

Duck Lane

NORTH SOMERSET COUNCIL
WILDLIFE & COUNTRYSIDE ACT 1981

APPLICATION FORM FOR A MODIFICATION TO THE DEFINITIVE MAP AND STATEMENT

To: Rights of Way
North Somerset Council
Development and Environment Department
PO Box 141
Weston Super Mare
BS23 1AE

I/We: (i) Woodspane Bridleways Ass.
of: Langbottle Farm Shipham Mendocino Somerset BS 25 1RW
(ii) Langbottle Farm Shipham Mendocino Somerset BS 25 1RW

hereby apply for an order under Section 53 (2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statement for the area by (iii) :-

(a) Deleting the footpath / bridleway / byway open to all traffic* which runs
from: /
to: /

(b) Adding the footpath / bridleway / byway open to all traffic * which runs
from: Duck Lane County Road via Ancient Lane Duck Lane
to: County Road Duck Lane and Pudding Pie Lane.

(c) Up-grading / down-grading to a footpath / bridleway / byway open to all traffic * the footpath / bridleway / byway open to all traffic * which runs
from: /
to: /

(d) Varying / adding to the particulars relating to the footpath / bridleway / byway open to all traffic * which runs
from: As above
to: /

by providing that Minimum Width Boundary to Boundary Approx 12'
and shown on the map annexed hereto.

I / We attach copies of the following documentary evidence (including statements of witnesses) in support of this application :-

(iv) Documentary evidence attached
maps
Park Farm Churchill Archaeological sites and features owned
by ACC now NSDC.

Signed: Venet F. A. A. Dated: 21/07/04
(i) Insert name of applicant(s) (iii)* Delete as appropriate
(ii) Insert address of applicant(s) (iv) Insert list of documents

Copies of 2 letters Russ (PTO)
Trevett and Broadbad.

NORTH SOMERSET COUNCIL

WILDLIFE & COUNTRYSIDE ACT 1981

FORM OF CERTIFICATE OF SERVICE OF NOTICE OF APPLICATION FOR MODIFICATION ORDER

To: Rights of Way
North Somerset Council
Development and Environment Department
PO Box 141
Weston Super Mare
BS23 1AE

I / We

(i) Woodring Bridleways As
of (ii) Lempholton Farm Shepton Mallet Somerset BS251RW

hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with in relation to the attached application.

Signed Venet F. Apps Dated: 21/07/04

NOTES FOR GUIDANCE

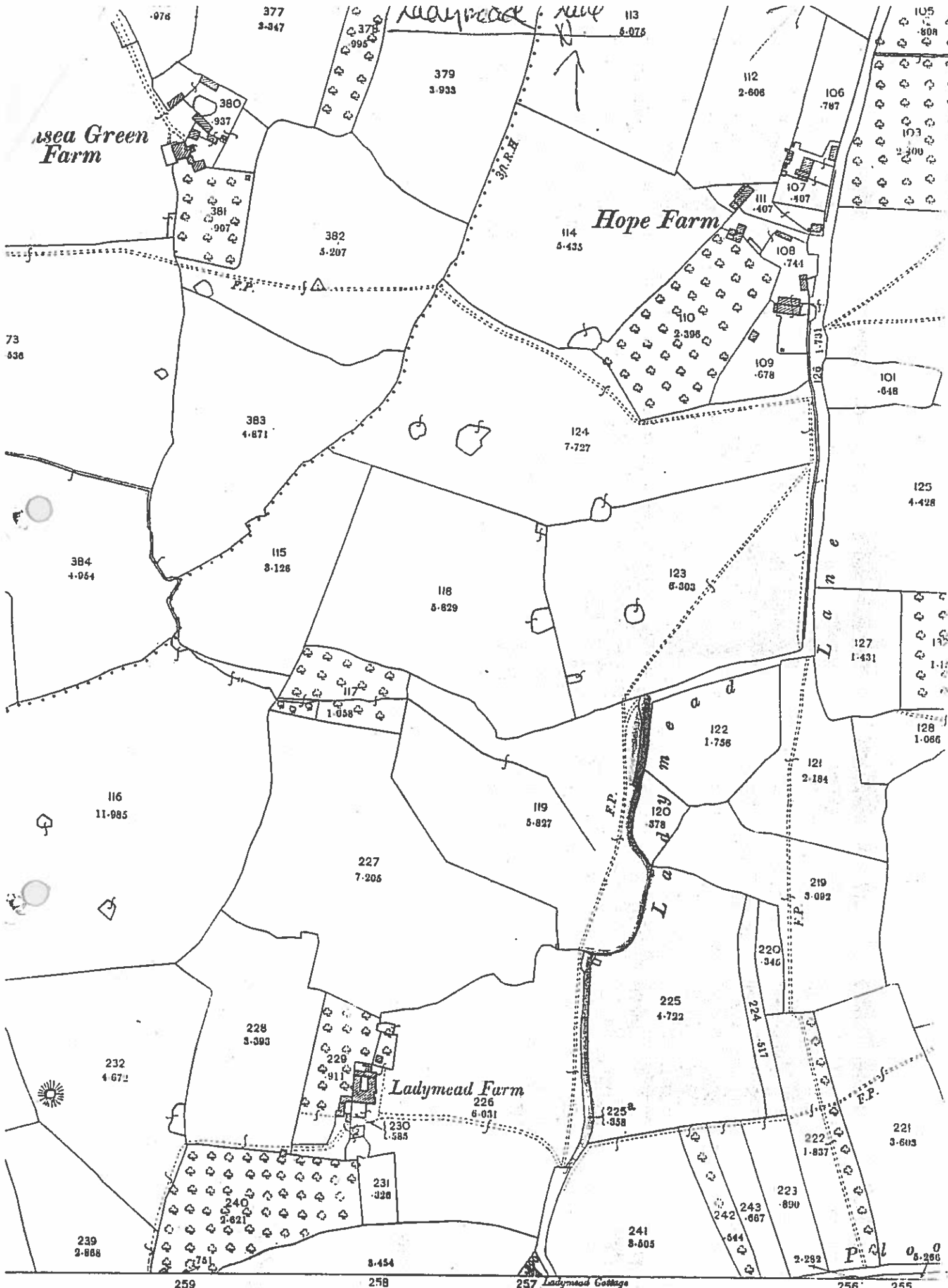
This certificate should only be completed when notice of the application has been served on all owners and occupiers affected by the proposal. A list of the names and addresses of all individuals notified should be included in the space provided below. Please indicate if you have been unable to identify all owners and occupiers affected by the proposal.

Notice of Application Sent To:-

- 1. Ms & Mrs P. Hanson Ladywood Farm Duck Lane Langford Nr Bristol
2.
3. Messrs Edwards and Families - Manor Farm
4. Binica Batch Comprehensy Bristol
5. O/occupier Hope Farm Duck Lane Stock Lane Comprehensy
6.
7.

All delivered by hand
VFC

(i) Insert name of applicant(s)
(ii) Insert address of applicant(s)



Ladymead and Churchill

FOR BOUNDARIES, &c.

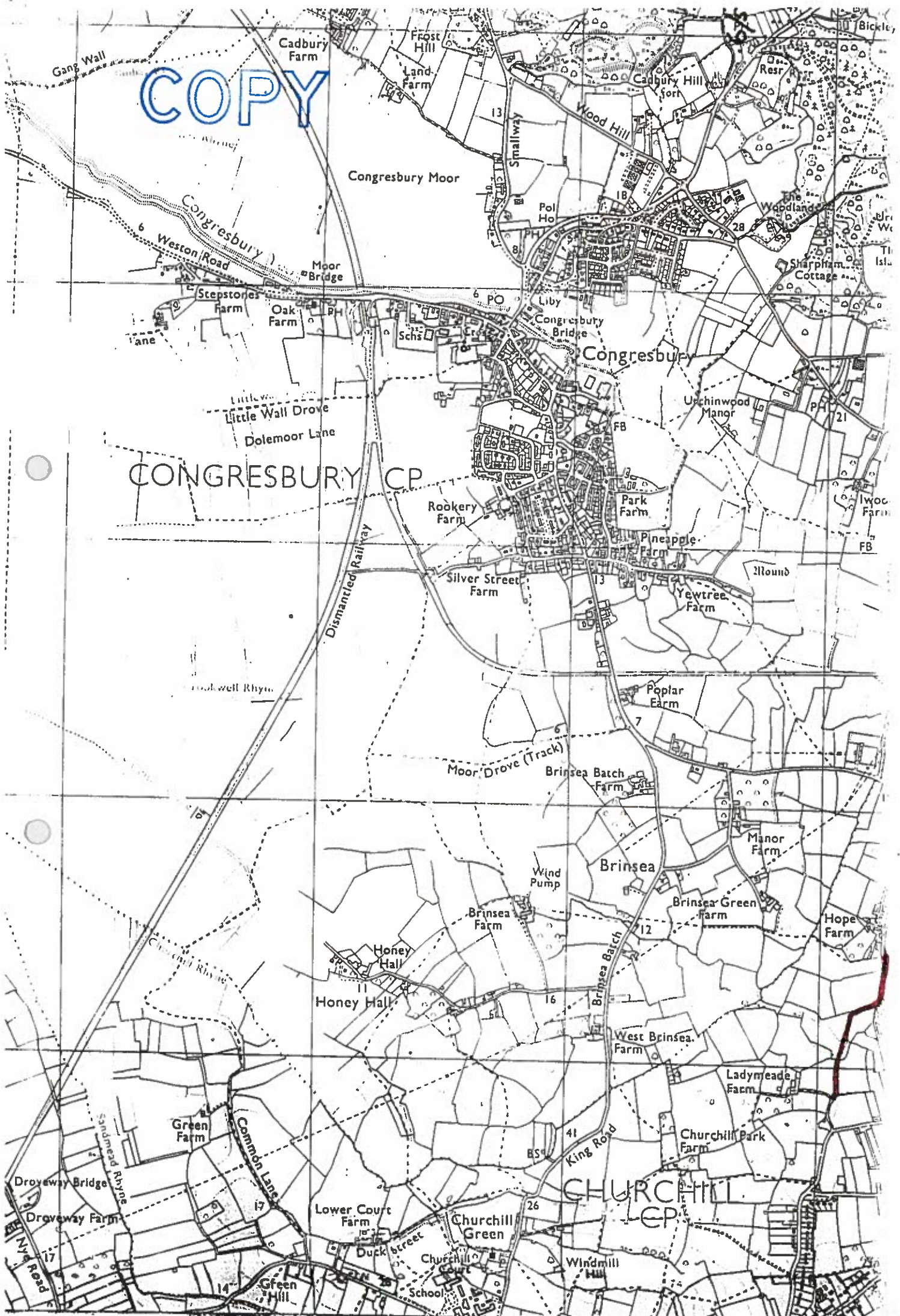
age of Boundary, indicating the point at which the character of a Boundary changes (Site of)

Every parcel is numbered, thus	27
Its area is given underneath in Acres, thus	4.370
Braces indicating that the spaces so connected are included in the same return	

The Altitudes of Bench Marks and surface heights are given in Feet above
 To refer these to the obsolete Liverpool datum, add in the figures shown
 Altitudes indicated thus (B.M. 54.47) refer to bench marks or by
 Note—To convert Decimal parts of an Acre into Feet

CHURCHILL P.H.

