

Strategic Committee

19 October 2023

Item 5 – Application 851 to upgrade Footpaths to Bridleways within the Parishes of Queen Camel and Sparkford

WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53

SCHEDULE 14 APPLICATION

APPLICATION TO UPGRADE FOOTPATH WN 27/4 AND PART OF
FOOTPATH WN 23/11 TO BRIDLEWAYS WITHIN THE PARISHES
OF QUEEN CAMEL AND SPARKFORD

Application:

851M

Author:

Sue Coman

Dates:

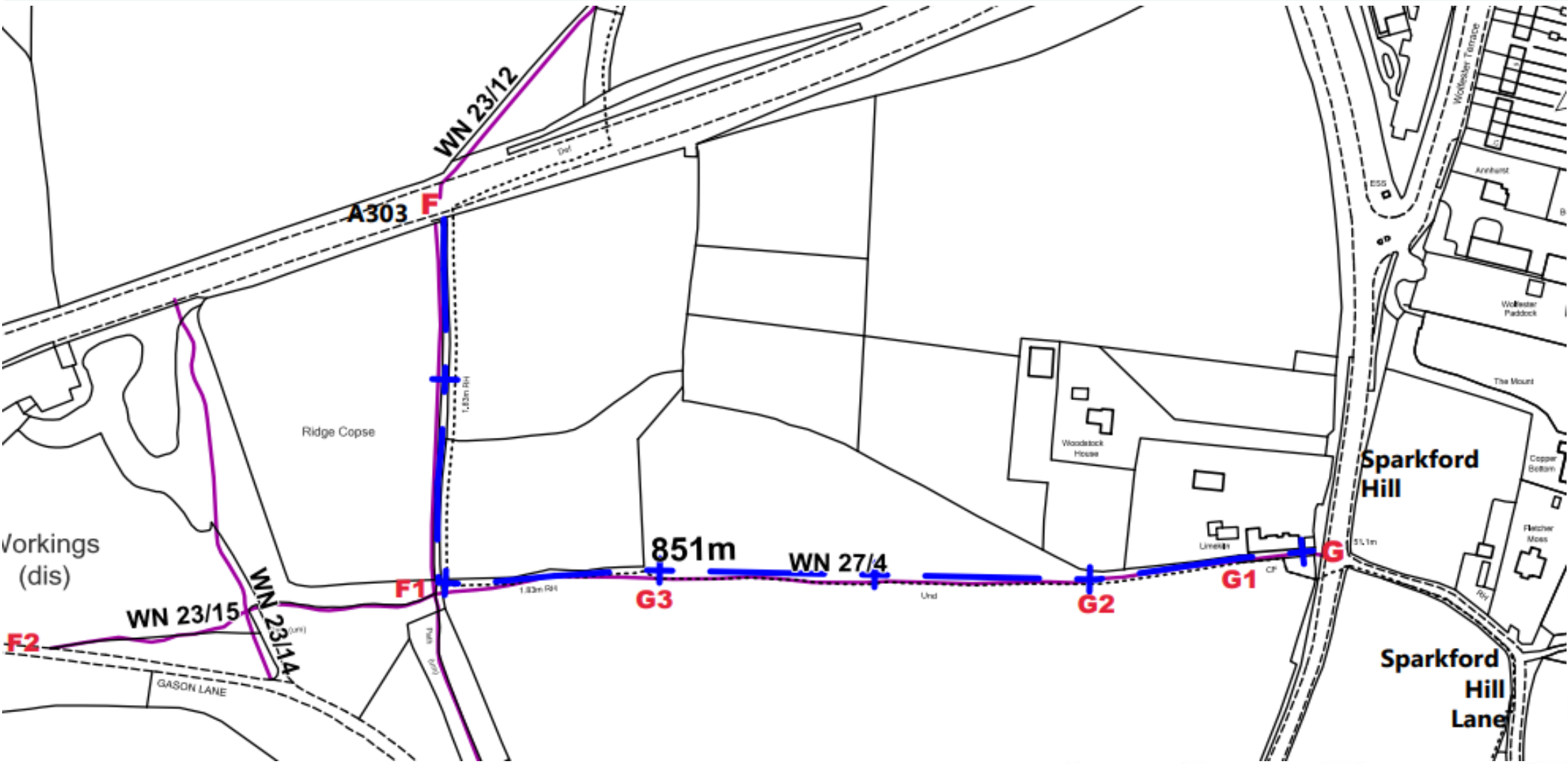
Report: September 2023

Presentation: October 2023

Details of the Application

- An application was made by the South Somerset Bridleways Association in 2017
- The applicant claims a public bridleway is missing from the Somerset Definitive Map from the A303, Queen Camel to Sparkford Hill, Sparkford
- A public bridleway can be used by the public on foot, with bicycles, or riding or leading a horse

Application 851M (F-G)



Potential outcomes 1

- Refuse to make an Order, in which case the route will remain a footpath
- If it is determined that public rights exceed those currently recorded, resolve to make an Order in the form of one of the following;
 - Bridleway
 - Restricted Byway
 - Byway open to all traffic (commonly referred to as a: BOAT)

