

Public Agenda Pack



Notice of Meeting of

STRATEGIC PLANNING COMMITTEE

Thursday, 19 October 2023 at 10.00 am

Luttrell Room - County Hall, Taunton TA1 4DY

To: The members of the Strategic Planning Committee

Chair: Councillor Tony Lock
Vice-chair: Councillor Andy Soughton

Councillor Steve Ashton	Councillor Mike Caswell
Councillor Simon Coles	Councillor Michael Dunk
Councillor Philip Ham	Councillor Edric Hobbs
Councillor John Hunt	Councillor Andy Kendall
Councillor Matthew Martin	Councillor Wes Read
Councillor Martin Wale	

For further information about the meeting, including how to join the meeting virtually, please contact Democratic Services – see contact details below.

Requests to speak at the meeting about a planning application must be made to the Democratic Services Team no later than **12noon on Tuesday, 17 October 2023** by email to democraticserviceswest@somerset.gov.uk. Further information on the public speaking arrangements at Planning Committee is provided in the Public Guidance Notes near the front of this agenda pack.

This meeting will be recorded and then uploaded to YouTube following the meeting.

Members of the public are welcome to attend the meeting.

This meeting will be open to the public and press, subject to the passing of any resolution under the Local Government Act 1972, Schedule 12A: Access to Information.

Issued by David Clark, Monitoring Officer (the Proper Officer) on Wednesday, 11 October 2023.

AGENDA

Strategic Planning Committee - 10.00 am Thursday, 19 October 2023

Public Guidance Notes for Planning Committees (Agenda Annexe) (Pages 5 - 8)

Click here to join the online meeting (Pages 9 - 10)

1 Apologies for Absence

To receive any apologies for absence and notification of substitutions.

2 Minutes from the Previous Meeting (Pages 11 - 16)

To approve the minutes from the previous meeting.

3 Declarations of Interest

To receive and note any declarations of interests in respect of any matters included on the agenda for consideration at this meeting.

(The other registrable interests of Councillors of Somerset Council, arising from membership of City, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes: [City, Town & Parish Twin Hatters - Somerset Councillors 2023](#))

4 Public Question Time

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have submitted any questions or statements, please note, a three minute time limit applies to each speaker.

Requests to speak at the meeting at Public Question Time must be made to the Monitoring Officer in writing or by email to democraticserviceteam@somerset.gov.uk by 5pm on Friday 13 October 2023.

- 5 Wildlife and Countryside Act 1981 Section 53 Schedule 14 - Application to upgrade footpath WN 27/4 and part of footpath WN 23/11 to bridleways from the A303, Queen Camel to Sparkford Hill, Sparkford (Pages 17 - 148)**
- 6 Progress Report: Phosphates and work undertaken to achieve nutrient neutral development in the Somerset Levels and Moors (Pages 149 - 166)**
- 7 Quarterly report on planning service performance (Pages 167 - 206)**

Please note:

Exclusion of the Press and Public for any discussion regarding exempt information

The Press and Public will be excluded from the meeting when a report or appendix on this agenda has been classed as confidential, or if the Committee wish to receive confidential legal advice at the meeting. If the Planning Committee wish to discuss information in Closed Session then the Committee will be asked to agree the following resolution to exclude the press and public:

Exclusion of the Press and Public

To consider passing a resolution having been duly proposed and seconded under Schedule 12A of the Local Government Act 1972 to exclude the press and public from the meeting, on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, within the meaning of Schedule 12A to the Local Government Act 1972:

Reason: Para 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

(Or for any other reason as stated in the agenda or at the meeting)

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Public Guidance Notes for Planning Committees

Can I speak at the Planning Committee?

The Applicant or Agent, Parish, Town or City Council, Division Members and objectors or supporters are able to address the Planning Committee. **All speakers need to register – please see details on the next page.**

The order of speaking will be:-

- Those speaking to object to the proposal - maximum of 5 speakers of 3 minutes each
- Those speaking in support of the proposal - maximum of 5 speakers of 3 minutes each
- Parish, Town or City Council(s) - 3 minutes each
- Councillors of Somerset Council (non-Committee members) - 3 minutes each
- The applicant or their agent - 3 minutes

Public speaking will be timed and the Chair will be responsible for bringing the speech to a close. The speaker/s will be allowed to address the Committee during their registered slot only and will not be allowed to provide further clarification. If an item on the Agenda is contentious, with a large number of people attending the meeting, a representative speaking to object or support the proposal should be nominated to present the views of a group.

The Chair can exercise their discretion in consultation with the Legal Adviser and this maybe, for example, it maybe that comments are derogatory in which case the Chair will exercise discretion to prevent the speaker from continuing, or if balance was required in terms of speakers for and against or to make a specific point, to allow a further speaker.

Comments should be limited to relevant planning issues. There are limits to the range of issues that can be taken into account when considering planning applications.

Although not an exhaustive list, these might include:

- Government planning policy and guidance
- Planning legislation
- The suitability of the site for development
- Conflict with any planning policies such as the relevant Development Plan – which are available for inspection on the Council's website
- Adopted Neighbourhood Plans
- Supplementary Planning Documents (SPD)

- Previous planning applications and decisions
- Design, appearance, layout issues and relationship with the surrounding area.
- Living conditions such as privacy, noise and odour.
- Highway safety and traffic issues
- Biodiversity and ecology
- Impact on trees and the landscape
- Flood risk in identified areas at risk.
- Heritage assets such as listed buildings, conservation areas and archaeology
- The economy, including job creation/retention.
- Drainage and surface water run-off.

Issues that are not usually relevant will vary with each application, but the courts have established that the following matters cannot be taken into account when considering planning applications:

- The history or character of an applicant
- Perceived or actual impact of development on property values.
- Land ownership, restrictive covenants or other private property rights including boundary and access disputes or maintenance.
- An applicant's motivations or future intentions.
- Retrospective nature of applications;
- Impact on private views;
- The extent of public support or opposition for a proposal alone;
- Competition between businesses;
- Matters controlled by other (non-planning) legislation such as licensing and building regulations or other laws.

How do I register to speak at Planning Committee?

A request to speak must be made to the Council's Democratic Services team no later than 12 noon on the working day before the Committee meeting by email to democraticservicessouth@somerset.gov.uk . For those speaking to object or support the proposal, the speaking slots will be allocated on a first come first served basis. If there are numerous members of the public wishing to speak in one slot it is advisable to make arrangements for one person to make a statement on behalf of all. The meetings are hybrid and you can speak either in person at the meeting or virtually. If you wish to speak at the meeting virtually please inform Democratic Services so that they can advise you of the details. If you have registered to speak, the Chairman will invite you to speak at the appropriate time during the meeting.

Can I present information to the Committee?

Please be advised that you cannot present documents in any form to the Committee Members at the meeting – this includes photographs and presentations (including Powerpoint presentations).

How do I know what time an application will be heard?

If you have registered to speak in person, we recommend arriving at the meeting venue about 15 minutes before the start time. If joining virtually, please consider joining the meeting a few minutes early to ensure your technology is working correctly - you may have to wait in a lobby until being admitted to the meeting. It is not possible to estimate the exact time an application will be heard.

What if my Division Member does not sit on the Planning Committee?

If your local Councillor is not a member of the Planning Committee, he or she can still address the meeting to outline any concerns or points of support. However, they will not be permitted to take part in the main debate, to make or second a proposal or to vote on any item.

Presentation of planning applications

The Planning Officer will present the case to the Committee explaining the factual matters and any salient points which need to be drawn out with the use of a visual presentation. It is important to note that the Planning Officer is not an advocate for either the applicant or any third parties but will make an impartial recommendation based on the merits of the proposal and any relevant material considerations.

The role of Officers during the debate of an application

When an application is considered at Planning Committee, it is the Officers' role to explain why they have concluded that permission should be approved or refused and answer any questions that Members may have. Whilst the Committee has to reach its own decision bearing in mind the Officer advice, report and recommendation, the Lead Planning Officer and Council Solicitor in particular have a professional obligation to ensure that a lawful and unambiguous decision is made in accordance with the Council's Development Plan, planning legislation, regulations and case law. This means, in the event that a contrary decision is sought, they will need to explain the implications of doing so. This can sometimes mean that Officers need to advise and guide Members as to planning policy, what are or are not material considerations, what

legally can or cannot be considered or given weight and the likely outcome of any subsequent appeal or judicial review.

Officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the Members and there should always be scope for Members to express a different view from Officers. However, any decision by the Committee must be based on proper planning reasons as part of the overall aim to ensure that a lawful and unambiguous decision is made. Where this is contrary to that recommended within the Officer report, the Lead Planning Officer and Council Lawyer will advise Members in making that decision.

Recording of the Meeting

Please note that this meeting will be recorded, and the recording will be made available on the Council's website and/or on YouTube. You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the recording will be retained in accordance with the Council's policy. Therefore, unless you are advised otherwise, by taking part in the Council meeting during public participation you are consenting to being recorded and to the use of the sound recording for access via the website or for training purposes.

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 this 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, No filming or recording may take place when the press and public are excluded for that part of the meeting.



This is the on-line invite to join the Strategic Planning Committee meeting on Thursday 19 October at 10.00am. Please note this is an in-person meeting in the Luttrell Room, County Hall, Taunton TA1 4DY.

Microsoft Teams meeting

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Phone Conference ID: 908 207 965#

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Minutes of a Meeting of the Strategic Planning Committee held in the Luttrell Room - County Hall, Taunton TA1 4DY, on Friday, 21 July 2023 at 10.00 am

Present:

Cllr Tony Lock (Chair)

Cllr Andy Soughton (Vice-Chair)

Cllr Steve Ashton

Cllr Michael Dunk

Cllr John Hunt

Cllr Wes Read

Cllr Henry Hobhouse

Cllr Mike Caswell

Cllr Edric Hobbs

Cllr Matthew Martin

Cllr Martin Wale

Other Members present remotely:

Cllr Norman Cavill

Cllr Dave Mansell

Cllr Bob Filmer

Cllr Ros Wyke

9 Apologies for Absence - Agenda Item 1

Apologies were received from Councillors Simon Coles, Philip Ham and Andy Kendall.

It was noted that Councillor Henry Hobhouse was attending as substitute for Councillor Coles. Councillor Sue Osborne had been due to attend as substitute for Councillor Philip Ham but she had also sent her apologies.

10 Minutes from the Previous Meeting - Agenda Item 2

Resolved that the minutes of the Strategic Planning Committee held on 22 June 2023 be confirmed as a correct record.

11 Declarations of Interest - Agenda Item 3

Councillor Andy Soughton declared a personal interest in Agenda item 5: Application to modify footpath WN 27/4 and part of footpath WN 23/11 to bridleways from the A303, Queen Camel to Sparkford Hill, Sparkford as the landowner was known to him. He confirmed that he would retain an open mind during determination of the application.

Councillor Henry Hobhouse advised that he was the Division Member for Castle Cary and knew many people within the area of Agenda items 5, 6 and 7 relating to footpaths in the Queen Camel and Sparkford areas.

12 Public Question Time - Agenda Item 4

There were no questions from members of the public.

13 Application to upgrade footpath WN 27/4 and part of footpath WN 23/11 to bridleways from the A303, Queen Camel to Sparkford Hill, Sparkford - Agenda Item 5

The Senior Rights of Way Officer advised that additional evidence had been presented to officers that morning regarding the three footpath applications before the committee. He said that officers had not had the opportunity to consider the new evidence and were therefore unable to provide the Committee with any view on the evidence that day.

The Chairman regretted the late submission of the new evidence. He proposed that the three reports (agenda items, 5, 6 and 7) relating to footpaths within the Queen Camel and Sparkford area be deferred to a future meeting of the Committee to allow officers the opportunity to read and consider the documents submitted and ascertain if the evidence was significant to the officer recommendation.

It was noted that Councillor Matt Martin abstained from voting as he arrived whilst the item was being discussed and did not hear the full discussion.

RESOLVED:

That the application to upgrade footpath WN 27/4 and part of footpath WN 23/11 to bridleways from the A303, Queen Camel to Sparkford Hill, Sparkford be DEFERRED to a future meeting of the Strategic Planning Committee.

(Voting: 9 in favour, 0 against, 2 abstentions)

14 Applications to upgrade parts of footpaths WN 23/40, WN 23/38 and WN 23/12 to bridleways and add sections of bridleway, from Babcary Road to the A303, Queen Camel - Agenda Item 6

Please see Minute 13 (item 5 on this agenda), which also applies to this item.

RESOLVED:

That the applications to upgrade parts of footpaths WN 23/40, WN 23/38 and WN 23/12 to bridleways and add sections of bridleway, from Babcary Road to the A303, Queen Camel be DEFERRED to a future meeting of the Strategic Planning Committee.

(Voting: 9 in favour, 0 against, 2 abstentions)

15 Application to add a bridleway, from WN 23/38 to High Street, Sparkford - Agenda Item 7

Please see Minute 13 (item 5 on this agenda) which also applies to this item.

RESOLVED:

That the application to add a bridleway, from WN 23/38 to High Street, Sparkford be DEFERRED to a future meeting of the Strategic Planning Committee.

(Voting: 9 in favour, 0 against, 2 abstentions)

16 Progress Report: Phosphates and work undertaken to achieve nutrient neutral development - Agenda Item 8

The Principal Planning Policy Officer presented the report, and provided a comprehensive presentation to update members on the work undertaken to achieve nutrient neutral development whilst also supporting housing growth. Some of the key elements of the presentation included information and updates about:

- A brief overview as a reminder of the situation regarding levels of phosphates present in the Somerset Levels and Moors Ramsar site.
- Nutrient neutrality in Somerset and a reminder of the river catchments and geographical area affected.
- Updating of the Phosphates Budget Calculator was nearing completion.
- Regular meetings with key stakeholders were continuing.

- Reference to a national test case in the High Court (Jurston Farm, Wellington).
- Creation of phosphate (P) credits.
- Specific updates regarding each of the river catchment areas – Tone, Brue and Parrett, which included information about the number of planning applications held in abeyance seeking a phosphate solution, and the progress to date.
- The Council's recent funding bid to the Government's Nutrient Mitigation Fund
- Detail about an Initial Pilot Trial (Salinity Solutions) being installed at Fivehead.

During discussion the Principal Planning Policy Officer, the Assistant Director Strategic Place & Planning, and the Lead Member for Economic Development, Planning & Assets responded to points of detail raised by members, and some of the replies included information about:

- The P credits and how more standardising across rural and urban areas may be possible in the future. Also approximately how much a credit equated to in financial terms.
- The possible alternative land uses for large farms if taken out of production.
- Data used was from a variety of sources and different agencies.
- Scrutiny (Climate and Place) were also considering/monitoring the phosphates situation.
- Wessex Water adding phosphates to the water supply as a treatment.
- The stage in the planning process when phosphate calculations are done.
- The Salinity Solutions trial and how scalable it might be as a phosphates solution.

The Lead Member for Economic Development, Planning & Assets acknowledged many members and different committees were interested in the progress with the phosphates situation and wished to discuss in further technical detail. She noted from comments that there were concerns about apparent contradictions in data and information systems. She advised she would discuss the matter outside of the meeting with officers to ascertain a way forward where as many members as possible could be involved in a discussion or briefing about the matter.

Councillor Henry Hobhouse noted that he had been promised briefings with the Lead Member for Economic Development, Planning and Assets but the briefing had not yet taken place.

At the end of discussion, the Chairman proposed that the recommendations as detailed in the report be noted, and this was agreed by 7 in favour, 1 against with 3

abstentions.

RESOLVED:

That the Strategic Planning Committee noted:-

- a. The content of the report.
- b. The activity across the 3 affected river catchments which was starting to unlock the delivery of housing and affected development which had been on hold due to the need to ensure nutrient neutrality.
- c. The Council's recent funding bid to the Government's Nutrient Mitigation Fund.

(Voting: 7 in favour, 1 against, 3 abstentions)

17 Quarterly report on planning service performance - Agenda Item 9

The Assistant Director Strategic Place & Planning introduced the quarterly officer report from the planning committees to monitor decision making and workload levels. She provided a presentation and some of the key points included information about:

- Planning service performance information including:
 - Number of planning applications received since 2019/20
 - Applications determined within the national targets for Q4 of 2022/23
 - Pre-application enquiries
 - Appeal decisions
 - Enforcement cases on hand and resolved/closed
 - 5 Year Housing Land Supply and Housing Delivery Test position

During a short discussion the Assistant Director Strategic Place & Planning responded to some points of detail raised, and provided some further information regarding staff resourcing for planning enforcement and also clarity about some of the enforcement case figures.

There being no further debate, members were content to note the quarterly report on the Planning Service Performance.

RESOLVED:

That the Strategic Planning Committee noted the content of Quarterly report on the Planning Service Performance.

(Unanimous in favour)

(The meeting ended at 11.50 am)

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CHAIR



Somerset Council

WILDLIFE AND COUNTRYSIDE ACT 1981

**SECTION 53 SCHEDULE 14 APPLICATION TO UPGRADE FOOTPATH WN
27/4 AND PART OF FOOTPATH WN 23/11 TO BRIDLEWAYS FROM THE
A303, QUEEN CAMEL TO SPARKFORD HILL, SPARKFORD**

Application: 851M
Author: Sue Coman
Date: September 2023

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



RNID typetalk

to discuss the details.

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1. **Executive summary**

1.1. The Definitive Map and Statement (DMS) are the legal records of public rights of way in Somerset. They are conclusive evidence of what they show, but not of what they omit. Section 53 of the Wildlife and Countryside Act 1981 provides for applications to be made to modify the DMS where it is believed to be in error. On receipt of such an application Somerset Council (SC)¹ has a duty to investigate and determine the application.

1.2. In this case, SC has received an application to modify the DMS by upgrading footpath WN 27/4 and part of footpath WN 23/11 to bridleways from the A303, Queen Camel to Sparkford Hill, Sparkford. The purpose of the report is to establish what public rights, if any, exist over the route in question.

1.3. A public bridleway can be used by the public on foot, with bicycles, or riding or leading a horse (or other 'beast of burden'). There is also sometimes the right to drive livestock along a bridleway.

1.4. In determining this application, the investigating officer has examined a range of documentary evidence, the land registry documents were found to be of particular significance in this case.

1.5. Analysis of this evidence and all the other available evidence has indicated, on the balance of probabilities, that:

- section F to F1 of the application route, as shown on Appendix 1, (part of WN 23/11) is correctly recorded on the DMS as a *footpath*
- section F1 to G of the application route (WN 27/4) is a *bridleway*

1.6. Although not included in the application, it came to light during examination of the evidence that, on the balance of probabilities the recorded footpath WN 23/15 (F1 to F2) is a *bridleway*

1.7. The report therefore recommends that:

- the application to upgrade section F to F1 to a bridleway, as shown on Appendix 1, be refused

¹ Somerset Council came into existence on 1 April 2023. The predecessor organisations were Somerset County Council and the District Councils. Unless relevant to the point being discussed, Somerset Council (SC) is referred to throughout this document regardless of whether Somerset Council or Somerset County Council were the relevant organisation at the time.

- an Order be made, the effect of which would be to upgrade footpaths WN 27/4 and WN 23/15 to bridleways.

1.8. This report begins by summarising the application. This includes a description of the application route and a summary of the case put forward by the applicant. It then outlines the relevant legislation, before examining the documentary evidence. The report then provides a conclusion explaining what can be elucidated from the documentary evidence and offers a recommendation on this basis.

2. **The Application**

2.1. On 9 May 2017 Sarah Bucks made an application under Section 53(5) and Schedule 14 of the Wildlife & Countryside Act 1981, for an order to amend the DMS by upgrading footpath WN 27/4 and part of footpath WN 23/11 to bridleways from the A303, Queen Camel to Sparkford Hill, Sparkford. The route in question is shown in blue on drawings number H39-2021 pt 3 (Appendix 1).

2.2. Their case is based on a range of documentary evidence which is discussed below and recorded in Appendix 5.

2.3. The applicant argues that “While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status.”

2.4. Photographs of the claimed route taken on 30 June 2021 are at Appendix 2. The route starts on the south side of the A303 at point F (photographs 1 & 2). It heads south uphill through a wood. There is a fence behind trees along the eastern boundary and trees on the western boundary (photographs 3, 4 & 5). Distances measured from the fence through the trees on the eastern boundary to mature trees on the western boundary ranged from 5.0 to 5.9 metres.

2.5. Near point F1, at the top of the hill, there is a pedestrian kissing gate (photograph 6). After the kissing gate at F1 the route makes a 90 degree turn to head east. At this point there is a pedestrian stile and wooden gate, the gate is secured with a metal chain (photograph 7). The gate measured 1.1 metres wide.

2.6. The route continues east along WN 27/4 with a copse on the northern side and open grassland on the southern side (photographs 8 & 9). At point G3 the copse ends, and the route continues across open grassland (photograph 10).

2.7. At point G2 trees and a fence then form a boundary on the northern side of the route (photographs 11 & 12). Between G1 and G2 two field gates (3.6 metres wide in total) have been tied together across the route and the southern boundary fenced (photograph 13) with a further field gate across the route at point G1 (photograph 13 & 15).

2.8. After G1, the route continues with a building on the northern boundary and a fence on the southern boundary with a width between them of 4.6 metres. There is a hedge between the building and the fence (photographs 14 & 15). Where the hedge ends there is a stile in the southern boundary (photograph 16). The route then continues to the road at point G bounded by the building on the north and the fence on the south with a width between them of 4.3 metres (photographs 17 & 18).

2.9. A land registry search was carried out in May 2021 and identified two owners of the application route and one adjoining landowner. A further landowner was identified during the consultation process. The landownership is shown at Appendix 3.

2.10. The case file, including the application, accompanying evidence and consultation responses can be viewed by Members by appointment.

3. **Legislative framework**

3.1. An overview of the legislation relating to the circumstances in which a Definitive Map Modification Order can be made can be found in Appendix 4. Paragraph 1.3 of that appendix sets out the circumstances in which SC must make an order to modify the DMS. In this case section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 is of particular relevance. This subsection states that the DMS should be modified where 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.

3.2. The standard of proof to be applied in cases where the route is claimed to be of a higher status to that already shown on the Definitive Map and

Statement is whether, on the balance of probabilities, the higher rights subsist. In other words, is it more likely than not that those rights subsist.

3.3. This investigation is seeking to discover whether rights of way *already* exist over the application route. The recommendation offered above is a quasi-judicial one based on evidence rather than policy. This is important to emphasise. While applicants and consultees may be influenced by practical considerations (e.g. the suitability, security, or desirability of a particular route), such factors do not have a bearing on this investigative process unless it can be shown that they affected the coming into existence, or otherwise, of public rights.

4. **Documentary Evidence**

4.1. This section of the report discusses the documentary evidence sources examined as part of this investigation. Background information relating to each of the documents (such as how and why they were produced, and their relevance to rights of way research) can be found in Appendix 5. Further general guidance on the interpretation of evidence may be found within the Planning Inspectorate's [Definitive Map Orders Consistency Guidelines](#).²

4.2. 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 or a third party. Where this is the case the words "extract only" follow the title of the document. If it has been necessary to give those documents less weight on account of them only being viewed in part this has been made clear in the description and interpretation of the evidence.

4.3. Throughout discussion of the evidence comparison is frequently made to the way in which other routes in the immediate vicinity of the application route have been recorded. Where other rights of way, roads or physical features have been referred to their location has been identified on the relevant appendix.

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805945/Full_version_February_2016_consistency_guides_revised_note_may_19.pdf. The *Consistency Guidelines* provide information and references to resources and relevant case law to assist in the interpretation and weighing of evidence on Definitive Map orders. These guidelines were last updated in April 2016 and consequently care should be taken when using them, as they may not necessarily reflect current guidance.

4.4. **Inclosure records**

Queen Camel Inclosure Award (1798) and Plan (1795)

Source: South West Heritage Trust

Reference: SHC Q/RDE/35

Appendix number: 7 (i)

Description and interpretation of evidence

4.4.1. Part of the application route (F - F1) lies within the Parish of Queen Camel and therefore falls within the area of the plan. The plan shows plots of land with individual reference numbers and a number of linear features.

4.4.2. Although section G - F1 of application 851 lies within the parish of Sparkford a linear feature of solid parallel lines is shown on the plan from a location broadly similar to point F1 and heading east towards G. Heading north there is a linear feature consisting of two sets of pecked lines, but these are in a position that is broadly similar with the start and end of WN 23/14. Section F1 to F would run through the plot marked Pj 143. However, there is no feature shown within that plot that corresponds to F1 to F. There is also no feature shown on this plan that corresponds to F1 to F2, an alternative continuation for section G to F1, of the application the route.

4.4.3. The plan key indicates that it is the coloured parcels of land that are to be exchanged. This is consistent with the award document that records the details of the arrangements only for the coloured plots. Plot Pj 143 is uncoloured but the adjacent plot, Hw 144 is coloured.

4.4.4. Whilst there is mention of plot Hw 144 Cross in the award, no additional details are provided regarding the land surrounding it.

4.4.5. A section of the award deals with the setting out and allotting of highways and also includes the stopping up of some existing roads or footpaths. None of the routes dealt with in this award are in the vicinity of any of the application routes.

4.4.6. As the award does not directly address the routes concerned it has limited evidential weight. However, it does provide some evidence of the physical existence of routes from F1 towards G, at that time. The lack of any linear features from F to F1 or F1 to F2 does not necessarily mean that no

routes existed. They may have been physically less significant features or not of particular relevance to the Commissioners.

Map of manor of Queen Camel (1795) (extract)

Source: South West Heritage Trust

Reference: SHC DD/MI/20/6

Appendix number: 7 (ii)

4.4.7. The applicant has submitted an extract of this map in addition to the inclosure award map of the same date. The South West Heritage Trust have described it as “probably the original of the inclosure map”. There is no discernible difference between how the application route is shown on this map and how it is shown on the inclosure award map so the document does not add any additional weight to the case.

4.5. **Tithe records**

Sparkford Tithe Map (1839) and Apportionment (1837-9)

Source: South West Heritage Trust

Reference: SHC D/D/rt/M/75 and SHC D/D/rt/A/75

Appendix number: 8(i)

Description and interpretation of evidence

4.5.1. The Tithe Map for Sparkford was not sealed by the Commissioner meaning that it is only a second-class map. It is therefore only conclusive evidence in respect of the information it contains relating to tithes.

4.5.2. The map includes unnumbered linear features coloured sienna. Some of these are labelled with the place name of where they are from or lead to. All the labelled routes and some of the other routes are modern day public roads. There are also routes coloured sienna on the map that today have no public rights over them. Therefore, the sienna colouring on this map does not necessarily indicate public rights of way.

4.5.3. It is only section G to F1 that lies within the Parish of Sparkford but section F1 to F lies along the Sparkford Parish boundary. There is a linear feature shown on the map running along a line broadly similar to section G to F1, between plots 154 and 155 to the north and plot 153 to the south. The state

of cultivation of plots 153 to 155 are all recorded in the apportionment book as arable.

4.5.4. The Map appears to indicate that section G to F1 of the application route was not subject to a tithe, as no apportionment number is included at any point. This may have been because the route was a public road. Equally, the route could have been an unproductive (i.e. not used to produce a crop) and therefore unnumbered private road.

4.5.5. The Tithe Map offers strong evidence that section G to F1 physically existed in 1839. It is less helpful in determining its reputation or status; whether it enjoyed public or private rights, or indeed, if rights that did exist were higher than those currently recorded. The primary purpose of these documents was to record the payment of tithes, not to ascertain or survey the nature of public or private rights that may have existed. While the tithe records are not inconsistent with the presence of public bridleway rights over the application route, they equally do not offer direct evidence that such rights were present.

4.5.6. At point F1, instead of turning north to head to point F, the route is clearly shown on the tithe map as continuing west towards F2 in a direction broadly similar to the recorded right of way WN 23/15. There is no linear feature shown that corresponds to section F1 to F.

4.5.7. The fact that no route is shown corresponding to section F1 to F does not mean that a right of way could not have existed over that route. The land is outside the Sparkford Parish boundary so any route over it would not have affected the Sparkford tithe.

Queen Camel Tithe Map (1842) and Apportionment (1842)

Source: South West Heritage Trust

Reference: SHC D/D/rt/M/377 and SHC D/D/rt/A/377

Appendix number: 8(ii)

4.5.8. The Tithe Map for Queen Camel was not sealed by the Commissioner meaning that it is only a second-class map. It is therefore only conclusive evidence in respect of the information it contains relating to tithes.

4.5.9. The map includes unnumbered linear features coloured sienna. There is no key to indicate the significance of the colouring. Whilst some of the routes coloured sienna are modern day public roads, there are also routes coloured

sienna on the map that today have no public rights over them. Therefore, the sienna colouring on this map does not necessarily indicate public rights of way.

4.5.10. The application route does not lie wholly within the area of the tithe map as section G to F1 is mainly within the Parish of Sparkford. However, at F1 there is a break in the line along the parish boundary at that point with two short lines extending into the Sparkford side at an angle comparable to section G to F1 of the application route. If this feature does represent such a route, there is no indication on the map as to where it leads on the Queen Camel side.

4.5.11. There is no linear feature shown running from point F1 to F of the application route nor from F1 west towards F2, even though both these sections lie within the Parish of Queen Camel. The absence of any linear features between points F to F1 and F1 to F2 does not mean that a right of way could not have existed. The Planning Inspectorate's Consistency Guidelines advise "It is unlikely that a tithe map will show public footpaths and bridleways as their effect on the tithe payable was likely to be negligible".³

4.5.12. The section of the application route that lies within Queen Camel (F-F1) and the alternative route F1 to F2 run through apportionment plot number 1. This is a considerable plot covering Hazelgrove House and a large amount of surrounding land. The whole plot is recorded in the Apportionment book simply as "houses and lands" so provides little assistance.

4.5.13. In conclusion, this document set provides evidence of a possible route existing, at that time, at point F1 heading east. The map gives no explicit indication as to whether it was a public or private route nor its ultimate destination.

Queen Camel Tithe Map (1924)
Source: South West Heritage Trust
Reference: SHC D/D/rt/M/377A
Appendix number: 8(iii)

4.5.14. This tithe map is based on Ordnance Survey sheets LXXIV.2, 3, 6, 7, 11 and 15. The key indicates that "The limits of the Plan of this Altered Apportionment are defined by a GREEN edging and the numbers of the lands

³ DMO Consistency Guidelines 5th revision July 2013 Section 8 page 5

referred to and any necessary braces are shown in RED.” Other colours that have been used on the plan but are not detailed in the key include pink shading surrounding a section of railway line and orange shading for a section of the Ilchester Road that was not shown on the earlier tithe map and another section that appears to relate to a road alteration in the vicinity of the railway line.

4.5.15. Section G to F1 lies outside the area of the map. For section F1 to F there is a corresponding feature on the underlying OS map situated within an apportionment with the red number 370. The feature is marked on the map with a red brace linking it to the apportionment. A linear feature that continues west from F1 to F2 is also shown in the same way. This indicates that the routes were included within the tithable areas. As mentioned in paragraph 4.5.8 above, the effect of footpaths and bridleways on the tithe payable was likely to be negligible. Therefore, it is plausible that such routes would be braced to be included within the respective apportionment.

4.5.16. In conclusion, whilst routes may have existed between points F to F1 and F1 to F2 it appears that they were not considered to be of a nature that would impact on the tithe payable.

4.6. **Quarter Session records**

Quarter Sessions Roll 1873
Source: South West Heritage Trust
Reference: SHC Q/SR/694/ 70-88
Appendix number: 9

Description and interpretation of evidence

4.6.1. The Quarter Sessions Roll in 1873 refers to an application to stop up divert and turn part of a highway in the parishes of Sparkford and Queen Camel. A plan setting out the existing highway and route of the proposed diversion was submitted to the court. The part of the highway that was to be stopped up, although with rights on foot reserved, was situated along a line broadly similar to footpath WN 23/12 and approximately 200 metres from the application route. Therefore, the plan has been reviewed for any details that may relate to the application route.

4.6.2. There is a set of parallel pecked lines shown on the plan that follows a line broadly similar to a short part of the application route from point F (near the letter N on the plan) towards F1. However, the plan does not extend any further over the application route.

4.6.3. Other linear features on the plan that are composed of parallel pecked lines represent existing roads, the proposed new road, and the private road from Hazelgrove House. Whilst it is likely that the parallel pecked lines running from F towards F1 are also meant to represent some form of road there is nothing marked on the plan to indicate whether it was considered to be a public or private road.

4.6.4. The Planning Inspectorate's Consistency Guidelines advise

“Quarter Sessions records go back a long way. They may provide conclusive evidence of the stopping up or diversion of highways. [...] It should be borne in mind that Quarter Session records are conclusive evidence of those matters the Court actually decided, but are not conclusive in relation to other matters.”⁴

4.6.5. Therefore, the weight that can be given to the evidence depends on how directly it relates to the matter the Court decided. The wider setting of the highway under consideration would not have been of particular relevance to the decision. Therefore, although a feature is shown on the plan corresponding to a small section of the application route from point F, the weight that can be given to the evidence is weak and is evidence of the possible existence of a physical route at that point, rather than its status.

4.7. **Ordnance Survey maps**

1811-17 OS 'old series' map
Cassini Timeline reprint (extract only)
Original scale: 1:63,360/one inch to the mile
Appendix 10 (i)

⁴ Paragraph 6.3 of the Planning Inspectorate (April 2016) Definitive Map Orders: Consistency Guidelines

4.7.1. Although not the original version of the OS's 'old series' maps, the Cassini Timeline reprints are reliable copies, re-projected and enlarged to match modern 1:50,000 mapping.

4.7.2. There is a linear feature on the map that is broadly consistent with section F1 to G of the application route.

4.7.3. However, the map differs from the route claimed for section F1 to F. On the map, at point F1, the linear feature continues slightly further west before heading north along a line broadly similar to the recorded footpath WN 23/14 as opposed to F1 to F. There is no feature shown that corresponds to recorded footpath WN 23/15 (F1 to F2).

1883 OS Boundary Remark Book (extracts)

Source: The National Archives

Reference: OS 26/9397

Appendix 10 (ii)

4.7.4. A linear feature is shown running from point F towards F1. From the detail in the extract covering point F1 it can be seen that this feature is considerably wider than those features heading east, west and south from point F1. This is inconsistent with all the other OS evidence, including the subsequent Boundary Sketch Map, where section F to F1 is either not shown at all or if it is included is shown as being as, or less, physically significant a feature as section F1 to G and WN 23/15 (F1 to F2). Therefore, it is possible that the pecked line from F to F1 rather than representing a road, indicated a feature which either did not obstruct pedestrians or which was indefinite or surveyed to a lower standard than usual⁵.

1884 OS Boundary Sketch Map (extract)

Source: The National Archives

Reference: OS 27/4713

Appendix 10 (iii)

4.7.5. A linear feature is shown running from G to F1 although it is visibly narrower than surrounding routes, such as the Ilchester Road and Sparkford

⁵ R. Oliver, *Ordnance Survey Maps: a concise guide for historians, second edition* (London: Charles Close Society, 2005), p. 97

Hill. It is shown continuing a short way west past F1. There is no discernible feature shown running from F1 to F.

1887 OS County Series First Edition Map

Sheet No: LXXIV.7

Survey Date: 1885

Scale: 1:2500

Appendix 10 (iv)

4.7.6. At point F south of the boundary line for the Ilchester Road (modern day A303) the application route is shown as a narrow set of parallel pecked lines heading south to cross the southern boundary line of Ridge Copse to point F1. At point F1 there are parallel pecked lines heading east to F2, south, and west to G. Application 851 follows the lines heading east across the Parish and field boundary. For section F1 to G the pecked lines are variable in width and the letters B.R. are marked underneath. From 1884 the annotation 'B.R.' was used to show a bridle road and "Bridle roads were regarded as passable on horseback".⁶ At point G the pecked lines meet the solid line boundary of Sparkford Hill.

4.7.7. A smaller scale (1:10,560) map was also published based on the 1885 survey. There is no additional information shown on this map compared to the larger scale map that assists in determining the status of the route (see Appendix 10 (x)).

1898 OS Revised New Series Map

Sheet 296

Survey Date: 1884-85; Revised: 1897

Scale: 1:63,360 (one inch to the mile)

Appendix 10 (v)

4.7.8. Although based on the same survey and published at a smaller scale than the first edition county series map, the revised new series map does include more detail regarding the character of the ways shown on it.

4.7.9. Section G to F1 of the application route is depicted as a footpath but rather than turning to head to point F, it is shown continuing west to Gason Lane (F1 to F2). The use of the footpath symbol does not mean it could not have also been a bridleway.

⁶ R. Oliver, *Ordnance Survey Maps: a concise guide for historians, second edition* (London: Charles Close Society, 2005), p. 96

“There was, in fact, no symbol solely dedicated to bridleways on the one-inch maps. Since a network of these undoubtedly existed in the nineteenth century and earlier, the possibility that they were shown in the same way as minor roads or tracks cannot be discounted.”⁷

4.7.10. The fact that on both the preceding and following County Series maps section G to F1 is annotated as being a bridle road tends to support that argument. It is also consistent with the later small scale OS ‘popular edition’ maps where the same symbol is used to cover both footpaths and bridle paths.

4.7.11. However, the use of this particular symbol does indicate that the route was not metalled and not considered suitable for wheeled traffic, at that time, because there are other symbols to indicate routes of that nature.

4.7.12. There are no roads or footpaths shown for section F to F1. If a route did exist, at that time, along such lines this map would suggest that it was not considered to be of sufficient significance to warrant inclusion.

1903 OS County Series Second Edition Map

Sheet Nos: LXXIV.3 & 7

Survey Date: 1885; Revised: 1901

Scale: 1:2500

Appendix 10(vi)

4.7.13. The application route and WN 23/15 (F1 to F2) are shown on this map in a broadly similar way to the first edition map and is still annotated B.R.. The only notable difference being that for section F1 to G the previously pecked lines have been replaced by solid lines near point G, indicating that this section was now fenced.

4.7.14. At point G the adjacent building is labelled as a “Limekiln”. This would have required a regular supply of limestone which was most likely obtained from the nearby quarry. Therefore, a route may have come into existence to link the two. However, the route to the quarry diverges from the application route at point G2 heading north-west whilst the application route continues west to F1. Whilst there is another quarry further west of F1 there is also another limekiln shown on the map just to the south of that quarry.

⁷ Y. Hodson, ‘Roads on OS one-inch maps 1801-1904’, *Rights of Way Law Review*, 9.3, p. 120.

Therefore, the existence of a limekiln near point G does not necessarily explain the existence of the application route.

4.7.15. A smaller scale (1:10,560) map was also published based on the 1901 revision. There is no additional information shown on this map compared to the larger scale map that assists in determining the status of the route (see Appendix 10 (xi)).

1919 OS 'popular edition' Map
Cassini Timeline reprint
Original scale: 1:63360 (one inch to the mile)
Appendix 10 (vii)

4.7.16. There appears to be no difference in how the route is shown on this map and the earlier Revised New Series Map. However, the map key now makes clear that the symbol used relates to both "Bridle & Footpaths". Section G to F1 is shown continuing west to Gason Lane (F1 to F2) instead of turning to head north to point F. There are no roads or footpaths shown for section F to F1. If a route did exist, at that time, along such lines this map would suggest that it was still not considered to be of sufficient significance to warrant inclusion.

1946 OS New Popular Edition Map
Sheet No: 177
Scale: 1: 63360 (one inch to the mile)
Appendix 10 (viii)

4.7.17. This map differs from the earlier popular edition map in that it now shows a route along F1 to F in addition to the earlier recorded route from G to F2. The map key indicates that the symbol used covers both footpaths and bridle paths.

1962 OS "six-inch" Map
Sheet: ST 52 NE
Scale: 1: 10,560 (six inches to the mile)
Appendix 10 (ix)

4.7.18. This map differs from the earlier six-inch maps in that section F1 to G has been annotated with the letters FP instead of B.R. The corresponding map key indicates that this is the symbol for a footpath. However, as can be seen from the map key, there is now no longer a specific symbol to represent

a bridle road. The change in annotation could be due to a decline in the physical nature of the route to that more resembling a footpath. Alternatively, it could be because during this period the OS did not make a distinction between footpaths and bridlepaths on their “six-inch” series maps.

Interpretation of evidence

4.7.19. Whilst OS maps provide evidence of the physical existence of a route, they do not provide direct information on its status i.e. whether it was public or private. This interpretation is supported by case law which states that “If the proper rule applicable to ordnance maps is to be applied, it seems to me that those maps are not indicative of the rights of the parties, they are only indicative of what are the physical qualities of the area which they delineate”.⁸ In fact, since 1888 OS maps have carried the statement “The representation on this map of a road, track or footpath is no evidence of the existence of a right of way”.⁹

4.7.20. Taken as a whole the OS maps provide evidence of the physical existence of a route from F to G. The evidence also points towards G to F1 to F2 being physically more significant than section F to F1 with the 1898 Revised New edition and 1919 Popular edition maps recording section G to F1 to F2 but not F to F1. And whilst the annotation B.R., indicating a route that was passable on horseback, was applied to section G to F1 no such annotation was recorded against section F to F1.

4.8. **Turnpike Records**

Ilchester Turnpike Maps (1826)
Source: South West Heritage Trust
Reference: SHC D/T/ilch/1 1826
Appendix number: 11 (i)

Road plans; Yeovil turnpike to Sparkford Cross (1852)
Source: South West Heritage Trust
Reference: SHC Q/RUP/222
Appendix number: 11 (ii)

⁸ *Moser v Ambleside Urban District Council* (1925) 89 JP 118, p. 119.

⁹ R. Oliver, *Ordnance Survey Maps: a concise guide for historians, third edition* (London: Charles Close Society, 2013), p. 109.

Description and interpretation of evidence

4.8.1. The Queen Camel section of the A303 follows the line of a former turnpike road that is included within the Ilchester turnpike maps. The map set includes a small scale route map then a series of more detailed large scale maps.

4.8.2. The small scale map shows a linear feature along the line of section G to F1 of the application route. However, at F1 instead of turning to head north to F it continues west for a short distance but instead of continuing to F2 turns to head north.

4.8.3. The large scale map is more focussed on the turnpike road itself but does show features that adjoin the road. There is a linear feature running south from F but from the map key this would appear to represent a fence line. In contrast, a short distance to the west there is a break in the turnpike road boundary and a set of parallel lines running in a southerly direction. This is consistent with the feature as shown on the small scale map and in a position broadly similar to footpath WN 23/14.

4.8.4. The later, 1852, road plan depicts Sparkford Hill to the Sparkford Cross road junction. The plan shows a linear feature heading west from G towards F1, broadly consistent with that part of the application route.

4.8.5. These documents provide evidence of the physical existence of section F1 to G, at that time. There are no routes recorded corresponding to F to F1 or F1 to F2 although that does not mean they did not exist. It is possible they were just not considered to be relevant in relation to the turnpike roads. This would be understandable for F1 to F2 which is some distance and not directly connected to either turnpike road. However, F to F1, would form a direct connection to the Ilchester turnpike road and if it was a significant route, at that time, it would be reasonable to expect it to be recorded.

4.9. **1910 Finance Act**

Working Plans and Valuation Book

Source: South West Heritage Trust

Reference: SHC DD/IR/OS/74/7 and SHC DD/IR/B/27/1

Appendix number: 12

Record Plans and Field Books

Source: National Archives (extracts only)

Reference: IR 128/9/905 and IR 58/5381 & 5383

Appendix number: 12

Description and interpretation of evidence

4.9.1. The working plans for the area shows how the land is divided into hereditaments.

4.9.2. Where a linear way is excluded from surrounding hereditaments 'there is a strong possibility that it was considered a public highway, normally but not necessarily vehicular, since footpaths and bridleways were usually dealt with by deductions recorded in the forms and Field Books;'.¹⁰ The application route has not been excluded from surrounding hereditaments on either the working or the later, more authoritative, record plan.

4.9.3. On the record plan section F to F1 of the application route runs through hereditament number 86, section F1 to G, through hereditament number 200 and section F1 to F2 through hereditament number 54.

4.9.4. There are no deductions recorded for rights of way in the valuation book for any of these hereditaments. However, this is not the case for the later, more authoritative, field books.

4.9.5. The extract from the field book for hereditament 86 describes the hereditament as "Woods. Plantations and Road Wastes". The extract gives no further details as to the status or location of the road wastes. Although section F to F1 runs through hereditament 86, this hereditament number covers a range of separate wooded plots. One of the plots contains sections of a former private carriage drive to Hazelgrove House and a former public highway that was stopped up reserving a footpath along its length. It is possible, but by no means certain, that these are the road wastes referred to and have no bearing on the application route. No evidence of a corresponding financial deduction for recorded rights of way in relation to this hereditament has been received.