COPY



COPY

NORTH SOMERSET DISTRICT COUNCIL
WILDLIFE & COUNTRYSIDE ACT 1981

NOTICE OF APPLICATION FOR MODIFICATION ORDER

Section A To: Mr & Mrs P Hamson
of: Lady Mead Farm, Langford, Nr. Baskel, Somerset

Section B Notice is hereby given that on 21/07/04
of: F/Ws Woodspine, Bunknobs, Ash, Langbatham Farm, Shipton, Wincanton, Somerset, BS2512W
have made an application to North Somerset District Council that the Definitive Map and Statement for the area be modified by:-

Section C

[a] Deleting the footpath / bridleway / byway open to all traffic which runs:
from: /
to: /

[b] Adding the footpath / bridleway / byway open to all traffic which runs
from: County Road, Stock Lane, Duck Lane via ancient lane
to: Kilmn as Duck Lane to County Road, Duck Lane / Pudding Pie Lane

[c] Upgrading / downgrading to a footpath / bridleway / byway open to all traffic the footpath / bridleway / byway open to all traffic which runs
from: /
to: /

[d] Varying / adding to the particulars relating to the footpath / bridleway / byway open to all traffic which runs
from: as above
to: as above
by providing that: Minimum width Boundary to Boundary 12 feet

Signed: Veret F Apps Dated: 21/07/04

Map and letter enclosed.



COUNTY OF AVON

SMALLHOLDINGS SURVEY

CHURCHILL PARK FARM, LANGFORD

A HISTORICAL LANDSCAPE AND
CONSERVATION REPORT FOR AVON COUNTY
COUNCIL PLANNING DEPARTMENT

HISTORICAL SERVICES



Prepared by: Mike Chapman, Historical Services and Pamela Bury, Senior Farm
Conservation Adviser, Avon Farming and Wildlife Advisory Group.

ROAD ACC. Small bridges Survey
Churchill Park Farm Lane MO

incorporated into the barn which, like most of the present stone buildings, were built between 1840-84. The house itself has been much modified from time to time, but the interior of the eastern wing may retain some of the original structure. Two large ponds which stood on the south side of the farmstead have been filled in or built over in more recent times.

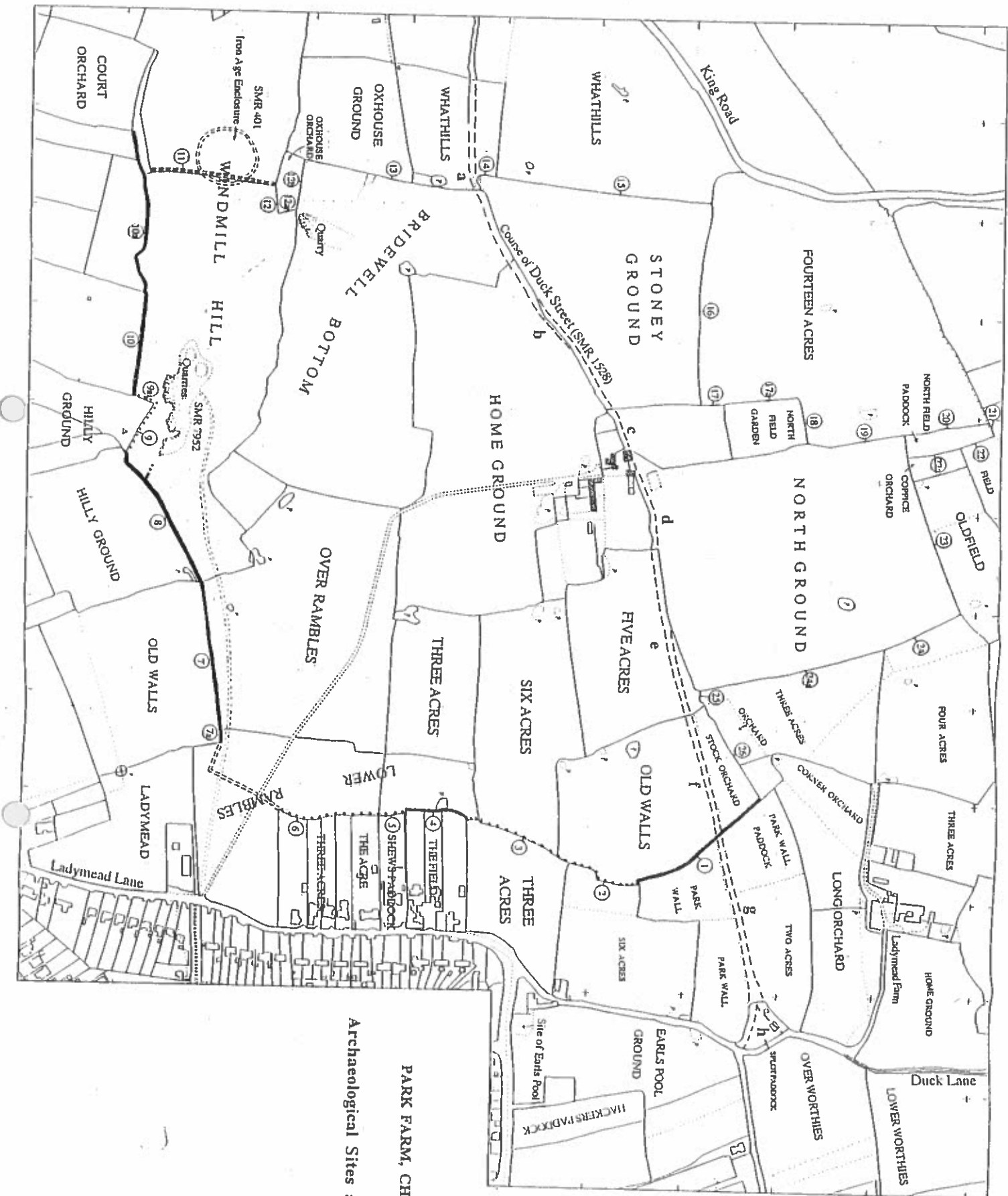
DMMO already put in 18/07/04

DUCK STREET (SMR 1528, Grade II) Duck Street is an ancient track of indeterminate age which can still be identified as a sunken holloway of up to 3 metres depth running west to east from Churchill Green to the western boundary of Park Farm. Most of this section was still in use in the early years of this century, but now only serves as a drain or watercourse into Churchill Rhyne. Its name, together with that of 'Duck Lane' which it joins at Stock, is still a puzzle, but the 'Street' element, which suggests a metalled road, is often of Roman origin. It certainly pre-dates King Road which deviates through two sharp right angles as it crosses the street in order to follow the older line for a short distance before continuing its north-south course.

this DMMO

The street can be traced westward to Sandford where it merges with the Banwell Road (A368), and eastward across the middle of Park Farm to a fork where it branched southward along Ladymead Lane and northward to Stock along Duck Lane (now disused). Although most of it was already stopped up by the early 19th century, it is noticeable that the remaining public footpaths between Ladymead Lane and Lower Court Farm still closely follow the alignment of the old highway. It is worth noting here that there are signs that the area to the north and west of the farm may have been crossed by a complex network of ancient tracks, perhaps associated with the parish boundary and influencing the outline of the farm and the park which preceded it, but this requires further study. The course of Duck Street through Park Farm, from west to east, is as follows:

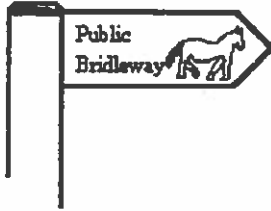
- a. The street approaches the farm through Whathills towards the overgrown corner of Stoney Ground (Hedge 14) at the hedge junction between Stoney Ground and Bridewell Bottom. Immediately on the west side of this junction the street appears as a short but steeply eroded gully, but above it there is some ditching on the inside of hedge 14 which also appears to be associated



PARK FARM, CHURCHILL
 Archaeological Sites and Features

Woodspring Bridleways Association

Affiliated to the British Horse Society



Mrs V.F Craggs

Longbottom Farm,
Shipham,
Winscombe,
Somerset

Tel. (01934) 743166

R. Currie
N. Somerset Council
Nailsea

Dear Russ,

Ladymeade Lane/Duck Lane runs from Stock Lane to Lademeade and Churchill. I enclose maps for your clarification.

Stock Lane narrows to the south at this point and is horrendous to ride, as two lorries can hardly pass without backing up. This suggested route diverts horses and cyclist. Horses can get from Iwood Lane to Duck Lane as there is a good wide verge.

I have already approached both landowners and so far so good. I have suggested that we enclose the old lane marked in red on the map and re hedge it. There are no gates going across at this point. Yellow marks where further hedge has been removed since 1930 when the map was surveyed.

