

# North Somerset Council

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

**DATE OF MEETING: 26 SEPTEMBER 2018**

**SUBJECT OF REPORT: MOD 57 UPGRADE OF PART OF FOOTPATH LA6/16 AND ADDITION OF UNRECORDED SECTION TO BRIDLEWAY AT RUGGS LANE**

**TOWN OR PARISH: CLEEVE**

**OFFICER/MEMBER PRESENTING: ELAINE BOWMAN**

**KEY DECISION: NO**

## RECOMMENDATIONS

It is recommended that

- (i) The Public Rights of Way Sub Committee authorise the relevant officer to reject this application relating to Mod 57 Ruggs Road Cleeve on the grounds that there is not sufficient evidence to suggest that the routes A-B-D-E-F or B-C-D shown on the attached Location Plan should be recorded as Bridleways.

## 1. SUMMARY OF REPORT

This report considers an application which was made on the 1 August 2004. That application requested that a couple of routes, in the Parish of Cleeve, should be recorded as Bridleway. Such application for a Definitive Map Modification Order is submitted under Section 53(5) of the Wildlife and Countryside Act 1981. The effect of this request, should an Order be made and confirmed, would be to amend the Definitive Map and Statement for the area.

The application, submitted by Woodspring Bridleways Association, has provided reference to several documents and user evidence of which they wish to rely upon. The claimed routes are illustrated on the attached Location Plan EB/Mod 57 as A-B-D-E-F and B-C-D.

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

### Location Map EB/MOD 57

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

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

**Appendix 3** – Analysis of the Applicants Evidence  
**Appendix 4** – Analysis of Additional Documentary Evidence  
**Appendix 5** – Analysis of User Evidence  
**Appendix 6** – Consultation and Landowners Responses  
**Appendix 7** – Analysis of Landowner Evidence  
**Appendix 8** – Summary of Evidence and Conclusion  
**Document 1a, 1b and 1c** – Yatton and Kenn Enclosure Award 1815  
**Document 2** – Greenwood Map of North Somerset 1822  
**Document 3**– Ordnance Survey Map 1884  
**Document 4** – Ordnance Survey Map 1903  
**Document 5** – Ordnance Survey Map 1959  
**Document 6** – Yatton and Kenn Local Act  
**Document 7a & 7b** – Yatton Tithe Map and Apportionment 1840  
**Document 8** – Finance Act 1910  
**Document 9** – Handover Map 1930  
**Document 10a and 10b** – Cleve Parish Walking Card for Footpath LA 6/16  
**Document 11a and 11b** – Cleve Parish Walking Card for Footpath LA6/18 and Brockley Parish Survey Plan  
**Document 12** – Draft Map  
**Document 13** – Draft Map Modification Map  
**Document 14** – Provisional Definitive Map  
**Document 15** – Definitive Map 1956  
**Document 16** – User Evidence Table  
**Document 17** – Bristol Mirror Press Notice Dated 26<sup>th</sup> January 1811  
**Document 18** – Bristol Mirror Press Notice Dated 17<sup>th</sup> August 1811  
**Document 19** – Bristol Mirror Press Notice Dated 15<sup>th</sup> May 1813  
**Document 20** – British Library Drawing 1788  
**Document 21** – Gloucester Journal 28 October 1793

## **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 Planning Inspectorate who act for the Secretary of State for Food and Rural Affairs for determination. Where the Committee decides that an order should not be made, the applicant may appeal to the Planning Inspectorate.

## **Conclusion**

As this report relates to routes, A-B-D-E-F and B-C-D, one section of which is currently recorded on the Definitive Map as Footpath LA 6/16 (A-B) it is necessary for the Committee to have regard to two legal tests:

1. Section 53 (3)(c)(ii) relating to the section recorded as Footpath LA6/16 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 believes 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 Cleeve 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 6**.

## **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**

To be met from existing Revenue Budget.

### **Funding**

To be met from 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 as is the case with this matter.

## **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**

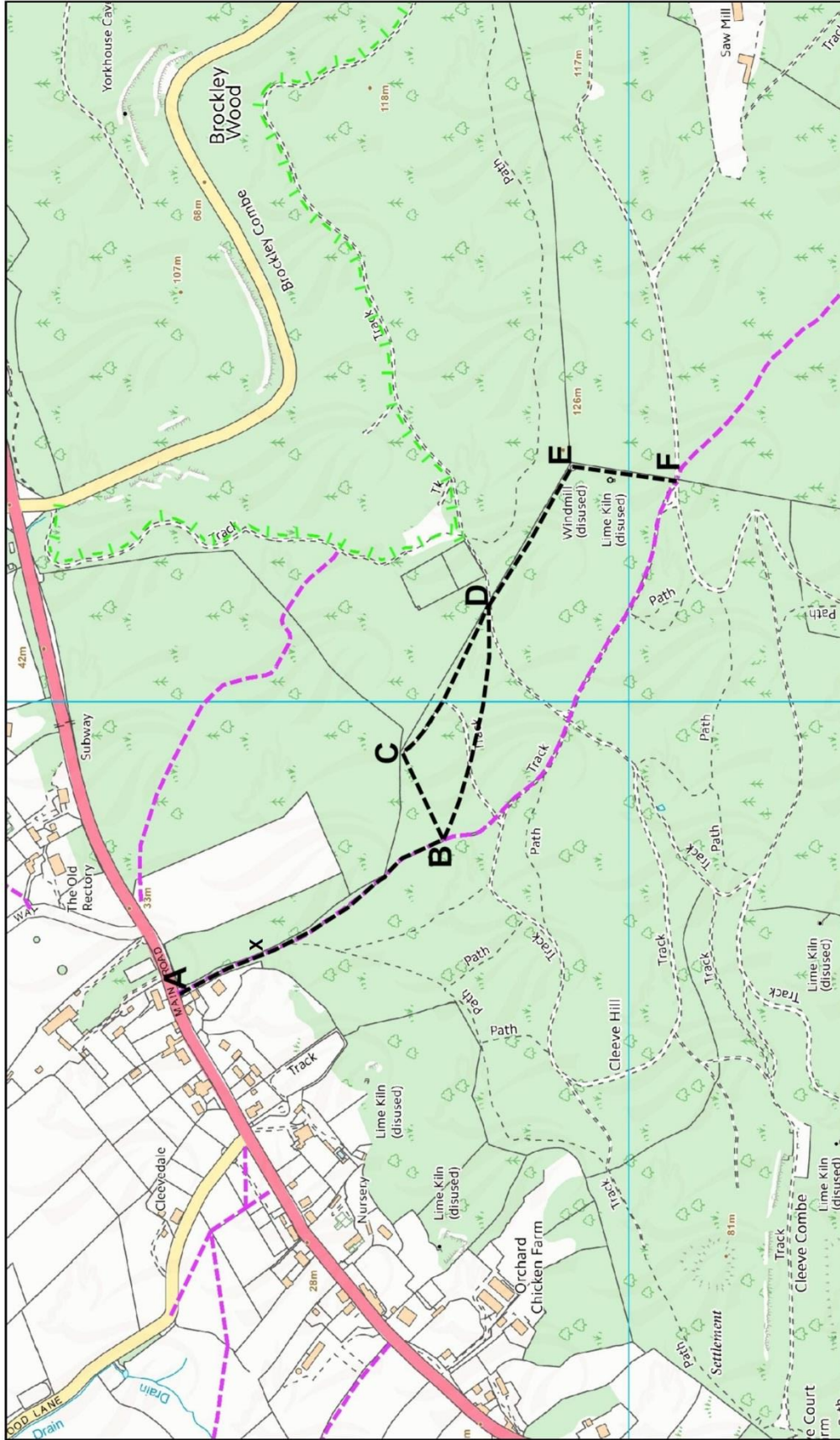
The options that need to be considered are:

1. Whether the evidence supports the making of a Definitive Map Modification Order to upgrade the route A-B Footpath LA 6/16 to a Bridleway
2. Whether the evidence supports the making of a Definitive Map Modification Order to add the route B-C-D as a Bridleway.
3. Whether the evidence supports the making of a Definitive Map Modification Order to add the route B-D-E-F as a Bridleway.
4. Whether any of the applications described in 1, 2 or 3 above should be denied as there is insufficient evidence to support the making of an Order.
5. If the Committee accepts the recommendation of the Officer that this application should be refused that it is understood that the applicant has the right to appeal against the decision of the Committee.

### **AUTHOR**

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

**BACKGROUND PAPERS:** - Public Rights of Way File Mod 57



**MOD 57 - Ruggs Road, Cleeve**  
**A-B-C-D-E-F & B-D - Claimed Bridleway (Grid Ref: ST4766)**

**Public Rights of Way**  
 Castlewood, Tickenham  
 Road, Cleeve, BS21  
 GFW

Scale: 1:6500  
 Drawn by: Lucy Roca  
 Date: 16 August 2017  
 Time: 11:29:03

**North Somerset COUNCIL**

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## 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 because 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 Byways Open to all Traffic 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 1 August 2004 from Woodspring Bridleways Association (“The Association”). The basis of this application was that the routes A-B-D-E-F and B-C-D should be recorded as Bridleways on the Definitive Map for the area.

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

1815 Yatton and Kenn Enclosure Award  
 1822 Greenwood Map of North Somerset  
 1884 Ordnance Survey Map  
 1903 Ordnance Survey Map  
 1959 Ordnance Survey Map

The above documents will be reported on in **Appendix 3**. This matter is currently recorded on the Definitive Map Register as Mod 57.

It should be noted that the Council has undertaken additional research into records that are held within the Council as well as those obtained from external sources. These are detailed in **Appendix 4** of this report.

2. The 2004 application claims that Bridleways should be recorded over a section of Footpath LA6/16 which is currently recorded on the Definitive Map as well as adding unrecorded routes which would form its continuation. The path that is currently recorded on the Definitive Map and Statement which is affected by this report is Public Footpath, LA 6/16 (A-B). These claimed routes affect routes in the Parish of Cleeve. The applicant has annotated their plan using the lettering featured on the Yatton Enclosure Award. Therefore, to assist the members of the Committee these letters will be placed in brackets for reference.
3. On further inspection of the application form the applicants Woodspring Bridleways Association have completed the form as follows:

*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*

*(a) – line through*

*(b) – line through*

*(c) – ~~Upgrading/downgrading to a footpath/a bridleway/byway open to all traffic~~ \* the footpath/bridleway/byway open to all traffic\* which runs*

*from Main Road A370 via Ruggs Road K L P M N*

*to the Bridleway at Windmill to point O*

*L to M is route used by users.*

*(d) As above by providing that width of 20 feet as per I Award*



4. The description of the route being claimed is rather confusing. The applicant has referred to upgrading the route (K-L-P-M-N-O). However, (K-L) is the only section already recorded on the Definitive Map. The word 'to' has been omitted however looking at the application and plan submitted I think the intent is clear.

Under the section on the application form for varying/adding particulars to a route the applicant has written 'as above'. However, the application is not to vary, it is to add an unrecorded route.

If we break this down into sections commencing at the adopted highway on the A370 point A (K) Footpath LA6/16 proceeds along the route known as Ruggs Road to Point B (L). By the description contained in the application B-C-D (L-P-M) the claimed route leaves Footpath LA6/16 north of Point B and proceeds in a north-easterly direction, then south easterly direction to Point D(M), a currently unrecorded route. The claimed route then runs in a south easterly direction alongside the remains of the ancient wall to the Old Windmill at Point E (N). Then continues in a southward direction to Point F (O). The references recorded in brackets relate to the application plan and the description within the Enclosure Award.

The application also states that the route B-D (L-M) is the route used

5. This claimed Bridleway is illustrated as bold black dashed line on the attached Location Map (scale 1:6500).

## Analysis of Applicants Evidence

The claim is based on documentary evidence suggested by the applicant and written correspondence supplied. These routes are illustrated as A-B-D-E-F and B-C-D on the Location Map (Scale 1:6500).

### Yatton and Kenn Enclosure Award (1815) Somerset Record Office Ref: D/RA/9/6

The Allotment Plan attached within this Enclosure Award illustrates the area of Cleeve Hill which was open common land. Upon this plan it can be seen that reference is made to the points K-L-M-N-O as detailed upon the application plan. The Award refers to these annotations in the following way:

#### Ruggs Road

*"And one other Private Road of the width of twenty feet commencing at the gate of an Old Inclosure belonging to Mr George Standfast at Hippisley's Batch marked on the said plan with the italic letter K and extending southward to a cottage belonging to John Rugg marked on the said plan with the italic letter L and called Ruggs Road"*

In addition to this, the Enclosure Award sets out a Bridleway and Footpath to be known as 'Cleeve Hill Bridleway and Footway' and is described as follows;

*"One Bridleway and Footway of the width of six feet beginning at the gate of an Old Inclosure belonging to Mr George Standfast and continuing from thence along and after Ruggs Road to John Rugg's cottage marked on the said plan with the Italic letter L and from thence to a point in the newly erected wall dividing Cleeve Hill from the Parish of Brockley marked on the said plan with the italic letter M continuing from thence along and after the said wall to the land set out around the windmill marked with the italic letter N on the said plan continuing on the outside of the said land so set out to the wall dividing Cleeve Hill from the parish of Wrington and following after the same wall to a footpath set out over Wrington Hill marked on the said plan with the letter O and called "Cleeve Hill Bridleway and Footway"."*

On first looking at this description it appeared to be describing the route A-B-D-E-F shown on the attached location plan. No mention is made above of point C (point P on the Enclosure Plan). However, on further investigation point (K) is not located on Main Road (point A) but at a point south south east of point A. For identification purposes the location of (K) has been marked with the letter X on the Location Plan.

(P) is identified in the Enclosure Award in regard to the requirement for the Parish Boundary Wall to be built between (B) and (P). For information (B) is located on the southern tip of the Enclosure Plan Doc. 1a. Based upon this no evidence exists to support the section of claim between B (L) and C (P) shown on the Location Plan.

There is nothing within the Enclosure Award which defines whether Cleeve Hill Bridleway and Footway is a Public or Private Bridleway. Additionally, there is nothing describing who can use the bridleway. It is known that whilst Cleeve Hill was offered to John Poulett who declined to purchase this land it was eventually bought by John Richardson Tripp.

As this was common land which at one time would have allowed anyone access it would seem reasonable to suggest that the commissioner believed that the inclusion of this bridleway was necessary to provide access to the ruinous windmill. It is inconceivable that

the appointed Commissioner would have felt it necessary to record a Private Bridleway therefore leading to the assumption that this route was to be set out so that a route would be protected for public use.

The remaining question which cannot be answered is why a bridleway was set out in this Enclosure Award which terminates at the boundary wall where it is known a ladder stile existed. The continuing route in the Wrington Enclosure Award is recorded as a footpath.

This map and enclosure award extracts are attached as **Documents 1a, 1b, and 1c**

### **Greenwood Map of Somerset (1822) North Somerset Council**

The Applicant has referred to this document in correspondence with Woodspring District Council. It is impossible to say whether a route is visible on this plan as the Parish Boundary is depicted as a dashed boundary marking on a similar alignment. This plan does not assist in establishing whether a route was in existence.

An extract of this plan is attached as **Document 2**.