¹⁰ DMO Consistency Guidelines 5th revision July 2013 Section 11 page 3

4.9.6. Hereditament 200 covers section F1 to G of application 851. The extract from the field book does include a deduction for a right of way over this hereditament. The entry gives no indication as to where within the hereditament the right of way runs. However, apart from the application route, there are no other known physical routes within the hereditament that the deduction may relate to.

4.9.7. Hereditament 54 is an extensive hereditament with several known rights of way running through it. The extract from the field book does include a deduction for 'Foot Paths' but there is insufficient detail to establish which routes this deduction applies to.

4.9.8. Overall, this document set provides evidence of the existence of public rights of way within the plots of land through which section F1 to G and F1 to F2 run. This is consistent with what is already recorded on the DMS. There is no clear evidence within this document set to indicate that the public rights of way (WN 27/4 and WN 23/15) are of a higher status than currently recorded.

4.10. **Highway authority records**

1929 Handover Map and Schedule, 1930 Road Records, 1950 Road Records, 1970 Road Records, Modern Road Records

Source: SC

Appendix number: 17

Interpretation of evidence

4.10.1. The application route is not recorded on any of the above Road Records.

4.10.2. The Road Records are good evidence of the status of routes which are shown however it would be unsafe to hold that the fact that a road does not appear to have been accepted by the highway authority necessarily suggests that it cannot have been a highway. The road record documents did not typically record public bridleways or footpaths. Thus, the omission of a route does not necessarily indicate that it was not a highway at the time the documents were produced.

4.11. **Definitive Map and Statement preparation records**

Survey Map

Source: SC

Appendix number: 13 (i)

4.11.1. Sections F to F1 of the application route lies within the Parish of Queen Camel. The Queen Camel survey map is marked with a red line that follows the line of the parish boundary. Section F to F1 is shown on the survey map as a black line numbered 11. All routes numbered on this parish survey map are shown as black lines so no inference as to the type of right of way can be drawn from the colouring.

4.11.2. On the Sparkford parish survey map section F1 to G is shown as a green line numbered 4 and marked F.G. at two points and H.G. at the Queen Camel parish boundary. The other colour used for numbered routes on this survey map is orange. There is no key to indicate the significance of the two different colours used. However, the other routes coloured green on this survey map have, generally, been added to the DMS as footpaths. For the six routes or sections of route coloured orange, four were recorded on road records as unclassified roads. This would appear to indicate that the orange colouring was used for those routes or sections that had the physical characteristics of a road.

4.11.3. For section F1 to G, on the underlying OS map used for the survey the annotation B.R. can be seen on the line of the route.

Survey Cards (1950-51)

Source: SC

Appendix number: 13 (ii)

4.11.4. The two corresponding survey cards have the kind of path written as F.P.

4.11.5. The Queen Camel survey card for path 11 (south of F1 to F) describes kissing gates at certain points along the route.

4.11.6. The Sparkford survey card for path 4 (G to F1) refers to a fieldgate, gate, and hunting gate. This is consistent with the markings on the survey map. Although subsequently crossed through, the typed description began “bridle path continues, (3),”. Sparkford survey path 3 was along Sparkford Hill Lane, an unclassified road, and not ultimately recorded on the DMS.

4.11.7. It would appear that, at the time of the parish survey, section G to F1 may have been physically accessible on horseback whereas sections F1 to F, due to the existence of a kissing gate, would only have been accessible on foot.

4.11.8. Although section F1 to F may not have been accessible on horseback it is possible that path 27/4 (G to F1) instead of turning to head north to F continued ahead along path 23/15 to Gason Lane. The survey card for path 23/15 certainly indicates that these two routes are continuous. This survey card refers to a “wicket gate” at the parish boundary but makes no other reference to gates or stiles across path 23/15.

Draft Map (1956)

Source: SC

Appendix number: 13 (iii)

4.11.9. The application route is shown on the draft map as purple lines indicating they have been identified as public footpaths.

Summary of Objections to the Draft map

Source: SC

Appendix number: No appendix

4.11.10. There was no record of objections relating to the application route.

Draft Modification Map (1968)

Source: SC

Appendix number: 13 (iv)

4.11.11. There were no markings on the Draft Modification Map relating to the application route.

Summary of Counter Objections to the Draft Modification Map

Source: SC

Appendix number: no appendix

4.11.12. There was no record of a counter objection relating to the application route.

Provisional Map (1970)

Source: SC

Appendix number: 13 (v)

4.11.13. The application route is shown in the same way as on the Draft Map.

Definitive Map and Statement

Source: SC

Appendix number: 13 (vi)

4.11.14. The application route is shown in the same way as on the Provisional Map. Paths WN 23/11 (south of F1 to F) and WN 27/4 (F1 to G) are both classified in the Statement as F.P. and shown on the Definitive Map as purple lines.

4.11.15. The Statement for path 27/4 now describes the route after the parish boundary as continuing as 23/15.

Interpretation of evidence

4.11.16. The application route (WN 27/4 and part WN 23/11) and WN 23/15 have been recorded on the DMS as public footpaths. Unlike WN 23/11, for WN 27/4 and WN 23/15, the notes on the survey card do not indicate the presence of any structures, such as a kissing gate or stile, that would have made the route physically inaccessible on horseback, at that time.

4.11.17. The Map and Statement provide conclusive evidence of what it shows. However, it is not conclusive as to what it omits. Therefore, the fact that a route is shown as a footpath does not preclude the existence of higher rights.

4.11.18. Section 53(3) of the Wildlife and Countryside Act 1981 requires the 'discovery' of new evidence (i.e. evidence not considered when the Definitive Map was originally drawn up or last reviewed) before an order to

amend the definitive map can be made. The underlying OS maps used during the DMS preparation process have the annotation B.R. against section G to F1. Therefore, it is difficult to see how SC would not have been aware of this evidence when preparing the DMS. The annotation simply refers to the physical character of the route being passable on horseback and not whether public rights exist.

4.11.19. For section F1 to F the DMS survey card indicates that this part of the route was only physically accessible on foot, at that time.

4.12. **Local Authority records/minutes**

Divisional Surveyor Memoranda
Source: SC
Appendix number: 16

4.12.1. Two memoranda, from a Divisional Surveyor, were found in the Local Authority records relevant to the application route. One dated 1963 refers to a footpath running through OS plot 111 (F to F1). The other dated 1974 refers to 23/15 as a bridle path and bridle way. WN 23/15 is a possible continuation of the route of WN 27/4 (G to F1).

Interpretation of evidence

4.12.2. There is no information in the later memorandum that indicates why the Divisional Surveyor considered 23/15 to be a bridle path. It would be reasonable to assume a Divisional Surveyor had some knowledge of the routes within their area although it is clear they did not have a copy of the relevant section of the DMS at the time. Whilst this evidence is consistent with the OS evidence of the east to west route (G to F1 and continuing west) being a more significant route than the north-south section (F to F1), it cannot be given a great deal of weight because the basis for the reference to a bridle path is unclear.

4.13. **Commercial Maps**

Day & Masters (1782)

Source: SC

Appendix number: 14 (i)

4.13.1. Published in 1782, this commercial map included very little detail, typically only depicting settlements, major roads (particularly those in and between settlements), and rivers.

4.13.2. There is no route shown that corresponds to section F to F1 in the application route

4.13.3. However, the east to west section (G – F1) of the application route is shown on the map and that route is shown as continuing west along a line broadly similar to F1 – F2 and Gason Lane. This suggests that it must have been either a very prominent physical feature or a route of some importance (or both). Based on this assumption it is arguably more likely that it would have carried public rights. However, little is known about the basis upon which Day & Masters selected the features which were to be shown on their maps. Furthermore, even if they did consider it to be public, this can only be taken as the view of the individual surveyor rather than the wider public. In the circumstances this map can be given some, but not a great deal of, weight.

Greenwoods (1822) (extract)

Source: South West Heritage Trust

Appendix number: 14 (ii)

4.13.4. Despite some criticism relating to the positional accuracy of Greenwood's maps they can provide good evidence of a route's physical existence at the time of the survey and also that the surveyor considered it to be of some importance. As the map was produced for use by members of the public it is likely that the surveyor would have focused on those roads that he believed to be publicly accessible or that were useful for the public in some other way.

4.13.5. In this case the map shows section F1 to G as a "cross road". Although not specifically defined on the map, this term was being used to refer to more than just the point at which two roads cross. In one prominent case the courts defined a cross road as "a public road in respect of which no

toll is payable”.¹¹ However, in that case the judge was considering a map produced 55 years earlier than Greenwood’s and by a different cartographer. Therefore, while consideration should be given to this legal precedent, it is important to consider the term “cross road” in the context of any individual map before drawing any inferences.¹²

4.13.6. While the majority of cross roads shown on Greenwood’s maps are now recognised as public vehicular roads, there are many which are not. Most of those which are not now public vehicular roads are shown on Greenwood’s Map as culs-de-sac which are unlikely to have carried public vehicular rights (see Appendix 14).

4.13.7. A similar picture emerges when analysing other extracts of the same map. In fact, in some cases Greenwood’s shows as cross roads routes which only a few years earlier had been set out as private roads by an inclosure award.

4.13.8. Furthermore, any inference to be drawn from Greenwood’s maps needs to be viewed in light of case law. In *Merstham Manor Ltd v Coulsdon UDC* the judge concluded that “there is nothing in the map(s) to show whether or not the topographer-author was intending to represent the road on his map as a public highway”.¹³ However other case law suggests that, if a route is shown as a “cross road” on Greenwood’s map, this evidence should be given limited weight in support of public rights over the application route.¹⁴

4.13.9. This map therefore confirms the physical existence of section F1 to G in 1822 and supports the view that this west-east element of the application route was a thorough fare. However, it seems as though Greenwood’s 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 they recorded. In the circumstances this map is only of very limited weight in support of public rights over the application route.

4.14. **Other Sources**

¹¹ *Hollins v Oldham* (1995)

¹² *Definitive Map Orders: Consistency Guidelines, Third revision* (2013), 2.26.

¹³ *Merstham Manor v Coulsdon and Purley UDC* [1937] 2 KB 77.

¹⁴ *Fortune & Ors v Wiltshire Council & ANR* [2012] EWCA Civ 334.

Ministry of Food National Farm Survey (1941-42)

Source: National Archives (extract only)

Reference: MAF 73/36/74

Appendix number: 15

4.14.1. The survey was carried out to assist with increasing food production during the Second World War.

4.14.2. Whilst the proximity to public roads and condition of any farm roads was included in the survey, it was not the primary purpose of the survey, and the written portion of the records has not been seen in this case. In a recent decision issued by the Secretary of State it was considered that, although recording public rights of way was not the primary purpose of this survey “The exclusion of part of the routes may nevertheless indicate that the routes were considered to be vehicular highways. The weight to be given to this evidence is however very limited.”¹⁵

4.14.3. Section F to F1 of the application route runs through a plot of land that has not been highlighted so no conclusion can be drawn in relation to that section. Also, from G to G1 the land to the north is not part of a highlighted plot. From just west of G1 to G2 a short section of the route between plots does appear to be excluded which could indicate public vehicular rights although west of G2 the route is not excluded. Therefore, this document may be evidence in favour of public vehicular rights but is given very limited weight.

Land Registry Documents

Appendix number: No appendix

4.14.4. The title register for landowner B’s land includes details of a conveyance dated 1968 that the land is “Subject [...] as to that part of the property hereby conveyed coloured [blue] on the said plan to a public right of way and bridle path running from the main road”. On the accompanying plan section G to G1 is coloured blue.

4.14.5. The title plan for landowner A’s land includes an area tinted blue that covers section G1 to G2 of the application route and an area tinted pink that covers section G2 to F1 of the application route.

¹⁵ ‘Appeal Decisions FPS/G3300/14A/18, 19 & 20’, The Planning Inspectorate (14 November 2019), [44], https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/848995/fps_g3300_14a_18_to_20_decision.pdf, accessed 28 April 2020.

4.14.6. The area tinted blue on the title plan is subject to the rights reserved in a conveyance dated 5 October 1966. This states that the land coloured blue on the annexed plan is “SUBJECT to the public right of way and bridlepath running from the main road across the Northern end of the property”. The annexed plan shows G1 to G2 coloured blue.

4.14.7. The area tinted pink on the title plan is subject to the rights reserved in a conveyance dated 8 January 1962 which includes it being “subject to [...] The existing public right of way and bridle path running from the main road across the northern side of the property”. On the plan dated 8 January 1962 the word “BRIDLEPATH” is written between points G2 and G3.

4.14.8. No limitations on use of the bridle path to specific landowners or classes of user are set out in either of the title registers.

4.14.9. The title registers are legal documents and provide strong evidence that the way (G-F1) is both public and can be used on /with a horse.

Sale catalogue, Hazelgrove Estate (1920)

Source: South West Heritage Trust

Reference: SHC DD/X/WBB/177

Appendix number: 19 (i)

4.14.10. This document set details the property being put up for sale in 1920 and sets out the conditions of sale. There are also two maps showing the locations of all 66 plots included in the sale.

4.14.11. Paragraph 17 of the special conditions of sale advises that “The vendor sells and will convey as a tenant for life under the Settled Land Acts, 1882 to 1890”. This is evidence that the land for sale was held in strict settlement. In addition, paragraph 6 refers to a settlement of 1837 and resettlement of 1877 in relation to “certain parts of the property”.

4.14.12. However, from a review of the maps it was found that the land to which this sale relates is outside the area of the application route. It cannot be assumed that the same status applied to all other land held at any time by the Mildmay family. It is noted in paragraph 5 of the special conditions of sale that different conveyance dates apply to the various plots indicating that the details for one plot of land within the Mildmay estate cannot automatically be applied to all other plots of land within the estate.

4.14.13. Furthermore, if a right of way had been dedicated prior to land being held in strict settlement, then the change in how the land was held would not affect pre-existing rights.

Sale catalogue, Hazelgrove Estate (1929)

Source: South West Heritage Trust

Reference: SHC D/P/q.ca/23/16

Appendix number: 19 (ii)

4.14.14. This document details the property being put up for sale in 1929 and sets out the conditions of sale. There was no map included in the archive with this document, but the description of the property includes the Ordnance Survey numbers for each plot.

4.14.15. Paragraph 17 of the conditions of sale advises that “The vendor [...] is selling as tenant for life under the powers conferred by the Settled Land Act, 1925”. This is evidence that the additional land being sold in 1929 was also held in strict settlement. However, from a review of the Ordnance Survey numbers it was found that the land to which this sale relates is also outside the area of the application route. It cannot be assumed that the same status applied to all other land held at any time by the Mildmay family.

4.14.16. As mentioned in paragraph 4.14.13 above, if a right of way had been dedicated prior to land being held in strict settlement, then the change in how the land was held would not affect pre-existing rights. As noted in paragraph 5 (c) of the conditions of sale “Each Lot is sold [...] subject to [...] any of the following incidents applicable thereto [...] namely [...] All rights of way (whether public or private)”.

Mildmay estate papers (1795 – 1807)

Source: South West Heritage Trust

Reference: SHC DD/X/WN/2

Appendix number: 20

4.14.17. Hazelgrove House and a significant amount of land within the parish of Queen Camel belonged to the Mildmay family. It has been suggested that the Mildmay family held the land in strict settlement at all material times and therefore would not have been able to make a valid dedication of a public right of way over that land. Extracts from the Mildmay estate papers were submitted as evidence.

4.14.18. Extracts were provided from a document titled “Abstract of the Title to a Messuage and Lands at Queen Camel and Marston Magna com Somerset bought under the Trusts of the Will of Carew Hervy Mildmay Esq^{re}”. Pages 16 to 22 of this document detail pleadings to the Court of Chancery during 1789-92 to allow first the cutting and selling of timber from the estate and subsequently to use the proceeds from that sale to purchase further land within Queen Camel.

4.14.19. The fact that a decision from the Court is needed in order to both cut the timber and to use the proceeds of sale to purchase land is indicative of the estate not being held in fee simple, at that time. No map is included with this document to show the extent of the original estate and whether it covered any part of the application route. At various points the document does refer to field names in relation to the land in Queen Camel being purchased by the Mildmay estate. Comparing the field names to those shown on the 1795 inclosure plan none related to the plots through which the route runs except for a reference to the “north side of Queen Camel Hill”. Section F1 to F2 of the route runs through a plot named Camel Hill on the 1795 inclosure plan. However, closer examination of the detail in the Abstract of Title indicates that this is not the same plot.

4.14.20. The document also indicates that the plaintiff in the case is “Henry St John Carew St John Mildmay eldest son & heir apparent of the s[ai]^d Sir Henry Paulet St John Mildmay Bar[one]^t by Dame Jane his wife”. He is described, throughout the document, as being an infant. It is not clear from this document how the land was held after Henry St John Carew St John Mildmay reached maturity or whether that happened.

4.14.21. Extracts were provided from a further document titled “19th March 1807, Sir H. P. St John Mildmay Bar[one]^t & Dame Jane his Wife to John Jerritt Esq[ui]^r & his Trustee, Somersetshire, Copy, Bargain and Sale of a Messe & lands in Charlton Mackerell under the Powers of the Landtax Redemption Act” which sets out details of the title for land in Charlton Mackrell and its sale.

4.14.22. Whilst both the land being sold and the Mildmay manor to which that land relates lie outside of Queen Camel it does set out some of the details of the will of Carew Hervy Mildmay.

4.14.23. It states that “Carew Hervy Mildmay being in his life time and at the time of his decease [1784] seized of a good Estate of inheritance in fee simple of and in divers Manors Messuages Lands Tenements Hereditaments Advowsons and Real Estates situate lying and being in the several Counties of Essex Somerset Dorset and Southampton and Elsewhere in England”. It then details how his estate initially passed to his daughter Ann Mildmay for her use “during the term of her natural life but without power to do or Commit any Manner of Waste”. And that after “the death of the s[ai]^d Testators Daughter Ann Mildmay [1789] without Issue of her body the s[ai]^d Dame Jane Mildmay became Tenant for life of all & singular the s[ai]^d several Manors Messuages Lands Tenemts Heredit Advowsons & real Estates with remainder to her first & other sons successively in Tail Male”.

4.14.24. This document therefore provides evidence that the land included within the Mildmay estate at that time was held in fee simple until Carew Hervy Mildmay’s death in 1784 and from then until at least, and most likely beyond, 1807 was held in strict settlement.

4.14.25. Together the Hazelgrove Estate sales catalogues and the Mildmay estate papers provide evidence that significant amounts of land within Queen Camel was held in strict settlement at least for the periods from 1784 to 1807 and from 1837 to the 1920s. Whether this applies to the land over which the route G to F1 to F2 runs is not certain, but the 1842 Queen Camel tithe map indicates that section F1 to F2 did lie within the Mildmay estate, at one time. However, section G to F1 lies within Sparkford and no evidence has been found to indicate that this land ever formed part of the Mildmay estate.

4.14.26. The earliest map examined of the area is the Day and Masters map of 1782 which shows a route along a line broadly similar to G to F1 to F2. This corresponds with the period when the evidence points towards the Mildmay estate being held in fee simple. Therefore, the evidence of land being held in strict settlement is not considered sufficient to show that at all material times there was no-one with the capacity to dedicate.

4.14.27. Further extracts provided were from a “Dra^t Abstract of the Title of S[i]^r H[enr]^y Paulet S^t John Mildmay Baro[ne]^t to a Farm at Charlton Mackarell in the County of Somerset. Also Abstract of Title to Freehold Premises at Sherborne in Dorsetshire. Sold in Lots ...”. The document title indicates that this may be a draft document and it does contain a significant number of crossing outs and insertions which would be consistent with it

being a draft. Therefore, the amount of weight that can be given to this document is minimised. The document title also indicates that it relates to land outside of the application route and there is nothing within the extract submitted to indicate that this document provides evidence of how the land over which the route runs was held at the time of dedication.

4.14.28. A further extract was from an "Abstract of the mortgages referred to in the Schedule to the Deed of 23rd Decem[be]r 1718 and of the Assignments and Reconveyances thereof". Land being mortgaged does not equate to it being held in strict settlement. The title and first page of the document indicate that it only covers the period from 1698 to 1718 and without an accompanying map it is not possible to confirm whether any of the land mortgaged over that period included land crossed by the application route.

Earl Poulett settlement (1813)
Source: South West Heritage Trust
Reference: SHC DD/BR/ehp/27
Appendix number: 18

4.14.29. This document is described by the Somerset Heritage Centre as the settlement by John Earl Poulett and John Viscount Hinton of Somerset, Dorset and Devon estates. None of the other evidence considered above links these names with the Mildmay estate. The Somerset Heritage Centre then lists the various manors that are included in the settlement and neither Hazelgrove nor Queen Camel is included in the list. It has not been possible to discern the relevance of this document to the application route.

5. Consultation and other submissions

5.1. Consultations regarding the application route were sent out to landowners and relevant local and national user group organisations in June 2021. The full list of consulted parties can be found at Appendix 6. At the same time, notice of the application was posted on site inviting comments and the submission of evidence.

5.2. The remainder of this section of the report summarises the responses received to that consultation and later submissions. Landowners are identified by letter (i.e. Landowner A, Landowner B etc). These letters correspond with the references on the landownership plan at Appendix 3.

5.3. In all cases factual first hand evidence carries more weight than personal opinion, hearsay or third party evidence.

Consultee	Details
Councillor Lewis	Highlighted the 1795 map of Queen Camel as not indicating that the footpaths are bridleways. They also submitted photographs of a map of Queen Camel that is displayed inside of the West Door of St Barnabas Church, Queen Camel.
Councillor Hobhouse	Submitted photographs of extracts from a selection of Mildmay estate papers and from deeds of the Bellamy family of Rampisham & Matthews family of Yetminster. The document references for two sales particulars relating to the Hazelgrove estate were also provided. Cllr Hobhouse was of the view that these documents provide evidence that the land over which the application route runs was held in strict settlement and therefore could not have been dedicated as a public right of way.
Queen Camel Parish Council	They noted that the application falls within the boundary of land owned by the Mildmay family. They asserted that “it is known that [the Mildmay family] did not permit public access to the land, except for the usual purposes of working and running the estate, (in other words with their express permission) and it seems inconceivable to local people that they would permit people to cross their land by horse as a matter of right by the routes suggested”. Their interpretation is the route was part of an occupational road, and the evidence for this was the 1885 OS map that shows the route starts at a Lime Kiln and progresses to the quarry. The BR annotation on the OS map was considered to extend to the main quarry (west of F1) and therefore represents the main route to that quarry. They noted that there is no habitation or any other obvious reason for there to be a bridle route, apart from activity relating to the

	<p>quarry. An FP annotation (south of F1) on the OS map was highlighted as showing it was possible that footpath continues up the side of Ridge Copse (F1 to F), rather than the Bridle Road (G to F1) suddenly swerving northwards. They are of the view that while the quarry was in operation it is unlikely that there would have been public bridle access to it, and it appears to have been downgraded to a footpath once quarrying ceased. A 1962 OS map was submitted as evidence of the downgrading to a footpath of section G to F1. A 1972 OS map was submitted as evidence of no footpath from G to F1 and evidence that F1 to F was a continuation of the footpath from south of F1.</p>
Landowner A	<p>Highlighted the failure of the applicant to notify them of the application. Raised safety concerns and do not consider that a bridleway would be compatible with their use of the land for their herd of ponies. They believe there is no new evidence in this case other than evidence they consider to be irrelevant. They draw attention to the quarry and limekiln on the land and claim the route was more likely to be private, used by Estate tenants / employees. They believe the route is of no obvious use to the public because in their view it does not join nearby villages.</p>
National Highways	<p>They remarked that the modification of WN27/4 falls outside the extents of the A303 project and as such is not directly impacting the project. The interface is to a section of the existing A303 that will become a no through road and it is therefore considered that the modification will not have a detrimental impact on the Trunk Road Network.</p>

5.4. Councillor Mike Lewis submitted photographs of a map displayed at the church in Queen Camel (see Appendix 7). There is a note on the map indicating that it is based on the 1795 inclosure plan. The 1795 map of Queen Camel has been considered as part of the inclosure award records in section 4.4.

5.5. Queen Camel Parish Council noted that the application route fell within land owned by the Mildmay family. The historical records confirm this for section F to F1 which is within the Queen Camel Parish but not for section F1 to G which falls within the Parish of Sparkford.

5.6. The Parish Council claim that the Mildmay family did not permit public access to their land although it is not clear from their submission on what basis this claim is made. Even if the Mildmay family were not disposed to creating any new public rights over their land this would not have affected those public rights that already existed. The Quarter Sessions records considered in section 4.6 are also evidence of the Mildmay family both acknowledging public rights of way existing over their land and creating a new public right of way. Even where they applied for a section of highway to be stopped up, they did not apply to stop up rights completely as they proposed to still maintain public rights on foot over their land.

5.7. The Parish Council have submitted and referred to a number of OS maps as evidence of public bridleway rights not existing along the line of the application route, this includes an extract from a 1975 OS map. However, in 1958 the OS accepted a recommendation that the information contained within the DMS should be shown on OS maps.¹⁶ The route (F-G) was recorded as a footpath when the Map and Statement became definitive in 1972. Therefore, it is difficult to draw a conclusion on the historical status of the route based on its depiction in an OS map once the DMS has become the legal record of public rights of way. The evidence from the earlier OS maps has been considered in section 4.7.

5.8. The Parish Council's interpretation of the earlier OS maps is that the purpose of the bridle route (G to F1) was to link the lime kiln at G to the quarries to the west of G. Landowner A raises this point as an indication that the route was private and that it would be of no obvious use to the public. However, the route (G to F1) is shown on the 1839 Sparkford Tithe Map and there is nothing on that map, nor within the apportionment, to indicate a lime kiln at point G nor a quarry north of G2-G3, at that time. Yet it has been recorded in the apportionment that lime kilns and quarries are situated in plots 144 and 146. As a tithe was not normally payable in relation to lime kilns or the stone from quarries, their impact on a plot would have been relevant to the calculation of the tithe.¹⁷ Therefore, it is likely that the route pre-dates the existence of a lime kiln at point G. This demonstrates that, while at a later date the application route may have been used for accessing the quarry and/or the lime kiln it is unlikely to have been its sole purpose. The conclusion

¹⁶ J. Riddall & J. Trevelyan, *Rights of Way: a guide to law and practice, fourth edition* (Ramblers' Association & Open Spaces Society, 2007), p. 109

¹⁷ L. Shelford, *The Acts for the Commutation of Tithes in England and Wales, and Directions and Forms as settled by the commissioners, also the Reports as to Special Adjudications, &c. &c. and the Plans, third edition* (London: S. Sweet and Stevens & Norton, 1842), p.3 and 151.

drawn by this report is that the route's destination was most likely Gason Lane, thereby forming an east - west link between two public highways. That the route connected Sparkford Hill to Gason Lane is also supported by both the OS 1898 Revised New Series and 1919 'Popular Edition' maps (see Appendix 10).

5.9. Landowner A considers there is no new evidence in this case other than evidence they believe to be irrelevant. They did not give any explanation as to why they consider the evidence to be irrelevant. Consideration of the requirement for new evidence is set out in section 6 below.

5.10. Landowner A raised a number of safety concerns. This investigation is concerned with correctly recording public rights, which may be higher than those currently recorded. Concerns about suitability and desirability of the application route, while understandable, cannot be taken into account under the current legislation. Though it is important to acknowledge the various concerns that have been raised, they do not have a bearing on the outcome of this investigation.

5.11. Landowner A highlighted the failure of the applicant to notify them of the application. The failure of the applicant to certify the application does not necessarily prevent it being determined unless a landowner can demonstrate that they have been substantially prejudiced by the failure. All landowners were written to in May 2023 setting out the position with regards to uncertified applications and giving them the opportunity to comment. No evidence has been received to support a claim of substantial prejudice in this case.

5.12. Councillor Hobhouse provided several extracts of documents as evidence that the land over which the application route runs was held in strict settlement and therefore there would not have been anyone with the power to dedicate public rights over it. These documents have been considered in section 4.14 above and discussed in section 6 below.

6. Discussion of the evidence

6.1. As discussed in section 3 above, the County Council is under a duty to modify the Definitive Map where evidence comes to light that it is in error. The standard of proof to be applied in this case is whether, on the balance of probabilities, the higher rights subsist. In other words, is it more likely than not that those rights subsist.

6.2. Evidence from the 1873/4 Quarter Sessions and the later County Series Ordnance Survey maps indicates the physical existence of a route along section F to F1. However, there is little evidence to indicate the route has any higher status than currently recorded on the DMS.

6.3. In contrast, the route running from point G towards F1 is specifically recorded within the Land Registry documents as being a public right of way and bridle path.

6.4. Section G to F1, is also recorded in historical documents as a physically significant route. This includes both the 1826 and 1852 Turnpike records, Day & Masters and Greenwoods maps, and all the OS maps reviewed above including the 1811-1817 Old Series map. In particular, the route is recorded on the 1839 Sparkford Tithe Map indicating it was significant enough, at that time, to affect the tithe payable. It is specifically marked as a bridle road on the 1887 and 1903 County Series OS maps and by the 1950s it is possible the route was still physically accessible on horseback. All this evidence is entirely consistent with the route being a bridle path, as set out in the Land Registry documents.

6.5. The 1910 Finance Act documents, whilst containing insufficient detail to determine whether rights were on foot or a bridleway, do corroborate the existence of public rights across the land that section G to F1 lies within.

6.6. However, section G to F1 by itself would form a cul-de-sac. Whilst the Planning Inspectorate's Consistency Guidelines acknowledge that cul-de-sac highways do exist, in certain circumstances, it notes that they most frequently arise when the cul-de-sac leads to a place of public interest. At F1 there is no discernible point of public interest so a question remains as to where the bridle path leads if there is little evidence of it running from F1 north to meet the A303 at point F.

6.7. The evidence from the OS 1898 Revised New Series and 1919 'Popular Edition' maps points towards the bridle route continuing west along WN 23/15 to Gason Lane. The route continuing in a westerly direction is also supported by the 1782 Day & Masters map, the 1839 Sparkford Tithe Map, and the DMS that records WN 27/4 (G-F1) "continues as [WN] 23/15".

6.8. With section F1 to F2 forming a continuation of section G to F1, the evidence in favour of G to F1 being a bridleway is then also evidence in favour

of similar rights existing over F1 to F2. That the route, rather than forming a cul-de-sac, links Sparkford Hill and Gason Lane, two public highways, is also consistent with public bridle rights along the whole length.

6.9. Regard has to be given to Section 53(3) of the Wildlife and Countryside Act 1981 that requires the 'discovery' of new evidence (i.e. evidence not considered when the Definitive Map was originally drawn up or last reviewed) before an order to amend the definitive map can be made.

6.10. The evidence contained within Land Registry documents has been set out in section 4.14 above. Land registration within South Somerset did not become compulsory until 1989.¹⁸ In this case the two title registers indicate dates of first registration of 1999 and 2003. Therefore, it is very unlikely that information contained within these individual property deeds would have been publicly available for consideration during the Definitive Map making process and can be considered new evidence.

6.11. The Land Registry documents do not have to be sufficient on their own to conclude that bridleway rights exist. However, once new evidence has been discovered it must be considered with all other available evidence. The evidence, considered as a whole, points towards bridleway rights existing from G to F1 through WN 23/15 to Gason Lane.

Settled Land

6.12. Settled land is usually held in a trust for the benefit of a tenant for life, and on their death the benefit of the trust is to be transferred to the next person in line – the reversioner or remainderman. The tenant for life usually receives the rents and profits of the land but cannot sell it, although much will depend on the actual provisions of the settlement agreement itself. In this way land is transferred to (usually) successive generations of a family, without an owner in fee simple during the period of settlement.

6.13. At Common Law a highway may be created by the landowner dedicating the strip of land to the public to use as a highway, and the public accepting the dedication by using said land. However, the act of dedication does not need to be explicit or in writing. In some circumstances it can be inferred from the actions (or inactions) of the landowner. The requirements for a Common Law dedication are summarised in Halsbury's Law as follows:

¹⁸ <https://www.gov.uk/government/publications/first-registrations/practice-guid-1-first-registrations>, accessed 29 March 2022

“An intention to dedicate land as a highway may only be inferred against a person who was at the material time in a position to make an effective dedication, that is, as a rule, a person who is absolute owner in fee simple [...] Where there is satisfactory evidence of user by the public, dedication may be inferred even though there is no evidence to show who was the owner at the time or that he had the capacity to dedicate. *The onus of proving that there was no one who could have dedicated the way lies on the person who denies the alleged dedication.*” (emphasis added)¹⁹

6.14. Thus, if the land over which a public right of way is alleged to exist was ever in strict settlement this might have a material effect of whether dedication at Common Law can be presumed to have taken place. It does not, however, remove any rights which were dedicated prior to settlement, nor does it prevent them from being dedicated after the period of settlement has come to an end.

6.15. There is evidence (see 4.14) that land within the Mildmay estate was subject to strict settlement for periods of time but at other times was held in fee simple. None of the documents explicitly show that the land over which section F1 to F2 of the route runs formed part of the land held in strict settlement and there is no evidence that the land over which section G to F1 of the route runs ever formed part of the Mildmay estate. Furthermore, there is evidence of the route being in existence prior to the Mildmay estate settlement of 1784. Therefore, the evidence does not show that there was no one with the capacity to dedicate over the route (or any part of it) at all material times and it is not considered sufficient to negate the possibility of dedication.

7. **Summary and Conclusions**

7.1. Analysis of this evidence and all the other available evidence has indicated, on the balance of probabilities, that:

- section F to F1 of the application route (part of WN 23/11) is correctly recorded on the DMS as a footpath
- section F1 to G of the application route (WN 27/4) is a bridleway
- the recorded footpath WN 23/15 is a bridleway

¹⁹ Definitive Map Orders: Consistency Guidelines, ninth revision (2016), 5.46.

8. Recommendation

Therefore, it is recommended that the application which seeks to upgrade part of footpath WN 23/11 to a bridleway between F and F1 as shown on Appendix 1 be **refused**.

It is further recommended that:

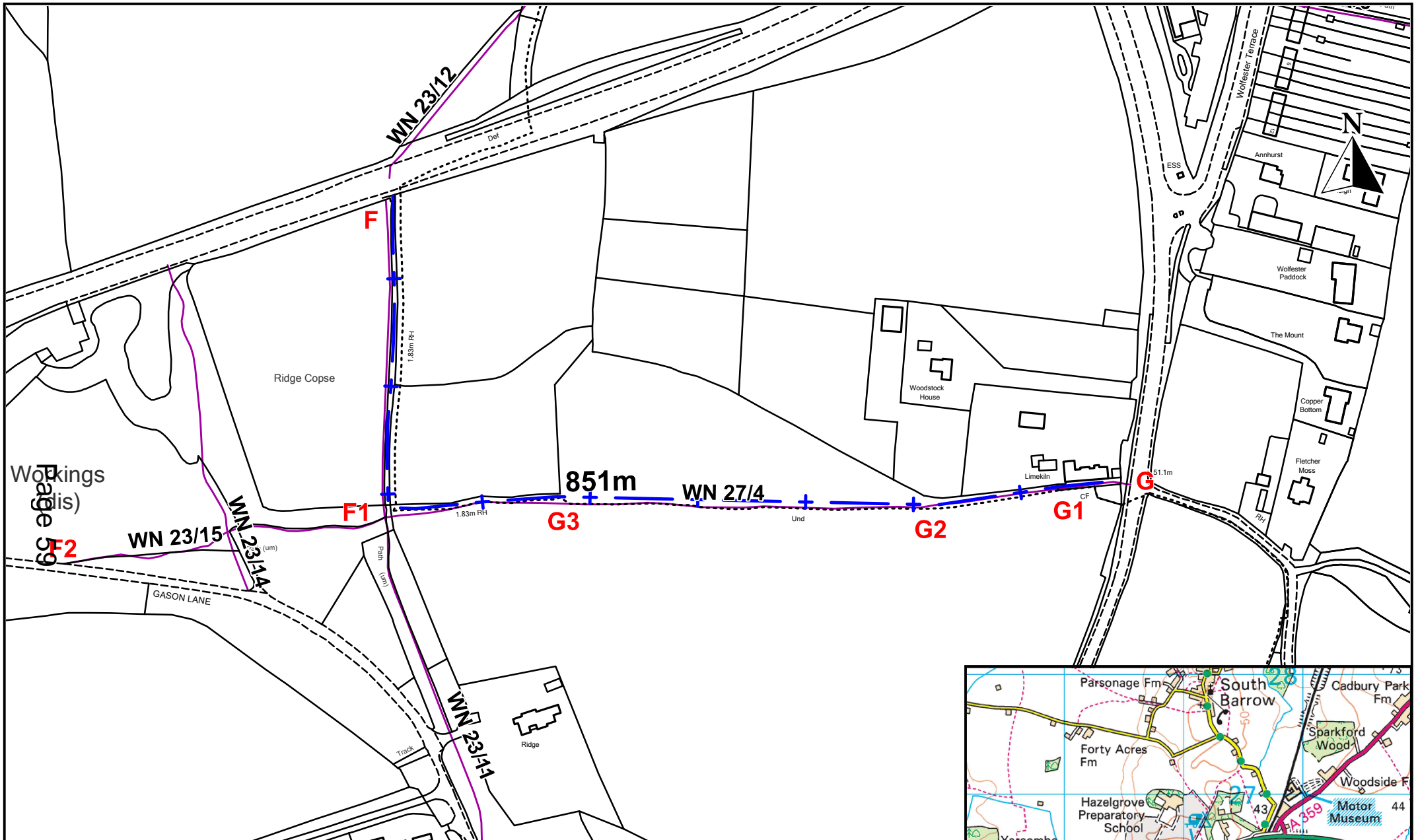
- i. an Order be made, the effect of which would be to amend the Definitive Map and Statement to upgrade footpaths WN 27/4 and WN 23/15 from G to F2 as shown on Appendix 1 to bridleways.
- ii. if there are no objections to such an order, or if all objections are withdrawn, it be confirmed (subject to the order meeting the legal tests for confirmation).
- iii. if objections are maintained to such an order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs.

List of Appendices

Please note that the document reproductions in the appendices are not to a standard scale. The report writer has added the red letters which broadly correspond with those present on Appendix 1. This is to assist the reader in identifying those sections of the route the document is depicting. Red circles have also been added to some appendices to indicate the area of the claim where lettering is not appropriate.



1. Plan showing claimed route
2. Photographs of the application route
3. Landownership plan
4. Legal framework
5. Documentary evidence
6. Consultation list
7. Queen Camel Inclosure award
8. Tithe records
9. Quarter sessions
10. Ordnance survey maps
11. Turnpike records
12. Finance Act 1910
13. DMS preparation records
14. Commercial maps
15. Ministry of Food survey
16. Local Authority records
17. Highway Authority road records
18. Earl Poulett settlement
19. Sale catalogues, Hazelgrove Estate
20. Mildmay estate papers

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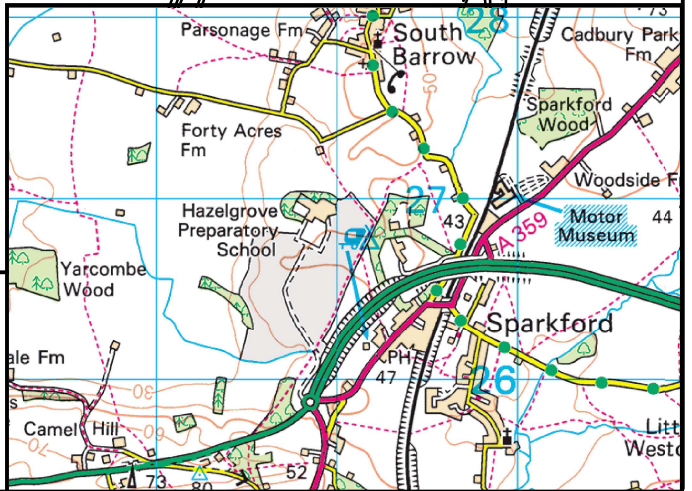


Workings
(Page 59)

Parish: Queen Camel, Sparkford & South Barrow
 District: South Somerset
 Date: 21/06/2023
 Drawing No: H39-2021pt3
 Drawn By: MHardwill
 Centre Grid Ref: 359830, 125970
 Scale: 1:2,500

Modification Route 
 Definitive Footpath 

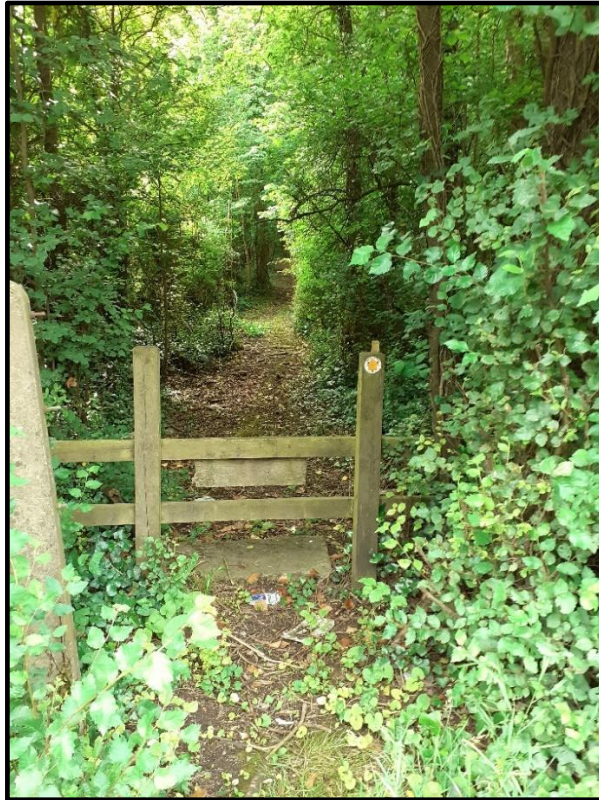
The County Council can accept no responsibility for any error or inaccuracy which may arise from the transposition of the Rights of Way Definitive Map to a different scale. - For reference purposes only. No further copies to be made. © Crown copyright and database rights 2023 Ordnance Survey AC0000861332. Additional Information © Somerset Council



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Photographs of the application route

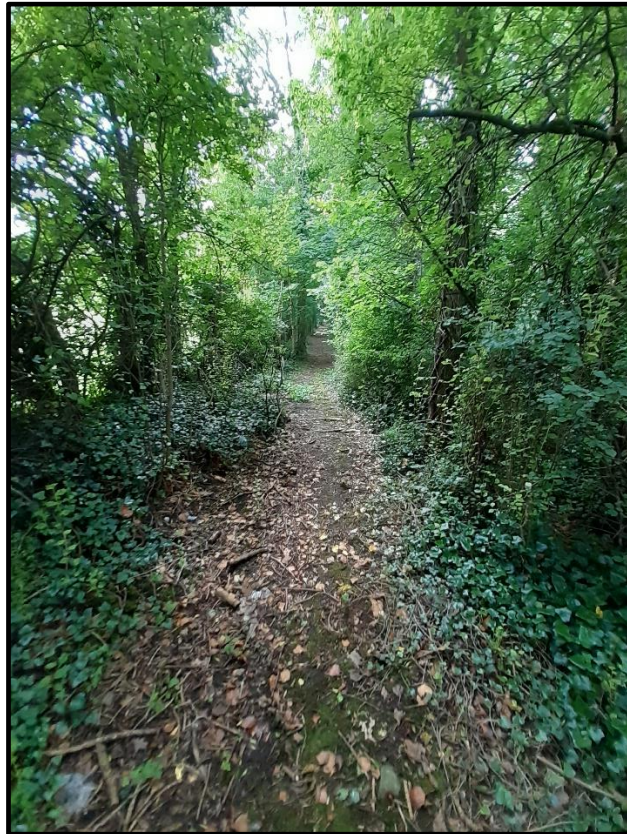
Source: officer site visit 30 June 2021



Photograph 1, at point F looking towards F1



Photograph 2, facing north looking at point F



Photograph 3, between F and F1, looking towards F1



Photograph 4, between F and F1, looking towards the western boundary



Photograph 5, between F and F1, looking towards the eastern boundary



Photograph 6, north of F1, looking south



Photograph 7, east of F1, looking west



Photograph 8, between F1 and G3, looking east



Photograph 9, between G2 and G3, looking west



Photograph 10, between G2 and G3, looking east



Photograph 11, between G1 and G2, looking east



Photograph 12, between G1 and G2, looking towards the northern boundary



Photograph 13, between G1 and G2, looking at G1



Photograph 14, between G and G1, looking east



Photograph 15, between G and G1, looking at G1



Photograph 16, between G and G1, looking west



Photograph 17, between G and G1, looking east



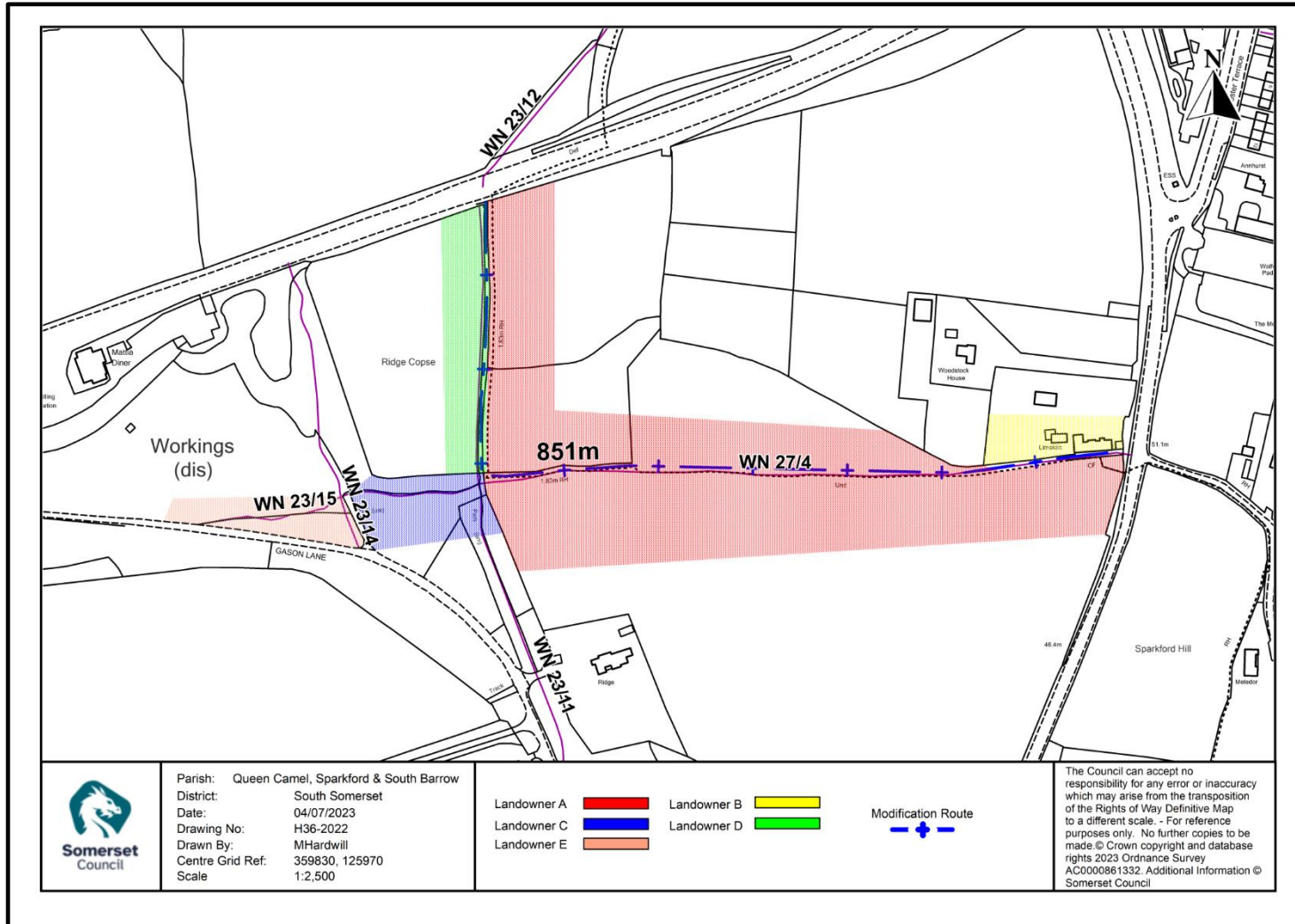
Photograph 18, at G, looking west

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Landownership plan

Reference: H36-2022

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Legal Framework

1. General

- 1.1. Footpaths, bridleways, restricted byways and byways open to all traffic, often referred to as public rights of way, are public highways. A highway is a way over which the public have a right to pass and re-pass. Not all highways are maintainable at public expense, nor is there any need for a way to have been 'adopted' before it is either a highway or a highway maintainable at public expense.
- 1.2. While topographical features may be attributed to, or provide evidence of, the existence of a public highway, the public right itself is not a physical entity, it is the right to pass and re-pass over (usually) private land.
- 1.3. Once a highway has come into being, no amount of non-user can result in the right ceasing to exist. The legal principle of 'once a highway, always a highway' applies.¹ Such rights, except in very limited circumstances, can only be changed by way of certain legal proceedings.
- 1.4. The **National Parks and Access to the Countryside Act 1949** placed a duty on all surveying authorities in England and Wales (such as Somerset County Council) to produce a Definitive Map and Statement, indicating and describing public rights of way within their areas. The resulting documents are conclusive of what they show but not of what they omit.
- 1.5. The 1949 Act also required surveying authorities to keep their Definitive Map and Statement under periodic review. However, with the passing of the **Wildlife and Countryside Act 1981** the requirement for periodic reviews was abandoned. Instead, section 53(2)(b) of the 1981 Act provides that the surveying authority 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.
- 1.6. Those events are set out in section 53(3) of the 1981 Act. The following are of particular relevance:
 - Section 53(3)(b) states the Map and Statement should be modified on "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".
 - Section 53(3)(c)(i) states the Map and Statement should be modified where the surveying authority discover evidence which, when considered alongside

¹ *Harvey v Truro Rural District Council* (1903) 2 Ch 638, 644 and *Dawes v Hawkins* (1860) 8 CB (NS) 848, 858; 141 ER 1399, 1403

all other available evidence, shows “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”.