The area to be fenced is approximately 1/5 of an Acre about 400 yds marked red on the plan

The blue is a small river which takes surface water from the neighbouring developments. This has a hard surface but has become over grown. Clearance will be required.

This track was a pre 1835 road and therefore is accepted as a carriageway [according to Lord Denning].

Our Association seek to get a dedication as a bridleway only, but the slumbering higher right will still exist. With luck the landowners will see what has happened with Somerset Lane and Barton Drove. When we have to submit a claim to the Authority as a BOAT.

Churchill Park Farm is in the ownership of North Somerset Council and there was an old road joining up the z bend at Brinsea this end is still double hedged and then enters the other end of Duck Lane.

I enclose A.C.C. Survey of this.

Sandford Station to Nye Road

This route from Sandford Station was in the Winscombe Parish Council Minutes to be made a bridleway in 1965. There was no legal way to do so until 1981 so it got forgotten as were several others which I am working on. I enclose the 1930 map which shows it very clearly. I have asked Mrs Read for any stopping up Orders on it, and any information she might have on her files to find out why it is not open and usable.

Droeway I believe I have a dedication from A to B the rest of the way is still intact, marked dark green on the map.

Sandford Station to Nye Road marked in light green on the map, I have not yet explored, but they all show clearly as through routes on the 1930 maps and many local people remember using them.

Greenhill Lane marked in pink is also mentioned as a bridleway in the P.C. minutes in the 60's most of this lane is wide enough for a horse and links up with the railway line and Sandford hill and Station.

Sandmead Drove brown part appears to still be there, but I have not walked the black bit, this goes to the railway line.

Common Lane is to the East in Mauve a Council road in part and we have evidence of use, this is also a route to the railway line.

Duck Street is a Council road in orange part way and joins in with the Duck street at Stock Lane via Churchill Park Farm. Mauve dash shows ancient double hedge drove way to remainder of Duck street/lane and Lademeade Lane at Stock.

Orange part of Duck Lane the farmer has admitted is an old road but I have not asked for the reinstatement yet.

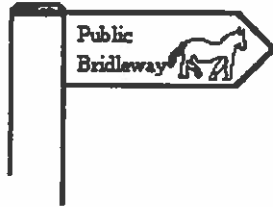
I am sorry about all the little maps but only have a borrowed large map to work from. How about investing in copies of the large scale map of the whole of North Somerset.

This also links up with Churchill School and sports centre and horse riders could avoid this road by using Duck Lane behind the Church.

Hope this gives you some ideas.

Woodspring Bridleways Association

Affiliated to the British Horse Society



Mrs V.F Craggs
Longbottom Farm,
Shipham,
Winscombe,
Somerset
Tel. (01934) 743166

11/2/98

Mr S Trevett/ Mr R Broadbent
ROW Department
Town Hall
Weston s Mare

Dear Mr Trevett and Mr Broadbent,

Thank you for meeting me on September 9 1998

I was very pleased to hear that a new start should be made together with yourselves and our Association.

We discussed the way forward of working closely together on DMMO. Agreeing that meetings should be set up to discuss each modification order so that all the evidence can be discussed. Where ever possible it was agreed that we should be trying to avoid Public Inquiries through discussions with landowners and objectors.

I hope you will agree that my suggestions for training Our Association, Officers, Councillors and Solicitors in ROW legality and documentation is paramount if we are to avoid wasting public money. [You will be aware that every single DMMO that has failed has been resubmitted with new evidence].

You will remember I suggested that NSC might be allowed to join in Somerset's training day. I look forward to hearing if this can be accomplished. However time is getting short to expect Councillors to be able to put it in their busy schedules, in which case, could we not have a training day ourselves. There are various professional groups that set these up. I hope you will agree that in the long term this will save a lot of money.

I enclose the Evidence I have acquired on Duck Street/Lane/Ladymeade Lane, and hope that you will be able to support me on getting this opened. As explained this route was being used in the early 1900's there has been no Stopping Up Order and we can follow "Once a Highway Always a Highway" saying.

My main concern is that your Highways Dept. agree that the western end is owned by them. e.g. the stream. Also can you find out how much of the lane to the east is UCR.

I only want NS's Support on this route to back me to get the route open. I believe I can achieve the work and finance on my own.

I look forward to your help in this matter.

I enclose the Documentary Evidence list for you to look at. Including the Tithe which shows the road as all other roads in the area. The 1884 OS map "S" mark appears the enclose the stream as part of the road does this not support the Councils ownership. Can you advise the width of this stream.

I Look forward to help in this matter.

Yours Sincerely,

Documentary Evidence found to date of Duck Lane/Ladyemead Lane .

1984 OS map 1 in 25000 as old track up the stream bed at the western end of the Lane and shown as an old track at the eastern end, both ends are Public footpaths. The foot path in the middle field runs approximate to the old road.

1966 A K Johnston 3 Miles to 1 inch Motor Coloured and Contoured Map shows the route clearly as all other roads in the area.

1949/56 OS 1 inch shown as pecked line footpath /bridlepath with road either end.

1946 O S Map show a footpath/bridleway in the middle section with road either end.

1940 W and A K Johnston Ltd London to Edinburgh Road Atlas 3 miles to 1 inch shows the route clearly as all other roads in the area.

1902 OS 2nd Edition shows either end of the road clearly it is approximately 18/20 feet wide. It shows to the North part of the Drove running into field no 119 It appears to be still part of the original highway and is named Ladymeade Lane even along the missing hedge line in the field. The southern part of the track is included in the road area showing an 'S' enclosing the now county road. The foot path does not appear to run in the old road which is quite usual as the lane would have been very wet at certain times of the year. Footpaths can be seen running parallel to roads all over the Country.

1938 Bartholomews half inch map North Somerset Sheet 7 shows foot paths and bridlepath in middle section. with road either end

1822 Greenwood Map shown as all other roads in the area enclosed both sides of the road.

1817 David and Charles shown as all other roads in the area, enclosed either side.

1811 Ordnance Surveyors drawings shows the old road as all other roads in the area as a through route. Enclosed either side

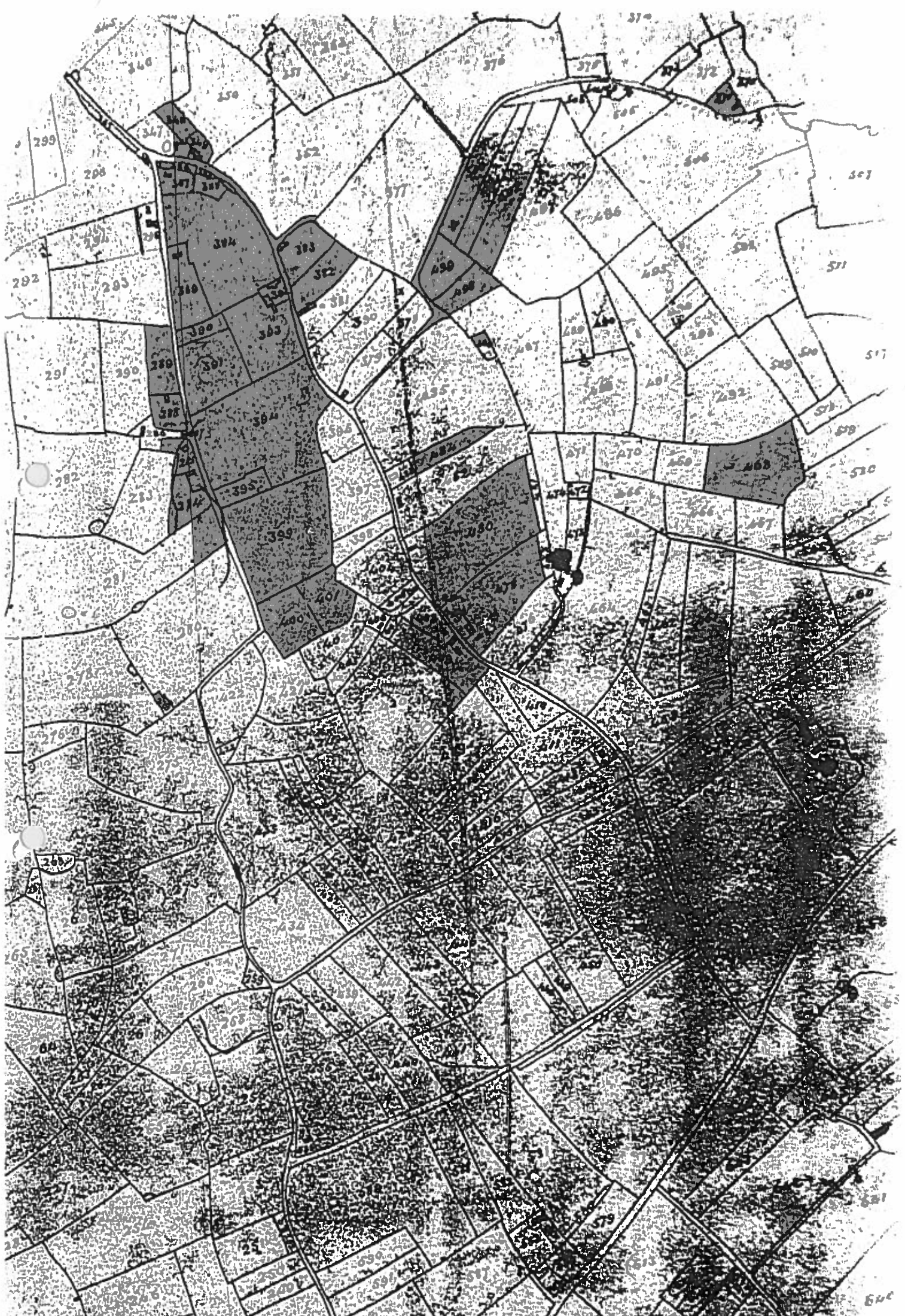
1782 Day and Masters shown as all other roads in the area. Enclosed either side.

