

North Somerset Council

REPORT TO THE PUBLIC RIGHTS OF WAY SUB
COMMITTEE

DATE OF MEETING: 26 JULY 2017

SUBJECT OF REPORT: MOD 18 CLAIMED BRIDLEWAY AT
SPYING COPSE

TOWN OR PARISH: WRINGTON

OFFICER/MEMBER PRESENTING: ELAINE BOWMAN

KEY DECISION: NO

RECOMMENDATIONS

It is recommended that

- (i) The Public Rights of Way Sub Committee authorise the relevant officer to reject this application relating to Mod 18 Spying Copse to the A38 on the grounds that there is not sufficient evidence to suggest that the decision of the Inspector would have been different if presented at Inquiry.

1. SUMMARY OF REPORT

The determination of this application is by Direction from the Secretary of State dated 21 March 2017. Within that direction this application is required to be determined by 31 December 2017.

Footpaths AX 30/29, AX30/33 and AX 30/69 were the subject of a full investigation following the submission of an application by Woodspring Bridleways Association dated 10 June 1989. That application claimed that route from AX 30/42 through the Coombe over Footpaths from AX 30/29 to the end of AX 30/69 should be recorded as a Bridleway. In 1993 a Bridleway Order was made which when advertised attracted objection which led to a Public Inquiry and determination by an Inspector, appointed by the Secretary of State dated 12 October 1995. That Inspector's decision was that the Order should not be confirmed.

A second application was submitted to North Somerset Council on the 25 November 1995 claiming that additional evidence had been found which proved that this route had been used during the relevant period and should be recorded as a Bridleway. The applicants claim that the previous Inspectors interpretation of the evidence and final decision was inaccurate, however did not choose to challenge that decision within the High Court.

This report is required to consider the new evidence, in conjunction with the evidence previously considered to ascertain whether this information would have led to a different decision and that Footpaths AX 30/29, AX 30/33 & AX 30/69 should be recorded as a Bridleway.

Such application for a Definitive Map Modification Order is submitted under Section 53(5) of the Wildlife and Countryside Act 1981. The effect of this request, should an Order be made and confirmed, would be to amend the Definitive Map and Statement for the area. The application relates to the route A-B-C-D shown on the attached Location Plan, commencing from the junction off existing Bridleway AX 30/42 known as Spying Copse and proceeding through Goblin Coombe onto Winters Lane, then alongside High Wood, before exiting onto the A38.

This report is based on minimal historical documentary evidence, the previous Inspectors Decision Notice and evidence submitted relating to promoted riding evidence. A **Location Plan, EB/Mod 18**, showing the route as a bold black dashed line A-B-B1 and C-D being claimed is attached.

In order that members may consider the evidence relating to this application, further details about the claim itself, the basis of the application, and an analysis of the evidence are included in the Appendices to this report, listed below. Also listed below are the Documents that are attached to this report. Members are welcome to inspect the files containing the information relating to this application, by arrangement with the Public Rights of Way Section.

Appendix 1 – The legal basis for deciding the claim

Appendix 2 – History and Description of the First Claim

Appendix 3 – History and Description of the Second Claim

Appendix 4 – Analysis of the Documentary Evidence submitted by the Applicant

Appendix 5 – Consultation and Landowner Responses

Appendix 6 – Summary of Evidence and Conclusion

Appendix 7 – The Planning Inspectorate Decision dated 12 October 1995

Location Plan EB/MOD 18

Document 1a – Long Distance Ride Programme dated 15 October 1978

Document 1b – Long Distance Ride Description dated 15 October 1978

Document 2a – Long Distance Ride Letter dated 1 July 1996 for event on 12 April 1980

Document 2b – Long Distance Ride Map dated 12 April 1980

Document 2c – Long Distance Ride Newspaper Advertisement dated 12 April 1980

Document 2d – Long Distance Ride Description dated 12 April 1980

Document 3a – Long Distance Ride Programme/Entry Form dated 13 May 1984

Document 3b – Long Distance Ride Description dated 13 May 1984

Document 4a – Long Distance Ride Programme dated 12 November 1989

Document 4b – Long Distance Ride Description dated 12 November 1989

Document 5a & 5b – Statutory Declaration from Mrs S Lansbury dated 3 July 1996

Document 5c – Annotated Map from Mrs S Lansbury dated 3 July 1996.

Document 6 – W and AK Johnson Ltd Road Atlas 3 miles to 1" – 1940

Document 7 – Road Atlas for Great Britain by W and AK Johnson 3 miles to 1" reprinted – 1966, 65 and 66

Document 8 – Motored coloured and contoured Map of England and Wales – 1966

2. POLICY

The maintenance of the Definitive Map should be considered as part of the management of the public right of way network and so contributes to the corporate plan “Health and Wellbeing” and “Quality Places”.

3. DETAILS

Background

i) The Legal Situation

North Somerset Council, as Surveying Authority, is under a duty imposed by the Wildlife and Countryside Act 1981, Section 53(2) to keep the Definitive Map and Statement under continuous review. This includes determining duly made applications for Definitive Map Modification Orders.

The statutory provisions are quoted in **Appendix 1**.

ii) The Role of the Committee

The Committee is required to determine whether or not a Definitive Map Modification Order should be made. **This is a quasi-judicial decision and it is therefore essential that members are fully familiar with all the available evidence. Applications must be decided on the facts of the case, there being no provision within the legislation for factors such as desirability or suitability to be taken into account.** It is also important to recognise that in many cases the evidence is not fully conclusive, so that it is often necessary to make a judgement based on the balance of probabilities.

The Committee should be aware that its decision is not the final stage of the procedure. Where it is decided that an Order should be made, the Order must be advertised. If objections are received, the Order must be referred, with the objections and any representations, to the Department of the Environment, Food and Rural Affairs (DEFRA) for determination. Where the Committee decides that an order should not be made, the applicant may appeal to the Government Office for the South West.

Conclusion

As this report relates to a route A – B and C - D which is recorded on the Definitive Map as a Footpath it is necessary for the Committee to consider whether, given the evidence available, that a highway shown in the map and statement as a highway of a particular description **ought** to be there shown as a highway of a different description.

However, there is a section B – B1 which is not recorded on the Definitive Map, this requires the Committee to consider whether it is reasonable to allege that a route subsists over the land.

If the Committee is of the opinion that these relevant test has been adequately met, it should determine that a Definitive Map Modification Order should be made. If not, the determination should be that no order should be made. See Appendix 1.

4. CONSULTATION

Although North Somerset Council is not required to carry out consultations at this stage affected landowners have been contacted. In addition to this Wrington Parish Council, Local members, interested parties and relevant user groups have also been included. Detail of the correspondence that has been received following these consultations is detailed in **Appendix 7**.

5. FINANCIAL IMPLICATIONS

At present the council is required to assess the information available to it to determine whether there is sufficient evidence to support the application. There will be no financial implications during this process. Once that investigation has been undertaken, if authority is given for an Order to be made then the Council will incur financial expenditure in line with the advertisement of the Order. Further cost will be incurred if this matter needs to be determined by a Public Inquiry. These financial considerations **must** not form part of the Committee's decision.

6. RISK MANAGEMENT

The Wildlife and Countryside Act 1981 requires that applications which are submitted for changes to the Definitive Map and Statement are determined by the authority as soon as is reasonably possible. Due to the number of outstanding applications awaiting determination officers of North Somerset Council, in conjunction with the PROW Rights of Way Sub Committee have agreed a three-tier approach when determining the directed applications. A report was presented to the Committee in November 2016 which outlined a more streamline approach. This could result in challenges being made against the Council for not considering all evidence.

The applicant has the right to appeal to the Secretary of State who may change the decision of the Council (if the Council decided not to make an Order) and issue a direction that an Order should be made. Alternatively, if an Order is made objections can lead to a Public Inquiry.

7. EQUALITY IMPLICATIONS

Public rights of way are available for the population as a whole to use and enjoy irrespective of gender, ethnic background or ability and are free at point of use.

8. CORPORATE IMPLICATIONS

Any changes to the network will be reflected on the GIS system which forms the basis of the relevant corporate records.

9. OPTIONS CONSIDERED

The options that need to be considered are:

1. Whether the new evidence supports the making of a Definitive Map Modification Order for the route A-B-B1 and C-D.
2. Whether the application should be denied as there is insufficient evidence to suggest that if presented would have changed the opinion of the Inspector at the previous Inquiry.

AUTHOR

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BACKGROUND PAPERS: - Public Rights of Way File Mod 18

The Legal Basis for Deciding the Claim

1. The application has been made under Section 53 of the Wildlife and Countryside Act 1981, which requires the Council as Surveying Authority to bring and then keep the Definitive Map and Statement up to date, making by Order such modifications to them as appear to be required as a result of the occurrence of certain specified events.
2. Section 53(3)(b) describes one event as, "the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or restricted byway". See paragraph 4.

Subsection 53(3) (c) describes another event as, "the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

- (i) "that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over the land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic"
- (ii) "that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description"

The basis of the application in respect of the Bridleway is that the requirement of Section 53(3)(c)(i) and (ii) has been fulfilled.

3. Section 32 of the Highways Act 1980 relating to evidence of dedication of way as highway states " A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered documents, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced".
4. Section 31 (1) of the Highways Act 1980 provides that, "Where a way over land, other than a way of such character that use of it by the public could not give rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption for a full period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it".

Section 31 (2) states, “the period of twenty years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question whether by a notice or otherwise”.

Section 31 (3) states, “Where the owner of the land over which any such way as aforesaid passes-

- (a) has erected in such manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and
- (b) has maintained the notice after the 1st January 1934, or any later date on which it was erected,

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

For a public highway to become established at common law there must have been dedication by the landowner and acceptance by the public. It is necessary to show either that the landowner accepted the use that was being made of the route or for the use to be so great that the landowners must have known and taken no action. A deemed dedication may be inferred from a landowners’ inaction. In prescribing the nature of the use required for an inference of dedication to be drawn, the same principles were applied as in the case of a claim that a private right of way had been dedicated; namely the use had been without force, without secrecy and without permission.

The Committee is reminded that in assessing whether the paths can be shown to be public rights of way, it is acting in a quasi-judicial role. It must look only at the relevant evidence and apply the relevant legal test.

5. Modification orders are not concerned with the suitability for use of the alleged rights. If there is a question of whether a path or way is suitable for its legal status or that a particular way is desirable for any reason, then other procedures exist to create, extinguish, divert or regulate use, but such procedures are under different powers and should be considered separately.

History and Description of the First Claim

APPLICATION 1 – 10 June 1989

<p>Application submitted by Mrs V Craggs on behalf of Woodspring Bridleways</p>	<p>The basis of this application was that three routes, AX 30/29, part of AX30/33 & AX30/69 had been incorrectly recorded during the Definitive Map process and should be recorded as Bridleway. In addition an unrecorded route should be included.</p>
<p>Report presented to the Planning, Highway and Transport (Public Rights of Way) (Policy Implementation) Sub Committee on the 21 November 1990</p>	<p>A report was prepared and presented. Members were advised that this application was supported by 34 User Evidence Forms and letters of evidence. Information was also presented regarding responses that had been received to informal consultations. The majority of these objected to the proposal for AX30/33 and AX30/69 to be recorded as a Bridleway. The officer recommendation at that time was <i>“that authorisation be given to prepare and seal an Order to modify the Definitive Map and Statement by adding to it the routes to which this Report relates as bridleways, and if no objections are sustained, to confirm the Order”</i>.</p>
<p>Definitive Map Modification Order Made</p>	<p>The Order was made on the 23 March 1993, advertised on 31 March 1993 with an objection period to the 17 May 1993</p>
<p>Report presented to the Planning, Highways and Transport (Public Rights of Way) Sub Committee dated 27 July 1993</p>	<p>A second report was presented which advised members that the Order had been made and attracted 14 letters of objection, 11 letters of support and comment. The officer of the time stated within his conclusion that “the Order had attracted a substantial number of objections, which are duly made and it had to be said that the objections are certainly persuasive. Not only are they substantial in number, they come, for the most part, from persons who have lived in the locality for many years – in some cases, some 40 to 50 years. The objections do challenge the basis of the claim – i.e. that the route had been used without let or hindrance for 20 years”.</p> <p>The officer’s recommendation read “It is recommended that the Order be referred to the Secretary of State for the Environment, with a request that he does not confirm the Order”.</p> <p>The members in determining what action to take regarding the application resolved “that the Order be</p>

Public Inquiry held on 1-3 August 1995

referred to the Secretary of State for the Environment, with a request that he confirm the Order”.

A Public Inquiry was held commencing on 1 August 1995 which lasted for 3 days. During that time an appointed Inspector listened to all of the evidence put forward by Avon Council, the supporters for the Order and also the objectors, including landowners. A full copy of the Inspectors Report detailing the evidence presented and the Inspectors opinion is attached as Appendix 9.

Inspectors Decision Notice

The following tables contain information extracted from the Inspectors Decision Notice. It is strongly recommended that the full document placed attached as Appendix 7 is read in its entirety and considered in the overall recommendation of this application.

Case of Order Making Authority [para.6 to 6.1.8].

34 user evidence forms were submitted in support of the proposed modifications. However, 4 were discounted as one used the route on foot only, two referred to a different route and one states it was ridden with permission. It was claimed that this information showed that use had been made of this route between 1940 to 1989, challenges that had been made to the use of the route and that it was agreed not all riders rode the route AX 30/69. The use that was being claimed was based on presumed dedication under Section 31 of the Highways Act 1980 (Appendix 1 section 4)

Map and Documentary evidence [para. 6.1.3 & 6.1.4]

1739 John Rocque's Map, 1769 B Donn Map, 1782 Day and Masters Map, 1810 Wrington Inclosure Award, 1815 Mudge Map Enclosure, 1822 Greenwood Map, 1839 Wrington Tithe Map, 1884 OS Map, 1903 OS Map, 1930 OS Map. The applicants claim was not based on historical evidence but user evidence forms, however Avon County Council undertook this investigation. It would appear that whilst these may have assisted with existence, they did not with status.

Definitive Map process was then presented [para.6.1.5]

Some records had survived and were taken into consideration namely the Parish Record Cards from 4 January 1951 whereby there were no mentions of any obstructions to the claimed route. The Clerk to the County Council noted 'Appears to be ancient highway'. Additionally, there were no recorded objections that these routes were recorded as Footpaths.

**14 letters of objection
[para.6.1.6]**

Authority was given for an Order to be made, which attracted objection when published. The County Solicitor advised members of the Committee that the objections were duly made, were persuasive and challenged the basis of the Order, i.e. the 20 year rule. Despite this advice the Committee resolved that the Order was referred to the Secretary of State for confirmation

**Date of Challenge
[para.6.3.1 - 6.3.23]**

The application was submitted in 1989, implying that it was around this time that an event occurred which challenged any public use that was being made, this is referred to as 'calling the route into question'. An analysis was undertaken of the public use to establish whether there was evidence of 20 years uninterrupted use. The information contained within these paragraphs details information given to the Inspector by those who attended the Inquiry

**Other comments
received to the Order
[para.6.1.7]**

The evidence submitted to Avon County Council seemed to show that there was considerable conflict between evidence given by the riders and the landowners.

**Avon County Councils
Opinion [para. 6.1.8]**

Avon County Council considered that the riders had established 20 years of uninterrupted enjoyment of the path as of right, without permission. Therefore on the balance of the evidence available to them Avon County Council believed that public bridleways subsisted or were reasonably alleged to subsist over the paths in question, it therefore asked that the Modification Order be confirmed.

**Supporters of the
Order**

**Mrs V Craggs [para.
6.2.1 and 6.2.2]**

Started riding this route in 1948. Rode with friends, was 8 when first started. Rode this route between 3 times a month and once a year in the years 1948 to 1978. Recalled gates but these were not locked. Never saw signs or notices.

