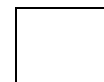


Regulatory Committee



Dorset County Council



Date of Meeting	18 October 2018
<u>Local Member(s):</u> Daryl Turner – Member for Marshwood Vale <u>Lead Officer(s)</u> Anne Brown, Definitive Map Technical Officer (DMMO)	
Subject of Report	Proposed definitive map and statement modification order – part of Bridleway 18, Mill Lane, Chideock.
Executive Summary	This report considers the evidence relating to the status of part of Mill Lane, Chideock.
Impact Assessment:	Equalities Impact Assessment: An Equalities Impact Assessment is not a material consideration in considering this application.
	Use of Evidence: Documentary evidence has been researched from sources such as the Dorset History Centre and the National Archives.
	A full consultation exercise was carried out in August 2017, which included landowners, user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. The County Councillor for Marshwood Vale, Daryl Turner, was also consulted. In addition, notices explaining the proposal were erected on site.

	<p>Budget: Any financial implications arising from this application are not material considerations and should not be taken into account in determining the matter.</p> <p>Risk Assessment: As the subject matter of this report is the determination of a definitive map modification order application the County Council's approved Risk Assessment Methodology has not been applied.</p> <p>Other Implications: None</p>
<p>Recommendation</p>	<p>That:</p> <p>(a) An order be made to record Mill Lane as shown between points B – C – D - E on Drawing 17/21/2 (Appendix 1) as a restricted byway.</p> <p>(b) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee.</p>

<p>Reason for Recommendation</p>	<p>(a) The available evidence shows, on balance, that Mill Lane, as shown between Duck Street in the north and point B on Drawing 17/21/2 was dedicated as a carriageway under common law.</p> <p>i. A public path creation order in 1996 recorded a bridleway over that part of Mill Lane from point B to point E on Drawing 17/21/2.</p> <p>ii. Section 67 of the Natural Environment and Rural Communities Act 2006 states that an existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement was shown on the definitive map and statement only as a footpath, bridleway or restricted byway.</p> <p>iii. As the proposal post-dated 20 January 2005, and there is no evidence that exceptions apply, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for mechanically propelled vehicles and therefore an order should be made to add a restricted byway. (Restricted byway status includes public rights to use the application route on foot, on horseback or leading a horse, and therefore incorporates footpath and bridleway rights).</p> <p>(b) The evidence shows, on balance, that Mill Lane between points B – C – D - E on Drawing 17/21/2 should be recorded as a restricted byway. Accordingly,</p>
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	<p>in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.</p> <p>Decisions on applications for definitive map modification orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-19 Outcomes Framework:</p> <p>People in Dorset are Healthy:</p> <ul style="list-style-type: none"> • To help and encourage people to adopt healthy lifestyles and lead active lives • We will work hard to ensure our natural assets are well managed, accessible and promoted. <p>Dorset's economy is Prosperous:</p> <ul style="list-style-type: none"> • To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently
<p>Appendices</p>	<p>1 - Drawing 17/21/2</p> <p>2 – Drawing 17/21/1 (identical in all relevant respects to consultation plan reference 17/21, for consultation Aug/Sept 2017)</p> <p>3 – Law</p> <p>4 – Table of Documentary Evidence</p> <p>5 – Extracts of Key Documents including those originally as an appendix to Report to the Director for the Environment and the Economy:</p> <ul style="list-style-type: none"> • Map of Chideock 1838; • Chideock Tithe Apportionment Plan 1843; • Map of Chideock 1852; • Finance Act Plan 1910; • Rights of Way Act 1932 (The Chideock Estate) map and declaration; • Ordnance Survey Drawing 1806 – 07; • Ordnance Survey One Inch First Series 1811; • Ordnance Survey 6 inch 1887; • Ordnance Survey 25 Inch 1888; • Ordnance Survey Revised One Inch 1898; • Ordnance Survey Sheet 177 – Taunton and Lyme Regis – 1960; • Caravan Site Planning Application 1951; • Planning Application, Mill Lane, Chideock 1930; • List of Streets Plan 1974; • List of Streets Plan 2014; • Parish Survey Chideock Parish (no date) • Draft Map Chideock area 1953;

	<ul style="list-style-type: none"> • Draft Map Objections and responses 1954 • London Gazette notice of amendment to Draft Map 1955; • Provisional Map 1963; • First Definitive Map & Statement; • Current Definitive Map sealed 1989; • Sales particulars for part of the Chideock estate 1953. <p>6 – Report to the Director for the Environment and the Economy (27 Feb 2015) including Drawing 15/08 (Appendix 2 of the 2015 report is now displayed as Appendix 5 here)</p> <p>7 – Chideock Parish Council Response to the Report to the Director for the Environment and the Economy (not dated but received July 2015)</p>
	<p>The file of the Director for Environment and the Economy (ref. RW/T 539).</p> <p>Most of the original historic maps and documents referred to are in the custody of the Dorset History Centre, except for the Finance Act maps, which are at the National Archives, Kew.</p> <p>Copies (or photographs) of the documentary evidence can be found on the case file RW/T539, which will be available to view at County Hall during office hours.</p>
<p>Report Originator and Contact</p>	<p>Name: Anne Brown Definitive Map Technical Officer (DMMO) Regulation Team, Dorset Highways Tel: (01305) 221565 Email: Anne.K.Brown@dorsetcc.gov.uk</p>

1 Background

- 1.1 This report considers all the available evidence with the intention of resolving any uncertainties regarding the status of Mill Lane, Chideock.
- 1.2 The extent and status of Mill Lane Chideock has been the subject of discussion for many years and, in September 2013, following a planning application, Chideock Parish Council requested that Dorset County Council establish the correct position of Mill Lane County Road and Bridleway 18, Chideock. This ultimately led to the publication of a factual report on the available evidence by P Hobson, Senior Definitive Map Technical Officer and Sarah Meggs, Solicitor, in February 2015 (see Appendix 6 and discussed in section 8 below).
- 1.3 The report elicited a responding report from Chideock Parish Council (undated) which was presented at a meeting with members of the Parish Council and other interested parties on 24 July 2015, at County Hall, Dorchester (see Appendix 7 and discussed in section 10 below).
- 1.4 As a result of this investigation it was concluded that, on balance, the creation of a bridleway in 1996 appeared flawed in that that part of the bridleway from point B – C – D – E on Drawing 17/21/2 was already recorded as a highway maintainable at public expense on the list of streets.
- 1.5 The effect of this dual recording is that public mechanically propelled vehicular rights have been extinguished by the Natural Environment and Rural Communities Act 2006 (see Appendix 3). It is therefore proposed that the section of route B – C – D – E should correctly be recorded on the definitive map as a restricted byway.
- 1.6 A full consultation in respect of this part of the route was conducted during August – September 2017. The consultation plan referred to different Points A and B relative to the original plan, therefore to avoid confusion, Letter A on the consultation plan, Drawing 17/21 (Appendix 2), will be referred to as Point B in this report, and Point B on the consultation plan will be referred to as Point E in this report. This reflects the labels on Drawing 15/08 and referenced in the Report to the Director for the Environment and the Economy (27 February 2015) and the Chideock Parish Council Response.
- 1.7 The route in question commences at point A on Drawing 17/21/2, this is the southern limit of the inspected highways network which includes Mill Lane. This means that north of point A, Mill Lane has full carriageway rights, is inspected and maintained by Dorset Highways (Dorset County Council).
- 1.8 From point A through points B, C, and D to point E the route leads southwards and is an adopted road. This means that it is public highway maintainable at public expense, and it carries full carriageway rights. However, it is not inspected by Dorset Highways and is only maintained if reports are received and a suitable case for maintenance is made.
- 1.9 From point B through C, D, E and on to the junction with Sea Hill Lane at Seatown, the route is recorded as public bridleway; Bridleway 18, Chideock. Thus, between points B and E the route is recorded as both public highway maintainable at public expense (carriageway) and public bridleway.

- 1.10 Bridleway 18, Chideock was created by West Dorset District Council in 1996. For most of its length it was an upgrading of former Footpath 18, Chideock which extended along the route of Mill Lane from Seatown to Point E on Drawing 17/21/2. However, the creation order additionally recorded Bridleway 18, Chideock as extending north from point E – D – C to point B.
- 1.11 That part of the route from point A – B – C – D – E is not registered with Land Registry. Mill Lane south of point E is registered with the Land Registry; title number DT402386, registered to West Dorset Leisure Holidays Ltd.

2 Law

- 2.1 A summary of the law is contained in Appendix 3.

3 Documentary evidence (Appendix 4) (copies available in the case file RW/T539)

- 3.1 A table of all the documentary evidence considered during this investigation is contained within Appendix 4. Extracts from the key documents are also attached either in Appendix 5 or Appendix 6.

4 User evidence

- 4.1 User evidence is not of relevance in this case.

5 Additional evidence in support of the proposal

- 5.1 No submissions were received in support of the proposal.

6 Evidence opposing the proposal (copies available in the case file RW/T539)

- 6.1 Three submissions were received in response to consultation, Chideock Parish Council declined to comment but referred to their report submitted in 2015 (see Appendix 7).

Name	Comments
Sue & Cliff Allen (07/09/2017)	Email sent to the Chideock Parish Clerk and forwarded. State that they would like to see the bridleway classification maintained as it restricts traffic and makes a safer route to walk from Chideock to Seatown.
Kitson & Trotman Solicitors on behalf of West Dorset Leisure Holidays Ltd (22/09/2017)	Letter sent on behalf of West Dorset Leisure Holidays Ltd (adjoining landowner). Claim use by themselves, their clients and the public, of the proposed route as a public highway, with and without vehicles, for well over 20 years. Claim that the route has been maintained by the Highway Authority, and that preregistration deeds and documents confirm the extent of public highway (2 Conveyance documents subsequently forwarded). They dispute the legitimacy of the creation of Bridleway 18.

Name	Comments
Kitson & Trotman Solicitors on behalf of Mr D. C. Everidge (10/05/2018)	Letter sent on behalf of Mr D. C. Everidge of Roadstead Farm (adjoining landowner). Supports response from West Dorset Leisure Holidays Ltd. Describes use of the route in question for over 60 years by farm workers , other local business people and members of the public, with and without vehicles. Believes this use was open and free and without consent.

7 Other submissions received (copies available in the case file RW/T539)

7.1 Eight submissions were received, in response to the consultation, and a further six people sought clarification or asked for an up-date (not listed).

Name	Comments
Claire Pinder, DCC Senior Archaeologist (21/08/2017)	No archaeological finds, features or historic buildings in the vicinity, consequently historic environment does not constitute a constraint.
Sarah Bull-Torreti, Wessex Water (22/08/2017)	Gives details of public foul sewer crossing proposed route.
Robert Neame (22/08/2017)	Seeks clarification and gives evidence of use of route by vehicles and pedestrians.
Nigel Smith, Natural England (06/09/2017)	No comment on the matter.
Sal Robinson, Chideock Parish Clerk (10/09/2017)	Parish Council have been advised to make no comment at this stage. All relevant evidence is in Parish Council response to report of February 2015 (see Appendix 7).
Ian Stoker & Karen E Cox (11/09/2017)	Gives account of historical and current usage of Mill Lane.
Rebecca Schofield on behalf of Keith Miller, Historic England (18/09/2017)	Do not wish to offer any comments.
Carol Shoopman, British Horse Society (25/09/2017)	No evidence to support the proposal. However, suggested it would be logical for BR18 to continue north to meet BR20.

8 Analysis of documentary evidence

The majority of relevant documents were analysed in detail in the original Report to the Director for the Environment and the Economy, dated February 2015 (see Appendix 6). Only additional evidence is added here.

Finance Act Plans 1910

- 8.1 Following the County Council's report of February 2015 there has been further guidance from the Planning Inspectorate relating to Finance Act documentation. In the '*Definitive Map Orders: Consistency Guidelines (April 2016)*', case law is quoted: *In essence he [Lewison J] concluded that the Finance Act records are not definitive; they are "simply one part of the jigsaw puzzle" to be considered along with other relevant material particular to each case.*
- This would give slightly less weight than previously to the exclusion of Mill Lane from the Finance Act Plans, although it is still suggestive of public highway status, when considered along with other evidence.

List of Streets

- 8.2 The List of Streets is discussed in the County Council's report of February 2015 (Appendix 6). Further detail is provided below regarding the associated grid references.
- 8.3 The schedule of roads for April 1974 records Mill Lane as an unclassified road (D731) described as a 'paved road 0.41 miles in length (0.66 km) from SY422928 to SY423923'. The current schedule records the route as the D10730 and provides exactly the same length and grid references.
- 8.4 The map accompanying the list of streets depicts Mill Lane shaded blue and extending from the junction with Duck Street in the north, to a point equating to point E on Drawing 17/21/2. Point E is 0.66 km or 0.41 miles from the junction of Mill Lane with Duck Street, and has a grid reference of SY42339219
- The grid reference SY422928 does not equate to the northern terminus of Mill Lane, even given the inaccuracy of the 6 digit system. The current start of Mill Lane is SY42199276 to 8 figure accuracy. The error might be explained by rounding of the figure, which although not appropriate for grid references, nevertheless sometimes took place in the past.
 - The grid reference SY423923 equates with a point no further south than point C on Drawing 17/21/2. Point C has an 8 figure grid reference of SY42339230. However, point C is only 0.52 km or 0.32 miles from the start of Mill Lane.
 - There is clearly an error with the grid reference quoted for the start of Mill Lane, and a discrepancy between the quoted grid reference for the end of Mill Lane and the stated length.
 - There is agreement between the quoted length of Mill Lane and the extent illustrated on the map accompanying the list of streets. This defines Mill Lane as terminating at point E in the south.

National Parks and Access to the Countryside Act 1949

Parish Survey

8.5 The **Chideock Parish Survey Plan** (no date) does not claim any part of Mill Lane as a right of way, although the map does have pencil markings of a line across Mill Lane at point E on Drawing 17/21/2 and 'FP' written next to the lane south of this point.

- These marks are of unknown origin or date, but presumably post-date the survey.

Draft map

8.6 The **Draft map for the Chideock area 1953** does not show any rights of way over any of Mill Lane, but shows three footpaths abutting Mill Lane to the south of point E on Drawing 17/21/2.

- The purpose of the draft map was public consultation. Anyone could inspect it and raise an objection to what was included in or omitted from the draft map and statement.

8.7 The **Draft Map Objections for Chideock 1954** include two objections relating to Mill Lane, each requesting additions. One, referred to as '*path B*', described as '*Mill Lane from 424926 to Sea Hill Lane 420918. If this lane, or any part of it is not established as a public right of way or Public Highway already.*' The County Planning Officer replied '*It would appear that the following are county roads:- Chideock, Northern portion of path B as far as 424923.*'

8.8 This path was then considered as part of **Case 72** of the **National Parks Sub-Committee**. The objection was recommended to be upheld by the Chairman and the National Parks Sub-Committee recommended '*That part of the path which is not a County Road to be added to the Draft Map*'. A notice to amend the Draft Map was sent by the clerks department on 12 May 1955 and the amendment appeared in the London Gazette on 13 May 1955.

- Once again the grid references quoted do not relate accurately to Mill Lane. SY424926 is north east of the junction between Mill Lane and BW 20. SY424923 is east of point C on Drawing 17/21/2 and north east of point E.
- These documents are strong evidence that a right of way was established along all of that section of Mill Lane that was not county road.

Provisional map

8.9 The **Provisional map of 1963** shows Chideock Footpath 18 extending southwards from a point equating approximately to Point E on Drawing 17/21/2 to Sea Hill Lane at Seatown, following the route of Mill Lane (until the southern most section).

- This map was also published and any owner, lessee or occupier had a further opportunity to object by applying to the Crown Court. There is no record of any objection being made.
- This provides some evidence that the county road of Mill Lane extended southwards from Duck Street to point E on Drawing 17/21/2. However, the Provisional Map was not definitive.

First definitive map

8.10 The **First definitive map of 1966 - 67** replicates the provisional map for this area of Chideock. The accompanying **Statement** describes FP 18 as extending '*from Mill Lane 423921 to Seatown 420918*'.

- This, when considered with the Draft Map Objections, provides strong evidence that Mill Lane, at the time was considered to be a county road to point E on Drawing 17/21/2.

Revised draft map

8.11 The **Revised Draft Map 1974** replicates the First Definitive Map for this area of Chideock.

- Again, this map was subject to full public consultation and no objections were recorded.

Current definitive map

8.12 The current **Definitive map (sealed in 1989)** replicates what is shown on the revised draft map and the first definitive map, for this area of Chideock.

Sales Particulars

8.13 The **Sales Particulars for Part of the Chideock Estate (1953)** includes lots either side of Mill Lane between points A – E on Drawing 17/21/2 and beyond. Mill Lane itself between points A - E is excluded from the sale as judged by its lack of shading and lot number.

8.14 The whole of Sea Hill Lane is also unshaded and excluded from sale.

8.15 South of point E the lane is shaded yellow on the plan and included in lot number 27 '*Mill House and Grassland*'. Lots 40 and 40a are either side of the yellow coloured part of the lane and are described as '*between the concrete road and the River...*' and '*long frontage onto the concrete road*' respectively.

8.16 Lots 41 and 41a are either side of Mill Lane between points A – E on Drawing 17/21/2 and are described as having '*frontage to Mill Lane*' and '*frontage to Sea Hill Lane and Mill Lane*' respectively. Lot 41 also has a short frontage onto the yellow coloured part of the lane.

8.17 In the Special Conditions of Sale lots 40, 40a and 41 (with others) have '*Rights of way reserved over the concrete road*'. Lot 41a does not have this right.

- The exclusion from sale of Mill Lane between points A – E on Drawing 17/21/2 might suggest that, at this time, it was not privately owned, or at least not part of the estate for sale.
- The difference in terminology in referring to the lane south of point E as '*concrete road*' and to the north of point E as '*Mill Lane*' adds further support to this distinction.
- The failure to mention any rights of way over '*Mill Lane*', in the Special Conditions of Sale (even though some lots were granted rights of way over the '*concrete road*') might suggest that none was needed ie that it was a public highway, in all probability a carriageway.

Summary of Documentary Evidence

The documentary evidence analysed here and in the Report to the Director for the Environment and for the Economy 2015 suggests some variation in the termination point of Mill Lane county road. Accordingly it is summarised here:

- 8.18 Evidence suggesting some significance of point A on Drawing 17/21/2
- **Highways inspected road limit**
 - **Traffic Regulation Order (1992)** for 30mph speed limit
- 8.19 Evidence suggesting the public carriageway ends at point B on Drawing 17/21/2
- **List of Streets (1974) grid reference** (this grid reference is imprecise and could refer to a point as far south as point C. It is treated with caution because the accompanying grid reference for the start of Mill Lane is incorrect)
 - **Public Path Creation Order (1996)** (it is likely that this was defined with reference to the grid reference on the List of Streets (above))
 - **Working Copy of Current Definitive Map** (updated due to Public Path Creation Order (above)).
- 8.20 Evidence suggesting the public carriageway ends at point C on Drawing 17/21/2
- **Statement from County Planning Officer of the extent of the county road (1954)**, in relation to Objections to the Draft Map (the grid reference quoted is treated with caution because it is for a point at least 60m east of Mill Lane).
 - **Tithe Map Chideock (1838)**, (the purpose of this map was not to define public carriageways)
 - **Map of 1852 and undated map estimated 18th Century**, (likely to have been copied from tithe map).

8.21 Evidence suggesting the public carriageway extends to point D on Drawing 17/21/2

- The **Statutory Declaration 1934** made by the Weld Estate under the **Rights of Way Act 1932**. Although this did not record public carriageways, the right of way declared, over the southern section of Mill Lane and terminating at approximately point D on Drawing 17/21/2, is suggestive that at this point higher public rights were available, otherwise the route would have been a dead-end path.

8.22 Evidence suggesting the public carriageway extends to at least as far south as point E on Drawing 17/21/2

- **First and Second edition Ordnance Survey Maps (1887-8 and 1903-4)** at a scale of 1:10,560 and 1:2,500 depicting Mill Lane to point E with shading to the eastern side. (this shading is indicative of carriageway status, but not necessarily public carriageway).
- **Plan accompanying the List of Streets (1974)**, (the plan is not a legal document), this has been used to produce the highway maintainable at public expense plan.
- **Length of Mill Lane on the List of Streets (1974)**
- **Provisional Map (1963)** (though not defining carriageways, does depict FP18 terminating at Mill Lane at approximately point E, and when this was added to the map it was to include 'that part of the path which is not County Road').
- **First Definitive Map and Statement (1966-7)**
- **Revised Draft Map (1974)**
- **Current Definitive Map (sealed 1989)**
- **Finance Act Plans (1910)**
- **Sales Particulars for the part of the Chideock Estate (1953)** which distinguish between Mill Lane (north of point E) and the 'concrete road' (south of point E), giving private rights over the concrete road, but not over Mill Lane.

