

# **North Somerset Council**

**REPORT TO THE** **PUBLIC RIGHTS OF WAY SUB COMMITTEE**

**DATE OF MEETING:** **24 JANUARY 2018**

**SUBJECT OF REPORT:** **CLAIMED BRIDLEWAY HAVYATT COMMON.**

**TOWN OR PARISH:** **WRINGTON**

**OFFICER/MEMBER PRESENTING:** **ELAINE BOWMAN**

**KEY DECISION:** **NO**

## **RECOMMENDATIONS**

It is recommended that

the Public Rights of Way Sub Committee authorise the relevant Officer to make a Definitive Map Modification Order for the routes A-B and C-D on the grounds that there is sufficient evidence that Bridleway rights have been established.

## **1. SUMMARY OF REPORT**

This report considers an application which was made on the 9 July 2004. That application requested that two routes, crossing Havyatt Common in the Parish of Wrington, should be recorded as Bridleways. The claimed routes are currently shown on the Definitive Map as Footpath AX30/10 (A – B) and Footpath AX 30/60 (C-D) with a further section of route unrecorded between D and E. 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 Orders be made and confirmed, would be to amend the Definitive Map and Statement for the area.

The applicant has provided minimal evidence in support of this application making reference to an Enclosure Award dated 1913 referencing what is believed to be a document entitled “public Roads and Bridleway shown in brown”. It is suggested that a copy of this is in a previously determined file relating to Copthorn Lane.

This report is based on historical documentary evidence held by North Somerset Council only, no user evidence having been supplied. A Location Map EB/MOD50 showing the routes A-B, C-D and D-E 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 also welcome to inspect the files containing the information relating to this application, by arrangement with the Public Rights of Way Section.

## Location Map EB/MOD 50

**Appendix 1** – The Legal basis for deciding the claim

**Appendix 2** – History and Description of the Claim

**Appendix 3** – Applicants Evidence

**Appendix 4** – Analysis of the Additional Documentary Evidence

**Appendix 5** – Consultation and Landowners Responses

**Appendix 6** – Summary of Evidence and Conclusion

**Document 1** – Route A-B

**Document 2** – Route C-D-E

**Document 3** – Wrington Tithe Map 1840

**Document 4** – Wrington Apportionment 1840

**Document 5** – Wrington Enclosure Award Plan 1913

**Document 6** – Wrington a Enclosure Award 1913

**Document 7 & 8** – Handover Map 1930

**Document 9** – Walking Cards Footpaths AX 30/10 and AX 30/60

**Document 10** – Definitive Map 1956

## 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 North East.

## Conclusion

As this report relates to routes, A-B, C-D and D-E, two of which are currently recorded on the Definitive Map as Footpaths AX 30/10 (A-B) and AX 30/60 (C-D) it is necessary for the Committee to have regard to two legal tests:

1. Section 53 (3)(c)(ii) relating to the sections recorded as Footpaths LA18/4 and LA18/5 is 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; and;
2. Section 53(3)(c)(i) relating to the section which is currently unrecorded is whether, given the evidence available that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic.

If the Committee is of the opinion that the relevant tests have 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 5.

## 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.

### Costs

Existing Revenue Budget

### Funding

Existing Revenue Budget

## 6. LEGAL POWERS AND IMPLICATIONS

Section 53 of the Wildlife and Countryside Act 1981. 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, within 12

months of receipt. Failure will result in appeals being lodged and possible directions being issued by the Secretary of State.

## **7. RISK MANAGEMENT**

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.

## **8. EQUALITY IMPLICATIONS**

No - 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.

## **9. CORPORATE IMPLICATIONS**

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

## **10. OPTIONS CONSIDERED**

The options that need to be considered are:

1. Whether the evidence supports the making of a Definitive Map Modification Order for each of these routes.
2. Whether the application should be denied as there is insufficient evidence to support the making of an Order for any one or all of these routes.

## **AUTHOR**

Elaine Bowman, Senior Access Officer Modifications, Access Team, Natural Environment  
Telephone 01934 888802

**BACKGROUND PAPERS:** - Public Rights of Way File Mod 50

## 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, then 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 Bridleways 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 Claim

1. An application for a modification to the Definitive Map and Statement was received dated 9 July 2004 from Woodspring Bridleways Association ("The Association"). The basis of this application was that the routes A-B, C-D and D-E shown on the Location Plan (EB/Mod 50) should be recorded as Bridleways.

The evidence which the applicant wished to rely upon is stated on their application form.

1913 Enclosure Award – Copy attached

This matter is currently recorded on the Definitive Map Register as Mod 50.

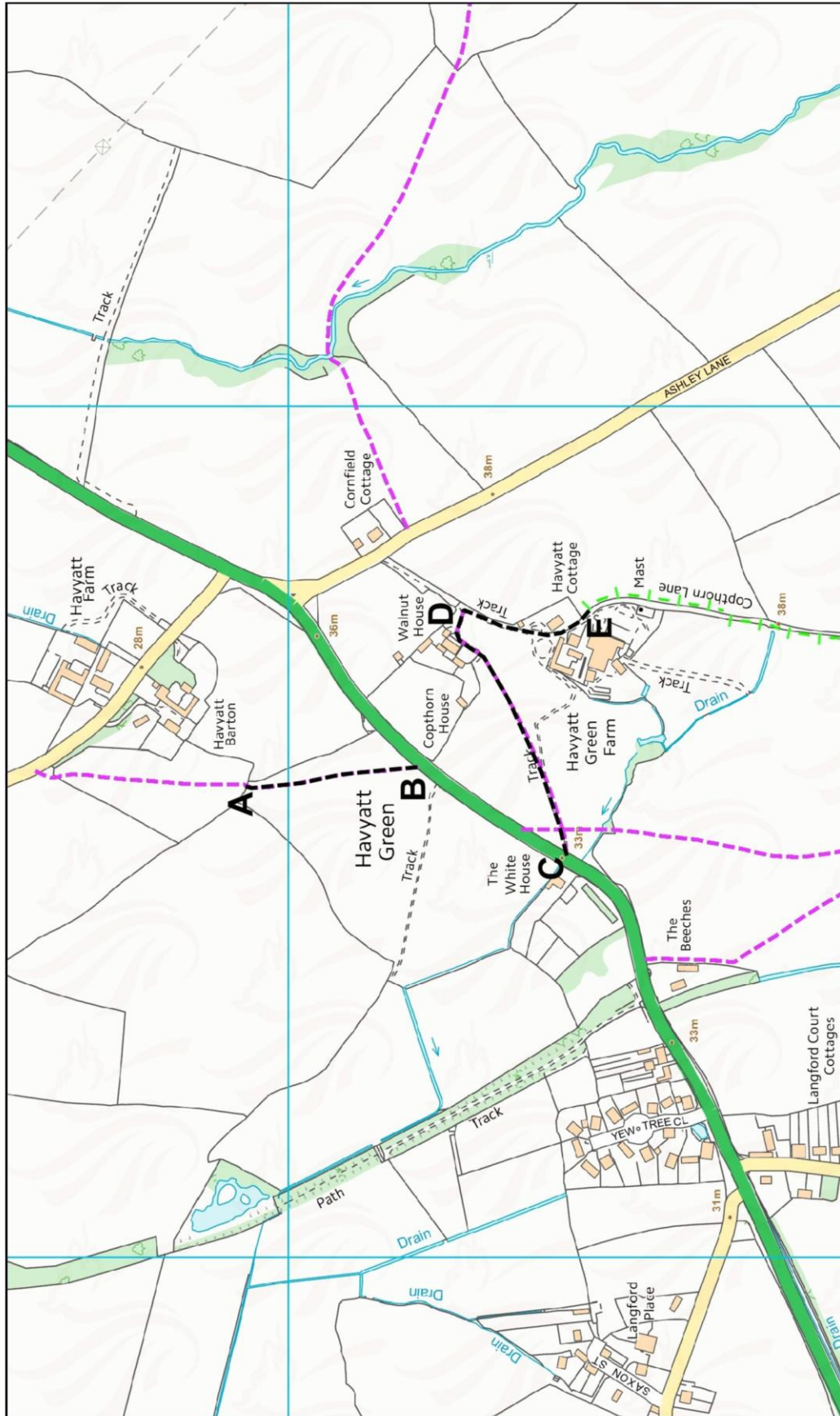
It should be noted that the Council has undertaken additional research into records that are held within the Council office. These are detailed in Appendix 4 of this report.

2. The 2004 application claims that Bridleways should be recorded over a number of routes that are currently recorded on the Definitive Map as well as adding a new route. The paths that are currently recorded on the Definitive Map and Statement which are affected by this report are Public Footpath, AX 30/10 (A-B) and Footpath AX 30/60 (C-D). The claimed routes affect routes in the Parish of Wrington.
3. The first route being claimed commences at its junction with the A38 point A and proceeds across the common on the line of Footpath AX 30/10 in a north-westerly direction for a distance of approximately 206.83 metres to Point B. At this point there is a five bar gate.
4. The second route being claimed commences at its junction with the A38 point C and proceeds across the common on the line of Footpath AX 30/60 in a south-easterly direction towards Walnut House for approximately 327.37 metres to Point D.

At point D the claimed route then joins onto an un-adopted track that travels in a southerly direction for approximately 163.90 metres to Point E, which is the start of existing Bridleway AX30/67. The route between point D and E is not an existing Public Right of Way.

5. These claimed Bridleways are illustrated as bold black line on the attached Location Map (scale 1:6000) and for clarity A-B is illustrated on **Document 1** (scale 1:5000), C-D-E is illustrated on **Document 2** (scale 1:5000).

# LOCATION MAP EB/MOD 50



**North Somerset COUNCIL**

**MOD 50 - Havatt Common, Burrington**

Grid Ref: ST4760

**Public Rights of Way**

Scale: 1:6000  
 Drawn by: Lucy Roca  
 Date: 26 July 2017  
 Time: 11:55:24

Castlewood, Tickenham  
 Road, Clevedon, BS21  
 6FW

© Crown copyright and database rights 2017. Ordnance Survey 100023387. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form. © Aerial Photography 2008 and 2014. Imagery copyright Getmapping PLC. www.getmapping.com. © and database right. Crown Copyright and Landmark Information Group Ltd. All rights reserved (2017).



