

# Regulation Committee

Thursday 22 June 2017

2.00 pm Luttrell Room - County Hall,  
Taunton



To: The Members of the Regulation Committee

Cllr J Parham (Chairman), Cllr N Hewitt-Cooper (Vice-Chairman), Cllr J Clarke, Cllr M Keating, Cllr A Kendall, Cllr T Lock, Cllr M Pullin, Cllr D Ruddle and Cllr N Taylor

Issued By Julian Gale, Strategic Manager - Governance and Risk - 14 June 2017

For further information about the meeting, please contact Michael Bryant on 01823 359048 or [mbryant@somerset.gov.uk](mailto:mbryant@somerset.gov.uk)

Guidance about procedures at the meeting follows the printed agenda **including public speaking at the meeting.**

This meeting will be open to the public and press, subject to the passing of any resolution under Section 100A (4) of the Local Government Act 1972.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on [www.somerset.gov.uk/agendasandpapers](http://www.somerset.gov.uk/agendasandpapers)



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## **AGENDA**

Item Regulation Committee - 2.00 pm Thursday 22 June 2017

**\*\* Public Guidance notes contained in agenda annexe \*\***

1 **Apologies for Absence**

2 **Declarations of Interest**

3 **Public Question Time**

The Chairman will allow members of the public to present a petition on any matter within the Committee's remit. Questions or statements about the matters on the agenda for this meeting will be taken at the time when the matter is considered and after the Case Officers have made their presentations. Each speaker will be allocated 3 minutes. The length of public question time will be no more than 30 minutes.

4 **Accuracy of the Minutes of the meeting held on 6 April 2017 (Pages 7 - 10)**

The Committee will consider the accuracy of the attached minutes.

5 **Revised treatment and drainage system to existing commercial properties, Yonder Hill, Station Road, Chard (Pages 11 - 30)**

6 **Schedule 14 application to add a restricted byway, Copse Lane, Ashill (application 510M) and Schedule 14 application to upgrade footpath CH1/23 to a restricted byway (application 511M), Ashill (Pages 31 - 162)**

7 **Any Other Business of Urgency**

The Chairman may raise any items of urgent business.

## Regulation Committee – Guidance notes

### 1. Inspection of Papers

Any person wishing to inspect Minutes, reports, or the background papers for any item on the agenda should contact Michael Bryant, Tel: (01823) 359048 or 357628, Fax (01823) 355529 or Email: mbryant@somerset.gov.uk

### 2. Members' Code of Conduct requirements

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership. The Code of Conduct can be viewed at: <http://www.somerset.gov.uk/organisation/key-documents/the-councils-constitution/>

### 3. Notes of the Meeting

Details of the issues discussed and decisions taken at the meeting will be set out in the Minutes, which the Committee will be asked to approve as a correct record at its next meeting. In the meantime, details of the decisions taken can be obtained from Michael Bryant, Tel: (01823) 359048, Fax (01823) 355529 or Email: mbryant@somerset.gov.uk

### 4. Public Question Time

At the Chairman's invitation you may ask questions and/or make statements or comments about **any matter on the Committee's agenda**. You may also present a petition on any matter within the Committee's remit. **The length of public question time will be no more than 30 minutes in total.**

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been signed. However, questions or statements about the matters on the agenda for this meeting will be taken at the time when that matter is considered.

The Chairman will usually invite speakers in the following order and each speaker will have a maximum of 3 minutes:

1. Objectors to the application (including all public, parish council and District Council representatives)
2. Supporters of the application (including all public, parish council and District Council representatives)
3. Agent / Applicant

Where a large number of people are expected to attend the meeting, a representative should be nominated to present the views of a group. If there are a lot of speakers for one item than the public speaking time allocation would usually allow, then the Chairman may select a balanced number of speakers reflecting those in support and those objecting to the proposals before the Committee.

Following public question time, the Chairman will then invite local County Councillors to

address the Committee on matters that relate to their electoral division.

If you wish to speak either in respect of Public Question Time business or another agenda item you must inform Michael Bryant, the Committee Administrator **by 12 noon on the last working day prior to the meeting (i.e. by 12 noon on the Wednesday before the meeting)**. When registering to speak, you will need to provide your name, whether you are making supporting comments or objections and if you are representing a group / organisation e.g. Parish Council. Requests to speak after this deadline will only be accepted at the discretion of the Chairman.

You must direct your questions and comments through the Chairman. You may not take direct part in the debate.

Comments made to the Committee should focus on setting out the key issues and we would respectfully request that the same points are not repeated.

The use of presentational aids (e.g. PowerPoint) by the applicant/agent or anyone else wishing to make representations to the Committee will not be permitted at the meeting.

An issue will not be deferred just because you cannot be present for the meeting.

The Chairman will decide when public participation is to finish. The Chairman also has discretion to vary the public speaking procedures.

**Remember that the amount of time you speak will be restricted, normally to three minutes only.**

## **5. Substitutions**

Committee members are able to appoint substitutes from the list of trained members if they are unable to attend the meeting.

## **6. Hearing Aid Loop System**

To assist hearing aid users, the Luttrell Room has an infra-red audio transmission system. This works in conjunction with a hearing aid in the T position, but we need to provide you with a small personal receiver. Please request one from the Committee Administrator and return it at the end of the meeting.

## **7. Late Papers**

It is important that members and officers have an adequate opportunity to consider all submissions and documents relating to the matters to be considered at the meeting, and for these not to be tabled on the day of the meeting. Therefore any late papers that are to be submitted for the consideration of the Regulation Committee, following the publication of the agenda/reports, should be sent to the Service Manager – Planning Control, Enforcement and Compliance (Philip Higginbottom) via [planning@somerset.gov.uk](mailto:planning@somerset.gov.uk) in respect of Planning and Town and Village Green items, and to the Senior Rights of Way Officer (Richard Phillips) in respect of Rights of Way items, and should be received no less than 48 Hours before the meeting.

## **8. Recording of meetings**

The Council supports the principles of openness and transparency, it allows filming, recording and taking photographs at its meetings that are open to the public providing it is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings and a designated area will be provided for anyone who wishing to film part or all of the proceedings. No filming or recording will take place when the press and public are excluded for that part of the meeting. As a matter of courtesy to the public, anyone wishing to film or record proceedings is asked to provide reasonable notice to the Committee Administrator so that the relevant Chairman can inform those present at the start of the meeting.

We would ask that, as far as possible, members of the public aren't filmed unless they are playing an active role such as speaking within a meeting and there may be occasions when speaking members of the public request not to be filmed.

The Council will be undertaking audio recording of some of its meetings in County Hall as part of its investigation into a business case for the recording and potential webcasting of meetings in the future.

A copy of the Council's Recording of Meetings Protocol should be on display at the meeting for inspection, alternatively contact the Committee Administrator for the meeting in advance.

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**REGULATION COMMITTEE**

Minutes of a Meeting of the Regulation Committee held in the Luttrell Room - County Hall, Taunton, on Thursday 6 April 2017 at 2.00 pm

**Present:** Cllr S Coles, Cllr D Loveridge, Cllr D Hill, Cllr T Lock, Cllr D Ruddle, Cllr T Venner, Cllr N Woolcombe-Adams (Vice-Chairman) and Cllr D Yeomans (Chairman)

**Other Members present:** None

**Apologies for absence:** Cllr A Bown

**233 Declarations of Interest - Agenda Item 2**

Reference was made to the following personal interests of the Members of the Regulation Committee which were published in the register of members' interests which were available for public inspection in the meeting room:

Cllr S Coles	Member of Taunton Deane Borough Council
Cllr T Lock	Member of South Somerset District Council Member of Yeovil Town Council
Cllr D Loveridge	Member of Sedgemoor District Council Member of Bridgwater Town Council
Cllr D Ruddle	Member of South Somerset District Council Member of Somerton Town Council
Cllr T Venner	Member of West Somerset District Council
Cllr D Yeomans	Member of South Somerset District Council Member of Curry Rivel Parish Council

**234 Accuracy of the Minutes of the meeting held on 2 March 2017 - Agenda Item 3**

The Chairman signed the Minutes of the Regulation Committee held on 2 March 2017 as a correct record.

**235 Public Question Time - Agenda Item 4**

(1) There were no public questions on matters falling within the remit of the Committee that were not on the agenda. Questions or statements received about matters on the agenda were taken at the time the relevant item was considered during the meeting.

(2) Cllr Dean Ruddle, Cllr Simon Coles and Cllr Dave Loveridge thanked Cllr Yeomans for his work and professionalism as the Committee Chairman.

(3) Cllr Derek Yeomans thanked Committee Members for their work.

236 **Section 73 Applications - variation of condition for continued importation of rubble and excavated materials and variation of condition for storage of topsoil and subsoil - Agenda Item 5**

(1) The Case Officer with reference to the report, supporting papers, and the use of maps, plans and photographs outlined the Section 73 application for variation of condition for continued importation of rubble and excavated materials and variation of condition for storage of topsoil and subsoil.

The Committee were informed: the application sites are primarily within the Cannington Parish, but the site access is within the Durleigh Parish; the current landfill operation is the latest of three within the the application sites; the nearest residential property is 280m to the east of the application sites; and that if granted the application would extend operations at the site until the end of 2017.

The Case Officer further highlighted that: a member of the public had questioned if there was sufficient depth available for continued rubble importation and deposition; and that Durleigh Parish Council had commented on the use of Skimmerton Lane to access the site, mud on the highway and site operations outside of permitted hours. In response to these points the Committee were informed that the use of a wheel wash included as a condition to a current site permission, and that restricting the types of vehicles allowed to use Skimmerton Lane had been considered previously.

(2) The Committee heard from Mr Sidaway, speaking on behalf of Durleigh Parish Council, who made a number of observations regarding the application, including: Skimmerton Lane is not suitable for heavy goods vehicles and is used as a shortcut by delivery drivers; there was documented evidence of an accident which could be attributed to one of the applicants vehicles; the site operating hours should be restricted to ensure that they do not coincide with commuter or 'school-run' times; and the importance of fully mitigating all safety concerns.

(3) Cllr Tony Lock noted that he would not take part in the debate or vote on the applications as he was not present at the start of the Case Officers presentation.

(4) The Committee proceeded to debate during which a number questions were asked by Members to which the Case Officer replied. This included: the potential to impose restrictions on the types of vehicles allowed to use Skimmerton Lane; mud on the outside of the wheelwash; consolidating the wheel wash exit track; and restrictions on imported materials.

(5) In response to the points raised in debate the Service Manager – Planning Control, Enforcement and Compliance highlighted to the Committee that the deposition of materials at the site was nearing completion and so it was important to consider the reasonableness of imposing a condition requiring an improved wheel wash, and that there was a field gate near to the wheel wash



which may also result in mud being deposited on the highway. Additionally the Case Officer highlighted Enforcement Officer involvement regarding the wheel wash.

(6) Cllr Dean Ruddle proposed the recommendations detailed in the officer report, and this was seconded by Cllr Dawn Hill.

(7) The Committee resolved in respect of planning application no's. 1/13/16/049 and 1/13/16/050 that planning permission be **GRANTED** subject to the conditions set out in section 8 of the officer's report and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Service Manager, Planning Control Enforcement & Compliance.

**237 Section 73 Application - variation of condition for the storage, crushing and recycling of hardcore - Agenda Item 6**

(1) The Case Officer with reference to the report, supporting papers, and the use of maps, plans and photographs outlined the section 73 application for the variation of condition for the storage, crushing and recycling of hardcore.

The Committee were informed: permission for storage, crushing and recycling of hardcore was first granted in 1998 and had since been renewed several times; crushing could only take place for 28 days per year; the current permission included a condition that the site should be fenced, but this did not appear to have been implemented; the crushing site should be acoustically screened, but again this did not appear to have been done at the northern end of the site despite no previous complaints having been received in this regard; the material stock pile should not exceed 6m in height; and the landowner had objected to the application.

The Case Officer further highlighted the main issues for consideration, including: loss of visual amenity; noise; and dust, and highlighted that the application site was not well connected to the strategic highway network, and so did not comply with basic location principles. Members were also informed that the applicant had stated that they required an extension of the crushing permission for restoration purposes, but that landfill operations had now ceased.

Finally the Case Officer reiterated that the proposal was now contrary to Waste Core Strategy and so was recommended for refusal.

(2) The Committee proceeded to debate during which a number of questions were asked by Members to which the Case Officer replied. This included: the requirement for crushing; and impacts on the highway.

(5) Cllr Dean Ruddle proposed the recommendations detailed in the officer report and this was seconded by Cllr Nigel Woollcombe-Adams.

(6) In response to the points raised in debate the Case Officer informed the Committee that whilst traffic movements to and from the site would be limited, there may be some impact on other road users.

(6) The Committee resolved in respect of planning application no. 1/13/16/051 that planning permission be **REFUSED** for the reasons set out in section 8 of the report.

**238 Any Other Business of Urgency - Agenda Item 7**

(1) The Committee agreed that the next meeting of the Regulation Committee be rescheduled from 2.00pm on 1<sup>st</sup> June 2017 to 2.00pm on 8<sup>th</sup> June 2017.

(2) Cllr Derek Yeomans thanked Bob Mills for his work ahead of his retirement.

(3) The Service Manager – Planning Control, Enforcement and Compliance thanked Members of the Committee for their work.

**(The meeting ended at 2.39 pm)**

**CHAIRMAN**

Somerset County Council

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Regulation Committee –

Report by Service Manager –

Planning Control, Enforcement & Compliance: Philip Higginbottom

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*Application Number:* 17/00756/CPO  
*Date Registered:* 17 February 2017  
*Parish:* Tatworth & Forton  
*District:* South Somerset  
*Member Division:* Chard South  
*Local Member:* Cllr Gemma Verdon  
*Case Officer:* Bob Mills  
*Contact Details:* [rwills@somerset.gov.uk](mailto:rwills@somerset.gov.uk)  
tel: 01823 356019

*Description of Application:* **REVISED TREATMENT AND DRAINAGE SYSTEM TO EXISTING COMMERCIAL PROPERTIES**  
*Grid Reference:* 334030 - 104526  
*Applicant:* Dairy Crest Limited  
*Location:* Yonder Hill, Station Road

## **1. Summary of Key Issues and Recommendation(s)**

- 1.1 **The application seeks to revise the drainage arrangements for the recently permitted underground treatment plant on Yonder Hill. The main issues to be taken into account are:**
- **Pollution Control;**
  - **Ecological impacts;**
  - **Local impacts (i.e., noise, odour, traffic and transport, visual impacts).**
- 1.2 **It is recommended that planning permission is GRANTED subject to the conditions set out in section 8 of this report and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Service Manager, Planning Control Enforcement & Compliance.**

## **2. Description of the Site**

- 2.1 The site of the proposed underground treatment plant is located within the built up area of South Chard at Yonder Hill, to the north of the Metaltech Precision Ltd and Ace Welding factories and to the southeast of a line of 4 residential properties the closest of which is approximately 40m away. A

public footpath runs east-west along a track in front of the residential properties. To the east is an unoccupied former sawmill site beyond which are residential properties.

- 2.2 Solar panels are located to the north and east of the permitted treatment plant site, between the application site and the residential properties. The solar panels are free standing and consist of six rows of panels, each approximately 88 metres in length. The panels are 2.2 metres high, and number approximately 1000. The solar panels link into the existing electricity network via a transformer unit and meter at its south-eastern site boundary.
- 2.3 The underground treatment plant site is a maximum of approximately 16.5m x 20m. It was previously indicated that there would be a drain leading off to the northeast for approximately 30m to connect with an existing drain.
- 2.4 Part of the treatment plant site was previously occupied by a building now demolished; however, a concrete floor remains. The remaining area is grass covered. Access to the site is via a drive located between the Metaltech Precision site and the vacant industrial area.
- 2.5 The application site strangely lies with the Dorset Area of Outstanding Natural Beauty (AONB), and is approximately 4.5km upstream of a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

### **3. The Proposal**

- 3.1 The previous application (no. 16/03812/CPO) proposed the introduction of a new underground sewage treatment plant and pumping station to replace an existing foul water drainage system for the two nearby commercial / industrial premises. There is no public sewer available.
- 3.2 The existing drainage system to these properties is currently gravity fed to a collection chamber at the Dairy Crest site where it is pumped into a tanker and transferred off site at a rate of twice a week. However, the Dairy Crest facility (that straddles the river) is now largely demolished along with the subsequent removal of the tank, hence the need to introduce the new sewage treatment plant.
- 3.3 The new treatment plant will be buried in the ground with the treated water then flowing into the nearby River Axe. The drainage was to be via an existing surface water drain on the former sawmill site.
- 3.4 The new sewage treatment plant is proposed to be installed below the existing hardstanding to the rear of the Metaltech Precision factory and Ace Welding workshop. Part of the existing concrete hardstanding will be broken out and a pit approximately 4.5m deep will be dug by mechanical excavators. A new 300mm thick reinforced concrete base will be cast for the tank to sit on and all will then be backfilled. A new section of concrete hardstanding will then be cast on top of the tank with manholes etc.

- 3.5 The existing drainage will be diverted into the new treatment plant with outgoing pipework following the adjacent track to the east/west footpath. The drain from the treatment plant will then turn to the east and connect with an existing surface water drain before discharging into the River Axe.
- 3.6 **Application Documents:** The application comprises:
- Application form, etc.;
  - Documents:
    - Planning Statement (Lorien Engineering Solutions, ref. 3321\_281700);
    - Ecological Survey , Land at Dairy Crest (The Bat Consultancy, June 2015);
    - Otter & Kingfisher Survey Report (Acer Ecology, January 2016).
  - Drawings (Lorien Engineering Solutions, “Commercial Properties Water Treatment Installation”):
    - Site Location Plan (drg. no. 3321\_D1111 v 2, scale 1:1250, dated 19-07-2016);
    - General Arrangement (drg. no. 3321-D1108 v.4, scale 1:200, dated 10-06-2016);
    - Typical Details (drg. no. 3321\_D1109 v 1, scale 1:200, dated 21-06-2016);
    - Tanker Route (drg. no. 3321\_D1112 v 2, scale 1:200, dated 07-11-2016).
- 3.7 **Screening Opinion:** Schedule 2, 11(c) ‘Other projects’, ‘Waste-water treatment plants’, of The Town and Country Planning (Environmental Impact Assessment (EIA)) Regulations 2011 (as amended) under which this planning application was submitted and is to be determined, indicates that developments where the area of the development exceeds 1,000 square metres may be regarded as ‘EIA development’. In this case, the treatment plant site and drainage route amounts to approximately one-third of the stated figure.
- 3.8 The Government’s Indicative Criteria and Thresholds document indicates that a waste treatment site area of more than 10 hectares or a site with capacity that exceeds 100,000 population or equivalent may be regarded as an EIA development. In this case the development is well short of this figure.
- 3.9 The proposal is not regarded as ‘EIA development’.

#### 4. Site History

- 4.1 The River Axe largely formed the County boundary between Somerset and Dorset, and the application site was within Dorset until recently. To the west of Broad Bridge (Station Road) the County boundary appears to have followed a smaller watercourse to the north of the River Axe (possibly as a result of the River Axe temporarily splitting). Following the construction of the rail line in about 1860 it would appear that the watercourse was diverted; however, the County boundary remained unaltered.

- 4.2 By the late 1920s, to the south of the Yonder Hill Creamery which was located to the south of the river, a number of residential properties had been constructed with the Yonder Hill Saw Mills to their rear. Four properties were also constructed on the south bank of the river alongside the public footpath. It would appear that a few small gravel pits were also in the area.
- 4.3 In 1959 the Dorset Area of Outstanding Natural Beauty (AONB) was established and included the area to the south of the River Axe including the application site.
- 4.4 By the early 1960s a building had been erected on the application site. The Dairy Crest factory was in place on the north side of the river and extensive gravel pits were to the south and west of Yonder Hill.
- 4.5 In the 1970s a factory (on the Metaltech Precision site) was constructed and extensions added following permissions granted in 1983, 2003, 2006 and 2008. In 2014 permission (no. 14/04686/FUL) was granted for the demolition of the building on the application site and the installation of solar panels on the adjoining land.
- 4.6 A new sewage treatment plant and drainage system for 3 – 11 Yonder Hill Cottages was permitted in July 2016 (no. 16/01388/FUL).
- 4.7 Permission was granted in December 2016 for the underground treatment plant (no. 16/03812/CPO) to which the proposed outflow drain would be connected. However, a landowner on the outflow has not agreed to its placement.

## **5. Consultation Responses Received**

- 5.1 **South Somerset District Council:** NO OBJECTIONS.  
- The County Council is requested to consider the inclusion of a contaminated land condition as specified by the Environmental Protection Unit.
- 5.2 **Tatworth & Forton Parish Council:** RECOMMEND APPROVAL.
- 5.3 **Environment Agency:** NO OBJECTION subject to the following informatives being included in any planning permission granted.  
- If located within an area served by a public sewer, the treatment plant should discharge to the public sewer to be treated at a public sewage treatment works unless the applicant can provide a good reason why this is unfeasible.  
- Where connection to a public sewer is not feasible a package sewage treatment plant can be considered. The package plant should offer treatment so that the final discharge meets the standards set by the Environment Agency Environmental Permit.  
- Details regarding the Environment Agency's formal requirements in respect of package sewage treatment plants and septic tanks can be found on the

Agency's website.

- The outfall into the main river may require an Environmental Permit from the Environment Agency.
- An Environmental Permit may also be required for any works on or within 8m of the landward toe of any Environment Agency designated flood defence structure(s).
- Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. The applicant should refer to the Environment Agency's Pollution Prevention Guidelines.

5.4 **Natural England:** NO OBJECTION. Given the size and nature of the discharge, and its location in relation to the River Axe SAC, I am content that no further assessment under the Habitats Regulations or Countryside and Rights of Way Act (CROW) is required. However, this does not necessarily preclude the possibility that future discharges of this nature will require additional assessment. As you are aware, the River Axe SAC is 'Unfavourable' because of elevated phosphate levels, and there is a Diffuse Water Pollution Plan (DWP) in place to address this issue. Based on current evidence the focus of this plan is the reduction of agricultural diffuse pollution. As the evidence base around this plan develops it may be that our views on the significance of small discharges, such as the one in this case, will change.

5.5 **Dorset AONB:** No comments received.

5.6 **Somerset Wildlife Trust:** No comments received.

5.7 **Local Highway Authority:** NO OBJECTION.

5.8 **Other Internal Consultees:**  
**Ecological Advisor:** No comments received.

5.9 **Rights of Way:** NO OBJECTION.  
There is a public right of way (PROW) recorded on the Definitive Map that runs along the top of the access to the site at the present time (footpath CH 5/UN).

The health and safety of walkers must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) has maintenance responsibilities for the surface of the footpath, but only to a standard suitable for pedestrians. SCC will not be responsible for putting right any damage occurring to the surface of the footpath resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a footpath unless the driver has lawful authority (private rights) to do so.

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group:

- A PROW being made less convenient for continued public use;

- New furniture being needed along a PROW;
- Changes to the surface of a PROW being needed;
- Changes to the existing drainage arrangements associated with the PROW.

If the work involved in carrying out this proposed development would:

- Make a PROW less convenient for continued public use; or,
- Create a hazard to users of a PROW,

then a temporary closure order will be necessary and a suitable alternative route must be provided. A temporary closure can be obtained from Sarah Hooper on (01823) 357562.

- 5.10 **Public Comments:** Comments have been received from a local resident and the previous County Council Divisional Member (Cllr Jill Shortland).
- The local resident requests that the area used by the de-sludge tanker is concreted over to ensure the area is not damaged as the lane is the access to the residential property.
  - The local Councillor is concerned for adverse impacts upon the residents of 3 properties adjacent to the application site. Concerns relate to:
    - (i) The prevention of tankers or construction traffic from driving in front of the residential properties. The only vehicles that may use the footpath are by the residential property owners. It is hoped that a condition may be imposed preventing vehicle movements.
    - (ii) There is concern regarding noise from fans or alarms after operational hours. Residential properties in close proximity will be affected, so noise levels and hours need to be consulted upon and conditioned.

## 6. Comments of the Service Manager

- 6.1 The planning application relates to a revised drainage route from the permitted underground sewage treatment plant at Yonder Hill.
- 6.2 **Development Plan:** Regard is to be had to the development plan for the purpose of this determination, which must be made in accordance with the plan unless material considerations indicate otherwise. Relevant policies may be found in the South Somerset Local Plan 2006-2028 (SSLP, adopted March 2015) and the Somerset Waste Core Strategy (SWCS, adopted February 2013). Also taken into account are the National Planning Policy Framework and the National Planning Policy for Waste (NPPW) which seeks to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment.
- 6.3 **National Policy:** The NPPW seeks to ensure that the need for waste management facilities is considered alongside other spatial planning concerns, recognising the positive contribution that waste management can bring to the development of sustainable communities. Planning Authorities should give priority to the re-use of previously-developed land, sites identified for employment uses, and redundant agricultural and forestry buildings and their curtilages.



- 6.4 Paragraph 115 of the NPPF states that, “Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.” Paragraph 116 requires planning applications for major development to demonstrate exceptional circumstances and that the development is in the public interest. Whilst technically this proposal is for ‘Major’ development (waste), the public’s perception of the proposed development would not put it in that category due to its nature and extent. In this case, and as eluded to in paragraph 2.5 above, the application site lies in amongst a long-established estate of industrial buildings towards the southern edge of South Chard, and consequently seems incongruous with the AONB designation. Furthermore, the proposed development would largely be located underground and could not be located elsewhere as it is to serve existing development. It is therefore considered that these amount to exceptional circumstances and whilst arguably not being in the public interest, it would provide important ancillary infrastructure to support existing local businesses, which might otherwise hamper the businesses’ operations. As will be demonstrated in this report, the development would have insignificant impacts on the environs, in particular on the AONB.
- 6.5 In this case the underground treatment plant would be located within an area previously used for industrial / commercial purposes.
- 6.6 **Local Policy:** The SSLP notes that rural settlements vary widely in function and size, but generally are places that provide limited local services. These settlements often have a strong sense of community but face conditions that also pose challenges in terms of their economic provision of services, jobs and facilities. The pattern of rural settlements, and their social and economic relationships with each other, presents a real challenge in balancing the provision of good quality jobs and services across a diverse area, whilst protecting and enhancing the most sensitive rural areas for their intrinsic environmental quality.
- 6.7 SSLP policy EQ2 (General Development) requires that development promotes South Somerset’s local distinctiveness and preserves or enhances the character and appearance of the district. Development proposals will be considered against (inter alia):
- Making efficient use of land;
  - Accessibility;
  - Local area character.
- Development proposals should protect the residential amenity of neighbouring properties.
- 6.8 SWCS policy DM3 (Impacts on the Environment and Local Communities) states that planning permission will be granted for waste management development subject to the applicant demonstrating that the proposed development will not generate (amongst other things):

- (a) Significant adverse impacts from noise, odour, visual intrusion or traffic to adjoining land uses and users and those in close proximity to the development;
  - (b) Significant adverse impacts on a public right of way or visual amenity; and
  - (c) Unacceptable cumulative impacts.
- 6.9 **Pollution Control:** SSLP policy EQ7 (Pollution Control) states that development that would result in environmental pollution or harm to amenity, health or safety will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals.
- 6.10 SWCS policy DM8 (Waste Water Treatment) states that planning permission for waste water storage, pumping and treatment development will be granted subject to the applicant demonstrating that proposals:
- a) avoid the unnecessary use of areas at risk from flooding;
  - b) establish links to existing sewerage infrastructure where possible; and
  - c) have access to a suitable outlet for discharge of treated water, recognising the need to minimise pumping and the capacity of the outlet to accommodate discharges.
- 6.11 In this case, the underground treatment plant would contain and treat the sewage received from the Metaltech Precision and Ace Welding sites. The treated waste water would be connected to a surface water drain on the public footpath alongside the former sawmill site and flow into the River Axe.
- 6.12 The laying of the outflow pipe would be subject to the excavation of a trench to accommodate it. This has the potential to create dust; however, the excavation of the trench may be subject to a planning condition to ensure that dust is minimised.
- 6.13 The outflow from the plant into the River Axe is not expected to cause pollution. The Environment Agency has not objected to the proposal and previously indicated that an application for an environmental permit has commenced. Similarly, whilst Natural England has concerns about the 'Unfavourable' condition of the River Axe, this is due to elevated phosphate levels mainly from agricultural discharges. Natural England has implemented a Diffuse Water Pollution Plan to address this. Natural England is content to raise no objection to the proposal given the size and nature of the proposed discharge (5.5cu.m/day (> 5.0cu.m/day is the trigger for consultation with Natural England)) and its distance from the River Axe SAC. I concur that these factors are not of sufficient significance in this case to warrant refusal of planning permission.
- 6.14 So long as the treatment plant is vented as proposed, odour emissions should be minimal and acceptable.
- 6.15 **Ecology:** SSLP policy EQ4 (Biodiversity) states that all proposals for development will (inter alia):

- Protect the biodiversity value of land and buildings and minimise fragmentation of habitats and promote coherent ecological networks; and
- Ensure that habitat features, priority habitats and geological features that are used by wildlife are protected and that the design does not cause severance or is a barrier to movement.

Development will not be allowed to proceed unless it can be demonstrated that it will not result in any adverse impact on the integrity of national and international wildlife and landscape designations, including features outside the site boundaries that ecologically support the conservation of the designated site.

6.16 In this case, the proposed development is located within an area of industrial development that is not regarded as having a significant ecological character.

6.17 The outfall from the treatment plant would be connected to a surface water drain and be directed to the River Axe. The connection with the surface water drain would follow existing vehicle trackways that would be of little or no ecological value.

6.18 The River Axe, at the point at which the proposed development would discharge into it, is a County Wildlife Site (CWS) and is approximately 4.5km upstream of a SAC and SSSI. The margins of the nearby River Axe has some ecological value, with records held for protected wildlife species of otter, kingfisher and bats, with nesting birds likely within the local vegetation. Outflows from the proposed treatment plant would be so low that they are not expected to have any impact on the banks of the river. In addition, the outflow is not expected to impact on the SAC and SSSI downstream as the outflow would be insignificant in terms of the nature and rate of discharge and nevertheless would be subject to an Environmental Permit. It may therefore be expected to be of acceptable standard.

6.19 **Localised Impacts:** SSLP policy EQ2 (General Development) requires that development promotes South Somerset's local distinctiveness and preserves or enhances the character and appearance of the district. Development proposals will be considered against (inter alia):

- Making efficient use of land;
- Accessibility;
- Local area character.

Development proposals should protect the residential amenity of neighbouring properties.

SWCS policy DM3 (Impacts on the Environment and Local Communities) states that planning permission will be granted for waste management development subject to the applicant demonstrating that the proposed development will not generate (inter alia):

- (a) Significant adverse impacts from noise, odour, visual intrusion or traffic to adjoining land uses and users and those in close proximity to the development;
- (b) Significant adverse impacts on a public right of way or visual amenity; and
- (c) Unacceptable cumulative impacts.

These issues, on which the Acoustics, Air Quality and Ecological Advisors were consulted on the previous (immaterially different) planning application, are satisfactorily addressed below in terms of the proposal's compliance with the above planning policies SSLP policy EQ2 and SWCS policy DM3. Comments are therefore informed by the previous planning application's responses from those advisors.

- 6.20 **Noise** - The construction of the proposed treatment plant will involve the creation of a pit and the pouring of a concrete base along with the formation of connections to incoming and outgoing drains.
- 6.21 The excavation of the pit required for the proposed plant and the necessary connections will generate noise levels and may prove noticeable and possibly disruptive within the nearby residential properties. However, the excavations and installation of the plant is expected to take no more than 4 weeks, with the work carried out during normal working hours. Nevertheless, it is advised that the residents are given advance warning of the works to be undertaken.
- 6.22 Once installed, it has been indicated that the blower adjacent to the treatment plant would generate 59dB at 2m distance. Given the distance to the boundary of the closest residential property (i.e., "The Bungalow") the noise levels would be 33dB (or possibly lower due to screening from the array of solar panels). This is equivalent to a quiet bedroom at night. The operation of the plant is therefore not expected to significantly increase noise levels and impact on residential areas. Nevertheless, it is recommended that a Noise Mitigation Report is provided after the commissioning of the plant to assess noise levels and introduce screening if required. (It is noted that a local resident has indicated that a roof ventilation system at the Metaltech Precision site has been measured at 45dB inside a local property. However, this is not relevant to the current application proposal.)
- 6.23 General maintenance of the unit will be undertaken at intervals ranging from 6 – 9 months dependent on use. Desludging of the unit will take place at 90 day intervals. This will involve a tanker attending the unit for a period of no more than 2 hours at any one time. Overall, it is considered that the noise impacts of the proposed development are acceptable and would not unduly affect the amenities of local residents or users of local businesses or the AONB.
- 6.24 **Odour** - The proposed underground treatment plant would normally be sealed and operate to service the two industrial users to the south. The plant would operate automatically, and filter the drainage / waste water passing through the unit. The initial stage of treatment involves the retention of coarse solids present in raw sewage and wastewater for subsequent gradual breakdown. The unit features two chambers to ensure efficient operation with a flow balancing facility.