8.23 On balance, the majority of evidence suggests that Mill Lane extends as a public carriageway from Duck Street in the north, to point E in the south. Errors were made in defining this by grid references in 1974, and these erroneous grid references have been the source of confusion in other documents and decisions since.

9 **Analysis of other evidence in support of the proposal**

9.1 No evidence was submitted supporting the proposal.

10 **Analysis of Chideock Parish Council response to the Report to the Director for the Environment and for the Economy (undated but presented at a meeting 24 July 2015)**. The points refer to those on Drawing 15/08, and correspond to those on Drawing 17/21/2. Officers' comments are set out at the bullet points.

History.

- 10.1 The report supplies background history about Mill Lane (Bridleway 18) including the sale of some adjoining land in 1953.
- The authors refer to the private rights detailed along the 'concrete road' but omit that the section of lane north of a point equating to point E on Drawing 17/21/2 was referred to in the sales documents as 'Mill Lane' and no rights were specified along this road (see paragraph 8.38 – 8.39).
- 10.2 The report suggests that the granting of vehicular rights over part of the concrete path only came into being in 1953.
- These private vehicular rights would have been in addition to any public rights that were already in existence, even if these were not recorded at the time.
- 10.3 The report goes on to suggest that no one has produced evidence to suggest that they own 'the concrete path'.
- The sales document from 1953 stated that lot 27 (Mill House) was to be sold with a 'road', and the sales plans and Ordnance Survey reference showed this to be Mill Lane, south of point E. This section was and still is part of the concrete path. This suggests that prior to the sale this was in the private ownership of the Weld family and is registered to West Dorset Leisure Holidays today. However, private ownership does not preclude public rights over the way.

Page 1

- 10.4 The date when the extent of the County Road was first disputed is discussed.
- The date is of no relevance. The pertinent point is that there are conflicting views about the extent of Mill Lane county road and this needs to be resolved.

Page 2

- 10.5 The relevance of the Finance Act plans (1910) are discussed and it is suggested that the evidence shows that Mill Lane ends at point A on Drawing 17/21/2, and that prior to 1910 there was no public road to Seatown Farm.
- The authors appear to have misunderstood the relevance of depiction of both Seahill Lane and Mill Lane on the Finance Act plans. The public status of Seahill Lane is not in dispute, and as Mill Lane and Seahill Lane are depicted similarly, this is suggestive that they have similar status, albeit that the depiction of both is un-orthodox.
 - The Ordnance Survey maps and Tithe maps are both suggestive of a public route to Seahill Farm from the early 1800's (see section 3 of the Report to the Director for the Environment and Economy 2015).

Page 14 Proposed Definitive Map Modification Order for part of Bridleway 18, Mill Lane, Chideock.

10.6 The relevance of the Rights of Way Act 1932 Chideock Estate documents is discussed.

- Since no status is specified in the Statutory Declaration by the Weld Estate dated 1934, none can be assigned using this document alone.

Page 3

10.7 In discussing the Ordnance Survey Maps, the authors state that the lane from point C to point E is not metalled and has never been metalled. They go on to cite Yolande Hodson on the significance of the shading of some roads on Ordnance Survey 1:2,500 scale maps. They also state that no road to Seatown Farm is shown until the 1888 map.

- The Ordnance Survey maps from 1887 indicate that the lane, as far south as Point E on Drawing 17/21/2 was metalled. Metalling may refer to any surface coating from compacted gravel to tarmac. The lane is metalled today to beyond Point E.
- The authors are correct in their statement that it is not possible to conclude that a road is necessarily public, because it is shaded; private carriage roads were also shown shaded.
- The authors are incorrect in stating that no road to Seatown Farm is shown until the 1888 map, this has been dealt with in paragraph 10.5 above.

Page 4 raises no points for consideration.

Page 5

10.8 The report raises the relevance of the information shown in various planning applications.

- No particular weight has been given to this evidence.

10.9 Authors request to see the original map accompanying the list of streets and question why a particular base-map was used. There is also discussion of the accuracy of grid references on the List of Streets.

- The list of streets map is available to view by appointment.
- The base-map used for the 1974 list of streets map was OS 1962.
- The anomalies concerning grid references are discussed in paragraphs 8.2 – 8.4 above.

Page 5 & 6

10.10 The authors do not agree that an error was made in the 1996 Creation Order. They highlight agreement between the grid reference for the southern termination of Mill Lane in the List of Streets, and the northern terminus of the bridleway on the Creation Order.

- The grid references quoted are not in dispute, however, the grid references in the list of streets are known to be problematic (see paragraphs 8.2 – 8.4 above) so it is now appropriate to consider all available evidence.

Response Conclusion

10.11 The report claims that there is no evidence to suggest that the Highways Inspected Layer differs from the Highway Maintainable at Public Expense. It goes on to question whether the 'dual recording of the route' means recording on the list of streets and the definitive map, or recording as a highway maintainable at public expense and as a bridleway.

- This evidence is available on Dorset Explorer
- These two alternatives are one and the same; the list of streets records highway maintainable at public expense, and the definitive map records rights of way, including bridleways.

Additional Information

10.12 The authors highlight that the Traffic Regulation Order (1992) for a 30mph speed limit only extended to point A on Drawing 17/21/2, implying that this was of some significance in defining the extent of the carriageway.

- It is believed that, at this time, a national speed limit sign was displayed at point A, applying to the road south of this point. The sign is believed to have been removed after concerns expressed by the public in 2007 that it may encourage drivers to increase speed, and cause more of a hazard.

Officers' Summary of the points raised in the Response by Chideock Parish Council

10.13 The response by Chideock Parish Council does not raise any new evidence other than that considered in the original Report to the Director for the Environment and for the Economy 2015, or considered here.

11 Analysis of other evidence opposing the proposal

11.1 Chideock Parish Council declined to comment but referred to the Response report (undated) which was presented on 24 July 2015, see above.

11.2 Three submissions opposing the proposal were received, one from residents Sue & Cliff Allen, one from Kitson & Trotman solicitors on behalf of West Dorset Leisure Holidays, and the other from Kitson & Trotman solicitors on behalf of Mr D. C. Everidge (Roadstead Farm).

11.3 **Sue and Cliff Allen** express the view that Mill Lane is a safer route to walk from Chideock to the beach at Seatown than Sea Hill Lane. They think that *'removal of the restriction would encourage guests at the campsites to use Mill Lane with their vehicles materially increasing the risk to pedestrians and likely causing traffic chaos.....We would like to see the bridleway classification maintained as this does ...restrict the traffic and make it safer ...for children'*.

- Safety matters cannot be taken into consideration.
- Public access by motor vehicle is not permitted either on a bridleway or a restricted byway, but private rights of access with motor vehicles are preserved.

Evidence from Kitson and Trotman on behalf of West Dorset Leisure Holidays Ltd

- 11.4 Kitson & Trotman solicitors provided background information and history relating to their clients; West Dorset Leisure Holidays Ltd. West Dorset Leisure Holidays is the registered proprietor of freehold land and property which abuts Mill Lane on the eastern side between points A and E on Drawing 17/21/2, and includes Mill Lane and land to both sides, south of point E.
- 11.5 Kitson & Trotman state that owners, employees, visitors and other members of the public have used Mill Lane between points A and E on Drawing 17/21/2 for well over 20 years, as a public highway, and that the use has been with and without vehicles.
- Since the Natural Environment and Rural Communities Act 2006 came into force, public rights for use with vehicles can no longer be acquired by use.
- 11.6 Kitson & Trotman state that to the best of their knowledge, no-one has ever stopped or sought to stop access and that use has been open, free and without consent (over Mill Lane between points A and E on Drawing 17/21/2).
- 11.7 Kitson & Trotman claim that the Highway Authority has maintained the section under investigation and point out that it is '*referred to as designated adopted highway on a highways search plan dated 18 September 2012*'.
- That section of Mill Lane from point A to point E is indeed recorded as highway maintainable at public expense. That section of the route between point B – E is not routinely inspected by Dorset Highways but lack of maintenance has no bearing on status.
- 11.8 Kitson & Trotman refer to pre-registration deeds and documents of title of the Weld Estate which show that the extent of public highway was considered to include Mill Lane from Point A to E on Drawing 17/21/2.
- The conveyance documents supplied from 27 January 1954 and 15 January 1956 make no reference to Mill Lane between points A and E on Drawing 17/21/2. The concrete track south of point E was included in the conveyances.
- 11.9 Kitson & Trotman consider points raised in the Report to the Director for the Environment and for the Economy dated 27 February 2015 with which they are in agreement. They also assert that case law dictates that details of streets under s36(6) of the Highways Act 1980 were relevant but not decisive in determining Definitive Map status.
- The information held within the List of Streets has not been used in isolation.

11.10 Kitson & Trotman conclude that *'the act of making the order did not change or alter the public highway status in relation to the section under investigation'* (dedication of a bridleway between point B and point E on Drawing 17/21/2). They continue *'the Order could not have had legal effect because there were pre-existing higher rights in existence. Section 67 of the Natural Environment and Rural Communities Act 2006 provides that an existing public right of way for mechanically propelled vehicles is only extinguished if it is over a way which, immediately before commencement, was not shown on a definitive map and statement, unless immediately before commencement it was shown on a list required to be kept under the Highways Act 1980, s36(6). As such, we consider that the Bridleway status did not take legal effect over the Section Under Investigation'* (from point B to point E on Drawing 17/21/2).

- Section 67 of the Natural Environment and Rural Communities Act 2005 extinguishes (subject to limited exceptions) all rights of way for mechanically propelled vehicles which are not shown on the definitive map, including rights of way shown as footpaths and bridleways. One of the exceptions is; that the right of way is not shown on the definitive map but is shown on the List of Streets. In this case, the right of way is recorded as a bridleway. Thus, even though the route is shown in the List of Streets and the evidence is (as per paragraph 8.23) that B – E on Drawing 17/21/2 is a public carriageway, the operation of Section 67 is to extinguish the public right of way for mechanically propelled vehicles.

11.11 Kitson & Trotman suggest that the definitive map should be amended to remove Bridleway 18 in so far as it relates to the Section Under Investigation (from point B to point E on Drawing 17/21/2) to correct the administrative error. They state *'Even if the bridleway designation by WDDC could be considered valid, which is not admitted, it is the bridleway designation that should be cancelled rather than the adopted highway status.'* They continue *'It is noted that the extent of Bridleway 20 stops at the adopted highway. We would have thought that the extent of Bridleway 18 should be dealt with similarly without changing the extent of the adopted highway.'*

- The legal process to add to bridleway 18, Chideock to the definitive map, including that part between points B and E, was carried out correctly in 1997, although the reasons for it appear flawed. There is no means of undoing this process if it were carried out in error. The matter can only be corrected with another legal order under the Wildlife and Countryside Act 1981.

11.12 Kitson & Trotman state *'When the Concrete Road was constructed, it was clearly intended to include a right of way for motor vehicles and heavier propelled forms of transport. That was its purpose'*.

- Whilst there is strong evidence that the concrete road was constructed to enable military vehicles to transport shingle from the beach during World War II, there is no evidence to suggest that public rights of way were created at this time. Public vehicular rights may already have been in existence, but the surfacing with concrete neither confirms nor refutes this theory.

Evidence from Kitson and Trotman on behalf of Mr D. C. Everidge of Roadstead Farm

11.13 Kitson & Trotman state that Mr Everidge concurs with the response of West Dorset Leisure Holidays Ltd.

11.14 Kitson and Trotman set out which land adjoining Mill Lane and the concrete track has been, and still is, in the ownership of Mr Everidge and his family.

11.15 Kitson and Trotman provide a list of people who are known to have used the route in question, with and without vehicles, over the past 60 years. These are mostly employees, other land owners and trades-people with an interest in accessing local property, however, public use is also asserted.

- Most of the use cited could be use with private rights. Asserted use by the public is not precise enough to be given any weight, but it is consistent with documentary evidence that suggests the route in question was a public carriageway.

11.16 Kitson and Trotman state that Mr Everidge believes this use was consistent with use of a public highway, and that it was open, free and without consent. To the best of Mr Everidge's knowledge no one has ever been stopped or prevented from free access to the route in question.

- This use is consistent with the route in question being a public carriageway, but without signed statements from each user it cannot be given any weight.

11.17 **Summary of evidence against the proposal:**

11.18 None of the submissions contain any evidence which can be taken into consideration and has not been considered in this report, or in the Report to the Director of the Environment and Economy 2015.

12 **Analysis of other submissions**

12.1 None of the other submissions were accompanied by any evidence which can be taken into consideration.

13 **Conclusions**

13.1 Mill Lane, between points B and E on Drawing 17/21/2 is shown on the **List of Streets Plan** as Highway Maintainable at Public Expense, and it is also shown on the **Definitive Map** as a Bridleway (part of Chideock Bridleway 18). It is necessary for members to decide what status this section of lane has, so that this anomaly can be corrected.

13.2 The County Council must make a modification order if the balance of evidence shows that a highway shown on the definitive map and statement of a particular description either

a) ought to be shown as a highway of a different description or

b) that there is a reasonable allegation that it should be shown as a highway of a different description.

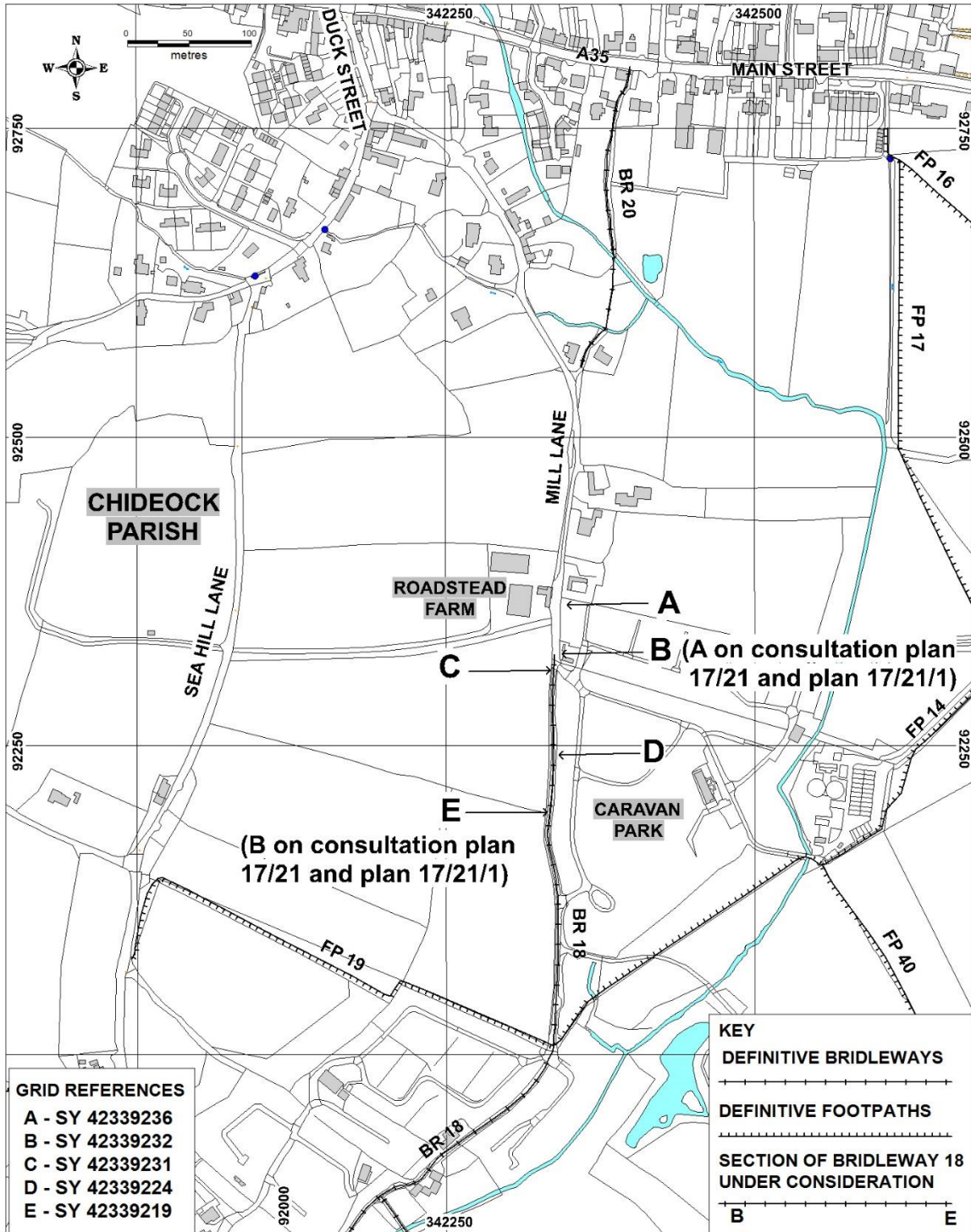
- 13.3 The documentary evidence, in particular that provided by the length of Mill Lane given in the **List of Streets (1974)**, the **List of Streets Plan (1974)**, the **First Edition Ordnance Survey Maps (1887-8 and 1903-4)**, **Finance Act Plan (1910)** and supported by the **Provisional Map (1963)**, the **First Definitive Map and Statement (1966-7)**, the **Revised Draft Map (1974)**, the **Current Definitive Map (sealed 1989)** and the **Sales Particulars for part of the Chideock Estate (1953)** is sufficient to demonstrate, on balance, that Mill Lane, as shown between Duck Street in the north and point E on Drawing 17/21/2 in the south, was dedicated as a carriageway under common law.
- 13.4 As the route is currently recorded on the definitive map and statement as a bridleway it is necessary for members to decide whether, on the balance of probability, it ought to be shown as a highway of a different description.
- 13.5 The **1996 Public Path Creation Order** which was used to upgrade the existing Chideock Footpath 18 to a bridleway, was extended to include that section of Mill Lane from point E to point B on Drawing 17/21/2. It is believed that this was done in error, and resulted in that section of Mill Lane between point B – point E becoming dual recorded.
- 13.6 Section 67 of the Natural Environment and Rural Communities Act 2006 states that an existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement was shown on the definitive map and statement only as a footpath, bridleway, or restricted byway, subject to certain exceptions.
- 13.7 As no exception to the provisions contained in Section 67 of the Natural Environment and Rural Communities Act 2006 appears to apply, these public mechanically propelled vehicular rights which were not shown on the definitive map have been extinguished, and an order should be made to record that section of Mill Lane between points B and E as a restricted byway only.
- 13.8 The County Council must make a modification order if the balance of evidence shows that a route shown on the definitive map and statement should be shown as having a different status. For the reasons set out above, officers consider that the evidence supports the proposed modification.
- 13.9 It is therefore recommended that an order be made to record Mill Lane as shown between points B – C – D – E on Drawing 17/21/2 as a restricted byway.
- 13.10 If there are no objections to a modification order, the County Council can itself confirm the order if the criterion for confirmation has been met. An order can be confirmed if, on the balance of probability, it is shown that the route as described does exist. It is considered that the evidence is sufficient to satisfy this test.