### Applicants Evidence

This application has been submitted based on documentary evidence suggesting that the following document supports their claim that these routes should be recorded on the definitive map as Bridleways.

#### Wrington and Burrington Enclosure Award (1913)

The Applicant has referred to the map attached to the Wrington and Burrington Enclosure Award

Route A-B is illustrated with parallel dashed lines that are coloured orange and are shown crossing a field to Point B. What can be seen is that this depiction continues into the next field towards Havyat Lodge. Also depicted across that next field is another double pecked lined route labelled FP. This is currently recorded on the Definitive Map as the continuation of Footpath AX30/10.

Similarly, route C-D is also illustrated with parallel dashed lines that are coloured orange and are shown crossing a field to Point D. This depiction also has the lettering FP adjacent to it. However the depiction and colouring ends at Point D whereby it then joins onto the farm track to point E.

At the time that this application was submitted only reference was made to this document. However, prior to the Public Rights of Way Sub Meeting on 15 November 2017 further documentation was submitted which elaborated upon this and needed further research.

This additional information was a Proof of Evidence produced by a gentleman called Roderick Dixon. This proof related to another claimed route known as Copthorn Lane. Within this document reference was made to the Enclosure Award 1911 – 13 drawing particular attention to extracts which related to “public roads and bridleways”.

This read “The enclosure, one of several in the area under the award, near to Copthorne referring to Havyet Green, contains the words: A right of free access at all times to the Commons and a privilege of recreation by walking and enjoying air and exercise thereon provided that no person while exercising such privilege shall be accompanied by a dog unless under control and that no person shall side over or upon any part of the Commons other than a carriage road or bridleway”.

“Another paragraph indicates that these “public roads and bridleways” are shown coloured brown.

This document seems to be implying that the routes coloured brown on the enclosure award were regarded as Bridleways. Unfortunately, the whole document was not included, only 5 pages of photocopied pages, some of which were in poor quality.

From the information submitted by the applicant it was not apparent as to the authenticity of this later documentation. It could be suggested that this Enclosure Award which is a lot later than others made for the area was specifically to establish this land as Common Land.

An extract of this map is attached as **Document 5**.

### Analysis of the Additional Documentary Evidence

The claim submitted by the applicant is based only on one piece of documentary evidence, no user evidence has been submitted. However in line with the decision recently taken by the Public Rights of Way Sub Committee minimal Historical Evidence has been looked at to assist this report.

#### **Wrington Tithe Map and Apportionment (1840) Somerset Record Office Ref: D/D/Rt/M/97 and D/D/Rt/A/97**

On the Tithe Map that represents the Parish of Wrington, the claimed routes are not specifically shown. However we are able to establish the area in which they would be located and can still identify the points on the map which is attached in **Document 3**.

The two fields and highway that the routes are located on is numbered 753 which with reference to the apportionment states that the land is owned by Harry William the Duke of Cleveland, to which is occupied by William Parker and describes the land as 'Havyet Farm'.

The Apportionment is attached in **Document 4**.

#### **Finance Act (1910) North Somerset Council**

Unfortunately I am not in receipt of a copy of the relevant section of the Finance Act plans for the area of Havyatt Common, so I am unable to produce an analysis on this.

#### **Burrington & Wrington Enclosure Award (1913) Somerset Record Office Ref Q/RDE 161**

As previously explained this document was referred to by the applicant but not supplied. Initial investigation at the Record Office had located the plan but not the award associated with it. However, following receipt of the document from Mr Dixon a further visit was undertaken and eventually the complete documentation was found.

This enclosure Award was produced and signed by George Pemberton Leach on 31 December 1913. This document reads

"WHEREAS a Provisional Order of the Board of Agriculture and Fisheries (hereafter referred to as "The Board") for the Regulation under the provisions of the Inclosure Acts 1845 to 1899 of certain lands called or known as Burrington Ham Blackdown and Langford Green in the Parish of Burrington in the County of Somerset and Havyat Green which is partly in the Parish of Wrington in the same County (but in the Tithing of Burrington) and partly in the said Parish of Burrington (thereinafter and hereinafter referred to as "the Commons") was confirmed by the Commons Regulation (Burrington) Provisional Order Confirmation Act 1911:

The relevant provisions within this document relating to Havyat Common

***AND WHEREAS the Conservators to be appointed under the said Provisional Order as hereinafter mentioned are to have power under the said Order to set out make and maintain carriage roads bridle-paths and footpaths over the Commons in such directions as may appear to them most commodious;***

***AND WHEREAS inquiry has been made of the persons interested in the said Commons and the Parish Councils of Burrington and Blagdon and the Axbridge Union Rural District Council the Highway authority for the District have been consulted as to the existing public roads and bridleways on or over***

***the said Commons and all such public roads and bridleways as upon the information so obtained appear to exist on or over the said Commons are delineated on the Map hereunto annexed and are thereon coloured brown;***

***3 (1) A right of free access at all times to the Commons and a privilege of recreation by walking and enjoying air and exercise thereon provided that no person while exercising such privilege shall be accompanied by a dog unless under control and that no person shall ride over or upon any part of the Commons other than a carriage road or bridleway; and***

A copy of the plan and a full copy of the transcription of the Award is attached as **Document 5 and 6**

### **Handover Map (1930) North Somerset Council**

The purpose of these plans was to illustrate routes which were considered to be public highways maintained by the local authority. As can be seen routes are coloured according to their differing category, Red being main routes, blue being secondary routes and yellow minor highways. These extracts are taken from the OS sheets for 11SW and 18NW which relate to the parishes of Burrington and Wrington and illustrate the area of land over which the claimed routes within Havyatt Common cross.

Route A-B is illustrated with a dashed line that runs the full length of its route, to which point B would enable access to Havyatt Lodge and Farm that is labelled on the map.

Similarly from C-D the route is presented on the map with a dashed line and indicates the symbol 'F.P'. This leads the full length to point D whereby it then ends and joins onto the track leading to Point E. This track is coloured yellow which indicates that at this time the route was considered to be a minor highway. This implies that it was maintained by the local authority. However, the rest of the routes are not coloured in any way.

Extracts of these Maps are attached in **Document 7 and 8.**

### **Definitive Map (1956) North Somerset Council**

The definitive map process was carried out over many years going through various processes which involved the area being surveyed by local people and advertisements being placed detailing that maps were being held on deposit for public viewing. This process was carried out through a Draft, Draft Modifications and Provisional stage before the Definitive Map was published. Any objections about routes that were included or routes that had been omitted were considered by Somerset County Council and amended if considered relevant.

This definitive map illustrates both the claimed routes of A-B and C-D but not the section D-E. These are depicted as Footpath AX30/10 and AX30/60.

The walking card for AX30/10 reads "FP The path starts at gate NW of Havyet Lodge. Obstruction – fence & wire – at beginning of path. Across field to stile which is obstructed

by iron hurdles. Across Havyet Green without obstruction till reaching road. This is signed by C Marshall and J Lee, dated 25 Sept 50, stamped by Rural District Council 24 Aug 1951.

The walking card for AX 30/60 reads "FP (BR underneath crossed out). The path starts at Main Bristol Bridgewater Road across Havyatt Green to Havyatt Farm". However pencil insertions have been recorded which amend this to read .... Havyatt Green to County Road Copthorn Lane (No 48) at Havyatt Green Farm [Sec61]". This is signed by W Gunning? And Col J Lee dated 21.1.51, stamped by Rural District Council 24 Aug 1951. These are attached as **Document 9**.

The suggestion that Copthorn Lane was at this time considered to be a County Road (point D) suggests that public rights existed over the section D-E. This section is currently shown on the Council's adoption records as coloured brown and annotated as Unclassified Road. It provides connection to bridleway AX30/67. Public Rights over the section D-E are therefore already in existence so inclusion in any future Order is not necessary. Should the current status of this route change

No evidence has been found to show that any challenges were made to the depiction of these routes during the Definitive Map Process

This map is shown in **Document 10**.

## **Consultation and Landowner Responses**

A pre-order consultation letter was sent to adjoining landowners and interested parties on the 27<sup>th</sup> July 2017. The following responses have been received.

### **Consultation Responses**

The following parties responded to this consultation, the content of their response also being recorded.

<b>Name</b>	<b>Objection or Supporter</b>	<b>Comment</b>
Green Lane Protection Group Bristol Water	No Objection  No Objection	No wish to make a representation on this one.  We wish to inform you that part of the bridleway will be in our easement strip which extends 2.5 metres either side of the pipeline and within which any proposed construction works would be strictly regulated. We shall also require vehicular access along the length of the pipeline at all times and therefore your proposals should take this into account. You should also ensure that no reduction in cover to increases in ground levels, more than 200mm over out pipeline, take place. We confirm that we have no objection to the proposed modification of the bridleway so long the above requirements are adhered to.
Virgin Media	Information	I enclose a copy of our above referenced drawing, marked to show the approximate position of plant owned and operated by Virgin Media. You will be aware that you have a duty to ensure that no damage results to this apparatus may contain Fibre Optic, Coaxial and/or 240v Power Cables and as such, special care must be taken when excavating this area.
Atkins Global	Objection	We confirm that Vodafone has apparatus in the area and advises that we have a qualified objection to the order unless you, or your applicant, provides WS Atkins with written assurances, quoting our reference, as to the safeguarding of Vodafone apparatus and the reimbursement of costs for any works necessary. As-built records showing our apparatus enclosed.
National Grid	No Objection	There is no record of apparatus in the immediate vicinity of your enquiry. Candent and National Grid therefore have no objection to these proposed activities.
Mark Palmer – Openreach	No Objection	Openreach does not appear to have plant in the area of your proposals. Openreach will not object to this order, however, we will insist on maintaining our rights under the appropriate legislation. If plant has to be resited then charges will be raised to recover these costs. Please ensure that the developer/owner is aware of this information; if you have any queries regarding this matter please do not hesitate to contact me.
V Craggs – Woodspring Bridleways Association	Information	There were 3 different Commons on the network of ways connecting them with the existing Highways. So only parts of the ways were Awarded the remaining lengths were pre-existing evidenced by the Award Map.

The Tythe map show they are vested in the Highway Warden because they were Private Roads the responsibility of the Highway Warden, was only extended to keeping them in the same condition that they had always been.

All this info is on the Tythe and I.A.

There was evidence attached IA copy in the Copthorne Lane File ETc. Also Seem to remember sending in the Burrington Commons Regulations. Identical to The land on the Mendip Hills.