- 6.25 A natural by-product of biological treatment is humus sludge and this is separated for further treatment. Substantial biochemical oxygen demand (BOD) reduction would take place. The carbonaceous pollutants would be removed by presenting the sewage to the micro-organisms in the presence of oxygen. The treatment would be achieved by high efficiency air diffusers continually pumping oxygen through the biological media and fluidised effluent. It has been indicated that provided the tank is vented odour emissions should be minimal.
- 6.26 Desludging would take place at approximately 3 month intervals and may facilitate the release of odours. However, given the distance to the closest properties, and the limited periods involved, the impact is likely to be minimal. Maintenance of the unit at 6 to 9 month intervals is similarly likely to have minimal odour impact. On this basis, it is considered that the odour impacts of the proposed development are acceptable and would not unduly affect the amenities of local residents, ecology, or users of local businesses or the AONB.
- 6.27 **Traffic and Transport** – It is reasonable to expect the construction-related traffic and tankers used for emptying the sludge to use the route alongside the Metaltech Precision building. Similarly, it is likely that these vehicles would return via the same route thus avoiding the public right of way entirely.. However, this routing is uncertain. The construction phase would last for approximately 4 weeks, with general maintenance of the treatment facility being undertaken at approximately 6-9 month intervals and desludging taking place at 3 monthly intervals by tanker.
- 6.28 It is considered that the potential impacts on the residential amenities of the four residential properties to the north of the application site and on the users of the public footpath CH 5/UN, particularly during the construction phase of the development, warrant reasonable management. To this end, a condition is recommended to be imposed to define the access and egress route used by construction traffic associated with the proposed development and by the desludging tankers.
- 6.29 **Visual Impact** - The proposed development would be largely underground with limited above-ground elements. To the north and west of the development site is an array of solar panels, and to the south are two industrial developments with unoccupied industrial land to the east. The site would be largely screened from residential properties.
- 6.30 There is not expected to be any significant visual impact as a result of the proposed development on the users of local residences, businesses or the AONB.
- 6.31 **Public Rights of Way**  
As explained in paragraph 2.1 above, public footpath CH 5/UN runs east west approximately 16m north of the planning application site. The public right of way is considered sufficiently distant from the proposed sewage treatment plant so as to not be impacted upon during operation of the

development. However, the public right of way and use of it may well be affected during the construction phase due to the outflow pipework crossing the public right of way. The consultation response from the Rights of Way Service is noted and the advice to the applicant to contact the County Council to discuss the protection of the right of way and its use is proposed to be included as an 'Informative' on the recommended decision notice.

## **7. Conclusion**

- 7.1 The proposed underground treatment plant would contain and treat the sewage received from the Metaltech Precision and Ace Welding sites and drain via a surface water drain located on the former sawmill site into the River Axe. The outflow from the plant is not expected to cause pollution.
- 7.2 The proposed development is located within an area of industrial development that is not regarded as having a significant ecological character. The treated water would flow to the River Axe, a County Wildlife Site. Outflows from the proposed treatment plant would have no impact on the banks of the river. Natural England had not previously objected to the proposed development and has not done so to this slightly revised scheme as it is not expected to impact on the SAC or SSSI approximately 4.5km downstream.
- 7.3 The construction of the proposed treatment plant would involve the creation of a pit for the installation of the plant, and connections to incoming and outgoing drains.
- 7.4 The installation of the plant is likely to cause short term disruption at local residential properties during normal working hours. It is therefore recommended that the local residents are given advance warning of the works. However, once installed, operational noise levels would be 33dB (or lower) at the closest residential property. However, it has been indicated that an existing nearby ventilation system produces 45dB at a nearby local residence. The operation of the plant is therefore not expected to impact on the nearby residential area. Nevertheless, it is recommended that the applicant is required to provide a Noise Mitigation Report within 3 months of commissioning to ensure that the plant minimises noise impacts.
- 7.5 General maintenance and de-sludging of the unit will take place infrequently and is not expected to be unduly disruptive.
- 7.6 The proposed underground treatment plant would normally be sealed, however some odour may be noted in close proximity to a vent stack. Desludging may facilitate the release of odours for a limited period, but the impact is likely to be limited as venting of the sewage would enable treatment and minimise odours. Maintenance of the unit at 6 to 9 month intervals is similarly likely to have minimal odour impact.
- 7.7 The tanker servicing the site would likely use the route to and from the site alongside the Metaltech Precision building although a condition to manage

this and ensure any impact on residential amenities and the amenities of users of the public right of way are acceptable is recommended.

- 7.8 The proposed development would be largely underground with limited above-ground elements, and would be largely screened from residential properties. There is not expected to be any significant visual impact as a result of the proposed development.
- 7.9 There are no other material considerations and my recommendation is that the decision should be made in accordance with the development plan, and I recommend that planning permission be GRANTED.

## 8. Recommendation

- 8.1 **It is recommended that planning permission be GRANTED subject to the imposition of the following conditions and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Service Manager, Planning Control Enforcement & Compliance:**

### 1. Time Limit

The development hereby permitted shall be commenced within three years of the date of this permission.

Reason: Pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended).

### 2. Completion of Development

The development hereby permitted shall be carried out in strict accordance with the approved plans and specifications (as listed below) and with any scheme, working programme or other details submitted to and approved in writing by the Waste Planning Authority in pursuance of any condition attached to this permission.

#### Approved Plans and Specifications

- Documents:
  - Planning Statement (Lorien Engineering Solutions, ref. 3321\_281700);
  - Ecological Survey , Land at Dairy Crest (The Bat Consultancy, June 2015);
  - Otter & Kingfisher Survey Report (Acer Ecology, January 2016).
- Drawings (Lorien Engineering Solutions, "Commercial Properties Water Treatment Installation"):
  - Site Location Plan (drg. no. 3321\_D1111 v 2, scale 1:1250, dated 19-07-2016);
  - General Arrangement (drg. no. 3321-D1108 v.4, scale 1:200, dated 10-06-2016);
  - Typical Details (drg. no. 3321\_D1109 v 1, scale 1:200, dated 21-06-2016);

- Tanker Route (drg. no. 3321\_D1112 v 2, scale 1:200, dated 07-11-2016).

Reason: To enable the Waste Planning Authority to deal promptly with any development not in accordance with the approved plans.

**3. Treatment Plant Installation**

There shall be no treatment plant installation or drainage pipe activity except between the hours of:

- Mondays to Fridays 0900 to 1800 hours; and
- Saturdays 0900 to 1300 hours.

There shall be no treatment plant installation activity on Saturdays after 1300 hours, or at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of residential amenity.

**4. Noise Mitigation**

(i) Local residents shall be provided with a minimum of two weeks advance notice and information on the aspects and durations of treatment plant installation activities.

(ii) Desludging and maintenance of the plant shall be limited to:  
- 0900 to 1700 hours on Mondays to Fridays.

There shall be no desludging or maintenance activities on Saturdays, Sundays and Public / Bank Holidays except in cases of emergency, in which case the Waste Planning Authority shall be notified in writing within 5 working days of any such event explaining the circumstances of the emergency and any remedial action carried out.

Reason: In the interests of residential amenity.

5. (i) Within 3 months of the commissioning of the treatment plant a Noise Mitigation Report shall be submitted to the Waste Planning Authority for approval in writing to ensure that night-time operational impacts do not exceed a rated noise level (as defined by BS4142) of 35dB at any residential property.

(ii) The development shall be undertaken in accordance with the Noise Mitigation Report once approved.

Reason: To ensure that the plant does not cause disturbance to local properties in the interests of residential amenity.

**6. Traffic Management Plan**

Before the commencement of the development hereby permitted, a Traffic Management Plan, setting out the routing of traffic associated with the construction and operation of the development hereby permitted between the application site and the public highway so as to avoid incursion onto the public right of way CH 5/UN, and directional signage for associated drivers shall be submitted to and approved in writing by the Waste Planning Authority. Once approved, the plan shall be implemented in full for the duration of the development hereby permitted.



Reason: To minimise damage to the footpath alongside the residential properties to the north and in the interests of residential amenity.

### **Note to Applicant**

Be advised that if you make a submission in response to a planning application which in the opinion of the planning authority cannot reasonably be approved, or if the planning authority fail to determine the application for approval of the landscaping scheme within 8 weeks of receiving the scheme [under Article 27 of the Town and Country Planning (Development Management Procedure) (England) Order 2015] or such longer period as may have been agreed in writing with the planning authority, then you may lodge an appeal within the prescribed time limit against that refusal or non-determination. In the absence of lodging such an appeal in those circumstances, you will be in breach of condition.

### **Informative**

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group:

- A PROW being made less convenient for continued public use;
- New furniture being needed along a PROW;
- Changes to the surface of a PROW being needed;
- Changes to the existing drainage arrangements associated with the PROW.

If the work involved in carrying out this proposed development would:

- Make a PROW less convenient for continued public use; or,
- Create a hazard to users of a PROW,

then a temporary closure order will be necessary and a suitable alternative route must be provided. A temporary closure can be obtained from Sarah Hooper on (01823) 357562.

### **Relevant Development Plan Policies**

1. The following is a summary of the reasons for the County Council's decision to grant planning permission.
2. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision on this application should be taken in accordance with the development plan unless material considerations indicate otherwise. The decision has been taken having regard to the policies and proposals in:
  - South Somerset Local Plan, adopted in March 2015; and
  - Somerset Waste Core Strategy, adopted in February 2013.

The policies in those Plans particularly relevant to the proposed development are:

South Somerset Local Plan

EQ2 (General Development) – The proposed development preserves the character and appearance of the local area including the Dorset AONB. It makes efficient use of land having regard to infrastructure and service availability and has minimal impact on the residential amenity of neighbouring properties.

EQ4 (Biodiversity) – no impact is expected on the biodiversity of the local area including the SAC and SSSI.

EQ7 (Pollution Control) - The proposed development will not result in unacceptable environmental pollution or harm to amenity, health or safety.

Somerset Waste Core Strategy

DM3 (Impacts on the Environment and Local Communities) – The proposed development is not expected to generate significant adverse impacts from noise, odour, visual intrusion or traffic, or affect the nearby public right of way or visual amenity.

DM8 (Waste Water Treatment) – The proposed development would not have unacceptable impacts on the local area, and have access to a suitable outlet for discharge of treated water.

3. The County Council has also had regard to all other material considerations.

4. **Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012.**

In dealing with this planning application the Waste Planning Authority has adopted a positive and proactive manner. The Council offers a pre-application advice service for minor and major applications, and applicants are encouraged to take up this service. This proposal has been assessed against the National Planning Policy Framework and Local Plan policies, which have been subject to proactive publicity and consultation prior to their adoption and are referred to in the reason for approval or reason(s) for refusal. The Planning Authority has sought solutions to problems arising by considering the representations received, and liaising with consultees and the applicant/agent as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

**Background Papers**

Planning Application file no. 17/00756/CPO

South Somerset Local Plan (2015)

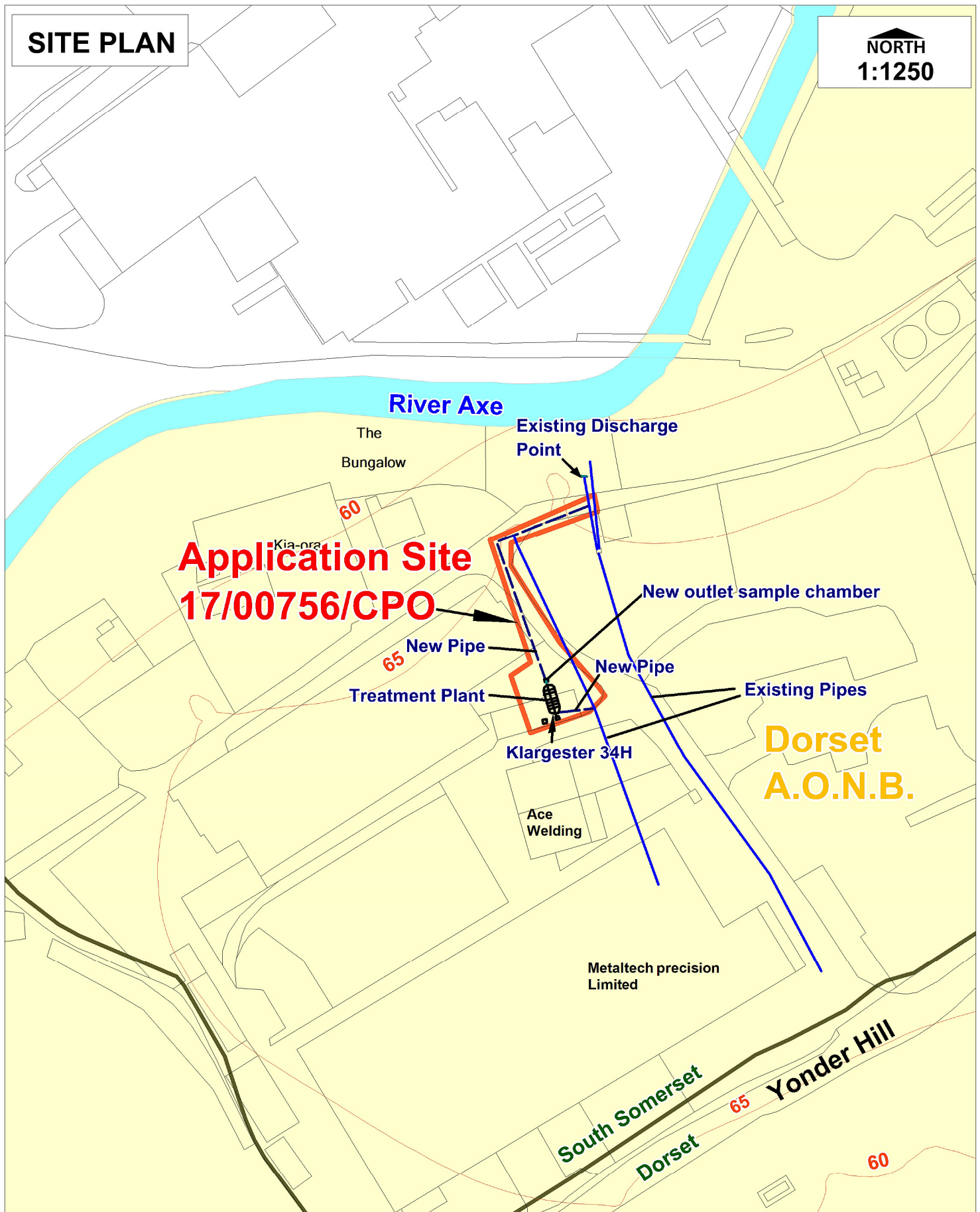
Somerset Waste Core Strategy (2013)

National Planning Policy Framework (2012)

National Planning Policy for Waste (2014)

**SITE PLAN**

**NORTH**  
**1:1250**



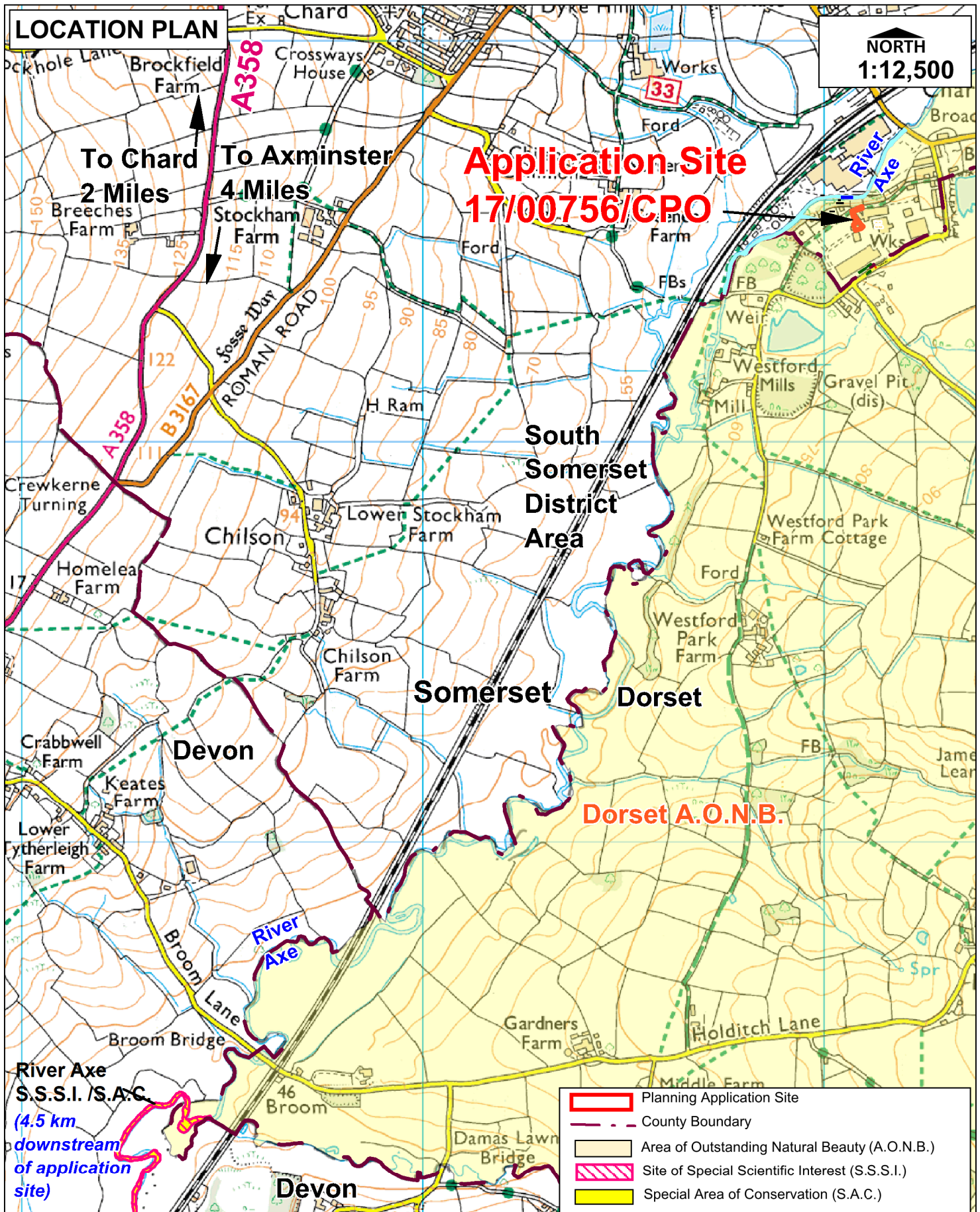
Philip Higginbottom  
 Service Manager  
 Planning Control, Enforcement and Compliance  
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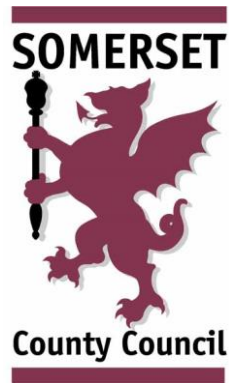
**SOMERSET**  
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Planning Control  
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**WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53, SCHEDULE 14**  
**APPLICATION TO MODIFY THE DEFINITIVE MAP AND STATEMENT BY**  
**ADDING A RESTRICTED BYWAY AT COPSE LANE, ASHILL AND**  
**UPGRADING FOOTPATH CH 1/23 TO RESTRICTED BYWAY**  
**510 & 511m**

**Author: Erica Darch**

**Date: 25 May 2017**

This document is also available in Braille, large print, on tape and on disc and we can translate it into different languages. We can provide a member of staff to discuss the details.



**RNID typetalk**

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1. Introduction
2. The Application
3. Description of Routes
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5. Documentary Evidence
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7. Landowner Evidence and Evidence from those against the application
8. Consultation and other submissions
9. Summary and Conclusion
10. Recommendation
11. List of Appendices



## **1. Introduction**

1.1 On 30 May 2008 and 13 October 2009 the late Mrs Stephanie Wheeler made applications under Schedule 14 and Section 53(5) of the Wildlife & Countryside Act 1981 for an Order to amend the Definitive Map and Statement by:

- i) upgrading footpath CH 1/23 to restricted byway; and
- ii) adding a restricted byway over a route known as Copse Lane.

Both routes are described in more detail in paragraph 2 below.

1.2 The applications were made on behalf of the South Somerset Bridleways Association.

1.3 A restricted byway is a right which can be used by any member of the public on foot, horseback, bicycle or any other non-mechanically propelled vehicles such as a horse and cart.

1.4 The purpose of this report is to establish whether or not these public rights exist, even though only a right on foot is currently recorded on the Definitive Map in respect of the route CH 1/23 and no public rights are recorded in respect of the claimed route along Copse Lane to the north.

1.5 Private rights may exist, but have no place in this investigation and do not form part of the decision making process.

## **2. The Application**

2.1 The application for adding a restricted byway over Copse Lane (application 510M) is based on documentary evidence. Five user evidence forms were also submitted in respect of the application route.

2.2 The application for upgrading footpath CH 1/23 to restricted byway (application 511M) is based solely on documentary evidence.

2.3 This report examines the evidence and draws conclusions for both application route 510M and 511M.

2.4 The applicant supplied a number of documents, either with each application or later, as follows;

Document	Date	510M	511M
Plan the Second Rapps Farm in Ashill & Broadway	1808	•	•
Ordnance Survey (OS) Map	1808	•	
1 <sup>st</sup> Edition OS map Cassini reprint	1809 - 1811	•	•
Greenwood's Map	1822	•	•
Ilton Tithe Records	1839	•	•
Broadway Tithe Records	1840 - 45	•	•
Sale documents for farm and lands in Ashill and Broadway	1858	•	•
OS map	1888	•	•
OS map Timeline / Cassini reprint	1898 - 1900	•	•
OS Object Name Book	1901/2	•	
OS map	1903	•	•
Finance Act map	1910	•	•
Bartholomew's Map	1911	•	•
RAC Touring Map	1913	•	•
OS map Timeline / Cassini reprint	1919	•	•
OS map	1919	•	•
Bartholomew's Map	1927	•	•
OS map	1928	•	•
OS map	1937	•	•
OS Map	1946	•	•
Summary of Objections to the (Definitive Map) Draft Map and Statement	Circa early 1950's	•	
User evidence forms	2011/12	•	
The Land Registry INSPIRE	2016	•	•

Each of these documents are appended and referred to in Section 4, 'Documentary Evidence', below, except for The Land Registry records which are discussed in paragraph 3.3, below.

2.5 Based on the above the applicant has concluded in relation to 510M that;

*“30. All the evidence produced for the application route suggests that vehicular rights existed at the times the various pieces of evidence were created.*

*31. There are examples, with the OS maps and the Bartholomews maps, where these maps were revised and the application route continues to be shown on every revision.*

*32. The Inland Revenue records from the 1910 Finance act valuation maps show that the land was not in private ownership.*

33. *The Ordnance Survey records, signed by Mr. Speke, the local JP, state that the application routes was a public lane.*

34. *While no single piece is conclusive of highway status, the fact that every standard piece of evidence leans towards vehicular rights means that, on the balance of probabilities, such rights existed prior to the commencement of the Natural Environment and Rural Communities Act 2006.*

35. *The antiquity of the route shows that the highway existed prior to 1835. It will therefore be a highway maintainable at the public expense, and so should be added to the List of Streets maintained by the Council under s.36(6) Highways Act 1980.*

36. *The applicant requests the surveying authority to add the route to the definitive map as a byway. The type of byway – restricted or open to all traffic – will depend on the application of the Natural Environment and Rural Communities Act 2006.*

37. *In the event that motor vehicle rights have not been extinguished, the applicant notes that the route is clearly more used by the public for walking and riding than by motor vehicle, and so would meet the criterion for being recorded on the definitive map and statement.”*

In relation to 511M the applicant concludes that;

*“29. All the evidence produced for the application route suggests that vehicular rights existed at the times the various pieces of evidence were created. While no single piece is conclusive of highway status, the fact that every standard piece of evidence leans towards vehicular rights.*

*30. There are examples, with the OS maps and the Bartholomew’s maps, where these maps were revised and the application route continues to be shown on every revision.*

*31. The applicant requests the Surveying Authority to add the route to the Definitive Map and statement as a byway. The type of byway, restricted or open to all traffic, will depend on the application of the Natural environment and Rural Communities Act 2006. The antiquity of the route shows that the highway existed prior to 1835. It will therefore be a highway maintainable at the public expense, and so should be added to the List of Streets maintained by the Council under s.36(6) Highways Act 1980.”*

### **3. Description of Routes**

3.1 Both application routes are shown coloured blue on the plan at Appendix 1. Copse Lane (reference 510M) over which there are currently no recorded public rights, runs south for approximately 505 metres from point A

to point B. The surface is gravel / stones and earth, with grass verges and grass growing down the centre of at least some of the route. There are ditches to either side. On 10 November 2016 there was a metal gate and pile of earth at either end of the route, although pedestrian and equestrian access to the side of the gates was clearly possible. At point A immediately in front of the gate the width between the ditches was circa 6 metres 80cm and the width of the gravelled surface was circa 2 metres 90cm. At point B the remains of a probable wall, now at ground level, could be seen to the west side of the route. The width of the gravelled surface to the wall was circa 2 metres 60cm.

The route currently recorded as footpath CH 1/23 (reference 511M) runs south for approximately 310 metres from point C through points D and E to point F. From point C to D the surface is mud and gravel, with grass growing down the centre of the route, grass verges and ditches to either side. From point D to F the surface is in better repair and gravelled / stoned. The width of the gravelled surface is circa 2 metres 50cm, and between the edges of the ditches (measured approximately due to the vegetation) 4 metres 90cm. From point E to F the gravelled surface remains circa 3 metres 20cm wide, but the verge width varies with up to 11 metres 80cm between the inner edges of the ditches. The route widens at the junction with the public road at point F to circa 16 metres 80cm.

3.2 Photographs of the claimed route taken on 10 November 2016 are at Appendix 2 (510M) and 3 (511M).

3.3 Land Registry searches were carried out on 11 October 2016 and 4 April 2017. Both application routes have been registered as belonging to the same joint landowners (landowners A, B and C). The evidence and comments of those landowners can be found in paragraph 7, below. In addition, two adjacent landowners were identified (landowner A and D). The owners of some of the land adjacent to the application routes have not been identified.

3.4 Part of the application route (between point D and F on Appendix 1) is registered as leasehold for 4000 years beginning 2 February 1719 (title number WS78642). In some cases leases can affect the capacity of the landowner to dedicate a right of way. However, in this case a copy of the lease has not been seen and the terms are unknown.

#### **4. Relevant Legislation**

4.1 The Wildlife and Countryside Act 1981 specifies in Section 53(2)(b), that the County Council must keep the Definitive Map and Statement under continuous review and must make such modifications as appear to them to be requisite in the light of certain specified events. In this case 53(3)(b), (c)(i) and (c)(ii) are of particular relevance. They require the Map and Statement to be modified where the County Council discover evidence which has not previously been considered when the DMS was first drafted or last reviewed<sup>1</sup>

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<sup>1</sup> See *Burrows v Secretary of State for Environment, Food and Rural Affairs* (2004).

and which, when considered with all the other available evidence, shows the applicability of one of the following:

- 53 (3) (b) reads “*the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path*”.
- 53 (3) (c)(i) reads “*that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or subject to Section 54A, a byway open to all traffic*”.
- 53 (3) (c)(ii) reads “*that a highway shown on the map and statement as a highway of a particular description ought to be shown as a highway of a different description*”.

4.2 Section 53 (c)(i) applies to the application to add a restricted byway along Copse Lane, since that route is currently not recorded as a public right of way. In order to make an order the County Council would therefore need to be of the view that a right either subsists or can be reasonably alleged to subsist along Copse Lane. If the user evidence submitted with this application is sufficient to show that rights have been dedicated over the route under section 31 of the Highways Act 1980 (see paragraph 6 below) then section 53(3)(b) of the 1981 Act may also be relevant.

4.3 Section 53(3) (c)(ii) relates to the application to upgrade footpath CH 1/23 to a restricted byway. In the case of such upgrades a balance of probabilities must be applied before concluding whether the route should be shown as having a higher status.

4.4 Later in the same Act section 53(5) enables any person to apply to the Authority (Somerset County Council) for an Order to be made modifying the Definitive Map and Statement in respect of a number of ‘events’ including those specified in Section 53(3)(b) and (c) of the Act as quoted above. On receipt of such an application the County Council is under a duty to investigate the status of the route. It was under these provisions that the South Somerset Bridleway Association made their application.

4.5 The purpose of Section 53 of the Wildlife and Countryside Act 1981 is to record or delete rights from the Definitive Map and Statement rather than create or extinguish the rights themselves. Practical considerations such as suitability, the security and wishes of adjacent landowners cannot be considered under the legislation.

4.6 With reference to application 510M, which is supported by evidence of public use, it should be noted that, 20 years’ use by the general public can give rise to the presumption of dedication of a way under Section 31 of the

Highways Act 1980. The period of 20 years is measured backwards from the date of challenge by some means sufficient to bring it home to the public that their right to use the way is being challenged. The full text of Section 31(1) states *“where a way over any land, other than a way of such character that use of it by the public could not give rise at Common Law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it”*.

4.7 Applications based on documentary evidence, as opposed to evidence of use, rely in part upon Section 32 of the Highways Act 1980 which states that *“a Court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence and shall give weight thereto as the Court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled and the custody in which it has been kept and from which it is produced”*.

4.8 The Natural England and Rural Communities (NERC) Act 2006, Section 66 and 67, extinguished rights for mechanically propelled vehicles (MPV's) over any routes that were recorded on the Definitive Map as footpath, bridleway or restricted byway and over any routes that were not recorded on the Definitive Map or the list of highways maintained at public expense. There are a few exceptions to the general rule outlined above, none of which appear to apply in this case. There is therefore no question of rights for MPV's existing over the claimed route.

4.9 Any changes to the Definitive Map must reflect public rights that already exist. It follows that changes to the Definitive Map must not be made simply because such a change would be desirable, or instrumental in achieving another objective. Therefore, before an order changing the Definitive Map is made, Members must be satisfied that public rights have come into being at some time in the past. This might be in the distant past (proved by historic or documentary evidence) or in the recent past (proved by witness evidence). The decision is a quasi-judicial one in which the decision maker must make an objective assessment of the available evidence and then conclude whether or not the relevant tests set out above have been met.

## **5. Documentary Evidence**

5.1 The table below shows documentary evidence sources examined as part of this investigation. Unless otherwise stated, the description and interpretation of the evidence relates to both application route 510M and 511M, or parts of both routes.

5.2 In some cases it has not been possible to view the original copy of a document and it has instead been necessary to rely entirely on an extract supplied by the applicant. Where this is the case the words 'extract only'

follow the title of the document. In some cases it has been necessary to give those documents less weight on account of them only being viewed in part.

5.3 Sources of evidence which were examined but were not of assistance in determining whether or not public rights exist over the application routes are listed in section 5.12.

#### **5.4 Enclosure Records**

##### **5.4.1 Explanation of the type of evidence**

Enclosure Awards are legal documents that can still be valid today. They usually consist of a written description of an area with a map attached. Awards resulted from a need by the landowners to gather together their lands and fence in their common lands. A local Act of Parliament was often needed to authorise the procedure and an Enclosure Commissioner was appointed as a result to oversee the compilation of the award and map. Land was divided into individual plots and fields and redistributed amongst the existing owners. Enclosure Awards provide statutory evidence of the existence of certain types of highway. They enabled public rights of way to be created, confirmed and endorsed and sometimes stopped up as necessary. Enclosure Commissioners surveyed land that was to be enclosed and had the power to 'set out and appoint public and private roads and paths' that were often situated over existing ancient ways.

##### **5.4.2 Map of Neroche Forest and West Sedgemoor Enclosures, c. 1830. South West Heritage Trust (SWHT)**

**Reference: DD\DP\C1358/20.**

**Appendix: 4**

##### **5.4.3 Description and interpretation of the evidence**

There is no key for the map, very few labels, and no feature (fields, roads, houses etc.) are numbered. The features are drawn in black ink with some areas tinted green. Without a key, labels or numbered features it is not possible to relate the map to an award and only limited conclusions can be drawn from this source.

Although the area of the application routes are covered by the map, they are not depicted in full. The north and south junctions of Copse Lane at points A and B on Appendix 1 are shown, but not the route of the Lane between them. 511M is shown from just north of point D to point F on Appendix 1. Where shown the routes are depicted uncoloured between solid casing lines of equal thickness, except between points E and F where the route forms part of a triangle of land tinted green. This green area is now bounded by three ways, including one public road and the application route between E and F, but none of these ways are depicted on this map. There are no lines across the route and the routes are not labelled or numbered.

The map is good evidence that the application routes, as far as they are shown, existed on the ground in 1830. The depiction of the way between E and F at the south end of 511M suggests it was of a different character to

most of the roads depicted but there is nothing to indicate whether this was because of its public or private status and may be related to the surface, or whether it was fenced or some other unknown factor. Therefore, no weight is given to this evidence as it would be equally consistent with either public or private rights over the application routes.