County of Avons Smallholdings survey of Churchill Park Farm Langford shows the line of the ancient road that use to go from Stock Road to King Road and mentions the track from Ladyemead to Stock Lane. Also it is clearly shown on there map.

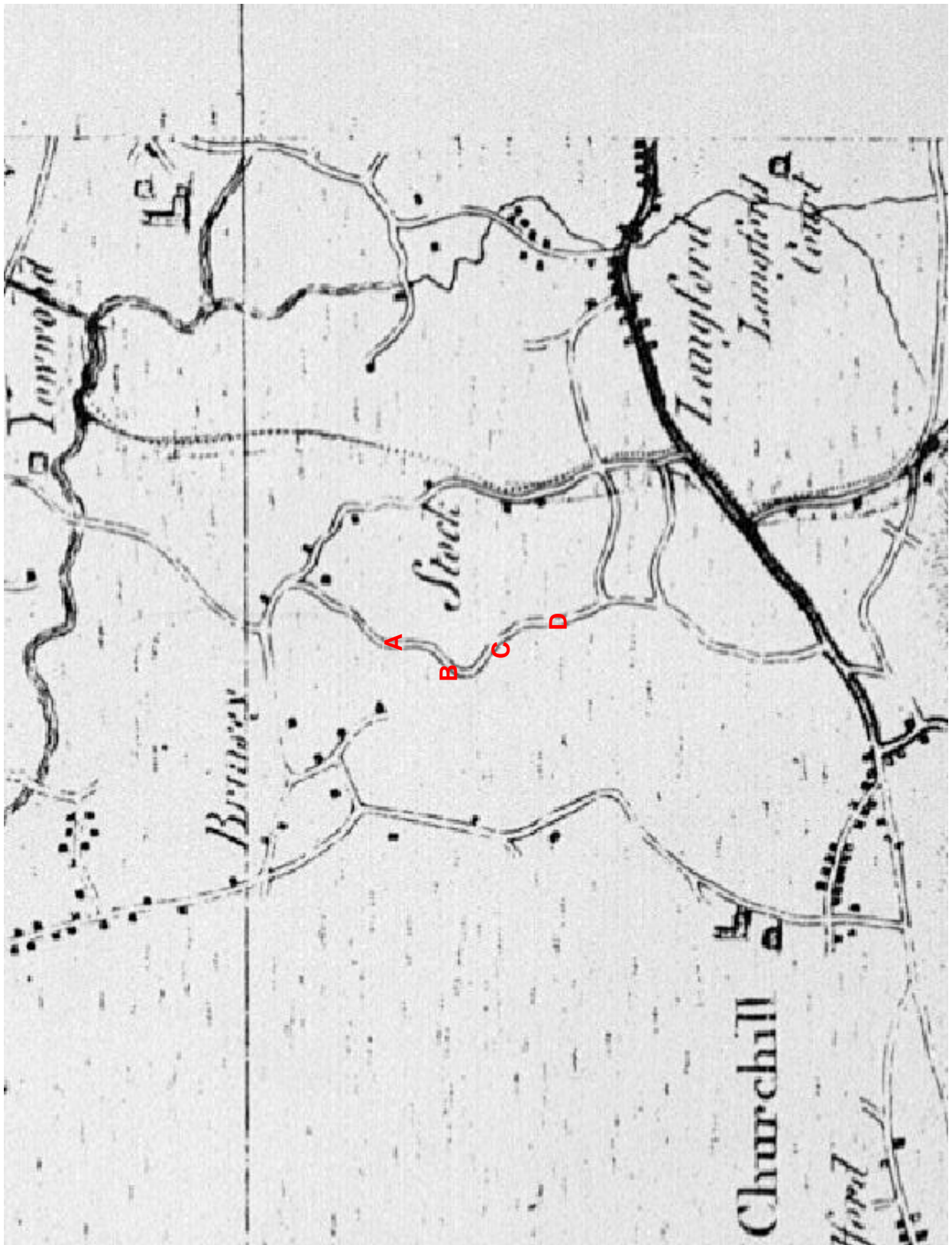
No stopping un Orders can be found. (? Just through Park Farm)

We have cataloged all subOrders in SRO, so none found.

Tytle Map as per letter 11/9/95 Shown enclosed route.

