

Regulation Committee (virtual meetings from May 2020 due to Coronavirus)
Thursday 6 May 2021
10.00 am



SUPPLEMENT TO THE AGENDA

To: The Members of the Regulation Committee (virtual meetings from May 2020 due to Coronavirus)

We are now able to enclose the following information which was unavailable when the agenda was published:

Agenda Items 5 – 7 Case Officer Presentations	
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Published on 06 May 2021

Democratic Services, County Hall, Taunton

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Regulation Committee

6th May 2021

Item 5- Application to upgrade part of footpath Y 9/35 to a bridleway from the eastern end of restricted byway Y 9/49 southwards to the junction with footpath Y 9/46 in the parish of East Coker

Item 6- Application to add a restricted byway and upgrade part of footpath CH 5/57 to a restricted byway over Paintmoor lane, Chard and Chaffcombe

Item 7- SCC/3787/2021 - Planning Application for the Extraction of White Lias Limestone at Slate Lane, West Camel, Somerset.

Item 5: WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53

SCHEDULE 14 APPLICATION

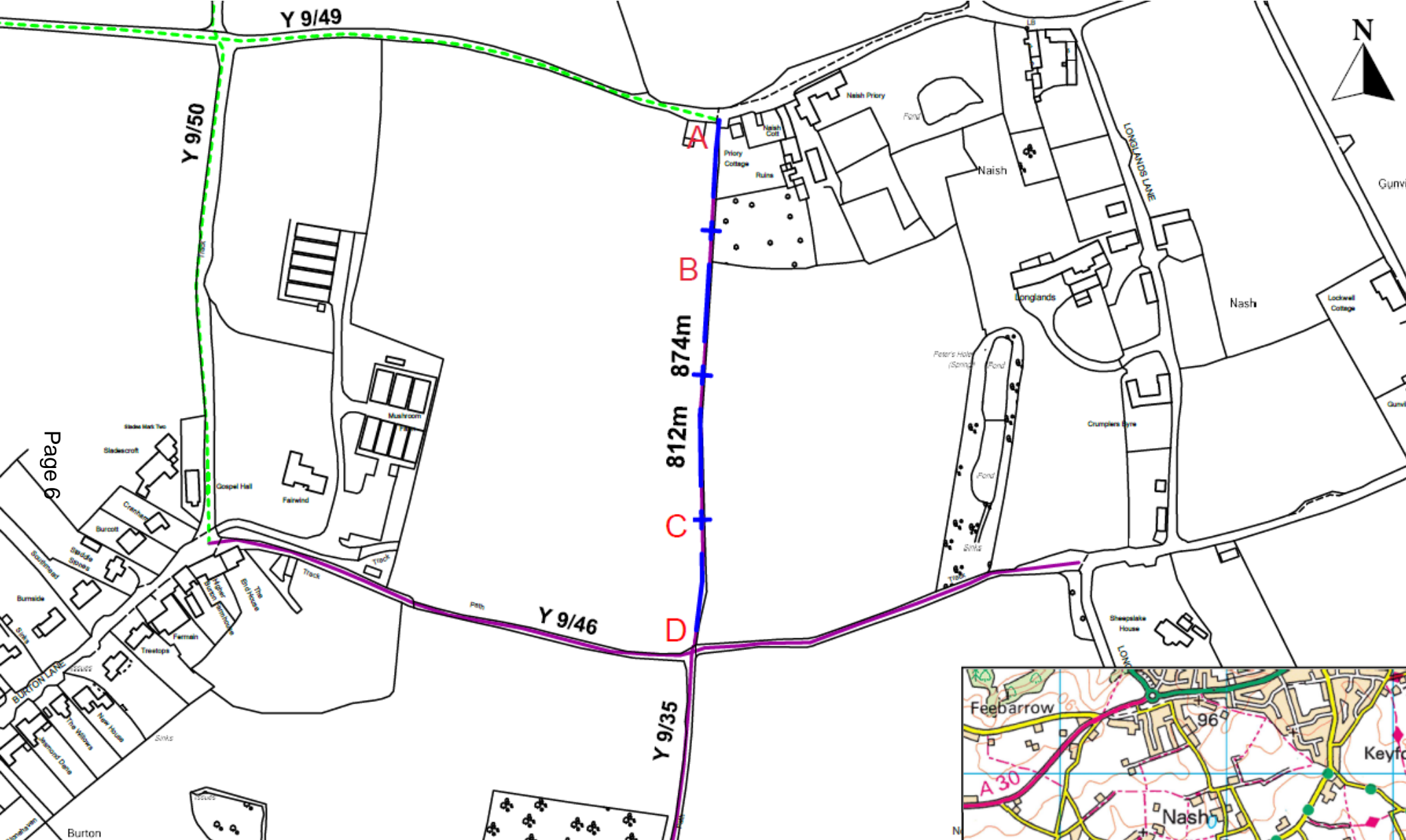
Application to upgrade part of footpath Y 9/35 to a bridleway from the eastern end of restricted byway Y 9/49 southwards to the junction with footpath Y 9/46 in the parish of East Coker

Page 4

Application: 812M/874M
Author: Harry Wood
Dates: Report: April 2021
Presentation: May 2021

Item 5: Details of the Application

- Somerset County Council identified a possible error in the Definitive Map and Statement in March 2015 (812M).
- Subsequently, an application was made on 23 August 2019 by South Somerset Bridleways Association (874M).
- The applicant claims that part of footpath Y 9/35 should be recorded as a bridleway.



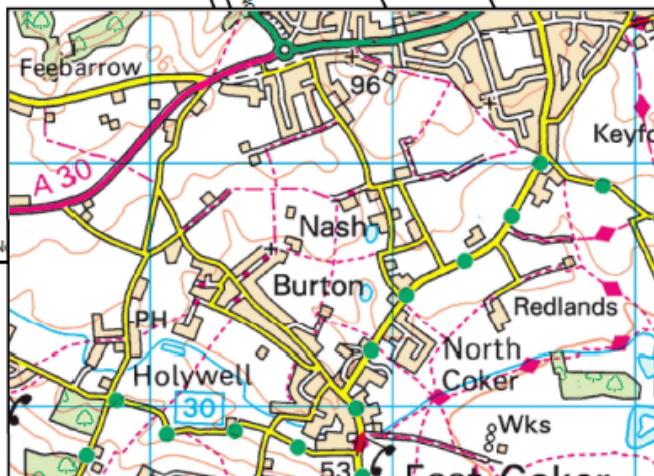
Page 6



Parish: East Coker
 District: South Somerset
 Date: 19/10/2020
 Drawing No: H58-2020
 Drawn By: MHardwill
 Centre Grid Ref: 353702 113675
 Scale: 1:2500

Definitive Footpath ———
 Modifications 874 & 812 —+—
 Restricted Byway - - -

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.
 - For reference purposes only.
 No further copies to be made.
 (c) Crown copyright. All rights reserved (Somerset County Council) (100038382 (2020))



Item 5: Application Route



Point A looking south



Point B looking north



Point D looking north

Item 5: Investigation

- Aim: to establish if either
 - Higher public rights than currently recorded exist over the application route, and if so what level of public right.
- OR
- The route is correctly recorded as a footpath, and as such the Definitive Map and Statement do not require updating.

Item 5: Potential Outcomes for this matter

- Refuse to make an Order, in which case the route will remain as a footpath
- Resolve that higher public rights exist in the form of one of the following;
 - Bridleway
 - Restricted byway
 - Byway open to all traffic (commonly referred to as a BOAT)
- The conclusion of the report is that, on the **balance of probabilities**, footpath Y 9/35 is already a bridleway, and the Definitive Map and Statement should be amended to reflected this.

Item 5: Test to be applied

- Before an order can be made to modify the Definitive Map, there must first have been a discovery of new evidence (i.e. evidence that was not consulted when the Definitive Map was last reviewed).
- Having discovered that evidence, the standard of proof to be applied in this case is the **balance of probabilities**. This test involves determining, based on all of the available evidence, **whether higher public rights are more likely to exist than not**.

Item 5: Matters considered

The key document set in this case is the Quarter Sessions records.

- Do these show that a public right of way was created over the application route?