Andrew Martin
Service Director Highways and Emergency Planning

October 2018

Drawing 17/21/2

APPENDIX 1




WILDLIFE AND COUNTRYSIDE ACT 1981
PROPOSED DEFINITIVE MAP MODIFICATION ORDER-
BR 18 (PART), CHIDEOCK
MILL LANE

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 17/21/2
Date: 28/06/2018
Scale 1:4000
Drawn By: AB
Cent X: 342285
Cent Y: 92352

GEOGRAPHICAL INFORMATION SYSTEMS

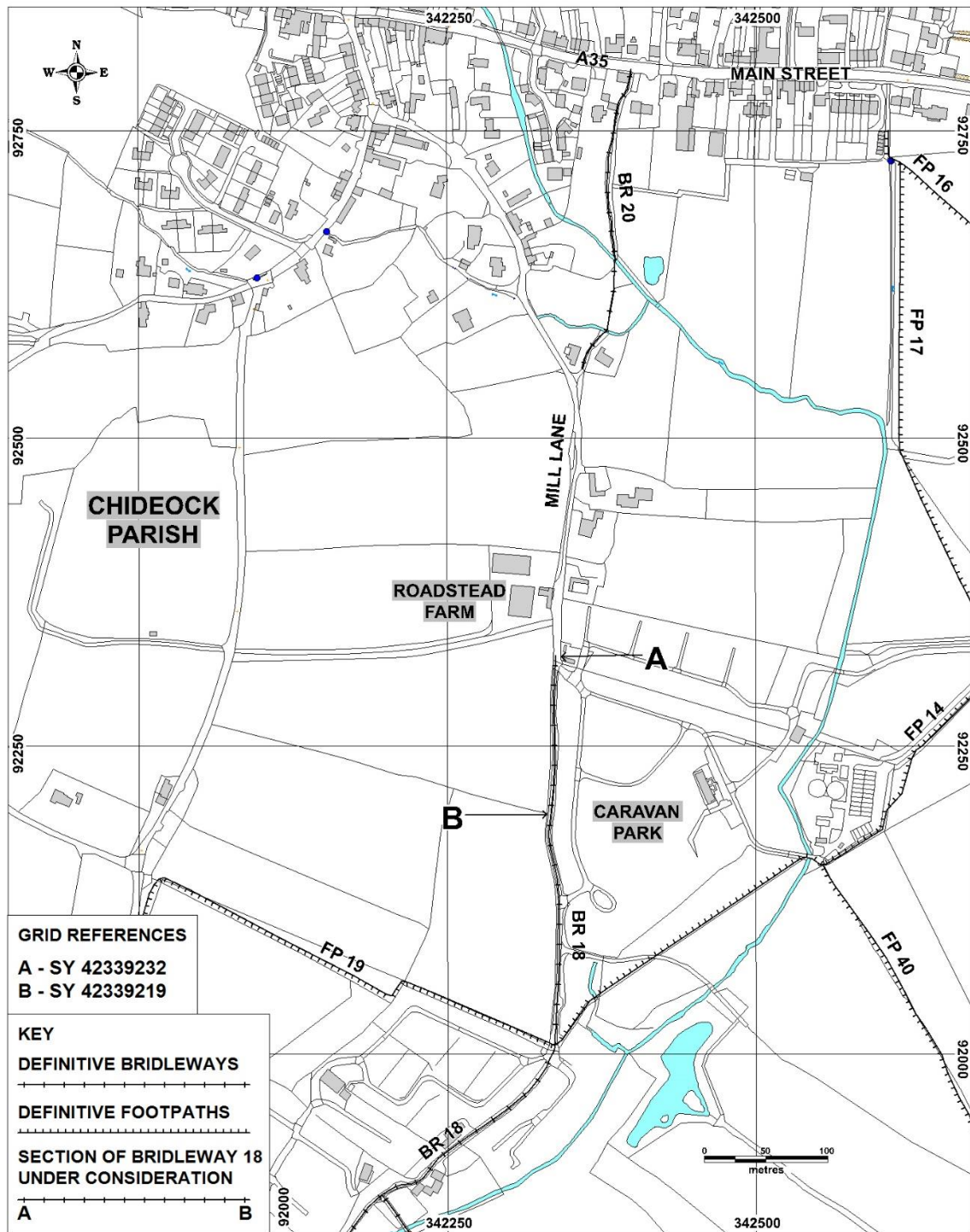


Dorset County Council

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Drawing 17/21/1 (identical in all relevant respects to consultation plan 17/21)

APPENDIX 2




GRID REFERENCES
 A - SY 42339232
 B - SY 42339219

KEY
 DEFINITIVE BRIDLEWAYS
 DEFINITIVE FOOTPATHS
 SECTION OF BRIDLEWAY 18 UNDER CONSIDERATION
 A B

WILDLIFE AND COUNTRYSIDE ACT 1981
PROPOSED DEFINITIVE MAP MODIFICATION ORDER-
BR 18 (PART), CHIDEOCK
MILL LANE
THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 17/21/1
Date: 31/08/2017
Scale 1:4000
Drawn By: EB
Cent X: 342285
Cent Y: 92352

GEOGRAPHICAL INFORMATION SYSTEMS

Dorset County Council
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APPENDIX 3

LAW

General

1 Wildlife and Countryside Act 1981

- 1.1 Section 53 of the Wildlife and Countryside Act 1981 requires that the County Council keep the definitive map and statement under continuous review and in certain circumstances to modify them. These circumstances include the discovery of evidence which shows that a right of way not shown in the definitive map and statement subsists or is reasonably alleged to subsist.
- 1.2 Section 53 of the Act also allows any person to apply to the County Council for an order to modify the definitive map and statement of public rights of way in consequence of the occurrence of certain events. One such event would be the discovery by the authority of evidence which, when considered with all other relevant evidence available to them, shows that a right of way not shown on the definitive map and statement subsists.
- 1.3 The Committee must take into account all relevant evidence. They cannot take into account any irrelevant considerations such as desirability, suitability and safety.
- 1.4 The County Council must make a modification order to add a right of way to the definitive map and statement if the balance of evidence shows either:
- (a) that a right of way subsists or
 - (b) that it is reasonably alleged to subsist.

The evidence necessary to satisfy (b) is less than that necessary to satisfy (a).

- 1.5 An order can be confirmed if, on the balance of probability, it is shown that the route as described does exist.
- 1.6 Where an objection has been made to an order, the County Council is unable itself to confirm the order but may forward it to the Secretary of State for confirmation. Where there is no objection, the County Council can itself confirm the order, provided that the criterion for confirmation is met.

2 Highways Act 1980

- 2.1 Section 31 of the Highways Act 1980 says that where a way has been used by the public as of right for a full period of 20 years it is deemed to have been dedicated as highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The 20 year period is counted back from when the right of the public to use the way is brought into question.
- (a) 'As of right' in this context means without force, without secrecy and without obtaining permission.

- (b) A right to use a way is brought into question when the public's right to use it is challenged in such a way that they are apprised of the challenge and have a reasonable opportunity of meeting it. This may be by locking a gate or putting up a notice denying the existence of a public right of way.
 - (c) An application under Section 53 (5) of the Wildlife and Countryside Act 1981 for a modification order brings the rights of the public into question. The date of bringing into question will be the date the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.
- 2.2 The common law may be relevant if Section 31 of the Highways Act cannot be applied. The common law test is that the public must have used the route 'as of right' for long enough to have alerted the owner, whoever he may be, that they considered it to be a public right of way and the owner did nothing to tell them that it is not. There is no set time period under the common law.
- 2.3 Section 31(3) of the Highways Act 1980 says that where a landowner has erected a notice inconsistent with the dedication of a highway, which is visible to users of the path, and maintained that notice, this is sufficient to show that he intended not to dedicate the route as a public right of way.
- 2.4 Section 32 of the Highways Act 1980 says that the Committee must take into consideration any map, plan or history of the locality. Documents produced by government officials for statutory purposes such as to comply with legislation or for the purpose of taxation, will carry more evidential weight than, for instance, maps produced for tourists.
- 3 Human Rights Act 1998
- 3.1 The criteria for definitive map modification orders are strictly limited to matters of fact and evidence. In all cases the evidence will show that the event (section 53) has already taken place. The legislation confers no discretion on a surveying authority or the Secretary of State to consider whether or not a path or way would be suitable for the intended use by the public or cause danger or inconvenience to anyone affected by it. In such situations where the primary legislation offers no scope for personal circumstances to affect the decision on the order, the Planning Inspectorate's recommended approach is to turn away any human rights representations.
- 3.2 A decision confirming an order made under the Wildlife and Countryside Act 1981 would be lawful (under domestic law) as provided by Section 6.2 of the Human Rights Act 1998 even in cases where the Convention was apparently infringed, where it was impossible to interpret the 1981 Act in such a way that it is compatible with the Convention rights (section 3 Human Rights Act 1998).

Case specific law

4 Finance Act 1910

4.1 The Finance Act 1910 required the Commissioners of Inland Revenue to cause a valuation of “all land in the United Kingdom” and plans were prepared identifying the different areas of valuation. In arriving at these valuations certain deductions were allowed, including deductions for the existence of public rights of way.

4.2 Public ‘fenced’ roads were generally excluded from the valuation. Where public rights passed through, for example a large field and were unfenced, they would be included in the valuation and a deduction would be made in respect of the public right of way.

5 National Parks and Access to the Countryside Act 1949

5.1 The National Parks and Access to the Countryside Act 1949 required the County Council as “Surveying Authority” to compile the record of the public rights of way network and the District and Parish Councils were consulted to provide the County Council with information for the purposes of the survey.

6 Natural Environment and Rural Communities Act 2006

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

Table of documentary evidence

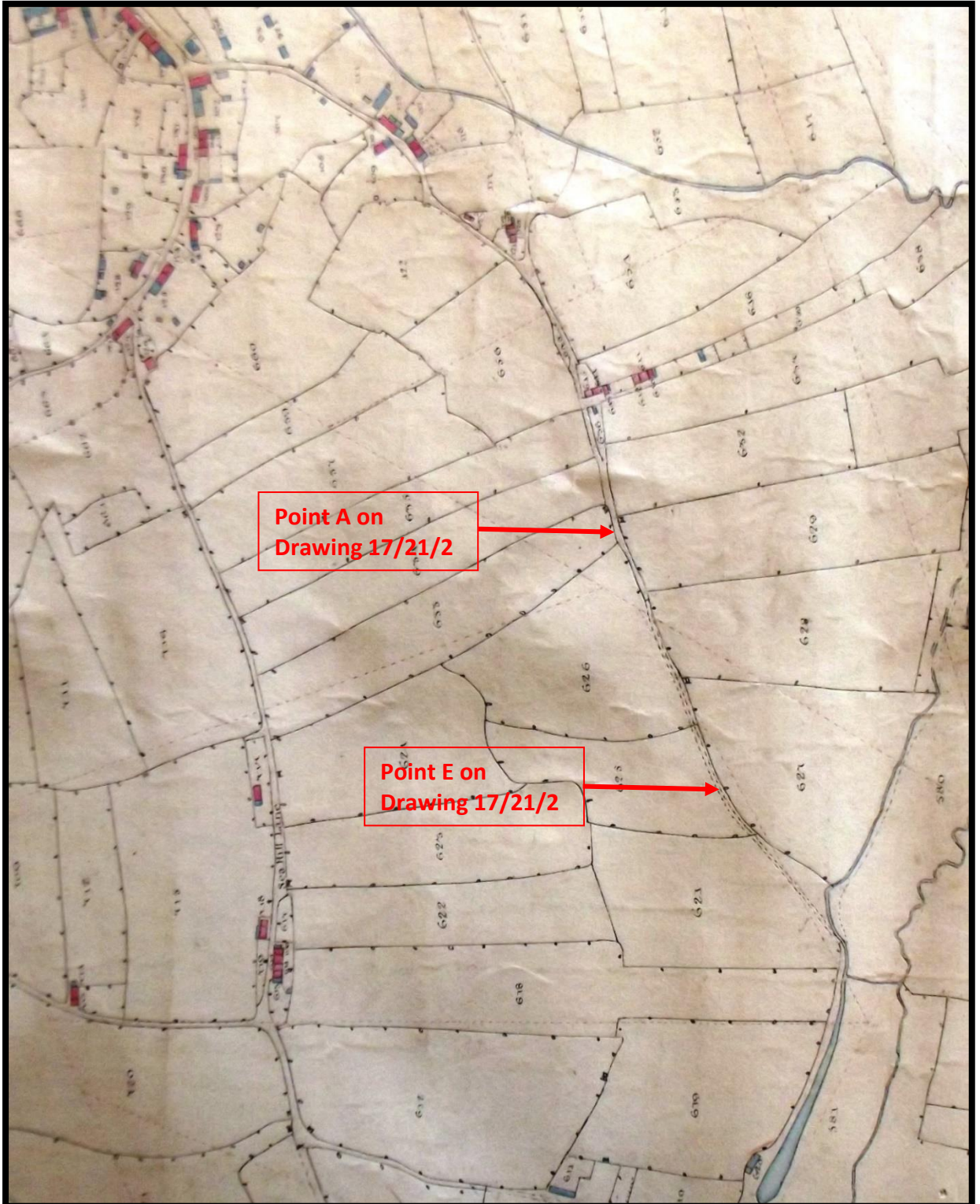
Date	Document	Comment
1806-07	Ordnance Survey Drawings	Depicts the northern section of Mill Lane with parallel solid lines, but the alignment appears slightly different to the current route of the lane.
1811	Ordnance Survey First Edition map scale 1 inch:1 mile	Depicts a similar situation to the drawings of 1806-07.
1838	Map of Chideock	Appears to be a pre-cursor to the Tithe Map 1843
1843	Tithe Map	Depicts Mill Lane as far south as point C, shaded brown, not apportioned. No path or way beyond this.
1852	Map of Chideock	Shows changes in field boundaries since 1813 and 1838. Depicts Mill Lane as in the Tithe Map, but now extending from point C to beyond point E (solid and pecked line)
19 th C	Map of Chideock	Similar to the Tithe Map.
1887	Ordnance Survey First Edition map scale 6 inches:1 mile	Depicts Mill Lane in its current location, with parallel solid lines as far south as point E, then solid and pecked and finally parallel pecked lines to Seatown. As far south as point E the road is heavily shaded on the eastern side.
1888	Ordnance Survey First Edition map scale 25 inches:1 mile	Depicts Mill Lane in a similar way to the First Edition 6 inches:1 mile map.
1896	NOTE: By 1896 roads on Ordnance Survey maps were to be classified as first or second class according to whether they were Main or District roads, other roads were to be classed as second class if they were metalled and kept in good repair. Both first and second class roads are shown on published maps in the same way, by shading on one side. Third class metalled and unmetalled roads are shown without shading.	
1910	Finance Act plans	Depicts Mill Lane as clearly excluded from valuation for part of its length, and part depicted in an un-orthodox fashion. Sea Hill Lane (public carriageway) is depicted similarly.
1910	Finance Act Field books	Hereditaments bounding the lane from which it is not clearly excluded have a deduction for rights of way or user, but these cannot be attributed to any particular routes.
1912	NOTE: The system of classification adopted on Ordnance Survey maps in 1896 was abolished in November 1912.	

Date	Document	Comment
1929	Ordnance Survey County Series map scale 25 inches:1 mile	Similar to earlier maps of same scale but without shading on eastern side of roads.
1930	Planning Application	Application for new drainage system for house in Mill Lane, Chideock, with plan
1934	Planning Application	Application for conversion in Mill Lane, Chideock, with plan
1934	Statutory Declaration under Rights of Way Act 1932	Landowner has marked acknowledged rights of way in green. This includes Mill Lane from Seatown north, through point E to point D where it ends.
1946	Ordnance Survey 1 inch to 1 mile New popular edition sheet 178	Shows Mill Lane as a through route
1949	<p>National Parks and Access to the Countryside Act 1949</p> <p>NOTE: Parish Councils received advice on the recording of public rights of way in a booklet provided to them by the Open Spaces Society. The booklet included information on the different classes of rights of way which included the designations of CRB (Carriage or Cart Road Bridleway) and CRF (Carriage or Cart Road Footpath). Parish Councils were advised that a public right of way used mainly by the public on foot but also with vehicles should be recorded as a CRF and a route mainly used by the public on foot or horseback but also with vehicles should be recorded as a CRB.</p>	
No date	Chideock Parish Survey	Does not claim any part of Mill Lane between points A – E as a right of way
1951	Planning Application to Bridport Rural District Council	Application for caravan licence for Mill Lane, Chideock
1953	Sales Particulars for part of Chideock Estate	Mill Lane south of point E is included in the sale, as are plots either side of Mill Lane, access is described.
1953	Draft map for the Chideock area of Dorset	Does not show any rights of way between points A – E but does show footpaths abutting Mill Lane south of E
1954	Draft Map Objections for Chideock	Two objections each requesting additions relating to part of Mill Lane, one was upheld.
1959	Ordnance Survey map scale 1: 25,000	No new information
1963	Provisional map of rights of way	Shows Chideock FP 18 extending south from point E, following route of Mill Lane, to Seatown
1966-7	First definitive map and Statement	The map replicates the Provisional Map, and the statement describes FP18 as extending from Mill Lane to Seatown

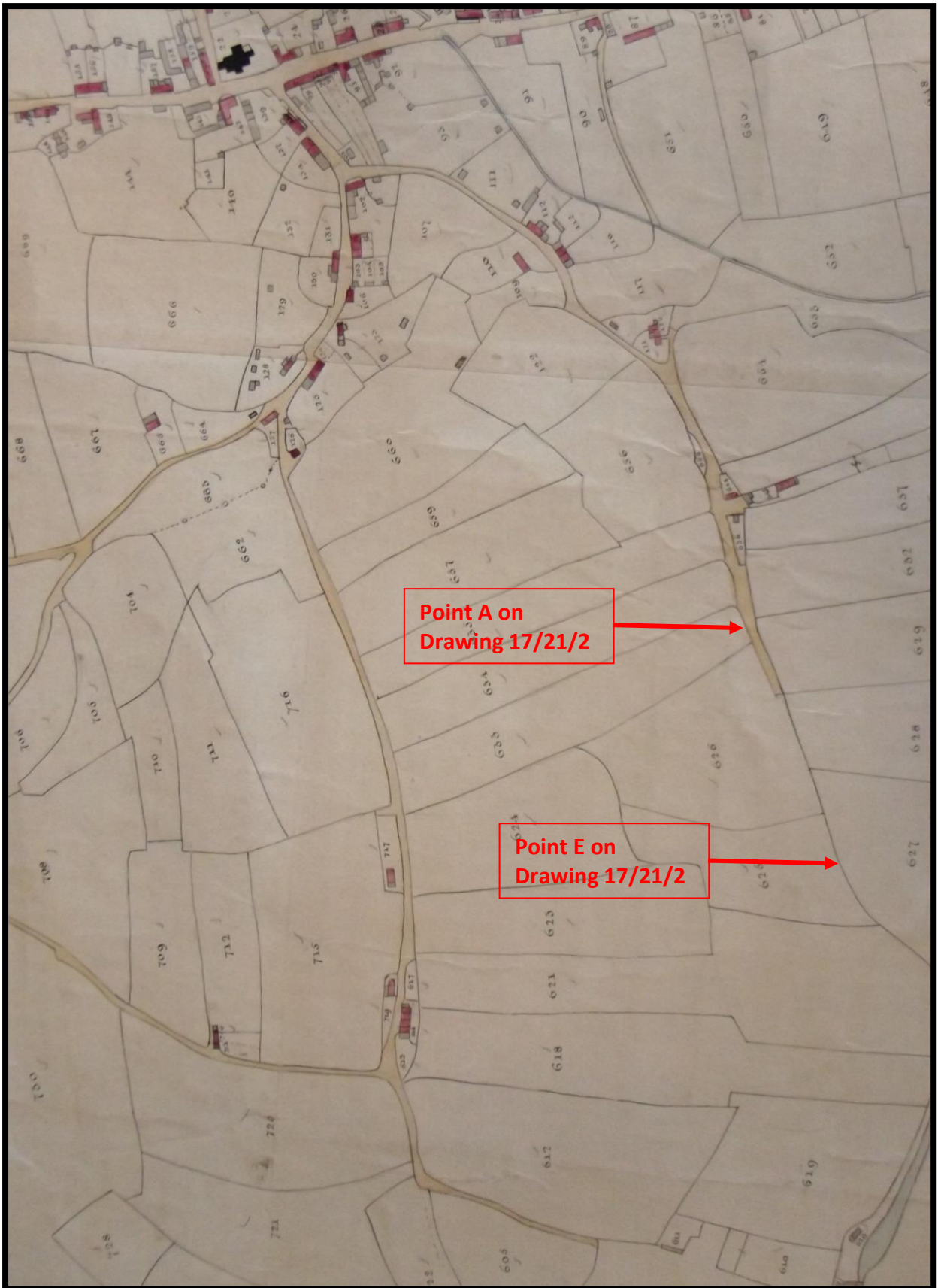
Date	Document	Comment
1968	Ordnance Survey 6" to 1 mile scale map	Shows route fully enclosed, all the way through to Seatown.
1974	List of Streets and plan	Plan shows Mill Lane shaded blue as far south as point E, grid references in the list do not match the plan, or the stated length (0.41 miles).
1974	Revised draft map	Replicates the first definitive map and no relevant objections were recorded
1989	Current definitive map	Replicates the revised draft and first definitive maps for this area
199	Ordnance Survey Plan 1:2500	
1996	Public Path Creation Order West Dorset District Council	Order for a bridleway over part of Mill Lane confirmed Jan 1997

Extracts from key documents
(See the Director for Environment's file RW/T539
for copies of other documents mentioned)

