

Regulation Committee

13th Jan 2022

Item 5: SCC/3839/2021 - Temporary storage of Limestone Scalpings at Land to the North of Torr Works, East Cranmore, Shepton Mallet

Item 6: SCC/3907/2021 - Temporary planning permission is sought for an extension to Chard Junction Quarry at Westford Park Farm for the winning and working of approximately 830,000 tonnes of sand and gravel with progressive restoration to agriculture and nature conservation, inclusive of a new internal haul road and the retention of the existing mineral processing facilities for a period of seven years.

Item 7: Application to upgrade public footpath Y 9/46 in the parish of East Coker to a public bridleway



Item 7: WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION
53
SCHEDULE 14 APPLICATION

Application to upgrade public footpath Y 9/46 in the parish of East Coker
to a public bridleway

Application: 671M
Author: Harry Wood
Dates: Report: October 2021
Presentation: January 2022

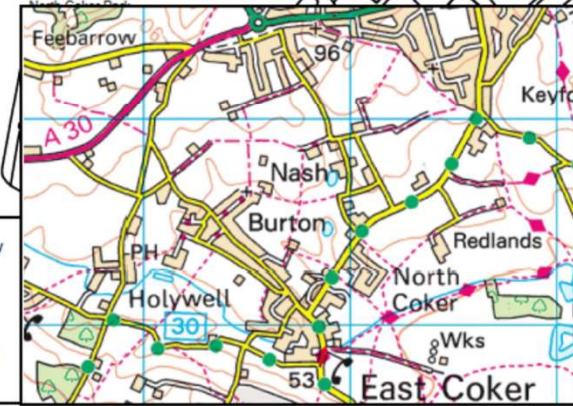
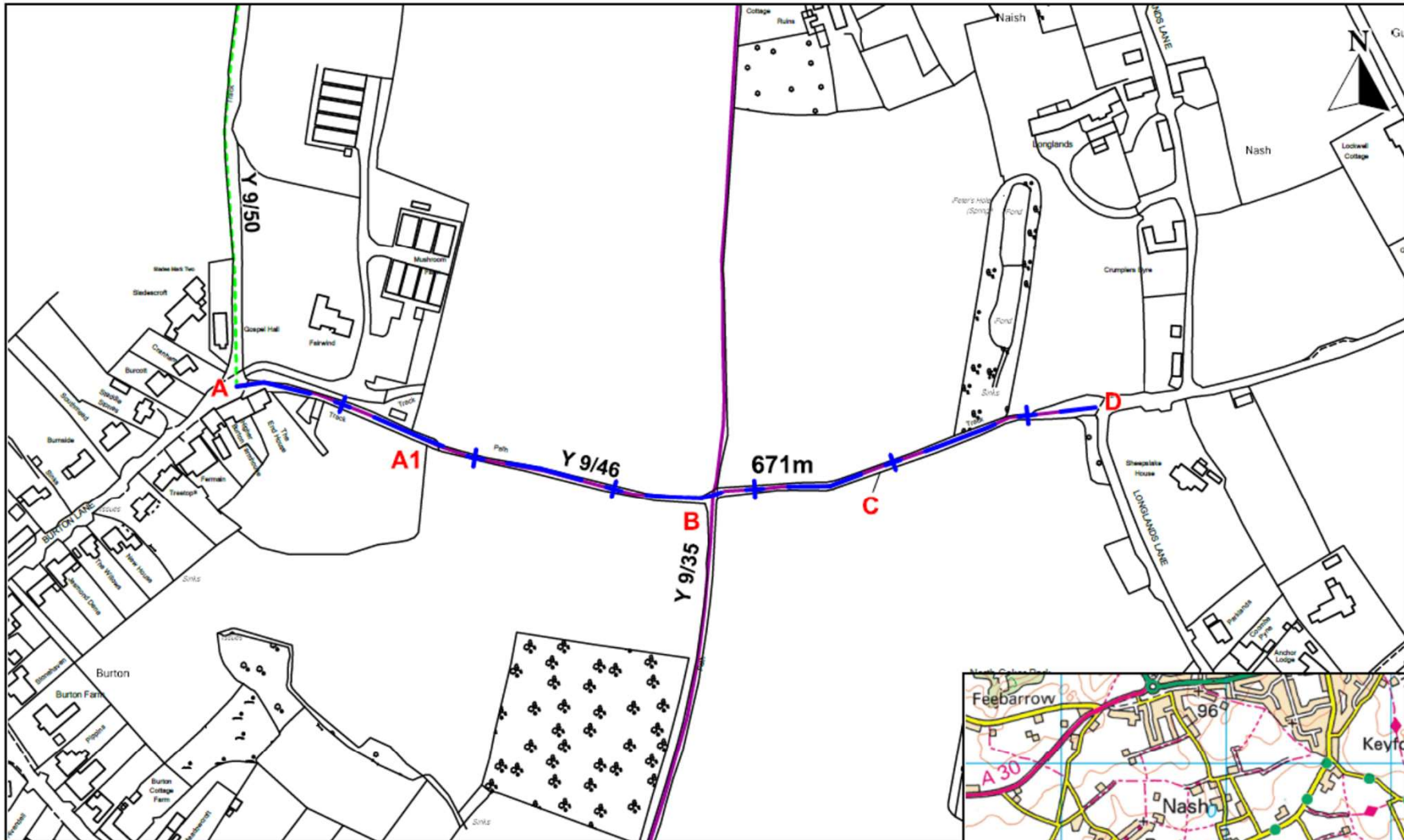