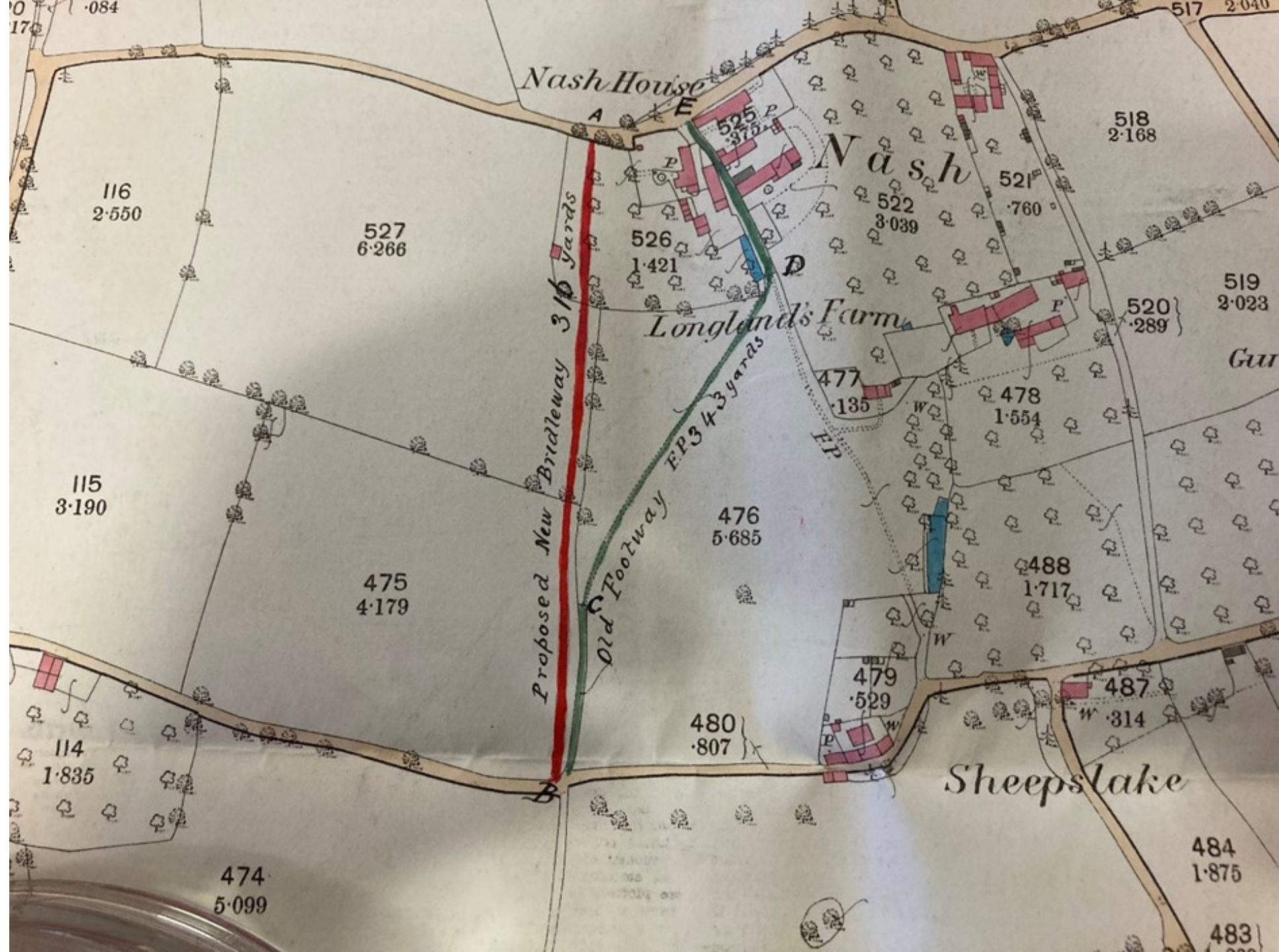
And if they do:

- What level of public rights were created?
- Is there evidence that those rights have since been extinguished?

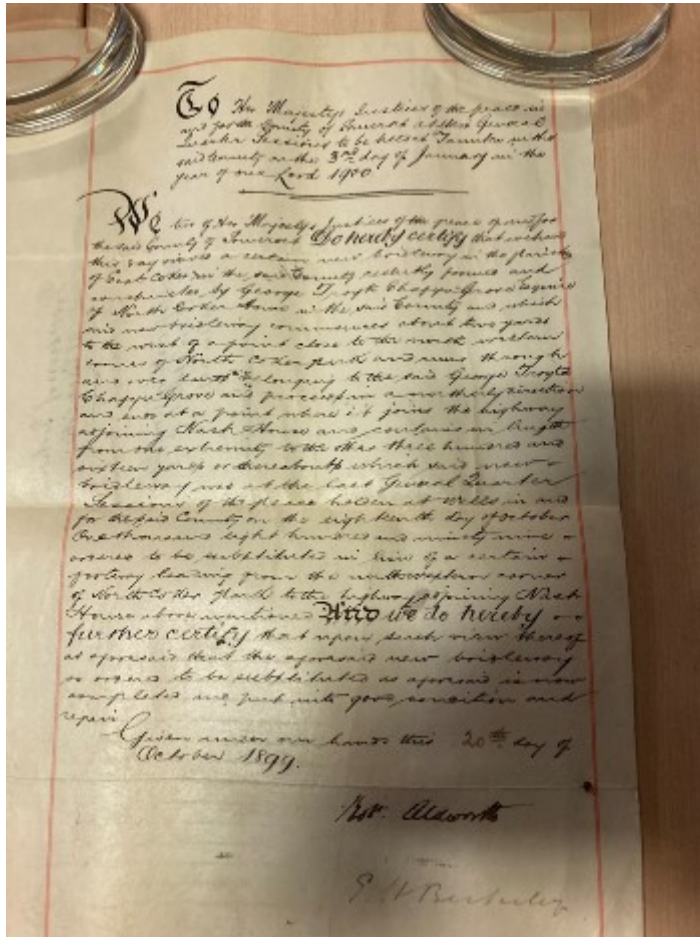
Item 5: Quarter Sessions records

Page 12

'Plan A', Certificate of the Justices (18 August 1899), SHC Q/SR/797/166-167



Item 5: Quarter Sessions records



“[We have] this day viewed a certain new bridgeway in the parish of East Coker [...] recently formed and constructed [...] we do hereby further certify that upon such view [...] the aforesaid new bridgeway so ordered to be substituted as aforesaid is now completed and put into good condition and repair”.

‘Certificate of Completion’ (20 October 1899), SHC Q/SR/798/3

Item 5: Reason for the recommendation

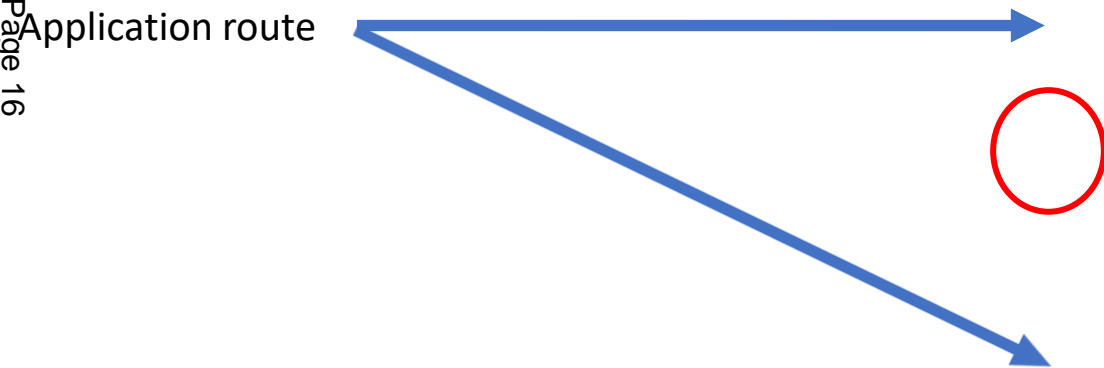
- The Quarter Sessions records provide conclusive evidence of the creation of a public bridleway.
- No evidence has been found of a legal extinguishment of those rights.

Item 5: Main issues raised

- Ordnance Survey evidence: use of "F.P." annotation.
- Presence of kissing gates.
- Physical availability of the route for equestrian users.

