

Agenda item:

Regulatory Committee

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Dorset County Council



Date of meeting	6 December 2018
<u>Local Member(s):</u> Cllr Cherry Brooks - Member for South Purbeck <u>Lead Officer</u> Matthew Piles, Service Director, Environment, Infrastructure and Economy	
Subject of report	Proposed definitive map and statement modification order - Footpath 30, Church Knowle at Charmswell.
Executive summary	This report considers the evidence relating to the recorded route of Footpath 30, Church Knowle and considers modifying the definitive map and statement.
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 February 2015, 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 Purbeck at the time of consultation, Cllr Mike Lovell, was consulted. The current County Councillor, Cherry Brooks, was consulted in October 2018. In addition, notices explaining the proposal were erected on site. Any relevant evidence provided is discussed in this report.

	<p>Budget:</p> <p>Any financial implications arising from this proposed modification are not material considerations and should not be taken into account in determining the matter.</p>
	<p>Risk Assessment:</p> <p>As the subject matter of this report is the determination of a definitive map modification order proposal the County Council's approved Risk Assessment Methodology has not been applied.</p> <p>Other Implications:</p> <p>None</p>
<p>Recommendations</p>	<p>That:</p> <p>(a) An order be made to modify the definitive map and statement of rights of way to:</p> <p>(i) Delete part of Footpath 30, Church Knowle as shown A – B; and</p> <p>(ii) Add part of Footpath 30, Church Knowle, as shown A – C – B</p> <p>on Drawing 14/44 (Appendix 1); and</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(b) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee.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>Reasons for Recommendations</p>	<p>The available evidence shows, on balance, that</p> <p>(a) (i) There is no public right of way over land as shown A – B as a highway of any description; and</p> <p>(ii) A right of way, a public footpath subsists, or is reasonably alleged to subsist over land as shown A – C – B; and</p> <p>(b) The evidence shows, on balance, that the route of part of Footpath 30, Church Knowle requires modification as proposed. Accordingly, in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.</p> <p>Decisions on proposals 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
Appendices	<p>1 - Drawing 14/44 2 - Law 3 - Documentary evidence</p> <ul style="list-style-type: none"> Table of documentary evidence Extracts from key documents:- Parish Survey Draft Map Provisional Map Revised Draft First Definitive Map Current Definitive Map Ordnance Survey Maps <p>4 - Summary of Church Knowle Parish Council Minutes 1950 - 1973 5 – Plan submitted by Mr Hart 6 – Conveyance Plan – February 1965 Conveyance Plan – July 1988</p>
Background Papers	<p>The file of the Director, Environment and the Economy (ref. RW/T533), which will be available to view at County Hall during office hours.</p>
Report Originator and Contact	<p>Vanessa Penny Definitive Map Team Manager Tel: (01305) 224719 email: v.penny@dorsetcc.gov.uk</p>

1 **Background**

- 1.1 The route of Footpath 30, Church Knowle, is currently recorded on the Definitive Map between points A and B on Drawing 14/44, which passes through the garden of the property known as Charmswell Cottage.
- 1.2 On the 13 December 2013 Mr J Hart, Legal Manager, Purbeck District Council wrote to Dorset County Council in respect of the purchase of Charmswell Cottage in 1990. The Local Search undertaken by the then owner did not reveal the presence of Footpath 30. The owner had recently placed the property on the market and the Land Charges search made in connection with a prospective purchase revealed the presence of Footpath 30 and the purchaser withdrew from the sale.
- 1.3 Mr Hart undertook an investigation and concluded that Footpath 30 was shown incorrectly on the Definitive Map. Mr Hart provided a number of documents in support of his conclusion, which he believes support his contention that the route of Footpath 30 lies further to the northwest of the property.
- 1.4 Further correspondence between Purbeck District Council and Dorset County Council resulted in a site meeting on 1 April 2014. Following this meeting and further research it was concluded that the Definitive Map required modification. The correct route of Footpath 30 was determined by officers to follow the route as shown between points A – C – B on Drawing 14/44.
- 1.5 As the proposed modification of the footpath had potential to affect the sale of the property the matter was prioritised. However, the property was sold and the new owner, Mr Kavanagh, was informed of the situation in writing on 26 January 2015. A public consultation in respect of the proposed modification of the Definitive Map and Statement commenced on 13 February 2015.