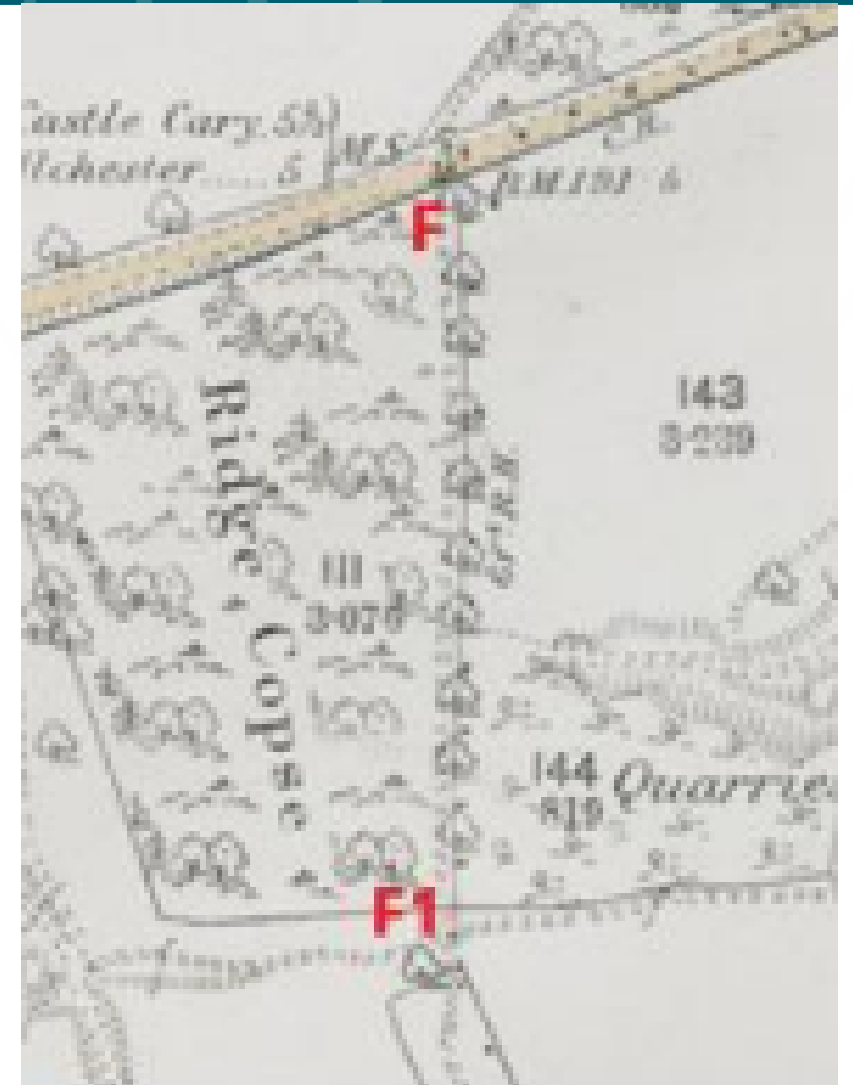
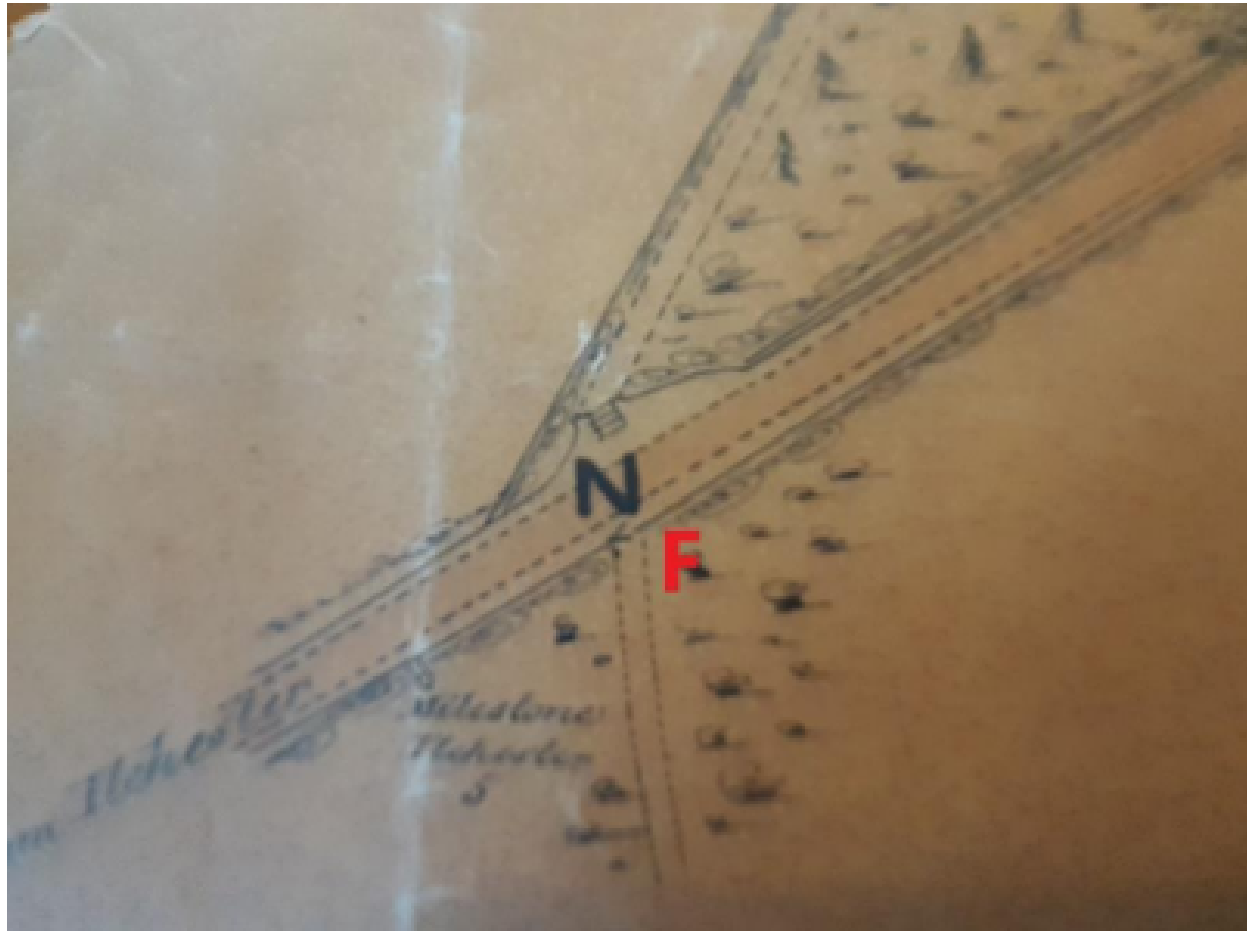
Potential outcomes 2

- At the end of the investigation report a recommendation is made as to whether or not an Order should be made to amend the Definitive Map.
- Committee members must make their own assessment of the evidence, rather than accept the report's recommendation without question.
- If the Committee reach an alternative conclusion, the grounds for that conclusion must be clearly stated and consistent with the relevant legislation.