Improving
LIVES

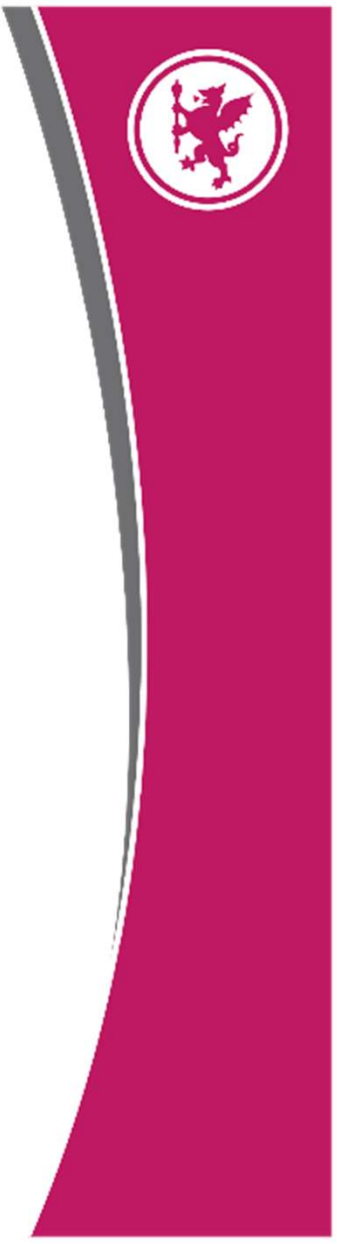
Item 7: Details of the application

- Somerset County Council received an application on 26 November 2009 from South Somerset Bridleways Association.
- The applicant claims that footpath Y 9/46 should be recorded as a bridleway.
- A public bridleway can be used by the public on foot, with bicycles, or riding or leading a horse.





 SOMERSET County Council	Parish: East Coker District: South Somerset Date: 27/11/2020 Drawing No: H74-2020 Drawn By: MHardwill Centre Grid Ref: 353749 113588 Scale: 1:2500	Proposed Upgrading of Public Footpath Y 9/46 to Bridleway in the Parish of East Coker WILDLIFE & COUNTRYSIDE ACT 1981 SECTION 53 APPLICATION Modification 671 - A-A1-B-C-D	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))
		Definitive Footpath  Restricted Byway 	



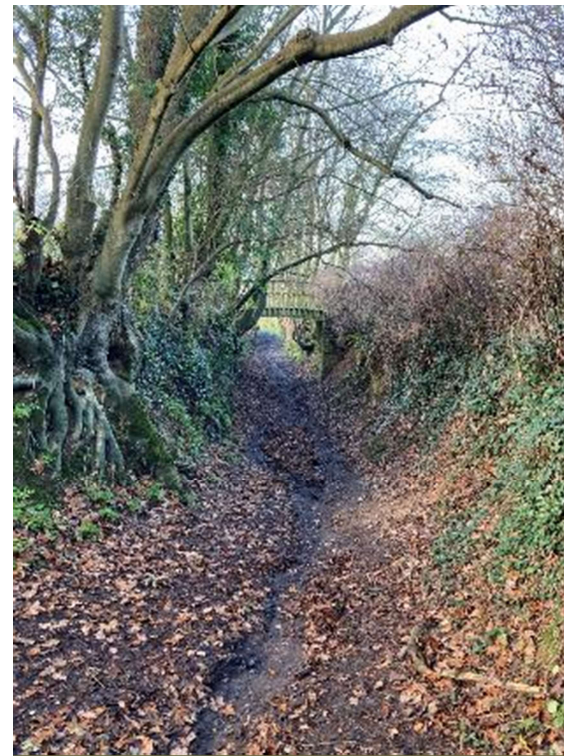
Item 7: Application route



East of Point A looking east



Point B looking west



Point D looking west



Item 7: Potential outcomes for this matter 1

- 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)
- Resolve that no rights exist



