

Agenda item:

Roads and Rights of Way Committee

Accepted
A-B-C
as
restricted byway & prob
only

Reg
Accept
19/15
(6 users (motorbikes)
+ equestrian drivers seen).
Inc Award western section (to Coombe Keynes)
Dorset Council on each but user ...

Dorset County Council



Date of meeting	11 March 2011
Officer	Director for Environment
Subject of report	Application for a definitive map and statement modification order to upgrade Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes (Claypits Lane) to byway open to all traffic
Executive summary	In response to an application to upgrade Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes (Claypits Lane) to byway open to all traffic, this report considers the evidence relating to the status of the route.
Impact Assessment:	<p>Equalities Impact Assessment:</p> <p>An Equalities Impact Assessment is not a material consideration in considering this application.</p> <p>Use of Evidence:</p> <p>The applicant submitted documentary evidence in support of his application.</p> <p>Documentary evidence has been researched from sources such as the Dorset History Centre, and the National Archives.</p> <p>A full consultation exercise was carried out in January 2010, involving landowners, user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. In addition notices explaining the application were erected on site.</p> <p>6 user evidence forms from users of the claimed route were submitted during the investigation.</p> <p>Any relevant evidence provided has been discussed in this report.</p>

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	<p>Budget/risk implications:</p> <p>Any financial/risk implications arising from this application are not material considerations and should not be taken into account in determining the matter.</p>
Recommendations	<p>That:</p> <p>(a) The application be refused;</p> <p>(b) An order be made to modify the definitive map and statement of rights of way to record Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes (Claypits Lane) as shown A – B – C – D – E – F – G – H – I on Drawing 10/04/1 as a restricted byway;</p> <p>(c) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee.</p>
Reasons for Recommendations	<p>(a) Subject to (b) below the byway open to all traffic claimed does not subsist nor can be reasonably alleged to subsist;</p> <p>(b) The analysis of the available evidence submitted and/or discovered demonstrates that the right of way claimed subsisted or could be reasonably alleged to subsist in respect of the claimed route as shown A – B – C – D – E – F – G – H – I on Drawing 10/04/1. However, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for motor powered vehicles and therefore an order should be made for a restricted byway over the claimed route; and</p> <p>(c) The evidence shows that, on balance, the route claimed is a restricted byway. Accordingly, in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.</p>
Appendices	<p>1 Drawing 10/04/1</p> <p>2 Extracts from the</p> <ul style="list-style-type: none"> • Winfrith Newburgh Parish Survey map and schedule • Coombe Keynes Parish Survey map and schedule • Draft map 1955 • Provisional map 1964 <p>3 Special Review documents</p> <ul style="list-style-type: none"> • County Council notes regarding depiction of roads on the definitive map • Special Review Committee decisions 29 and 21 November 1973 • Revised Draft map 1974

	<ul style="list-style-type: none"> • Objections to showing Bridleway 9, Winfrith as a bridleway <ul style="list-style-type: none"> ♦ Mrs Baxter ♦ Mr Cox (for BR 5, Coombe Keynes also) ♦ Mr Green (for BR 5, Coombe Keynes also) • Objections to showing Bridleway 5, Coombe Keynes as a bridleway <ul style="list-style-type: none"> ♦ Mrs Baxter
4	Thomas Sparrow Estate plan 1768
5	Winfrith Newburgh Inclosure Award 1771/2 and Map (John Sparrow Estate plan 1771)
6	Extracts from the <ul style="list-style-type: none"> • Winfrith Newburgh • Coombe Keynes Tithe map and apportionment
7	Ordnance survey Maps – Extracts from <ul style="list-style-type: none"> • First Edition 1811 1":1 mile • First Edition 1888 6":1 mile sheets 48 SE & 49 SW • First Edition 1898 1":1 mile • Second Edition 1902 25":1 mile – sheets 48.16 and 49.13 • 1906 1":1 mile • Edition of 1928 25":1 mile sheet 49.13
8	Other commercial mapping – extracts <ul style="list-style-type: none"> • Careys map 1787 • Taylor's maps 1765 and 1795 • Greenwoods' map 1826 • Plan of Newburgh Farm 1876 • Osmington to Lulworth Light Railway feasibility survey map – 1898 Ordnance Survey 1":1 mile first edition (sheet 328) • George Richmond's map late 1800s • Gall & Inglis Visitor's map of Bournemouth early 1900s • Bartholomew's Touring and Cycling maps 1911 & 1920 • Bacon's Map of Dorsetshire 1920 • Ministry of Transport map of Weymouth, Yeovil and Taunton 1923 ½": 1 mile • Geographia Map of Dorsetshire 1920s • Bartholomew's Touring and Cycling maps 1944 & 1951
9	Finance Act 1910 – extracts from <ul style="list-style-type: none"> • Map sheets 48.16 & 49.13 • Valuation book hereditaments 93, 199 & 409
10	Ordnance Survey Boundary Sketch Map
11	Wareham Highway board minutes – extracts from <ul style="list-style-type: none"> • 30 April 1896 • 11 June 1896

	<p>12 User evidence</p> <ul style="list-style-type: none"> • Table of user evidence • Charts to show periods of use and numbers of users per year <p>13 Applicant's analysis of documentary evidence</p>
Background Papers	<p>The file of the Director for Environment (ref. RW/T368)</p> <p>Most of the historic maps referred to are in the custody of the Dorset History Centre, except for the Finance Act maps, which are at the National Archives, Kew</p>
Report Originator and Contact	<p>Roger Bell</p> <p>Rights of Way Officer</p> <p>Tel: (01305) 221670</p> <p>email: r.bell@dorsetcc.gov.uk</p>

1 Background

- 1.1 An application to upgrade Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes to byway open to all traffic was made by Mr Martin Diamond (on behalf of the Trail Riders' Fellowship) on 1 June 2005.
- 1.2 In Winfrith Newburgh the claimed route is currently recorded as Bridleway 9 and commences at the end of the D52905 road at Claypits Farm, Claypits Lane in the parish of Winfrith at point A on Drawing 10/04/1. It runs eastwards along Claypits Lane, a double hedged lane, in an easterly direction for 280 metres and then crosses an open field for approximately 340 metres. The route again becomes a double hedged lane for approximately 540 metres and then passes through Newburgh Dairy farm buildings to point B, the parish boundary with Coombe Keynes.
- 1.3 In Coombe Keynes the claimed route is currently recorded as Bridleway 5 and commences from the parish boundary with Winfrith Newburgh, just to the east of Newburgh Dairy, at point B. The route runs along the northern edge of the field for 300 metres then enters Coombe Wood at point C and then crosses a wide forestry track and turns south east at point D and continues through the woodland on a well defined track with banks on either side to point E. The claimed route turns again, north east to the edge of the wood at point F and then emerges into adjacent fields. The route follows the outside of the wood, south east along the edge of the field, to point G and then passes through a gap into the next field and follows the field headland north east to point H and generally east to its junction with the B3071 Wool to Lulworth Camp Road at a gate at point I.
- 1.4 The surrounding land and the claimed route are owned by The Weld Estate.

2 Law

Wildlife and Countryside Act 1981

- 2.1 Section 53 of the Wildlife and Countryside Act 1981 requires that the County Council keep the definitive map and statement under continuous review and in certain circumstances to modify them. These circumstances include the discovery of evidence which shows that a right of way not shown in the definitive map and statement subsists or is reasonably alleged to subsist or that a highway shown on the definitive map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
- 2.2 Section 53 of the Act also allows any person to apply to the County Council for an order to modify the definitive map and statement of public rights of way in consequence of the occurrence of certain events. One such event would be the discovery by the authority of evidence which, when considered with all other relevant evidence available to them, shows that a highway shown on the definitive map and statement as a highway of a particular description ought to be shown as a highway of a different description.

- 2.3 The Committee must take into account all relevant evidence. They cannot take into account any irrelevant considerations such as desirability, suitability and safety.
- 2.4 The County Council must make a modification order to alter the status of a route on the definitive map and statement if the balance of evidence shows that a highway shown in the map and statement ought to be shown as a highway of a different description.
- 2.5 An order can be confirmed only if, on the balance of probability, it is shown that the route as described in the order does exist.
- 2.6 Where an objection has been made to an order, the County Council is unable itself to confirm the order but may forward it to the Secretary of State for confirmation. Where there is no objection, the County Council can itself confirm the order, provided that the criterion for confirmation is met.

Highways Act 1980

- 2.7 Section 31 of the Highways Act 1980 says that where a way has been used by the public as of right for a full period of 20 years it is deemed to have been dedicated as highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The 20 year period is counted back from when the right of the public to use the way is brought into question.
 - (a) 'As of right' in this context means without force, without secrecy and without obtaining permission.
 - (b) A right to use a way is brought into question when the public's right to use it is challenged in such a way that they are apprised of the challenge and have a reasonable opportunity of meeting it. This may be by locking a gate or putting up a notice denying the existence of a public right of way.
 - (i) In the case of *Godmanchester v SSEFRA* [2007] the House of Lords endorsed the interpretation of the law as stated by Denning LJ (as he was then) in *Fairey v Southampton County Council* [1956] 2 QB 439. He said: "In order for there to be 'sufficient evidence that there was no intention' to dedicate the way, there must be evidence of some overt acts on the part of the landowner such as to show the public at large – the public who used the path, in this case the villagers – that he had no intention to dedicate."
- 2.8 The common law may be relevant if Section 31 of the Highways Act cannot be applied. The common law test is that the public must have used the route 'as of right' for long enough to have alerted the owner, whoever he may be, that they considered it to be a public right of way and the owner did nothing to tell them that it is not. There is no set time period under the common law.

- 2.9 Section 31(6) of the Highways Act 1980 permits landowners to deposit with the Council a map and statement indicating what ways over the land (if any) he admits to having been dedicated as highways. A statutory declaration can be made at intervals of not more than 10 years stating no additional ways have been dedicated since the date of the deposit. In the absence of proof to the contrary, this is sufficient to establish that no further ways have been dedicated. Prior to the Highways Act 1980 a similar facility was available under the Rights of Way Act 1932 and the Highways Act 1959.
- 2.10 Section 32 of the Highways Act 1980 says that the Committee must take into consideration any map, plan or history of the locality. Documents produced by government officials for statutory purposes such as to comply with legislation or for the purpose of taxation, will carry more evidential weight than, for instance, maps produced for tourists.

Natural Environment and Rural Communities Act 2006

- 2.11 Section 67 of the Natural Environment and Rural Communities Act 2006 (NERC) extinguishes (subject to certain exceptions) unrecorded rights of way for mechanically propelled vehicles. Where it is found that a route was historically a public vehicular route before NERC, that route may be recorded as a restricted byway rather than a byway open to all traffic.

Finance Act 1910

- 2.12 The Finance Act 1910 required the Commissioners of Inland Revenue to cause a valuation of "all land in the United Kingdom" and plans were prepared identifying the different areas of valuation. In arriving at these valuations certain deductions were allowed, including deductions for the existence of public rights of way.
- 2.13 Public 'fenced' roads were generally excluded from the valuation. Where roads passed through, for example a large field and were unfenced, they would be included in the valuation and a deduction would be made in respect of the public right of way.

Human Rights Act 1998

- 2.14 The Human Rights Act 1998 incorporates into UK law certain provisions of the European Convention on Human Rights. Under Section 6(1) of the Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1) and that he is (or would be) a victim of the unlawful act, may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.
- (a) Article 8 of the European Convention, the Right to Respect for Private and Family Life provides that:
- (i) Everyone has the right to respect for his private and family life, his home and his correspondence.

- (ii) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

- (b) Article 1 of the First Protocol provides that:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

3 **Documentary evidence**

Parish Survey and Definitive Map and Statement (Appendix2)

- 3.1 The National Parks and Access to the Countryside Act 1949 required the County Council as "Surveying Authority" to compile the record of the public rights of way network and the District and Parish Councils were consulted to provide the County Council with information for the purposes of the survey.
- 3.2 The **Winfrith Newburgh Parish Survey** map at a scale of 1:10560 and accompanying schedules were submitted to the County Council in June 1951.
 - (a) The map shows the routes surveyed as public rights of way coloured red and annotated alongside, also in red. However, the claimed route, Claypits Lane, is indicated by green colouring and numbered 13.
 - (b) Most of the schedules are dated 1950 or are undated.
 - (c) The schedule for No. 13, however, is dated 1 December 1954, and is in a different format, on a printed County Council form. It states that "Path Section No. 13" is a CRB (public carriage or cart road mainly used as a bridleway) and is described under the heading "Condition of Path" that the route is "Fit for vehicular traffic".
 - (d) A letter dated 2 December 1954 from the County Planning Officer to the Clerk of Winfrith Newburgh Parish Council states, "I have to inform you that I have added a CRB to your Survey, for continuity purposes from: The County road South of Rushpond eastwards to the Coombe Keynes Parish boundary. This CRB is known as Claypit Lane, and was erroneously assumed to be a county road."
- 3.3 The **Coombe Keynes Parish survey** map at a scale of 1:10560 shows the claimed route indicated by green colouring and numbered IV (4). It is not dated.

- (a) The schedule for path 4 is in a similar format to that for CRB 13, Winfrith Newburgh. It is again categorised as a 'CRB' and its condition is described as "poor through Coombe Wood". It is also indicated that it had been ploughed "at western end".
 - (b) The schedule is dated "Parish Meeting 10 November 1954".
- 3.4 There were various maps produced by the County Council leading up to the current definitive map, which was sealed in 1989.
- 3.5 The **draft map** for the south east area 1955 shows the claimed route as a green pecked line in both parishes and extending further west along what it now unclassified road, as a RUPP (Road used as public path). It is numbered 13 in Winfrith Newburgh and 4 in Coombe Keynes in green alongside.
 - (a) However, in June 1958 the County Council's National Parks Sub-Committee recommended that "the designation of 'Public Carriage or Cart road or Green (unmettalled) Lanes mainly used as (i) Footpath (C.R.F.) or (ii) Bridleway (C.R.B.) ... caused a considerable amount of confusion as to the right of way which the public could claim and that as the County Council were required under the provisions of the National Parks and Access to the Countryside Act 1949, to establish the public rights on footpaths and bridleways only, references to any other uses should be omitted".
- 3.6 As a consequence of this decision the **provisional map** 1964 shows the claimed route coloured green as a bridleway and numbered 9 in Winfrith and 5 in Coombe Keynes. At the western end by Claypits Farm (point A on Drawing 10/04/1) a pencil annotation indicates "C/R" with an arrow, presumably indicating the extent of the county road.
- 3.7 A letter responding to a representative of the Ramblers' Association dated 3 December 1965 refers to "A short section measuring approximately one quarter of a mile at the western end of BR.9 Winfrith, is maintained as a County Road and the remainder of the path and the whole of BR.5, Coombe Keynes, used to be County Roads which are now used only as bridleways".
- 3.8 On the first definitive map 1967 and the revised draft map 1974 the claimed route is shown as Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes.

Special Review of rights of way (Appendix 3)

- 3.9 At the Review, following the first definitive map, the County Council recognised that various routes were "shown as roads on the rights of way map, but because of their narrow widths or for other reasons" were "suitable only as bridleways or footpaths".
 - (a) One of the two routes identified was "the whole of BR 5, Claypits Lane, from MR. 815848 - 841845". This actually refers to the continuous route formed by both Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes and shown between points A to I on Drawing 10/04/1).

- 3.10 Conversely, it was also recognised that various sections of metalled roads were "shown as bridleways on the definitive map and should be deleted from the rights of way record".
- (a) One of the two routes identified was "Claypits Lane – part of Bridleway 9 for a total distance of 0.21 mile as far as M.R. 815848". This refers to the western end of Claypits Lane currently on the List of Streets west of point A.
- 3.11 At the Special Review the new evidence concerning the existing **Bridleway 9, Winfrith Newburgh**, supporting its upgrading to RUPP status states "The first field east of Claypit Lane has been ploughed, is now pasture and the old road lost. But the line can still be seen. In dry weather the whole section should be passable in an ordinary motor vehicle. The way would make an alternative route between Winfrith and Coombe Keynes and has been entered on the OS map as a suggested byway".
- (a) On 29 November 1973 the Special Review Committee decided to "retain as a bridleway- public vehicular rights not shown to exist over this way and furthermore the path is unsuitable for public vehicular use."
- 3.12 Similarly, evidence concerning the existing **Bridleway 5, Coombe Keynes**, supporting its upgrading to RUPP status was also considered. The précis stated "This section formed part of an old road connecting Winfrith, Coombe Keynes, Highwood and East Stoke. The track varies in width along the route between 8' and 12'. The formation width in places is up to 40'. The whole length is passable to traffic although only farm traffic could negotiate the boggy 150 yards of Claypits Lane east of the County Road and the deeply rutted section through Coombe Wood. The section has been entered on the OS map as a proposed byway".
- (a) On 21 November 1973 the Special Review Committee decided to "retain as a bridleway – no evidence of public vehicular use or rights existing over the way."
- 3.13 The revised draft map therefore shows the route as a bridleway with a solid green line, although the Ordnance Survey base map used also shows it with green pecked line, which is visible alongside as the printing process showing the green lines as bridleways displaced them slightly to the north east.
- 3.14 The revised draft map was sealed in December 1974 and published for comment.
- 3.15 Objections were received in respect of Bridleway 9, Winfrith Newburgh from Mrs M Baxter, Dorset Rights of Way Group, Mr D E Cox and Mr A Green. They objected to the route being shown as bridleway, saying that it should be reclassified as a byway.

- (a) Mrs Baxter gives her grounds for objection as "That it is liable to be ploughed up" and quoted from Lord Sandford in an official Report of the Committee on the Highways Bill 28 April 1971, which said that an objection could be based on the argument that "that particular way should not be made liable to plough
 - (b) Mr Cox states that his grounds for objection are "Shown clearly as Roads in Os 1811 edition. Continuation of BOAT Route from Abbotsbury via POxwell. The connecting road stub from BR 9 at W. end lacks any status classification".
 - (c) Mr Green states his grounds for objection as "This route is shown on the first edition O/S 1" map as a road i.e. 1811 1" O/S map" and "The route is a lane known as "Claypits Lane" in Winfrith Newburgh".
- 3.16 Objections were received in respect of Bridleway 5, Coombe Keynes, again from Mrs M Baxter, Dorset Rights of Way Group, Mr D E Cox and Mr A Green. They objected to the route being shown as a bridleway, saying that it should be a byway.
- (a) Mrs Baxter's reasons are as paragraph 3.15 (a) above.
 - (b) Mr Cox's reasons are as paragraph 3.15 (b) above.
 - (c) Mr Green's reasons are as paragraph 3.15 (c) above.
- 3.17 However, the Special Review was abandoned before its completion in the parishes of Winfrith Newburgh and Coombe Keynes. Therefore the Special Review claims for re-classification, arising from objections to the revised draft map, were not pursued. Other claims, which were not the subject of objections, were accepted and the changes recorded on the next definitive map in 1989 (the current definitive map).
- 3.18 Therefore the claimed reclassification of the bridleways to byways open to all traffic was not investigated further.

Thomas Sparrow Estate Plan (Appendix 4)

- 3.19 The **1768 Thomas Sparrow Estate Plan** shows parcels of land held by the Weld Family before the later Inclosure award. The explanation or key to the plans includes "Roads Retained" which are shown by parallel pecked lines, "Roads Rejected" indicated by a heavier single pecked line and "Foot paths".
- (a) The Winfrith sheet shows part of the claimed route clearly as a 'retained road', starting at Winfrith and continuing past a clay pit (just east of point A on Drawing 10/04/1) and continuing east through Knighton Field and alongside the northern hedge line of the next three fields , through gaps in the field boundaries.

- (b) The Coombe Wood sheet shows the claimed route, again as a 'retained road', continuing east in Coombe Keynes along the northern boundary of the field named 'Twenty-five Acres' and through 'Coombe Wood' and has the wording "Road from Winfrith to the Coombe Wood".
- (c) Another sheet east of Coombe Wood shows the claimed route continuing south east alongside the bottom south west field boundary of 'Broad Close' field and then into 'Trenley Bottom' field and alongside its north eastern boundary before passing through the northern side of a plot showing a house and orchard to its junction with the road (now the B3071 Newtown Hill).

Inclosure award (Appendix 5)

- 3.20 The **Coombe Keynes Inclosure Award 1761** does not mention the claimed route.
- 3.21 The **Winfrith Newburgh Inclosure Award 1771** under the heading "Publick Roads" states "The road leading from the Parish to Coombe wood from the Crown Inn thro' Clay Street". The Crown Inn was located in School Lane, Winfrith in the 1841 census and Clay Street may have been 'Clay Pit lane', mentioned in the 1861 census as having only one property registered along its length.
- 3.22 The **1771 John Sparrow Lulworth Castle Estate Map** is recognised as the enclosure map for Winfrith by Kain, Chapman and Oliver in "The Enclosure maps of England and Wales 1595 – 1918" (Cambridge University Press, 2004) and so for the purpose of this report it will be recognised as such.
 - (a) On the Winfrith plan the claimed route is shown clearly as an east to west route between hedge boundaries or with single dotted lines inside a hedge or with double dotted lines, however the Coombe wood plan shows no route on the line claimed.
 - (b) The plan showing 'Westwood and Belhuse Farms' shows an area to the east of the Winfrith plan and includes Coombe Wood. The claimed route is not shown except for a short section dissecting the wood from east to west between fields named as Eighteen Acres and Barn Close.
 - (c) Another sheet east of Coombe Wood does not show the claimed route.
- 3.23 The **Winfrith Newburgh and Wool Award 1838** does not mention the route.

Tithe Map & Apportionments (Appendix 6)

- 3.24 The **1839 Winfrith Newburgh and West Lulworth Tithe Map** shows the western part of the claimed route, past point B (on Drawing 10/04/1), just into Coombe Keynes parish, coloured the same as other routes on the map. It is shown between boundaries or with double pecked lines or bounded by a field boundary and a pecked line on one side. The pecked line indicates an unfenced route.

(a) The **apportionment** does not mention the claimed route.

3.25 The **1840 Coombe Keynes Tithe map** overlaps with the route shown on the Winfrith Tithe map – annotated “From Winfrith Newburgh” – and shows the claimed route extending east and south east coloured the same as other routes on the map. It is marked with the number 32 in several places along its length.

(a) The **apportionment** describes this route as “The Drove”, its state of cultivation as “Rough Pasture” and that it measured 4 acres and 15 perches.

Ordnance Survey Maps (Appendix 7)

3.26 The **First Edition Ordnance Survey map 1811** at a scale of **1” to mile** shows a route similar to the claimed route.

3.27 The **First Edition (no contours) Ordnance Survey map 1888** at a scale of **6”:1 mile (1:10560)**, sheet XLVIII SE shows the western part of the claimed route from Winfrith along Claypits Lane in to open fields. There are 2 possible gates or banks along the route, each indicated by a line across the route.

3.28 The **First Edition (no contours) Ordnance survey map 1888** at a scale of **6”:1 mile (1:10560)**, Sheet XLIX SW shows the eastern part of the claimed route from Coombe Wood to the road at Coombe Keynes. There are 5 possible gates or banks along the route.

3.29 The **First Edition Ordnance Survey 1898** at a scale of **1”:1 mile** shows the whole of the claimed route as a ‘Minor Road’.

3.30 The **Second Edition Ordnance Survey map 1902** at a scale of **25”:1 mile (1:2500)** shows the whole of the claimed route on sheets 48.16 and 49.13 as on the smaller scale 6” maps. There are 7 possible points where gates or banks are shown.

3.31 The **Ordnance Survey Map 1906** at a scale of **1”:1 mile** shows the claimed route as a fenced and unfenced unmetalled road.

3.32 The **Ordnance Survey map Edition of 1928** at a scale of **25”:1 mile (1:2500)** shows the eastern part of the claimed route on sheet 49.13. There are 5 possible gates or banks along the route.

3.33 Ordnance Survey maps are not conclusive of public status but show physical characteristics on the ground at the date of the map.

Other Commercial mapping (Appendix 8)

3.34 **Carey’s Map 1787** (small scale) shows a route from Winfrith to Coombe Keynes, however, the route shown is a straighter route than that claimed.

3.35 **Taylor’s Map 1765 & 1795** both show a route going east –west through Coombe Wood but this does not appears to be on the line of the claimed route.

- 3.36 **C & J Greenwood Map of Dorset 1826** shows a track with double pecked lines on a similar line to claimed route. Where the path enters "Comb Wood" there is a join in the map sheets, which are slightly offset. The route continues as double pecked lines through the wood and to the east of the wood but it deviates from the claimed route where it passes to the south of a building before it reaches the road at Coombe Keynes.
 - 3.37 **Plan of Newburgh Farm 1876** shows only part of the claimed route. It has writing at either end of the coloured route. The west end states "from Winfrith" and the left end states "to Coombe Keynes".
 - 3.38 The map used to show the proposed railway route for the **Osmington to Lulworth Light Railway feasibility survey** was the **1898** Ordnance Survey 1":1 mile first edition (sheet 328) and it shows the whole of the claimed route as on the 1898 map mentioned in 3.29 above but the key refers to it as an 'unmetalled road'.
 - 3.39 **George Richmond's map** (Reduced Ordnance Survey around Wimborne) (small scale) published in the late 1800s, shows the claimed route towards Coombe Keynes but turning south towards "Newton" at its eastern end.
 - 3.40 **Gall and Inglis Visitor's Map of Bournemouth early 1900's** shows the claimed route as Richmond's map, turning south at its eastern end.
 - 3.41 **Bartholomew's Touring & Cycling Maps 1911 and 1920** show the claimed route as an uncoloured road and the key says that "uncoloured roads are inferior and not to be recommended".
 - 3.42 **Bacons Map of Dorsetshire 1920** shows the claimed route on a similar line as an 'other road'.
 - 3.43 The **Ministry of Transport road map of Weymouth, Yeovil and Taunton 1923**, scale ½":1 mile shows the claimed route as an 'other road'.
 - 3.44 **The Geographia map of Dorsetshire 1920s** shows most of the route, with the words "Coombe Wood" obscuring the eastern end of route. The route is noted as an "Other road".
 - 3.45 **Bartholomew's Touring & Cycling Maps 1944 and 1951** show the claimed route as a "Serviceable Road".
- 1910 Finance Act (Appendix 9)**
- 3.46 The path is clearly shown on the Ordnance Survey 1902 base map, sheets 48.16 and 49.13 at a scale of 1:2500, which was used for valuation purposes. The claimed route is not excluded for valuation purposes, except for a short section in Hereditament 212 between point A at Claypits Farm eastwards to a point near the pond. It then passes through **Hereditaments 93, 199, 418 and 409**. In the accompanying valuation book: -
 - (a) For Hereditament 93, Winfrith (split into four parcels) there is a deduction for the landowner of £100 for public rights of way.

- (b) For Hereditament 199, Winfrith (split into 5 parcels) there is a deduction for the landowner of £50 for public rights of way.
- (c) For Hereditament 409, Coombe Keynes (split into 4 parcels) there is a deduction for the landowner of £100 for public rights of way.
- (d) For Hereditament 418, Coombe Keynes (split into 9 parcels) there are no deductions for the landowner for public rights of way.

Ordnance Survey Boundary Sketch Map (Appendix 10)

- 3.47 The Ordnance Survey Boundary Sketch map for the parishes of Coombe Keynes, East Lulworth and West Lulworth 1886 at a scale of 12 chains to 1 inch shows the claimed route as parallel solid lines crossing the parish boundary.

Wareham Highway Board minutes (Appendix 11)

- 3.48 The Wareham Highway Board minutes dated 30 April 1896, report that "The Clerk read a letter from the Winfrith parish council respecting Coombe Wood Road. The Surveyor was instructed to inspect this road & report at the next meeting".
- 3.49 The minutes dated 11 June 1896 say that "The Surveyor reported back he had inspected the road complained of by the Parish Council in company with Mr Hooper & recommended that a drain should be relaid & the side ditches taken out. This was ordered to be done".

Deposit by Weld Estate

- 3.50 In 1994 the Weld Estate completed a Statement and Plan showing the highways admitted under Section 31(6) of the Highways Act 1980 (refer to paragraph 2.9 above).
- 3.51 The claimed route was shown coloured green as a bridleway on the map accompanying the deposit.
- 3.52 There is no record of a statutory declaration stating that no additional ways over the land delineated on the map have been dedicated as a highway since the date of the deposit. Under Section 31 (6) such a declaration would be sufficient evidence to negative the intention of the owner to dedicate any such additional way as a highway, including admitting that an existing recorded public right of way has higher rights.
- 3.53 The Weld Estate completed a further deposit in 2005, again showing the claimed route as a bridleway. There is no record of a statutory declaration being deposited to date.

4 User evidence (Appendix 12)

- 4.1 Written forms of evidence submitted by users of the way are located within the file of the Director of Environment, Ref.T368.