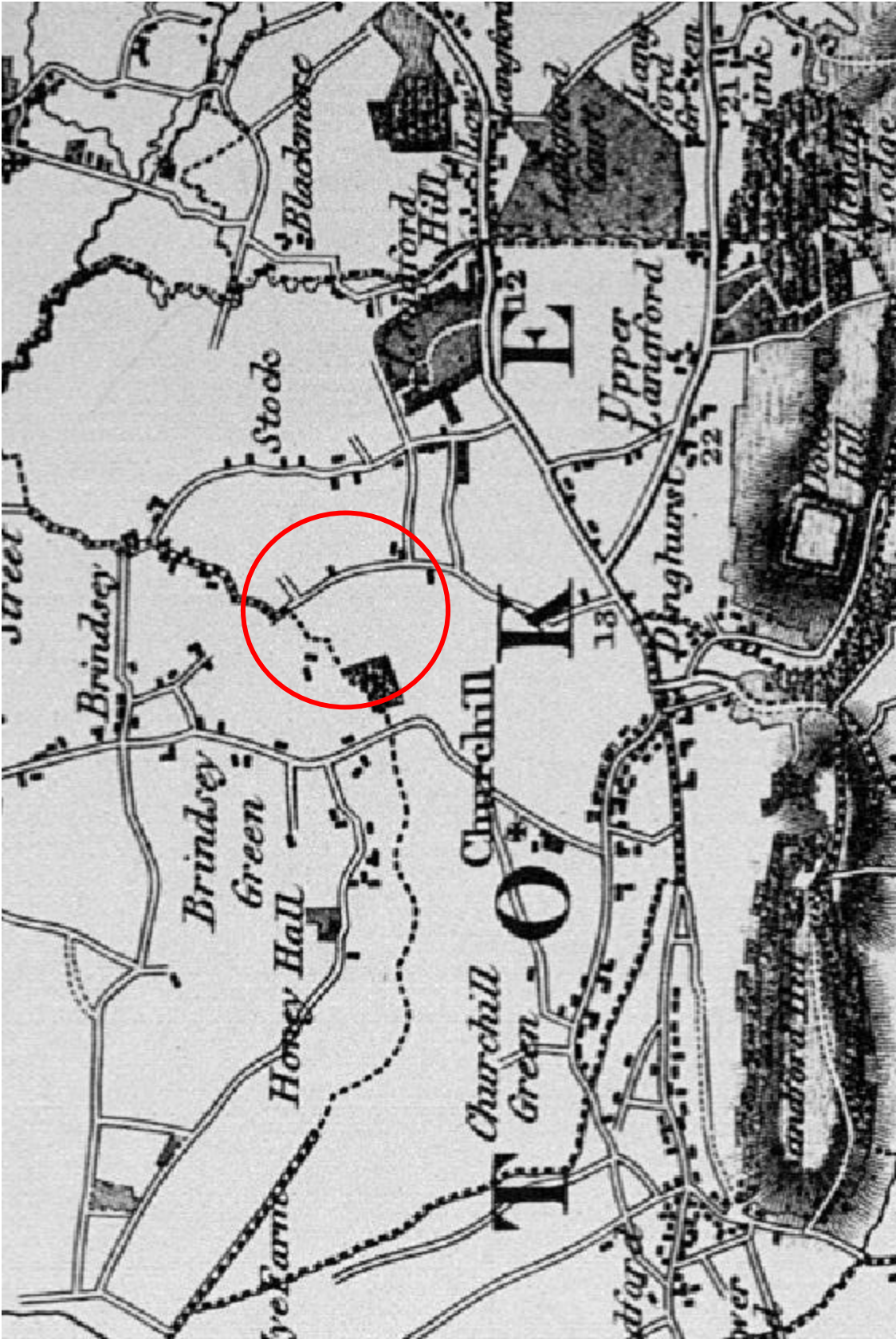


DOCUMENT 2
Day and Masters Map 1782

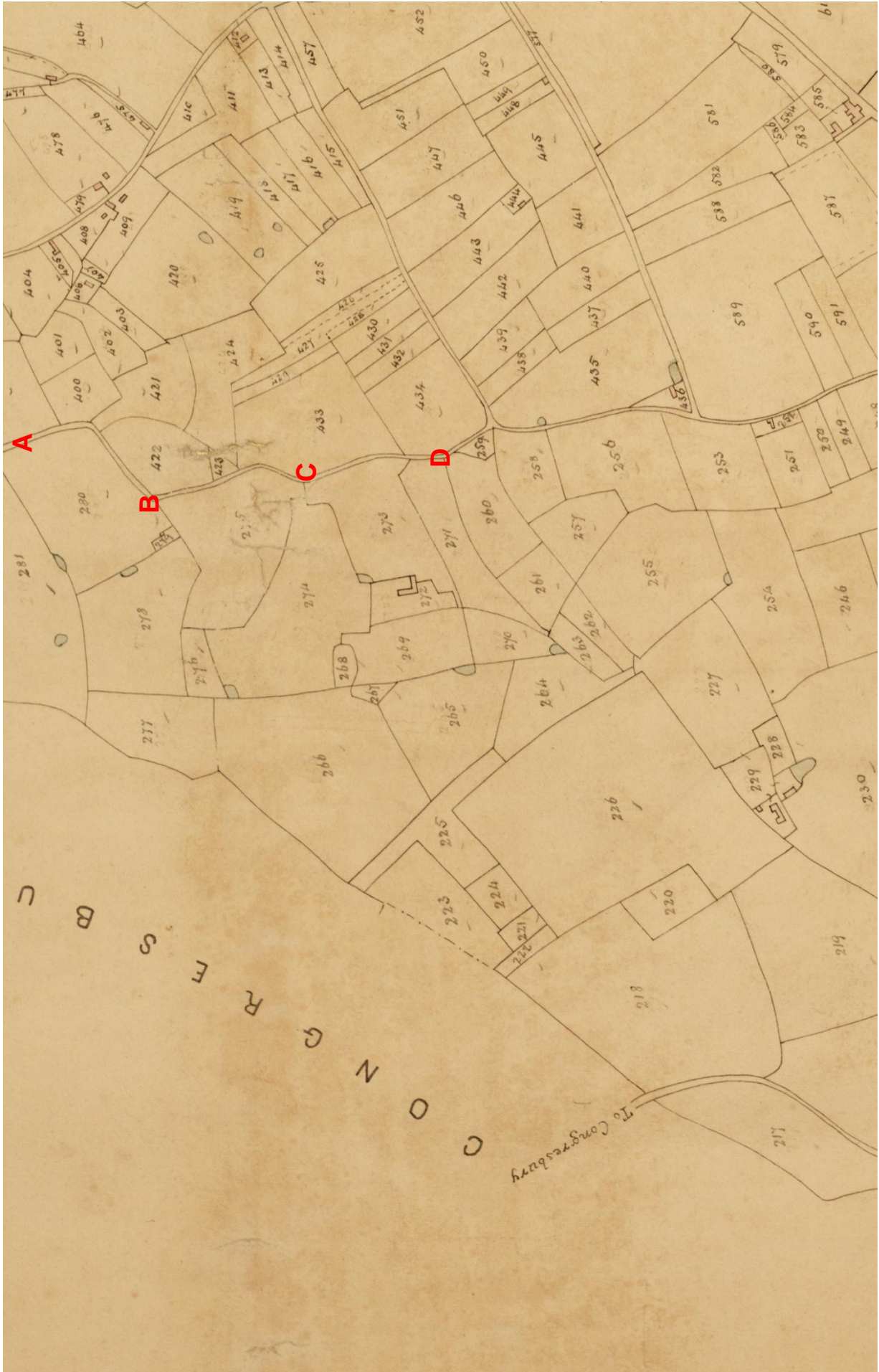




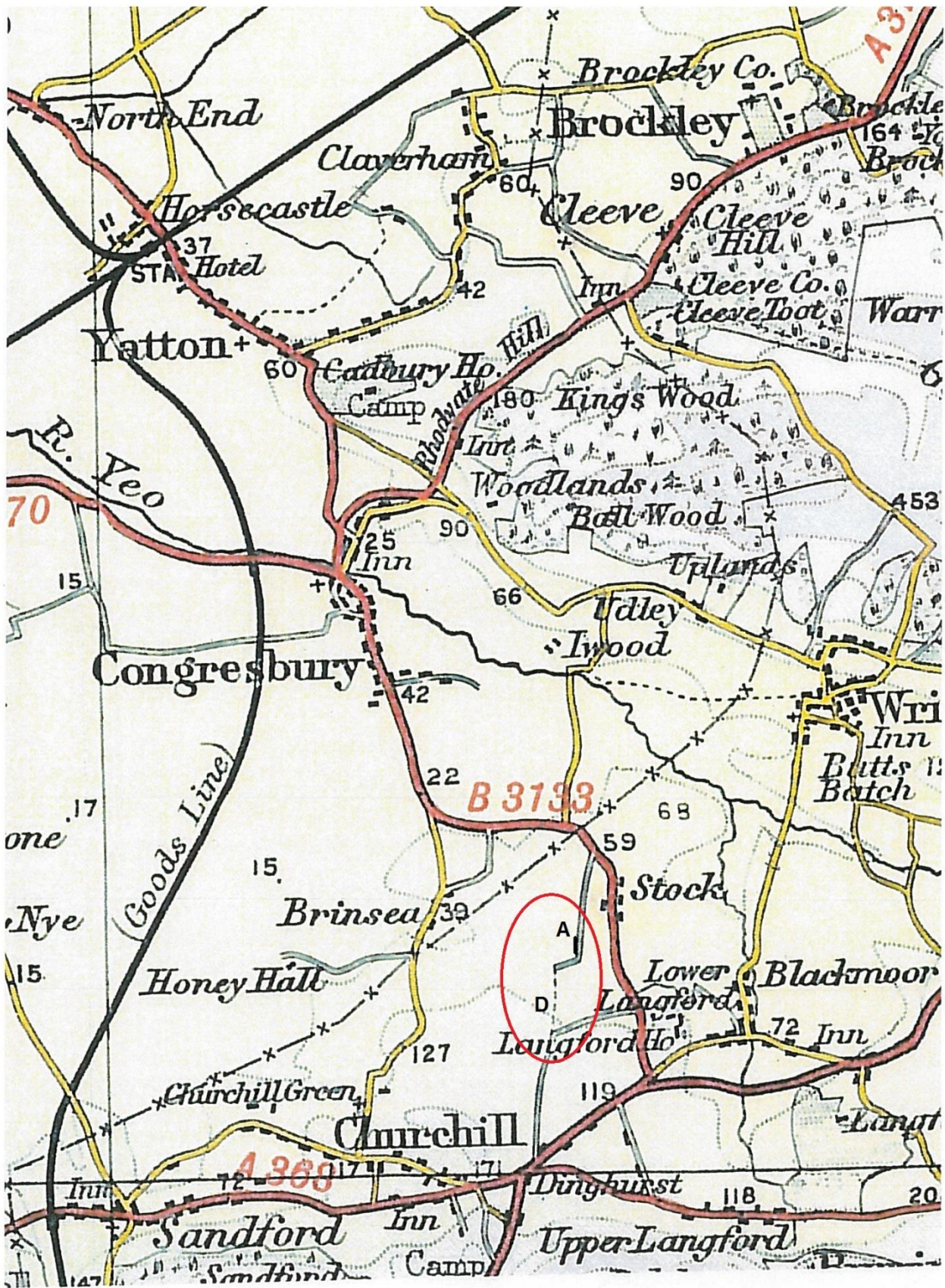
DOCUMENT 5
Greenwood Map of Somerset 1822