Item 7: Potential outcomes for this matter 2

- The conclusion of the report is that, on the **balance of probabilities**, the application route has historically carried vehicular rights. The Definitive Map should be amended so that the route is recorded as a restricted byway.
- Committee members must make their own assessment of the evidence, rather than accept the report's recommendation without question.
- If the Committee reach an alternative conclusion, the grounds for that conclusion must be clearly stated and consistent with the relevant legislation.

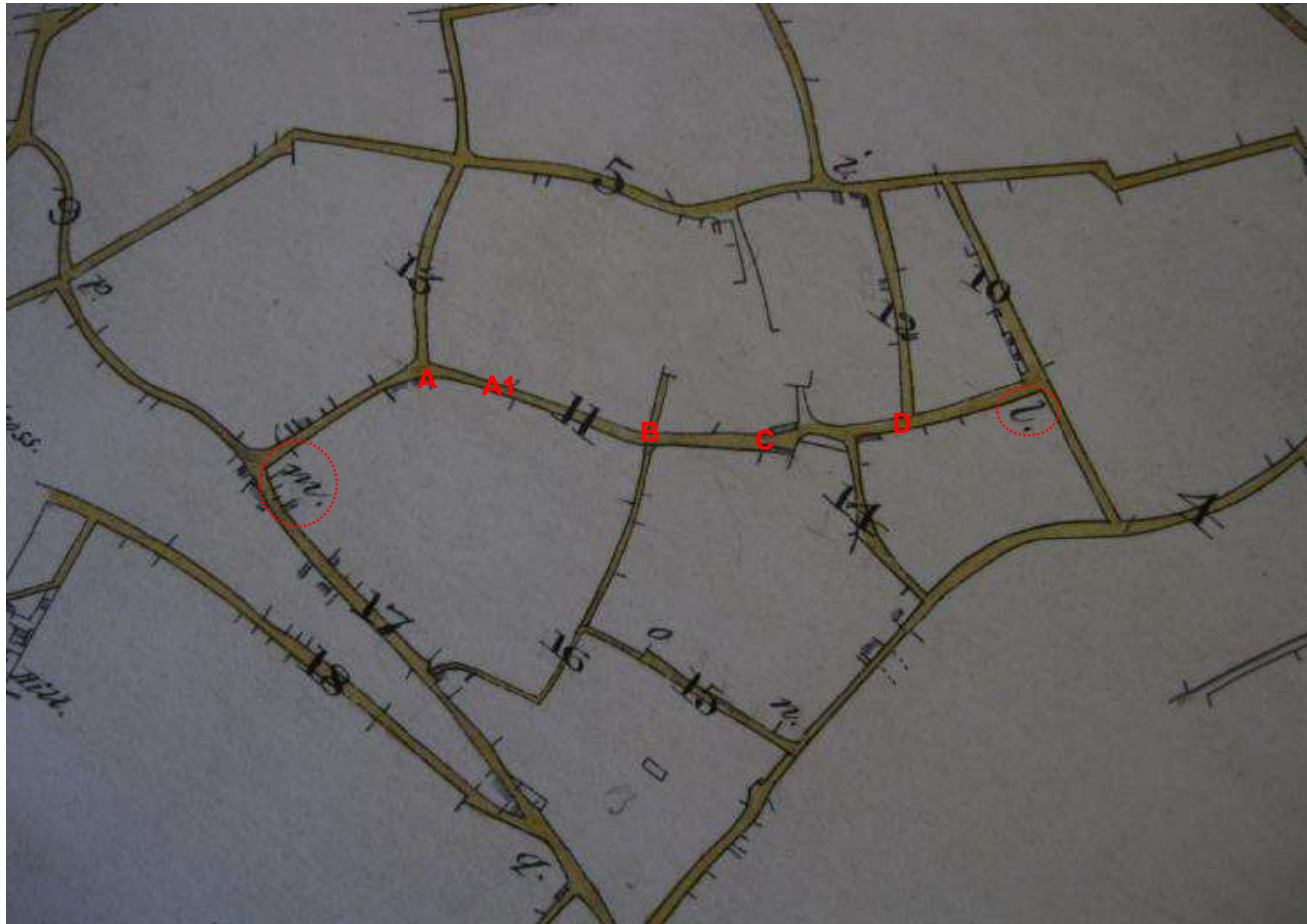


Item 7: Test to be applied

- 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 7: 1863 Yeovil Highway Board Map