Item 5: Ordnance Survey Evidence

Page 16



Item 5: Kissing gates



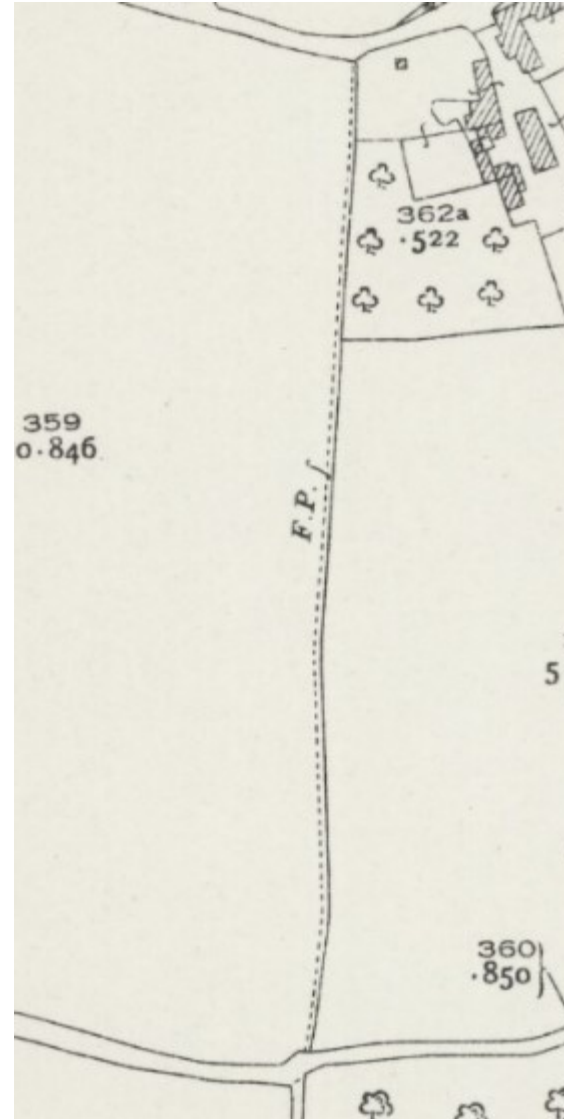
Point A looking north

Point D looking south

Item 5: Physical Availability



Point A looking south

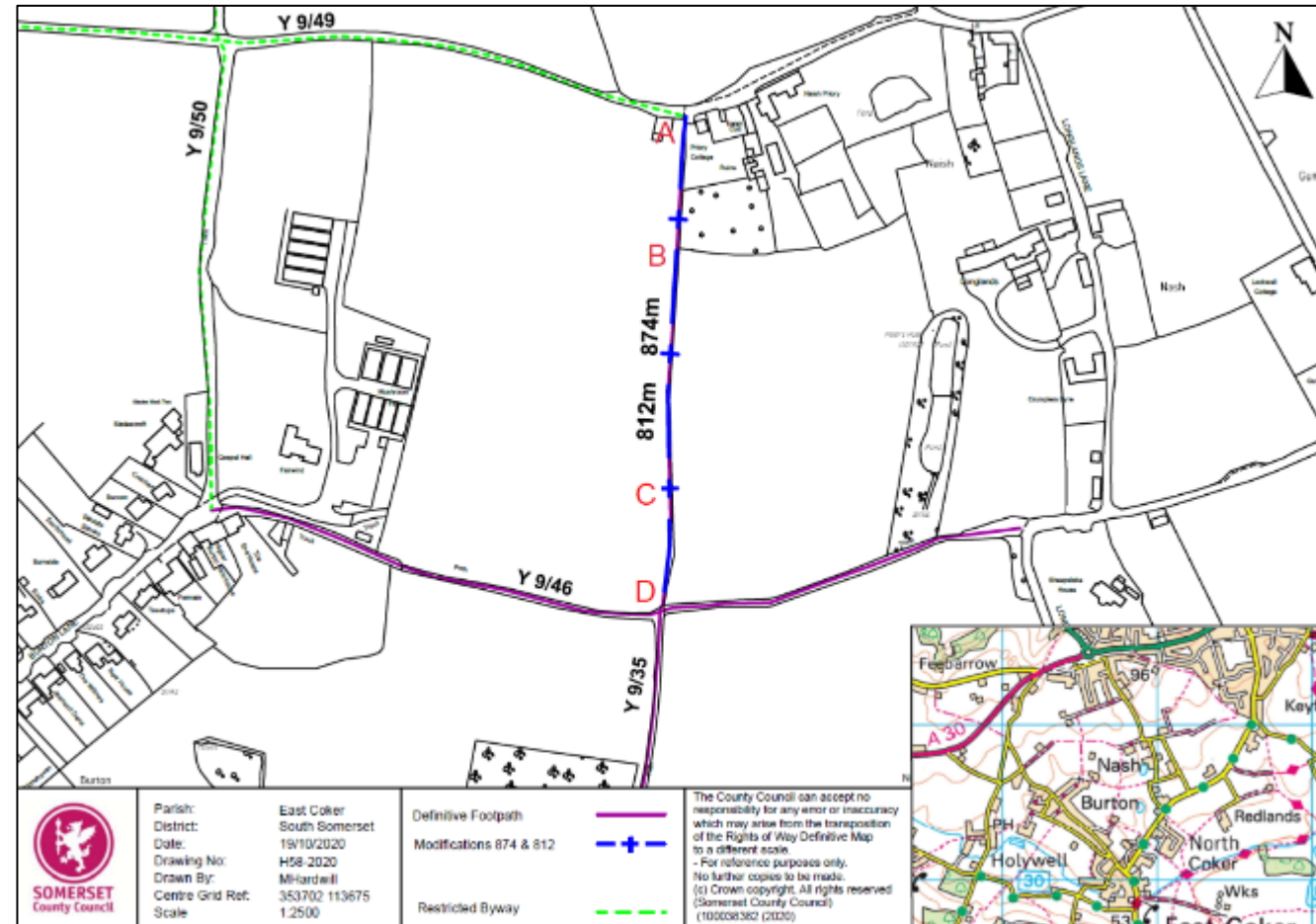


OS County Series Third Edition 25 Inch Map (revised 1927), sheet number: Somerset XC.5

Item 5: Summary

- An order should be made to modify the Definitive Map and Statement where the surveying authority discover evidence which, when considered alongside all other available evidence, indicates "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".

Wildlife and Countryside Act 1981, Section 53(3)(c)(ii)



Item 6: WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53

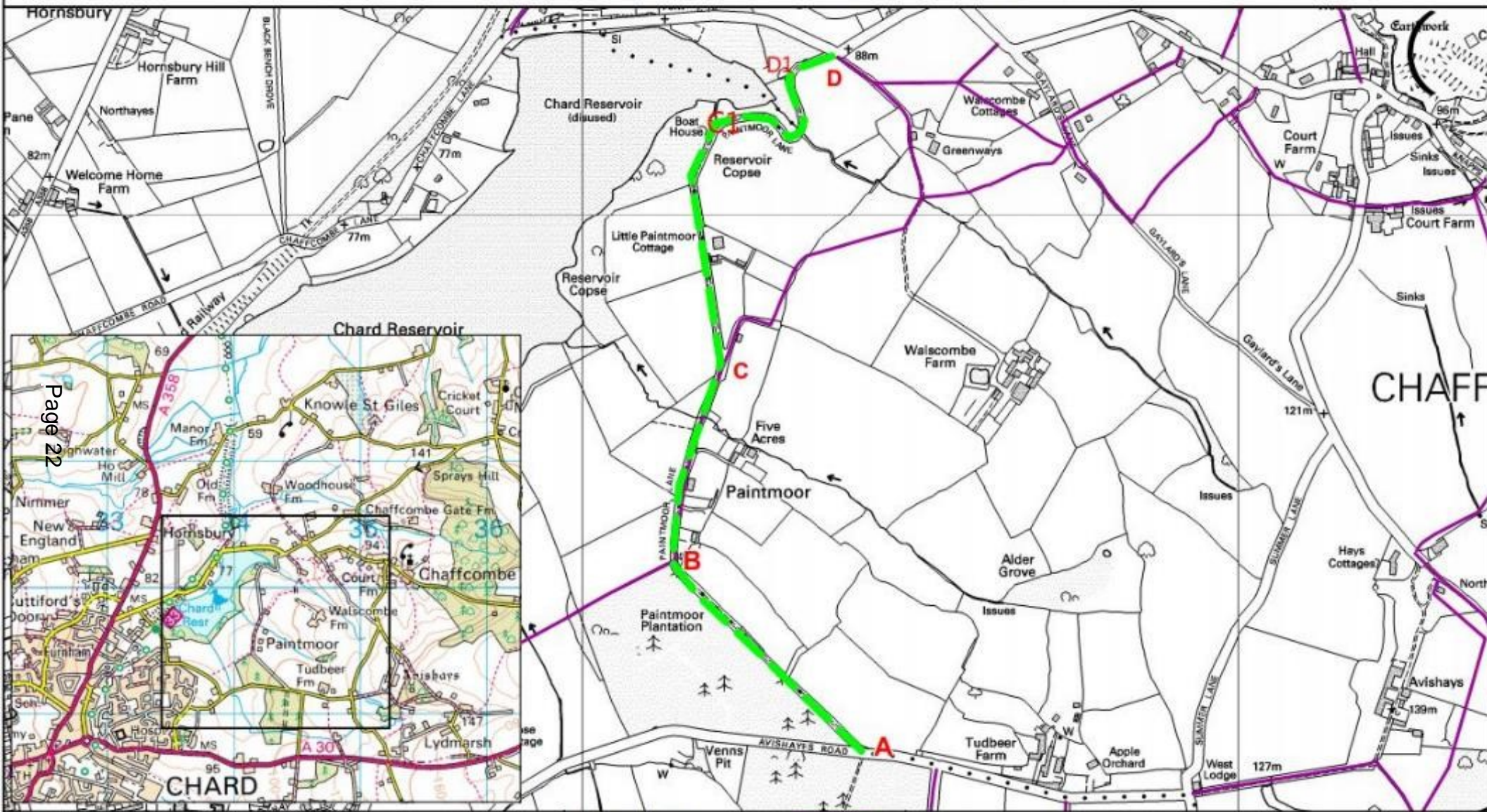
SCHEDULE 14 APPLICATION

APPLICATION TO ADD A RESTRICTED BYWAY AND UPGRADE PART
OF FOOTPATH CH5/57 TO A RESTRICTED BYWAY OVER
PAINTMOOR LANE, CHARD AND CHAFFCOMBE

Application: 524M
Author: Erica Darch
Dates: Report: April 2021
Presentation: May 2021

Item 6: Details of the Application

- The application was made in June 2008, by the South Somerset Bridleways Association
- The applicant claims a restricted byway is missing from the Somerset Definitive Map over Paintmoor Lane, in Chard and Chaffcombe.



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Parish: Chaffcombe & Chard Town
 District: South Somerset
 Date: 06/01/2017
 Drawing No: H009-2017/524m
 Drawn By: MHardwill
 Grid Ref: 334180 109990

Definitive Footpath
 Definitive Bridleway
 Claimed Restricted Byway
 (shown A-B-C-D)

**Section 53 Wildlife and Countryside Act 1981.
 Claimed Restricted Byway over Paintmoor Lane**

Item 6: Investigation

- Aim: to establish if either
 - Higher public rights than currently recorded exist over the application route, and if so what level of public right.
- OR
- The route is correctly recorded (as a footpath in part, with no public right of way over the remainder of the route), and as such the Definitive Map and Statement do not require updating.

Item 6: Test to be applied to B to C

- Before an order can be made to modify the Definitive Map, there must first have been a discovery of new evidence (i.e. evidence that was not consulted when the Definitive Map was last reviewed).
- Having discovered that evidence, the standard of proof to be applied in this case to the section of the route recorded as footpath CH5/57 is the **balance of probabilities**. This test involves determining, based on all of the available evidence, **whether higher public rights are more likely to exist than not**.

Item 6: Test to be applied to A to B and C to D.

- In relation to the A to B and C to D, which is not currently recorded on the DMS as a right of way, the test we are required to apply is does the route '**subsist or is reasonably alleged to subsist**'.
- If there is a conflict of credible evidence but no incontrovertible evidence that a right of way cannot be reasonably alleged to subsist, then a public right of way has been reasonably alleged.

Item 6: Potential Outcomes for this matter

- Refuse to make an Order to modify the DMS.
- Resolve that a public way already exists in the form of one of the following;
 - Footpath (over the whole route)
 - Bridleway
 - Restricted Byway
 - Byway open to all traffic (commonly referred to as a: BOAT)
- The conclusion of the report is that a 'Restricted Byway' can be reasonably alleged to exist between over A to B and C to D, and that on the balance of probabilities a restricted byway exists over B to C.