- 4.2 A summary of all the user evidence forms received and a bar chart showing their periods of use is included at Appendix 12. All the forms have the description of the route already printed, but each witness has completed and signed a map indicating that the claimed route is the one they have used.
- 4.3 There were six user evidence forms completed. All six used the claimed route on motor cycles.
- 4.4 All of the witnesses have stated that the gates were left open or were not locked, that they were never challenged when using the route and that they were aware of workers on the farms seeing them.
- 4.5 They all state that the purpose of use was pleasure. Three users saw walkers, horse riders and other motor cyclists when on the claimed route. The other three users only saw motor cyclists.
- 4.6 Evidence of use for a period of over 20 years between 1986 and 2006 inclusive has been submitted.

5 Additional evidence in support of the application

- 5.1 The applicant submitted a list of maps and photocopies of extracts and stated in the introduction to the document supporting the claim that "This document supports the TRF's DMMO claim for byway status on a route in the Parishes of Winfrith Newburgh and Coombe Keynes." The applicant adds that "No evidence has been found to indicate this road has ever been stopped up. Thus on the basis of the evidence presented.....the TRF believes the route should today be a byway".
- 5.2 Under the heading 'Background to Selected Documentary Evidence' the TRF expands on the evidence from **Bartholomew's Maps** used for the claim as follows:
 - (a) "For many years there was an active partnership between Bartholomew Maps and the Cyclists Touring Club (CTC). The CTC supplied information on the roads that could be used by cyclists and the condition of those roads."
 - (b) A member of the CTC states that "At the beginning of this relationship, few roads would have been tarmac. "Good" would have mostly comprised plain macadam. It is open to conjecture how bad a road could have been to still be classified "passable" but from accounts of the time it would have been the kind of farm track where a modern motorist would want a four-wheel-drive –i.e. pretty rough, and/or muddy".

- (c) The Case 'Commission for New Towns v JJ Gallagher Limited' "Gives some weight to Bartholomew's maps as an aid to proving the existence of a public carriageway. The Judge (Mr Justice Neuberger) said "The implication of the demarcation of Beoley Lane on these maps appears to me to be that they are public carriageways..... the indication in the description of the uncoloured roads is that they can lawfully be used by cyclists which, as at 1901 and 1911, would have meant that they are public carriageways." "

5.3 The applicant's '**Analysis of Documentary Evidence**' submitted with the application can be viewed at Appendix 13.

- (a) "The **Winfrith Newburgh Inclosure award 1771** states that this road went from the Crown Inn in the village, along Clay Street (now Clay Pits Lane) to Coombe Wood".
- (b) **Sparrow's maps of the Weld Estate 1768 & 1770** "shows the claimed route leading out of the village in an easterly direction and is indicated as "To Coombe".
- (c) The **Winfrith Newburgh Tithe Map 1839** is discussed and states that it "shows the entire length of the claimed route as unapportioned and in same manner as today's other public roads. It is indicated as "To Coombe Keynes" "
- (d) The **Plan of Newburgh Farm 1876 & 1887** "shows this road as "From Winfrith" and "To Coombe Keynes".
- (e) The applicant then analyses commercial maps that were available:
 - (i) **John Carey's map of Dorset** (date not given) "shows the claimed route as a road".
 - (ii) **First Edition Ordnance Survey Map 1811** "is a quality, coloured and detailed map showing roads. The claimed route is clearly shown".
 - (iii) The **Ordnance Survey sheet 328, dated 1898**, "From the Osmington – Lulworth Light Railway feasibility survey, clearly shows the claimed route as an unmetalled road".
 - (iv) **George Richmond's map** "shows the claimed route as a road. However on this map the route turns to the south prior to the village of Coombe Keynes".
 - (v) The **Ordnance Survey 1st Edition 1" map 1898** shows the claimed route as a Minor road".
 - (vi) The **Second Edition 2nd 1" map (coloured) 1906** "shows the claimed route as part 3rd class road and part unmetalled road at the eastern end".

- (vii) The **Ministry of Transport Road Map 1923** “shows the claimed route as “other roads”.
- (viii) The **Second Edition 6” and 25” 2nd Edition Ordnance Survey maps** “show the claimed route in full and the route is not classified as a Bridle Road or Footpath”.
- (ix) **6 small scale maps** contained in a book at the Dorset History Centre (Reference DC/BTB:R5) clearly show the route. The full list and transcript can be seen in Appendix 15. The applicant states that “Many of these maps depict only significant roads with no private roads or public ways of a lesser status shown, indicating “Winfrith Drove was public road of some importance”.
- (x) **Bartholomew’s Tourist & Cyclists map Sheet 34 1911** “shows the route in full with status of inferior road....Inferior roads are classified by Bartholomew’s as “Unsuitable for Cyclists”. The CTC’s input....and Neuberger J’s comments [see paragraph 5.2].... means this map is an indication of the route as a public carriageway”.
- (xi) **Bartholomew’s Tourist & Cyclists map Sheet 34 1920** “shows the route in full with status of indifferent roadtherefore of inferior quality”.
- (xii) **Bartholomew’s Tourist & Cyclists map Sheet 4 (½”:1 mile) 1944** “shows the route in full with status of serviceable road..... therefore of inferior quality”.
- (xiii) **Bartholomew’s Tourist & Cyclists map (½”:1 mile) 1951** again “shows the claimed route in full as a “Serviceable road”. This is the third status of four, with the last being “Other roads and tracks”.
- (xiv) The **Geographia road map 1920s** “shows Winfrith Drove as a minor road”.
- (f) “In summary, there is a weight of evidence to indicate it is more likely that this route carries public carriageway rights rather than lesser rights” they go on to say “ therefore we believe there is evidence to support our claim that this road carries vehicular rights”.

5.4 Mr R L who responded on behalf of the **Open Spaces Society** on 1 February 2010, states that this claimed lane in 1972/3 was “open and usable for both farm and public use from one end to the other, and I have seen riders and equestrian drivers using it, recalling an incident where the former gave way to the latter” [at point F on Drawing 10/04/1] “beside Coombe Wood..... There we[re] no prohibition notices. ... The application, having been made after 20 January 2005, is for restricted usage – which would be consistent with past use as a lane and cart-track. It is shown as such on historic maps. I support the application for a restricted byway”.

6 Evidence opposing the application

- 6.1 Mr B L G wrote soon after the application was submitted, on 1 August 2005. He opposes "this amendment most strongly. This route runs through the middle of a large dairy complex and also is routed through arable and grassland fields.... the noise and disruption caused by motorcycles would be most detrimental.The route also runs through forestry land on which we have shooting rights and obviously the presence of motorbikes would be detrimental to that operation".
- 6.2 Mr R & Mrs P D wrote on 17 December 2005 opposing the application. They commented that:
- (a) Many of the tracks are too narrow for motorised vehicles.
 - (b) There would be an increase in pollution, in respect of noise and carbon emissions.
 - (c) Any development which is likely to discourage visitors is detrimental as tourism is vital to the economy of Dorset.
 - (d) Although some users of off-road vehicles may be responsible, many are not and this would create " churned up mud".
- 6.3 Mr & Mrs D S D wrote on 17 December 2005 stating their opposition to the application. They comment that, "allowing 4 wheel drive vehicles, trail bikes etc to use our peaceful bridleways":
- (a) Would cause distress to residents and wildlife.
 - (b) Would greatly damage the tourist industry.
- 6.4 A letter from the Parish Council of Coombe Keynes on 26 December 2005, stated that "this parish considers the proposal to be against the interest of residents".
- 6.5 Mr P J wrote on 24 January 2006 to "to offer in evidence that I have walked the bridleways..... [including the claimed route]....on a very frequent basis.... for the past fifteen years. During this time my observations are that they have been used only by walkers and horse riders, and agricultural estate vehicles getting access to adjoining fields and woods".
- 6.6 Mr D & H W wrote on 9 June 2006 that "we feel very strongly that the bridleways around Winfrith should not be opened to engined vehicles". They raise health and safety issues, including the noise and damage to the surface "if this bridleway is opened to all traffic".

- 6.7 Following the consultation exercise Mr P J wrote on 25 January 2010 stating that " For the last twenty years I have walked parts of BR 5 several times per week, sometimes more than once a day and much of BR 13.....on a regular but less frequent basis. During this time I have only ever seen these routes properly used by walkers and horse riders.....These uses are consistent the designation of these routes as bridleways and not indicative of byways open to all traffic".
- 6.8 A letter from the Ramblers' Association dated 26 January 2010 states their opposition in principle "to the use of mechanically propelled vehicles in the countryside for leisure activities particularly on naturally surfaced routes that are liable to damage from such traffic".
- (a) The Ramblers' Association' letter referred to several claimed routes. They submitted no evidence in support of this application but state that, "If such evidence is revealed and orders to modify the routes to a byway open to all traffic are made and subsequently confirmed it is strongly urged that the Council make Traffic Regulation Orders prohibiting their use by mechanically propelled vehicles".
- 6.9 Mrs J M wrote as Rights of Way Liaison Officer for Coombe Keynes on 2 March 2010 to report the outcome of a recent Parish meeting. She reported that "many residents present all unanimously objected to any future change of use of Bridleway 9 Winfrith & Bridleway 5 Coombe Keynes. The longest standing residents of our village ...all agree that they know it to be an agricultural track used by the landowner's farm implements, party going through Coombe Wood & across open fields often fill of cows, maize or corn. At no time has it been used by the general public as a motorised through way".
- 6.10 A H emailed on 12 March 2010 and states that he has "walked and led walks in this area.....over 25 years" and can confirm that the claimed route has never been a road.
- 6.11 Mr R & P D wrote on 30 March 2010 stating that Bridleway 5, Coombe Keynes "we use regularly to walk dogs and for relaxation. As a bridleway it is much used by horses and consequently gets chewed up in the wet. Additional vehicular use would make this significantly worse".
- 6.12 West Lulworth Parish Council wrote on 20 April 2010 to say that "What little knowledge the Council has of this path would indicate that it would be impassable to motor vehicles in Winter due to ground conditions, and would be better left as a bridleway".

The Weld Estate

- 6.13 The Weld Estate wrote on 28 April 2010 in opposition to several applications, including this one, contesting it on multiple legal grounds as explained in detail by their representative, Mr M J C below.
- 6.14 Mr M J C, Solicitor on behalf of the Trustees of the Weld Estate at Lulworth (the current landowners of the claimed route) made a submission on 28 April 2010 setting out the Estate's case:

- (a) In the introduction to the submission, he states that "Because of NERC, and the claims having been put in after 20th January 2005, all byway rights (if any had existed) will have been extinguished, unless one of the statutory exceptions applies. None of them does apply".
 - (i) He continues, stating that "The most that any of these three routes can become, therefore, is a restricted byway, and then only if it is proved on the balance of probabilities that public vehicular rights already exist".
- (b) **Winfrith Newburgh Inclosure Award 1760**
 - (i) Mr M J C remarks that the 1760 Award has no map.
 - (ii) The written provisions state that there was a "*road leading from the parish to **Coombe Wood** from the Crown Inn through Clay Street*". This means that the Commissioners believed that the way leading east wards from Clay Street (or now Clay Pits Lane) **only went as far as Coombe Wood**".
 - (iii) The expression "public road" within the Award could "mean a road which effectively was as a accommodation road or occupation route for the benefit [of] the some parishioners".
 - (iv) The Award relates to Winfrith Newburgh and "might have said that the way only went as far as the parish boundary, or, if they wanted to state its destination in another parish, to state what that destination was. This they did, but it was not the village of Coombe Keynes but instead Coombe Wood".
 - (v) The Award is helpful in showing that this route was not thought by the Commissioners to be a through route.
- (c) **The Sparrow map 1771**
 - (i) The Trail Riders' Fellowship do not submit page 25 of the Sparrow estate map. This map showing Coombe Wood "shows no way through the wood eastwards or south eastwards on the presently claimed route, or anything near it".
 - (ii) "The Sparrow Map was a privately procured map, for Estate management purposes" and showed the routes existing on the Estate "without being definitive of their status".
 - (iii) "The Sparrow map did not show the route at all from the wood eastwards as present claimed."
- (d) **Winfrith Newburgh Tithe Map 1839**
 - (i) The claimed route is shown only to the parish boundary.
 - (ii) The route is "shown gated in as many as four places on a short stretch (about $\frac{3}{4}$ of a mile)".

- (iii) "All the ways on the Tithe map, both public and private, are coloured." An example of this is given, "demonstrating that colouring on the Tithe map is no evidence of public status".
- (iv) It is noted that the map "has a destination sign at the parish boundary pointing eastward *"To Coombe Keynes"* but this map does not show the actual route, or the status of it".

(e) **Map of Newburgh Farm 1876**

- (i) "A way of unknown status and unknown alignment was available through the wood *"To Coombe Keynes"* ".

(f) **Other Commercial maps**

- (i) The *"Richmond and Gall & Inglis"* maps "suggest that there was no junction between the wood and the village".
- (ii) "The maps of *Taylor, Cary, Bayly, Stockdale, and Harrod* either showed that no route existed or are too indistinct to be relied upon".
- (iii) **Bartholomew** maps "tend to show the route, but the disclaimer within the legend is quite clear, that the representation of a road or footpath is no evidence of the existence of a right of way..... the cartographer indicated "which roads are good or indifferent but passable for cyclists...with red colouring, but this route [is] not coloured at all..... So no weight should be attached to the fact that a way being not recommended to cyclists was necessarily public at all."

(g) **Public User Evidence**

- (i) Only one user evidence form had been submitted when the file was researched. It alleges to have 10 years worth of using this claimed route with a motorbike and then only 3 or 4 times a year.
- (ii) The comment from the evidence form states that the route "was *"wide enough for a four wheel vehicle, except through Coombe Wood"*. It is significant that the width is substantially narrowed going through the wood. This tallies with the map evidence mentioned".

(h) **Finance Act 1910**

- (i) "The route is included within the hereditaments throughout its length."
- (ii) The 'Claypits Lane' wording appears on the 1902 base map only "as far as the eastern edge of the farm... so presumably the lane was serving the farm". Along the length of the claimed route wherever a colour wash showing the extremity of a hereditament crosses the route it is unbroken.

- (iii) “There are as many as 6 gates between the edge of the village and the start of the wood” and from the wood “eastwards there are 4 more gates” shown on the base map.
- (iv) Mr M J C gives four examples of routes excluded from hereditaments on the Finance Act map, which shows a clear contrast between them and the claimed route as a whole.

(i) **Topographical evidence**

- (i) Mr M J C surmises that because:

- ♦ There are a large number of gates;
- ♦ The way goes across open fields on an undefined route for some of its length;
- ♦ The way narrows substantially through Coombe Wood insufficient for a four wheel vehicle;
- ♦ East of the wood the claimed route has several sharp bends;

“All of these points militate against it ever having been a public carriageway”.

- (j) Mr M J C ended his report by summarising that “The balance is very strongly against the existence of public vehicular rights on this route”.

7 Other submissions received

- 7.1 The British Horse Society’s representative emailed on 3 February 2010 to advise that they “have no objection to this application”.
- 7.2 The Senior Archaeologist for Dorset County Council wrote on 19 February 2010 stating “there are at present no recorded archaeological finds or features on or in the immediate vicinity of the route affected by this proposal”.

8 Analysis of evidence

- 8.1 The **Winfrith Newburgh Parish Survey 1954** shows the claimed route with green colouring, indicating a CRB (public carriage or cart road mainly used as a bridleway) and adds to the evidence that the County Council considered it to have higher public rights than that of a bridleway at this time.
- 8.2 The **draft map 1955** showed the claimed route as a RUPP but this was overruled by the decision of the National Parks Sub-Committee in 1958 and shown only as a bridleway on the following **provisional map in 1964**.

- 8.3 At the **Special Review** the County Council considered claims that the route shown on the **revised draft map** should be reclassified as a byway open to all traffic. However, the evidence has never been thoroughly tested as the Special Review in the south east was abandoned and the claims were not pursued.
- 8.4 The **1768 Thomas Sparrow Estate Plan** clearly shows on three maps that the claimed route existed at that time
- 8.5 The **Winfrith Newburgh Inclosure Award 1771** clearly states, under the heading *public roads* (not under private roads), that this was a "road leading from the Parish to Coombe wood from the Crown Inn thro' Clay Street". This is only part of the claimed route and the **Coombe Keynes Award 1761** makes no mention of this route, so this therefore suggests that the road was publicly maintainable, at least in part.
- 8.6 The **1771 John Sparrow Estate Map** clearly makes reference to the Winfrith Award, and as stated previously, it is recognised as the enclosure map for Winfrith. It clearly shows how the route that had previously been shown in the **1768 Thomas Sparrow Estate plan** and mentioned in the **Winfrith Inclosure Award** would appear on the ground at that time. An avenue of trees is drawn on the plan, indicating that it was landscaped at conception.
- (a) Within the **submission from Mr M J C** on behalf of the **Weld Estate**, the claimed route is suggested to be "an accommodation or occupation route". These descriptions were not found within the **Winfrith Inclosure Award** researched.
- (b) Mr M J C comments that the "Sparrow map 1771" is not definitive as to the status of the route shown. This is indeed true, however, there is evidence from: -
- ♦ The **1768 Thomas Sparrow Estate Map** - where the status of some routes is shown in the key, for example, the roads and footpaths to remain (after the enclosure); and
 - ♦ The written **1771 Inclosure award**, which makes a distinction between public roads and private ways, the claimed route being under the heading of "public road".
- that suggests that this was intended to be, in part, a public road.
- 8.7 The **1839 & 1940 Tithe maps** show the claimed route coloured as the other routes on the map. The Tithe survey was not completed to show status of the ways and routes at that time. However, it does give an indication of the routes that could be used to access the titheable land.
- (a) The **Coombe Keynes 1840 Tithe map** gives the claimed route a number and the apportionment gives it a name, "The Drove". The owner/occupier had to pay a tithe for the "rough grazing". This does not indicate a private drove. It indicates that the surface or the verges were of a suitable standard to be taxed.

- (b) Mr M J C for the Weld Estate, in his conclusion regarding the **1839 Tithe map** evidence, comments on the large amount of gates on the route. There are various byways and unpaved roads in Dorset which have gates, without interfering with the public's rights.
- 8.8 All the **Ordnance Survey maps from 1811 to 1928**, including the small scale and 6" and 25" maps, show the claimed route with its current location and shape. The statement that "the representation on this map of a road, track or footpath is no evidence of a right of way" has appeared on Ordnance Survey maps since 1889. As previously stated, especially with regard to those maps printed after this date, Ordnance Survey maps are not conclusive of public status but show physical characteristics on the ground at the date of the map.
- 8.9 Most of the **commercial and small scale maps** researched show the claimed route and describe the route in the keys in various ways. The depiction of the claimed route on the commercial and small scale maps might be indicative of a route with public status as there would seem to be little point showing routes that the public could not use. However, the weight of such evidence supporting higher public rights is minimal.
- 8.10 The **1910 Finance Act Map** does *not* show the claimed route excluded from the valuation. Exclusion from valuation could suggest that the route was a public road.
 - (a) The valuation records for Hereditaments 93 and 199 Winfrith and 409 Coombe Keynes have deductions for rights of way recorded in the Field books. However, the hereditaments are very large and include many other parcels elsewhere on other maps and therefore no conclusion can be drawn as to whether the deductions for rights of way were for this particular route.
 - (b) The valuation records for Hereditament 418 Coombe Keynes have no deductions and therefore a conclusion can be drawn that at this time, the Weld Estate believed that no right of way existed within Coombe Wood and therefore they did not claim any deductions. There were no penalties for *not* declaring rights of way. However, there were penalties for declaring routes to be public rights of way and claiming tax relief if this was not the case.
- 8.11 The **Ordnance Survey Boundary Sketch map** shows that the claimed route crossed the parish boundary in 1886 but does not give any indication as to its status.
- 8.12 The **Wareham Highway Board Minutes 1896** show the claimed route being discussed at the local highway authority meetings at that time. Public money was used to pay surveyors to carry out inspections on the 'Coombe Wood Road' and report back on its safety. This suggests that this was a publicly maintainable carriageway at this time. However, the minutes give no indication of the location and the western end of Claypits Lane (which was not part of this claim) was, and still is, an unclassified road.

8.13 The Deposit made by the **Weld Estate** in 1994 shows that they were not intending to admit to any further public highways on their land, including not admitting that the claimed route had any higher status than bridleway. However, as a statutory declaration was not made within the required six years after 1994, this evidence is not effective for the purposes of deemed dedication under Section 31 of the Highways Act 1980.

- (a) The next deposit was made in 2005 and has not yet been followed by a statutory declaration. However, the Weld Estate has 10 years from 2005 in which to do this (as the Countryside and Rights of Way Act 2000 changed the time period from six years). Again, this deposit is not sufficient evidence of a lack of intention to dedicate the route as having higher rights than that of a bridleway, as it has not been followed up with a statutory declaration.

8.14 The **user evidence** submitted shows usage from 1986 to 2006. Evidence was submitted by six motorcyclists, who confirmed that other users were seen on the claimed route.

8.15 The claimed rights have been brought into question in June 2005 when the application was submitted.

8.16 Under Section 31 of the Highways Act 1980 the requirement of a period of 20 or more years of the route having been used by the public as of right and without interruption means that use would have had to have been 20 years prior to 2005, bringing the relevant period to between June 1986 and May 2005 inclusive.

8.17 The user evidence therefore satisfies the legal requirements.

8.18 The evidence submitted by Mr R L (in 5.4) states that equestrian drivers were using the track in 1972/3 when he was last walking the route. This supports a status of restricted byway rather than a byway open to all traffic.


8.19 **The evidence opposing the application** cited many reasons for opposing upgrading the bridleway. However, issues raised such as: -

- Noise
- Pollution
- Suitability
- Damage to the surface
- Disruption to residents and wildlife
- Narrow width
- Discouraging visitors
- Detrimental to shooting rights

are not relevant under the Wildlife and Countryside Act 1981 and cannot be taken into consideration.

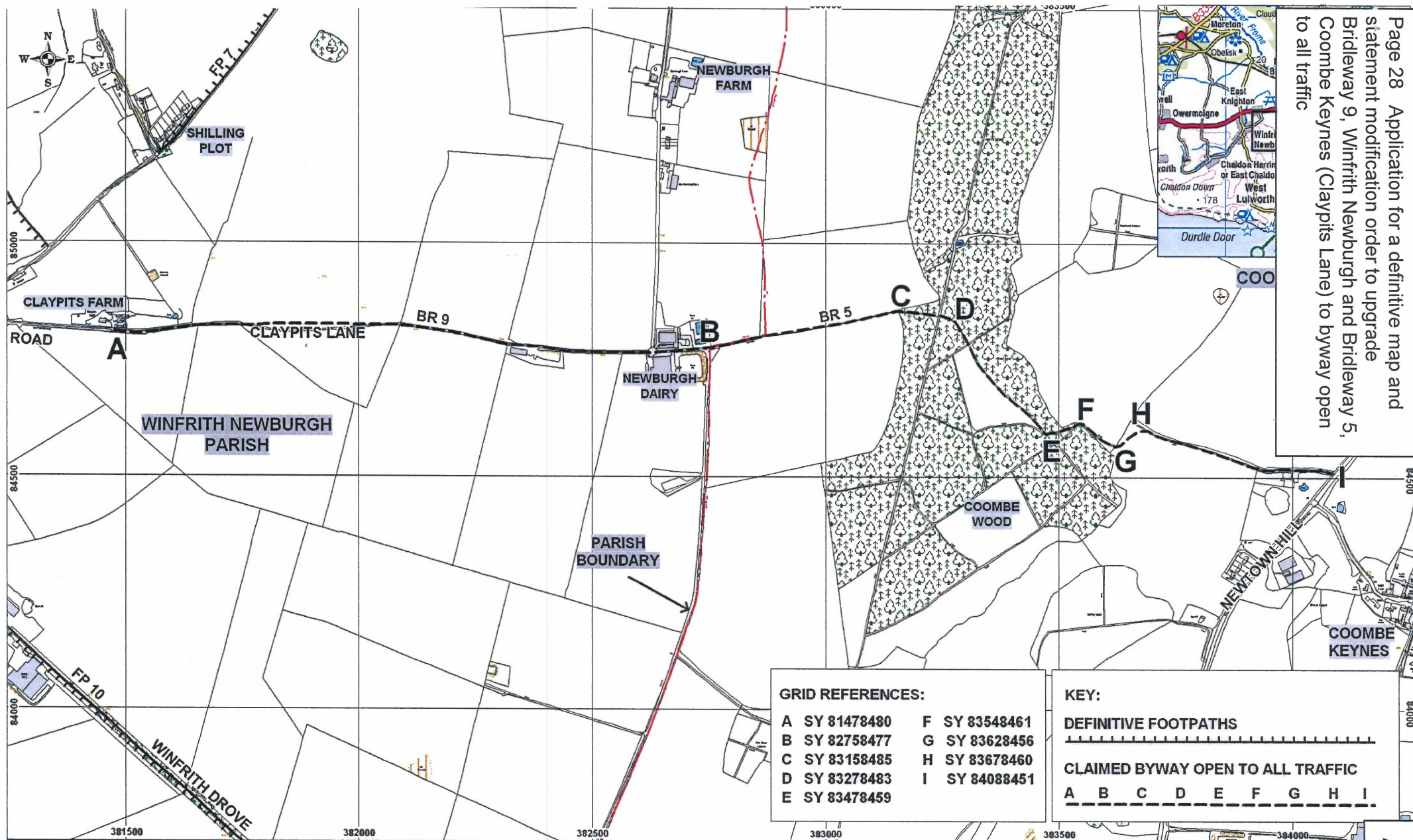


9 **Conclusions**

- 9.1 It is necessary for members to decide whether the way shown on the definitive map ought to be shown as a way of another description. To reach this decision members must consider whether or not they are satisfied that the evidence presented indicates, on the balance of probabilities, that the way should be recorded as a way of another description as claimed by the applicant, namely as a byway open to all traffic.
- 9.2 The user evidence fulfils the requirements of Section 31 of the Highways Act 1980 for the 20 years prior to the claimed rights being brought into question in 2005. 
- 9.3 The documentary evidence does support public vehicular rights for part of the claimed route as far as Coombe Wood, as the Inclosure Award and the Sparrow plans show the claimed route to this point. This is supported by other documentary sources produced subsequently. The documentary evidence for the eastern section of the route is insufficient, on its own, to show that the route subsists or is reasonably alleged to subsist as claimed. However, with the support of the user evidence it is considered sufficient, on balance.
- 9.4 Having considered and weighed up the available evidence and having taken into consideration the objections and the comments of the landowners and other interested parties, the balance of evidence shows that the claimed rights exist. However, mechanically propelled vehicular rights have been extinguished under the provisions of NERC as the claimed route does not meet any of the exceptions in Section 67(2) and therefore the application should be refused and it is recommended that an order be published to record the route as a restricted byway.