## **5.5 Tithe Records**

### **5.5.1 Explanation of the type of evidence**

Tithe maps and the written document which accompanied them, (the apportionment) were produced between 1837 and the early 1850's in response to the Tithe Commutation Act 1836, to show which landowner owned which pieces of land and as a result how much they owed in monetary terms. The tax replaced the previous 'payment in kind' system where one tenth of the produce of the land was given over to the Church.

A map was produced by the Tithe Commissioners which showed parcels of land with unique reference numbers, and these were referred to in the apportionment document, which contained details of the land including its ownership, occupation and use. The base map used by the Tithe Commissioners for this purpose could have been a pre-existing map or a new survey, and the quality of the maps therefore varied.

Public roads which generated no titheable produce were not given a tithe number. For the same reason some private roads were also not liable to a tithe. However, both public and private roads could be subject to a tithe, if for instance, they produced a crop e.g. for grazing or hay cut from the verges.

The Map and Apportionment must be considered together. Roads were sometimes listed at the end of the apportionment and there was often a separate list for private roads.

Tithe maps provide good topographical evidence that a route physically existed and can be used to interpret other contemporary documents but were not prepared for the purpose of distinguishing between public and private rights and so tend to be of limited weight.

### **5.5.2 Broadway (old enclosures) Tithe Map and Apportionment c.1840.**

**SWHT Reference: D\D/Rt/ M/454 and D\D/Rt/A/454. Appendix: 5**

**Ilton Tithe Map c.1839 and Apportionment 1837 - 1840. SWHT Reference: D\D/Rt/M/131 and D\D/Rt/A/131 Appendix: 6**

### **5.5.3 Description and interpretation of evidence**

There are two classes of Tithe Map. First class maps which had the Commissioners' seal attached, were deemed to be a reliable record of all matters which they portray. Second class maps did not have the Commissioners seal attached, and although still very useful, were only officially considered reliable in respect of the information they contained relating to tithes. Both the Tithe maps for Broadway Old Enclosures and Ilton



are second class maps.

Both application routes appear on the Broadway Old Enclosures tithe map depicted in the same way, that is, coloured yellow between solid lines. Neither is numbered nor specifically referred to in the apportionment. All linear routes shown on the map are depicted in the same way, including Stoford Lane which is not now a public right of way (labelled SL on Appendix 5), the track over which footpath CH 2/7 now runs and ways which are now public roads including the road which runs from the A358 to Rapps, which the application routes meet at points B and C.

Apportionment 269 (bounded on the west by 511M between points E and F and which is not shown as clearly separated from the surrounding roads on some other sources) is described as 'Part of Rapps Green' and 'arable'.

'Roads and Streams' are listed at the end of the apportionment as 29 Acres, 2 roods and 0 perches with no apportionment number, owner or occupier.

This indicates that the land covered by the application routes was not used to generate any titheable produce, and also that the Tithe Commissioner did not distinguish between different types of road, whether public or private.

The Ilton Tithe Map shows the southernmost end of Copse Lane labelled 'To Clayhanger' and the whole of application route 511M. All linear routes on the map are shown in the same way within solid casing lines of the same thickness, and uncoloured. The area of the application routes is on the edge of the mapped area and the fields to the east and west of 511M are not numbered. It therefore seems this area was not part of the tithe apportionment for Ilton and was only depicted on the map to provide context for the fields which were included. At the end of the apportionment 'Roads rivers and streams' are listed as 31 acres 2 roods 30 perches with no owner, occupier or apportionment number.

The Tithe Maps provide excellent evidence of the physical existence of the application routes. However, Tithe Maps and Apportionments were not intended as a record of public rights and either public or private roads could be included or excluded from the titheable area depending on whether or not they were productive. This means these tithe records are consistent with both public and private rights and therefore these documents are not helpful in determining the status of the application routes, and are given no weight either way in this investigation.

## **5.6 Ordnance Survey Records**

### **5.6.1 Explanation of the type of evidence**

The Ordnance Survey (OS) are generally accepted as producing an accurate map depiction of what was on the ground at the time of a survey.

Although OS Maps cannot generally be regarded as evidence of status, they

do indicate the physical existence of a route at the date of survey.

**5.6.2 OS 1808 'Old Series' 1:63,360 / 1 inch to 1 mile  
Appendix: 7**

The whole of both application routes are shown bounded by solid, parallel lines of equal thickness. Although many of the routes depicted in this way on the map are now public roads (for example, the now unclassified road from Thickthorn Cross to Hastings and from Three Oaks Cross to Cad Green), others are not public rights of way of any kind and appear to be access to land or buildings only. For example, a route leading north and south from public roads to Rowland's Farm (labelled RF on Appendix 7), another leading to a moated property which no longer exists (labelled M on Appendix 7) and a track or drive leading to Parshalls Farm (labelled PF on Appendix 7). Another route depicted in the same way as the application routes is recorded as a footpath, CH 11/4, also labelled on appendix 7.

**5.6.3 OS Surveyors' Drawings 1811. Appendix: 8**

From point A to D the application routes are shown between solid parallel lines of equal thickness. Between points E and F a triangle of land shaded with dots or dashes forms the eastern boundary of the application route, the south-east boundary of the now public road and the southern boundary of the linear route which runs east from point E.

Although most of the routes depicted in the same way as the application route from point A to D are now public vehicular roads, the way leading to Rowland's Farm (labelled RF on appendix 8) and the way leading to a moated property which no longer exists (labelled M on Appendix 8) are depicted in the same way but are not now recorded as a public right of way. There is, however, a line across the junction between the public road and the route leading to Rowlands Farm and lines enclosing the way to the moated property, but no similar lines across the application routes.

**5.6.4 OS County Series 1<sup>st</sup> Edition Map 25 inch : 1 mile  
Sheet Nos: LXXX.12, LXXX.16 Surveyed 1886, Published 1888  
Sheet No: LXXXI.13, Surveyed 1886, Published 1887. Appendix: 9.  
Second Edition, Revised 1902, Published 1903. Appendix: 10.**

On the 1888 map the northern part of Copse Lane (application route 510M) is depicted on map sheet LXXX.12 with a dashed line across the junction with Park Barn Lane (point A on Appendix 1), casing lines of equal thickness and parallel dashed lines within the casing lines. A way leading from the public road to Burleaze Farm on map sheet LXXXI.13 (see appendix 9) is depicted in a similar way and is not now recorded as a public right of way or road. Park Barn Lane is depicted with a thickened casing line to the south and east and either coloured sienna between the casing lines, or coloured sienna between dashed lines within the casing lines.

The southern part of Copse Lane depicted on map sheet LXXX.16 is shown for a very short section with parallel casing lines of equal thickness within

which is a dashed line on the west side, then with casing lines of equal thickness. This is similar to the way in which the route shown running east and west of points D and E which is not recorded as a public right of way, is shown (although an application to record this route as a restricted byway has been received but not yet determined).

There is a solid transverse line at the junction between the southern end of Copse Lane and the public road (point B). None of Copse Lane is coloured sienna.

The northern part of application route 511M between C and D is shown with a dashed line across the junction with the public road (point C), uncoloured, with casing lines of equal thickness. At the 'crossroad' at White House (point D and E on Appendix 9) there are dashed lines across the route.

To the south of point E there is a thickened casing line to the east from point E to Rapps Cottage, and part of the route between the casing lines is coloured sienna, defined by a dashed line or lines until it meets the public road which is depicted in the same way.

The 1903 maps (Appendix 10) are uncoloured but otherwise depict the application routes in a similar way to the 1888 maps. There are now no parallel dashed lines on Copse Lane, and the casing lines over the whole of both routes are the same thickness. At the southern end of Copse Lane (point B) a sub-oval feature, probably a pond, is shown at the junction between Copse Lane and the public road with the solid transverse line seen on the earlier map going through it.

In addition, parallel dashed lines labelled F,P, are shown along the route of footpath CH 1/21 (which extends south-west from point D and does not form part of the application route) as well as parallel with application route 511M on the west side of the field boundary between points C and D.

#### **5.6.5 OS Revised New Series Map Sheet 311**

**Revised 1896, published 1898  
Scale: 1:63,360 / 1 inch to 1 mile  
Appendix: 11.**

The entire length of both application routes is depicted in the same way with narrow casing lines of equal thickness. The key identifies this as a fenced, unmetalled road. At the northern end of route 511M (point C) a solid transverse line separates the application route from the public road. All other junctions are depicted without transverse lines.

#### **5.6.6 OS Object Name Book, 1902. Extract only. Appendix: 12**

In preparing the second edition County Series map, the Ordnance Survey produced an 'object names book' (ONB) the primary purpose of which was to

ensure that the various names recorded on the maps (e.g. names of farms, roads, places etc) were accurate and correctly spelt. To this end each book contained a list of those names and a description of the feature to which they related. Each of the names in those books was later corroborated by a prominent member of the local community (e.g. a landowner or clergyman).

This document describes Copse Lane as “A public lane running N.E. from its junction 20 chains S.E. of Three Oaks Cross on the W. of Every’s Copse to its junction at the at the N.W. corner of Every’s Coppice”. The ‘Authority for the modes of spelling’ is given as ‘W.Speke Esq J.P’.

Below the entry for Copse Lane is an entry for Every’s Copse, most of which has been crossed through in red except for “The property of W. Speke Esq. Jordans, Ilminster” The entry for Rapps Farm on the same page is described as “A farm in the W. of Rapps occupied by W. F. [.]eitch, the property of the above”. The only name above on that page is that of W. Speke. No indication of ownership is given for Copse Lane.

The OS Instructions to field examiners gave a list of the best individual authorities for corroborating entries in the ONB in the order in which they should be taken; “Owners of property; estate agents; clergymen, postmasters, and schoolmasters, if they have been some time in the district; rate collectors; road surveyors; borough and county surveyors; gentlemen residing in the district; Local Government Board Orders; local histories; good directories”<sup>2</sup>. This would suggest W. Speke would have been considered an excellent authority by the OS.

Although the purpose of the ONB was to ensure the correct spelling of features and not to record the public or private status of ways, because W. Speke was a local landowner who owned land adjacent to the application route 510M (Copse Lane) this evidence has been given a little more weight than it might otherwise have been.

### **5.6.7 OS Contoured Road Map, 1 inch, Chard and Axminster, 1919.**

Extract only.

#### **Appendix: 13**

The full length of both application routes is show uncoloured between narrow solid black casing lines of equal thickness (although green tinting from neighbouring wooded areas overlaps parts of the route). The key identifies two types of uncoloured road, one with wider spaced casing lines (roads under 14” wide with a bad surface) and one with narrow spaced casing lines. From comparison with the other uncoloured routes on the map the application routes are shown using the narrow spaced casing lines which the key identifies as ‘minor roads’. Most uncoloured roads (between either narrow or wider casing lines) shown on the extract are now public roads. However, the way extending roughly east north-east from point E, and the route providing

<sup>2</sup> Quoted in Oliver, R. (2005) *Ordnance Survey Maps. A concise guide for historians* Charles Close Society for the Study of Ordnance Survey Maps, London, page 92.

access to Rowland's Farm (labelled RF at appendix 13) are both shown as uncoloured roads and neither are now recorded as public rights of way of any kind.

**5.6.8 OS Popular Edition Cassini reprint, 1919.** Extract only.  
**Appendix: 14**

This extract depicts the application routes in the same way as the OS Contoured Road Map for Chard and Axminster, 1919 (see 5.6.7 above), but no key was provided.

**5.6.9 Ordnance Survey Road Map, half inch, Taunton and Weymouth, 1928.** Extract only.  
**Appendix: 15**

Both application routes are shown uncoloured with casing lines of equal thickness. The key identifies Ministry of Transport "A" roads (red), Other Motor Roads (yellow with a shaded casing line), and Other Motor Roads narrow Good (yellow, casing lines of equal thickness) and Bad (uncoloured, casing lines of equal thickness) and Minor Roads as slightly narrower, uncoloured, with casing lines of equal thickness. The difference between the thickness of the two uncoloured roads is slight, but from comparison with the other uncoloured roads on the extract of the map provided the application routes appear to be classed as Minor Roads.

**5.6.10 Ordnance Survey Map**  
**1 inch: 1 mile 1937 Sheet 129, fifth edition.** Extract only.  
**Appendix: 16**  
**1 inch: 1 mile 1946 New Popular Edition, sheet 177 (revised 1930 with later corrections).** Extract only.  
**Appendix: 17**

Both maps show both application routes as narrow, uncoloured, with casing lines of equal thickness. Both keys identify them as 'Minor Road in towns. Drives and Unmetalled Roads'.

**5.6.11 Interpretation of Ordnance Survey evidence**

The 1808 'Old Series' map and 1811 Surveyors Drawing both show the application routes in the same way as other both public and private routes are shown.

The 1888 25 inch to 1 mile map shows a solid line across the application route at point B possibly indicating a barrier. A further feature, possibly a pond is shown in the same position on the 1903 map. A transverse line is also shown at point C on the 1898 1 inch to 1 mile map. A solid line across the application route may indicate a physical barrier most likely a gate. While it is rare, it is possible for a public road to have been gated. Ponds were also sometimes deliberately used to wet the wheels of carts to avoid shrinkage as the wood dried out, but without further evidence it is not possible to tell

whether the possible pond was used for this purpose, although the shape (not rectangular and not apparently wide enough) would suggest it wasn't constructed for use as a cart pond. Overall however, this map weighs slightly in favour of the route being a private, rather than a public vehicular way.

In relation to thickened casing lines the Planning Inspectorate's Consistency Guidelines state that "*From 1884 onwards, on the large scale plans, those metalled public roads for wheeled traffic, kept in proper repair by the local highway authority, were to be shown with shaded or thickened lines on the south and east sides of the road.*"<sup>3</sup> On the 1888 25 inch map the southern part of 511M has a shaded casing line to the east between point E and Rapps Cottage, and is partly coloured sienna. This suggests the surveyor believed this portion of application route 511M was a public, metalled, vehicular route kept in good repair by the highway authority. However the weight attributed to the surveyor's view is lessened by the fact that routes which do not carry public vehicular rights, such as the road leading to Rowlands Farm, are depicted in the same way<sup>4</sup>.

The 1898 1 inch to 1 mile and 1903 25 inch to 1 mile map both show the application routes with casing lines of equal thickness, which could be either public or private. Use of a pecked line annotated with 'FP' on the 1903 map indicates the physical existence of a route to the west of B-C, but not whether or not it carried public rights. In any case it is noted that the footpath is shown on the field side of the boundary and not over the current application route.

Both 1919 maps show routes which are now both public and private in the same way as the application route.

The 1928 map identifies the application routes as 'Minor Roads' but does not indicate whether or not they were considered to be public or private roads.

The classification of the application route on the 1937 and 1946 one inch maps as 'Drives and Unmetalled Roads' (as they are clearly not minor roads in a town) does not indicate public or private status. A 'drive' is usually a private access to a property, but an unmetalled road could be either public or private.

The way in which roads were depicted on OS maps was more concerned with the physical characteristics (whether metalled, whether in good repair etc) than their public or private status. The OS maps are therefore excellent evidence for the existence of the route on the ground, but would be consistent with either public or private rights and they do not help determine whether the general public had a right of way over the application route, or if they did, what

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<sup>3</sup> DMO Consistency Guidelines, 6th revision May 2015 Section 12.26, page 8

<sup>4</sup> This accords with Dr Hodson's analysis in her article 'Roads on OS 1:2500 plans 1884-1912' in which she concludes that shaded casing lines were used to depict well maintained private, as well as public, roads.

type of right of way they had. OS maps themselves have carried a statement to this effect since 1888 and case law confirms this view.<sup>5</sup>

The description of Copse Lane as 'a public lane' in the Object Name Book by itself is fairly good evidence in favour of public rights. However, the term 'lane' is less helpful in determining what type of public rights might exist. 'Lane' is defined in *The Concise Oxford Dictionary of Current English* (1911)<sup>6</sup> as 'Narrow road usu. between hedges' and there is no indication of whether public use was on foot, horseback or in vehicles.

It has not been possible to identify W. Speke who corroborated the spelling of Copse lane. However, he was clearly a Justice of the Peace and is identified in the object name book as the owner of Rapps Farm. Contemporary records give the surname of landowners in the area as Speke, including fields bordering the majority of the application routes in the 1910 Finance Act records (hereditaments 2 and 71 owned by Major Speke). W. Speke is therefore likely to be a reliable source, although he does describe Copse Lane as running N. E. when in fact, it runs North from the point he described. As W. Speke is described as the owner of Rapps Farm it is perhaps of some significance that no landowner is given for Copse Lane. If it was owned by W. Speke who was providing the authority for the names in these entries it would be expected that he would be named as the landowner as he was for Rapps Farm. Copse Lane may have been in other private ownership, but this document suggests W. Speke of Jordans, Ilminster, did not consider that he owned Copse Lane.

The primary purpose of the Object Name Book was, however, to check the spelling of names, not the status or ownership of roads, and it is therefore not conclusive and needs to be considered in the context of the rest of the evidence.

## **5.7 1910 Finance Act**

**5.7.1 Explanation of the type of evidence** The Finance Act of 1910 provided, among other things, for the levy and collection of a duty on the incremental value of all land in the United Kingdom.

Land was broken into land ownership units known as hereditaments and given a number. Land could be excluded from payment of taxes on the grounds that it was a public highway and reductions in value were sometimes made if land was crossed by a public right of way. Finance Act records consist of two sets of documents which are:-

- Working Plans and Valuation Books. Surviving copies of both records may be held at the Local Records Office. Working maps may vary in details of annotation and shading. The Valuation Books generally

<sup>5</sup> Attorney General v Antrobus (1905), quoted in *DMO Consistency Guidelines – 5th revision July 2013*, Section 12, page 1

<sup>6</sup> P.455, H. W. Fowler and F. G. Fowler.

show records at a preparatory stage of the survey.

- The record plans and Field Books (small bound books) are the final record of assessment and contain more detail than the working records. The Record Plans and Field Books are deposited at The National Archives, Kew.

While the Valuation and Field Books were generally kept untouched after 1920, many of the working and record maps remained in use by the Valuation Offices and sometimes information was added after the initial Valuation process.

The 1910 Finance Act material did not become widely available until the mid 1980s. It cannot therefore have been considered during the Definitive map making process and can be considered “new evidence”, if it is relevant.

**5.7.2 Finance Act Working Copy Map. SWHT reference number: DD/IR/OS 80/12 and 80/16. Finance Act Valuation Book. SWHT reference number: DD/IR/T/2/3. Appendix number: 18  
Finance Act Record Plan map sheet LXXX.12 and LXXX.16.  
Appendix number: 19**

### **5.7.3 Description and interpretation of evidence**

The working copy of the Finance Act Map sheet LXXX.16 shows both the southern part of Copse lane and 511M excluded from the surrounding hereditaments. A footpath (parallel dashed lines labelled F.P.) is shown on the base mapping in the field immediately to the west of the application route along the route of footpath CH 1/21 and parallel with application route 511M. This hereditament is numbered ‘2’ and a deduction of 10 is shown for ‘Public rights of way or user’ in the Valuation Book, but it is uncertain whether this relates to one, or both foot paths indicated on the base mapping. In any case neither runs over the application route.

Sheet LXXX.12 does not show valuation information for the relevant area and therefore the northern part of Copse Lane which is shown on the base mapping is neither included nor excluded.

The Record Plans also show both application routes excluded from the surrounding hereditaments, although the red line outlining the hereditaments crosses 511M at point E (see appendix 19). This is probably a drafting error as there is no corresponding line at the other end of the way, and no hereditament number is given for the way.

If a route in dispute is external to any numbered hereditament, there is a strong possibility that it was considered a public highway, normally but not necessarily vehicular. However, there may be other reasons to explain its exclusion<sup>7</sup>. Most excluded routes on the record plan are public vehicular roads, but there are exceptions particularly where a right of way travels over a

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<sup>7</sup> *DMO Consistency Guidelines – 5th revision July 2013 Section 11 page 4*



fenced route. For example (all labelled on Appendix 19);

- on map sheet LXXX.11 footpath CH 1/12 and CH 1/1,
- on map sheet LXXX.15 footpath CH 1/14.

The route of bridleway CH 1/7 is partly excluded from the surrounding hereditaments where it travels over Parsonage Lane (not a vehicular route), which appears from the base mapping to be fenced as far as Parsonage Farm. Although the southern end of the current bridleway CH 1/7 runs over an apparently fenced route, this section was diverted onto this route under Section 108 of the Highways Act 1959, in 1966, and originally ran over the unfenced section indicated on appendix 19, and this section is included in hereditament 139.

There are also some ways which carry no recorded public rights at all which are excluded from surrounding hereditaments, although most of these are cul-de-sacs;

On map sheet LXXX.16;

- the ways which extend approximately north-east and south-west from point D on Appendix 1.

On map sheet LXXX.11;

- the route at Kenny (labelled K on Appendix 19)
- an un-named way (labelled LP on Appendix 19)

On map sheet LXXX.15;

- a route leading to Venner's Farm (labelled VF on Appendix 19)
- a route south of Barrington Hill Farm (labelled BH on Appendix 19)

In addition some apparently fenced routes over which no public rights are recorded are included in hereditaments, including on map sheet LXXX.15 the route leading from Comers Barn to Every's Copse (labelled EC on Appendix 19) and the way leading to Rowland's Farm (RF on Appendix 19).

It therefore seems that where a public footpath or bridleway was fenced (shown on the base mapping as solid rather than dashed casing lines) in this area at least it was not uncommon for it to be excluded from the surrounding hereditaments even though no public vehicular rights existed over that route. Application route 511M is recorded on the DMS as a footpath and is therefore a public highway, and although public highways excluded from hereditament in Finance Act records are "normally" vehicular, they are not "necessarily" so. In isolation, the exclusion of route 511M from the surrounding hereditaments would therefore be entirely compatible with public rights no higher than a footpath. This accords with the approach taken by Mr Beckett to the Finance Act 1910 evidence in relation to an order to upgrade a footpath to a bridleway in the Lake District. While evidence of this nature clearly needs to be considered on a case by case basis, in that case Mr Beckett took the view that "the exclusion from the assessment is that the surface of the Order route carried a public highway; where such highways followed enclosed lanes they were generally not subject to the valuation process. As the route is currently recorded as a public footpath in the DM&S, I cannot place significant weight upon the Finance Act map as showing the existence of a public highway of a higher status than that which is known to subsist; it is not improbable for the only public rights in existence in 1910 to have been those pedestrian rights

currently recorded”.<sup>8</sup>

Application route 510M (Copse Lane) is also excluded from the surrounding hereditaments which would normally be good evidence of public rights, but as it is also shown as fenced, and there are some fenced routes nearby over which there are no recorded public rights which have also been excluded from the surrounding hereditaments, this evidence is weakened.

### **5.8 Highway Road Records held by the County Council**

**5.8.1 Explanation of the type of evidence** The Local Government Act 1929 transferred the responsibility for maintenance of certain highways from Rural and Urban District Councils to County Councils. At that time ‘Handover Maps’ and schedules were prepared showing all roads to be maintained by the County Council at this point. Subsequent maps showing roads for which the County Council was liable to maintain were produced in the 1930s, 1950s and in the 1970s.

#### **5.8.2 Handover Map and Schedule (November 1929) Appendix number: 20**

Both application routes are shown on OS base mapping, but are uncoloured indicating they were not considered to be roads maintainable at public expense.

#### **5.8.3 1930’s Road Records Appendix number: 21**

Both application routes are shown on OS base mapping, but are uncoloured indicating they were not considered to be roads maintainable at public expense.

#### **5.8.4 1950’s Road Records Appendix number: 22**

Both application routes are shown on OS base mapping, but are uncoloured indicating they were not considered to be roads maintainable at public expense.

#### **5.8.5 Interpretation of evidence**

These records show that from 1929 the highway authority did not believe the application routes were maintainable at public expense. However, it does not necessarily follow that excluded routes could not have been highways at the time. These records are therefore considered to offer little assistance in determining the status of the routes.

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<sup>8</sup> Alan Beckett BA, MSC, MIPROW, Inspector, The Planning Inspectorate, reference FPS/Q9495/7/27

## **5.9 Definitive Map and Statement preparation records**

**5.9.1 Explanation of the type of evidence** The Definitive Map and Statement were produced after the National Parks and Access to the Countryside Act 1949 placed a duty on County Councils to survey and map all public rights of way in their area. The process was undertaken in four stages:

- Walking Survey Cards and maps - Parish Councils were required to survey the paths they thought were public paths at that time and mark them on a map. The route was described on a survey card, on the reverse were details of who walked the route and when. Queries for the whole parish are often noted on a separate card.
- Draft Map – Somerset County Council produced the Draft Map from the details shown on the Survey Map. These Maps were agreed by the County Works Committee and the date of this Committee became the ‘relevant date’ for the area. The map was then published for public consultation. Any objections received were recorded in a Summary of Objections found in the District file.
- Draft Modification Map – This stage in the process was non-statutory. SCC produced a map to show any proposed changes as a result of objections to the Draft Map. Any objections received were recorded in a summary of Counter Objections to the Draft Modification map, found in the District file.
- Provisional Map – This map incorporates the information from the Draft Maps and the successful results of objections to the Draft Modification Maps. These were put on deposited in the Parishes and District Council offices at this point only the tenant, occupier or landowner could object,
- Definitive Map and Statement – Any path shown is conclusive evidence of the existence and status of a public right of way until proved otherwise. The Definitive Map is without prejudice to other or higher rights.

### **5.9.2 Survey Card**

No survey card was found in respect of either of the two application routes and there is no reference to it on the parish ‘query’ card.

### **5.9.3 Survey Map**

The Parish Survey map of Ashill was not available.

### **5.9.4 Draft Map, November 1954**

#### **Appendix: 23**

The whole of both application routes is shown in a light brown colour and labelled CH 12. CH 12 continues (coloured light brown and labelled) along Merryfield Lane at least as far as Merryfield Cottage, although not along the whole length of Merryfield Lane to Podger’s Lane in Ilton.

### **5.9.5 Objections to the Draft map**

#### **Appendix: 24**

The Ramblers' Association (Objection No. 3231D60) objected to the omission of "(a) Copse Lane (b) From north end of Copse Lane eastwards across path 1/20 to Pound Corner." Part b of this objection refers to Merryfield Lane and not to any part of the application route under consideration here.

The observations of the County Surveyor were "if Copse Lane is included it should continue south past White House to county road at Rapps. It is quite possible that the public have acquired a right of passage by usage over both these lanes which are unmade and grass grown. Not claimed by the Parish Council." The County Archivist looked at the Tithe Maps of Broadway (1845) and Ashill (1839) and the deposited plans of the Chard and Taunton Railway (1860) but found no relevant enclosure award. The Chard and Taunton Railway documents would only have been relevant to part b of the objection, as the railway crossed Merryfield Lane, not Copse Lane.

On the summary of objections the Clerk observed that "These appear to be ancient highways" and it was resolved to "Add footpaths along whole lengths up to Podger's Lane."

A letter of 27/08/1958 from the Clerk of the County Council to the Footpath Secretary of the Ramblers Association informs them that "I propose to advise the Surveying Authority to add the undermentioned paths to the Draft Map:-

- (a) Copse Lane; and
- (b) From the north end of Copse Lane eastwards across path 1/20 to Pound Corner. "

The lane running east from the north end of Copse Lane is Merryfield Lane. Podger's Lane runs south-east from the south-east end of Merryfield Lane before turning south to a junction with Cad Road in Pound Corner, Ilton, and is now a public road. The 1950's road records show Merryfield Lane south-west of Merryfield Cottage as a public road, meaning this resolution would have recorded a footpath over a public vehicular road.

It should be noted that an extract from the minutes of a meeting of the Public Rights of Way Sub-Committee dated 24<sup>th</sup> November 1958 (not included in the appendix) refer to reopening public rights of way after Merryfield Airfield was closed. Specifically, the minutes refer to adding "89a From Wood House Farm to and along Copse Lane". This does not refer to the application route under consideration here, but to Copse Lane in Ilton, and the route of definitive footpath CH 15/26.

#### **5.9.6 Draft Modification Map, February 1959**

##### **Appendix: 25**

Both application routes are shown in purple (for a footpath) labelled 1/23 and continuing along Merryfield Lane as far as Merryfield Cottage, where Merryfield Lane becomes a public road.

#### **5.9.7 Objections to the Draft Modification Map**

##### **Appendix: 26**

The summary of objections to the Draft Modification Map and Statement record an objection by the British Transport Commission to the decision to add Copse Lane (510M) and the route from the north of Copse Lane to Pound Corner. The observations of the Clerk were 'No evidence of public user' and the determination was to "Delete 1/23 etc., from Draft Map." Which was then annotated in pencil with "pt" after '1/23' (presumably an abbreviation of 'part') and "WARS [...] leave S. Section in."<sup>9</sup>

A letter dated 6<sup>th</sup> October 1960 from the Clerk of the County Council informs the County Surveyor that he proposes to advise the Committee to reinstate Copse Lane "from the Ilminster Road to the south eastern corner of Ashill Wood as a CRF."<sup>10</sup> This would cover both application route 510M and 511M.

An extract from the minutes of the Public Rights of Way Sub-Committee, 21 November 1960 resolved to "formally reinstate Copse Lane to the Draft Map as a CRF."

#### **5.9.8 Provisional Map, September 1962**

##### **Appendix: 27**

**'Definitive Maps Chard RD working notes etc and queries arising', undated.**

##### **Appendix 28**

Footpath 1/23 (application route 511M) is shown coloured purple and labelled as currently recorded between points C and F on Appendix 1. From point B to A (510M, Copse Lane) as well as the full length of Merryfield Lane, is coloured pale brown<sup>11</sup>, but not labelled.

Handwritten undated notes titled 'Definitive Maps Chard RD working notes etc and queries arising' held at County Hall contain several references to footpath CH 1/23. One on a sheet headed 'Chard RD. Definitive Map. Chard alterations + corrections' gives the path number and parish, with 're-type' next to it, with columns for HO, RDC and P<sup>12</sup> all of which are ticked, and F and M(2)<sup>13</sup> which are labelled in red 'at Prov. Stage'. Another list in the same document contains the entry in the column 'Queries at Definitive Stage', "Should not all be deleted as on schedule. Leave south section at White House, joining 1/21." And under 'Decision' "Mr Strickland aprs" and "at Prov. stage" added in red pencil and ticked. White House Farm is at point E on Appendix 1.

#### **5.9.9 Definitive Map and Statement**

##### **Appendix: 29**

<sup>9</sup> WARS are the initials of Mr Strickland, who was an employee of Somerset County Council.

<sup>10</sup> CRF stands for 'Carriage or Cart Road used as a Footpath', a term with no legal definition, but roughly equating with a RUPP (Road Used mainly as a Public Path).

<sup>11</sup> The pale brown colour may be the residue of the deletion of a line rather than a deliberate mark on the map.

<sup>12</sup> It is uncertain what these initials refer to.

<sup>13</sup> It is uncertain what these initials refer to.

The definitive statement describes footpath CH 1/23 (application route 511M) as starting at “county road east of Three Oaks Cross and runs south past White House and junction with path no.21 to the county road north of Bow Bridge”. The definitive map shows footpath CH 1/23 in purple ink running between points C and F.

Application route 510M is not currently recorded as a public right of way and therefore does not appear on the Definitive Map or Statement.

#### **5.9.10 Interpretation of evidence**

Although the exact meaning of some of the references to CH 1/23 is uncertain, the records show that both application routes 510M and 511M were considered in detail during the preparation of the DMS and that those compiling the DMS were persuaded to change the way in which the routes were recorded at several stages as the result of additional evidence and objections. The description by the County Surveyor of both application routes as “unmade and grass grown” at the Draft Map stage suggests that neither were well used as public vehicular routes in the 1950’s, but his comment that the public may have acquired rights suggests he thought there was or had been some public use of the routes. Against this must be considered objections to the Draft Modification Map which suggest that no evidence of public use was found at that stage.

Ultimately, having considered all the evidence that was available to them, the County Council at the time concluded there was insufficient evidence to record application route 510M as a public right of way, or application route 511M as having higher rights over it than that of a footpath. However, the DMS is only conclusive of what it contains and not of what it omits and the discovery of new evidence in this case requires re-examination of all the evidence.

### **5.10 Other Commercial Maps**

#### **5.10.1 Day and Masters 1782.**

##### **Appendix: 30**

#### **Description and interpretation of evidence**

Although the map covers the whole area of the application routes, only the southern end of route 510M is shown, identified by the key as an ‘Inclosed Road’ (unbroken narrow casing lines of equal thickness). There are many possible explanations for the way in which the route is depicted, from it being a public road not considered by the surveyor to be significant enough to include on the map in full to a well maintained private road partially included to assist those using the public roads in ascertaining their progress. The lack of depiction of the majority of the application route strongly suggests it was not a significant public road in 1782, but beyond this, the scale and detail of the map mean it is given no weight in this investigation either way.

