



DORSET COUNTY COUNCIL

FORM A

APPLICATION FORM FOR A MODIFICATION TO THE COUNTY OF DORSET DEFINITIVE MAP AND STATEMENT OF RIGHTS OF WAY Wildlife and Countryside Act 1981

To: Chief Executive Dorset County Council County Hall Colliton Park DORCHESTER Dorset DT1 1XJ

BR1 STOURPAINE & BR8 ILWAVE STEEPLETON

RECEIVED

23 DEC 2004

DORSET C.C. CORP. SERV

I/We (i) Friends of Dorset's Rights of Way (FoDRoW)

of (ii) PO Box 5365, Dorchester, Dorset, DT2 8WH hereby apply for an order under Section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statement for the area by \*:-

(a) Deleting the footpath / bridleway / byway open to all traffic \* which runs from: to:

(b) Adding the footpath / bridleway / byway open to all traffic \* which runs from: to:

(c) Upgrading/downgrading to a footpath / bridleway / byway open to all traffic \* the footpath/bridleway/byway open to all traffic which runs from: ST 86510 10920 to: ST 88920 11990

(d) Varying/adding to the particulars relating to the footpath / bridleway / byway open to all traffic \* from: to: by providing that

and shown on the map annexed hereto (see overleaf).

I/We attach copies of the following documentary evidence [including statements of witnesses] in support of this application:-

- (iii) Please see attached report for details of evidence submitted in support of this claim. Copies of documentary evidence has been supplied on CD, viewable on any Windows PC.

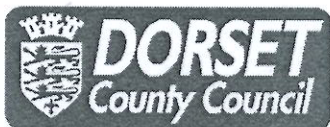
SIGNATURE REMOVED

Signed:

Date: 21st December 2004

- (i) (ii)

- (iii) Insert list of documents \* Delete as appropriate



DORSET COUNTY COUNCIL

FORM C

CERTIFICATE OF SERVICE OF NOTICE OF APPLICATION FOR MODIFICATION ORDER

THE COUNTY OF DORSET DEFINITIVE MAP AND STATEMENT OF RIGHTS OF WAY

Wildlife and Countryside Act 1981

To: Chief Executive
Dorset County Council
County Hall
Colliton Park
DORCHESTER
Dorset
DT1 1XJ

I/We(i) Friends of Dorset's Rights of Way (FoDRoW)

of (ii) PO Box 5365, Dorchester, Dorset, DT2 8WH.

hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with in relation to the attached application.

SIGNATURE REMOVED

Signed: Date: 23rd January 2005

ES FOR GUIDANCE

This certificate should only be completed when notice of the application has been served on all owners and occupiers affected by the proposal. A list of the names and addresses of all individuals notified should be provided below. Please indicate if you have been unable to identify all owners and occupiers of any land to which the application relates.

Re: Stourpaine BR1, Iwerne Steepleton BR8, "Smuggler's lane". Unable to identify any landowners; site notices posted at ST 86510 10920 & ST 88920 11990 on 23rd January 2005.

Notice of Application Sent To:

Table with 2 columns: Name, Address. Rows 1-5.

(i) Insert name of applicant(s)

(ii) Insert address of applicant(s)

21 September 2004



DORSET COUNTY COUNCIL

FORM D

APPLICATION FOR PERMISSION TO NOTIFY LANDOWNERS BY SITE NOTICE

Wildlife and Countryside Act 1981

To: Chief Executive
Dorset County Council
County Hall
Colliton Park
DORCHESTER
Dorset
DT1 1XJ

PATH LOCATION DETAILS:

PARISH: Stourpaine, Iwerne Steepleton DISTRICT: North Dorset

CLAIMED STATUS OF WAY: Footpath/Bridleway/Byway Open to All Traffic [delete as appropriate].