Miles Butler
Director for Environment

February 2011



WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION TO UPGRADE BRIDLEWAY 9, WINFRITH AND BRIDLEWAY 5, COOMBE KEYNES TO BYWAY (CLAYPITS LANE)

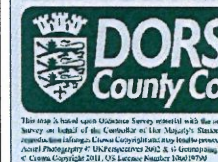
THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Not to scale -
Reduced
from 1:7500
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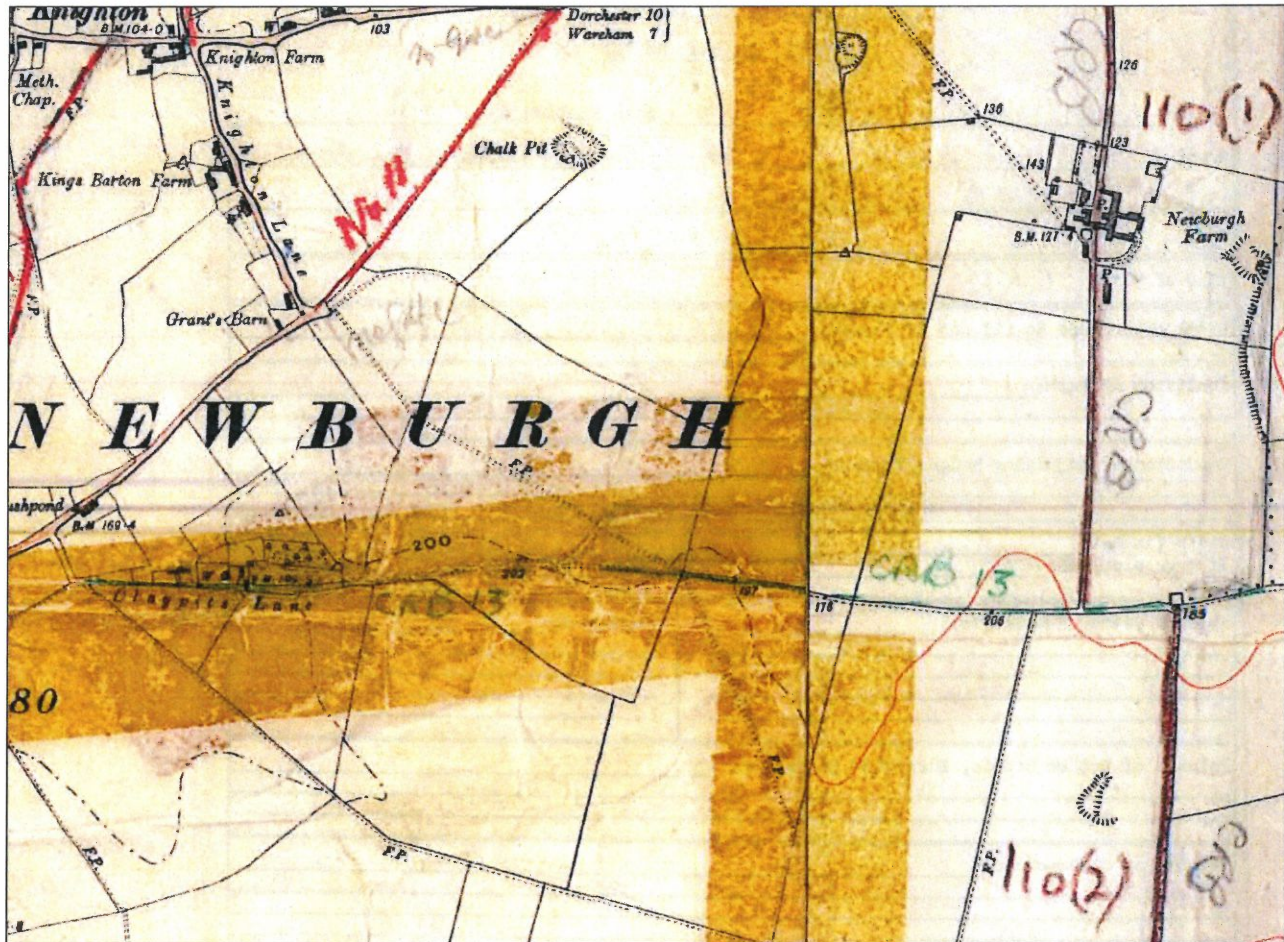
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Date: 26/01/2011

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Cent Y: 84619

GEOGRAPHICAL INFORMATION

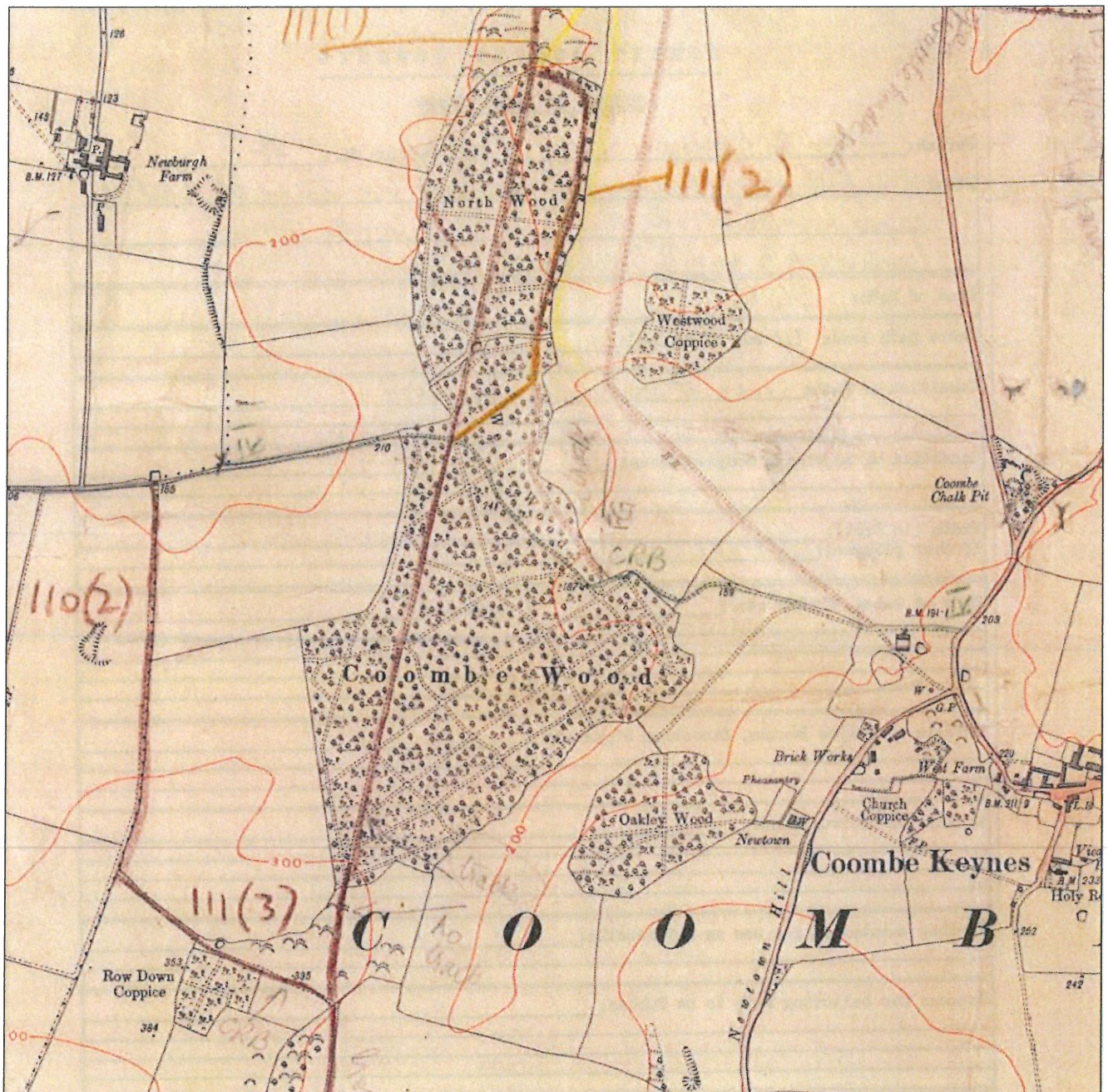


Winfrith Newburgh Parish Survey map and schedule



DORSET COUNTY COUNCIL	
RIGHTS OF WAY SURVEY	
Parish: <u>Winfrith Newburgh</u>	Path Section No: <u>13</u>
From: <u>Coombe road south of Rushport along Claypits Lane eastwards</u>	To: <u>Coombe Keynes Parish boundary</u>
Kind of Path: <u>C.R.B.</u>	
Where path leads to (if out of Parish): <u>Coombe Wood, Coombe Keynes</u>	
Condition of Path: <u>fit for vehicular traffic</u>	
Condition of Adjoining hedges/fences:	
Width (in feet):	
If ever ploughed:	
Type of Gates, Stiles etc.:	Condition:
Details of Notice Boards, Direction Signs etc.:	
Details of Obstructions:	
Whether maintained for use as Bridlepaths:	
Reasons for believing Path to be Public:	
Objectors Name and Address:	
Reasons for Objection:	
Improvements Necessary:	
Surveyor: <u>added to definitive map by DCC</u> <u>approved by parish council</u>	DATE: <u>1/12/87</u>
Address:	

Coombe Keynes Parish Survey map and schedule

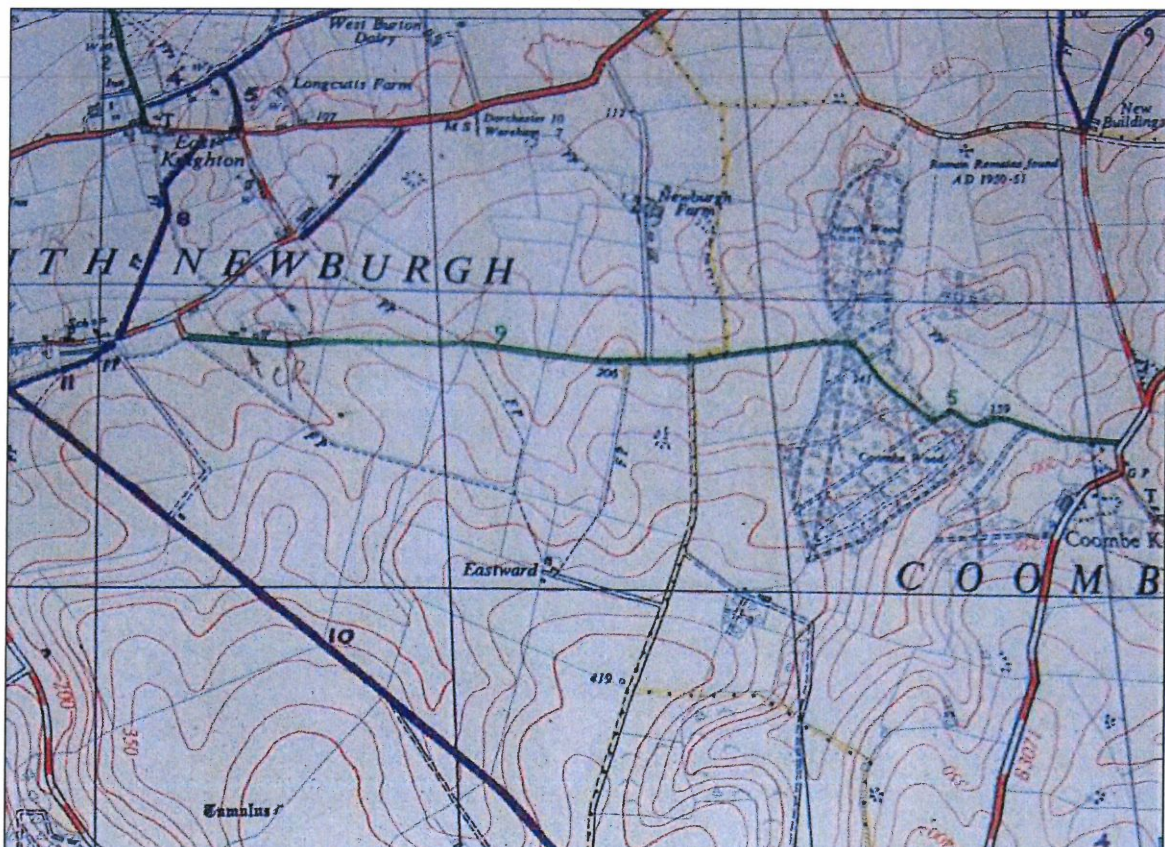


DORSET COUNTY COUNCIL	
RIGHTS OF WAY SURVEY	
Parish: <u>Coombe Keynes</u>	Path Section No.: <u>4</u>
From: <u>Winfrith parish boundary</u>	To: <u>Join County road east of</u>
<u>near Coombe Wood, thro'</u>	<u>Crate Barn</u>
<u>Coombe wood to north of Crate Barn</u>	
Kind of Path: <u>CRB</u>	
Where path leads (if out of Parish):	
Condition of Path: <u>Not through Coombe Wood</u>	
Condition of Adjoining hedges/fences:	
Width (in feet):	
If ever ploughed: <u>yes at western end</u>	
Type of Gates, Stiles etc.:	Condition:
Details of Notice Boards, Direction Signs etc.:	
Details of Obstructions:	
Whether maintained for use as Bridlepaths:	
Reasons for believing Path to be Public:	
Objectors Name and Address:	
Reasons for Objection:	
Improvements Necessary:	
Surveyor: <u>Parish Meeting 10.11.54</u>	DATE:
Address:	
F.P. 1.	

Draft map 1955



Provisional map 1964



Special Review documents
County Council notes regarding depiction of roads on the definitive map
(Winfrith Newburgh)

in for other roads

REVIEW OF DEFINITIVE MAP

PARISH OF Winfrith RW/SE. 24 South-East AREA

THE FOLLOWING ARE SHOWN AS ROADS ON THE RIGHTS OF WAY MAP, BUT BECAUSE OF THEIR NARROW WIDTHS THEY ARE SUITABLE ONLY AS BRIDLEWAYS OR FOOTPATHS AND SHOULD BE SHOWN IN ONE OF THESE CATEGORIES AT THE REVIEW IN ACCORDANCE WITH LETTER DATED 16/3/65 REF. NO. M.11/5 SB/MH FROM County Surveyors TO County Planning Officers

O.S. SHEET NUMBER	DESCRIPTION
SY 88 NW	Winfrith - the whole of BBS, Claypits Lane, from M.R. 815848 - 841845 ✓
SY 88 NW	Winfrith - Footpath 7 from School Lane - A.352 East Knighton ✓

REVIEW OF DEFINITIVE MAP

PARISH OF Winfrith RW/SE. 24 South-East AREA
or footpaths

THE FOLLOWING SECTIONS OF METALLED ROADS ARE SHOWN AS BRIDLEWAYS ON THE DEFINITIVE MAP AND SHOULD BE DELETED FROM THE RIGHTS OF WAY RECORD IN ACCORDANCE WITH LETTER DATED 16/3/65 REF. NO. M.11/5 SB/MH FROM County Surveyors TO County Planning Officers

O.S. SHEET NUMBER	DESCRIPTION
SY 88 NW	Winfrith - Horwicks - consisting of all Footpath 18 and parts of Footpaths 14 and 16 as far as M.R. 805848 ✓
SY 88 NW	Winfrith - Claypits Lane - part Bridleway 9 for a total distance of 0.21 mile as far as M.R. 815848 ✓

Special Review Committee decisions 29 and 21 November 1973

DORSET COUNTY COUNCIL

REF RW/5427(4)

SPECIAL REVIEW OF DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY

1. Municipal Borough/Urban District/Parish of

WINFRITH NEWBURGH

2. Claim for inclusion on the Revised Draft Map of Rights of Way of -

- (a) a new Footpath
- (b) a new Bridleway
- (c) a Byway Open to all Traffic
- (d) that a path shown on the present Definitive Map should be upgraded to a higher status
- (e) any other relevant claim, eg new evidence concerning an existing path or way (please specify below)

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

- (a)
- (b)
- (c)
- (d)
- (e)

3. Claim originated by (MB/UD/Parish Council/Meeting/User Organisation/Private Person, etc (please state))

RUPP

4. Official number of path or way if already shown on Definitive Map

BR 9

5. From County Rd.

Map Ref. 812848

To Parish Boundary

Map Ref. 827847

The Original Bush Survey and Draft Map show as Camuge Road/Bridleway No 13 a section at present shown as BR 9 on the Definitive Map. The section extends from a County Road at South of Rushmore at 812848 Eastwards via Claypits Lane to a junction with bridleway 5 at the Coombe Keynes Parish Boundary at 827847. The section from 812848- 815848 is now a County Road. The way formed part of an old road connecting Winfrith, Coombe Keynes, Highwood and East Stoke. The section is passable to traffic although only farm traffic could negotiate the boggy 150 yards of Claypits Lane east of the County Road. The first field east of Claypits Lane has been ploughed, is now pasture and the old road lost, but the line can still be seen. In dry weather the whole section should be passable to ordinary motor vehicles. The way would make an alternative route between Winfrith and Coombe Keynes and has been entered on the OS map as a suggested byway.

7. COMMITTEE'S DECISION - ~~CLAIM UPHOLD/OVERRULED~~ for the following reasons:-

Retain as a bridleway - public vehicular rights not shown
to exist over this way and furthermore the path is
unsuitable for public vehicular use.

Date 24TH NOVEMBER 1973

Signed

R. Lane.

~~Chairman of the Special Review~~
Committee

M. J. M. 1. 16

DORSET COUNTY COUNCIL

REF RW/SE10(3)

SPECIAL REVIEW OF DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY

1. Municipal Borough/Urban District/Parish of

COOMBE KEYNES

2. Claim for inclusion on the Revised Draft Map of Rights of Way of -

- (a) a new Footpath
- (b) a new Bridleway
- (c) a Byway Open to all Traffic
- (d) that a path shown on the present Definitive Map should be upgraded to a higher status
- (e) any other relevant claim, eg new evidence concerning an existing path or way (please specify below)

<input type="checkbox"/>
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<input checked="" type="checkbox"/>

- (a)
- (b)
- (c)
- (d)
- (e)

RUPP

3. Claim originated by (MB/UD/Parish Council/Meeting/User Organisation/Private Person, etc (please state))

See 6 below

4. Official number of path or way if already shown on Definitive Map

BR 5

5. From *County Rd.*

Map Ref. *841845*

To *BR 9. Parish Boundary*

Map Ref. *827847*

6. Precis of Claim

The Original Parish Survey and Original Draft Map show as Carriage Road / Bridleway No.4 a section at present shown on the Definitive Map as Bridleway 5. The section extends from the B3071 County Road North of Coombe Keynes at 841845 Westwards via Coombe Wood to a junction with Bridleway 9 at the Winfrith Newburgh Parish boundary at 827847. This section formed part of an old road connecting Winfrith, Coombe Keynes, Highwood and Fort ~~Stoke~~ Stoke. The track varies in width along the route of between 8' and 12'. The formation width in places is up to 40'. The whole length is passable to traffic although only farm traffic would negotiate the boggy 150 yards of Claypits Lane east of the County Road and the deeply rutted section through Coombe Wood. The section has been entered on the OS map as a proposed byway.

7. COMMITTEE'S DECISION - CLAIM ~~UPHELD~~/OVERRULED for the following reasons:-

Retain as bridleway - no evidence of public vehicular
use or rights existing over the way.

Date 21st November 1973

Signed *[Signature]*
~~Chairman of the Special Review~~
Committee

[Signature]

(
(
AJS/EH
)
)

Revised Draft map 1974



Objections to showing Bridleway 9, Winfrith as a bridleway
Mrs Baxter

THE RAMBLERS ASSOCIATION - DORSET AREA
Hon. Footpaths Secretary - Mrs R. Colyer, Orchardene, Shillingstone, Blandford, Dorset.
From Mrs. M. BAXTER Date 17 April 1975
Address 3, Rempstone Cottages, Corfe Castle, Wareham, BH20 5JH.
To the Secretary of State for the Environment, South West Region Office, Fromsgate House, Rupert St., Bristol 2QN. (Room 10B/06), to arrive before May 3rd.
Dear Sir *Not a new claim - see Review file SE 27(4)*
DRAFT REVISION - SPECIAL REVIEW OF THE DORSET DEFINITIVE MAP.
I WISH TO OBJECT TO:- WINFRITH NEWBURGH PARISH Br. 9
the re-classification of this R.U.P.P. to Bridleway.

The grounds on which I make this objection are:- That it is liable to be ploughed up. Lord Sandford - "There is certainly no reason why an objection should not be based on the argument that that particular way should not be made liable to plough" House of Lords, Official Report of the Committee on the Highways Bill 28 April 1971.

Mr Cox (for BR 5, Coombe Keynes also)

THE RAMBLERS' ASSOCIATION, DORSET AREA
Hon. Footpaths Secretary - Mrs. R. Colyer, Orchardene, Shillingstone, Nr. Blandford, Dorset.
From *D. Cox* Date *25/4/75*
Address *747 Dorchester Road, Wimborne*
To the Secretary of State for the Environment, South West Region Office, Froomegate House, Rupert Street, Bristol 2QN (Room 10B/06), to arrive before May 3 1975.
Dear Sir,
DRAFT REVISION.
SPECIAL REVIEW OF THE DEFINITIVE MAP - DORSET.
I wish to object to :- *Not a new claim - see Review file SE 27(4)*
The status of path number *BR 9* in the parish/borough of *Winfrith Newburgh* which I consider should be shown as a bridlepath. *SE 27*
The reclassification of path number *BR 9* in the parish/borough of *Winfrith Newburgh* which I consider should be reclassified as a *By-way Open to All Traffic*.
The reclassification of path number *BR 5* in the parish/borough of *Coombe Keynes* which I consider should be reclassified as Bridlepath. *SE 27*
The omission of a Footpath/Bridlepath/By-way Open to All Traffic, which I consider should run from *Wimborne* to *Wimborne* as shown on accompanying tracing from the *map*.
The words " *Wimborne* " in the Statement, which I consider should be deleted/alterd as follows *Wimborne*.
The omission in the Statement of the necessary words " *Wimborne* " .
The grounds on which I make this objection are as follows :-
Shown clearly as Roads in OS 1811 edition
Continuation of ROAD Route from Abbotsbury via
Coxwell.
The connecting road stub from BR 9 at W. end lacks
any status classification

Mr Green (for BR 5, Coombe Keynes also)

THE RAMBLERS' ASSOCIATION, DORSET AREA
Hon. Footpaths Secretary - Mrs. R. Colyer, Orchardene, Shillingstone, Nr. Blandford, Dorset.
From *Oliver Green* Date *29/4/75*
Address *8 Longside, Ridge, Wimborne*
To the Secretary of State for the Environment, South West Region Office, Froomegate House, Rupert Street, Bristol 2QN (Room 10B/06), to arrive before May 3 1975.
Dear Sir,
DRAFT REVISION.
SPECIAL REVIEW OF THE DEFINITIVE MAP - DORSET.
I wish to object to :- *Not a new claim - see Review file Rv/SE 27(4) P*
The status of path number *BR 9* in the parish/borough of *Winfrith Newburgh* which I consider should be shown as a bridlepath. *SE 27*
The reclassification of path number *BR 9* in the parish/borough of *Winfrith Newburgh* which I consider should be reclassified as a *By-way Open to All Traffic*.
The reclassification of path number *BR 5* in the parish/borough of *Coombe Keynes* which I consider should be reclassified as Bridlepath. *By-way Open to All Traffic*
The omission of a Footpath/Bridlepath/By-way Open to All Traffic, which I consider should run from *Wimborne* to *Wimborne* as shown on accompanying tracing from the *map*.
The words " *Wimborne* " in the Statement, which I consider should be deleted/alterd as follows *Wimborne*.
The omission in the Statement of the necessary words " *Wimborne* " .
The grounds on which I make this objection are as follows :-
1/ This route is shown on the first edition OS 1" map as a road
i.e. 1811 1" OS map
2/ The route is a lane known as "Claypits Lane" in Winfrith Newburgh

**Objections to showing Bridleway 5, Coombe Keynes as a bridleway
Mrs Baxter**

THE RAMBLERS ASSOCIATION - DORSET AREA

Hon. Footpaths Secretary - Mrs R. Colyer, Orchardene, Shillington, Blandford, Dorset.

From Mrs. M. BAXTER

Date 17 April 1975

Address 3, Rempstone Cottages, Corfe Castle, Wareham BH20 5JH

To the Secretary of State for the Environment, South West Region Office, Froomegate House, Rupert St., Bristol 2QN. (Room 10B/06), to arrive before May 3rd.

Dear Sir

Note new claim - decided by Review Sub-Committee. See Review file R/1/19(3) DR

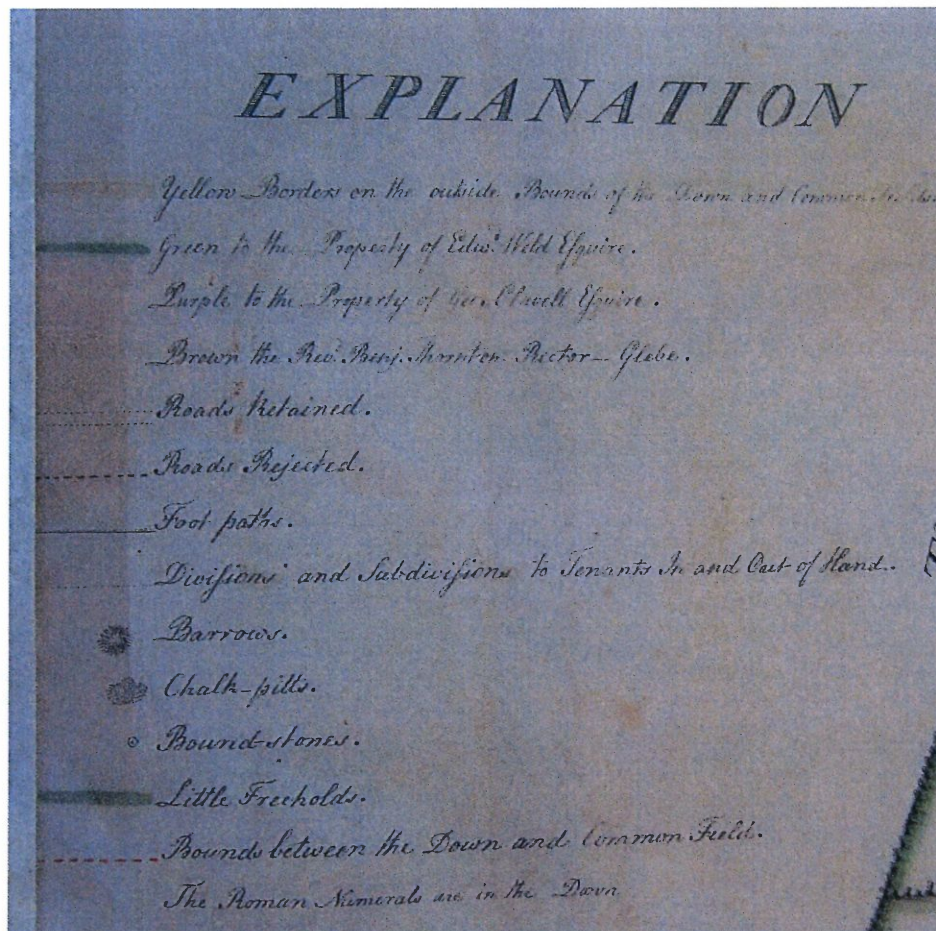
DRAFT REVISION - SPECIAL REVIEW OF THE DORSET DEFINITIVE MAP.

I WISH TO OBJECT TO:- COOMBE KEYNES PARISH Br. 5

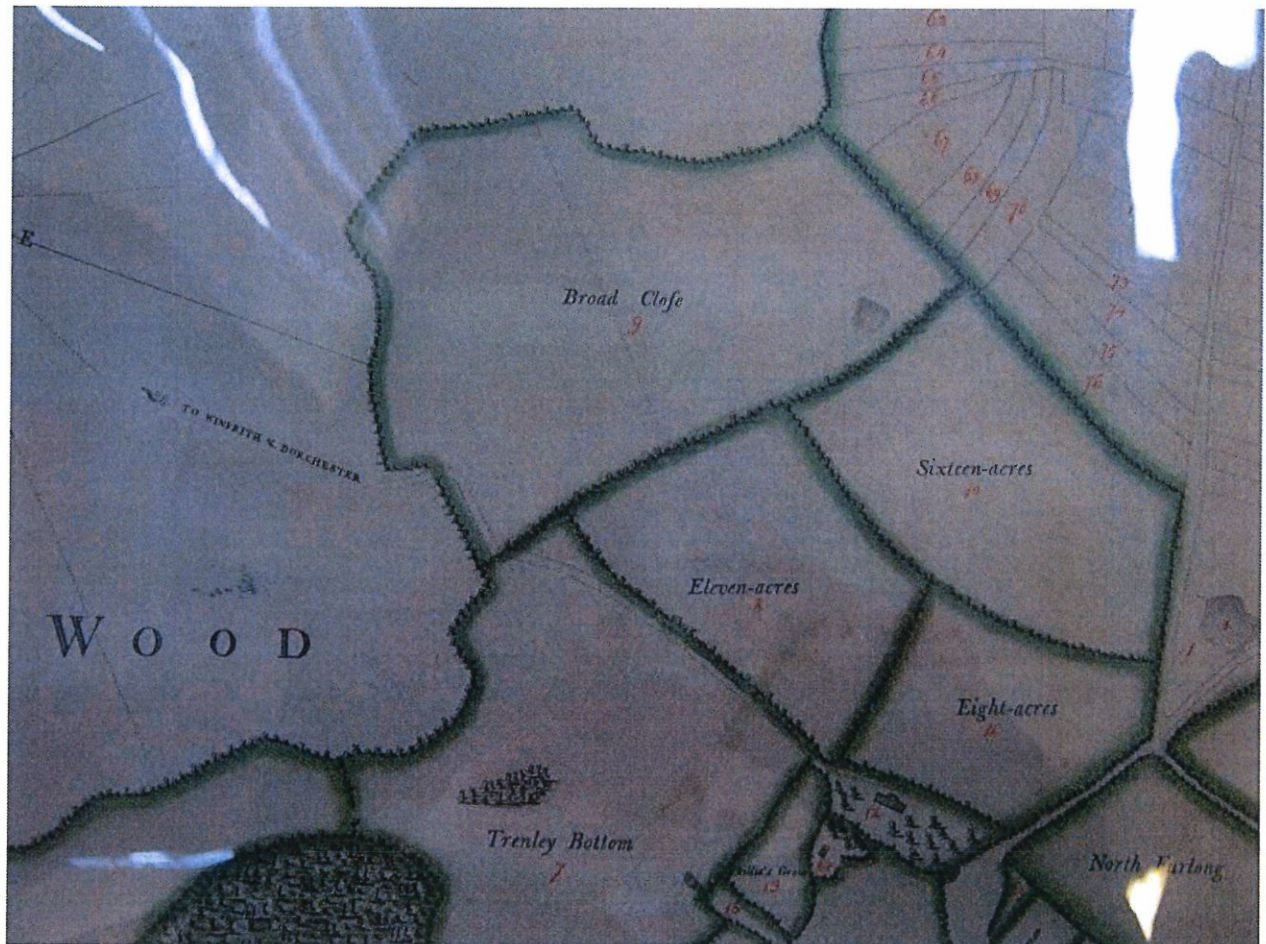
the re-classification of this R.U.P.P. as Bridleway.