## 5.10.2 Greenwoods Map1822

### Appendix: 31

#### Description and interpretation of evidence:

The application route is shown from point A to point D with casing lines of equal thickness. The public roads between points B and C and running south from point F are shown with thickened casing lines to the south and east. Between points E and F no route is shown, and (as on the Enclosure Map and 1811 OS Surveyor's Drawing) the triangle of land to the east is shown shaded, in this case with irregular transverse dotted lines. A dashed line running along the centre of part of the route appears to be defining an area of land (perhaps parish, tything etc) and to be unrelated to the status of the roads.

The map includes a key which identifies the application routes as a Cross Road, and those roads with thickened casing lines as Turnpike Roads. The dotted line shading used on the triangle of land at the southern end of 511M is not identified on the key, but is used extensively nearby over the areas labelled 'Neroche Forest' which appear from the key to Greenwoods map to be 'Heaths and Commons' because of the way in which the roads running through these areas are depicted.

The term 'cross road' was clearly not being used to refer simply to the point at which two roads cross. While the precise meaning of the term therefore needs to be considered in relation to what the map itself shows, it is worth noting that in one prominent case the courts defined the same term as meaning 'a **public** road in respect of which no toll is payable'<sup>14</sup> (my emphasis). In that case the judge was not referring specifically to Greenwoods map but to a different map and it is of course possible that the term was used for a different purpose on different maps<sup>15</sup>.

As the map was produced for use by members of the public it is very likely that the surveyor would have placed more importance on depicting those roads that he believed to be publically accessible. However, at a time when travel could only be on foot, horseback or by horse drawn vehicle, it is entirely plausible that footpaths and bridleways could have been included as important routes. Furthermore, several routes which were unlikely to have carried public vehicular rights are also shown as cross roads. For example, the way leading to Rowland's Farm (labelled RF on appendix 31) is depicted in the same way as the application routes, but is a cul-de-sac and has no public rights recorded over it.

It seems likely that Greenwood either did not consider all 'cross roads' to be public vehicular routes, or that he did not make very careful checks about the public status of the routes he recorded. It also seems possible he considered the southern part of the route shaded with dotted lines to be heath or common.

<sup>14</sup> Hollins v Oldham (1995) in *DMO Consistency Guidelines – 5th revision July 2013*

<sup>15</sup> Section 2.24, page 7, *DMO Consistency Guidelines – 5th revision July 2013*

Overall therefore, Greenwood's map is not strong evidence for public rights over the route, and not good evidence for distinguishing different levels of public rights.

**5.10.3 Bartholomew's Map. Reference: Sheet 34. 1902, 1911, 1923 and 1927.** Extract only - 1911 and 1927 edition.  
**Appendix: 32**

#### **Description and interpretation of evidence**

Bartholomew's map was produced for use by members of the public, particularly cyclists, at a scale of two inches to a mile.

The 1902, 1911, 1923 and 1927 editions all show the whole of both application routes uncoloured with narrow casing lines of equal thickness. All four editions also show a route in the same way parallel with Copse Lane (510M) on the east side of Every's Copse (labelled EC on Appendix 32), over which there are no recorded public rights today. This suggests either that public and private routes were depicted in the same way on these maps, or that the surveyor did not make very careful checks as to the status of at least the minor routes that were being depicted. The 1902 and 1923 key describes the uncoloured roads as inferior and not to be recommended, the 1911 key describes uncoloured roads as inferior and not to be recommended to cyclists. They also carry the statement "The representation of a road or footpath is no evidence of the existence of a right of way."

These maps are therefore good evidence that the routes existed on the ground, and that they were in a physical state that meant the surveyor thought they were unsuitable for cyclists. However they cannot be given any weight either way in the investigation as the way in which the routes are depicted would be compatible with either public or private rights.

**5.10.4 Royal Automobile Club (RAC) Official Touring Map, 1913.** Extract only.

**Appendix: 33**

#### **Description and interpretation of evidence**

Copse Lane is clearly shown as uncoloured with black casing lines of equal thickness. Application route 511M is less clear on the extract, partly obscured by red ink which may relate to an adjoining road. The key identifies first and second class roads coloured red, and uncoloured routes as 'Other Roads'. Although a map produced by the RAC might be expected to concentrate on showing roads which its members could drive along, other topographical features which would assist a driver in determining where they were are also shown, such as rivers and railways. Without knowing more about the principals used when surveying this map it is difficult to give it much weight either way in this investigation.



## **5.11 Other documentary sources**

### **5.11.1 Will of Mary Woodland, 31<sup>st</sup> May 1808 and associated plan 'Plan the Second Rapps Farm in Ashill & Broadway in the County of Somerset belonging to Mrs M. Woodland 1808'.**

**SWHT Ref. DD\SPK/2/1/38**

**Appendix: 34 (plan) and 35 (will).**

### **5.11.2 Description and interpretation of evidence**

The plan is referred to by the applicant as 'Sales documents for Rapps Farm'.

The will lists the property Mary Woodland intended to leave to each of her children, referring to plans surveyed by Charles Chilcott, giving the names of the properties, the area in acres and describing the position of the different parcels of land in relation to each other. It does not refer to the application routes.

The plan, which is specifically referred to in the will and is signed by Mary Woodland and witnesses, shows the plots of land referred to in the will outlined by vegetation tinted green, numbered, and listed with the properties name, area and land use in a reference table. The roads connecting the various pieces of land are shown uncoloured with casing lines of equal thickness. Between the plots of land referred to in the will little detail is shown, although some fields are outlined in black and the names of (presumably) neighbouring landowners are given.

The whole of Copse Lane is shown, unnumbered and unlabelled, with plots of land 4, 5, 6, 7 and 8 to the west, and 'Speke Esqr.' to the east. Application route 511M is shown between points C and D with 'Cuff' to the west and plots of land 2 and 3 to the east. Between points E and F the application route is included in a triangle of land labelled 'Rapps Heathfield'. This triangle of land is now bordered by three routes - a public road to the south-east, the application route to the west, and a linear way with no currently recorded public rights<sup>16</sup> to the north – none of which are defined on the 1808 plan. This is similar to the way in which the area is depicted on the 1811 OS Surveyor's Drawing, Greenwood's 1822 map and the Neroche Forset Enclosure map of c. 1830.

The plots of land numbered 5, 6 and 7 do not adjoin public roads, although they adjoin each other and plots in the ownership of Mary Woodland which do adjoin public roads all of which were bequeathed to Richard Woodland. Therefore, although access to these plots of land could have been gained from Copse Lane, and it may well have been more convenient to access them from Copse Lane, they could also have been accessed through adjoining plots in the same ownership without using Copse Lane.

The will and plan do not include any part of the application route as belonging to Mary Woodland or another named landowner. However, the purpose of the will and plan was to show the land belonging to Mary Woodland and to whom

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<sup>16</sup> An application to record this route on the DMS as a Restricted Byway has been received.

she intended to bequeath it. Therefore, these documents only indicate the routes were not owned by Mary Woodland and do not help determine whether the ways were public or private.

The inclusion of the southern part of 511M together with the area over which a public road now runs in the piece of land labelled 'Rapps Heathfield' indicates there was something different about the ways at this point, possibly that they were not fenced or well defined. However, without further information it is not possible to tell if this is evidence in favour or against public rights. Therefore, beyond confirming the existence of the routes on the ground in 1808 (with the possible exception of the southern end of 511M) this document is given no weight either way in determining what public rights existed.

**5.11.3 Draft – Plan of lands in the parishes of – Beer Crocombe Ashill, White-Lackington, Isle Abbots South Bradon, Ilton Buckland St. Mary and Broadway, belonging to the trustees of the late Earl of Egremont Compiled from Maps of the several Parishes September 1852**  
**SWHT Ref. DD/WY/C306/SOM/1**  
**Appendix: 36**

**5.11.4 Description and Interpretation of the Evidence**

A plan at the scale of 8 chains to the inch, with a coloured key identifying named individuals, presumably lessees. Little detail is shown beyond the coloured parts of the map, with blank spaces where there was no interest in the land. The northern end of Copse Lane is shown at point A only, and 511M is shown from point D to F. The triangle of land to the east of 511M between E and F is separated from the surrounding three ways, including the application route, by a dashed line and labelled Rapps Green. Other ways on the map are shown with two solid casing lines of equal thickness. None of the application route or Rapps Green are coloured and appear on the edge of the depicted detail. They are therefore presumably included to provide context for the areas of the map which depict lands in the ownership of the trustees. This is particularly likely, as the plan continues on another sheet and the Catherine Wheel Gate (less than 500 metres south of the application route) is the point at which the viewer is instructed to join the two plans.

As the application route is only partially depicted, and falls outside of the areas which the plan was created to show, this source is of little value in this investigation. It does, however, again show Rapps Green as being separated from the application route in a different way from the other roads in the area, perhaps suggesting a different physical characteristic. It does not help determine whether public or private rights existed over the application routes.

**5.11.5 Sales particulars for land in Ashill and Broadway, 1858.**  
**SWHT Ref. DD\SAS/C795/PR/463**  
**Appendix: 37**

**5.11.6 Description and Interpretation of the Evidence**

The sales documents include a plan showing the plots of land which make up Lot 1 and lists them in the particulars as "being for the most part an extract

from the Book of Reference to the Tithe Commutation Map of the Parish of Broadway aforesaid". The numbered plots shown on the map and listed match those on the Broadway Old Enclosures tithe map discussed in paragraph 5.5.2, above. Lot 1 is made up of plot 247, 248, 249 and 250 to the west of Copse Lane (application route 510M), and plot 270, 271 and 272 to the east of application route 511M between point C and D. The plan only shows the route up to slightly south of point E. All routes shown on the extract are depicted in the same way, uncoloured with casing lines of equal thickness. Some of the roads which continue beyond the limit of the plan are labelled with a destination, although not the application routes. Field divisions beyond the plots for sale are not given although the names of (presumably) neighbouring landowners are given across broad areas. None of the ways shown on the plan are numbered or listed. The particulars also include the statement "The whole of the above mentioned Properties are situate about 8 miles from Taunton and 4 from Ilminster, and adjoin good Roads." And in the Condition of Sale 11<sup>th</sup> "That the several Lots will be sold, subject to all existing Leases and Agreements under which the present Tenants occupy the same, to the Land-Tax, Tithe Rent Charge, and other usual Out-goings, and to all existing Rights of Way, and other easements affecting the same".

The plan and sales particulars clearly do not include any part of the application route in the land for sale. However, the purpose of the documents was to show prospective purchasers what land was for sale, where it was located and what its use was (garden, orchard etc). These details seem to have been largely derived from tithe records rather than produced expressly for the purpose of the sale. Although all the plots of land included in lot 1 could be accessed through other plots of land included in the same lot, it is likely that vehicular rights of some sort existed over Copse Lane as this would have been a more convenient way of accessing these plots. The statement that all the properties adjoin good roads may refer either to the public roads, or to private ones, and although it does not give details, the conditions of sale make it clear that any public rights of way and easements affecting the lots will remain. Therefore, beyond confirming that the routes existed on the ground in 1858 and that vehicular rights of some kind may have existed over Copse Lane these documents only indicate the routes were not included in the property to be sold and do not help determine whether the ways were public or private.

5.12 Other sources of Primary Documentary Evidence which either did not cover the relevant area or did show the claimed routes but do not assist in determining the status.

Lord Egremont's Somerset Estates B 1801(DD/WY/225)

Report on roads in West Sedgemoor set out by the Commissioners following enclosure, 1822.

An Act for inclosing the Forest of Roach otherwise Roche otherwise Neroach otherwise Neroche, in the Parishes of Broadway, Bickenhall, Beercrocombe, Ilton, Barrington, Ashill, Ilminster, Whitelackington, Curland, Donyatt, Isle Abbotts, Hatch Beauchamp, and the Tything of Domett in the Parish of

Buckland Saint Mary, or some or one of them, in the County of Somerset.  
1830. (DD/WY/174)  
Plan of parish commons in Neroche Forest, Broadway, circa 1830  
(DD\SAS/C1193/2)  
Sales documents, 1861 and 1862 (DD/SAS/C/1193/2 and  
DD/SAS/C/795/PR/463/2)  
Chard Rural District Council Highway Board Minutes 1882 – 1896  
(D/R/ch/32/2/1)  
Enclosure Award for Curland and Neroche Forest 1833 (Q/RDE/107)  
Particulars and valuations of allotments in the forest of Neroche, within the  
parish of Broadway, and the tithing of Capland. 1833 (A\ALU/3)  
Agreements for maintenance of roads etc.(D\R\ch/32/2/13)  
Quarter Session records for Ashill

### **5.13 Documentary Evidence Conclusions**

5.13.1 The majority of the evidence, including commercial maps, OS maps, sales documents and the will of 1808, confirm the physical existence of the application routes or parts thereof, and are suggestive of vehicular rights. However, they give little indication of whether those rights were public or private.

5.13.2 Both application routes have existed on the ground since at least 1808. A number of sources dating from the early to mid 19<sup>th</sup> century depict the southern part of 511M (between points E and F) differently to the rest of the route, perhaps as unfenced. In any case none of the sources include a key which shows this depiction to be related to the public or private status of the routes. No enclosure documents have been found which assist in determining the status of either application route, and the tithe records of 1840 would be compatible with either a public or private way which produced no titheable income.

5.13.3 Preparation documents for the Definitive Map show the status of both application routes were considered in some detail although the full extent of the evidence that was relied upon at each stage remains unclear. The County Surveyor describes both routes as 'grass grown', and the County Archivist looked at the Tithe Maps of Broadway (1845) and Ashill (1839) (and the deposited plans of the Chard and Taunton Railway 1860 in relation to Merryfield Lane which is not under consideration here) but found no relevant enclosure award. On the basis of the evidence available at the time the routes were recorded on the DMS as footpath CH 1/23 (511M) and as having no public right of way over it (510M, Copse Lane). However, the DMS is only conclusive evidence of the information it contains, and not of what it omits. Additional evidence not considered during the preparation of the DMS in the 1950s, including the 1910 Finance Act documents, are now available and form part of the evidence considered in this report. Therefore the fact that neither application route is currently shown on the DMS as a restricted byway does not necessarily indicate that the route did not carry public vehicular rights in the past.

5.13.4 OS maps published in 1888 and 1903 both depict a solid line across Copse Lane at point B, and an OS map published in 1898 depicts a solid line across 511M at point C. A possible pond is also shown at point B on the 1903 map. A solid line may indicate a physical barrier most likely a gate. While it is rare, it is possible for a public road to have been gated. Ponds were also sometimes used or even deliberately created for wetting the wheels of carts, but the size and shape of this feature suggests it was not deliberately made for this purpose and ponds without firm constructed bases were more likely to be a hazard or barrier to vehicles.

5.13.5 One OS map (1888 25inch) depicts the southern part of application route 511M in a way that is consistent with the surveyor believing it to be a route for public wheeled vehicles (with a thickened casing line to the east) and in a similar manner to many undisputed public vehicular roads. While this certainly provides some evidence of public vehicular rights the weight to be given to it is lessened by that fact that at least one nearby route over which no public rights are recorded is also depicted in the same way. Furthermore the OS are known to have been primarily concerned with topographical features and their maps do not provide good evidence as to the status of a route.

5.13.6 Overall therefore, these maps show physical characteristics which weigh very slightly against use as a public vehicular way over the majority of the application routes. Shaded casing lines between E and F may weigh slightly in favour of public vehicular rights. However, for the reasons given above this is given very little weight.

5.13.7 Against this must be balanced the good evidence which supports the existence of public rights. The OS Object Name Book of 1903 describes Copse Lane (510M, between point A and B) as a public lane, corroborated by 'W. Speke Esq J.P'. 'W. Speke Esq. Jordans, Ilminster' is named in the same document as the owner of Rapp's Farm and Every's Copse (but no landowner is given for Copse Lane) and was also a Justice of the Peace. He is therefore considered to be a very good authority. The use of the term 'lane' rather than 'road' is ambiguous as to what rights W. Speke believed the public had over Copse Lane, but is still in favour of public rights of some kind.

5.13.8 In addition both application routes are excluded from the surrounding hereditaments in the 1910 Finance Act documents. If a route in dispute is external to any numbered hereditament, there is a strong possibility that it was considered a public highway, normally but not necessarily vehicular<sup>17</sup>. However, there are other possible reasons why a route might be excluded and it is therefore important to compare the claimed routes depiction with that of other routes in the area.

5.13.9 The way other routes in the area have been depicted suggests that where a public footpath or bridleway existed and ran over a fenced way, it was not uncommon for the fenced part of those routes to be excluded from

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<sup>17</sup> DMO Consistency Guidelines, 5th revision July 2013 Section 11 page 3 and 4

the surrounding hereditaments and where the route ceased to be fenced the route was not excluded. Furthermore, some routes over which no public rights are known to exist have also been excluded.

5.13.10 Application route 511M was fenced and carries public rights as a footpath. In light of the above analysis, this provides a very plausible alternative explanation for its exclusion from the surrounding hereditaments on the Finance Act (1910) documents.

5.13.11 For route 510M (Copse Lane) the Finance Act documents are weakened by the exclusion from surrounding hereditaments of some routes over which no public rights are recorded. That said, taken together with the description in the Object Name Book of Copse Lane as a 'public' lane, the Finance Act still weighs strongly in favour of public rights over Copse Lane. However, as mentioned above, it seems to have been common (at least in this area) for public footpaths and at least one bridleway to have been excluded from surrounding hereditaments where they were fenced. Copse Lane was fenced and so it is difficult to draw any conclusion from the Finance Act documents as to what status it was considered to be. There are other reasons why a way might be excluded from the surrounding hereditaments on Finance Act documents without being a public right of way, but no evidence for or against another alternative explanation has been found.

5.13.12 In conclusion Copse Lane (application route 510M, between points A and B) has two good pieces of evidence suggesting public rights - the OS Object Name Book which refers to Copse Lane explicitly as a public lane, and the 1910 Finance Act documents which exclude it from the surrounding hereditaments. There is slight evidence that those public rights were vehicular, including reference in the 1858 sales particulars for land in Ashill and Broadway which describe the lots for sale as adjoining good roads. However, this is not considered sufficient to tip the balance of probabilities in favour of the route having been a public road. This conclusion is only strengthened by the likely existence of a pond and gates on the route (as shown on OS maps). While open to more than one interpretation, and certainly not strong evidence, this does weigh slightly against the existence of public vehicular rights.

5.13.13 The minimum public rights which would account for the available evidence are those of a footpath and there is no persuasive evidence that higher rights than this existed. Therefore, on the basis of the available evidence, it is reasonably alleged that Copse Lane (510M) is a public footpath, but not that it carries higher rights. This accords with the view expressed by Lord Justice Carnwath in the Court of Appeal when considering whether use on bicycles was to be taken as evidence of a bridleway or of a restricted byway that "it is appropriate in my view, other things being equal, to infer the form of dedication by the owner which is least burdensome to him".<sup>18</sup>

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<sup>18</sup> Whitworth & Ors v Secretary of State for Environment, Food & Rural Affairs [2010] EWCA Civ 1468, Paragraph 42.

5.13.14 Unlike the claim for Copse Lane (510M), the Object Name Book does not refer to application route 511M. Although the route is excluded from the surrounding hereditaments in the 1910 Finance Act documents it appears that footpaths in the area were excluded where fenced. The claimed route is shown fenced on the base mapping and therefore the Finance Act evidence is as consistent with the routes current recorded status of a footpath as it is with public vehicular rights. In such circumstances it is all the more important to look at this evidence in light of all the other documents available. In this case a thickened casing line to the east of part of the route on the 1888 25 inch map is suggestive of public vehicular rights. However, OS maps are not good evidence of status and, even if it were shown as a public road this would only have been the view of the surveyor. Furthermore the same thickened casing lines were also used to depict well maintained private roads. As such this document can be given very little weight in this investigation. Therefore, on the balance of probabilities, the documentary evidence summarised above suggests that application route 511M is currently correctly recorded as a public footpath.

## **6. User Evidence**

6.1 The user evidence is summarised at Appendix 38.

6.2 Section 31(1) of the Highways Act 1980 provides that a public right of way can be presumed to have been dedicated if it is shown that there has been at least 20 years uninterrupted use of a way by the public 'as of right' (without force, secrecy or permission). The relevant 20 year period must be calculated retrospectively from a point at which the public's use of the route is challenged. This is known as 'presumed' or 'deemed' dedication.

6.3 The presumption of dedication can be rebutted by a landowner if they can show that, during the relevant 20 year period, they undertook 'overt' actions to make it clear to the public that they have no 'right' to cross or be on his/her land.

An overt action may be:

- The erection of carefully worded notices sited in relevant locations
- The locking of a gate
- Challenges to users of the way
- The depositing of a statement and map followed by a subsequent declaration under section 31(6) of the 1980 Highways Act for public rights of way.

6.4 In this case, five user evidence forms were submitted relating to application route 510M (Copse Lane). These provide evidence of use spanning a total of 33 years from 1979 - 2012. No user evidence forms were submitted in respect of the application to upgrade footpath CH 1/23 to a restricted byway (511M).

6.5 Four of the five respondents had used the route on foot, three on horseback and two in a 4x4 vehicle. All believed the way was public, three believed that the way should be a bridleway and two a Byway Open to all Traffic. None had asked for permission.

6.6 Two respondents remembered gates being locked between 2006 and 2008 but keys being given to some local people, a third remembered gates being locked in 2004. Three respondents refer to the route being obstructed by other means. Two were told the way was not public in 2009. One person remembers seeing a notice discouraging access in 2012 but did not give details.

6.7 A plan and statement were deposited with Somerset County Council under section 31(6) of the 1980 Highways Act in 1998 on which CH 1/23 (511M, between point C and F) is shown as a footpath. No public right of way is shown over application route 510M (point A to B). A Statutory Declaration was deposited in 2008.

6.8 Ashill Parish Council (see 8.1.1, below) refer to Ashill residents using the route as a bridleway. However no supporting documents or additional information was provided. The use that they were aware of may have simply been that referred to above, alternatively it may have been with permission, not within the relevant 20 year period or insufficient to demonstrate use by the public. Therefore, while the Parish Council's comments may be suggestive of the route having a reputation as a bridleway in more recent times, it can be given little weight.

## **6.9 Conclusions based on User Evidence**

6.9.1 The plan and declaration deposited with Somerset County Council under section 31(6) of the 1980 Highways Act in 1998 and 2008 constitutes a calling into question of the public use of the route. Had no such deposit been made, the locking of the gates and issuing keys to selected people in 2006 would constitute such a calling into question. Therefore, it is the use in the 20 years preceding this (1979 to 1998) that is of most importance. Although 5 user evidence forms were returned demonstrating use between 1979 and 2012 each respondents use was either not continuous or not for the whole period. No more than three people were using the route at any one time, from 1979 to 1982 only one person was using the route (on foot) and between 1989 and 1999 only two people had used the route, one daily until 1994 and then twice a week, the other 5 or 6 times a year. The statement from the Parish Council also provides evidence for reputation as a bridleway or byway but has been given limited weight due to lack of supporting evidence or detail. Overall this is considered to be insufficient to demonstrate use by the public at large and therefore does not raise the statutory presumption that rights have been acquired.

## **7. Landowner Evidence & Evidence from those against the application.**



7.1 This section of the report includes information provided by the landowners.

Both application routes are in the joint ownership of several individuals, including landowner A, B and C.

#### **7.1.1 Landowner A**

Summary of evidence submitted by landowner A.

The application routes are owned by the respondent. They are farm tracks, made up by the landowner and paid for by the landowner to access their fields and for farming purposes.

They made a Section 31 [Section 31(6) Highways Act 1980] in October 2008.

They allowed the footpath (CH 1/23 511M) between C and F “to be changed from running in the field, as it was originally, to go up the lane, at Whitehouse Farm, which was sensible”. Application route 511M has only ever had a footpath on it and does not lead anywhere useful.

They own application route 510M Copse Lane A to B on Appendix 1. It has been owned by the estate for hundreds of years.

It was an overgrown and impassable until the mid 1960’s when it was cleared by farm workers and made up with hard core in order to access some fields on Rapps Farm. The gravel was used from the old railway line, which the respondent owned and still does.

Copse Lane is gated, and padlocked,. The respondent also claims to have erected signs stating “PRIVATE, NO ACCESS”. All of this was intended to stop gypsies setting up camp on the lane, and stop ad lib wanderers. The signs have been repeatedly torn down and the locks cropped off.

In August 2011 the respondent was advised by the MOD, the Police and Somerset County Council to prevent travellers from taking up residence on Copse Lane. They are of the view that, if gypsies camp on Copse Lane, it is their responsibility to move them off and pay the associated costs.

The two application routes lead nowhere, and would only increase vehicle access to the aerodrome road if upgraded.

The respondent has always allowed local people at Rapps to walk the lane with verbal permission, and local riders have had verbal permission as well, and been given keys to the locks.

Some years ago there was an application to add a footpath over Copse Lane which failed on lack of evidence.

The two application routes should not be upgraded because that would attract more traffic to the area.

If the respondent saw people on Copse Lane who should not be there, they challenged them.

Landowner A provided a letter from a third party (see paragraph 7.1.5 below). They also provided black and white photocopies of three maps;

- Jordans Estate, 1957, Rawlence and Squarey Chartered Surveyors.

**Appendix 39.**

- OS map sheet ST 31NW Somerset 1969. **Appendix 40.**

- OS Map second edition 1903, sheet LXXX.12, 1:2500, with annotations.

**Appendix 41.**

### **7.1.2 Landowner B**

Summary of evidence contained in two Landowner Evidence Forms dated 29/11/16.

510M Copse Lane, from A to B. The application route crosses land owned by the respondent. They have owned the land from 1958 to present. They do not believe the way is, or ever has been, a public right of way.

They have not seen or been aware of members of the public using the way.

They have required people to ask permission to use the route and that use has been occasional.

They allowed local Rapps people to walk the lane with verbal permission and two local people with horses to ride the lane, with verbal permission.

They made a declaration under section 31 of the Highways Act 1980 on 6/10/08.

If they or their farm workers ever see anyone on the lane who should not be, they are politely told that it is private.

Several times over the years the gates on Copse Lane have been padlocked and signs PRIVATE NO ACCESS erected. These have been defaced and destroyed by cropping off the padlocks and tearing down signs. See the letter included with landowner A's response (see paragraph 7.1.5).

511M, C to F. The application route crosses land owned by the respondent. They have owned the land from 1958 to present. They believe the way to be a public footpath. The only footpath is up the lane by Whitehouse Farm (this they allowed, as it was across the field). They have always held this belief. They have not seen or been aware of members of the public using the way. They have not required people to ask permission to use the way. This footpath is very little used by anyone and it would affect their tenants at Whitehouse Farm if the Lane is upgraded – they have lived there for 3 generations and it is all part of the respondents farm. It would also adversely affect their holiday cottage up that lane.

They made a declaration under section 31 of the Highways Act 1980 on 6/10/08.

Neither the respondent nor anyone on the respondents behalf has ever stopped anyone using the route or told anyone the way is not public. They have not erected signs stating that it was not public.

### **7.1.3 Landowner C**

Summary of evidence submitted by landowner C.

The respondent has both run and worked on the Estate for the last 25 years and is a part owner of the estate.

The respondent regularly walks Copse Lane and has seldom come across anybody either walking or riding. The few people that the respondent has met, they have politely challenged and pointed out that it is privately owned and maintained, but have always allowed people to continue their journey.

During the last 10 years, the estate has had trouble with new age travellers and gypsies. They have been advised by the County Council and Police to put gates with padlocks, chains and signs on both ends of the track. Both the chains, padlocks and signs have been cut off and thrown away. The respondent is of the view that, the track is privately owned, the estate would have to fund any legal costs incurred in evicting anybody camped on the track.

At the northern end of Copse Lane lies Ashill Wood. The landowners run a small shoot in these woods, which takes place every Saturday from 20 October – 1 February. There has been a shoot on the Estate for the last 100 years.

The application route between C and F on Appendix 1 is seldom used by walkers and only leads to the A358. It would be a total nuisance and inconvenience to both the tenant at Whitehouse Farm and the landowner's nearby holiday cottage.

The respondent has already given verbal permission to the residents of Rapps to use the route.

### **7.1.4 Landowner D**

Summary of evidence submitted by landowner D.

The respondent confirmed they owned some of the land adjacent to application route 510M.

They reported that they had used 510M on foot, bike, horse and in vehicles. It is also used frequently by members of the public in the same modes of transport. The previous occupier has used the route in excess of 25 years.

In 2011/12, multiple User Evidence Forms were sent to the council from members of the public that use the lane.

Other evidence that the respondent holds has already been submitted to the County Council by the South Somerset Bridleways Association.

#### 7.1.5 Summary of letter submitted with Landowner A's response dated 24/01/2010 with handwritten note "given to [landowner] in 2010 and again on 24<sup>th</sup> November 2016"

The respondent was employed by the tenant of Rapps Farm (a tenant of the current landowners) from 1961.

Copse Lane was a lane which was simply part of the farm. At the time it was completely overgrown and inaccessible and it was not possible to travel on it even by foot from the cover to copse corner.

In 1965 the respondent was given the job of clearing the lane to improve access for farm vehicles and farm machinery. They cleared the lane so that it was possible to walk through and then hauled 600 ton of stone from the disused Speke's Hill railway line crossing to put on the lane so that the farm vehicles and machinery could be moved on it.

In 1980 the respondent moved to [current address]. From 1961 to this time the lane has never been a right of way. It has always simply been part of the farm. When the tenant retired the farm returned to the current landowner. The respondent continued to have the job of maintaining the lane for the current landowner to enable access for farm vehicles until they retired. During this time if the respondent saw a person trying to make their way over the lane they told them it was part of the farm and that they should not travel on it.

#### 7.1.6 Letter submitted with Landowner A's response dated 20/11/16.

*"I have lived at the above address [a property in the vicinity of 511M] all my life and my family for 3 generations. The footpath CH 1/23 passes right beside the farmhouse and is used very little by about 3 different people with dogs. To turn the footpath CH 1/23 and 510M (Copse Lane) into a bridleway would be very disruptive to us. They both only lead to a dead end at Merryfield aerodrome and a back way to the A 358 and no one would want to take a horse or horse and cart on to that busy road.*

*The two lanes have only ever been used for access to the woods and adjacent farmland by the estate owners and their employees and tenant farmers for agricultural and forestry work or gamekeepers to tend their pheasants during shooting season."*

## 7.2 Comments on Landowner Evidence.

7.2.1 Matters relating to recent use of the application routes (Section 31(6) deposit of the Highways Act 1980, gates, locks, signs, permission, verbal challenge etc) are addressed at section 6, above.

7.2.2 Concerns raised relating to the desirability, utility, security or safety of the route, whilst perfectly understandable, are not factors which can be considered in relation to this application.

7.2.3 The 1903 second edition OS map (see 5.6.4), and the 1969 OS map submitted by landowner A (see Appendix 39) show a footpath of unknown public or private status running parallel with application route 511M on the western side of the field boundary. Landowners A and B refer to allowing a footpath to be moved from the field to the track (the current definitive line), but no evidence of how or when this happened has been submitted or found and consequently this information does not assist in determining what public or private rights exist over application route 511M.

7.2.4 The previous application referred to by landowner A to add a footpath to Copse Lane was found on investigation to be application 159M relating to Merryfield Lane, and not either of the application routes under consideration here.

7.2.5 The 1957 map submitted by Landowner A (Appendix 38), which was reproduced from OS map sheets, includes the annotation "*area coloured pink denotes Whitehouse Farm, Ashill, Ilminster*". Although the copy provided is black and white, an additional line not included in the base mapping can be seen around land adjacent to Whitehouse Farm within which the whole of application route 511M is included. Public rights of way can and do exist over land in private ownership and public footpath CH 1/23 is already recorded over this route, and therefore this map does not assist in determining whether or not higher public rights exist over the same route. It includes no additional information regarding application route 510M.

7.2.6 The 1969 OS map submitted by the landowner includes a key which identifies the application routes from A to D as a fenced track, and from E to F as a fenced road. The key does not differentiate between different classes or types of road, and the map includes the usual disclaimer found on OS maps that the representation of a road, track or path on the map is no evidence of the existence of a public right of way. This map is therefore consistent with either public or private rights, and is of no assistance in this investigation.

7.2.7 The information included in the two letters from third parties submitted by Landowner A are relevant to more recent use of the routes, which is discussed in section 6. The County Surveyor described Copse Lane and possibly application route 511M as "unmade and grass grown" when responding to objections to the Draft Definitive Map (see 5.9.5, above) which suggests the route was relatively clear in the mid 1950's, and the information contained in one of the letters that Copse Lane was very overgrown by 1965 shows it became overgrown between the mid 1950's and being cleared in 1965. This would suggest it was not well used by vehicles (whether exercising private or public rights) during that period.

## **8. Consultations and other submissions**

8.1 Consultations regarding the claimed route were sent out to relevant local and national user group organisations in October and November 2016. The table below shows who was consulted and gives brief details of replies that were received.

8.1.1 Ashill Parish Council

“The Byway used to be used as a bridleway by Ashill residents until someone decided to shut it off and at the time one of the residents concerned telephoned SSDC regarding this. They were advised by SSDC that this should not have happened but no further action was ever taken. It is understood that maps show the lane as being a Byway and it is felt it should be left as such.”