**The British Horse
Society [para. 6.2.3]
Mrs F Densham [para.
6.2.4]**

Letters of supports consider the user evidence supports the Order. Rode the route 1955 to 1965 twice a month, introduced by grandfather. With her own children between 1974 and 1989 when gates locked. She was never challenged, gates were not locked and did not see any notices. Recalls it being overgrown but maintained occasionally, would jump over fallen wood. Recalls the western end being very overgrown. Did

Mrs J Caola [para. 6.2.5] Mr T J Banwell Written Statement [para. 6.2.6]	not think it likely that grandfather would have sought permission. Had not ridden the route.
Mrs M Simmons [para 6.2.7]	Lives at 1 Hailstone Cottages and considered the route to be a bridleway. Recalled 3 gates on the path, none locked until recently. Believed that before locked the route was used by milk cart, motor cyclists, horse riders and on foot. Recalled horse riders used it every week, sometimes in groups.
Miss M Eagle [para 6.2.8]	Rode the route 1964 – 72 with friends, never challenged. Recalled the gates which were never locked.
Mrs V Rossiter [para 6.2.9]	Rode the eastern route from 1968 until the gate was locked. Recalled all gates which she opened and closed. Rode 10 – 15 times a year. Never stopped and saw no signs.
Mrs A Gawthorpe [para 6.2.10 – 6.2.11]	Known Goblin Coombe since 1945. Rode with friends about 10 – 12 times a year until 1979. Would meet other riders, does not recall notices
Mrs S McMillan [para. 6.2.12]	Introduced to this route in 1967 used until 1988. Rode this between 3 and 12 times a year. Believes this to be a public bridleway having looked at old maps and accounts. These maps indicate to Mrs Gawthorpe that the claimed route is an old pack horse route.
Mrs B Parker [para. 6.2.13]	Rode the claimed route from 1965 –1968 then resumed in 1977 until the late 1980's. Rode 5 or 6 times a year. She was never stopped or saw any notices forbidding riders. Gates were never locked. On one occasion, she rode it as part of a long distance ride with 25 – 30 riders.
Mrs A Carter [para. 6.2.14]	Starting riding in this area in 1943, later riding it 25 times a year, mainly in the 1940's. No one ever stopped her, there were no locked gates or signs. Believed this to be a bridleway
Mrs S Lansbury [para. 6.2.15]	Ridden since 1944 until 1970. Would ride with her father until 1950's one a month. Father knew all of the local farmers, unlikely he would have sought permission. Recalled gates being locked but often unlocked too. Never saw any notices.
Written Evidence [para.6.2.16]	Before 1969 would box her horse and come across to ride. Moved to Winford in 1977 and continued to ride about 10 times a year believing this to be a bridleway. No gates were locked, would jump logs in the Coombe, never challenged.
	An additional 19 letters of support, 3 statutory declarations, 8 letters of support of user evidence and 1 new user evidence form were handed to the Inspector for assistance. All gave similar evidence of use to the oral witnesses, more over the western

length than the whole route covering periods from 1942 to date.

Case for the Objectors

Wrington Parish Council [para. 6.3.1]

The Definitive Map was made available to the Council in 1968. Prior to that in 1965, correspondence between the Council and Fountain Forestry complaining of a locked gate on the path from Wrington Hill to Goblin Coombe. Fountain Forestry confirmed that the gate was locked for reasons of preventing passage of persons and/or horseback. Footpath signs were then erected in 1982 at the junction of AX30/69 on the request of landowner Mr R G Marshall. So, they believe that the public use of the route was not possible during those 20 years until they received consultation letters from ACC in November 1989.

Mr M B Hawkings, Owner of Hailstone Farm [para. 6.3.2]

He presented a number of statements relating to his property, dating back to 1980. He states that when purchasing the property, the land where the footpath lies (AX30/69) was overgrown and took several weeks to clear, implying that it would have been difficult for horseriders to use on a regular basis since 1980 and during the occupation of the previous owner over 40 years.

Mr Hawkings strongly disputed the statements of many of the riders and states that he heard one party riding the route and turned back another riding in ones and twos. He had also turned horseboxes away. Once he cleared the Coombe, there was increased usage, so locked the gates in 1982-3 at Winters Lane and Hailstone Cottages by which time it was marked as a Footpath at the A38 so provided gates intended for foot users only.

Mr Hawkings also submitted a statement from Miss J M Cross, who changed her evidence regarding usage confirming that she had asked for and been given permission by the previous owner, Mr H J Ashman.

Mr Hawkings also provided 5 statements of support to his objection of the footpath being unsuitable for horse use.

He suggested that if the Order was confirmed, farmers should charge a toll as a recompense for restoring the paths.

Mrs M G Hawkings [para. 6.3.3]

She was born on the farm in 1938, and rode once a week for 3 years. She advised the Inspector she never rode the Winters Lane to A38 (AX30/69) as it was so overgrown. When it was cleared she rode it with permission and had turned back one rider. She also

Mr H J Ashman [para. 6.3.4]

advised that it was very muddy in winter if it was used by horses.

Advised the Inspector that he had become the owner of Hailstone Farm in 1946, until he sold it to his son-in-law Mr Hawking in 1980. He had no recollection of horses or vehicles on the claimed path and if he had done so he would have objected and ceased use. He also states that the route was always very overgrown until 1980.

Mr C Trenfield, Avon Area Footpath Secretary, Ramblers Association (RA) [para.6.3.5]

The Association provided a written submission stating that there had always been gates at various points on the claimed route what had been locked 'intermittently'.

During the 1993 inspection, it was revealed that there was evidence of horse usage at the western end of Goblin Coombe up to the locked gate, 200 metres from Spying Copse, with signs stating, 'Please keep to the footpath' with a direction arrow. At Winters Lane, there was a padlocked field gate and stile with a sign on the other side stating 'No horses'

The Association cannot reconcile the unhindered usage claimed with the locked gates, notices, and verbal requests to riders.

Para 6.3.6 – 6.3.18

13 persons spoke at the Inquiry providing the Inspector with information relating to the use that had been witnessed, the condition of the land, recollection of notices and locked gates. Some of these people worked within this area who should have seen horse riders if in the area. These people have lived, worked or known this area since 1951.

Mr R G Marshall [para 6.3.19 – 6.3.22]

Mr Marshall lived with parents at Broadfield Farm in 1952, owning Goblin Coombe, until 1979 when he moved 3 miles away. He has no recollection of horse riding in the coombe nor was asked permission to do so.

Timber abstractions as mentioned by Messrs Ridley and Popham, would have blocked the Coombe for several months.

Mr Marshall states that in 1960 the road boundary to the Coombe at Winters Lane was fenced off and a gate was erected to prevent cars and people from using the Coombe as common land.

Mr Marshall also mentioned the pheasant shoots in the 1970s through his property, of which horseriders would have caused disturbance to the rearing and shooting of pheasants if there was frequent use.

He states that in 1982 when Wrington Parish Council erected footpath signs. The Footpath AX30/29 from 'Spion Kop' does not legally exit at the present stile at Winters Lane but further north. So, when it was

agreed to have the footpath sign removed, riders began claiming the rights over private land of which was not a Public Footpath.

Statements from Mr R S Marshall and Mrs N S Marshall were also received to the Inspector in support of Mr Marshall's statement.

Mr B Bull [para. 6.3.23]

Lived in the area and visited the Coombe many times. Has never seen horse riders or evidence of their presence. Erected the fencing at Winter Lane in the 1960's, erected to contain cattle, small gate installed not for horses.

Inspectors comment [para.6.3.25]

The Inspector lists the inconsistencies between the users and the objectors.

Presumption of dedication [para.6.3.26]

Evidence does not establish sufficient user for the period up to 1989 for the western end Spion Kop to gate. Not appear to have been ridden between 1974 and 1984, probably not after 1967. Evidence of interruption.

Definitive Map process [para 6.3.27]

Parish Council survey recorded this route as footpath, no challenges made. Users in 1940's were young so permission may have been given. No record of complaints to landowners or WPC when paths were obstructed in 1960's. Inspector considered that none of the landowners had any intention to dedicate as bridleways by the overt acts they exercised.

Inspectors Comments and Conclusions Para 7.1 – 7.7

The Inspector concluded in para. 7.7 with the following statement;

While there is sufficient user evidence to justify the preparation of the Order evidence from the landowners, their families, friends and employees does suggest that use was largely before the 20-year period up to 1989 and appears to be exaggerated (para 7.3, 7.5 and 7.6). There is evidence that present and previous owners did not intend to dedicate a bridleway (para 7.4) and in my view sufficient evidence has been presented in the way of locked or closed gates, notices and the turning back of would be riders, to support this. Mr R G Marshall has permitted the route of the proposed AX 30/81 to be used as a permissive footpath rather than the correct route of AX 30/29 to the north but I am satisfied he did not intend this courtesy to extend to horse riders (para 7.5).

For the reasons given within the Inspectors Decision Notice, the Inspector decided not to confirm the Order.

History and Description of the Second Claim

APPLICATION 2 – 25 November 1995

Woodspring Bridleways Association submitted a new application relating to Footpaths AX30/29, AX30/33 & AX30/69 dated 25 November 1995. They describe the route being from where it leaves from Bridleway AX30/42 through Goblin Coombe to the A38 shown on the attached location plan EB/Mod 18. This application was supported by claimed new evidence attached as Documents 1 to 8,

These documents are detailed within this report as Appendix 4

Woodspring Bridleways Association believe that these documents represent new evidence which shows that there was use of the claimed routes between 1978 to 1989 on horseback, whereby no permission was given. The documents attached to this new application consisted of the following;

Document 1 – Long Distance Ride Programme and Description dated 15 October 1978 supplied by Brent Knoll Riding Club Secretary Mrs S. Lansbury starting from Reilbury Farm, Winford.

Document 2 – Long Distance Ride Description of Brent Knoll Riding Club from 12 April 1980 with Map and Newspaper Advertisement with a statement from Mrs H Lindsay.

Document 3 – Long Distance Ride Programme and Description dated 13 May 1984 supplied by Brent Knoll Riding Club Secretary starting from Reilbury Farm, Winford.

Document 4 – Long Distance Ride Entry Form and Description of Banwell Pony Club dated 12 November 1989 supplied by Mrs S. Macmillan.

Document 5 – Statutory Declaration from Mrs S M Lansbury, dated 3 July 1996.

Document 6 – A Photograph of a map from the W and A.K Johnston Ltd. London to Edinburgh Road Atlas 3 miles: 1 inch, Published in 1940.

Document 7 – A Photograph of a map from the Road Atlas for Great Britain by W and A.K Johnston and G.W Brian Ltd. 3 miles: 1 inch reprinted in 1964, 65 & 66 for motoring, cycling, and hiking.

Document 8 – A Photograph of map 17 from the Motor Coloured and Contoured Map of England and Wales published by W and A.K Johnston 3 miles: 1 inch in 1966.

The applicants believe that this new evidence in conjunction with the evidence produced with the first application shows that Footpath AX30/29, AX 30/33, AX 30/69 and the unrecorded section between B-B1 should have a status higher than a footpath, therefore should be recorded as a **Bridleway**.

Analysis of the Documentary Evidence submitted by the Applicant

APPLICATION 1 – 10 June 1989

1. The first application and evidence submitted dated 1989 has been through the correct and complete process for Section 53 applications as defined by the Wildlife and Countryside Act 1981. The minimal documentation held on file seems to imply that all relevant parties were consulted about the application and the making of the Order, which enabled objections to be submitted and ultimately appearance at the Public Inquiry held in August 1995.
2. The Public Inquiry was held over three days where everyone who wished to speak and present their evidence or opinion would have been allowed to do so. It would have been hoped that all available evidence would have been presented at that time so that the Inspector could make an informed judgement on whether this route should be reclassified as a Bridleway.
3. In the Inspectors Decision Notice dated 12 October 1995 (**Appendix 7**) the Inspector has detailed his opinion as to what he considered strong or weak, supported or disputed evidence from those who attended the Inquiry but also those whose opinion was given in writing and evidence submitted.
4. As with all cases like this it is **for the supporters of the Order to prove their case** and to have submitted all evidence which they consider relevant. That having been undertaken the Inspectors Decision Notice is the end of the process unless a High Court Challenge is lodged, which in this case was not.
5. Unfortunately, my file holds very little of the information submitted at the Inquiry so I can only have regard for that which is detailed in the Inspectors decision.

APPLICATION 2 – 25 November 1995

1. The Inspectors Report from the first application stated that there was little evidence of use from user evidence for varying periods of time prior to 1989 which threw doubt to the extent of the riding that was claimed. Because of this the applicant has submitted further evidence claiming use which when considered with the previously submitted evidence supports their case. Therefore, they decided to submit a second application which they did in November 1995.
2. As stated within Appendix 1 the legislation is quite clear as to what needs to be taken into consideration. The first application relied upon user evidence trying to prove that the requirements of Section 31 of the Highways Act 1980 had been proven, this was not accepted by the Inspector. The second application is now trying to claim with very minimal evidence that this was a historical route. In addition to this further documentation claiming use as part of organised rides has been submitted thereby claiming that this route was

acknowledged by the landowner, accepted by the public therefore still trying to prove the requirements of Section 31. As the applicants have submitted additional documents and maps which they consider to be new evidence, these need to be considered against the original evidence to establish whether these would have presented a different case to the Inspector.

Document 1 – Long Distance Ride Programme and Description dated 15 October 1978

This document is the programme and description of a long distance ride organised by Brent Knoll Riding Club supplied by the Brent Knoll Riding Club Secretary from October 1978.

The event took place from Regilbury Farm, Winford, owned by Mrs. S Lansbury. Within the description (Document 1b) each point of the claimed route can be identified, where in this case it begins from Point D to A;

‘T junction at A38 turn right and cross road immed: Take first gateway on left and go down track keeping to track not grass. At 1st fork bear left onto grass track through gate. Follow track to 5 bar gate onto made up road (now behind airport). Straight over made up road and through gate. Again follow track to another 5 bar gate. Take left fork up muddy track, hill flattens onto gate. Through this and down path between two fields. At T junction at the end of path turn rt to wider track.’

From this section of the description each point is identified by gates, for instance the first gateway at A38 (Point D), 5 bar gate onto made up road (Point C), and the gate on the other side of the made up road (Point B). However there is not any evidence of the gates being locked or problems of using the route as the whole of the claimed route was used during this event.

Document 2 – Long Distance Ride Description, Map, and Newspaper Advertisement dated 12 April 1980

These documents relate to another Long-Distance Ride organised by Mrs H Lindsay (Document 2a) on behalf of Brent Knoll Riding Club on 12 April 1980. The map of the event route provided illustrates the claimed route passing through all points A to D (Document 2b). In addition to this the event was also advertised in the Western Daily Press dated on the 15 March 1980 (Document 2c). For clarity this reads “***Brent Knoll RC, long distance ride Saturday April 12th, from Backwell Hill, 2 classes all entrants rosettes....***”

The description of the event shows that the route passed through point A to Point D and is stated as (Document 2d)

‘Taking track on left between two fields, through gate, follow markers to next gate and straight onto another gate, which comes out onto the road. Turn right then bear left immediately onto track, through gate. Keep going straight through gates, until reaching the A38.’

From this, it illustrates that there are many gates along the route claimed, especially as at the bottom of the description it states 'Follow blue plastic ties & please shut gates'.

Document 3 – Long Distance Ride Programme/Entry From and Description dated 13 May 1984

This is another Long-Distance Ride from Brent Knoll Riding Club organised by Mrs S Lansbury on the 13 May 1984. This 20-mile ride started from Regilbury Court, Winford, however in comparison to the other rides, only uses points B and A from the claimed route as stated in the description (Documents 3a & 3b).

'To hunting gate on RT (a steward here). Keep to track, through new metal gate, bear left up track to gate into narrow track. At end of the narrow track T junction. Turn RT down stoney track.'

Again, this event provides evidence of gates along the claimed route.

Document 4 – Long Distance Ride Programme and Description dated 12 November 1989

This Long-Distance ride was organised by Mrs S Macmillan on behalf of Banwell Pony Club, to which the programme (Document 4a) describes the event as 10 mile ride starting from Hill House, Felton Common on 12 November 1989.

Within the Description of the event (Document 4b), it describes the use of all 4 points of the claimed route starting from Point D at the A38 to Point A;

'Cross A38 turning right & (Steward) immediately left thru gate. Down drive and before tree fork left. Thru gate in front of cottage gardens (CLOSE IT) Stay close to right fence and hedge – thru next gate (close it) Right track – straight over – thru gate (close it) A steward here. Keep to track, through metal gate, bear LEFT up track (2 fallen trees) to gate into narrow track. Pass fallen oak branch. At end of track T junction. Turn rt down stoney track'

A section to note from this document is that the section where it states 'Stay close to right fence and hedge' as it passes the cottages (between Point D-C), there is a written annotation in brackets saying 'walk here'. This may suggest that the land owners of these cottages had made a specific request or that the land was deemed unsuitable.

Document 5 – Statutory Declaration from Mrs S Lansbury dated 3 July 1996

This document is a Statutory Declaration from Mrs Susan Mountfort Lansbury dated on 3 July 1996, of which she organised 3 of the long distance rides as previously stated above in October 1978 and May 1984. Mrs Lansbury also makes reference to another ride she organised in May 15 1983, however no details of this event have been provided by Woodspring Bridleways Association.

The declaration states that the organisation of Brent Knoll riding Club have always believed the claimed route used to be Bridleways and have never needed permission from farmers to use the route.

However during the last Public Inquiry held in August 1995, she was challenged by Mr Marshall regarding the use of the route for her organised ride in May 1984, but he allowed the ride to continue. Such a challenge would be consistent with the statements submitted at the Inquiry.

Furthermore, the declaration refers to the gates throughout the claimed route implying that they were unlocked at each event but made sure were shut by the last person on the ride.