Test to be applied

Before an order can be made to modify the Definitive Map, there must first have been a discovery of new evidence (i.e. evidence that was not considered when the Definitive Map was last reviewed). Having discovered that evidence, the standard of proof to be applied in this case is **balance of probabilities**.

Determining, based on all the available relevant evidence, whether higher public rights are more likely to exist than not. Applicable to all sections where footpaths are already recorded on the Definitive Map.



“Subject [...] as to that part of the property hereby conveyed [...] to a public right of way and bridle path running from the main road”

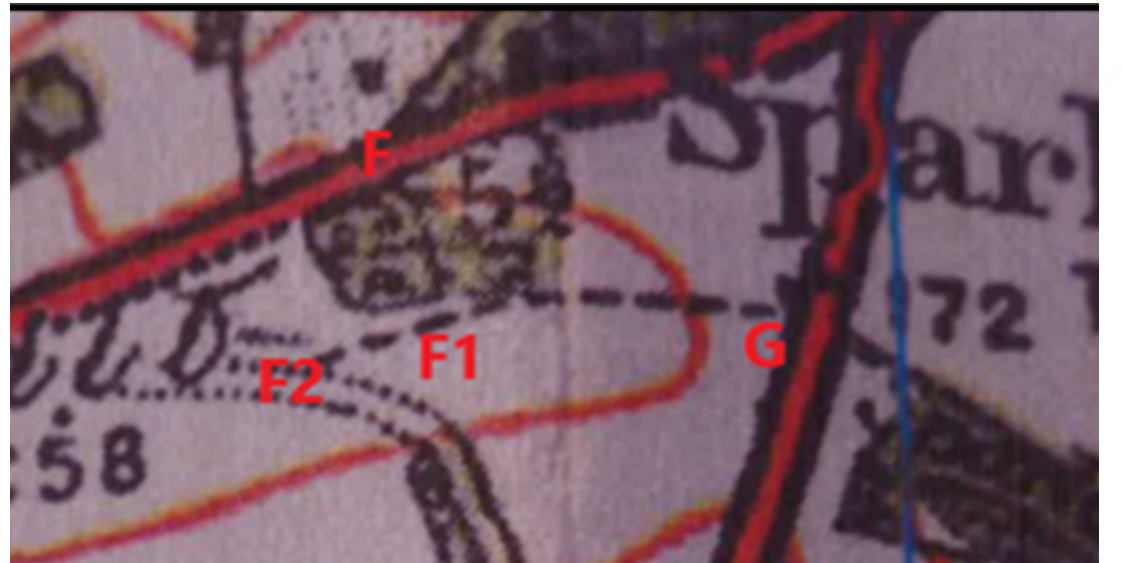


1910 Finance Act

land is part & lies on.
The hill with a thin soil.