- Section 53(3)(c)(ii) states the Map and Statement should be modified where the surveying authority discover evidence which, when considered alongside all other available evidence, shows “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”.
- Section 53(3)(c)(iii) states the Map and Statement should be modified where the surveying authority discover evidence which, when considered alongside all other available evidence, shows “that there is no public right of way over the land shown in the map and statement as a highway of any description, or any other particulars in the map and statement require modification”.

- 1.7. Section 53(5) enables any person to apply to the surveying authority for an order to be made modifying the Definitive Map and Statement in respect of the events listed above. On receipt of such an application the surveying authority is under a duty to investigate and to determine whether the Definitive Map and Statement require modifying. It is under these provisions that applications to modify the definitive map are made.
- 1.8. Section 32 of the **Highways Act 1980** 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.
- 1.9. The standard of proof to be applied in determining whether an order should be made to change the Definitive Map depends on whether it is proposed to add a new route to the Map, to change the recorded status of a route, or to delete from the record a route that currently appears on the Definitive Map.
- 1.10. Where the route of a claimed right of way is not already shown on the Definitive Map and Statement (i.e. orders made under section 53(3)(c)(i) of the **Wildlife and Countryside Act 1981** to add an unrecorded route) the Council is required to consider two questions in determining whether an order should be made to modify the Definitive Map. Firstly, does the evidence produced by the claimant together with all the other evidence available show that the right of way

subsists? Alternatively, does that evidence show that the right of way is reasonably alleged to subsist?

- 1.11. The evidence required to satisfy the second question is less than that required to satisfy the first. In *R. v Secretary of State for the Environment Ex p. Bagshaw and Norton*, Owen J explained the difference between the two questions as follows:

To answer either question must involve some evaluation of the evidence and a judgment upon that evidence. For the first of those possibilities to be answered in the affirmative, it will be necessary to show that on a balance of probabilities the right does exist. For the second possibility to be shown it will be necessary to show that a reasonable person, having considered all the relevant evidence available, could reasonably allege a right of way to subsist.²

- 1.12. Owen J. provided an example of how this might work in relation to a user based claim where there is conflicting evidence as to the existence of a right of way:

Whether an allegation is reasonable or not will, no doubt, depend on a number of circumstances [...]. However, if the evidence from witnesses as to user is conflicting but, reasonably accepting one side and reasonably rejecting the other, the right would be shown to exist, then it would seem to me to be reasonable to allege such a right. I say this because it may be reasonable to reject the evidence on the one side when it is only on paper, and the reasonableness of that rejection may be confirmed or destroyed by seeing the witnesses at the inquiry.³

- 1.13. The standard of proof to be applied in relation to all other types of order made under section 53(3)(c) (e.g. applications to upgrade, downgrade or delete a right of way) is the balance of probabilities test. This test is based on the premise that, having carefully considered the available evidence, the existence (or in the case of some orders under section 53(3)(c)(iii), non-existence) of a particular right of way is determined to be more likely than not.

- 1.14. The differences in the tests to be applied to the evidence exist only in relation to the first stage of the order making process. Such an order can only be confirmed (the second stage of the process) when the evidence meets the balance of probabilities test. This is the case even where the order was made on the lower reasonably alleged test. Only once an order is confirmed are the Definitive Map and Statement updated.

- 1.15. The purpose of section 53 of the **Wildlife and Countryside Act 1981** is to record rights which already exist and to delete those which do not. This section of the act does not create or extinguish rights of way but allows for the legal record to be updated so that it accurately records what already exists. Therefore,

² *R v. SSE ex p. Bagshaw and Norton* [1994] 402 QBD 68 P & CR 402.

³ *Ibid.*

practical considerations such as suitability, security and the wishes of adjacent landowners cannot be considered under the legislation unless it can be shown that these factors affected the coming into existence, or otherwise, of public rights.

- 1.16. Section 66 and 67 of the **Natural Environment and Rural Communities Act 2006 (NERC)**, extinguished rights for mechanically propelled vehicles (MPVs) over routes that were recorded on the Definitive Map as footpaths, bridleways or restricted byways and over any routes that were not recorded on the Definitive Map. Without further qualification this would have extinguished public vehicular rights over most of the existing highway network. To prevent this NERC included a number of exceptions to the general extinguishment provision. Some of the key exceptions can be summarised as follows:
- Section 67(2)(a) excepts ways that have been lawfully used more by motor vehicles than by other users, e.g. walkers, cyclists, horse riders and horse-drawn vehicles, in the five years preceding commencement. The intention here is to except highways that are part of the “ordinary road network”.
 - Section 67(2)(b) excepts ways that are recorded on the “list of streets” as being maintainable at public expense and are not recorded on the Definitive Map and Statement as rights of way. This is to exempt roads that do not have clear motor vehicular rights by virtue of official classification but are generally regarded as being part of the “ordinary road network”.
 - Section 67(2)(c) excepts ways that have been expressly created or constructed for motor vehicles.
 - Section 67(2)(d) excepts ways that have been created by the construction of a road intended to be used by mechanically propelled vehicles.
 - Section 67(2)(e) excepts from extinguishment ways that had been in long use by mechanically propelled vehicles before 1930, when it first became an offence to drive “off-road”.
- 1.17. 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, the decision maker 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.
- 1.18. Evidence of the status of a route will often take one of two forms, documentary evidence and evidence of use. Each of these is discussed in turn below.

2. Documentary evidence

2.1. Once a highway (which includes public rights of way) has come into being, no amount of non-user can result in the right ceasing to exist. The legal principle of “once a highway, always a highway” applies.⁴ Such rights (except in very limited circumstances) can only be changed by way of certain legal proceedings, typically a legal order pursuant to specific legislation⁵ or a Court order. Therefore, claims based on documentary evidence will normally be accompanied by historical records which are intended to show that public rights were created or existed over a route in the past (or, in the case of a deletion or downgrading, that rights have been extinguished or never existed).

3. User evidence

3.1. Use by the general public can give rise to the presumption of dedication of a way under section 31 of the **Highways Act 1980**. Section 31 begins:

- (1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.
- (2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.

3.2. Therefore, under section 31 it is necessary to demonstrate that the public have used the route in question for a period of 20 or more years. That period is to be measured backwards from the date on which use was challenged by some means sufficient to alert the public that their right to use the route was in question. The use must have been uninterrupted and *as of right*, meaning that the public must have used the route

- without force: e.g. use cannot have been via the breaking of fences or locks to gain entry
- without secrecy: use must be of such a nature that a reasonable landowner would have had an opportunity to be aware of it. For example, use which was only at night when the landowner was known to be away is likely to be considered secretive

⁴ *Harvey v Truro Rural District Council* [1903] 2 Ch 638 and 644, and *Dawes v Hawkins* [1860] 8 CB (NS) 848 and 858; 141 ER 1399 and 1403.

⁵ Such as the Highways Act 1980.

- without permission: use must be without the permission of the landowner.
- 3.3. Where the use has been sufficient to meet the tests of section 31, it raises the presumption that public rights have been dedicated. However, that presumption can be rebutted where it can be shown that the landowner demonstrated to the public that they had no intention to dedicate during that period. Examples of how this can be demonstrated include erecting a sign or notice with words that clearly deny a public right of way. Another example allows a landowner to deposit a map and statutory declaration with the highway authority under section 31(6) of the **Highways Act 1980** "to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit."
- 3.4. In addition to section 31 of the **Highways Act 1980**, rights of way can also be dedicated at Common Law, and this option should always be considered.

At Common Law a highway may be created by the landowner dedicating the strip of land to the public to use as a highway, and the public accepting this action by using said land. However, the act of dedication does not need to be explicit or in writing. In some circumstances it can be inferred from the actions (or inactions) of the landowner. The requirements for a Common Law dedication are summarised in *Halsbury's Law* as follows:

Both dedication by the owner and user by the public must occur to create a highway otherwise than by statute. User by the public is a sufficient acceptance [...] An intention to dedicate land as a highway may only be inferred against a person who was at the material time in a position to make an effective dedication, that is, as a rule, a person who is absolute owner in fee simple [...] At common law, the question of dedication is one of fact to be determined from the evidence. User by the public is no more than evidence, and is not conclusive evidence [...] any presumption raised by that user may be rebutted. Where there is satisfactory evidence of user by the public, dedication may be inferred even though there is no evidence to show who was the owner at the time or that he had the capacity to dedicate. The onus of proving that there was no one who could have dedicated the way lies on the person who denies the alleged dedication.⁶

- 3.5. As mentioned in the above quote, use by the public can be evidence of an implied dedication. If the level of use was such that the landowner must have been aware of it and they acquiesced to that use (i.e. they did nothing to stop it) then it is evidence (but not necessarily conclusive evidence) of their intention to dedicate a highway.
- 3.6. There is no minimum qualifying period at Common Law, although use still has to be without force, without secrecy and without permission. The actions of the

⁶ *Definitive Map Orders: Consistency Guidelines, ninth revision* (2016), 5.46.

landowner also need to be taken into account when considering whether it can be inferred that a right of way has been dedicated. Public use does not raise the inference that the way has been dedicated where evidence as a whole shows highway status was never intended, for example, the erection of “no public thoroughfare” notices and “turning people back wherever possible”.⁷

- 3.7. The burden of proving the landowner’s intention to dedicate rests with the party asserting the right of way. Unlike a statutory dedication there is no presumption that rights have been acquired no matter how long a route happens to have been used for.

Useful links

Natural England’s [A guide to definitive maps and changes to public rights of way](#) (2008) offers a detailed introduction to the Definitive Map Modification Order (DMMO) process.⁸

The Planning Inspectorate’s [Definitive Map Orders: Consistency Guidelines](#) (ninth revision 2016) offers clear information and advice on interpreting documentary evidence.⁹ The *Consistency Guidelines* provide information and references to resources and relevant case law to assist in the interpretation and weighing of evidence on Definitive Map orders. These guidelines were last updated in April 2016 and consequently care should be taken when using them, as they may not necessarily reflect current guidance.

[Legislation.gov.uk](#) provides access to the numerous acts referenced above.

⁷ *Poole v Huskinson* (1843) 11 M&W 827.

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/414670/definitive-map-guide.pdf

⁹ <https://www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines/wildlife-and-countryside-act-1981-definitive-map-orders-consistency-guidelines>

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Appendix 5: Documentary evidence details

<u>Documentary evidence</u> ¹	<u>Evidence used in current investigation</u>	<u>Evidence consulted but not used</u> ²	<u>Evidence submitted with application</u> ³	<u>Appendix</u>
Inclosure records	✓		✓	7
Tithe records	✓		✓	8
Ordnance Survey (OS) Old series	✓		✓	10
OS boundary sketch map and remark books	✓		✓	10
OS County Series First Edition 25 Inch map	✓		✓	10
1886 OS six-inch	✓			10
OS Revised New Series map	✓		✓	10
OS County Series Second Edition 25 Inch map	✓		✓	10
1904 OS six-inch	✓			10
1919 OS popular edition	✓		✓	10
1945/6 OS popular edition	✓		✓	10
Finance Act 1910	✓		✓	12
Quarter Sessions	✓			9

¹ A broad range of documentary evidence can be helpful in determining the status of an application route. This list is by no means exhaustive, but it is representative of sources that Somerset County Council typically consult when investigating an application.

² This column relates to instances where documents were consulted that did not assist in determining the status of the application route. One common reason for this, to take the example of a parish inclosure award, is that documents may not cover the exact area in question.

³ During the application process, the applicant may submit documentary evidence that supports their case. When the local authority begins an investigation into an application route, they conduct their own process of research. While this research usually incorporates the documents provided by the applicant, it will often include additional material, or may involve distinct copies of a particular document (a parish copy of a tithe map rather than a diocesan copy, for example). This is why separate columns are used above for investigation evidence and application evidence.

Appendix 5 – Documentary evidence details

Handover map 1929	✓			17
Road records 1930	✓			17
Road records 1950	✓			17
Modern road records	✓			17
Definitive Map and Statement Preparation (DMSP) Survey Map	✓			13
DMSP Survey Card	✓			13
DMSP Draft Map	✓			13
DMSP Draft Modification Map	✓			13
DMSP Provisional Map	✓			13
Definitive Map and Statement	✓			13
Local Authority records	✓			16
Greenwood's map	✓		✓	14
Day & Masters map	✓		✓	14
Aerial photography		✓		N/A
1795 Map of Queen Camel	✓		✓	7
Turnpike records	✓		✓	11
Ministry of Food Farm Survey	✓		✓	15
INSPIRE (2016)		✓	✓	N/A
Land registry records	✓			No appendix
Mildmay estate papers	✓			20
Hazelgrove estate sales catalogues	✓			19
Earl Poulett settlement 1813		✓		18

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Documentary evidence categories

Inclosure records

Inclosure 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 desire by landowners to gather together their lands and fence in common lands. A local Act of Parliament was often needed to authorise the procedure and an inclosure 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. Inclosure 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. Inclosure 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.

Quarter Session records

Many functions now managed by local and central government were historically dealt with at the Court of the Quarter Sessions under the jurisdiction of the Justices of the Peace, who were advised by a Clerk of the Peace. Amongst other matters the Justices were responsible for the maintenance of county bridges and for the failure of parishes to maintain their roads properly. Diversion and extinguishments of rights of way were dealt with at the Quarter Sessions and Justices' certificates in respect of the completion of the setting out of roads were also issued. These records are capable of providing conclusive evidence of what the Court actually decided was the status of the route and can still be valid today.

Tithe records

Tithe maps and the written document which accompanied them (the apportionment) were produced between 1837 and the early 1850s 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.

Public roads which generated no titheable produce were not generally 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 are sometimes listed at the end of the apportionment; there is also sometimes 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 they were not prepared for the purpose of distinguishing between public and private rights and so tend to be of limited evidential weight.

Ordnance Survey maps

The Ordnance Survey (OS) emerged from the Board of Ordnance, a government ministry tasked in the late eighteenth century with surveying the south coast of England for reasons of military and strategic necessity. They are generally accepted as producing an accurate map depiction of what was on the ground at the time of the survey.

OS Maps cannot generally be regarded as evidence of status, but they can usually be relied on to indicate the physical existence of a route at the date of survey.

OS surveyor's drawings

Little is known of OS surveying instructions prior to 1884. OS drawings "were originally prepared for military purposes with no apparent thought of publication", but from

1801 they were used as the basis for the OS Old Series.⁴ These drawings made no differentiation between footpaths, bridleways, and vehicular routes. As their primary purpose was strategic, it can be inferred that depicted routes were thought to be capable of being used for military transportation and troop movement. It is not possible, however, to determine from the symbology alone whether such routes were public or private in nature.

OS Object Name Book

In preparing the Second Edition County Series map, the Ordnance Survey produced the Object Name Book. The primary purpose of this document was to ensure that the various names recorded on maps (e.g. names of farms, roads, and places) 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).

Finance Act 1910

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 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:

- i) 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 show records at a preparatory stage of the survey.
- ii) The Record Plans and Field Books: The final record of assessment which 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.

⁴ R. Oliver, *Ordnance Survey Maps: a concise guide for historians, third edition* (London: Charles Close Society, 2013), p. 62.

The 1910 Finance Act material did not become widely available until the 1980s. It cannot therefore have been considered during the Definitive Map making process and can be considered new evidence. This is of particular importance for meeting the requirements of section 53(3) of the Wildlife and Countryside Act 1981 which requires the “discovery” of new evidence (i.e. evidence not considered when the Definitive Map was originally drawn up or last reviewed) before an order to amend the Definitive Map can be made.

Highway authority records

Over time responsibility for maintenance of highways has passed between various different authorities. On each occasion a map was typically produced showing those highways which were considered publicly maintainable. The evidential strength of these handover documents “is that they are conclusive evidence of the highway authority’s acceptance of maintenance responsibility, a commitment that would not normally have been undertaken lightly.”⁵ However, it should be recognised that such handover maps “were purely internal documents and the public had no mechanism of challenging what was shown on them.” As a result, “they cannot be regarded as conclusive” as to the status of a highway.⁶

Definitive Map and Statement Preparation records

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 a number of stages:

i) 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.

ii) Draft Map – Somerset County Council produced the Draft Map based, in part, on 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; amongst other things this included parish and district councils being contacted directly and notices appearing in

⁵ *Definitive Map Orders: Consistency Guidelines, third revision* (2013), 6.9.

⁶ J. Sugden, ‘Highway authority records’, *Rights of Way Law Review*, 9.1, p. 14 (CD edition).

local newspapers. Any objections received were recorded in a Summary of Objections found in SCC's Right of Way District File.

iii) Draft Modification Map – This stage in the process was non-statutory. Somerset County Council 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.

iv) Provisional Map – This map incorporates the information from the Draft Maps and the successful results of objections to the Modification Maps. These were put on deposit in the parish and district council offices. At this point only the tenant, occupier or landowner could object.

v) 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.

Local Authority records

The responsibility for maintaining highways has passed between various local authorities (in Somerset it currently sits with the County Council). Even where a local authority has never been directly responsible for rights of way, as representatives of the local community they would likely have had an active interest the rights of way network. This is particularly common in the case of parish councils. As a result, evidence as to a route's status can sometimes be found in local authority records and minute books.

Deposited plans

Railways, canals and turnpike roads all required an Act of Parliament to authorise construction. Detailed plans had to be submitted that showed the effect on the land, highways and private accesses crossed by the proposed routes. Plans were accompanied by a Book of Reference, which itemised properties (fields, houses, roads etc) on the line of the utility and identified owners and occupiers. Where there is a reference to a highway or right of way these documents can generally be regarded as good supporting evidence of its status at that date.

Commercial maps

This is a general term for maps produced for sale to the public. They vary widely in terms of their quality and were not all produced for the same purpose. As such the weight to be given to them also varies.

Appendix 6: Consultation list

Somerset County Council seeks to consult as widely as is possible and practicable during a DMMO investigation. In addition to contacting landowners, the following user groups, organisations and individuals were contacted in June 2021. Those who responded are referred to in the main body of the report.

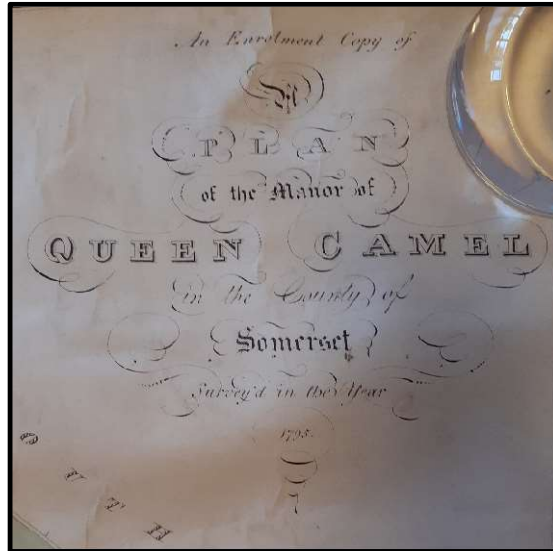
Consultee
Sparkford Parish Council
Queen Camel Parish Council
South Somerset District Council
Local Member of County Council
Ramblers – Somerset Office
Ramblers – National Office
British Horse Society – Somerset Office
Trail Riders Fellowship – Somerset Office
All Wheel Drive Club
Open Spaces Society – Somerset Office
Natural England
British Driving Society
Auto Cycle Union
Cyclist Touring Club
Historic England

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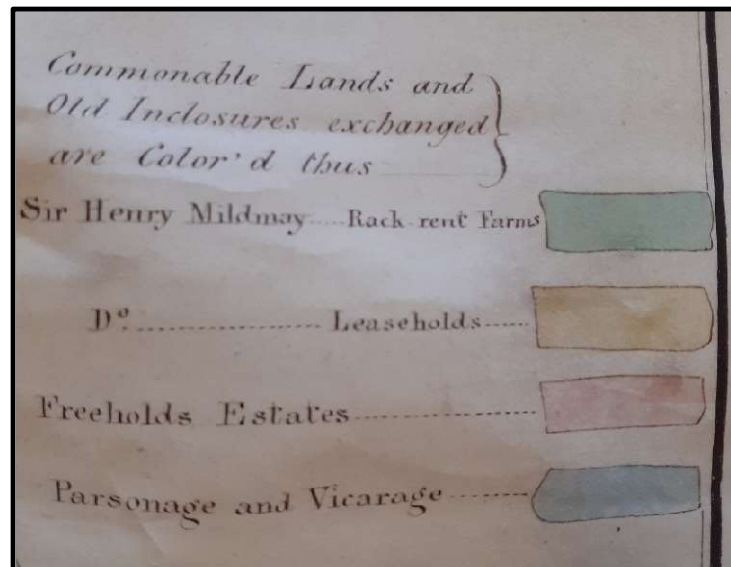
(i) Queen Camel Inclosure Award and Plan (1798 & 1795)

Source: Reproduced by the kind permission of South West Heritage Trust

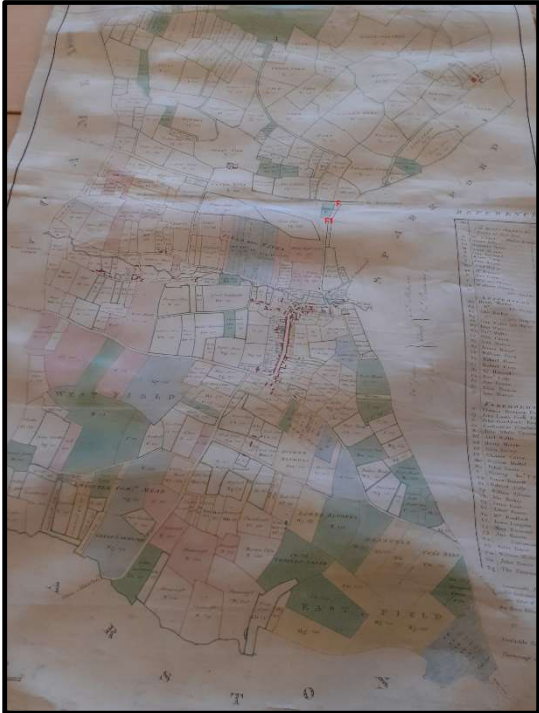
Reference: SHC Q/RDE/35



Plan title



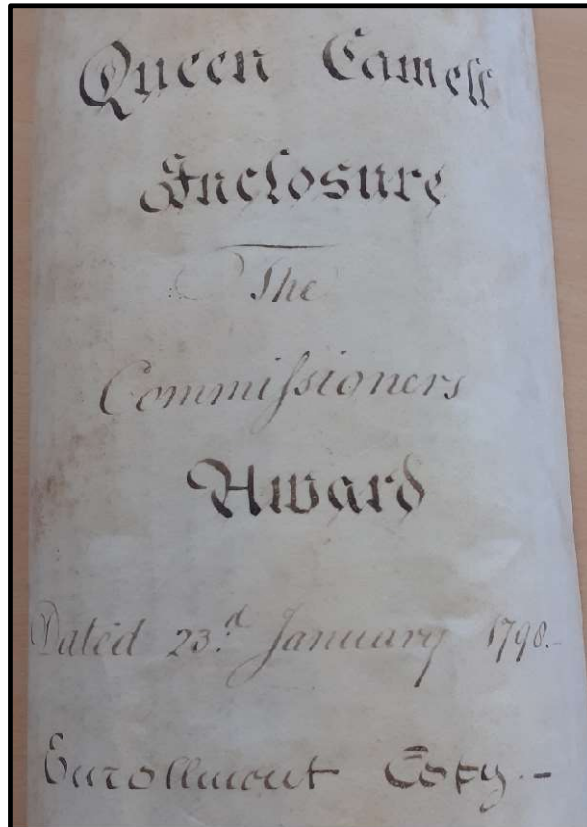
Part of the plan key



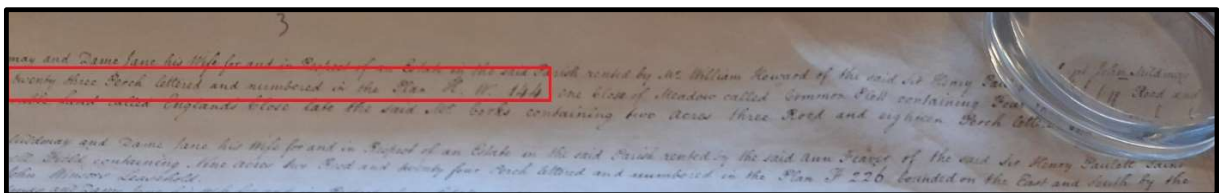
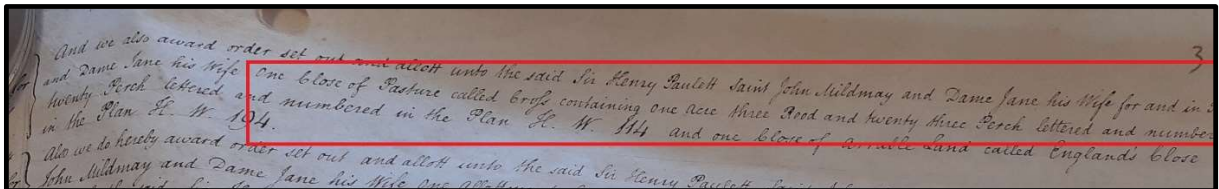
The full plan with red letters added to mark the application route.



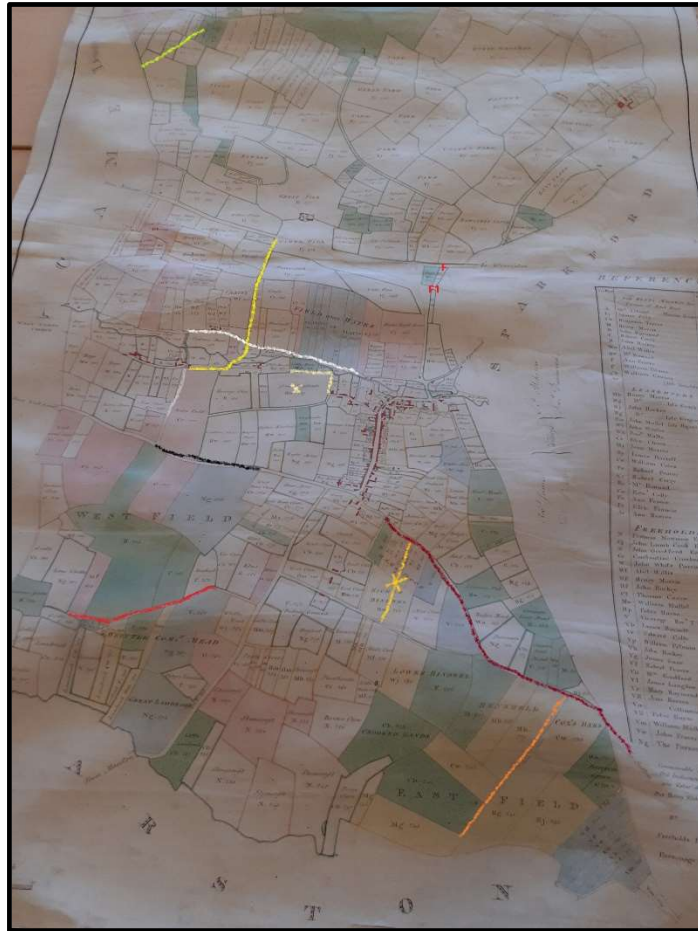
Section of the plan covering the application route. The red letters F and F1 added to mark the location of the route.



The Inclosure award



Section of the award referring to plot HW 144 "one Close of Pasture called Cross containing one Acre three Rood and twenty three Perch lettered and numbered in the Plan H. W. 144". Red boxes added to mark relevant sections.



Plan with coloured lines added to show the approximate routes of highways described in the award and crosses added for routes described as stopped up. The red letters F and F1 added to mark the location of the application route.

(ii) Map of Manor Queen Camel (1795) (extract)

Source: South West Heritage Trust

Reference: SHC DD/MI/20/6



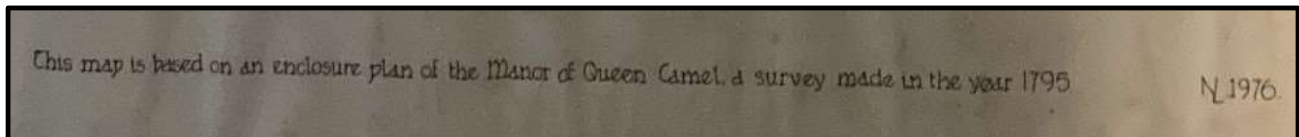
Section of the map covering the application route. The red letters F and F1 added to mark the location of the route.

(iii) Map of Queen Camel (1976)

Source: St Barnabas Church, Queen Camel



Section of the map covering the application route. The red letters F and F1 added to mark the location of the route.



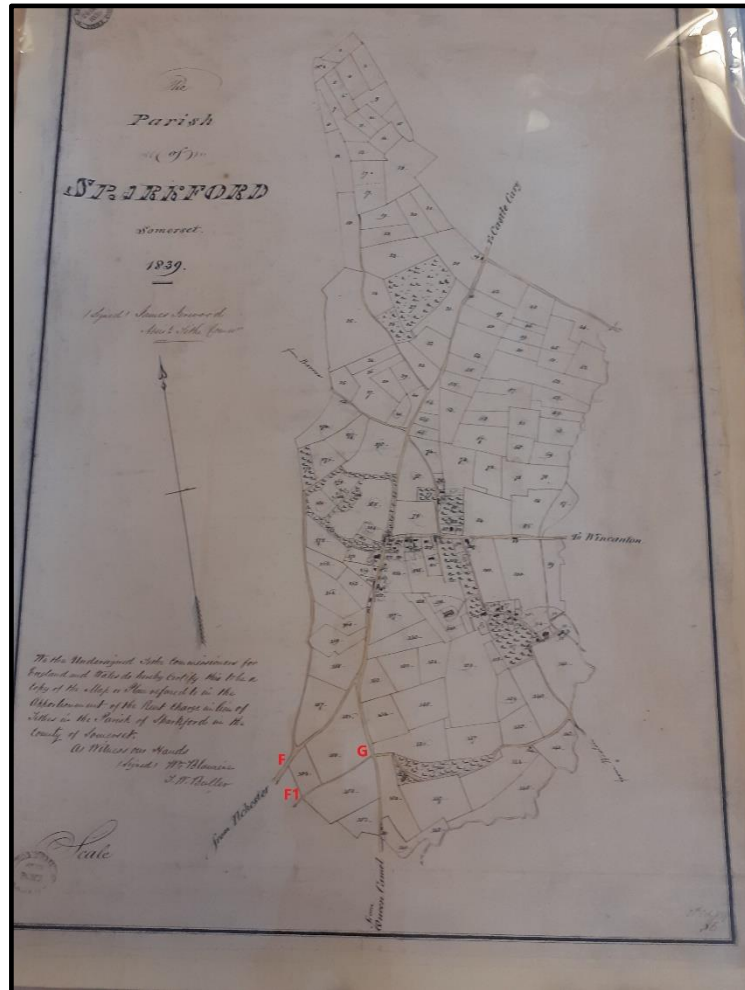
Note on the map confirming the basis of the map as the 1795 Inclosure plan.

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(i) Sparkford Tithe Map (1839)

Source: reproduced by the kind permission of the South West Heritage Trust

Reference: SHC D/D/Rt/M/75 and SHC D/D/Rt/A/75



The tithe map with red letters added to mark the application route

We the Undersigned Tithe Commissioners for
England and Wales do hereby Certify this to be a
Copy of the Map or Plan referred to in the
Apporportionment of the Rent Charge in lieu of
Tithes in the Parish of Sparkford in the
County of Somerset.
As Witness our Hands
(Signed) W^m Blaxine
J. W. Buller

The certification



Section of the map with red letters F, F1 and G added to mark the application route.

150			
152	Garret Down End	Uable	3 3 26
153	South Hill	2 ^o	12 3 34
154	Simons Hill Close	1 ^o	4 1 4
155	South Hill	2 ^o	10 3 14
156	Three Corner Ground	Meadow & Orchard	5 3 22
			133 2 19

Apportionment book entries for apportionments 153, 154 & 155

144*	Limelick and Quarry		10
------	---------------------	--	----

Apportionment book entry for apportionment 144

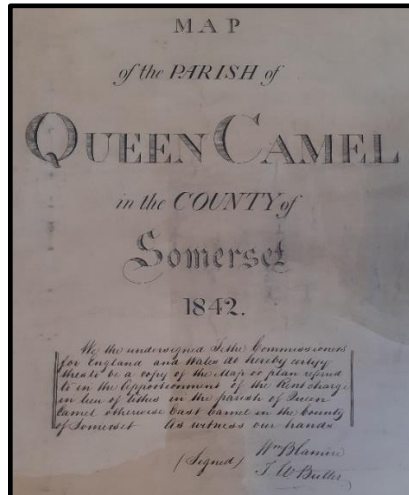
146	Spackford Hill		}
146*	2 ^o Quarries & Limelick		

Apportionment book entry for apportionment 146

(ii) Queen Camel Tithe Map and Apportionment (1842)

Source: reproduced by the kind permission of the South West Heritage Trust

Reference: SHC D/D/Rt/M/377 and SHC D/D/rt/A/377



Map title and certification

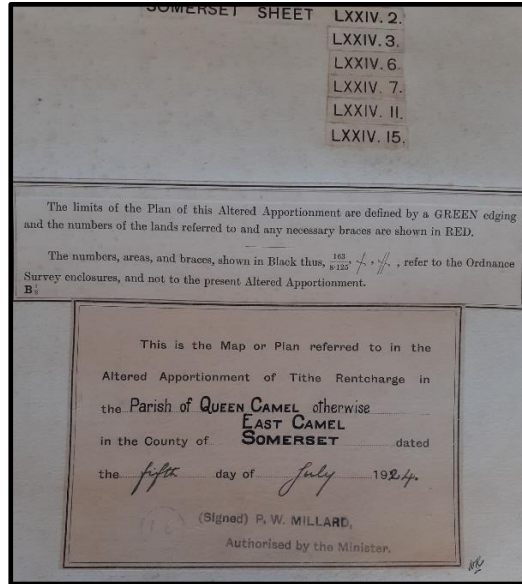


The tithe map with red letters added to mark the application route

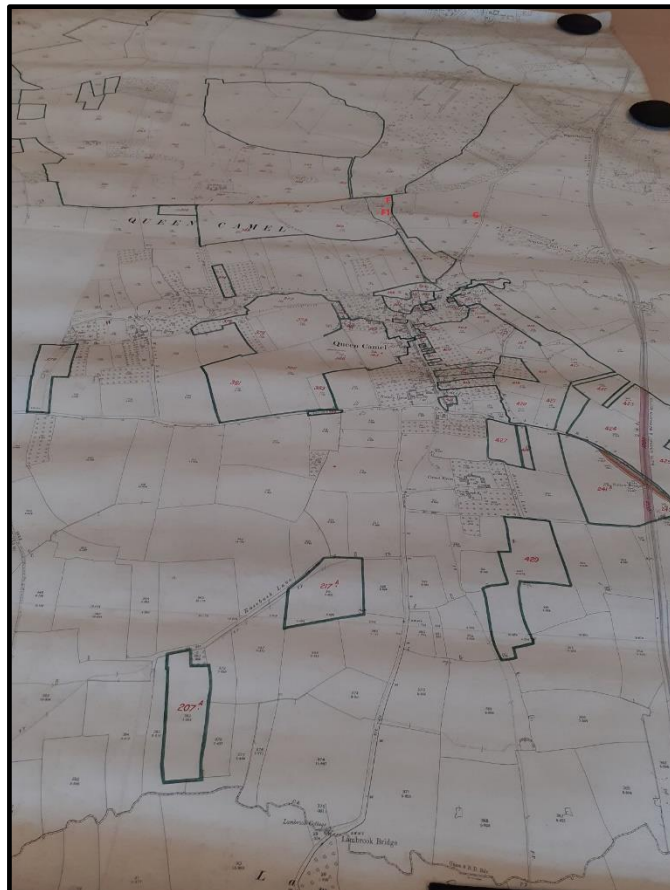
(iii) Queen Camel Tithe Map (1924)

Source: reproduced by the kind permission of the South West Heritage Trust

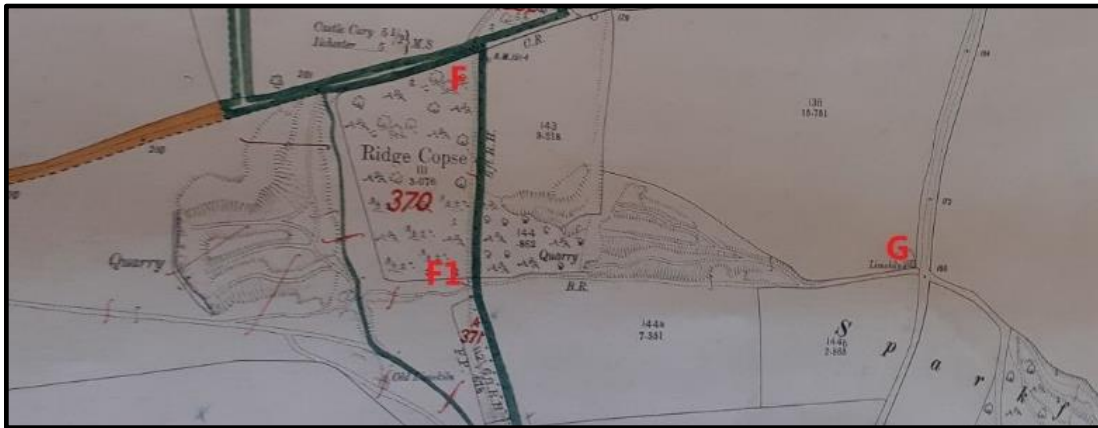
Reference: SHC D/D/Rt/M/377A



Map key



Tithe map with red letters added to mark the application route

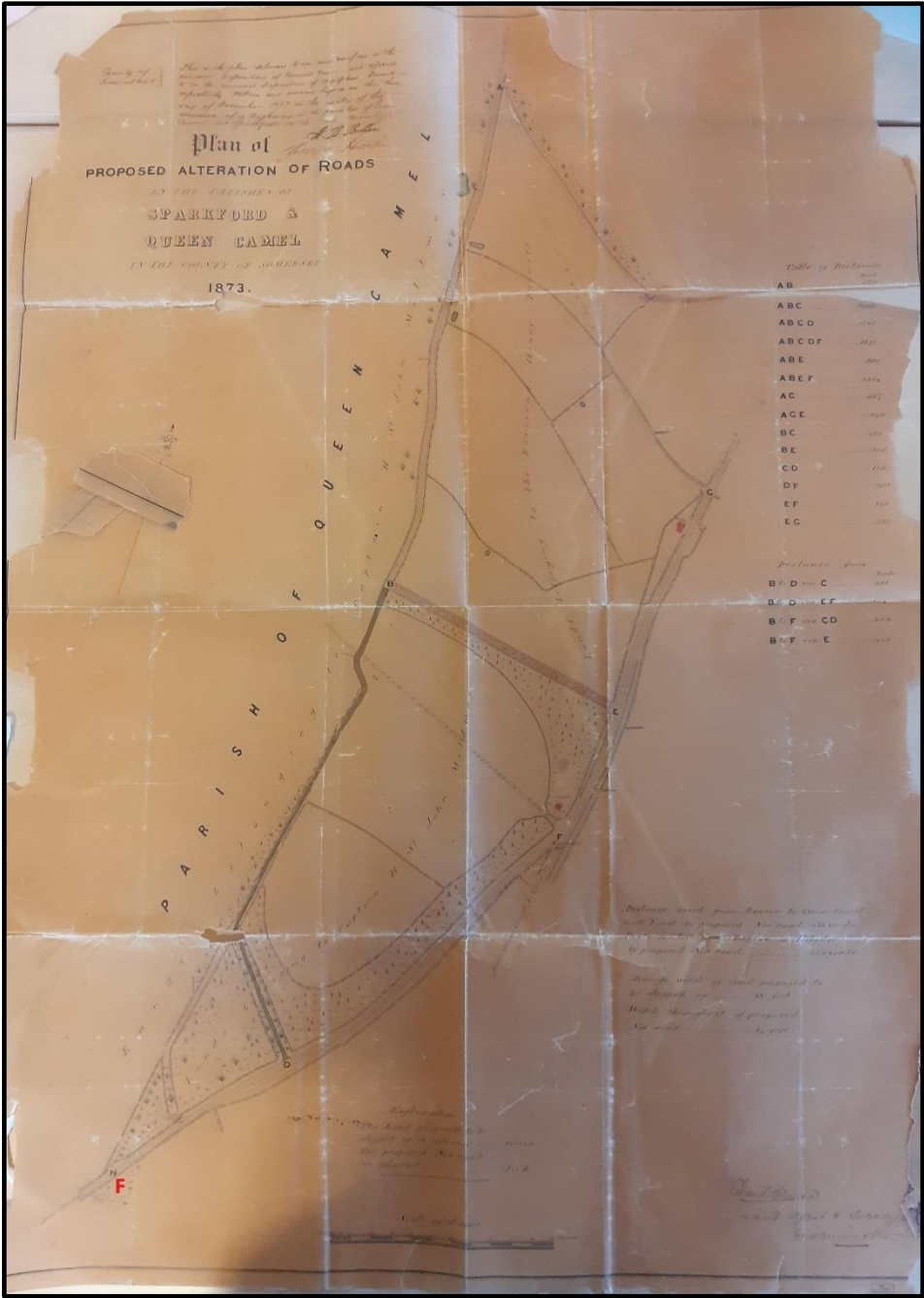


Section of the map with red letters F, F1 and G added to mark the application route

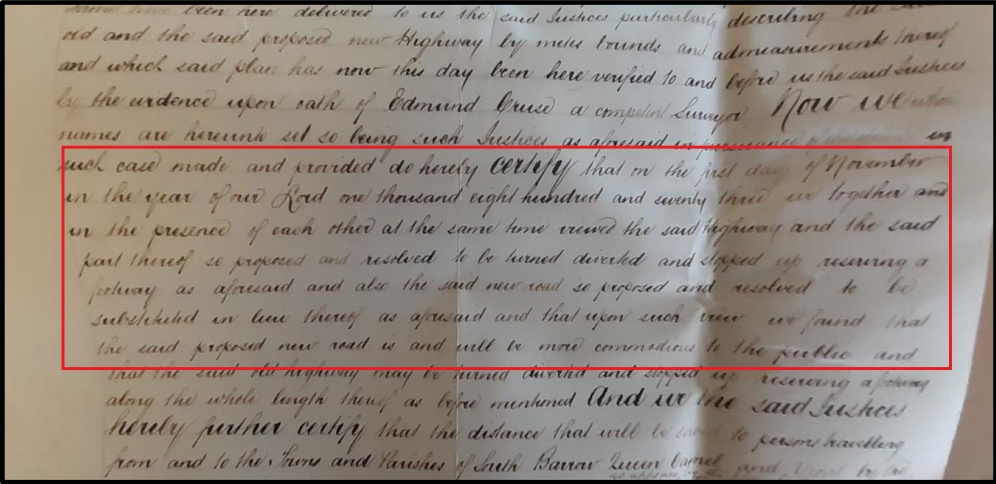
Quarter Sessions Roll (1873)

Source: Reproduced by the kind permission of the South West Heritage Trust

Reference: SHC Q/SR/694/ 70-88



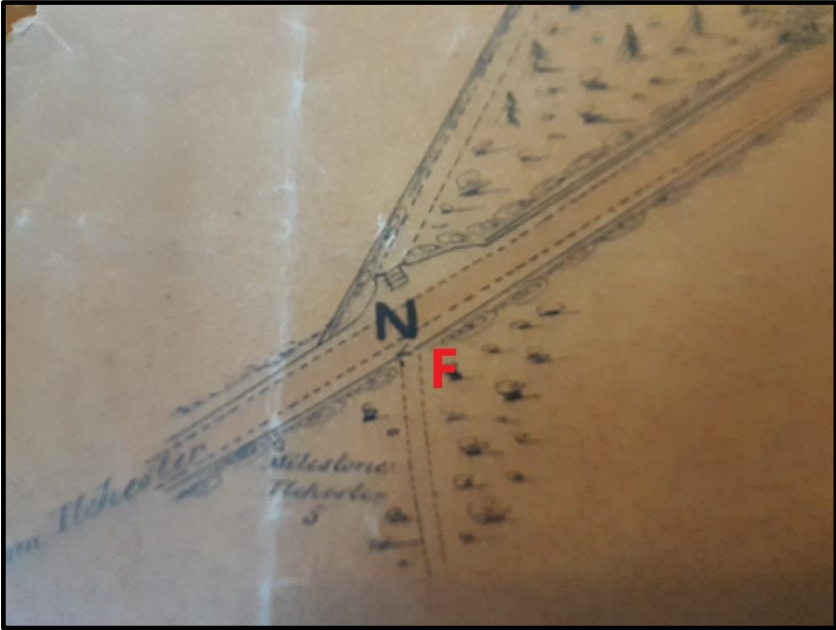
Plan of proposed alteration of roads. Red letter F added to indicate section of the application route.