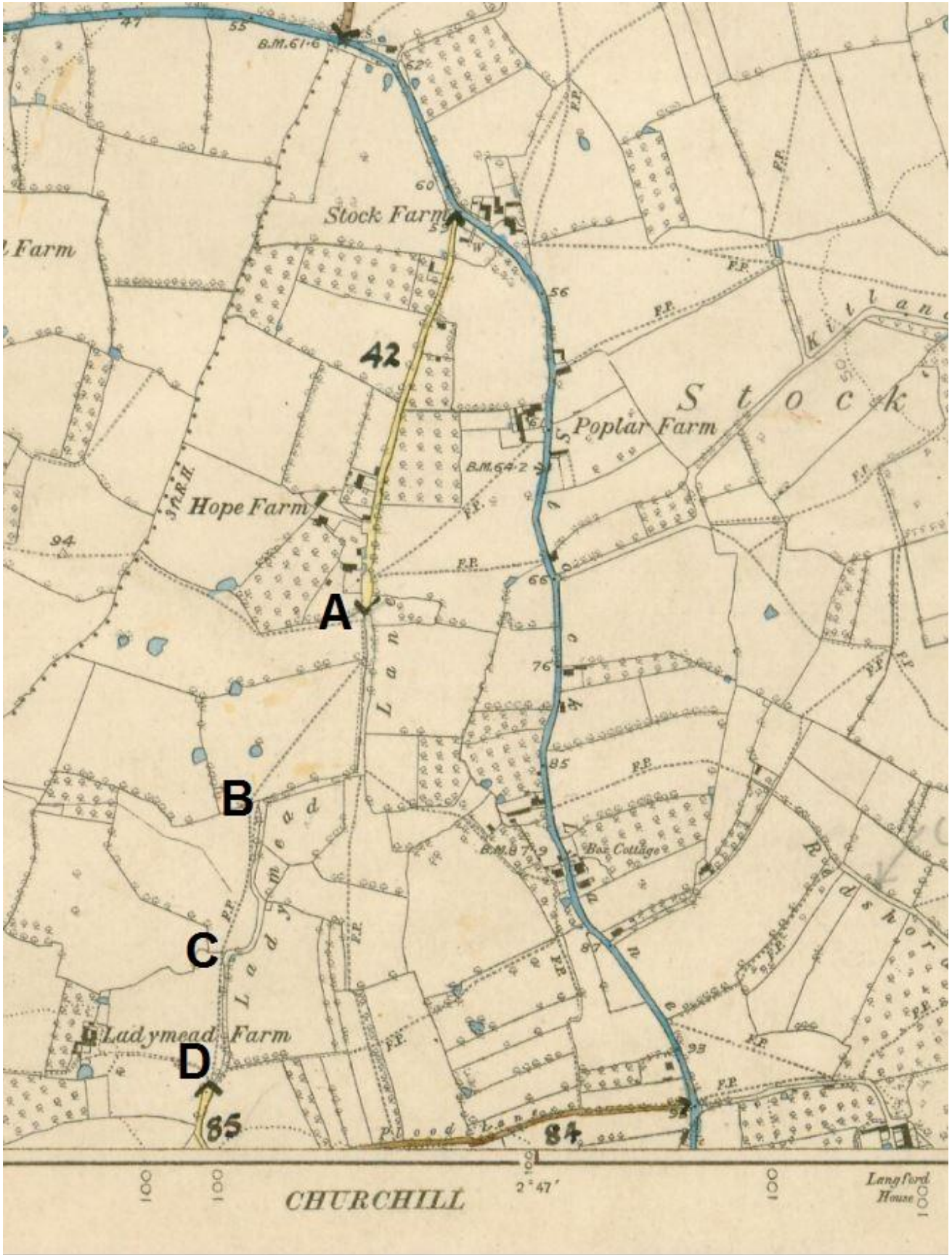
DOCUMENT 6
Churchill Tithe Map 1840



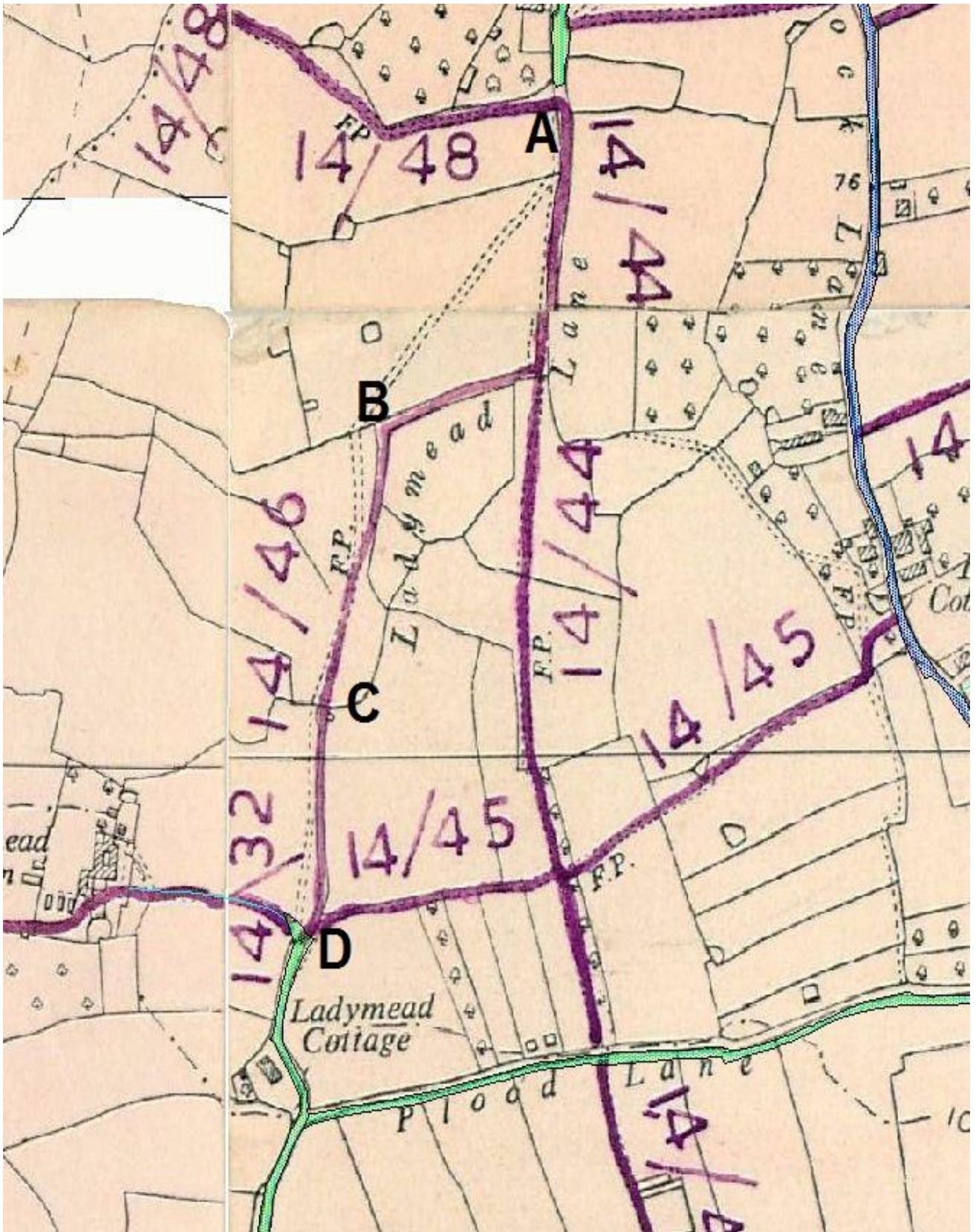
DOCUMENT 7
Bartholemew's 1/2" revised Map of North Somerset

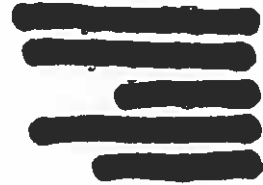


DOCUMENT 8
1930 Handover Records



DOCUMENT 9
Definitive Map Relevant Date November 1956





Mrs E Bowman
 Streets and Open Spaces
 Natural Environment Team
 Public Rights of Way
 Town Hall
 Walliscote Grove Road
 WESTON-SUPER-MARE
 BS23 1UJ



20 September 2071

Dear Mrs Bowman

Application for Modification of the Definitive Map under Section 53(5) of the Wildlife and Countryside Act 1981 – Duck Lane & Ladymead Lane, Langford/Churchill – Application to add a Byway Open to All Traffic

On 5th August 1996 I received the attached letter from Mrs Craggs and I enclose a copy of my reply.

Mrs Craggs had been to see me earlier. She expressed her wish for there to be a bridleway and asked that I dedicate land to enable this to come about - the works to be paid for by her. The implication being that if I did not, she would suggest that the stream/track was a “byway open to all traffic” (BOAT). The suggestion as expressed by the third paragraph of this letter is that the track, namely now the stream, would become a bridleway with access through our gate.

Her tone was always accompanied by an air of menace if you don't dedicate we will apply for a 'Boat'. That said if it did become a Boat, its use as a bridleway would be difficult. Following that meeting she called unannounced with a positive threat that if I did not dedicate land she would apply for a Boat.

At this point I insisted she left my house and I then wrote to the Highways Office at North Somerset Council on 4th December 1996. Copy letter enclosed.

Mrs Craggs' objective is to create a bridleway to link Duck Lane in the north and Ladymead Lane by our gate and I suggest the benefit to riders must be in question. Duck Lane access at Stock Lane is a hazard to any horse rider. Ladymead Lane from our gate to the A38 is already a busy through way to the School and Doctors' Surgery in Pudding Pie Lane and access onto the A38 by horse is at best unwise and probably dangerous.

The letter from Mrs Craggs to Mr Trevett and Mr Broadbent makes the suggestion that the route was used in the early 1900s but provides no evidence as to this.

In addition the suggestion is that the stream is owned by the Highways Department but there is no confirmation that this is so and indeed I believe it to be unlikely. Dedication as a highway stops at our gate.

On 12th November 2004 following receipt of a notice left in our porch I wrote again to the Highway Authority, copy letter attached.

In clarification of the fifth paragraph in my letter I add that it is my understanding that when Broadoak, a housing estate off Pudding Pie Lane, was developed a new storm water drain was laid in Ladymead Lane between Pudding Pie Lane and our gateway removing the open ditch except for the small ditch between Ladymead Cottage and our gate. This drain discharges into what is now a stream created by this storm drain which ends in a 3ft vertical outfall beside our gate. This 'stream' discharges into a 9inch pipe on the western side of the stream at the most northerly point of our land ownership. I assume that consent was given for this work with Local Authority approval.

Ladymead Farm was sold by auction in 1878 with some 40 acres of land and bought by a Dr. Petheram. The land and our house was farmed and accessed using the existing gate. The land was sold by the estate of the late Dr. Petheram and bought by a Mrs Jones in 1924. Her daughter married a Mr Griffen and Mrs Griffen and her son, who is still alive, sold us the farm house and 13 acres of land in 1992. Tony Griffen has no knowledge of a bridleway. The remaining land was bought by the Edwards family.

Ladymead Cottage is still owned by a direct descendant of Dr. Petheram, and was built we believe for his daughter. Mrs Heather Lee, the current owner of Ladymead Cottage lent me a photograph of her family beside our gate taken I believe in about 1900. This gate is still in situ. There is no evidence of a bridleway in this photograph. Mrs Lee was born in Ladymead Cottage and has no recollection of a bridleway through our field.

I confirm that I was aware of the public foot path through the field leading towards Duck Lane but other than that footpath, legal searches showed no bridleway or access across our land. The Ordnance Survey maps do show a public footpath. It further suggests that the alignment of the stream to the east of our land aligns with Duck Lane. See attached plan.

I am unable to find anyone alive who can confirm the use of the stream for horses, let alone a bridleway open to all traffic. Those farming Ladymead Farm would not use the stream and those from the north end of the then farm could either be from Duck Lane or access across fields owned by the farmer.

Further it appears that Mrs Craggs wishes to open what purports to be a Roman Road connecting Ladymead Lane, through Churchill Park Farm to Churchill. This route would go through the estate wall of Churchill Park Farm, it is not designated as a footpath or any other form of route and I suggest this is an unhappy use, if not a misuse, of the Countryside Act.

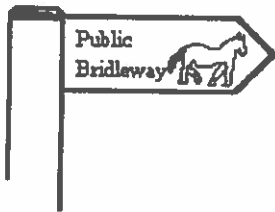
Yours faithfully

A large black rectangular redaction box covering the signature area.

Peter Harrison
Encs.

Woodspring Bridleways Association

Affiliated to the British Horse Society



Mrs V.F Craggs

Longbottom Farm,
Shipham,
Winscombe,
Somerset

Tel. (01934) 743166

5/8/96

Dear Peter and Rosemary,

Some time ago I came to see you in reference to the old road known as Lademeade Lane/Duck Lane. At this time I mentioned that our Association had done little research on the ancient road. We are now gathering documentary evidence and it appears that together with local peoples knowledge this track appears to be an old road/coffin road. I enclose the documentary evidence we have found for your information.

As I explained our Association is anxious to keep riders off as many roads as possible, this old road would be ideal to enable riders to get to and from the Mendips in safety avoiding the traffic in the very narrow part of Stock Lane, it also helps us to make excellent circular rides linking parishes.

Our Association seeks to do this in harmony with Landowners, and we ask that you would consider dedicating this as a bridleway even though it probably has a higher right as BOAT[byway open to all traffic] By a dedication this enables this track to become a bridleway, the process is quick and easy and the Highway Authority do not look into any higher right thus avoiding the possible conflict of it becoming a Boat. There is no advertising of the way and sign posts can be put up either end of the county road.

Our Association seeks to make wherever possible an enclosed track so that no conflict can arise with landowners and farming. Gates can be put in to help landowners access their fields and where possible hedges and trees.