I have a photo where they have a portable Cattle grid with no walkway at the side, electric fencing.

A Brown

Objection

I wish to lodge an objection to these proposals for the following reasons:-

1. My family have lived as Havyatt Green for 101 years and I have lived here for 72 years. Our farm completely surrounds Havyatt Green and during all the time I have lived here I have NEVER seen a horse or a cyclist use either of these footpaths. Equally I never heard my father, who moved here in 1916, talk about horses using these footpath either.

2. Both these footpaths finish on the A38. Footpath AX30/60 meets the A38 at point C on the map, just before the worst corner for miles on the A38. We own the land adjacent to this bend and regularly have cars, and indeed on occasions lorries, leave the road here and smash through the fenced hedge into our field. These accidents can be verified by police incident records as they are regularly called to the scene. Indeed currently there is a great hole in this hedge where a car has gone through it and one of the safety chevrons is smashed.

Footpath AX30/10 meets the A38 at point B on your map, another very dangerous stretch of road. Indeed in 1985 a pedestrian, Gwen Langman, was KILLED here attempting to cross the road.

3. Havyatt Green is open access land and as such is unfenced along the A38 which at this point has the national speed limit of 60mph. It is common land with grazing rights for stint holders one of whom is ourselves. In order to exercise our grazing rights we have permission from the Conservators of the common to erect a temporary electric fence along the A38 and the access road leading to Copthorn House. Any Bridleway permitted across the common would severely compromise our ability to exercise this right.

4. Footpath AX30/10 from points A to B would appear to be a needless bridleway.

5. In a NE direction footpath AX30/60, links up eventually to with Ashley Lane at a VERY dangerous junction. In a southerly direction it meets Copthorn Lane which is already a designated bridleway. As a point of information for some reason horses get spooked by Copthorn Lane. On many occasions I have called upon to assist with situations where horses have bolted or got into difficulties using this bridleway. On one such occasion the horse threw its rider and proceeded to bolt straight across the A38 narrowly avoiding the fast moving traffic. The consequences of this incident could easily have been too horrific to contemplate. As a result of these issues very few horses ever attempt to use this bridleway. In addition to this the southerly point of Copthorn Lane meets the A368 at a very dangerous blind spot.

## **Bye Laws and Regulations in respect of Burrington Commons**

Information handed to the relevant officer at the PROW Sub Committee meeting on 15 November 2017 entitled the Bye Laws and Regulations in respect of Burrington Commons. These relate to commons situate in the Parishes of Burrington, Priddy and Wrington in the Counties of Somerset and Avon, for the proper management and control of the said Commons.

Within the first paragraph of the text Burrington Commons is described as comprising Burrington Ham, Blackdown and Langford Green, and Havyet Green.

These were produced for the proper management and control of the said Commons and are described as in substitution for the Bye Laws confirmed on the 11 Day of May 1915. ByeLaw No 21a reads “ No unauthorised person shall break in or exercise or cause to be broken in or exercised any horse or other animal on the Commons or any part thereof nor ride over or upon any part of the commons other than the carriageways and bridleways”

This then continues as b) which reads “No unauthorised person may ride, break in or exercise or cause to be ridden, broken in or exercised any horse or animal upon any bridleway ways or carriageways which the Conservators by reason of the state of the ground of the bridleway or carriageway temporarily close.

These Byelaws have been signed by J Alvis and A Gouldsmith as Conservators of the Burrington Common dated 14 December 1981, and confirmed by the Secretary of State on the 12 May 1982.

These byelaws seem to be consistent with the information gained from the Enclosure Award

### **Date of Challenge**

For public rights to have been acquired under Section 31 of the Highways Act 1980, a twenty year period must be identified prior to an event which brings those rights into question.

No evidence has been submitted to either suggest that use has been challenged or that these claimed routes have been used at all. Therefore deciding on the period when a date of challenge could be established is extremely difficult.

## **Summary of Evidence and Conclusion**

### **Summary of Documentary Evidence**

The documentation which has been looked at dates back to the Wrington Tithe Map 1840. This map illustrates the land similar to how it is today but does not illustrate any routes across it.

The Enclosure Award dated 1913 is based upon an early OS Map. I have undertaken a comparison with an 1888 OS Map which has confirmed that this is not the same. Therefore the presumption is that the base map is 1903. Further to analysis of the late evidence submitted by the applicant the plan clearly illustrates the two claimed routes coloured brown.

The Award details the role of the Conservators and confirms that they are to have powers under the Order to set out make and maintain carriage roads, bridle paths and footpaths over the Commons.

The Award confirms that persons with an interest in the Commons, Parish Council's and Axbridge Union Rural District have been consulted as to the existing public roads and bridleways on or over the said commons.

The Award states that all such public roads and bridleways as upon the information so obtained appear to exist on or over the said Commons are delineated on the Map and there coloured Brown.

Therefore the mapping is consistent with the description contained within the Award and the claimed routes were believed to be bridleways in 1913.

The base map (1888) for the 1930 Handover maps show the alignment of the claimed routes as depicted upon the Definitive Map as footpaths.

Whilst it is clear that footpaths were recorded on the Definitive Map in 1950, the guidance clearly advised that all ancient documentation should be looked at when undertaking the survey process. The information contained within the Enclosure Award does not seem to have been observed and only the use that was being exercised at that time recorded.

No evidence has been located to show that these routes were ever legally downgraded to footpath. Therefore under the maxim of "Once a Highway, always a Highway" this would suggest that the existing records shown on the Definitive Map should be amended to reflect that shown on the Enclosure Awards.

Taking all the documentary evidence which is detailed in this report into consideration there is no doubt that the inclusion of these claimed routes upon the Burrington and Wrington Enclosure Award is clear evidence that these routes should be recorded as Bridleways.

Therefore, based on this documentary evidence, the Officer supports the claim that these routes should be Bridleways.

### **User Evidence**

No user evidence has been submitted to support this application.



## Summary of Landowner Evidence

As detailed within **Appendix 5** out of the consultation which received 8 responses. 2 responses are objections, two offering information, no responses of support and four confirming no objection. One of those objecting has provided information relating to their personal knowledge of the area of land.

In addition to this a copy of the Bye Laws associated with the Commons were provided. As described Byelaw 21a and b seem to be consistent with the wording of the Enclosure Award acknowledging the existence of bridleways over the commons. Whilst these Byelaws relate to a number of commons as detailed earlier within this report it does support the evidence contained within the Enclosure Award. No further evidence was submitted which could have been included within this report.

The writer has known the land for 72 years man and boy and does not recall horses ever using these routes. As previously mentioned that is probably true as the footpath survey was undertaken 64 years ago and although bridleway was written but subsequently crossed off one of the walking cards only Footpaths were recorded on the Definitive Map.

However, a highway does not cease to be a highway if not used. Therefore the bridleways recorded upon the Burrington and Wrington Enclosure Award are still bridleways unless the legal process of removing or downgrading them has been undertaken.

## Conclusion

This application affects routes which are already recorded on the Definitive Map as Footpaths as well as an unrecorded route. 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 legal tests that should be applied.

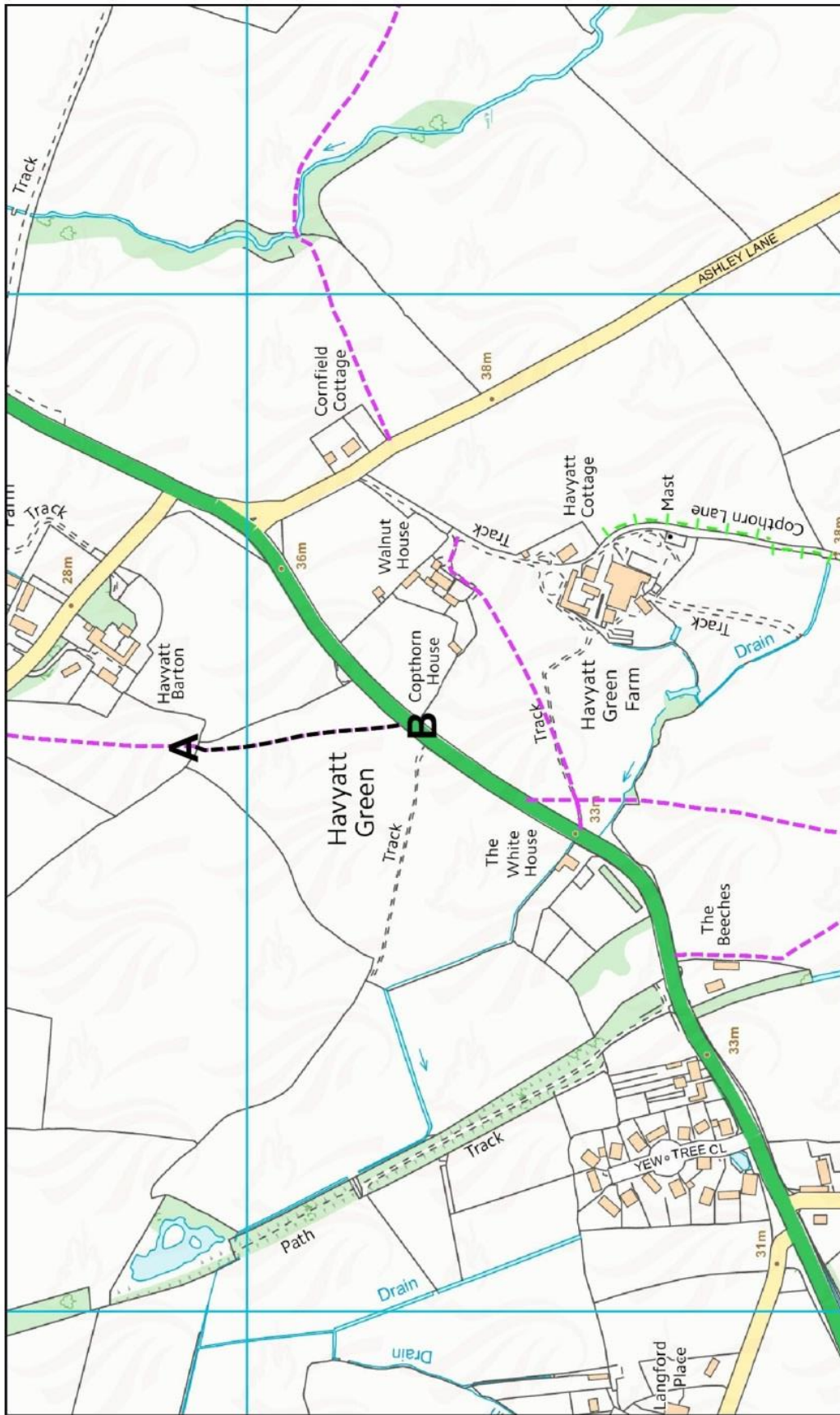
In regard to the routes A-B and C-D as these are already public footpaths the higher test of “ought” to be shown as a route of a different status needs to be applied. It is quite clear from the evidence contained within the Enclosure Award that these routes were believed to be bridleways.