An explanation of the current recorded status of the application routes was sent, but no further comments or information were received.

8.1.2 South Somerset Ramblers' Association (Western area)

“I have no useful or historical info, that I can give you  
I have comments though!”

No further comments were received.

8.2 No response was received from the following organisations;

South Somerset District Council  
Councillor Vjeh, Neroche Ward  
British Horse Society – Somerset Office  
British Horse Society – National Office  
Trail Riders Fellowship – Somerset Office  
Auto Cycle Union  
Cycling UK  
All Wheels Drive Club  
Open Spaces Society – National Office  
Open Spaces Society - South Somerset Area  
Natural England  
Ramblers' Association – National Office  
South Somerset Ramblers' Association (Eastern area)  
South Somerset Ramblers' Association (Southern area)  
South Somerset Ramblers' Association (Northern Area)  
British Driving Society – National Office

### 8.3 Draft Report Consultation

8.3.1 Having undertaken the research and consultation exercises referred to above a draft version of this report was produced. On 21 April 2017 comments were invited on that draft from;

- the applicant
- all known landowners and adjacent landowners
- Ashill Parish Council
- the Chairman of Somerset County Council’s Regulation Committee, and;
- the County Councillor for the Ilminster division.

8.3.2 No response was received from the Parish Council, the Local Member for Ilminster, or the landowners. The Chairman of the Regulation Committee at that time commented on various procedural matters but, while generally complimentary of the report, made no substantive comments on its content.

8.3.3 The comments of the applicant and the adjacent landowner are summarised below, together with SCC’s response or the section of the report which is considered to cover the point.

<b>Comment from respondent</b>	<b>SCC response</b>
Two weeks to respond to the draft report was insufficient.	An additional week was allowed for responses. No further responses were received.
There were comments on the format and layout of the report.	While these comments have been noted they do not affect the conclusions reached in the report.
More weight was given to verbal evidence than to documentary evidence.	In addition to the direct evidence of public use, over 30 historic documents (some consisting of several editions) are considered in the report. Each piece or type of evidence has been considered on its merits before being considered as part of the evidence as a whole in section 5.13.
The report does not evaluate the evidence on the balance of probabilities.	The standard of proof required under the relevant legislation has been applied. See section 4, paragraph 4.2 and 4.3 and section 5, paragraphs 5.13.12 and 5.13.14.
The report does not evaluate the evidence as a whole.	Each piece of evidence has been considered individually and then together with all the other evidence as a whole (see section 5.13).

Questions were raised regarding the ownership of the land over which the route passes and how this information had been obtained.	In determining landownership the County Council have relied on information provided by the Land Registry. See paragraph 3.3.
The application routes have the potential to provide a safer route for vulnerable users and access to safer routes.	Whilst perfectly understandable such concerns cannot be considered as part of this investigation. See paragraphs 4.9 and 7.2.2.
The number of users is relative to the local population.	See section 6.9. During ten of the relevant 20 years there is only evidence of the application route being used by one walker and one equestrian, the equestrian having only used it 5 to 6 times per year. From 1979 to 1982 only one person had used the route, on foot. Even in an area of low population, it is difficult to see how this could be sensibly taken to represent the public.
More evidence will be submitted at any public inquiry into the case.	Should an order to modify the definitive map be made and should that order receive objections, then there may need to be a public inquiry. However, this report can only draw conclusions based on evidence which has been discovered or submitted and cannot give weight to evidence which has not been seen.
The comparisons made in the report between linear ways shown on historic documents and their current recorded status in order to determine whether documents distinguished between public and private ways or whether those documents were reliable records of what they show is flawed. More applications to modify the DMS will be submitted in the future and therefore the status of the ways to which the application route is being compared will change.	The outcome of any future applications is not a foregone conclusion and there may or may not be additional rights over undetermined application routes. Comparison of historic documents with modern records of both public rights of way and private routes are a necessary part of any investigation.
The respondent disagrees with the way in which individual historic documents have been assessed and the weight they have been given.	The interpretation of the documentary evidence has been carried out in accordance with the Planning Inspectorate's 'Definitive Map Orders: Consistency Guidelines' and, where appropriate, with reference to other reputable sources.
No weight was given to the Parish Council's statement.	As a result of this comment, paragraphs 6.8 and 6.9.1 have been



	updated in order to make the analysis of this piece of evidence clearer.
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## 9. Summary and Conclusions

9.1 Insufficient user evidence was found or submitted to show public rights had been acquired over either application route.

9.2 Although a large number of historical documents were examined as part of this investigation there were relatively few which provided evidence which pointed towards or against public rights over either application route.

9.3 The OS Object Name Book and the 1910 Finance Act documents are good evidence for public rights over 510M Copse Lane, although neither directly indicate what type of public rights exist. On balance it is considered that a public footpath would be consistent with this evidence. Insufficient evidence has been discovered to indicate higher public rights exist over this route.

9.4 Similarly, the public footpath rights currently recorded over application route 511M are consistent with the evidence and, on balance, that evidence is considered insufficient to indicate that higher public rights exist.

## 10. I therefore recommend that;

- i. an Order be made, the effect of which would be to add to the Definitive Map and Statement of Somerset a public footpath between points A and B (510M) shown on Appendix 1.
- ii. if there are no unwithdrawn objections to such an order it be confirmed
- iii. if objections are maintained to such an order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs for confirmation
- iv. the application to upgrade footpath CH 1/23 (application route 511M) between points C and F shown on Appendix 1 is **refused**.

## 11. List of Appendices

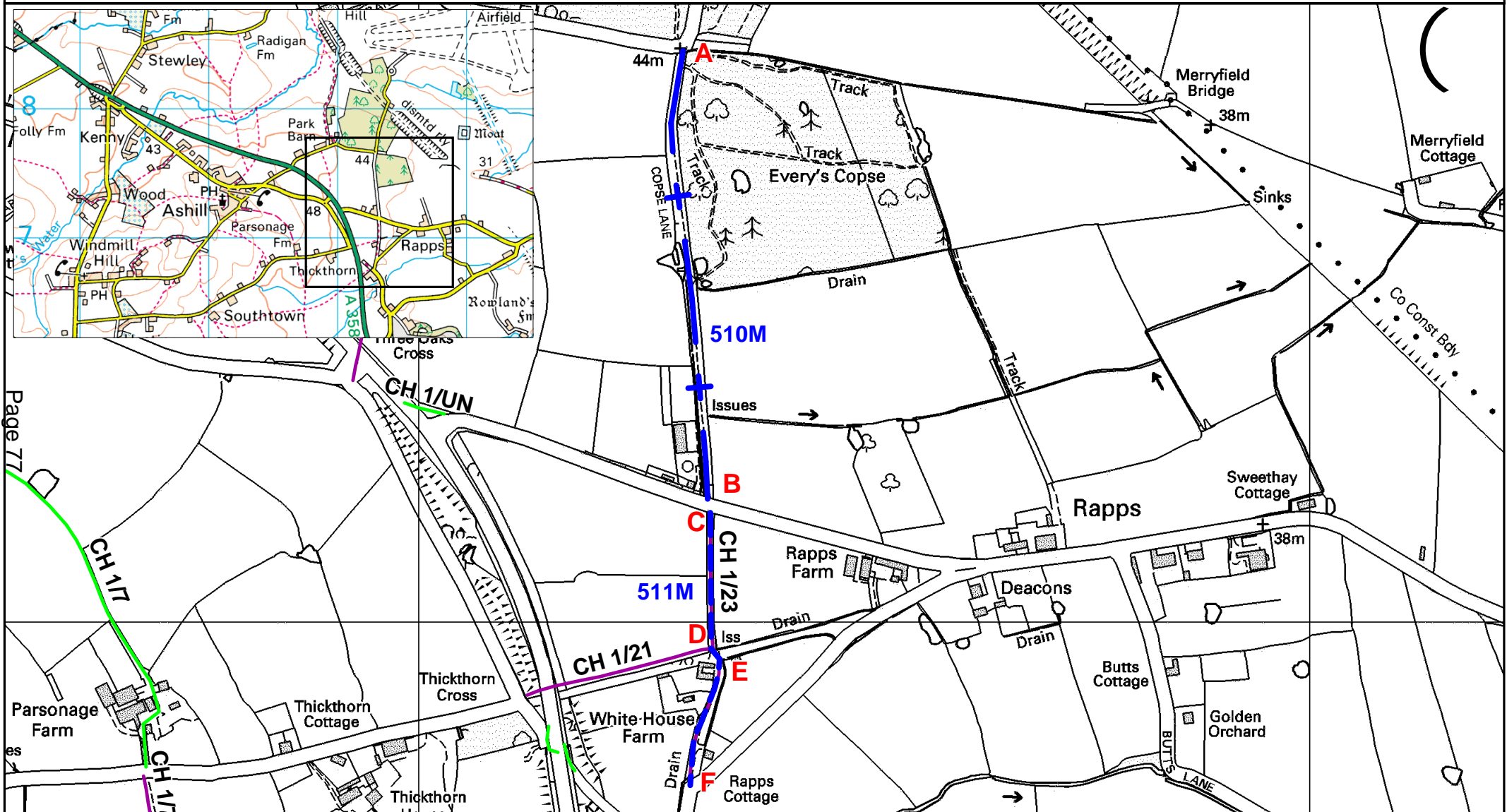
Please note that the document reproductions in the appendices are not to scale. The report writer has added the red letters A, B, C, D, E and F present on Appendix 1 to maps to help the reader identify the sections of the route the document is depicting. Other red letters and lines have also been added to some appendices to indicate the area of importance in that document.

1. Plan showing the claimed route
2. Photographs of application route 510M (Copse Lane)
3. Photographs of application route 511M
4. Map of Neroche Forest and West Sedgemoor Enclosures, c. 1830

5. Broadway (old enclosures) Tithe Map c.1840
6. Ilton Tithe Map c.1839 and Apportionment 1837 - 1840
7. Ordnance Survey 1808 'Old Series' 1:63,360 / 1 inch to 1 mile
8. Ordnance Survey Surveyors' Drawings 1811
9. Ordnance Survey County Series 1<sup>st</sup> Edition Map 25 inch : 1 mile
10. Ordnance Survey County Series 1<sup>st</sup> Edition Map 25 inch : 1 mile
11. Ordnance Survey Revised New Series Map, Sheet 311  
Revised 1896, published 1898, Scale: 1:63,360 / 1 inch to 1 mile
12. Ordnance Survey Object Name Book, 1902
13. Ordnance Survey Contoured Road Map, 1 inch, Chard and Axminster, 1919
14. Ordnance Survey Popular Edition Cassini reprint, 1919
15. Ordnance Survey Road Map, half inch, Taunton and Weymouth, 1928
16. Ordnance Survey Map 1 inch: 1 mile, 1937 Sheet 129, fifth edition.
17. 1946 New Popular Edition, 1 inch : 1 mile. Sheet 177 (revised 1930 with later corrections)
18. Finance Act Working Copy Maps and Valuation Book
19. Finance Act Record Plan
20. 1929 Handover map
21. 1930's Road Records
22. 1950's Road Records
23. Draft Map
24. Objections to the Draft Map
25. Draft Modification Map
26. Objections to the Draft Modification Map
27. Provisional Map
28. Definitive Maps Chard RD working notes etc. and queries arising, undated
29. Definitive Map and Statement
30. Day and Master's Map, 1782
31. Greenwood's Map, 1822
32. Bartholomew's Map. Reference: Sheet 34
33. Royal Automobile Club (RAC) Official Touring Map, 1913
34. 'Plan the Second Rapps Farm in Ashill & Broadway in the County of Somerset belonging to Mrs M. Woodland 1808' referred to in the Will of Mary Woodland, 31<sup>st</sup> May 1808 (see appendix 35).
35. Will of Mary Woodland, 31<sup>st</sup> May 1808
36. Draft – Plan of lands in the parishes of – Beer Crocombe Ashill, White-Lackington, Isle Abbots South Bradon, Ilton Buckland St. Mary and Broadway, belonging to the trustees of the late Early of Egremont Compiled from Maps of the several Parishes September 1852.
37. Sales particulars for land in Ashill and Broadway, 1858.
38. User Evidence
39. Relevant extracts of map provided by Landowner A. Jordans Estate, 1957, Rawlence and Squarey Chartered Surveyors.
40. Relevant extracts of map provided by Landowner A. OS map sheet ST 31NW Somerset 1969
41. Relevant extracts of map provided by Landowner A. OS Map second edition 1903, 1:2500



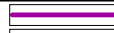

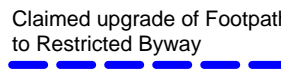

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Parish: Ashill  
 District: South Somerset  
 Date: 10/10/2016  
 Drawing No: H067-2016  
 Drawn By: MHardwill  
 Grid Ref: 333270 117230  
 Scale: 1:6000

Definitive Footpath   
 Definitive Bridleway   
 Claimed upgrade of Footpath to Restricted Byway   
 Claimed Restricted Byway 

**Section 53 Wildlife and Countryside Act 1981.**  
**Claimed Restricted Byway over Footpath CH 1/23 and Copse Lane, Ashill**

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 The County Council can accept no responsibility for any error or inaccuracy which may arise from the transposition of the Rights of Way Definitive Map to a different scale.

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**Appendix 2. Photographs of application route 510M, taken 10 November 2016.**



Looking south at point A from Park Barn Lane.



Looking south at the application route from point A.

**Appendix 2 continued. Photographs of application route 510M, taken 10 November 2016.**



Looking north from point B.



**Appendix 3. Photographs of application route 511M, taken 10 November 2016.**



Point C looking south.



Point D looking north.

**Appendix 3 continued. Photographs of application route 511M, taken 10 November 2016.**



Point D looking south.

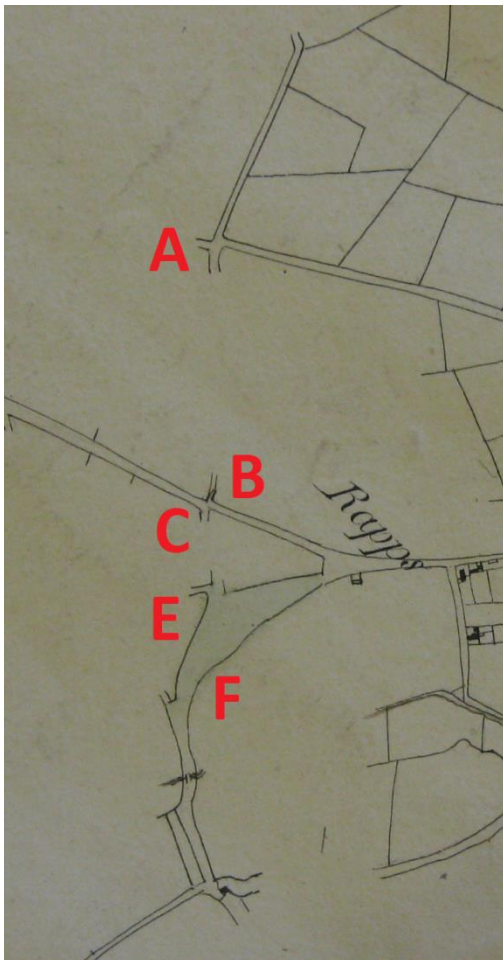


Looking north at point F from the verge of the public road. (The application route is to the left of the photograph, the public road on the right).

**Appendix 4. Map of Neroche Forest and West Sedgemoor Enclosures, c. 1830**



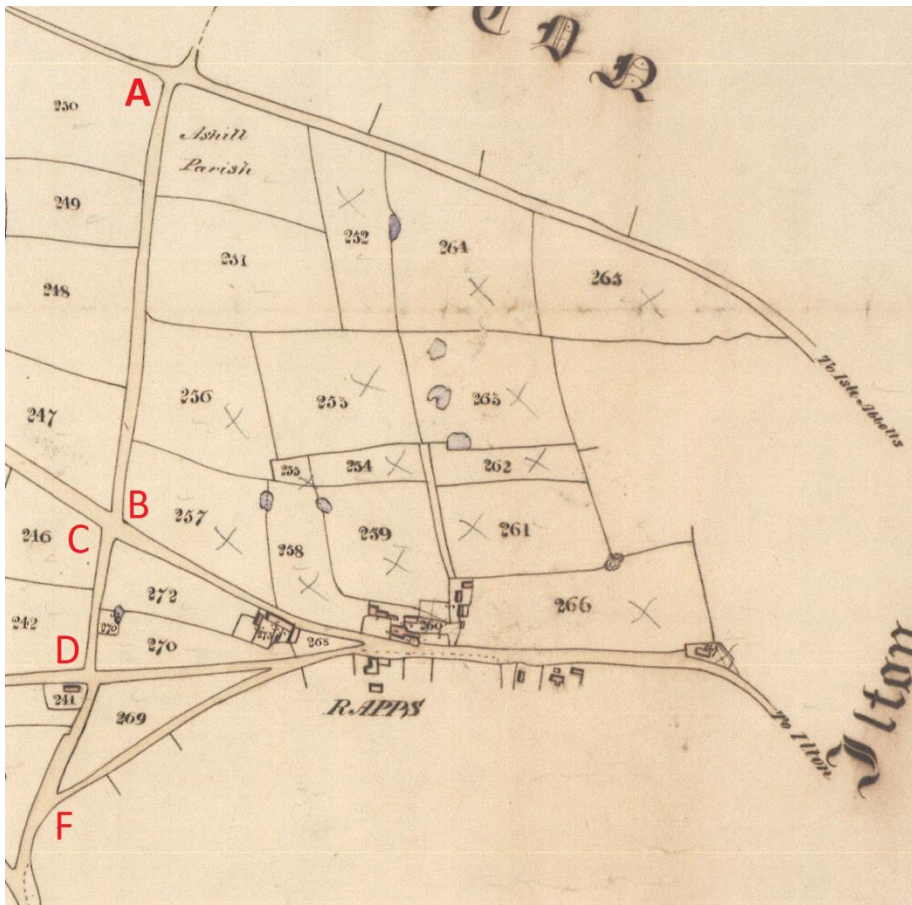
Overview.



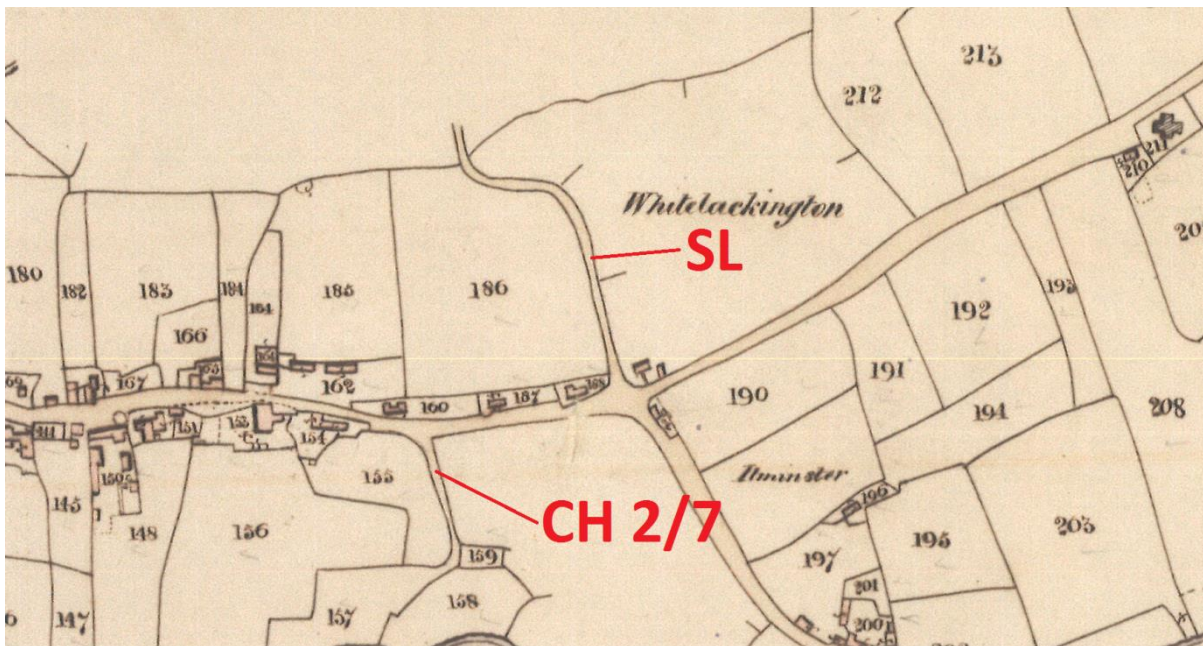
Detail.



Appendix 5. Broadway (old enclosures) Tithe Map c.1840.



Application route, A to F.



Stoford Lane (SL) and route of part of footpath CH 2/7.

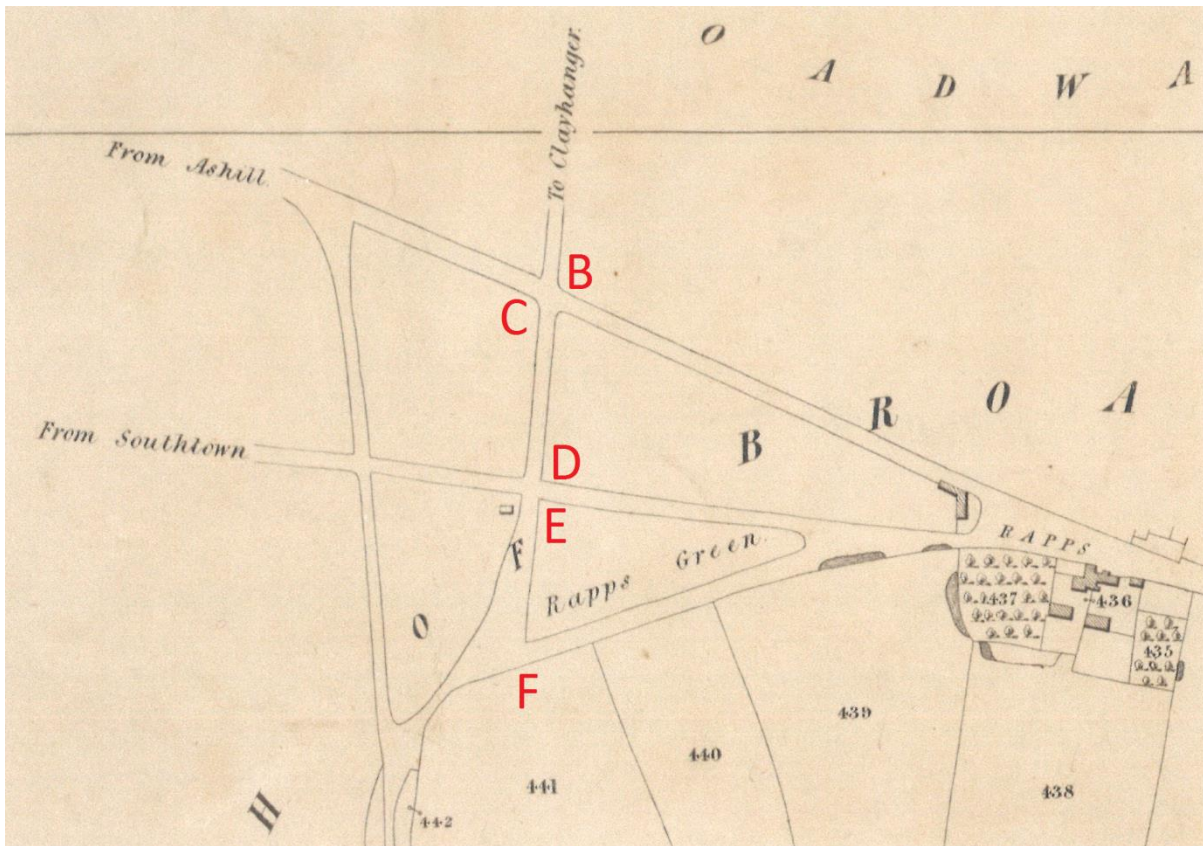
Appendix 5 continued. Broadway (old enclosures) Tithe Apportionment c.1840.

No. 5. - London. Printed and Published by G. ROUTLEDGE, 12, Water's Court, Ludlow Street.

LANDOWNERS	OCCUPIERS	Numbers referring to the Plan	NAME AND DESCRIPTION of LANDS AND PREMISES	STATE of CULTIVATION	QUANTITIES in STATUTE MEASURE			REMARKS
					A	R	P	
John Williams Esq (continued)	Samuel Howland	239	Copsie Close	Arable	3	2	17	1 5 0
		240	Orchard		1	3	30	14 0
		241	House and Garden				17	1 9
		242	Lower White House Ground	Pasture	3	1	5	14 4
		243	Upper White House Ground	Meadow	3	2	1	14 0
		244	Brake and Pond in Higher Croftway	Brake			13	
		245	Higher Croftway	Arable	4	0	37	1 5 5
		246	Lower Croftway	Pasture	3	0	2	11 3
		249	Part of Rapps Green	Arable	3	0	0	1 1 0
					23	0	2	6 0 4

269. Part of Rapps Green. Arable.

Appendix 6. Ilton Tithe Map c.1839 and Apportionment 1837 - 1840.



Waste church and Church yard	6	.	31
Roads Rivers and Streams	31	2	30
Poor Houses	1	1	3
	✓ 1719	.	1 23

Signed  
Wm Summers



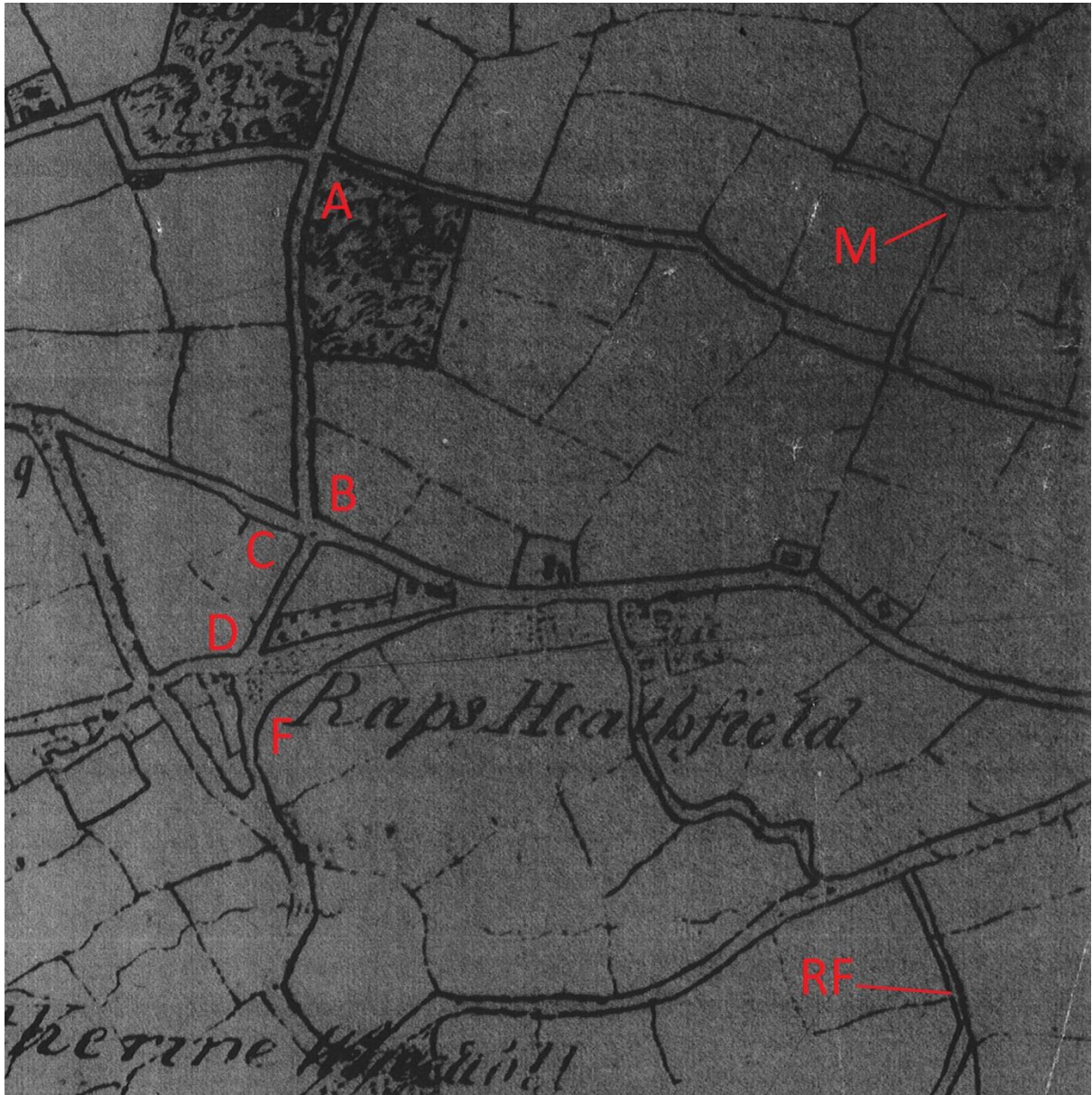


Appendix 7. Ordnance Survey 1808 'Old Series' 1:63,360 / 1 inch to 1 mile.





Appendix 8. Ordnance Survey Surveyors' Drawings 1811.

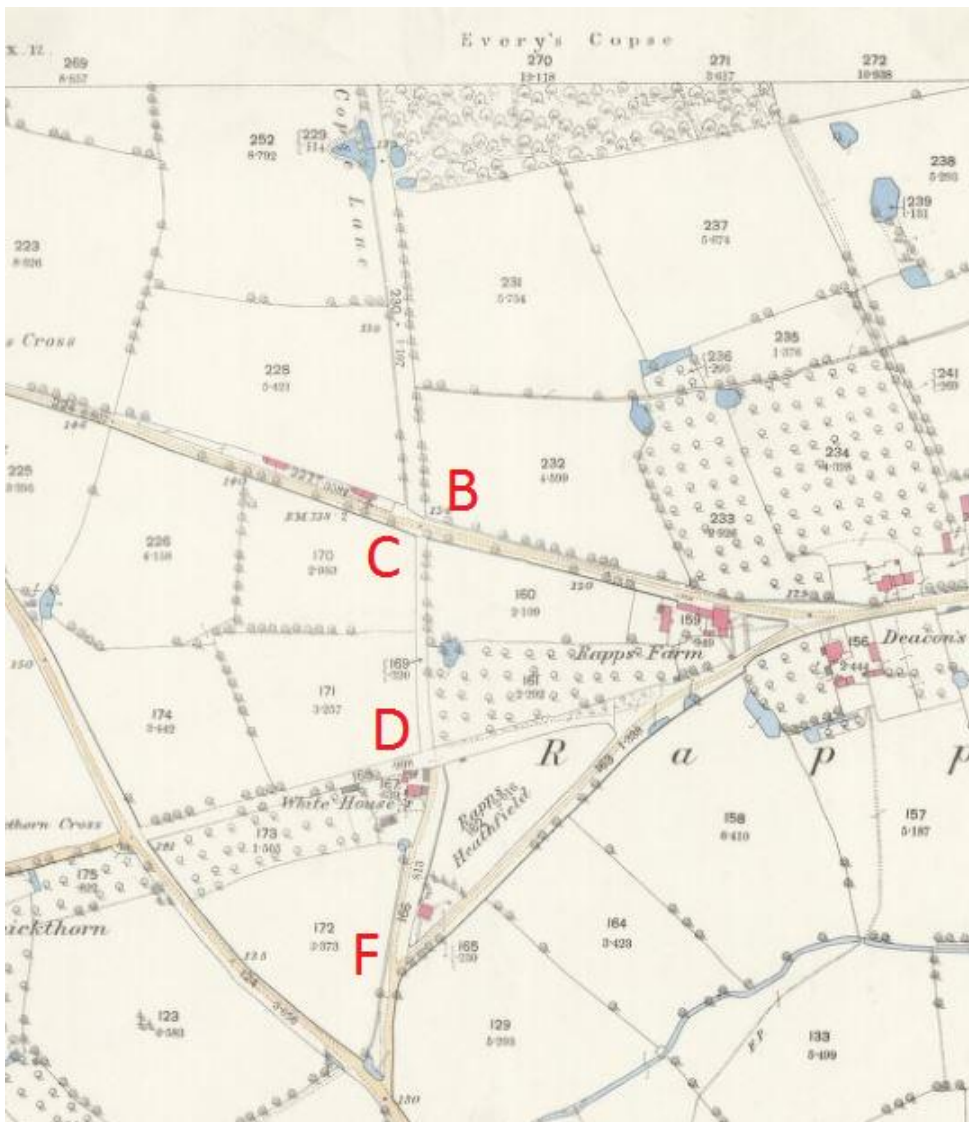




Appendix 9. Ordnance Survey County Series 1<sup>st</sup> Edition Map 25 inch : 1 mile .