This declaration is attached as Document 5a & b and a map annotated and signed by Mrs S Lansbury is located in Document 5c.

Document 6 - W and AK Johnson Ltd Road Atlas 3miles to 1" - 1940

This is an extract from a road atlas. The applicants claim that this illustrates a route on a similar alignment to that of the claimed bridleway and that its depiction means it was thought to be of a higher status than a footpath. However, the copy is of such poor quality making it difficult to interpret.

Document 7 - Road atlas for Great Britain by W and AK Johnson 3 miles to 1" reprinted 1964, 65 and 66

As with the plan above this is an extract from a road atlas. The applicants claim that this illustrates a route on a similar alignment to that of the claimed bridleway and that its depiction means it was thought to be of a higher status than a footpath. However, again the copy provided was of poor quality making it difficult to interpret the claimed route.

Document 8 - Motored coloured and contoured Map of England and Wales 1966

Once again this is an extract from a road atlas. The applicants claim that this illustrates a route on a similar alignment to that of the claimed bridleway and that its depiction means it was thought to be of a higher status than a footpath.

Due to the small scale and poor quality of the above three plans it is hard to see if the claimed route is illustrated or not. It should be noted that this plan also illustrates railway lines and rivers. It may contain routes which are now shown on the definitive map however due to the small scale cannot be considered strong evidence of existence or status.

Consultation and Landowner Responses

Consultation Responses

In reviewing the effect that this second application has upon the determination of the 1st application on the 5 June 2017 informal consultations were undertaken where the landowners, applicants and local ward member were contacted.

Responses were received from the following parties, extracts of their comments are as follows:

Name	Support/Objection/No Objection	Statement
Leanne Walker for Bristol Water plc – Email 8 June 2017	<i>No Objection</i>	Bristol Water have provided a copy of an ordnance survey whereby the position and sizes of their mains have been marked. Between Redhill and Winters Lane there is a 3” diameter pipe of which crosses footpath AX30/69 of which they will require vehicular access too if need be. They confirm no objections to the claim as long as requirements are adhered to.
Atkins Telecoms – Email 9 June 2017	<i>No Objection</i>	No Objection to the Modification Order.
Joanna Verity for Mr R Marshall – Email 12 June 2017	<i>Objection</i>	Mr Marshall explains that long distance rides along part of the route did take place during the 1990s. They were organised by the daughter of a family friend, as charity rides, where riders paid to take part and the money went to support various charities. He was asked for permission for the riders to use the route on these one-off occasions only and that there was never any intention that it should become a permanent route of which was clearly understood by the organisers. He later sent a letter from Ms

Simon Bunn – Email 16 June 2017	<i>Support</i>	<p>Julie Ridley, in confirmation of his above statement; <i>'I'd like to confirm the dates of when you kindly allowed me to ride through your land, mainly Goblin Coombe Broadfield Farm Wrington for charity horse and pony rides. These events took place on the 22nd September 1996, 17th September 2006 and 23rd August 2008.'</i></p> <p>The OSS (Open Spaces Society) supports the proposed Mod 18 Spying Copse to the A38.</p>
Mr T Harden – Email 25 June 2017	<i>Objection</i>	<p>Mr Harden provided a statement of objection, who uses the route he refers to in an attached plan. He states that he leads group walking events, run footpath improvement schemes and undertakes footpath surveys from the Wrington Parish Council's authority, of which is also in liaison with landowners and the North Somerset Council Footpath Officer. He states he has only once seen a horse on the footpath to which he questioned the riders use, but doesn't identify any tracks or evidence of regular use. However he believes where the route is so overgrown it would be impossible for horses to access.</p>
Ms M Johnston – Letter 21 June 2017	<i>Support</i>	<p>Ms Johnston, who is a resident of Hailstone cottages, fully supports the change to a Bridlepath. She also states that she understands that there has been a change of ownership with regard to this land and requests that the new owner cuts back the lane which in recent years has become very overgrown.</p>
Ms C Sewell – Email 16 July 2017	Information	<p>It has come to my attention that an application has been made</p>

Wrington Parish Council 14
July 2017

Information

to create a bridle path through land known as spying copse to the A38 as it is claimed that this land has been ridden on.

I have ridden around this area for around 30 years and have never been able to ride through this land. There is a bridle path on fountain forestry which I have always ridden on but the turning towards the road at the back of the airport has always been blocked or had a locked gate. We have always had to ride on Brockley Coombe road to reach the A38. The route through spying copse to A38 has always been locked as it is private land.

Letter detailing clarity on the numbering of the routes which are being investigated, confirming that these routes have been surveyed by the Parish Council on three occasions. Also forwarded a copy of the statement submitted by Mr Harden above. Asked to ensure contact with landowners is undertaken.

Each of the full documents detailed above has been placed on file and can be produced if required.

Summary of Evidence and Conclusion

As can be seen from the Inspectors Decision [**Appendix 7**] a large amount of evidence was presented and considered at the Public Inquiry held in October 1995. The 1st Application submitted relied upon User Evidence claiming that 20 years or more uninterrupted use had been made of this route as a bridleway, an argument which was not accepted by the Inspector who concluded:

“While there is sufficient user evidence to justify the preparation of the Order evidence from the landowners, their families, friends and employees does suggest that use was largely before the 20 year period up to 1989 and appears to be exaggerated... I have had regard to all other matters raised at the inquiry and in written representations but they do not outweigh the considerations leading to my decision.”

Following the decision of the Inspector, Woodspring Bridleway Association undertook further investigation into this area. Having found further documents which they believe clarifies the availability of the route currently recorded as Footpath AX 30/29, AX 30/33 & AX 30/69. They chose to submit a new application, claiming that had this evidence been presented at the 1st Inquiry the Inspector would have formed a different opinion.

In **Appendix 4** I have detailed the new documents submitted and below give my opinion on the strength of the evidence they contain.

Docs 1, 2, 3 and 4 contain additional user evidence of the claimed route being used as a Bridleway for organised Long Distance Rides. However, I believe that these events would have been mentioned at the first inquiry by users if they had taken part, either as written or verbal evidence. Additionally, as no further user evidence has been submitted in the second application, we are unaware as to how many riders took part in these events, which questions the significance of these documents.

It should be noted that at the bottom of **Document 1** is a footnote. This reads *“Owing to the fact that many of the paths and tracks on this ride do not appear on any available maps, we feel that it would be confusing to enclose an inadequate one. The course will be well marked, stewarded and a map will be pinned up at the start to show the general route”*. This seems to imply that the course went over wherever the organiser felt like rather than sticking to legal routes which would have been marked on maps.

Doc 5 may not have been presented at the Inquiry, however, I do believe that the declaration from Mrs Lansbury would have at least been mentioned considering her appearance of support of the first Inquiry. In section 6.2.15 of the Inspectors Report, Mrs S Lansbury provided evidence of use of the route since 1969 and claims she was never challenged of her use. As 2 of the 3 rides from her statement were provided by Woodspring Bridleways Association in the second application, it questions why these rides weren't presented at the first Inquiry.

Docs 6, 7 and 8 do not assist this investigation at all due to the limiting scale and quality of the documents provided. I am unaware as to whether the original maps included a key advising upon the status of routes.

Officers Opinion

I have been advised by the Planning Inspectorate that when a new application has been submitted following the decision of an Inspector to decline the confirmation of an Order it is necessary for the authority to look at both the initial application and the new application to see if the new evidence would have presented a differing view from the Inspector.

I believe that all evidence relevant to this matter has been included within this report so that the Committee can make a balanced judgement as to whether another order should be made.

The Inspectors Decision Notice clearly lays out the information which was presented at the Inquiry and the weight which he gave. He has clearly laid out that whilst the user evidence claimed was sufficient to make the Order, once the landowners submitted their evidence doubt was cast on such use.

The new evidence submitted suggests that the landowners were mistaken and that the route was open and available. It is claimed that Long Distance Rides were arranged, without consulting the owners of the land, unknown numbers of riders were to partake. One such Long Distance Ride in 1984 was questioned at Inquiry where the owner conceded that he allowed it to continue however, his action of challenging is a clear indication that such use was not welcomed. Evidence of numbers attending has not been given.

I would further go on to say that I find it inconceivable that a person organising a Long Distance Ride over a 20 mile area would not have the curtesy to contact landowners, not necessarily to ask permission but to ensure that such a ride did not conflict with land management. These ride details continually ask for gates to be closed which seems to imply stock may have been in the locality.

There is no sound evidence illustrating these routes until the Definitive Map Process which took place between 1950 and 1968, a period of time when it is claimed that these routes were being used as a bridleway. If such use was being made of the claimed route the extent of such use claimed should have been apparent.

Taking all of the documentation contained within this report, including the Inspectors Decision Notice I do not consider that sufficient evidence has been submitted to show that an Order should be made to record Footpaths AX30/29, AX30/33 and AX30/69 as a bridleway on the Definitive Map.

Conclusion

This application affects a route which is already recorded on the Definitive Map as a Footpath. To alter the status of a route on the Definitive Map, the evidence must indicate that the route which is already recorded "**ought**" to be shown as a route of a

different status. This is considered a stronger test than a simple addition to the Definitive Map, where the requirement is that a right of way "is reasonably alleged to subsist". The term "ought" involves a judgement that a case has been made and that it is felt that the evidence reviewed in the investigation supports the application on the balance of probabilities.

Having regard for the test laid down by Section 31(1) (Appendix 1 para 4) having evaluated this matter it is my opinion that the new evidence is not sufficient to alter the conclusions drawn by the Inspector at the Inquiry held in 1995.

Similarly, nothing has been presented by the applicant which would challenge the evidence presented at the 1st Inquiry by the landowners in regard to the actions taken to challenge or negate use. Therefore I believe that the Inspectors decision in regard to the test as required by Section 31 (3) (Appendix 1 para 4) still stands.

I therefore conclude that nothing within this application supports changing the status of Footpaths AX30/29, AX30/33 and AX30/69 to Bridleway and therefore should not be processed as it fails to meet the legal tests required.

1st Inquiry – Planning Inspectorate Decision, 12 October 1995

The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Your Ref: FRP/WC/17/18

Our Ref: FPS/FO100/7/27

NO. 177895
DATE 23 OCT 1995

Date: 12 OCT 1995

Dear Sir

WILDLIFE AND COUNTRYSIDE ACT 1981, SECTION 53 AND SCHEDULE 15
COUNTY COUNCIL OF AVON DEFINITIVE MAP AND STATEMENT
MODIFICATION ORDER NO3 1993

1.1 I refer to the above Order, submitted by your Council to the Secretary of State for the Environment for confirmation. I have been appointed to determine it in accordance with the provisions of Paragraph 10(1) of Schedule 15 to the Wildlife and Countryside Act 1981.

1.2 I held a public local inquiry into the Order at the Memorial Hall, Wrington, Woodspring, Avon from 1st-3rd August 1995 and inspected the line of the proposed bridleways after closing the inquiry.

2. The effect of the Order if confirmed without modification would be to modify the Definitive Map and Statement for the Wrington Parish area by :

(i) providing more detailed particulars and re-designating as a bridleway the path AX30/69 starting at Winters Lane, National Grid Reference (GR) 4972 6409, running eastwards along field boundaries to the A38 road at GR 5062 6401;

(ii) providing more detailed particulars and re-designating as a bridleway, that part of path AX30/33 starting from where it turns sharply westward at GR 4920 6403, running westwards to its junction with existing path at GR 4904 6404 to be known henceforth as AX30/33a;

(iii) providing more detailed particulars and re-designating as a bridleway that part of the path AX30/29 from GR 4904 6404 running westwards to public bridleway AX30/42 at GR 4846 6421 to be known henceforth as AX30/29a;

(iv) adding thereto, as a bridleway AX30/81 from Winters Lane at GR 4966 6412, running westwards along the bottom of the Coombe to GR 4920 6403.

3. Objections to the Order were made by the Congresbury Parish Council; the Wrington Parish Council; the Ramblers' Association and nine local residents. There was also a representation, subsequently withdrawn, from the Chief Constable of the Avon and Dorset Constabulary. Of these Wrington Parish Council; the Ramblers' Association and five residents were present at the Inquiry. In my determination of the case, I have taken account of all objections and representations.

4. I am reporting separately to the Secretary of State on the application made by Counsel, Mr D Gilchrist on behalf of Mr and Mrs R M Marshall and Mr D M Telling for a conditional award of costs against Avon County Council.

5. DESCRIPTION OF RIGHTS OF WAY CONCERNED AND SURROUNDING AREA

5.1 Public footpaths (PF) AX30/29A, AX30/33 and AX30/69, the subjects of this Order, form part of a network of paths and bridleways in the Wrington Vale area.

5.2 Describing them from west to east: PF AX30/29A (a subsection of AX30/29) commences at its junction with bridleway AX30/42, GR4846 6421, which latter runs due north-south. For about 300 metres (m) it is 3m in width between hedges and runs in an east southeast direction. There is a chained and padlocked steel gate at the eastern end. After the gate PF AX30/32 leaves the path to the southeast and AX30/29A continues as a mown sward in a Christmas tree plantation, then descends via a rutted slope into the wooded Goblin Coombe; the width is still about 3m. After about 400m it reaches the open floor of the Coombe and a fence line and locked steel gate. Soon after this the path continues as AX30/33, AX30/29 departs up a slope to the northeast and AX30/31 up a slope to the southwest. AX30/33 turns after about 160m and ascends a slope to the southeast towards Cottage Farm. At the turning point the way continues eastwards along the open floor of the Coombe as a proposed bridleway AX30/81 until it exits the field into Winters Lane, after some 500m, via a stile adjoining a locked steel gate. At this point there is a waymarking post but no sign (GR 4966 6412).

5.3 Moving along Winters Lane, a short distance south PF AX30/69 leaves the Lane at GR 4972 6409 still about 3m wide and descends a copse in a northeasterly direction before turning east at a 10 foot (3m) padlocked steel gate with the remains (unreadable) of a plastic notice on it. After the gate the path follows a hedge line to the north but is undefined to the south for some 700m before encountering a 12 foot (3.65m) closed steel gate at the southern boundary of Hailstone Cottages. For the length of the southern boundary of the cottages - 120m - the path runs between two hedges; east of the cottages it follows a hedge and ditch to the south, being open to the north. After a further 175m the metalled track to Hailstone Cottages meets the path and they continue to an open steel gate at the junction of the path with the A38 Taunton to Bristol Road. At the A38 GR 5062 6401 the path is waymarked as a footpath and the gatepost and the 3.65m gate have 'No horses' painted on each.

6. CASES OF THE PARTIES

6.1 The case for the Order Making Authority - Avon County Council The material points are:

6.1.1 Under section 53 of the Wildlife and Countryside Act (WCA) 1981 the Avon County Council (ACC) is under a statutory duty to keep the Definitive Map and Statement of Public Rights of Way under continuous review and by order make modifications after the occurrence of certain events which include the discovery by the ACC of evidence that a right of way not shown on the Map and Statement subsists or is reasonably alleged to subsist over land to which the Map relates or that a highway in the Map and Statement as a highway of one description ought to be shown there as a highway of another description. Under Section 53(5), any person may apply to the ACC for such a Modification Order, if they believe such an event has occurred and ACC have a statutory duty to determine any such valid applications it receives. The Definitive Map concerned dates from 26 November 1956 and has not been reviewed since. Of the route now being claimed to have bridleway status the length west of Winters Lane consists from west to east of part of PF AX30/29, part of PF AX30/33 and a length from the turning point of AX30/33 to Winters Lane which is not on the Definitive Map. The section east of Winters Lane to the A38 comprises PF AX30/69.

6.1.2 An application stating that this route should have public bridleway status was submitted on 10th June 1989, together with evidence forms, and the landowners concerned were so notified. Thirty-four evidence forms were formally submitted in support of the proposed modifications. Four have been discounted - one used on foot only, two referred to a different route and one now states it was ridden with permission. Twenty-one people claim to have known or ridden the path for 20 or more years up to 1989, seven allege for 30 years or more. Most submitted maps confirming the Order route except in 4 cases only, the western half to Winters Lane was claimed. Use has been alleged for pleasure, hacking and exercising horses. The claimants state they were never stopped from using the route, no prohibiting notices were seen, no locked gates or obstructions - except one mention of a stile at the Goblin Coombe (western) end and none had asked or been given permission to ride.