In respect of the route D-E “does a route subsist or is reasonably alleged to subsist”. The historical evidence shows that a farm access track has been in existence since 1840 and that track has been considered in the past to be a route maintained by the local authority, albeit of a very minor nature. Today this route is recorded as an unclassified highway called Copthorn Lane and provides connectivity to Bridleway AX30/67. Therefore public rights already exist over this route.

Based upon all of the information contained within this report it is felt by this officer that there is sufficient evidence to support this application.

The options that need to be considered are:

1. Whether the evidence supports the making of a Definitive Map Modification Order to upgrade A-B Footpath AX30/10 to a Bridleway.
2. Whether the evidence supports the making of a Definitive Map Modification Order to upgrade C-D Footpath AX30/60 to a Bridleway.
3. Whether the evidence supports the making of a Definitive Map Modification Order to add the route D-E as a Bridleway to the Definitive Map.
4. Whether this application to upgrade Footpath AX 30/10 and Footpath AX30/60 to Bridleway and to add the section D-E as a Bridleway should be denied as there is insufficient evidence to support the making of an Order.



**North Somerset COUNCIL**

**MOD 50 - Havatt Common, Burrington**

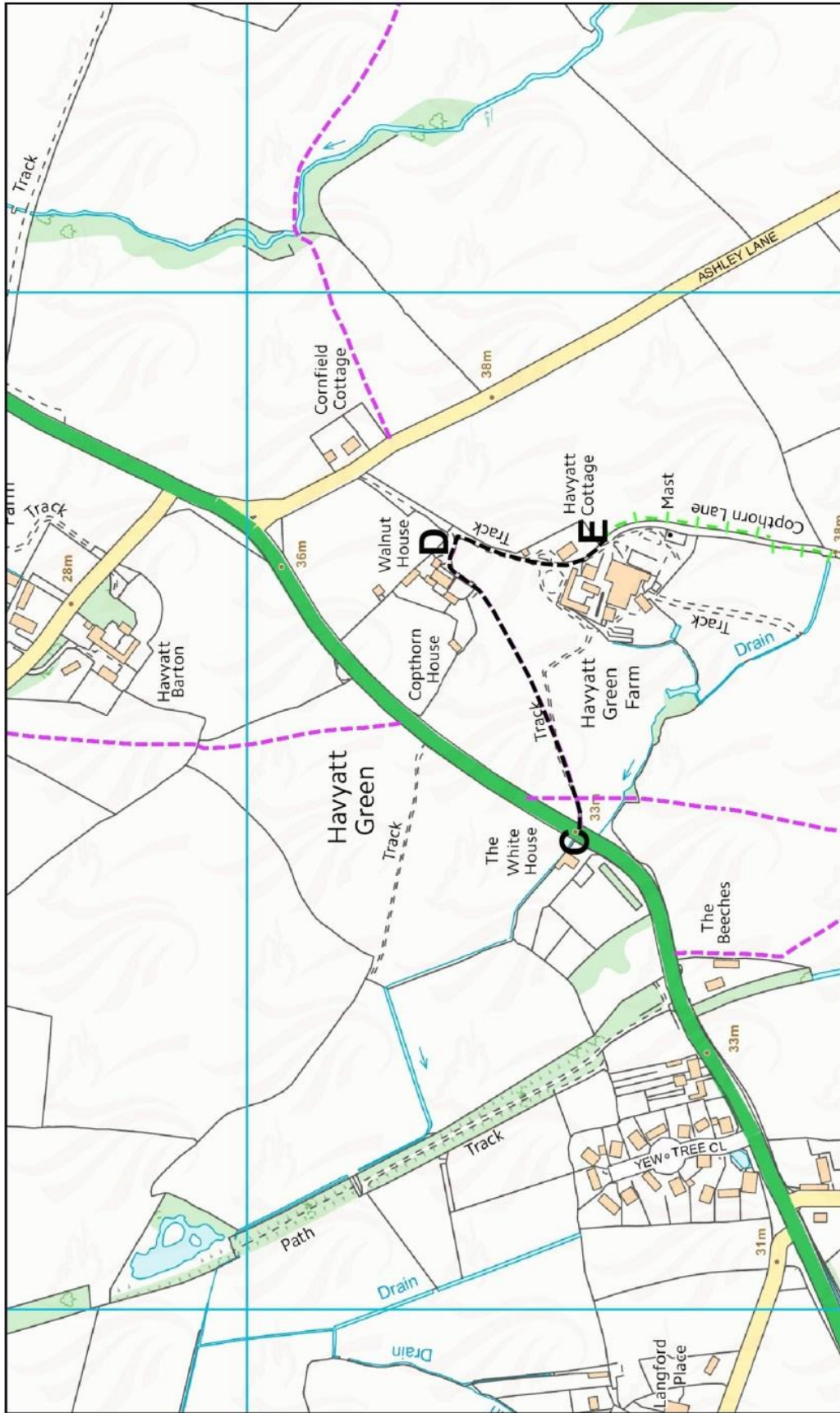
Route A-B

**Public Rights of Way**

Scale: 1:5000  
 Drawn by: Lucy Roca  
 Date: 07 September 2017  
 Time: 12:43:08

Castlewood, Tickenham  
 Road, Clevedon, BS21  
 6FW

© Crown copyright and database rights 2017 Ordnance Survey 100023837. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form. © Aerial Photography 2003 and 2014 Imagery copyright GeoMapping P.C. www.geomapping.com © and database rights GeoMapping P.C. www.geomapping.com © and database rights GeoMapping P.C. www.geomapping.com



**North Somerset COUNCIL**

**MOD 50 - Havatt Common, Burrington**

Route C-D-E

**Public Rights of Way**

Scale: 1:5000  
 Drawn by: Lucy Roca  
 Date: 07 September 2017  
 Time: 12:45:52

Castlewood, Tickenham  
 Road, Clevedon, BS21  
 6FW

© Crown copyright and database rights 2017 Ordnance Survey 100023837. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form. © Aerial Photography 2003 and 2014 Imagery copyright GeoMapping P.C. www.geomapping.com © and database rights GeoMapping P.C. www.geomapping.com © and database rights GeoMapping P.C. www.geomapping.com



DOCUMENT 3  
WRINGTON TITHE MAP AND APPORTIONMENT 1840





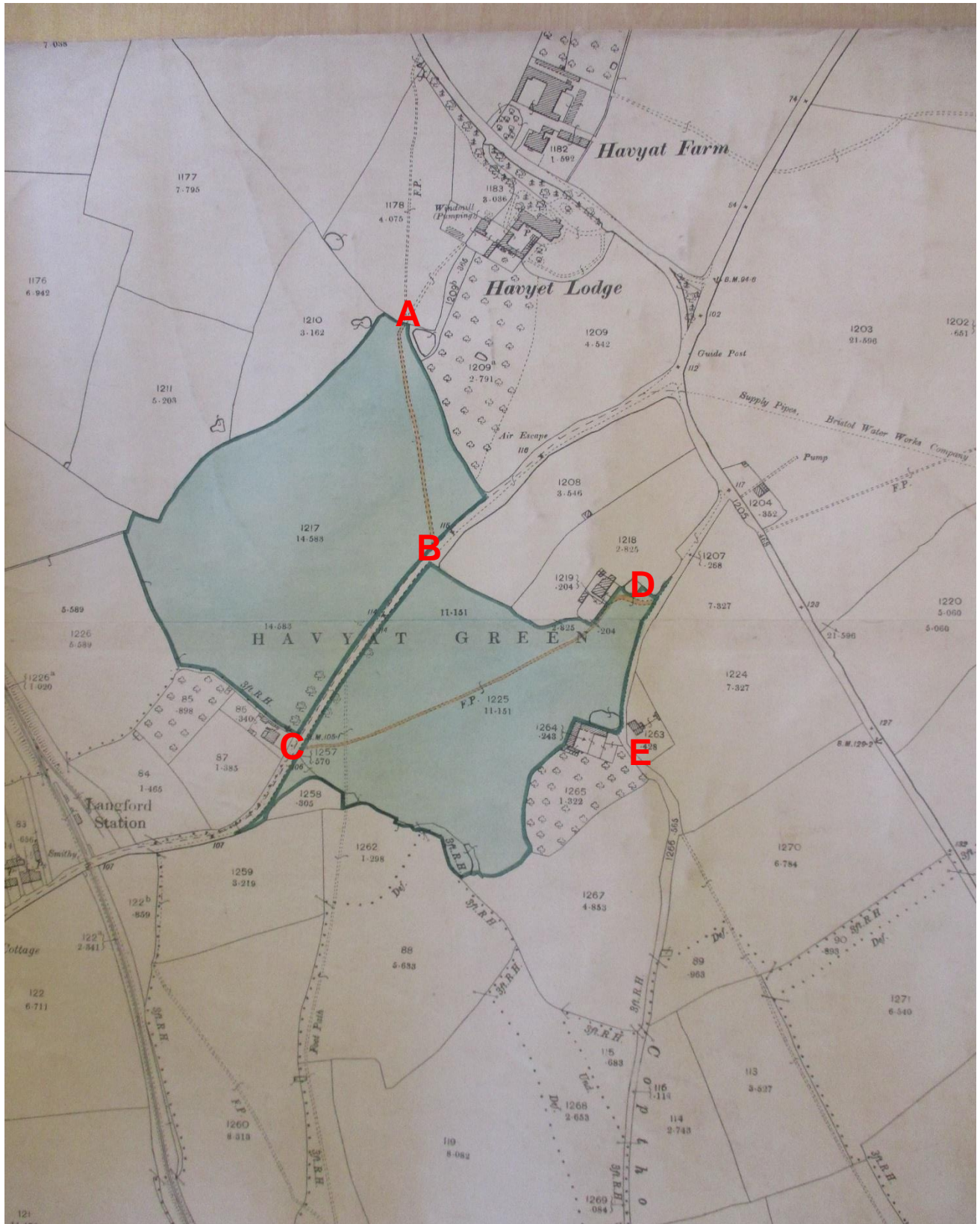
DOCUMENT 4  
WRINGTON TITHE MAP AND APPORTIONMENT 1840

C.C.—London: Printed and Published by Shaw & Sons, 137 and 138, Patern Lane.