DESCRIPTION OF PATH [include a map]:

FROM: ST 86510 10920

TO: ST 88920 11990

I/WE (i) Friends of Dorset's Rights of Way (FoDRoW)

of (ii) PO Box 5365, Dorchester, Dorset, DT2 8WH.

have carried out an investigation in an attempt to discover the owners and occupiers of the land affected by the application. I have made enquiries of: [delete those that are not applicable].

- \* Adjoining landowners
\* Local inhabitants
\* Post Office
\* Parish Council
\* Register of Electors
\* Land Registry
\* Other appropriate sources [please state] - Please see enclosed explanation.

I have been unable to discover ownership of the land, and I request the Council to direct that Notice may be served by posting said Notices at either end of the way claimed.

SIGNATURE REMOVED

Signed Date: 21st December 2004

(ii) Insert address of applicant(s)

## Application for Permission to Notify Landowners by Site Notice

FoDRoW is applying for permission to post a site notice to inform landowners about the DMMO application that accompanies this form. Not all the owners of land crossed by the claimed route have been identified using the process described below and we wish to use a site notice to notify the those landowners.

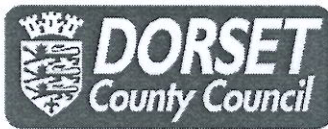
FoDRoW follows the procedure outlined below to identify the owners of land crossed by the route of a DMMO claim:

1. Request the Land Registry identify the titles of land crossed by the route. Where the land is registered we obtain copies of the title and plan to identify the landowner and the boundaries of the land they own. If owners cannot be identified for the entire length of the track the following steps are taken.
2. Attempt to identify other local landowners, EG farms, using the Land Registry, OS maps, Royal Mail address books, etc.
3. Write to the landowners identified in steps 1 and 2. If other farms or possible major landowners are located near the route and their details were not identified in steps 1 & 2 then write to those farms and landowners too. All farms in the vicinity of the claimed route will be considered and contacted if appropriate.

The letter sent includes a clear map showing the claimed route and a form for the landowner to return. The form allows the landowner to indicate whether he owns all of the land crossed by the claimed route, none of the land or some of the land. In the latter two cases we ask the landowner to supply the details of the correct landowners if they are known. A copy of the letter, map and form can be supplied to Dorset County Council if requested.

4. At least 28 days are provided for the landowners to respond before a DMMO claim is submitted.

This process was developed in consultation with Gillian Parkinson at DCC. It was felt that a thorough Land Registry search followed, if necessary, by letters to local farms and relevant landowners was a reasonable effort to make to identify landowners. If the land was not registered and local landowners were unwilling or unable to supply the ownership details when contacted then all reasonable steps had been taken.



DORSET COUNTY COUNCIL

FORM G

PUBLIC RIGHTS OF WAY DOCUMENTARY EVIDENCE CHECKLIST

Wildlife and Countryside Act 1981

To: Chief Executive
Dorset County Council
County Hall
Colliton Park
DORCHESTER
Dorset
DT1 1XJ

PATH DETAILS:-

PARISH: Stourpaine, Iwerne Steepleton DISTRICT: North Dorset

BELIEVED STATUS OF PATH: ~~footpath / bridleway~~ / byway open to all traffic [delete as appropriate]

DESCRIPTION OF PATH [please indicate route on a map - 1:2500 scale if possible]

FROM: ST 86510 10920

TO: ST 88920 11990

I/We (i) Friends of Dorset's Rights of Way (FoDRoW)

of (ii) PO Box 5365, Dorchester, Dorset, DT2 8WH.

have carried out research at the County Records Office and/or Public Records Office and wish the following documents to be considered in support of my application [see notes on reverse of FORM A]:

Document DRO/PRO Reference

Please see enclosed report for full list of evidence submitted to support this claim

- Inclosure Award and Map\*
Tithe Apportionment and Map\*
Finance Act 1910 Maps\*
Ordnance Survey Maps\*
Railway/Canal Survey Maps and Schedules\*
Estate Maps and Records\*
Quarter Session Rolls\*
Sale Catalogues\*
Highway Board Minute Books\*
Other

Signed: SIGNATURE REMOVED

Date: 21st December 2004

(i) Insert address of applicant(s) \* Delete as appropriate

## Byway Claim on Iwerne Stepleton BR8 & Stourpaine BR1 - "Smuggler's Lane"

### Introduction

This document supports FoDRoW's DMMO claim for byway status on a route in the parishes of Iwerne Stepleton and Stourpaine. The claimed route runs from ST 86510 10920 to ST 88920 11990. The entire route is highlighted on the enclosed map, which is an enlarged OS 1:50000 map printed at 1:15000 scale.