### **Ordnance Survey Map (1884)**

The Applicant has referred to this OS Map edition dated 1884, whereby sections of the claimed route are illustrated, but are not all connected. The claimed route A-B-D (K-L-M) seems to be depicted as parallel dashed lines although point B (L) would appear to be above Ruggs Cottage. This plan does not show connectivity between points M and N but does show a track between N and O. The depiction of a track and B.S. (Boundary Stone) can be seen at point C (P) however this track does not connect to point D (M). Initialled at point M is F.W. (face of wall) confirming the existence of the boundary wall?

An extract of this map is attached as **Document 3**.

### **Ordnance Survey Map (1903) 6inch to Mile**

The Applicant has also referred to this edition of an Ordnance Survey Map dated 1903 providing an extract. Like the 1884 edition, numerous tracks are illustrated some of these being the sections of the claimed route depicted as parallel dashed lines. This plan would appear to show a track on a similar alignment to that of B to D which may have provided access to the bowling green marked on the plan. However, this does not prove status. Unlike other routes which are labelled 'F.P' meaning Footpath, the claimed routes are not labelled. It should be noted that sections of the claimed route are not illustrated as tracks i.e. B to C, D to E, and C to D.

An extract of this map is attached as **Document 4**.

### **Ordnance Survey Map (1959)**

The Applicant has referred to this OS Map edition, where sections of the claimed route are depicted in a similar manner to the previous OS Maps discussed. Like the other Ordnance Survey Maps, the sections of route are depicted with parallel dashed lines.

A copy of this map is attached as **Document 5**.

## Analysis of Additional Documentary Evidence

The claim is based on documentary evidence which is listed below in chronological order. The routes are illustrated on the Location Map A-B-D-E-F and B-C-D.

### Yatton and Kenn Local Act (1810) North Somerset Council

Before any Enclosure award could be produced or enacted a local act was written which laid down the role of the appointed Commissioners, the tasks they were to undertake and the Powers which were to be given to them to achieve the results of "Inclosing Lands" lying within the parishes of Wrington, Yatton, and Kenn in the County of Somerset.

Within the act there are headings that relate to the area of Cleve Hill which read as follows;

#### **Commissioner may alter Roads through ancient Inclosure**

*XV1. ....; and in case it shall appear to the said Joseph Wollen, or to any other Commissioner to be appointed for putting this Act in Execution as far as the same relates to the Parishes of Yatton and Kenn, that there are or is any Publick Highways or Highway, Bridle-roads or Bridle Road, Footways or Footway, in, through, over, or on the Sides of the old inclosed Lands or other Grounds within either of the said Parishes of Yatton or Kenn, which may in his Judgement be diverted or turned so as to make the same more convenient to the Public, or be stopped up and destroyed as superfluous and unnecessary, it shall be lawful for the said William White or Joseph Wollen, or such other Commissioner as aforesaid, within the respective Parishes for which he is hereby authorised to act as a Commissioner, with the Concurrence and Order of Two justices of the Peace, acting for the County of Somerset (not being interested in the Matter in Question), and in Manner and subject to Appeal, as in this or the said recited Act is mentioned in and by his Award, to order and direct such Publick Highways or Highway, Bridle-roads or Bridle-road, Footways or Footway as aforesaid, to be altered, turned, stopped up or discontinued in such Manner as such Commissioner shall think proper.*

#### **Commissioner authorised to offer Cleve Hill to Lord Poulett at his valuation.**

*'XXV. And be it further enacted, That the Commissioner for executing this Act within the Parishes of Yatton and Kenn aforesaid shall, and he is hereby required, previous to his exposing any Allotment or Allotments of the said Moors, Commons, or Waste Lands to sale by auction in the manner and subject to the directions and regulations mentioned and contained in the said recited Act and this Act, to cause and survey to be made of the said Common or Waste Lands called Cleve Hill, within the Parish of Yatton aforesaid, and fix or set a price or value thereon; and the same being so surveyed and valued, the said Commissioner is hereby required to offer the said Common called Cleve Hill Common to sale by Private Contract to the said John Earl Poulett, or his heirs, at such his valuation; and in case the said John Earl Poulett shall become the purchaser of the said common called Cleve Hill at the valuation of the said Commissioner, to convey the same to him in Manner herein-before directed with respect to sale of Land by the Commissioner; and the Money arising from the Sale thereof shall be applied by the said Commissioner towards defraying the costs, charges, and expenses of obtaining and passing this Act, and carrying the same and the said recited Act into Execution, which are directed to be paid by the persons entitled to the Commons, Moors, and Waste Lands in the parishes of Yatton and Kenn, and the surplus money, if any, shall be applied in the manner herein-before directed with respect to the surplus or other money to be raised by Sale of Land by virtue of this Act: Provided always, that in case the said John Earl Poulett shall decline to purchase the said Common or Waste Lands called Cleve Hill at the valuation of the said Commissioner, then*

*and in such case the said commissioner shall expose the same to sale by Auction in the manner and subject to the Directions and Regulations mentioned and contained in the said recited Act and this Act.'*

***Boundary Wall dividing Cleve Hill, to be built at the expense of Yatton and Kenn.***

*'XXVI. And be it further enacted, That the Commissioner for executing this Act, as far as the same relates to the several parishes of Yatton and Kenn aforesaid, shall, and he is hereby authorised and empowered to cause the Boundary Wall for dividing the said Common or Waste Lands called Cleve Hill, within the Parish of Yatton aforesaid, from the said Common or Waste Lands called Wrington Hill within the Parish of Wrington aforesaid to be built (at the expense of the proprietors of the said old Auster or ancient tenements within the said Parishes of Yatton and Kenn) Six Feet and Half in height, with Mortar Four Feet and an Half from the base, and which said wall shall commence from the boundary of the parish of Congresbury in the said County of Somerset, and extend unto the boundary of the Parish of Brockley in the said County of Somerset, and be for ever after repaired, maintained, and kept by the owners and proprietors of Cleve Hill aforesaid.'*

Extracts of the Local Act are attached as **Documents 6**

**Yatton Tithe Map (1840) Somerset Record Office Ref: D/D/Rt/M/368**

The Tithe Commutation Act was passed in 1836 under which all tithes were to be converted into a fixed money rent by an award made by the Commissioners appointed under the Act. It was an enormous task as it required all the land to be assessed for the value of its average produce and each field to be accurately measured and located for the permanent record.

The Tithe map of Yatton illustrates the area of Cleeve where the claimed route is located. The map does not illustrate the claimed routes or any other indications of public rights of way. The purpose of this process did not include the necessity to record public or private access.

The claimed route would have passed through several plots of land being numbered 669, 623 and 624 on the map. These are described in the Tithe Apportionment as;

669 – Walk and Plantation

623 – Fir Plantation

624 – Plantation or Nursery

All of the above allotments are said to be owned and worked by John Hugh Smyth Pigott Esquire. This document does not assist in verifying whether public access was still available as would have been enjoyed when common land.

An extract of the map and apportionment is attached in **Document 7a and 7b.**

**Finance Act (1910)**

The Finance Act allowed for the levying of a tax on the increase in value of land. All holdings or hereditaments were surveyed and recorded with an individual number on a special edition of the Second Edition OS County Series Maps at 1:2500 scales. The Finance Act process was to ascertain tax liability not the status of highways. The documents are relevant where a deduction in value of land is claimed on the grounds of the existence of a highway. It should be noted that these plans are the working documents rather than the final versions which would normally be held at the Record Office at Kew. It has not been possible to obtain any other version.

The claimed route falls upon four sections of the Finance Act plans. These are XI.1, XI.2, XI.5 and XI.6, of which have been merged for completeness. This information has been recorded upon plans that have used the 1903 OS Map base. The depiction of the claimed route has already been previously described. There is a pencil marking upon this plan suggesting these routes fall within the hereditament numbered 'Bleadon 1164', however at this time we have been unable to obtain verification as to this entry.

A copy of this merged plan is attached as **Document 8**.

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

These Handover maps, which were drawn up in 1930 are on an 1887 map base. The purpose of these documents 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.

The claimed route is not coloured in any way, however the base map does illustrate sections of the claimed route similar to previous maps. This plan does not assist in establishing whether the claimed route was a public right of way, however it does confirm that this was not considered to be a public highway.

The extract of this map is attached in **Document 9**.

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

The definitive map process was carried out over many years going through various phases which involved the area being surveyed by local people (Parish Survey) 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 with a relevant date of 26 November 1956. Any objections about routes that were included or routes that had been omitted were considered by Somerset County Council and amended if considered relevant. The Definitive Map illustrates Footpath LA 6/16 over which the section of the claimed route A-B runs, similarly it shows Bridleway LA 6/18 over which the section of the claimed route C-D runs. The remaining sections of the claimed route are not illustrated as public rights of way.

The parish council were responsible for surveying and recording the public rights of way in their parish. These routes were recorded on a plan, which in due course would be forwarded to Somerset County Council along with the walking card. This plan does not show all the claimed routes only the section A-B as part of Public Footpath LA6/16.

What should also be noted is the Bridleway between C and D is not recorded on the Parish Survey Plan produced by Cleeve. Having also checked the adjoining Brockley Parish Council Survey this section of bridleway is not illustrated on that Parish Survey plan either.

The walking card for LA 6/16 reads "From Main Road to Wrington boundary, road partially gravelled. Good condition. Well defined. Stile broken at Wrington Boundary by usage." This walking card was typed and records an 'x' under 'F.P', the card was signed and dated.

A copy of this walking card and survey plan is attached as **Documents 10a and 10b**.

The walking card for LA6/18 reads "The path starts at the Brockley Parish Boundary being a continuation of BR 4/2 and runs south easterly for a short distance near the Parish Body

where it joins BR4/2 again in Brockley Parish & continues through Brockley Combe". This walking card is written in pencil, has BR underlined but is not signed. It is not clear as to when the inclusion of this bridleway on the Cleeve side of the boundary wall was added to the maps.

A copy of this walking card and survey plan is attached as **Documents 11a and 11b**.

Once all this information had been passed to Somerset County Council a Draft Map for the area was produced. That draft map was placed on deposit within the Parishes, normally within the Church so that persons could comment on the routes which had been detailed by the Parish Council.

A copy of this map is attached as **Document 12**.

Any comments received were considered by Somerset Council and if accepted were then illustrated on the Draft Map Modification Plan. As can be seen on this plan, no proposed amendments were suggested, hence minimal illustrations indicated.

A copy of this map is attached as **Document 13**.

The Provisional Map was again placed on deposit within the Parish, this time so that Landowners could comment on the routes which had been recorded by Somerset County Council. If objections were received, these entries were either maintained or removed from the map. As can be seen from this map, it illustrates Footpath LA6/16 as shown by previous plans, however there is Bridleway LA6/18 running adjacent to the Parish Boundary and crosses between Points C and D. Regarding Points D, E and F, there are no illustrations to suggest its status.

A copy of this map is attached as **Document 14**.

Following this process the Definitive Map which carries a relevant date of 26 November 1956 was published around 1965. This is our legal record of public rights of way and shows the claimed section of route between A-B as a Footpath. Additionally, at point D Bridleway LA 6/18 emerges from point C and continued to Point D in an easterly direction, either end of this bridleway is recorded in the Parish of Brockley. No other sections of the claimed route were recorded as public rights of way at this time.

A copy of this map is attached as **Document 15**.

#### **North Somerset District Council Parts of Bridleway LA4/2 Brockley and Bridleway LA6/18 Cleeve in Brockley Woods Public Path Diversion Order No 4 2013**

This Diversion Order sealed on 15 August 2013 and confirmed on the 15 May 2014 had the effect of diverting the section of Bridleway LA6/18 (shown on the Location Plan between points C and D) from the line shown on the Definitive Map on the Cleeve side of the boundary wall to an alternative line on the Brockley side of the wall. The effect of this order was the removal of any public rights which existed on the section C to D.

### Analysis of User Evidence

Three User Evidence Forms have been submitted in support of this application. One of these forms has been signed in August 2004, whilst the other two signed in November 2017.

All three Users have illustrated the route which they claim to have used, this being dissimilar to the routes shown on the application form. They illustrate a route between Point A to a point north of Point B then following the boundary to Point C and onward to Point D. The claimed use is between 1948 – 1963, 1963 – 1969 and 1963 – 1969.

Further information has been given on these forms as below:

- Going from Main Road Cleeve to Bowling Green onto Bridleway and onto top of Brockley Combe
- From County Road A370 Ruggs Lane via Ruggs Cottage to join the Bridleway
- Used numerous times
- Used Early days very frequently 60's 6 time a year
- Used without let or hindrance until Mr D Ridley put in a gate

It is claimed that the used section of the route was open and available to users during the periods of their use, no obstructions being recorded.

Whilst other names of riders have been written, user forms have not been presented at the time of the application being submitted. The application makes no reference to User Evidence Forms only the Enclosure Award.

Only one other comment has been recorded on these forms under the question **Has the way always run over the same route or has it been diverted at any time?** which reads "The Route has been diverted from the E Award to the West of Ruggs Cottage. The Route from the E Award can be seen on the ground in places. The point Q on the E Award is at a gate going into Wrington Parish the FP continues on a route I used to get to Goblin Combe"

Further information from the user forms relates to use by one person of 15 years, the remaining two both for six years. The periods of use for the section A-C-D is very limited, not one of these users claiming to have used this route for a period of 20 years or more. Therefore, I do not consider that this evidence is sufficient to establish a bridleway over the route A-C-D.

A summary of the information from the User Evidence form has been collated and is attached to this report as **Document 16**.



## Consultation and Landowner Responses

A pre-order consultation letter was sent to adjoining landowners and interested parties on 5 October 2017. The following responses have been received.

### Consultation Responses

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

Name	Objection or Supporter	Comment
Virgin Media	No Objection	Should not be affected by your proposed works and no strategic additions to our existing network are envisaged in the immediate future
WW Utilities	No Objection	Has no apparatus in the area of your enquiry.
Cadent Gas & National Grid	No Objection	There is no record of apparatus in the immediate vicinity
Mr G Plumbe Green Lane Protection Group	No Objection	Thanks, but I have no wish to comment. If however the process at any stage involve a claim of mpv rights, please let me know.
Open Reach	No Objection	Openreach does not appear to have apparatus in the area of your proposals.
Atkins Global	No Objection	Please accept this email as confirmation that Vodaphone: Fixed <b>does not</b> have apparatus within the vicinity of your proposed works.
Bristol Water	No Objection	Previously a search was done on Ruggs Road but this road is not a registered highway. Also the OS Sheet reference given has insufficient digits. We can confirm this location is in our area of supply and would advise your proposed footpath modifications do not affect our apparatus and have no objection to the proposed order. We enclose a copy of the ordnance survey sheet upon which we have marked the sizes and approximate positions of our mains, which are normally laid with 750 mm of cover in footpaths/verges and 900 mm of cover in roads. We do not normally keep records of service pipes, however, a number of such pipes may be indicated upon our ordnance sheet, but no guarantee as to the accuracy of this information can be given. The section of service pipe belonging to the company normally runs from our water main to the boundary of the property or the highway boundary - whichever is appropriate.
Cleeve Parish Council	Support	Cleeve Parish Council would like to advise they fully support the application and would be delighted to see the Bridleway being used by Pedestrians, horse riders and cyclists.
V Craggs	Comments	You will appreciate that we have some new user forms, and I think I sent mine in 1904 but will send on another copy together with the others. As the park B/W owned by Wanda Denning was always padlocked we had a rights in

law to divert, so we could then get to the Bowling Green and on to the Bridleway. There were many riders using the way who would have given evidence in 2004 now most of them deceased. I asked for years to get this park route opened from ACC, WDC and NSC but I was ignored. I know Mrs Smith from Long Ashton also asked in the 40/50s she was a BHS Rep. There must be a huge amount of correspondence in your archives.