LANDOWNERS.	OCCUPIERS.	Numbers referring to the Plan.	NAME AND DESCRIPTION OF LANDS AND PREMISES.	STATE OR CULTIVATION.	QUANTITIES IN STATUTE MEASURE.	Amount of Rent-Charge apportioned upon the several Lands, and Payable to the Rector.	REMARKS.
Cleveland, William Harry, Duke of (continued.)	Porter Emanuel Pockburn James Esquire	750	Bars and Four Acres	Brought forward	4023: 1: 22	385: 4: 3	
		751	The three Acres and Upper Bars		7 - 25	- 19: 6	
		752	The two Acres and Bucks Paddock		7: 3: 9	1: 3 -	
		753	Havest Green		3 - 12	- 10 -	
		754	The Lawn		8 - 4	1: 15: 3	
	Porter William	755	Havest Lodge Farm		3 - 8	- 15: 3	
		756	Havest mead on Orchard		4: 27	- 13: 6	
		757	Great Bars		8: 3: 12	1: 9 -	
		758	Havest Farm		1: 2: 11	- 8: 9	
		759	Orchard		2: 2: 2	- 13: 9	
	Porter John	760	The Croft		5: 1: 33	- 10 -	
		761	The West Croft and Inner Croft		7 - 6	1: 3 -	
		762	The three Acres		2: 3 -	- 9 -	
		763	Ycomed and Pashay		10 - 26	1: 13: 3	
		764	West Close and Bareground		9: 3: 8	1: 6: 9	
Parker John		765	Porters Ground		12: 36	2 - 3	
		766	Havest mead		3: 2: 39	- 12: 3	
		767	Garden, Orchard		2: 3: 31	- 16: 3	
		768	The Corner Ground		2 - 27	- 5: 3	
		769	Garden		- 1: 8	- 9	
	Parker Edmund John	770	Orchard		- 1: 9	- 1: 3	
		771	Orchard		1: 2: 4	- 6: 6	
		772	Baron Oak		2: 3: 19	- 6: 9	
		773	Garden		- 1: 13	- 2 -	
		774	Garden		- 1: 10	- 2 -	
Parker John		775	Orchard		1: 22	- 5 -	
		776	Working Share		9: 2: 22	1: 0: 3	
		777	Count		3 - 32	- 14 -	
		778	Garden		- 32	- 1 -	
		779	Part of Lower Harlow		1: 1: 11	- 3: 6	
	Parker John	780	Part of Cophthorne		2: 3 -	- 7: 3	
		781	Willow Oak		- 1: 4	- 11: 9	
		782	Havest Ground		3: 3: 14	1 - 3	
		783	Part of the three Acres		6: 2: 14	- 2: 6	
		784	Bickham Trees and Orchard		- 1: 20	1: 2 -	
Parker William		785	Bickham Orchard		6: 2: 33	1: 2 -	
		786	The five Acres		10: 3: 36	1: 13: 6	



DOCUMENT 5  
BURRINGTON AND WRINGTON ENCLOSURE AWARD 1913



**DOCUMENT 6**

**BURRINGTON AND WRINGTON ENCLOSURE AWARD 1913**

**To all to whom these presents shall come I, GEORGE PEMBERTON LEACH, of 10 Old Square, Lincoln's Inn, in the County of London Esquire, Barrister at Law, SEND GREETING:-**

WHEREAS a Provisional Order of the Board of Agriculture and Fisheries (hereafter referred to as "The Board") for the Regulation under the provisions of the Inclosure Acts 1845 to 1899 of certain lands called or known as Burrington Ham Blackdown and Langford Green in the Parish of Burrington in the County of Somerset and Havyat Green which is partly in the Parish of Wrington in the same County (but in the Tithing of Burrington) and partly in the said Parish of Burrington (thereinafter and hereinafter referred to as "the Commons") was confirmed by the Commons Regulation (Burrington) Provisional Order Confirmation Act 1911:

AND WHEREAS Part V of the said Order under the heading "Reservation of Rights" contains the following provisions:

(a) This Provisional Order is (except as herein expressly provided) to be without prejudice to the rights (if any) of the Lord of the Manor of Wrington in or over the soil of the Commons and his rights of sporting over the same and to the timber trees thereon and to plant trees thereon and his rights in the mines minerals and all other strata whatsoever thereunder and without prejudice to any rights of the Commoners or other persons in or over the Commons or any part thereof and all such rights may except as herein expressly provided be exercised in the same manner and to the same extent as if this Provisional Order had not been made:

PROVIDED that if at any time it appears to the Lord of the Manor of Wrington and the Conservators or in the event of a difference of opinion between the Lord and the Conservators to a person to be agreed upon by both parties and in default of such Agreement to be nominated by the Board that the stock of rabbits on the Commons is so excessive as to be prejudicial to the grazing or other common rights exerciseable in or over the Commons the Conservators shall after notice in writing given to the Lord of the Manor of their intention to exercise the rights hereinafter mentioned and after refusal or failure by the Lord of the Manor within three calendar months after the receipt by him of such notice to reduce or keep down the stock of rabbits have power to do all such things as may be reasonably necessary by usual and proper means to reduce the stock of rabbits and to keep down the same until such time as the Lord of the Manor shall do so:

PROVIDED ALSO that the Lord of the Manor shall not cut down for purposes of sale or otherwise any timber trees growing upon Havyat Green unless he shall have given to the Conservators at least one calendar months' notice in writing of his intention to do so and the Conservators shall thereupon have the option at any time before the expiration of such notice of purchasing the said trees at a price to be fixed by agreement or in default of such agreement by a person to be nominated by the Board.

(b) This Provisional Order is also to be without prejudice to any existing rights and obligations of the Lord of the Manor or any person deriving title under him or of the Bristol Waterworks Company or any other person or body with respect to a supply of water from Blackdown and Burrington Ham aforesaid or the flow of water therefrom or easements over or under the same commons in connection with such supply or flow of water and particularly



to such rights and obligations as are mentioned or included in the following Indentures (namely) :-

(1) An Indenture dated the Twenty-fourth day of June One thousand nine hundred and nine and made between Manley Kingsmill Manley Power Graham Eden Shedden and Alfred Richard Cornelius Richings of the first part Louisa Haywood the Bristol Waterworks Company Edith Mary Harding and William Reeves of the second part Edmund Sidney Pollock Haynes of the third part and (the Right Honourable William Henry Baron Winterstoke since deceased in the said Order called) the said Baron Winterstoke of the fourth part:

(2) An Indenture dated the first day of July One thousand nine hundred and nine and made between the said Baron Winterstoke of the first part and the said parties of the second part to the said Indenture of the Twenty-fourth day of June One thousand nine hundred and nine of the second third and fourth and fifth parts: and

(3) An Indenture dated the Thirty-first day of December One thousand nine hundred and nine and made between the said Baron Winterstoke of the one part and the said Bristol Waterworks Company of the other part:

PROVIDED that subject to such existing rights and obligations as aforesaid no rights easements or privileges shall hereafter be granted or created by the Lord of the Manor of Wrington or other the owner or owners for the time being of the soil of the Commons for the purpose of or as incidental to the supply of water on or from the Commons except the supply for the use and benefit of persons residing within the said Parish of Burrington;

AND WHEREAS it was by the said Order also provided that for the purpose of giving complete effect to the same there should be inserted in the Award made in pursuance of the Inclosure Acts 1845 and 1899 such provisions not inconsistent with those Acts as the Board should think desirable and proper;

AND WHEREAS I the said George Pemberton Leach have been duly appointed the Valuer in the Matter of the said Regulation and having made the declaration required by the said Acts have duly held all necessary meetings and have drawn up and sent to the Board my Report in writing in the said matter with a map thereunto annexed and have in all other respects complied with the provisions of the said Acts:

AND WHEREAS all such objections as have been made to my said Report having been heard and all such enquiries having been made in relation thereto as the Board have thought fit the Board have authorised and directed me to cause to be drawn up and engrossed on parchment my award in the matter of the said Regulation;

AND WHEREAS the Board have by an Order under their Seal by virtue of the power vested in them in that behalf by the Board of Agriculture and Fisheries Acts 1889 to 1909 and the said Inclosure Acts directed that the lands in respect of which rights are hereby set out shall not be comprised or shewn on the map annexed to the said Report;

***AND WHEREAS the Conservators to be appointed under the said Provisional Order as hereinafter mentioned are to have power under the said Order to set out make and maintain carriage roads bridle-paths and footpaths over the Commons in such directions as may appear to them most commodious;***

***AND WHEREAS inquiry has been made of the persons interested in the said Commons and the Parish Councils of Burrington and Blagdon and the Axbridge***

***Union Rural District Council the Highway authority for the District have been consulted as to the existing public roads and bridleways on or over***

***the said Commons and all such public roads and bridleways as upon the information so obtained appear to exist on or over the said Commons are delineated on the Map hereunto annexed and are thereon coloured brown;***

AND WHEREAS the claims to rights of common over the said Commons made before me were made partly in respect of hereditaments known as Old Auster or Ancient tenements (hereinafter referred to as "Auster Tenements") and partly in respect of other lands and hereditaments and it was maintained both by the Lord of the Manor of Wrington and by the Commoners that according to the custom of the said Manor of Wrington all Auster tenements are entitled to equal rights of common without regard to the acreage or yearly or other value of the tenements;

AND WHEREAS no objection having been received by me to the claims to rights of common pasture made in respect of the said Auster tenements and the Lord of the Manor of Wrington having expressed his desire that a substantial right of common of pasture should be allowed to each Auster tenement I determined that all the claims to rights of common of pasture in respect of such Auster tenements (which are specified in the Schedule hereto) should be allowed and that effect should be given to alleged custom of the said Manor and to the said desire of the Lord of the said Manor of Wrington so far as was compatible with the measure of the rights of the other lands in respect of which claims to rights of common of pasture have been allowed;