Point A, supplied by applicant.



Point B, looking north.



Point B, looking south.



Point C, looking north.



Point D, supplied by applicant.



Point C looking south.



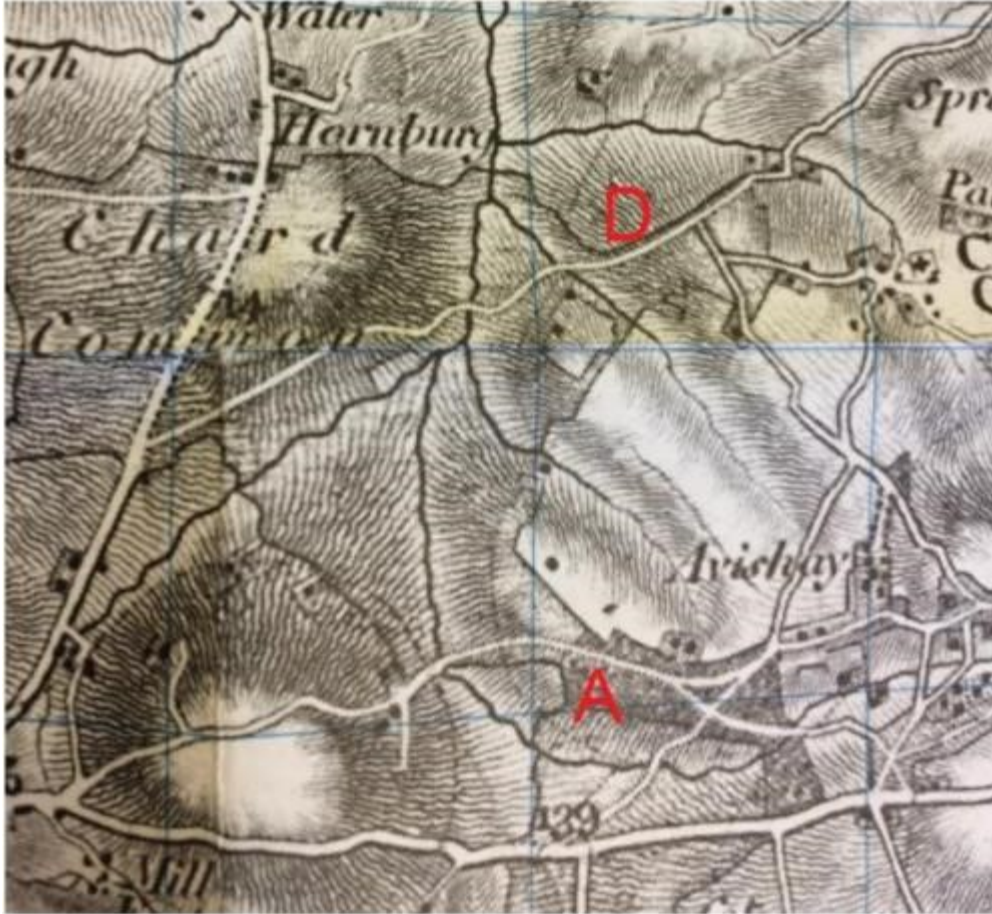
Between B and C, looking north.



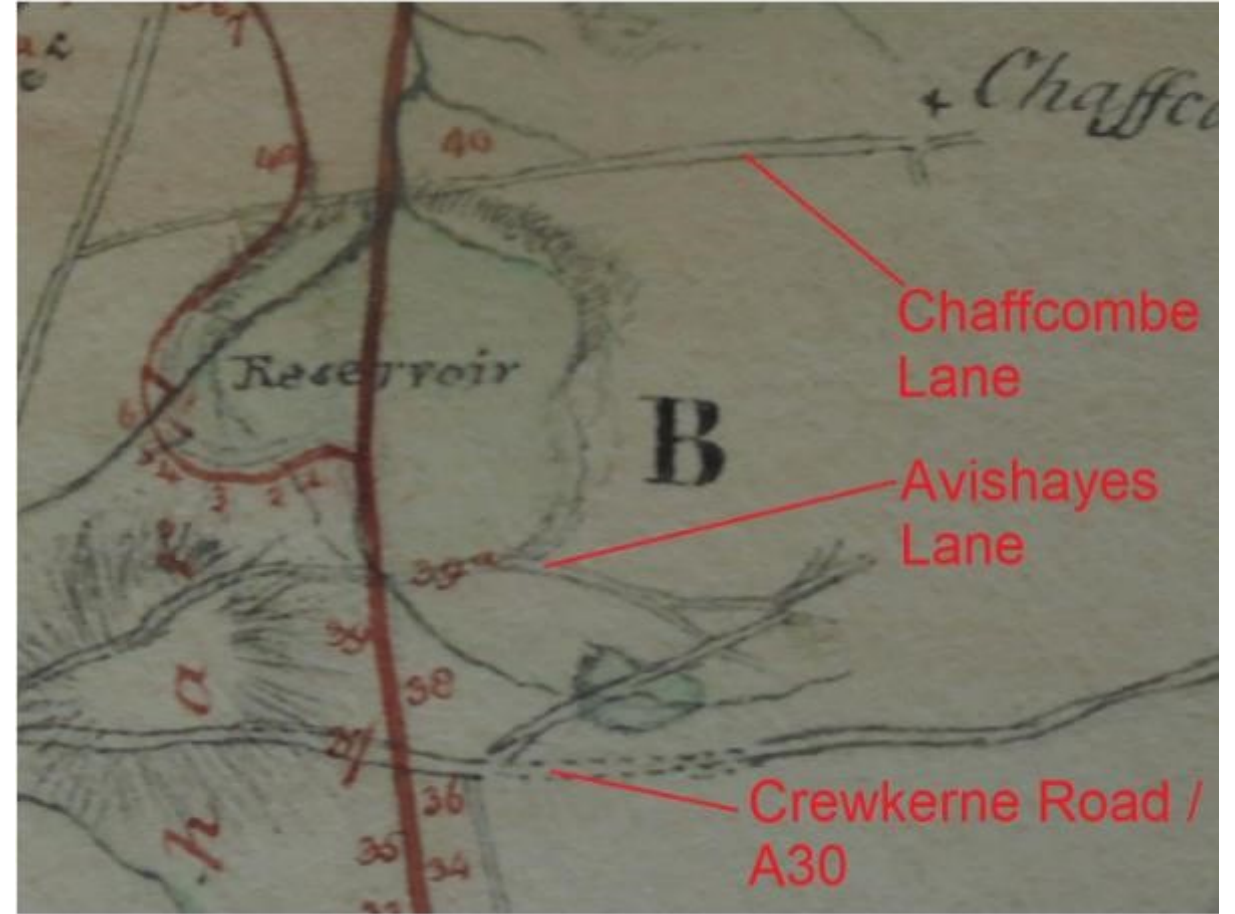
Between B and C, looking south.



Item 6: Pre-inclosure maps

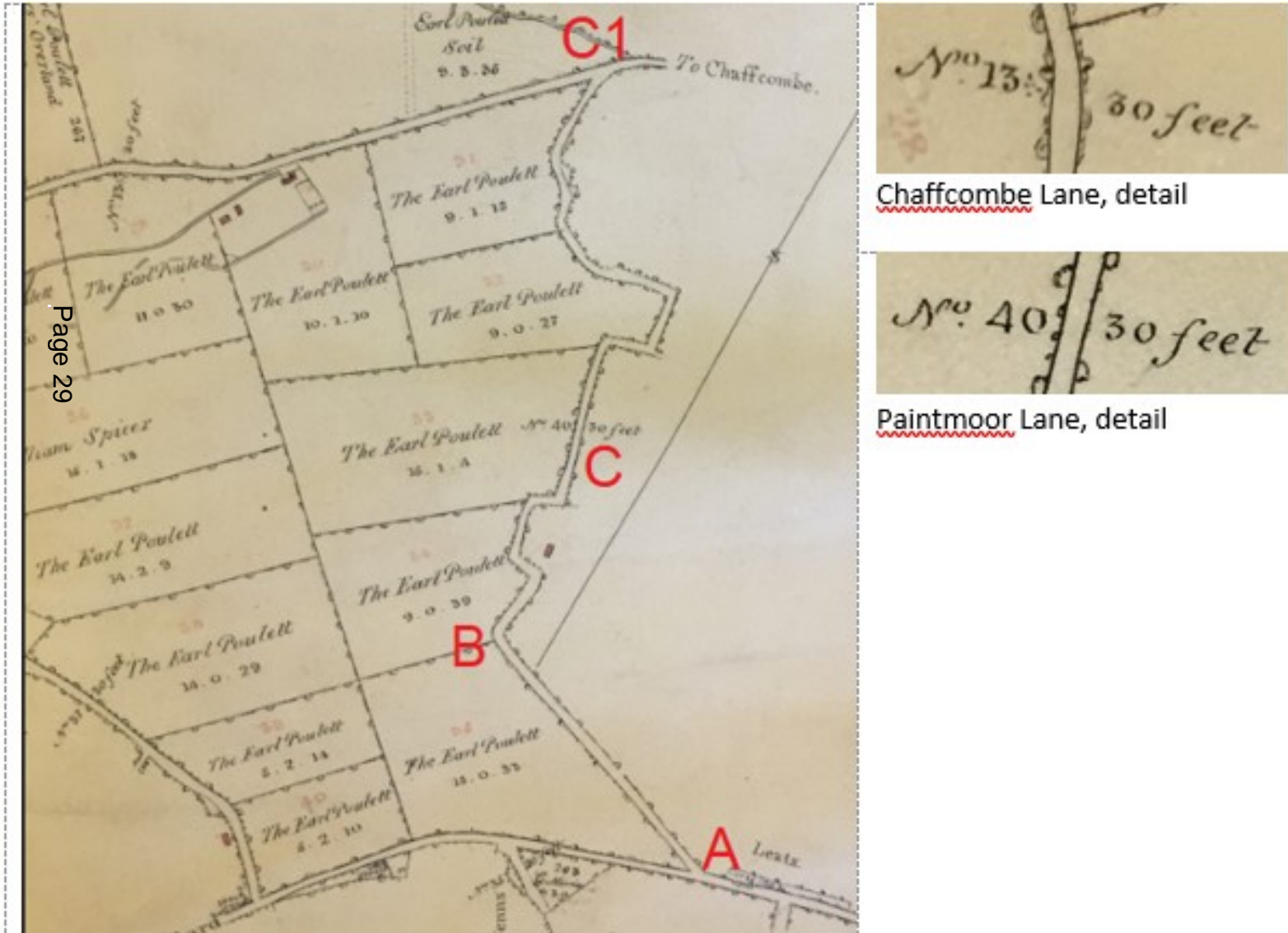


1809 – 1811 OS First Series,
Cassini Reprint.
Appendix 9.