Natural  
Environment  
Officer – S  
Stangroom

Comments

I have checked the site against our GIS environmental records and note that there are a number of horseshoe bat roosts in proximity. The closest roost is located approximately 600m from the horseshoe bat breeding roost at Brockley Hall Stables (designated as a Special Area of Conservation (SAC)) and 1.2km east of the other designated SAC at King's Wood and Urchin Wood, which contains a complex of further horseshoe bat roosts. The bridleway proposals, provided that no trees are proposed to be removed at this location are indicated as unlikely to result in a significant level of disturbance to hibernating bats. However, if local knowledge/opinion is that the proposals could result in significant noise and disturbance, such as could result with significant use by groups, or for events attracting large numbers of participants, then it may be necessary to undertake some further assessment of any potential for more significant disturbance, for compliance with the Habitats Regulations. Whilst these roosts are not designated as a SSSI or as a SAC, the bats and roosts are legally protected, the species, lesser horseshoe bat, and in some further proximity, greater horseshoe bat, due to their threatened status comprise the qualifying interest species of the North Somerset and Mendip Bats Special Area of Conservation (European Site). Accordingly, I am copying in Natural England to provide them with an opportunity to comment on the proposals, should then have any concerns. Further, for information, the location is located within the 'Brockley Coombe, Cleeve Hill and Goblin Coombe' non-statutory Wildlife Site (No.591) (protected under Sites and Allocations, Development Management Policy DM8). The woodlands are also noted as a stronghold for dormice (a further European Protected Species). Therefore, it is recommended that should any significant removal of vegetation be required that this is discussed further with myself or Sarah Forsyth.

## Landowner Response

**Name**

**Objection or  
Supporter**

**Comment**

D Ridley (dated  
4.01.18)

Objection

Please accept this letter as my objection to this application for a Public Bridleway to be recorded on my land known as Cleeve Hill Woods. For the record, in July 2004 I received a telephone call from a Rights of Way officer of North Somerset asking if I would dedicate a Public Footpath which would provide a link to definitive FP 6/16 – connecting to Brockley Woods and then joining the Definitive Bridleway 6/18. I refused. I had no intention of dedicating a Public Bridleway on my land in Cleeve Hill Woods. To my astonishment the Rights of Way Officer replied that if I didn't dedicate a public footpath on the route then Venetia Craggs would claim she had ridden the roads through my woods and

would put in an Application to claim a Public Bridleway. I replied that “she is free to do what she likes” – and sure enough within 2 weeks’ notice of the Application arrived on my doormat and was dated 1<sup>st</sup> August 2004. The routes claimed on the Application location plan are, as you know, unbelievable – not going from A to B as would be expected, usual or normal, but in a triangular route starting from the main A370 road at Cleeve and ending at a Public Footpath which goes across Wrington Warren, as you know the route B to D and B, C, D, E and F are non-existent on the ground, overgrown with timber and with lateral mineshafts across them in places and no evidence of any existence of these claimed routes exist. You have provided with and have examined the legal document known as the Enclosure Act of 1810 in which it clearly and unequivocally states that a wall is to be built from the Windmill at Brockley across to the Congresbury boundary and as you know the evidence shows that this was carried out without exception thereby blocking all tracks, paths, bridleways etc. The wall blocked all access from Cleeve to Wrington apart from the ladder-style that was later erected at Point F on the map you provided. I have provided you signed statements verifying the existence of the ladder-style.

Although Joseph Wollen the Commissioner appointed by the 1810 Act is somewhat ambiguous in his writings he clearly states in one Advertisement [a copy of which I have provided you with] that the only road to be made public in Cleeve is Cleeve Hill Road joining Wrington Hill Road. The only inference to be drawn from the 1810 Enclosure Act and the building of the wall is that the route Ruggs Road, Cleeve Hill bridleways etc. are to be blocked up and in future should not exist as a public road. The documents to which have been referred within this letter are described in **Appendix 7**.

D Ridley (dated  
21.06.18)

Comments

I have sought professional advice on this matter and can say the following;

The three user evidence forms are clearly not good enough, the occasional use 55 years ago along a route that doesn’t tie in with the historic evidence is worthless. The basis of the claim in 2004 remains that it is set out as a Private road in 1815 It has no legal standing and is neither new nor relevant, also it is my belief that 2 of the users are related.

The application of the WBA is without merit and relies upon the scatter gun approach in the vain hope that something will strike a target. Even a cursory glance at the application shows it should not be entertained. That said, I have had it extensively researched and my advice is:

The applicant provides no new or relevant evidence that was not considered previously during the formation of the Definitive Map.

New and relevant evidence that has become available since the original survey, such as the 1910 Finance Act, WarAg Farm Survey, Deeds and Parish Records, were not submitted with the application. This is not surprising of this applicant as none of them supported the application in any way shape or form.

The applicant relies entirely upon the Enclosure Award to farcically claim the creation of a public bridleway. This fails for the following reasons;

A. The Award was examined during the creation of the DM

B. The Bridleway leads out of a private road with no attaching public rights.

C. If the applicant believes that "private" means "public" I draw their attention to the matter of Dunlop v SOS.

D. If the applicant believes that the ultra vires setting out of a private route with the intention of it being public creates a public way I draw their attention to the cases of Buckland, Buckland and Capel v SOS.

E. If the applicant believes the private way became public later then they need to produce some evidence of later dedication and acceptance of the way. They have not.

I recommend that the application case is dismissed. Should an Order be made I will object and claim my costs.

The following are email exchanges between the Senior Access Officer and Mr A Dunlop. These were received after Mr Ridley's email of 21<sup>st</sup> June 2018 during the Pre-Order Consultations period.

### **Mrs Bowman – 21 June 2018**

Dear Mr Ridley

Thank you for your email. I note the advice which you have been given in this regard.

I agree with you upon the strength to be given to the three user evidence forms. If this was a claim based solely upon User evidence then this claim would fail. However the intention within the Enclosure Award needs to be fully investigated. As you are aware the plan clearly illustrates this route as Cleve Hill Bridleway and Footway. An extract of the plan and Award extracts is attached for your advisors information.

The Award sets out Ruggs Road as a Private Road between points K and L on this plan.

The Award then describes Cleve Hill Bridleway and Footway commencing at the same old Inclosure described for Ruggs Road and proceeding along Ruggs Road to John Ruggs Cottage and onwards.

The 1810 Local Act laid out the powers given to the Commissioners for surveying, holding meetings and assessing costs. This also contained instruction advising that the Commissioners also had powers to turn, stop up or discontinue any Public Highways, Bridle roads footways in through, over, or on the sides of the old enclosed lands or grounds within either of the said parishes of Yatton or Kenn. Such acts were to be authorised by two Justices of the Peace. No evidence has been found to show that the Commissioners stopped up any routes.

The applicants are not claiming the creation of a bridleway, they are claiming that a bridleway was set out as part of the Enclosure Process which should have been recorded since 1815.

In regard to your points

A – Where is the evidence that the Parish Council looked at the Enclosure Award as part of their process for the Definitive Map.

B – The Enclosure Award states that Cleve Hill Bridleway proceeds over a Private Road

C- The applicants are not claiming Private means Public, they are suggesting that the Definitive Map has been incorrectly drawn and needs modifying.

D – This case is very different to Buckland. In that case the route was shown on the Enclosure Award as a Private Carriage Road latterly shown on the Definitive Map as a footpath. They were claiming higher rights had been established.

E – I agree

As you will be aware this matter needs to be investigated and a report produced for the Committee. As previously explained the Enclosure Evidence should be regarded as important evidence unless it can be shown that further legal processes have been undertaken.

I note that you will be objecting and will ensure your comments are included in my report.

### **Mr A Dunlop – 21 June 2018**

Thanks for this. In response I would say;

1. If this was a pre-existing public route there would be no need to set out.
2. The description does not state whether the Bridleway way and footpath were public or private.
3. There is no evidence to suggest that the route was set out, indeed the fact that the mill was already redundant at that time suggests no need for a public nor private way. Indeed the later land sale to fund enclosure supports this. (I would add that this point parallels Buckland and was one I used in that case)

As for the points A to E:

- A. There is a presumption of regularity as to the work of the Council under the 1949 Act. They were required to consult Enclosure Awards.
- B. Agreed but not what status. It is normal where a private road is set out that includes public rights for that road to be set out as such. For example as "One public bridle way and private carriage road" See Dunlop re Glatton with Holme Enclosure
- C. That's good to know.
- D. In Buckland they claimed that the setting out as a 20 foot wide private road to be maintained by the public as if public was lawful creation. We successfully argued it was ultra vires (and didn't complete the through road in any case) thus without evidence of later dedication and use did not create anything. The public footpath was created by later usage. Interestingly, part of the later footpath had been diverted by lawful Order.
- E. Thank you.

### **Mrs E Bowman – 21 June 2018**

Dear Mr Dunlop

Many thanks for your comments.

I appreciate what you are saying however I disagree. The Enclosure process required routes to be set out if they were to continue to exist post Enclosure The Local Act allowed the Commissioner to stop up, alter or turn existing routes if they deemed it necessary in conjunction with two Justices of the Peace. The Enclosure award specifically stated that any routes not set out would be stopped up.

If this was a private bridleway (away from the main road) then there would have been no reason for its inclusion on the Enclosure Award, thereby implying that it was intended for public use. If you do not think that to be the case why would the Commissioners have felt it necessary to set this route out in their Award?

Are you saying that the describing of a route in the award and illustration upon a plan does not constitute the setting out of a route? Or are you meaning physically upon the ground? In such a case of the Enclosure Process I do not think there is anything about dedication and acceptance by the public. Mr Ridley has confirmed in the past that routes which cross his land over time have disappeared as the vegetation has grown, that may well be the case with this one.

As for the points in your email

- A. I assure you I am well aware of the process to be followed under the 1949 Act however these routes were recorded by the Parish Councils and experience of looking after the Definitive Map for all my years has cast doubt that every authority had regard for the ancient documents. Whether the County Council's undertook that process could also be called into question.
- B. Unfortunately the wording of this enclosure award is not as you have exemplified. I do not have a copy of the case you have referred to.
- D – I am not sure that I wish to compare this matter with Buckland. That is a case which I understand may be challenged again in the future. This Enclosure Award set this bridleway out at 6 feet wide. It is my understanding that by inclusion within the award this was the act of setting out and defining the route. The only way that could subsequently change would have been to have taken the matter to the Magistrates Court or by a legal order which we have found no evidence of.

I am not sure what else you would wish to discuss on this matter before a report is written. I need to place the historical evidence down with a recommendation. Mr Ridley has been given the opportunity of submitting his comments which will be included in the report.

You say you wish to reduce the risk of costs being generated, as you will be aware my report is not the end of the matter. If I recommend an Order then Mr Ridley will object, If I refuse the application the Applicants will appeal and based on recent history the Planning Inspectorate will direct me to make an Order which Mr Ridley will object to. All ways costs are going to be incurred. My job is to evaluate all the available evidence held by North Somerset and make a judgement.

### **Mr A Dunlop – 26 July 2018**

Dear Elaine,

Thank you for your response. I apologize for not responding sooner.

Your views are noted, as is the failure to take account of the need to provide access to the then redundant and derelict mill which the owner hoped to bring back into use. I would point out that an Enclosure Award is best seen as "detailed Planning permission" in modern terms and a failure to complete has been discussed fully and decided in *Cubitt v Maxse*. As the route does not appear, as far as I'm aware on any later maps it does suggest that it wasn't completed, as per *Buckland*. Notwithstanding this there is some difficulty in providing a public bridleway (as claimed) over a private road without reference to the claim that the route also possessed public rights.

However, for a person to submit an application to amend the Definitive Map and Statement that has already been decided they must present new and relevant evidence (for example, as per Peppards and the outstanding work of Mrs Masters who was able to show that the 1949 process was fatally flawed). In this matter the applicant has not done that by just providing a scatter gun shot.

Whilst I accept that some surveys and processes were not carried out in accordance with the rules of the day this does not and cannot apply to every survey or Definitive Map and Statement. To suggest so means that no faith whatsoever can be attributed to the documents and whilst I can perceive this unconscious bias amongst some users I do not expect it from PROW officers.

I stand by the legal status that there is a presumption of regularity UNLESS someone, as per Mrs Masters above, can prove fault. In this case no such evidence has been brought forward to suggest that the survey and process was flawed and the application must fail on that point alone.

I accept that at this point, with current legislation, all that needs to be shown is a reasonable allegation of existence (before balance of probability comes into play) but none has. We cannot reasonably go back 70 years, without cause, to discuss a 200 year old process on a whim or wish. I also accept that the applicant can appeal a rejection but the point still stands that without new relevant evidence that would (or should) fail.

If you decide that the application route based upon the "evidence" of a document that doesn't grant rights, which did not appear on later maps and without new relevant evidence of say the 1910 Finance Act plans and documents that a reasonable allegation has been made then I'm sure Mr Ridley will object and seek costs.

I remain happy to discuss your draft report.

### **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. As previously illustrated no evidence has been submitted to support a 20 year period.

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. For this application there appears to be no evidence of a date of challenge.

However the basis of this claim is that a route shown on the Enclosure Award was not recorded on the Definitive Map therefore Common Law will not be considered.

## Analysis of Landowners Evidence

In addition to the previously mentioned response from the Landowner Mr D Ridley, he also submitted additional evidence to support his objection against the claim.