AND WHEREAS George Alfred Wills Esquire Colonel Evan Henry Llewellyn Joseph Horsley Cordeux Esquire Miss Beatrice Ethel Wise and Alfred Douglas Pass Esquire owners of Auster tenements and other lands in the Parish and tithing of Burrington being desirous that the rights of common of pasture to be awarded to the owners of Auster tenements without other land (other than the Trustees of the Burrington National School and the Vicar and Church wardens of Burrington Church) and to the owners of Auster tenements and other land not exceeding ten acres in extent should be further increased have by a Memorial dated the Fourteenth day of March One thousand nine hundred and thirteen and signed by them respectively or on their behalf by a duly authorised agent requested me to reduce the number of stints or rights of common of pasture awarded to them respectively under my said determination and set forth in the Schedule hereto by the numbers set against their names respectively in the same Memorial or by such numbers proportionate thereto as would enable me to increase the allotment of stints to each owner of an Auster tenement or Auster tenements without other land (with exceptions above mentioned) and to each owner of an Auster tenement or Auster tenements with other land not exceeding ten acres to twenty-five stints with an additional allotment of eight stints in respect of each Auster tenement other than the first belonging to any such owner;

AND WHEREAS the Board have approved of my giving effect to the request contained in the said Memorial and I have set forth in the Fifth Column of the Schedule hereto the number of stints to be added or deducted in each case to or from the numbers awarded by me under my determination aforesaid, the numbers deducted being in each case less than the numbers set opposite the signatures of the said Memorialists respectively;

1. NOW KNOW YE that in pursuance of the provisions of the said Acts and by virtue of the powers and authorities in me vested I the said George Pemberton Leach do make and declare this to be my Award in the matter of the said Regulation and I have annexed hereto a Map (hereinafter referred to as "the said Map") as required by the said Acts on which the

said Commons are respectively delineated by tints and edgings of Green and Dark Green respectively the public roads and bridleways on or over the same being coloured Brown as hereinbefore recited.

2. AND I DECLARE that the Lord of the Manor of Wrington in the said County of Somerset is entitled to the soil of the said Commons being part of the waste lands of the said Manor and to all rights in respect of such ownership including the right to the timber underwood furze fern plants and grass growing and being thereon and the stone sand gravel clay and other minerals under or on the said Commons and the right of sporting thereon and the springs and streams of water thereunder or thereon subject nevertheless to the rights of common of pasture and other rights of common hereinafter mentioned and to the rights and obligations of the Bristol Waterworks Company under the hereinbefore mentioned Indentures of the Twenty-fourth day of June One thousand nine hundred and nine, the First day of July One thousand nine hundred and nine and the Thirty-first day of December One thousand nine hundred and nine respectively and subject also to the reservations and provisions hereinafter declared and contained.

3. AND I DECLARE that in pursuance of the said Provisional Order and for the benefit of the neighbourhood

(a) There shall be reserved subject to such reasonable byelaws and regulations for the protection of the stock upon the Commons and for the prevention of damage to the pasturage and herbage thereof and the prevention of nuisances thereon as may be made by the Conservators and confirmed by law required

**(1) A right of free access at all times to the Commons and a privilege of recreation by walking and enjoying air and exercise thereon provided that no person while exercising such privilege shall be accompanied by a dog unless under control and that no person shall ride over or upon any part of the Commons other than a carriage road or bridleway; and**

(2) A privilege of playing games on such parts of the Commons as may from time to time be appointed by the Conservators for the purpose and the Conservators may cause any part or parts for the time being as appointed to be temporarily inclosed with posts and chains or other open fences.

(b) Subject to the rights hereinafter reserved of the Lord of the Manor of Wrington the Conservators shall so far as possible preserve the following trees and objects;-

(1) The timber trees upon Havyat Green;

(2) The ancient earthworks known as Burrington Camp the tumuli upon Blackdown known as the Beacon Batch and any other tumuli upon the Commons;

(3) The caves known as Plumley's Den, Aveline's Hole, Goat-church Cavern and Whitcombe Hole and the gorge known as Burrington Combe with the several caves therein and the rock known as "The Rock of Ages";

PROVIDED ALWAYS that nothing herein contained shall affect the right of the Lord of the Manor of Wrington to do all such things as he may think necessary or expedient for rendering the said caves or any other caves in or on the Commons accessible to the public and developing them as places of public exhibition or of scientific interest.

4. AND I DECLARE that in further pursuance of the said Provisional Order I have set out for the supply of stone for the repair of roads within the said Parish of Burrington or tithing of Burrington and for the getting of stone by the persons entitled to rights of taking stone from the Commons for use in or upon the tenements to which such rights are appendant or appurtenant but not other-wise or for sale two quarries each of three acres in extent at the foot of Burrington Combe and marked Quarry A and Quarry B on the said Map. AND I DECLARE that the said Quarry B shall not be worked unless and until the Conservators for the time being shall be of opinion that the said Quarry A has been worked out or is not longer suitable for the purposes aforesaid.

5. AND I DECLARE AND DIRECT that for the supply of gravel (including shell or shale) for both the above mentioned purposes the Conservators shall in each year during the month of April after consultation with the Lord of the Manor of Wrington aforesaid or his Agent set apart such place or places on the North side of the road in Burrington Combe aforesaid between the said quarries and the gate at the top of the Combe as they shall consider necessary and expedient for use during the following year.

6. AND I DECLARE that in further pursuance of the said Provisional Order I have set out as allotments for the labouring poor being inhabitants of the said Parish of Burrington and tithing of Burrington and of the Parish of Blagdon and such other Parishes as the Conservators may decide (other than persons entitled to rights of common) three several allotments edged with a broad border of Dark Green on the said Map and distinguished thereon by the figures (1) (2) (3) and containing respectively 52a. 2r. 20p 51 acres and 101 acres or thereabouts which I have caused to be marked out by boundary posts.

7. AND I DIRECT that the Conservators shall in each year appropriate such sufficient part or parts of the said allotments respectively as they shall think fit for use in that year and that such labouring poor as aforesaid (other than person entitled as aforesaid) shall have the exclusive right to cut and take fern and furze from the part or parts so for the time being appropriated by the Conservators for their own use on the lands or tenements in their own occupation but not for sale and subject to such byelaws for regulating the exercise of such right as may be made by the Conservators: PROVIDED ALWAYS that this provision shall not affect the exercise of any rights of common of pasture which are exerciseable in or over the said allotments.

8. AND I DECLARE that the Conservators may from time to time with the consent in writing of the Board alter the situation wholly or in part of all or any of the said allotments respectively after having given such notice of the intended alteration as the Board may direct.

9. AND I DECLARE that the Conservators shall have power:-

(1) To acquire by gift or purchase by agreement the fee simple or any estate in or any rights in or over the Commons or any part thereof;

(2) To permit the formation and use of ground suitable for cricket games (other than golf) on Havyat Green aforesaid subject to proper regulations to be made by the Conservators for the protection of the Commoners' stock grazing upon the said Commons and the safety of persons resorting thereto and to receive pecuniary consideration for such permission in each case: PROVIDED ALWAYS that all money received by the Conservators in respect of any such permission as aforesaid shall be expended by them in the improvement or protection of the Commons and for no other purpose; and

(3) To set out make and maintain carriage roads bridle roads or paths and footpaths over the Commons in such directions as may appear to them most commodious; and

(4) If and whenever it is made to appear in manner hereinbefore recited that the stock of rabbits upon the Commons or any of them is excessive to exercise and put in force the provisions for the reduction thereof contained in Part V of the said Provisional Order and hereinbefore set forth.

10. AND I DECLARE that for the Adjustment of Rights in respect of the Commons I have determined that the same are subject to the following rights of common that is to say:-

(a) To Two thousand Four Hundres and Seventeen stints or rights of common of pasture which (subject to the modification hereinafter contained) I have set out allotted and awarded among the owners of the Auster tenements and the owners of the other lands and hereditaments respectively specified in the Schedule hereto in the following proportions that is to say:-

In respect of each Auster tenement specified in the Third Column of the Schedule hereto eight stints as appurtenant to such Auster tenement irrespective of the acreage or yearly or other value thereof and to be held and enjoyed by the owner or occupier thereof in connexion therewith and as appurtenant thereto and if and so far as the rules of law will admit of such restriction not to be severed therefrom;

And in respect of the lands specified in the Fourth Column of the said Schedule the number of stints set opposite to such lands respectively in the Fifth Column of the same Schedule the said last mentioned stints representing the right of common of pasture for cattle levant and couchant upon the said lands respectively as to the said lands belonging or appertaining but with the addition of the stints awarded as aforesaid in respect of any Auster tenement in the same occupation and all such stints are to be held and enjoyed by the owner or occupier of such lands in connexion therewith and as appurtenant thereto and if and so far as the rules of law will admit of such restriction are not to be severed therefrom;

(b) To rights of common of estovers or of taking fern furze heather and long grass from the Commons by the owners or occupiers for the time being of the homesteads messuages and outbuildings mentioned in the Sixth Column of the said Schedule for their own use upon the said homesteads and messuages and the outbuildings thereof respectively but not elsewhere and not for sale;

(c) To a right of taking stone and gravel (including shell or shale) from the Commons by the owners or occupiers for the time being of the said homesteads and messuages for the repair and improvement of the said homesteads and messuages and the outbuilding thereof respectively.

11. AND I DECLARE that the said stints or rights of pasture shall be exerciseable throughout the year except during such reasonable periods as may from time to time be determined by the Conservators.

12. AND I DECLARE:-

That one sheep shall be deemed a full stint,

That one cow bullock or heifer shall be deemed equivalent to 5 stints,

That one horse shall be deemed equivalent to 7 stints,

That one pony or donkey shall be deemed equivalent to 5 stints

That one pig shall be deemed equivalent to 2 stints,

That three geese shall be deemed equivalent to 1 stint, and

That twenty fowls shall be deemed equivalent to 1 stint;

And that the pasturage on the Commons shall be restricted to the above mentioned animals, that animals (except geese or fowls) under the age of one year shall not be taken into

account, that no ram bull or stallion shall be turned out on the Commons and that no pig shall be turned out thereon unless ringed.