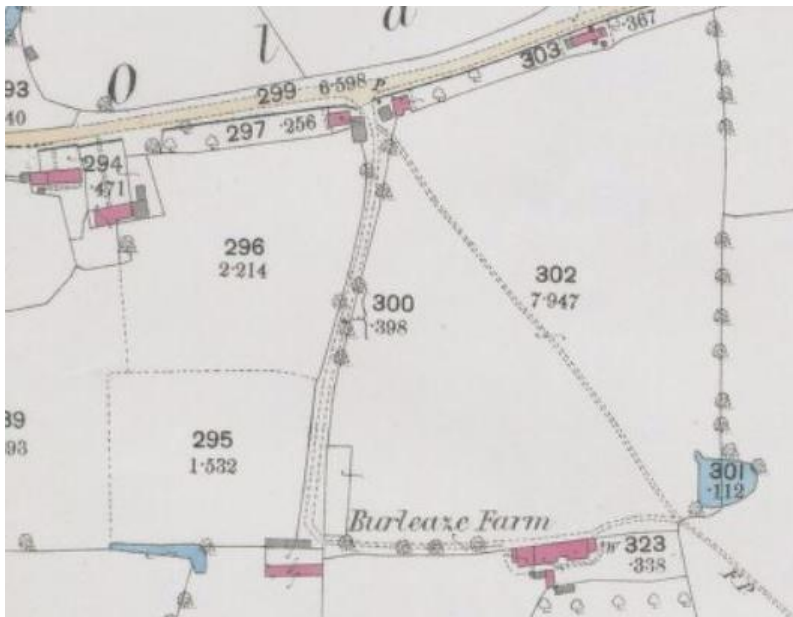


1888 sheet LXXX.12



1888 sheet LXXX.16

Appendix 9 continued.

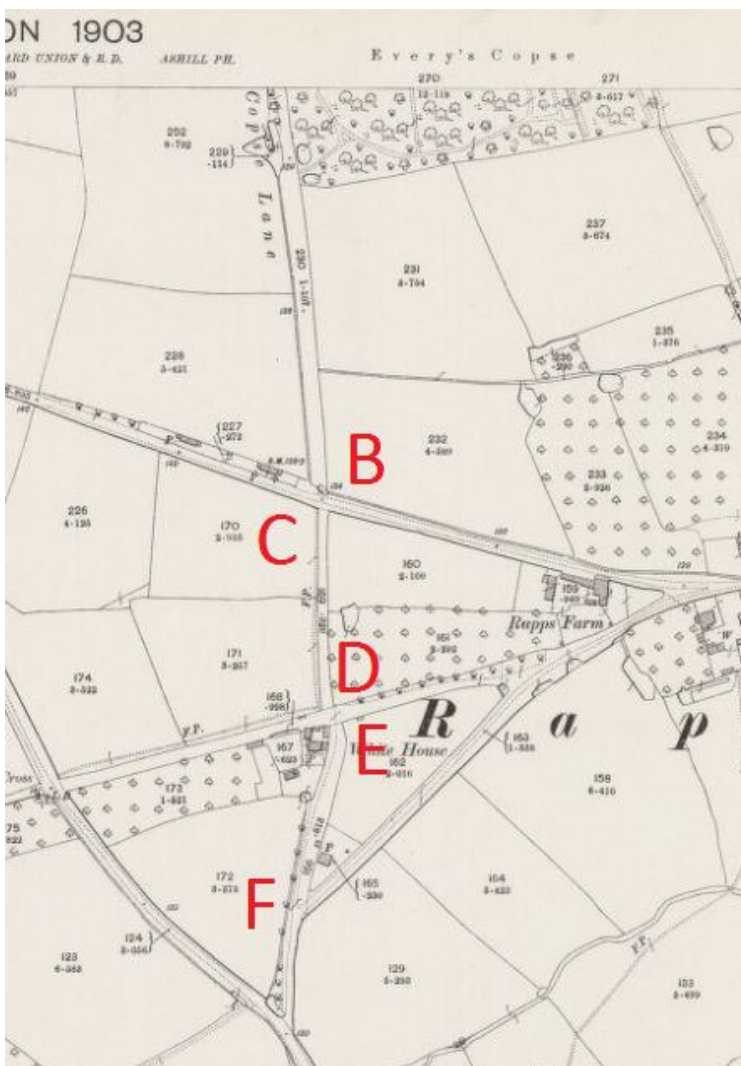


1887 Sheet LXXXI.13

Appendix 10. Ordnance Survey County Series 1<sup>st</sup> Edition Map 25 inch : 1 mile .



1903 Sheet LXXX.12

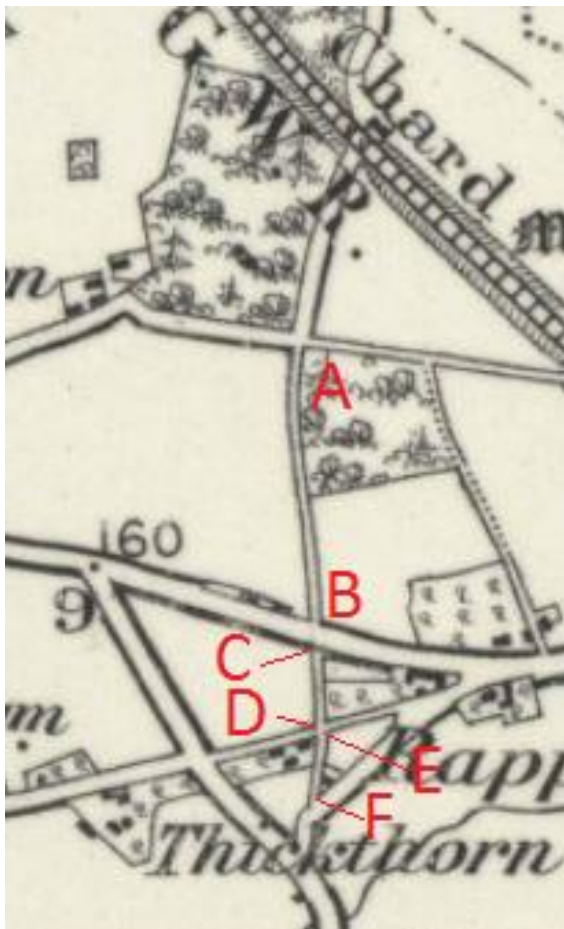


1903 Sheet LXXX.16





Appendix 11. Ordnance Survey Revised New Series Map, Sheet 311  
 Revised 1896, published 1898, Scale: 1:63,360 / 1 inch to 1 mile.



Metalled Roads: First Class	$\frac{5}{2}$ (Mile distance)	-----	Church or Chapel with Tower	⊕
" " Second Class	(Altitude) 21	-----	" " " " Spire	⊕
" " Third Class	-----	-----	" " without Tower or Spire	+
Unmetalled Roads	-----	-----	Windmill	⊕
Footpaths	-----	-----	Letter Box	L.B.
Railways, Single Line	-----	-----	Contours	300 200
" " Two or more Lines	-----	-----	Boundaries, County	-----
Mineral Lines and Tramways	-----	-----	" " Parish	-----
	Level Crossing	-----	At Villages { Post Office	P.
	Cutting	-----	{ Post & Telegraph Office	T.
	Embankment	-----		
	Bridge Over	-----		
	Bridge Under	-----		

Rivers and Streams when exceeding 15 feet in width are shewn with two lines.  
 For other information see Characteristic sheet.



**Appendix 12. Ordnance Survey Object Name Book, 1902.**

Names collected & entered by sheet of map 164 in December 1901  
 Names in red entered & entered by H. Warford Esq. in June 1902  
 W.S.A.L. (1374) - 2114 - 2200 1-100  
 D.S. 21.

List of Names as written on the Plan	Various modes of Spelling the same Names	Authority for those modes of Spelling	Situation			Descriptive Remarks, or other General Observations which may be considered of Interest
			Sheet	Plan	Trace	
<i>Copse Lane</i>	<i>Copse Lane</i>	<i>W. Speke Esq. J.P. See form 230 attached See list 2500 of LXXX. 16.</i>	LXXX	16	2	<i>A public lane running N.E. from its junction 20 chains S.E. of three inches cross on the W. of Evory's Copse to its junction at the S.W. corner of Evory's Copse.</i>
	<i>Evory's Copse</i>	<i>As above See form 230 attached See list 2500 of LXXX. 16.</i>	LXXX	16	2	<i>Applies to a copse about 1/2 mile N. of Rapps and about 1/2 mile S. of the property of W. Speke Esq. J.P. &amp; Mrs. Hester. Terminated in Plan 17.</i>
<i>Rapps</i>	<i>Rapps</i>	<i>As above See form 230 attached See list 2500 of LXXX. 16.</i>	LXXX	16	3	<i>Applies to a small district consisting of a few farms &amp; cottages situated about a mile S.E. of Schill. owned as above.</i>
<i>Rapps Farm</i>	<i>Rapps Farm</i>	<i>As above See form 230 attached See list 2500 of LXXX. 16.</i>	LXXX	16	3	<i>A farm in the W. of Rapps occupied by Mr. F. Kitcher. The property of the above. <i>An apostrophe used.</i></i>

*A public lane running N.E. from its junction  
20 chains S.E. of three inches cross on the W. of  
Evory's Copse to its junction at the S.W. corner  
of Evory's Copse.*

Copse Lane detail.

*A farm in the W. of Rapps. Occupied by  
Mr. F. Kitcher. The property of the above.  
*An apostrophe used.**

Rapps Farm detail.

**Transcript of the entry for Copse Lane**

List of Names as written on the Plan: Copse Lane.

Various modes of Spelling the same Names: Copse Lane.

Authority for those modes of Spelling: W. Speke Esq J.P. See form 230 attached.

See [.....] of LXXX. 16.

Sheet: LXXX.

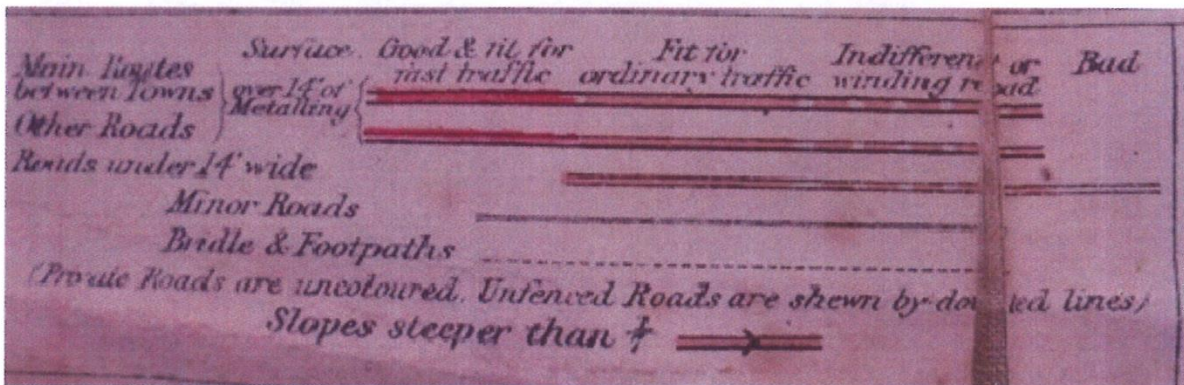
**Appendix 12 continued.**

*Plan:* 16.

*Trace:* 2.

*Descriptive Remarks, or other General Observations which may be considered of Interest:* A public lane running N.E. from its junction 20 chains S.E. of Three Oaks Cross on the W. of Every's Copse to its junction at the at the N.W. corner of Every's Coppice.

Appendix 13. Ordnance Survey Contoured Road Map, 1 inch, Chard and Axminster, 1919.





Appendix 14. Ordnance Survey Popular Edition Cassini reprint, 1919.







Appendix 15. Ordnance Survey Road Map, half inch, Taunton and Weymouth, 1928.



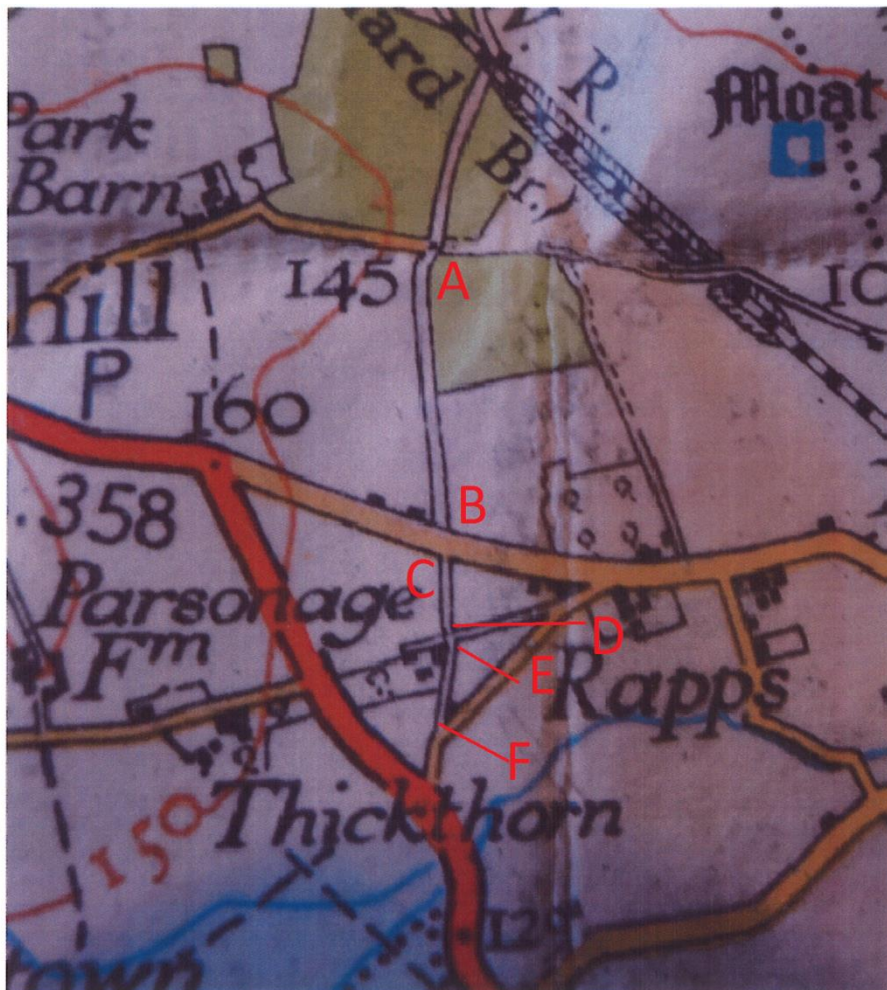
30/37 M.37 R.36.

Ministry of Transport "A" Roads	—————	—————
Other Motor Roads	—————	—————
" " " narrow	—————	—————
Minor Roads	—————	—————
Bridle & Footpaths	—————	—————
Slopes steeper than $\frac{1}{7}$	—————	—————

*Good*                      *Bad*



Appendix 16. Ordnance Survey Map 1 inch: 1 mile, 1937 Sheet 129, fifth edition.



	Ministry of Transport, Class 1	A.38
	" " " " 2	B.32/0
Roads	14 feet of Metalling and over (not classified by M. of T.)	TOLL
	Under 14 f <sup>t</sup> of Metalling, Good " " "	Gate
	" " " " " Bad " " "	
	Minor Roads in towns, Drives and Unmetalled Roads.	
	(Unfenced Roads are shown by pecked lines)	
	Footpaths & Bridle Paths	
	Gradients of 1 in 5 or steeper	



Appendix 17. 1946 New Popular Edition, 1 inch : 1 mile. Sheet 177 (revised 1930 with later corrections).



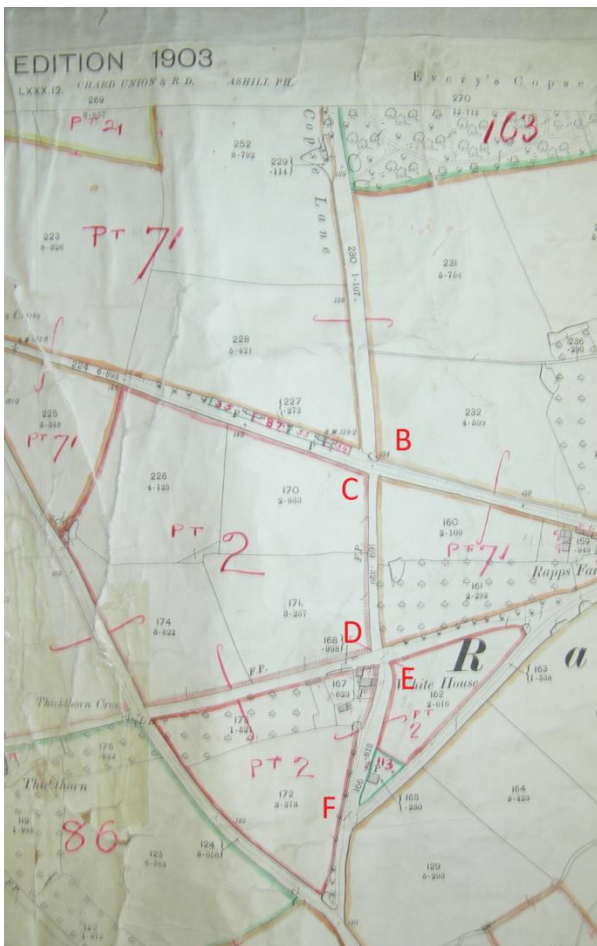
Roads	{	Ministry of Transport, Class 1	A.38
		" " " " 2	B.3210
		14 feet of Metalling and over (not classified by M. of T.)	TOLL
		Under 14 ft. of Metalling Good	Gate
		" " " " Bad	
Minor Roads in towns. Drives and Unmetalled Roads.			
(Unfenced Roads are shown by pecked lines)			
Footpaths & Bridle Paths			
over 1 in 5			



## Appendix 18. Finance Act Working Copy Maps and Valuation Book.



Sheet LXXX.12



Sheet LXXX.16

Appendix 18 continued.

Parish of *Abbeville*

No. of Assessment	No. of Poor Rate	Christian Names and Surnames of Occupiers	Christian Names and Surnames of Owners, with their Residences	Description of Property— If an Ten, &c., the name or sign by which known	Street, Place, Name and Precise Situation of Property	Poor Rate						Reference to Map	Extent as determined by Value				Original Value	Distribution of			
						Estimated Extent		Gross Annual Value	Rateable Value		Acres		R.	P.	Y.	Value		Value	Value	Value	
						7	8	9	10	11											12
1	1	Adams William	himself Abbeville	2 Coals & Garden	Wagon Road	34	£	6	5	4	12	0	18	105	98	1					
2	2	Adams Robert	Mayor Specks Abbeville	Home Land	White house farm	27	£							2130	572	120	190				
		do	do	Land	Nichols Green																
		do	do	Land	Leas Grass	18	£	64	57	12											
		do	do	Land	Shedders	18															

Commissioners of Inland Revenue, as amended on Appeal (if any)

Original Full Site Value	Fixed Charges										Original Total Value	Deductions for							Original Assessable Site Value (or Original Capital Value of Minerals)	Value of Agricultural Land for Agricultural purposes, when different from Assessable Site Value		
	19	20	21	22	23	24	25	26	27	28		29	30	31	32	33	34	35			36	37
£ 6					1							104								5	£	68
1308					149							1971								1149	1946	6766

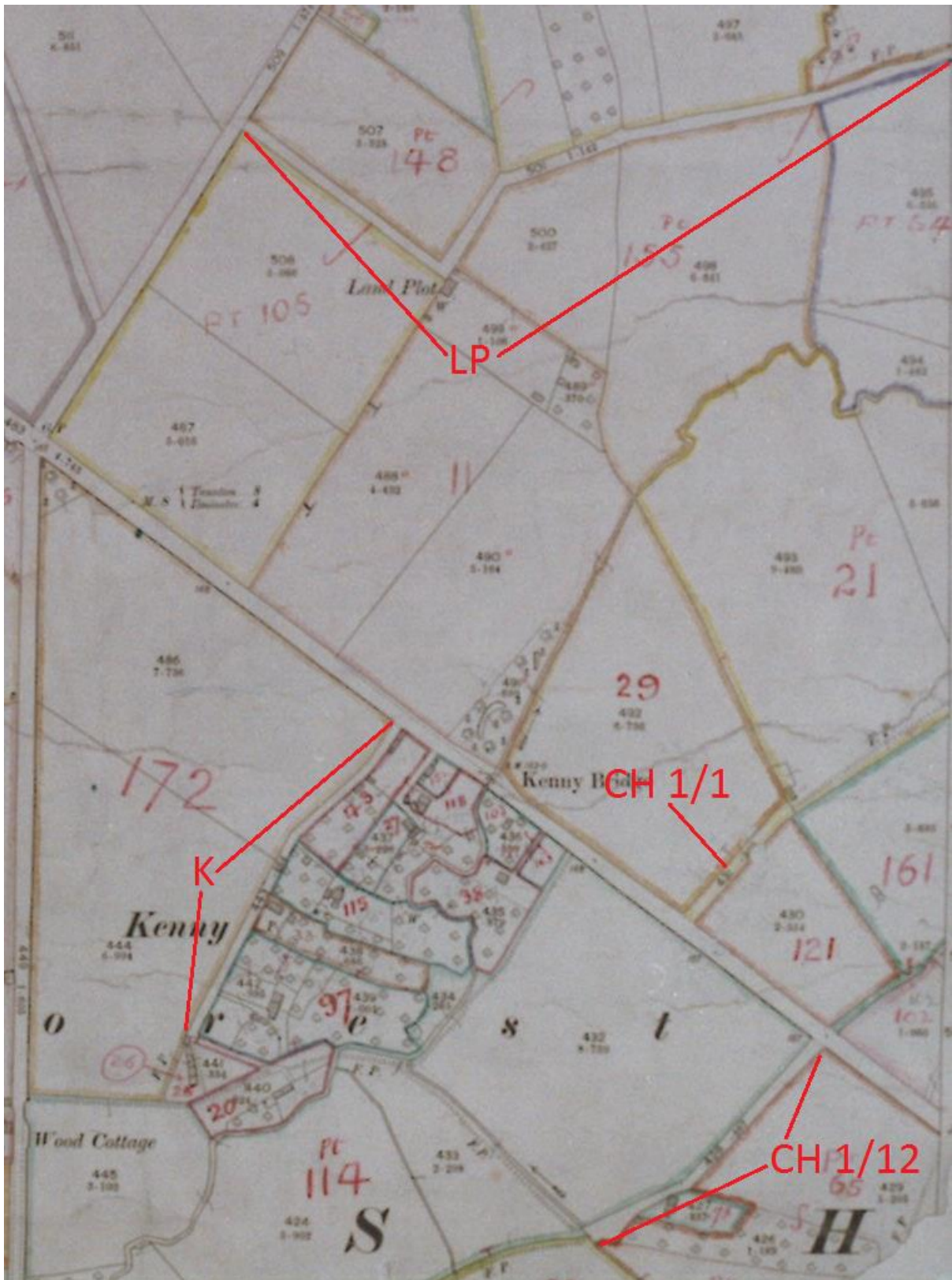
Deductions for

24	25
If Copyhold, Cost of Enfranchisement	Public Rights of Way or User
£	£
	10

Detail showing deduction for hereditament 2.



# Appendix 19. Finance Act Record Plan.

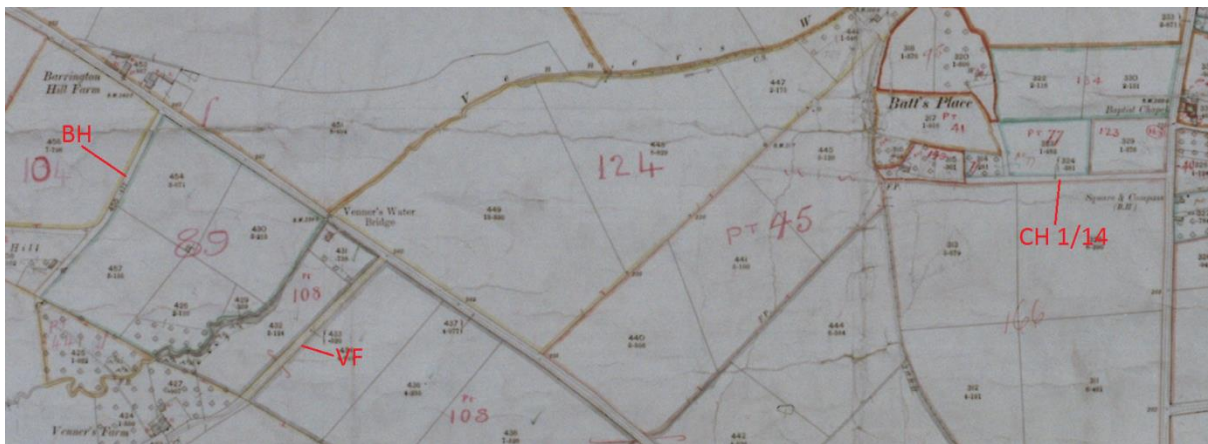


Sheet LXXX.11

Appendix 19 continued.



Sheet LXXX.12



Sheet LXXX.15

Appendix 19 continued.



Sheet LXXX.16.

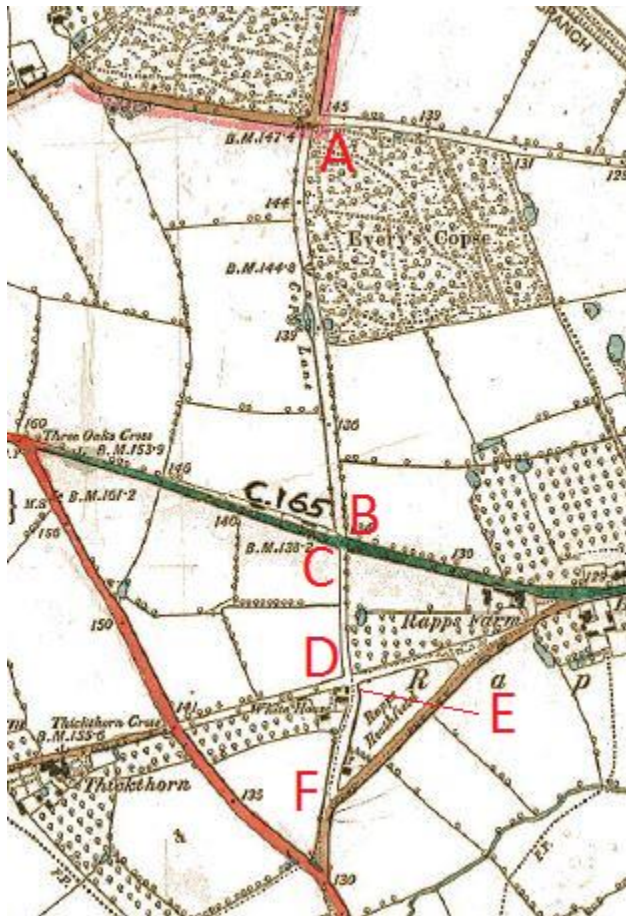


Appendix 20. 1929 Handover map.





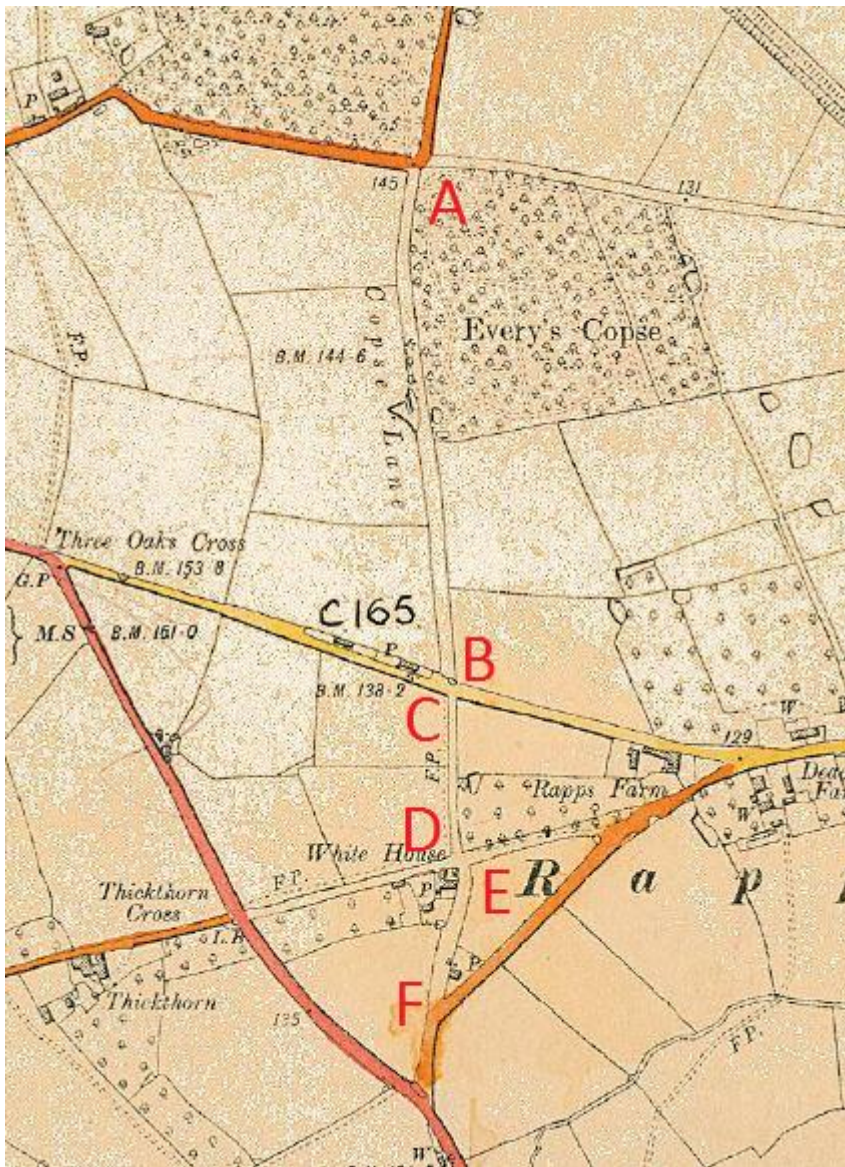
Appendix 21. 1930's Road Records.





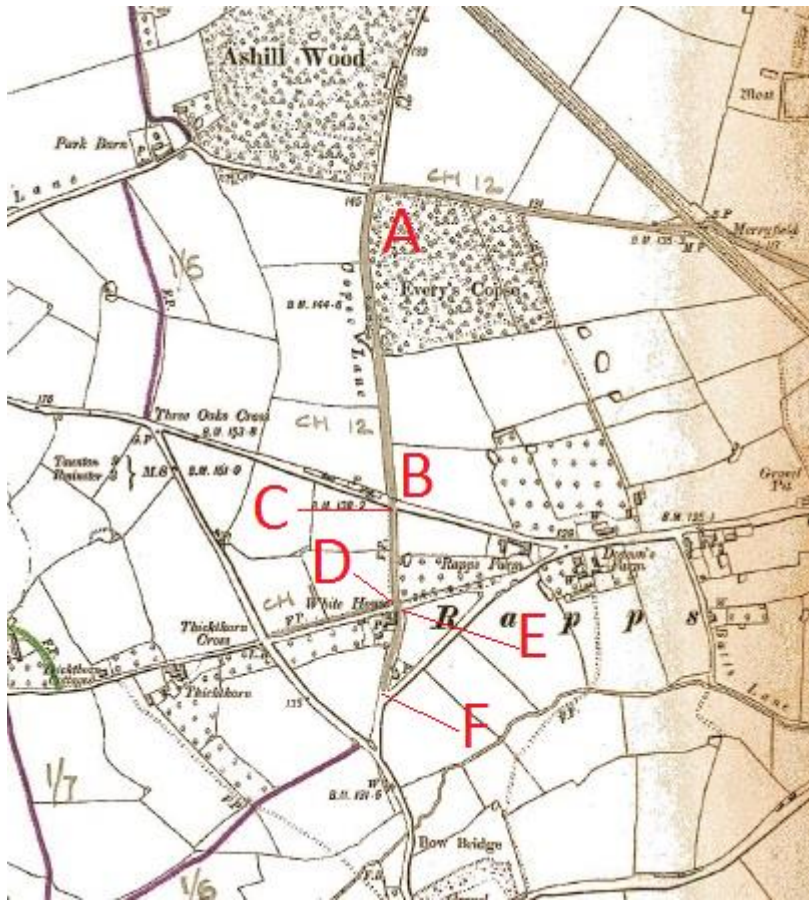


Appendix 22. 1950's Road Records.





Appendix 23. Draft Map.