We have already completed one project at Nye called Nye Drove with the help of local farmers this has been a great success. It was opened on April 1st this year. This

rove is similar to Ladymeade/Duck Lane having had the hedge removed. We reinstated a fence and hedge which is also recommended for a wild life corridor. Woodspring D.C. backed us on this and we now have much better riding in that area.

We hope you will be able to help us in this project and would be delighted to meet you to discuss the way forward.

I have recently been to see Mr Edwards and will enclose a similar letter to him together with the enclosed which you might find interesting.

Yours sincerely,

12 November 2004

Richard Philips
Public Rights of Way
North Somerset Council
PO Box 141
Floor 1, Somerset House
Oxford Street
Weston-super-Mare
BS23 1TG

Dear Mr Philips

Notice of Application for a Modification Order Ladymead Lane

On the 21 July whilst I was away on holiday, a notice was left in the porch of my house referring to an application made by Woodspring Bridleways Association referring to what I can only presume is Ladymead Lane. I subsequently telephoned you when you advised that there were no time pressures on me to respond.

I enclose a copy of the notice, together with the plan that accompanied it and a letter addressed to Mr and Mrs Edwards, copy to me.

When I bought Ladymead Farm, I understood the line of the now obsolete track north of Ladymead Lane followed the line of the now water course and I show that line edged in red on the attached plan.

The plan which accompanied the notice seems to follow the line of the footpath, which I show edged green where it crosses my land. It is my understanding that although this has been a footpath for many years, it has never been the course of Ladymead Lane.

Unhappily, the last owner of Ladymead Cottage, who had lived in the house all her life has recently died but I was advised by her late husband that Ladymead Lane was a track with a gully for storm water to one side and followed the red route shown on an early Ordnance Survey map. This track was then used as the main storm water out flow for the Broadoak Estate which effectively destroyed the old track and gully. I am unable to determine what Mrs Craggs is proposing for you will see in the letter which she has sent to Mr and Mrs Edwards that she herself is describing the water course as the old lane.

If the water course is to be upgraded to a byway open to all traffic, this would take place on land which I do not believe I own. If however, she is suggesting that the route should be widened encompassing some of my land over which, as far as I am aware, there has never been a public right of way other than a footpath, then I object.

I wish to place on record that Mrs Craggs has in the past approached me and asked me to dedicate land to enable a bridleway to be created on my land, following the line of the footpath by-passing the old track which is now a stream. This will mean vehicular and horse access across my drive and use of the private gated vehicular entrance to my house.

I am not prepared to dedicate land for this purpose.

Please would you formally acknowledge receipt of this letter.

Yours sincerely

P K D Harrison

PKD/MJU

4 December 1996

The Highways Officer
North Somerset Council
PO Box 41
Town Hall
WESTON-SUPER-MARE
North Somerset BS23 1AE

Dear Sir

I am presented with a dilemma and would appreciate your advice. On the eastern boundary of my land runs a stream which in times past it is suggested used to provide a link between Duck Lane and Ladymead Lane.

Unhappily the local Bridleways Association in the shape of one Mrs Craggs wish to open this as a bridleway. She advises me that if she makes application for a modification order then the Highway Authority, North Somerset Council, must investigate and if after full investigation they consider that it is a former byway, they will then declare the byway open to all traffic. If I object I am told this will trigger a public enquiry.

Frankly I have not got the spare means to be represented at an enquiry even though I take strong exception to the suggestion that my objection would trigger an enquiry, rather than the modification order instigated by the Bridleways Association. I am further told that if I agree to the modification then it is unlikely that the Highway Authority will take the matter further.

The purported link is now a stream and is the water outfall for the Broadoak Estate. If opened the costs of doing so will be high.

The ramifications of this proposal will be the increased use of Ladymead Lane by horses and a suggestion that a public footpath at Churchill traffic lights will form part of the route will further encourage horses to cross Stock Lane. I am currently engaged in obtaining statutory declarations from the former owners of my house who until my purchase lived here uninterruptedly since 1924 and at no time can they remember it being used other than for foot traffic and to gain access to their own land.

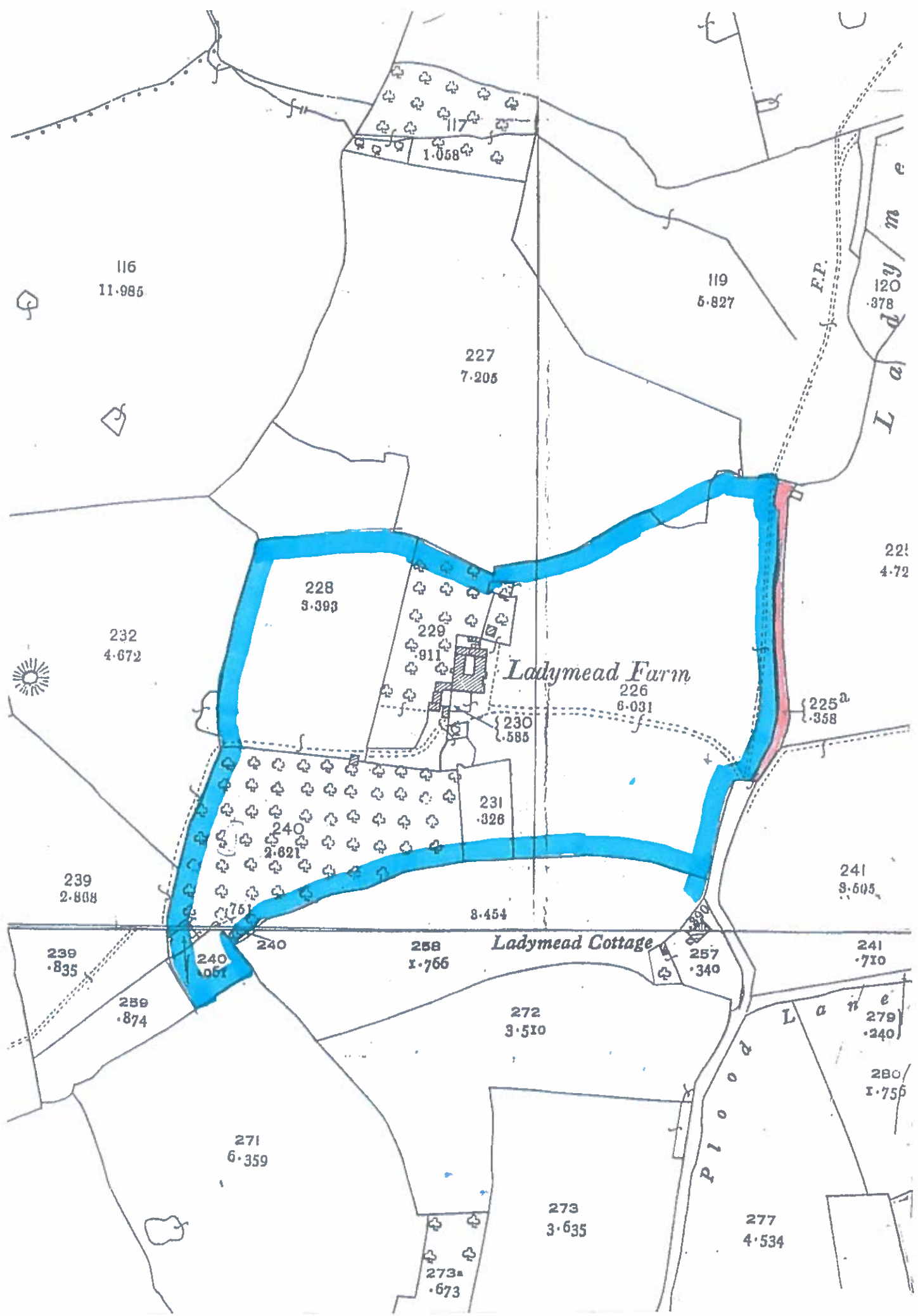
Perhaps you would be kind enough to confirm that the position outlined by Mrs Craggs is correct.

Yours faithfully

P K D HARRISON



HARDWICK & C
THE
BARW



116
11.985

119
5.827

227
7.205

221
4.72

232
4.672

228
3.393

Ladymead Farm

226
6.031

225a
.358

230
.585

231
.328

241
8.605

239
2.808

8.454

Ladymead Cottage

257
.340

241
.710

239
.835

240
.067

258
1.766

272
3.510

L a n e
279
.240

259
.874

280
1.756

271
6.359

P l o o d

273
3.635

277
4.534

273a
.673

**APPLICATION TO ADD A BYWAY OPEN TO ALL TRAFFIC TO
THE SOMERSET/NORTH SOMERSET DEFINITIVE MAP
SUBMITTED BY WOODSPRING BRIDLEWAYS ASSOCIATION Affiliated to the British Horse
Society**

**RESPONSES TO THE APPLICATION ON BEHALF OF OWNERS
MRS. D. EDWARDS AND MR. R. EDWARDS [SON]**

Introduction:

The Application made by Mrs. V. Craggs [apparently on behalf of Woodspring Bridleways Association] for a Definitive Map Modification Order [to Add a Byway Open to All Traffic ("BOAT") to the Somerset/North Somerset Definitive Map] clearly suggests a claim that the relevant Parish and District as well as the Somerset County Council erred when they collectively failed to record a way on the Definitive Map during its preparation under the requirements of The National Parks and Access to the Countryside Act 1949 ["the 1949 Act."] The Applicant therefore seeks to correct that error by claiming that "evidence" which was previously unavailable has been discovered *since* the preparation of the Definitive Map which shows – by way of a "reasonable allegation" - that a BOAT should now be Added. Why riders or leaders of horses would wish to claim a public vehicular way is somewhat of a mystery which only they can explain.

Given the clear fact that the 1949 Act only required Footpaths, Bridleways and Roads Used as Public Paths [*viz* Footpaths and Bridleways] ["RUPPs"] to be recorded, and the status Byway Open to All Traffic did not feature in any part of the 1949 Act then it is wrong to even suggest that the Parish, District and County Councils erred by omitting to record a BOAT. The evidence therefore suggests that Woodspring Bridleways Association has misdirected itself or has been misdirected by a third party.