Number	Description of Highways.	Length by statute in furlongs
1	From a to b.	84
2	" b. c.	96
3	" d. c.	200
4	" d. f.	256
5	" g. h.	356
6	" i. j.	120
7	Lane	92
8	From h to k.	158
9	Short Lane	52
10	Lane	40
11	From l to m.	166
12	Lane	50
13	Lane	46
14	Lane	38
15	From n to o.	36
16	Lane and Path	38
17	From p to q.	186
18	Lane to Skinners Mill	148
19	From r to s.	376
20	Lane	62
21	Lane	160
22	Lane	140
23	From p to s.	272
24	From Berril Knapp to t.	218
25	" t. u.	180
26	" v. w.	180
27	Lane by Church	56
28	From x to y.	104
29	" z. a.	160
30	" b. c.	348
31	Lane to Closworth	72
Total - 14. 1. 23		
Halter Paths		264

N.B THE HIGHWAYS are colored YELLOW.
HALTER-PATHS " GREEN.
TURNPIKE ROADS " RED.

The References contain the lengths of the Highways as sealed and are as follows - The Highways - 14. 1. 23. Halter Paths - 27. 3. 28

1863 Yeovil Highway Board Map, South West Heritage Trust, SHC D/R/yeo/32/4/1

Item 7: 1910 Finance Act Record Plan



Finance Act Record Plan, National Archives, IR 128/9/1102



Item 7: Reason for the recommendation

- The Highway Board Map and Finance Act Record Plan offer strong evidence that the application route has historically carried public vehicular rights.
- Various pieces of supporting evidence (including the tithe records and several commercial maps) are supportive of this conclusion.
- The majority of the evidence examined was not inconsistent with the existence of public rights.
- Natural Environment and Rural Communities Act 2006 (NERC) extinguished mechanical vehicular rights over the route.



Item 7: Main issues raised

- Concerns over safety, utility, etc.
- Use of Wincanton map legend to interpret Yeovil Handover Map.

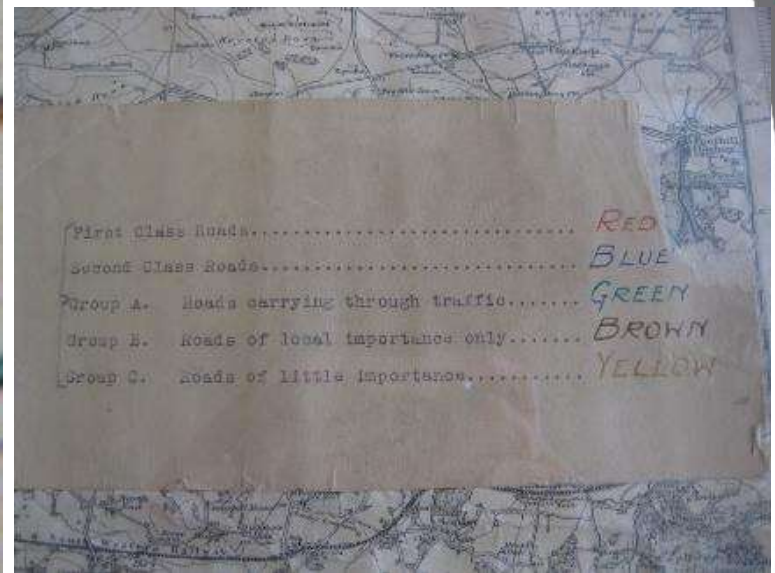


Item 7: Concerns over safety, utility, etc

- Various respondents raised concerns relating to safety, suitability, utility, environmental considerations, and cost.
- This investigation is concerned with correctly recording public rights, which may be higher than those currently recorded. The above concerns, while understandable, cannot be taken into account under the relevant legislation.



Item 7: 1929 Yeovil District Handover Map 1



Item 7: 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)