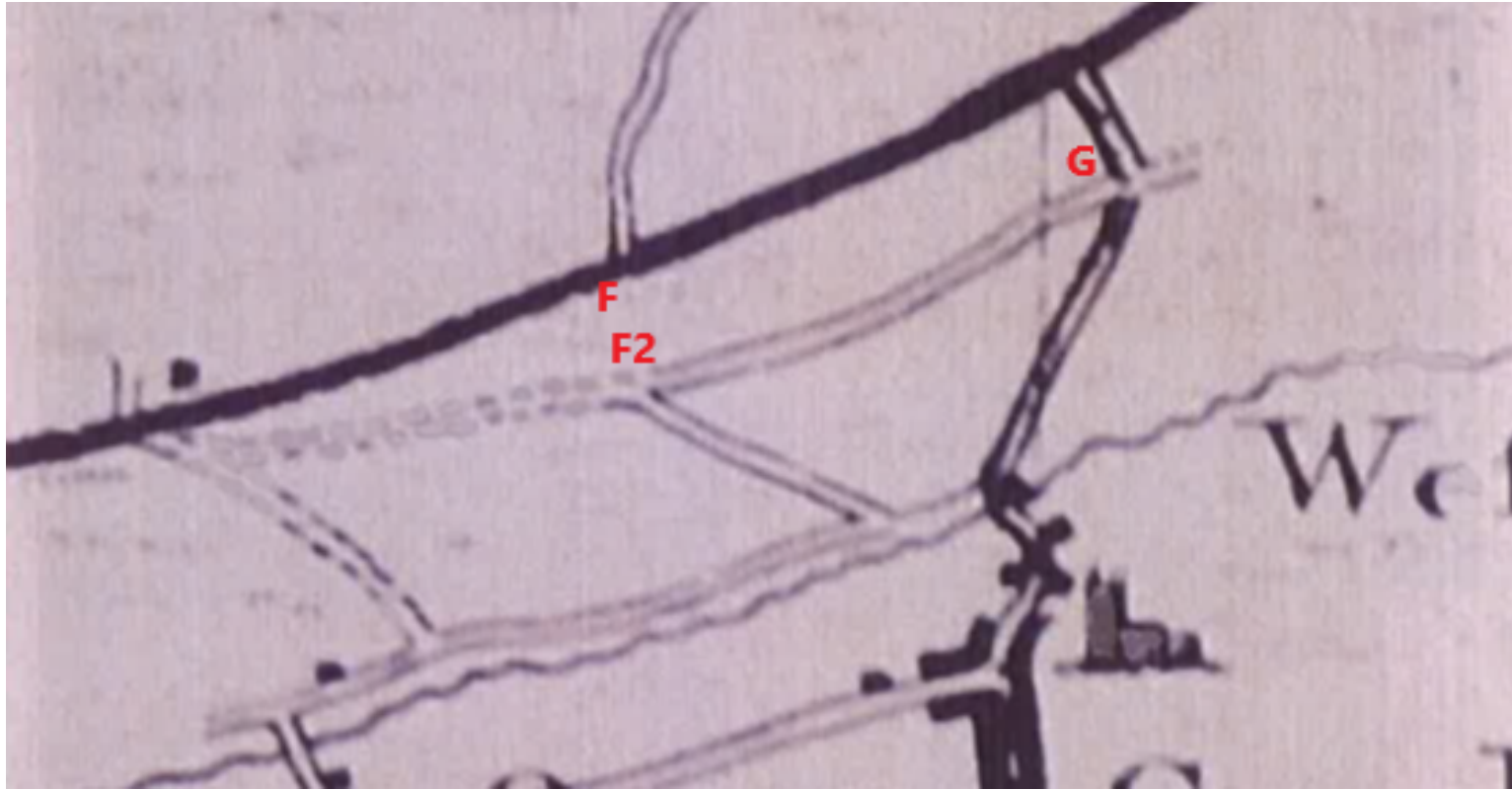
Charges, Easements, and Restrictions affecting market value of Fee Simple

Right of Way	$4/2 \times 25 \times P$	=	2.10.0
Land Tax	$3/6 \times 25 \times P$	=	4.10.0
Tithe	$3.17.6 \times 25 \times P$	say	97.0.0
			<hr/>
			103.0.0
			<hr/>
			109.0.0