1810 deposited plan.
Appendix 40.

Item 6: Inclosure 1819, appendix 6.

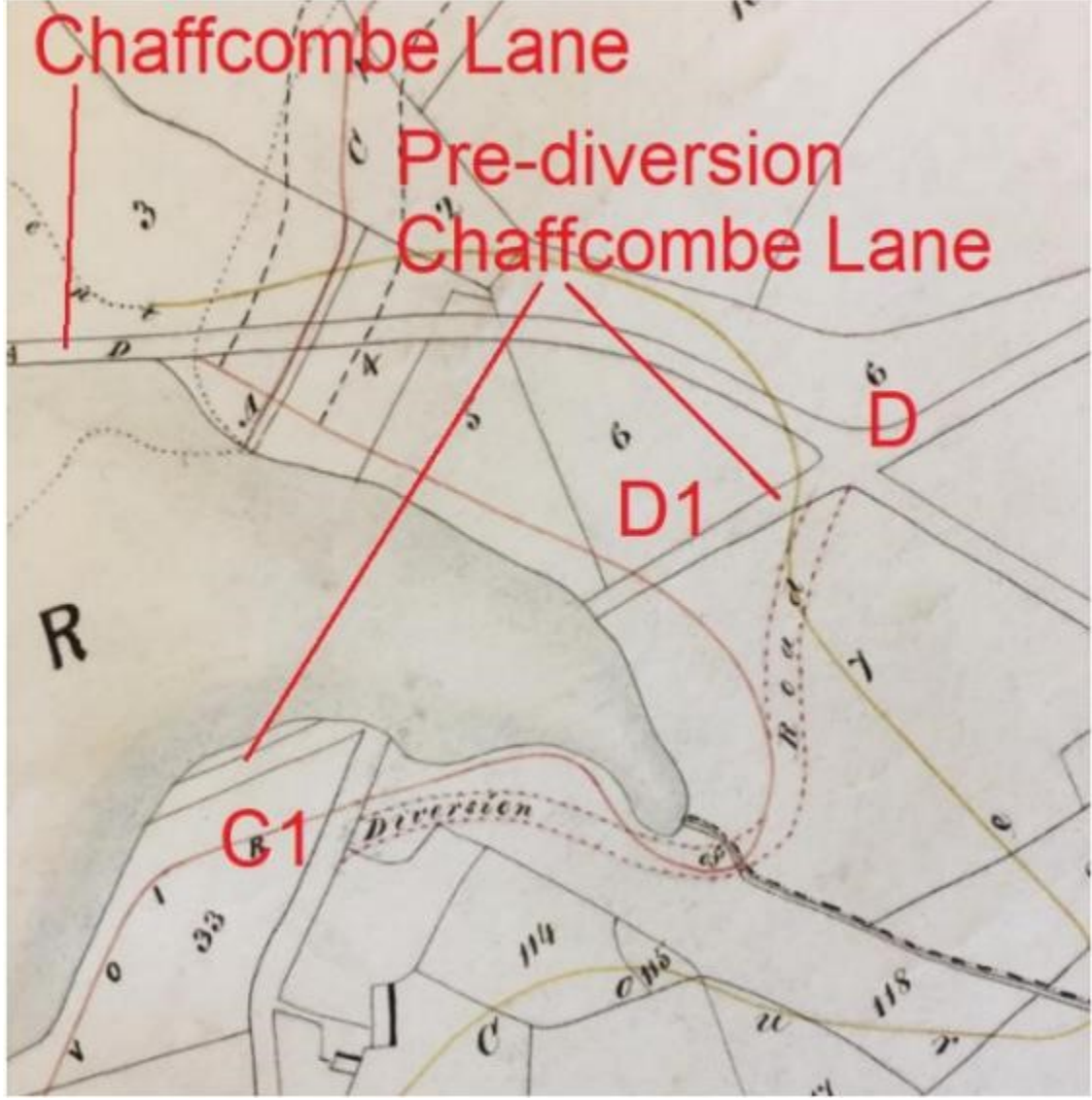


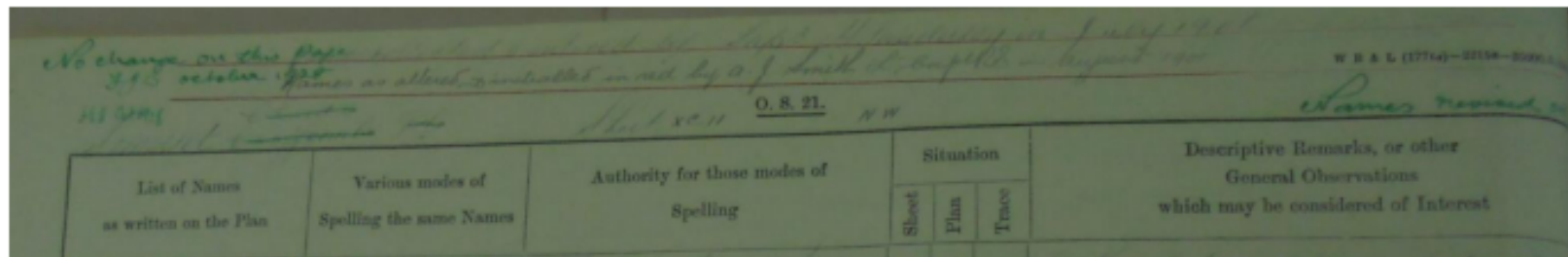
“One other private road of the breadth of thirty feet numbered 40 in in the said map branching out of the said Public Carriage Road numbered 9* and proceeding by the north east hedge of the common to the said [...] public carriage road numbered 13.”

Item 6: Chard Canal, enlargement of reservoir and abandonment of collateral cut, 1840.

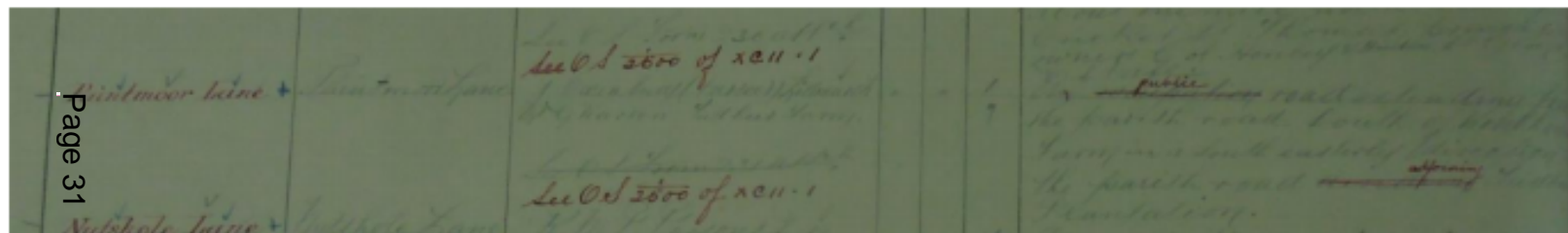


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No change on this page. J[.]B October 1928. {..} Oct 1928. Names revised oct[...]
 [Names] Collected & entered by [.....] in July 1901
 Names as altered & initialled in red by A. F. Smith [...] in August 1901

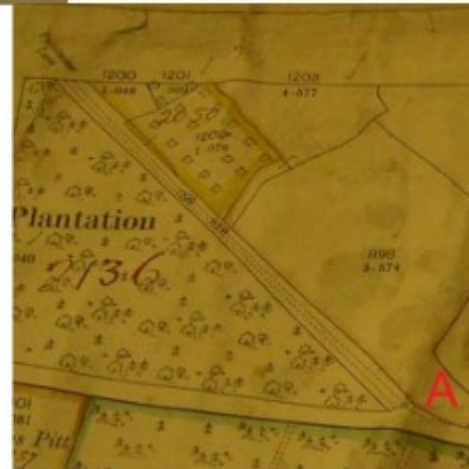


Item 6: OS Object Name Book, 1901, appendix 17.

List of Names as written on the Plan	Authority for the modes of spelling	Descriptive Remarks, or other General Observations which may be considered of Interest
Paintmoor Lane	J Oxenbury ([Overseer?]) Lidmarsh [...] Warren Tudbeer Farm	An occupation public road extending from the parish road south of Woodhouse Farm in a south easterly direction [to] the parish road [.....] adjoining Tudbeer Plantation.