The grounds on which I make this objection are:- That it is liable to be ploughed up. Lord Sandford - "There is certainly no reason why an objection should not be based on the argument that that particular way should not be made liable to plough" House of Lords, Official Report of the Committee on the Highways Bill, 28 April 1971.

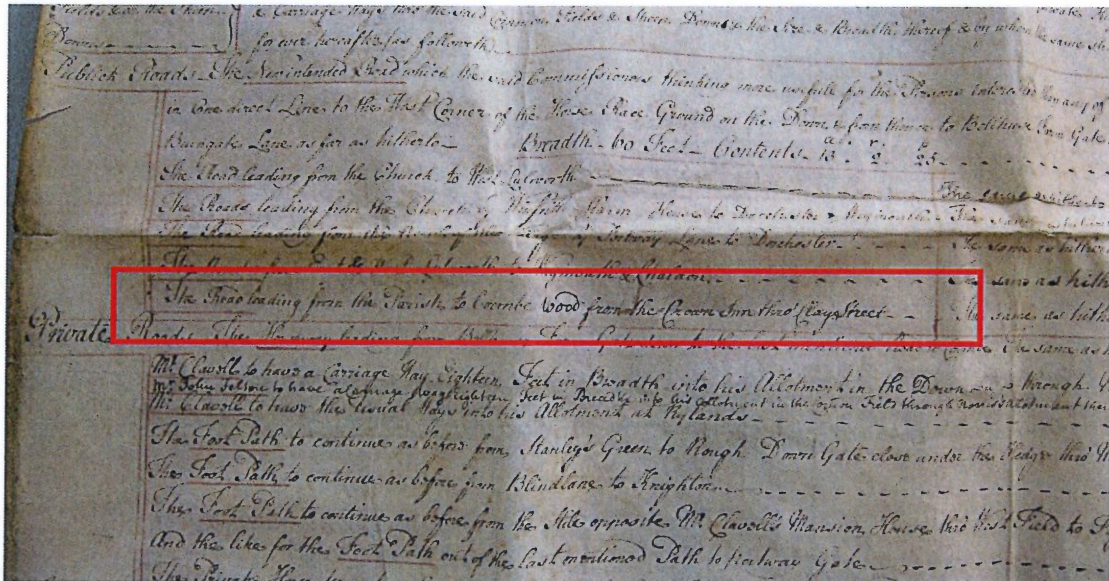
Thomas Sparrow Estate plan 1768

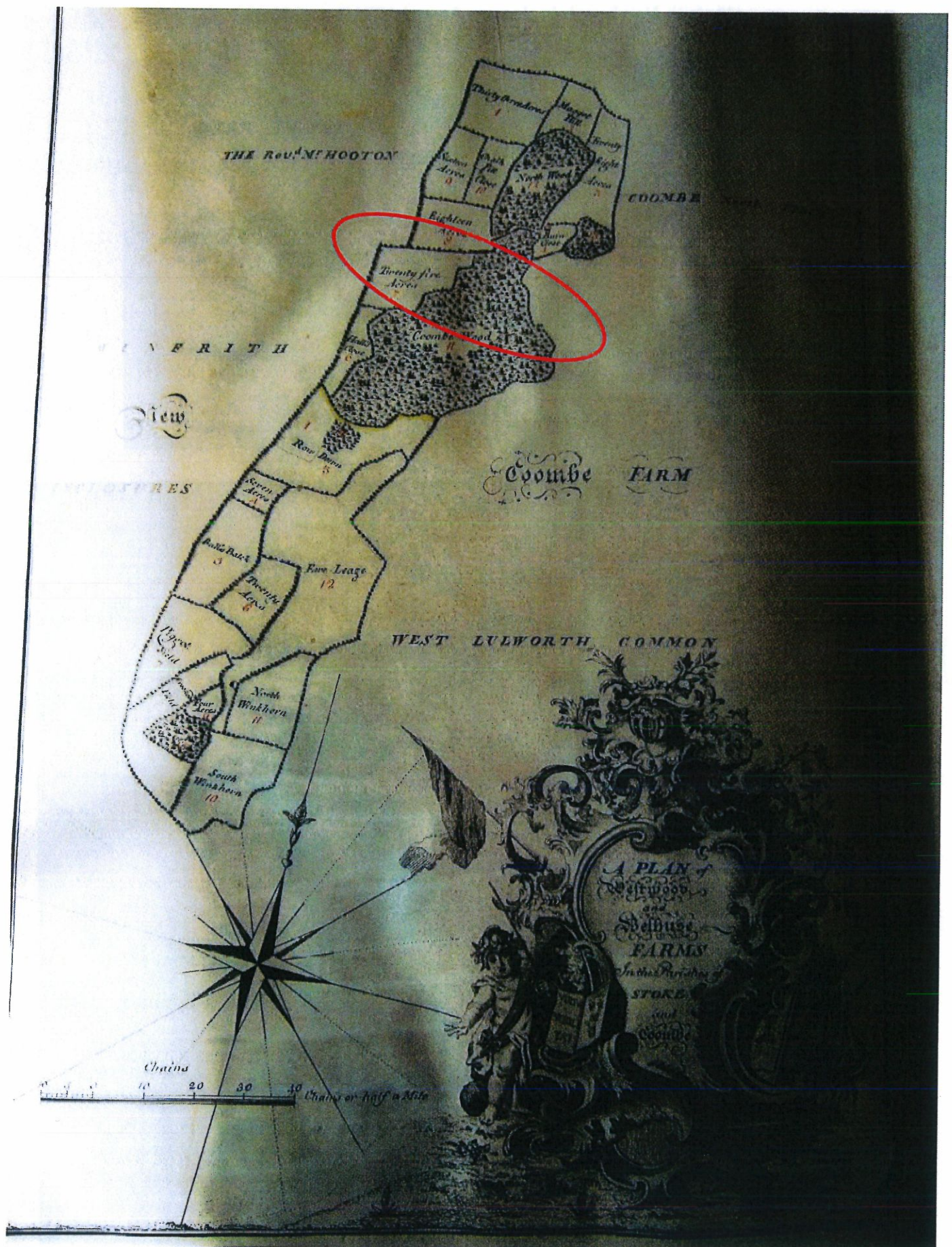


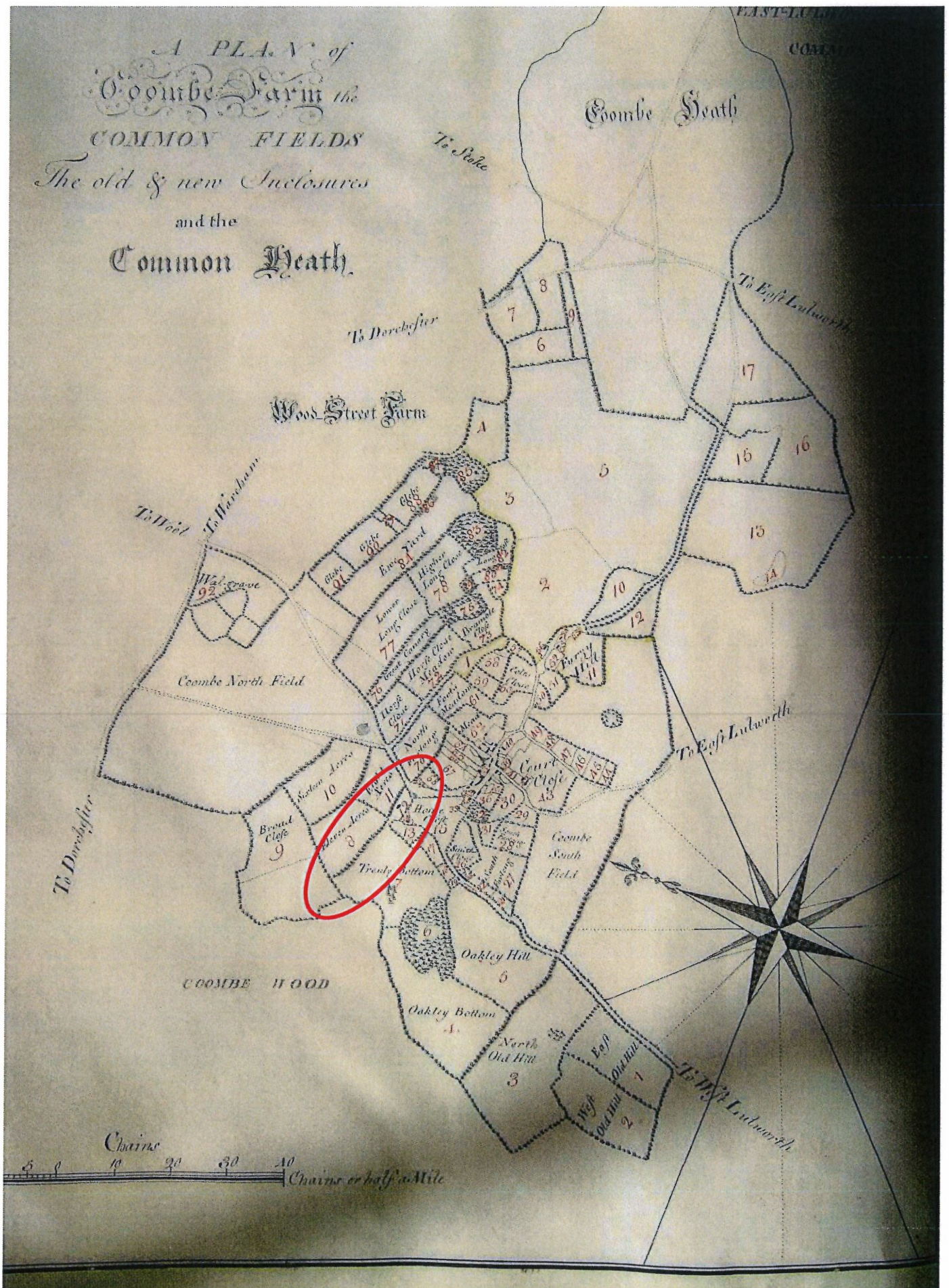




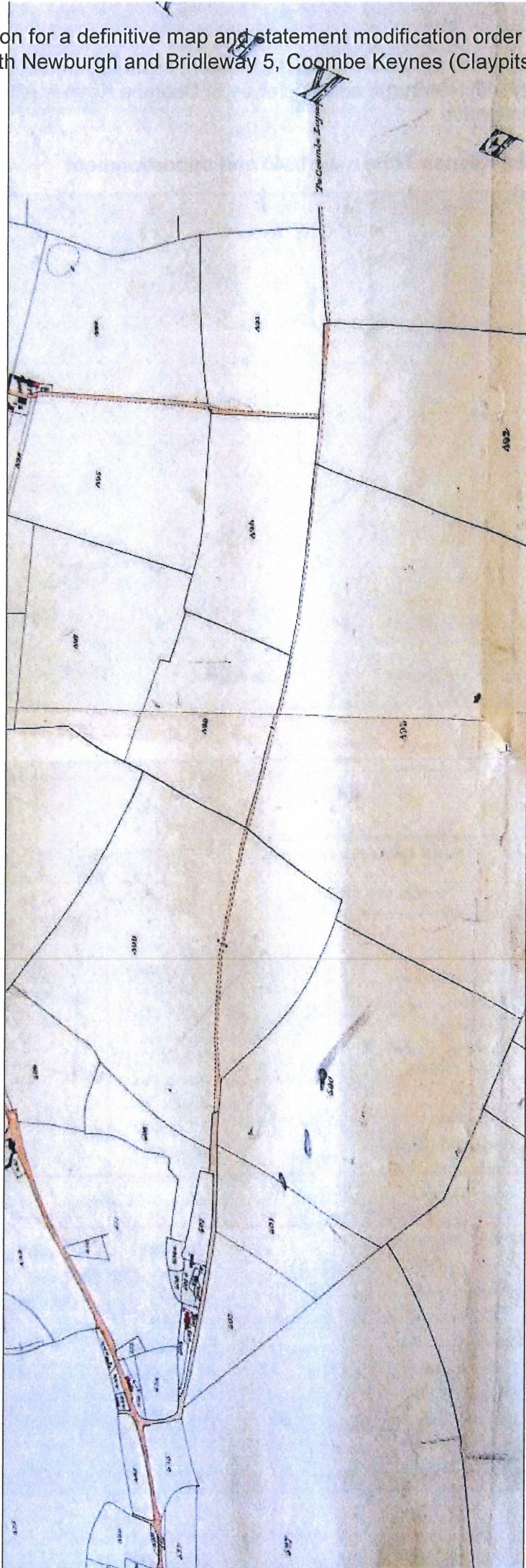
**Winfrith Newburgh Inclosure Award 1771/2 and Map
(John Sparrow Estate plan 1771)**







Winfrith Newburgh Tithe map 1839



Coombe Keynes Tithe map 1840 and apportionment

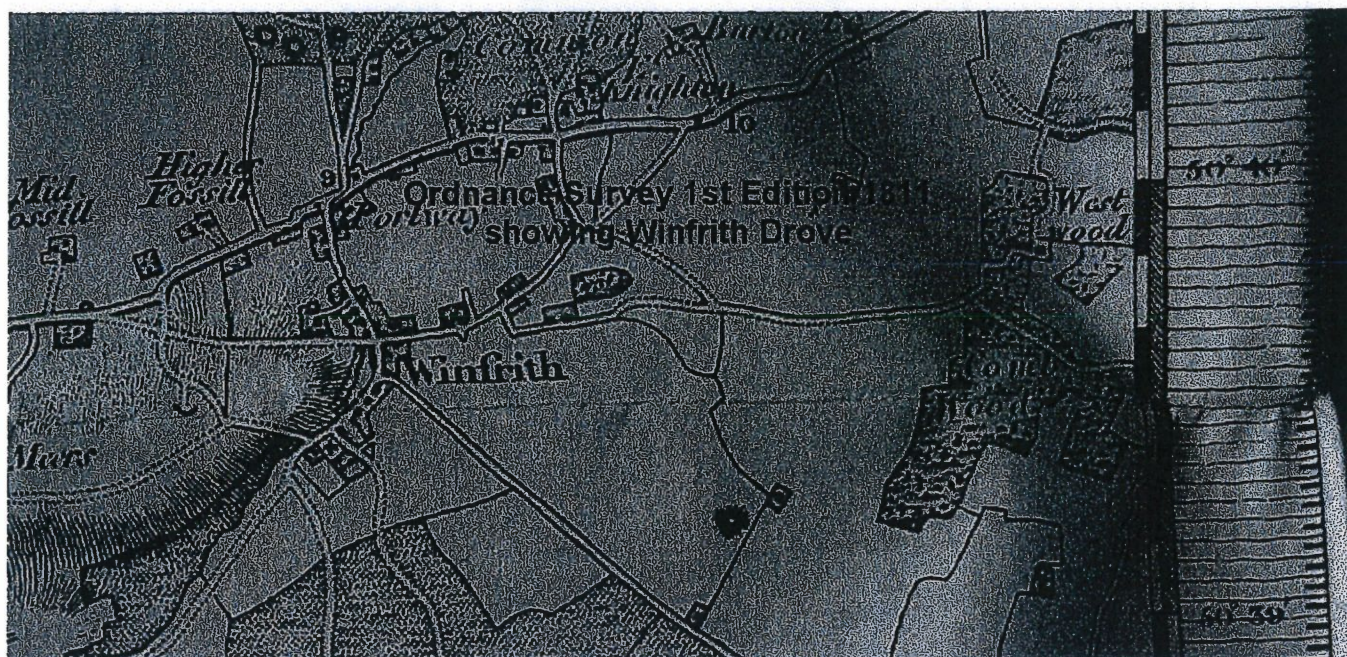


contd continued

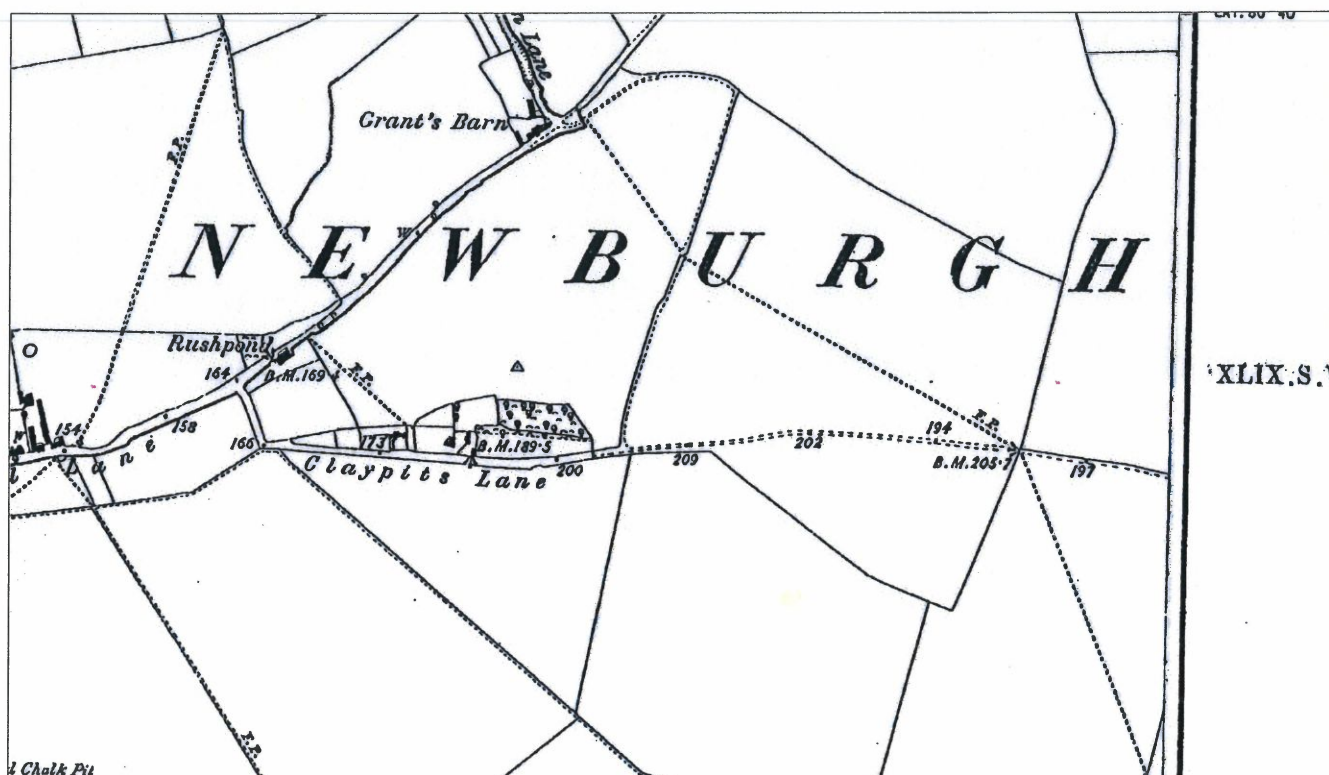
C.—London: Printed and Published (35) 2

OCCUPIERS.	Numbers referring to the Plan.	NAME AND DESCRIPTION OF LANDS AND PREMISES.	STATE OF CULTIVATION.	QUANTITIES IN STATUTE MEASURE.			Amount of Rent-Charge several Lods, and to PAYABLE TO Vicar.		
				A.	R.	P.	£.	s.	d.
<i>Hamstead Isenham continued</i>	33	Hurst Mead	Brought forward	412	2	36			
	34	Woods	Pasture	29		34			
	35	Brookery	Wood		1	22			
	36	Withy Bed	Pasture	7		31			
	37	Rice Close	Wood	1	2	1			
	38	Drove	Pasture	5	1	23			
	38 1/2	Garden	Road	2	3	12			
	39	Chapel field	Garden			18			
	31	Two Tennisall and Garden	Arable	31	3	2			
	32	The Drove	Garden		2	3			
	33	Cottage and Garden	Rough Pasture	14		15			
	34	The Warren	Garden		1	15			
	35	Part of the Warren	Arable	31	4	35			
	36	Hedgerow	Rough Pasture	3		22			
	37	Hedgerow	Wood	1	1	32			
	38	Woodpine	Wood		2	26			
	39	Hedgerow	Arable	13	1	24			
	40	Broadfield	Wood	1	1	30			
	41	Little Enclosure	Arable	34		28			
	42		Pasture	10	1	34			
	43	Great Perry	Pasture	29	3	4			

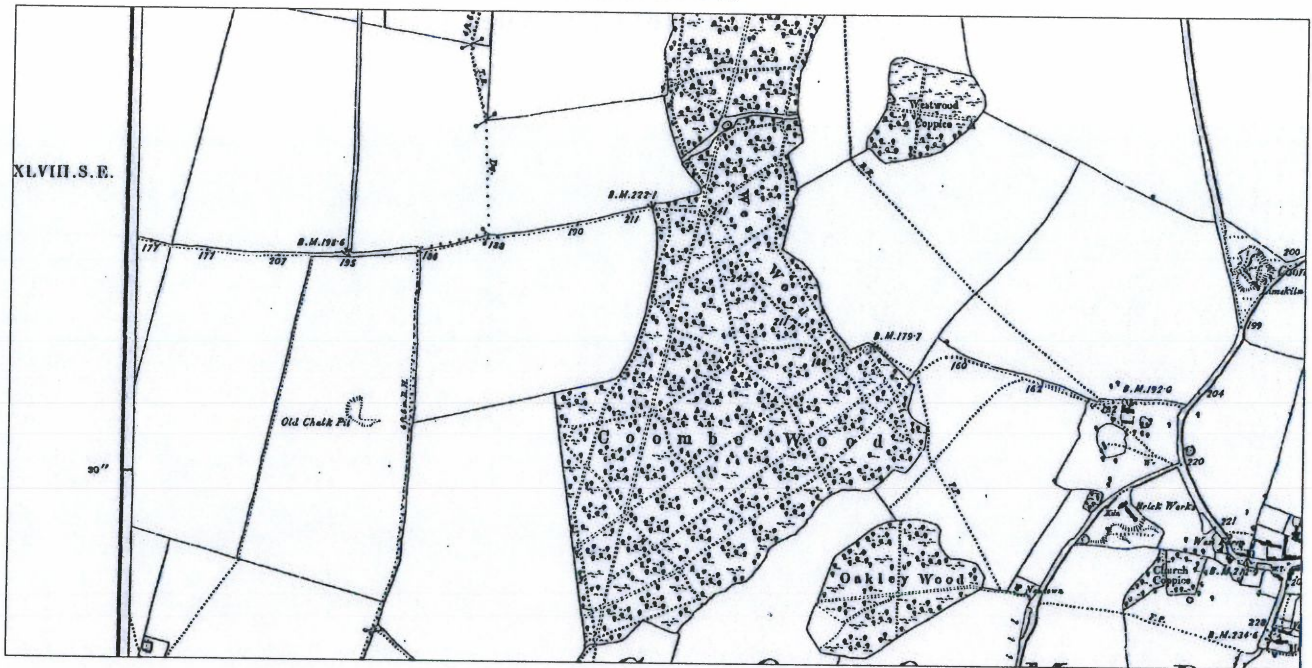
First Edition 1811 1":1 mile



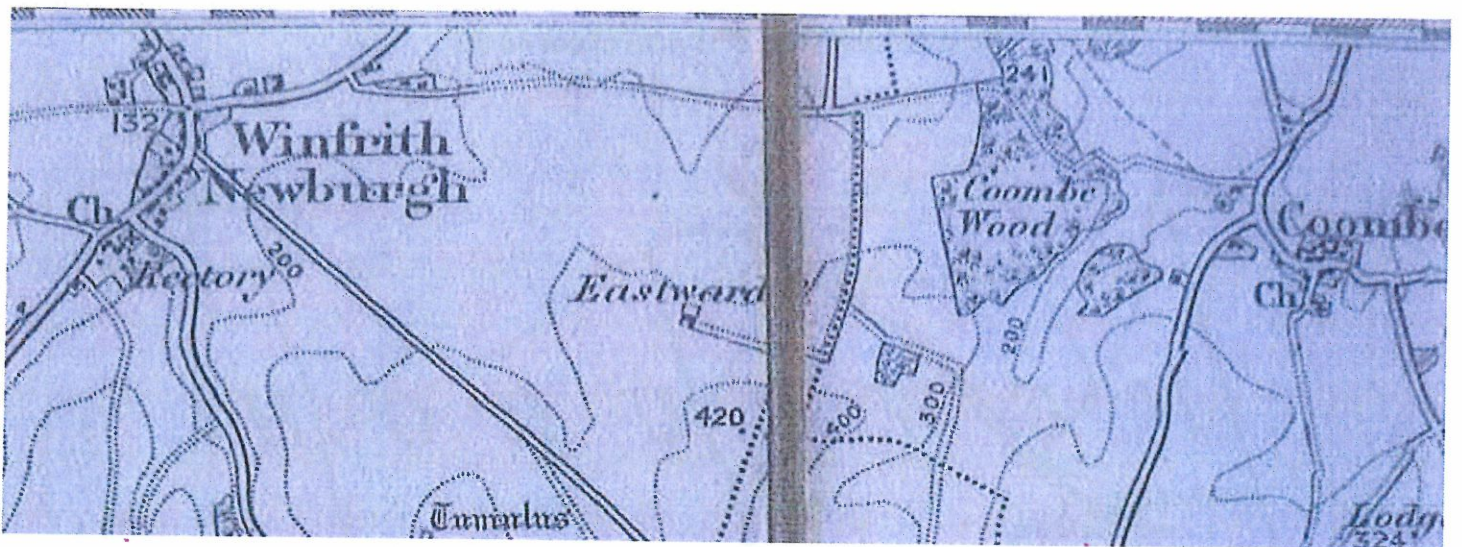
First Edition 1888 6":1 mile sheet 48 SE