No evidence has been found to indicate this road has ever been stopped up. Thus on the basis of the evidence presented below FoDRoW believes the route should today be a byway.

*FoDRoW believes enough evidence is being submitted to justify this claim. Further evidence does exist and may be submitted at a later date. However, having considered the volume of claims likely to be submitted in the coming years this claim is being submitted now to avoid a future flood of claims when they are all fully researched.*

### Documentary Evidence

The following evidence is being submitted to support our DMMO application:

- Finance Act maps, PRO reference IR 125/2/146 & IR 125/2/147.
- Shaftesbury & Blandford turnpike, QDP(M):TT 7.
- Stourpaine tithe map 1841, DRO reference T/SPN.
- Iwerne Stepleton Tithe, DRO reference T/IWS.
- Ordnance Survey 1<sup>st</sup> Edition 6" map, 14SE.
- Ordnance Survey 1<sup>st</sup> Edition 6" map, 14SW.
- Ordnance Survey 1<sup>st</sup> Edition 25" map, 14.10.
- Ordnance Survey 2<sup>nd</sup> Edition 25" map, 14.11.
- 1st edition OS Map of Dorset 1811, Published by Col Mudge. DRO reference D/ASH:B/P8.
- Definitive map review, DRO reference DCC/176/2.
- Various small scale maps of Dorset, DC/BTB:R5.
- Green's map of Stourpaine parish for General Pitt Rivers, 1884, DRO D/PIT/P33
- Green's map of Ash & Lazerton farms in the Parish of Stourpaine for Pitt Rivers Estate, 1884, DRO D/PIT/P32.
- Isaac Taylor Map 1796, DRO reference M14.
- Greenwood's map of 1826, DRO reference M116.
- Bartholomew's Tourist & Cyclist map 1923.
- Bartholomew's half inch map, March 1951.

### Background to Selected Documentary Evidence

This section expands on evidence used for this claim which may need additional explanation.

#### Shaded Roads on Ordnance Survey Maps

Source: Ordnance Survey Maps a concise guide for historians, Richard Oliver, 1993.

In sections headed "Carriage drives", "Classification of roads" and "Shading" on pages 67 and 68 of his book, Richard Oliver describes how, before 1880 and again between 1884 and 1912, the OS employed a system of shading to indicate the class of public roads. According to an OS 'Southampton Circular' dated 25/06/1884:

“All metalled public roads for wheeled traffic kept in good repair by highway authority will in future be shaded”.

Public roads were shaded with a bold line on one or both sides of the road and/or sienna tinting of the road itself. The Planning Inspectorate's Consistency Guidelines acknowledge such shading is an indication that the road was a public carriageway where other public roads in the area are also shaded.

### Guide Post (GP) on Ordnance Survey Maps

Source: Ordnance Survey Maps a concise guide for historians, Richard Oliver, 1993.

With regard to “Guide Posts (GP)” Richard Oliver states, pg 70, these “...are shown at rural road junctions only. Footpath signs are not shown”. Thus, where “Guide Post” or “GP” is marked on an OS map it is likely the GP is placed at a junction of 2 or more public roads.

### Bartholomew's Maps

Bartholomew's “New Reduced Survey for Tourists and Cyclists” was a half-inch to the mile map produced between 1904 and 1923. The maps were reprinted twice annually and corrections were included in these reprints. The differentiator between these maps and other contemporary maps was the inclusion of user information supplied by the Cyclists Touring Club (CTC).