Certificate of the Justices with red box added to highlight relevant text.

Certifying that they

“viewed the said Highway and the said part thereof so proposed and resolved to be turned diverted and stopped up reserving a footway as aforesaid and also the said new road so proposed and resolved to be substituted in lieu thereof as aforesaid and that upon such view we found that the said proposed new road is and will be more commodious to the public”

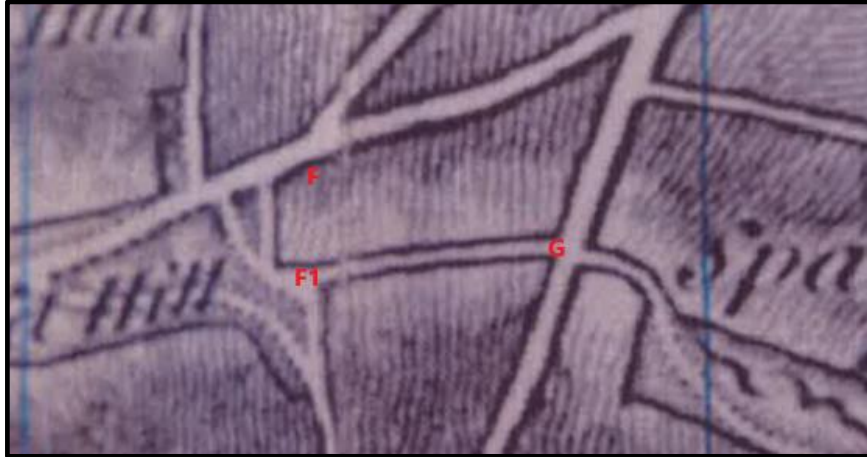


Section of the plan covering part of application 851. Red letter F added to indicate application route.

Ordnance Survey Maps

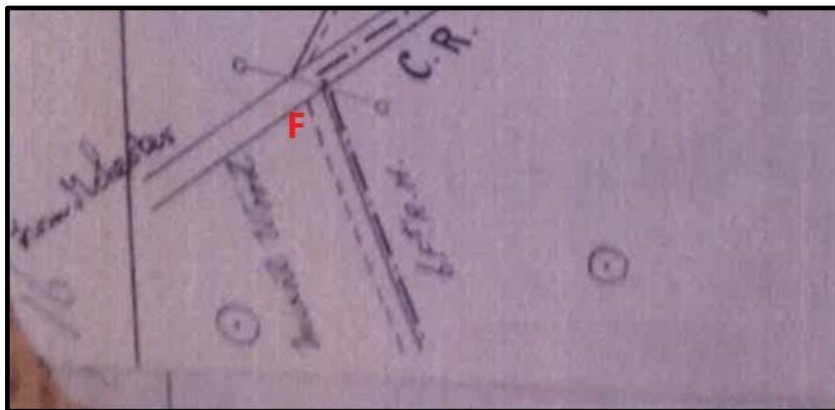
Source: Extracts submitted by applicant; others reproduced with the permission of the National Library of Scotland from their [map images website](#)

(i) OS 'Old Series' Map (extract) (1811-1817)

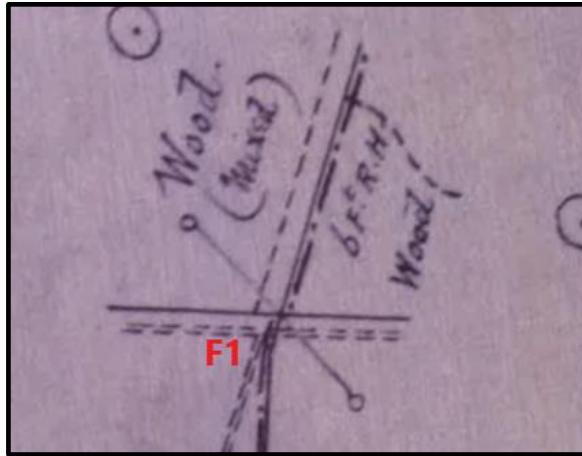


Extract covering application route, red letters F, F1 and G added to mark the application route

(ii) OS Boundary Remark Book (extracts) (1883)

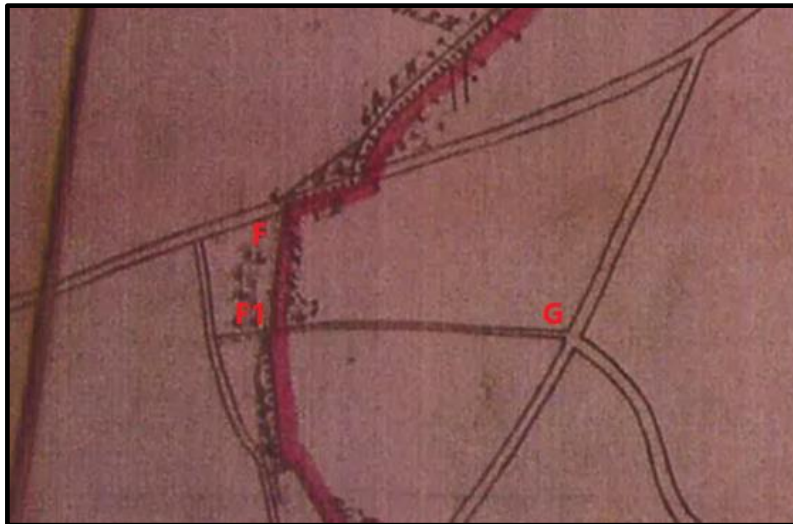


Extract from the OS Boundary Remark book for Sparkford Parish covering part of the application route. The red letter F has been added to mark the route.



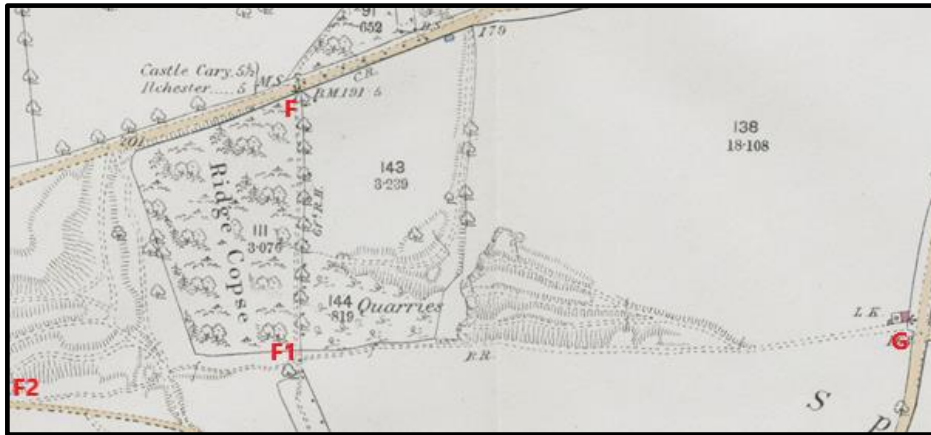
Extract from the OS Boundary Remark book for Sparkford Parish covering part of the application route. The red letter F1 has been added to mark the route.

(iii) OS Boundary Sketch Map (extract) (1884)



Extract covering application route. Red letters added to mark the application route.

(iv) OS County Series First Edition Map (1887)



Sheet LXXIV.7, red letters added to mark the application route

(v) OS Revised New Series Map (1898)

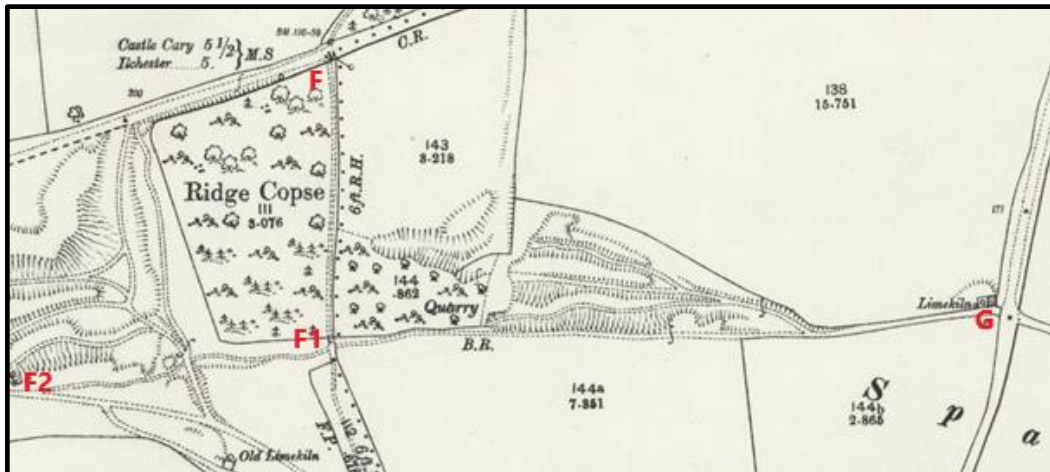


Sheet 296 covering application route. Red letters F, F1 and G added to mark the route.

<i>Metalled Roads, First Class</i>	} Fenced	$\frac{5(\text{Mile distance})}{\text{Altitude}/211}$	} Unfenced
" " <i>Second Class</i>		=====	
" " <i>Third Class</i>		=====	
<i>Unmetalled Roads</i>		=====	
<i>Footpaths</i>		-----	

Section of map key showing the different classes of road

(vi) OS County Series Second Edition Map (1903)

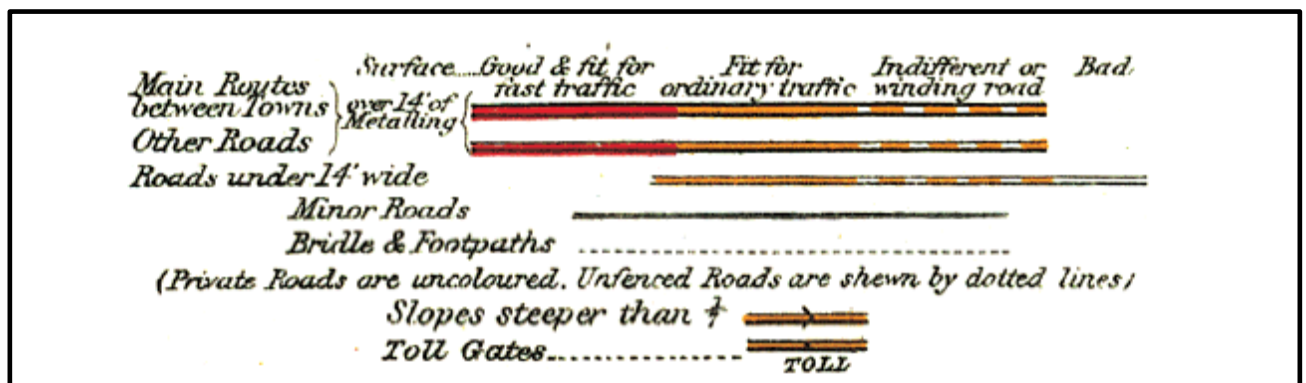


Sheet LXXIV.7 covering application route. Red letters F, F1 and G added to mark the route.

(vii) OS 'Popular Edition' Map (extract) (1919)



Extract covering the application route. Red letters F, F1 and G added to mark the route.



Map key showing road classifications

(viii) OS 'Popular Edition' Map (1946)



Red letters added to mark the application route

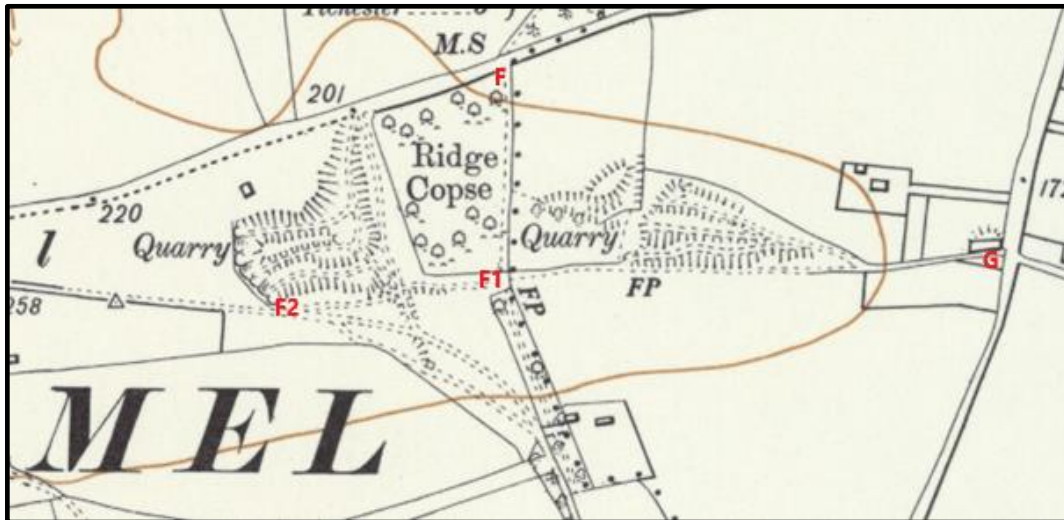
Roads	Ministry of Transport, Class 1	A.38
	" " " " 2	B.3210
	14 feet of Metalling and over (not classified by M. of T.)	TOLL
	Under 14 ft. of Metalling Good	Gate
	" " " " Bad	" " "
Minor Roads in towns, Drives and Unmetalled Roads. (Unfenced Roads are shown by pecked lines)		
Footpaths & Bridle Paths		
Steep Gradients, over 1 in 7		over 1 in 5

Map key showing road classifications

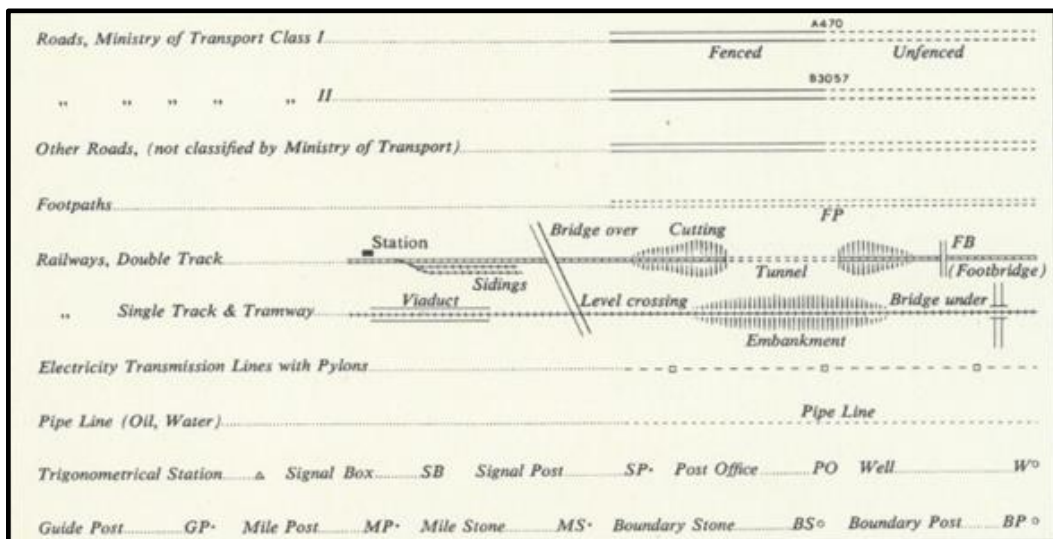
Boundaries, Parish	County
" County & Parish	National

Map key showing boundaries

(ix) OS 'six-inch' Map (1962)

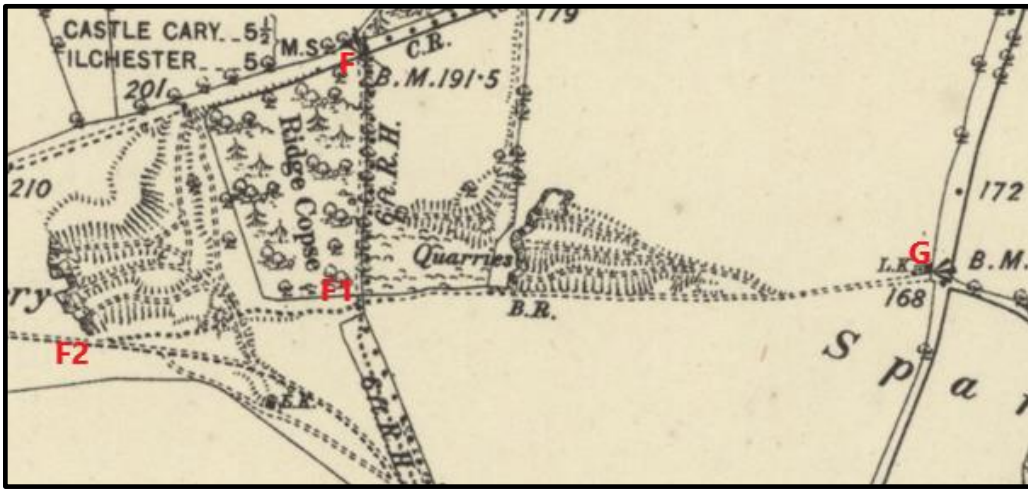


Red letters added for reference



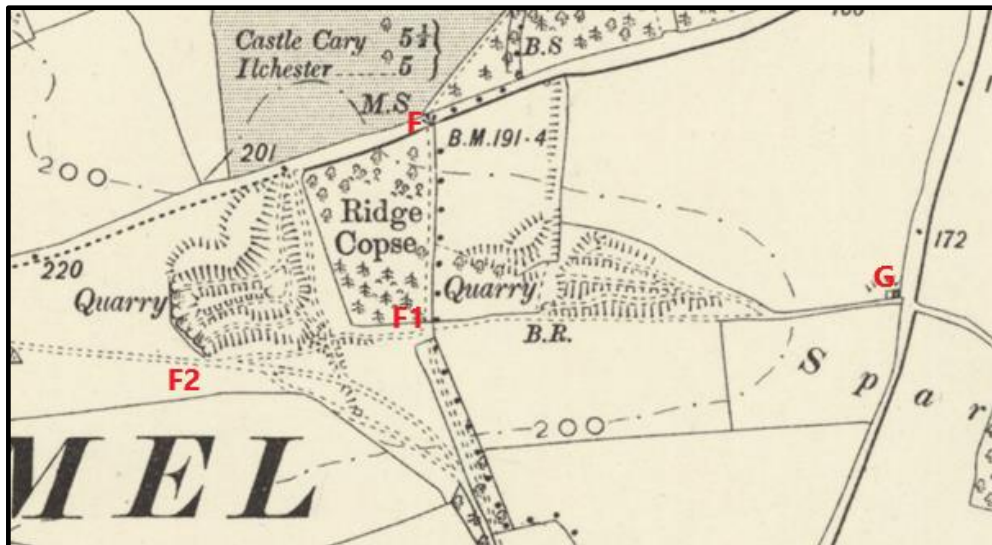
Map key

(x) OS 'six-inch' Map (1886)



Red letters added for reference

(xi) OS 'six-inch' Map (1904)



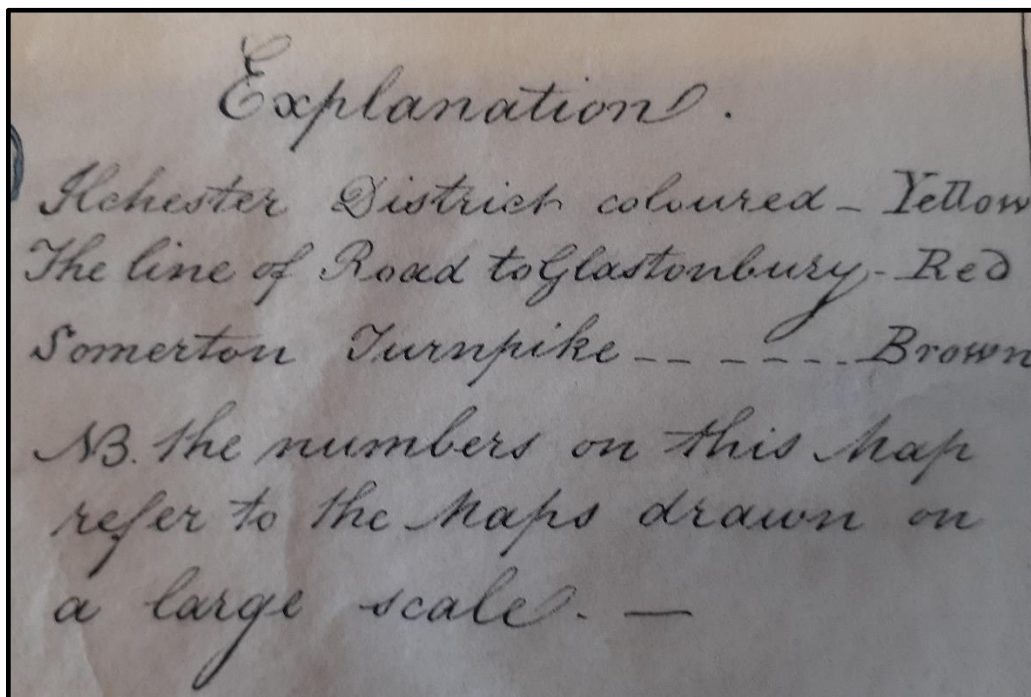
Red letters added for reference

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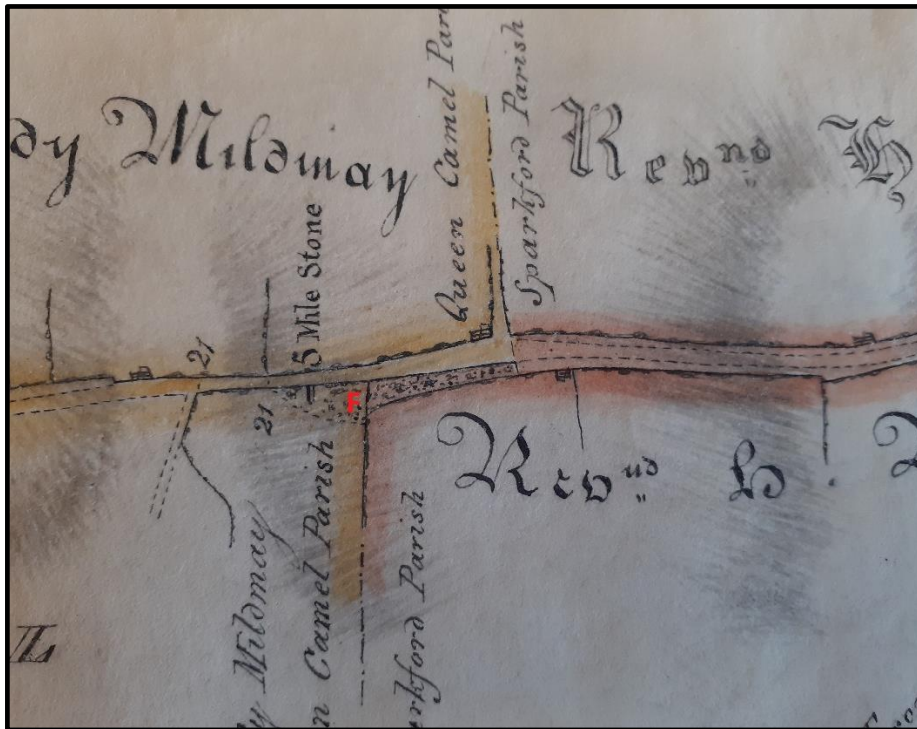
- (i) **Ilchester Turnpike Maps (1826)**
Source: South West Heritage Trust
Reference: SHC D/T/ilch/1 1826



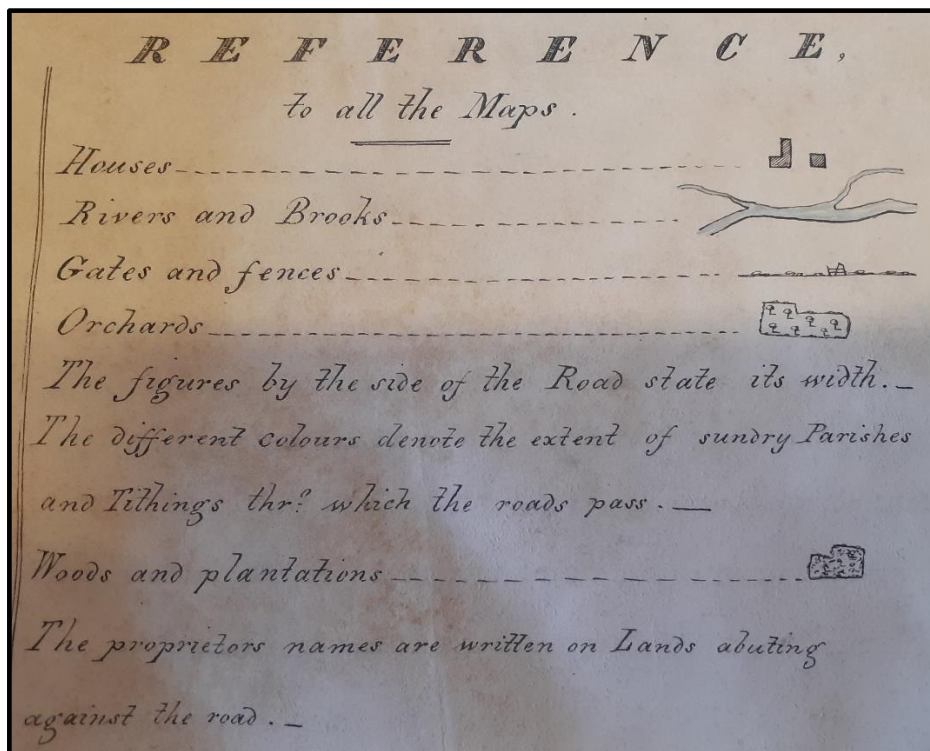
Small scale map with red letters added to mark the application route



Small scale map key



Section of large scale map number 5 covering north-south part of the application route. Red letter F added to mark the application route.

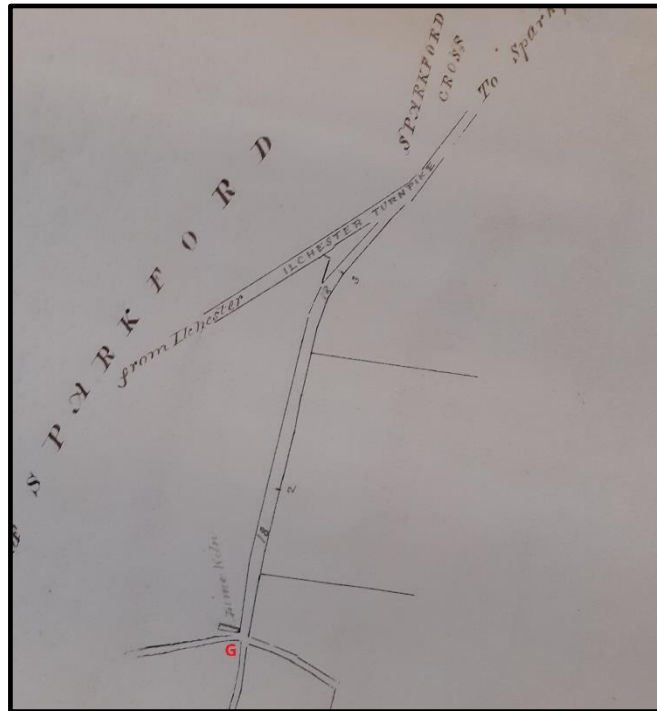


Large scale map key

(ii) Road plans; Yeovil turnpike to Sparkford Cross (1852)

Source: South West Heritage Trust

Reference: SHC Q/RUP/222



Section covering east-west part of the application route. Red letter G added to mark the application route.

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(i) Finance Act 1910 working plans

Source: Reproduced by kind permission of the South West Heritage Trust

Reference: SHC DD/IR/OS/74/7 and SHC DD/IR/B/27/1

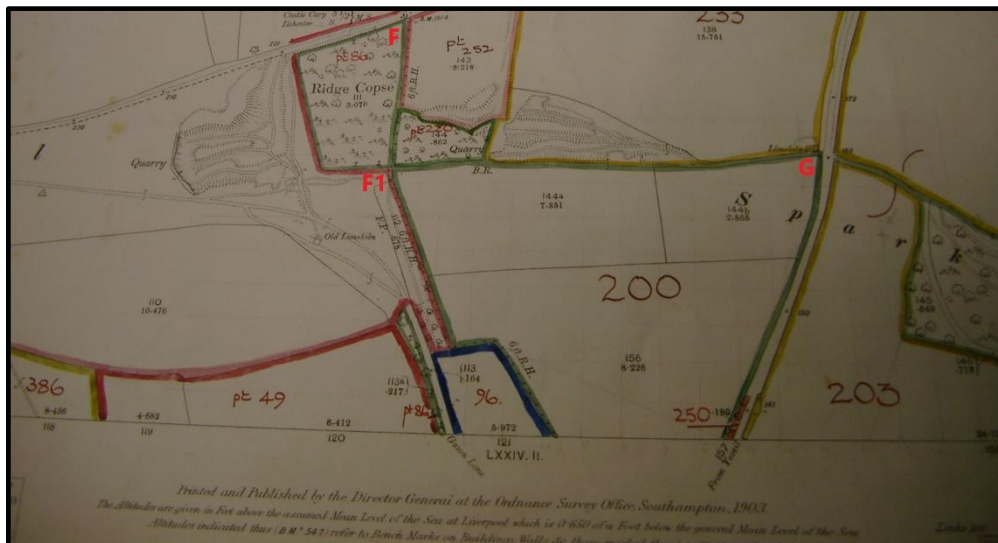


Map sheet 74-7 covering the application route with red letters F, F1 and G added to mark the route.

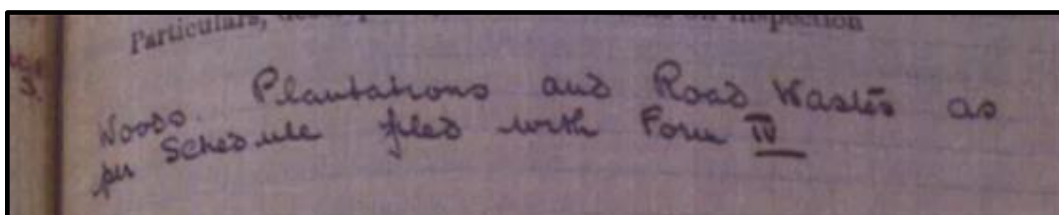
(ii) Finance Act 1910 record plans and field books

Source: National Archives (extract)

Reference: IR 128/9/905 and IR 58/5381 & 5383



Extract from map sheet 74-7 showing part of application route 859 and application route 851. Red letters added for reference.



Extract from the field book for hereditament 86

Land is poor & lies on.
The hill with a thin soil.

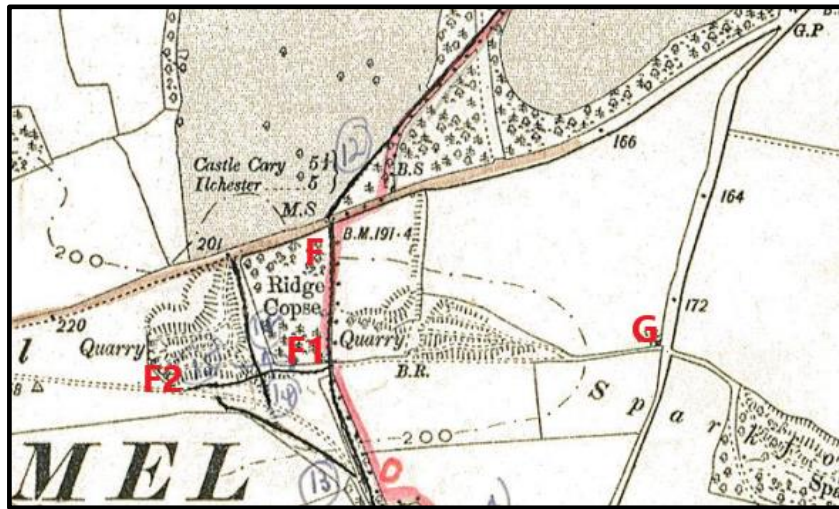
Charges, Easements, and Restrictions affecting market value of Fee Simple

Cost of Way	1/2 x 25 Y.P.	=	2.10.0
Land Tax	2/6 x 25 Y.P.	=	4.10.0
Total	2.12.6 x 25 Y.P.	Sub	97.0.0
			<u>109.0.0</u>

Extract from the field book for hereditament 200

(i) Parish survey maps

Source: SCC



Section of Queen Camel survey map covering the application route. Red letters added for reference.



Section of Sparkford survey map covering section F1 to G. Red letters added for reference.

(ii) Parish survey cards (1950-51)

Source: SCC

SOMERSET COUNTY COUNCIL		BOROUGH/URBAN DISTRICT/PARISH OF :- <i>QUEEN CAMEL</i> (Delete as necessary)	
NATIONAL PARKS & ACCESS TO THE COUNTRYSIDE ACT, 1949			
SURVEY OF PUBLIC RIGHTS OF WAY.			
Parish No. of Path :- <i>11</i>	Path shown on 6" O.S. No. :- <i>74. SE.</i>	Kind of Path, i.e. F.P., B.R., C.R.F. or B.R.F. :- <i>F.P.</i>	
DESCRIPTION :- The path starts at			
<p><i>South end of Gaston Lane and runs parallel and to the east of it. Soon after start (at either end of council house are two wooden wicket gates, both of which are wired up</i></p> <p><i>Path then runs along West hedge of field to kissing gate at South end of hedge and through hedge to entrance of "Ridge" and thence into second hedge which meets path no. 15 at kissing gate at entrance to 2nd hedge and runs through to Ickesley Road.</i></p> <p><i>Path in first and second hedge much obstructed by overgrowth.</i></p>			
			P.T.O.

Queen Camel survey card number 11

SOMERSET COUNTY COUNCIL		BOROUGH/URBAN DISTRICT/PARISH OF :- <i>SPARKFORD.</i> (Delete as necessary)	
NATIONAL PARKS & ACCESS TO THE COUNTRYSIDE ACT, 1949			
SURVEY OF PUBLIC RIGHTS OF WAY.			
Parish No. of Path :- <i>4.</i>	Path shown on 6" O.S. No. :- <i>LXXIV, NE</i>	Kind of Path, i.e. F.P., B.R., C.R.F. or B.R.F. :- <i>FP</i>	
DESCRIPTION :- The path starts at			
FROM MAIN ROAD TO CAMEL HILL.			
<p><i>bridle path continues, (→), at Limekiln Bungalow, (fieldgate), to gate now at end of enclosure; up field known as Southfield, or Allistons, along by trees at Old Quarry, to Hunting Gate, (boundary with Queen Camel Parish).</i></p>			

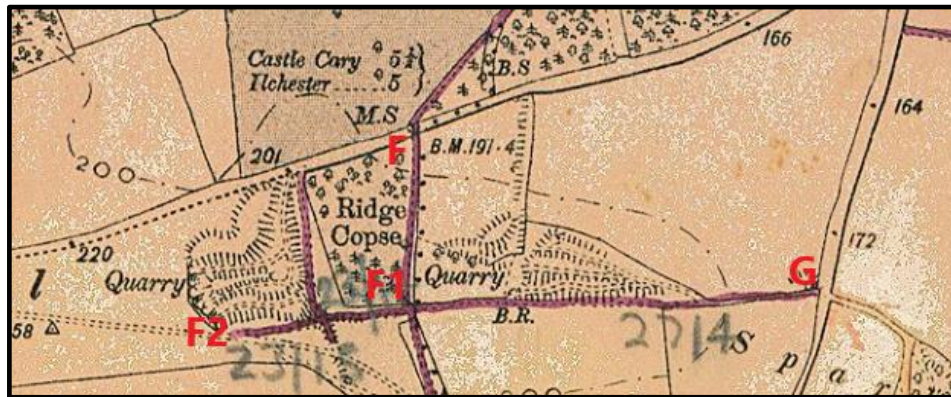
Sparkford survey card number 4

SOMERSET COUNTY COUNCIL		BOROUGH/URBAN DISTRICT/PARISH OF :- <i>QUEEN CAMEL</i> (Delete as necessary)	
NATIONAL PARKS & ACCESS TO THE COUNTRYSIDE ACT, 1949			
SURVEY OF PUBLIC RIGHTS OF WAY.			
Parish No. of Path :- <i>15</i>	Path shown on 6" O.S. No. :- <i>74. NE.</i>	Kind of Path, i.e. F.P., B.R., C.R.F. or B.R.F. :- <i>F.P.</i>	
DESCRIPTION :- The path starts at			
<p><i>Observation Hut and proceeds East, crosses path no. 14 and then Path no. 11 and here enters parish of Sparkford by Wicket gate (good condition)</i></p> <p><i>Path well defined except last 30 yds which is much obstructed by undergrowth.</i></p>			

Queen Camel survey card number 15

(iii) Draft Map (1956)

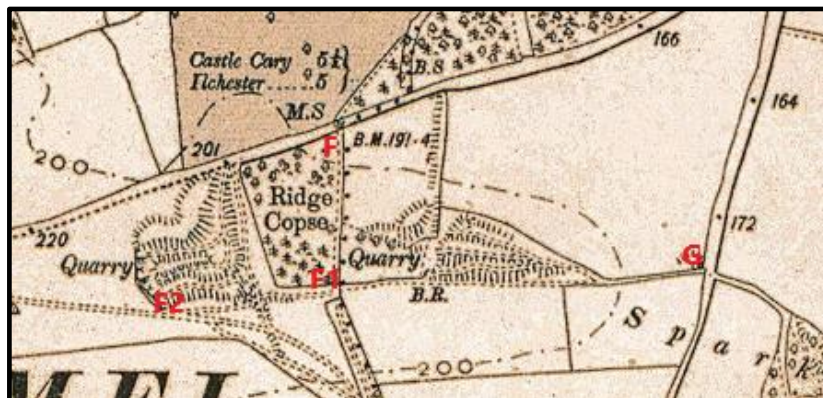
Source: SCC



Section covering the application route. Red letters added for reference.