13. AND I DECLARE that I have estimated the capacity of the Commons at Two thousand five hundred stints and that the balance (after providing for the Two thousand four hundred and seventeen stints above mentioned) of eighty-three stints belongs to the Lord of the said Manor of Wrington;

AND in compliance with the hereinbefore recited Memorial of the Fourteenth day of March One thousand nine hundred and thirteen I have deducted from the stints awarded as aforesaid to the said George Alfred Wills One hundred

and fifteen stints including the eighty-three stints above mentioned from those awarded to the said Evan H Llewellyn seventy-two stints from those awarded to the said Joseph Horsley Cordeaux twenty-eight stints from those awarded to the said Beatrice Ethel Wise thirty stints and from those awarded to the said Alfred Douglas Pass seventy-eight stints, making in all three hundred and twenty-three stints;

AND I have set out allotted and awarded the said three hundred and twenty-three stints among the owners of Auster tenements in manner shown in the Fifth Column of the said Schedule to be held and enjoyed by such owners respectively or the occupiers of such Auster tenements respectively in connexion with such Auster tenements respectively in the same manner in all respects as the other stints awarded in respect of such Auster tenements.

14. AND I DECLARE that all such rights of common as aforesaid shall be exercised subject to the provisions herein contained and subject also to any byelaws for regulating the same made by the Conservators under their powers in that behalf and confirmed as by law required and so that the Conservators may if and so often as it shall appear to them that the condition of the Commons requires a diminution of the respective rights of pasturage thereon provide by byelaws confirmed as aforesaid that the number of animals to be depastured on the Commons in respect of the several rights shall be temporarily diminished rateably to such extent as they shall think fit and that if and so often as it shall subsequently appear to them that the condition of the Commons will allow an increase of such respective rights to provide in like manner for such increase rateably as they shall think fit provided that the original number of Two thousand five hundred stints be not exceeded.

15. AND I DECLARE that for the improvement of the Commons the following provisions shall be in force that is to say:-

(1) the general management of the Commons shall be vested in a body of Five Conservators.

(2) The first Conservators shall be the following persons namely – Henry William Seccombe Wills Esquire of 15 Orchard Street Bristol who has been appointed by the said George Alfred Wills Esquire Lord of the Manor of Wrington, William Reeves of Langford, innkeeper, who has been appointed by the Parish Council of Burrington, and Vernon Tickell Hill Esquire, J.P. of Mendip Lodge, Upper Langford, Colonel Evan Henry Llewellyn, J.P. of Langford Court, Langford, and Benjamin Edward Somers Esquire, J.P. of Langford Place, Langford, who have been elected by the persons for the time being entitled to exercise rights of common in or upon the Commons at a meeting of the said persons duly held for the purpose.

(3) The said first Conservators except the said Henry William Seccombe Wills shall go out of office on the last Saturday in the month of April in the year 1916.

(4) The Conservators other than the first shall be one person appointed by the Lord or Lady of the Manor of Wrington one person appointed by the Parish Council of

Burrington and three persons being Commoners to be elected in manner hereinafter provided by the persons for the time being entitled to exercise rights of common in or upon the Commons (hereinafter referred to as "the elected Conservators")

(5) The said Henry William Seccombe Wills and any Conservator hereafter appointed by the Lord or Lady of the Manor of Wrington shall hold office until he dies or resigns his office or his appointment is revoked and another person is appointed in his place and any such revocation and fresh appointment shall be forthwith intimated in writing by the Lord or Lady of the Manor to the Clerk of the Conservators.

(6) The appointment of the said William Reeves or any Conservator hereafter appointed by the said Parish Council may be revoked by the Parish Council and another person appointed by the Parish Council in his place to hold office during the period for which the Conservator in whose place he is appointed would have held office and any such fresh appointment shall be forthwith intimated in writing by the Council to the Clerk of the Conservators.

(7) Any Conservator who shall hereafter be appointed by the Parish Council and the Conservators who shall be elected as aforesaid shall go out of office on the last Saturday in the month of April in the year One thousand nine hundred and nineteen and in every third year then following.

(8) The election of Conservators shall be held on the first Wednesday in the month of April in every year in which an election shall be required or on such other date in the month of April as may be fixed by the Conservators.

(9) At least fourteen days before the time for each such election the Clerk of the Conservators shall by notice at the entrance to the principal places of public worship and at the Post Office at Burrington convene a Meeting of the persons for the time being entitled to exercise rights of common as aforesaid for the purpose of electing by a majority of the votes of those present and voting at such meeting three Conservators in the places of the out-going Conservators and the result of every such election shall be forthwith intimated in writing by the Chairman of the Meeting to the Clerk of the Conservators PROVIDED THAT any person entitled to vote at any such meeting may by letter addressed to the Clerk of the Conservators and delivered to him before the commencement of the meeting intimate his or her desire to vote for any particular candidate or candidates. All such letters shall be delivered by the Clerk of the Conservators to the Chairman of the meeting and the vote or votes of such person shall be reckoned as given in accordance with the desire so intimated and as if he or she had been present at the Meeting.

(10) Any outgoing Conservator shall be eligible for re-election.

(11) Any Conservator may at any time if so desirous resign his office on giving notice in writing under his hand of such desire to the Clerk of the Conservators and also in the case of an appointed Conservator to the Lord of the Manor of Wrington or to the Chairman or Clerk of the Parish Council of Burrington as the case may be.

(12) In the event of any vacancy in the number of elected Conservators by death resignation or otherwise between the times fixed for election as aforesaid the remaining elected Conservators may nominate some person to supply such vacancy until the next election of Conservators and the name of the person so nominated shall be forthwith intimated in writing to the Clerk of the Conservators.

(13) Any act of the Conservators shall not be invalidated by reason of there being any vacancy in the number of Conservators.

(14) The Conservators may

(1) drain manure or level the Commons where necessary for the purpose of improving the Commons for pasturage or for purposes of recreation;

(2) set apart in any year (as hereinbefore provided) such parts of the allotments hereby set out for the use of the labouring poor as they may consider expedient for use in that year;

(3) appoint such part or parts of the Commons as they may consider expedient for cricket or other games and may inclose temporarily

any part or parts so appointed with posts and chains or other open fences so as to prevent cattle sheep or horses straying thereon.

(15) The Conservators may make byelaws and regulations (subject to any such confirmation as is by law required) for

(i) preventing nuisances on the Commons or protecting them therefrom or for keeping order thereon;

(ii) preventing malicious or wanton injury to property therein or thereon, including the destruction or removal by unauthorised persons of the herbage fern furze and heather growing thereon or of the soil thereof;

(iii) regulating the exercise of any rights of common therein or thereon in accordance with this Award and of the rights by the said Provisional Order reserved to the labouring poor;

(iv) regulating the exercise of the privileges by the said Provisional Order reserved of access recreation and playing of game on the Commons.

(16) All byelaws and regulations made and confirmed as aforesaid shall be legibly written or printed on boards of suitable size and placed on such parts (not less than three) of the Commons as to the Conservators may appear desirable.

(17) The Conservators shall from time to time appoint a Clerk to act under their directions in the execution of their powers and duties under the said Provisional Order and this Award upon such terms and conditions as they shall think fit.

(18) The Conservators may appoint herds bailiffs servants and any other officer or officers as they may deem necessary to act under their directions as well with reference to the stinting or depasturing of animals upon the said Commons as otherwise in the execution of their duties under this Award and may if they think fit provide and maintain an office or offices for transacting their business.

(19) The Conservators shall meet for the transaction of business at least twice in every year and at such other times as they may deem necessary and shall elect one of their number to be Chairman to preside at their meetings at which meetings two shall form a quorum. The Chair-man at any meeting shall have a second or casting vote in case of an equality of votes. The summoning of such meetings and the conduct of business thereat shall be subject to such rules as the Conservators may from time to time determine.

(20) All moneys payable to the Conservators may be paid to their Clerk whose receipt shall be an effectual discharge for the same.

(21) The Conservators shall as incidental to the general power of management vested in them as aforesaid and in addition to any other rights powers and duties so vested in them have all such rights powers and duties as are by the said Acts or any of them given to or imposed upon field reeves including the power of distraining stoci and



animals found upon the said Commons in contravention of any byelaws or regulations and of inflicting penalties in respect of such stock and animals.

16. AND I DECLARE that the expenses incurred by the Conservators from time to time in the execution of their duties under this Award except the expenses of and incidental to the preparation and confirmation of the first byelaws to be made thereunder (provision for which has been made by the said Baron Winterstoke since deceased) shall be defrayed as follows:

(i) Out of any voluntary contributions which may be received by the Conservators or (subject to the provisions hereinbefore contained) out

of any money received by them in respect of the formation or use of ground for cricket and games (other than golf) on Havyat Green or otherwise in respect of the Commons.

(ii) So far as such expenses are not defrayed as aforesaid then by means of a rate or rates to be levied by the Conservators from time to time on the persons for the time being entitled to exercise rights of common in or over the Commons according to the proportional sums at which the hereditaments in respect of which such rights are or may be enjoyed shall be rated to the relief of the poor PROVIDED ALWAYS that no such rate shall exceed threepence in the pound in any one year without the consent of the majority in number of the persons for the time being entitled to exercise such rights of common as aforesaid present at a meeting of such persons to be called by the Conservators and the notice of which shall have stated that the question of the rate to be levied would be considered And provided also that any rate made under this Clause shall be subject to approval by the Board.

17. AND I HEREBY DECLARE that all or any of the provisions of the Inclosure Acts 1845 to 1899 for the recovery of rates or of sums of money by way of rate shall apply to any rates levied under Clause 16 of this Award.

18. AND I HEREBY DECLARE that at any meeting of the persons for the time being entitled to exercise rights of common for the purpose of electing a Conservator or Conservators or with reference to the amount of any rate to be levied by the Conservators the votes of all persons present and entitled to vote shall be equal in value.

The Schedule above referred to:-

N.B. – The Stints added or deducted in accordance with Clause 13 of the foregoing Award are distinguished by the addition of the words “Stints added” or “Stints deducted” in Column 5.