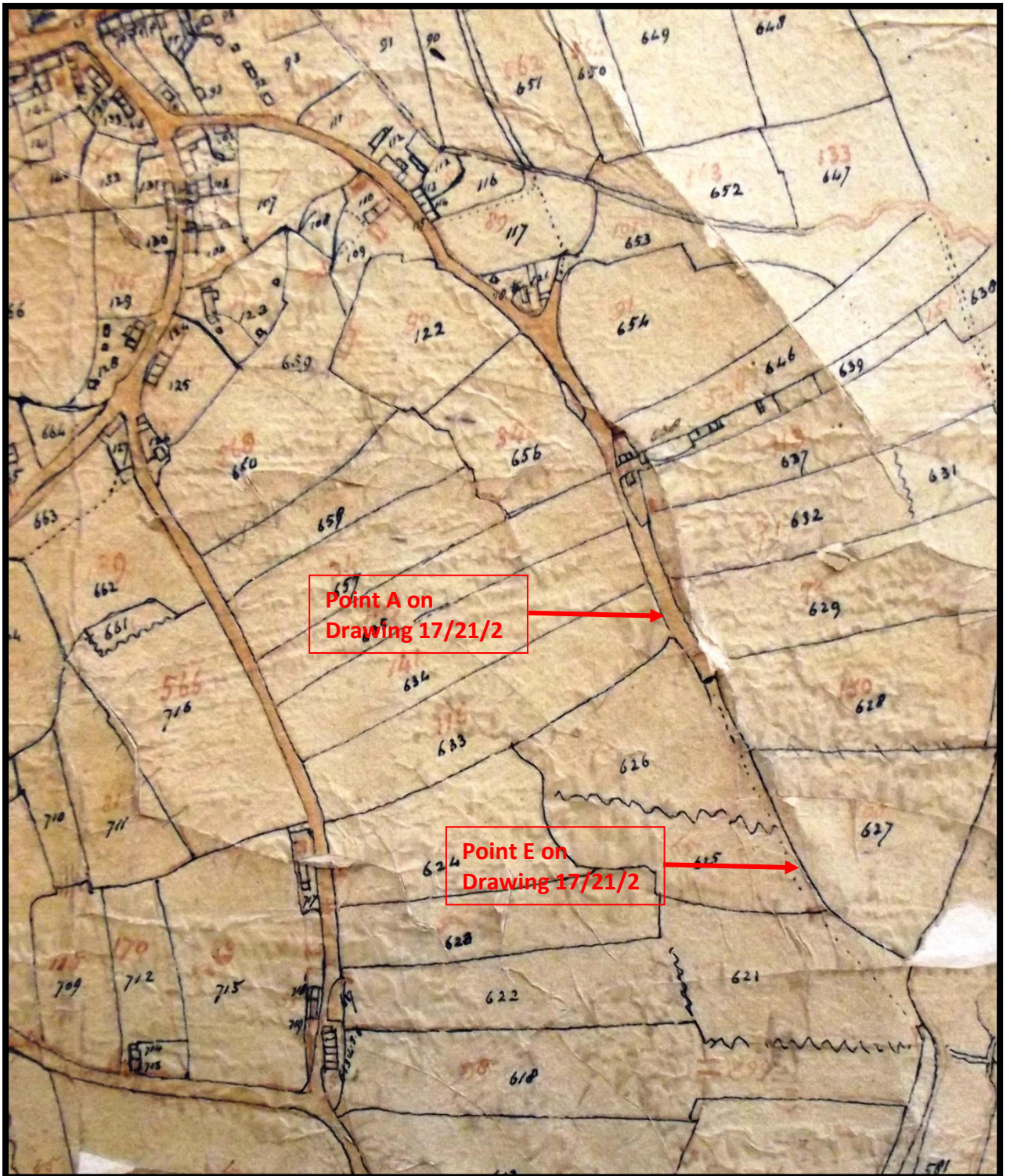
Map of Chideock 1838



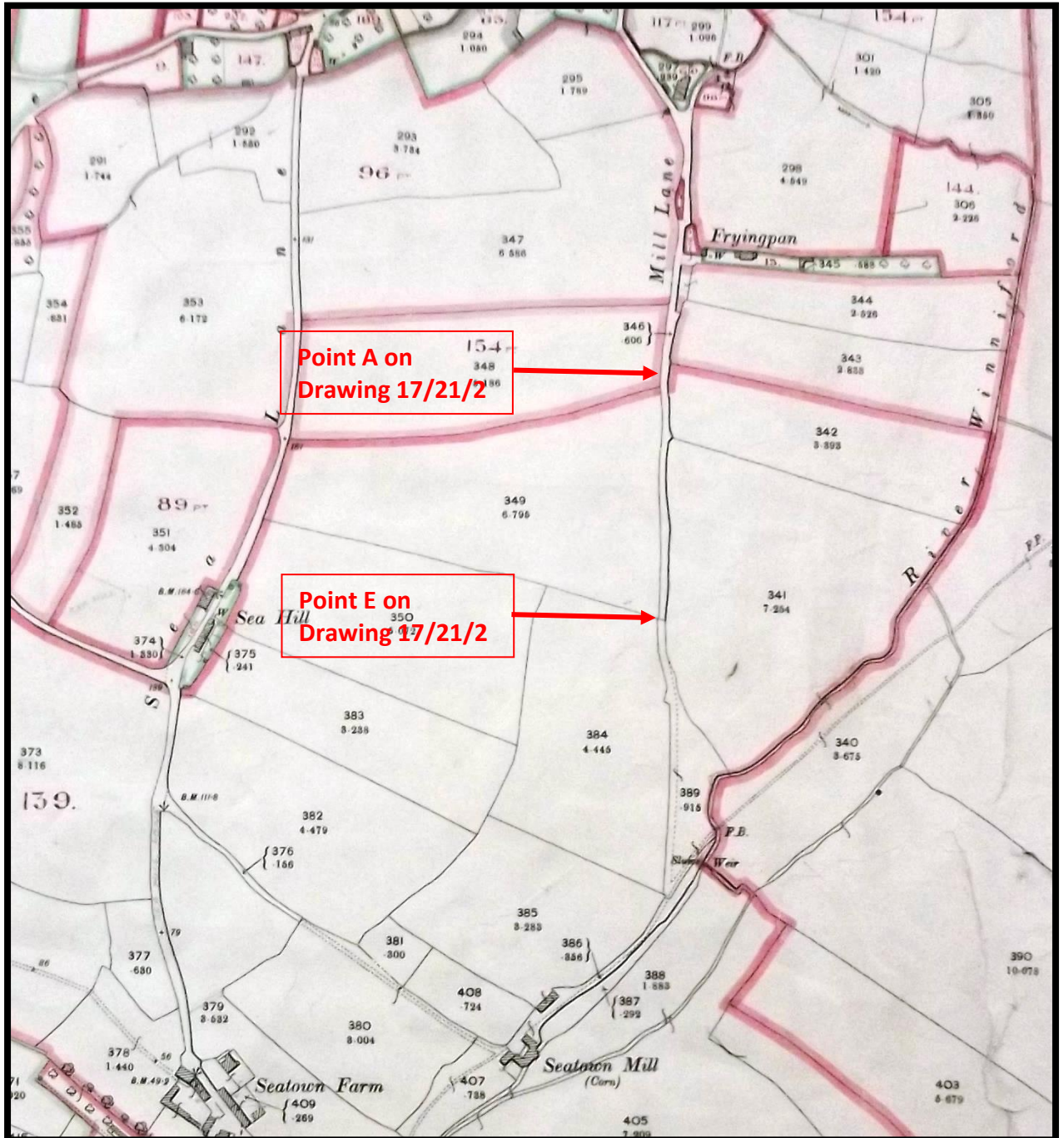
Chideock Tithe Apportionment Plan 1843



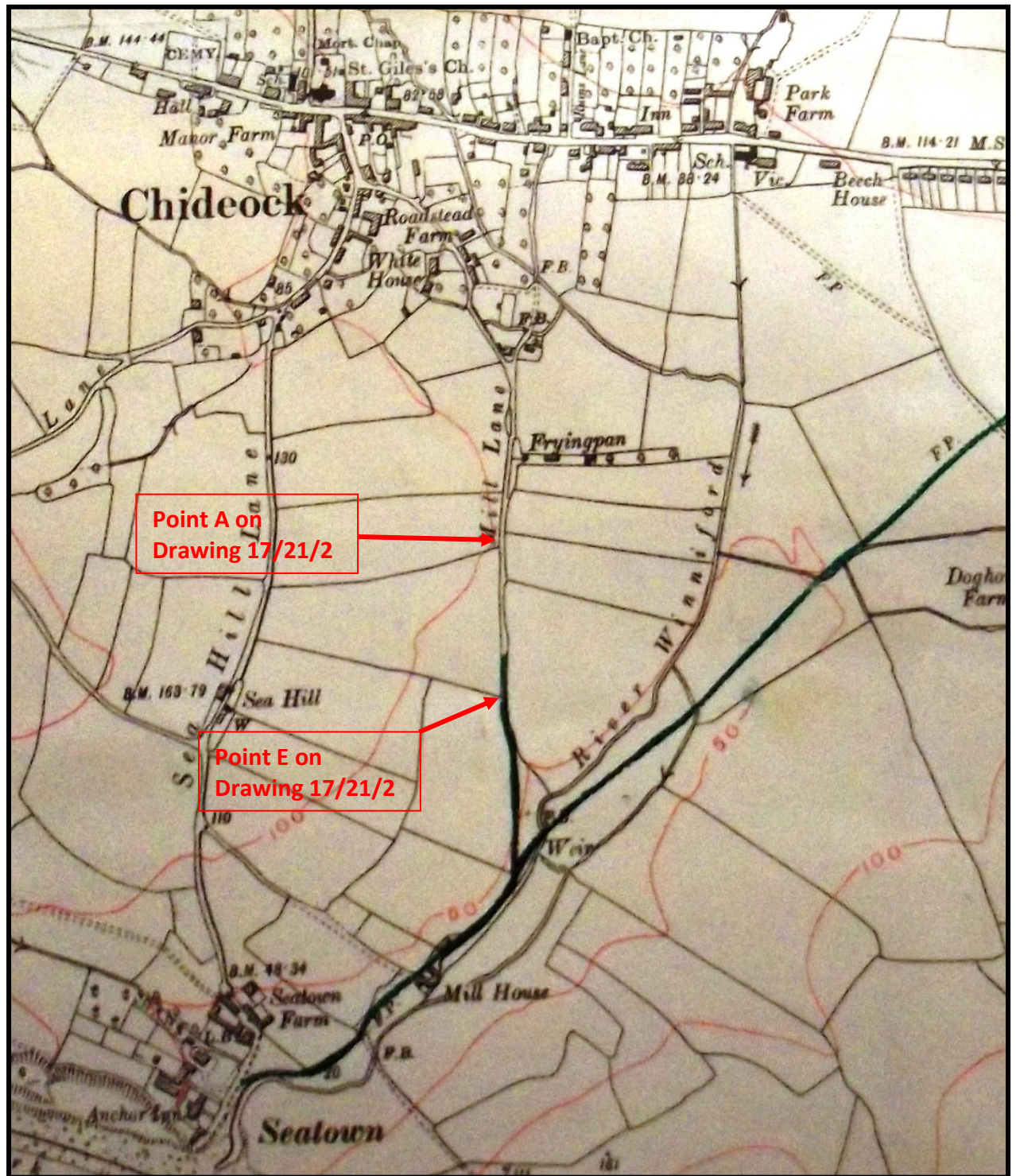
Map of Chideock 1852



Finance Act Plan 1910



Rights of Way Act 1932 (The Chideock Estate)



Rights of Way Act 1932

I HUMPHREY JOSEPH GILES WELD being the owner of the whole of the land edged in pink on the attached plan, with the exception of certain small properties which are not material for this purpose, hereby admit that the ways shewn in green ink on this plan are the only ways dedicated to the public as highways.

DATED this 19th day of July One thousand nine hundred and thirty four.

H. J. Weld

Ordnance Survey Drawing 1806-07



Ordnance Survey One Inch First Series 1811

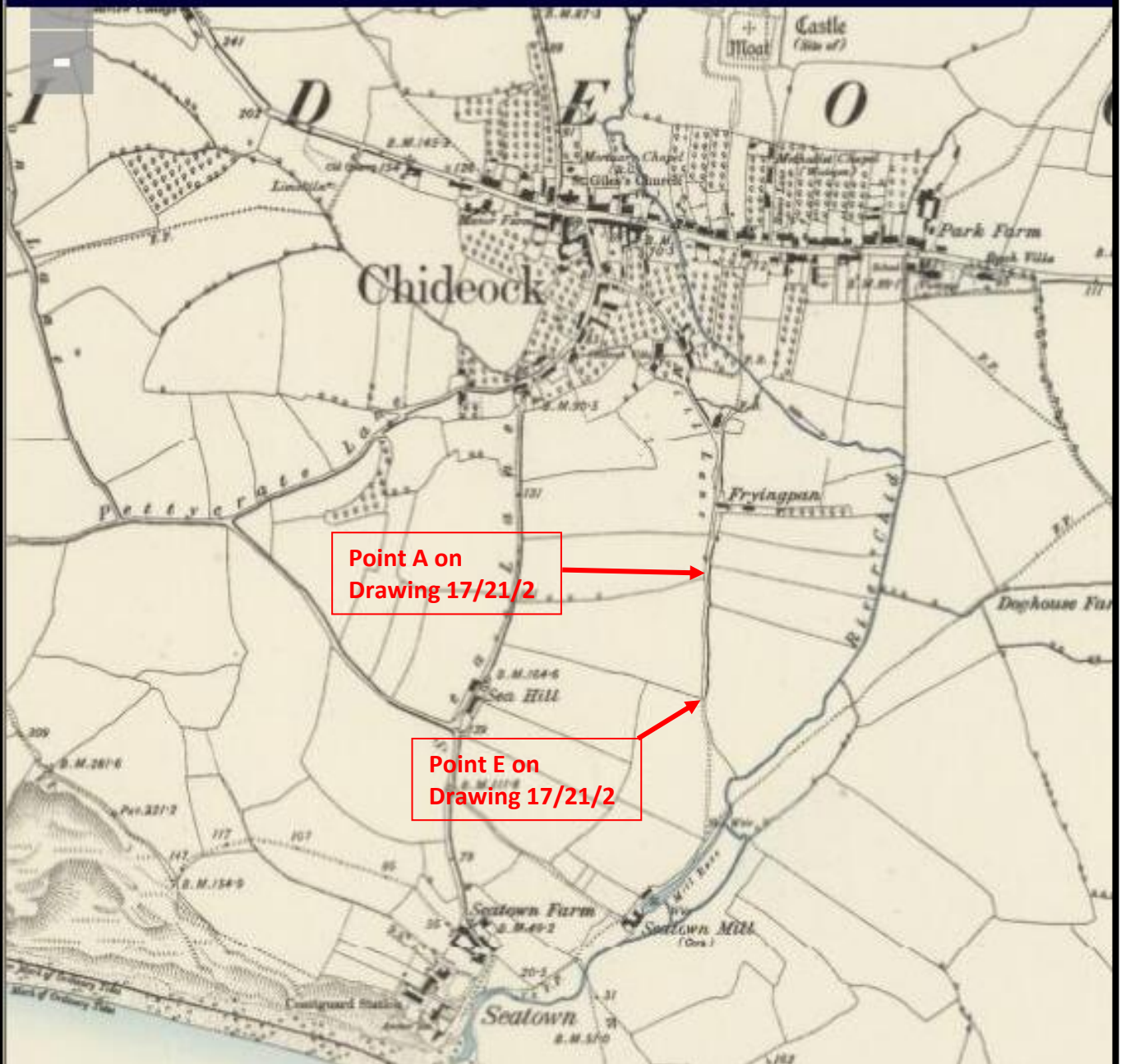


Ordnance Survey 6 inch 1887

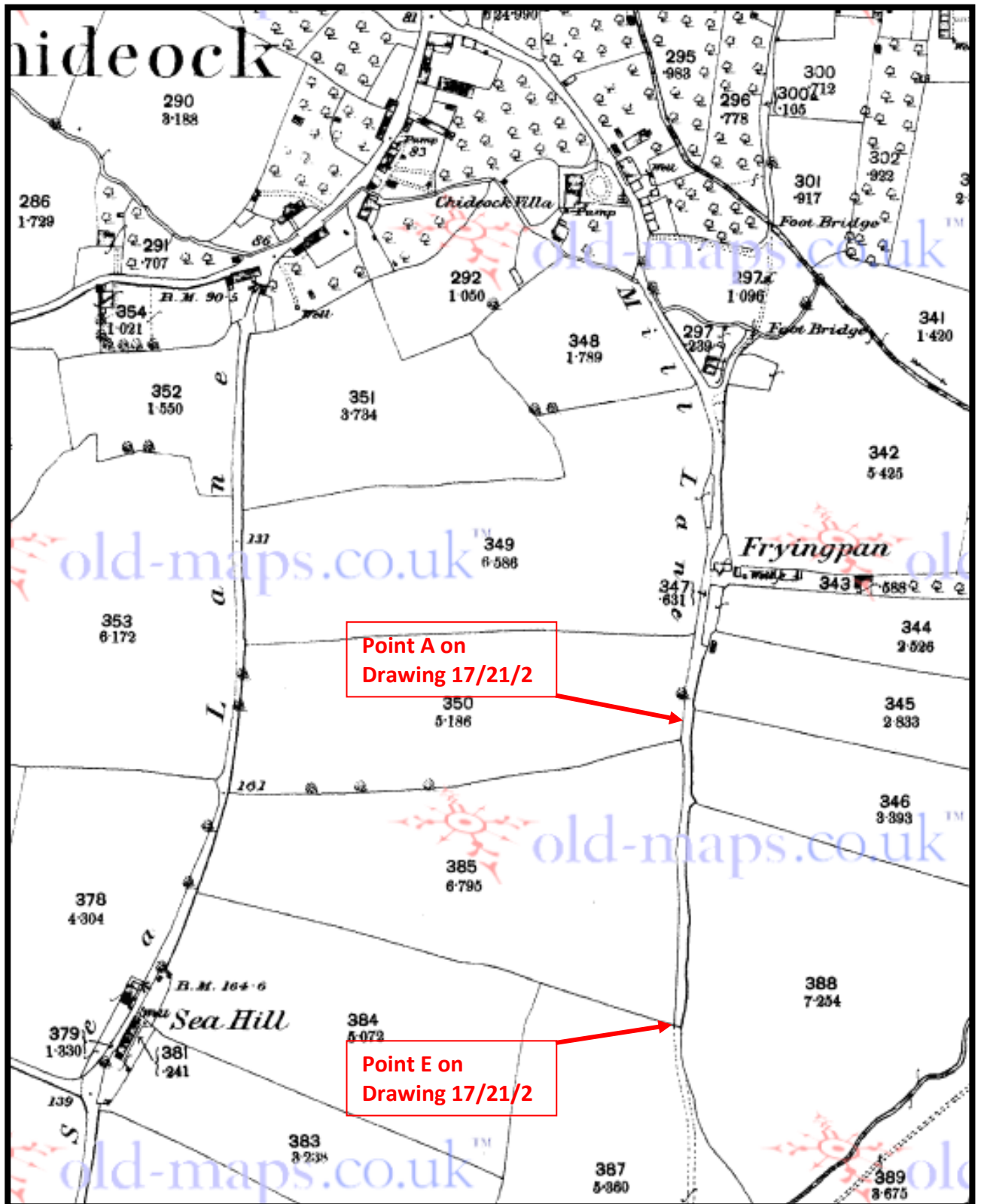


Dorset XXXVII.SE (includes: Chideock; Stanton St Gabri
Surveyed: 1887
Published: 1888