Sheet 49 SW

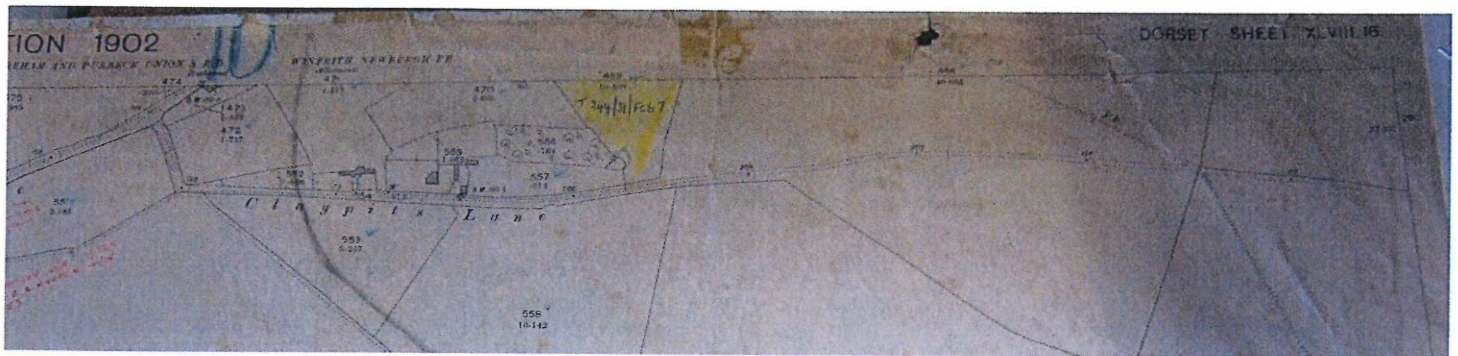


First Edition 1898 1":1 mile

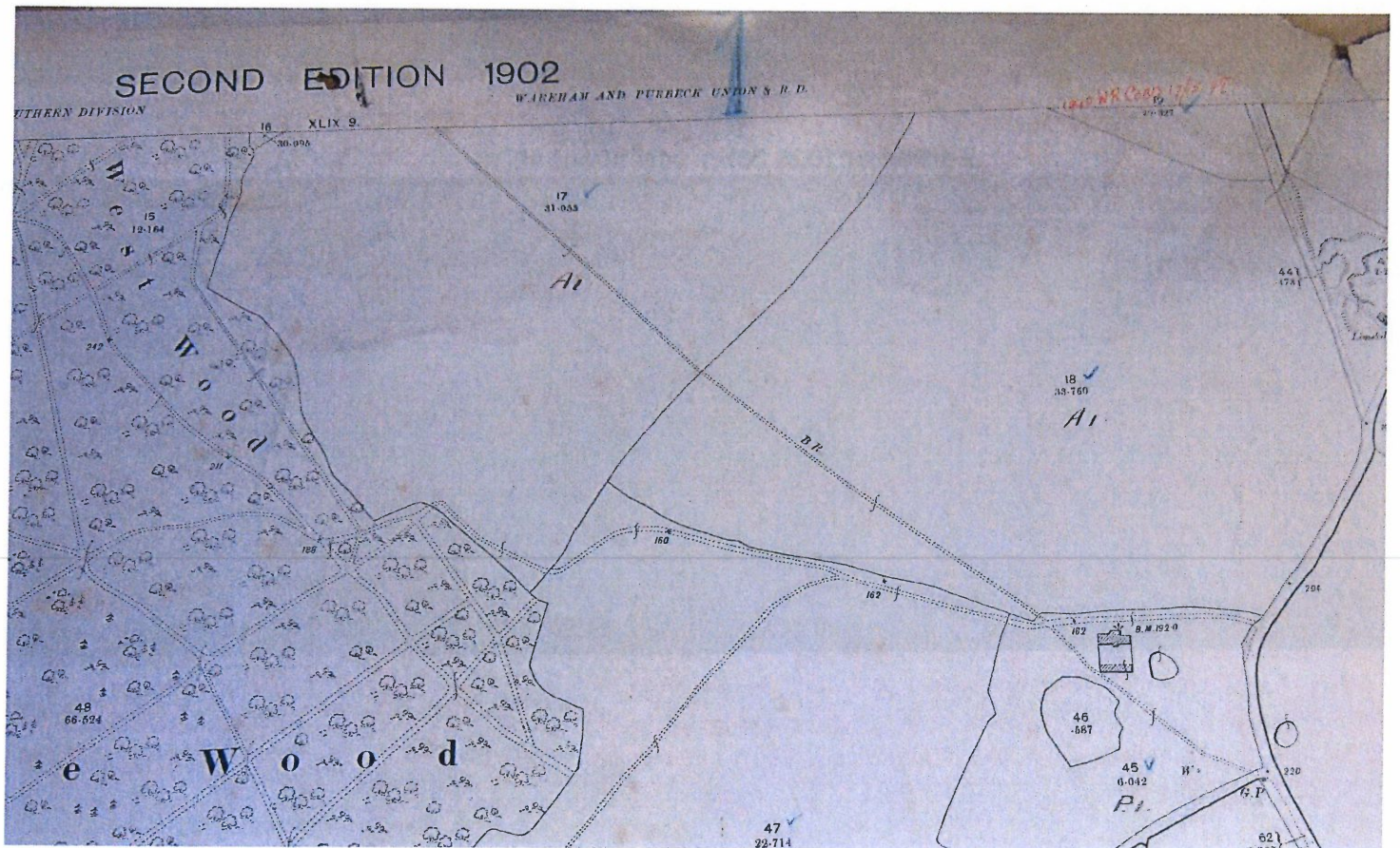


Page 52 Application for a definitive map and statement modification order to upgrade Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes (Claypits Lane) to byway open to all traffic

**Second Edition 1902 25":1 mile
Sheet 48.16**



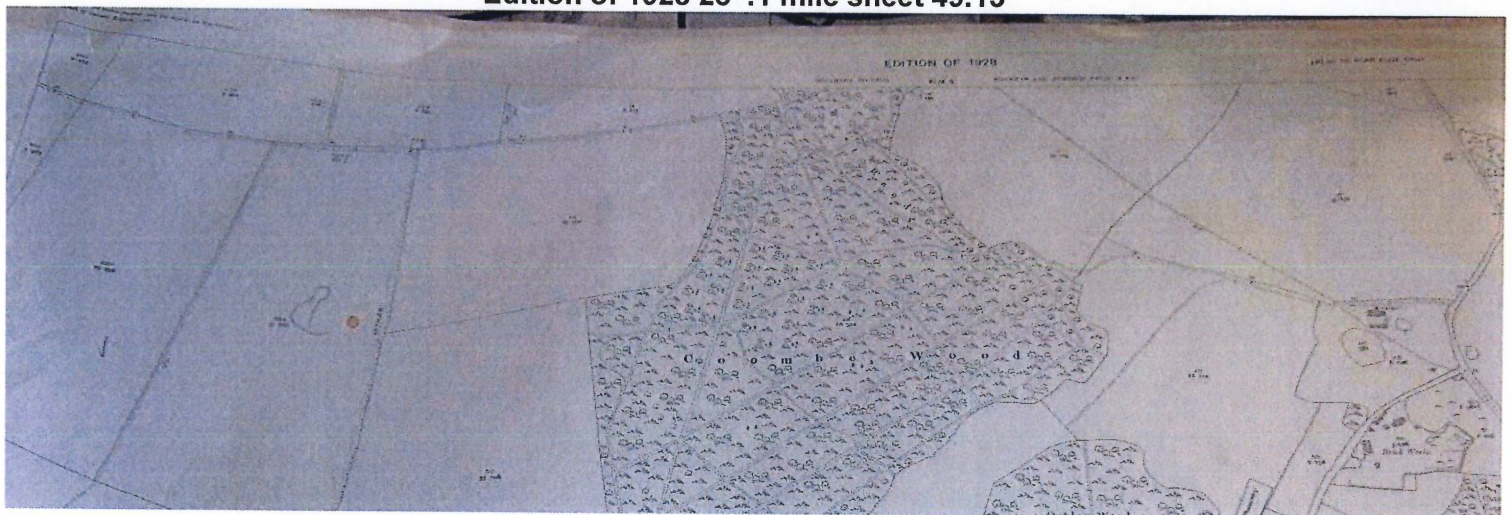
Sheet 49.13



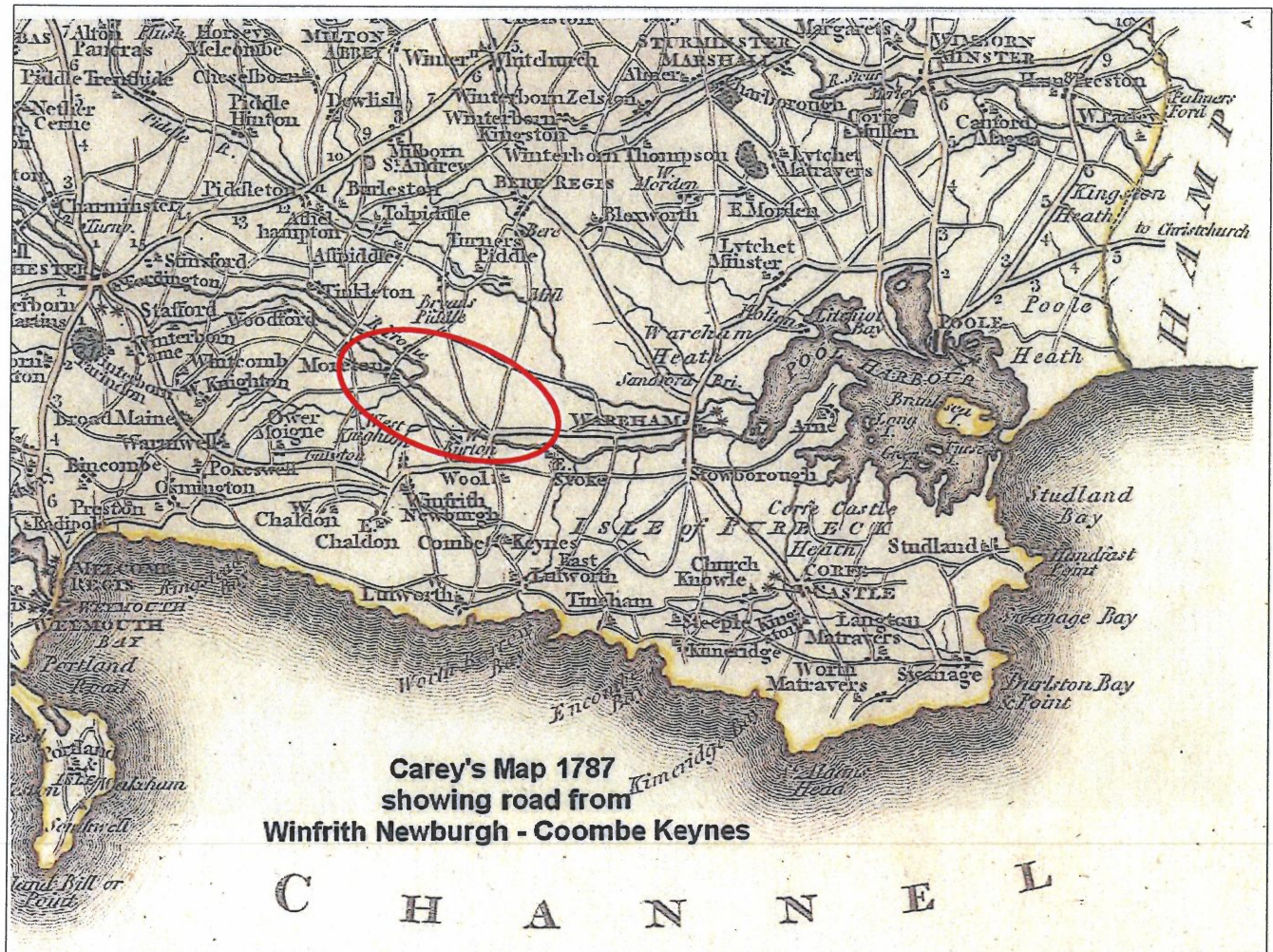
1906 1":1 mile



Edition of 1928 25":1 mile sheet 49.13



Careys map 1787



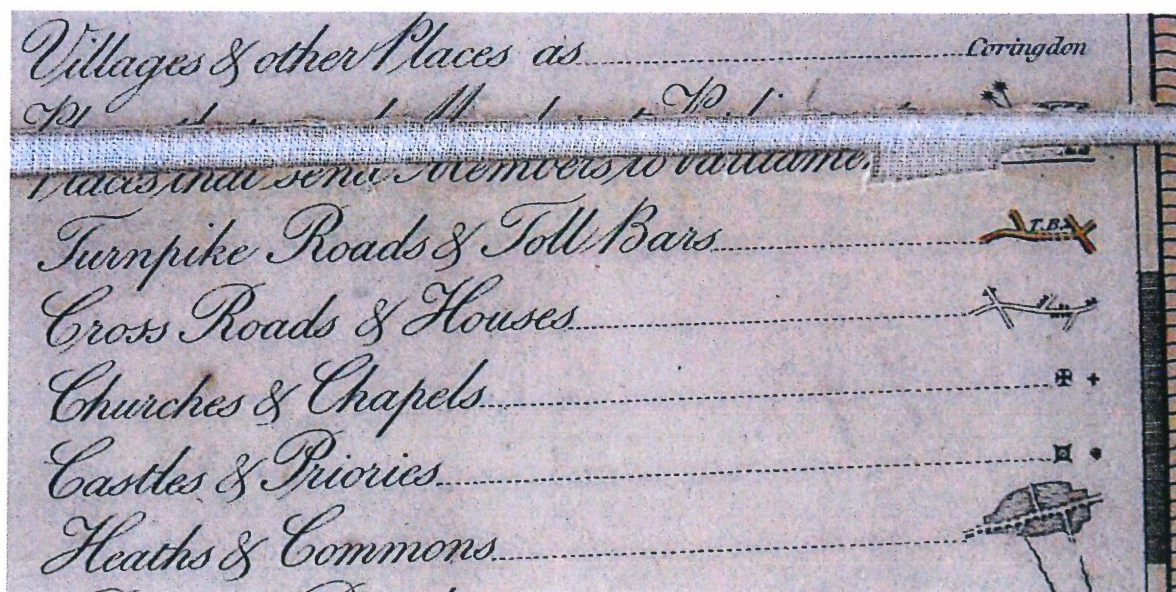
Taylor's map 1765



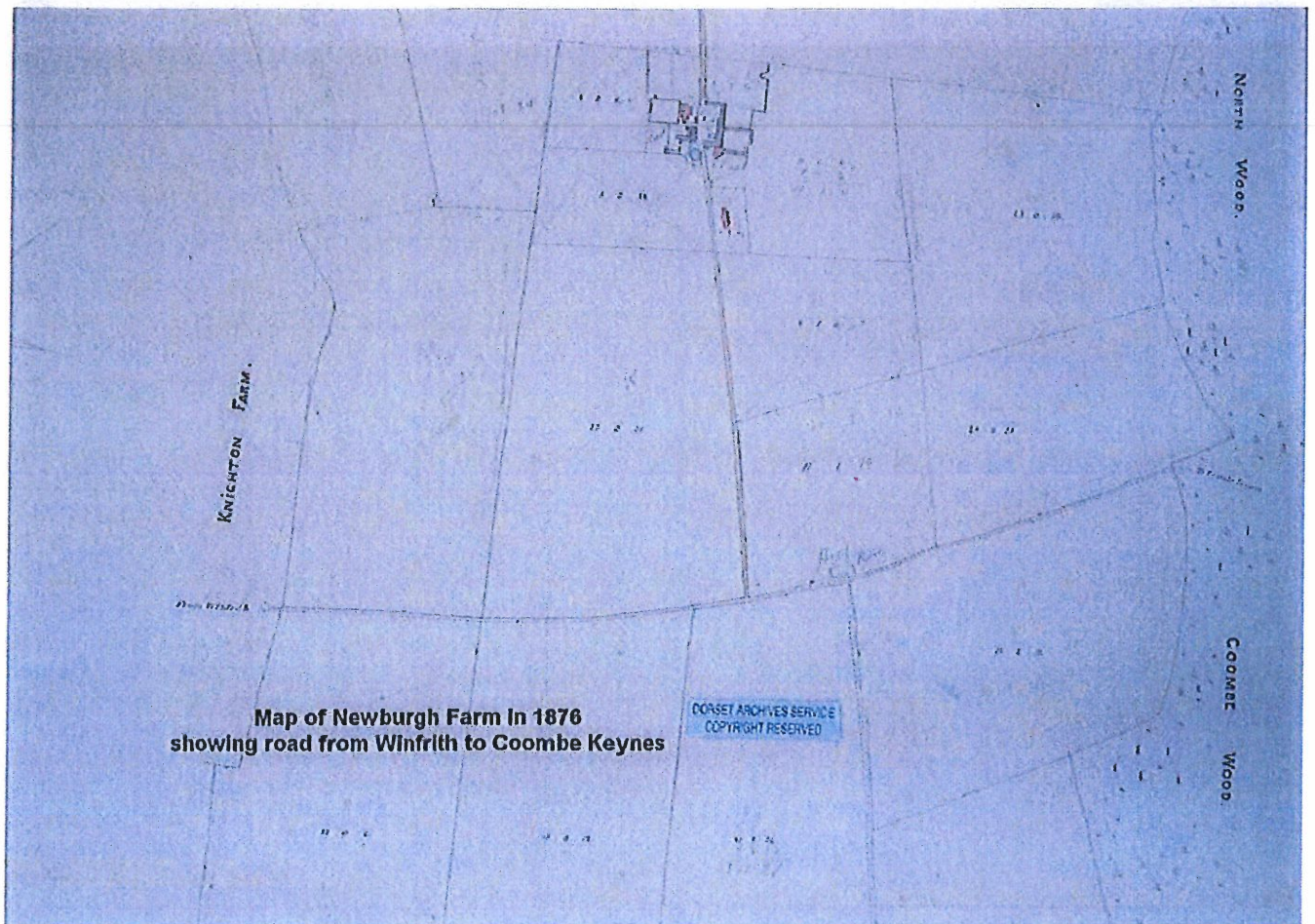
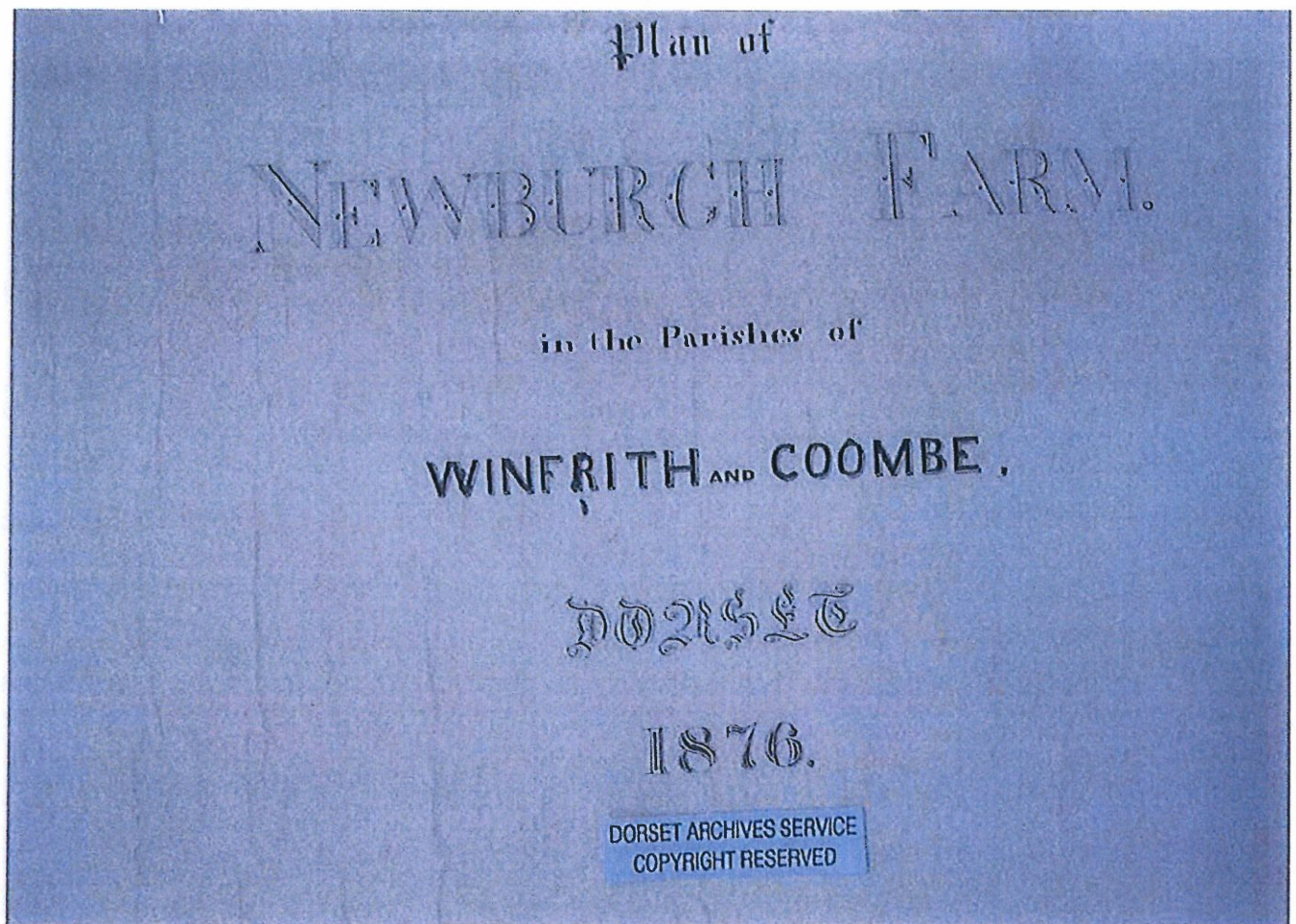
Taylor's map 1795



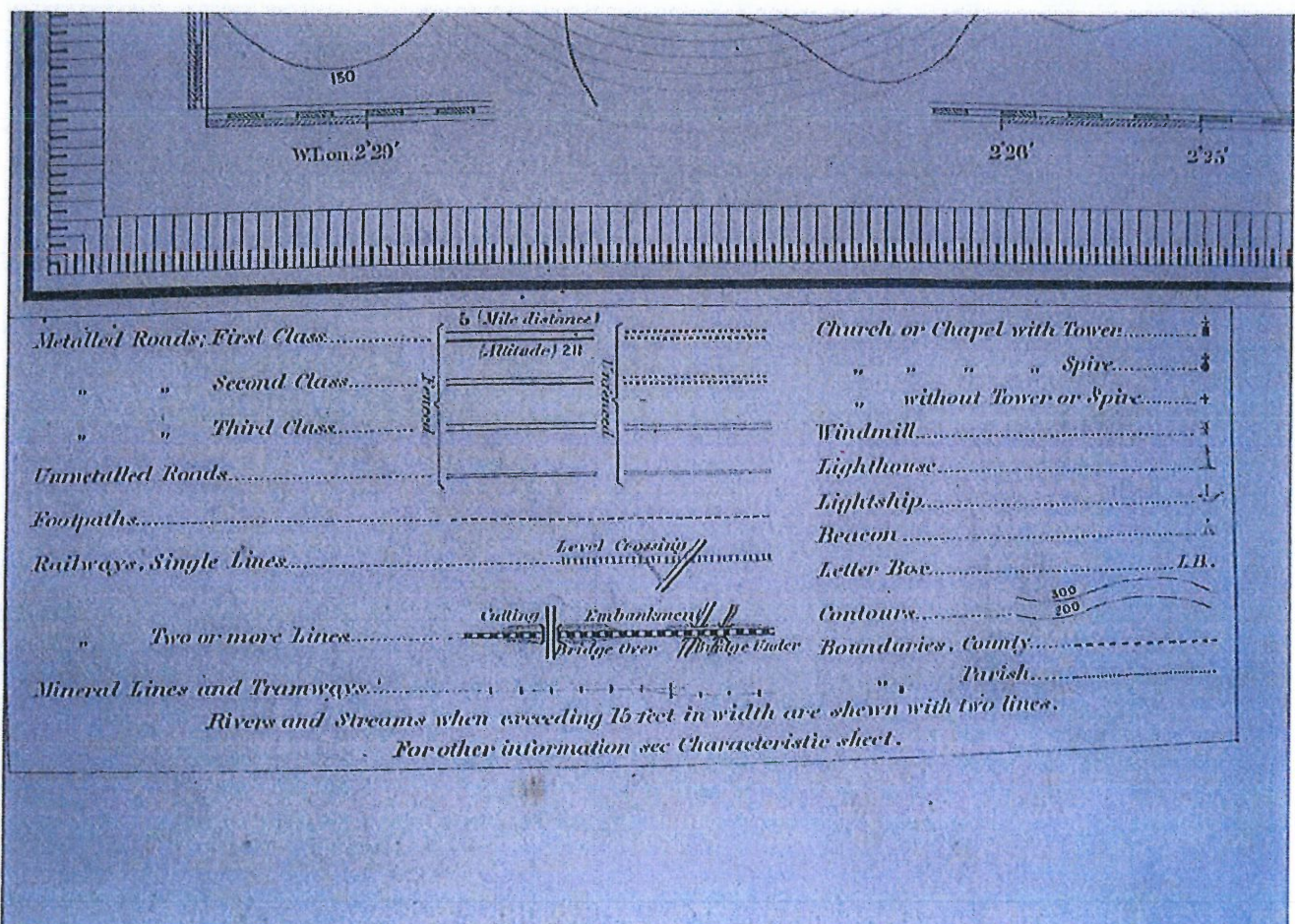
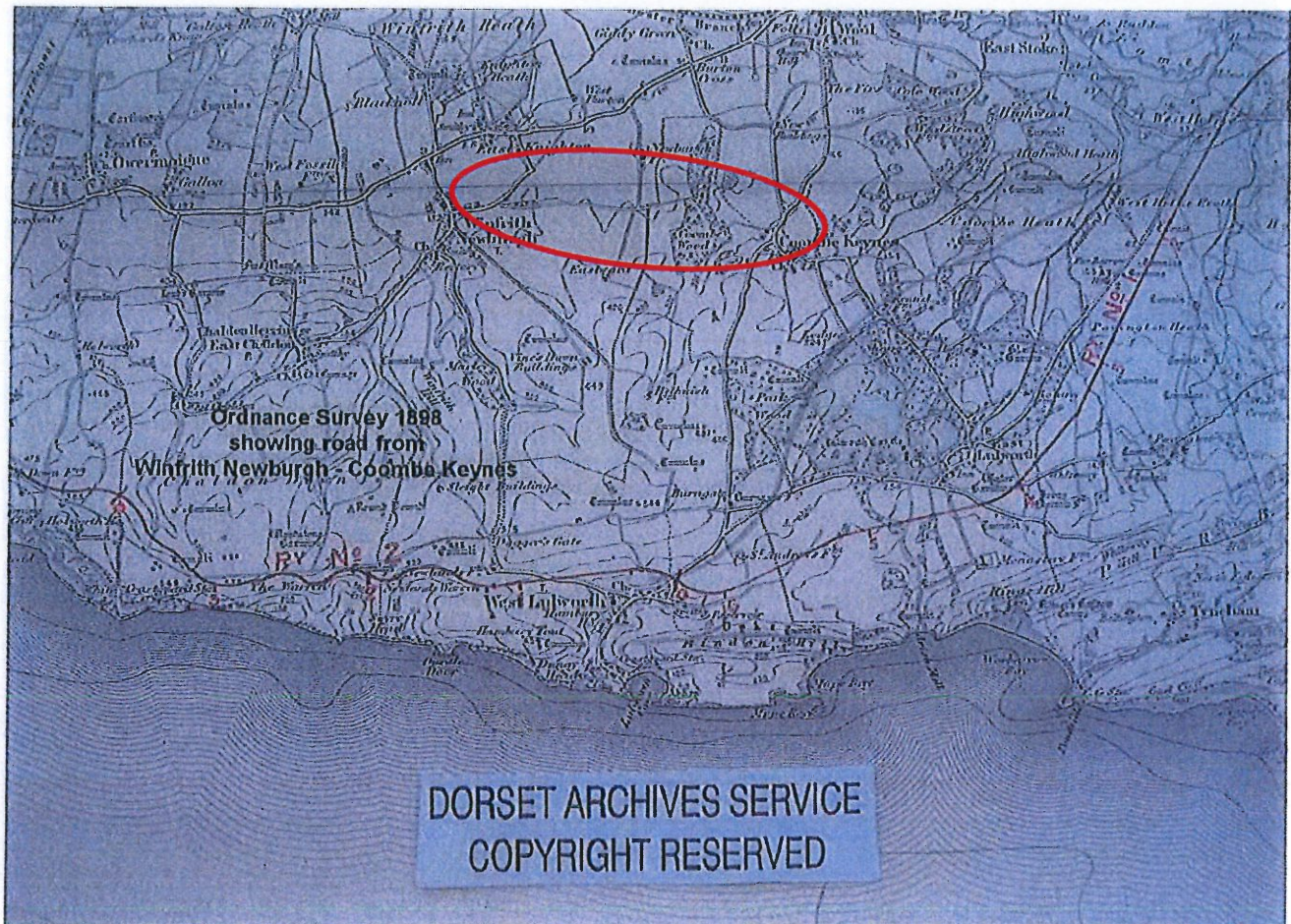
Greenwoods' map 1826



