present. Believes the land owner/occupier was aware of public use as owner was "present in garden when used". 2-3 metres width. "I have 2 children who use this route and find it safe."
Mrs J E Smith	2001-2010	20 times per year approx	Foot	Used for pleasure to access church, shop and friends. Others also used the route on foot. Unlocked gate in place temporarily. Believes land crossed by the route is owned by the County Council. Believes the land owner/occupier was aware of public use as "I have been seen using route by occupiers from their garden". 3 metres width. "My children use this route as I feel it is a safe way for them to walk to friends etc".
Mr B Stocker	1988 to Present (Form filled out in 2010)	100 times per year	Foot	Used for pleasure, shopping and walks. Others also used the route on foot. Unlocked gates put up for a short time 2 years ago. 'Private Drive Only' notices from April 2010. Is unsure of ownership of land crossed by route "possibly School House". Believes the land owner/occupier was aware of public use as "if owner is School House – we pass their windows". "Always thought this was a right of way".
Mrs R Stocker	1988 to Present (Form filled out in 2010)	200 times per year	Foot	Used for work and pleasure, to access bus stop and village shop etc. Others also used the route on foot. Unlocked gates "put up for a short time about 2 years ago". 'School House Private Drive' notice from April 2010. "I think the owner of School House" owns the land crossed by the route. Believes the land owner/occupier was aware of public use as they "couldn't avoid seeing us as we passed". "We and many others have always used the route without being questioned".



NAME	DATES	FREQUENCY OF USE	TYPE OF USE	DETAILS OF USE / COMMENTS
Mrs H A Stone	2003-2010	400 times + per year	Foot	Used for pleasure and to take/collect children. Others also used the route on foot. Unlocked gates present for a few weeks. 'School House Private Drive' notice appeared Spring 2010. "A traffic cone was placed at the foot of the path. I walked around it." Believes land crossed by route belongs to the "owner of School House". Believes the land owner/occupier was aware of public use as "owner says hello as I walk by". 3 metres width approx. "This path is used daily by my children and other village children and villagers as means of accessing the school playing field".
Mr M A Stone	2003-2010	350 times per year	Foot	Used for pleasure and to take children to school. Others also use the route on foot. Unlocked gates present for a short period. 'School House: Private Drive' notice appeared Spring 2010. "A traffic cone recently has been occasionally seen, at the foot of the path, by the SW boundary. I circumnavigate it". Believes the land crossed by the route belongs to the owner of School House. Believes the land owner/occupier was aware of public use as "owners acknowledged me as I passed by". Width approx 3 metres. "This path is used on a daily basis by children & other people as a means of accessing the gate which leads to the school playing field (which has open access outside school hours)".
J E T Tanner	1964 to present (Form filled out in 2010)	1964-1968 (20-30 times per year) 1934-1990 (10 times per year) 2004-2010 (20 times per year)	Bicycle and Foot	Used for pleasure. Others also used the route on foot and bicycle. Unlocked gates present. Notices present from April 2010 approx. 'School House Private Drive' notice recently added. Believes the land owner/occupier was aware of public use as they "have seen many persons route". 3 metres width (varies). Please refer 1924 map used to sell/auction Portman Estates*. <a href="#">*Presumably DHC ref D-COO/J/196 or D-HDS/SP/1924/11</a>

NAME	DATES	FREQUENCY OF USE	TYPE OF USE	DETAILS OF USE / COMMENTS
Mr D Toze	1971 – Present (Form filled out in 2010)	200 times per year approx	Foot	Used for leisure to access shop, bus stop, pub etc. Others also used the route on foot. Unlocked gates present; erected in 2008 but “removed after a fortnight or so”. ‘Private Drive’ notices from April 2010. “Presume owner of land [crossed by the route] is Mr Bevan, owner of School House”. Believes the land owner/occupier was aware of public use as they “would nod or speak as one passed”. “Many people in the village appear to have thought that this was a registered right of way until new owner put up notice saying “Private Drive”.
Mrs J Toze	1971- Present (Form filled out in 2010)	250-300 times per year	Foot	Used for leisure to access bus stop, village shop, church, pub etc. Others also used the route on foot. Unlocked gates put up about 2-2 ½ years ago for approx 10 days. ‘School House Private Drive’ notices put up end of April 2010. Owner on land crossed by route “Mr Bevan, School House”. Believes the land owner/occupier was aware of public use as “they spoke to me”. 2-3 metres wide. Traffic cone placed at bottom of path (SW boundary of school house) this does not obstruct walkers and was put in place recently. “To my knowledge this has always been a right of way and is used by many people including children”
Mr M A Warwick	1974 - 2010	Dozens of times per year	Foot	Used for pleasure to access school, shop and bus stop. Others also used the route on foot. Notices recently (April/May) claiming that it is private property. “I’ve always assumed that it was a public right of way & therefore not privately owned”. Believes the land owner/occupier was aware of public use as “it’s obvious & never been challenged when passing the time of day”.
Mrs M Warwick	1974-2010	Several times per year	Foot	Used “for pleasure mostly” Others also used the route on foot. Notices’ “recently claiming that top is private property”. Believes the land owner/occupier was aware of public use as “they would have seen people from time to time using it!!”.