For many years there was an active partnership between Bartholomew maps and the Cyclists Touring Club (CTC). The CTC supplied information on the roads that could be used by cyclists and the condition of those roads.

Chris Juden, CTC Technical Officer, described this relationship as follows:

*“Information was supplied to Bartholomews by local CTC Map Revision Officers, operating under the CTC's District Association structure. They would be appointed for their knowledge of the area (it is not uncommon even nowadays for a keen cyclist to have ridden every single rural road and “passable” track within 30 or even a 50 mile radius of his home) and collect additional information on changes from fellow members. They would mark up a sample map accordingly.*

*At the beginning of this relationship, few roads would have been tarmac. “Good” would have mostly comprised plain macadam. It is open to conjecture how bad a road could have been to still be classified “passable” but from accounts of the time it would have been the kind of farm track where a modern motorist would want a four-wheel-drive – i.e. pretty rough, and/or muddy.”*

The roads marked on the Bartholomew maps were therefore roads used by cyclists at the time, no doubt in the belief that they were allowed to use those roads. Since cyclists could not use bridleways until 1968 such routes had to be roads with vehicular rights.

In the case of *Commission for New Towns v. JJ Gallagher Limited* heard by Mr Justice Neuberger (See *Byway and Bridleway* 2004/10/88), Neuberger J gives some weight to Bartholomew's maps as an aid to proving the existence of a public carriageway. The judge said “The implication of the demarcation of Beoley Lane on these maps appears to me to be that they are public carriageways ... the indication in the description of the uncoloured roads is that they can lawfully be used by cyclists which, as at 1901 and 1911, would have meant that they are public carriageways.”

## Analysis of Documentary Evidence

The claimed route is shown as uncoloured and excluded from adjoining hereditaments on the Finance Act maps, indicating Smuggler's Lane was believed to be a public carriageway by the landowners and surveyors.

The Shaftesbury & Blandford turnpike map shows the planned turnpike road and the roads which existed before the turnpike was built. This map appears to only deal with public roads and no private roads or public bridleways or footpaths are shown. The south west end of Smugglers Lane is clearly shown as a road on this map. This map also shows the UCR to the north of Smuggler's Lane. That road is marked "To Boy's Lane" on the turnpike map. The Shaftesbury to Blandford "old top" road is called Boyne's Lane on modern 1:25K OS maps. It is likely Boy's Lane and Boyne's Lane and the same, thus the turnpike map indicates the Everley Farm UCR was a through route to the old Shaftesbury to Blandford road. That route would have passed over the NE end of Smuggler's Lane, ie where the UCR joins Smuggler's lane at Beckford Lodge, meaning Smuggler's Lane would have been a public carriageway.

The Stourpaine tithe map shows the entire length of the claimed route as unapportioned and in same manner as today's other public roads. The Iwerne Stepleton tithe shows Smugglers Lane up to the parish boundary, ie the NE end not shown, but this is merely because it is in another parish. The road is not apportioned and is shown in the same colour as the other roads on the map, all of which are now public roads. The 1927 altered apportionment included with the Iwerne Stepleton tithe also shows Smuggler's Lane too but does not show bridleways and other lesser routes.

Both the 6" and 25" OS maps show the claimed route in full and the route is not marked "BR" or "FP". The location of the parish boundary is marked on Smuggler's Lane with the annotation "CR", which means "Centre of Road" and infers that the route did have the reputation of being a public road. There is a Guide Post marked at the north east end of Smuggler's Lane indicating this was junction of rural roads.

The UCR to the north of Smugglers Lane is shown shaded to Beckford Lodge on the 6" and 25" OS maps. This indicates the OS believed this route to be a metalled public road, something that is reinforced by today's classification of this road as a UCR. There would not have been a public road to Beckford Lodge, a private residence, and it is more likely the road was a through route to the Shaftesbury to Blandford "top" road. That through route would pass over the NE end of the claimed route indicating this is a public carriageway. That the NE end of the claimed route was not shaded on these maps is an indication of the physical state of the road rather than the public rights over Smuggler's Lane.