Plan of Newburgh Farm 1876



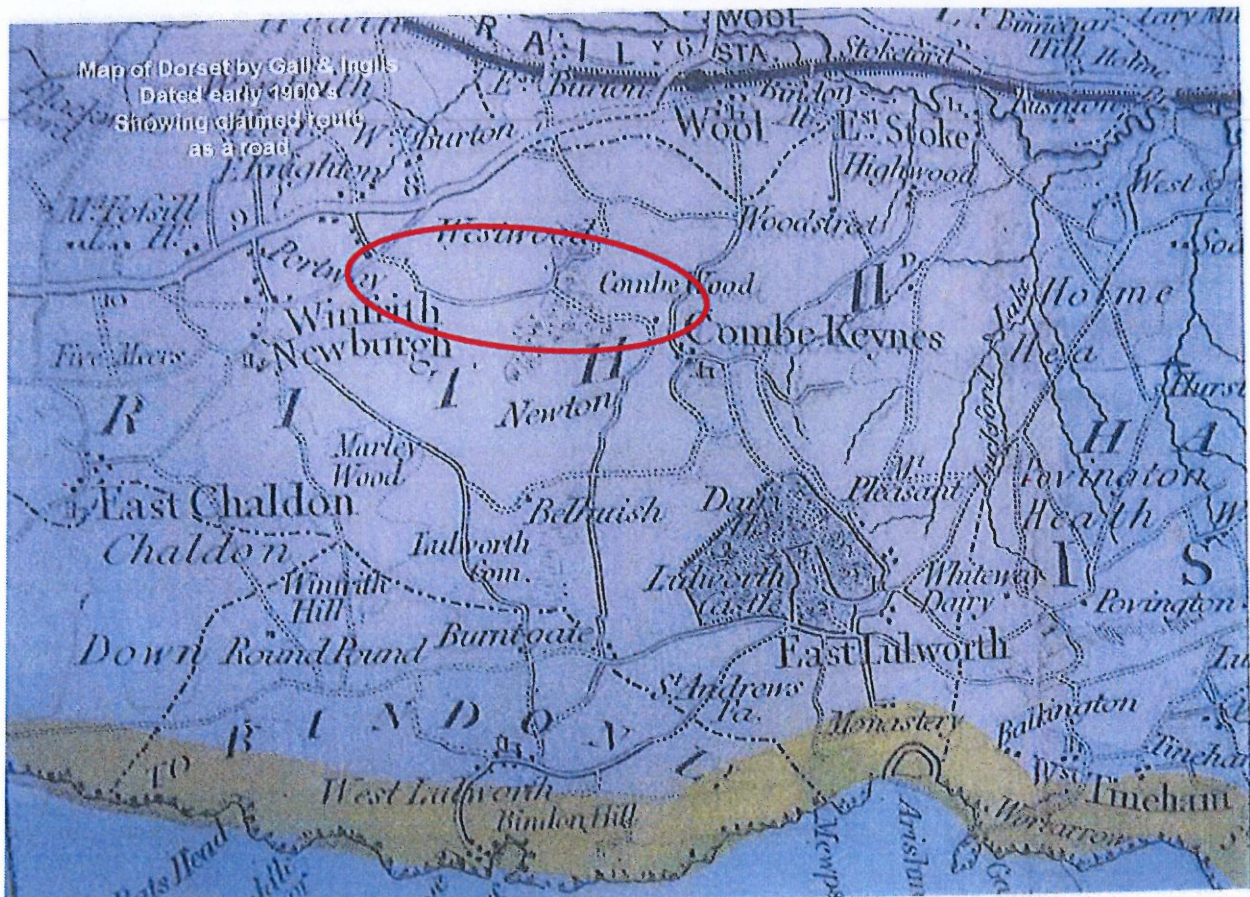
Osmington to Lulworth Light Railway feasibility survey map – 1898 Ordnance Survey 1"=1 mile first edition (sheet 328)



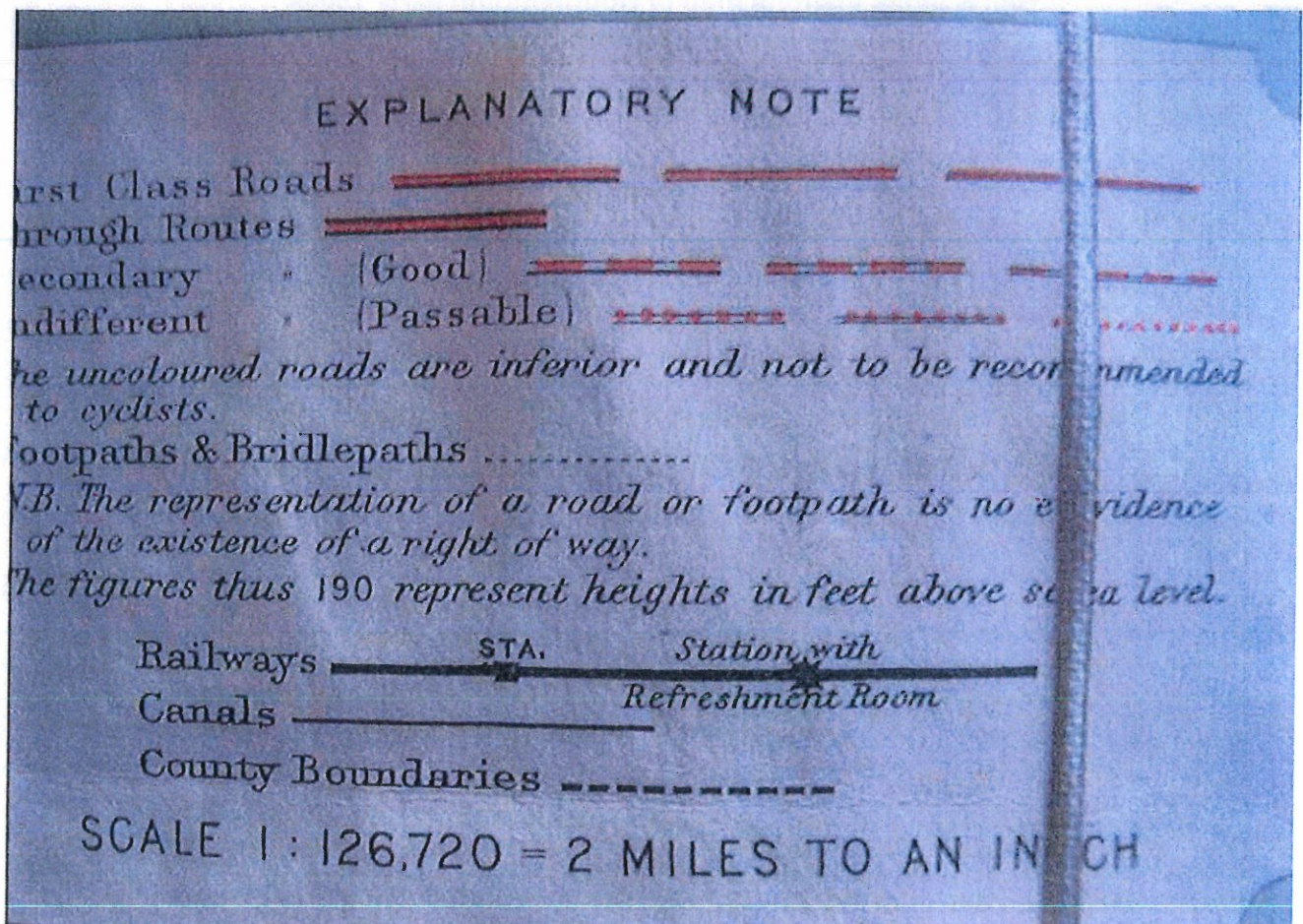
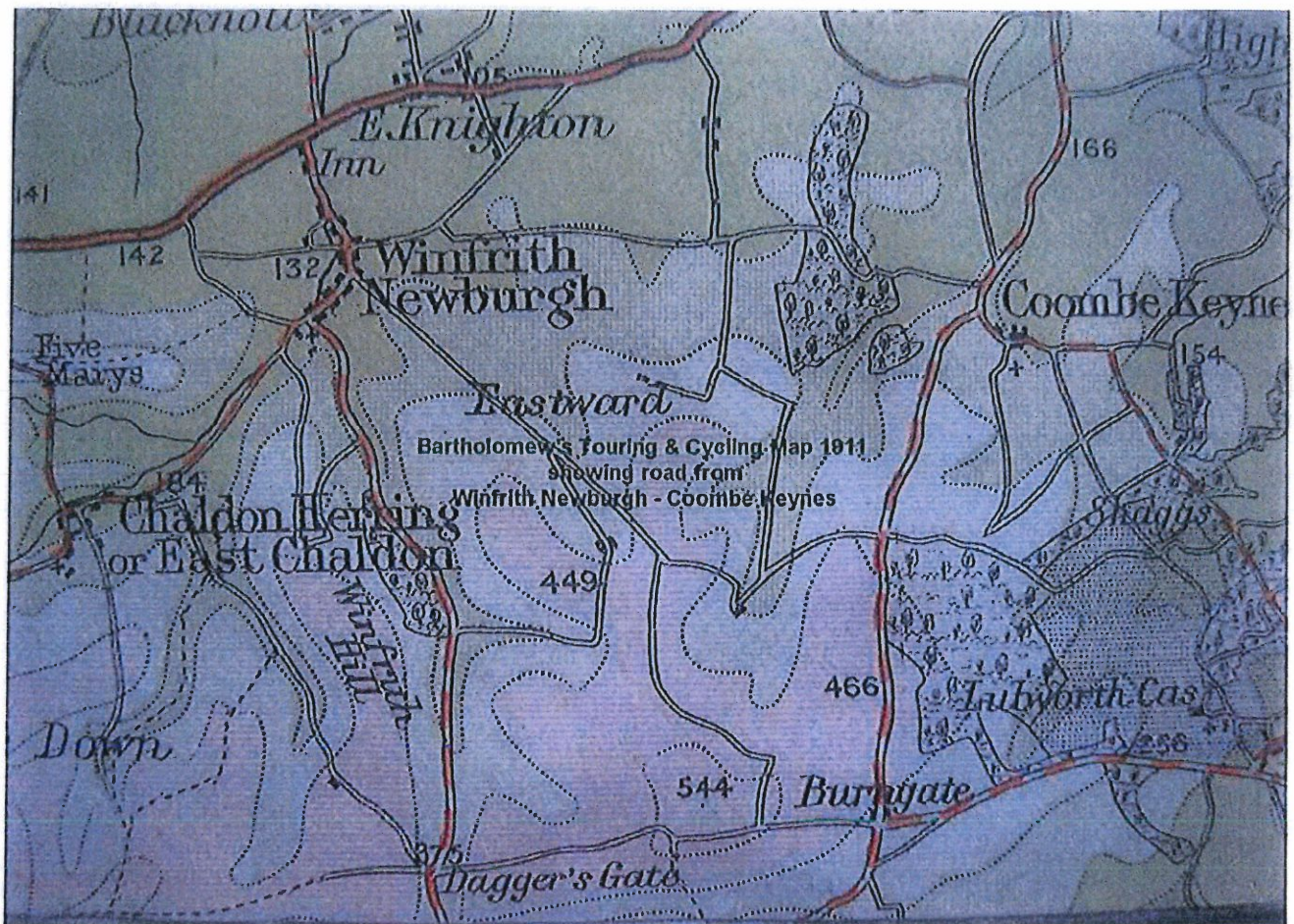
George Richmond's map late 1800s



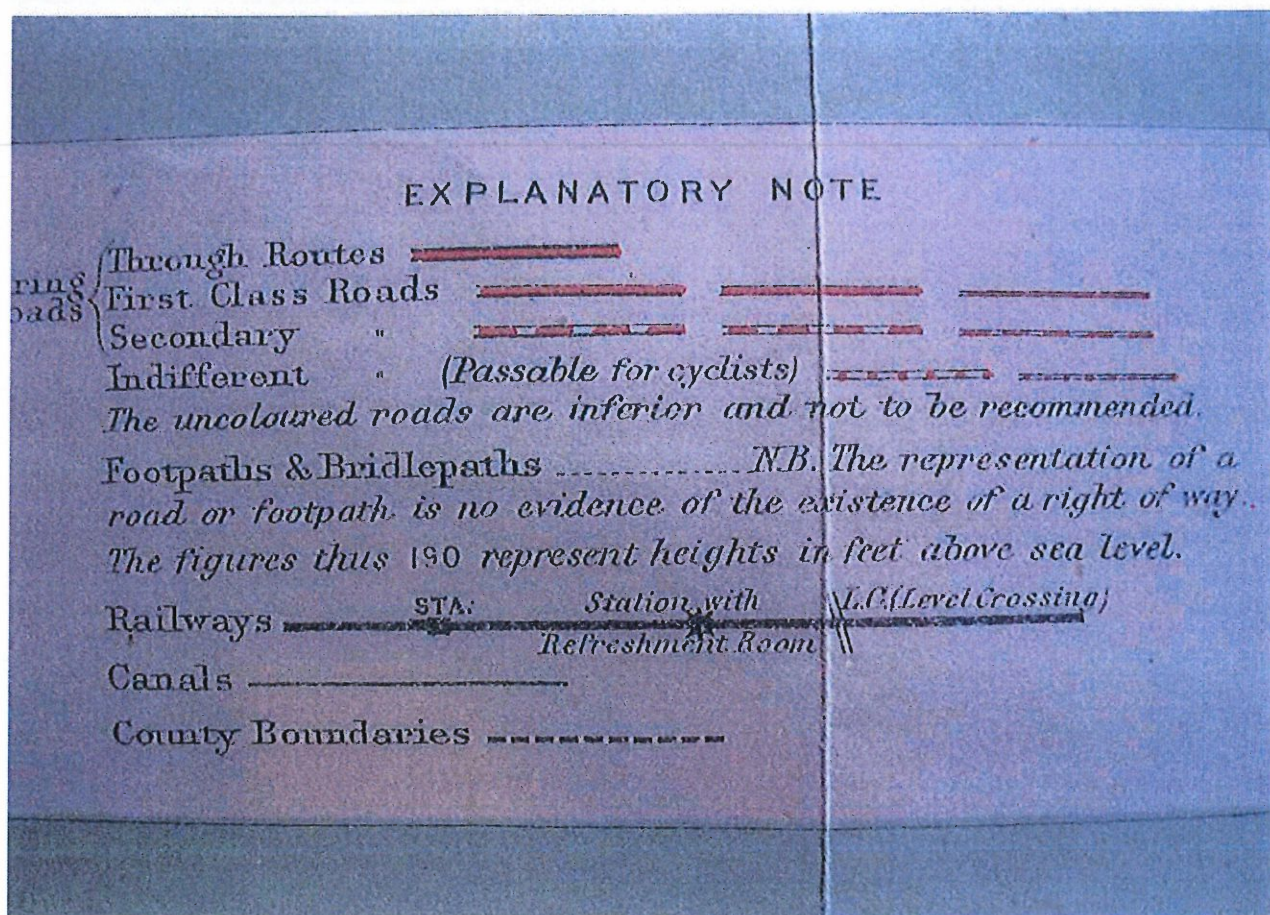
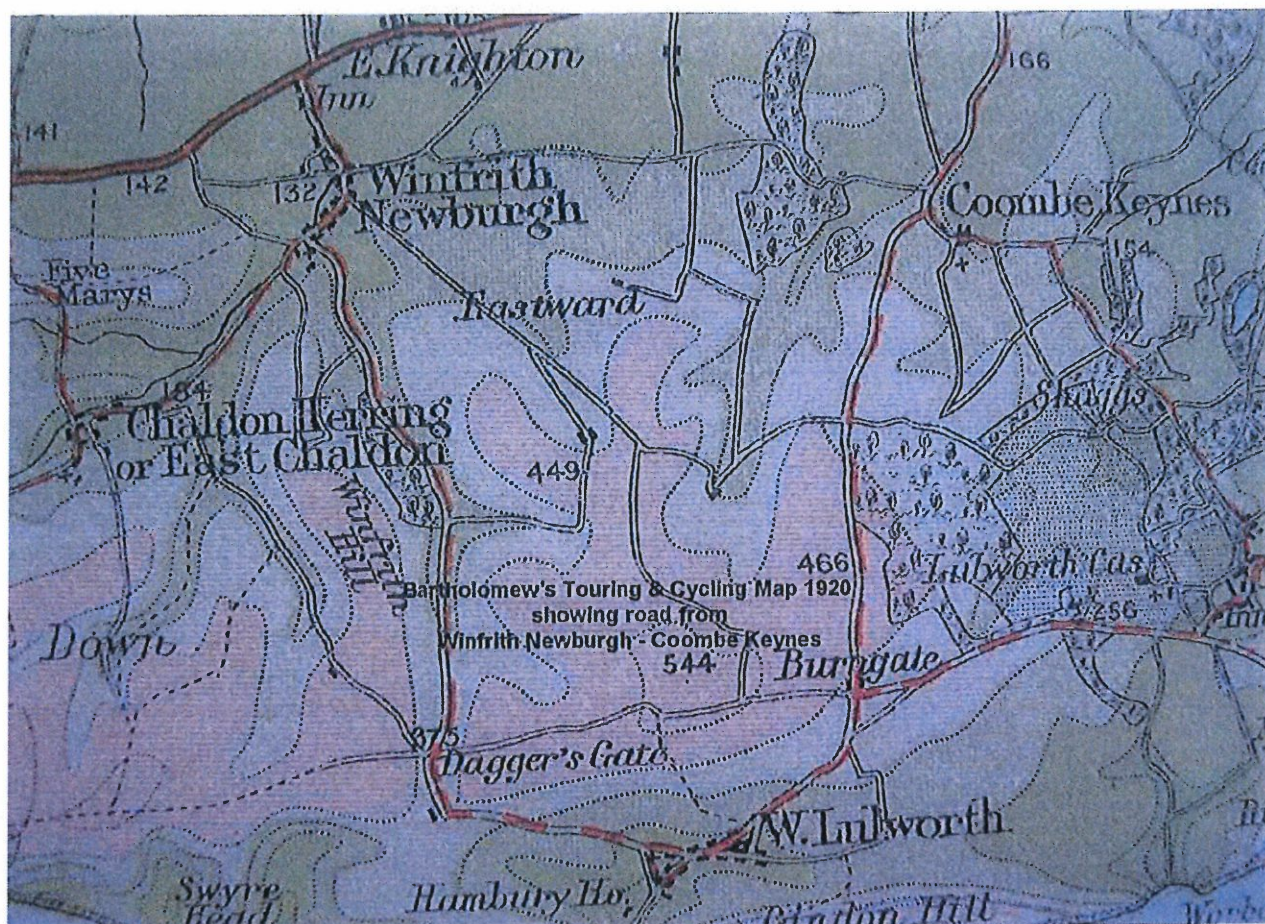
Gall & Inglis Visitor's map of Bournemouth early 1900s



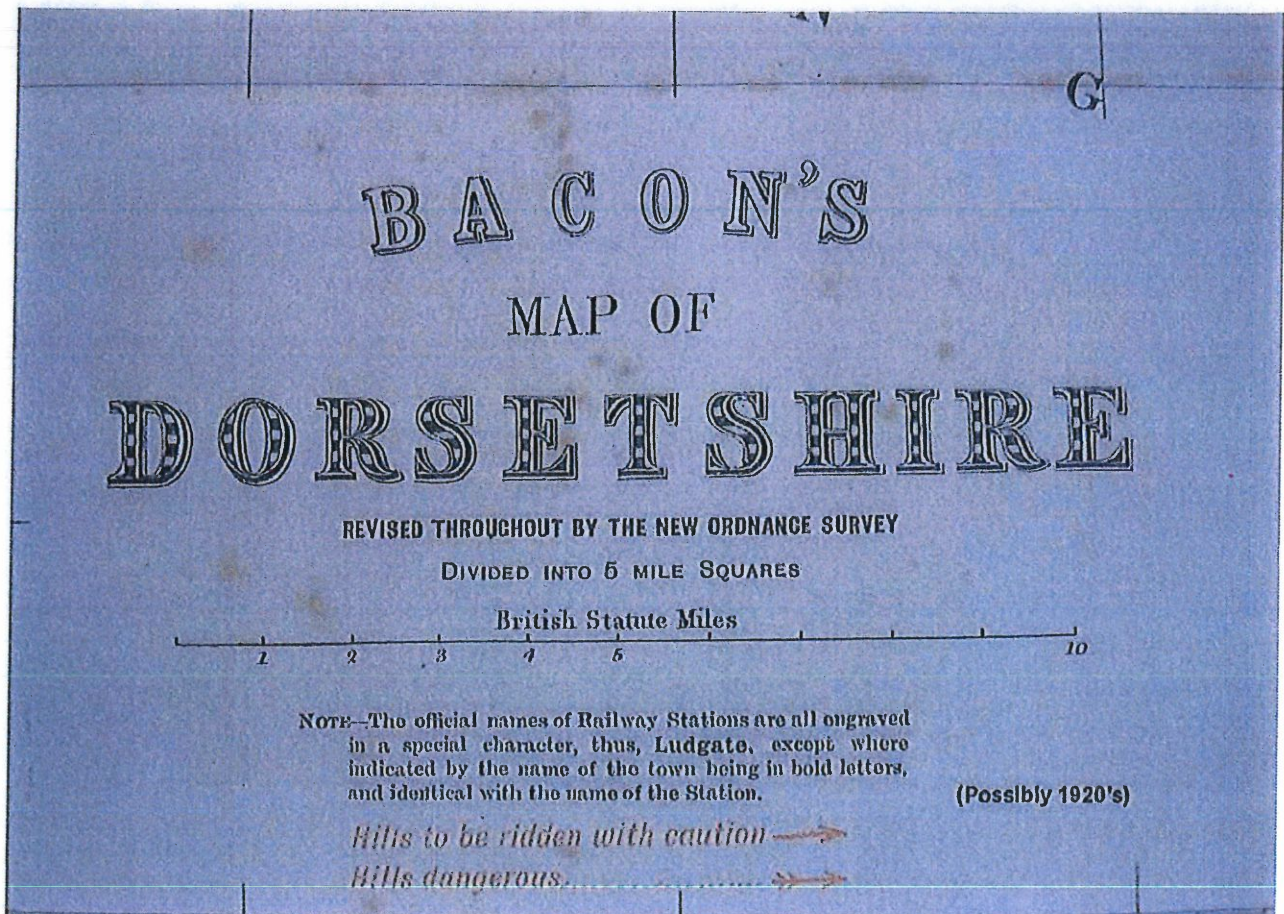
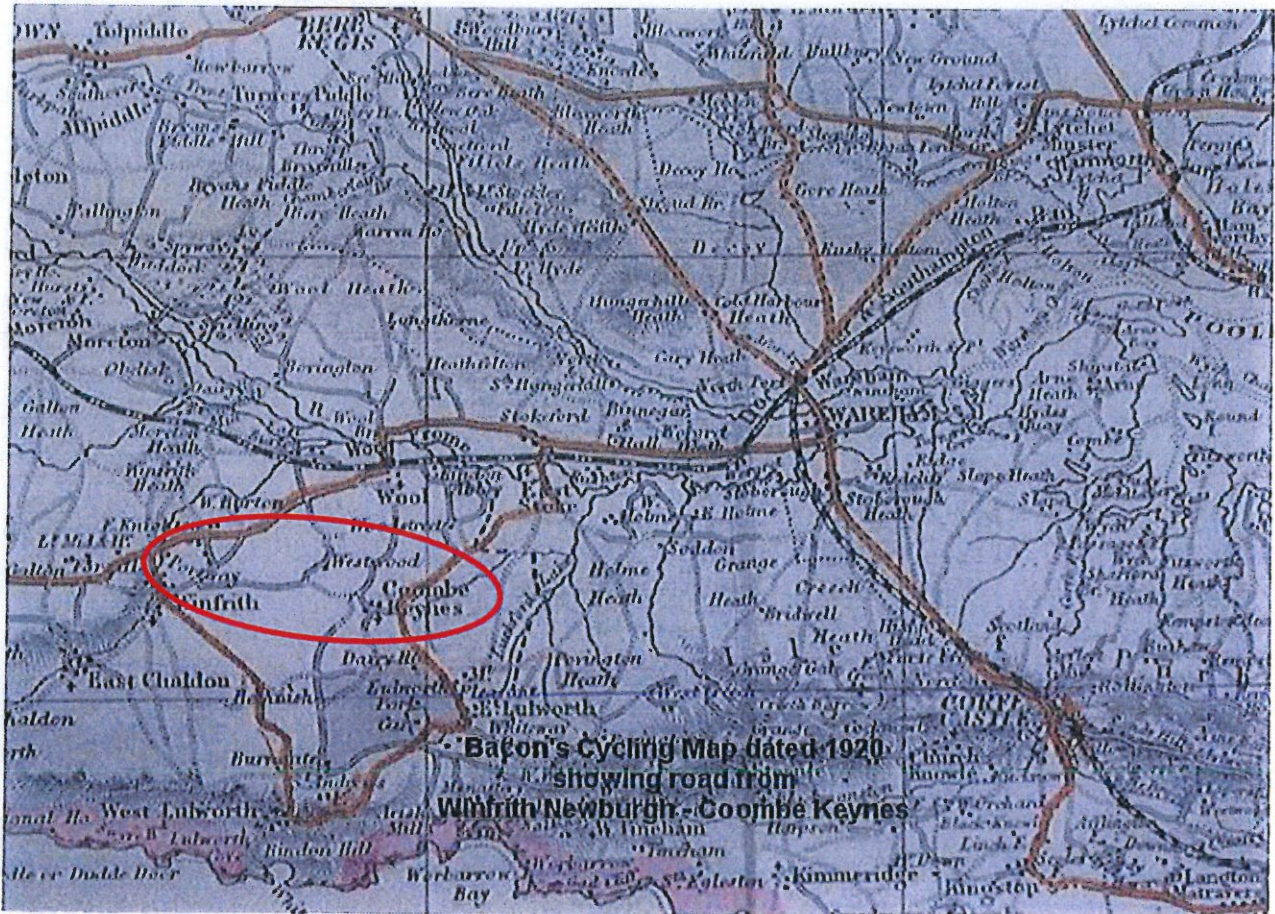
Bartholomew's Touring and Cycling map 1911



1920

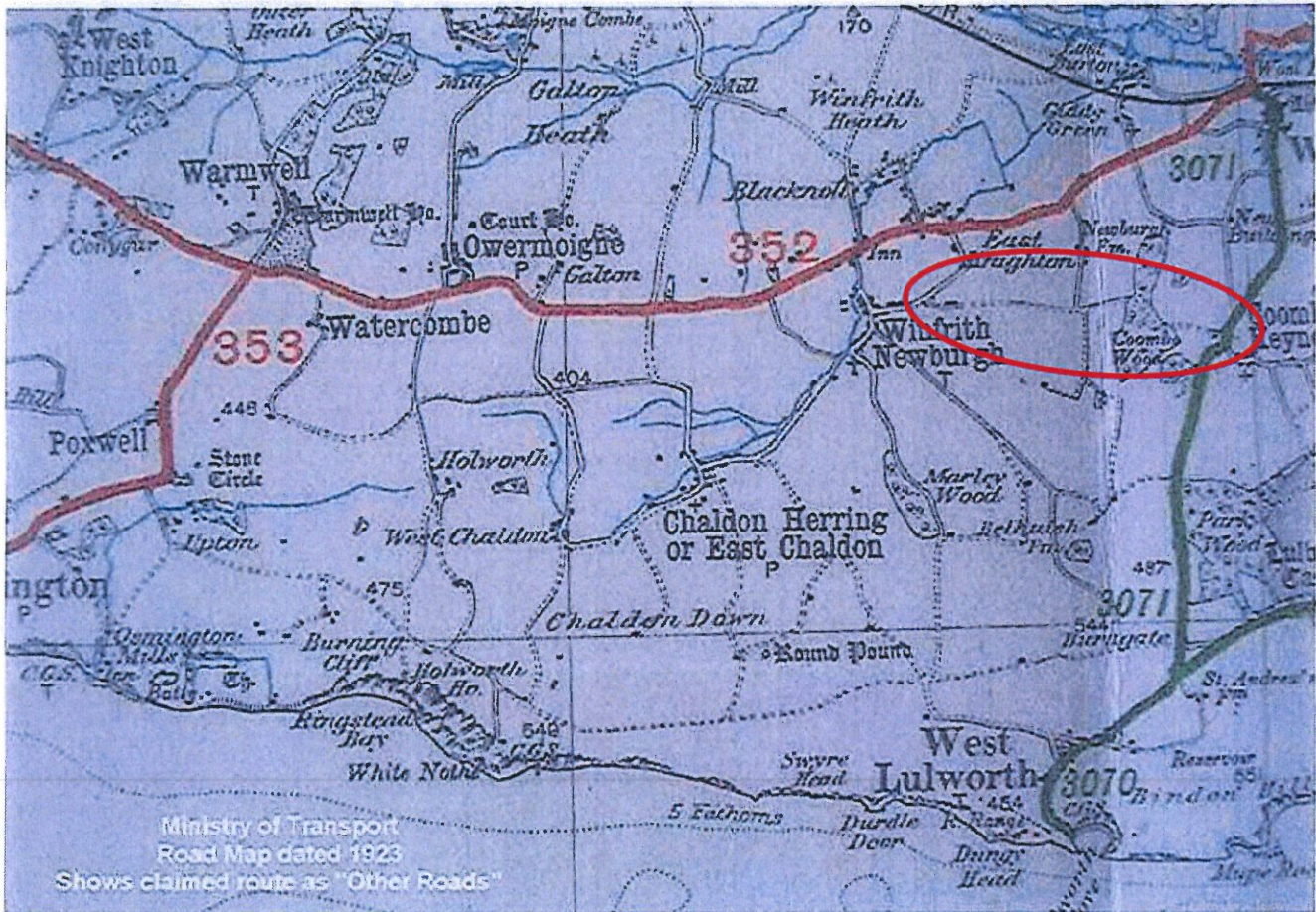
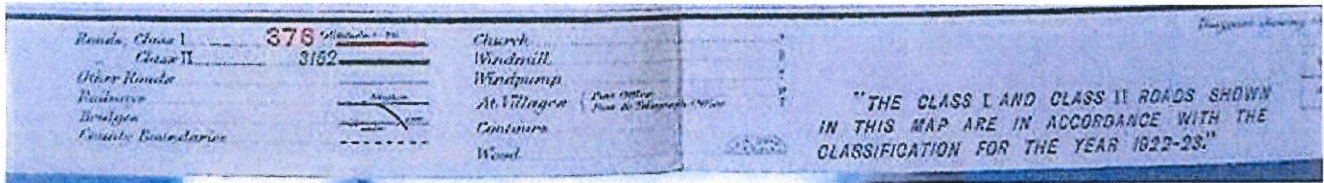