An initial email was received on the 20<sup>th</sup> April 2018 outlining a section of the Enclosure Award regarding the 'Sale Lands' of the region. Mr Ridley attached an extract of the document that reads;

*“And I the said Commissioner having in pursuance of the directions of the last recited act \_\_\_ a Survey to be made of the said Common or Waste Lands called Cleve Hill within the said Parish of Yatton and fixed on a set price or value thereon Did offer the said Common called Cleve Hill to sale by private contract to the said John Earl Poulett at such my valuation And the said John Earl Poulett having declined to purchase the same at such my valuation I the said commissioner did set out and allot the Common or Waste Lands called Cleve Hill to be sold for the purpose of defraying the expenses of obtaining and passing the said recited act of parliament and carrying the same and the first recited act into execution as far as respects the said Parishes of Yatton and Kenn and did sell and convey the said Common or Waste Lands called Cleve Hill situate within the parish of Yatton in the said County of Somerset with the Cottage and Garden in the occupation of John Parsons containing by statute measure Three hundred and thirty acres and numbered 172 on the said Plan to John Richardson Tripp Gentleman. Which said common or waste lands called Cleve Hill is bounded on the East by the wall lately built for dividing Cleve Hill from Wrington Hill on the west and north west by Old Inclosures and on the south and south west by the Congresbury Boundary Wall and Kingswood. And I so hereby further direct and award that the said John Richardson Tripp or the owners and proprietors of Cleve Hill from time being shall and will from time to time and at all times for ever hereafter repair maintain and keep the boundary wall built by me the said Commissioner pursuant by the directions of the last recited act commencing form the boundary of the Parish or Congresbury in the said County of Somerset marked on the said plan with the italic letter B...”*

Later correspondence was received from Mr Ridley on the 22<sup>nd</sup> April 2018, specifically relating to the Enclosure Award and the sale of 'Cleeve Hill'. In support of his evidence, Mr Ridley states;

*“... to try and help you understand the thinking of the commissioners here is the 2 main adverts for the Public and Private Roads they are setting out, you will notice he states at the beginning of each advert what he is proposing and concludes each advert what he has proposed as I have highlighted, you will find as I did that the wording of the award is very similar to the adverts. I would like you to bear in mind that Cleeve Hill has to be sold by the commissioners to pay for their fees in carrying out the Act of Enclosure, so therefore any public roads, bridleways, foot ways etc running over Cleeve Hill would greatly reduce its value, also by 1812 most of Cleeve Hill is encompassed by a 6'6 high wall built by the commissioners making it a very desirable private patch of land to be purchased, and John Richardson Tripp did purchased the land from the commissioners on the 10<sup>th</sup> July 1812 and he sold it on to Thomas Shrapnell Biddulph on the 12<sup>th</sup> August 1814. I also attach for your interest the 1821 Sturge Map of Cleeve Hill which does not show any ancient bridleway coming from Brockley Woods, the 1841 Tith Map which is silent on any rights of way, an advert of 1793 showing for lease of the Old Windmill with permission to put in a road.”*

Mr Ridley also supplied a number of press notices from the Bristol Mirror that support the commissioners' order set out within the Enclosure Award. The content of each notices is stated below;

**Dated 8<sup>th</sup> January 1811 (Bristol Mirror Saturday 26 January 1811) -** The Stone-Masons, Wrington, Yatton, and Kenn Inclosure.

*"The building of the Boundary Wall, dividing Cleve Hill, in the parish of Yatton from Wrington Hill.*

*The wall, as directed by the said Enclosure Act. "Is to be built six feet and half in height, with mortar four feet and a half from the base." The builders are to provide all materials, and to complete the wall on or before the 1<sup>st</sup> day of June next.*

*... Lot 2 – From the Comb to the Old Windmill, about 142 ½ Ropes.*

*... Lot 3 – From the Old Windmill to the Park Wall, 69 ½ Ropes."*

A copy of this notice is attached as **Document 17**.

**Dated 24<sup>th</sup> July 1811 (Mirror Saturday 17 August 1811) –** Wrington, Yatton and Kenn Inclosure

*"... Do hereby give notice, that I have set out and appointed the public carriage roads and highways, through and over Commons, Moors and waste lands, called Cleve Hill, Kenn Moor, and Moore Street Common, within the said parishes of Yatton and Kenn, intended to be divided, allotted, and inclosed; the general lines of which intended Carriage Roads and Highways are as follows, vix, :- The First Line, from Cleve Hill Gate, near Kingswood, marked on the Commissioners map with the letter A. extending after the north side of the said wood to the Congresbury Bound Stone No. 16, near Woolmoor's Gate, marked B where it is intended to communicate with the road leading to Wrington."*

The description in this notice above relates to the route known as 'Cleve Hill Road', not the claimed route.

A copy of this notice is attached as **Document 18**.

**Bristol Mirror Saturday 15<sup>th</sup> May 1813 –** Wrington, Yatton and Kenn Inclosure

This press notice simply reinstates what is written within the Enclosure Award with regard to the private roads, bridleways, footways, drains, watercourse etc. over the Commons, Moors and Waste Lands of Cleve Hill. This includes reference to Ruggs Road and the Cleve Hill Bridleway.

*"One other private road, of the width of 20 feet, beginning at the gate of an old inclosure belonging to Mr George Standfast, at Hippisley's Batch, and extending Southward to a cottage belonging to John Rugg, and described on the said plan as Rugg's Road.*

*One bridleway and foot-way, of the width of 6 feet, beginning at the gate of an old inclosure belonging to Mr George Standfast; and continuing from thence along and after Rugg's Road, to John Rugg's Cottage; and from thence to a point in the newly erected wall dividing Cleve Hill from the parish of Brockley, marked by a peg; continuing from thence Eastward along and after the said wall, to the land set out around the windmill; continuing on the outside of the said land, to the wall dividing Cleve Hill from the parish of Wrington; and continuing after the same wall to a footpath set out over Wrington Hill, and described on the said plan as Cleve Hill Bridleway"*



A copy of this extract is attached as **Document 19**.

Finally, within this correspondence, a drawing acquired from the 1788 British Library was attached to illustrate the Brockley Windmill, located at Point E. As shown from the drawing the land appears to be very sparse with very little wooded regions, suggesting that when this area was open common land that there wasn't any need to set pathways to access this Mill.

A copy of the drawing is attached as **Document 20**.

Mr Ridley has also submitted a testament signed by four individuals (including himself) that relates to the witness of the Ladder Stile located at Point F of the claimed route. This location would agree with the description contained within the Enclosure Award where Cleve Hill Bridleway meets the constructed wall into the Parish of Wroughton and continues as a footpath. This information is not disputed.

All of these documents submitted by the landowner Mr Ridley illustrate that the Commissioner followed the due process set out in the Local Act by advertising his intentions and holding meetings in The Prince Of Orange Public House prior to completing his Award in 1815.

One further document which Mr Ridley has submitted relates to the Sale of land reported in the Gloucester Journal on Monday 28 October 1793. This reads:

*Lot V - A WINDMILL on Cleeve Hill, within the Manor of Yatton, for many years let for 8l, subject to a Lord's rent of 5s. it being in a ruinous condition, the proprietor will either raise it up or allow timber and stone, and grant a lease for three lives to any one who would wish to work the same. The road may be made to the said Mill from every parish round at a small expence especially as the inhabitants are obliged to make a road to a mill, equally as a church common to the same.*

This information detailed prior to the Enclosure Award of 1815 implies that the rental of this placed an obligation on the inhabitant to make a road to the Windmill. It is not known whether this was taken up however, may provide some explanation as to why the Commissioner set out the provision for Cleve Hill Bridleway and Footway.

A copy of this entry is attached as **Document 21**.

## **Summary of Evidence and Conclusion**

### **Summary of Documentary Evidence**

As can be seen from this report many documents have been looked at to try to establish whether the application submitted by the Applicants Woodspring Bridleways Association supports the claim that Bridleways should be recorded on the routes A-B-C-D-E-F and B-D. Looking at all of these documents in a chronological order the following comment would be made.

The earliest document presented is that of a press notice of 28 October 1793 advertising the rental of the Windmill. Even in 1793 this was in a ruinous condition however did grant the opportunity to make up a road to the Mill suggesting that the inhabitants were obliged to do so. This notice suggests that it may have been possible for the Mill to be raised up or allow timber and stone to be extracted which presumably required a track.

The Yatton and Kenn Local Act of 1810 laid down the process to produce the Enclosure Award. This local act provided the power for the Commissioner to set out and stop up routes, whether public or private as seen to be necessary.

It is not known whether the introduction of a road to the Mill was taken up in 1793 or until the land was enclosed in 1815. This may explain the reference to Cleve Hill Bridleway and Footway which lead to the Mill and beyond. By this time the area described as a Plantation or Nursery would have become a developed woodland and these tracks presumably assisted with land management but does not suggest whether these would be public or private.

Woodspring Bridleways Association believe that the route illustrated on the plan attached to this Enclosure Award in 1815 and entitled "Cleve Hill Bridleway and Footway" should have been recorded upon the Definitive Map. This is the earliest illustration of this route. As this document was produced because of an Act of Parliament and followed a full consultation process, this could be regarded as good evidence that the applicants claim should be met. This would be very simple to prove had these routes been used sufficiently to show the recorders for the Definitive Map Process that these routes had become established.

Greenwood Map 1822 does not provide any assistance with this claim. A black dashed line can be seen along the same alignment of the route claimed however this is the parish boundary marked, not a right of way.

Yatton Tithe Map 1840 plan does not illustrate the claimed route. The claimed route would have passed through Apportionments 623 and 624 which are described as Fir Plantation and Plantation or Nursery. This would suggest that the owner or occupier of the land had started planting the trees for which this area is now covered.

The Ordnance Survey maps of 1884, 1903 and 1959 all seem to illustrate a track on a similar alignment between points A-B-D. None of these illustrate a track between points D-E but do illustrate a track on a similar alignment between E-F. However, the depiction of a route on OS maps does not mean that they carry public rights.

The Finance Act 1910 information is drawn upon an 1903 base map advising that this hereditament falls under Bleadon 1164. At this time it is not known whether any relief was given for public rights over this land.

This Handover Map 1930 does not show any publicly maintained routes either entering this area of land or running through it.

As can be seen through the Definitive Map process neither Cleve Parish Council or Brockley Parish Council recorded Bridleway LA6/18 on their Parish Survey Plans. However, Brockley Parish Council's plan does show this route drawn in pencil and a walking card, also in pencil has been found. No evidence has been found to suggest that this omission was discovered through the consultation process so is presumed to have been resolved before the draft map was produced.

As part of the Definitive Map Process Parish Council's and Somerset County Council were required to have regard to historical documents such as the Enclosure Award to ensure that historical routes were recorded. However, that is not the case with Cleve Hill Bridleway and Footway. This casts doubt on the route shown on the Enclosure Award and would suggest that the full length of the claimed route was not being used or evident on the ground. The Definitive Map process recorded the section C-D as Bridleway LA6/18, being a continuation of LA4/2. The Section A-B was recorded as Footpath LA6/16, with no suggestion or recorded challenge that this should be recorded as a Bridleway. The Definitive Map carries a relevant date of 26<sup>th</sup> November 1956 and has remained our legal record for Public Rights of Way.

The Public Path Diversion Order No 4 2013 confirmed on the 15 May 2014 had the effect of diverting Bridleway LA6/18 to a new alignment commencing on the A370 and running through Brockley Woods. This therefore had the effect of removing the bridleway rights from the section C-D (P-M). Therefore the claim for that section made in this application should no longer be considered.

Taking these documents into consideration the Enclosure Award 1815 and Definitive Map Process are the only documents which provide information relating to legally recorded rights of access.

Therefore, based on the documentary evidence, no evidence has been found to support the claim that the route B-C (L-P) should be recorded as a Bridleway. This has not been shown on any of the mapping which has been looked at. In addition the applicant claims that the route used by the three users was B-D.

As the section C-D was diverted by the Public Path Diversion Order No 4 2013 all public rights have been removed and therefore should be given no further consideration.

The removal of the two sections above leaves A-B-D-E-F to be determined. This is the route illustrated on the Enclosure Award (K-L-M-N-O) as Cleve Hill Bridleway and Footway.

### **Summary of Landowner Evidence**

The landowner believes that this area of land was enclosed by the erection of the boundary wall for the sole use of Mr Tripp who purchased the land during the Enclosure Process. He does not accept that the setting out of Cleve Hill Bridleway and Footway related to a public bridleway. The landowner and his advisor claim that the depiction of this route upon this plan did not make this public, nothing within the award verifying whether this was public or private. It is suggested that this could have been a private bridleway leading to the

Windmill, however it is known that this mill was a ruin. They suggest that this document should be regarded as an early Planning Application and that the depicted Cleve Hill Bridleway was never set out on the ground and therefore never existed.

They contend that case law already tested would prove that this was not a public bridleway. Similarly, literature held within the PROW section relating to Enclosure Awards makes reference to routes which were set out in awards but not physically existing on the ground. It suggests that it is necessary to have supporting evidence that the new route was physically laid out and came into public use.

Therefore based upon the evidence from the landowners and advisor there is sufficient reason to question whether these routes although referred to within the award were actually set out on the ground and came into public use.

### **Summary of User Evidence**

Taking into consideration the information that has been collated from the user evidence forms this is very minimal and does not provide a lot of support for this claim.

The information given on these forms suggests that use of the claimed routes ceased in 1969. They only supply information relating to 15 years of use. In addition to this the users have marked a route on their plans which differs to that of the routes being claimed. The route marked is similar to A-C-D not progressing as far as Point B.

Therefore, based on the user evidence officers do not feel that the evidence supports the claim that either A-B-D-E-F or B-C-D should be recorded as Bridleways.

### **Conclusion**

From all of the evidence which has been looked at there are only two processes which related to the establishment of public rights.

The Enclosure Award made following a Local Act clearly set out the powers that a Commissioner had in regard to enclosing areas of land which were considered to be common land. They were required to set out any roads which they considered necessary both for the public and private use, specifying the width of such routes. In addition to this they could also set out Bridleways Footways etc. In this case although Cleve Hill Bridleway and Footway have been set out in the Award no distinction has been given as to whether this was a Public or Private Bridleway.

Ruggs Road is described as a Private Road commencing at the gate of an Old Inclosure (K). This point is not the connection to the main road A370 point A. This suggests that there was a route from point A to (K) which was in use by the persons who used the Common Land before its enclosure. Those rights allowed access to the Old Inclosure owned by George Standfast and provided access for John Rugg to gain access to his cottage. As this access may have previously been used by the general public the Commissioner obviously considered it necessary to detail Ruggs Road as a private road within his award, failure to do so would have removed John Ruggs right to gain access to his land.

Cleve Hill Bridleway and Footway was set out in this award as 6 feet wide commencing at the same point as described for Ruggs Road. Whilst this was set out in the award it is not known whether this was laid out on the ground. The landowner and legal representative claim that the setting out of this route did not make this public or provide evidence of it

being laid out on the ground, suggesting that this “should be regarded as a Planning Application”.

There is no physical evidence to show that Cleve Hill Bridleway and Footways were set out as described in the Enclosure Award. The applicant will claim that these routes are evident on the ground, in my opinion that is not so. Therefore it is necessary to have supporting evidence that these routes were physically laid out and came into public use.

The only evidence to suggest that part of this route came into being as a bridleway is that of Bridleway LA6/18, C-D, which was diverted on 15 May 2014.

The other evidence relating to public rights is that of the Definitive Map Process which did not record any bridleway rights only Footpath LA6/16 A-B. There is no indication that this depiction was challenged at any time during this long process.

The applicant has submitted three user evidence forms, one of which claims 15 years use, the other two six years. The last use claimed in 1969. This use is during the period when the Definitive Map process was being undertaken. The amount of use is described as “Very Frequently and numerous”. However such use was obviously not sufficient to suggest to the Parish Council that the recording of Footpath LA6/16 should be as a bridleway. It should also be noted that whilst the use between Point A and to the north of Point B agrees with the application there is a discrepancy between the routes illustrated on the User Forms and that shown on the application between points B and C .