(iv) Draft Modification Map (1968)

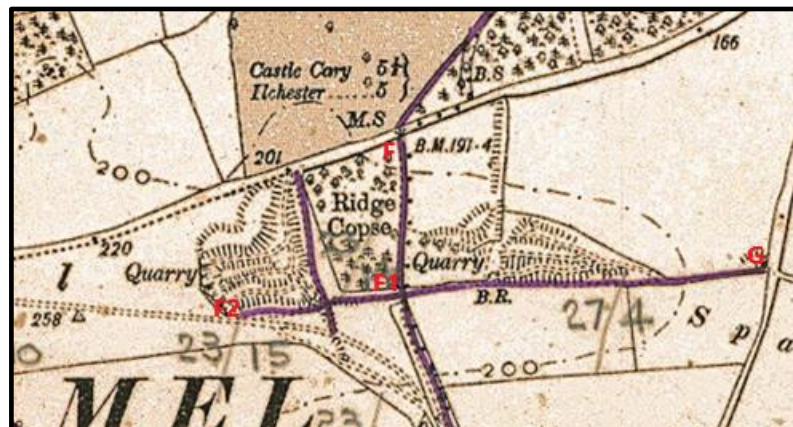
Source: SCC



Section covering the application route. Red letters added for reference.

(v) Provisional map (1970)

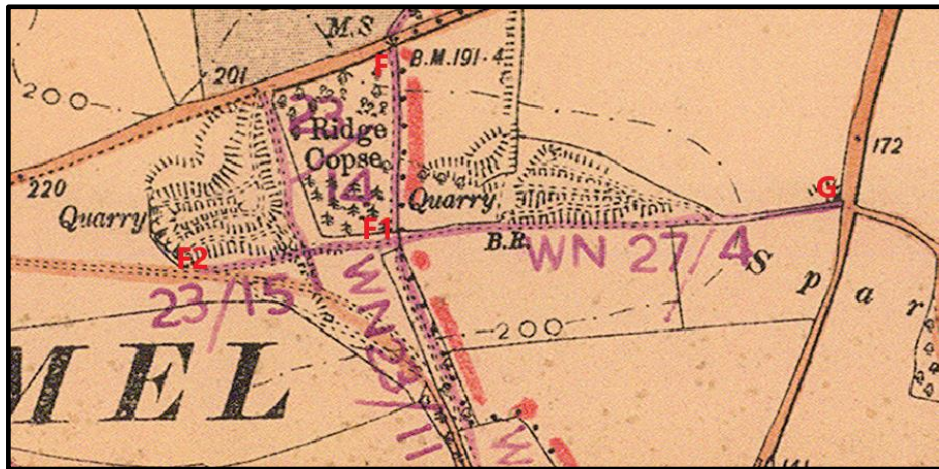
Source: SCC



Section covering the application route. Red letters added for reference.

(vi) Definitive map and Statement (1972)

Source: SCC



Section of the map covering the application route. Red letters added for reference.

(THIS SIDE ONLY TO BE COMPLETED BY PARISH COUNCIL AT TIME OF FIRST SURVEY) (1) PARISH NO. OF PATH:- 11

(2) CONCISE DESCRIPTION OF PATH (TO INCLUDE WIDTH, NATURE OF SURFACE, MEANS OF ACCESS, OBSTRUCTIONS, ETC.)

SYMBOLS TO BE USED IN BOX (2) BELOW

FROM:- South end of Gason Lane

TO:- Ilchester Road

DESCRIPTION:- THE PATH IS A F.P. IT STARTS AT the south end of Gason Lane and runs parallel and to the east of it, in a northerly direction to the south side of Ridge Copse. It continues through the Copse and alongside the boundary to the Ilchester road at B.M. 191.4.

Statement for path WN 23/11

(THIS SIDE ONLY TO BE COMPLETED BY PARISH COUNCIL AT TIME OF FIRST SURVEY) (1) PARISH NO. OF PATH:- 14

(2) CONCISE DESCRIPTION OF PATH (TO INCLUDE WIDTH, NATURE OF SURFACE, MEANS OF ACCESS, OBSTRUCTIONS, ETC.)

SYMBOLS TO BE USED IN BOX (2) BELOW

FROM:- A359 Yeovil - Sparkford Road

TO:- Camel Hill

DESCRIPTION:- THE PATH IS A F.P. IT STARTS AT opposite Sparkford Hill Lane on the west side of the A359 Yeovil - Sparkford road and runs west by old quarry to the parish boundary at Hunting Gate where it continues as 23/15

Statement for path WN 27/4

(THIS SIDE ONLY TO BE COMPLETED BY PARISH COUNCIL AT TIME OF FIRST SURVEY)	(1) PARISH NO. OF PATH:- 15
(2) CONCISE DESCRIPTION OF PATH (TO INCLUDE WIDTH, NATURE OF SURFACE, MEANS OF ACCESS, OBSTRUCTIONS, ETC.)	
FROM:-	The Observation Hut
TO:-	Sparkford Parish Boundary
DESCRIPTION:-	THE PATH IS A F.P. IT STARTS AT an observation Hut and proceeds east crossing F.P. 14 and proceeding to F.P.11 at the Sparkford parish boundary where it continues as F.P.27/4.

Statement for path WN 23/15

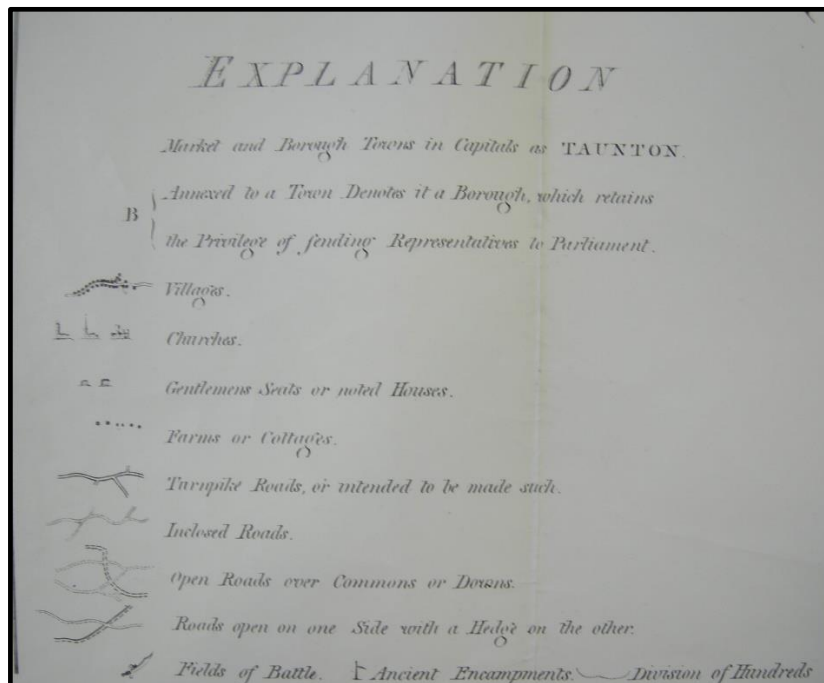
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(i) Day & Masters Map (extract) (1782)

Source: South West Heritage Trust



Extract covering application route. Red letters added for reference.



Map key

(ii) Greenwoods Map (extract) (1822)

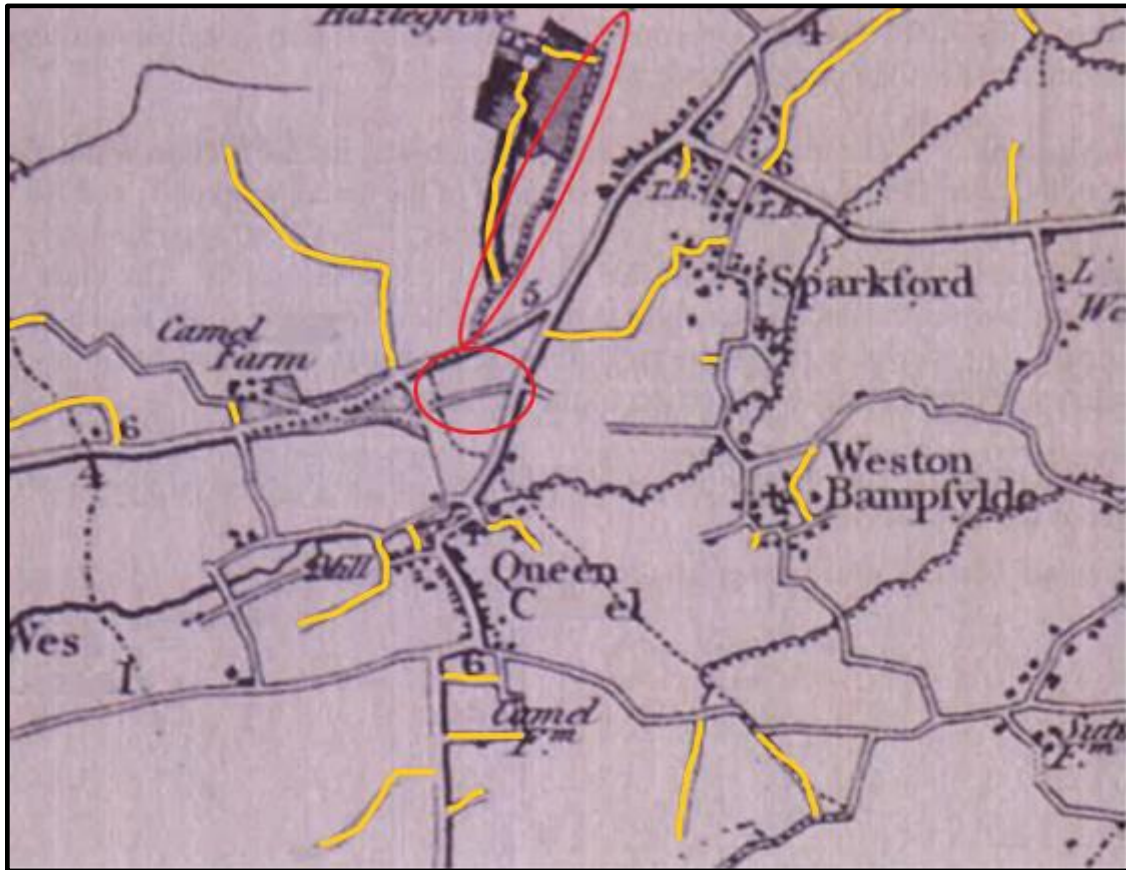
Source: South West Heritage Trust



Extract covering application route. Red letters added for reference.



Extract showing the map key



Extract with routes that are not recorded as modern public vehicular highways highlighted in yellow (although some do have lower level rights recorded over them). The two routes circled in red do not have public vehicular rights recorded but are the subject of modification applications, the southernmost being section F1 to G of application 851.

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Ministry of Food National Farm Survey (1941-42) (extract)

Source: National Archives

Reference: MAF 73/36/74

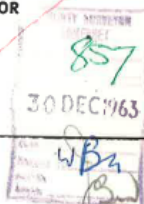


Extract covering the application route. Red letters added for reference.

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Divisional Surveyor Memoranda (1963 & 1974)

Source: Somerset County Council files

MEMORANDUM	
<p>FROM :- THE DIVISIONAL SURVEYOR WINGANTON</p> <p>MY REFERENCE :- DS/RJT/15/1.</p> <p>DATE :- 24th December, 1963.</p>	<p>TO :- THE COUNTY SURVEYOR</p> <p>YOUR REFERENCE :- (JBW)</p> <div style="text-align: right;">  </div>
<p>Footpath at Camel Hill.</p>	
<p>The Queen Camel Parish Council have asked for the path from Camel Hill through Ridge Copse to Ilchester Road and thence to Hazelgrove to be cleared of overgrowth. This is on 1/2500 Ordnance Sheet LXXIV.7 and runs through plots numbers 121, 112, 111, 91, 90, 101, 21 and 85.</p>	
<p>I shall be glad if you will let me know whether this is on the schedule and whether it will be in order to clear the surface.</p>	
<p><i>R. J. T. Jarrett</i> Divisional Surveyor.</p>	

Memorandum relating to section F to F1 of the application route. Red boxes added to highlight relevant sections.

MEMORANDUM	
<p>FROM :- THE DIVISIONAL SURVEYOR SOUTH EAST DIVISION</p> <p>MY REFERENCE :- 2/21/MDBH/SPP</p> <p>DATE :- 21st March 1974.</p>	<p>TO :- THE COUNTY SURVEYOR</p> <p>For the attention of Mr. Dixon</p> <p>YOUR REFERENCE :- WN/NCA (RND)</p>
<p><u>Queen Camel</u></p> <p>I would be grateful if you could give me a plan showing the location of Bridle Path 23/15 on the Definitive Map. I require this information as I have been approached by the Queen Camel Parish Council about the possible obstruction of this Bridle Way and I would like to inspect the site before I forward this to the new Yeovil District Council for their attention, if necessary.</p>	
<p><i>M. O. Bayliss - Hayward</i> County Divisional Surveyor</p>	
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <p>COUNTY SURVEYOR SOMERSET</p> <p>22 MAR 1974</p> <p>Handled by: <i>RND.</i> Tack: _____</p> </div>	

Memorandum relating to WN 23/15 (F2-F1). Red boxes added to highlight relevant sections.

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Highway Authority Road Records

Source: Somerset County Council



1929 Handover map, red letters added for reference



1930s road records, red letters added for reference

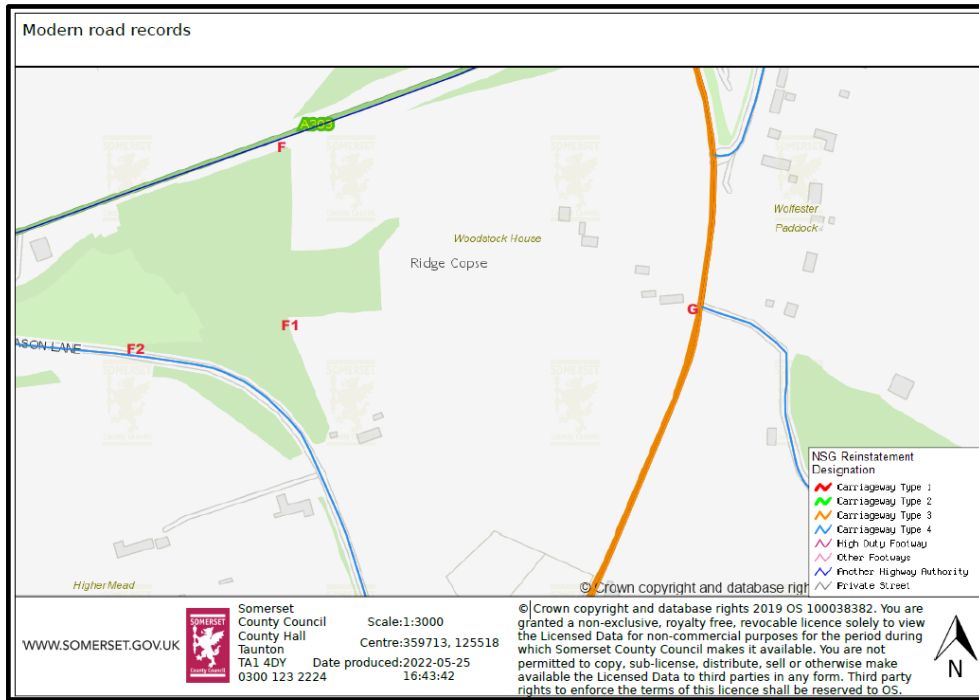


1950s road records, red letters added for reference



1970s road records, red letters added for reference

KEY	
MOTORWAY	DARK BLUE
TRUNK ROAD	BLACK
CLASS I	SCARLET RED
CLASS II	GRASS GREEN
CLASSIFIED UN-NUMBERED	LEMON YELLOW
UNCLASSIFIED	TERRACOTTA
DEFINITIVE FOOTPATH	PURPLE
DEFINITIVE BRIDLEWAY	TRUE GREEN
URBAN FOOTPATH	ULTRAMARINE BLUE
R.U.P.P.S (B.O.A.T.S/C.R.F.)	TRUE GREEN
COUNTY/PARISH BOUNDARY	SKY BLUE
DIVISIONAL BOUNDARY	DUNG
DISTRICT BOUNDARY	GREY
EXCEPTED AREA	PINK



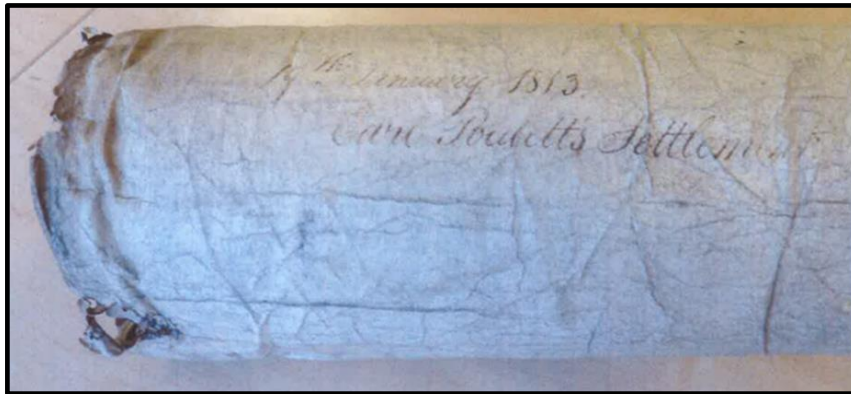
Modern road records, red letters added for reference

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
Earl Poulett settlement (1817)

Source: Reproduced by kind permission of South West Heritage Trust

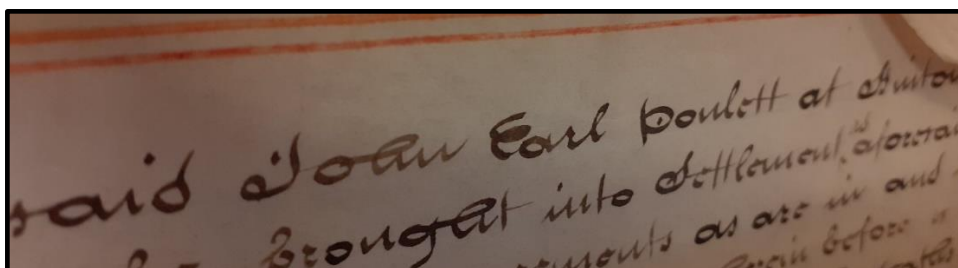
Reference: SHC DD/BR/ehp/27



Document title

<p> SOMERSET AND DORSET DEEDS OF THE BELLAMY FAMILY OF RAMPISHAM AND MATTHEWS FAMILY OF YETMINSTER, ETC.</p>	
<p> Hinton St George, etc. 1813</p>	
Repository	Somerset Heritage Centre
Reference number	<i>DD/BR/ehp/27</i>
Description	Settlement by John Earl Poulett and John Viscount Hinton of Somerset, Dorset and Devon estates, including manors of Hinton St George with Hinton House, Dinnington, Lopen, Allowenshay (in Kingstone), Chaffcombe, Crewkerne, Henley and Woolminstone (in Crewkerne), Chard and Cudworth, Combe Farm (in Crewkerne), Hill Farm and Chubley Farm (in Chillington and Dinnington), Ludney Farm (in Kingstone), property in Dowlish Wake and Seavington St Michael, with numerous properties in Dorset and Devon. [Damaged by damp and not possible to read in entirety].
Date	1813

Somerset Heritage Centre's description of document DD/BR/ehp/27



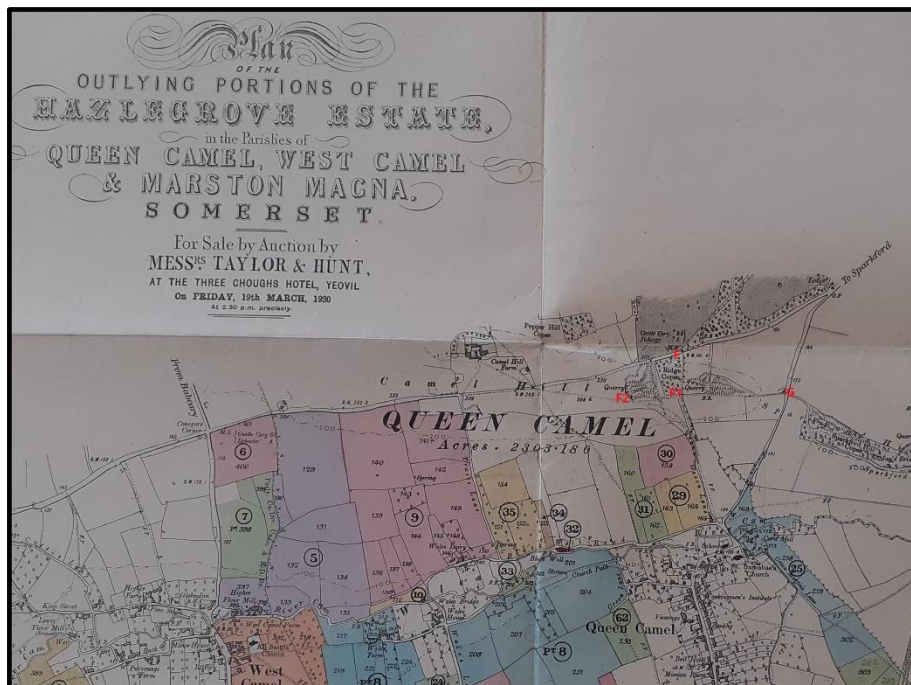
Extract from document showing the name John Earl Poulett at Hinton

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(i) Sale catalogue, Hazelgrove Estate (1920)

Source: Reproduced by kind permission of South West Heritage Trust

Reference: SHC DD/X/WBB/177



Red letters added for reference.

5. The title to the property is to commence as to Lots 19 & 20 and part of 11 with a Conveyance of the 4th day of June, 1883, as to part of Lot 37 with a Conveyance of the 9th day of October, 1885, as to part of Lot 12 with a Conveyance of the 10th day of September, 1887. As to Lots 10, 22, 23, 24, and part of Lot 5 with a Conveyance of the 8th day of April, 1889, and as to the remaining property with a Disentailing Assurance of the 3rd day of October, 1877. The Fishing Rights in the River Cam are excluded from the sale as mentioned in the particulars, and all such rights will be reserved in the Conveyances of the Lots affected thereby.

6. Certain parts of the property were originally held for long terms which have since been enlarged into a fee simple. No objection or requisition shall be made as to the original leases or the contents thereof, or otherwise in relation to the leasehold title and it shall be assumed that the said enlargements operated according to their tenor and that the said leasehold interests were acquired out of moneys comprised in a former Settlement of the 30th day of September, 1837, and were at the date of enlargement comprised in or subject to the Resettlement of the 4th day of October, 1877, under which the Vendor is selling.

Paragraphs 5 & 6 of the special conditions of sale

17. The Vendor sells and will convey as a tenant for life under the Settled Land Acts, 1882 to 1890, the trustees for the purposes of the Acts joining in the Conveyance only for the purpose of acknowledging the receipt of the purchase money and a Purchaser is not to require any covenant for title by the Vendor except the statutory covenant implied by the Vendor conveying as beneficial Owner with a proviso limiting the same so far as regards the reversion or remainder expectant on his life estate, and the title to and further assurance of the premises after his death to the acts and defaults of himself and persons deriving title under him.

Paragraph 17 of the special conditions of sale

(ii) Sale catalogue, Hazelgrove Estate (1929)

Source: Reproduced by kind permission of South West Heritage Trust

Reference: SHC D/P/q.ca/23/16

QUEEN CAMEL, Somt.

TWO EXCELLENT

DAIRY FARMS,

ACCOMMODATION LANDS.

13 COTTAGES,

Forming the remainder of the

HAZELGROVE ESTATE

Extending to an Area of about

860 ACRES

and producing an Annual Income of about

£918 PER ANNUM

WHICH MESSRS.

CHARLES COOPER & TANNER

Are favoured with instructions to **SELL BY AUCTION**
(unless previously Sold by Private Treaty), at

The Sparkford Inn, Sparkford,

On **THURSDAY, September 5th, 1929,**

Sale catalogue

Appendix 19 – Hazelgrove Estate sales catalogues

Ord. No.	Cultivation.	Acreage.
	Camel Hill House and Buildings	2.326
	Dairy House Buildings394
	Two Cottages220
100	Two ditto170
80	Pasture	31.565
103	"	11.854
107	"	10.159
23	"	say 21.007
24	"	say 34.281
25	"	7.089
Pt. 50	Arable	22.744
Pt. 54	Pasture	14.189
63	"	11.092
71	"	23.701
73	"	9.441
74	"	10.192
75	"	1.243
76	"	1.031
77	"	3.627
78	"	33.530
79	"	1.811
81	"	4.833
82	"	8.553
92	"	20.835
93	"	2.308
94	Arable	4.950
96	Pasture	2.778
97	"	17.142
98	"	7.578
99	"	say .735
102	"951
106	Wood	1.479
Pt. 65	"	2.252
72	Wood807
83	Pepper Hill Copse	
95	"	
101	Strip, Pasture	
		A. 326.867

Camel Hill Farm list of Ordnance Survey plot numbers

Ord. No.	Cultivation.	Acreage.
	House and Buildings924
46	Two Cottages367
43	Pasture	21.142
12	"	29.116
26	"	33.550
27	"	19.025
28	"	14.900
29	"	16.585
30	"	17.371
31	"	30.631
32	"	24.602
33	"	15.396
34	"	6.552
37	"	18.667
38	"	8.249
39	"	32.225
40	Arable	18.438
42	Pasture	14.167
44	"	42.129
45	"	3.670
47	"	4.331
48	"	11.970
60	"	16.409
61	"	10.152
62	"	12.378
35	Yarcombe Wood (in hand)	5.031
36	"	3.193
49	Rewber Brake	
		A. 431.170

Vale Farm list of Ordnance Survey plot numbers

5.—Each Lot is sold, and will, if required by the Vendor, be conveyed subject to all incidents affecting the same as stated in the Particulars or the Conditions, and also to any of the following incidents applicable thereto, whether expressly mentioned in the Particulars or Conditions or not, namely :—

(c) All rights of way (whether public or private), water, light, drainage, or other easements profits a prendre or servitude, and any privileges and rights in the nature of easements, and any rights in respect of telegraph or telephone cables, wires or poles.

Paragraph 5 (c) of the conditions of sale, key wording underlined in red

17.—The Vendor is selling as a person having the power to call for a Conveyance of the legal estate from the Vendor who is selling as tenant for life under the powers conferred by the Settled Land Act, 1925, and such latter Vendor shall not be required to enter into any covenant for title except the usual implied statutory covenant that he has not incumbered. If required by the Vendor the Conveyance to the Purchaser shall be by way of subsale.

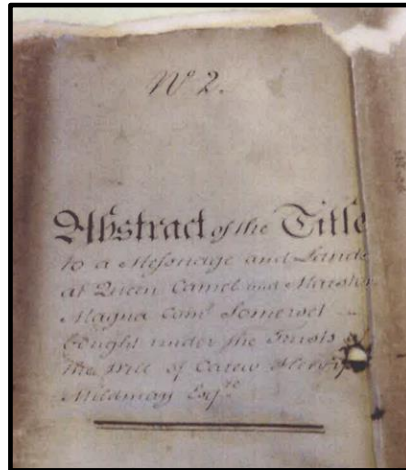
Paragraph 17 of the conditions of sale, key wording underlined in red

Mildmay estate papers (1795-1807)

Source: Reproduced by kind permission of South West Heritage Trust

Reference: SHC DD/X/WN/2

(i) Abstract of the Title to Lands at Queen Camel and Marston Magna bought under the Trusts of the Will of Carew Hervy Mildmay



Title page

And reciting that a Bill was filed in the Court of Chancery in Trinity Term 1789 which was afterwards amended in which Henry Esq. John Carew Esq. John Mildmay eldest son & heir apparent of the s^d Sir Henry Paulet Esq. John Mildmay Bar^r by Dame Jane his wife then lately called Jane Mildmay (the s^d Henry Esq. John Carew Esq. John Mildmay being then an Infant) by Jane Mildmay Widow his Grandmother was Pt and the s^d Sir Henry Paulet Esq. John Mildmay & Dame Jane his wife Ann Mildmay Letitia Mildmay James Rivers Henry Eaton Jane Dorothea Esq. John Mildmay Henry Mildmay Eaton Elizth Dare John Hopkins Dare Elizabeth Pell Jane Pell Maria Pell & Tho^s Cockayne were Defts stating s^d Will of s^d Carew Hervy Mildmay & his death in 1724 leaving the s^d Ann Mildmay afterwards called

Page 16, red lines added to highlight key wording

same ought to be sold and disposed of. It was therefore prayed amongst other things that the s^d Will of the s^d Carew Howey Mildmay might be established under the Decree of the Court & that some proper persons might be appointed to sell and dispose of the timber & that the money arising by the sale might be paid into the Bank In trust in the s^d Cause and that the same might be laid out in the public funds in like manner & that the dividends might be applied as therein is prayed.

And reciting that s^d Depts in the s^d Suit put in their Answer to s^d Bill & the Cause coming on to be heard before the Lord Chancellor on the 2^d of July 1790 It was referred to Master Graves to enquire whether it would be for the benefit of the Infant & those entitled in contingency to have the timber cut who by his Report dated the 25th of November 1790 certified that it would be for their benefit to have the timber cut. And the Cause coming on again

And reciting that by an Order made on the Petition of the Pts in the s^d Cause on the 2^d of April last It was amongst other things ordered that a sum of £10500 should be raised by Sale of the Bank Annuities & out of the Cash therein mentioned in order to pay for the purchase of an estate which by former Orders in the same Cause was directed to be made – And it was further Ordered that the Pts should lay proposals before the s^d Master for investing the residue of the Cash in the Bank in the purchase of other freehold estates to be settled & conveyed upon the trusts of the

(17)

Page 17, red lines added to highlight key wording

And reciting that in pursuance of the last recited Order the
 s^d Master made his Report dated the 8th August then last whereby
 he certified that a state of facts & proposal had been laid before him
 on behalf of the Petitioner representing that there was an estate
 situate in the Parish of Queen Camell in the County of Somerset
 belonging to M^r. John Barrett which consists of a Messuage or
 farm house with the barn ^{stable} Gable and all other buildings thereunto

buildings garden orchard & premises consisted of a messuage
 containing 8^a one close of meadow called East Mead containing
 6 acres one other close of meadow called Little East Mead containing
 3 acres two closes of pasture called Turize Close containing 7 acres one
 close of meadow called Lambrook containing 3^a One close of pasture called Wick Close containing 5^a One close of meadow called Quidle
 containing 2 acres ^{was} of meadow in Common Quidle 1 close of meadow called Elms ^{containing} 3 acres four closes of pasture called
Turize Closes & Elms over Hill containing 18^a Two closes of pasture
 called Lambrooks containing 3^a One acre in Whittle Mead & One
 rood in Common East Mead be either of the s^d Closes and pieces or
 parcels of land more or less All which said messuage lands & premises
are situate within the Parish of Queen Camell afores^d and were then in
 the occupation of M^r. Cannon as tenant to the s^d. John Barrett from
 year to year at the rent of £16. 15. and the said

Page 18, red lines added to highlight key wording

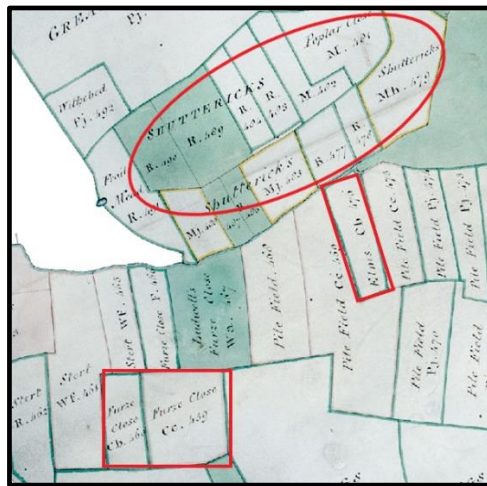
And also all those the afores^d several closes of arable
 meadow and pasture ground being on the North side of
Queen Camell Hill called Turize Close Whitrick and
Elms containing 16^a (more or less) The said 2^a of
 meadow and 4 yards making in the whole 3 acres

21

Page 21, red lines added to highlight key wording

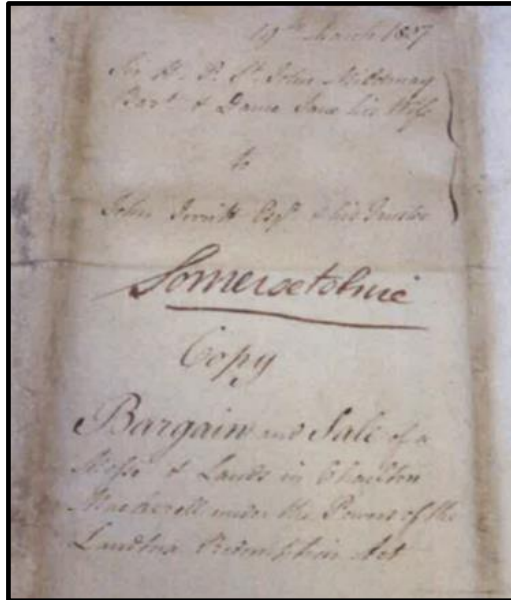


1795 Inclosure map with plots named on page 21 circled in red and F1 added for reference



Close up showing the plot names, red outlines added to highlight the ones corresponding to those listed on page 21

(ii) Bargain and Sale of a Messe & lands in Charlton Mackerell under the Powers of the Landtax Redemption Act (1807)



Title

I behalf of the said John Ferritt) of the 1st part Whereas the said Carole Perry Mildmay being in his life time and at the time of his decease seized of a good Estate of Substance in fee simple of and in divers Manors, Messuages, Lands, Tenements, Hereditaments, Advowsons and Real Estates situate lying and being in the several Counties of Essex, Somerset Dorset and Southampton and Elsewhere in England duly made and published his last Will & Testament in Writing (executed in Manner required

Page 1, red lines added to highlight key wording

anyone or more Witness or Witnesses he the Testator gave and devised all and singular his Manors, Lands, Tenements, Hereditaments, Advowsons and Real Estates whatsoever and wheresoever which he was or should at the time of his decease be seized of or entitled unto in his possession, execution or remainder To the Use of his dear Daughter Ann Mildmay (since deceased) and her Heirs and during the term of her natural life but without power to do or Commit any Manner of Waste and from and after the determination of What

Page 2, red lines added to highlight key wording

*2^d Carow Henry Mildmay afterwards died without altering or revoking his
said will by means whereof the death of the 2^d last aforesaid Daughter Ann
Mildmay without Issue of her body the 2^d Dame Jane Mildmay
became Tenant for life of all & Singular the 2^d several Mannors
Mesuages Lands Tenem^{ts} Heredit^{ies} Advowsons & real Estates with
remainder to her first & other sons successively in said Male & the said Sir
Henry Baulst 2^d John Mildmay & Dame Jane his wife or the 2^d Sir Henry*

Page 3, red lines added to highlight key wording

(iii) Abstract of the Title to a Farm at Charlton Mackarell

A
Draft Abstract of the
Title of 2^d Sir Baulst 2^d John
Mildmay Bart. to a Farm
at Charlton Mackarell in the
County of Somerset.
Also
Abstract of Title to Inclosed
Premises at Sherborne in
Dorsetshire. Sold in Lots.

Title

(iv) Abstract of mortgages

N^o 3.
Abstract of the mortgages
referred to in the Schedule to
the Deed of 23rd Decem^r. 1718
and of the Assignments and
Reconveyances thereof.
from 1698

Title

Progress Report: Phosphates and work undertaken to achieve nutrient neutral development in the Somerset Levels and Moors

Executive Member(s): Lead Member for Economic Development, Planning and Assets
Local Member(s) and Division: All within the affected river catchment areas of the Tone, Parrett, and Brue

Lead Officer: Alison Blom-Cooper: Assistant Director Strategic Place and Planning

Author: Paul Browning: Principal Planning Policy Officer

Emmeline Brooks: Phosphates Planning Officer

Contact Details: Email: alison.blomcooper@somerset.gov.uk
paul.browning@somerset.gov.uk
emmeline.brooks@somerset.gov.uk

Summary / Background

1. Somerset remains at the forefront nationally in delivering phosphate mitigation solutions to 'unlock' nutrient-neutral development.
2. The first and second parts of this report are for information. These update the Strategic Planning Committee on recent work undertaken across the Authority area, to achieve nutrient neutral development whilst also supporting housing growth. The report then outlines the anticipated legislative changes flowing from the Levelling Up and Regeneration Bill and provides an update on the Council's funding bid for £10m to the Government's Nutrient Mitigation Fund.
3. The third part of this report considers and recommends an expansion to the allocation process for phosphate credits or 'P-credits' available through the Council's River Tone P-credit scheme.

Recommendations

4. That the Strategic Planning Committee notes:
 - a. The content of this report and the activity across the 3 affected river catchments which continues to unlock the delivery of housing and affected development which has been on hold due to the need to ensure nutrient neutrality.

- b. The anticipated legislative changes flowing from the Levelling Up and Regeneration Bill, (as summarised in paragraphs 33 to 38 of this report).
- c. The outcome of the Council's funding bid to the Government's Nutrient Mitigation Fund.

That the Strategic Planning Committee agrees:

- d. An expansion to the criteria for River Tone P-credit allocation to allow for the allocation of remaining River Tone P-credits to prioritise all full planning applications, applications for the approval of reserved matters or discharge of conditions and Section 73 applications that relate to C3 housing development or traveller accommodation and are otherwise 'ready to proceed' in planning terms.
- e. That 10 River Tone P-credits are 'ringfenced' and can only be allocated to minor applications for housing development i.e. proposals for less than 10 dwellings.
- f. The River Tone P-credit scheme maintains the requirement that P-credits are allocated to planning applications for 'implementable development' (i.e. development that can be commenced within 3 months of planning permission being granted (unless otherwise agreed with the Local Planning Authority)).

Purpose of the Report

- 5. The purpose of the first part of report is to provide the Strategic Planning Committee with an update on recent work undertaken in relation to nutrient neutrality. The update is on a Somerset wide basis in the three river catchments of the River Tone, Brue and Parrett which feed into the Somerset Levels and Moors Ramsar site. The geographical extent of the affected river catchment areas is shown in Appendix A.
- 6. The second part of the report outlines the key anticipated legislative changes, as currently drafted within the Levelling Up and Regeneration Bill. This part of the report also provides an update on the Council's funding bid for £10m to the Government's Nutrient Mitigation Fund.
- 7. The third part of this report considers whether the allocation process for Council's River Tone P-credits should be updated, and the committee is asked to agree recommendations d, e and f.

Background to Report

8. The Strategic Planning Committee considered an update report on the 23 July 2023 (available [here](#)). The report in July gave details about Natural England's (NE) Advice note of August 2020, concerning the unacceptable levels of phosphates in the Somerset Levels and Moors Ramsar site and the implications of the European Court judgment known as Dutch N. The report also gave details of the types of planning applications (e.g. residential development) that required an appropriate assessment under the Habitats Regulations to demonstrate nutrient neutrality before planning permission can be granted.
9. In March 2022, NE also issued a letter in relation to the unfavourable condition of the River Axe Special Area of Conservation (SAC) which also affects part of the Somerset area around the Blackdown Hills and Chard. To that end, officers are working with colleagues in Devon and Dorset on this affected catchment area, but it is causing less wide-ranging issues in Somerset, compared to the Somerset Levels and Moors catchment area.

Update on Progress to Date

Across Somerset:

Progress on updating the Phosphate Budget Calculator

10. Details on the key changes being made to the Somerset Phosphate Budget Calculator were reported to this Committee in the July 2023 report, as referenced above. At the time of drafting this report, we have received NE's sign off of the updated calculator which seeks to align the Somerset Phosphates Budget Calculator with the NE national Phosphates Budget Calculator, whilst still using Somerset specific data. At the time of writing, Officers are in the process of updating the [Somerset Phosphates webpage](#) to include details of the updated calculator, and transitional arrangements for its use.

Regular Meetings with Key Stakeholders

11. Officers from all of the area planning teams, and Dorset Council continue to have regular monthly meetings with the Environment Agency (EA), NE, and Wessex Water officials, the next meeting being on the 25 October 2023. The last regular agents / developer forum meeting was held on the 27 July 2023. The next meeting is scheduled for the 7 December 2023. Audio recordings of Developer Forum meetings are circulated to all those invited, as well as being uploaded onto the Somerset Council YouTube page. The July meeting is available to listen to [here](#).

Lobbying Central Government

12. Since the receipt of the NE advice letter of the 17 August 2020, Officers and Members have lobbied central government on a range of issues. The various letters that the Council have sent cover a range of matters, such as the funding and delivery of interim mitigation solutions, 5 Year Housing Land Supply, and the effect of Small and Medium-sized Enterprises (SMEs). Letters to Ministers and their replies are available on the Council website at.

<https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-on-the-somerset-levels-and-moors-ramsar-site/>

Legal Challenge to Nutrient Neutrality: Jurston Farm, Wellington

13. Details on the background to this national test case were reported to this committee in July 2023 (See Paragraphs 17 to 19 of the Committee Report available [here](#)).

14. Following a dismissed planning appeal, on the 30 June 2023, the High Court dismissed a challenge by CG Fry & Son to the operation of the Habitats Regulations. The judgment is available here: [High Court Judgment Template \(landmarkchambers.co.uk\)](#)

15. Following the High Court's decision the Appellants made an application for a further appeal to be heard by the Supreme Court. The Appellants however were not given leave to apply direct to the Supreme Court. Accordingly, the next stage will be a substantive appeal hearing in the Court of Appeal and we are currently awaiting a hearing date.

River catchment area updates

River Tone

16. This catchment is within the Somerset West area with the towns of Taunton and Wellington and its environs impacted.

17. At the time of drafting this report, approximately 100 planning applications are still held in abeyance seeking a phosphate solution. This includes c. 30 applications for major development, c. 20 applications for the discharge of conditions and 5 applications for the approval of reserved matters. Overall, this equates to circa 3,000 dwellings.

18. Somerset is one of only a handful of Councils across the country to have its own operational nutrient credit scheme. This is in place in the River Tone catchment area. The Interim Phosphates Mitigation Strategy for the River Tone catchment area (the Interim Strategy), in its entirety aims to unlock between 174 and 871 homes. The background to the creation of P-credits, decisions made by the former Somerset West and Taunton (SWT) Council, the allocation process and progress to date were reported to this Committee in July 2023. The report to 5 October 2021, SWT Full Council gives further details on the background to this scheme, and it's purpose of facilitating new homes. It is available at: <https://democracy.somerset.gov.uk/CeListDocuments.aspx?CommitteeId=637&MeetingId=4053&DF=05%2f10%2f2021&Ver=2>

19. Progress on the scheme is set out below:

- 53 planning applications have been offered River Tone P-credits as part of Round 1.
- 29 no. applications for River Tone P-credits have been received in Round 1.
- 8.5 P-credits have been allocated, equating to 41 no. dwellings.
- Currently 22 no. planning applications have been offered P-credits in Round 2.
- At the time of writing 4 no. planning applications have been approved as part of Round 2 (i.e. are proceeding to agree a Section 106 (S106) Agreement) equating to 0.9 P-credits.

20. In addition to the Council's P-credit scheme, as in other Area Planning Teams, planning applications are progressing in the River Tone catchment area where applicants have their own phosphate mitigation solution. In addition, Officers continue to liaise with third party credit providers to create further P-credit solutions within the catchment area.

River Brue

21. This catchment covers the western half of Somerset East and parts of Somerset South area with 4 out of 5 of the main towns impacted in the Somerset East area.

22. At the time of drafting this report, approximately 67 planning applications are held in abeyance seeking a phosphate solution equating to circa 1,100 dwellings.

23. The Council have signed off three private phosphate credit schemes in the Brue catchment.

- a. Yew Tree Farm, Walton. A scheme involving the closure of a pig farm generating 48 P-credits. Currently, 45.8 P-credits have been allocated releasing 450 dwellings.
- b. Manor Farm, Prestleigh (farm closure/fallowing of land – agreed May 2023) generating 143 P-credits which is anticipated will unlock approximately

1400 dwellings. A second phase may come forward if all these are allocated.

c. Hillcrest Farm in Somerset South area anticipated to deliver c. 13 P-credits.

24. Both the calculation of credits and management plans have been agreed with Natural England and secured via a S106 agreement. However, all P-credit sales/allocations are agreed between promoter and applicant. The LPA has no control on prioritising applicants or credit pricing. Agreed allocations are confirmed by a certificate provided to the LPA.

25. A limited number of applications have also been agreed to date with their own mitigation solutions (woodlands, PTP upgrades).

River Parrett

26. This catchment is within Somerset South. All of the main towns are impacted (with the exception of Wincanton, the villages of Templecombe and Henstridge and surrounding countryside) and the extent of the affected areas crosses into Dorset in the environs of Sherborne.

27. At the time of drafting this report, there are approximately 320 planning applications held in abeyance seeking a phosphate solution including 54 majors. This equates to approximately 4,500 dwellings. This figure includes 2,500 houses at the post committee / Section 106 stage.