The 1st edition OS Map of Dorset, Published by Col Mudge 1811, is a quality, coloured and detailed map showing roads. The claimed route is clearly shown with solid edges on both sides upto the parish boundary, then with dashed edges beyond.

In the definitive map review of the 1970s Iwerne Stepleton parish council classified the claimed route as a byway upto Beckford Lodge. Stourpaine PC classified the lane as a bridleway beyond the parish boundary however this is contradicted by all other evidence presented with this claim.

All the following maps are contained in a book at the Dorset records office, reference DC/BTB:R5.

- Map 1 Greenwood Map of Dorset 1825-26. This shows Smuggler's Lane as a road. This map only shows significant roads.
- Map 4. Dorset undated by J.Wallis showing hundreds and liberties. Smuggler's Lane clearly shown as a road on a map that only shows major roads.



- Map 6 Detailed map showing railways, c.1848. Smuggler's Lane clearly shown.
- Map 7 Dorset, 1833. Smuggler's Lane clearly shown.
- Map 8 Dorset undated Pigot & son
- Map 10 British Gazeteer map, not dated. Smuggler's Lane clearly shown.
- Map 15 Dorset from the Despatch Atlas by Edward Weller undated. Smuggler's Lane clearly shown.
- Map 17 Dorset Botanical map George Philip & son. Smuggler's Lane clearly shown.
- Map 18 Dorset Geological map George Philip & son. Smuggler's Lane clearly shown.
- Map 20 Bacon's map undated "revised by the new ordnance survey". Smuggler's Lane clearly shown.
- Map 23 Bacon's Geographical Establishment. Smuggler's Lane clearly shown.
- Map 24 Dorset sheet no 23 by W &AK Johnston, not dated. Smuggler's Lane clearly shown.

All these maps clearly show Smuggler's Lane in the same way as other public roads in the area. Many of these maps depict only significant roads with no private roads or public ways of a lesser status shown, indicating Smuggler's Lane was a public road of some importance. Some of the early maps in this book show the NE end of the claimed route turning SE. This appears to be the original route but in time the road was straightened to its present course and there is evidence the "new route" was also used by public vehicles.

Green's maps of Stourpaine parish and Ash & Lazerton farms for the Pitt Rivers estate shows the claimed route in its entirety.

Bartholomew's Tourists & Cyclists map, 1923, shows the route in full with status of secondary road. It is not shaded and therefore of inferior quality. Secondary roads are classified by Bartholomews as "Motoring Roads". At the NE end of Smuggler's Lane there is a crossroads with what are now public roads. The road that Smuggler's Lane becomes, on the other side of the old Shaftesbury road, is marked on this map in exactly the same way as Smuggler's Lane, ie an inferior secondary road. The CTC's input into these maps and Neuberger J's comments about these maps (see previous section) means this map is an indication of the route as a public carriageway.

Bartholomew's half inch map from March 1951 shows the claimed route in full as a "Serviceable road". This is the third status of four, with the last being "Other roads and tracks".

Isaac Taylor's map of 1796 shows the claimed route shown in full and as a road, in the same manner as other roads that are today public roads.

Greenwood's map of 1826 clearly shows the claimed route with solid edges on both sides upto Stourpaine boundary, then with dashed edges. There are multiple routes in Stourpaine around Smuggler's Lane, supporting the argument that the NE end of Smuggler's Lane has moved over time, but the claimed one is also present on this map.

In summary, there is a weight of evidence to indicate it is more likely this routes carries public carriageway rights rather than any lesser rights. Smuggler's Lane is one of a series of east-west routes between Shaftesbury and Blandford that would have taken travellers from the villages in the valley to the old "top road", now a C class road. The north east end of Smugglers Lane appears to have varied in its course over time and has therefore been of lesser quality than the road to the south west, however the claimed route is on the most recent track at the north east and there is evidence to support this particular course of the road carries vehicular rights.