6.1.3 The claim is based on presumed dedication by user not on historical evidence but ACC have researched the route based on historic maps and documentary evidence. John Rocque's Map of 1739 shows a route along the bottom of Goblin (then Gobble) Coombe over the length comprising AX30/33, AX30/81 and AX30/69 diverging at each end from the route now claimed. The 1769 map of B Donn shows even the A38 unenclosed and lead and calamine mines and washing troughs in the area. The 1810 Wrington Inclosure Award gives legal evidence of the status of routes. The A38 is described as a turnpiked road, Winters Lane as Cooks Bridleway and Footpath 6ft breadth (1.83m). AX30/42, now a bridleway to which this claimed route connects at its western end is described as 'Presto Private Carriage Road Bridleway and Footpath 20ft breadth (6.1m). There is no award for the claimed bridleway. It is considered that if a public bridleway had then

existed it would have been awarded and shown on the plan or stopped up by the Commissioner. The plan shows the western end of the claimed path but it is not afforded any legal status and would appear to be a field access. The 1839 Wrington Tithe Map does not indicate the route. The claimed path passes through 3 allotments all in the ownership of the Duke of Cleveland. The western end is again shown and it is not titled.

6.1.4 The relevant 'county' maps were also studied. In the 1782 Day and Masters Map the Broadfield Down is still unenclosed and a track is shown over the route claimed. By the 1815 Mudge Map enclosure had started and the claimed route is shown. The 1822 Greenwood Map shows the route but following the floor of the Coombe to join the present AX3042 further north. These maps, however, do not distinguish between public and private rights and are less conclusive than the Inclosure Awards. The 1884, 25 inches to the mile (1:2500) Ordnance Sheet (OS) shows the claimed route with a gate in its present position where the route enters the Coombe from the west and gates to the east of Winters Lane, Hailstone Cottages (then Corner Pool Cottages) and at the A38 as now. However, Winters Lane (then Cooks Bridleway) was unenclosed where it crossed the Coombe and was gated to the north and south. The 1903 OS map is similar except there is now a gate in the Coombe where conifers have been planted and one gate has gone to the north on Winters Lane. The 1930 map is similar. The most recent (1975) OS map shows that Winters Lane has been enclosed along the western side and gated. Corner Pool Cottages are now Hailstone Cottages but otherwise there is little change.

6.1.5 As a result of the National Parks and Access to the Countryside Act of 1949 (NPACA) every Parish Council was asked to survey rights of way in their parish and to complete record cards and decide on the status of the way. The cards for Wrington are available: PF AX30/29A is described as having no obstructions and is dated the 4th January 1951; the cards for PFs AX30/33 and AX30/69 do not mention any obstructions. PF AX30/69 (Winters Lane to A38) was added as a footpath at the request of the Ramblers' Association (RA). The Clerk to the County Council noted 'Appears to be ancient highway'. There was no request from the Parish Council that these routes should be classified as bridleways and no counter objections in the area of Wrington.

6.1.6 Following the serving of formal notices and informal consultations the Parish Council, the landowners and the RA all denied the basis of the application. ACC decided to make an Order to modify the Definitive Map and Statement to include the whole route as previously specified as bridleways. The Order was made on the 23rd March 1993. Following advertisement, ACC were informed of 14 letters of objections and 11 of support or comment. ACC officers felt that objections were persuasive and recommended that the Secretary of State be asked not to confirm the Order. However, after considerations, ACC decided to ask the Secretary of State to confirm the Order.

6.1.7 The Modification Application for bridleway rights is based on 20 years uninterrupted user evidence. These rights are acquired by presumed dedication by the landowner. This presumption may be rebutted if the landowner can prove he had no intention to dedicate the way. The following facts have to be proved :-

- (i) the land is capable at Common Law of giving rise to presumption of dedication;
- (ii) the way has been used by the public as of right and not with the landowner's permission. It is also necessary that the landowner knows or ought to know the public are using the way, and
- (iii) use must be without effective interruption for 20 years, without physical interruption or without personal challenge by the landowner to users of the way.

ACC have taken 1989 as the date when the use was brought into question by the applicant submitting evidence forms and an application and objections to the application being received from landowners. The evidence forms indicate regular use of the route by horseriders from 1940 without obstruction, prohibition or permission; 17 riders claim to have ridden the whole route for 20 years or longer. However, there is considerable conflict of evidence between the riders and landowners. Landowners challenge the uninterrupted use and it is agreed not all riders rode the route (PF AX30/69) from Winters Lane to the A38 but still a number claimed to do so. The ACC must assume that all witnesses for or against the order are telling the truth as they see it and hope the conflicting evidence can be resolved by the Inquiry.

6.1.8 The ACC as the Surveying Authority have a duty to determine and record public rights. It is considered, on the balance of the available evidence, that public bridleway rights subsist or have been reasonably alleged to subsist over the paths, the subject of the Order. It, therefore, asks that Modification Order No.3 1993 be confirmed.

6.2 The cases of supporters
The material points are:

6.2.1 Mrs V F Craggs, Chairperson - Woodspring Bridleways Association
affiliated to British Horse Society

Mrs Craggs, as a rider and after a long interest in the history of bridleways, founded the Association three years ago to keep bridleways open; to classify them correctly and to re-establish them if they have been missed off the Definitive Map. Mrs Craggs has made 8 applications in her own name and some 15 in the name of the Association in Avon and Somerset, of which 4 had so far been determined. As far as the proposed bridleway, the subject of this Inquiry, is concerned, she started to ride it in 1948 when living in Backwell. It was shown to her by other riders who used it regularly. She would ride it with friends and picnic in the Coombe near Winters Lane. This was then unfenced and was like an open common used by everyone. For 11 years up to the age of 19 she rode it at least 3 times a month. When she started work in 1960 she rode it less often but still rode it about 10 times a year. In 1963 she set up a horse

dealing yard and rode the route frequently again to exercise horses. From 1975 to 1978 she rode it about once a year. The last time was with her two children on picnics in each direction before making the Order application. All the time she rode it there were gates at various points but at no time were they locked, she never saw any signs or notices and was never challenged or turned back. She has been informed that since the application for the Order some of the gates have been locked. It is her belief that this route is a public right of way for horses as a through route; when the Bristol Airport runway was extended over Cooks Bridleway (an extension of Winters Lane to the north) she nearly always used this route as the noise of aircraft would create danger on routes further north. The gate at the exit from Goblin Coombe on to Winters Lane was up to the date of the application a bridleway gate but this was then removed and replaced by a stile, although the original gate furniture and posts can still be seen. Also the gate and fence in the Coombe near the junction with PFs AX30/29, AX30/31 and AX30/33 did not exist when she rode it as a child.

6.2.2 Mrs Craggs agreed that she organised the completion of the ACC Right of Way Evidence Forms - she asked others who she knew had used it, others became known to her by word of mouth. Most dealt with the form and map themselves, some elderly people needed assistance but all had signed the forms. It is true, unfortunately, that 1 or 2 have died since 1989 of the 30 or so submitted but others had approached her recently and further user evidence forms and statutory declarations would be produced. She had also spoken to an elderly man who lived at Hailstone Cottages and he had confirmed that it was regularly used by horseriders and by horses and carts during the War to go from Winford to Cleeve and Congresbury.
(Inspector's note: This is Mr T J Banwell whose written evidence is given later).

Mrs Craggs agreed that at various times parts of the route had been very overgrown before being cut back but it was always passable on a horse. Mrs Craggs agreed that she had not inspected the original Definitive Map when it was on deposit and was not aware that it could be challenged before the 1981 Wildlife and Countryside Act.

6.2.3 The British Horse Society (BHS)

Letters of support were submitted from Ms S Wheeler, Regional Bridleways Officer SW of England and Ms A B Coaster, Avon County Bridleways Officer who consider the user evidence supports the Order.

Note: The following supporters appeared and gave evidence - where it is on behalf of an organisation this is stated.

6.2.4 Mrs F Densham (BHS)

Mrs Densham rode the route between 1955 and 1965 at least twice a month. She was introduced to the route by her grandfather on a leading rein; rode it in childhood then with her own children from 1974 until the gate was padlocked in about 1989. Until then she was never challenged, the gates were not locked and she never saw any notices. In the old days it was overgrown but it was cut from time to time; it was possible to ride it with a child on a leading rein. She met other riders and walkers and if

there was lying timber it could be jumped. Up to 1960 it appeared to be a Common even after that there was a wicket gate at the Winters Lane end of Goblin Coombe. Mrs Densham rode the section from Winters Lane to the A38 less frequently, there was a gate near Winters Lane, at the cottages but not at the A38. The gates were not locked. The western end was very overgrown - she has not ridden this end since 1985. She thought it unlikely that her grandfather had sought permission to ride the route.

6.2.5 Mrs J Caola (BHS)

Mrs Caola had not ridden the route but visited, with others, Mr J Banwell of 1 Hailstone Cottages who had said he hoped to attend the Inquiry and give evidence. He also produced a photo of the gates on the A38, which was taken for insurance purposes some years ago. This shows on the south side a wooden wicket gate and beside it a larger wooden farm gate. Mr Banwell is aged 86 and it appears that he, in the event, was not well enough to attend.

6.2.6 (Written Statement) Mr T J Banwell (ACC)

Mr Banwell has lived at 1 Hailstone Cottages on the route near the A38 end, since 1938 and considers the route from the A38 to Winters Lane and thence to Spying Copse (Spion Kop) to be a bridleway. There are 3 gates on the path - one at the A38, one just below the cottages, one near Winters Lane. Originally of wood they have all be changed to iron. None was ever locked until a few years ago. The padlocked gate at Winters Lane made access difficult. Before it was locked the path was used by milk carts from Goblin Coombe Farm, motor cyclists, horse riders and on foot. Horseriders used the path almost every week, sometimes in groups, especially at weekends in groups of up to eight, all through his lifetime until the gate was locked. The small gate at the A38 was about 4 feet wide and was used by the horseriders.

6.2.7 Mrs M Simmons (BHS)

Mrs M Simmons rode the whole route from 1964-72 having been told it was a bridleway by Mrs Glover who, at that time, lived at Hailstone Cottages. She was never challenged and rode it with 6 friends, named in her evidence. The gates are correctly shown on her map with her proof and she states they were never locked at this period. When riding she only ever encountered other riders, walkers and picnickers. The eastern section was often muddy with cart and tractor tracks. The western end was always passable. She never felt she needed to ask permission.

6.2.8 Miss M Eagle (BHS)

Miss Eagle has lived in Backwell for 27 years and from 1968 until the gate was locked rode the eastern part of the route from Winters Lane to the A38 which she crossed to get to Felton Common. There were gates on the route which she opened and closed as necessary. The route was ridden 10-15 times a year with 3 named friends believing it to be a bridleway. They were never stopped and never saw any 'No horses' signs. She stopped riding the route when the gates were locked about 5 years ago.

6.2.9 Mrs V M Rossiter (ACC)

Mrs Rossiter has known Goblin Coombe for about 46 years and rode the route with friends about 10-12 times a year from 1945-79, mainly in the spring and summer. It was originally all open like common land but even when fenced on the south side of Winters Lane there was a bridle gate until a few years ago when it was replaced by a stile. She used to cross the A38 with a friend who lived at Lye Hole and canter along the verge as there was much less traffic before the airport was developed. Later she rode it with her children. She was introduced to the route by Mr Grace and did not think any permission was needed and was never challenged. She met other riders and walkers. Originally there were no notices, fences nor locked gates. The bridle gate at Winters Lane was about 4 feet (1.2m) wide. In the early days it was woodier with more undergrowth but quite accessible. From 1957-62 she rode it with a daughter on a leading rein.

6.2.10 Mrs A Gawthorpe (ACC)

In 1967 Mrs Gawthorpe began riding locally and was introduced to this route by 3 named friends and rode it about 3 times a year, mostly the western end, Spion Kop to Winters Lane. In 1974 she moved and began to ride the route more often, at least once a month until 1981. From then until 1988 she reverted to about 3 times a year. Mrs Gawthorpe only rode the eastern section about 3 times in all. The western section when she rode it was clearly defined, well used and accessible. There was a gate near the start at the western end and a bridle gate into Winters Lane. She was never challenged and never saw any prohibition notices nor were any gates locked. The route was much more overgrown in the 1970s but the vegetation died back in the winter and it was quite usable.

6.2.11 Mrs. Gawthorpe believes the route to be a public bridleway and has studied various old maps and accounts. The Rocque Map of 1739 shows an old road from Wrington to Bristol which used to meet the present A38 to Bristol somewhere under what is now Bristol Airport. The map shows the route of the claimed bridleway much as it is today, except that at the western end it follows the floor of the Coombe until it meets the old Wrington to Bristol road and does not veer west at the end. The old road to Bristol would have been abandoned when the A38 became a turnpike toll road and by 1817 the Mudge Map shows the bridleway route claimed connecting to a bridleway which is now AX30/42. The movement of the final length further west is logical because it would avoid the need to go down the hill and back up the Coombe which would be wet in winter. These maps indicate to Mrs. Gawthorpe that the claimed route is an old pack horse route.

6.2.12 Mrs S A McMillan (BHS)

Mrs McMillan stated that she rode the claimed route from 1965-8 when she kept a horse at Backwell having been shown the route by Mrs Lampeter and started again when she moved to Felton in 1977, continuing until the gate was locked in the late 1980s. She would often stop to chat with the residents of Hailstone Cottages and admire their gardens. It was ridden 5 to 6 times a year, often with children or other riding friends. Mrs McMillan was never stopped, there were no locked gates until the late 80s and no notices forbidding riders. She never saw a 'Private Property' notice on the Coombe side of Winters Lane and would not have ridden it

if she had not thought it was a right of way. The gate in the Coombe was never locked when she rode the route. On one occasion in 1987 she rode it as part of a long distance ride with 25-30 others. No permission was sought or thought to be necessary.

6.2.13 Mrs B Parker (BHS)

Mrs Parker has lived in Long Ashton all her life and started riding in 1941 and aged 10, in 1943, was taken over the route by Mrs J Smith of Flax Bourton. She later rode it with 4 named friends and others about 25 times a year, mainly in the 1940s. When she started, Goblin Coombe was unfenced and the road gated to prevent cattle straying. No-one ever stopped her, there were no locked gates or signs. She was surprised to be asked to complete a user form in 1989 as she believed it to be a public bridleway and it was still being used as such. Doubts have been expressed that she would come this distance on a ride but the distances ridden were considerable and they cycled to collect their horses. Mrs Parker hopes the Order will be confirmed so children can use it as she did in the 1940s and 60s.

6.2.14 Mrs A M Carter (ACC)

Mrs Carter has ridden from the age of 6 in 1944. Apart for 4 years in Taunton she regularly rode the path until 1970 and with her father up to 1950s about once a month. Her father was a slaughterer and knew all the local farmers; it is extremely unlikely that he had sought permission. She had often chatted with other riders. On reaching the A38 she would cross it to Felton Common and continue to Backwell Hill. Doubts have been expressed about horses crossing the busy A38 then but she still crosses it on horseback today. She reiterated the original open nature of the route. She did not ride it in the summer due to flies and undergrowth but it was not impassable in summer even on a pony. She had seen tractors in the Coombe and there were often fallen trees which she enjoyed jumping. The bridleway AX30/42 has been blocked for months with fallen timber. The gate from the Coombe at Winters Lane when the Coombe was fenced off could be easily operated with a loop chain on horseback. Towards the end it was broken and had to be lifted until replaced by a stile. The gates at the eastern end of the Coombe and at Winters Lane were locked in the 1980s but even then they were unlocked for months at a time. She never saw any 'Private Property' notice.

6.2.15 Mrs S M Lansbury (BHS)

Sometime before 1969 when living at Berrow and Brent Knoll she would box her horse and come across to ride with 3 named and other local friends and rode this way as part of circular routes. In 1977 she moved to Winford and continued to ride the track about 10 times a year believing it to be a bridleway. No gates were locked, she would jump logs in the Coombe and often met a farmer on a tractor between Winters Lane and the A38, who would wave and never challenged her use.

6.2.16 Written Evidence

As well as the 30 user evidence forms submitted with the original application 19 letters of support, 3 statutory declarations, 8 letters of support of user evidence forms and 1 new user form were handed in at the

Inquiry. All give similar evidence of use to the oral witnesses, more over the western length than the whole route, covering various periods from 1942 to date.

6.3 The cases of objectors

The material points are :-

6.3.1 Group Captain P J P Hutchings, Wrington Parish Council (WPC)

The procedure for surveying and completing the Definitive Map and Statement were outlined. The Definitive Map was made available to the Council in 1968. Prior to that in 1965 there is correspondence between WPC and Fountain Forestry complaining of a locked gate on the path from Wrington Hill to Goblin Coombe. WPC state 'If it is your intention to keep this gate padlocked (presumably to prevent the passage of persons on horseback)' and asking for a stile. Fountain Forestry confirmed that that was why the gate was locked. This stile appears never to have been provided. In 1969-71 there was WPC correspondence with landowners to the effect that the path from Spion Kop (erroneously recorded on the Ordnance Survey Map as 'Spying Copse') to Goblin Coombe was overgrown and impassable. WPC assume that in this period the path could not have been walked or ridden. Footpath signs seem to have been erected in 1982 at the junction of AX30/69 and the A38 (Inspector's note: This sign is still there and at Winters Lane at the entry to Goblin's Coombe not at the current exit point on the Winters Lane further north but next to the farm gate and wicket gate erected by the farmer. This was done at the request of the landowner (Mr R G Marshall) who preferred walkers to use this route. (Inspector's note: The post still exist but the footpath sign disappeared recently). In 1982 WPC wrote to the ACC requesting the diversion at the end of AX30/29 to the 'valley' route. (This is the route taken by the new proposed bridleway AX30/81). In November 1989 WPC received consultation letters from the ACC concerning requests to re-designate this route as a public bridleway following 20 years uninterrupted public use. WPC agreed to dispute this claim and to register formal objections to reclassifications in respect of AX30/29, AX30/33 and AX30/69 as they prefer to protect walkers' rights. In view of the interest taken by WPC in rights of way it is surprising, when gates were locked in about 1989, no-one complained to the WPC if they thought it was a public bridleway.