Maps home > OS Six-inch England and Wales, 1842-1952



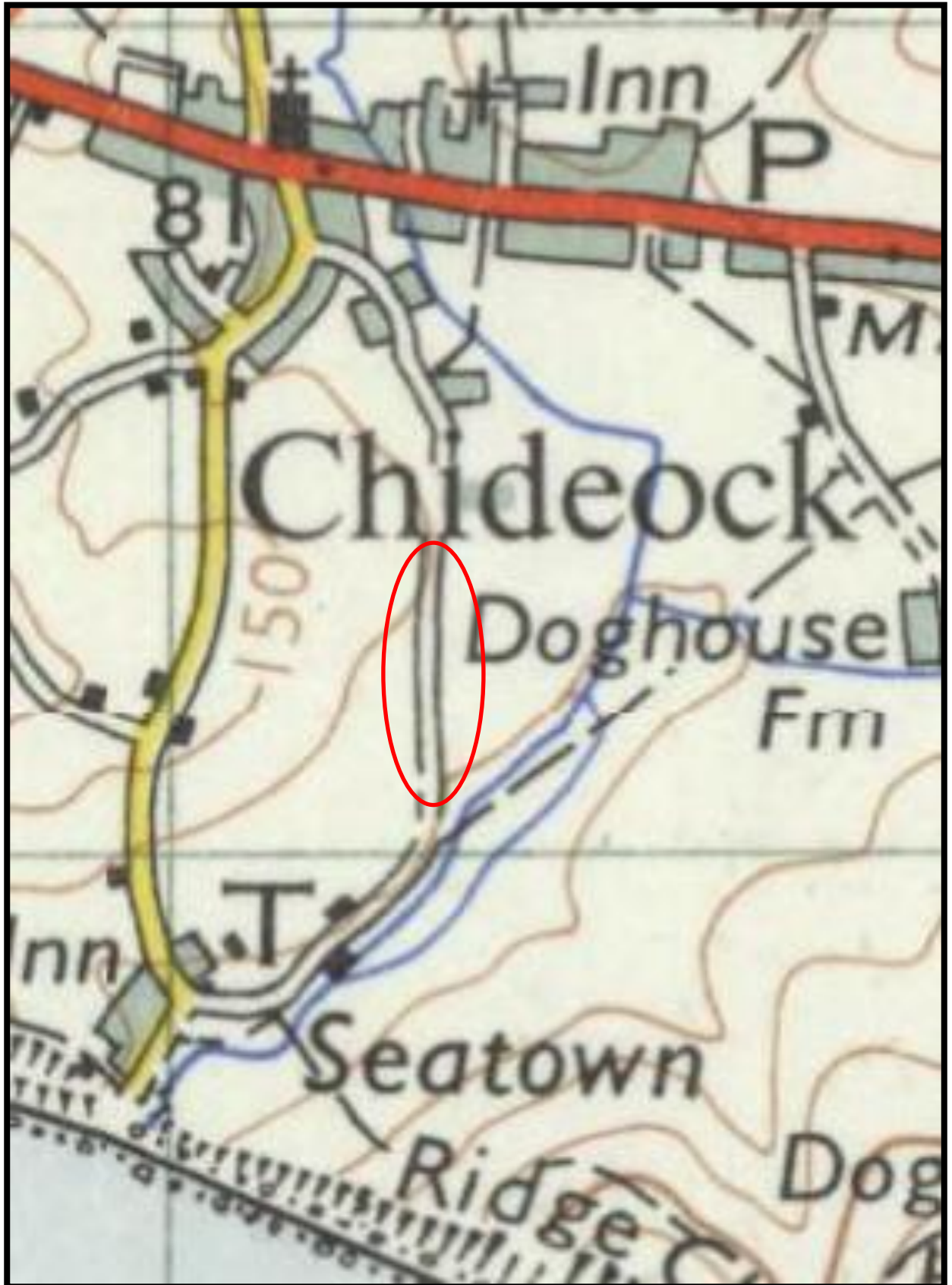
Ordnance Survey 25 Inch 1888



Ordnance Survey Revised One Inch 1898



Ordnance Survey Sheet 177 - Taunton and Lyme Regis - 1960



Caravan Site Planning Application 1951

093208 → 9

BRIDPORT R. D. C.
SURVEYOR'S DEPARTMENT,
10, SOUTH STREET,
BRIDFORD, DORSET.

7th March, 1951

To: C. A. Colkett, Esq.,
The Mill House,
Seatown,
Chideock.

Dear Sir or Madam,

Plan No: 1951 / 36

In pursuance of Section 64 of the Public Health Act, 1936, I hereby give you notice that the plans which were deposited by you on the 20th February, 19 51 for proposed renewal of Camping Licence in respect of 12 caravans at O.S. 533, Mill Lane, Seatown belonging to yourself have been approved by the Council, as a camping site for twelve caravans structures subject to caravans being on site 1st April to 30th September only

(and) for a Temporary Period terminating on the 31st December 1951 for which Camping/~~Temporary Building~~ Licence No: 9/1951 ~~is attached~~/will be forwarded under separate cover.

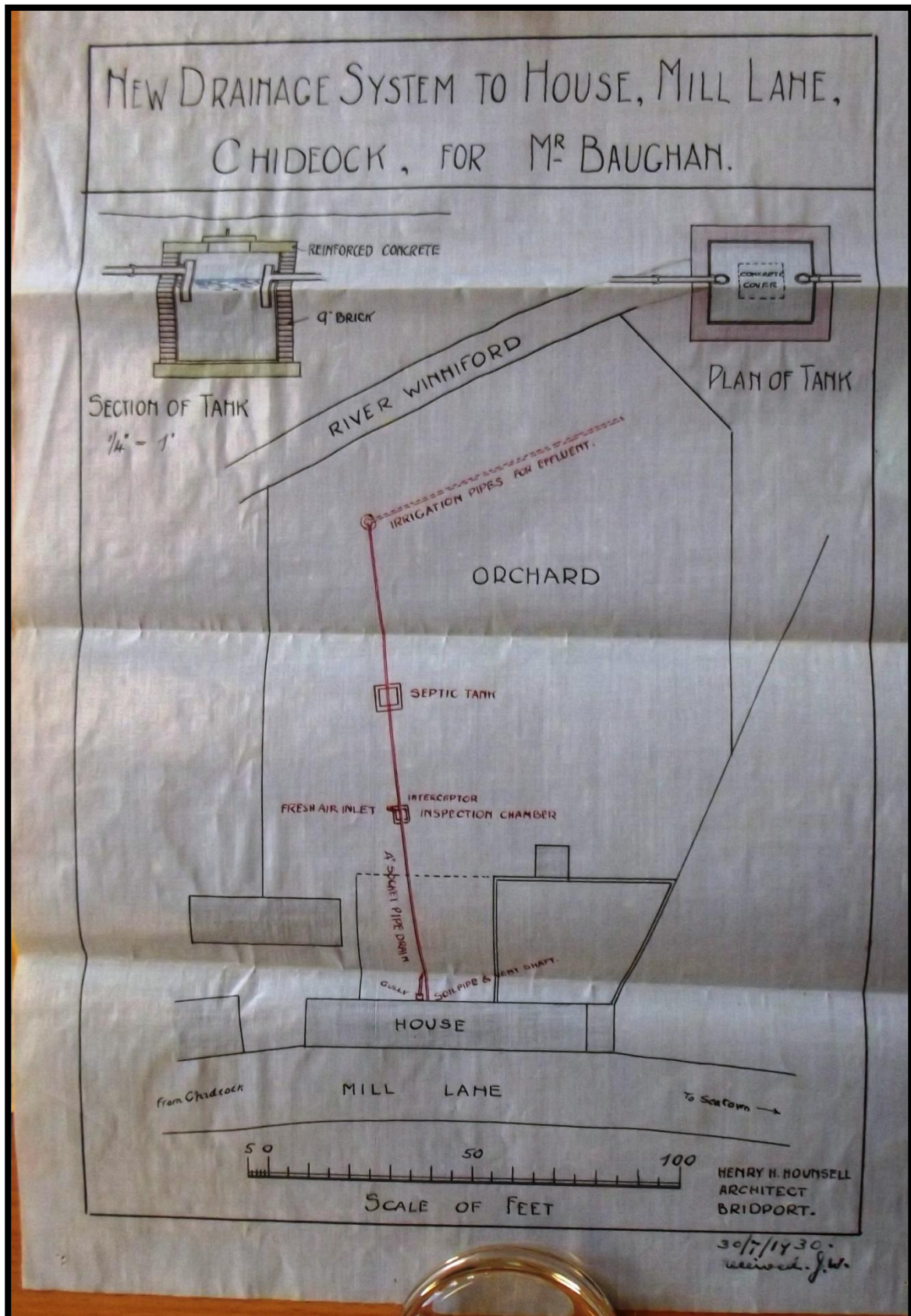
This passing of the plan operates as an approval thereof only for the purposes of the requirements of the building byelaws and those sections of the Public Health Act, 1936, which expressly require or authorise the Council in certain cases to reject plans.

As the work represents development as defined by the Town and Country Planning Act, 1947, NO operations may be carried out until permission for development has been obtained, and the amount of Development Charge, if any, has been determined by the Central Land Board and paid by you or otherwise secured.

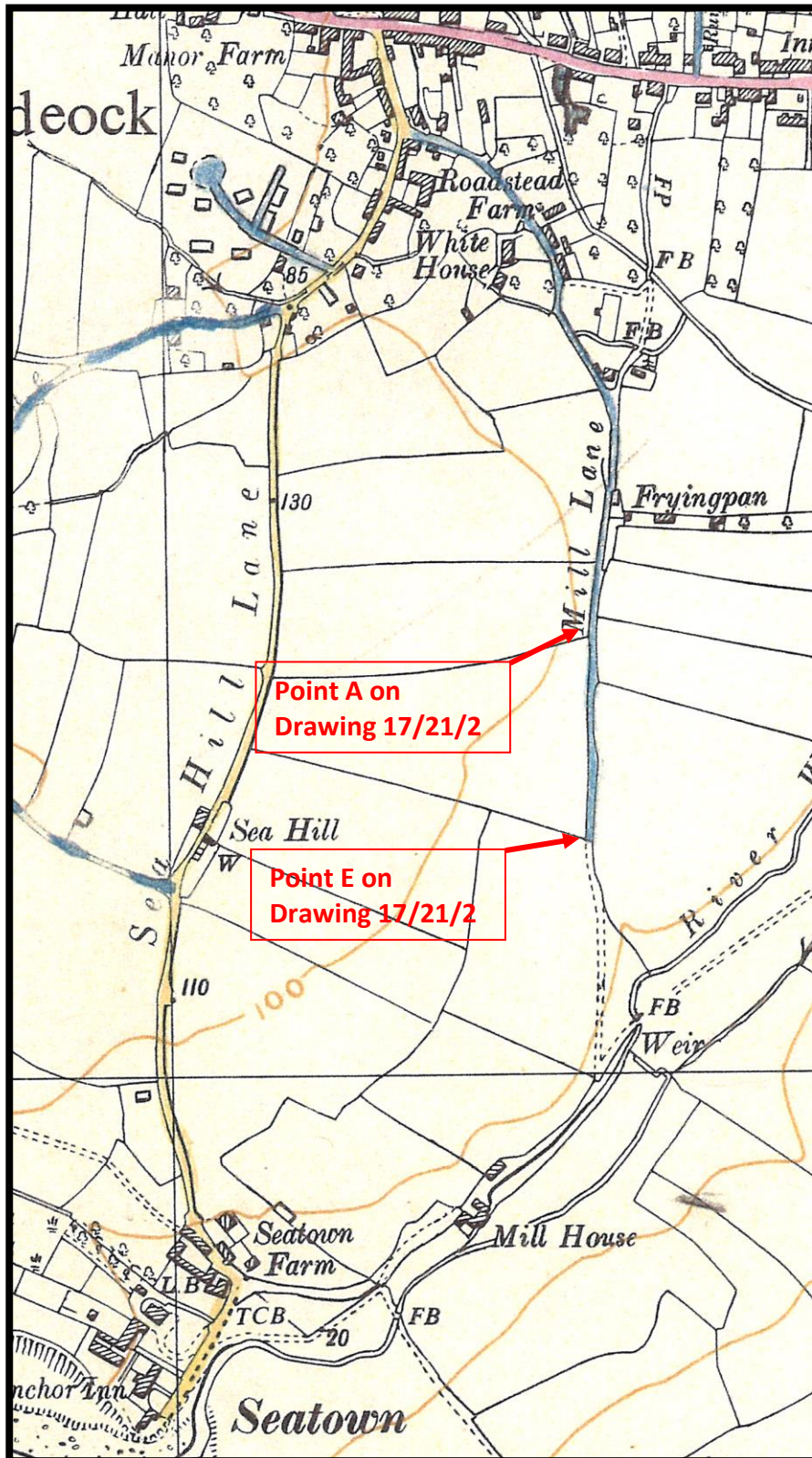
The notices required to be given under the Building Byelaws hereto attached must be sent to me at the above address as the work proceeds. No inspections will be carried out unless written notification is given and until approval under the Town and Country Planning Act, 1947 has been given.

Yours faithfully,

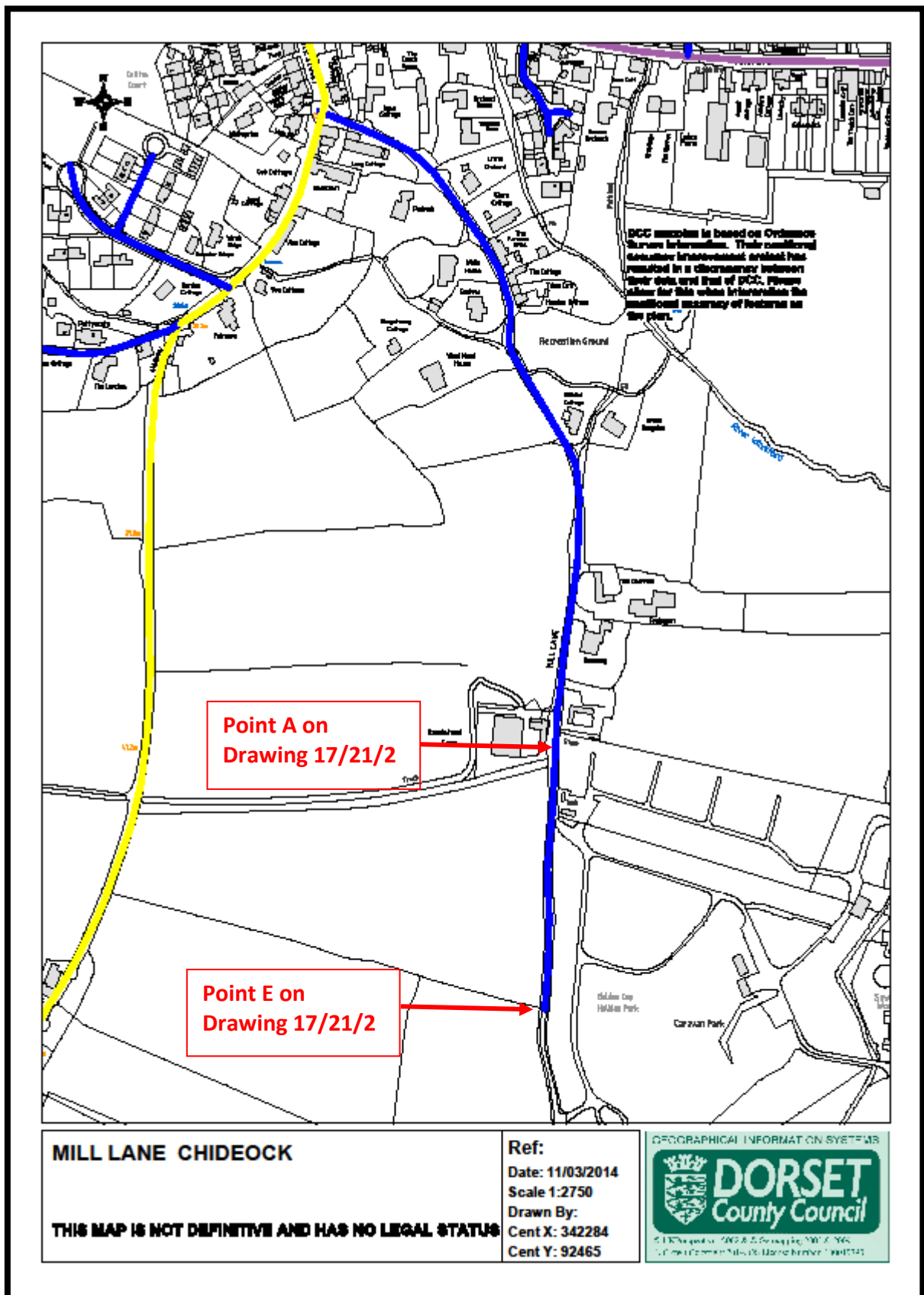
Planning Application, Mill Lane, Chideock 1930