2 **Law**

- 2.1 A summary of the law is contained in Appendix 2.

3 **Documentary evidence (Appendix 3)** (copies available in the case file RW/T533)

- 3.1 A table of all the documentary evidence considered during this investigation is contained within Appendix 3. Extracts from the key documents are also attached.

4 **User Evidence**

- 4.1 A number of complaints about Footpath 30, Church Knowle were received between 2012 and 2015. No other evidence of use has been discovered or submitted during the course of the investigation.
- 4.2 It should be noted that the route currently lacks any signage or waymarking and is obstructed at several points along its course.

- 4.3 Although the route was recorded on the First Definitive Map (1967) and is recorded on the current Definitive Map (1989) no evidence has been discovered to suggest that the route has ever been signposted or waymarked throughout this period.
- 4.4 Lack of evidence of use is not evidence that the route is not a highway. The route was claimed by the Parish Council during its survey, which was conducted in response to the National Parks and Access to the Countryside Act 1949. The object of this exercise was to record all public rights of way within the parish, evidence for which was normally based on its reputation of 'long user', use predating the 1949 Act.
- 5 Consultation responses**
- 5.1 The County Council has carried out a wide consultation and two objections have been received.
- 5.2 The County Councillor for South Purbeck at the time of the consultation Cllr Mike Lovell, was consulted and no response received.
- 5.3 The present County Councillor for South Purbeck, Councillor Cherry Brooks, was consulted and no response received.
- 5.4 **Evidence or representations opposing the proposal** (copies available in the case file RW/T533).
- 5.5 Mr Tim Kavanagh of Charmswell Cottage, and Mr J Hart, Legal Advisor, Purbeck District Council have objected to the proposed modification. Their objections are summarised below and relevant detailed points discussed in paragraph 8.

Name	Comments
J Hart, Legal Manager, Purbeck District Council 02/12/2013	Letter and enclosures, refers to a local land search in respect of Charmswell Cottage conducted when it was purchased in 1990. Questions the definitive route of Footpath 30. Content summarised and analysed within the main body of the report.
J Hart, Legal Manager, Purbeck District Council 04/03/2014	Letter and enclosures. Responded to information provided in respect of the recording of Footpath 30. Refers to various documents and maps and suggests that evidence was misinterpreted at the time and a modification of the definitive map is now required, but not to the route proposed. Content summarised and analysed within the main body of the report.
T Kavanagh, Charmswell Cottage 17/03/2015	Email response to consultation, summary of evidence and enclosures, considers that it would be unsafe to make the proposed modification. Content summarised and analysed within the main body of the report

Name	Comments
J Hart, Legal Manager, Purbeck District Council 19/03/2015	Email response to consultation, provides a summary and analysis of the evidence concluding that the proposed modification is flawed. Content summarised and analysed within the main body of the report.

Other submissions received

5.6 Four other submissions were received in response to the consultation. These are summarised below.

Name	Comments
C Pinder (Senior Archaeologist DCC) 16/02/2015	No recorded archaeological finds or features in vicinity. No evidence for consideration.
BT 17/02/2015	BT apparatus unaffected by proposal, no evidence for consideration.
Southern Gas Networks 23/02/2015	Unaffected by proposal, no evidence for consideration
B Panton, Ramblers, 01/03/2015	Makes several comments and observations in respect of the proposal, these are summarised and analysed within the report.

6 Analysis of documentary evidence

Inclosure Award & Plan (Dorset History Centre Ref: I.61)

6.1 The Church Knowle Inclosure Award and Plan 1856 shows a route corresponding with the route that one of the objectors believes is the correct alignment of Footpath 30.