Bacon's Map of Dorsetshire 1920

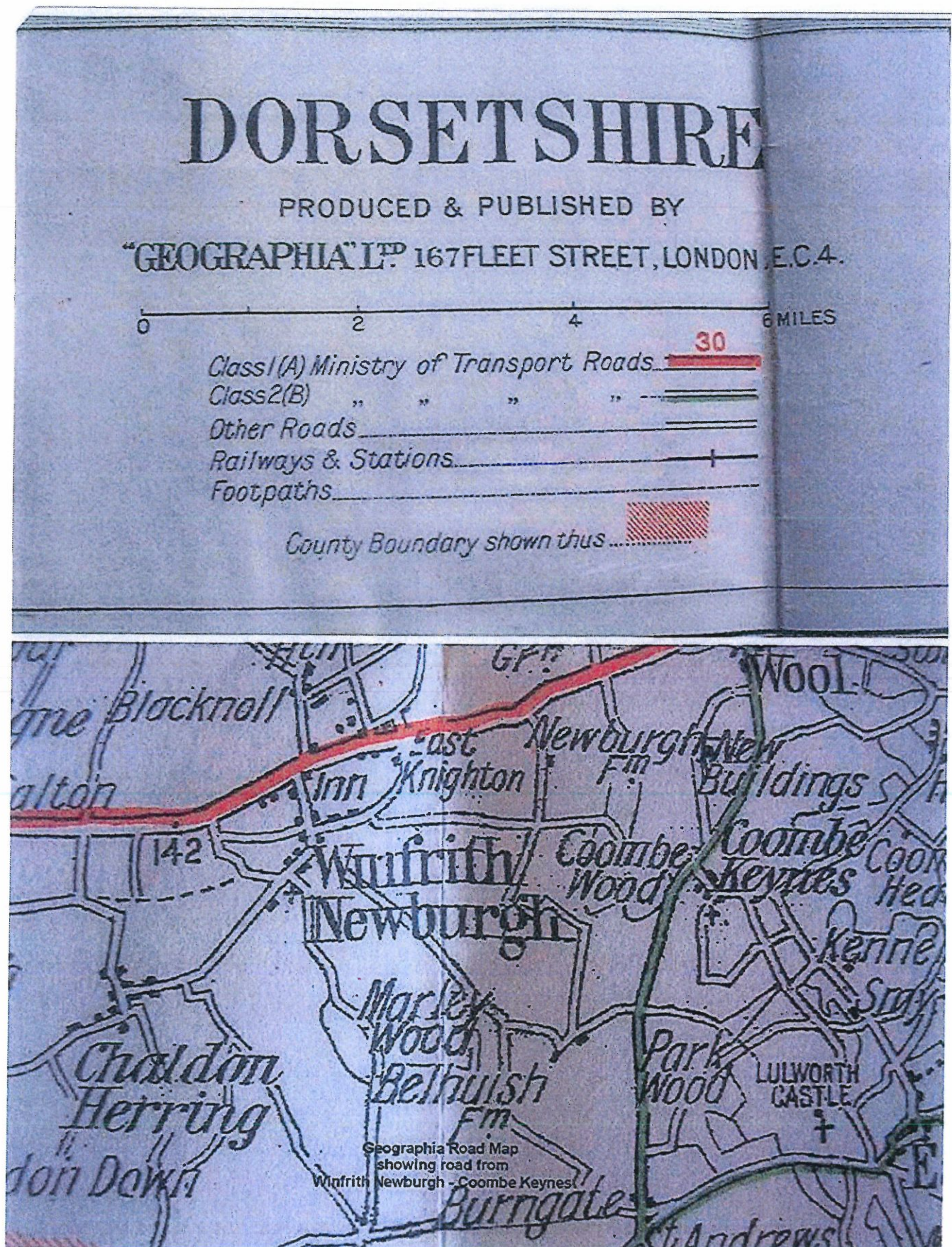


Page 64 Application for a definitive map and statement modification order to upgrade Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes (Claypits Lane) to byway open to all traffic

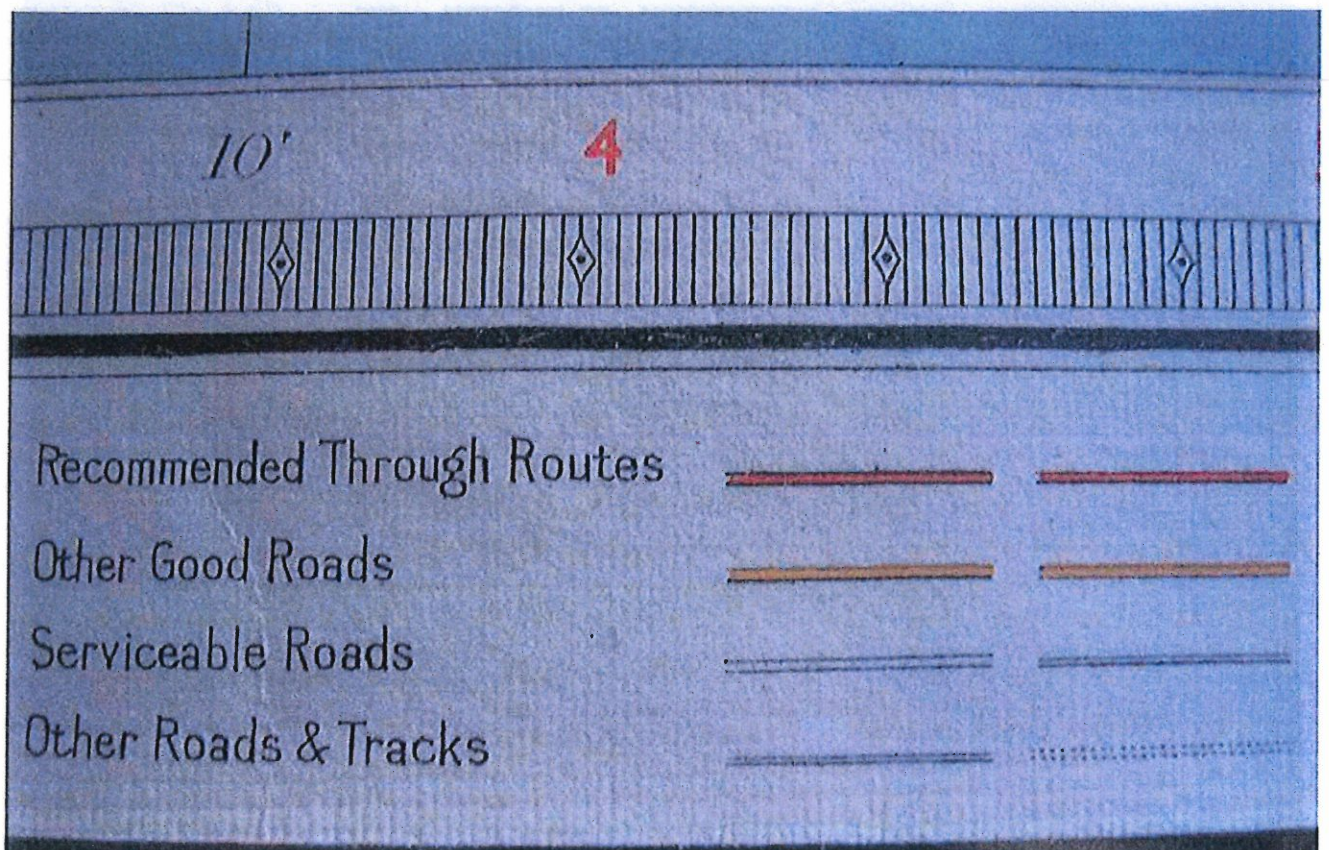
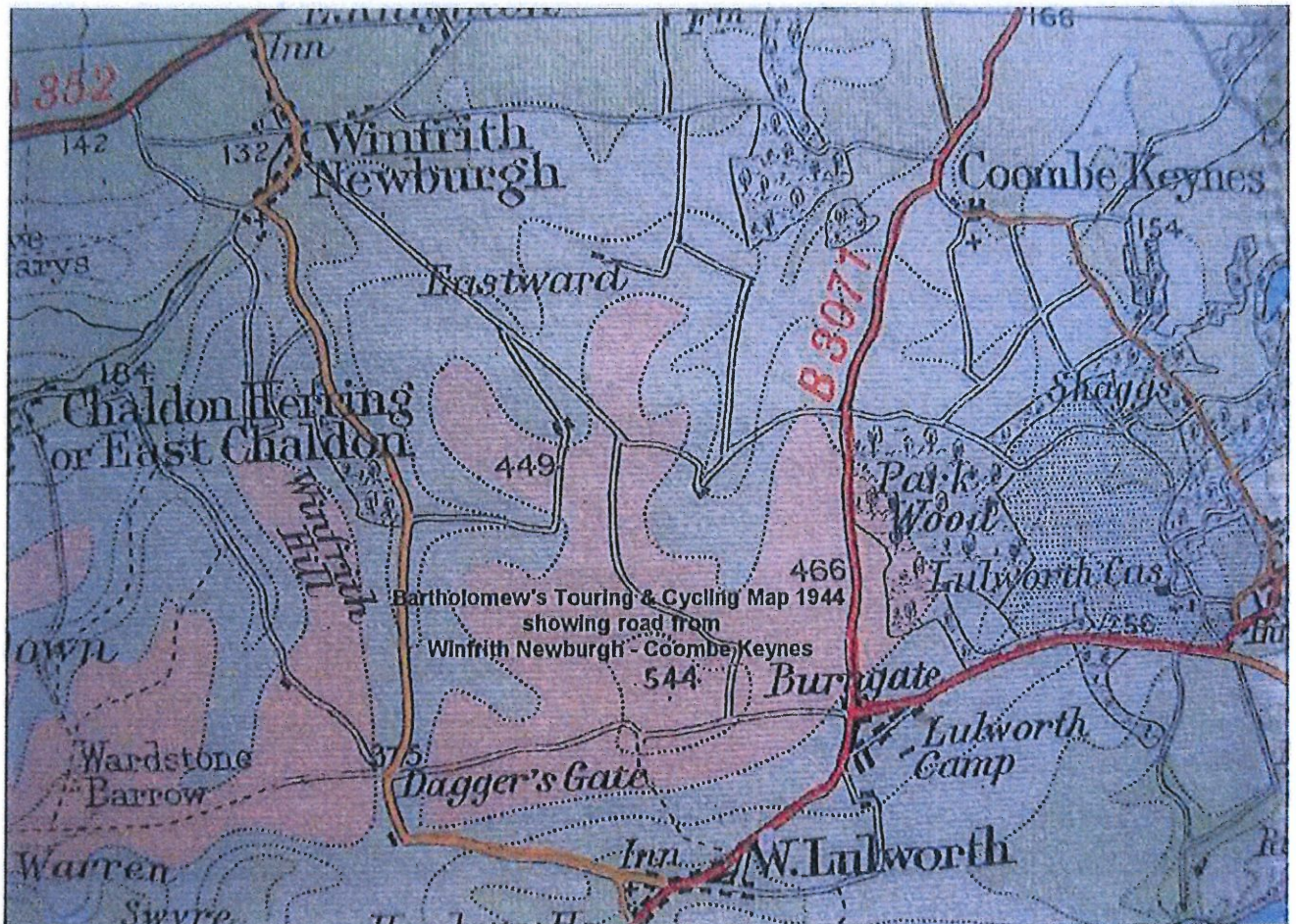
Ministry of Transport map of Weymouth, Yeovil and Taunton 1923 ½": 1 mile



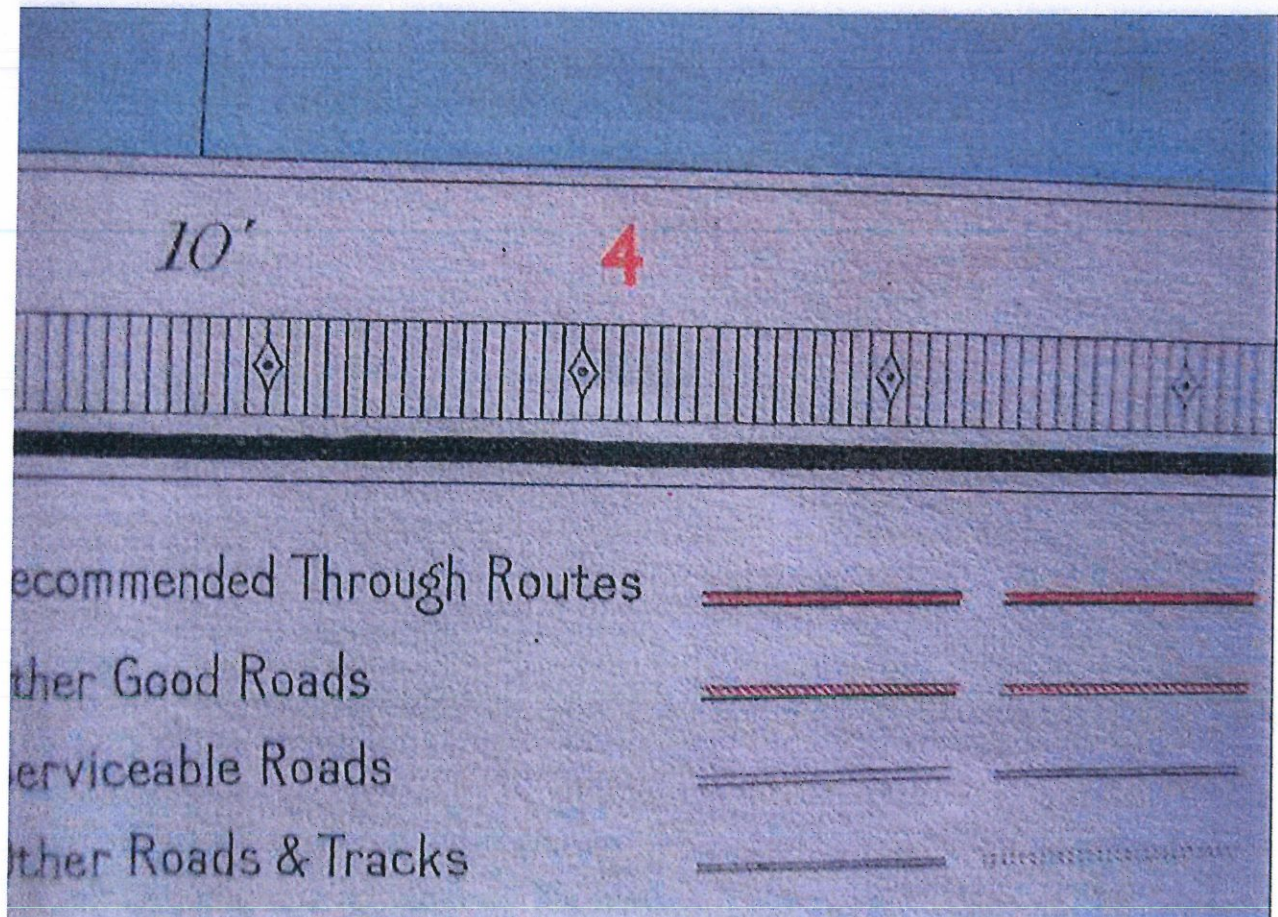
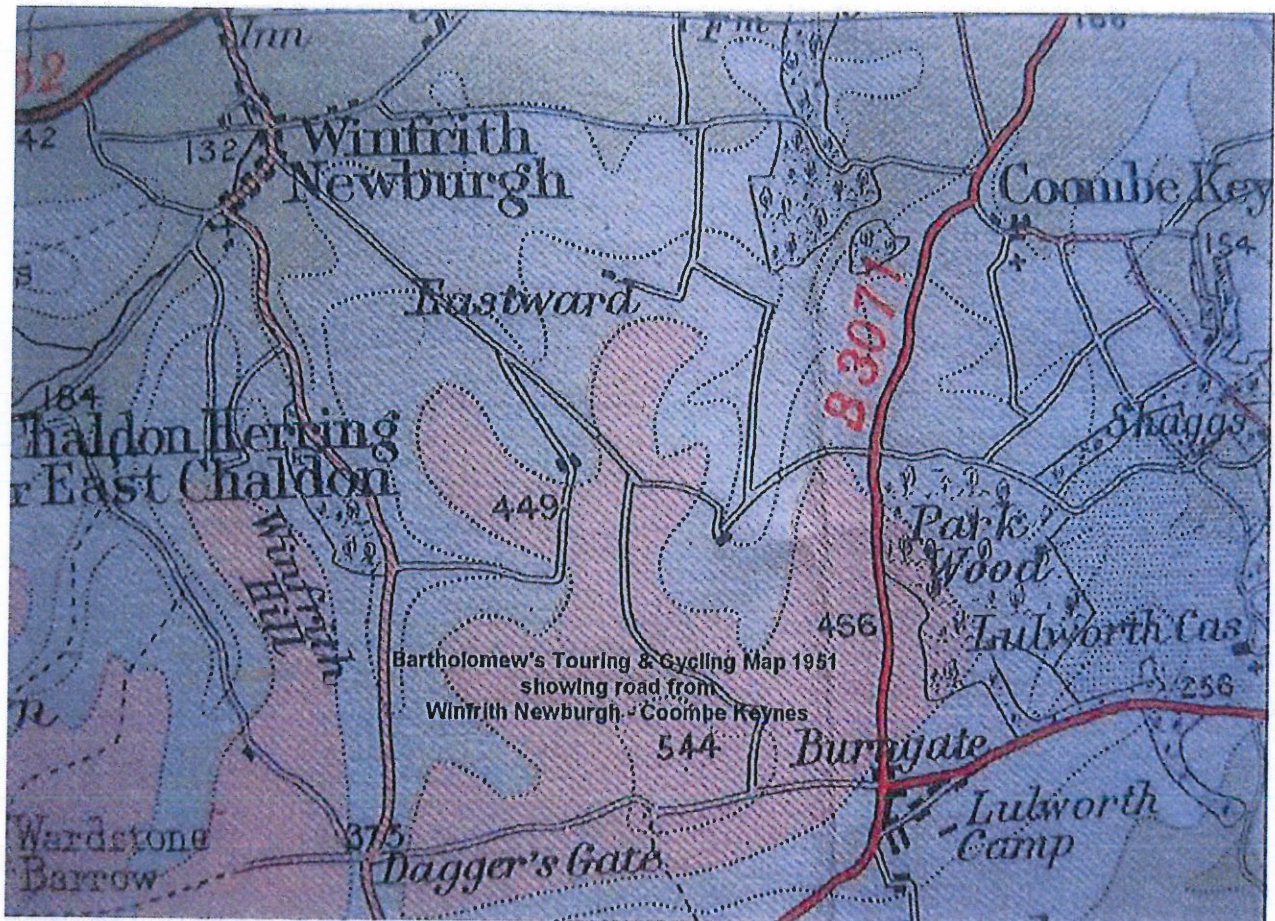
Geographia Map of Dorsetshire 1920s



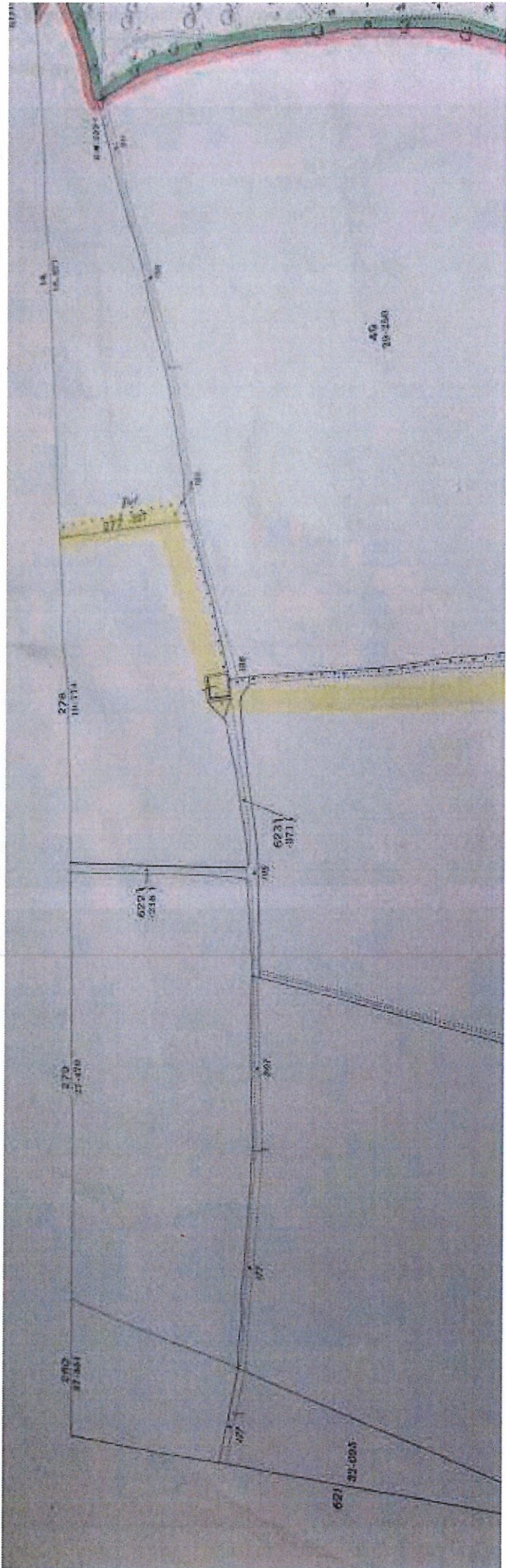
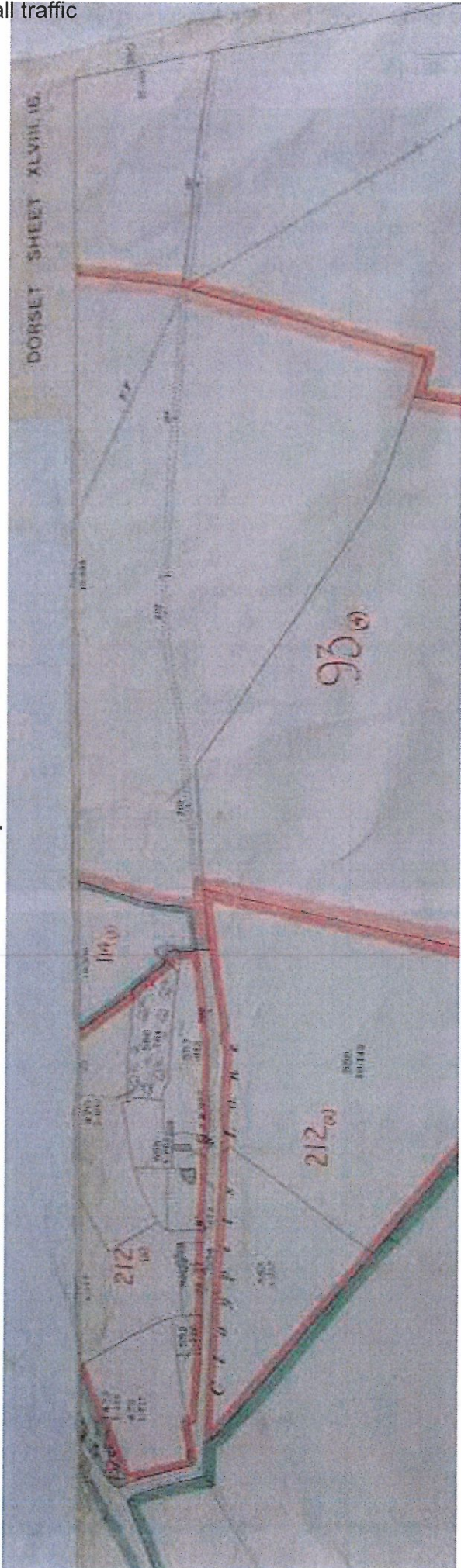
Bartholomew's Touring and Cycling map 1944

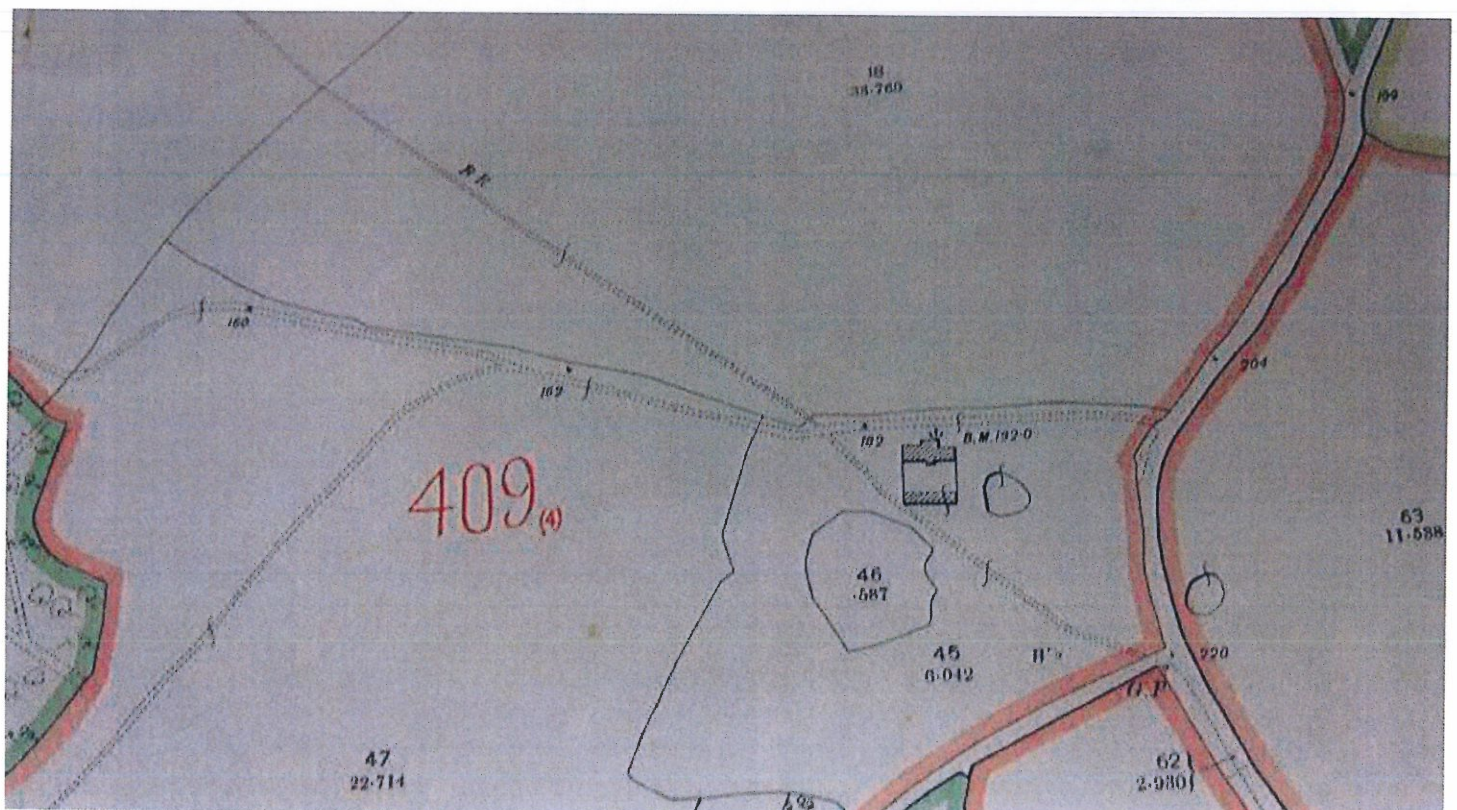
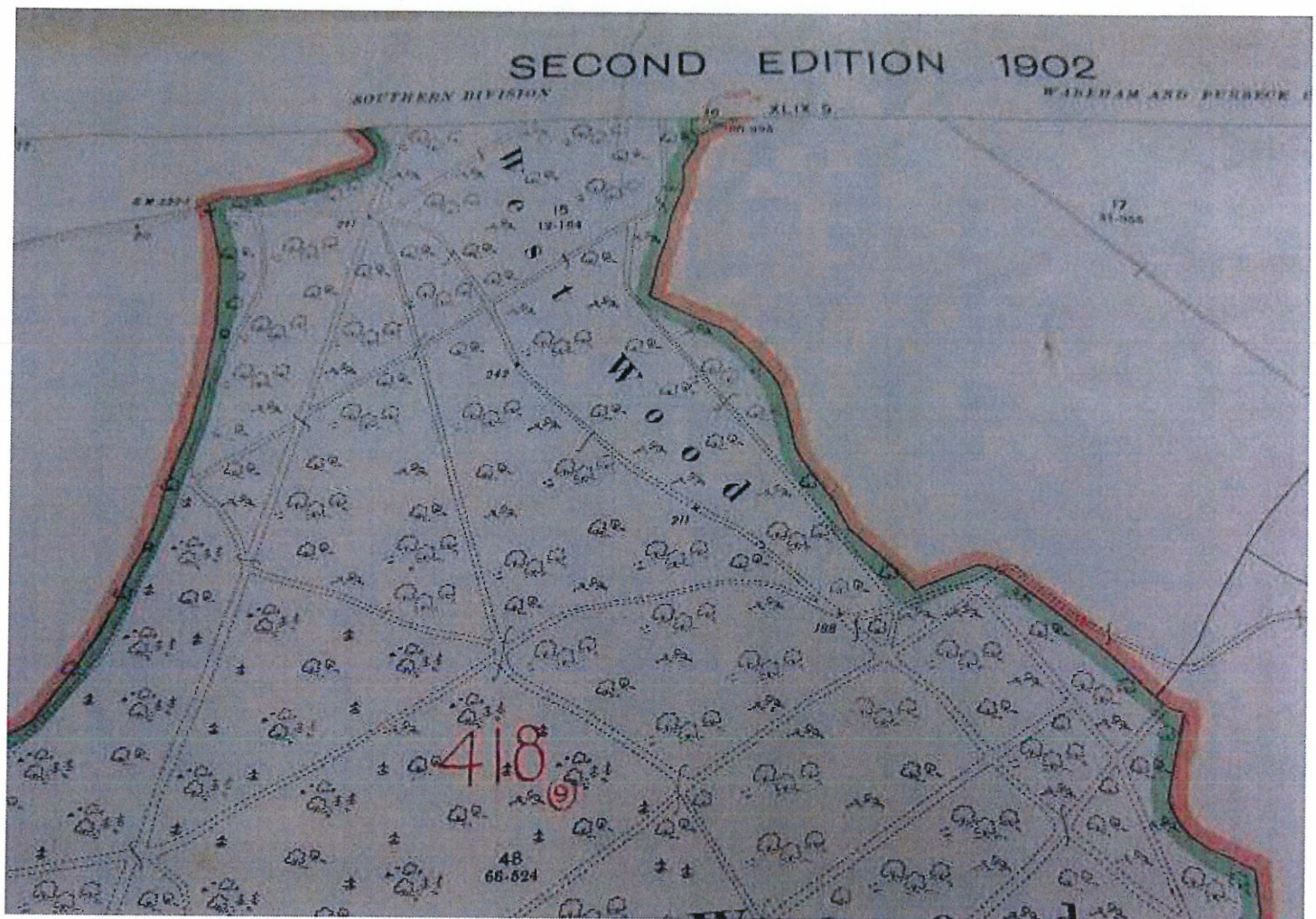


1951



Finance Act 1910 – extracts from
Map sheet 48.16



Map sheet 49. 13

Valuation book hereditaments

93

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

Common Tithe £47.14.9
1909 " £33.8.4

Public rights of way over End. parcels 468, 404, 467 and 388

Rt. of way over End. par. 393 for Ref. No. 102. E. hereditaments 93-100

Valuation.—Market Value of Fee Simple in possession of whole property in its present condition

Rep. £16
Tithe £33.8.4

Fair rent £240
192 x 2540 4800
Furniture 10
155

say £5000

Deduct Market Value of Site under similar circumstances, but if divested of structures, timber, fruit trees, and other things growing on the land

£3775

Difference Balance, being portion of market value attributable to structures, timber, &c.