# Appendix 24. Objections to the Draft Map.

NATIONAL PARKS AND ACCESS TO CHARD RURAL DISTRICT PUBLIC RIGHTS OF WAY				ACCESS TO THE COUNTRYSIDE ACT, 1949 CHARD RURAL DISTRICT PUBLIC RIGHTS OF WAY		
Summary of objections to and determinations of Section 29				Sections to Draft Map and Statements of Surveying Authority under Section 29		
Serial No. of Objection (1)	District or Parish (2)	No. (if known) on Draft Map (3)	Name and Address of Objector and reference (if any) (4)	Nature of Reason for Objection (5)	Observations by Clerk (6)	Determination (7)
1.	Ashill	-	The Ramblers' Association (S. F. Marriott, Esq.) Hon. Secretary, 1A Shipley Road, Westbury on Trye, Wilts. 3131/D48	Omission of path from Thickthorn Cross westerly parallel with County road to White House.	Some evidence of public user.	Add footpath to Draft Map.
2.	Ashill	-	E. F. Scriven, Esq., Wood Court, Ashill, Ilminster.	Omission of path from Windmill Hill Lane as a South westerly curve through Ashill Park to junction with path 1/21 north east of Windmill Hill.	Some evidence of public user.	Add footpath to Draft Map.
3.	Ashill	1/13	E. F. Scriven, Esq.,	Inclusion of 1/13 from County road opposite Wood Cottage to (a) junction with 1/12 and (b) the Taunton - Ilminster road.	Doubtful if public rights exists.	Delete whole of path 1/13.
4.	Ashill	1/20	British Transport Commission, Western Region, Paddington Station, London, W.2.	Inclusion of 1/20 from the Ashill - Old Green County road to Ilton parish boundary via the railway.	Parish Council agree no public footpath exists.	Delete path 1/20 from Draft Map.
5.	Ashill	1/4	British Transport Commission	Inclusion of 1/4 from Park Lane north to Three Oaks Cross.	Parish Council agree path does not cross railway.	Delete section of 1/4 over railway.
6.	Ashill	1/13	Louise W. Deas (Mrs.), Ridge Farm, Kemy, Ashill, Ilminster.	Inclusion of 1/13. See 3 above. Reasons:- (a) not been used for 15-20 years; (b) private access way for residents of Kemy Lodge.	See Ch. 3.	-
7.	Ashill	1/12	E. F. Scriven, Esq.,	Line of 1/12 incorrectly shown from junction with 1/13 across two fields - middle section of path - should run on opposite side of hedge.	Agreed.	Amend central section of 1/12 to show path on other side of hedge.
9.	Ashill	1/13	David J. Morgan, Esq., Ilminster, Somerset. (Land Agent to Colonel C. M. Kirby-Smith).	See Ch. 3.	-	-
10.	Ashill	1/12	David J. Morgan, Esq.,	See Ch. 7. Also alleges path should be on opposite side of hedge.	See Ch. 7.	-
11.	Ashill	-	Ramblers' Association 3131/D51	Inclusion of award paths.	-	No action required.
12.	Ashill	-	Ramblers' Association 3131/D60	Omission of paths:- (a) Copse Lane; (b) from north end of Copse Lane eastwards across 1/20 to Pound Corner.	These appear to be ancient highways.	Add footpaths along whole lengths up to Fodger's Lane.

## Summary of objections

C. 242  
3.55

SOMERSET COUNTY COUNCIL  
NATIONAL PARKS & ACCESS TO THE COUNTRYSIDE ACT, 1949  
SURVEY OF RIGHTS OF WAY  
CHARD RURAL DISTRICT - PARISH OF Ashill

Objection No. 3231D60  
By the Ramblers' Association.

**PART I**  
Particulars of objection

Omission of

(a) Copse Lane  
(b) From north end of Copse Lane eastwards across path 1/20 to Pound Corner.

**PART II**  
(To be completed by Parish Council)

(a) Observations of the parish council on the objection:-

(b) Does the owner and/or tenant of the land affected wish to raise any objection to the claim of the Ramblers' Association?

(c) Name(s) and address(es) of the owner(s) and/or tenant(s) affected:-

## Objection No. 3231D60

**PART III**  
(To be completed by the County Surveyor)

Observations of the County Surveyor on the objection:-

If Copse Lane is included it should continue south past White House to county road at Rappes. It is quite possible that the public have acquired a right of passage by usage over both these lanes which are unmade and grass grown, not claimed by Parish Council.

(Signed) **J. H. H. WILKES**  
Date . . . . . 1 SEP 1954 . . . . .

**PART IV**  
(To be completed by the County Archivist)

Observations of the County Archivist on the objection:-

(a) Copse Lane, Broadway Tithe Map, 1845, shows this as a road not chargeable to tithe.

(b) The Tithe Maps of Ashill, 1879, and Broadway, 1847, all show this as a road on which no tithe is chargeable.

Deposited Plans of Chard and Taunton Railway (No. 273d, dated 1860) schedule this as an "occupation road."

(Signed) . . . . .  
Date . . . . .

The area is not covered by an Enclosure Award.

Appendix 24 continued.

Extn. 234 Copy for the information of  
THE COUNTY SURVEYOR.

COUNTY OF SOMERSET

County Hall,  
Taunton,  
27th August, 1958.

W/PJS

COUNTY SURVEYOR
DEPARTMENT
Case No. 567
File No.
28 AUG 1958
Plan No.
Reverts to S
ACTION
FILED

Dear Sir,

Survey of Rights of Way  
Parish of Ashill  
Ch. 12 - 3131/D60.

I propose to advise the Surveying  
Authority to add the undermentioned paths to  
the Draft Map:-

(a) Copse Lane; and  
(b) From the north end of Copse Lane  
eastwards across path 1/20 to Pound  
Corner.

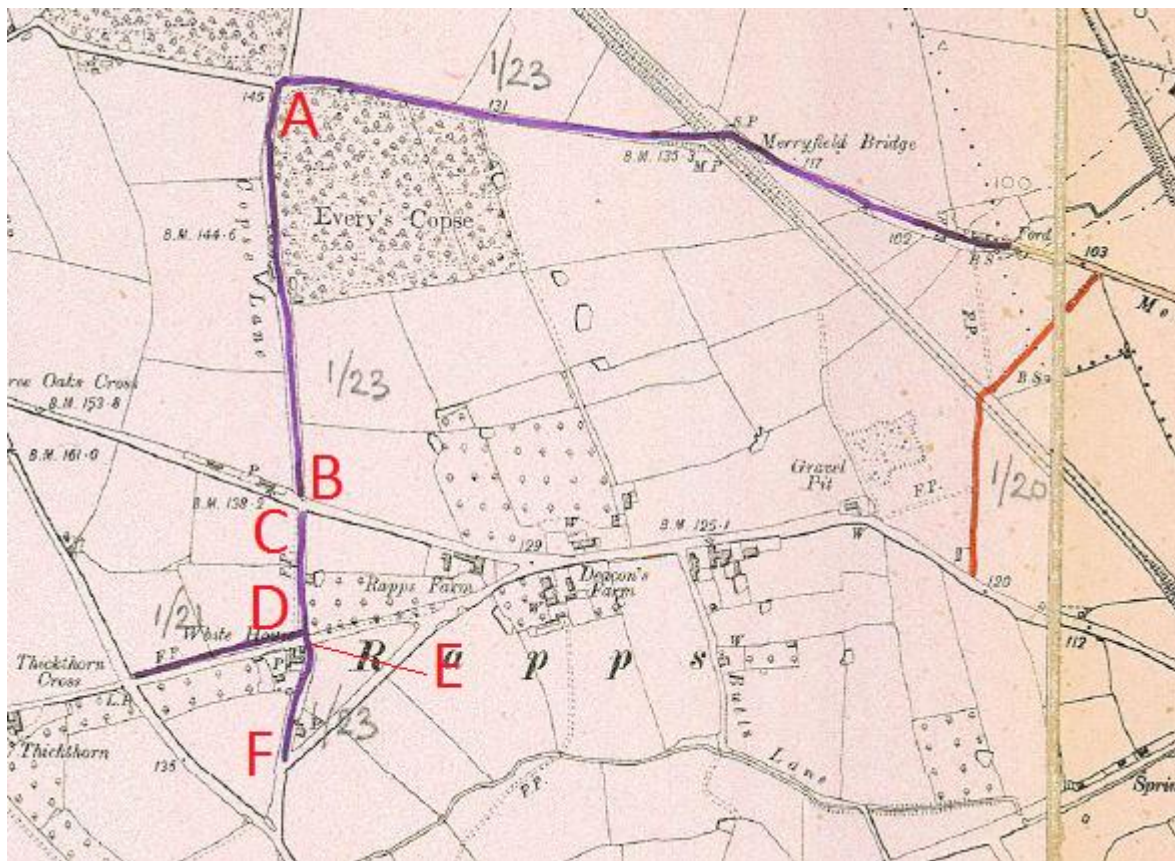
Yours faithfully,

E. S. RICKARDS.

Clerk of the County Council.

S. F. Marriott, Esq.,  
Hon. Footpath Secretary,  
The Ramblers' Association,  
1A Shipley Road,  
Westbury on Trym,  
BRISTOL.

Appendix 25. Draft Modification Map.







**Appendix 26. Objections to the Draft Modification Map.**

Serial No. of Objection (1)	District or Parish (2)	No. (if known) on Draft Map (3)	Name and Address of Objector and reference (if any) (4)	Nature or Reason for Objection (5)	Observations by Clerk (6)
12.	Ashill	1/23	British Transport Commission P.62,051/15v	Do not add to add two paths - (a) Copse Lane; and (b) From north end of Copse Lane eastward across railway via a bridge to Pound Corner. Merryfield	No evidence of public user.


Determination  
(7)  
Delete 1/23 etc., from Draft Map.  
*W/RS - 1/23 etc. delete S. Station*

**Summary**

none: TAUNTON 3451 Extn. 255  
Trans:

**COUNTY OF SOMERSET**

E. S. RICKARDS  
CLERK OF THE PEACE  
AND  
CLERK OF THE COUNTY COUNCIL



COUNTY HALL,  
TAUNTON  
6th October, 1960.

ALL COMMUNICATIONS SHOULD BE  
ADDRESSED IMPERSONALLY TO  
"The Clerk . . ."

In reply please quote W/WARS/PJW  
Your ref. JBW


RECEIVED  
OCT 10 1960  
*W*

Dear Sir,

Survey of Rights of Way  
Parish of Ashill  
CH. 12.

I have had correspondence with the British Transport Commission and Ramblers' Association concerning Copse Lane and propose to advise the Committee to reinstate this lane from the Ilminster road to the south eastern corner of Ashill Wood as a CRF.

The section between the Wood over the railway to the ford a little to the east, will not be shown as any public right of way, but I understand the Ramblers' Association will raise this matter at the Review Stage.

Yours faithfully,  
  
Clerk of the County Council.

THE COUNTY SURVEYOR.

Letter from the Clerk of the County Council to the County Surveyor 06/10/1960

Appendix 26 continued.

MINUTES of the PUBLIC RIGHTS OF WAY SUB-COMMITTEE  
on 21st November 1960.

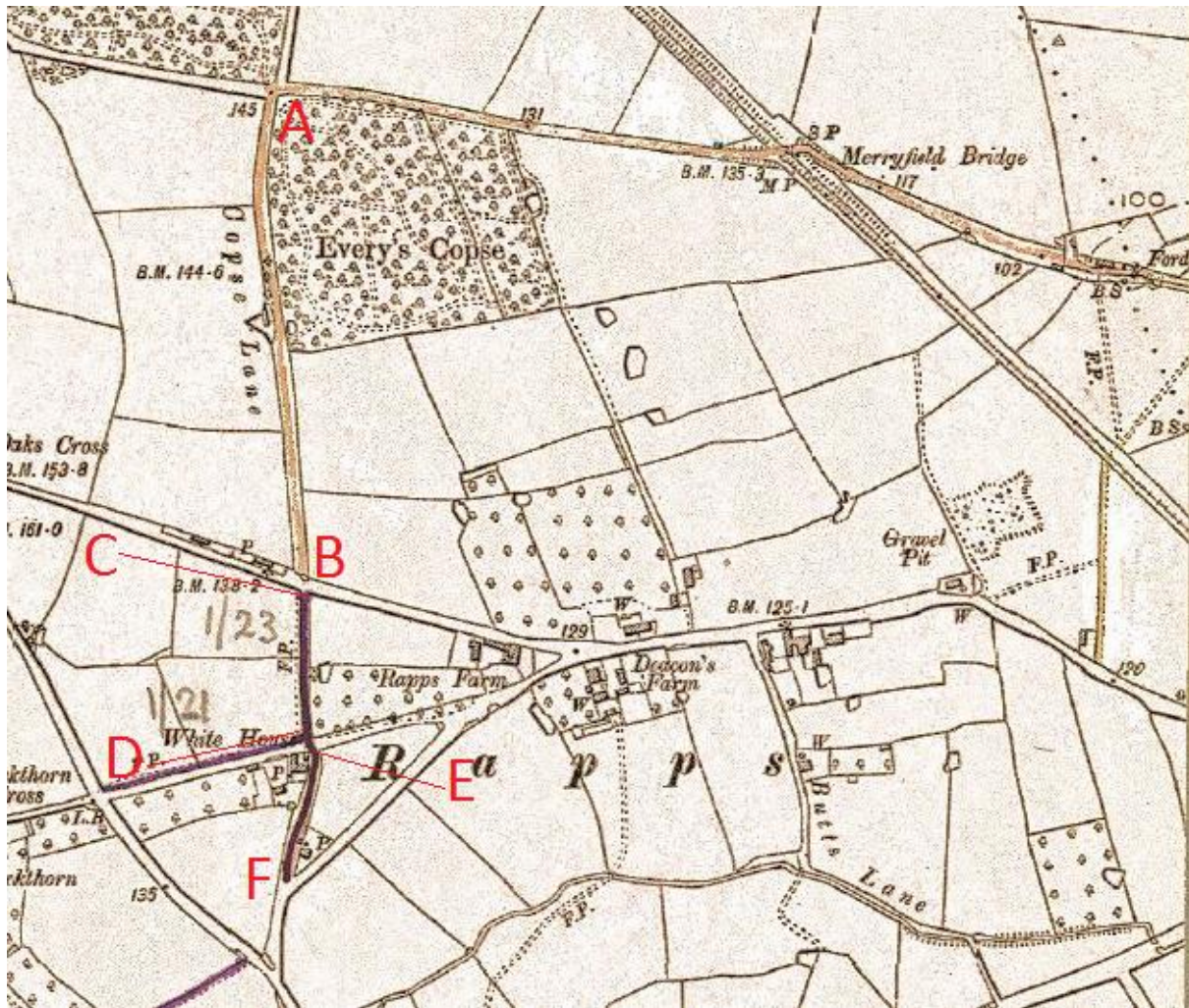
Chard Rural District

131. Parish of Ashill. The Clerk informed the Sub-Committee that the Ramblers' Association had appealed to the Minister of Housing and Local Government under Section 29(5) of the National Parks and Access to the Countryside Act, 1949, against the Council's decision to delete Copse Lane, Ashill, from the Draft Map; that since the decision of the Sub-Committee additional evidence had come to light which proved that this lane was an ancient highway; that in the circumstances he had told the Association that he would be prepared to recommend the Sub-Committee to reinstate Copse Lane to the Draft Map; and that on this understanding the Association had withdrawn their appeal from the Minister.

RESOLVED: To confirm the action of the Clerk and to formally reinstate Copse Lane to the Draft Map as a CRF.

Minutes of the Public Rights of Way Sub-Committee 21/11/1960

Appendix 27. Provisional Map.





**Appendix 28. Definitive Maps Chard RD working notes etc and queries arising, undated.**

Chard R.D. Definitive Map all done at Prod. Stage

Card alterations & corrections

	HO	RDC	P	F	M		HO	RDC	P	F	M
1/17 should be trans.		✓	✓			Billington 6/16	✓	✓	✓		
Its Broadway 2/22						6/15	✓	✓	✓		
1/18 re-type ✓						17	✓	✓	✓		
1/23 re-type ✓	✓	✓	✓			18	✓	✓	✓		
1/21	✓	✓	✓			19	✓	✓	✓		
1/22	✓	✓	✓			20	✓	✓	✓		
						Bombe St. Nicholas	✓	✓	✓		

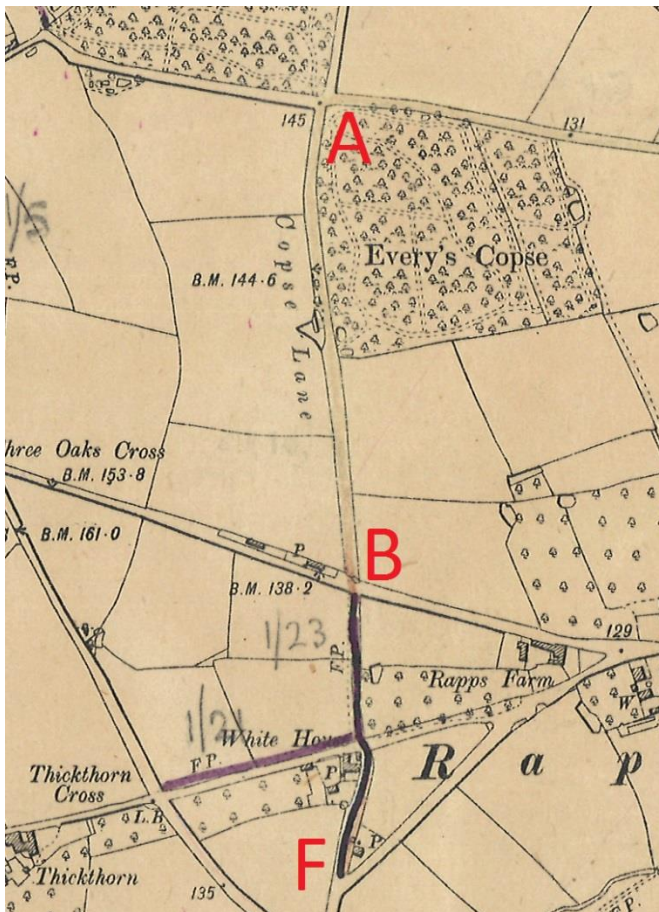
Chard R.D.

Porch	Part	Queries at Definitive Stage	Decision
80 SE. Ashill	1/23	Should not all be deleted as on Schedule. Leave S. section at White House, joining 1/21.	Mr. Strickland agrees ✓ at Prod. Stage

Headings and entry for 1/23.



**Appendix 29. Definitive Map and Statement.**



Definitive map.

Ho (1) PARISH NO. OF PATH:—<sup>23</sup>

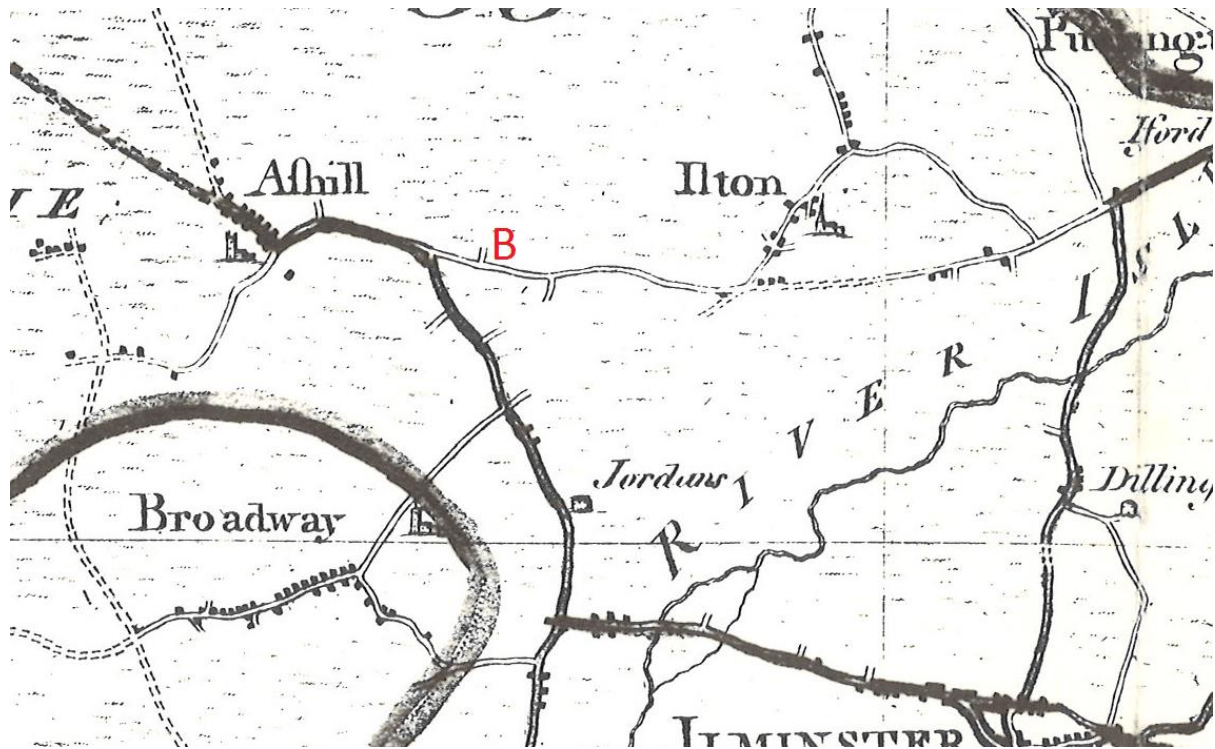
<p>SYMBOLS TO BE USED IN BOX (5) BELOW</p> <p>Footpath F.P.</p> <p>Bridle Road (including Driftway for Cattle) B.R.</p> <p>Carriage or Cart Road or Green (unmetalled lane) mainly used by Public as a public path C.R.F.</p>	<p>(2) CONCISE DESCRIPTION OF PATH (TO INCLUDE WIDTH, NATURE OF SURFACE, MEANS OF ACCESS, OBSTRUCTIONS, ETC.)</p> <p>FROM: County road east of Three Oaks Cross</p> <p>TO: County road north of Bow Bridge</p> <p>DESCRIPTION: THE PATH IS A <u>footpath</u> IT STARTS AT <u>county road east of Three Oaks Cross</u> and runs south past White House and junction with path no.21 to the county road north of Bow Bridge.</p>
---	--

Definitive statement.





Appendix 30. Day and Master's Map, 1782.




*E X P L A N A T I O N*


*Market and Borough Towns in Capitals as TAUNTON.*


B { *Annexed to a Town Denotes it a Borough, which retains  
the Privilege of sending Representatives to Parliament.*


 *Villages.*


 *Churches.*


 *Gentlemen's Seats or noted Houses.*




 *Farms or Cottages.*

 *Turnpike Roads, or intended to be made such.*

 *Inclosed Roads.*

 *Open Roads over Commons or Downs.*

 *Roads open on one Side with a Hedge on the other.*

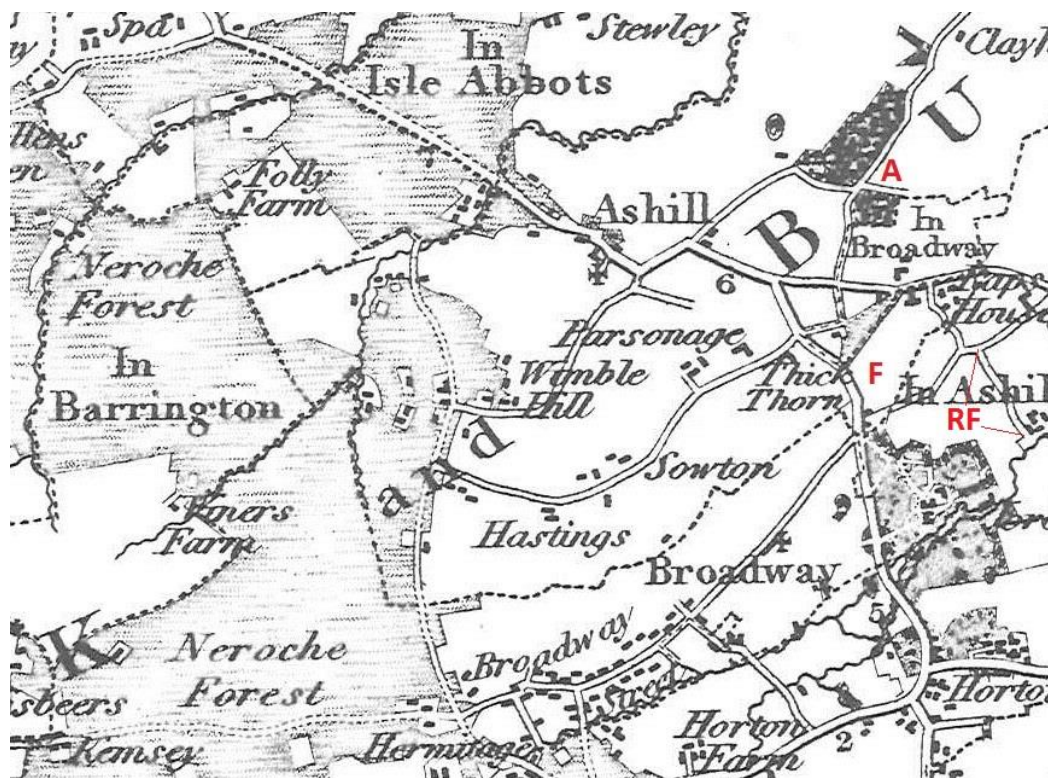
 *Fields of Battle.*  *Ancient Encampments.*  *Division of Hundreds*

25

20



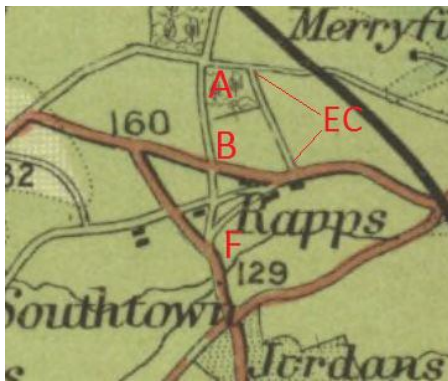
Appendix 31. Greenwood's Map, 1822.



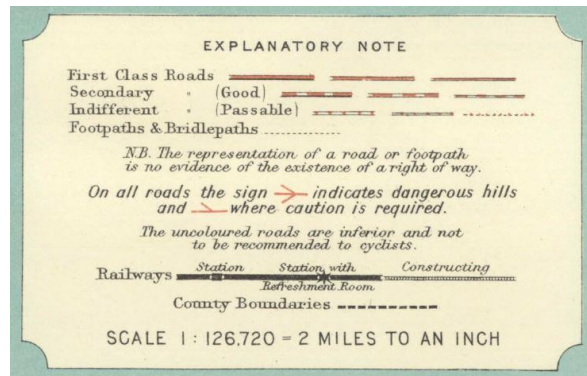
Churches & Chapels	+
Castles & Ruines	■
Houses	⌘
Water Mills	⊙
Wind Mills	⊗
Coal Pits	⊕
Woods & Plantations	
Heaths & Commons	
Rivers & Brooks	
Navigable Canals	
Turnpike Roads	
Cross Roads	
Towns & other Places that send Members to Parliament	
Hills & Rising Grounds	
Boundaries of Counties	.....
Boundaries of Hundreds	-----
Boundaries of Townships & Parishes	.....
Market Towns in Roman Capitals as	BATH
Parishes & Townships in small Roman as	Holwell
Villages Hamlets and other Places as	Whitechurch
Toll Bars	T.B.



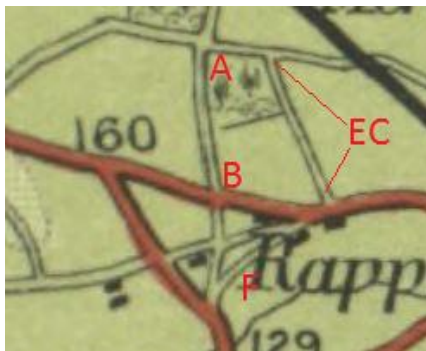
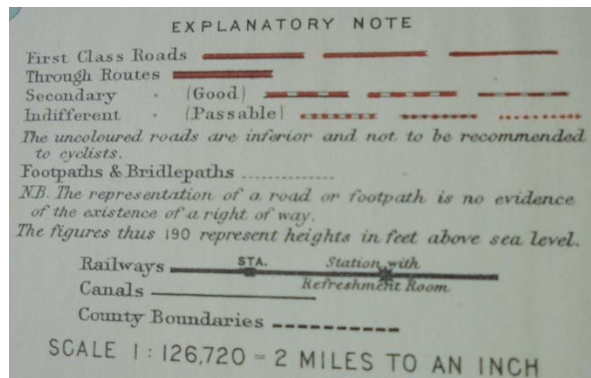
Appendix 32. Bartholomew's Map. Reference: Sheet 34.



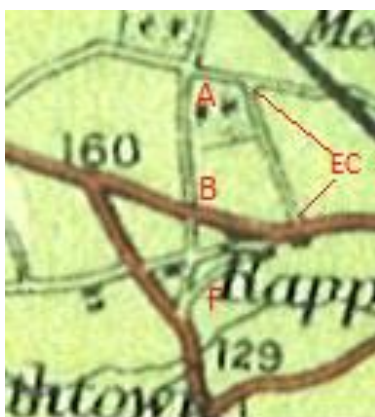
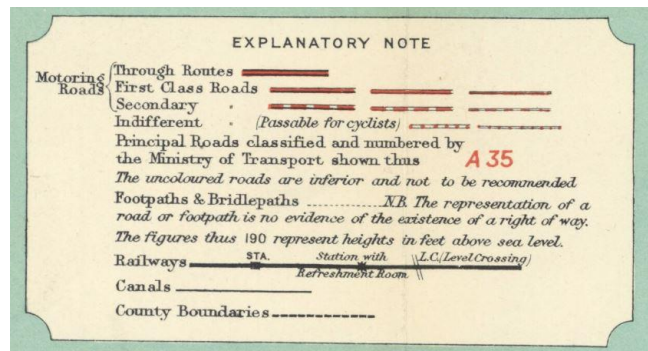
1902



1911



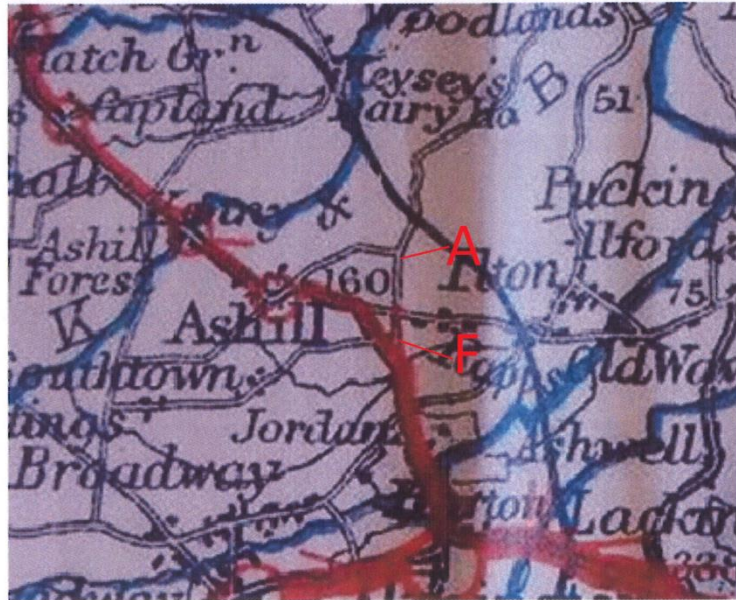
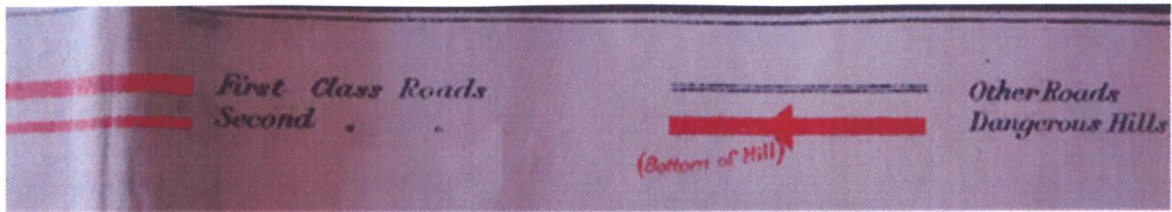
1923



1927



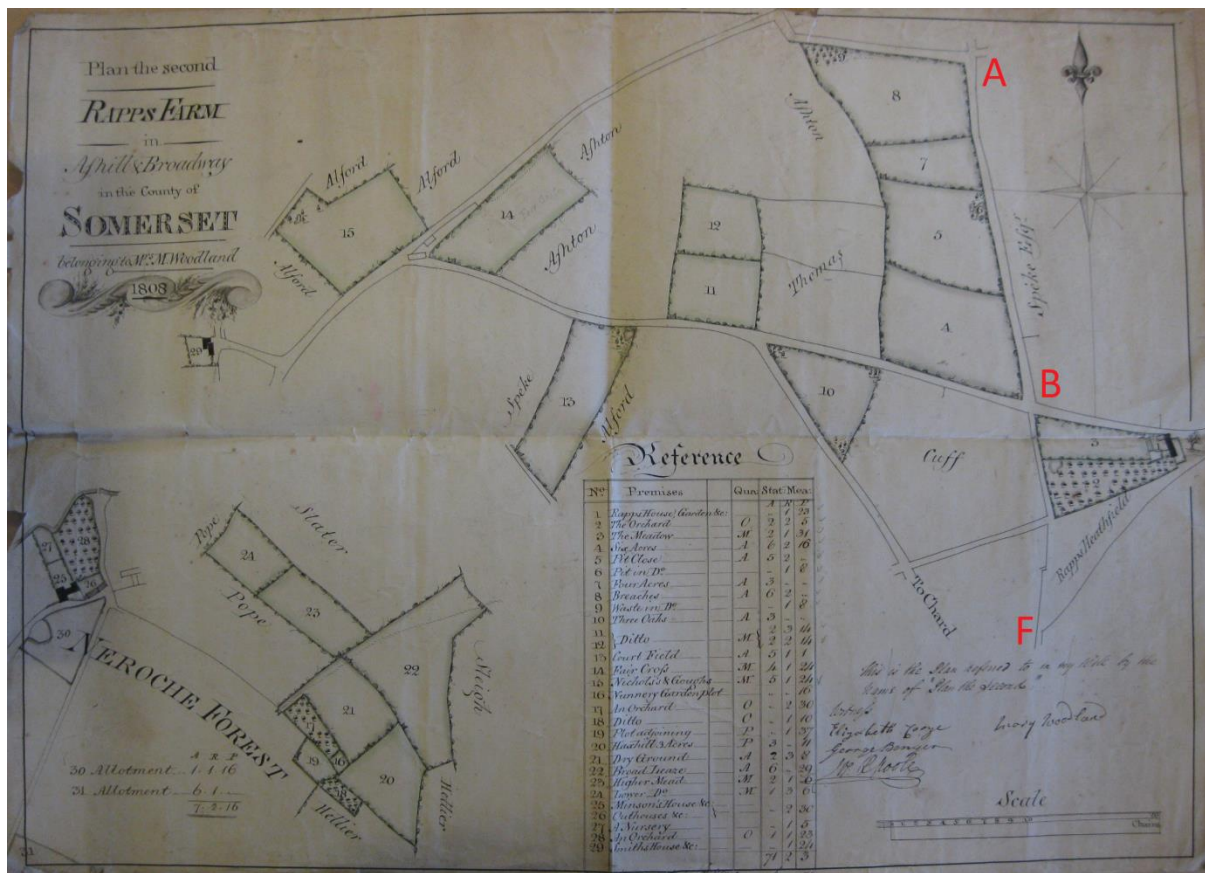
Appendix 33. Royal Automobile Club (RAC) Official Touring Map, 1913.