I DO SET OUT ALLOT and AWARD UNTO

**(Tabular document laid out see original)**

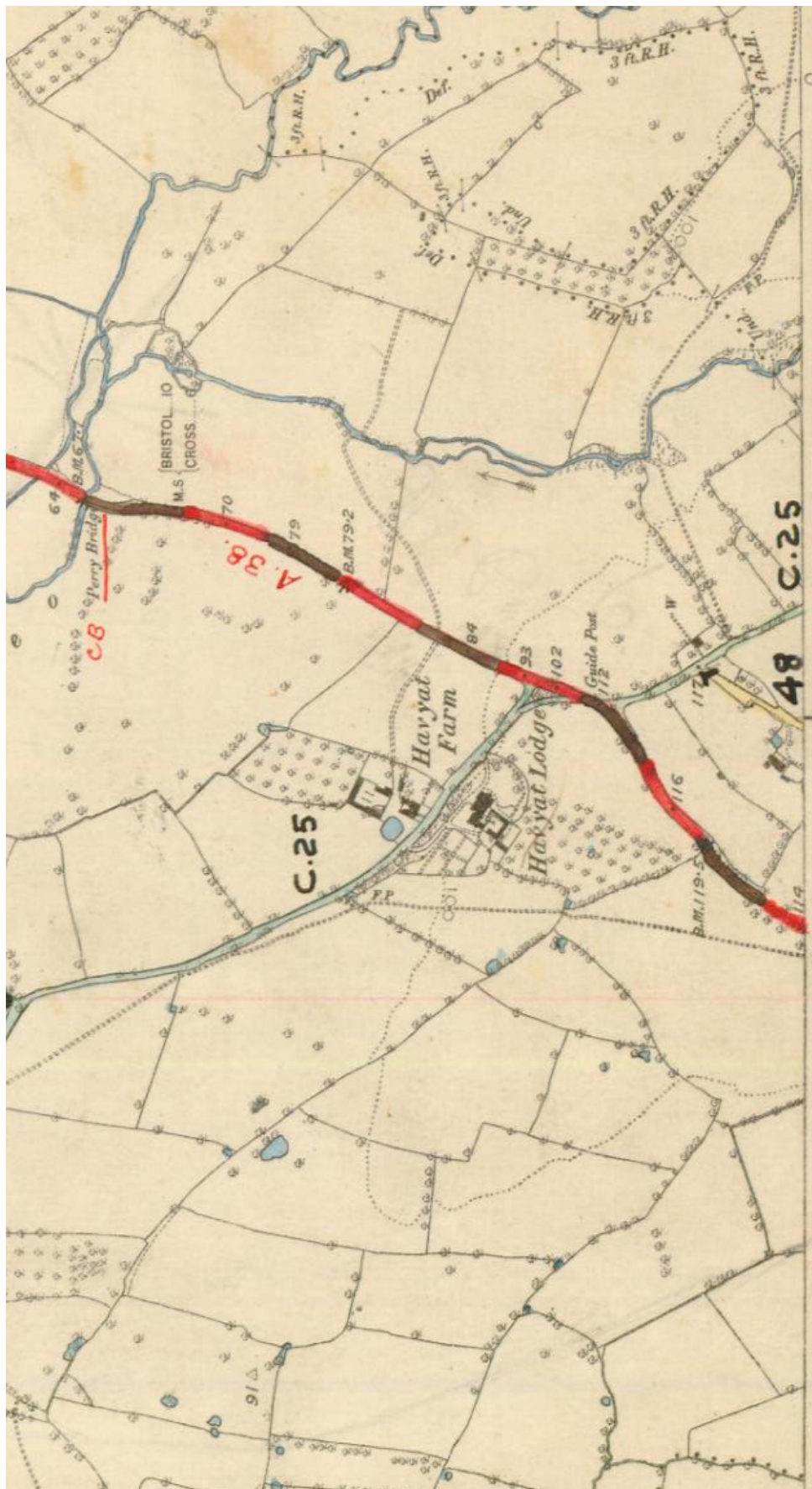
IN TESTIMONY whereof I the said George Pemberton Leach have to this my Award drawn up and engrossed on parchment set my hand this Thirty first day of December Nineteen hundred and thirteen.

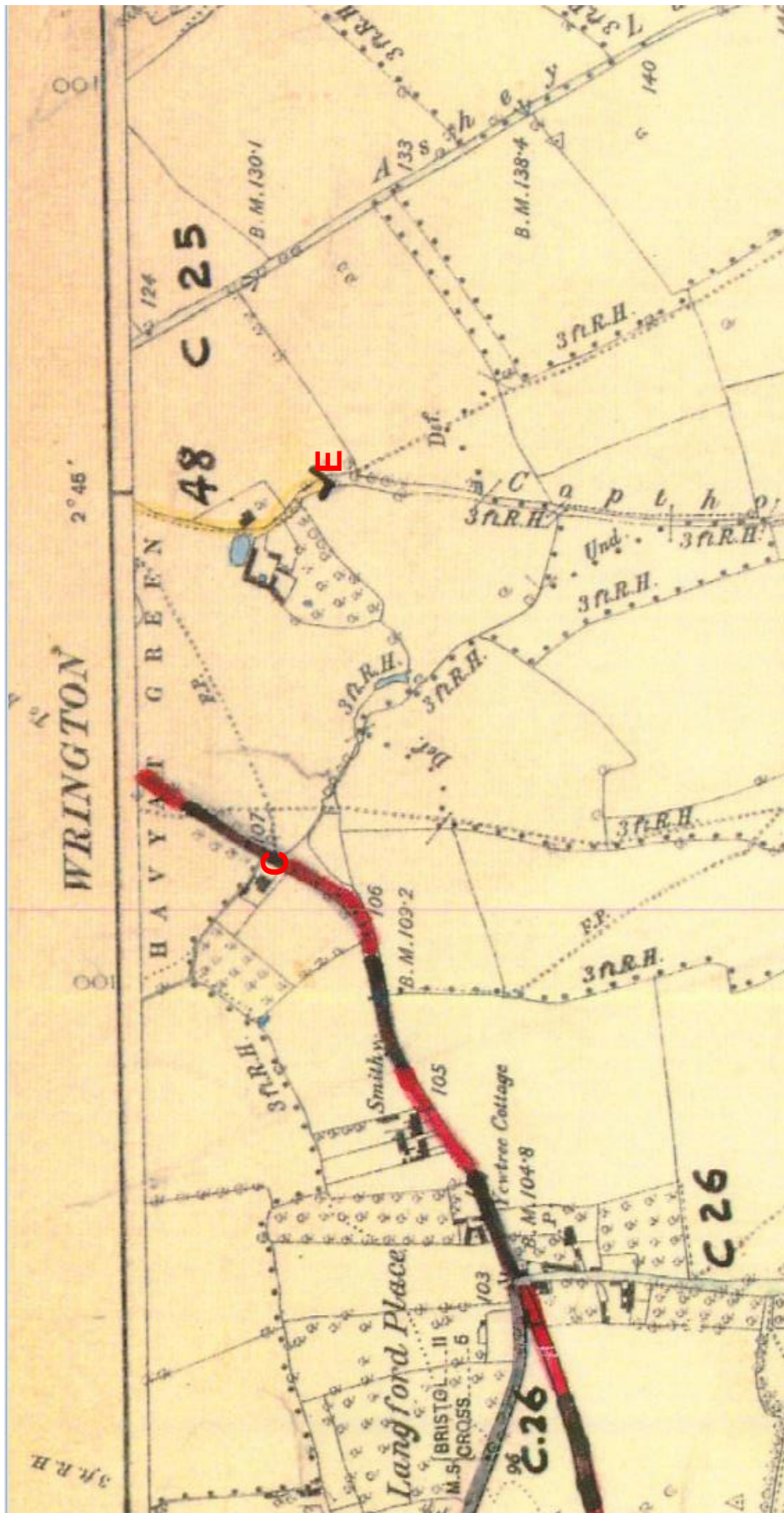
(signed) G Pemberton Leach

Valuer

IN WITNESS and confirmation whereof the Board of Agriculture and Fisheries have hereunto set their Official Seal this Thirty-first day of December Nineteen hundred and thirteen

DOCUMENT 7  
HANDOVER MAP 1930  
11SW







SOMERSET COUNTY COUNCIL

BOROUGH/URBAN DISTRICT/PARISH OF :— WRINGTON  
(Delete as necessary)

NATIONAL PARKS & ACCESS TO THE COUNTRYSIDE ACT, 1949

SURVEY OF PUBLIC RIGHTS OF WAY.

Parish No. of Path :— 10 Path shown on 6" O.S. No. :— XI SW Kind of Path, i.e. F.P., B.R., C.R.F. or B.R.F. :— F.P.

DESCRIPTION :— The path starts at Gate NW of Havyatt Lodge Obstruction— fence & wire— at beginning of path. Across field to stile which is obstructed by iron hurdles. Across Havyatt Green without obstruction till reaching road.

M.38000

P.T.O.

SOMERSET COUNTY COUNCIL

BOROUGH/URBAN DISTRICT/PARISH OF :— WRINGTON  
(Delete as necessary)

NATIONAL PARKS & ACCESS TO THE COUNTRYSIDE ACT, 1949

SURVEY OF PUBLIC RIGHTS OF WAY.

Parish No. of Path :— 60 Path shown on 6" O.S. No. :— XVIII Kind of Path, i.e. F.P., B.R., C.R.F. or B.R.F. :— F.P.

DESCRIPTION :— The path starts at

Main Bristol Bridgwater Road across  
Havyatt Green to <sup>County Road</sup> Havyatt <sup>Green</sup> turn <sup>[Sec 61]</sup>  
<sup>(No 48)</sup> Copthorn Lane

M.38000

P.T.O.

# WALKING CARDS BACK

(Please continue on second card if necessary)

Walking Survey made by :-

*CB Marshall*  
*Mr. Keen*  
(Signed) *Mr. Keen Col*  
Date *25 Sept 50*

Agreed by (Borough/Urban Parish Council / Meeting)

(Signed)

Date

Chairman/Clerk

Approved by Rural District Council :-

(Signed)

Date *24 AUG 1951*

Chairman/Clerk

(Please continue on second card if necessary)

Walking Survey made by :-

*Mr. Keen &*  
*Col. J. H. Lee.*  
(Signed) *Mr. Keen*  
Date *21. 1. 51*

Agreed by (Borough/Urban Parish Council / Meeting)

(Signed)

Date

Chairman/Clerk

Approved by Rural District Council :-

(Signed)

Date *24 AUG 1951*

Chairman/Clerk