## **Conclusion**

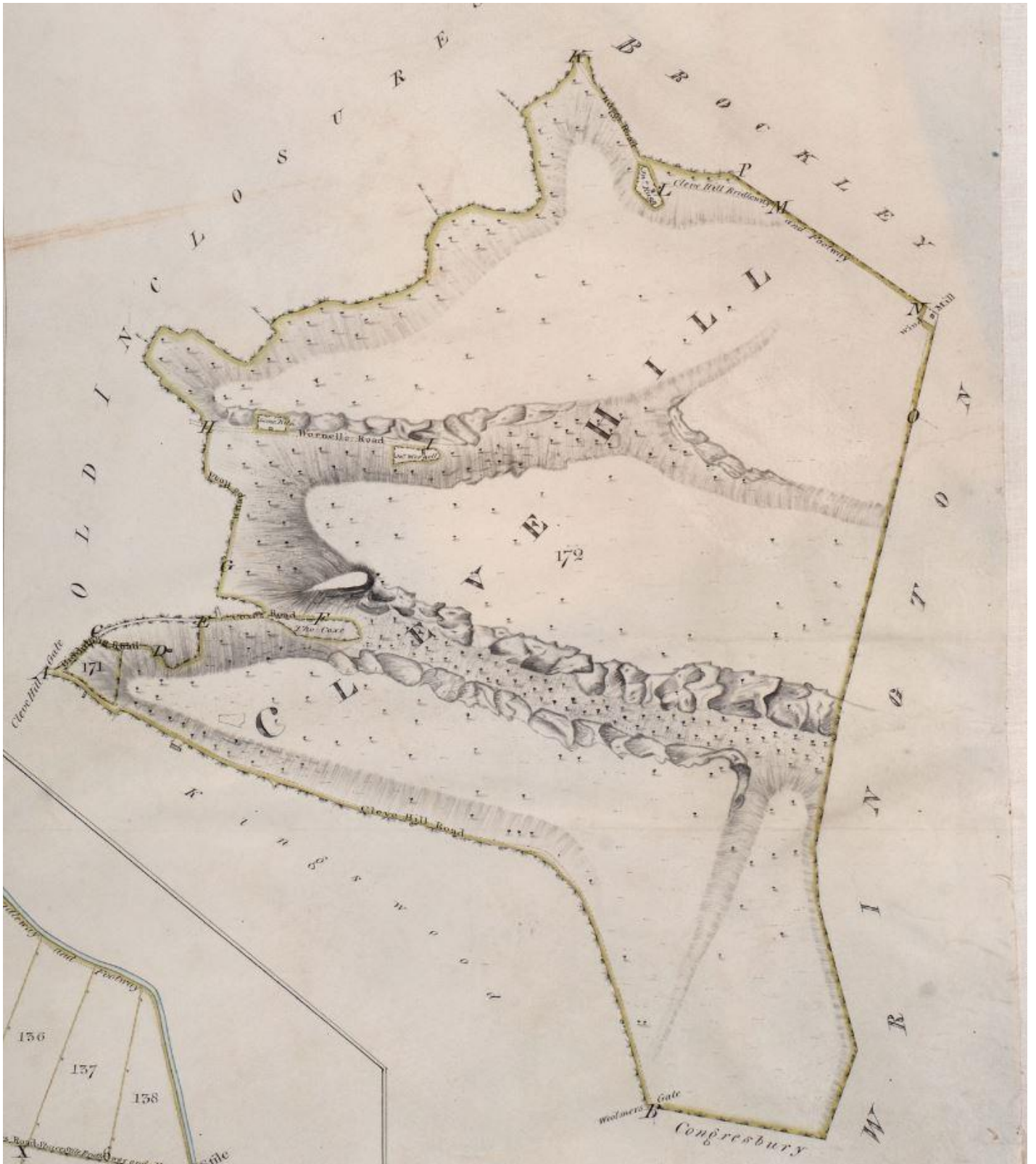
This application affects routes which are already recorded on the Definitive Map as Footpaths as well as unrecorded routes. To alter the status of a route on the Definitive Map, the evidence must indicate that the route which is already recorded “**ought**” to be shown as a route of a different status. 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.

In regard to the route A-B as this is already a public footpath the higher test of “on the balance of probabilities” needs to be considered. This route has appeared on plans since 1815. This route formed a connection between the A370 main road, the old enclosure belonging to George Standfast and Ruggs Cottage. Today there is a gate at Point X which may have always existed. The existence of a gate does not preclude a route having higher status than that already recorded. However, the only suggestion that this has been used by

Having regard for the legal tests that should be applied in respect of the route B-D-E-F does a route subsist or is reasonably alleged to subsist”. The only document which supports this route is that of the Enclosure Award. There is no evidence to show that this route was set out and used by the public for any extended period. The user forms completed only claim use to point D. I do not believe that a case has been made for the section B-D-E-F.

Therefore it is felt by this officer that neither the documentary evidence nor the user evidence supports the upgrading of the section A-B Footpath LA6/16, and the recording of B-D-E-F as Bridleway as there is insufficient evidence to suggest that the routes recorded on the Definitive Map as Footpaths and Bridleways had been incorrectly recorded.

DOCUMENT 1a  
YATTON AND KENN ENCLOSURE AWARD 1815



Claverham -bridge	And one other Stone Arched Bridge on the Claverham Road and over Yatton Ditch: marked on the said Plan with the Roman Letter <b>H</b> and raised "Claverham Bridge".
Widdulph's Road	<u>Cleve Hill Private Roads</u> One private road of the width of twenty five feet commencing at or near Cleve Hill Gate at a place marked with the Latin letter <b>A</b> on the said Plan and extending Southward to a Place marked with the Latin letter <b>C</b> on the said Plan and then South Eastward to an Old Inlosure marked with the Latin letter <b>D</b> on the said Plan and raised "Widdulph's Road".
Cox's Road	One other private Road of the width of twenty five feet commencing at the South East Corner of a Garden being an Old Inlosure marked on the said Plan with the Latin letter <b>E</b> and extending Southward to a Cottage belonging to Mr. Thomas Cox marked with the Latin letter <b>F</b> and raised "Cox's Road".
Wernells Road	One other private Road of the width of twenty five feet beginning at a Gate entering on Cleve Hill near the place marked on the said Plan with the Latin letter <b>G</b> and extending Southward to a Cottage belonging to Mr. John Wernell marked on the said Plan with the Latin letter <b>H</b> and raised "Wernells Road".
Snapp's Road	One other private road of the width of twenty five feet beginning at the said Gate entering on Cleve Hill near the Old Inlosure marked on the said Plan with the Latin letter <b>I</b> and extending Westward by the fence of Old Inlosures to Snapp's Cottage and marked with the Latin letter <b>K</b> on the said Plan and raised "Snapp's Road".
Ruggs Road	And one other private Road of the width of twenty feet commencing at the Gate of an Old Inlosure belonging to Mr. George Standford at Shipbisley's Estate marked on the said Plan with the Latin letter <b>L</b> and extending Southward to a Cottage belonging to John Rugg marked on the said Plan with the Latin letter <b>M</b> and raised "Ruggs Road".

Clove Hill  
Bridleway  
& Footway.

*Bridleway and Footway*

One Division and Footway of the width of six feet beginning at the Gate of an old Hurstme belonging to Mr. George Standfast and terminating from thence along and after Duggs Road to John Duggs Cottage marked on the said Plan with the Star Letter L and from thence to a point in the wicket erected wall dividing Clove Hill from the Parson of Droniley marked on the said Plan with the Star Letter M continuing from thence along and after the said wall to the land set out around the windmill marked with the Star Letter N on the said Plan & continuing on the outside of the said land so set out to the wall dividing Clove Hill from the Parson of a & Tomington and following after the same wall to a foot path set out over Longton Hill marked on the said Plan with the Star Letter O and called "Clove Hill Bridleway and Footway"

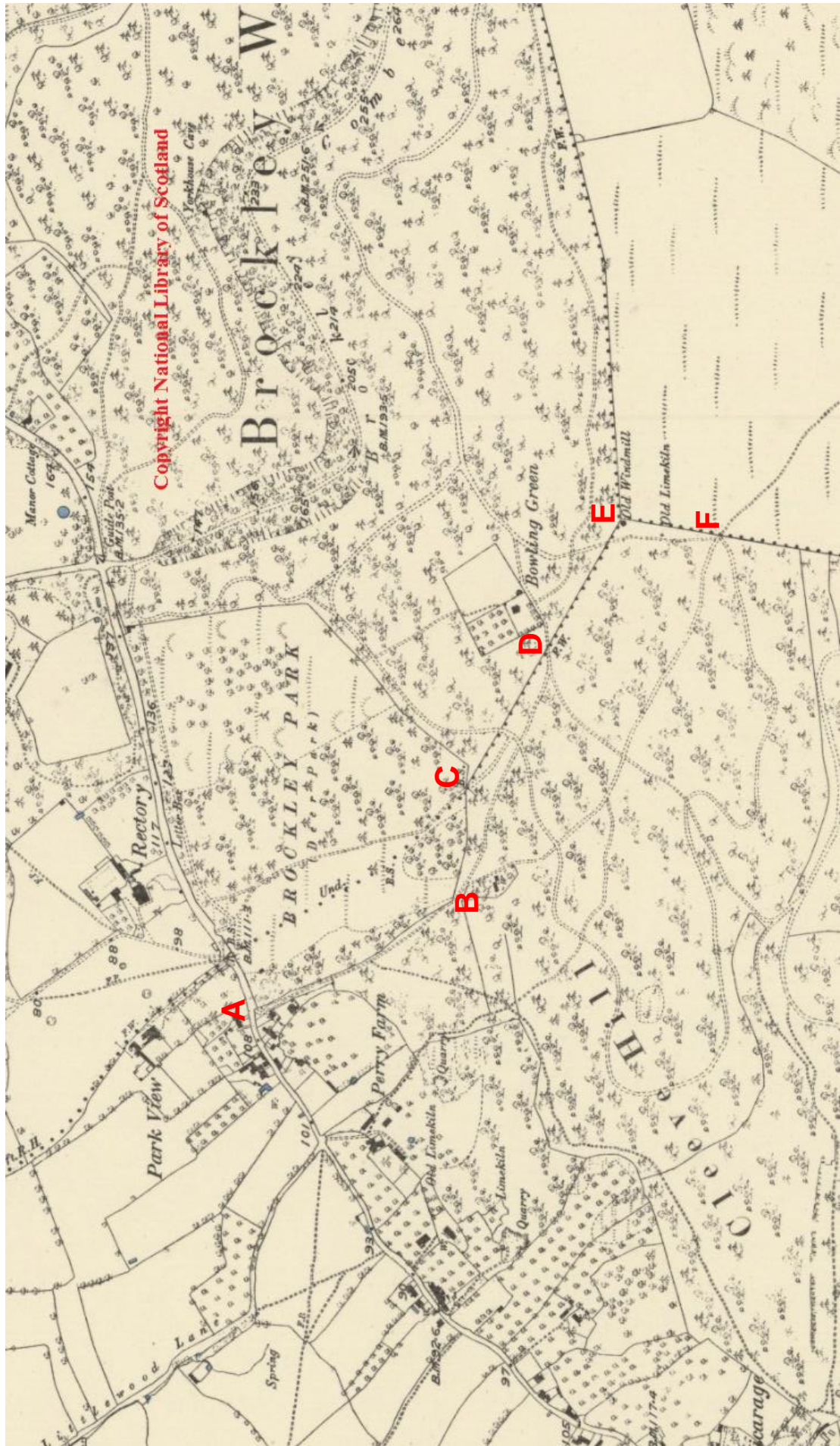
*Stone Quarries and Gravel Pits*

Two of the said Commissions have also set out and allotted unto George Standfast Thomas Whittam and