28. With regard to progress to date:

- a. 240 dwellings (4 applications) are either approved or have a resolution to approve subject to S.106 using appropriately managed Package Treatment Plants.
- b. 160 dwellings (4 applications) have been approved or have a resolution to approve using retrofitting of water efficiency measures. We are working with registered providers operating in Area South to develop opportunities to extend the programme to develop a credit bank to be established to unlock larger sites.
- c. 65 dwellings (2 applications) have been approved or have a resolution to approve using woodland planting.
- d. 310 dwellings approved which rely upon fallow land solutions. (The approvals date back to Spring 2021 and 2022)
- e. Agreed the roll out of a programme of septic tank replacements with more efficient Package Treatment Plants to unlock credits.
- f. EnTrade has run its first "market round" which has allocated credits to applications for some 80 dwellings and 2 care homes with some 130 bedroom spaces. A second market round will be run during Autumn 2023.

and there are plans for its first market round in the River Parrett catchment. (Further information available at: sومersetcatchmentmarket.uk).

29. Further details about the background to EnTrade , the environmental services they provide as a subsidiary of Wessex Water, including their P Credit scheme, were reported to this committee in July 2023 (The Committee Report available [here](#)).
30. Somerset Council is also currently drafting the relevant S106 Agreements to enable the release of two third-party land use change projects based upon short term fallowing leading to wetland with a woodland fallback. Together these will release 270 kg of credit.

Other Matters: Levelling up and Regeneration Bill

31. As members of the Committee may be aware and as reported in the national media, there have been a turbulent few weeks at the end of August and the beginning of September 2023 for nutrient neutrality.
32. On Tuesday 29 August 2023 the Secretary of State for Levelling Up, Housing and Communities, Michael Gove MP announced an intention to introduce late amendments to the Levelling Up and Regeneration Bill (LURB) at the third reading stage in the House of Lords, to remove the obligation upon developers of applications for housing, overnight accommodation and similar land uses to meet an obligation to deliver "nutrient neutrality". Further information on this was provided to the Council in the Chief Planner's letter which is available on the Phosphates webpage, [here](#).
33. However, the House of Lords rejected the Government's amendments to the Levelling Up and Regeneration Bill, and the proposed amendments concerning nutrient neutrality will not now form part of the LURB.
34. The provisions within the LURB prior to these late amendments do however remain in place. As part of these provisions the House of Lords approved a new duty on water companies to upgrade wastewater treatment works in designated areas by 2030. Somerset Council has previously received advice from NE that this provision means that once the LURB receives Royal Assent these upgrades can be considered to be 'certain' for the purposes of an assessment under the Habitats Regulations. This means that applicants will be able to factor in the 2030 improvements into their Phosphate Budget Calculations for new development thereby reducing the mitigation requirement from 2030 onwards. It should be noted that these upgrades will not apply to all Wastewater Treatment Plants

(WwTW) and in summary, it will be the WwTW that serve the largest populations that will be upgraded. We are awaiting further information as to what this looks like for Somerset and which WwTW will not be upgraded as part of LURB provisions.

35. At the time of drafting this report, it is our understanding that the LURB will receive Royal Assent before the King's Speech on the 7 November 2023.
36. From recent announcements it seems likely that the government will introduce a separate Bill in the King's Speech relating to their proposed changes to nutrient neutrality rules, originally proposed through the LURB. Introducing a new Bill through the Kings Speech would allow the House of Commons to exercise its primacy over the upper chamber and push the legislation through.

Other Matters: Government Nutrient Mitigation Fund

37. At the end of May 2023, Somerset Council, in partnership with Dorset Council, Farming and Wildlife Advisory Group (FWAG), Plymouth University and Salinity Solutions et al, submitted a funding bid to the Government's Nutrient Mitigation Fund. The funding proposal seeks capital funding (£9.63m) and revenue funding (£0.9m)
38. The funding aims to deliver both interim (to 2030) and in perpetuity phosphate mitigation measures to unlock affected housing development at scale. The programme seeks to significantly increase the supply of P credits, to assist all impacted developments in Somerset. Further details about the contents of the bid were reported to this committee in July 2023 (The Committee Report is available [here](#)).
39. A letter (enclosed as Appendix B) has been sent to the Secretary of State seeking clarity on the outcome of our partnership bid. At the time of drafting this report, a reply is awaited.

Review of the River Tone (P) allocation process

40. As set out above, Somerset Council is one of only a handful of Local Authorities across the country that has an operational P-credit scheme.
41. Since the River Tone P-credit scheme started allocating P-credits in December 2022, it has operated on a 'criteria' basis, meaning that River Tone P-credits have been offered to applications held in abeyance in accordance with criteria agreed by the former SWT Phosphates Planning Sub-Committee.

42. The basis for setting the criteria was agreed by SWT Phosphates Planning Sub-Committee in February 2022 and the report is available [here](#). The process for Round 2 of the P-credit scheme was agreed by the Sub-Committee in March 2023. The criteria approach was developed based on the River Tone P-credit scheme objectives which are as follows:

- Objective 1 – Facilitating the delivery of sustainable development;
- Objective 2 – Supporting post-Covid 19 recovery;
- Objective 3 – Supporting small and medium-sized businesses (SMEs);
- Objective 4 – Maintaining a 5-year housing land supply (5YHLS) and meeting the housing delivery test (HDT);
- Objective 5 – Meeting other housing duties, including facilitating the delivery of affordable housing;
- Objective 6 – Timely delivery; and
- Objective 7 – Value for money/Cost recovery.

43. What this has meant in practice is:

- **Round 1** – prioritised planning applications for minor housing development (i.e. planning applications for C3 use classes or traveller accommodation comprising less than 10 dwellings).
- **Round 2** – prioritised planning applications for minor housing development (that were not included as part of Round 1) **AND** both major and minor planning applications for C3 housing development that exceeds affordable housing policy.

44. At its outset, the River Tone P-credit scheme offered P-credits to applications held in abeyance as a result of the need to demonstrate nutrient neutrality and submit an HRA. As such planning applications offered River Tone P-credits in Round 2 were those that were on the list of planning applications held in abeyance as at 30 March 2023.

45. In all cases, it was agreed that River Tone P-credits should be allocated to applications for **'implementable development'** which was defined as development which could commence on site within 3 months of planning permission being granted.

46. It is now almost 12 months since the River Tone P-credit scheme became operational and Officers have recognised a need to reflect and review on progress including the way in which River Tone P-credits are allocated to affected applications.

47. At the moment the River Tone P-credits that are currently available to offer to applicants are linked to a temporary following land scheme in Taunton which Somerset Council is working on in partnership with the private sector. At present there are 4 no. planning applications progressing to agree a Section 106 Agreement to secure P-credits as part of Round 2. This equates to 0.9 P-credits. We are aware of a further 6 no. planning applications that have applied or have confirmed that they will be submitting an application for River Tone P-credits as part of Round 2. These applications are estimated to require 3.5 River Tone P-credits to achieve nutrient neutrality.

48. In consideration of the above, even if the 10 no. planning applications progress as part of Round 2, there are still River Tone P-credits remaining to be allocated, c. 30 no. in total. Given the progress to date, and the overarching objective of the scheme to 'unlock' development and facilitate delivery as soon as possible, Officers have identified a need to amend the P-credit allocation criteria to allow a broader range of planning applications to access the River Tone P-credits.

49. Various options have been considered as to how this could be done which are outlined in the table below.

50. Officers also considered the requirement for River Tone P-credits to be allocated to implementable development. It is recommended that this overarching criteria is retained under all of the options outlined in the table below given the objective for the scheme to ensure 'timely delivery'. For this reason, it is recommended that outline planning applications are not prioritised for River Tone P-credits at this time, on the basis that the approval of reserved matters and discharge of conditions mean that commencement within 3-months is not considered to be viable for outline proposals.

Table 1 River Tone P-credit Allocation: Options Assessment

	Summary	Appraisal against scheme objectives
Option 1	All criteria removed and River Tone P-credits available to all planning applications regardless of development type.	This option would facilitate all of the objectives, however not prioritising C3 housing development and traveller accommodation may result in the P-credit scheme's contribution to objectives 4 and 5 not being maximised. In addition, objective 3 (supporting SMEs) may also be a disbenefit of this option.

Option 2	Retain criteria for River Tone P-credits to be allocated only to housing development (C3 use classes and traveller accommodation).	This option would ensure that objectives 4 and 5 are maximised (as well as meeting objectives 1, 2, 6 and 7) however it may result in unintended consequences for objective 3 if the remaining P-credits were to be allocated to a single major development.
Option 3	Retain criteria for River Tone P-credits to be allocated only to housing development (C3 use classes and traveller accommodation) but 'split' the remaining River Tone P-credits into two 'pots' and ensure that 10kg/year (i.e. 10 River Tone P-credits are 'ringfenced) and can only be allocated to minor applications for housing development (i.e. planning applications for less than 10 dwellings).	This option would ensure that objectives 4 and 5 are maximised but also would support objective 3 by ensuring that a proportion of available River Tone P-credits are only available to minor developments. This would also support objective 1 and 2 as well objectives 6 and 7.

51. Based on the progress of the River Tone P-credit scheme to date and the objectives of the scheme as outlined in the Report to Phosphates Planning Sub-Committee in February 2022, Officers view is that **Option 3** is the preferred option. **(Recommendations d and e).**

52. In consideration of the need to ensure that the objective of 'timely delivery' is met, and the associated 3-month commencement period, River Tone P-credits should continue to be allocated to planning applications that are 'ready to proceed' i.e. those planning applications that have no other outstanding planning issues and can be determined positively subject to a Section 106 Agreement. **(Recommendations f).**

Conclusion

53. This report is about ensuring nutrient neutral development and unlocking stalled planning applications within the river catchments of the Tone, Parrett and Brue which are hydrologically linked to the Somerset Levels and Moors.

54. In September 2023, the proposed amendment by the Government was not supported and so the current legal position remains that all affected development must demonstrate that it is nutrient neutral before planning permission can be granted. The government has indicated that it will seek to bring forward a separate bill in the Kings Speech on 7 November 2023. However once the LURB

is enacted, and based upon advice from NE, applicants will be able to factor in to their mitigation calculations the 2030 improvements to WwTW's which will reduce their requirement. It should be noted that these upgrades will not apply to all WwTW.

55. Accordingly, until the law is changed there is a continuing need for a coordinated and appropriately resourced approach to phosphate mitigation in order to achieve nutrient neutral development within the Somerset Levels and Moors catchment in order to deliver the planned housing development compliant with the Habitats Regulations.

56. In the context of these uncertainties action on a Somerset-wide basis continues under several workstreams as outlined within this report. A significant number of solutions are being progressed within each of the river catchment areas. Furthermore, we continue to lobby central government on various matters such as the Nutrient Mitigation Fund.

57. Somerset is one of only a handful of Councils across the country to have its own operational nutrient credit scheme for the River Tone catchment area. Having reviewed the scheme, the report recommends widening the criteria to the allocations process, whilst remaining true to its intended purpose of prioritising small scale implementable development.

Links to Council Plan

58. The Council Plan sets out the Key Priorities of the Council and is available on the Council website at: <https://www.somerset.gov.uk/council-and-democracy/somerset-council-council-plan-2023-2027/>

59. This report has links to various corporate priorities including:

- a. Greener, More Sustainable Somerset
- b. A Flourishing and Resilient Somerset

Financial and Risk Implications

60. Not relevant to this information report. Risks have been set out the body of previous reports and presentations to Members of the former Councils.

Legal Implications

61. The legal and policy background to the 'phosphates issue' have been set out the body of previous reports and presentations to Members of the former Councils. A legal update on the LURB as currently drafted is given in this report (see

paragraphs 31 to 36 above). To assist applicants, template Section 106 Agreements has been prepared and are also available to view on the phosphates' webpage. This documentation has been produced in consultation with NE.

HR Implications

62. None related directly to this information report.

Other Implications:

Equalities Implications

63. The Public Sector Equality Duty has the following aims which the authority must have due regard to:

- a. Eliminate discrimination, harassment, victimisation.
- b. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

64. None of the above relate directly to this information report.

Community Safety Implications

65. This can include:

- possible impact upon local crime rates.
- likely impact upon reoffending rates.
- ability for services to help prevent crime and disorder.
- Overall impact upon quality of life and wellbeing.
- Increase or reduce fear of crime.
- Impact on social isolation or exclusion.

66. None of the above relate directly to this information report.

Climate Change and Sustainability Implications

67. Somerset Council has declared both a Climate and Ecological Emergency. Through that, the Council has committed to working towards making the whole county, including our own estate and operations, 'Carbon Neutral' by 2030 and to take positive action to reverse the damage on our natural habitats by man-made activity. We have also pledged to ensure that Somerset is resilient to, and prepared for, the effects of Climate Change.

68. The climate and sustainability implications of development proposals is a material planning consideration which will be assessed for each planning application which applies for P-Credits.

69. As explained within the report, in light of NE letter of August 2020, concerning the unacceptable levels of phosphates present in the Somerset Levels and Moors Ramsar site. nutrient neutral development does not make the situation any worse, but neither does it help to improve the situation.

Health and Safety Implications

70. None related to this information report.

Health and Wellbeing Implications

71. None related to this information report.

Social Value

72. None related to this report.

Asset Management Implications

73. None related directly to this report. The management of interim phosphate solutions on SWT owned sites has passed to Service Director – Strategic Asset Management in the new Council to manage in the long term.

Data Protection Implications

74. None related to this report.

Background Papers and web links

Natural England Advice to LPAs on Nutrients in the Somerset Levels and Moors (17 Aug 2020): PDF of letter available at:

<https://somersetcc.sharepoint.com/sites/SCCPublic/Planning%20and%20Land/Forms/AllItems.aspx?id=%2Fsites%2FSCCPublic%2FPlanning%20and%20Land%2FSW%26T%20Natural%20England%20Advice%20to%20LPAs%20on%20Nutrients%20in%20the%20Somerset%20Levels%20and%20Moors%20%2817%20Aug%202020%29%2Epdf&parent=%2Fsites%2FSCCPublic%2FPlanning%20and%20Land&p=true&ga=1>

Somerset Levels and Moors: Background to phosphates

<https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-on-the-somerset-levels-and-moors-ramsar-site/>

River Axe Special Area of Conservation

<https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-on-the-somerset-levels-and-moors-ramsar-site/river-axe-special-area-of-conservation/>

Somerset Phosphate Budget calculator

<https://www.somerset.gov.uk/planning-buildings-and-land/phosphates-on-the-somerset-levels-and-moors-ramsar-site/phosphate-budget-calculator/>

Somerset Strategic Planning Committee: July 2023: Progress Report: Phosphates

<https://democracy.somerset.gov.uk/documents/s10992/Update%20Phosphate%20cttee%20report%207.7.23.pdf>

Developer Forum meeting: July 2023 available to listen to at

<https://www.youtube.com/watch?v=jKznxTMCCiU>

Levelling Up and Regeneration Bill

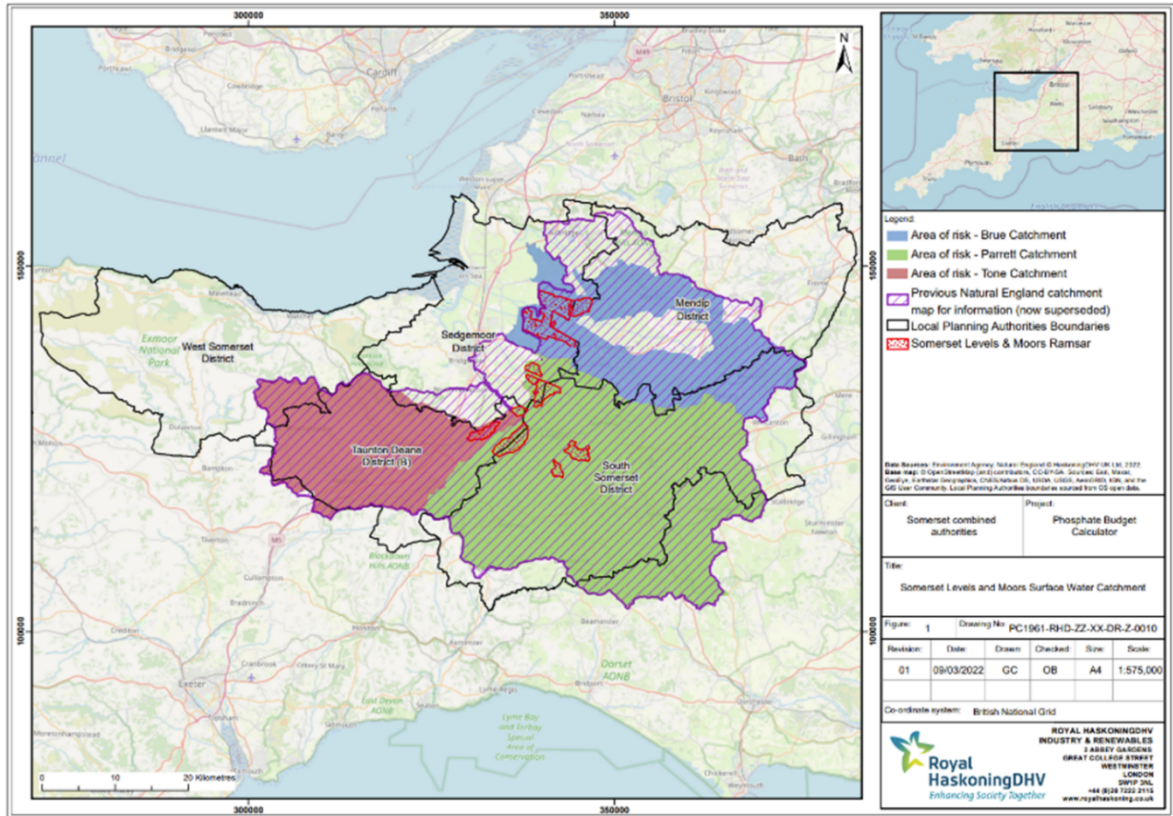
<https://bills.parliament.uk/bills/3155>

Chief Planner's letter which is available on the Phosphates webpage

[Government Announcement on Nutrient Neutrality: 29 August 2023 \(somerset.gov.uk\)](#)

Appendices

Appendix A: the geographical extent of the affected river catchment areas



Appendix B: Letter sent to Secretary of State: 29 September 2023.



Letter to Rt Hon
 Michael Gove MP re

The Rt Hon Michael Gove MP
Secretary of State for Levelling Up, Housing
and Communities

Please ask for: Cllr Bill Revans

Email: Bill.revans@somerset.gov.uk

Sent by email :
Michael.gove@levellingup.gov.uk

Date: 29 September 2023

Dear Secretary of State,

Local Nutrient Mitigation Fund

Following the House of Lords rejection of the Government's amendments to the Levelling Up and Regeneration Bill, where consideration of nutrient flows from urban wastewater would not be part of the Habitat Regulation Assessment, we are keen to progress our local nutrient mitigation measures to help unlock impacted housing development in our catchment areas. In order to accelerate these projects we urgently need confirmation of the outcome of our Local Nutrient Mitigation Fund bid, which we submitted in May 2023.

Our funding bid will deliver nature-based solutions alongside innovative technology to unlock development at scale and subject to the outcome of a six-month trial with Salinity Solutions, this technology could assist many areas impacted by nutrient neutrality requirements in England. We worked in partnership with Dorset Council, Farming and Wildlife Advisory Group (FWAG), Plymouth University, Wessex Water and Salinity Solutions to deliver a cost-effective solution to unlock housing delivery at scale, without compromising environmental protections. The 2 week pre pilot in July 20223 demonstrated the efficacy of the technology in unlocking homes within a couple of days of installation with independently verified removal rates of 98% (phosphates) and 88%(nitrogen). Please see attached for [further details](#)

Our work to date has secured mitigation to unlock c. 2,000 dwellings across the Somerset area but we urgently need the Nutrient Mitigation Funding in order to progress additional nutrient mitigation projects, in order to meet our Government housing targets, as we still have approximately 16,000 housing units that require mitigation.

We are keen to work in partnership with Natural England and Defra to pilot the delivery of Protected Sites Strategies and Catchment Management Plans in Somerset, to look at

water quality, management and resources in a holistic manner, so we can ensure we are taking a long term planned approach to protecting our water ways and Special Protection Areas. We need to ensure that future planned growth is able to come forward in a sustainable manner and respects environmental protections. Somerset is well placed to be a pilot area for this critical work. We created one of the first phosphate credits schemes in England and have produced a wealth of guidance to support developers and applicants find solutions. It would be much appreciated if you could provide further clarity on when we will know the outcome of our funding bid and the Government's plans to progress Protected Sites Strategies and Catchment Management Plans.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bill Revans', with a long horizontal flourish underneath.

Cllr Bill Revans
Leader of Somerset Council

Report - Strategic Planning Committee

Decision Date – 19 October 2023



Quarterly report on planning service performance

Lead Officer: Paul Hickson, Service Director Economy, Employment and Planning

Author: Alison Blom-Cooper, Assistant Director Strategic Place and Planning

Contact Details: alison.blomcooper@somerset.gov.uk

Introduction

1. The Council's constitution agreed on 22 February 2023 sets out the terms of reference for the Strategic Planning Committee. This includes consideration of quarterly officer reports from the area based Committees to monitor decision making and workload levels. This report includes information for Q1 of 2022/23.
2. Appendix A attached to the report sets out performance data. The data also includes information on the volume of work received by each of the area teams and the waste and minerals team and reports the information published nationally on a quarterly basis on the meeting of the government targets. Whilst historically information has been collected in the former District areas it is now collected across Somerset but the report provides the information on an area basis. In addition information is provided on the applications and other areas of work not reported in the national statistics in order to provide a more rounded picture of the workload. Information is also included on enforcement complaints, appeals, five year housing land supply by area and the Housing Delivery Test position.

Recommendation

3. The Strategic Planning Committee is asked to note the content of this report

Reasons for recommendations

4. The report is brought to members to provide an understanding of the volume of work in the service and the performance of the Council in meeting the national targets.

Financial and Risk Implications

5. The Government measures application performance on a quarterly basis. If the Council does not remain within the thresholds¹ set by Government then it could be designated as a poorly performing authority and developers would then have the option of applying directly to the Planning Inspectorate for planning permission. The regular monitoring of performance will enable this risk to be actively managed.

Legal Implications

6. There are no legal implications of the recommendation.

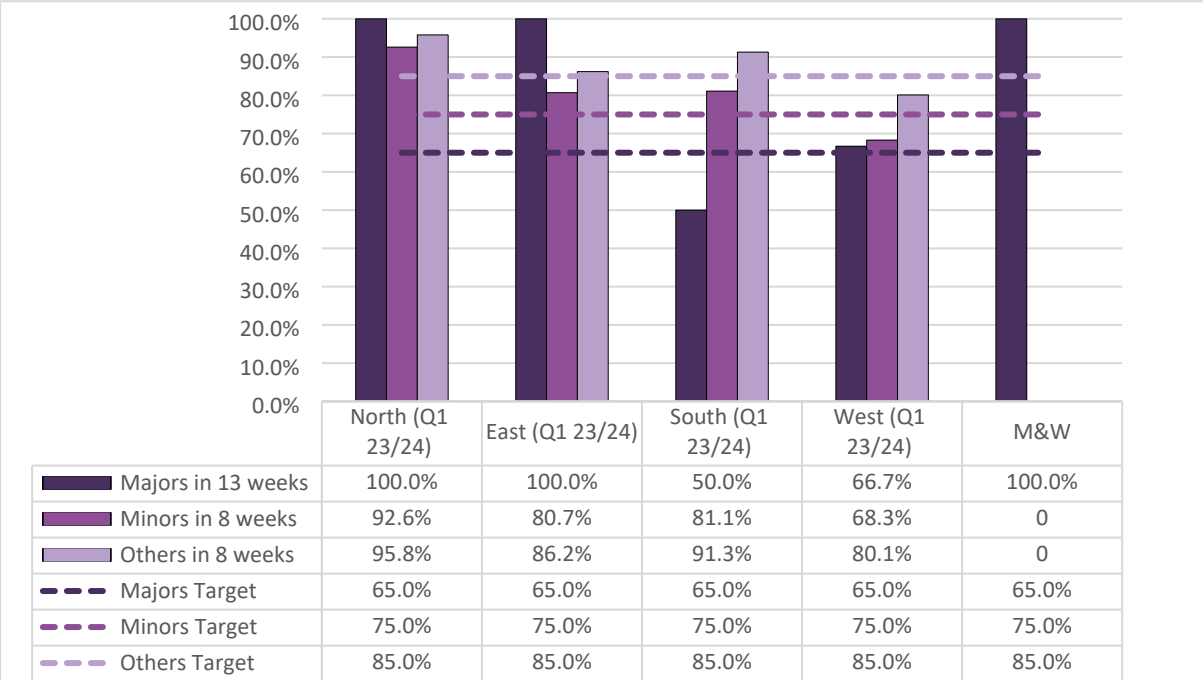
Planning Performance – Q1 of 2023/24

Development Management

7. Section 1 of the Appendix sets out the number of planning applications received by Somerset Council by area and for the Minerals and Waste Team from 2020/21 up to and including Q1 of 2023/24 and which form the basis for the reporting against the nationally set targets. Chart 1 shows the trend in terms of applications received and shows the volatility. Area South and Area North show a fall in applications compared to previous quarters – in Area North there are currently some delays occurring in the registration and validation of planning applications due to staff vacancies in the business support team. These are in the process of being filled but may also affect the numbers in Q2.
8. Section 3 shows the percentage of major, minor and other applications which are determined within the national target times of 13 weeks for major applications and 8 weeks for minor/other applications. These should be compared with the nationally set targets of 65% for majors, 75% for minors and 85% for others. The chart below shows the data for the four areas for Q1 of 2023/24 which is the latest published data by DHLUC.

¹ Thresholds: The criteria for designation were updated in October 2022 set designation thresholds for the speed of decision making if an authority made less than 60% of decisions for major development within the statutory period or such extended period as agreed and less than 70% for non major development for the period between October 2021 and September 2023. [Improving planning performance: Criteria for designation \(updated 2022\) \(publishing.service.gov.uk\)](https://publishing.service.gov.uk). Tables were published on 7 September 2023 – see [Planning applications in England: April to June 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Chart showing the latest quarter data (Q1 of 2023/24) for Areas North, East, South and West showing percentage of applications determined in-time compared with the national targets



The trend data for the period from 2020/2021 up to Q1 of 2023/24 set out in Section 3 of the Appendix shows that Areas East and North have consistently met all three targets; Area North has consistently met the targets for minor and other applications but fell below the target for major applications in the first quarter of 2023/24 due to the determination of some applications that had been held pending phosphate mitigation solutions; Area West has met the target for major decisions for the entire period and in Q1 of 2023/24 has fallen below the target for minor and other decisions. For minor decisions this has been primarily the impact of the need for phosphate mitigation solutions to be agreed and changes to the referral system to Committee. Government published data on 7 September 2023 shows that the overall performance for Somerset Council on major development for Q1 of 2023/24 was 81.8% and for County matters was 100%.² For non major development this was 86.7%. Both these are above the threshold.

- Section 2 of the Appendix provides information of the number of applications on hand at the start of each quarter, the number received during the quarter, the number determined in each quarter and the number on hand at the end of the quarter. Noting that this is only those applications included in the returns

² [Live tables on planning application statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk) published on 7 September 2023

to government it is useful as a gauge as to how the area teams are managing the volume of work. At the end of Q1 of 2023/24 i.e March 2023 Table 2 shows that Area East had on hand 582 on hand compared to 330 determined; Table 3 shows that Area North had on hand only 275 applications compared to 233 determined; Table 4 shows that Area West had 458 on hand compared to 243 determined; Table 5 shows that area South had 732 applications on hand compared to 327 determined. Where the number of applications on hand at the end of each quarter is greater than the number of applications determined this provides evidence of a backlog.

10. The reasons for a backlog are numerous but include the fact that a large number of minor applications have been held up by the need to identify a phosphate mitigation solution and by recruitment and retention issues and turnover of agency staff. This has been a particular problem in the West area where the Service Manager post has been vacant for a year and partially covered by an interim working three days per week. In addition one of the team leader posts and 3 other posts are covered by agency staff. In South area there are currently 5 vacant posts: Team Leader, 1 senior, 1 planning officer and 2 x planning assistants. These are currently covered by 9 contractors currently providing the equivalent of 6.6 FTE. The Minerals and Waste Team currently has vacancies for 1 Planning Officer and 1 x Apprentice Planning Officer. Attempts have been made to fill the posts permanently but the combination of uncertainty arising from the establishment of the unitary authority, salary levels and national shortage of professional planners has meant that it has not been possible to fill these posts.
11. A recent survey by the RTPI³ shows that 82% of local authority planners said their employer had difficulties hiring planners in the last 12 months and 68% saw competitive salaries as a key difficulty for local authorities. It should also be noted that whilst the number of planning professionals in the UK has remained around the 22,000 mark, one quarter of planners left the public sector between 2013 and 2020 and increasingly we are therefore competing with the private sector.

Other applications and pre application advice not included in the national data

12. Section 4 provides information on the other applications which are not included in the national statistics: prior approvals, adverts and tree applications. Due to differing computer systems in operation across the Council it has not been

³ [RTPI | Interim State of the Profession 2023](#)

possible to include the discharge of conditions applications which make up a considerable volume of work. Section 4 provides information on pre-application enquiries. This gives an indication of the other work case officers are handling.

Appeal decisions

13. Section 6 provides information on the number of appeal decisions by area/minerals and waste team and the percentage of appeals where the decision was allowed by the Planning Inspectorate by year.
14. The government uses the appeals performance as a proxy for the quality of decisions and for potential designation⁴. The calculation is based on the percentage of the total number of decisions made by the authority on major and non major⁵ decisions that are then subsequently overturned at appeal once nine months have elapsed following the end of the assessment period. The nine months specified in the measure enables appeals to pass through the system and be decided for the majority of decisions. The latest data published on 7 September 2023⁶ covers the period for the 24 months to the end of March 2022 (and subsequent appeal decisions to the end of December 2022) and thus is undertaken on the basis of the former Districts. If the percentage overturned at appeal is more than 10% of the total number of decisions the authority meets the threshold for designation. South Somerset was 1.2%; Somerset West and Taunton 2.0%; Sedgemoor 2.0%; Mendip 3.8% and County 0%.
15. Therefore all former authorities are below the current thresholds for potential designation. It is also worth bearing in mind that the number of majors can be relatively small so that one or two applications can make the difference between meeting or not meeting the threshold.

⁴ <https://www.gov.uk/government/publications/improving-planning-performance-criteria-for-designation>

For quality of decision making the measure used is the percentage of decisions that are overturned at appeals – the threshold set for major and non major development is 10% for the period from April 2021 to March 2023

⁵ Non major decisions include, minor dwellings, minor office and industry, retail and service, traveller caravan pitches, other minor developments, change of use and householder developments

⁶ [Live tables on planning application statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/live-tables-on-planning-application-statistics)

Committees

16. The Council will be undertaking a review of the Committee arrangements, delegation and arrangements and this will be reported to the Governance Committee with any recommendations for amendments to the Constitution.

Planning Enforcement

17. Local Planning Authorities have a discretionary power to take enforcement action where unauthorised development has taken place and it is considered expedient to do so. The Government advice urges negotiation in the first instance to try to resolve enforcement issues except in the most serious cases and local planning authorities are advised to act in a proportionate way appropriate to the level of harm caused by the development. The Council recognises that effective enforcement is an important means of maintaining integrity and public confidence of the development management process. In February 2023 the Council adopted an enforcement policy. [SCC - Public - Somerset Planning Enforcement Policy.pdf - All Documents \(sharepoint.com\)](#). This sets out the priority level (see page 10) that will be given to cases referred and is essential given the high number of allegations of breaches of planning control received each year. Some cases will require no further investigation because we identify that planning permission already exists for the work, that planning permission was not required or that enforcement action is not proportionate to the level of harm caused by the breach. Others will be resolved by way of negotiation in accordance with the government advice.
18. The Council currently has 8.8 enforcement officer posts in the 4 area teams (of which three are currently vacant). There are two enforcement officers in the South area which are above establishment and the vacant post in West is now being covered by an agency post. There are 1.5 posts in the minerals and waste team. Section 7 provides information on enforcement cases in hand and the number resolved/closed during each quarter.

Five Year Housing Land Supply and the Housing Delivery Test

19. Section 8 provides information on the Council's Five Year Housing Land supply position and Housing Delivery Test results. This is by area with Area West split into the former Taunton Deane and West Somerset areas as the position relates to the relevant adopted local plans. Areas North, West and South can currently demonstrate a five year land supply. The supply position in Areas East, West and South has been affected by the need to ensure developments are nutrient

neutral in the Somerset Levels and Moors catchment areas and in the case of South and West the River Axe catchment area. As more solutions to the problem become available the number of additional homes granted planning permission will increase and over time the position is expected to improve (please see update report on Phosphates on this agenda)

Most recent Five Year Housing Land Supply by Area

Five Year Housing Land Supply	Years
Area East (Mendip) as at 2022	3.76
Area North (Sedgemoor) as at 2021	6.94
Area West (Taunton Deane) as at 2023	5.16
Area West (West Somerset) as at 2023	7.9
Area South (South Somerset) as at 2022	3.7

20. The Housing Delivery Test is an annual measurement of housing delivery i.e housing completions and was introduced by the Government in 2018. It is dependent on the development industry to build out schemes granted planning permission. The latest results were published in January 2022 for the period up to 2020/21. Data shown in Section 8.5 and Tables 26-29 for 2021/22 is based on local monitoring and includes the results for each of the former Districts. The test means that where there is under delivery of homes the presumption in favour of sustainable development applies where there have been insufficient homes built over the previous three year period (currently set at less than 75% of the housing requirement), irrespective of whether an LPA can demonstrate a five year supply of deliverable housing sites. For those authorities where housing delivery is less than 95% of the housing requirement an action plan should be prepared to assess the cause of under delivery and identify actions to increase delivery in future years. If housing delivery was less than 85% of the housing requirement in addition to preparing an action plan a 20% buffer is added to the calculation of the five year housing land supply. If housing delivery was less than 75% of the housing requirement the presumption applies in addition to preparing an action plan and applying a 20% to the five year housing land supply. The sanctions apply until the release of the next HDT results the following year. For the former Taunton Deane and West Somerset Areas the figures in Appendix 1 have been updated to show the position if the HDT up to 2022/23 was based on the current criteria.
21. The latest nationally published results were for 2020/21 and show that Area South was at 131%, Area North was at 128%, Area West was at 76%, Area East

was at 98%. In accordance with the requirements Area West published an action plan.

Background Papers

22. None

Appendices

- **Appendix A: Planning Services Performance in Somerset**

Appendix A: Planning Services Performance in Somerset Council – report to Strategic Planning Committee on 19 October 2023

This appendix sets out the performance data for the development management service in Somerset provided on a quarterly basis to the Strategic Planning Committee. It includes information on the volume of work received by each of the area teams and the waste and minerals team and reports the information published nationally on a quarterly basis on the meeting of the national targets.

It is important to bear in mind that the Government has three measures of application performance which the Council must remain within the stated thresholds. If we breach these thresholds the Council will be designated as a poorly performing planning authority and developers will then have the option of applying directly to the Planning Inspectorate for planning permission. This would mean that the Council does not get the fee income for that application but is still required to undertake the consultation. In addition the democratic right to determine the application is lost. The current thresholds to be met assessed are assessed against a two-year rolling period and are:

- [Majors applications](#) performance of at least 50%;
- [Minor](#) and [Other applications](#) performance of at least 70%
- Appeals lost (to be below 10% in both categories).

The information provided in this appendix also includes data on the applications and other areas of work not reported in the national statistics in order to provide a more rounded picture of the workload. Information is also included on enforcement complaints. Finally the information provided includes the Five-Year Housing Land Supply and Housing Delivery Test position.

1. Number of planning applications received by Somerset Council by area from 2020/21 to Q1 of 2023/24

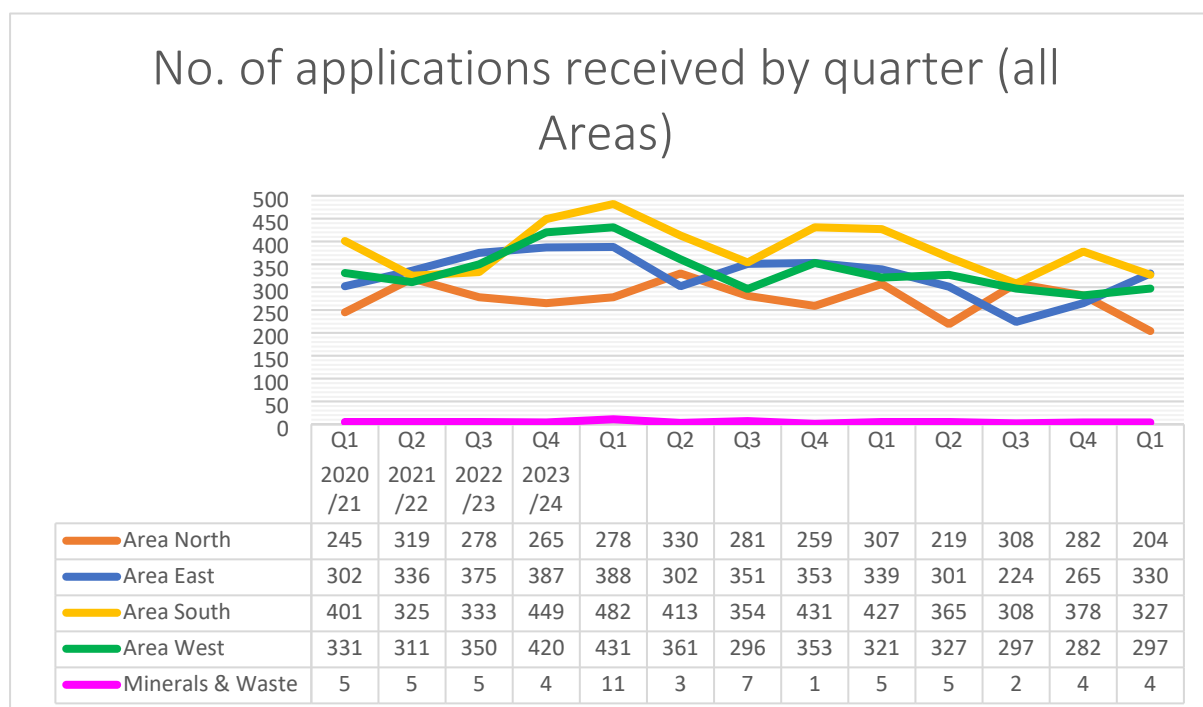
- 1.1 The following charts show the total number of planning applications received by quarter from Q1 2020/2021 to Q1 2023/2024 for each of the Area Teams (former district councils) and the Minerals and Waste Team. The data includes only PS1 applications ([Major](#), [Minors](#) and [Other](#) applications) and County Matters applications (Minerals, Waste and Other), which are recorded separately on CPS1 and CPS2 forms and which form the basis of the national data collected on a quarterly basis by Government.

1.2 Not included in these returns are other applications and processes which form a substantial volume of work. The data does not include discharge of conditions, approval of details, tree applications, non-material amendments (NMAs); pre-application enquiries, scoping and screening enquiries, post application work on Section 106 agreements.

Table 1: Number of planning applications received by quarter and included in the government returns from 2020/21 to Q1 of 2023/24 by area team

	2020/21					2021/22					2022/23					2023/24					
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	
Area North	245	319	278	265	1107	278	330	281	259	1148	307	219	308	282	1116	204					204
Area East	302	336	375	387	1400	388	302	351	353	1394	339	301	224	265	1129	330					330
Area South	401	325	333	449	1508	482	413	354	431	1680	427	365	308	378	1478	327					327
Area West	331	311	350	420	1412	431	361	296	353	1441	321	327	297	282	1227	297					297
Minerals & Waste	5	5	5	4	19	11	3	7	1	22	5	5	2	4	16	4					4

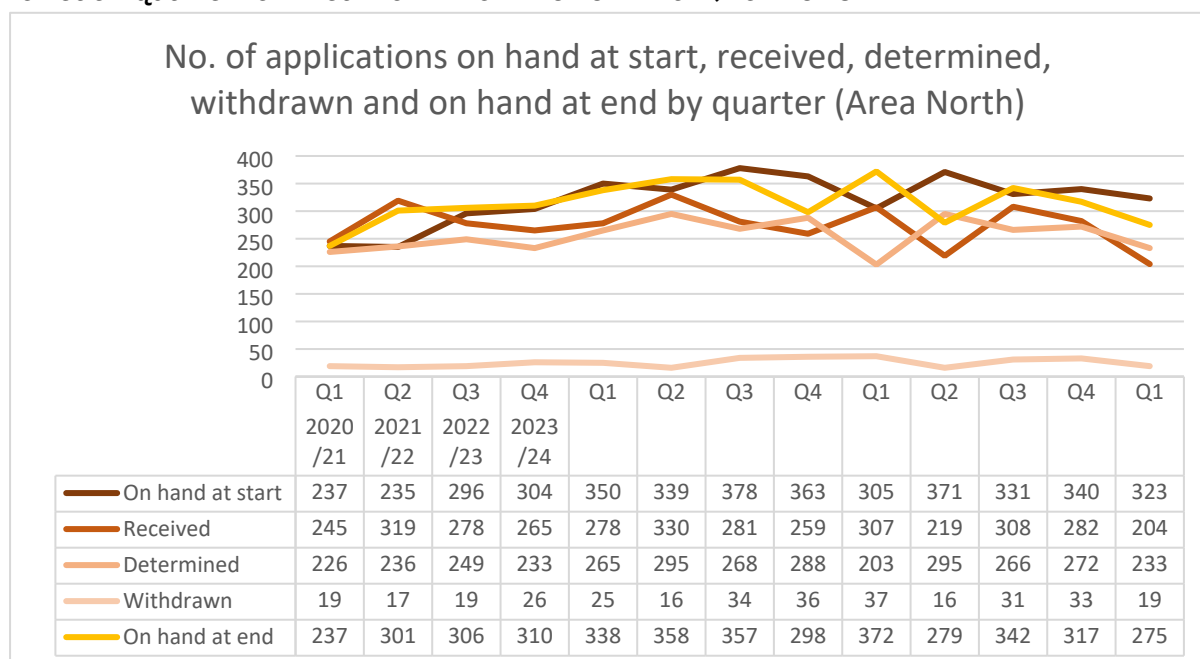
Chart 1: Number of planning applications received by quarter for the area teams from 2020/21 to Q1 of 2023/24



2. Number of applications on hand at the start, received, determined and on hand at the end of each quarter by area team from 2020/21 to Q1 of 2023/24

2.1. The data for each of the area teams below shows the number of applications on hand at start of each quarter, those received, determined, withdrawn and on hand at the end from 2020/21 to Q1 of 2023/24. Noting that this is only those applications included in the PS returns to government (PS1)¹ and therefore only a partial picture this information is useful because it shows how the teams are managing the volume of work. If the number of applications on hand at the end of each quarter is greater than the number of applications received then there is evidence of a backlog of applications and by looking over a period of time it is possible to ascertain trends.