£1225

Divided as follows:—

Buildings and Structures.....£950
Machinery£
Timber.....£10
Fruit Trees£
Other things growing on land£265

Market Value of Fee Simple of Whole in its present condition

(as before)£5000

Add for Additional Value represented by any of the following for which any deduction may have been made when arriving at Market Value:—

Charges (excluding Land Tax)£936

Restrictions.....£100 £936

GROSS VALUE...£5936

93

Reference No.....

GROSS VALUE.....£ 5936

Less Value attributable to Structures, timber, &c. (as before) £ 1225

FULL SITE VALUE.....£ 4711

Gross Value (as before).....£ 5936

Less deductions in respect of—

Fixed Charges, including—

 Fee Farm Rent, rent seek, quit rent, chief rents, rent of Assize£

 Any other perpetual rent or Annuity.....£

 Tithe or Tithe Rent Charge £ 836

 Other Burden or Charge arising by operation of law or under any Act of Parliament £

 If Copyhold, Estimated Cost of Enfranchisement.....£

 Public Rights of Way or User£ 100

 Rights of Common.....£

 Easements£

 Restrictions.....£

£ 936

TOTAL VALUE.....£ 5000

Less Value attributable to Structures, timber, &c.

Charges, Easements, and Restrictions affecting market value of Fee Simple			
	Winfrith		Coombe Keynes
	57 8 4	+	30 4 0
			TOTAL
			127 12 4
Coombe Keynes	68 3 10	+	21 2 10
			89 6 8

*Rt of way over Csd. para. 621 }
(120, 122 and 127 (Coombe Keynes))*

Valuation.—Market Value of Fee Simple in possession of whole property in its present condition

*115 460 x 75 x 10 = 11625
Less repairs 375
11250
2/18 £27 x 184 P. = 500
£ 11800*

Deduct Market Value of Site under similar circumstances, but if divested of structures, timber, fruit trees, and other things growing on the land

£ 8500

Difference Balance, being portion of market value attributable to structures, timber, &c.£ 3300

Divided as follows:—

Buildings and Structures.....	£ 7500
Machinery	£
Timber.....	£
Fruit Trees.....	£ 20
Other things growing on land	£ 780

Market Value of Fee Simple of Whole in its present condition (as before)£ 11800

Add for Additional Value represented by any of the following for which any deduction may have been made when arriving at Market Value:—

Charges (excluding Land Tax)	£ 225
Restrictions.....	£ 50
GROSS VALUE.....	£ 12075

Reference No.....	
GROSS VALUE.....	£ 14100
Less Value attributable to Structures, timber, &c. (as before) £	3300
FULL SITE VALUE.....	£ 10800
Gross Value (as before).....	£ 14100
Less deductions in respect of—	
Fixed Charges, including—	
Fee Farm Rent, rent sock, quit rent, chief rents, rent of Assize	£
Any other perpetual rent or Annuity.....	£
Tithe or Tithe Rent Charge	£ 2250
Other Burden or Charge arising by operation of law or under any Act of Parliament £	
If Copyhold, Estimated Cost of Enfranchisement.....	£
Public Rights of Way or User	£ 50
Rights of Common.....	£
Easements	£
Restrictions	£
	£ 2300.
TOTAL VALUE.....	£ 11800

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

107, Balto 332.9.1 x 30 = 811-74.978.12.6
Comm Val 66 7.3

Sheds. 409.410
Right of way on O.P. 45, 47, 57-59

Valuation.— Market Value of Fee Simple in possession of whole property
in its present condition

<i>Rent</i>	<i>255</i>	
<i>Repair Balto</i>	<i>32 9.1</i>	<i>42</i>
	<i>41. 9 1 24</i>	<i>213 30.</i>
<i>7.16 Spl / 200</i>		<i>6399.</i>
		<i>286.</i>
		<i>6606</i>

Deduct Market Value of Site under similar circumstances,
but if divested of structures, timber, fruit trees, and
other things growing on the land

£ *5390*

Difference Balance, being portion of market value attribut-
able to structures, timber, &c. £ *1286*

Divided as follows:—

Buildings and Structures.....	£ <i>970</i>
Machinery	£ <i>100</i>
Timber.....	£ <i>16</i>
Fruit Trees.....	£
Other things growing on land	£ <i>200</i>

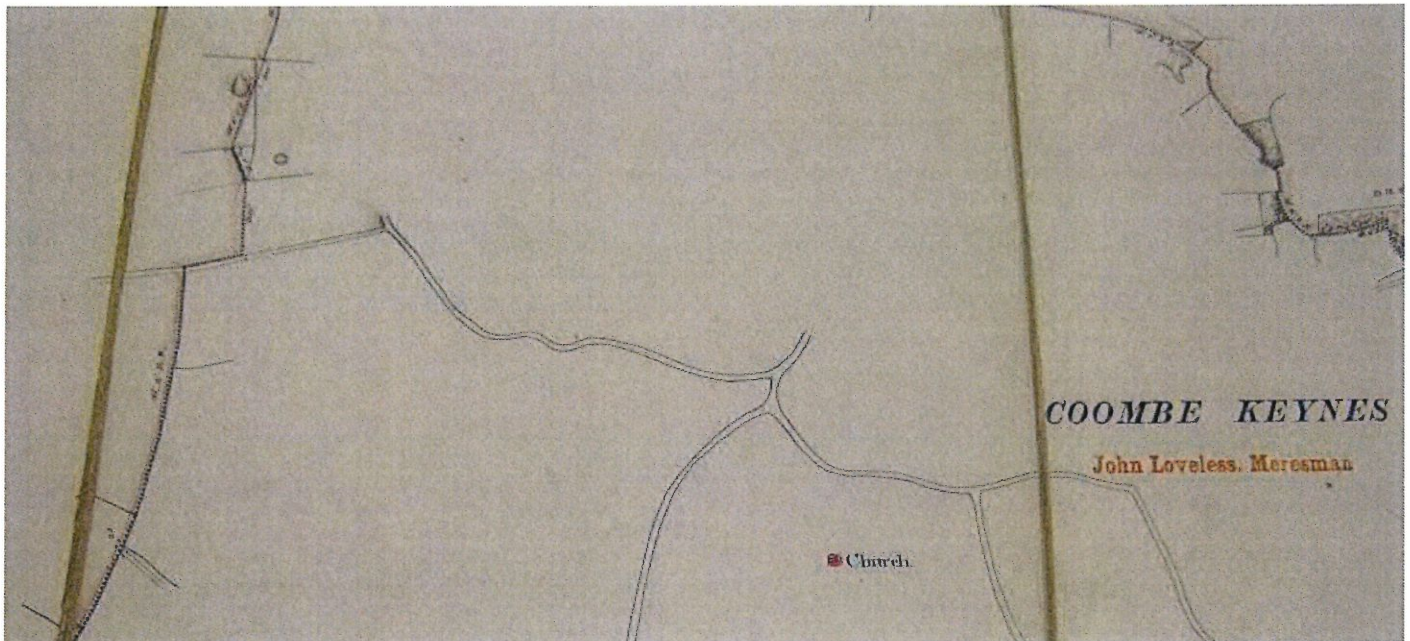
Market Value of Fee Simple of Whole in its present condition
(as before) £ *6606*

Add for Additional Value represented by any of the following
for which any deduction may have been made when
arriving at Market Value:—

Charges (excluding Land Tax).....	£ <i>974</i>
Restrictions.....	£ <i>100</i>
GROSS VALUE....	£ <i>7680</i>

	Reference No. 409
Less: Value attributable to Structures, timber, &c. (as before) £	GROSS VALUE £ 7650
Gross Value (as before) £	FULL SITE VALUE £ 1286
Less deductions in respect of—	£ 6394
Fixed Charges, including—	£ 7650
Fee Farm Rent, rent seek, quit rent, chief rents, rent of Assize	£
Any other perpetual rent or Annuity	£
Tithe or Tithe Rent Charge	£ 974
Other Burden or Charge arising by operation of law or under any Act of Parliament £	
If Copyhold, Estimated Cost of Enfranchisement	£
Public Rights of Way or User	£ 100
Rights of Common	£
Easements	£
Restrictions	£
	£ 1074
TOTAL VALUE	£ 6686 9

Ordnance Survey Boundary Sketch Map



Wareham Highway board minutes – extracts from
30 April 1896

Mr J Spicer

The minutes of the last meeting were read & confirmed

Winfrith P.C. The Clerk read a letter from the Winfrith Parish Council respecting Coombe Wood Road

The Surveyor was instructed to inspect this road & report at the next meeting

Coke Castle Drains The Surveyor reported that the County Council Works Committee had met on the spot &

11 June 1896

Grant 4-7-6 *Shaw* 3-15-11 *Winton* 4-11-6
Bst 1-1-5 *Tooker* 33-0-0 *Budge* 13-15-0

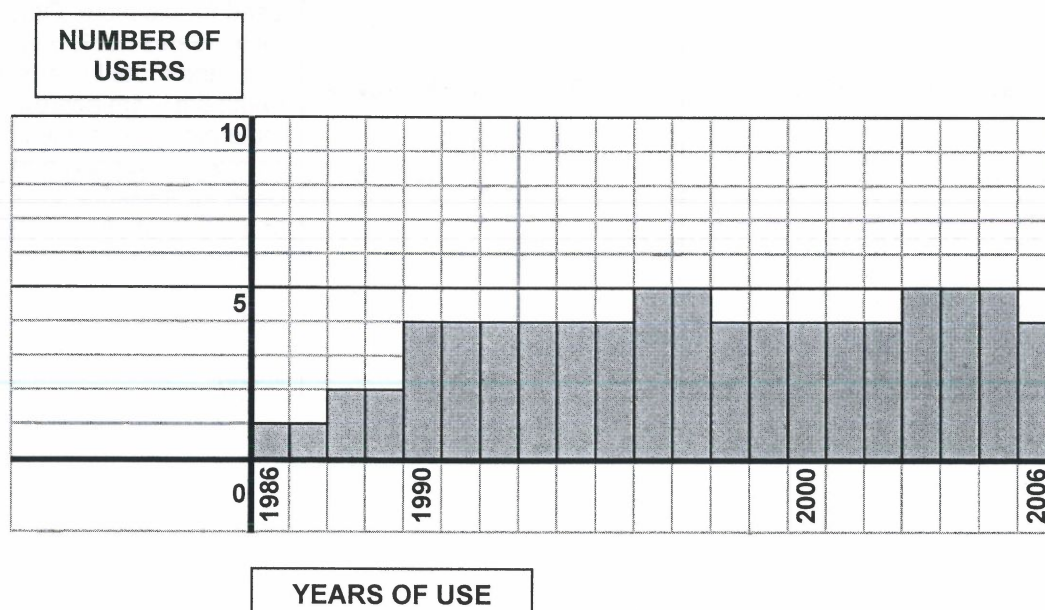
Winfrith Parish Council The Surveyor reported he had inspected the road complained of by the Parish Council in company with Mr Hooper & recommended that a drain should be relaid & the side ditches taken out

This was ordered to be done

Dr Kingston P.C. A letter from the Wintonborne Kingston parish Council was received on the above date

Table of user evidence

NAME	DATES	FREQUENCY OF USE	TYPE OF USE	DETAILS OF USE / COMMENTS
Mr M Diamond	1986 - 2005	2 - 4	Motorcycle	Used for pleasure. Others used the route on foot, horseback and on motorcycles. There were unlocked gates. Was often seen using the route by farm workers. Width 15 feet plus, narrows at entrance to Coombe Wood.
Mr D J Greenslade	1988 - 2006	Twice a year	Motorcycle	Used for pleasure. Others used the route on foot, horseback and on motorcycles. Gates on route unlocked. Visible motorcycle tracks.
Mr M Mason	2003 - 2006	3 or 4 times a year	Motorcycle	Used for pleasure. Route was used by a group of motorcyclists. Gates were often not locked.
Mr D Oickle	1990 - 1997	1 - 2	Motorcycle	Used for pleasure. Others used the route on foot, horseback & on motorcycle. Unlocked gates on route. Passed a farm and visible tyre tracks. A wide route but narrows near wooded area.
Mr T Stapleton	1990 - 2006	6	Motorcycle	Used for pleasure. Others used the route. Gates not locked. Was seen using the route by farm workers. Width 3m – 4m approx. Part of route ploughed sometimes and narrows in wooded part.
Mr W J Williamson	1996 - 2006	3 or 4	Motorcycle	Used for pleasure. Was a member of a group of other motorcyclists who used the route. Unlocked gates. Passed Clay Pits Farm. Wide enough for a four wheeled vehicle, except through Coombe Wood.



Applicant's analysis of documentary evidence

Analysis of Documentary Evidence

Winfrith Newburgh Inclosure Award states that this road went from the Crown Inn in the village, along Clay Street (now Clay Pits Lane) to Coombe Wood.

Sparrow's maps of the Weld Estate shows the claimed route leading out of the village in an easterly direction and is indicated as "To Coombe".

The Winfrith Newburgh Tithe map shows the entire length of the claimed route as unapportioned and in same manner as today's other public roads. It is indicated as going "To Coombe Keynes".

The plan of Newburgh Farm shows this road as "From Winfrith" and "To Coombe Keynes". A similar plan dated 1887 gives the same information on this route.

John Carey's Map of Dorset shows the claimed route as a road.

The 1st Edition OS Map of Dorset, Published by Col.Mudge 1811, is a quality, coloured and detailed map showing roads. The claimed route is clearly shown, leaving the village of Winfrith Newburgh along the existing UCR to meet the county road NW of Coombe Keynes.

The Ordnance Survey Sheet dated 1898 taken from the Osmington-Lulworth Light Railway feasibility survey clearly shows the claimed route as an unmetalled road.

Map of Dorset by George Richmond dated late 1800's, shows the claimed route as a road. However on this map the route turns to the south prior to the village of Coombe Keynes.

Ordnance Survey 1st Edition 1" map dated 1898, shows the claimed route as a Minor Road.

Ordnance Survey 2nd Edition 1" map (coloured) dated 1906 approx, shows the claimed route as part 3rd class road and part unmetalled road at the eastern end.

Ministry of Transport Road Map dated 1923, shows the claimed route in the category of "Other Roads".

Both the 6" and 25" 2nd Edition Ordnance Survey maps show the claimed route in full and the route is not classified as Bridle Road or Footpath.

All the following maps are contained in a book at the Dorset History Centre, reference DC/BTB:R5.

- Map 1 Greenwood Map of Dorset 1825-26. This shows this route as a road. This map only shows significant roads.
- Map 15 Dorset from the Despatch Atlas by Edward Weller undated. Smuggler's Lane clearly shown.
- Map 17 Dorset Botanical map George Philip & Son. This road is clearly shown.
- Map 18 Dorset Geological map George Philip & Son. This road is clearly shown.
- Map 20 Bacon's map undated "Revised by the new Ordnance Survey". This road is clearly shown.
- Map 24 Dorset Sheet No. 23 by W & AK Johnston, not dated. This road is clearly shown.

All these maps clearly show this route in the same way as other public roads in the area. Many of these maps depict only significant roads with no private roads or public ways of a lesser status shown, indicating this route was a public road of some importance.

Bartholomew's Tourists & Cyclists map Sheet 34 dated 1911, shows the route in full with status of inferior road. It is not shaded and therefore of inferior quality. Inferior roads are classified by Bartholomew's as "Unsuitable for Cyclists". The C.T.C.'s input into these maps and Neuberger J's comments about these maps (see previous section) means this map is an indication of the route as a public carriageway.

Bartholomew's Tourists & Cyclists map Sheet 34 dated 1920, shows the route in full with status of Indifferent Road. It is not shaded and therefore of inferior quality.

Bartholomew's Tourists & Cyclists map Sheet 4 dated 1944, shows the route in full with status of Serviceable Road. It is not shaded and therefore of inferior quality.

Bartholomew's half-inch map of 1951 shows the claimed route in full as a "Serviceable road". This is the third status of four, with the last being "Other roads and tracks".

The Geographia Road Map, possibly 1920's, shows the claimed route as a minor road. For interest, this map shows Brownsea Island as Branksea Island.

The Crown Inn is believed to be one of the buildings on the north side of School Lane, where it joins with the High Street in Winfrith Newburgh. A recent development of a number of houses nearby is named "Crown Yard". School Lane then leads to Clay Pits Lane thence Clay Pits Farm.

In summary, there is a weight of evidence to indicate it is more likely that this route carries public carriageway rights rather than any lesser rights.

Therefore we believe there is evidence to support our claim that this road carries vehicular rights.

Route Description

The route commences by Clay Pits Farm and heads in an easterly direction along a double hedged section. Surface is soil and flint.

After approx 200 metres, the route continues eastwards but in a more open aspect with the road having a hedge on one side and a very firm surface until it reaches Coombe Wood.

On entering the wood, the road narrows somewhat but the original earth banks can still be seen although there has been ingress of vegetation over the years. The surface is a mixture of soil, clay and flint.

At the eastern end of Coombe Wood and before the road enters a more open aspect, there are signs that the surface was made up of brick, possibly being brought from the local brickworks.

The road continues from the wood, along the edge of a field and joins a flint track to the county road just to the north of Coombe Keynes village.

arrangements had been changed from the Borough Council to the County Council. This meant that the proposal was considered by the Roads and Rights of Way Committee for approval. He fully supported the scheme as it would increase safety on the route for motorists and pedestrians.

23.5 Trish Jamieson, Christchurch Borough Councillor for the West Highcliffe ward, also spoke in support of the proposal. She explained that the Borough Council encouraged residents to use more public transport, including the bus service on the A337. She also highlighted that crossing the road when cars were travelling at 40mph was difficult for elderly people, and that a reduction in the speed limit would increase the safety on the road. Members also considered a written representation by Mrs Jamieson, which provided background to how the proposal had reached the Committee, and a summary of the points made by the Borough Council.

23.6 Two members raised concern that the 30mph speed limit could potentially be artificially low and would not be obeyed by drivers. One member highlighted that the road seemed to be wide enough to warrant a 40mph limit, and did not think reducing the speed limit would reduce the number of casualties recorded.

23.7 Other members expressed a contrary view that the new evidence suggested that the speed limit was currently too high, and agreed that the proposal of a 30mph speed limit was appropriate. Regarding enforcement of the new speed limit, the Traffic Manager explained that as part of the County Council's 'No Excuse' campaign, lengths of road with known casualties, such as the A337, would be highlighted to the Police for attention.

23.8 In response to a member's question, it was confirmed that signage for the proposed 30mph speed limit would begin after the roundabout at the western end of Lymington Road, as drivers would be more responsive to the change in speed limit after negotiating a roundabout.

23.9 After discussion the majority of members agreed that there was sufficient evidence to necessitate a reduction in speed limit on the A337.

Recommended

24. That the Cabinet agree that the order for the 40mph Speed Limit and 30mph Restricted Roads, A337 Lymington Road, Christchurch be made as advertised.

Reason for Recommendation

25. To avoid danger to persons or other traffic using the roads and prevent the likelihood of any such danger arising. To facilitate the passage on the road of any class of traffic (including pedestrians) or of vehicles, thereby linked to the corporate aim of improving life chances, health and independence for people within thriving and safe communities. The proposal would minimise the use of fuel and pollution.

Application for a Definitive Map and Statement Modification Order to Upgrade Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes (Claypits Lane) to Byway Open to All Traffic

26.1 The Committee considered a report by the Director for Environment which examined the evidence relating to the status of Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes in response to an application to upgrade the route to a byway open to all traffic.

26.2 With the aid of a presentation, the Rights of Way Officer showed members the route of the claimed byway and highlighted various points along it. Members noted that

the application to upgrade the route had been submitted by the Trail Riders' Fellowship in July 2005.

26.3 It was explained that documentary and user evidence submitted had shown twenty years of use between 1986 and 2006. However as the claimed rights had been brought into question in June 2005, this meant that the requirement of a period of twenty or more years of use by the public as of right and without interruption would be prior to 2005, meaning there was only 19 years of user evidence available. The Solicitor explained that in this case the Highways Act 1980 did not apply and Members would need to consider the Common Law. The dedication of a route under Common Law required user evidence to be of a good quality, but usage alone should not be relied upon. Members noted that they were required to look at all circumstances, including documentary evidence and user evidence.

26.4 Members noted that the Winfrith Newburgh Inclosure Award 1771 clearly stated that that the route was a public road leading from the Parish to Coombe wood from the Crown Inn through Clay Street. As this was only part of the claimed route, the evidence suggested that the road was publicly maintainable, at least in part. The 1771 John Sparrow Estate Map showed the route from A – C, and the route was shown on the Ordnance Survey Boundary Sketch map of 1886 and most other small scale maps. As mechanically propelled vehicular rights had been extinguished under the Natural Environment and Rural Communities (NERC) Act, officers recommended that the application be refused and the route be recorded as a restricted byway.

26.5 Patrick Durnford, on behalf of the Weld Estate, spoke against the application. He claimed that the documentary evidence was insufficient, and the commercial, small scale and Tithe maps did not add significant support to the application. He highlighted that the 1910 Finance Act did not show the claimed route excluded from the valuation, and this was a significant argument against the application. He stated that the route was not a public carriageway and there was no evidence of public maintenance. Should the route be upgraded to a restricted byway, he informed members that it was difficult for landowners to challenge people who disobeyed the law and used motorcycles on such routes.

26.6 One member stated that the evidence did not support the whole of the claimed route, and only one piece of user evidence was for the 19 year period between 1986 and 2005. A second member agreed that there was not sufficient evidence for the whole distance of the route, and noted that he would have liked to have seen user evidence from an impartial source.

26.7 A member highlighted that there was strong evidence for the western part of the route between points A – C on Drawing 10/04/1, which were clearly described in the Inclosure Award as a public road. Members agreed that documentary evidence supported the recording of points A – C as a restricted byway, although the route should not be upgraded to a byway open to all traffic. Therefore it was proposed and seconded that an order be made to record points A – C as a restricted byway.

Resolved

27.1 That the application be refused.

27.2 That an order be made to modify the definitive map and statement of rights of way to record Bridleway 9, Winfrith Newburgh and Bridleway 5, Coombe Keynes (Claypits Lane) as shown A – B – C on Drawing 10/04/1 as a restricted byway.

27.3 If the order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Committee.

Reason for Decision

28.1 Subject to 28.2 below, the byway open to all traffic claimed did not subsist nor could reasonably be alleged to subsist.

28.2 The analysis of the available evidence submitted and/or discovered demonstrated that the right of way claimed subsisted or could reasonably be alleged to subsist in respect of the claimed route as shown A – B – C on Drawing 10/04/1. However, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights of way for motor powered vehicles and therefore an order should be made for a restricted byway over the claimed route.

28.3 The evidence showed that, on balance, the route claimed was a restricted byway. Accordingly, in the absence of objections the County Council could itself confirm the order without submission to the Planning Inspectorate.

Application for a Definitive Map and Statement Modification Order to Upgrade Ridge Lane and Ridge Drove, Hazelbury Bryan and Lydlinch to Byway Open to All Traffic

29.1 The Committee considered a report by the Director for Environment which examined the evidence relating to the status of a route in the parishes of Hazelbury Bryan and Lydlinch, comprising a maintainable unclassified road at the western end, and Bridleways 28 and 35, Hazelbury Bryan and Bridleway 17, Lydlinch in response to an application to upgrade the route to a byway open to all traffic.

29.2 With the aid of a presentation, the Rights of Way Officer showed members the route of the claimed byway and highlighted various points along it. Members noted that the application to upgrade the route had been submitted by the Trail Riders' Fellowship in July 2005.

29.3 It was explained that documentary evidence provided strong evidence as to the existence of public vehicular rights over parts of the claimed route. The Hazelbury Bryan Inclosure Award 1858 had clearly awarded a public carriage road between points A – D and J – M on Drawing 10/39/1, and the Hazelbury Bryan Tithe Award 1838 had clearly referred to a road between points D – E on the same Drawing. Evidence from the Finance Act 1910 clearly showed that parts of the route had been excluded for valuation, namely the parts between a point just south of B – E, I – K and L – M. It was generally accepted that a route excluded from the map was not liable for taxation as it was considered to be a public carriageway. There was no evidence to suggest that the route A – B satisfied the definition of a byway open to all traffic, but as it was recorded on the List of Streets it was an exception to the extinguishment provisions and therefore mechanically propelled vehicular rights were preserved.

29.4 The Rights of Way Officer explained that a passage from the Ramblers' Association had accidentally been omitted from the final version of the report. The Ramblers' Association had not provided any evidence to support or refute the claim, but had stated that they would not welcome the upgrading of the route to a byway open to all traffic, and asked that if the claim was accepted a traffic regulation order should be applied.

29.5 The Local Member for Blackmore Vale, as a member of the Committee, noted that the evidence had been well examined and the Inclosure Award was a particularly strong piece of evidence. As such he supported the view that the application should be refused, but parts of the route be recorded as restricted byways.

29.6 After discussion, members agreed that there was not sufficient evidence that the route should be upgraded to a byway open to all traffic and therefore it was proposed and seconded that an order be made record B – E and J – M as restricted byways.