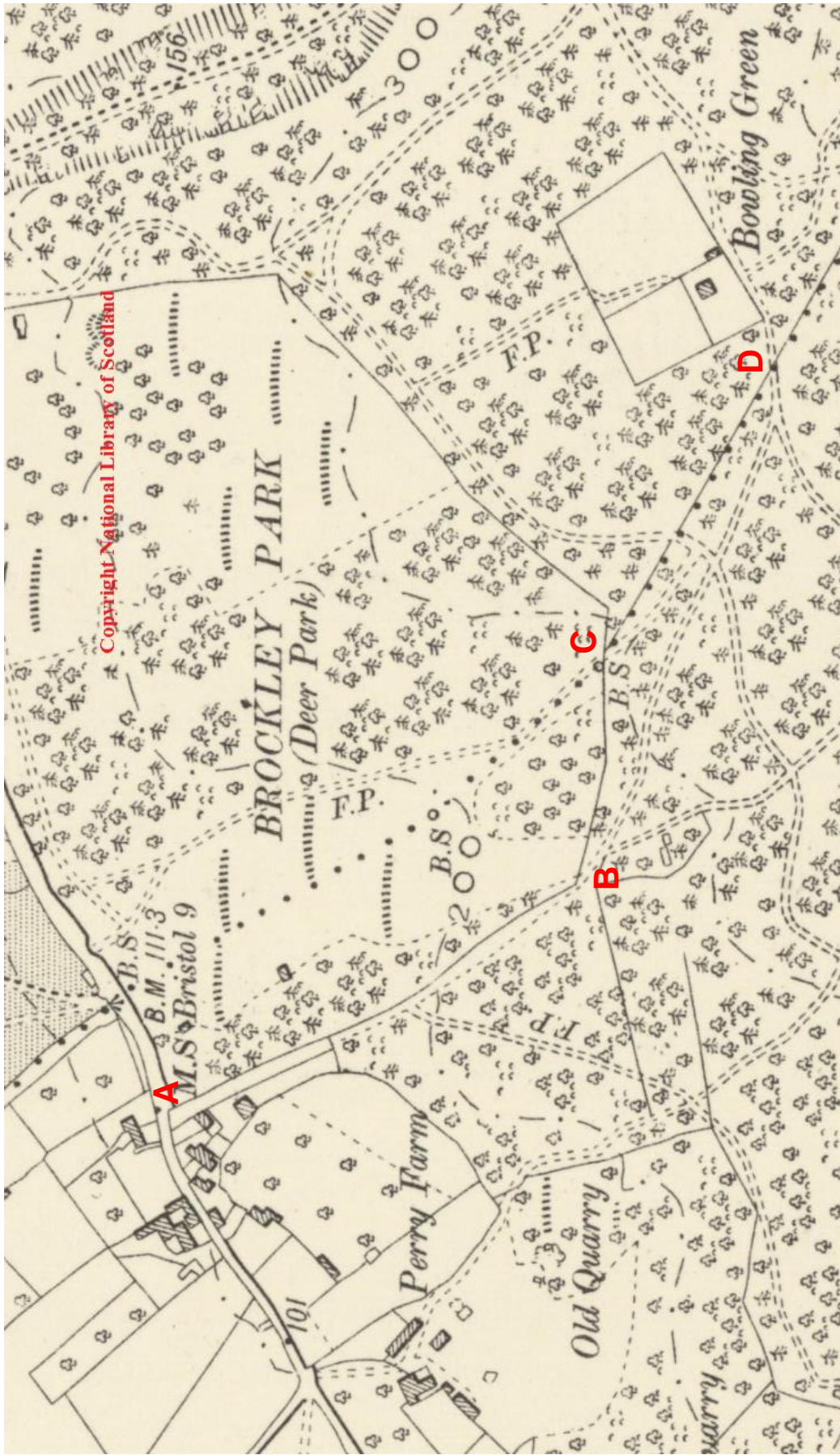
Allotment of Stone

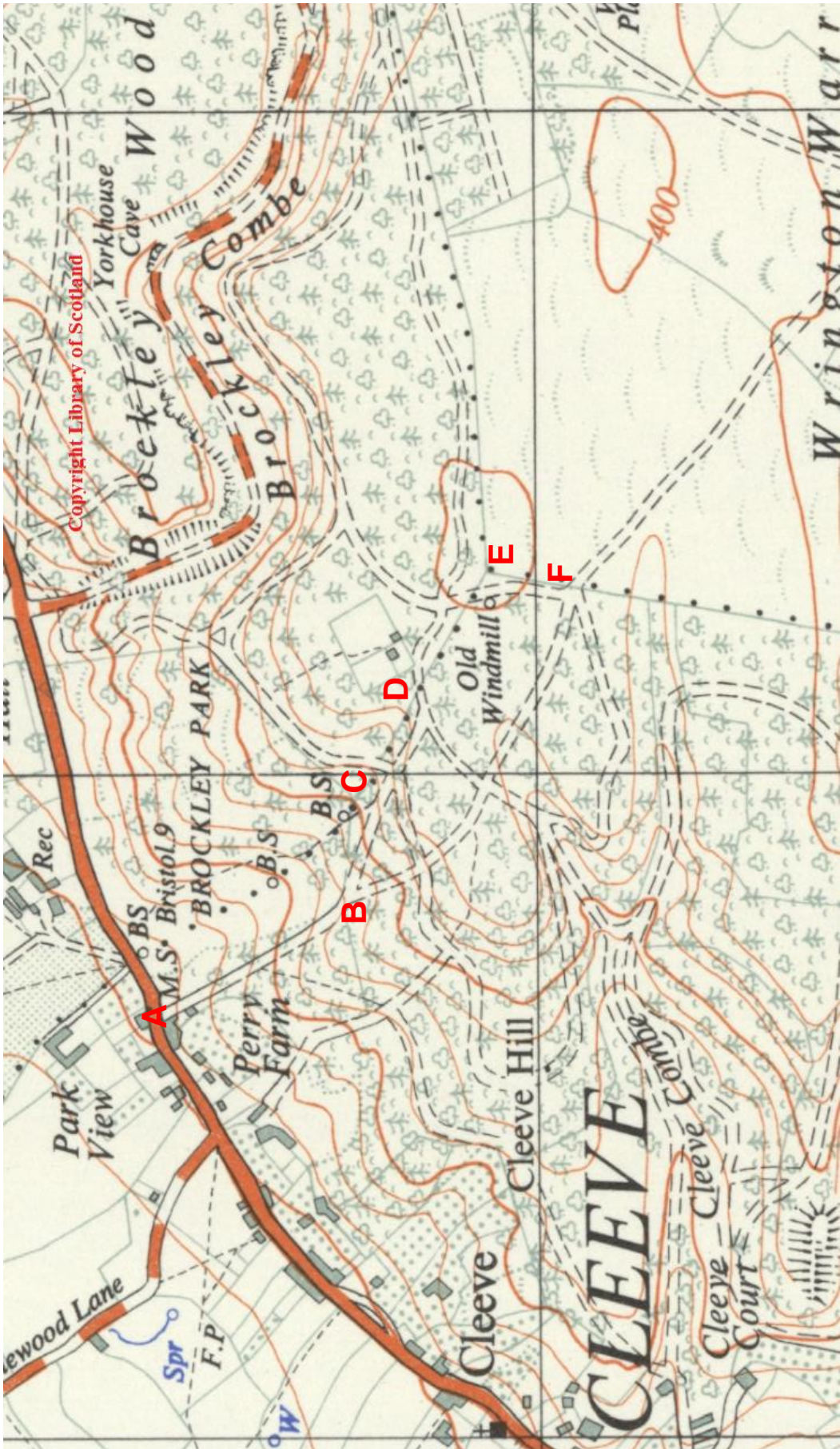






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Commissioner  
may alter  
Roads  
through an-  
cient Inclo-  
sures.

XVI. And be it further enacted, That in case it shall appear to the said *William White*, or to any other Commissioner to be appointed for putting this Act into Execution, as far as the same relates to the Parish of *Wrington*, that there are or is any Publick Highways or Highway, Bridle-roads or Bridle-road, Footways or Footway, in, through, over, or on the Sides of the old inclosed Lands or other Grounds within the said Parish of *Wrington*, which may in his Judgement be diverted or turned without Inconvenience to the Publick into any other Publick Highways or Highway, Bridle-roads or Bridle-road, Footways or Footway, or be diverted or turned so as to make the same more convenient to the Publick, or be stopped up and destroyed as superfluous and unnecessary; and in case it shall appear to the said *Joseph Wollen*, or to any other Commissioner to be appointed for putting this Act in Execution as far as the same relates

50° GEORGII III. Cap. 185.

4217

relates to the Parishes of *Yatton* and *Kenn*, that there are or is any Publick Highways or Highway, Bridle-roads or Bridle-road, Footways or Footway, in, through, over, or on the Sides of the old inclosed Lands or other Grounds within either of the said Parishes of *Yatton* or *Kenn*, which may in his Judgement be diverted or turned so as to make the same more convenient to the Publick, or be stopped up and destroyed as superfluous and unnecessary, it shall be lawful for the said *William White* or *Joseph Wollen*, or such other Commissioner as aforesaid, within the respective Parishes for which he is hereby authorized to act as a Commissioner, with the Concurrence and Order of Two Justices of the Peace, acting for the County of *Somerset* (not being interelcted in the Matter in Question), and in Manner and subject to Appeal, as in this or the said recited Act is mentioned in and by his Award, to order and direct such Publick Highways or Highway, Bridle-roads or Bridle-road, Footways or Footway as aforesaid, to be altered, turned, stopped up, or discontinued in such Manner as such Commissioner shall think proper.

Commissioner  
authorized to  
offer Cleve  
Hill to Lord  
Poulett at his  
Valuation.

XXV. And be it further enacted, That the Commissioner for executing this Act within the Parishes of *Yatton* and *Kenn* aforesaid shall, and he is hereby required, previous to his exposing any Allotment or Allotments of the said Moors, Commons, or Waste Lands to Sale by Auction in the Manner and subject to the Directions and Regulations mentioned and contained in the said recited Act and this Act, to cause a Survey to be made of the said Common or Waste Lands called *Cleve Hill*, within the Parish of *Yatton* aforesaid, and fix or set a Price or Value thereon; and the same being so surveyed and valued, the said Commissioner is hereby required to offer the said Common called *Cleve Hill Common* to Sale by Private Contract to the said *John Earl Poulett*, or his Heirs, at such his Valuation; and

50<sup>o</sup> GEORGII III. *Cap.* 185.

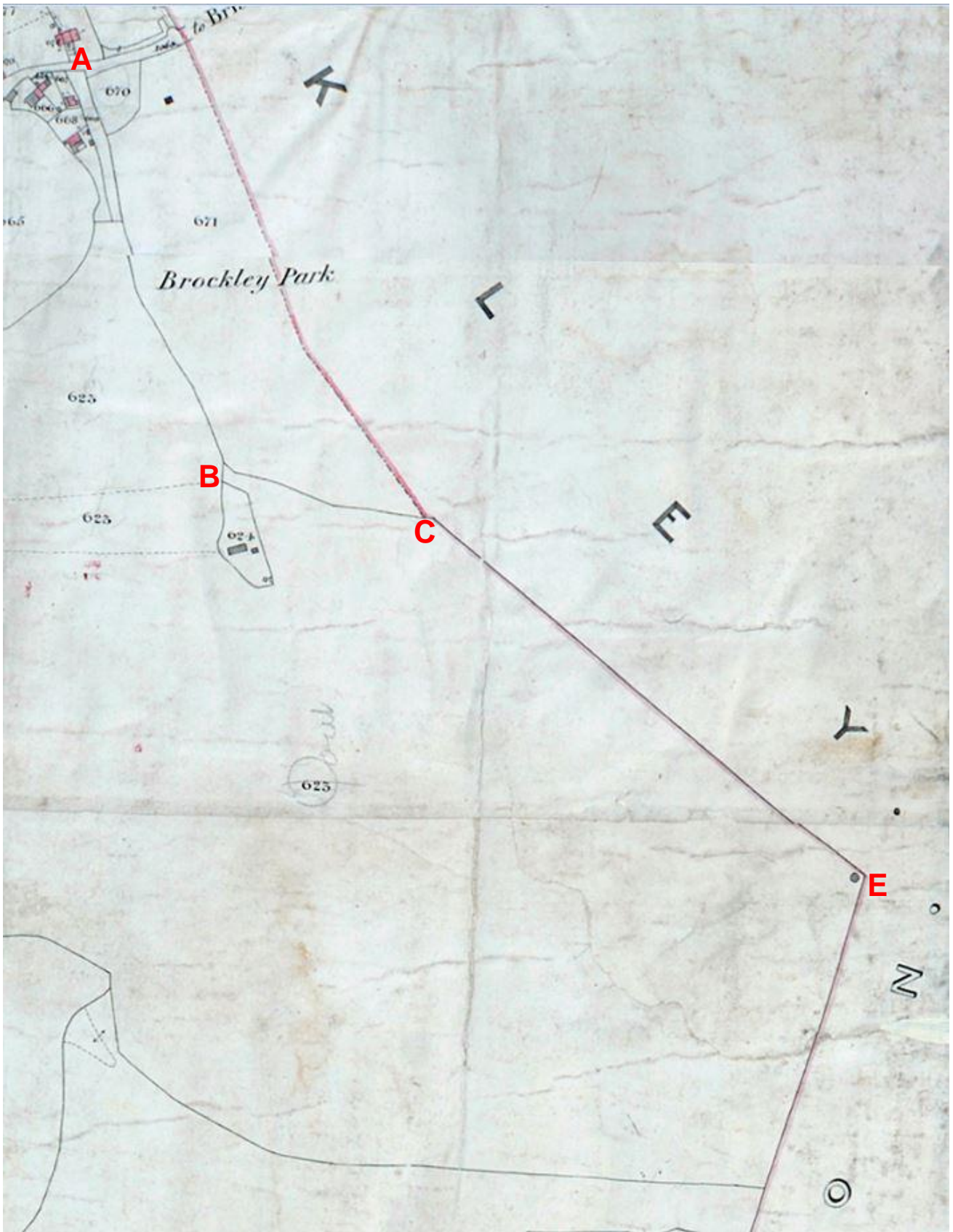
4221

and in case the said *John Earl Poulett* shall become the Purchaser of the said Common called *Cleve Hill* at the Valuation of the said Commissioner, to convey the same to him in Manner herein-before directed with respect to Sale of Land by the Commissioner; and the Money arising from the Sale thereof shall be applied by the said Commissioner towards defraying the Costs, Charges, and Expences of obtaining and passing this Act, and carrying the same and the said recited Act into Execution, which are directed to be paid by the Persons entitled to the Commons, Moors, and Waste Lands in the Parishes of *Yatton* and *Kenn*, and the Surplus Money, if any, shall be applied in the Manner herein-before directed with respect to the Surplus or other Money to be raised by Sale of Land by virtue of this Act: Provided always, that in case the said *John Earl Poulett* shall decline to purchase the said Common or Waste Lands called *Cleve Hill* at the Valuation of the said Commissioner, then and in such Case the said Commissioner shall expose the same to Sale by Auction in the Manner and subject to the Directions and Regulations mentioned and contained in the said recited Act and this Act.

XXVI. And be it further enacted, That the Commissioner for executing this Act, as far as the same relates to the several Parishes of *Yatton* and *Kenn* aforesaid, shall, and he is hereby authorized and empowered to cause the Boundary Wall for dividing the said Common or Waste Lands called *Cleve Hill*, within the Parish of *Yatton* aforesaid, from the said Common or Waste Lands called *Wrington Hill* within the Parish of *Wrington* aforesaid to be built (at the Expence of the Proprietors of the said old Auster or ancient Tenements within the said Parishes of *Yatton* and *Kenn*) Six Feet and an Half in Height, with Mortar Four Feet and an Half from the Base, and which said Wall shall commence from the Boundary of the Parish of *Congresbury* in the said County of *Somerset*, and extend unto the Boundary of the Parish of *Brockley* in the said County of *Somerset*, and be for ever after repaired, maintained, and kept by the Owners and Proprietors of *Cleve Hill* aforesaid.

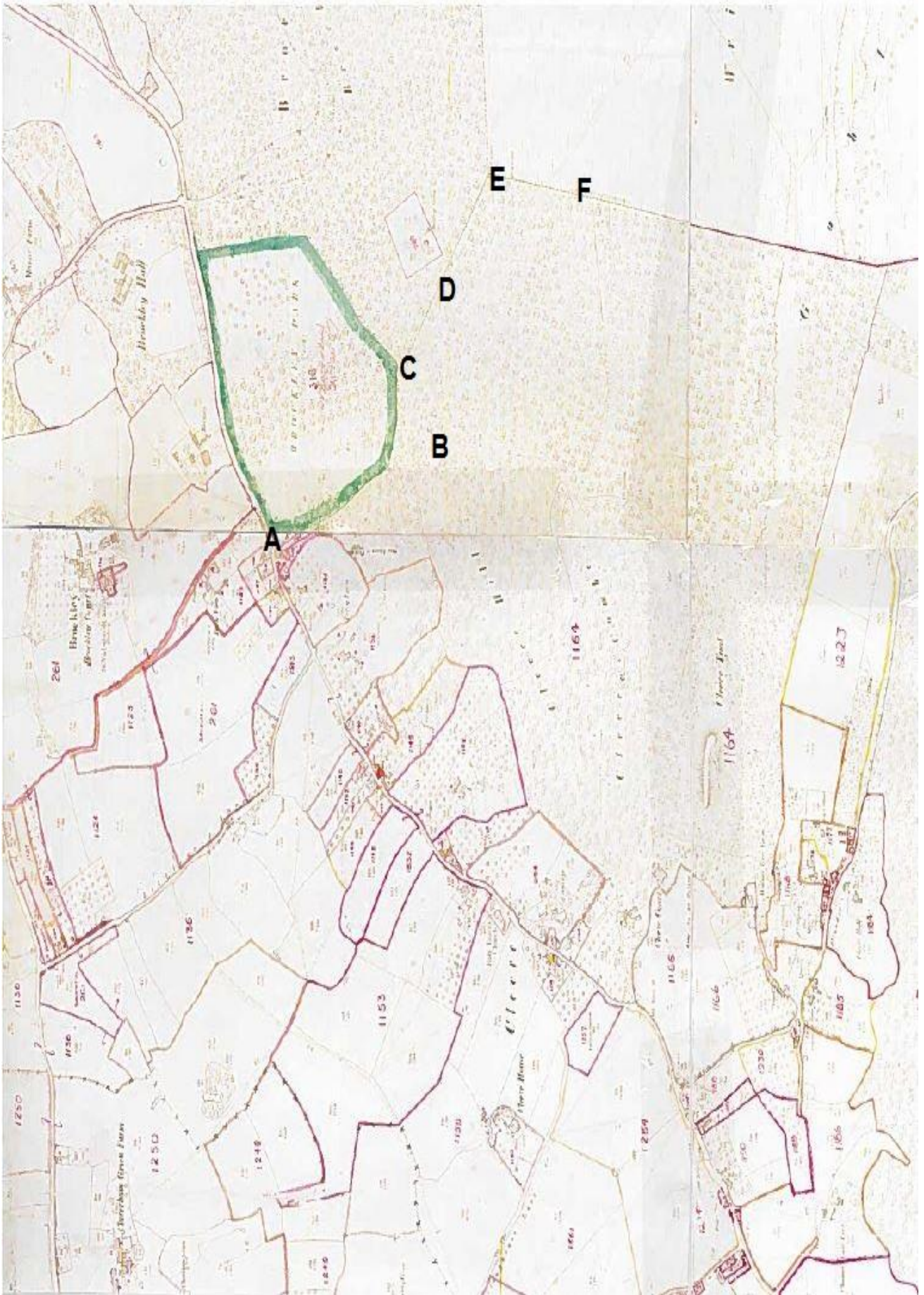
Boundary  
Wall dividing  
Cleve Hill  
from Wrington  
Hill, to  
be built at  
the Expence  
of Yatton  
and Kenn.