Chart 2: Number of applications on hand at start, received, determined and on hand for each quarter for Area North from 2020/21 to Q1 of 2023/24



¹ PS1 applications include applications for planning permission, S73, listed building consent, adverts but do not include non material amendments, discharge of conditions, trees, prior approvals, hazardous substance consents, certificates of lawful development, screening and scoping opinions

Chart 3: Number of applications on hand at start, received, determined and on hand for each quarter for Area East from 2020/21 to Q1 of 2023/24

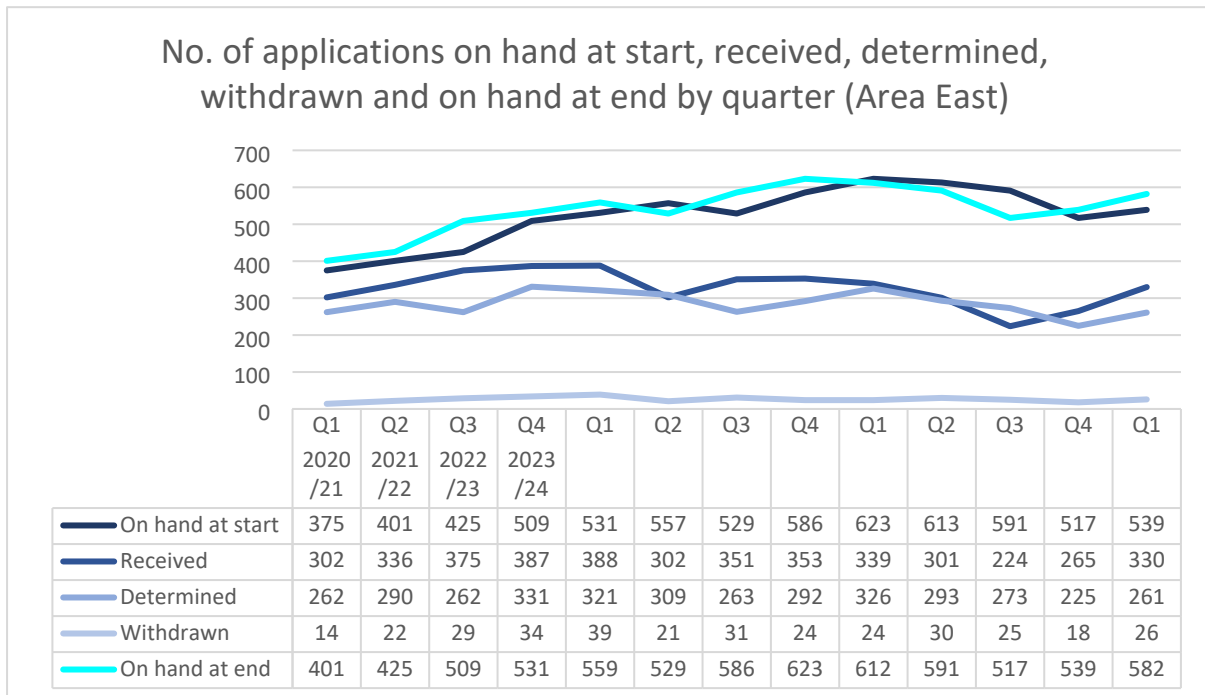


Chart 4: Number of applications on hand at start, received, determined and on hand for each quarter for Area South from 2020/21 to Q1 of 2023/24

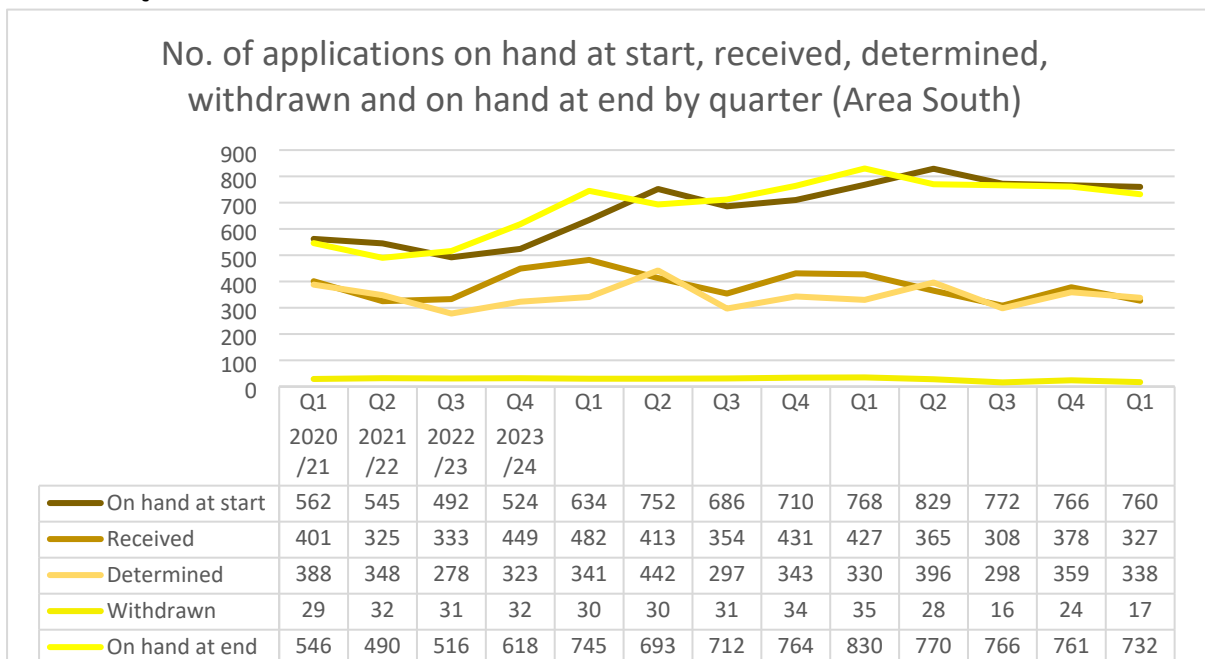


Chart 5: Number of applications on hand at start, received, determined and on hand for each quarter for Area West from 2020/21 to Q1 of 2023/24

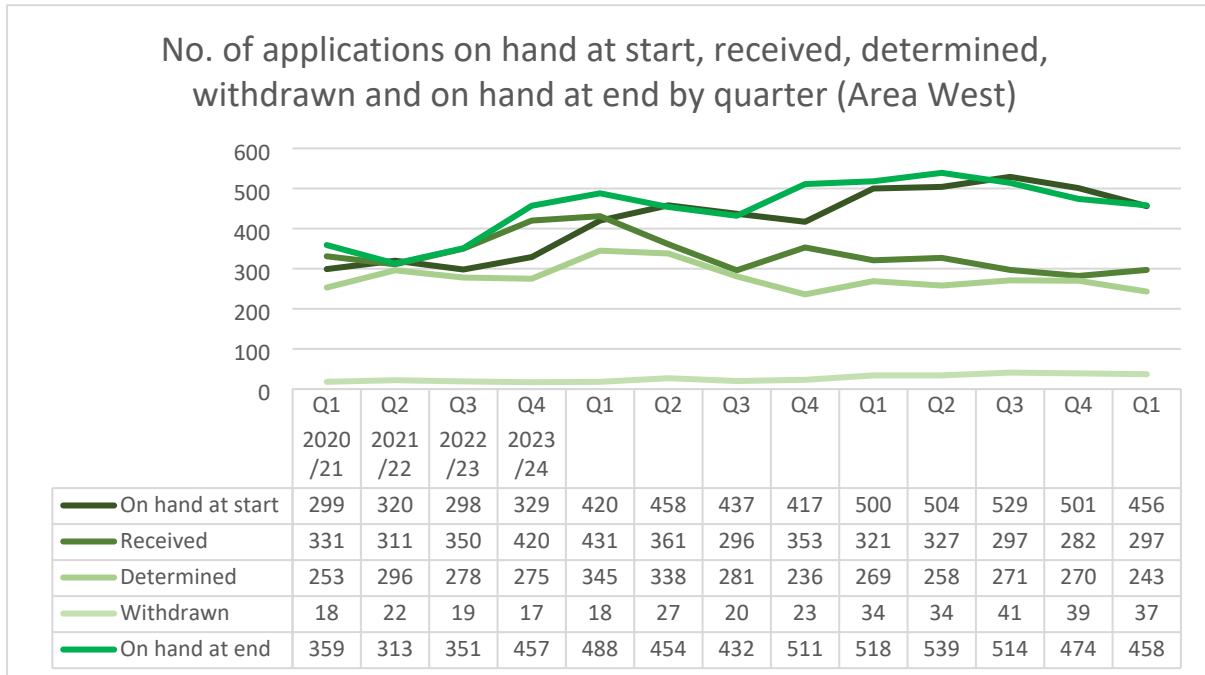
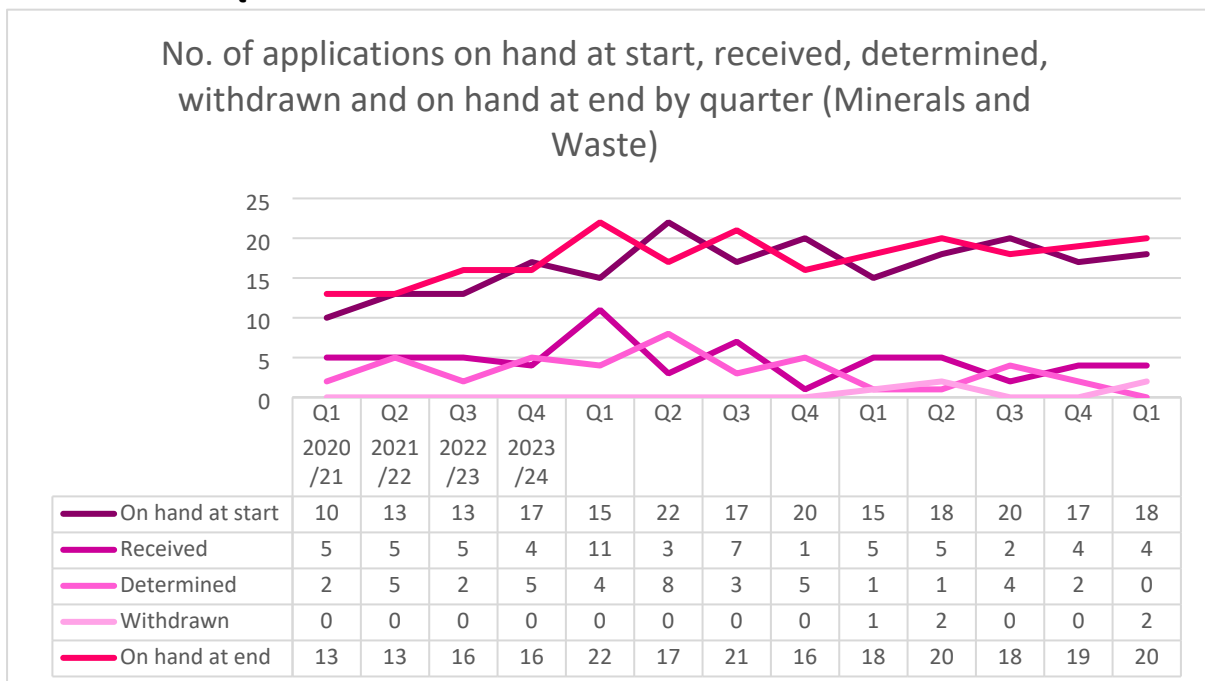


Chart 6: Number of applications on hand at start, received, determined and on hand at end for each quarter for Minerals and Waste from 2020/21 to Q 1 of 2023/24



3. Number of major, minor and other applications and percentage of decisions determined within the national targets

3.1 The performance of local authorities in determining applications is measured nationally and reported quarterly via statistical returns to the Department for Levelling Up, Housing and Communities. The data reported records the extent to which planning applications are determined within the targets and includes those subject to bespoke timetables set through Planning Performance Agreements and/or extension of time agreements. The Government has set targets for the determination of planning applications as follows:

- Determine 65% of [major applications](#)² within 13 weeks (or 16 weeks in the case of EIA development);
- Determine 75% of [minor applications](#)³ within eight weeks;
- Determine 85% of [other applications](#)⁴ within eight weeks

3.2 Where the local planning authority are not adequately performing in relation to the determination of major⁵ and non major⁵ development the authority can be designated. For unitary authorities both district and county matter applications will be assessed separately. The Government's approach to measuring the performance of authorities was introduced by the Growth and Infrastructure Act 2013 and is based on assessing performance on the speed and quality of their decisions on applications for major and non-major development. Where an authority is designated as underperforming applicants have the option of submitting their applications directly to the Planning Inspectorate for determination.

3.3 The data for percentage of decisions in time against national targets displayed below is separated into Major, Minor and Other decisions and based on the national targets and should be considered against the target of 65% of major applications determined within 13 weeks for Major applications (or with an extension of time or agreed planning performance agreement) and a target of 75% of minor applications within 8 weeks (or with agreed extension of time) and 85% of other applications within 8 weeks (or with agreed extension of time).

² Major applications – 10 or more dwellings, site area of 0.5 hectares or more, floorspace of 100sq metres or more or development on a site having an area of 1 hectare or more

³ Minor applications – 1- 9 dwellings, floorspace is less than 1,000 square metres

⁴ Other applications – householder development

⁵ Major (district) and non-major development definition: [Planning Applications \(s62A\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/362222/Planning_Applications_(s62A)_-GOV.UK.pdf)

3.4 The data below for majors determined within 13 weeks includes applications with an EIA, which are determined within a longer timeline of 16 weeks.

Chart 7 Data for Q1 of 2023/24 for all Areas (excluding Minerals and Waste) showing percentage of applications determined in-time compared to the national targets

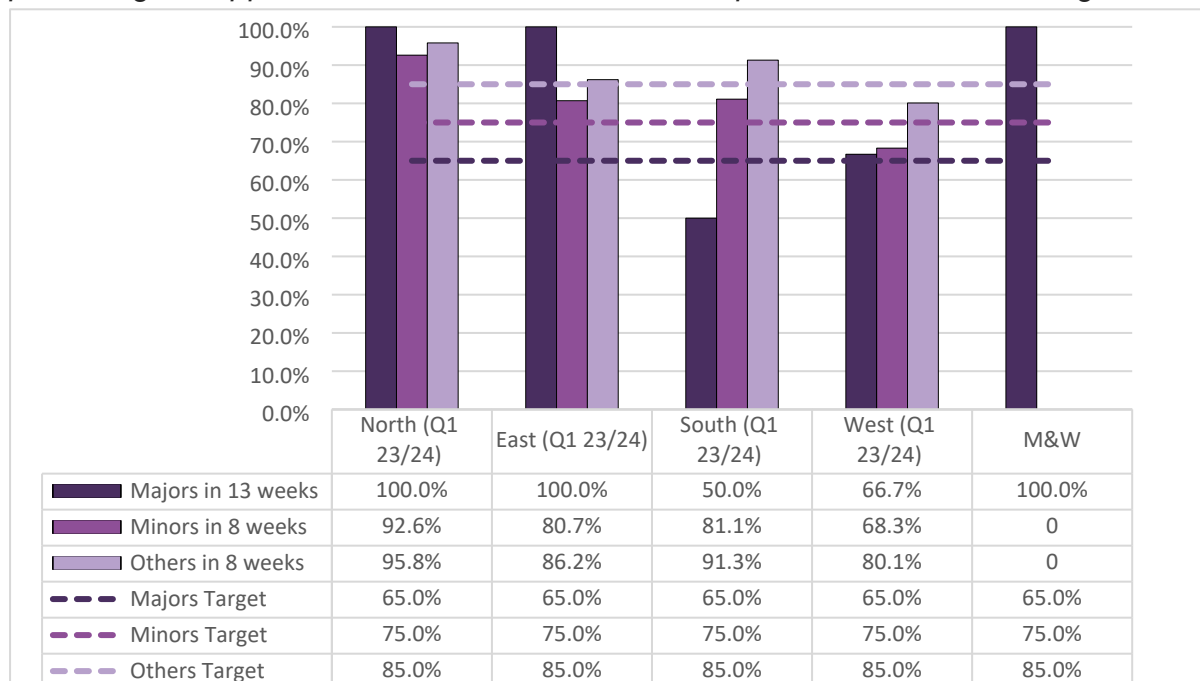


Table 2: Number of decisions and percentage meeting the national targets for Major, Minor and Other decisions in Area North from 2020/21 to Q 1 of 2023/24

	2020/21					2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Major decisions	15	10	6	11	42	13	7	8	18	46	10	10	8	9	37	19
Major decisions % in 13 weeks	100	100	100	100	100	100	100	100	94.4	97.8	100	100	100	100	100	100
Minor decisions	89	90	87	80	346	96	104	102	94	396	70	98	103	110	381	95
Minor decisions % in 8 weeks	95.5	96.7	94.3	92.5	94.8	94.8	93.3	93.1	92.6	93.4	91.4	92.9	94.2	95.5	93.7	92.6
Other decisions	122	136	156	142	556	156	184	158	176	674	123	187	155	153	618	119
Other decisions % in 8 weeks	93.4	94.9	93.6	84.5	91.5	93.6	99.5	96.2	96.6	96.6	95.9	98.9	98.1	98	97.9	95.8

Chart 8: Number of major, minor and other decisions and percentage meeting the national targets for Area North from 2020/21 to Q1 of 2023/24 by quarter

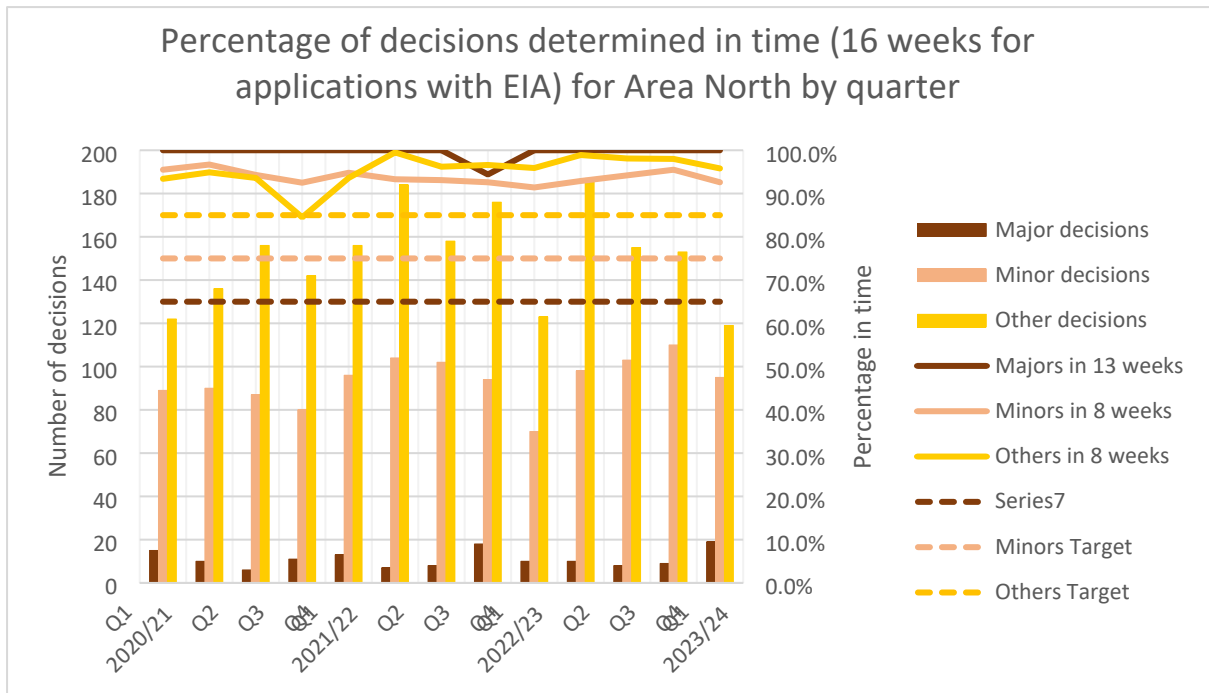


Table 3: Number of decisions and percentage meeting the national targets for Major, Minor and Other decisions in Area East from 2020/21 to Q1 of 2023/24

	2020/21					2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Major decisions	8	14	7	13	42	9	14	8	3	34	11	8	7	9	35	6
Major decisions % in 13 weeks	75	92.9	100	76.9	85.7	33.3	92.9	87.5	100	76.5	100	100	57.1	100	91.4	100
Minor decisions	86	99	74	104	363	97	86	64	82	329	97	92	98	85	372	88
Minor decisions % in 8 weeks	88.4	69.7	73	69.2	74.7	74.2	80.2	81.3	86.6	80.2	86.6	87	84.7	88.2	86.6	80.7
Other decisions	168	177	181	214	740	215	209	191	207	822	218	193	168	131	710	167
Other decisions % in 8 weeks	97.6	90.4	89.5	93	92.6	91.6	94.7	96.9	93.2	94	88.5	87.6	88.1	85.5	87.6	86.2

Chart 9: Number of major, minor and other decisions and percentage meeting the national targets for Area East from 2020/21 to 2023/24 by quarter

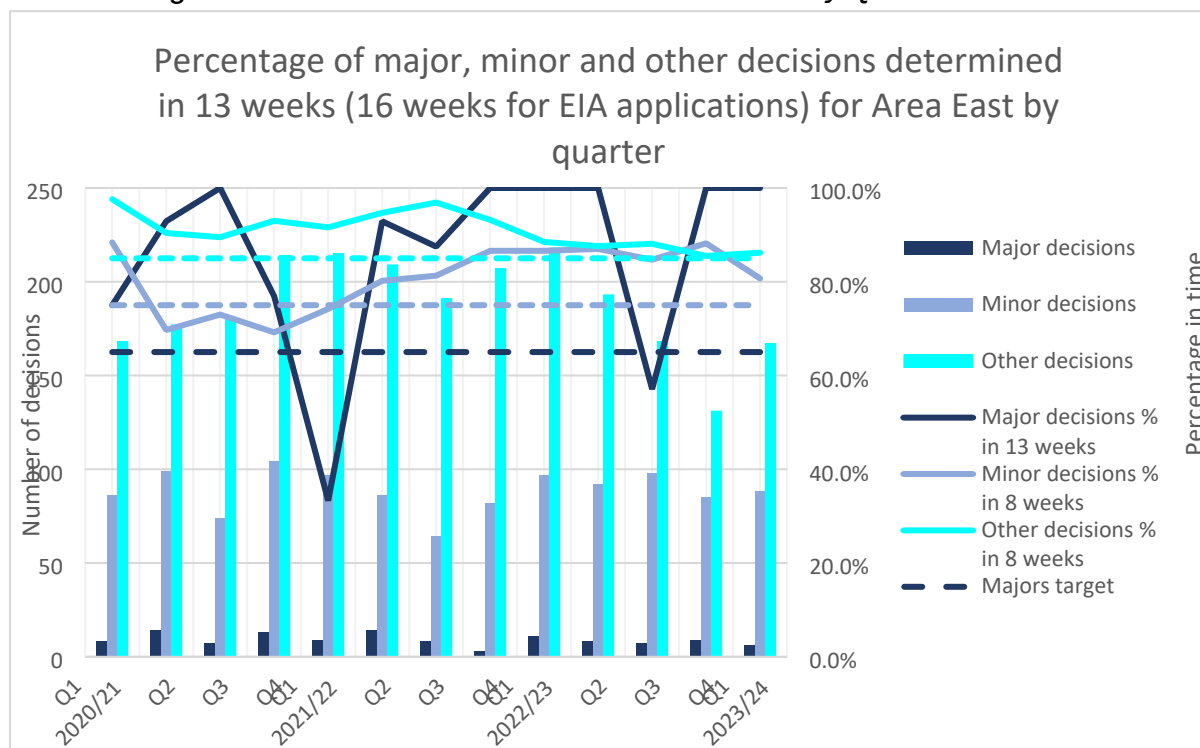


Table 4: Number of major, minor and other decisions and percentage meeting the national targets in Area South from 2020/21 to Q1 of 2023/24

	2020/21					2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Major decisions	16	14	6	15	51	7	7	3	14	31	7	8	12	17	44	10
Major decisions % in 13 weeks	93.8	100	83.3	60	84.3	100	71.4	100	78.6	83.9	85.7	75	91.7	82.4	84.1	50
Minor decisions	181	150	94	95	520	110	134	104	81	429	92	110	115	112	429	132
Minor decisions % in 8 weeks	93.9	91.3	88.3	83.2	90.2	71.8	75.4	84.6	96.3	80.7	92.4	80.9	73.9	75	80	81.1
Other decisions	191	184	178	213	766	224	301	190	248	963	231	278	171	230	910	196
Other decisions % in 8 weeks	96.9	94.6	93.3	91.1	93.9	86.2	87	87.9	94	88.8	93.9	93.9	84.2	87	90.3	91.3

Chart 10: Number of major, minor and other decisions and percentage meeting the national targets for Area South from 2020/21 to 2023/24 by quarter

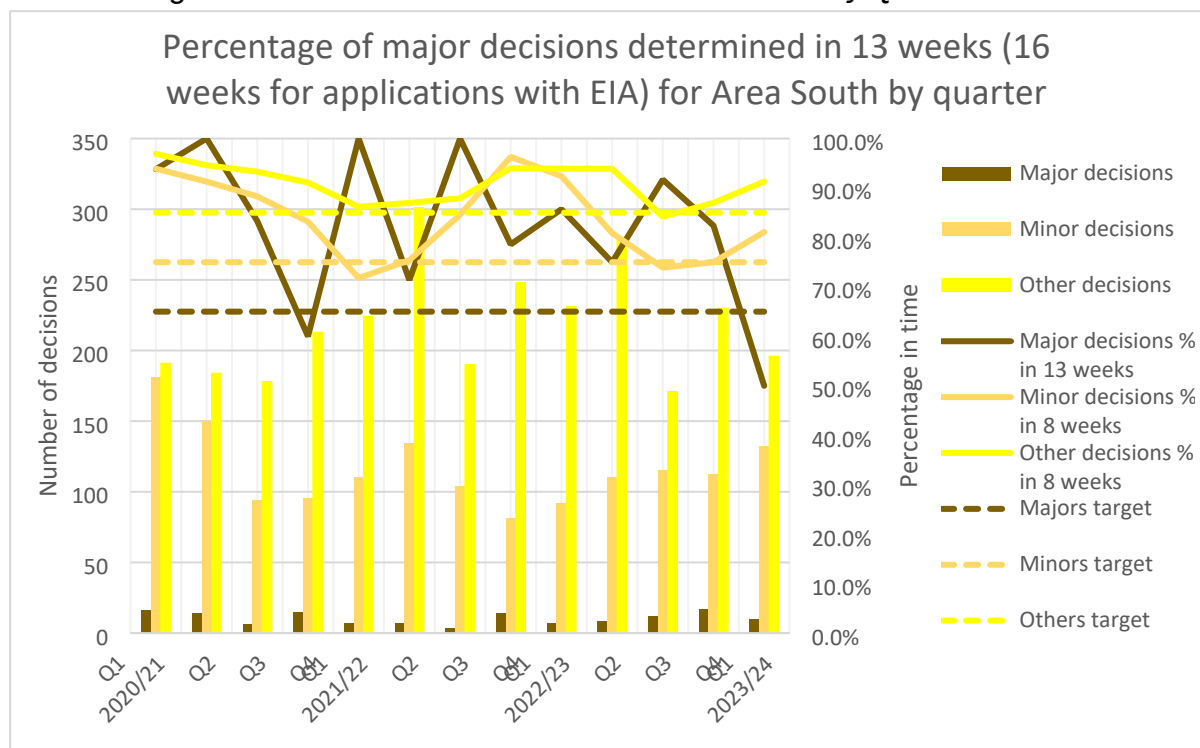


Table 5: Percentage of decisions meeting the national targets for Major, Minor and Other decisions in Area West from 2020/21 to Q1 of 2023/24

	2020/21					2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Major decisions	7	11	5	9	32	5	7	4	3	19	6	9	8	8	31	9
Major decisions % in 13 weeks	100	72.7	40	100	81.3	100	71.4	50	66.7	73.7	83.3	77.8	75	75	77.4	66.7
Minor decisions	75	97	72	73	317	76	86	70	55	287	91	61	79	82	313	63
Minor decisions % in 8 weeks	84	77.3	83.3	80.8	81.1	80.3	81.4	80	78.2	80.1	69.2	77	69.6	64.6	69.6	68.3
Other decisions	171	188	201	193	753	264	245	207	178	894	172	188	184	180	724	171
Other decisions % in 8 weeks	91.2	83.5	90	91.7	89.1	90.2	86.9	81.2	79.2	85	75	80.9	86.4	82.8	81.4	80.1

Chart 11: Number of major, minor and other decisions and percentage meeting the national targets for Area West from 2020/21 to Q1 of 2023/24 by quarter

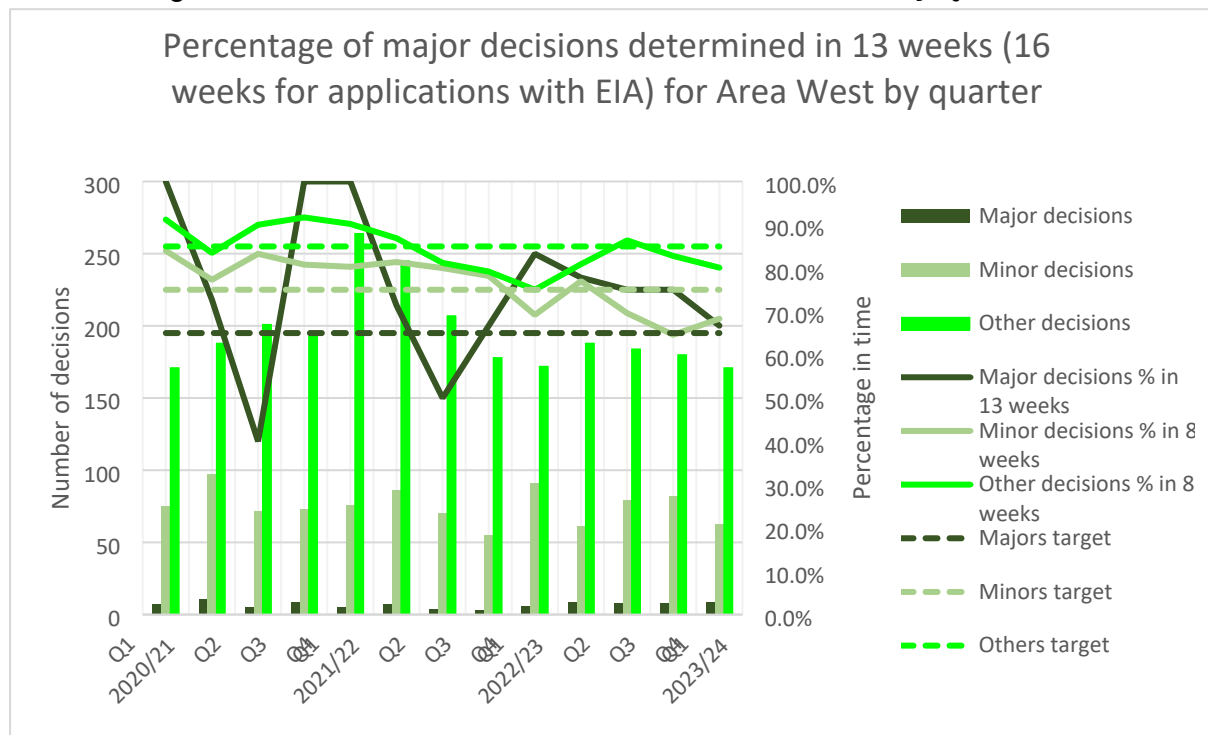


Table 6: Percentage of decisions for major applications in time with national targets for County Matters on a two-year rolling average compared to England average

Majors Determined	Two year rolling figure: 24 months to the end of June 2023
England	91.1
Somerset Minerals and Waste (New Data - Quarter 1 only)	100

3.5 The two-year rolling figures for percentage of decisions determined within the national target or agreed time are shown in Table 7 for all Areas and for County Matters. The data reflects the previous 24 months up to the end of June 2023 – the data for the former Districts is no longer published nationally so this has been prepared for internal purposes only. The published data is now Somerset wide and is for the first quarter of 2023/24 only and so does not reflect the previous 24 months and will not do so the first quarter of 2025/26. The threshold for designation by government is not making 50% or more decisions on major applications in time or 70% of minor or other applications in time.

Table 7: Two-year rolling period figure vs. England average for decisions determined within national target or agreed time to end of June 2023

All Areas and M&W rolling annual % vs. rolling annual % for England for 24 months to end of June 2023	Major decisions (% within 13 weeks or within agreed time)	Minor decisions (% within 8 weeks or within agreed time)
England	86.8	85.4
Somerset (New Data – Quarter 1 only)	81.8	85.9
Area East (Mendip)	92.4	83.5
Area North (Sedgemoor)	98.9	94.4
Area West (Somerset West and Taunton)	72.0	79.4
Area South (South Somerset)	78.2	86.5

4. Number of prior approval applications and other applications not included in the national performance data

4.1 Due to differing computer systems in operation and differences in the recording of applications for the discharge of conditions, this data is not included in the information in order to ensure consistency. The applications in this data set therefore relate the non PS1 data including adverts and tree applications.

4.2 The data in the tables below set out Prior Approval and other applications received by Area and not included in the government returns. This data set is not relevant for Minerals and Waste.

Table 8: Number of Prior Approvals and other applications received by quarter for Area North from 2021/22 to Q1 of 2023/24

	2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Prior Approval apps.	34	33	22	19	108	26	19	17	28	90	17
Non-PS applications (adverts and tree applications)	86	76	76	63	301	66	28	45	73	212	46

Chart 12: Number of Prior Approvals and other Non-PS applications received by quarter for Area North from 2021/22 to Q1 of 2023/24

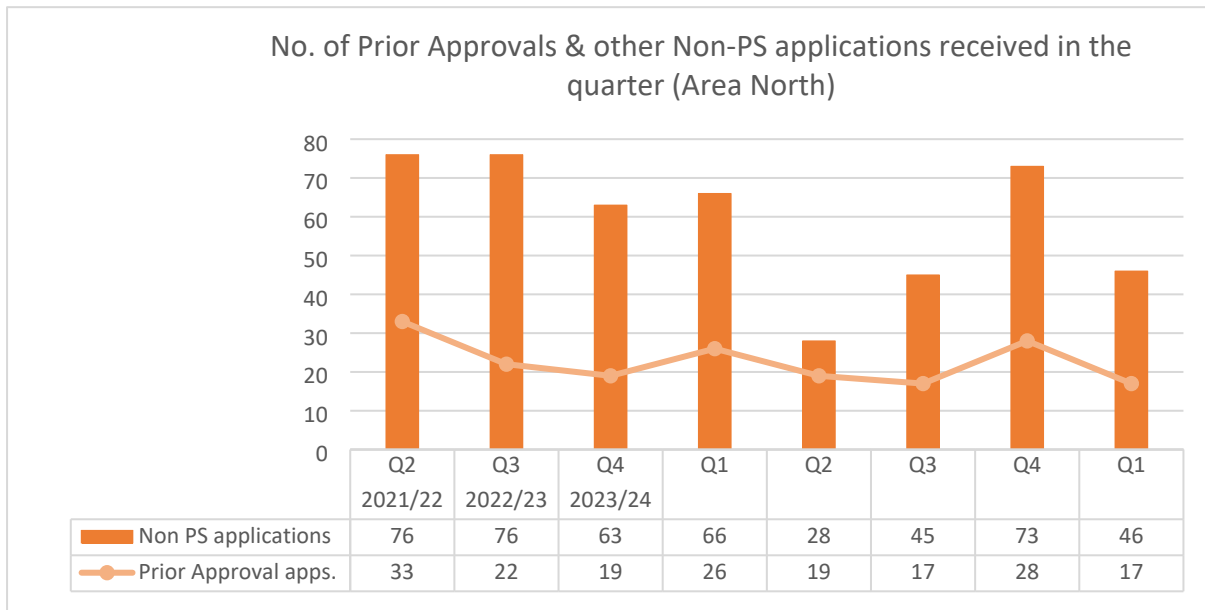


Table 9: Number of Prior Approvals and other applications received by quarter for Area East from 2021/22 to Q1 of 2023/24

	2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Prior Approval apps.	34	43	25	19	121	18	18	31	22	89	34
Non-PS applications (, adverts and tree applications)	190	184	152	141	667	151	164	178	147	640	163

Chart 13: Number of Prior Approvals and other non-PS applications received by quarter for Area East from 2021/22 to Q1 of 2023/24

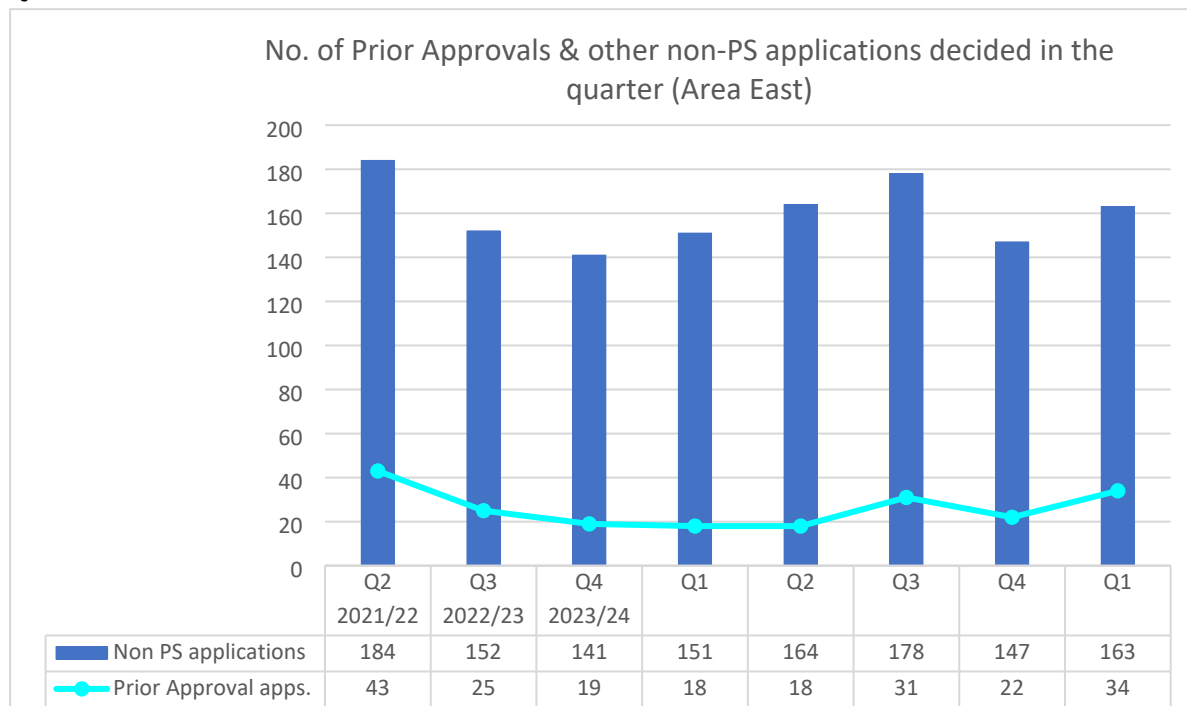


Table 10: Number of Prior Approvals and other non-PS applications received by quarter for Area South from 2021/22 to Q1 of 2023/24

	2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Prior Approval apps.	24	28	13	35	100	19	23	17	20	79	23
Non-PS applications (including adverts and tree applications)	204	193	188	239	824	207	224	255	296	982	159

Chart 14: Number of Prior Approvals and other non-PS applications received by quarter for Area South from 2021/22 to Q1 of 2023/24

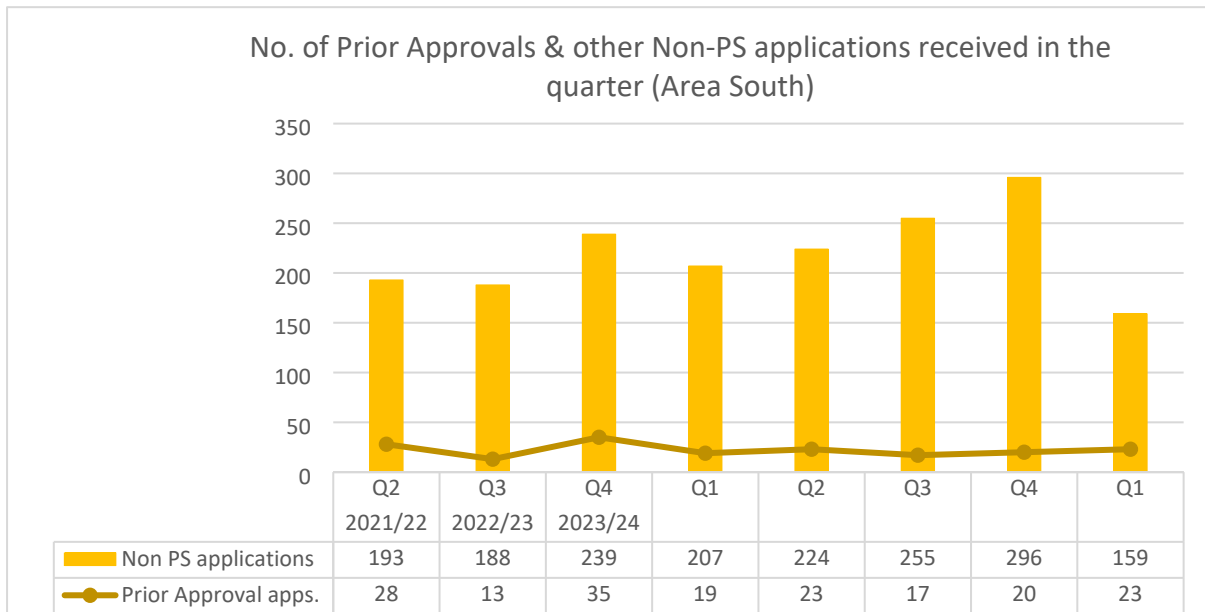


Table 11: Number of Prior Approvals and other non-PS applications received by quarter for Area West from 2021/22 to Q1 of 2023/24

	2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Prior Approval apps.	9	20	6	11	46	18	9	12	11	50	21
Non-PS applications (listed buildings, adverts and tree applications)	104	119	107	123	453	114	108	89	110	421	71

Chart 15: Number of Prior Approvals and other non-PS applications received quarter for Area West from 2021/22 to Q1 of 2023/24

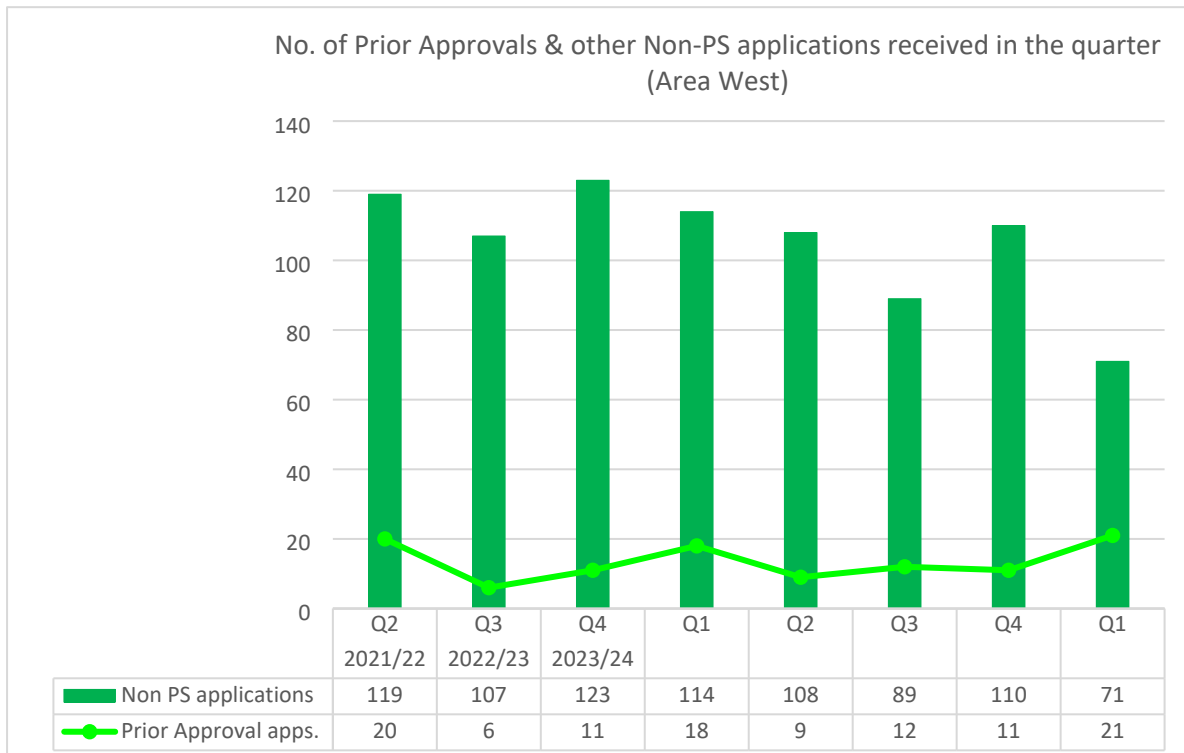
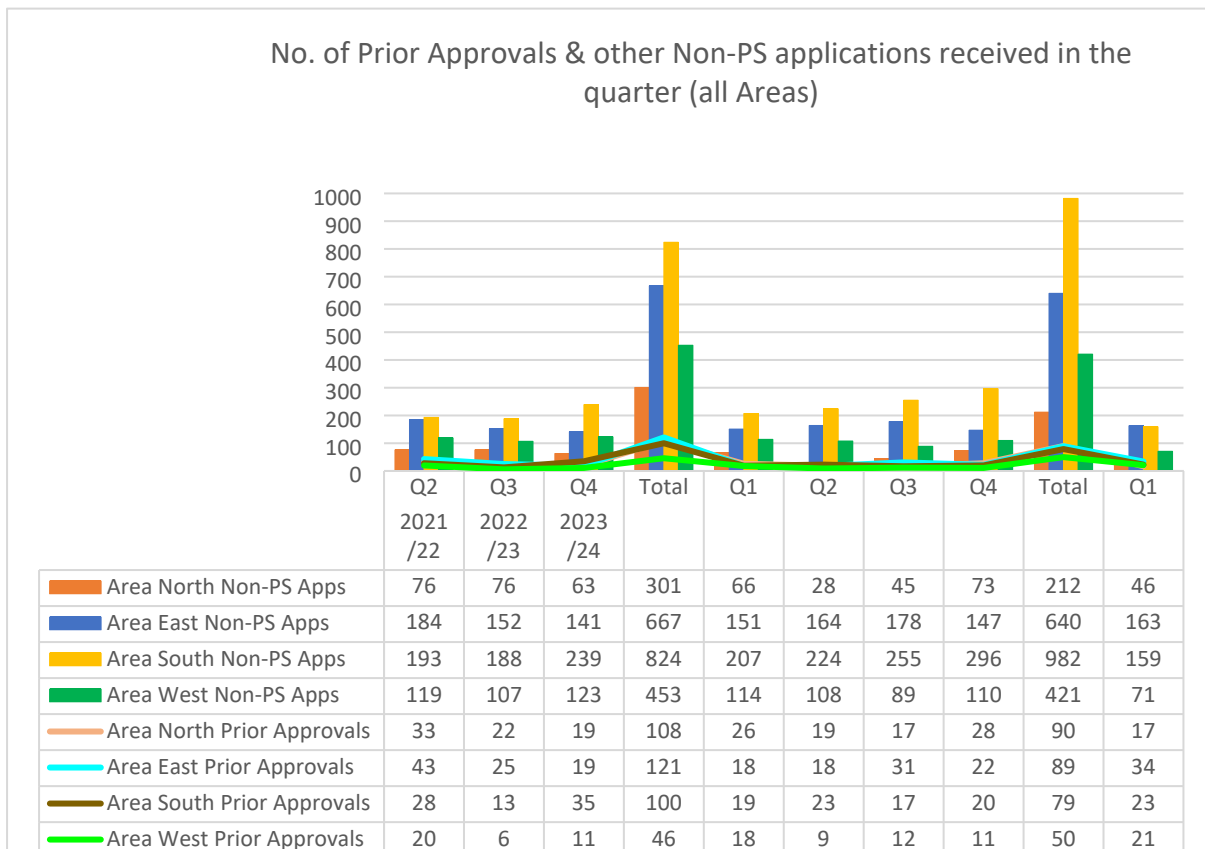


Chart 16: Number of Prior Approvals and other non-PS applications received quarter for all Areas from 2021/22 to Q1 of 2023/24



5. Number of pre-application enquiries

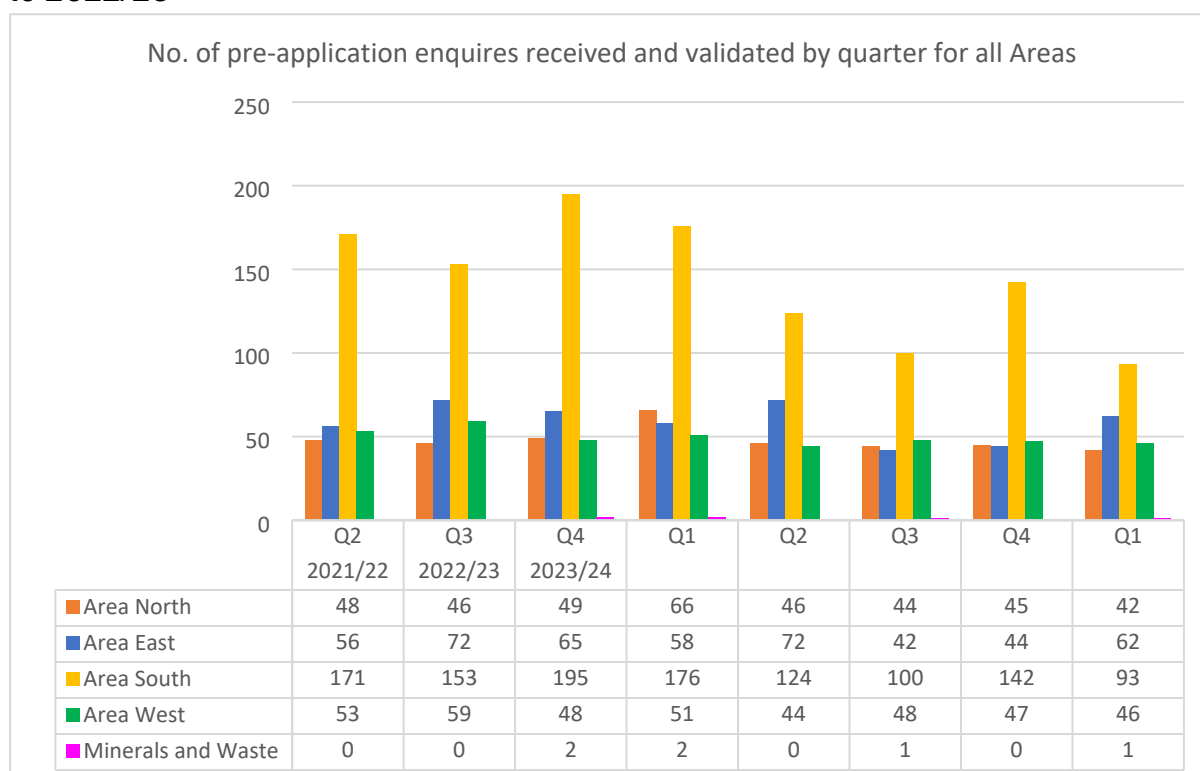
5.1 The data sets out pre-application enquiries received by Area and for Minerals and Waste. This is set out in Table 12 below.