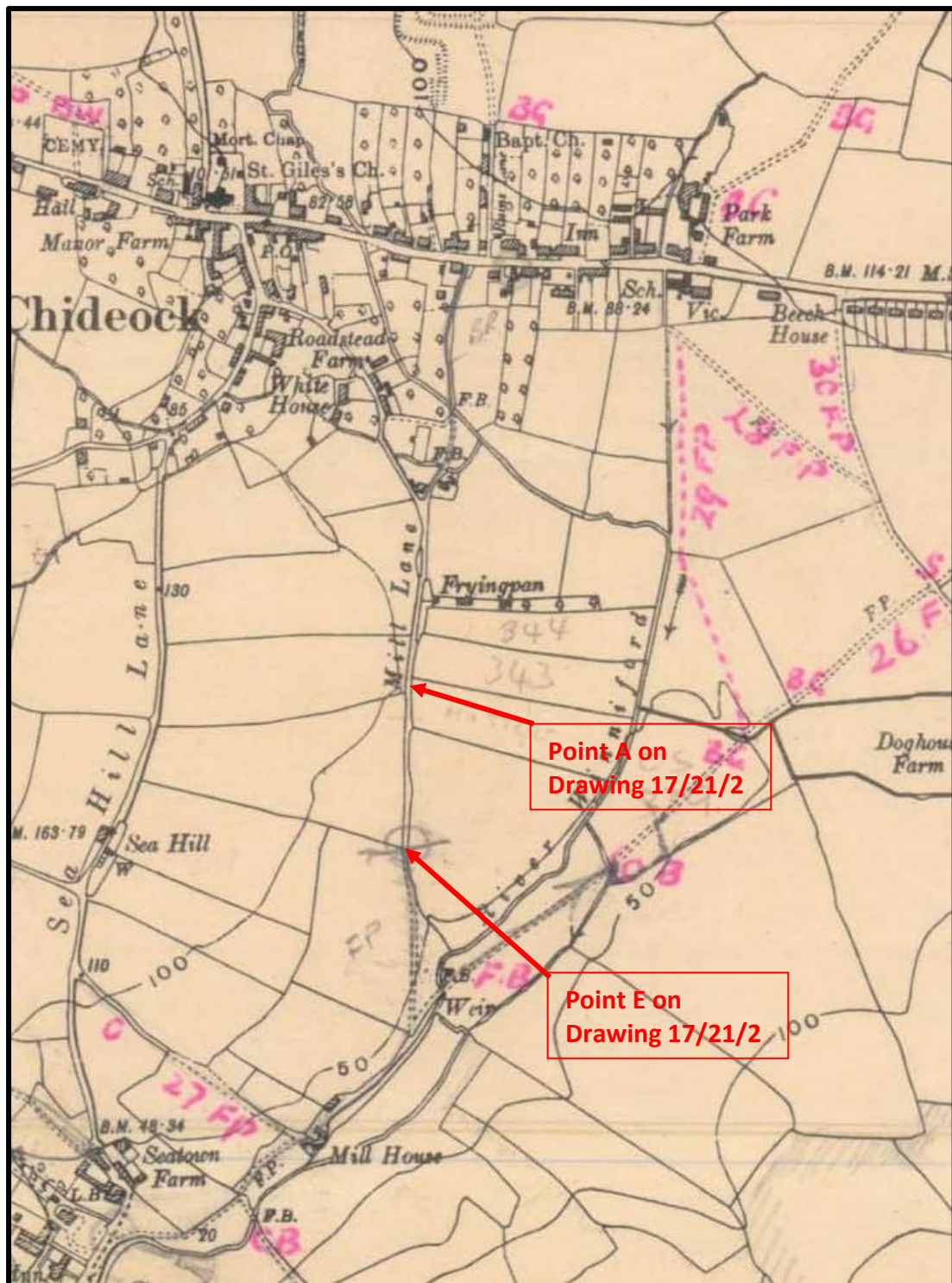
List of Streets Plan 1974



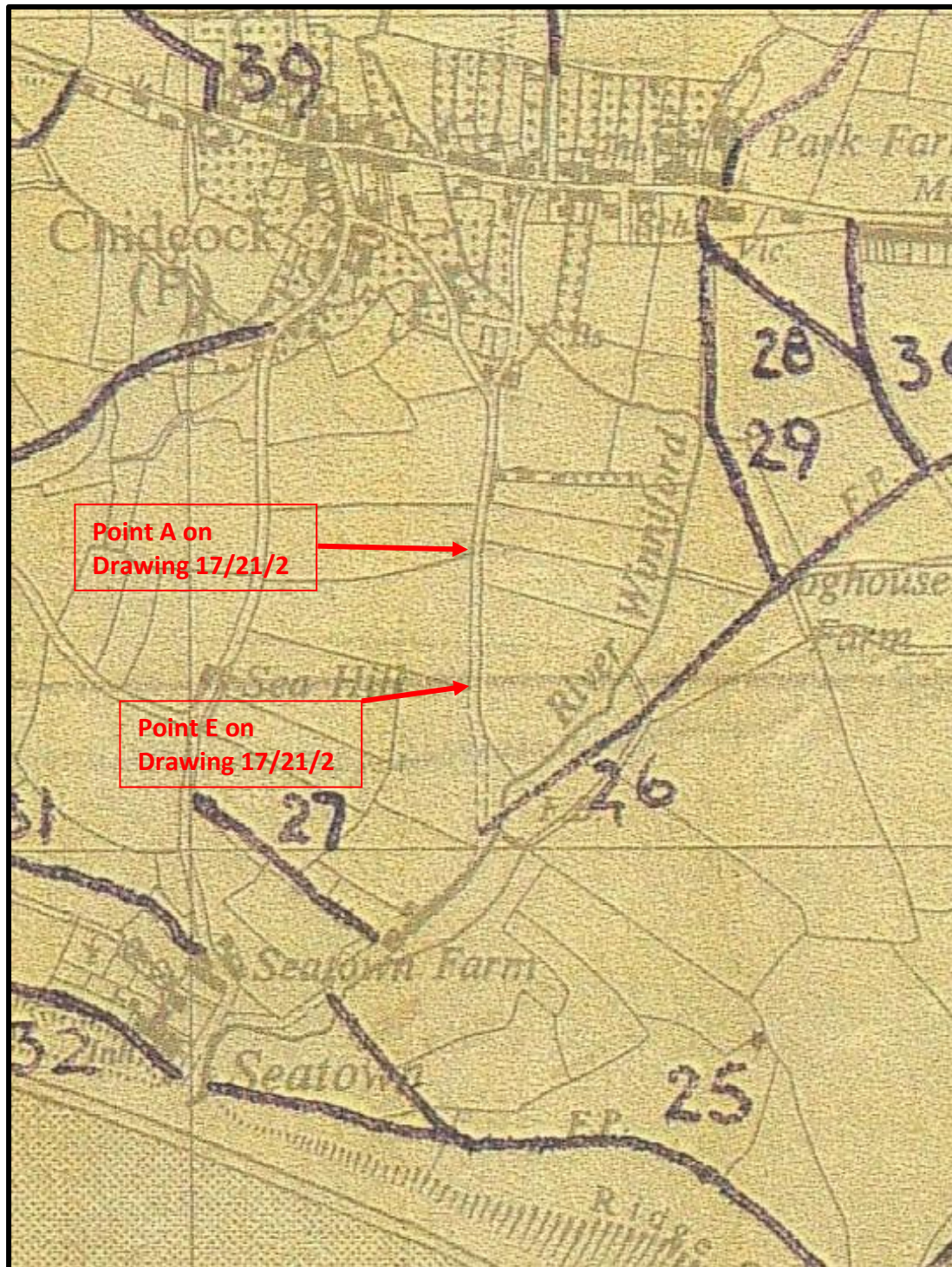
List of Streets Plan 2014



Parish Survey, Chideock (no date)



Draft Map, Chideock area (1953)



Draft Map Objections (1954)

CHIDEOCK

A. From the Road A.35 (424928) to MILL LANE (424926) An asphalt path from A.35 over the River and stream by footbridges to Mill Lane.

B. MILL LANE from 424926 to Sea Hill Lane (420918) If this Lane or any part of it is not established as a public right of way or Public Highway already.

②
Park
County Road.

1/EP/2/DWR 3rd. June, 1954.

J. A. King, Esq.,
Asst. Footpaths Secretary,
The Ramblers Association (Southern Area),
48, Park Road,
London, N.W. 1.

Dear Sir,

National Parks and Access to the Countryside Act, 1949.
Draft Map of Public Rights of Way - West Area.

Your letter of 29th. May, addressed to the Clerk of the County Council, has been passed to me for attention. I have checked the paths listed in your objection as accurately as possible. It would appear that the following are county roads:-

Chideock. Northern portion of Path B. as far as 424923.
Symondsbury. Paths A and C (presumably the same) from Quarry Cross to 427950.
Path D from Quarry Cross to Path 89 and to junction with Path 87.
Punciknowle. Path A.
Chilcombe. Path C.
Shipton Gorge. Path A from 488909 to junction with B.R. 27 at 489916.

With regard to Path A in Chilcombe Parish, it would appear from the Draft Map that this path is B.R. 16 in Shipton Gorge Parish continuing as B.R. 3 in Chilcombe Parish.

Yours faithfully,

L. Abbott
County Planning Officer.

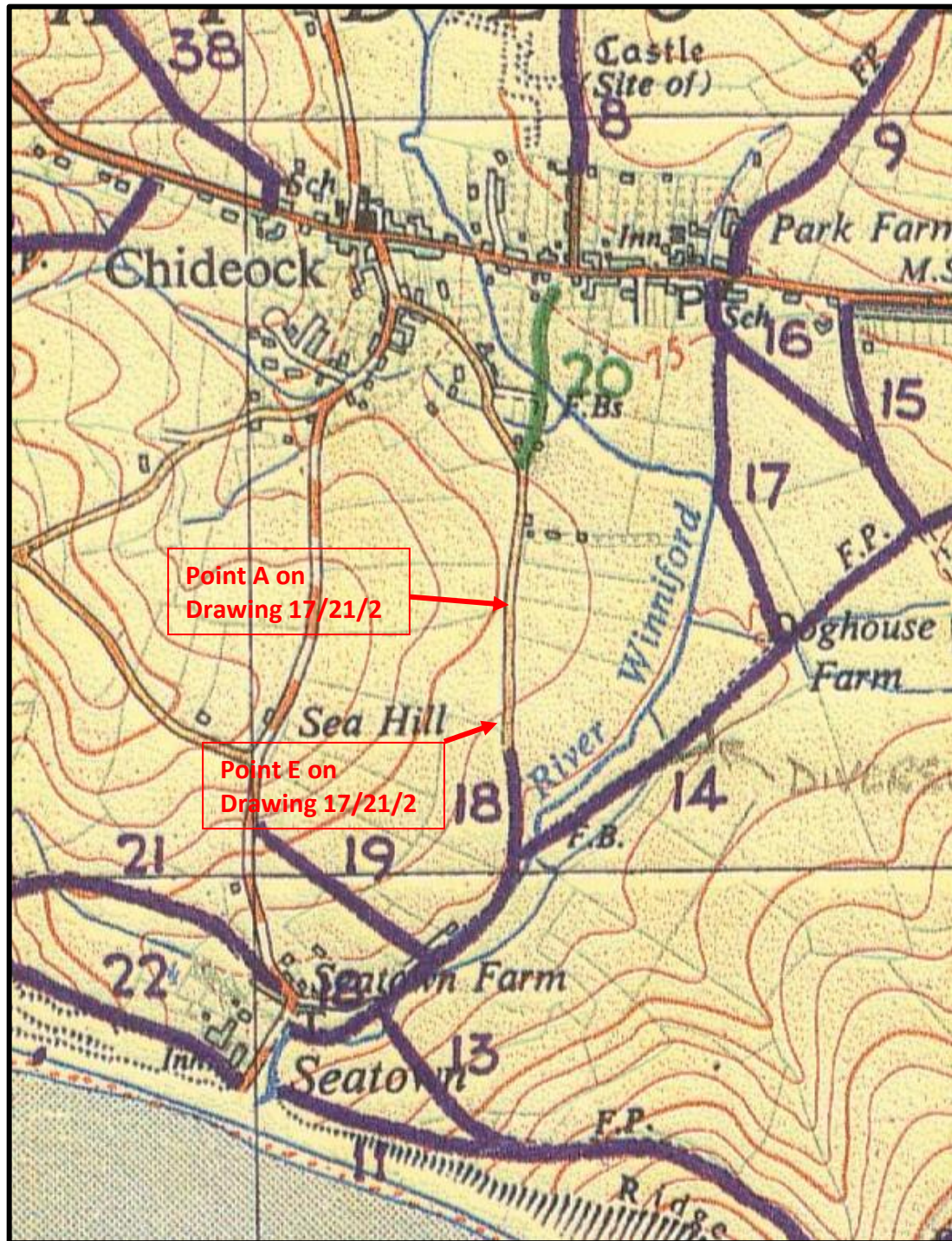
Response to Draft Map Objections - Case 72 (1954)

71	Miss H. Gurnell						
72	The Ramblers' Association.	A B	Road A.35 Mill Lane	Mill Lane Sea Hill Lane.	This path to be added. This path to be added.	Objection upheld. Objection upheld.	That this B.R. be added to Draft Map That part of path which is not a County Road to be added to Draft Map.

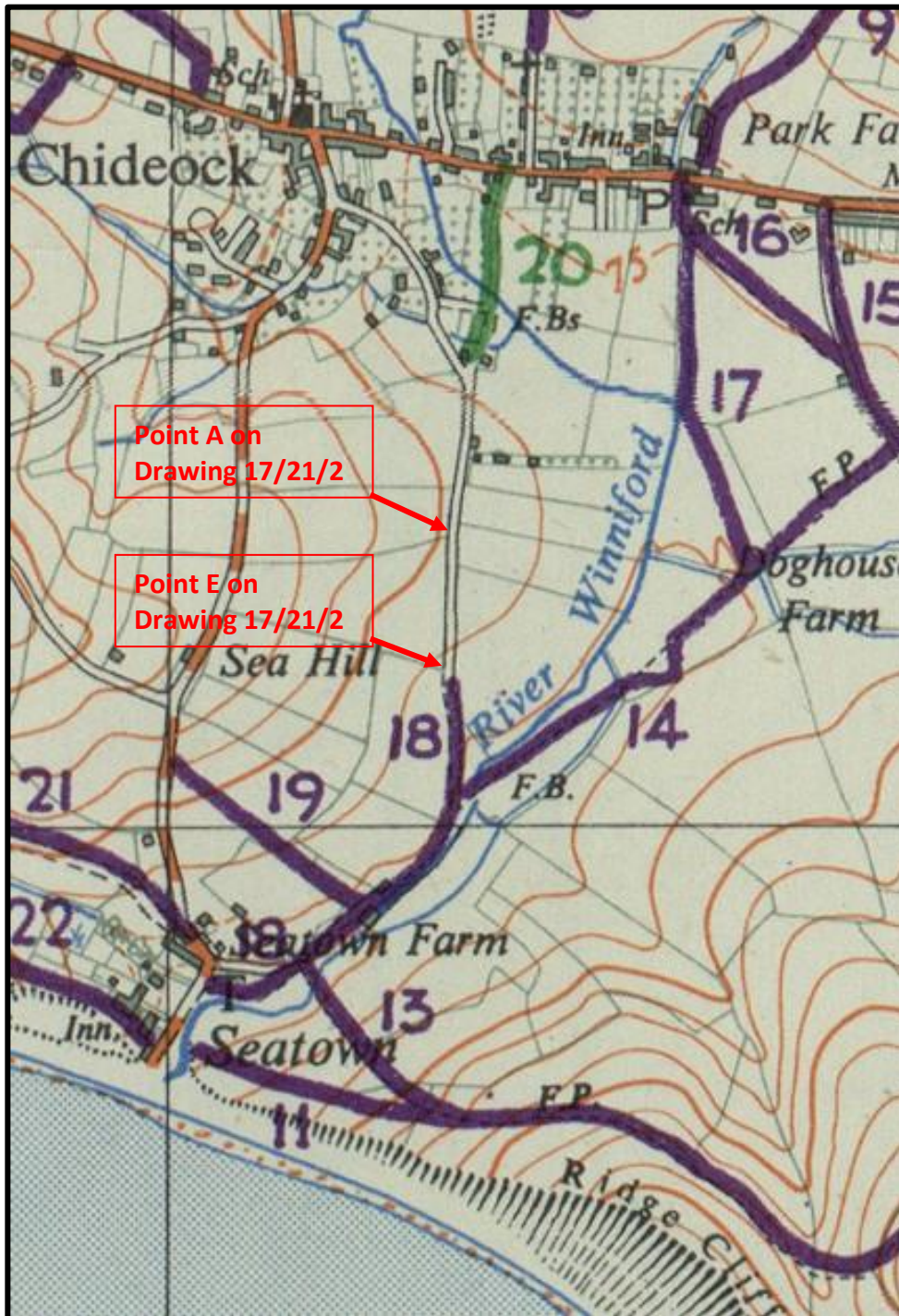
Extract from the London Gazette 13th May (1955)

<i>Rights of Way to be ADDED to the Draft Map</i>			
Parish	Type of Path	From	To
<i>Lyme Regis Borough</i> Lyme Regis	F.P.	Road A.35	Junction of Paths 15 and 16.
<i>Beaminstor Rural District</i> Bettiscombe, Marshwood and Pilsdon.	F.P. B.R. F.P. F.P.	Path 3 Bettiscombe Junction of Paths 9 and 21 Manshay Lane Mandeville Stoke Farm	Path 21 Pilsdon Parish boundary Road Path 30
Broadwindsor	B.R. F.P. F.P.	B.R.45 Haines Lane B.R.42	Road by boundary in Prime Farm Road at Racedown Farm Sprecket Lane
Corscombe	F.P.	Path 54	Path 33 via Weston
Evershot	F.P.	Junction of Paths 31 and 32	Road by School
Hooke	F.P.	Toller F.P.1 on Parish Boundary	Kingcombe Road, Hooke
Mapperton	B.R.	Extension of B.R.65 Beaminstor	Mapperton
Netherbury	B.R.	Dottey Road	Ash and Ford
North Poorton and Powerstock. Thorncombe	F.P. F.P. F.P.	Powerstock Parish Boundary South of Mappercombe Farm Wheelhouse Lane Road	F.P.43 Powerstock Parish Boundary Path 41 Path 50 by Forde Abbey Farm
<i>Bridport Rural District</i> Burton Bradstock	F.P. F.P.	Path 6 Field gate on Road B.3157	Puncknowle Lane Path 22
Chideock	B.R. F.P.	Road A.35 Mill Lane	Mill Lane Sea Hill Lane
Puncknowle... ..	F.P.	Paths 26 and 27	Parish boundary
Stanton St. Gabriel	F.P.	Path 31	Path 20

Provisional Map (1963)

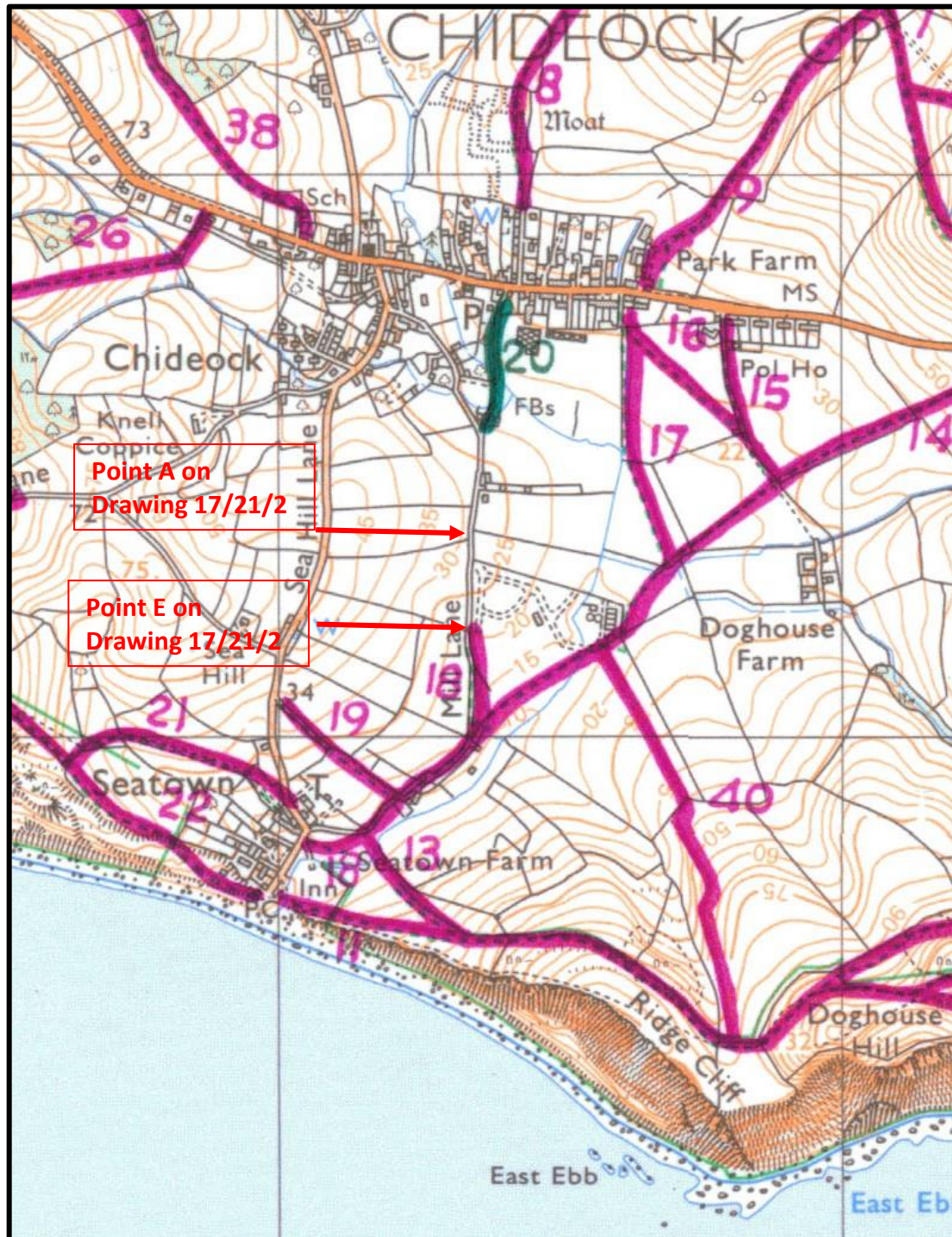


First Definitive Map and Statement (1966-67)

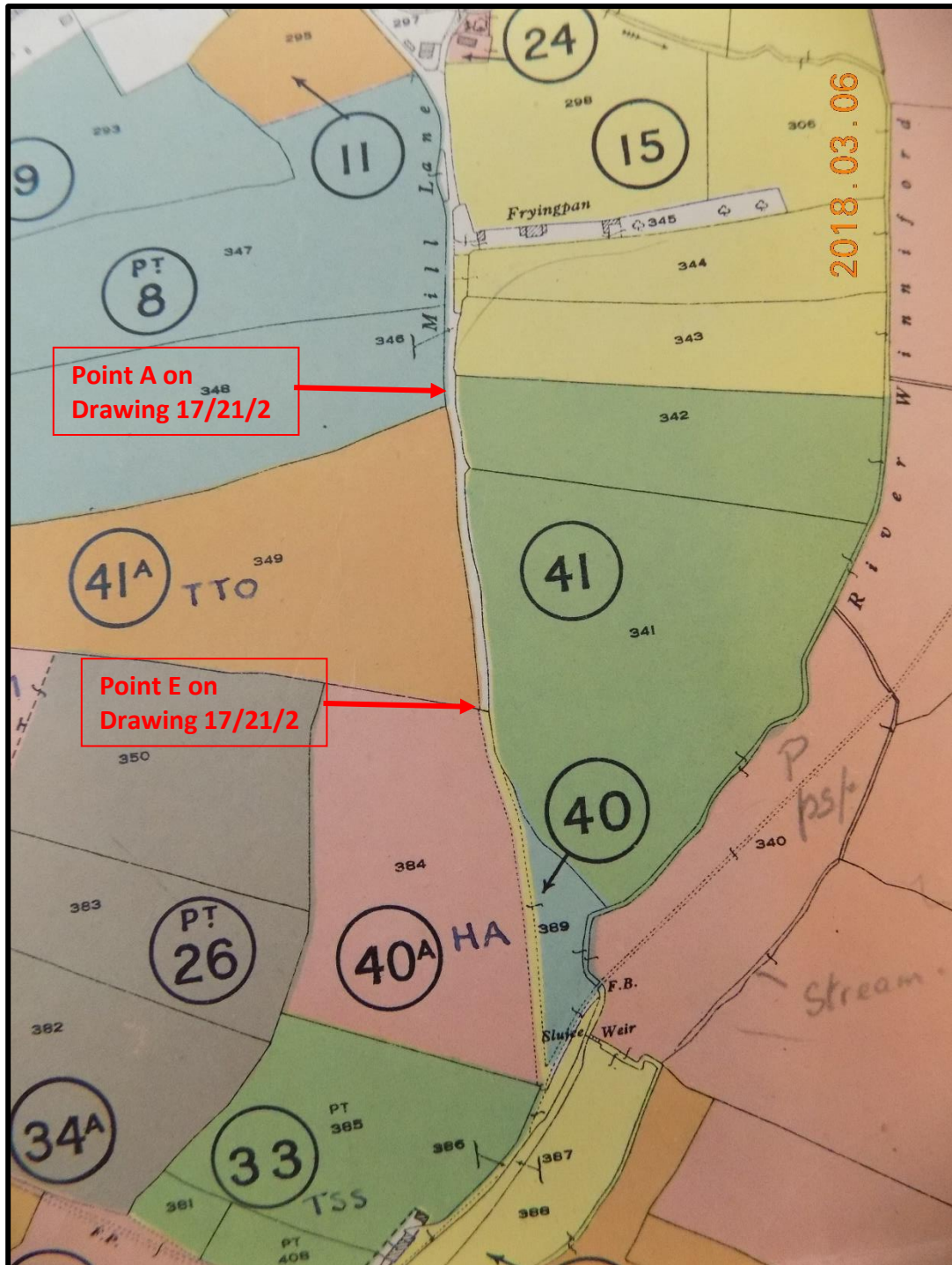


DORSET COUNTY COUNCIL						
National Parks and Access to the Countryside Act, 1949						
Part IV - Public Rights of Way						
16.						
STATEMENT annexed to the Definitive Map in respect of:						
(Parish) CHIDEOCK		(Local Authority) BRIDPORT RURAL DISTRICT				
Relevant date in relation to the preparation of the Provisional Map: 1st January, 1953						
FP or BR *	Path Number	From	National Grid Map Ref	To	National Grid Map Ref	
FP	18	Mill Lane	423921	Seatown	420918	