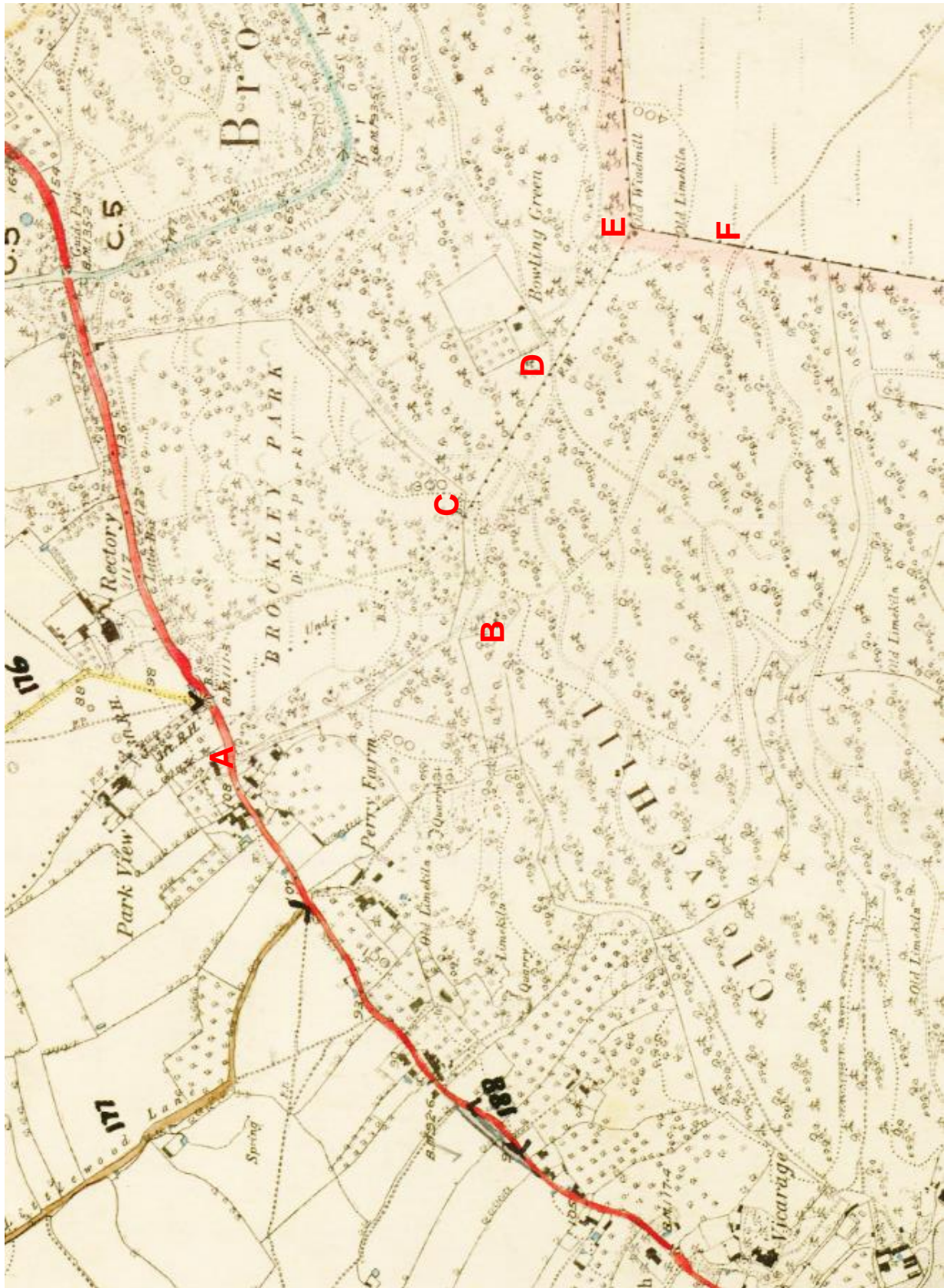
DOCUMENT 7a  
YATTON TITHE MAP 1840







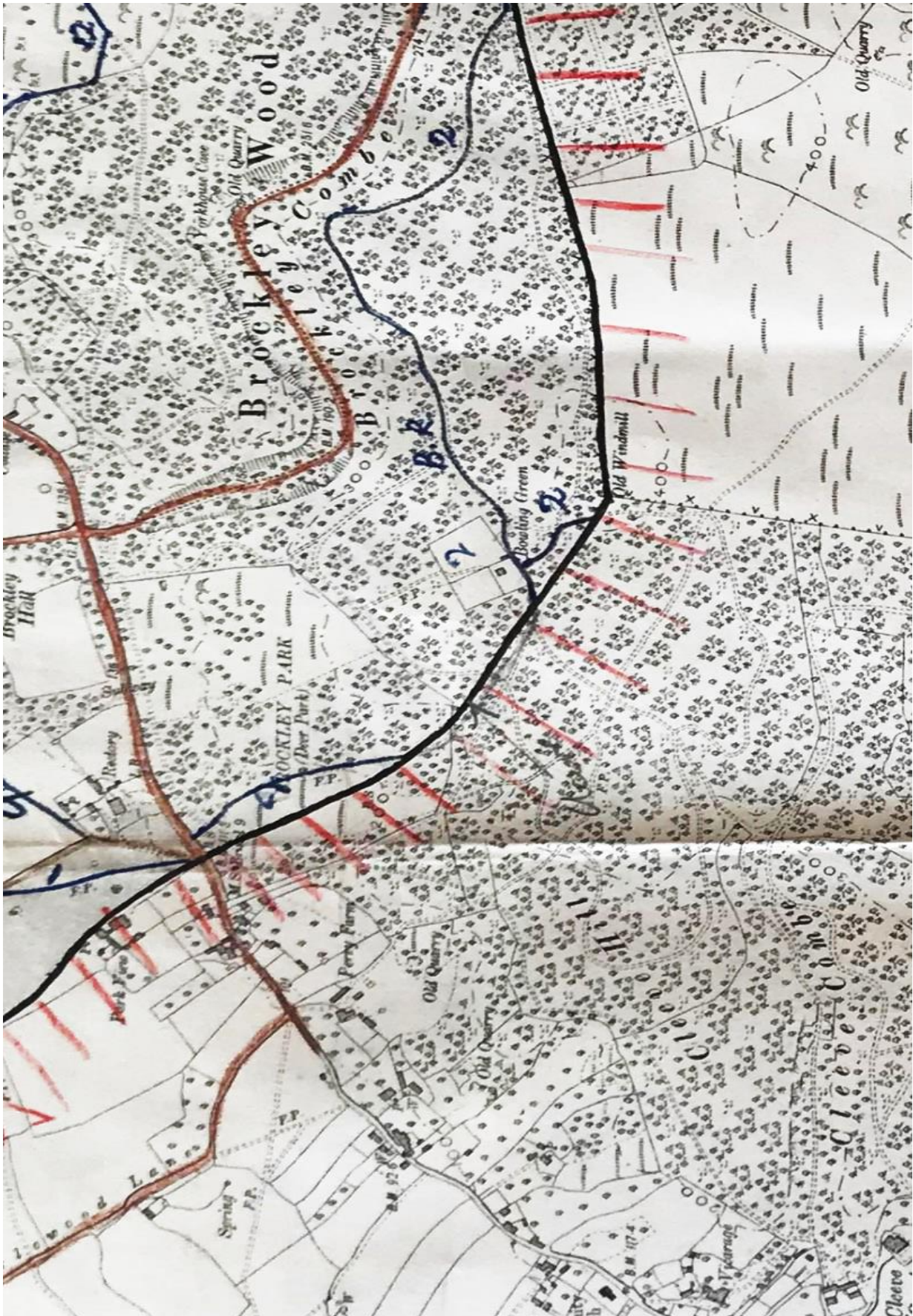


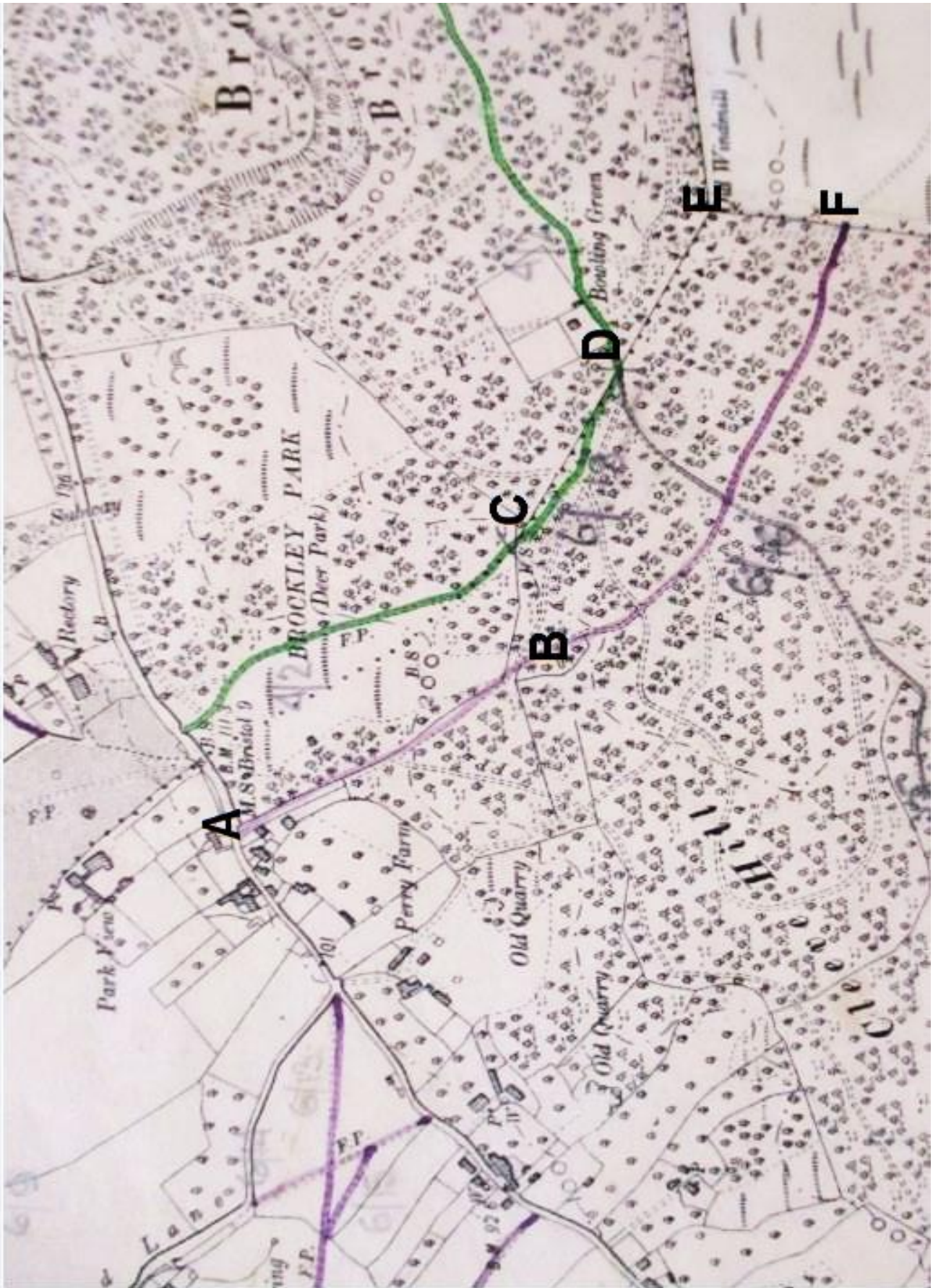




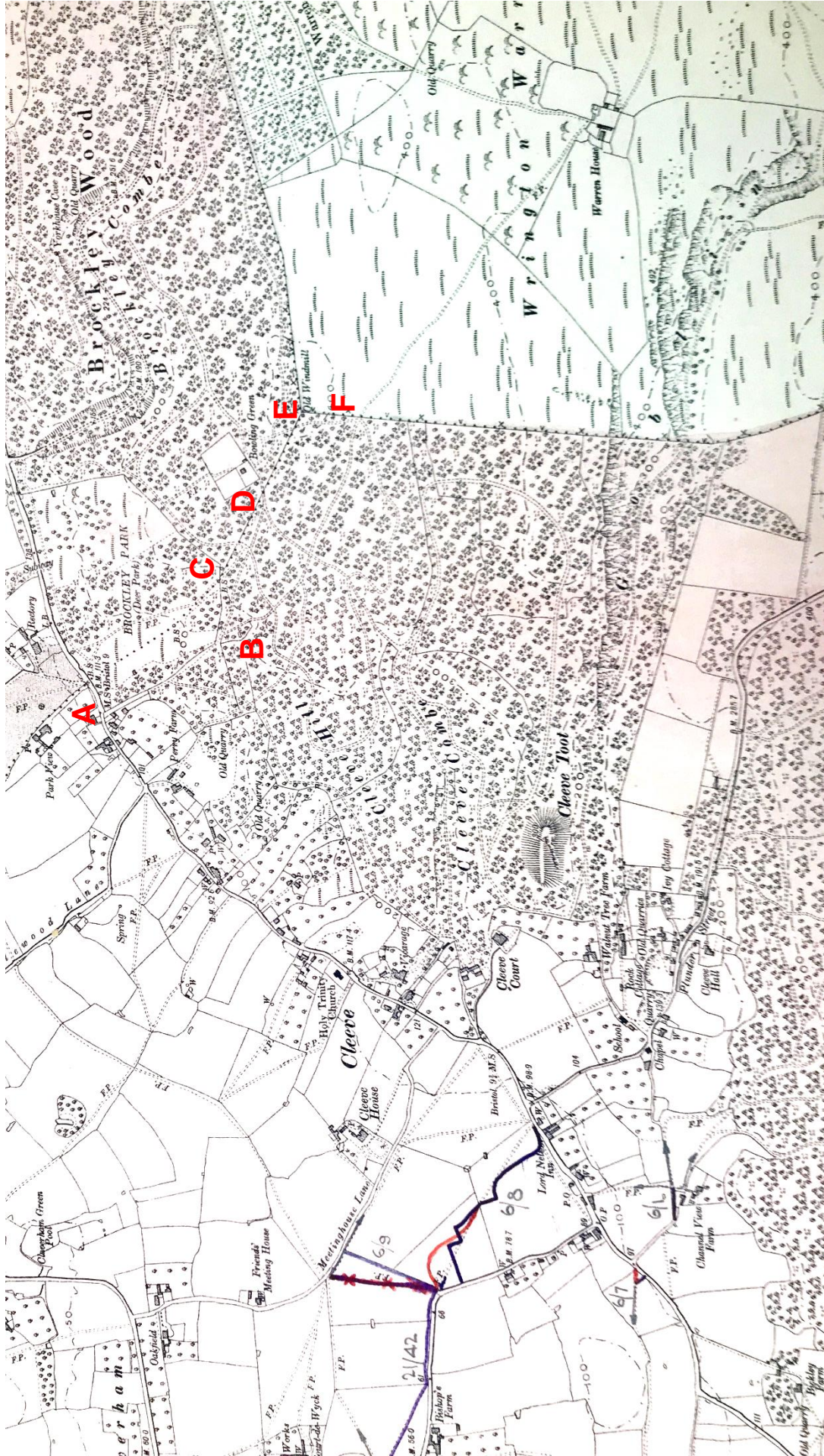




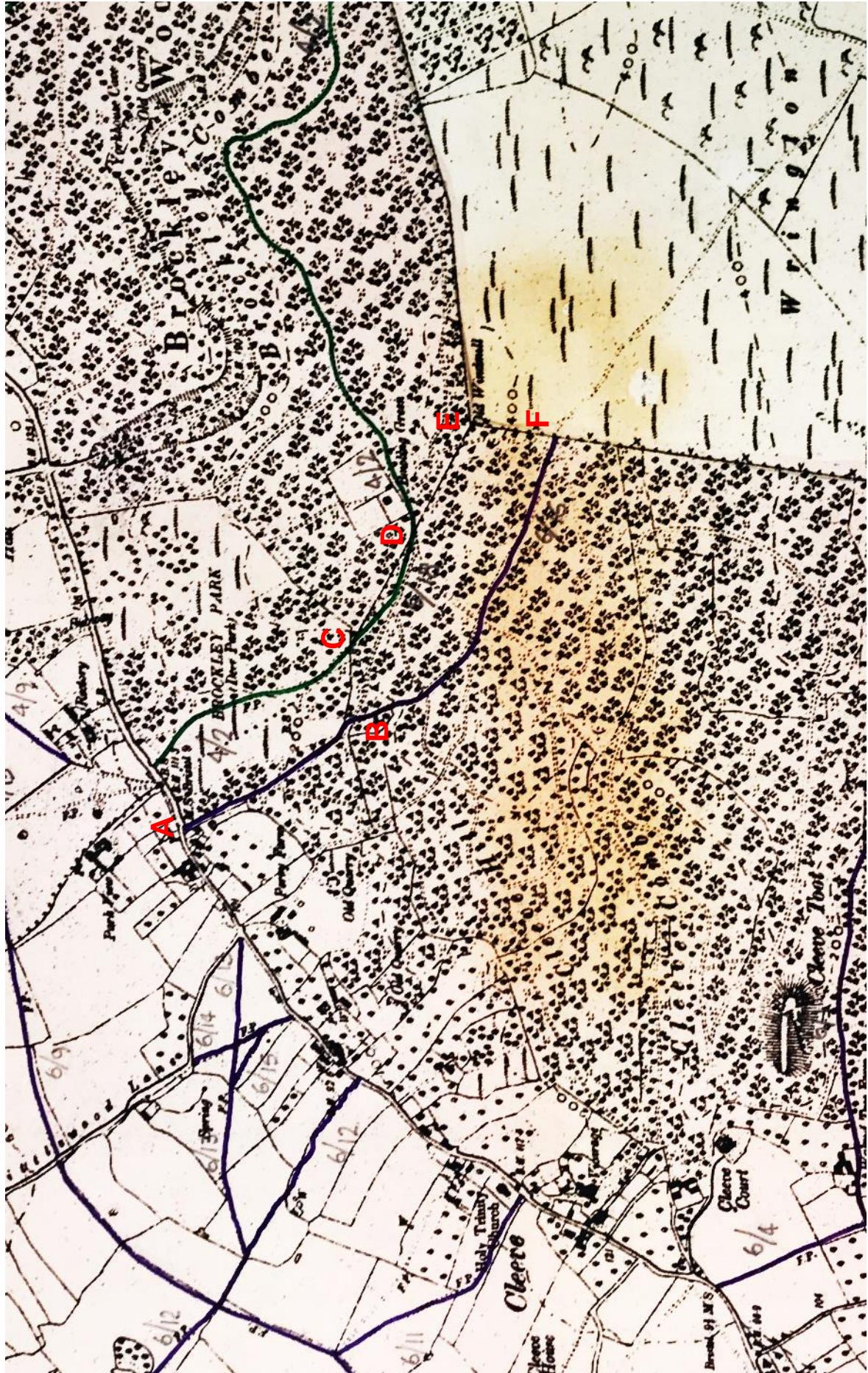




DOCUMENT 13  
DEFINITIVE MAP PROCESS – DRAFT MODIFICATION MAP









**PUBLIC RIGHT OF WAY EVIDENCE FORM  
SUMMARY OF DETAILED CONTAINED  
MODIFICATION CLAIM RELATING TO RUGGS ROAD CLEEVE – CLAIMED BRIDLEWAY**

Name on User Evidence Form	E1 V Craggs	E2 M Kirby	E3 J Board
Believed status of routes	Bridleway	Footpath & Bridleway	Footpath & Bridleway
Used the routes	1948-1963	1963-1969	1963-1969
Reason		Pleasure	Pleasure
Frequency Per Year Weekly Daily	'Very Frequently'	'Numerous'	'Numerous'
Method of travel	Foot and Horseback	Foot and Horseback	Foot and Horseback
Any obstructions			
Stiles	No	No	No
Gates	No	No	No
Working for landowner	No	No	No
Ever stopped or turned back	No	No	No
Ever told by anyone that way was not public	No	No	No
Ever known any locked gates	No	No	No
Any Notices	No	No	No
Given permission	No	No	No
Private right to use	No	No	No
Other information	The route has been diverted from the Enclosure Award to the West of Ruggs Cottage. The route from the E. Award can be seen on the ground in places.	N/A	N/A
Routes used	A-C-D	A-C-D	A-C-D

**TO STONE-MASONS.**

**WRINGTON, YATTON, and KENN INCLOSURE.**

**TO BE I.B.T. in Lots,**

At the Prince of Orange Inn, in Yatton, in the county of Somerset, on Tuesday, the 29<sup>th</sup> day of January instant,

**T**HE BUILDING of the BOUNDARY WALL, dividing CLEVE HILL, in the parish of Yatton, from WRINGTON HILL.

The Wall, as directed by the said Inclosure Act, "Is to be built Six feet and half in height, with mortar Four feet " and a half from the base." The builders are to provide all materials, and to complete the Wall on or before the 1<sup>st</sup> day of June next.

Lot 1.—From Woolmer's Gate to the Comb, about 115 Ropes.

Lot 2.—From the Comb to the Old Windmill, about 142½ Ropes.

Lot 3.—From the Old Windmill to the Park Wall, 69½ Ropes.

Persons willing to contract for the same, in the manner and by the time before-mentioned, are required to deliver sealed tenders, specifying the lowest price they will perform the same at per Rope of 90 feet in length, to Mr. PLAISTER, of Wrington, previous to the 29<sup>th</sup> of January; or on that day at the Prince of Orange Inn, in Yatton aforesaid. When and where all tenders will be opened; and the person who delivers the lowest for each Lot will be contracted with, on procuring a sufficient security for the performance of the Contract.

By Order of the Commissioner,  
8th January, 1811. JOHN PLAISTER, Clerk.

**WRINGTON, YATTON & KENN INCLOSURE.**

**B**Y Virtue of an Act of Parliament, passed in the 50th, year of the reign of his present Majesty, intitled "An Act for inclosing Lands in the parishes of Wrington, Yatton, and Kenn, in the county of Somerset," I, JOSEPH WOLLEN, the Commissioner appointed by the said Act, for setting out, dividing, allotting, and enclosing the Meads, Commons, and Waste Lands, within the said parishes of Wrington and Kenn, in pursuance of the powers vested in me by the said Act, and an Act of Parliament, intitled "An Act for consolidating in one Act certain provisions usually inserted in Acts of Inclosure, and for facilitating the mode of proving the several facts usually required on the passing of such Acts,—Do hereby give Notice, That I have set out and appointed the public Carriage Roads and Highways, through and over the Commons, Meads, and Waste Lands, called Clave Hill, Kenn Mead, and Myvora Street Common, within the said parishes of Yatton and Kenn, intended to be divided, allotted, and inclosed; the general lines of which intended Carriage Roads and Highways are as follows, viz. :—The first line, from Clave Hill Gate, near Kingwood, marked on the Commissioner's map with the letter A, extending after the north side of the said wood to the Conglebury Road Sign No. 19, near Woolmer's Gate, marked B, where it is intended to communicate with the road leading to Wrington. The second line: in Kenn Mead, beginning at Northway Gate, marked on the said map with the letter C, extending to a point marked D, and from thence northward to another

point marked E, and from thence north-eastward to the River marked on the said map with the letter F. The third line: beginning at Kenn Gate, marked up the said map with the letter G, and extending south-westward to a point marked on the said map with the letter H, afterwards and there described as Kenn Road. The fourth line: beginning at the south end of Myvora Street Common, marked on the said map with the letter H, and extending after the said side thereof to the north end of the said Common, marked on the said map with the letter I, and over the River into a Wharf Bed, crossing the same, and over the little River, into Kenn Mead, as a point marked K, and from thence, in a north-east direction, to a point marked L, and from thence into the road marked on the said map with the letter M, afterwards. All which said roads are to be thirty feet in width. And I do further give Notice, that I have ascertained the said roads by marks and bounds, and prepared a map, in which such intended roads are accurately laid down and described; which said map is signed by me, the said Commissioner, and deposited with Mr. PLAISTER, of Wrington, my Clerk, for the inspection of all persons concerned.—And I do hereby give this further Notice, that I shall hold my General Attendance or Meeting, for the purpose of carrying the said recited Acts into execution, on Tuesday, the 27th day of August next, at the Prince of Orange Inn, in Yatton above said, by 11 o'clock in the forenoon, in order to receive and hear objections (if any are or shall be made) to such public Carriage Roads and Highways; at which meeting, it will be lawful for any persons or persons who may be injured or aggrieved by the setting out such roads, to attend, and object thereto.—Dated the 9th day of July, 1811.