5.2 Data includes pre-applications received and valid as this reflects the volume of work. The data does not include 'DO I' for Area West which operated a service for simple requests to advise as to whether planning permission was required.

Table 12: Number of pre-applications received by quarter for all Areas from 2021/22 to Q1 of 2023/24

	2021/22					2022/23					2023/24
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	Q1
Area North	62	48	46	49	205	66	46	44	45	201	42
Area East	46	56	72	65	239	58	72	42	44	216	62
Area South	207	171	153	195	726	176	124	100	142	542	93
Area West	56	53	59	48	216	51	44	48	47	190	46
Minerals and Waste	0	0	0	2	2	2	0	1	0	3	1

Chart 17: Number of pre-applications received for all Areas by quarter from 2021/22 to 2022/23



6. Total number of appeal decisions and percentage of appeals where the decision was allowed by the Planning Inspectorate

6.1 This section sets out the total number of appeal decisions received on an annual basis and the percentage that have been dismissed/allowed. The data below provides details on the number of appeals heard by way of written representatives, hearings and inquiries.

6.2 For context, the overall national average is 61% dismissed calculated using [National Government's Casework Database](#) by dividing the number of appeals dismissed by the total number of appeals. Figures for percentage dismissed higher than 61% are therefore exceeding the national average. Those cases dismissed are where the Inspector agrees with the Council's decision meaning that officer and member decisions are being supported.

Table 13: Total appeal decisions split by number of written reps, hearings, inquiries and the percentage dismissed/allowed on an annual basis for Area North

	No. of written reps	No. of hearings	No. of inquiries	No. dismissed	% dismissed	No. allowed	% allowed	Total decisions
2019/20	15	1	0	10	62.50%	6	37.50%	16
2020/21	26	1	0	20	74.07%	7	25.93%	27
2021/22	21	1	0	17	77.27%	5	22.73%	22
2022/23	17	2	0	13	68.42%	6	31.58%	19
2023/24(Q1)	7	0	0	5	71.43%	2	28.57%	7

Chart 18: Number of appeal decisions received by quarter and percentage of appeal decisions allowed for Area North annually from 2019/20 to Q1 of 2023/24

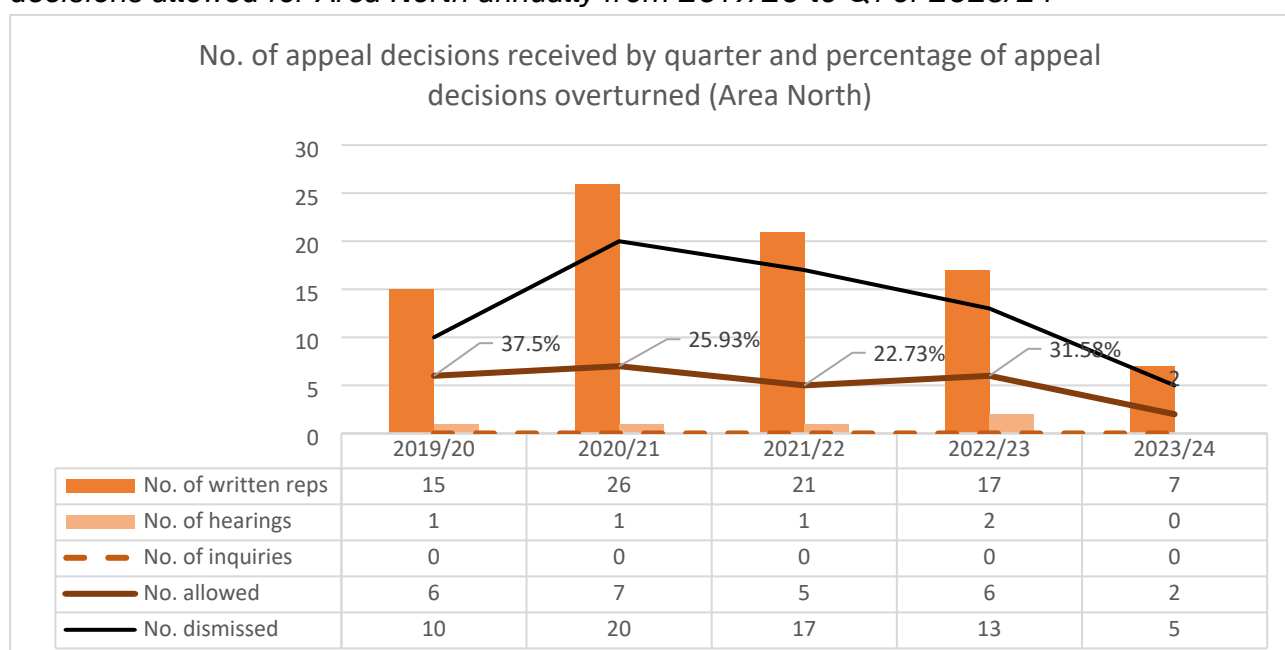


Table 14: Total appeal decisions split by number of written reps, hearings, inquires and the percentage dismissed/allowed on an annual basis for Area East

	No. of written reps	No. of hearings	No. of inquiries	No. dismissed	% dismissed	No. allowed	% allowed	Total decisions
2019/20	48	1	2	28	54.90%	23	45.10%	51
2020/21	54	3	0	29	50.88%	28	49.12%	57
2021/22	23	5	1	15	51.72%	14	48.28%	29
2022/23	18	4	2	14	58.33%	10	41.66%	24
2023/24 (Q1)	6	2	1	6	66.67%	3	33.33%	9

Chart 19: Number of appeal decisions received by quarter and percentage of appeal decisions allowed for Area East annually from 2019/20 to Q1 of 2023/24

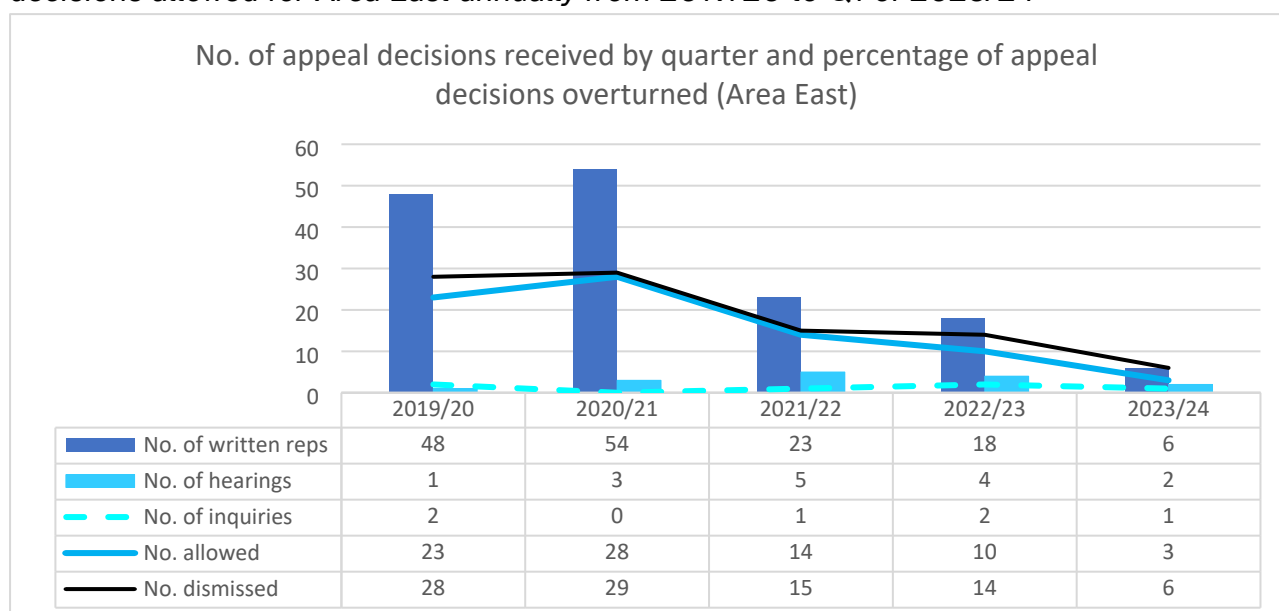


Table 15: Data showing total appeal decisions split by number of written reps, hearings, inquires and the percentage allowed on an annual basis for Area South

	No. of written reps	No. of hearings	No. of inquiries	No. dismissed	% dismissed	No. allowed	% allowed	Total decisions
2019/20	44	1	0	29	64.44%	16	35.56%	45
2020/21	41	1	0	30	71.43%	12	28.57%	42
2021/22	24	1	1	21	80.77%	5	19.23%	26
2022/23	9	1	1	7	63.64%	4	36.36%	11
2023/24(Q1)	7	0	0	4	57.14%	3	42.86%	7

Chart 20: Number of appeal decisions received by quarter and percentage of appeal decisions allowed for Area South annually from 2019/20 to Q1 of 2023/24

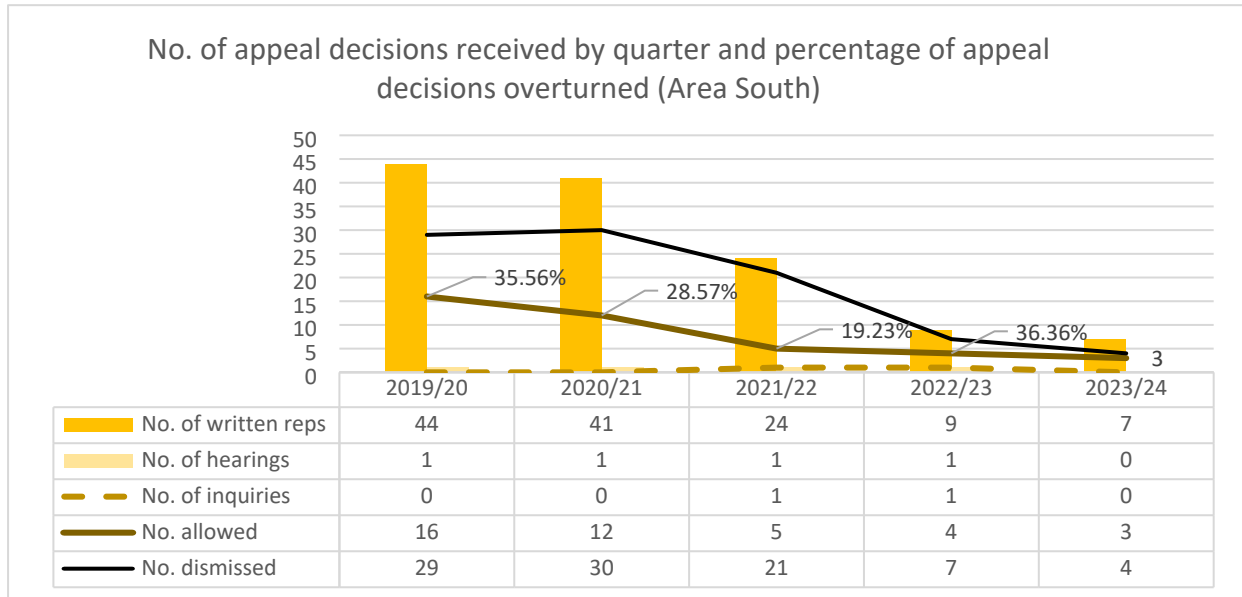


Table 16: Data showing total appeal decisions split by number of written reps, hearings, inquires and the percentage allowed on an annual basis for Area West

	No. of written reps	No. of hearings	No. of inquiries	No. dismissed	% dismissed	No. allowed	% allowed	Total decisions
2019/20	53	5	1	32	54.24%	27	45.76%	59
2020/21	48	4	0	27	51.92%	25	48.08%	52
2021/22	57	1	2	26	43.33%	34	56.67%	60
2022/23	27	1	2	20	66.67%	10	33.33%	30
2023/24 (Q1)	9	0	0	8	88.89%	1	11.11%	9

Chart 21: Number of appeal decisions received by quarter and percentage of appeal decisions allowed for Area West annually from 2019/20 to 2022/23

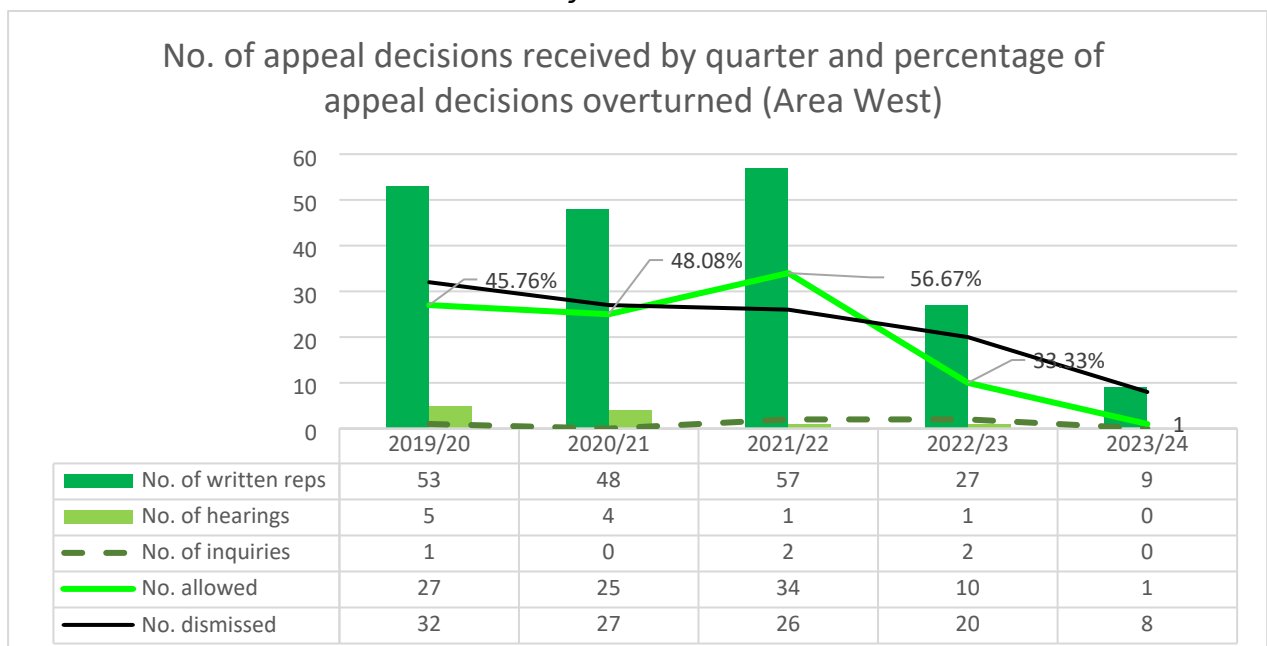


Table 17: Data showing total appeal decisions split by number of written reps, hearings, inquires and the percentage allowed annually for Minerals & Waste

	No. of written reps	No. of hearings	No. of inquiries	Total decisions	No. dismissed	% dismissed	No. allowed	% allowed
2019/20	0	1	0	1	0	0	1	100.00%
2020/21	0	0	0	0	0	0	0	0.00%
2021/22	0	0	0	0	0	0	0	0.00%
2022/23	1	0	0	1	1	100%	0	0.00%
2023/24 (Q1)	0	0	0	0	0	0	0	0.00%

Chart 22: Number of appeal decisions received by quarter and percentage of appeal decisions allowed for Minerals & Waste annually from 2019/20 to 2022/23



6.3 Minerals and Waste have only received two appeals since 2019/20 with one allowed and one dismissed.

7. Enforcement

7.1 Local Planning Authorities have a discretionary power to take enforcement action where unauthorised development has taken place and it is considered expedient to do so. The Government advice urges negotiation in the first instance to try to resolve enforcement issues except in the most serious cases and local planning authorities are advised to act in a proportionate way appropriate to the level of harm caused by the development. The Council recognises that effective enforcement is an important means of maintaining integrity and public

confidence of the development management process. In February 2023 the Council adopted an enforcement policy [SCC - Public - Somerset Planning Enforcement Policy.pdf - All Documents \(sharepoint.com\)](#). This sets out the priority level that will be given to complaints and is essential given the high number of allegations of breaches of planning control received each year. Some complaints will require no further investigation because we identify that planning permission already exists for the work, that planning permission was not required or that enforcement action is not proportionate to the level of harm caused by the breach.

Enforcement cases on hand at the end of each quarter and cases resolved/closed in each quarter

7.2 For the purposes of this report the figures for number of cases on hand at the end of each quarter are the number that were on hand from the date the report was run as at 30 June 2023.

7.3 The report for enforcement cases on hand can only be run at one point in time. The information cannot be backdated. Future reports will include data for enforcement cases on hand for each quarter as they will have been recorded.

Table 18: Number of enforcement cases on hand at the end of the quarter for all Areas as at 30 June 2023

	30 June 2023
Area North	230
Area East	100
Area South	352
Area West	229
Minerals and Waste	52

Chart 23: Number of enforcement cases on hand at the end of the Q1 of 2023/24 for all Areas i.e 30 June 2023

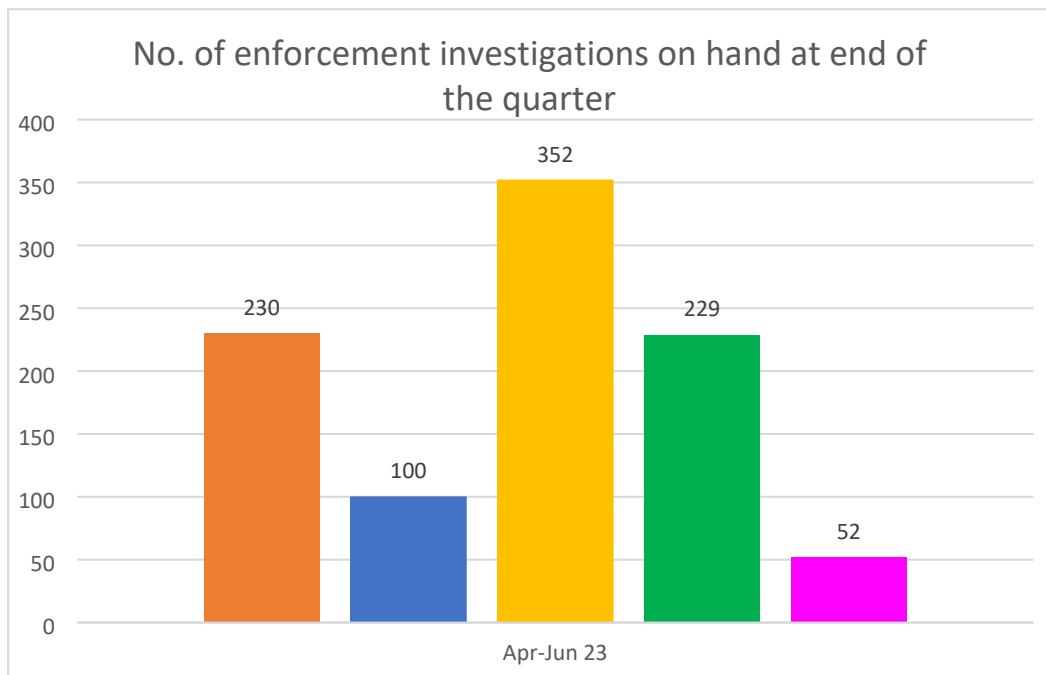
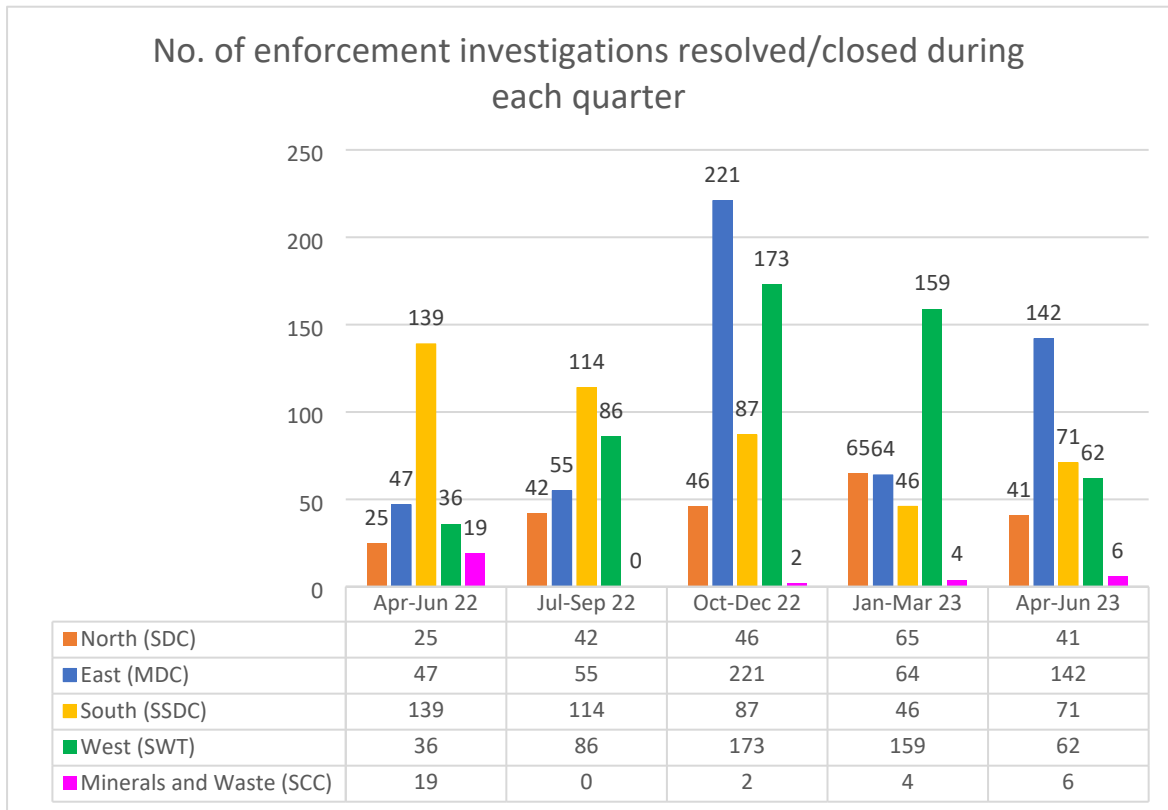


Table 19: Number of enforcement cases resolved/closed during each quarter for all Areas from April 2022 to March 2023

	Apr-Jun 22	Jul-Sep 22	Oct-Dec 22	Jan-Mar 23	Apr-Jun 23
Area North	25	42	46	65	41
Area East	47	55	221	64	142
Area South	139	114	87	46	71
Area West	36	86	173	159	62
Minerals and Waste	19	0	2	4	6

Chart 24: Number of enforcement cases resolved/closed during each quarter for all Areas from April 2022 to March 2023



8. Five Year Housing Land Supply and Housing Delivery Test results

8.1 Somerset Council sets out the Five Year Housing Land Supply (5YHLS) by the former District Council Local Planning Authority areas in Table 20 below with Area West split into the former Taunton Deane and West Somerset areas as these are the relevant adopted local plans.

8.2 The 5YHLS calculation (number of years supply) is based on the 'Total Deliverable dwellings' divided by the annual average '5 Year Requirement' rate. In accordance with Paragraph 73 of the NPPF the Council is required to identify and update annually a supply of specific deliverable sites with an appropriate buffer. The purpose of the 5 year housing land supply (5YHLS) is to provide an indication of whether there are sufficient sites available to meet the housing requirement. As the planning policy which covers the former Somerset West Area is more than 5 years old the Local Housing Requirement is calculated based on the Standard Method with a buffer set by the Housing Delivery Test Measurement results.

Table 20: Five Year Housing Land Supply Calculations by Area

Combined Five Year Housing Land Supply Calculation	Years
Area North (Sedgemoor) - 2021	6.94 ⁶
Area East (Mendip) - 2022	3.76 ⁷
Area South (South Somerset) - 2022	3.7 ⁸
Area West (Taunton Deane) - 2023	5.16 ⁹
Area West (West Somerset) - 2023	7.9 ⁵

Chart 25: Five-Year Housing Land Supply results by Area with target

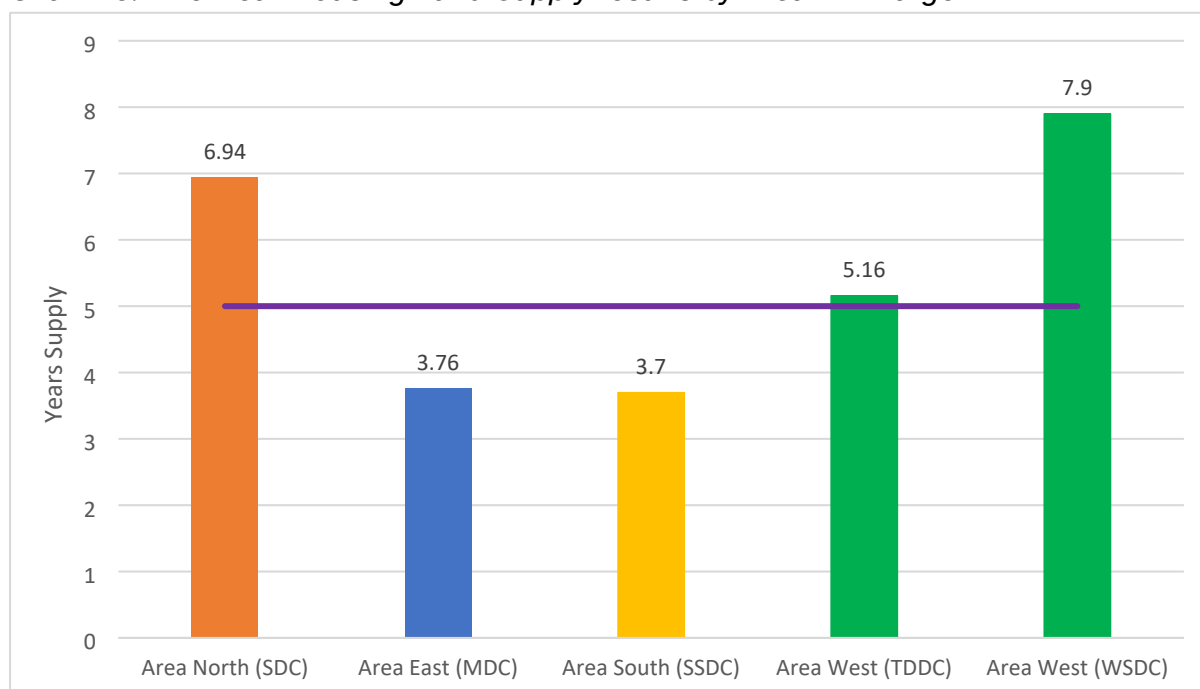


Table 21: Area North Five Year Housing Land Supply Calculation

Housing Supply & Delivery Data	Data from 2021
5 Year Requirement 2020-2025 (including 5% buffer)	3705
Total Deliverable Supply 2020-2025	5144
5 Year Requirement - annual average (a)/5	741
No. of Years Supply (c)/(b)	6.94 (5144/741)

⁶ [Sedgemoor District Council 5 Year Land Supply 2021-2026 Annual Statement Position at 1st April 2021](#)

⁷ [Mendip District Statement on Five Year Housing Land Supply – October 2022](#)

⁸ [South Somerset District Council Five-Year Housing Land Supply Paper November 2022](#)

⁹ [Strategic Housing & Employment Land Availability Assessment Somerset West and Taunton Area 2023](#)

Table 22: Area East Five Year Housing Land Supply Calculation

Housing Supply & Delivery Data	Data from 2022
5 Year Supply Requirement	3087
Total Deliverable dwellings	2319
5 Year Requirement (annual rate)	617
No. of Years Supply	3.76 (2319/617)

Table 23: Area South Five Year Housing Land Supply Calculation

Housing Supply & Delivery Data	Data from 2022
Basic Housing Requirement (annualised)	708
Basic Housing Requirement over a five-year period	3540 (708 x5)
Basic Requirement with 5% Buffer Added	3717 (3540 x 1.05)
Five-year annual completion rate (inc. 5% buffer)	743 (rounded) (3717/5)
Assessment of future housing land supply from 2022-2027	2741
Five year supply result	3.7 (2741/743)

Table 24: Area West (Taunton Deane) Five Year Housing Land Supply Calculation

Housing Supply & Delivery Data	Data from 2023
5 Year Requirement 2020-2025 (including 5% buffer)	3116
Total Deliverable Supply 2020-2025	3221
5 Year Requirement - annual average (a)/5	624
No. of Years Supply (c)/(b)	5.16 (3221/624)

Table 25: Area West (West Somerset) Five Year Housing Land Supply Calculation

Housing Supply & Delivery Data	Data from 2023
5 Year Requirement 2020-2025 (including 5% buffer)	613
Total Deliverable Supply 2020-2025	970
5 Year Requirement - annual average (a)/5	123
No. of Years Supply (c)/(b)	7.88 (970/123)

Local Housing Requirement vs. predicted delivery over next five years	
Area	Shortfall/surplus including Buffer
Area North (Sedgemoor) – data for 2021 to 2026	5 year supply of deliverable sites 5,144 minus LHR 3,705 = +1,439 dwellings (surplus)
Area East (Mendip) – data for 2022 to 2027	5year supply of deliverable sites 2,319 minus LHR 3,087 = - 768 dwellings (shortfall)

Area South (South Somerset) – data for 2022 to 2027	5year supply of deliverable sites 2,741 minus LHR 3,717 = - 976 dwellings (shortfall)
Area West (Taunton Deane) – data for 2023/24 to 2028/29*	5year supply of deliverable sites 3,221 minus LHR 3,116 = +105 dwellings (surplus)
Area West (West Somerset) – data for 2023/24 to 2028/29*	5year supply of deliverable sites 970 minus LHR 613 = +357 dwellings (surplus)

**figures have been updated based on the most recent data and assume the criteria has remained the same so that a 5% buffer has been added*

8.3 To ensure that there is a realistic prospect of achieving the planned level of housing supply, the local planning authority should always add an appropriate buffer to its 5 year housing land supply.

Housing Delivery Test

8.4 The Housing Delivery Test is an annual measurement of housing delivery in the area of relevant plan making authorities published by DLUHC. The latest test results were published in January 2022 for the period up to 2020/21. DLUHC have yet to confirm when results for 2021/22 will be published. Possible changes to HDT were published as part of the NPPF consultation in January 2023. Data shown for 2021/22 is therefore based on local authority monitoring through the Housing Flow Reconciliation and assumes there will be no change in the current national calculation.¹⁰

8.5 The Housing Delivery Test compares the net homes delivered over 3 years to the homes required over the same period. Housing requirements are set by the Local Plan where less than five years old from adoption, or the national standard method in the NPPF. From the day following the publication of the Housing Deliver Test measurement where delivery of housing has fallen below the housing requirement the following consequences apply:

Below 95% - publish an action plan,

Below 85% - 20% buffer on housing requirement in 5YHLS and publish an action plan,

Below 75% - application of presumption in favour of sustainable development¹¹, 20% buffer on housing requirement in 5YHLS and publish an action plan.

¹⁰ [Housing Delivery Test rule book.](#)

¹¹ Paragraph 11 of the National Planning Policy Framework

8.6 The following data summarises the number of homes delivered and Housing Delivery Test result for each Area.

Table 26: Housing Delivery Test results 2017-2021 for Area North

Year	No. of homes delivered	Housing Delivery Test
2017/2018	508	102%
2018/2019	1,013	122%
2019/2020	594	116%
2020/2021	529	128%
2021/2022	712	110%

Table 27: Housing Delivery Test results 2017-2021 for Area East

Year	No. of homes delivered	Housing Delivery Test
2017/2018	685	124%
2018/2019	510	127%
2019/2020	384	126%
2020/2021	321	98%
2021/2022	349	75%

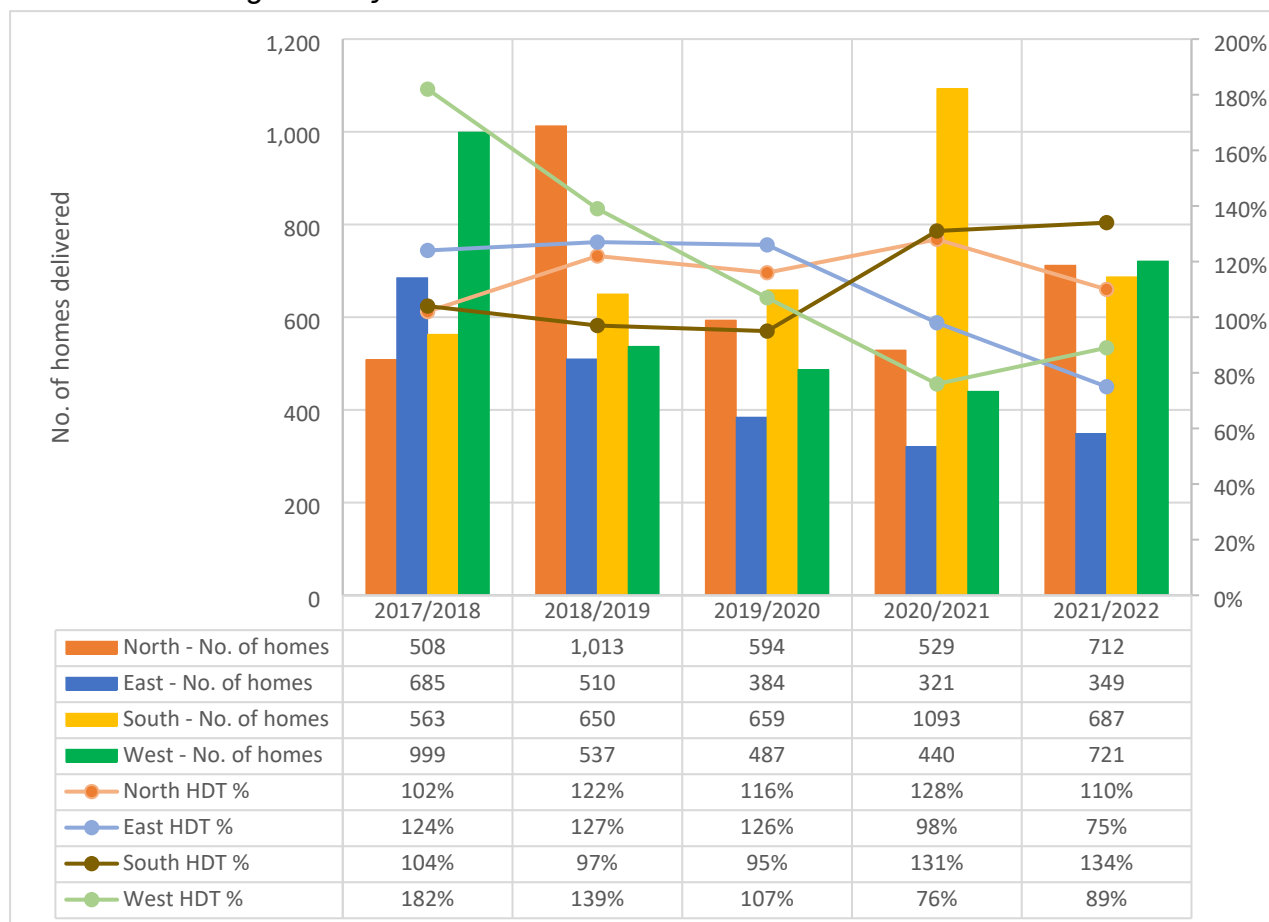
Table 28: Housing Delivery Test results 2017-2021 for Area South

Year	No. of homes delivered	Housing Delivery Test
2017/2018	563	104%
2018/2019	650	97%
2019/2020	659	95%
2020/2021	1093	131%
2021/2022	687	134%

Table 29: Housing Delivery Test results 2017-2021 for Area West

Year	No. of homes delivered	Housing Delivery Test
2017/2018	999	182%
2018/2019	537	139%
2019/2020	487	107%
2020/2021	440	76%
2021/2022	721	89%

Chart 26: Housing Delivery Test results 2017-2022 for all Areas



Housing Delivery Test Action Plans

8.7 Where an LPA's HDT measurement falls below 95% they are required to produce an Action Plan. The purpose of the Action Plan is to identify the reasons for under delivery, to explore ways to reduce future risk and set out measures to improve delivery.

8.8 The latest [Planning West area HDT Action Plan was published in December 2022](#). It analysed the former West Somerset Council LPA and former Taunton Deane Borough Council LPA. These are very different housing market areas.

8.9 The fall in delivery in the former West Somerset LPA correlates with a year immediately following the completion of 5 medium/large sites and a lag before construction commenced on new sites. In addition, the former West Somerset Council LPA has a low local housing requirement. As such a small reduction or increase in the number of dwellings delivered has a greater statistical effect on the HDT Measurement.

8.10 The fall in delivery in the former Taunton Deane Borough Council LPA was triggered by the August 2020 letter from Natural England about high levels of phosphates in the Somerset Levels & Moors Special Protection Area (SPA), which has caused delays to the granting of planning permission. Since 2020 significant work around legal advice, guidance, technical tools, and solutions has enabled small and medium sites to progress. In addition, a number of strategic development sites have secured on-site mitigation solutions or are in advance discussions on an agreed solution with Natural England.

Definitions

Major Development

10+ dwellings / over half a hectare / building(s) exceeds 1000m²
Office / light industrial - 1000+ m² / 1+ hectare
General industrial - 1000+ m² / 1+ hectare · Retail - 1000+ m²/ 1+ hectare
Gypsy/traveller site - 10+ pitches
Site area exceeds 1 hectare

Minor Development

1-9 dwellings (unless floorspace exceeds 1000m² / under half a hectare
Office / light industrial - up to 999 m²/ under 1 hectare
General industrial - up to 999 m²/ under 1 Hectare
Retail - up to 999 m²/ under 1 hectare
Gypsy/traveller site - 0-9 pitches

Other Development

Householder applications
Change of use (no operational development)
Adverts
Listed building extensions / alterations
Listed building demolition
Application for relevant demolition of an unlisted building within a Conservation Area
Certificates of Lawfulness (191 and 192)
Notifications
Permissions in Principle (PiP) and Technical Detail Consent (TDC)

PS2 Applications

Full Planning Permission Applications (including Householder applications)
Outline Planning Permission Applications
Reserved Matters Planning Permission Applications
Listed Building Alterations Applications
Listed Building Demolitions Applications
Conservation Area Consent for Demolition Applications
Permission in Principle Planning Applications
Technical Details Consent Applications (these follow on from Permission in Principle Applications)
Advertisement Consent Applications
Telecommunications Full Planning Applications (these are Full Telecommunications Planning applications, not to be confused with Telecommunications

Notifications/Prior Approvals) – others may include this within Full Planning Permission Applications

Non-PS Application types

Removal of Hedgerows

Works to Trees

Works to Trees in a Conservation Area

High Hedges Applications

Hazardous Substances Consent

Hazardous Substances Deemed Consent

Modification/Discharge of Planning Obligations

Non Material Amendments

Scoping Opinions

Screening Opinions

Discharge of Conditions (but we cannot quantify these)