Land held in strict settlement

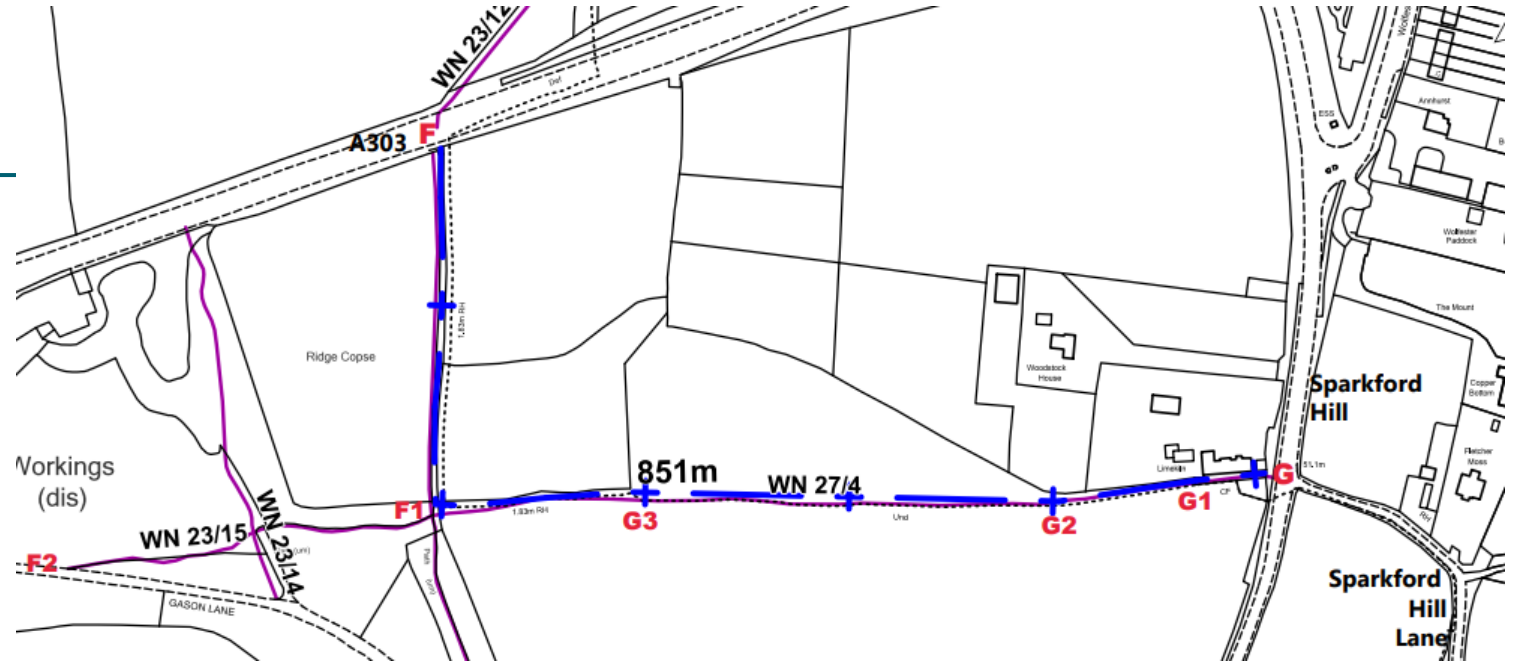
If the land over which a public right of way is alleged to exist was ever in strict settlement this might have a material effect on whether dedication at Common Law can be presumed to have taken place. However, it does not remove any rights which were dedicated prior to settlement, nor does it prevent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



Main issues raised

- 1795 map of Queen Camel does not indicate that the routes are bridleways
- Purpose of bridleway to link lime kiln at G to quarries west of G and only private rights exist
- No evidence of bridle route turning north at F1
- Safety concerns in relation to a bridleway crossing field used for ponies
- No new relevant evidence
- Public purpose of route questioned
- Land held in strict settlement

Summary



An order should be made to modify the Definitive Map and Statement where the surveying authority discover evidence which, when considered alongside all other available evidence, indicates “that a highway shown on the map and statement as a highway of a particular description ought to be shown as a highway of a different description”.