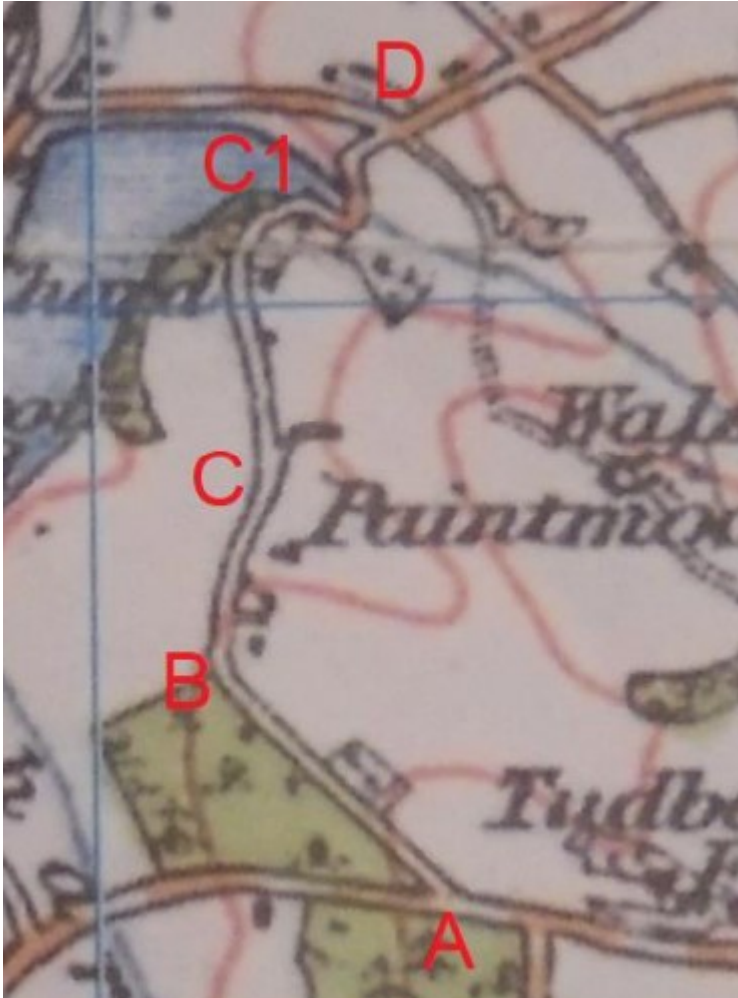
OS 35/6431 detail and transcript of relevant details

Item 6: Finance Act, 1910, appendix 18



Item 6: 1919 OS Popular Edition, Cassini Reprint, appendix 13

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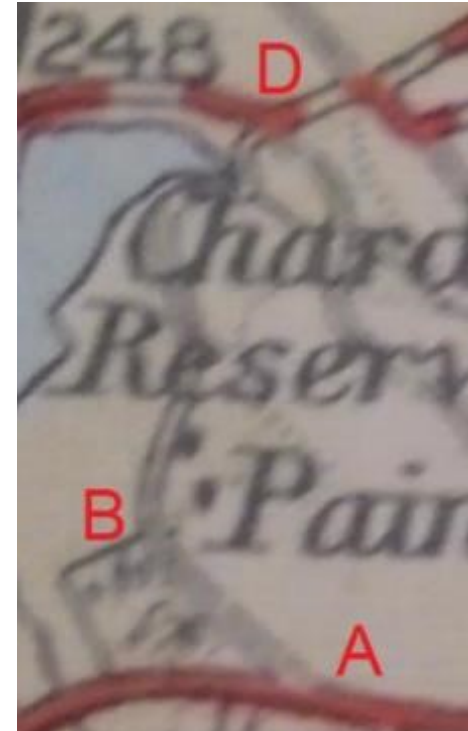
	Surface	Good & fit for	Fit for	Indifferent or	Bad
		fast traffic	ordinary traffic	winding road	
Main Routes between Towns	over 14' of Metalling	[Red line with yellow and blue segments]			
Other Roads		[Red line with yellow and blue segments]			
Roads under 14' wide		[Red line with yellow and blue segments]			
Minor Roads		[Single black line]			
Bridle & Footpaths		[Dotted line]			
(Private Roads are uncoloured. Unfenced Roads are shown by dotted lines)					
		Slopes steeper than $\frac{1}{4}$			[Double black line with arrow]
		Toll Gates			[Double black line with 'TOLL' text]

Item 6: Bartholomew's maps, 1911 and 1927, appendix 31

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1911





1927

EXPLANATORY NOTE


First Class Roads 

Through Routes 

Secondary (Good) 

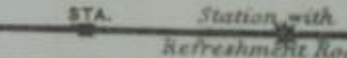
Indifferent (Passable) 


The uncoloured roads are inferior and not to be recommended to cyclists.


Footpaths & Bridlepaths 

NB. The representation of a road or footpath is no evidence of the existence of a right of way.

The figures thus 190 represent heights in feet above sea level.


Railways 


Canals 


County Boundaries 


SCALE 1:126,720 - 2 MILES TO AN INCH

EXPLANATORY NOTE

Motoring Roads { Through Routes 


First Class Roads 

Secondary 

Indifferent (Passable for cyclists) 

Principal Roads classified and numbered by the Ministry of Transport shown thus **A 35**

The uncoloured roads are inferior and not to be recommended to cyclists.

Footpaths & Bridlepaths 

NB. The representation of a road or footpath is no evidence of the existence of a right of way.

The figures thus 190 represent heights in feet above sea level.

Item 6: Potential Outcomes for this matter

- Refuse to make an Order to modify the DMS.
- Resolve that a public way already exists in the form of one of the following;
 - Footpath (over the whole route)
 - Bridleway
 - Restricted Byway
 - Byway open to all traffic (commonly referred to as a: BOAT)

Item 6: Recommendation

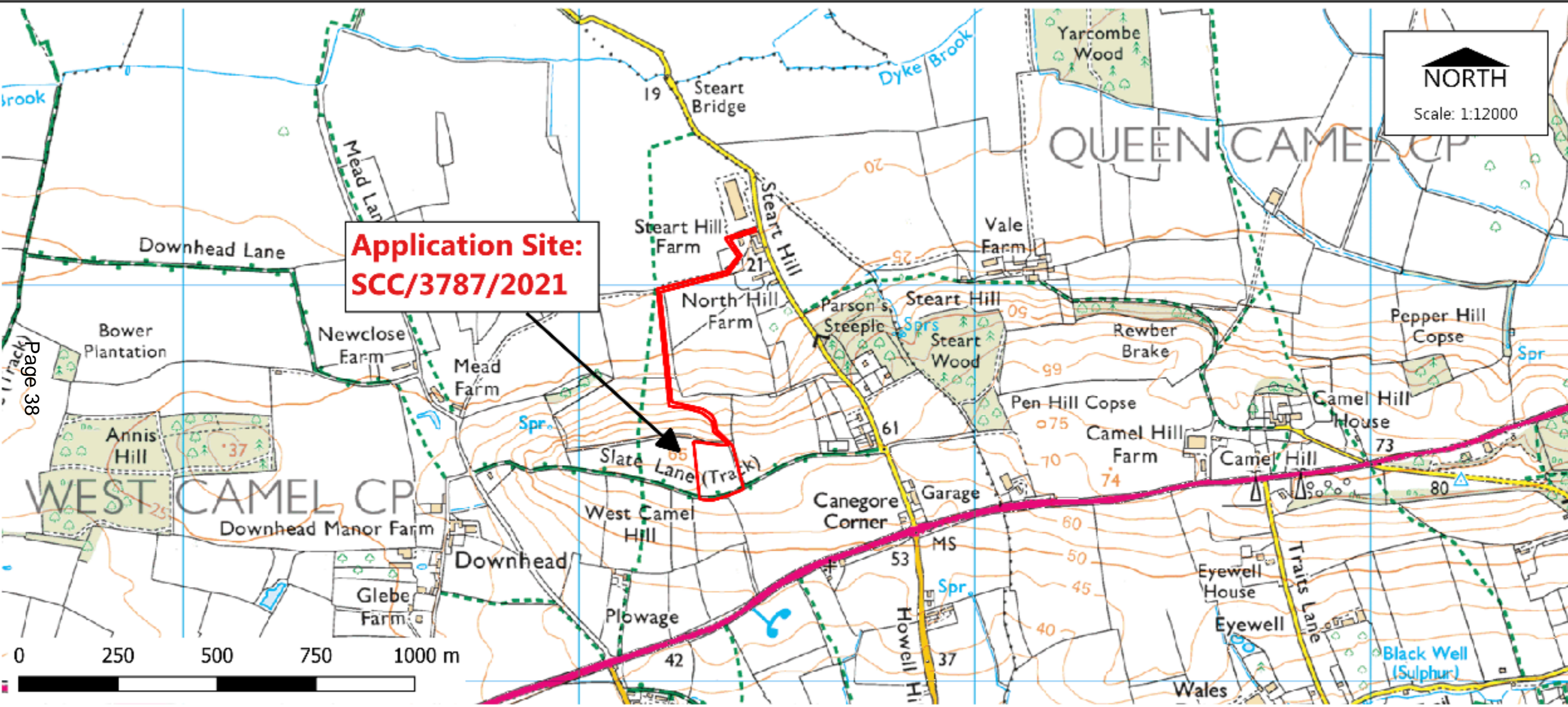
It is therefore recommended that:

- an Order be made, the effect of which would be to add to the Definitive Map and Statement a restricted byway between points A and D as shown on Appendix 1.
- if there are no unwithdrawn objections to such an order it be confirmed.
- if objections are maintained to such an order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs.

Item 7: Slate Lane, West Camel, Somerset

Application number: SCC/3787/2021

Application Proposal: Planning Application for the Extraction of White Lias Limestone at Slate Lane, West Camel, Somerset.