JOSEPH WOLLEN.

### WRINGTON, YATTON, and KENN INCLOSURE.

**B**y virtue of an Act of Parliament, passed in the 50th year of the reign of his present Majesty, intitled, "An Act for inclosing Lands in the Parishes of Wrington, Yatton, & Kenn, in the County of Somerset," I, JOSEPH WOLLEN, the Commissioner appointed by the said Act, for setting out, dividing, allotting, and inclosing the several moors, commons, or waste lands, within the said Parishes of Yatton and Kenn, in pursuance of the powers vested in me by the said Act, and an Act of Parliament, intitled, "An Act for consolidating in one Act, certain provisions usually inserted in Acts of Inclosure, and for facilitating the mode of proving the several facts usually required on the passing of such Acts," Do hereby give Notice, that, in addition to the public roads and ways, private roads, bridle ways, and foot-ways by me already set out and appointed, of which notice hath been before given, I have set out and appointed the undermentioned private roads, bridle-ways, foot-ways, drains, water-courses, quarries, bridges, and fences, over, upon, and through the commons, moors, or waste lands, called *Cleve Hill* and *Kenn Moor*, within the said Parishes of Yatton and Kenn, divided, allotted, and included, as follows.—

#### CLEVE HILL.

One private road of the width of 25 feet, commencing at or near Cleve Hill Gate, and continuing from thence Eastward and South-eastward to a garden belonging to ——— Biddulph, Esq. and described on the Commissioner's plan as Biddulph's Road.

One other private road, of the width of 25 feet, beginning at the South-east corner of a garden belonging to the said ——— Biddulph, and extending Southward to a cottage belonging to Mr. Thomas Cox, and described on the Commissioner's plan as Cox's Road.

One other private road, of the width of 25 feet, beginning at a gate entering on Cleve Hill, near the lime-kiln, and extending Southward to a cottage belonging to Mr. John Wornell, and described on the said plan as Wornell's Road.

One other private road, of the width of 25 feet, beginning at a cottage called Knapp's Cottage, and extending Eastward by the fences of the old inclosure adjoining Cleve Hill, to Wornell's Road, and described on the said plan as Knapp's Road.

One other private road, of the width of 20 feet, beginning at the gate of an old inclosure belonging to Mr. George Standfast, at Hipsley's Batch, and extending Southward to a cottage belonging to John Rugg, and described on the said plan as Rugg's Road.

One bridle-way and foot-way, of the width of 6 feet, beginning at the gate of an old inclosure belonging to Mr. George Standfast; and continuing from thence along and after Rugg's Road, to John Rugg's Cottage; and from thence to a point in the newly erected wall dividing Cleve Hill from the parish of Brockley, marked by a peg; continuing from thence Eastward along and after the said wall, to the land set out around the wind-mill; continuing on the outside of the said land, to the wall dividing Cleve Hill from the parish of Wrington; and continuing after the same wall to a foot-path set out over Wrington Hill, and described on the said plan as Cleve Hill Bridleway.

One stone quarry at or near Cleve Hill Gate, containing by admeasurement one acre and two roods, bounded on the South by Cleve Hill Road, on the West and North by Biddulph's Road, and on the East by land in the occupation of ——— Parson, and described on the said plan as Cleve Hill Stone Quarry.

Brockley, Windmill



Gloucester Journal - Monday 28 October 1793

Lot IV. A MESSUAGE or FARM, with 39 acres of meadow and pasture land, situate in Yatton aforesaid, and near the church, with stabling, waggon-house, garden, and orchard adjoining, with a coppice wood, about 3 acres, in the possession of the said James Taylor, at the yearly rent of 40l. Mr. Grimsteed pays King's tax, poor tax, and lord's rent, amounting to 4l. 16s. 2d. This estate is supposed to be considerably underlet; and as the dwelling-house is very old, 'tis calculated a decent farm house may be erected on the same, including old materials, for 150l.

Lot V.—A WINDMILL on Cleeve-Hill, within the Manor of Yatton, for many years let for 8l. subject to a Lord's rent of 5s. it being in a ruinous condition, the proprietor will either raise it up or allow timber and stone, and grant a lease for three lives to any one who would wish to work the same. The road may be made to the said Mill from every parish round at a small expence, especially as the inhabitants are obliged to make a road to a mill, equally as to a church common to the same.

Lot VI.—A complete COTTAGE situate at Cadbury in the parish of Congresbury, in county aforesaid, fitted up in stile, with two orchards, two hanging gardens with two acres of meadow all near the said cottage, and adjoining to the ruins of an old camp, now occupied by Wm. Knowles, nursery man, at a very moderate rent. The situation of this spot far exceeds description, takes in a most extensive prospect, both by sea and land, and from said hill may be seen, 20 parish churches, with a view of Mendip hills, and to it adjoins wood and course ground, the property of Mr. Grimsteed, about ten acres. The air of this hill is so salubrious it refreshes the most relaxed frame: the last tenant lived to 119 years, and burnt