The preparation of the Definitive Map:

1. Section 27 (1) of Part 1V of the National Parks and Access to the Countryside Act 1949 ["the 1949 Act"] is the basis for the preparation of a Definitive Map by every county in England and Wales.

2. Parish Councils were under a duty to assist the County Councils and in this regard guidance in the form of a booklet titled "Survey and Maps of Public Rights of Way for the purposes of PART 1V of the National Parks and Access to the Countryside, 1949 - Memorandum prepared by the COMMONS, OPEN SPACES AND FOOTPATHS PRESERVATION SOCIETY IN COLLABORATION WITH THE Ramblers Association; recommended by the County Councils Association and approved by the MINISTRY OF TOWN AND COUNTRY PLANNING" – this was dated January 1950. The Guidance booklet is commonly referred to as "the 1950

Memorandum" and was issued to all Parish, District and County Councils; included within the Memorandum was a single sheet Circular numbered "81."

3. Paragraph 5 of page 3 of The 1950 Memorandum's "Introduction" first acknowledges that "While it is the duty of the County Council as Surveying Authority to compile the record, it is quite impossible for them to do this unaided, and the Act therefore provides that before carrying out the survey the County Council shall consult with the councils of county districts and parishes, as to the arrangements to be made for the provision by such councils of information for the purposes of the survey."

4. Paragraph 6 of page 3 of The 1950 Memorandum continues :- "What this amounts to, in plain language, is that every County Council requires to be informed, by all District and Parish Councils in the county, what public footpaths, bridleways and roads mainly used by pedestrians and horse riders, there are in the parish."

5. The above demonstrates that the status Byway Open to All Traffic [BOAT] did not feature in the 1949 Act.

6. Paragraph 2 on page 4 of The 1950 Memorandum is titled "How to Prepare for a Rights of Way Map" and guidance is provided in five sub-sections.

7. Sub-section (i) of paragraph 2 [page 4 of The 1950 Memorandum] advises that the first step is to appoint a committee, and that it is permissible to add to such a committee persons who are not members of the Parish Council. This confirms that it is the Parish Council who ensures there is a **Committee** for the preparation of a Rights of Way map to assist the County Council.

8. Sub-section (iii) of paragraph 2 [also page 4] advises that the Committee should consult any other maps and records which may help them in assisting the County Council.

9. Sub-section (iii) continues:- These include Inclosure Award maps, Tithe maps, Parish maps, maps of admitted public rights of way deposited by owners under Section 1 (4) of the Rights of Way Act 1932, statements in writing by owners expressly dedicating paths, old Ordnance Surveys, maps in local guide books and histories, footpath rambling guides and old minutes of the Parish and District Councils.

10. The advice in sub-section (iii) as to "documents" which should be consulted when preparing a Rights of Way Map was therefore clear and comprehensive.

11. There is a legal principle of presumption - that "it is presumed that everything that was done was done correctly" - therefore unless evidence to the contrary is "discovered" then the presumption will not be rebutted; what was "done" by the Parish, District and County Councils will remain undisturbed.

The Application of 21 July 2004:

12. The Application submitted by Woodspring Bridleways Association by Mrs. V. Craggs attempts to rebut the legal presumption by relying on the following alleged "evidence" which the Woodspring Bridleways Association alleges it has "discovered" since the preparation of the Somerset/North Somerset Definitive Map - that is to say :-

(a). An extract from a "Historical Landscape and Conservation Report for Avon County Council Planning Department" - titled "County of Avon Smallholdings Survey – Churchill Park Farm, Langford."

Response: The date of publication of this Survey has not been provided. This document was not prepared for the purpose of establishing public highways and therefore has no evidential weight in a claim for BOAT.

(b). A copy of a letter sent to Messrs S. Trevett and R. Broadbent RoW department Weston Super Mare, dated 11 September 1998.

Response: Referring among other things to matters unrelated to BOAT evidence, this letter states that evidence is enclosed and there is "hope that [you] will be able to support me on getting this opened." As there is no evidence that the route was "closed" then it is not a case of the route being "opened" - it is a case of proving ["at the end of the day, on the standard of proof required" = i.e. balance of probabilities] that the route was ever and therefore is a public motorised vehicular way for the general public. This letter has no evidential weight in determining that the claimed route is a motorised public vehicular road.

(c). "Old" Ordnance Survey maps dated 1984, 1949/56, 1946, 1902 ; Ordnance Survey "Drawings" of 1811:

Response: It is trite law that Ordnance Survey maps do not record "legal status." The leading authority is Att-Gen v Antrobus [1905] which has not been disturbed. Relying on the presumption of regularity and that all things were done correctly during the preparation of the Somerset/North Somerset Definitive Map, not forgetting that sub-paragraph (iii) advised all Parish, District and County Councils to examine "old Ordnance Survey maps, " unless the Applicant [Woodspring Bridleways Association] can produce new, previously unavailable and unseen evidence which demonstrates that the Parish, District and County Councils did not consider "old Ordnance Survey" maps when preparing the Definitive Map then this is a vexatious Application which is simply re-cycling evidence already considered. The Ordnance Survey maps have no evidential weight to substantiate this claim.

(d) 1940 and 1966 AK Johnston 3 miles to 1 inch Motor Coloured and Contoured Map :

Response: Maps not prepared for the purpose of establishing public highways or recording "legal status" have no evidential weight in a claim of Byway Open to All Traffic – a status which did not exist in 1940 or 1966 - and in the absence of mapping symbology which is directly related to BOAT status could not record such a status in any event. Such a map could only record a Road which was probably capable of being used by the motoring fraternity, not a way "used mainly as a Footpath or a Bridleway."

(e) 1938 Bartholomew's half inch North Somerset Sheet 7:

Response: It is widely accepted that Bartholomew's Maps were based on the Ordnance Survey and therefore do not record legal status. This map has no evidential weight in favour of BOAT status.

(f) 1822: Greenwood's map:

Response: Features physical existence not legal status and comparative exercise demonstrates it includes "roads" which are private as well as public. The Greenwood's map has no evidential value in establishing BOAT status.

(g) 1817: David and Charles [map]:

Response: Based on Ordnance Survey maps and therefore do not record legal status. No evidential weight can be adduced from this alleged evidence.

(h) 1782: Day and Masters [map]:

Response: A "Survey" of the County of Somerset not produced for the purpose of establishing legal status of "roads" it recorded. No evidential weight for BOAT status can be adduced from this map. Moreover, like Greenwood's, comparative exercise demonstrates it records private as well as public "roads."

(i) Tithe Map ["as per letter 11 September 1998"]:

Response: There is nothing in the letter of 11 September 1998 which provides the date or the title of this alleged Tithe Map. The quality of the copy of the Map is abysmal.

In any event, Sub-paragraph (iii) of paragraph 2 on page of The 1950 Memorandum clearly and unequivocally advises the Parish, District and County Councils to examine Tithe Maps in relation to the preparation of a Rights of Way Map. Tithe Maps were produced for the purpose of identifying land which was subject to Tithe, not for the purpose of establishing public highways.

Leading authority Att-Gen v Antrobus [1905] which is undisturbed, decided that while a Tithe Map is admissible as evidence of physical existence it is not evidence of legal status. The Tithe Map has no evidential weight in the claim for BOAT and Woodspring Bridleways Association is simply re-cycling evidence already considered.

13. As the status of Byway Open to All Traffic did not feature in the 1949 Act but was introduced in the Countryside Act 1968 [an Act which was later Repealed] it would be disingenuous and even unwise to claim that such a status could feature on the 1910 Finance Act or the 1929 Handover Map and its accompanying 1929 *Unclassified Road List* – sometimes referred to as the "List of Streets". Whilst "Highway/Road Records" can [and do] record Footpaths, Bridleways and Carriageways – the evidence shows that 1929 Map and *Unclassified Road List* also includes Accommodation Roads which are not public highways. The classification "Byway Open to All Traffic" re-appeared in the Wildlife and Countryside Act 1981.

14. For the sake of completeness the definition of Byway Open to All Traffic is provided in Section 66(1) of the Wildlife and Countryside Act 1981 - and is as follows:-

“ . . . “byway open to all traffic” means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used. . . ” [my emphasis and underlining]

Therefore it stands to reason that the first test to be satisfied is that there is evidence that members of the *general* public actually and already have vehicular rights. Which clearly suggests evidence of a positive not an ambiguous nature.

15. As they have not been submitted by the Applicant as being relied upon in support of the Application, these Responses have not addressed certain documents, that is, the 1910 Finance Act Map and Field Book; the Ordnance Survey “Object Names Book” ; the 1929 Handover Map and the 1929 Unclassified Road List [List of Streets]; the 1941 Farm Survey documents; the Tithe *Apportionment* Book . If the Applicant relied upon any of the lastmentioned as evidence then it should have been attached to the Application Form. It is not for the Surveying Authority to “go out” and undertake investigative research by way of the public purse in order to bolster the Application.

In Summary therefore:-

- In order to comply with statutory requirements for a Definitive Map Modification Order it is necessary to “discover” evidence which was previously unavailable and therefore not previously seen or considered. There should also be good reason why it was not produced earlier.
- The Applicant has failed to provide any evidence of public vehicular *use* – or evidence of public maintenance [to the level of vehicular traffic] of the claimed route.
- The Woodspring Bridleways Association Application submitted on 21 July 2004 spectacularly fails to comply with statutory requirements.
- The Application simply re-cycles evidence already considered and attempts to rebut the presumption of regularity - and in doing so seeks to establish that the Parish, District and County Councils did *not* do everything correctly.
- The Responses provided herewith reveal that the Application can [unequivocally] be seen to be frivolous and vexatious and should be rejected.

Prepared on behalf of Mrs. D. Edwards and Mr. Ross Edwards by

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Wincanton, Somerset BA9 8DY.