6.3.2 Mr M B Hawkings

Mr and Mrs Hawkings have lived at Hailstone Farm since purchasing it in 1980. At that time the footpath was overgrown, particularly in the area between Winters Lane and Hailstone Cottages - the route of PF AX30/69. It took a bulldozer several weeks to clear it before the hedge could be laid. The path has never been used by horseriders on a regular basis since 1980 nor during the occupation of the previous owner over 40 years. The occupants of Hailstone Cottages would confirm this. He strongly disputed the statements of many of the riders. He agreed that it was possible to see very little of the route from the farm. He had heard one party riding the route and turned back another riding in ones and twos. He has also turned horseboxes away. After he had cleared the Coombe there

was increased usage and he locked the gates in 1982-3 at Winters Lane and at Hailstone Cottages by which time it was marked at the A38 as a footpath. The locks were broken after about a month and following advice from the police, to avoid local bad feeling, he kept the gates unlocked. He agreed there had been a wicket gate at the A38 until recently but although wider than a normal gate, it was intended for foot users only. The Order was counter-productive in that formerly he would have agreed to local people riding it, if he were asked, but since the claim many farmers like himself would not give permission because of possible future interpretation. Mr. Hawkings provided photographs showing 'No horses allowed' signs he had fixed to gates at the A38 and on the Hailstone side of Winters Lane. Both had been vandalised. He also submitted a statement from Miss J M Cross, one of the original producers of user evidence now saying that she did ride through the farm but had asked for and been given permission by the previous owner, Mr H J Ashman; also five statements in support of his objection by local residents, mostly saying the footpath is unsuitable for horses but Mrs Selwood said she saw no evidence of horse usage; Mr and Mrs Nicholson that they had only seen one rider who had permission; from a Mrs Wilson who rode it with permission and from a Mr Dunn who commented on the damage likely to be caused by horses, the danger at the A38 and that he had not seen riders there for 18 months, the last being 10 riders in a group. He suggests that, if the Order is confirmed, farmers should charge a toll as a recompense for restoring the paths.

6.3.3 Mrs M G Hawkings

Mrs Hawkings was born on the farm in 1938 and rode once a week for 3 years. She never rode the Winters Lane to A38 path (PF AX30/69) as the Winters Lane end was so overgrown and parts were impassable. When it was cleared some rode it with permission. She had turned back one rider. It would be very muddy in winter if used by horses.

6.3.4 Mr H J Ashman

He had occupied Hailstone Farm in 1937 taking over as tenant from his father and as owner from 1946 until he sold it to his daughter and son-in-law Mr Hawkings in 1980. During this whole time 1937 to 1980 he could never recall seeing horses or vehicles on the claimed path. If he had done so he would have objected and told them to cease using it. It was often under and overgrown and would be difficult for horses to use until cleared in 1980.

6.3.5 Mr C Trenfield, Avon Area Footpath Secretary, Ramblers Association

(Inspector's note: Mr Trenfield attended the Inquiry but was not able to be called in the time he had available and therefore provided a written submission).

The Association object to the Order and notes that there have always been gates at various points on the claimed route which have been locked intermittently. This would inhibit horse use but not walkers providing they could be climbed easily. Inspection in 1993 revealed evidence of horse usage at the western end of Goblin Coombe up to the padlocked gate about 200m from the start of the path near Spion Kop. There were signs here and in the Coombe stating 'Please keep to the footpath' with a direction arrow. At Winters Lane there was a padlocked field gate and a

stile. On the other side of Winters Lane there was a gate with a sign 'No horses' and no evidence of horse use beyond this point. The Association cannot reconcile the unhindered usage claimed with the locked gates, notices and verbal requests to horseriders to leave over a substantial period of time. The Association support WPC and others in objecting to the Order being confirmed.

6.3.6 Mr C Selwood

Mr Selwood had visited Goblin Combe (PF AX30/69) often as a child between 1955-63 and had never met any riders. There were deep ruts in the winter. He later had rough shooting over the entire farm and never saw riders.

6.3.7 Mr F Napthine

Public footpaths will not survive if upgraded to bridleways or byways open to all traffic. He objected to the cost of the Inquiry to the public. Cases like this will encourage landowners to invoke the Criminal Justice Act.

6.3.8 Counsel D Gilchrist for Mr and Mrs R Marshall and Mr D M Telling

The Applicant is required to show that the path had been ridden by the public as of right and without interruption for a full period of 20 years. Assuming this requirement can be satisfied the dedication will be presumed unless the landowner can show he had no intention to dedicate the path, manifested by sufficient overt acts. More weight should be given to oral evidence capable of cross examination. He called the following witnesses :-

6.3.9 Miss I Bendall

Miss Bendall has always lived at Redhill, went on nature walks in the Coombe from school and cannot recall riders there. She rode when at secondary school and looked for good rides but would have considered riding in the Coombe as trespass and was not aware of others using it. It is claimed that it was later ridden sporadically by those with no regard for others. Sustained use by horses would ruin the path for walkers. She also walked Winters Lane to the A38 about once a month. She noted hoof prints, in about 1 in 4 visits, of 1 or 2 horses.

6.3.10 Mr N G Trim

Mr Trim has been involved in pheasant rearing and a shoot in Goblin Coombe from 1975 to date. He spends a great deal of time in the Coombe twice a day when feeding and often all day at weekends. He had seen walkers but never horseriders.

6.3.11 Mr P Croker

Mr Croker lived at Redhill from 1956-78 and spent all his spare time at Broadfield Farm or in the Coombe. In the bad winter of 1973 he could remember sledging down the bank near Winters Lane and having to avoid the 'Private Property' sign that stood there until the late 60s. He also participated in numerous barbecues in the Coombe and remembers timber extraction there. He is now involved with Mr Trim in the pheasant shoot and takes his own family there. In these 35 years he has never seen a horserider in Goblin Coombe. Although he had seen evidence of horses they

had never appeared during their shoots.

6.3.12 Mr R A Dean

Mr Dean has been Mr Telling's gamekeeper since 1984. When he arrived the extreme western end of the footpath from bridleway AX30/42 eastwards to the first gate was very overgrown and just passable to walkers. This was then cleared. The gate at this point was shut at this time. On a few occasions since 1984, probably three, he had seen a rider on this length either trying to enter the Coombe or coming out. When heading west to east he told them it was not a bridleway and they left. About 2 years ago he helped a rider who had been thrown in front of the gate that was then locked and told her it was a path not a bridleway. The gate has always been locked unless forced or the gate lifted off.

6.3.13 Mr D M Telling

Mr Telling has lived in the area, except for a few years away, since 1951. From 1951-7 when he had permission to shoot venison in Goblin Coombe and the Warren it was owned by Lord Sinclair who only allowed riding with his specific permission. In 1974 his family purchased Barley Wood Estate from Mr D Wills which abuts the western end of the proposed bridleway and he runs a shoot over the land which is kept and so he has a good idea of what happens on the estate. Since 1974 there has never been any horseriding over the claimed route. There is a gate 250m from the western end which is locked. He has walked the path regularly since 1986 and now has problems getting his old dog over the locked gate. From 1974-84 the path from the Spion Kop end to the wood was so overgrown it could hardly be used as a footpath let alone a bridleway. Over the last 10 years he has made sure that the claimed path, other public footways and legitimate bridleways are mown for the convenience of users and so that the public can clearly identify their correct lines. During his many visits to the disputed point he has never seen any horse footprints.

6.3.14 Mr D Ridley

Mr Ridley has worked in Mr Marshall's section of Goblin Coombe since 1967 when he bought some of his standing timber. This was abstracted, on the route of PF AX30/29 for 3 weeks in the autumn of 1967. He bought further timber near PF AX30/33 and abstracted it in January and February 1971 but conditions were so bad it had to be completed in April. In 1977 he bought a smaller amount in the spring of that year. The timber was taken out via Winters Lane, the gate being re-locked each time. When working the Coombe he had no complaints and saw no horseriders. At this time the gate at the top of the Coombe toward Spion Kop was overgrown with blackthorn.

6.3.15 Mr H R Popham

Mr Popham was a partner of Mr Ridley in the timber abstraction and confirms Mr Ridley's statement.

6.3.16 Mr G Summerell

Mr Summerell first visited Goblin Coombe in 1979, at age 15, with his father clearing ground and planting Christmas trees at the western end near Spion Kop. This lasted from winter 1979 to 1983. He then became involved in the pheasant shoot previously mentioned. In all this time he has never

seen horses or evidence that they have been there. Signs were erected to inform the public of the proper route of the footpath to avoid disturbance of birds. These signs disappeared in the last two months and have been replaced. Mr Summerell has seen riders on the Spion Kop side of the gate and turned them back. He has never seen riders approaching from the eastern end. This gate was kept locked to safeguard the Christmas trees from theft. The chain and padlock have been removed once and the chain cut twice. Each time they were replaced.

6.3.17 Mr I Laver

Mr Laver has been involved in the pheasant shoot since about 1983. This meant visiting the area 2 to 3 times a week and most weekends. He has seen plenty of walkers and a few horseriders approaching from the west and trying to get into Goblin Coombe which he turned back. He does not consider the bridleway has been ridden regularly.

6.3.18 Mr A Fraser

Mr Fraser has known the Coombe since 1979 controlling vermin, then with the pheasant shoot to the present day; as well as exercising his dog. He has never seen any horses in the Coombe on the path in question.

6.3.19 Mr R G Marshall

Mr Marshall lived with his parents, who bought Broadfield Farm in 1952 which includes Goblin Coombe, from 1953 to 1979 when he married and moved 3 miles away. He was in the Coombe constantly tending stock or for pleasure. He has no recollection of seeing horseriding in the Coombe nor was ever asked for permission to do so. The timber abstractions mentioned by Messrs Ridley and Popham would have blocked the Coombe for several months. In 1960 the road boundary to the Coombe at Winters Lane was fenced off. A gate was erected and locked to stop people using the Coombe as common land and driving cars on to his property. An adjoining smaller gate was provided for pedestrians. In the 1970s he formed the pheasant shoot previously mentioned. If there had been horseriding in the Coombe he would have been aware of it as it would have caused disturbance to rearing and shooting of pheasants. Since 1980 an extensive scheme of clearing and planting has been carried out in the Coombe. If there had been as many horseriders as alleged, the people working on the scheme would have been aware of them and would have had to do something about it.

6.3.20 In about 1982 the WPC came through to put up footpath signs. The PF AX30/29 from Spion Kop does not legally exit at the present stile at Winters Lane but further north. The route along the Coombe floor to the stile is a more scenic and practical one and he agreed to the footpath sign being placed at the stile (then a hanging gate). The footpath sign was removed from the pole at Winters Lane about 4 weeks ago. Walkers, therefore, now use this more southerly route which is the route of the proposed bridleway AX30/18. This means that riders are claiming rights over private land which is not even a public footpath. The true route of AX30/29 is much closer to the farm and he certainly saw no horses on it. About 25 years ago a fence and gate were erected, just west of the point where PF AX30/31 leaves AX30/29A, to stop people walking on up the Coombe to the north instead of following the proper route further south. This

gate has been locked ever since. The nearest gate to Spion Kop has been locked for at least 12 years. The pedestrian gate at Winters Lane gradually deteriorated until it was replaced by a stile about 10 years ago. A new gate was not put in because Mr. Marshall did not have a suitable one. Near this stile a 'Private Property' sign existed put in by Captain Fry when they were tenants. It existed until the 1970s.

6.3.21 Mr R S Marshall

The previous witness's brother who gave similar evidence.

6.3.22 Mrs N S Marshall (Mother of R G and R S Marshall)

She has lived in the area all her life and still continues farming with her children. She has spent many hours between Spion Kop and Goblin Coombe tending stock, etc: Neither she nor her husband were ever bothered by horseriders or even saw any and no-one asked permission to ride. When the gate was erected at Winters Lane in 1960, because travellers left the gate north and south on the road open, there were no complaints from horseriders. Many barbecues and charity functions were held in the Coombe but they never saw a horserider during these events.

6.3.23 Mr B D Bull

Mr. Bull has always lived in the area and has visited the Coombe many times over the years. In all these years he has never seen any horseriders or evidence of their presence in the Coombe. Working for a contractor he had erected the fence for Mr Marshall at Winters Lane in the 1960s. It was erected to contain cattle but not to impede walkers - the small gate was not for horses. If the amount of riding claimed had taken place he and other local people would have been aware of it. They had never seen them.

Inspector's Note: As well as these oral witnesses Mr Gilchrist handed in 8 further written statements of objection to the Order corroborating oral evidence.

6.3.24 Another member of the Marshall family had turned back one rider who became abusive. Mrs B Reece of 4 Hailstone Cottages (1973 to date) has seen only about a dozen horses and a small group of children riding; at least one of these riders had permission.

6.3.25 There is important conflict of evidence arising from the alleged use by supporters. The evidence presented would indicate 700 riders of the route a year in the 1960s and 70s. Allowing for some riding in groups and those who did not submit forms the total could be twice that number. This is inconsistent with the lack of non-rider evidence of such numbers using the route. Those working in the Coombe never saw a horse; the lack of the physical effects such traffic would have had on undergrowth; obstructions of the Coombe by timber abstraction not remembered by any riders; local riders not aware of its use by other riders; riders not noticing footpath signs on the route since 1982 and no complaints of obstructions by riders of undergrowth or locked gates.

6.3.26 Regarding presumption of dedication. Evidence does not establish sufficient user for the period up to 1989 for the western end - Spion Kop to gate. It does not appear to have been ridden between 1974 and 1984 and probably not after 1967. The use of the path was interrupted by the locked gate. Mr Telling stated this had been locked since 1974, Mr Dean from 1984. Several people attested to this length being heavily overgrown until 1984 and almost impassable. It is reasonable to surmise that the path became overgrown around 1970 as a result of the locked gate. If horses were being ridden in the Coombe at this time from the Spion Kop end they were probably not using the overgrown path or the gate but a route which avoided them, thus not establishing the requisite user evidence.

6.3.27 In considering 20 years continuous use up to 1967 it should be noted that the 1950's Parish Council Survey under the NPACA 1949 concluded that the way was a footpath. No representations were made at the time to oppose this. The users in the 1940s were very young and consent may have been given for them. No complaints were made to landowners nor the WPC or ACC when paths were obstructed in the late 1960s. The route Winters Lane to A38 was locked for 3 months in 1982/3 by Mr Hawkings. None of the owners had any intention to dedicate as bridleways by the following overt acts :-

- (i) notice near Winters Lane in the 1960s indicating the land was private;
- (ii) gate locked near the western end (Spion Kop) from 1967-89;
- (iii) the locking of the new gate into Goblin Coombe from Winters Lane in the 1960s;
- (iv) blocking of the path for significant periods by timber and machinery in 1967, 1971 and 1977;
- (v) padlocking of two gates by Mr Hawkings between Winters Lane and the A38 in 1982-83;
- (vi) the replacement of the footpath gate by a stile at Winters Lane in the 1980s preventing horses entering when the main gate was locked.

The notice indicating the land was private near Winters Lane is evidence of an intention not to dedicate. There was no public right of way over this section of Goblin Coombe and the landowner's decision to permit walkers over this length does not derogate from his right to exclude trespassers until a diversion order is made. A locked gate is a clear intention not to dedicate. The gate near Spion Kop does seem to have been removed by riders but then replaced at times. The smaller gate on the west side of Winters Lane, about 3 feet 6 inches (1.06m) wide, was on the evidence of Mr B Bull and Mr R Marshall, intended as a pedestrian gate as a bridleway gate is usually 5 feet (1.5m) wide. The blocking of the path in the Coombe by timber and contractors' vehicles for more than a month, particularly in 1971, is inconsistent with the existence of a bridleway along the route (see evidence of Mr Popham and Mr Ridley).