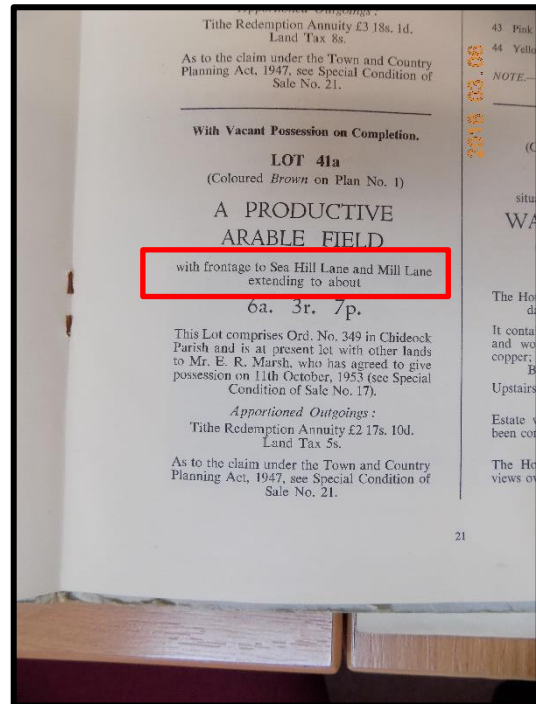
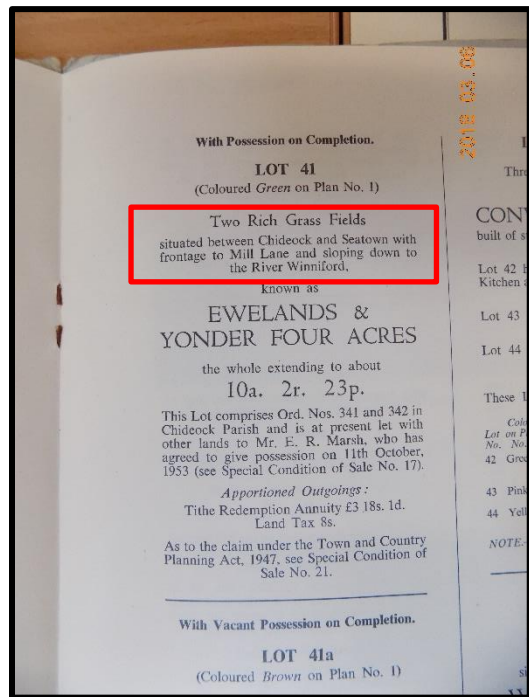
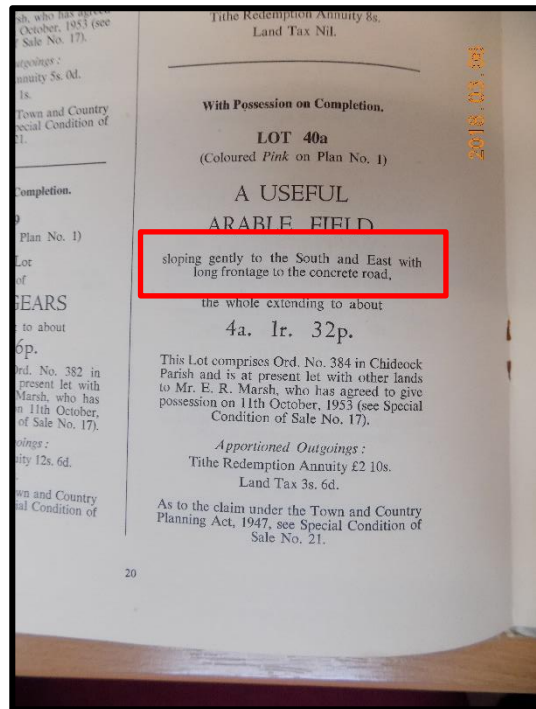
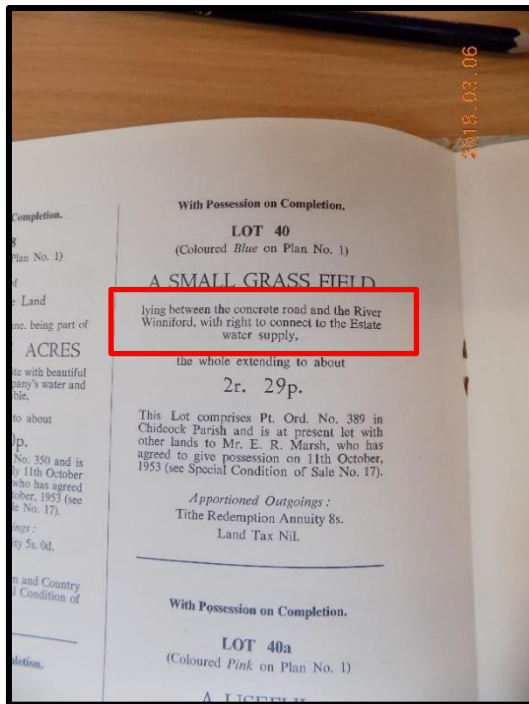
Current Definitive Map (sealed 1989)



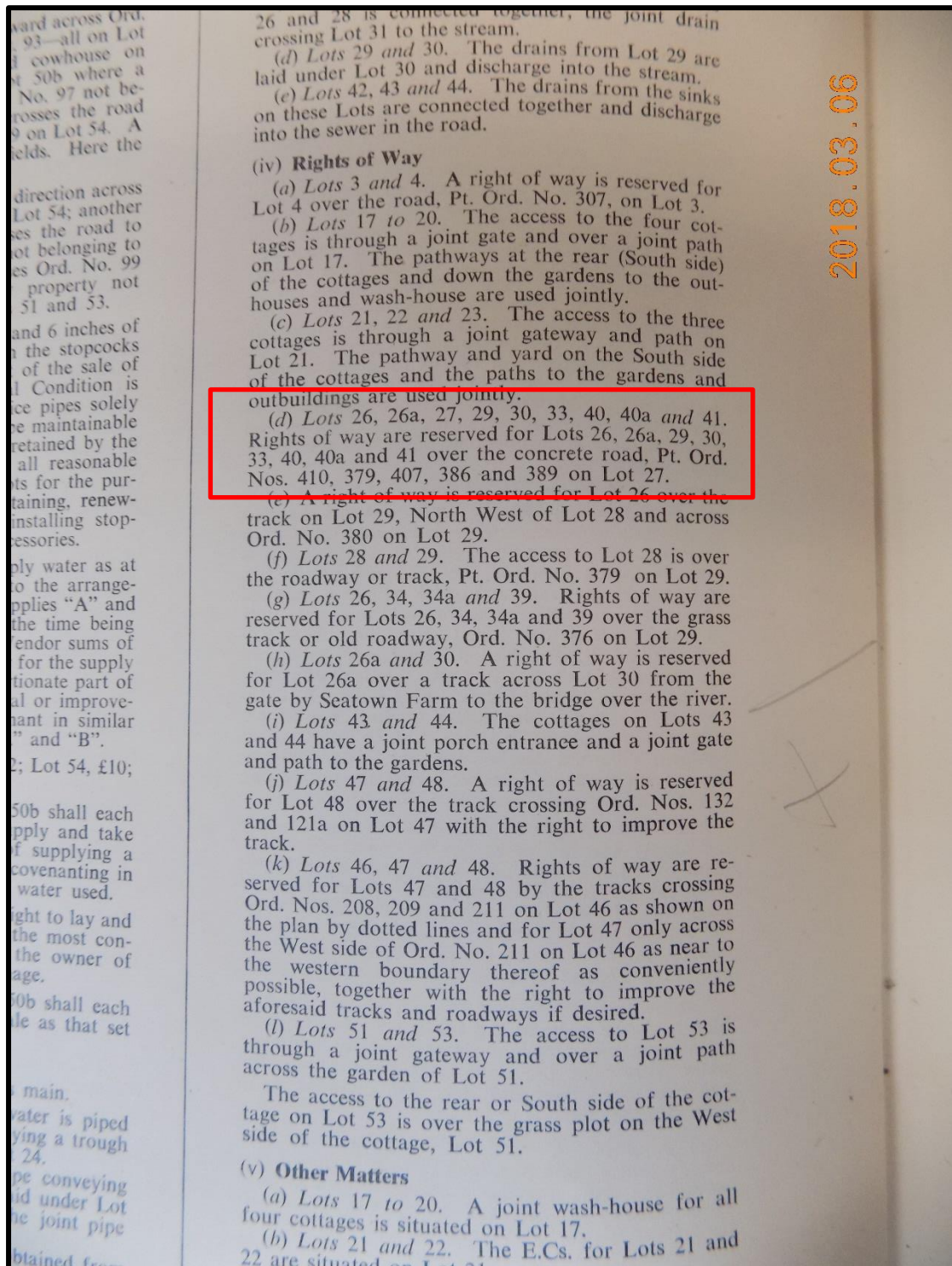
Sale documents for sale of Part of Chideock Estate (1953)



Sale documents for sale of Part of Chideock Estate (1953)



Sale documents for sale of Part of Chideock Estate (1953)



Report to the Director for the Environment and the Economy

Dorset County Council



Date of Report	27 February 2015
Subject of Report	Status and extent of public highway rights at Mill Lane, Chideock
Summary	This report considers the evidence of highway rights at Mill Lane Chideock and concludes, on balance, the status and extent of rights with reference to map 15/08 attached.
Appendices	<p>Appendix 1 – Drawing 15/08</p> <p>Appendix 2 – Extracts from Key Documents:</p> <ul style="list-style-type: none"> • Map of Chideock 1838; • Chideock Tithe Apportionment Plan 1843; • Map of Chideock 1852; • Finance Act Plan 1910; • Rights of Way Act 1932 (The Chideock Estate) map and declaration; • Ordnance Survey Drawing 1806 – 07; • Ordnance Survey One Inch First Series 1811; • Ordnance Survey 6 inch 1887; • Ordnance Survey 6 inch 1887 (Enlarged); • Ordnance Survey 25 Inch 1888; • Ordnance Survey Revised One Inch 1898; • Ordnance Survey Sheet 177 – Taunton and Lyme Regis – 1960; • Caravan Site Planning Application 1951; • Planning Application, Mill Lane, Chideock 1930; • List of Streets Plan 1974; • Current List of Streets Plan.

Report Originators and Contacts	Name: Sarah Meggs and Phil Hobson Tel: (01305) 225104 and (01305) 221562 Email: s.l.meggs@dorsetcc.gov.uk and p.c.hobson@dorsetcc.gov.uk
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1 Background

- 1.1 The extent of the County Road known as Mill Lane in Chideock and vehicular use of the adjoining public bridleway (Bridleway 18, Chideock) has been in dispute since at least August 2000. This is evidenced by a letter dated 22 August from Mr R Webb, at that time the Senior Rights of Way Officer, to Mr I St Pierre, then the Clerk to the Chideock Parish Council.
- 1.2 The letter acknowledges the concerns and complaints from residents in respect of vehicular use of the bridleway and refers to a meeting that took place on 8 August 2000 from which it was agreed to attempt to reduce unauthorised vehicular use by placing signs at a number of locations and the provision of a passing place for vehicles.
- 1.3 Since that time there has been continued correspondence on the subject.
- 1.4 An application for planning permission to facilitate reorganisation of the Golden Cap Holiday Park was submitted to West Dorset District Council in March 2012. The application included reference to vehicular access along Mill Lane and was objected to by the Parish Council. Information exchanged in relation to the planning process and subsequently has culminated in the present concerns, which relate to the extent or termination point of the adopted County Road.
- 1.5 Chideock Parish Council is of the opinion that the extent of the public road corresponds with the blue line shown on the Highways Inspected Layer on Dorset Explorer and shown as point A on Drawing 15/08.
- 1.6 Officers within Dorset County Council have expressed the view that the termination point of the publicly maintainable highway, Mill Lane, corresponds with that depicted on the plan accompanying the List of Streets, shown as point E.
- 1.7 In view of the ongoing dispute about the information shown on the Council's List of Streets for the end of Mill Lane, this report considers the available evidence to establish, on balance, what the status and extent of the public rights are. Save as referred to in paragraphs 3.55 to 3.57 and 4.10, this report does not consider the extent of private rights that may exist over Mill Lane by virtue of ownership, presumed ownership or otherwise.
- 1.8 The documentary evidence analysis has been completed by a Rights of Way Officer from the Definitive Map Team with considerable experience of interpretation of documentary evidence for the purpose of investigating applications for the modification of the Definitive Map and Statement.

2 Law

- 2.1 It is an established principle that "once a highway always a highway". This means that if highway rights existed in the past, they continue to exist until removed by legal order or enactment.

Highways Act 1980

- 2.2 Section 32 provides that any map, plan or history of the locality or other relevant document which is tendered in evidence should be considered and

given such weight as considered justified by the circumstances, including the antiquity of the document, 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.

2.3 Section 36(6): The council of every county **is required to make and** keep corrected up to date, a list of the streets within their area which are highways maintainable at the public expense.

2.3.1 There is no statutory process by which the List of Streets was composed and is amended and up dated. The actual process used when the list was first compiled is not known as records are scarce. This can be contrasted with the extensive consultation, notification and inquiry processes used to create and amend the Definitive Map and Statement. As a consequence, and with reference to section 32, the detail in the List of Streets is often inadequate, can be challenged and does not, alone, carry much weight in determining the extent and status of a route shown. The associated maps are important supporting evidence as to highway status and extent but, in the case of dispute, it is important to understand that other records should be consulted.

Finance Act 1910

2.4 The Finance Act 1910 required the Commissioners of the Inland Revenue to cause a valuation of “all land in the United Kingdom” and plans were prepared identifying the different areas of valuation. In arriving at these valuations certain deductions were allowed, including deductions for the existence of public rights of way.

2.5 Public roads were generally excluded from the valuation.

2.6 In a decided case a Finance Act map and Schedule was described as “most material evidence” ...“the fact that the [land in question in that case] was not shown as falling within the hereditament of any private individual, but is shown as part of the general road network, in a survey which would have been undertaken by local officers of the Commissioners, and following consultation with the owners of private hereditaments, is a most powerful indication that the [land in question] was at that time thought to be in public ownership and vested in and maintainable by the ... highway authority.

Rights of Way Act 1932

2.7 The **Rights of Way Act 1932** allowed landowners to make statutory declarations acknowledging the existence of public rights of way and declaring that they had no intention of dedicating any further public rights of way over their land, thereby preventing the accrual of any ‘new’ public rights of way.

Tithe Commutation Act 1836

2.8 The Tithe Commutation Act 1836 converted tithes into a fixed money rent. The associated documents are concerned solely with identifying titheable land and were not made for the purpose of establishing or recording public rights of way. The maps are good evidence of the topography of an area at the time and can be good supporting evidence of the existence of public rights of way.

Natural Environment and Rural Communities Act (NERC) 2006

- 2.9 Section 67 of NERC 2006 extinguished certain public rights of way for mechanically propelled vehicles. Where rights are extinguished the resulting right of way is a Restricted Byway.

3 Documentary Evidence

Map of Chideock

- 3.1 **The Map of Chideock 1838** appears, in all probability, to be a pre-cursor to the **Tithe Apportionment Plan 1843** and clearly defines Mill Lane from its junction with Duck Street leading south-easterly then southerly. It is defined by two parallel solid lines to point C, as shown on Drawing 15/08. At point C there is a solid line across the route that may represent a gate. The route continues southerly from this point being defined by two parallel broken lines suggesting a field boundary was present to the eastern side, the western side being open.
- 3.2 There is no field boundary or other distinguishing feature in the vicinity of point E, the point at which it is believed the publicly maintained road, Mill Lane, terminates.

Tithe Apportionment Plan

- 3.3 The **Chideock Tithe Apportionment Plan 1843** depicts Mill Lane. It is shaded light brown and not apportioned, this being generally regarded as indicative of the form in which a public highway, possibly a public road, was shown. The shading extends as far as point C, as shown on drawing 15/08, approximate OS GR 4233 - 9231 there is no depiction of a path or way beyond this point.
- 3.4 The Altered Apportionment Plan 1922 uses a 25 Inch Ordnance Survey base map and therefore, with the exception of the tithe apportionment numbers, shows exactly the same detail as the corresponding Ordnance Survey sheets which are discussed from paragraph 3.27 below.

Map of Chideock

- 3.5 The **1852 map of Chideock** is described as showing the boundaries from the maps of 1813 and 1838 and the hedges destroyed since, the latter being defined by a squiggly line.
- 3.6 The depiction of Mill Lane on this map corresponds with the depiction of it on the map of 1838, it being shaded in light brown and defined by two parallel solid lines that continue as far as point C, where a solid line through the route may indicate the presence of a gate.
- 3.7 From point C the route continues in a southerly direction through point E, being defined by a solid line to the east (a field boundary) and a broken line to the west, suggesting that on this side it was unfenced.

Map of Chideock

- 3.8 An undated map believed to be from the 19thC bears a resemblance to the **Tithe Apportionment Plan of 1843** although it does contain some minor differences and is of a different style. The map is uncoloured save for any buildings, which are generally shaded in red.
- 3.9 Mill Lane is clearly shown, being defined by two parallel solid lines as far as point C, at which point the solid 'end' of the route indicates that here it may have been gated, fenced or hedged. This parcel of land has no apportionment or parcel number and there is no indication that the route continued beyond this point.

Finance Act 1910

- 3.10 The **1910 Finance Act Plan**, which uses a second edition Ordnance Survey 25 Inch Map, clearly indicates, with the exception of a small section discussed in paragraph 3.11, that Mill Lane was excluded from valuation to approximately point A at OS GR 4233 - 9235. This is indicated through the shading in red to either side of the route and the lack of any associated hereditament number within the resulting parcel of land.
- 3.11 The northern part of Mill Lane is bordered to the west and east by separate parts of Hereditaments 96 and 154. Both Mill Lane and Sea Lane, a recorded public road that is located to the west of and runs parallel to Mill Lane, are shown to be excluded from either of the separated parts of hereditament 154. However, it is not clear whether Sea Lane is included or excluded within part of Hereditament 96 and although Mill Lane, where it abuts Hereditament 96 and 154, is shown to have been excluded, the small section located between the separated parts of Hereditament 96, located to the east and west of Mill Lane, is shown to have been included within Hereditament 96.
- 3.12 The accompanying **Field Book** describes Hereditament 96 as being "approached by good roads" and Hereditament 154 is similarly described as being connected "by good roads". In both instances this, in all probability, relates to both Sea Lane and Mill Lane. In respect of Hereditament 96 £5 was granted for public rights of way or user, no deductions were granted in respect of Hereditament 154.
- 3.13 Sea Lane is shown to continue south towards Seatown, initially it appears unclear whether this section of the road is excluded from or included within Hereditament 139. It also appears unclear as to whether the southern extension of Mill Lane within Hereditament 139 is included or excluded. This hereditament comprises a large area of land and a deduction of £50 was granted in respect of public rights of way or user. However, due to its physical size and the fact that there are a number of routes, some of which are recorded public rights of way, passing through it, it is difficult to determine which of these routes, if any, were subject to this deduction.
- 3.14 Although it is difficult to determine the location of any of the public rights of way within Hereditament 139 it should be noted that it also contains Sea Lane, a public carriageway recorded on the List of Streets as the C90. Sea Lane passes through Seatown Farm and leads to the coast adjacent the Anchor Inn public house at Seatown.