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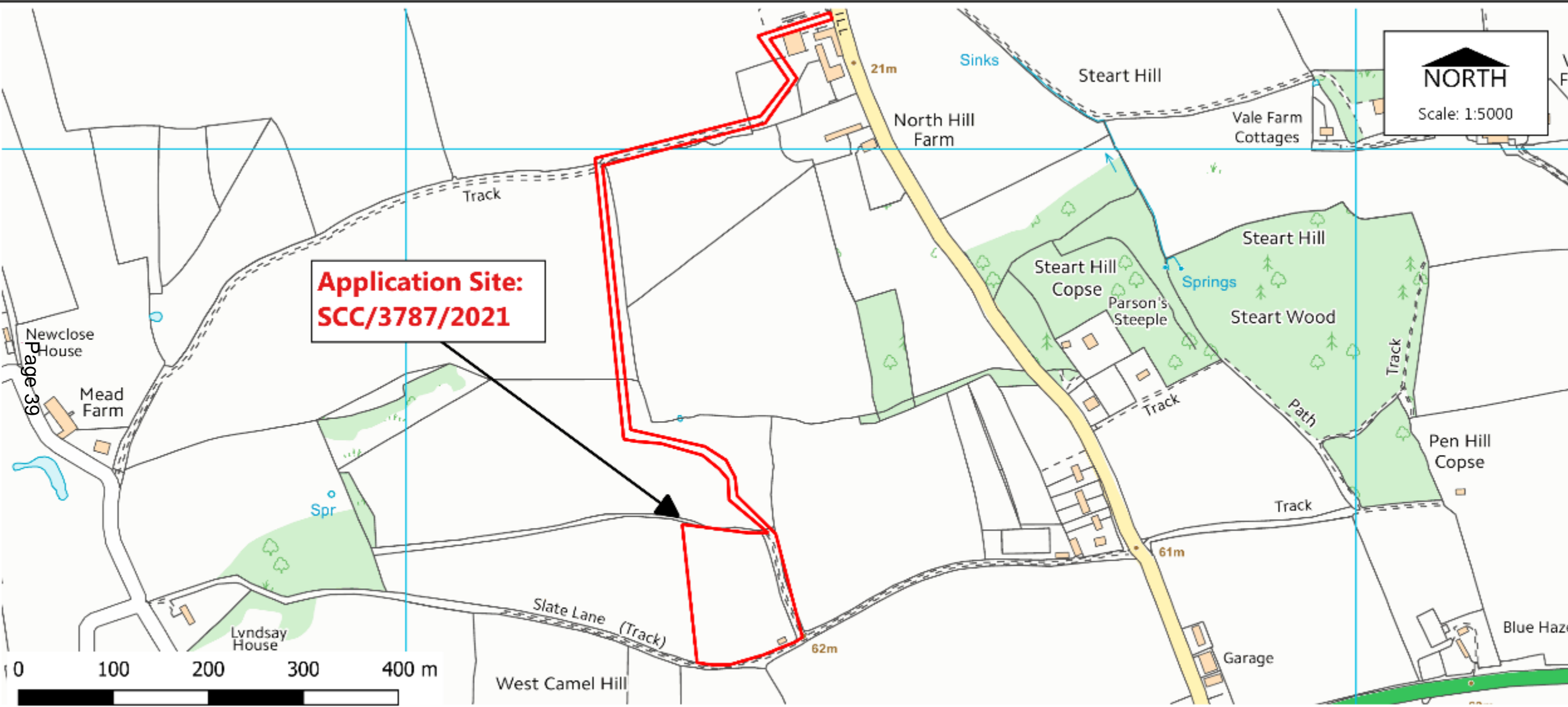
Paul Hickson,
 Strategic Commissioning Manager
 Community & Environmental Services
 Somerset County Council
 County Hall, Taunton, TA1 4DY

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Planning Control
 Drawn by: A S Galbraith

LOCATION PLAN

Dated: 19/04/2021



Paul Hickson,
 Strategic Commissioning Manager
 Community & Environmental Services
 Somerset County Council
 County Hall, Taunton, TA1 4DY

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Planning Control
 Drawn by: A S Galbraith

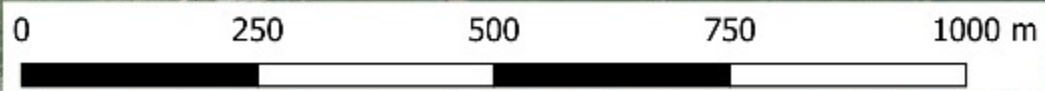
SITE PLAN

Dated: 19/04/2021



**Application Site:
SCC/3787/2021**

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Paul Hickson,
Strategic Commissioning Manager
Community & Environmental Services
Somerset County Council
County Hall, Taunton, TA1 4DY

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Planning Control
Drawn by: A S Galbraith

AERIAL PLAN

Dated: 22/04/2021

Item 7:

Photograph 1 -
View across site
from entrance



Item 7:

Photograph 2 -
View across site
from entrance



Item 7:

Photograph 3 -
View North West
from site entrance



Item 7:

Photograph 4 - View
from site entrance
towards Steart Hill



Item 7:
Photograph 5 -
Access track view
North from entrance

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Item 7:

Photograph 6 - View
of access track North
downhill section



Item 7:

Photograph 7 - View
South along Steart
Lane from entrance to
the grain store

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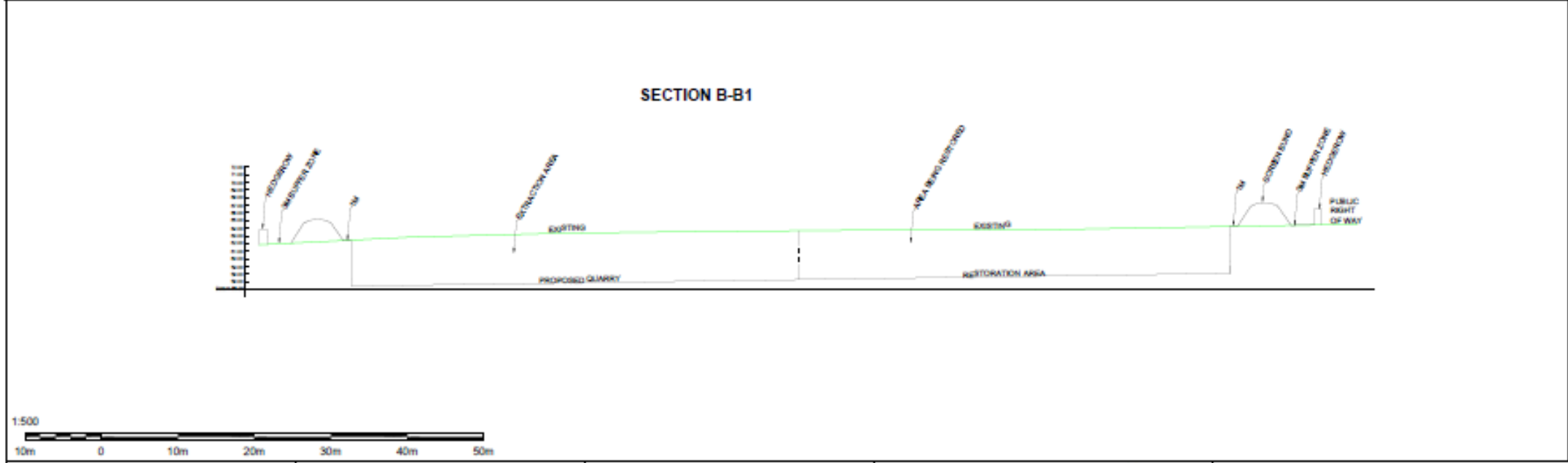
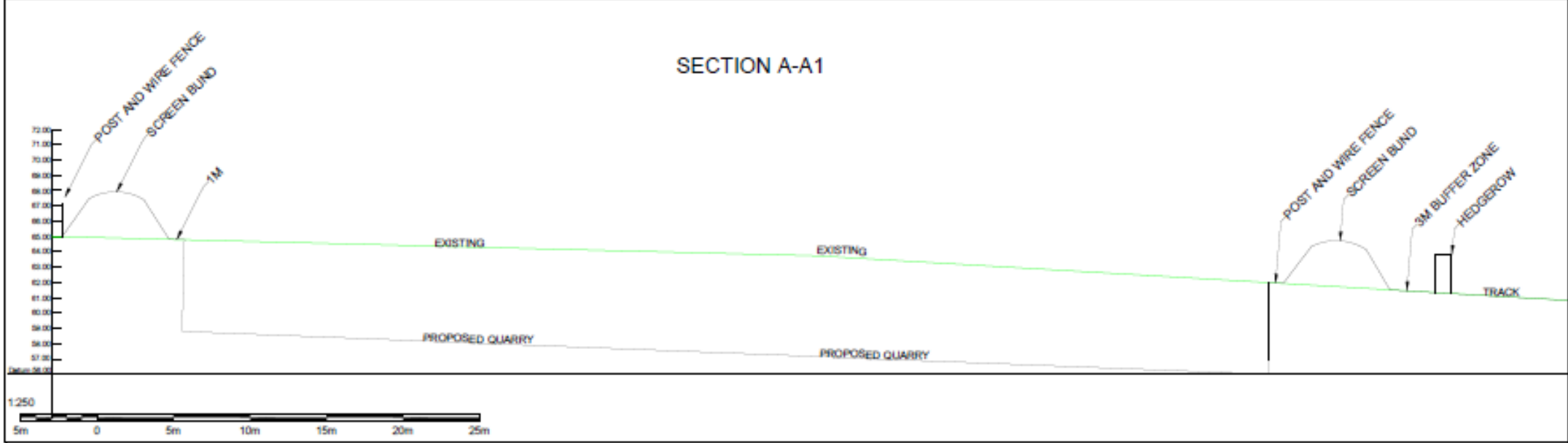
Item 7:

Photograph 8 -
View West along
Slate Lane from
Steart Hill

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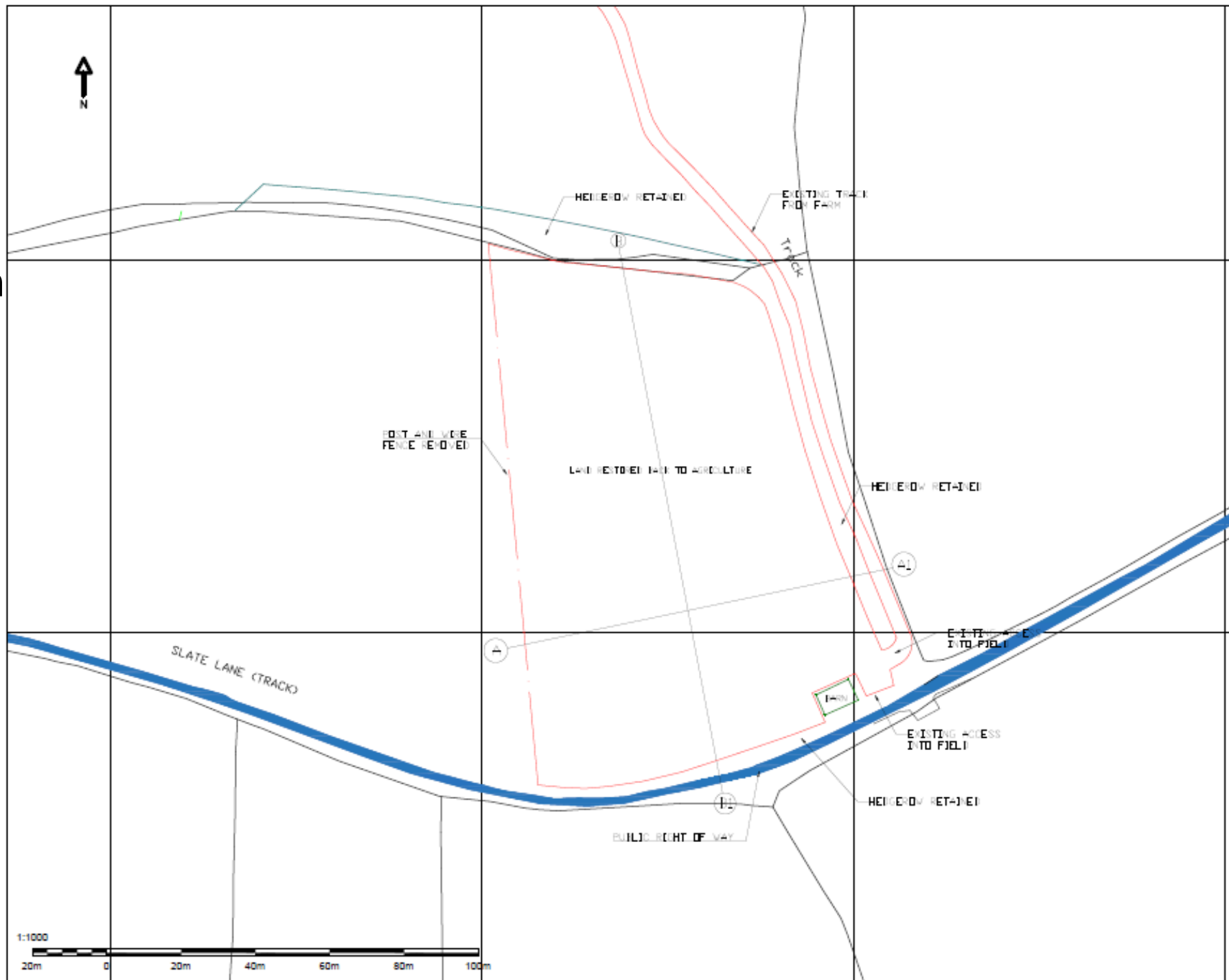


Item 7: Sections through site



<p>SLATE LANE QUARRY SECTIONS</p>	<p>SCALE AS PER SECTION @ A3 PLAN NO: 803/007</p>	<p>DRAWING STATUS ISSUED</p>	<p>HAM & DOULTING STONE</p>
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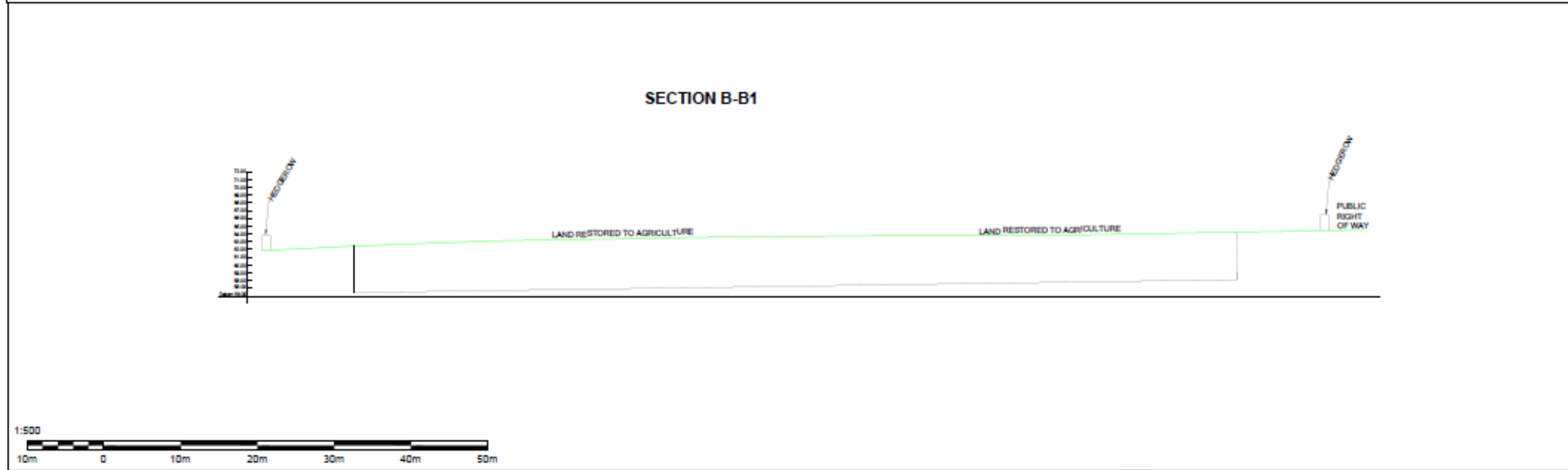
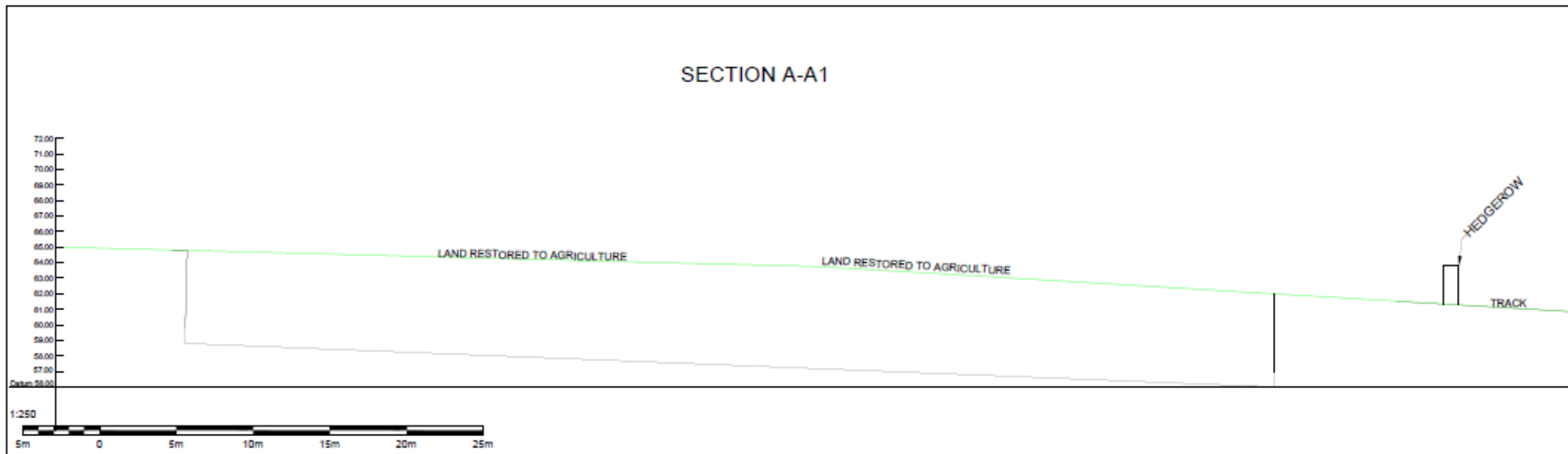
Item 7: Restoration plan



- Notes:**
- POST AND WIRE FENCE TO BE REMOVED
 - PUBLIC RIGHT OF WAY

SLATE LANE QUARRY RESTORATION PLAN
SCALE 1:1000 @ A3 PLAN NO: 803/006
DRAWING STATUS ISSUED
HAM & DOULTING

Item 7: Restoration sections



Item 7: Key Issues

- planning policy considerations;
- highways and traffic;
- ecology;
- landscape
- heritage assets
- drainage and flood risk
- groundwater and pollution
- amenity; and
- other environmental impacts and their control.

Item 7: Officers Recommendation

It is recommended that planning permission be GRANTED subject to the imposition of the conditions set out in section 9 of the 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 Strategic Commissioning Manager – Economy & Planning

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