7. CONCLUSIONS

7.1 Requirements for dedication

ACC are required by the WCA 1981 to keep under continuous review the Definitive Map and Statement of public rights of way and make, by Order, modifications after the occurrence of events which include the discovery of evidence that a right of way not shown on the Map and Statement subsists or is reasonably alleged to exist over land to which the Map relates or that a highway shown on the Map as of one description should be shown as a highway of another description. Any person may apply to ACC for such a Modification Order and ACC have a statutory duty to determine any such valid application (para 6.1.1) If the claim is based on presumed dedication the requirements of Section 31 of the Highway Act 1980 (HA) apply. This requires evidence of 20 years uninterrupted use prior to the date when the right of public way to the use was brought into question. In this case, the date of the Modification Application is 10th June 1989. (para 6.1.2.) In addition, the nature of the way must not be such that dedication could not be presumed at common law; the public at large must have used the way; it must have been for 20 years without effective interruption; it must have ended with the act that brought the public rights into question and the landowner must not be able to prove that he had no intention to dedicate the way.

7.2 Historical evidence

Although the claim is based on presumed dedication by user and not on historical evidence, both the ACC (paras 6.1.3-6.1.5) and Mrs Gawthorpe (para 6.2.11) discussed historical evidence. Although there is historical evidence that the way is an ancient one, evidence as to its status, that is whether public or private, is conflicting. However, when the route was surveyed by the WPC in 1951 most of the route was classified as a footpath, except the length in Goblin Coombe from the end of AX30/33 to Winters Lane (now proposed as new bridleway AX30/81) which was not included at all. These classifications were not challenged before the Definitive Map or Statement were made or since (para 6.1.5).

7.3 User evidence

Some 30 valid user evidence forms were submitted to the ACC with the application; from 1940 to date 17 riders claim to have ridden the route for 20 years or longer, more using the western section than the eastern (para 6.1.7). At the Inquiry 19 support letters, 3 statutory declarations and 1 new user evidence form were handed in giving additional evidence of horseback use of the way from 1942 to date (para 6.2.16). Use has been by the public at large and there is no evidence to prevent dedication by common law.

7.4 Landowners' intention to dedication

Dedication can, therefore, take place unless it can be shown that the landowners had no intention to dedicate the route as a bridleway. I am satisfied that the present owners have no such intentions (paras 6.1.6; 6.3.2; 6.3.3; 6.3.13; 6.3.19; 6.3.20; 6.3.21 and 6.3.22). Although some previous owners are no longer available to give evidence, Mr. H J Ashman the previous owner of Hailstone Farm had no intention to dedicate

(para 6.3.4) and there is evidence that previous owners did not wish to do so. Lord Sinclair is stated to have only allowed riding with his specific permission (para 6.3.13) and there is evidence that Fountain Forestry had the gate closed near Spion Kop end to prevent horseriders entering (para 6.3.1). Also while the Marshalls were tenants of Broadfield Farm before 1952, the previous owner, Captain Fry, erected a sign near the present gate and stile at Winters Lane, not then fenced, stating 'Private Property'; this sign although now gone, was still there in 1963 (para 6.3.11).

7.5 However, lack of intention to dedicate is insufficient by itself, the intention not to dedicate must be accompanied by 'sufficient evidence' HA 1980 31(1). Starting at the western end near Spion Kop there has been a locked gate since at least 1963 to prevent riders entering (para 6.3.1), this has also been described as blocked by blackthorn and the route up to it until 1984 so overgrown as to be virtually impassable (para 6.3.12). Riders have been seen attempting to get past this gate since the track has been cleared but have been sent away by the gamekeeper (para 6.3.12 and 6.3.13). In the bottom of the Coombe near the junction of PF AX30/31 a fence and locked gate were installed in about 1970 to stop people walking on up the Coombe and has been locked ever since (para 6.3.19.). Up to the early 1960s where Goblin Coombe entered Winters Lane it was open and unfenced but a notice existed at this point from before 1952 to at least 1963 stating 'Private Property' (para 6.3.11). Goblin Coombe was then fenced off with a locked field gate and a wicket gate provided for pedestrians until replaced by a stile about 10 years ago (para 6.3.19.). This is evidence of a permissive path over private property and not of a bridleway. In 1967, particularly in 1971 and again but less so in 1977 Goblin Coombe was obstructed; for a month in 1967 and 1977 and for up to 4 months in 1971 (para 6.3.14) by timber felling and plant. Whilst it may have been possible for a determined rider to get through in fact none of the user witnesses remember these forestry operations which does throw doubt on the extent of the riding claimed. Since the 1970s there has been pheasant rearing and regular pheasant shoots in Goblin Coombe (paras 6.3.16; 6.3.17; 6.3.18 and 6.3.19). Again none of the riders appeared to be aware of this and those involved in the shoot state they have never seen riders in the Goblin Coombe (paras 6.3.16 and 6.3.17). In about 1982 WPC agreed with Mr R G Marshall to put a 'footpath' sign at the site of the stile off Winters Lane rather than at the legal termination point further north (para 6.3.20).

7.6 Dealing with the eastern section of the route starting at Winters Lane a field gate has existed just west of Winters Lane for many years, a further gate exists adjoining Hailstone Cottages and a further field gate at the A38. This latter formerly had a wicket gate for pedestrians but not now. It has been stated that these gates were not locked until a few years ago (para 6.2.6) but the landowner, Mr M B Hawkings did lock them for a time in about 1982-3 but as the locks were repeatedly broken he gave up the attempt (para 6.3.2). Mr Hawkings said few people rode the route and any he detected he turned back as did his wife (para 6.3.2 and 6.3.3).

Mr Hawkings also produced photographic evidence of 'No horses' signs he erected on the gate near Winters Lane and at the A38 - both had been destroyed by vandals. There is a WPC footpath sign at the A38 (para 6.3.1).

7.7 While there is sufficient user evidence to justify the preparation of the Order evidence from the landowners, their families, friends and employees does suggest that use was largely before the 20 year period up to 1989 and appears to be exaggerated (para 7.3, 7.5 and 7.6). There is evidence that present and previous owners did not intend to dedicate a bridleway (para 7.4) and in my view sufficient evidence has been presented in the way of locked or closed gates, notices and the turning back of would be riders, to support this. Mr R G Marshall has permitted the route of the proposed AX30/81 to be used as a permissive footpath rather than the correct route of PF AX30/29 to the north but I am satisfied he did not intend this courtesy to extend to horseriders (para 7.5).


8. I have had regard to all other matters raised at the inquiry and in written representations but they do not outweigh the considerations leading to my decision.

9. **DECISION**

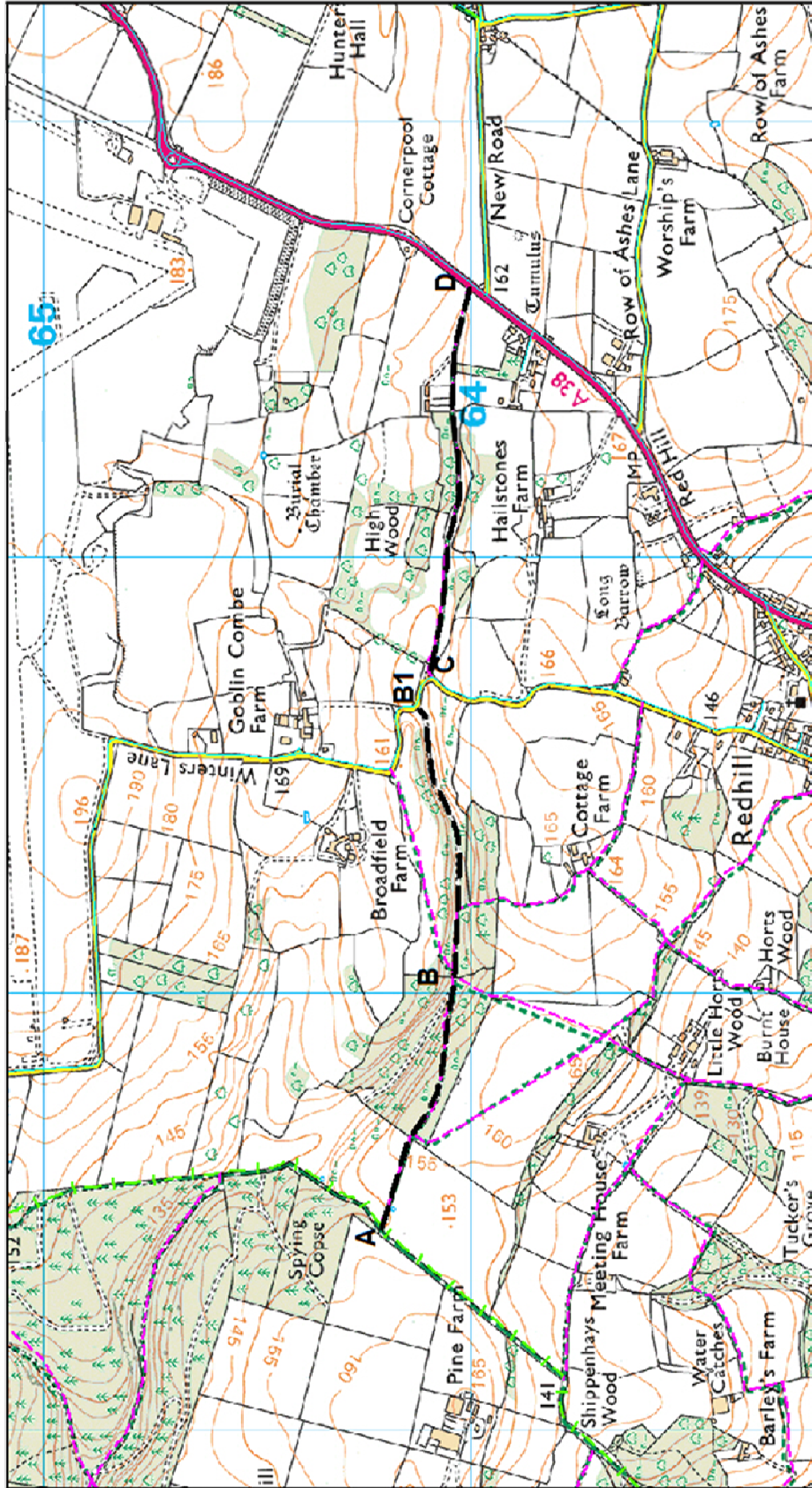
For the above reasons, and in exercise of the powers transferred to me, I have decided not to confirm the Order. Both copies of the Order are accordingly returned.

10. A copy of this letter has been sent to the objectors and to other interested persons.

Yours faithfully,


J. Anthony Young
CEng FICE FCIWEM
Inspector

LOCATION PLAN – EB/MOD 18




Map No.	Scale 1:12559	North
EB/Mod 18		
Grid Reference	Date	
ST 4964	17 July 2017	
Claimed route	----- A-B-B1 & C-D	

Development & Environment
 Public Rights of Way
 Streets and Open Spaces
 North Somerset Council
 Town Hall
 Wallisote Grove Road
 Weston-super-Mare
 BS23 1UJ
 Tel: 01934 668 802

Wildlife & Countryside Act 1981 - Sec 53 North Somerset District Council

DMMO Spying Copse to A38 Claimed Bridleway



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Document 1a

Long Distance Ride Programme 15 October 1978

BRENT KNOLL RIDING CLUB AND BRENT KNOLL SUPPORTERS CLUB
PROGRAMME FOR 1978.

- 5th Feb: Dressage Demonstration by Jennie Lariston-Clarke (3 horses) at Henbridge 11-30am to 1-00pm. From 2-00pm to 3-00pm she will answer questions on and demonstrate Riding Club Competitions i.e. Teams of 3, Pair Dressage & Quadrilles. Tickets 75p available on receipt of S.A.E. from: Mrs Skinner, Hillgrounds, Stockland, Honiton, Devon. Early application would greatly help organisers, and it is also advisable. Refreshments available. No seating provided so take a chair.
- 10th Feb: + ~~Scorecard Hunt on Berrymoor Heath, Honiton, Devon, followed by Pub Lunch?~~
 10th Feb: + ~~COACH PARTY AT HURST & HURST (Burrill, Honiton, Devon) 10th Feb.~~
 Tickets, available from Mrs. D. Cragg, 17, Verelands Rd, Sutton, W-S-11. at £2.25 each., to include Refreshments, Licensed bar, Dancing, Auction Tombola and lots of fun. Please apply for tickets prior to 10th Feb.
- 20th Feb. Extra-Ordinary General Meeting at George Hotel, Highbridge 8.00 pm.
- 11th March Neck Hunt. Meet Minors Arms, Shipham for Hot Punch at 11 am. return for Pub Lunch, cost approx 75p. for Members and their families.
- 17th March SKITTLES MATCH Ladies V Gentlemen at Crossways Hotel, West Huntspill 8 am cost 40p incl food. please contact Mrs. Hunt Tel W-S-M 2488 before 10th/3/78
- 25th March BACKWELL HUNTER TRIALS If you can help with course building or jump judging + on the day - or can suggest a non-member please telephone Miss A Goodall, Bledon 812239.
- APRIL AND FURTHER DATES TO BE ARRANGED - INSTRUCTION WITH MRS HEAR AND OTHER GOOD INSTRUCTORS AT EITHER WEDMORE, YATTON OR WINFORD DEPENDING ON RESPONSE. PLEASE TELEPHONE MRS. D. GROSSMAN YATTON 832660 AS SOON AS POSSIBLE AND LET HER KNOW WHAT INSTRUCTION YOU WOULD PREFER PERSONALLY LOWER AND SUITABLE TIMES.
- 25th April FILM SHOW AT The Hall, Mincombe, (Turn off A38 just after garage at top of shute shelf, before Axbridge By-pass) By kind permission of Mr & Mrs B. Gunn. 50p. Members 30p. children under 16yrs.
- 15th April Coach booked for Cross-Country Day at Bodminton Horse Trials, please contact Mrs. Lansbury Lulagato 2336 to book, bookings taken strictly in accordance with order of application.
- Prov. Date. Burtle In-Hand Show, Details available from Mrs. B. Chinn, Fairview, Burtle.
- 30th April
- 7th May + Members only Prix Caprilli & Dressage inc. Pairs Dressage at Whitehouse Farm, Loxton, By kind permission of Mr. J. Ingar. Schedules later.
- 27th May + Members Only Jumping Show including Jumping for the Luckman Park Trophy. Schedules and venue later.
- 25th June Area 12 Team Show Jumping Qualifying rounds at Exeter.
- 2nd July Area 12 Prix Caprilli, Dressage & Dressage Pairs qualifying rounds.
 July or Aug. + Open Show to be Arranged.
- July + Gynkhana to be arranged.
- July 5th to 9th. The World Dressage Championships are being held at Goodwood and a coach is being booked. Will all those interested please contact Mrs Lansbury Lulagato 2336 without delay.
- 6th August + Members Only Show. schedules & venue later.
- 27th Aug. + BRENT KNOLL RIDING CLUB & SUPPORTERS CLUB ONE DAY EVENT OVER NEW COURSE AT BLEADON. CLASSES FOR NOVICE AND OPEN AND SENIOR PONY CLUB MEMBERS.
- 10th Sept. AREA 12 HORSE TRIALS TEAMS QUALIFYING ROUNDS AND ALSO OPEN CLASS FOR FORD DEALERS TROPHYS.
- 11th Sept. + Cross Country & Barboquo at Moor View Farm, Wedmore by kind invitation of Mr. & Mrs G. Simons. Details later.
- Oct. + Long Distance Ride details later
- Oct. Coach to Horse of the Year Show please contact Mrs. Lansbury for details.
- Oct. Annual General Meeting.

PLEASE NOTE Dr. J. Paddock has kindly offered to organise a Quadrille Team to represent the Club. If you are interested could you please contact her at The Old Manor, Ubley. giving details of the size and colour of your horse or telephone her Bledon 62733.