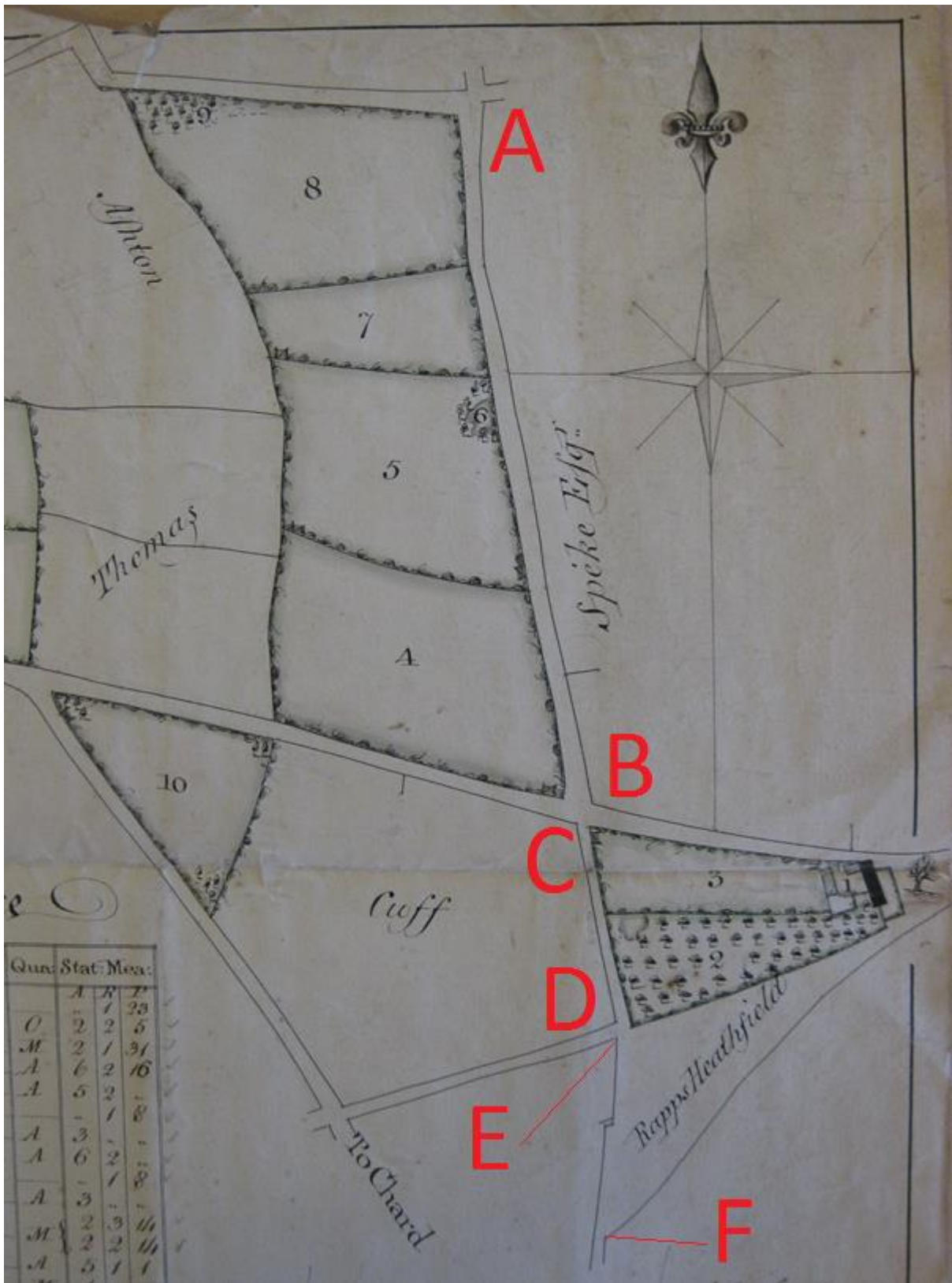
**Appendix 34. 'Plan the Second Rapps Farm in Ashill & Broadway in the County of Somerset belonging to Mrs M. Woodland 1808' referred to in the Will of Mary Woodland, 31<sup>st</sup> May 1808 (see appendix 35).**



Nº	Premises	Qua.	Stat.	Mea.
1	Rapps House & Garden &c.	A	1	23
2	The Orchard	O	2	5
3	The Meadow	M	2	31
4	Six Acres	A	6	16
5	Pit Close	A	5	2
6	Pit in Dº	-	1	8
7	Four Acres	A	3	-
8	Breaches	A	6	2
9	Waste in Dº	-	1	8
10	Three Oaks	A	3	-
11	Ditto	M	2	3
12	Ditto	M	2	2
13	Court Field	A	5	1
14	Fair Crofs	M	4	1
15	Nichols's & Cloughs	M	5	1
16	Nunnery Garden plot	-	-	16
17	An Orchard	O	2	30
18	Ditto	O	1	10
19	Plot adjoining	P	1	37
20	Haashill 3 Acres	P	3	-
21	Dry Ground	A	2	3
22	Broad Meaze	A	6	29
23	Higher Mead	M	2	1
24	Lower Dº	M	1	3
25	Minson's House &c.	-	2	30
26	Outhouses &c.	-	1	5
27	A Nursery	-	1	23
28	An Orchard	O	1	24
29	Smiths House &c.	-	2	3

W. C. Rapps

Appendix 34 continued.



Detail

Appendix 35. Will of Mary Woodland, 31<sup>st</sup> May 1808.

Meadow or Pasture ground called Lower Howewell containing by Measurement two Acres & Close of Meadows or Pasture ground adjoining to the said two last mentioned Closes called Hornbar containing by Measurement two Acres one Rod and thirty five Perches & Close of Meadow or Pasture ground called Playes five Acres containing by Measurement four Acres three Rods and thirty Perches & Close of Meadow or Pasture ground called Playes three Acres containing by Measurement three Acres & Cottage or Dwellinghouse Garden and Premises therunto belonging called Dorothy Meads Cottage containing by Measurement thirty two Perches & Close of Meadow or Pasture ground lying near the said last mentioned Cottage called Dorothy Meads Plot containing by Measurement three Rods and thirty Perches - A Cottage or Dwellinghouse Garden and Premises therunto belonging called Bords Cottage containing by Measurement nineteen Perches and a Close of Marble or Pasture lying near or adjoining to the said last mentioned Cottage containing by Measurement three Rods and sixteen Perches & by what so ever other Names Quantities and Descriptions the Premises comprized in the said first Plan and hereby intended to be devised and appointed unto my said Son John Woodland and his Heirs or usually have been called known or distinguished Together with all and singular the Rights Privileges and Appurtenances therunto respectively belonging or appertaining and particularly Common of Pasture and all other Common Rights (there being seven or more distinct and separate Rights of Common in respect of the several ancient Venements here devised and appointed) in upon and over the late disafforested Forest of Coach otherwise Meroch and other commonable Places in or near the County of Somerset Except nevertheless out of this Devise and Appointment as not intended to be included therein or to pass thereby all such Timber Trees and other Trees now standing or being on the said Premises or any Part thereof as have been or shall be by my Directions marked and numbered for sale -

I Give devise and appoint to my said Son Richard Woodland his Heirs and Assigns for ever subject nevertheless and charged with the Payment of one full third Part or Share of the said three several Legacies of One thousand Pounds last hereinbefore given and bequeathed) All that Messuage or Tenement commonly called or known by the Name of Casorne and the several Close Pieces and Parcels of Land Meadow and Pasture therunto belonging containing together in the whole by estimation thirty three Acres but which measure only twenty six Acres and half or thereabouts situate lying and being at Casorne within the Parish of Bradbury in the said County of Somerset with all such Common of Pasture on the late disafforested Forest of Coach otherwise Meroch Rape Green Sedgemoor and elsewhere unto the said Tenement and Premises belongeth Also all that Messuage and Tenement with the Appurtenances called Broadleas and all these two Fields or Closes of Land called Plot of Howewell formerly in the Possession of Allen Painter deceased Priest of the Manor of Wood situate in the Parish of White of aforesaid Also all that House and Orchard called at Wood in the Parish of White of aforesaid formerly in the Possession of Mary Pitt Spoke her Assigns or Assigns Tenant or Undertenant together with such Common of Pasture in the Forest of Coach otherwise Meroch as hath been usually enjoyed with the said Premises respectively

Mary Woodland (Seal)

Page 7.

Appendix 35 continued.

Also all that Close of Pasture ground called *Five Close* containing by estimation five acres also all those two Closes of Pasture adjoining containing by estimation five acres and half also all that Close of Pasture containing by estimation three acres lying near the three daks also all those two Closes of Pasture formerly one Close containing by estimation six acres with Common of Pasture in the Forest & Park also all that Cottage or Dwellinghouse Barn Bathouses Garden and Orchard containing by estimation half an acre and also all that Close of Land overlaid called *Court Field* containing by estimation six acres & the said several Closes Pieces and Parcels of Ground any or either of them more or less all which Closes Dwellinghouse and Premises last herein before mentioned are situate in the Parish of *Walsley* aforesaid and together with the several other Messuages or Tenements Closes Pieces and Parcels of Ground and Appurtenances herein before described and intended to be hereby devised and appointed unto my said Son *Richard Woodland* and his Heirs have been lately surveyed by *W<sup>m</sup> Charles Frickott* by my Directions and are delineated by him on a Plan now in my Possession and signed by me entitled "*Plan the second*" and which said several Messuages or Tenements Closes Pieces and Parcels of Ground Appurtenances so hereby intended to be devised and appointed unto the said *Richard Woodland* and his Heirs are now called known and distinguished by the Names Quantity of Acres and other Description following that is to say All that Messuage or Dwellinghouse Court Gardens Barrens and Premises called *Nappes* containing by Admeasurement one Acre and twenty three Perches also a Close of Orchard adjoining containing by Admeasurement two Acres two Roods and five Perches also a Close of Meadow or Pasture ground adjoining containing by Admeasurement two Acres one Rood and thirty one Perches also a Close of Meable or Pasture ground called *the six Acres* containing by Admeasurement six Acres two Roods and sixteen Perches also one other Close of Meable or Pasture ground adjoining to the six Acres called *Pat Close* containing by Admeasurement five Acres three Roods and eight Perches also one other Close of Meable or Pasture ground adjoining to *Pat Close* called *the four Acres* containing by Admeasurement three Acres also one other Close of Meable ground with the Copse or Waste ground belonging thereto called *the Braches* lying adjoining to the said Close called *the four Acres* and containing by Admeasurement six Acres three Roods and eight Perches which said Messuage and six Closes last mentioned are situate in the said Parish of *Walsley* also a Plot of Garden ground at *Munery* containing by Admeasurement sixteen Perches also an Orchard adjoining thereto containing by Admeasurement two Roods and thirty Perches also one other Orchard lying near the said Garden Plot containing by Admeasurement one Rood and ten Perches also a Close of Pasture ground adjoining the said Garden Plot containing by Admeasurement one Rood and thirty seven Perches also one other Close of Pasture ground adjoining the said Garden Plot called *Flaxhill* three Acres containing by Admeasurement three Acres and eleven Perches also a Close of Meable adjoining the said Garden Plot called *Dry Ground* containing by Admeasurement two Acres three Roods and eight Perches also a Close of Meable adjoining to *Dry Ground* called *Beard Leaze* containing by Admeasurement six Acres and twenty nine Perches also a Close of Meadow or Pasture adjoining to *Beard Leaze* called *Hager Leaze* containing by Admeasurement two Acres one Rood and six Perches

8 Richard Woodland

## Appendix 35 continued.

Transcript of relevant section of page 7.

“I give devise and appoint to my said Son Richard Woodland his Heirs and assigns for ever subject nevertheless and charged with the payment of one full third part [.]ha[.]e of the said three several legacies of one thousand pounds last hereinbefore given and bequeathed all that mesuage or tenement commonly called or known by the name of Broome and the several Closes Pieces and Parcels of land meadow and Pasture thereunto belonging containing together in the whole by estimation thirty three acres but which measure only twenty six acres and half or thereabouts situate lying and being at Raps in within the Parish of Broadway in the said County of Somerset with all such Common of pasture on the late disafforested Forest of Roach otherwise Neroch Rapse Green Sedgemoor and elsewhere unto the said tenement and premises belongeth also all that mesuage and tenement with the [....] tenancies called Broadleases and all those two fields or closes of land called part of [..]eswills formally in the possession of Allen Binton deceased parcel of the manor of Wood [....] in the parish of Ashill aforesaid also all that House and orchard lying at Wood in the parish of Ashill aforesaid formerly in the possession of Margaret Speke her [...] or assigns Tenant or undertenants together with such Common of Pasture in the forest of Roach otherwise neroch as hath been usually enjoyed with the said premises respectively.”

Transcript of relevant section of page 8

“...unto my said son Richard Woodland and his heirs have been lately surveyed by Mr Charles Chilcott by my Directions and are delineated by him on a Plan now in my Possession and signed by me entitled “Plan the second” and which the several messuages or tenements closes pieces and parcels of ground, Hereditaments, so hereby intended to be devised and appointed unto the Said Richard Woodland and his Heirs are now called known and distinguished by the names quantity of acres and other Descriptions following that is to say All that messuage or Dwelling house counts gardens Bartons and premises called Rapps (1) containing by admeasurement one rood and twenty three perches also a close of orchard adjoining (2) containing by admeasurement two acres two roods and five perches Also a close of meadow or pasture ground adjoining (3) containing by admeasurement two acres one rood and thirty one perches also a close of arable or pasture ground called the six acres (4) containing by admeasurement six acres two Roods and sixteen perches Also one other close of arable or pasture ground adjoining to the six acres called Pit Close (5 and 6) containing by admeasurement five acres three roods and eight perches Also one other Close of arable or pasture ground adjoining to Pit Close called the four acres (7) containing by admeasurement three acres one other close of arable ground with the Coppice or Waste Ground belonging thereto called the Breaches (8 and 9) lying adjoining to the said close called the Four Acres and containing by admeasurement six acres three Roods and eight perches which said mesuage and six closes last mentioned are situate in the said Parish of Broadway”



**Appendix 36. Draft – Plan of lands in the parishes of – Beer Crocombe Ashill, White-Lackington, Isle Abbots South Bradon, Ilton Buckland St. Mary and Broadway, belonging to the trustees of the late Early of Egremont Compiled from Maps of the several Parishes September 1852.**



	Baker Samuel		Jeffery J <sup>r</sup>
	Baker Benjamin		Webb Samuel
	Bradon Mary & Son		Jeffery Tho <sup>s</sup>
	Bradon Peter		Crabb Samuel
	Blake Downing (Lancaster)		Welsh Joseph
	Born Christopher		Stade Thomas
	Bradley A. J. & H.		Born John
	Price Edw <sup>d</sup> & J <sup>r</sup>		Galt John
	Blard Rich <sup>d</sup>		Spiller W <sup>m</sup> & J <sup>r</sup>
	Sawyer Geo. & J <sup>r</sup>		Baker Robert
	Dight Amos & J <sup>r</sup>		Nobb J. T.
	Durman & Shute		Blake S & E
	Goodland John		Blacker Sam <sup>l</sup>
	Goodland Joseph		James Sam <sup>l</sup>
	Hill Simon & John		Ajlon Robt
	Crabb Daniel		Graddam E.
	Goodland William		Trustees

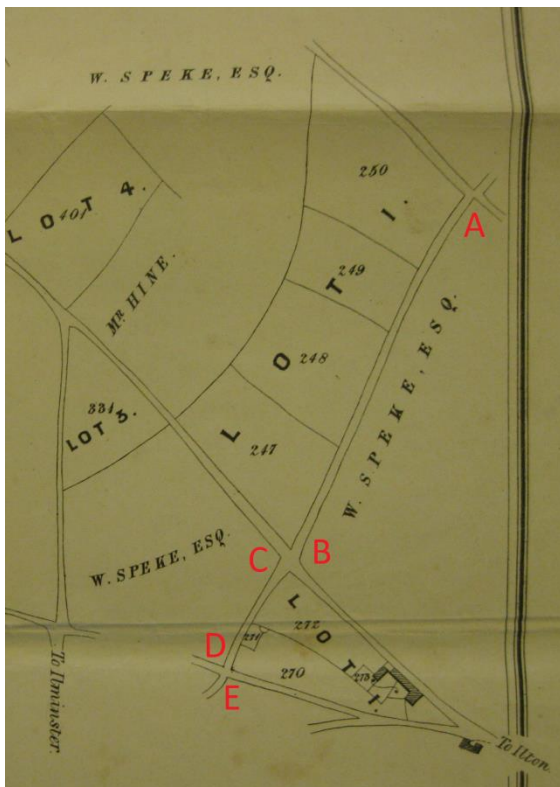
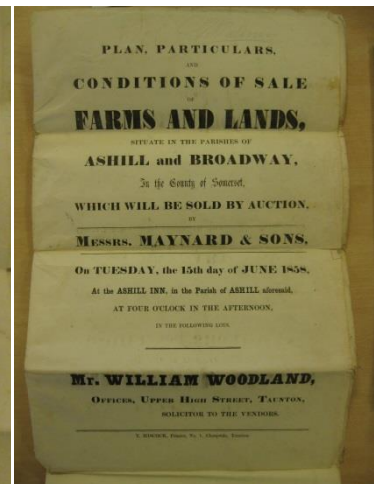


Detail.





Appendix 37. Sales particulars for land in Ashill and Broadway, 1858.



Appendix 37 continued.

LOT 1.

All that capital Dwelling-House, with the Garden, Stable, Barn, Bartons, and other convenient Farm Buildings, called RAPP'S, with upwards of 27 Acres of Orchard, Pasture, and Arable Lands comprised in the following particulars, being for the most part an extract from the Book of Reference to the Tithe Commutation Map of the Parish of Broadway aforesaid.

No. on Tithe Map.	DESCRIPTION.	QUALITY.	QUANTITY.		
			A.	R.	P.
<i>Bu.</i> 247	Six Acres	Arable	5	2	3
248	Pit Close	Arable	5	2	24
249	Four Acres	Arable	3	1	6
250	Breaches	Arable	7	0	30
270 & 271	Orchard and Pond, &c.	Orchard	2	1	14
<i>£1490</i> 272	Barn Plot	Pasture	2	1	36
273	Farm House, Out-buildings, &c.		0	2	13
			27	0	6

LOT 2.

*£1490 Bid in Bid Liddon*      *£1600 Bid in*

Lots 1, 15, and 16, are situate in the Parish of BROADWAY, and all the other Lots in the Parish of ASHILL aforesaid; Lot 2, is in the occupation of Mr. RICHARD LOCKYER TAZEWELL; Lot 14, in the occupation of Mr. ROBERT MEARE; and all the remaining Lots in the occupation of Mr. JOHN COGGAN, or his Under Tenants.

*The whole of the above mentioned Properties are situate about 8 Miles from Taunton and 4 from Ilminster, and adjoin good Roads.*

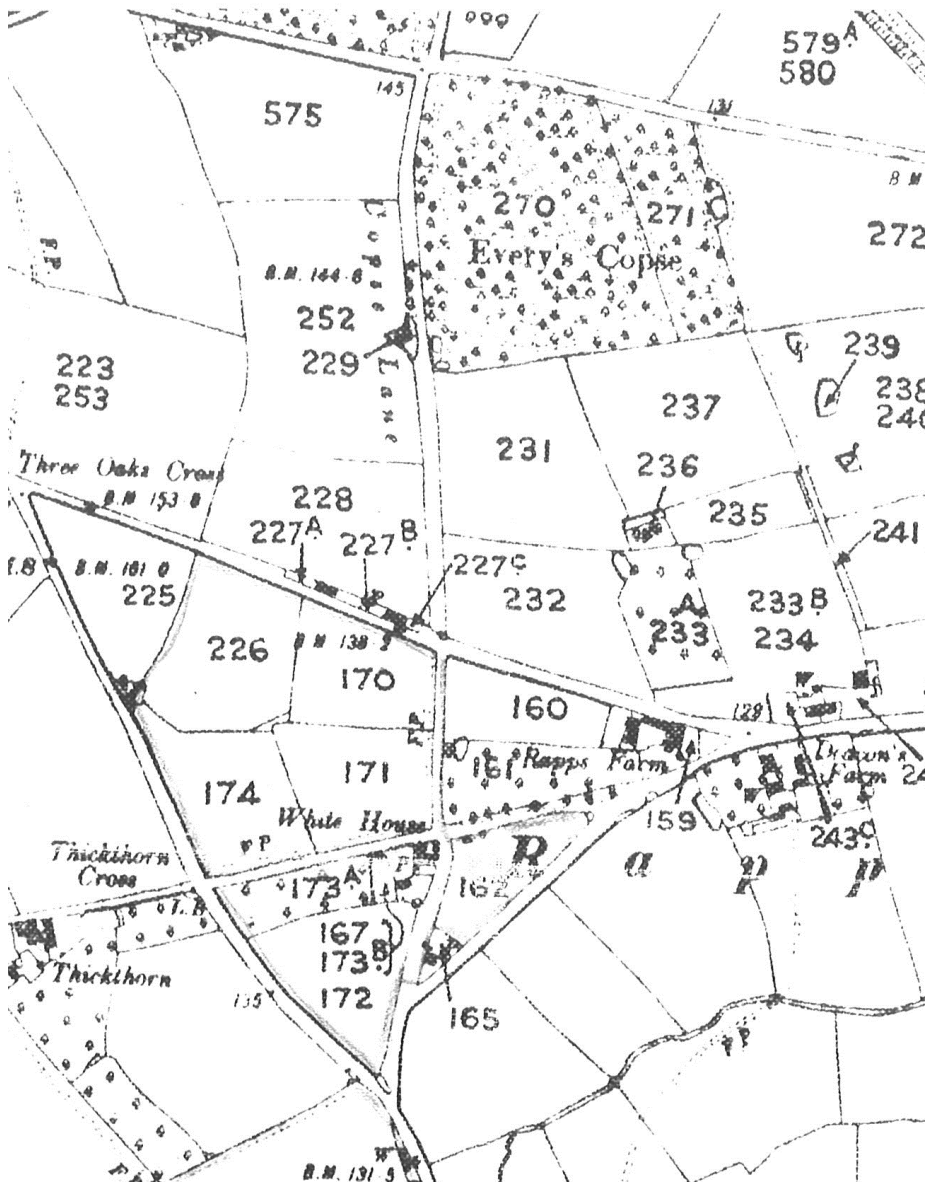
THE SEVERAL OCCUPIERS WILL SHOW THE PREMISES.

### Appendix 38. User Evidence

User No.	Period of Personal Use	Date of calling into question	Start of 20 year period	Frequency
1	26 years	2013	1993	Used daily
2	7 years	2011	1984	Used twice a week
3	7 years	2011	1984	Used 5 or 6 times a year
4	19 years	2012	1988	
5	15 years	2012	1988	
		2010		
		2009		
		2008		
		2007		
		2006		
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		1983		
		1982		
		1981		
		1980		
		1979		
		1978		
		1977		



**Appendix 39. Relevant extracts of map provided by Landowner A. Jordans Estate, 1957, Rawlence and Squarey Chartered Surveyors.**



SCALE 6 INCHES TO 1 MILE. AREA COLOURED PINK DENOTES WHITEHOUSE FARM, ASHILL.

REPRODUCED FROM O. S. SHEETS SOMERSET 80.5E, 81.5W, 87.NE & 88.NW

REPRODUCED WITH THE SANCTION OF H.M. CONTROLLER OF THE STATIONERY OFFICE

ILMINSTER.

OCTOBER 1957	RAWLENCE & SQUAREY, CHARTERED SURVEYORS, SILVER STREET, TAUNTON	PLAN No. T 332/1
-----------------	---	---------------------

*R.S.*



# Appendix 40. Relevant extracts of map provided by Landowner A. OS map sheet ST 31NW Somerset 1969.



**Abbreviations**

- Boundary Post or Stone..... BP, BS
- Church..... Ch
- Fire Engine Station..... FE Sta
- Foot Bridge..... FB
- Fountain..... F
- Guide Post..... GP
- Mile Post..... MP
- Mile Stone..... MS
- Police Station..... Pol Sta
- Post Office..... PO
- Public Convenience..... PC
- Public House..... PH
- Signal Box..... SB
- Spring..... Sp
- Telephone Call Box..... TCB
- Telephone Call Post..... TCP
- Well..... W

**Boundaries**

Geographical County.....  
 Administrative County, County Borough or County of City.....  
 Municipal Borough, Urban or Rural District, Borough or District Council.....  
 Civil Parish.....

**Heights**

Values are given in feet above Mean Sea Level at Newlyn.  
 Contours are at 100 feet vertical interval.

Surface heights determined by ground surveys.....  
 levelling.....

**Rock Features**

Vertical Face.....  
 Loose Rock.....  
 Boulder.....  
 Outcrop.....  
 Scar.....

INDEX TO ADJOINING SHEETS

ST 22 SE	ST 32 SW	ST 32 SE
ST 21 NE	ST 31 NW	ST 31 SE
ST 21 SE	ST 31 SW	ST 31 SE

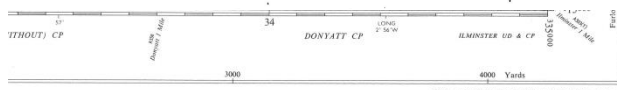
**THE NATIONAL GRID**  
 TO GIVE A GRID REFERENCE CORRECT TO 100 METRES

EXAMPLE

The Grid letters on this sheet are ST

EAST	30	NORTH	16
Take west edge of kilometre square in which point lies and read the large figures printed opposite this line on north or south margins.	0	Take south edge of kilometre square in which point lies and read the large figures printed opposite this line on east or west margins.	0
Estimate tenths Eastwards	0	Estimate tenths Northwards	0
Full 100 Metre Reference ST 309160			

**SHEET ST 31 NW**  
 [64] For price see current price list.



**SURVEY DIAGRAM**

1900	1905	1910	1915	1920
1925	1930	1935	1940	1945
1950	1955	1960	1965	1970
1975	1980	1985	1990	1995

Made and published by the Director General of the ORDNANCE SURVEY, SOUTHAMPTON, 1969.

**Road**.....  
**Track**.....  
**Path**.....  
**Measures of Transport**.....  
**Road Numbering**.....

**Railways**.....  
**Canals**.....  
**Embankment**.....  
**Multiple Track**.....  
**Foot Bridge**.....  
**Siding, Turnout or Mineral Lane**.....

**Buildings**.....  
**Overgrown Pit**.....  
**Quarry, Chalk or Clay Pit**.....  
**River or Stream**.....  
**Sluice or Mill Race**.....  
**Shaping Machinery**.....  
**Gravel Pit**.....

**Trees, Cultivated**.....  
**Non Cultivated**.....  
**Scrub**.....  
**Bank**.....  
**Heath**.....  
**Dunes**.....  
**Electric Transmission Line**.....

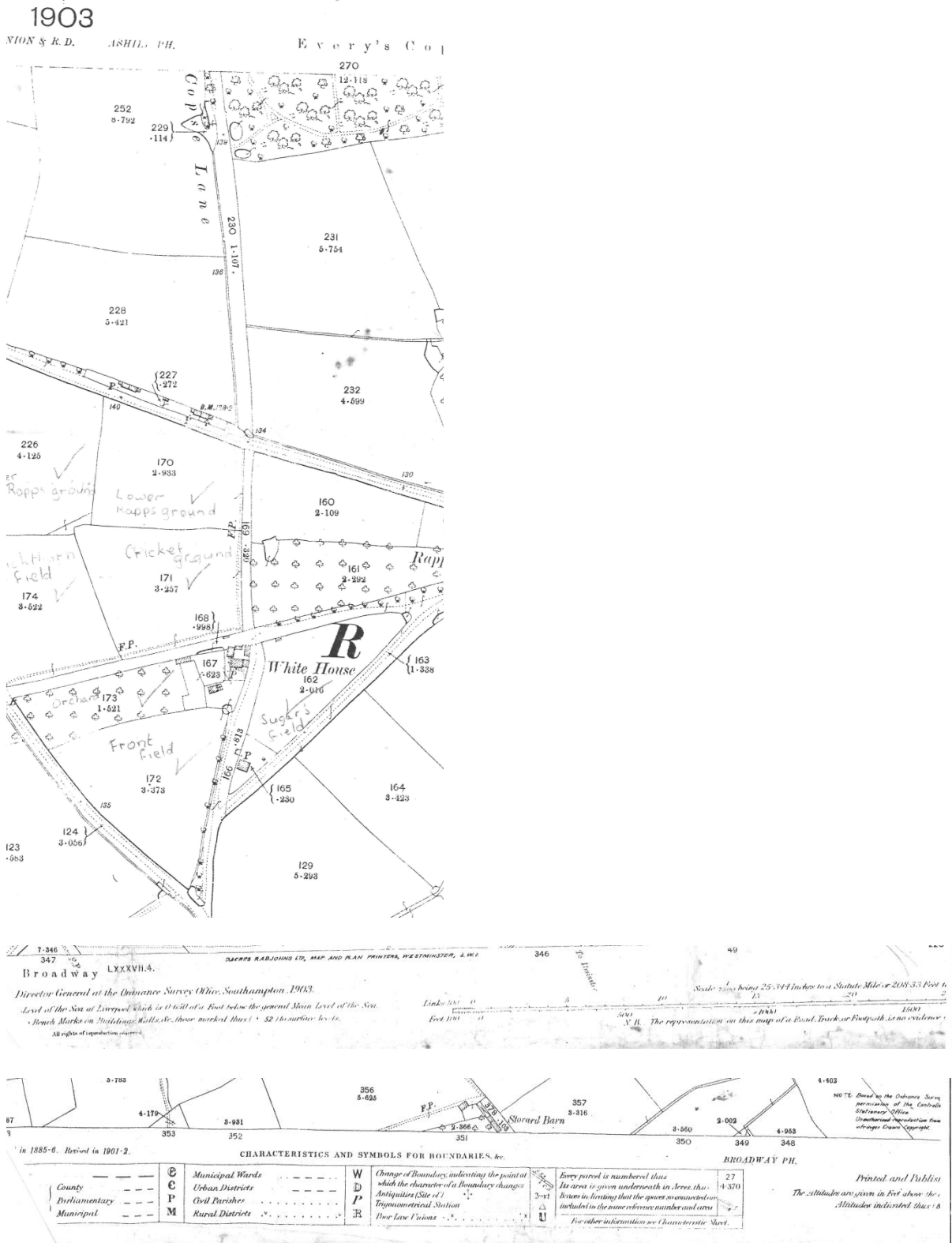
**Croft**.....  
**Orchard**.....  
**Field**.....  
**Marsh**.....  
**Shrub**.....  
**Direction of Flow of Stream**.....  
**Lock on Road**.....

**SHEET ST 31 NW**  
**SOMERSET**





**Appendix 41. Relevant extracts of map provided by Landowner A. OS Map second edition 1903, 1:2500.**



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