- 3.15 Of particular interest is that whilst this public road, where it passes through Hereditament 139, has the appearance of having been included for the purpose of valuation, it is shown to have been excluded at its southern termination point, Seatown, adjacent Hereditaments 36, 139, 182, 183 and 203. This conclusion appears reasonable, as if it had been included within Hereditament 139, the red shading on the eastern side of Sea Lane at this point would be superfluous without a 'bar' or 'dash' across the road at the point at which the red shading ends.
- 3.16 Applying this logic to the remainder of the road it appears reasonable to suggest that the northern section of Sea Lane was also excluded as, if it was included within Hereditament 96, it would be expected that the shading to the western side of the road, in the south east corner of Ordnance Survey parcel number 353, would have been within the road itself or a 'bar' or 'dash' across the road would be shown at the point the red shading ends.
- 3.17 Having established that in all probability Sea Lane was excluded from its adjacent hereditaments throughout its length, albeit not being depicted in the conventional way, for example, by means of bracing across the road, it seems reasonable to apply the same reasoning to the depiction of Mill Lane on the same plan as well.
- 3.18 As has been discussed earlier the northern section of Mill Lane is, for the most part, clearly excluded from valuation, the exception being the part adjacent the separate parts of Hereditament 96. However, had this part of the road been included within this hereditament it would be expected that this would have been indicated by 'bars' or 'dashes' drawn across the road.
- 3.19 Mill Lane is clearly excluded once again where it passes between Hereditament 154, located to the west, and Hereditaments 96 and 139 to the east. As before, had the road been included within 139 it would be expected that the red shading along the northern boundary of 139 within Ordnance Survey parcel number 342 would have continued easterly across the road and then southerly along it.
- 3.20 As the exclusion of a route on the Finance Act plan is regarded as being indicative of it being a public highway, probably a public carriageway, and as the entire length of Sea Lane is recorded as such, this suggests that the above interpretation of the map is, on balance, correct. Consequently, in respect of Mill Lane and with regard to the Finance Act evidence it appears reasonable to suggest that its exclusion indicates that it was regarded as a public highway, probably a public carriageway. In addition, the fact that there is no line across the road at point E suggests that it continued beyond this point southerly towards Seatown Mill.

Rights of Way Act 1932

- 3.21 The land in question had been part of the **Weld Estate (The Chideock Estate)** and on **19 July 1934** the owner, **Mr H J G Weld**, made a statutory declaration under the **Rights of Way Act 1932** the declaration being accompanied by a **6 inch Ordnance Survey Map** upon which those ways acknowledged by the owner to be public highways were drawn.

- 3.22 The acknowledged public highways are drawn in green ink, there is no accompanying key but the statement attached to the plan states the following; ***“I Humphrey Joseph Giles Weld being the owner of the whole of the land edged in pink on the attached plan, with the exception of certain small properties which are not material for this purpose, hereby admit that the ways shewn in green ink on this plan are the only ways dedicated to the public as highways”.***
- 3.23 Chideock and Seatown, including the public road Mill Lane and its southerly extension towards Seatown, are included within the Chideock Estate as delineated on the plan. The northerly route from Seatown via the Mill to Mill Lane is shown coloured green extending as far as point D as shown on Drawing 15/08. The fact that it is coloured green indicates that it was one of the ways acknowledged by the owner to have been dedicated to the public as a highway.
- 3.24 It is not entirely clear from the statement accompanying the plan what status the acknowledged public highways were. However, in a letter addressed to the **Clerk to the Dorset County Council** of **22 May 1934** from **Kitson and Trotman Solicitors**, acting on behalf of the **Weld Estate**, it is stated that ***“we have indicated in green ink the ways which it is admitted have been dedicated as highways. Numerous other footpaths are marked on the Ordnance Map but it is not admitted that any, other than those marked in green ink on the Map, have been dedicated as highways. Some have been used by the Public by permission of the owner or occupiers of the land and some of the paths indicated have been used by labourers and others working on the estate”.***
- 3.25 The reference to “numerous other footpaths” may suggest that the estate considered all of the ways acknowledged as being public highways were all footpaths. However, it remains the case that nothing within the original declaration or the renewals made in 1940, 1944, 1948 and 1952 clarify the status of the ways other than to acknowledge they were dedicated to the public as highways.
- 3.26 It is reasonable to assume that the dedication of these highways was based on the estates knowledge and reputation of them. Therefore, it is considered that this declaration provides conclusive evidence to the fact that the **Weld Estate** admitted the existence or dedication of a public highway extending from Seatown in a northerly direction and terminating at or in the vicinity of point D as shown on Drawing 15/08

Ordnance Survey Maps

- 3.27 The **Ordnance Survey Drawing 1806-07 at a scale of 2 inches to 1 mile** was used in preparation for the publication of the **First Series 1 inch to 1 Mile Map 1811**. Being of a slightly larger scale the drawing has a little more detail but both maps are generally restricted in their detail due to their scale. However, both maps depict a route defined by two solid parallel lines that would generally correspond to that of Mill Lane (Sea Lane is also depicted on both maps). The southern part of the depicted route follows a different course to that shown on later maps that correspond to the present route, although this may be due to it having originally followed the 100 foot contour.

- 3.28 Both maps show the defined route terminating at or about the same point. The greater detail of the earlier drawing shows that this was at a field boundary. Comparison to later maps and in particular the **First Edition 25 Inch Map 1889** suggests that this would equate to approximately point E.
- 3.29 The **First Edition 6 inch Map 1887 and 25 inch Map 1888** both depict Mill Lane, which now follows the same route as it does today. They also show Sea Lane. Both of these roads are defined in the same manner by two parallel solid lines. Mill Lane continues as far as point E where the presence of a solid line across the route probably indicates the location of a gate. The route is shown to continue southerly from this point towards Seatown Mill, its extent initially being defined by a broken line to the west and a solid line, probably indicating a hedge, to the eastern boundary. The hedge turns to the southeast whilst the route, now defined by two parallel broken lines, continues in a southerly direction.
- 3.30 Of particular relevance is the fact that both the 6 inch and the 25 inch maps show the eastern boundary of both Sea Lane and Mill Lane to be heavily shaded, this shading being repeated on both the **Second Edition 6 Inch Map 1904 and 25 Inch Map 1903**. In respect of Mill Lane this shading terminates at approximately point E.
- 3.31 The significance of shading in this manner is that from **1884** it had been the practice of the Ordnance Survey to classify roads by administrative status by which all metalled public roads for wheeled traffic were to be shaded to one side, in practice this is applied to the roads' eastern or southern sides. By **1896** roads on Ordnance Survey maps were to be classified as first or second class according to whether they were Main or District roads, other roads were to be classed as second class if they were metalled and kept in good repair. Both first and second class roads are shown on published maps in the same way, by shading on one side. Third class metalled and un-metalled roads are shown without shading.
- 3.32 The **Ordnance Survey Revised One Inch Map 1898** depicts the route of Mill Lane in the same manner as the 6 and 25 Inch Maps. It also shows the position of the 100 foot contour to the west of the road, which it is thought the original course of the road may have followed.
- 3.33 The **Ordnance Survey 1:2500 (25 Inch) County Series Map 1929** also depicts Mill Lane in the same manner as the earlier 6 and 25 Inch Maps although the eastern side is no longer shaded as this practice was abolished on the 1:2500 maps in 1912. The route is shown to continue towards Seatown Mill, being defined for the main part by two parallel broken lines. The **Ordnance Survey 1:2500 Plan 1961** is very similar although the possible gate at point D, which was still in place on the 1929 map, has now been removed and the continuation of the route towards Seatown Mill is now enclosed, fenced or hedged, on both sides.
- 3.34 **The Ordnance Survey 1:2500 Map 1959** depicts the route in a similar manner to the **1929 1:2500 Map**. There is no gate at point E and the route beyond this point is defined by parallel broken lines which, in conjunction with the evidence provided from the 1961 plan, suggest that the route from E towards Seatown Mill was probably enclosed between 1959 and 1961.

- 3.35 **The Ordnance Survey 1:10,560 (6 Inch Map) 1968** depicts Mill Lane as a through route to Seatown, being defined by two parallel solid lines, suggesting that by this time the route was fully enclosed throughout its length. The **Ordnance Survey 1:10,000 Map 1992** shows the route in a similar manner but also depicts the caravan park located to the east of Mill Lane.
- 3.36 The later **Ordnance Survey 1 Inch Maps, New Popular Edition 1945 and Sheet 177 1960**, also depict Mill Lane as a through route, it being clearly defined on both and depicted in the same style as other routes shown and known to be public roads.
- 3.37 The evidence provided by the **Ordnance Survey Maps** provides good support to the conclusions reached in respect of the **Finance Act 1910**. In particular the heavy shading shown on the earlier 6 and 25 Inch Maps suggests that Mill Lane was regarded as a public highway, probably a public carriageway. Although private carriage roads may also be depicted in this manner, in light of other supporting evidence and in the knowledge that both Sea Lane and Mill Lane are recorded on the List of Streets as third class and unclassified public roads, it appears reasonable to conclude that in this instance the shading of the routes on the earlier Ordnance Survey maps indicates that both Sea Lane and Mill Lane were regarded as public carriageways.
- 3.38 In respect of Mill Lane this suggests that the road did continue at least as far as point E and may well have continued to Seatown as the fact it was not shaded beyond point E does not necessarily mean that it was not a public road (see paragraph 3.31 above).

Planning Applications

- 3.39 There have been a number of planning applications involving land and property along Mill Lane. Of particular interest are those from 1951 in respect of a licence to use the land identified as Ordnance Survey Parcel Number 388 (O.S. 388) as a temporary caravan site, which was renewing a licence permitted the previous year. By reference to the First Edition 25 Inch Map O.S. 388 can be identified as the land now occupied by the existing caravan site. Permission was granted and no issues appear to have been raised as to how the site was to be accessed which, it seems reasonable to assume, was by means of an entrance at or in close proximity to point B.
- 3.40 There are two other planning application plans, the first dating from 1930, concerning improvements to the drainage system of a property in Mill Lane, the second from 1934 concerning the conversion of an existing building into a "summer cottage" in Mill Lane. Both of the accompanying plans show Mill Lane, each plan being annotated, that of 1930 "From Chideock" and "To Seatown" that of 1934 "from Seatown" and "to Chideock".
- 3.41 Although the annotation does not provide any strong evidence as to the extent of the public highway Mill Lane, the fact that they describe it as leading to or from Seatown suggests that at that time the road was regarded as a through route leading to Seatown.

List of Streets

- 3.42 **Section 36(6) of the Highways Act 1980** requires every highway authority to make, and keep up-to-date a **list of all streets** (LOS) maintainable at public expense, the LOS does not list **all** public highways, only those which are maintainable at the public expense. Mill Lane is recorded on the current LOS and has been since local government reorganisation took place in 1974.
- 3.43 The schedule of roads for April 1974 records Mill Lane as an unclassified road the D731 describing it as a paved road 0.41 miles (0.07km) in length. The grid references are defined as (SY) 422928 – 423923. The current schedule records the route as the D10731, providing exactly the same information in respect of the grid references and length of paved road. Dorset County Council records do not record a date of adoption although this road would have been handed over by the Bridport Rural District Council.
- 3.44 The map accompanying the LOS depicts Mill Lane shaded in blue and extending as far as point E. This provides evidence to the conclusion that the publicly maintainable extent of the road corresponds with point E. However, this does not necessarily mean that the remainder of the route south of point E was not a public highway only that if it was it may not have been maintainable at the public expense.
- 3.45 Sea Lane is also shown on the map, being shaded brown, and shown to extend as far as Seatown. In 1974 the schedule recorded it as a third class road, the C90, extending southerly for 0.74 miles from its junction with the A35 in Chideock to Seatown. Of particular note is that the grid references were recorded as (SY) 422928 – 420918. The current List of Streets also records the route as the C90 extending 0.74 miles from the A35 Chideock to Seatown. However, the grid references show a slight variation to the original now being recorded as (SY) 421928 – 420917.
- 3.46 It should be noted that 6 figure grid references are only accurate to 100 metres, that is to say the commencement and termination points of the above roads could fall anywhere within a 100 metre square. The fact that both Mill Lane and Sea Lane were initially provided with the same commencement point 422928 provides a good example as to the limited accuracy of 6 figure grid references as they clearly do not commence from the same point, Mill Lane, branching out of the C90 south of the latter's junction with the A35.

Public Path Creation Order 1996

- 3.47 An Order creating a public bridleway and made **under Section 26 of the Highways Act 1980** in 1996 was confirmed by the West Dorset District Council in January 1997. The effect of the Order was to create a public bridleway ***“following the concrete driveway from the county road at grid reference 4205-9184 (point BS), east for 118 metres to grid reference 4217-9185 (point AN), then northeast for 235 metres to grid reference 4234-9200 (point BT), then north for 320 metres to the start of the county road (Mill Lane) at grid reference 4234-9232 (point BU)”***.
- 3.48 It should be noted that 8 figure grid references, whilst being more accurate than 6 figure references are still only accurate to a 10 metre square.

- 3.49 Although the route is described as terminating at the “**start of the county road (Mill Lane) at grid reference 4234-9232 (point BU)**” it is clear from the evidence already examined that the publicly maintained county road (Mill Lane) terminated approximately 125 metres south of this point (point E on Drawing 15/08).
- 3.50 It appears that the Order may have been made with reference to the grid reference for the termination point of Mill Lane as contained within the List of Streets with no reference being made to the accompanying plan or any other available documents. Although the Order is clear as to the course and extent of the newly created bridleway it does appear that an error or assumption has led to the creation of a bridleway over part of an existing publicly maintainable highway, a public carriageway, Mill Lane, as shown between points C and E.

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- 3.51 Section 67 of the NERC Act 2006 extinguished certain public rights of way for mechanically propelled vehicles.
- 3.52 Section 67(1) extinguished, on commencement, public motor vehicular rights over every highway not already shown on the definitive map and statement, or shown as a footpath, bridleway or restricted byway. In effect this means that public rights of way for mechanically propelled vehicles have been extinguished over every highway not already shown on the definitive map and statement as a byway open to all traffic.
- 3.53 Because section 67(1) explicitly extinguishes public motor vehicular rights over every highway that was not shown on 2nd May 2006 [in England] on the definitive map and statement as a byway open to all traffic, there is a clear presumption that this will be the case unless it can be shown that one or more of the exceptions in subsections 67(2) or 67(3) applies.
- 3.54 Subsection 67(2)(b) provides an exemption where immediately before commencement a route was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c. 66) (list of highways maintainable at public expense). Part of Mill Lane was, however, shown on the definitive map and statement as a bridleway and that exception is considered not to apply to dual recorded routes.
- 3.55 Subsection 67(5) provides a private right of way for mechanically propelled vehicles for those persons who have a reasonable need for access by mechanically propelled vehicle to land in which they have an interest, in all cases where a public right of way for mechanically propelled vehicles is extinguished under subsection 67(1). This is regardless of whether such a person was actually exercising the public right of way for mechanically propelled vehicles, or able to exercise it. It is also irrelevant that there may be an alternative means of access to the property. The exercise of the public right of way need only have been reasonably necessary for access to any part of the land. The words “reasonably necessary” have their normal, everyday meaning and what is reasonably necessary would depend on the facts of the case.
- 3.56 This private right of way for mechanically propelled vehicles extends to landowners, occupiers and tenants. It will also include lawful visitors to the

person who has an interest in the land, including: business, trade or professional visitors; postal or other deliveries; the highway authority and utility companies who have apparatus/equipment along the highway.

- 3.57 This provision does not create any new rights of way, since the provision of the private right of way is dependent on there being in existence, before the commencement date (2 May 2006), a public right of way for motor vehicles, which was extinguished by sub-section 67(1).

4 **Conclusions**

- 4.1 The **Highways Inspected Layer**, as shown on **Dorset Explorer** and on which the **Chideock Parish Council** have based their opinion, shows the extent of the publicly maintainable highway that is actually *physically inspected*. This can, and in this case does, differ to the extent of the *publicly maintainable highway*, which is described on the schedule accompanying the List of Streets and shaded blue on its accompanying plan.
- 4.2 In effect, the line shown on the **Inspected Layer** does not necessarily relate to the extent of the publicly maintainable highway. Furthermore, as the List of Streets records only those highways maintainable at the public expense any part of a public highway that is *not maintainable* at the public expense will not be recorded upon it.
- 4.3 The early maps of Chideock, including the **Tithe Apportionment Plan 1843** but excluding **Ordnance Survey** maps, depict Mill Lane in a manner that suggests it was regarded as a public highway, probably a public carriageway. Those that are shaded in the conventional manner, light brown, depict the route extending at least as far as point C.
- 4.4 On balance, the evidence provided by the **Finance Act 1910** documents suggest that Mill Lane was excluded from valuation, this being indicative of the road being regarded as a public highway, in all probability a public carriageway. The extent of the public road would have been at least as far as point E although there is no compelling evidence to determine that the public road ended at this point, indeed it may have continued further.
- 4.5 Whilst the declaration made by the **Weld Estate** under the **Rights of Way Act 1932** provides conclusive evidence to the fact that the estate admitted the existence or dedication of a public highway it is not clear what status they believed the acknowledged public highway enjoyed. In respect of its termination point, it is also unclear as to what records, if any, the estate may have consulted in order to conclude that this was at or in the vicinity of point D. Other records examined, at or close to this period of time, such as the **List of Streets** and the **Finance Act 1910** do not support the apparent conclusion.
- 4.6 The **Ordnance Survey Maps** support the conclusions reached in respect of the **Finance Act 1910** evidence. In particular the shading of the route to one side, as shown on the first and second editions of the 6 and 25 inch maps, in conjunction with the other documentary evidence indicates that Mill Lane was regarded as a public carriageway at least as far as point E.

- 4.7 The conclusions reached in respect of the evidence provided by the **Finance Act 1910** and **Ordnance Survey Maps** are further supported by the route being recorded on the **List of Streets**, the plan from which shows the publicly maintainable highway extending as far as point E.
- 4.8 The creation of a public bridleway in 1997, the effect of which led to that part of it as shown between points B-C-D-E being created over an existing part of a publicly maintainable carriageway, Mill Lane, is not an unknown situation. It is not known what records were consulted in arriving at the termination of the Bridleway at B. A later creation of a lesser highway does not extinguish a pre-existing highway of a higher status. Accordingly, the creation of the public bridleway would have had no effect, at that time, over any existing higher public rights whether or not they had been recorded.
- 4.9 The implementation of the **NERC Act 2006** may, subject to any exemptions that might apply, have led to the extinguishment of any unrecorded mechanically propelled vehicular rights e.g. the route extending southerly from point E towards Seatown. In addition, as the route shown between points B-C-D-E is now 'dual recorded', being recorded on both the **List of Streets** and the **Definitive Map**, the presumption is that it is the Definitive Map that is correct and the mechanically propelled vehicular rights, subject to any exemption, have been extinguished. This would leave a public vehicular route without rights for mechanically propelled vehicles, a restricted byway.
- 4.10 **Subsection 67(5) of NERC** provides for a private mechanically propelled vehicular right extending to landowners, occupiers and tenants. This also includes lawful visitors to the person who has an interest in the land, including: business, trade or professional visitors; postal or other deliveries.
- 4.11 In conclusion, the **Chideock Parish Council's** interpretation of the **Inspected Layer** is correct in the sense that this depicts that part of Mill Lane physically inspected, which extends as far as point A. However, this is not a true representation of the full length of the public vehicular highway. On balance, the extent of Mill Lane that is actually publicly maintainable highway, a public carriageway, is considered to extend as far as point E.
- 4.12 Even if it cannot be demonstrated that exceptions apply to the extinguishment of unrecorded mechanically propelled vehicular rights and also the extinguishment of the dual recorded section of Mill Lane, as shown between points B-C-D-E, a private mechanically propelled vehicular right is preserved for any person who has an interest in any land served by the road including lawful visitors.