Document 1b
Long Distance Ride Description 15 October 1978

BREKID HUNTER RIDING CLUB
LONG DISTANCE RIDE - 15th OCTOBER, 1978

End of drive turn left. Up Banches Lane. At X rds straight over to T junction. Turn left. 50 yds approx turn right up lane sign posed Middle Path. Top of lane, new on Felton Common turn left keeping to hedge. Turn left off Common 1st exit by big rocks and immediately turn right (Big Lane) track not road. At end turn right onto road and cont: to A. 38. T junction at A.38 turn right and cross inned: Take 1st gateway on left and go down track keeping to track not grass. At 1st fork bear left onto grass track through gate. Follow track to next 5 bar gate onto made up road (now behind airport). Straight over made up road and through gate. Again follow track to another 5 bar gate. Take left fork: up muddy track, hill flattens onto gate. Through this and down path between two fields. At T junction at end of path turn Rt to wider track. Round left hand bend after slight decline through gateway (no gate now) turn left (look for sign) down track. Turn left on path. Turn right down rather overgrown path (look for signs) At bottom turn right onto wider track. At left hand bend and by fallen logs turn right into scaller track and inned: right again. Straight on to T junction and left. straight on and 1st right. A little way turn left. T junction right to Brockley Corbe Road. Right up Brockley Corbe Road and left almost immediately. Up stoney track, level out and straight until 2nd left (marker). Straight on until at 5 X lanes take 3rd on right smallest lane. Down track to thatched cottage. Turn right along Shelvey Hatch Rd and turn right up rough drive between 2 stone pillars to Backwell Mill House. Straight up drive to Lodge. Turn right go along and bear left onto hard road. 1st left, 1st right, 1st right now on Lea Lane turn left to X roads. X roads turn left and 500 yds into 1st gate on right marked "Horses keep to path". Straight on to iron gate, through this and inned: left Down track and just passed fallen tree fork right up to top, level out turn right and bear right. Straight on to gate, through this to farm yard through yard to 5 bar gate up track to next gate, through this to Common. Keep straight and down incline keeping plantation on your right Gate at bottom through this through next field keeping to track in field across 2nd field, through gate, across 3rd field keep to left and into overgrown lane. Turn right at bottom onto stoney track, straight on to T junction and made up road. Turn left and straight to A.38. At T Junction turn right up A.38. Cross road and take first left (signs: Felton 1 mile) Take first left again off A.38 marked Avon Engineering Go past the offices on works of Avon Engineering having taken left fork. Straight on along path, down steep hill to main road at bottom. Turn right at main road and cont: to right hand turn signed "Hospital". Up steep hill, through middle of Hospital, out other side and turn left down steep, slippery road. At T junction straight over and up track until you meet the next road. Turn right into road and immediately left into another track. Cont: straight up to the top of Felton Common. Up over Common keeping to your left and take first left off Common down lane (you come up this lane and turn right out this bottom) Straight down to end of lane. Turn left at road. To a first right to X road. Straight over X roads into "Banches Lane" down to bottom right right into "Regillery Court". You are home. Well done.

Owing to the fact that many of the paths and tracks on this ride do not appear on any available maps, we feel that it would be confusing to enclose an inadequate one. The course will be well marked, stewarded and a map will be pinned up at the start of the ride to show the general route.

NAME OF HORSE

NUMBER (to be collected at start and worn throughout ride) TIME OF START

Document 2a
Long Distance Ride Letter dated 1 July 1996 regarding event on 12
April 1980.

80.4 in 1979 Sam CC 5/7/96

Tel: 01600 860491
1st July 1996.

Rose Cottage,
The Beacons,
Trellech,
Monmouth NPS 4PS

To Whom it may concern.

This letter is to confirm that I organised the Long Distance Ride around the Backwell Hill area on 12th April 1980 on behalf of the Brent Knoll Riding Club.

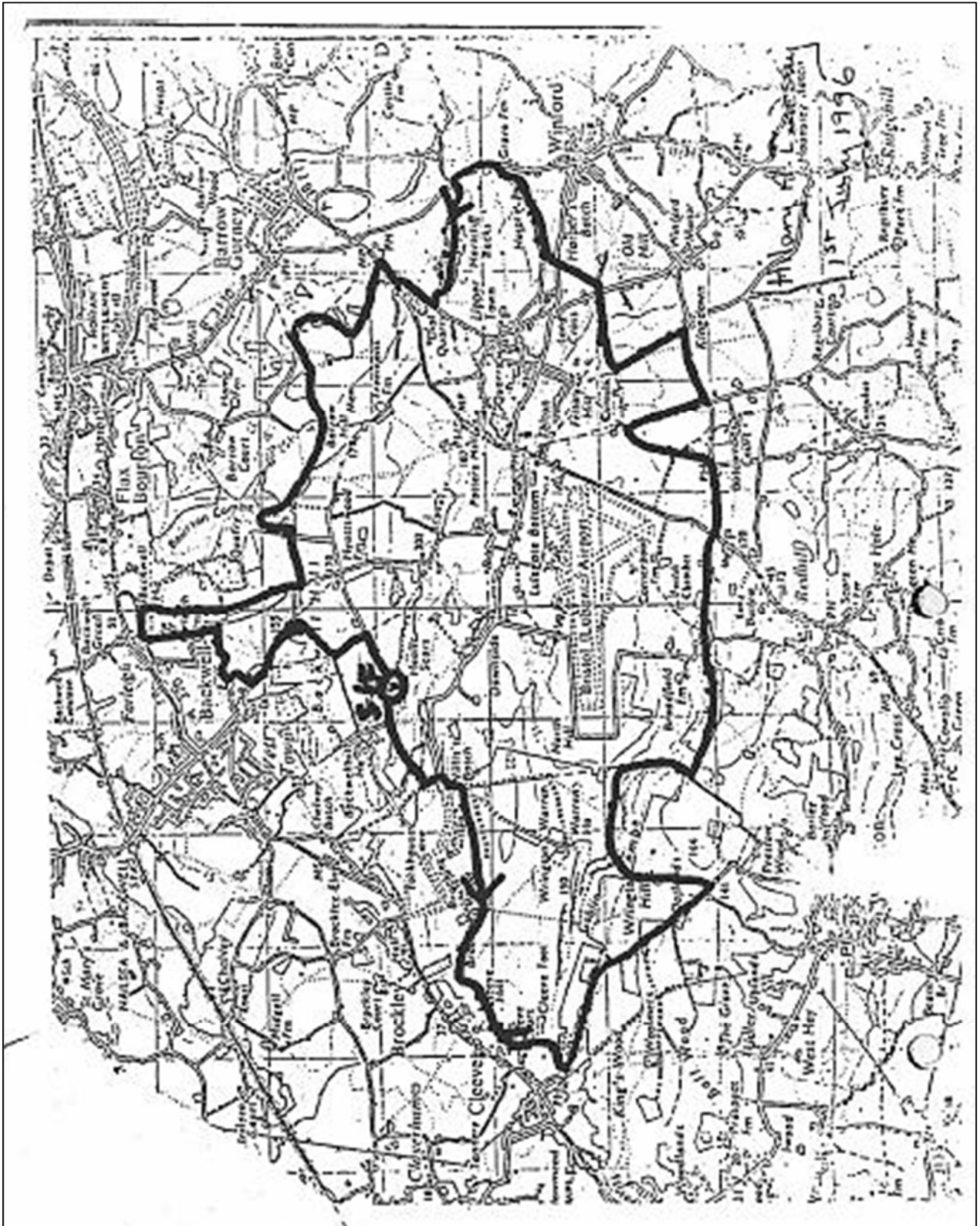
This also confirms the map showing the route taken and the instructions; were drawn and written by me with any correction in my hand. The ride was approximately 20 miles in total and the riders enjoyed unhindered access to the route shown.

I would be willing to repeat the above at any public inquiry.

yours faithfully,

Hilary A. Lindsay.

Document 2b
Long Distance Ride Map 12 April 1980



WESTERN DAILY PRESS, Saturday, March 15, 1980—PAGE 5

'VAT fraud paid for' racehorse training

BANKRUPT ADMITS TAX EVASION

By John Thomas

TIMBER contractor William Denny, aged 47, and his mistress and business partner Mrs Margaret Blackmore, 37, used £14,000 unpaid VAT to buy and train racehorses, Taunton Crown court heard yesterday.

Mr John Duncan, prosecuting, said Denny, of Colchester, Bishops Lydeard, near Taunton, was an undischarged bankrupt and the father of Blackmore's 11-year-old daughter.

Blackmore, a divorcee, of Lockwood Road, Taunton, has bought horses and stables at Taunton, near Taunton, he said.

At the November 1978 trial at Taunton, it was said that Denny and Blackmore used the VAT to buy horses and stables at Taunton, near Taunton, he said.

Blackmore, a divorcee, of Lockwood Road, Taunton, has bought horses and stables at Taunton, near Taunton, he said.

Blackmore, a divorcee, of Lockwood Road, Taunton, has bought horses and stables at Taunton, near Taunton, he said.

TORY CASH BAN ON GAMES AID

By Michael Baker

SPORTS Minister Geoffrey Howe has stopped the Government from providing financial aid to the British athletes to help them to compete in the Olympic Games.

Mr Howe said that the Government would not be providing financial aid to the British athletes to help them to compete in the Olympic Games.

Mr Howe said that the Government would not be providing financial aid to the British athletes to help them to compete in the Olympic Games.



Being ridden... Forester Farm yesterday. **Crowned... a dairy dish**

Dressing up the landscape with cost in view

By George Shroton

CONSERVATION is becoming a word in the landscape. It is being used to describe the way in which the landscape is being managed.

The way in which the landscape is being managed is becoming a word in the landscape. It is being used to describe the way in which the landscape is being managed.

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DATES FOR SHOWS
 CHASSIS AND COACHING, SATURDAY, JULY 19, 10.30. The...
 GOLF, SATURDAY, JULY 19, 10.30. The...
 HUNTING, SATURDAY, JULY 19, 10.30. The...
 RACING, SATURDAY, JULY 19, 10.30. The...
 SHOWING, SATURDAY, JULY 19, 10.30. The...
 TOWN, SATURDAY, JULY 19, 10.30. The...
 WRESTLING, SATURDAY, JULY 19, 10.30. The...
 YACHTING, SATURDAY, JULY 19, 10.30. The...
 ZOO, SATURDAY, JULY 19, 10.30. The...

**A GREAT GRASS
 A GREAT OFFER!**

Sabalan

£17.50/50 kgs.

Ready for immediate collection in Northern and Southern...
 Sabalan is a high yielding, high quality grass...
 It is ideal for use in a wide range of...
 situations and is particularly well suited to...
 the production of high quality silage.

**West of England
 Farmers Limited**

Market 1281, October 1981, September 1982, August 1983

**sell or buy
 th**

From Home Farm turn right down the lane. At junction go straight ahead onto track, next junction turn left. At bottom of stoney track, turn right into Brookley Combe. Cross road towards triangle keeping left on road which leads to Warren House. Keep on this road until turning through open gate on right hand side. Continue along track, through gateway and follow Blue markers through woods - coming out at Walnut Tree Farm. Cleeve into Flunder Street. Turn left on road uphill, staying on the road for 1/2 - 2 miles.

Turn left at Blue marker, down stoney track through gate at bottom. Follow the Blue markers across the Warren, coming down beside airport runway. Go through the gate at the bottom, keep straight on up and over the hill. Taking track on left between two fields, through gate, follow markers to next gate and straight onto another gate, which comes out on to the road. Turn right and then bear left immediately onto track, through gate. Keep going straight through gates, until reaching A.38. Cross over A.38 and turn for Butcombe.

After 1/2 mile take stoney track on left, towards Felton Common. At large stones turn right down the road. Turn left at crossroads. After 1/2 mile turn left up bridgeway onto common, bearing right side downhill into bridgeway, across road onto track, crossing Winford road and up Ragles Lane.

Turn right and go through Winford Orthopaedic Hospital grounds. Turn left at next junction. After 1/2 mile turn left again up bridgeway, continue through to road and turn right onto A.38. After approx. 100 yards turn left down Walsh Lane. Turn right down driveway to Stevens Farm. At next junction turn left through iron gate up bridgeway between fields. Go straight on through gate, keeping close to hedge on right all the way through next two gates onto Barrow Common.

Pass plantation on your left straight onto gate ahead. Down track through next gate, straight on keeping farm buildings on your left. Through gate into Bourton Combe, straight on down track and turn left at blue marker and left again. Carry on following markers, through iron gate on right, follow track to Backwell Hill Road. Turn right to bottom of hill. Turn left up Private Road on Backwell Down, through gate facing you at top. Keeping to edge on right side up through gully to gate. Follow track bearing right through another gate. Turn left onto road and left again opposite church. At top of hill turn right onto stoney track for 1/2 mile. Turn left and then right onto Long Lane towards Home Farm.

H.B. FOLLOW BLUE PLASTIC TIES & PLEASE SHUT GATES.

1st July 1996

Hilary A. Lindsay



Document 3a
Long Distance Ride Programme 13 May 1984

BRENT KNOLL RIDING CLUB

LONG DISTANCE RIDE
(approx. 20 miles)

From Regilbury Court, Banchoe Lane, Winford, Nr. Bristol, Avon by kind permission of Mr. & Mrs. T. Lansbury.

on Sunday 13th May, 1984.

Entries close Monday 7th May, 1984.

Secretary: Mrs. S. Lansbury, Regilbury Court, Banchoe Lane, Winford, Nr. Bristol, Avon. Telephone Dalgate 2356.

Class 1. For ponies 14.2 and under.

Class 2. For horses exceeding 14.2.

Entry Fee: £3 per class (B.K.R.C. Members £2.50).

A Challenge Trophy will be awarded to the winner of each class and special rosettes to the six horses/ponies in each class that the Veterinary Surgeon considers to be in the best condition on arrival back. Rosettes will be awarded to all competitors completing the course in an average of not less than 6 m.p.h. and the horse/pony ^{who first} ~~must pass the veterinary inspection to qualify for this rosette~~ ~~less of study~~ ~~will be seen~~ ~~at the veterinary inspection.~~

REFRESHMENTS WILL BE AVAILABLE

CONDITIONS

1. Horses/ponies to be four years old and over.
2. Horses/ponies to be fully and recently shed.
3. Veterinary inspection at start and finish.
4. ~~No~~ ~~stirrup~~ ~~spurs~~ allowed ~~except by riders of stallions.~~
5. Riders must wear hard hats and be suitably dressed.
6. Competitors will leave in groups of four. Those wishing to start with friends must state so on entry form.
7. No responsibility can be accepted by the landowners or organisers for any loss, injury or damage however caused. Completion of Entry form will be assumed to recognize this.
8. The Veterinary Surgeon's decision is final.
9. A STAMPED ADDRESSED ENVELOPE IS REQUIRED FOR STARTING TIME- please send this with entry.

Everyone will get a Rosette.

.....
ENTRY FORM: BRENT KNOLL RIDING CLUB LONG DISTANCE RIDE: SUNDAY 13th MAY, 1984.

Name of horse/Pony Height Sex Colour Age Name of Rider Class Fee

Total

.....
NAME(Block letters) Tel. No.
ADDRESS
..... Cheques payable to BRENT KNOLL RIDING CLUB.
S.A.S. and entry to Mrs. S. Lansbury, Regilbury Court, Banchoe Lane, Winford, Nr. Bristol.

Document 3b
Long Distance Ride Description 13 May 1984

BRISTOL HOLL RIDING CLUB - LONG DISTANCE RIDE

SUNDAY 13th MAY 1984

Turn left at the end of Drive.

Sight over X roads to T junction, turn left. Few yards RT into lane. Up lane to 'COMMON' bear RT and keep to outside of 'COMMON' ground edge.

By railing bear RT and down by Church to gate and cattle grid. Left on to A38, a few yards up A38 cross over by PUB turn RT. Along road about 1 mile. Just past village shop and telephone turn left into 'COOKS BRIDLE PATH'.

Follow road, a good grass verge the last $\frac{3}{4}$ of this road, to hunting gate on RT (a steward here).

Keep to track, through new metal gate, bear left up track to gate into narrow track. At end of narrow track T junction. Turn RT down stoney track. Just past wreck of car through broken gate by fire signs turn LT. Down steep slope and follow track. At X lanes bear RT up hill.

Follow to house, keep to RT and down lane to main Bridleway. The last part is deep. At X roads at end of deep mud turn RT to road and Fountain Forestry sign out on to main road. Turn RT up road to stoney track on left a few yards only.

Left up a stoney track. 1st RT on to lane, bear left up to pink house. Turn left and pass a farm on left. Turn RT down lane. 1st RT at T junction. 1st left at T junction out on to road.

At X roads left a few 100 yds RT into track. Pass through gateway and before buildings turn left into track. Down track to very end, bear RT and RT (follow blue strips) keep to left track and onto BARRON COMMON. Across COMMON to gate on left on to road through 3 gates. Down Road 1st RT through farm yard to gate on to road. Left on road and out on to A38. RT on to A38 up a little way and 1st left off A38. Up hill and 1st left in to Quarry Road. Keep to left lane and after going down steep slope RT a T junction onto road.

A little way along road RT marked HOSPITAL. Through Hospital and bear left down to main road. Straight over into lane, RT at T junction on to road and 1st left into another lane. At top of lane on to FELTON COMMON, keep to left and 1st left off COMMON. Down lane LT at bottom and 1st RT over X roads into BENCHES LANE.

You are home - well done - hope you enjoyed it.

Document 4a

Long Distance Ride Entry Form 12 November 1989

BANWELL HUNT BRANCH OF THE PCNY CLUB

SUNDAY, NOVEMBER 12th, 1989.

A non competitive LONG DISTANCE RIDE for members, friends and relations

(Come on Mums and Dads, it's not too strenuous!)

Start &
Finish

The McMillans
Hill House,
Felton Common,
Avon.