Chart of user evidence to show periods of use (from forms completed in 2010)

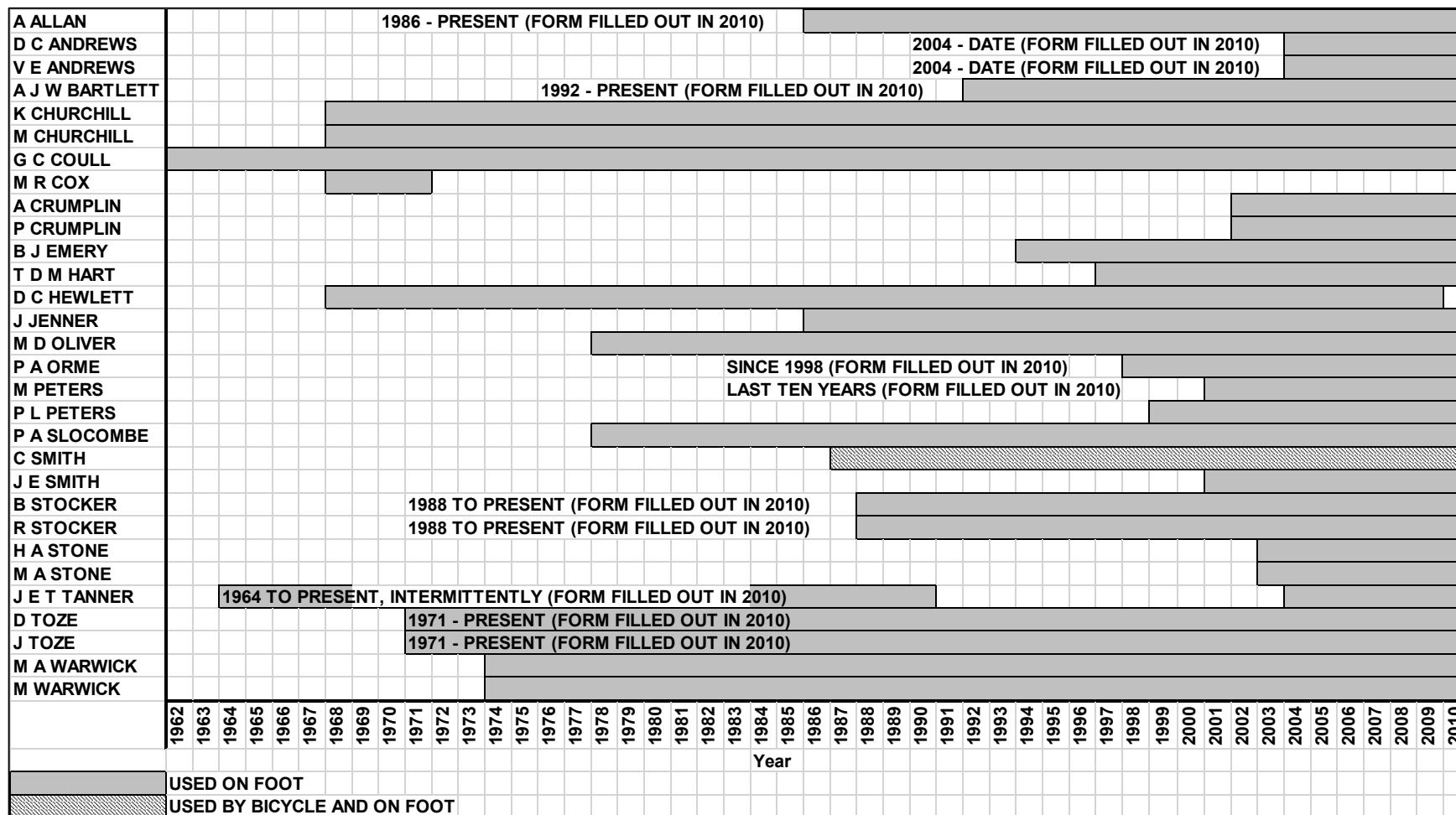
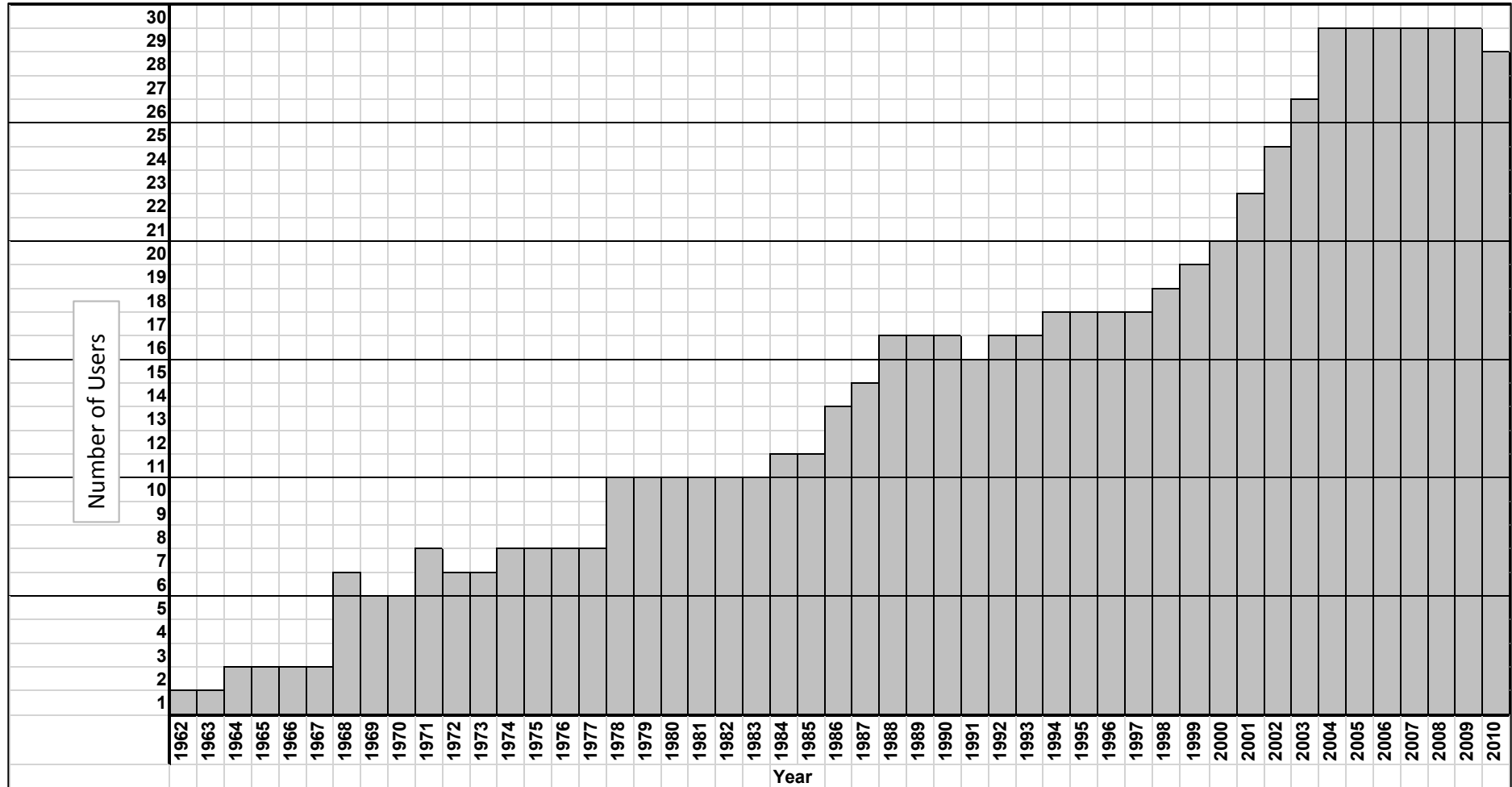


Chart to show level of use (on foot)



**Recommendations accepted:**

**Signed**

(signed)

4 September 2018

.....

**Date**.....

**Councillor D C Jones**  
Chairman, Regulatory Committee

**Signed**

(signed)

17 September 2018

.....

**Date**.....

**Andrew Martin**  
Service Director, Highways and Emergency