Entry Fee £2

Paid at the start BUT ring
Bristol 730136 on Friday,
10th November between 6-9 for
Approx. starting times

1. Ride is approx. 10 miles
 2. Horses to leave in groups of about 4 - Please state groupings if you have a preference.
 3. Riders must wear correct riding clothing.
 4. Horses 4 years old and over.
 5. The organisers accept no responsibility or liability for losses, or damage to riders, spectators or animals, either to themselves or their property.
- Please report at the start AND THE FINISH.

Document 4b

Long Distance Ride Description 12 November 1989

LONG DISTANCE RIDE.

When in doubt look for the red baler twine markers.

Turn right and go down lane. Turn right onto road. Cross A38 turning right & (steward) immediately left thru gate. Down drive & before tree fork left. Thru gate in front of cottage gardens (CLOSE IT) (^{WACK HERE} stay close to right fence and hedge) - thru next gate (close it) Right track - straight over - thru gate (Close it) A steward here.

Keep to track, through metal gate, bear LEFT up track (2 fallen trees) to gate into narrow track. Pass fallen oak branch. At end of track T Junction. Turn rt down stoney track. Just past wreck of car, by FIRE signs turn LT. Down steep slope & follow track. At X lanes bear RT up hill.

Follow all the way to house. Take first grass track to right and follow baler twine route to main bridleway. Turn rt to road and Fountain Forestry sign out on to main rd. Steward here - Turn rt up road a few yards, take stoney track to left. 1st rt onto lane Bear left up to pink house. Turn left and pass farm on left. Turn rt down lane. 1st right down track to road. Left. Straight over X roads. To very end. Thru gate onto common. (Close it) Follow track across middle of common to gate at top into lane and road. (Close it) Pass farm on left. Cross A38 (steward) turn right (on pavement) & first left to Newditch Lane. Take 2nd rt into Stanshalls Lane. Right at end & immediately left into Felton St. Fork rt at top and take right hand track of } across common back to Hill House.

Yours Home and I hope you enjoyed it - PLEASE REPORT AT FINISH.

Document 5a
Statutory Declaration – Mrs S M Lansbury

Date 1996
Statutory Declaration
Susan Mountfort Lansbury

Document 5b
Statutory Declaration – Mrs S M Lansbury

I Susan Mountford Lansbury of Regilbury Court, Benches Lane, Winford, Avon. Do Solemnly and Sincerely declare as follows:-

I moved to the above address from Brent Knoll where I was a member of the Brent Knoll Riding Club for many years. I supported and ran many events for them in Brent Knoll and continued to do so when I moved to the above address. I organised the following long distance rides:-
October 15 1978 when the complete route of which is shown by green lines on the plan annexed hereto marked "S.M.L." was used.
Sundays May 15 1983 and May 13 1984, the routes of which are shown by a red line on the plan hereto marked "S.M.L.". were used.

When I organised these rides I and local riders were using the way without let or hindrance always believing the routes to be bridleways. We never ever asked the Farmers for permission and the gates were never locked. At the last Public Inquiry I was questioned by Mr Marshall, who said he had challenged me on the use of the way on the last ride I organised, this is correct. But he did not stop us from continuing to complete our days ride. I still continued to use the route after this ride, believing that this was a bridleway and I was never challenged again.

Brent Knoll Riding Club has kept all there documentation for the rides and advertising and this has been submitted separately to the County Council. I have seen these documents and these are true and correct, I and friends rode this track and it was not obstructed to us in any way.

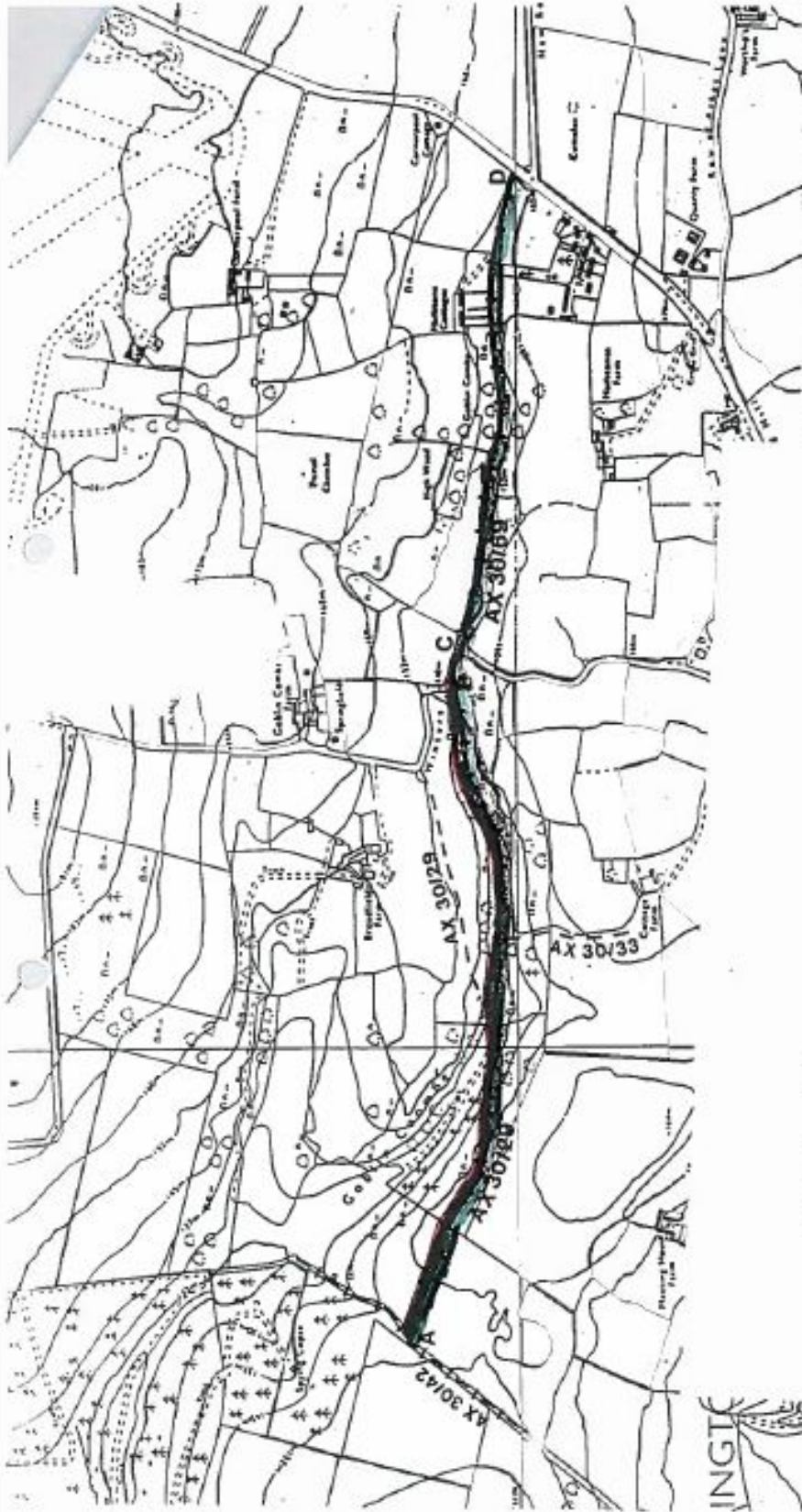
The afternoon before the ride we marked the route with plastic flags tied on to bushes or gates. The next morning we usually sent one of my children first to open the gates and check the route was still marked then we started riders at approximately 5 minute intervals. The last person shut all the gates. There were always stewards to help crossing on the A 38 and at the Top of Brockley Combe by Fountain Forestry, or at any other place we considered a hazard. All the horses were vetted before they left from our farm and again when they came back.

And I make this Solemn Declaration conscientiously believing the same to be true and by virtue of the provision of the Statutory Declarations Act 1835.

Declared at CHEW MAGNA
in the county of ~~Avon~~ & North East Somerset
this 3rd day of July 1996
Before me,

S.M. Lansbury
J. Heaton
Commissioner for Oaths/Solicitor
MURGATROYDS
Solicitors
4 SOUTH PARADE
CHEW MAGNA

Document 5c
 Statutory Declaration – Mrs S M Lansbury



This is the exhibit marked "S.M.L." referred to in the Statutory Declaration of Susan Mountfort Lansbury declared at CHEW MAGNA in the County of BATH AND NORTH DEVON, in Her Majesty's County of Bath, this 3rd day of July 1996

Before me, *S. Keefe*
 A Solicitor/Commissioner of Oaths

Solicitors
 4 SOUTH PARADE
 CHEW MAGNA, BA28 3SS

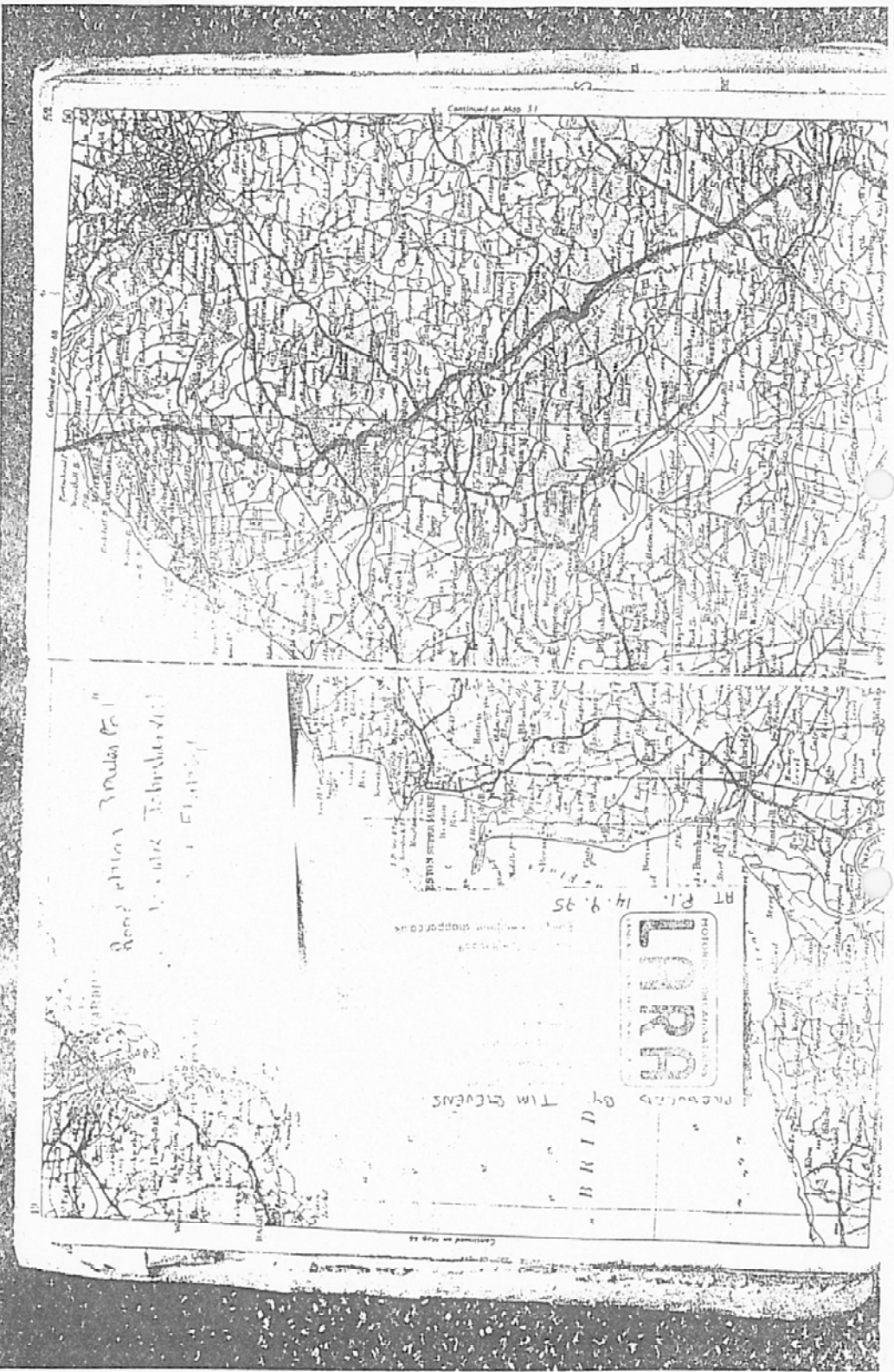
Based on the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office. Crown Copyright reserved. Licence No. LA207024

Path to be upgraded
 A-1-B C-1-1
 Site Plan



Document 6
W & A.K Johnston Road Atlas Map 1940

Doc 2



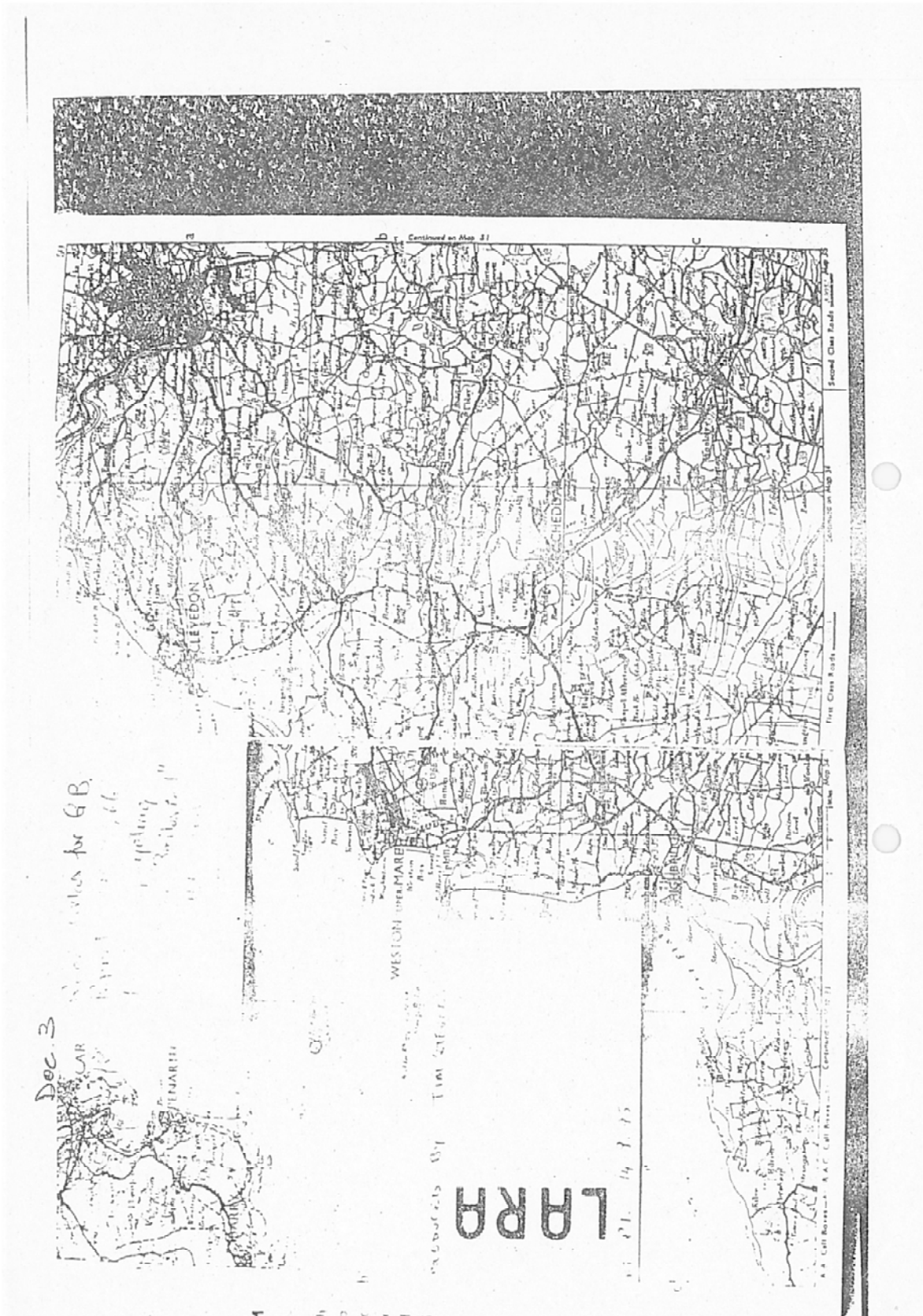
Recreation "Indian Falls"
V. S. Johnston

RT P.I. 14.9.95
P.O. from Shoppers



Prepared by
B R I D
T M S T E V E N S

Document 7
W & A.K Johnston Road Atlas Map for motoring, cycling and hiking
1964-66



Document 8
W & A.K Johnston Motor coloured and contoured Map 1966

Dec. 4



The Motor Coloured
Fisher & Wales Map 17
T. J. Fisher & Sons

RDIFF

101 81 25 25

LPR
MOTORING ORGANISATION

P.I. 14.4.95