Tithe Apportionment & Plan (Dorset History Centre Ref: T/CKL)

6.2 The Church Knowle Tithe Apportionment & Plan 1843 shows no evidence of the existence of Footpath 30.

Finance Act 1910

6.3 The plans and field books, reveals that Charmswell Cottage was located within a large hereditament numbered 21 as shown on the Finance Act Plan reference IR/125/2/595.

Dorset County Council Records - Church Knowle Parish File

6.4 In a letter to the County Surveyor dated 23 July 1975, Mrs Baxter of the Dorset Area Ramblers Association complained of overgrowth of thorn and brambles on Church Knowle, Footpath 30, which ran along the ridge from Steeple Bridleway 4 climbing the slope to meet the County Road opposite Church Knowle, Bridleway 4.

- 6.5 Mrs Baxter stated that she had spoken with the landowner who refused to grant permission to the group to clear the path on the grounds that it had been “closed” so long it was no longer a public path.
- 6.6 The path was inspected on the 13 August 1975 and the County Surveyor responded on the 14 August 1975 stating that his assistant had spoken with the owner and it would be in order for the group to clear the path. The owner had also mentioned that a new plantation at the western end of the path, through which the route may pass, did not belong to him.

Milestones Survey

- 6.7 In 1999 the Ramblers’ Association undertook a survey on behalf of the County Council using Ordnance Survey base maps at a scale of 1:2500.
- 6.8 Church Knowle, Footpath 30 was surveyed on 9 February 1999. The survey suggests that the route commenced from the county road, the C114, along what is now used as the driveway to Charmswell Cottage. The survey notes that there was also a field gate and a metal finger post at the entrance.

Ordnance Survey maps

- 6.9 Although the Ordnance Survey maps provide evidence in support of the application they do not, on their own, provide any conclusive evidence as to the status of the route. They do, however, show the physical characteristics on the ground at the date of the map.

1 Inch Series

- 6.10 The **Revised One Inch Ordnance Survey Map 1898, 1948 Ordnance Survey New Popular Edition Map** and the **1960 Seventh Series Ordnance Survey Map** show no evidence in respect of Footpath 30.

2½ Inch Series (1:25,000)

- 6.11 The 1961 Edition of the Ordnance Survey Map show no evidence in respect of Footpath 30.

6 Inch Series (1:10,560)

- 6.12 The **First Edition Ordnance Survey Map 1888** shows a route, defined by two parallel broken lines, which generally corresponds with the northern most section of what is presently recorded as Footpath 30.
- 6.13 The **Second Edition Ordnance Survey Map 1902** and the **Revised Edition Ordnance Survey Map 1929** provide similar information (see Appendix 3).

25 Inch Series (1:2500)

The **Second Edition Ordnance Survey Map 1901** and the **Revised Edition Ordnance Survey Map 1928** generally provide similar information to that provided by the 6 Inch series maps with a route generally corresponding to that of Footpath 30 (A – C) (see Appendix 3).

Commercial maps

- 6.14 Samples from the large number of small scale maps of Dorset, including Bartholomew's Maps, available for analysis have been examined. Due to their small scale and the relatively small size of the features of interest shown upon them, it is considered that they provide no evidence in support of or against the proposed modification.

National Parks and Access to the Countryside Act 1949 (DCC Records)

Parish Survey

- 6.15 According to the Parish Council Minutes, the **Parish of Church Knowle Survey** of rights of way was completed by the end of 1950 and the completed maps deposited for inspection by the public in 1951.
- 6.16 The Parish Survey map indicates that Footpath 30 (then Footpath 27 / 29) was recorded from A – C – B (see Appendix 3).

Draft Definitive Map

- 6.17 The Draft Map for the Southeast area, including Church Knowle, demonstrates that at this time both Footpath 27 and Footpath 29, as claimed by the Parish, were recorded on the map. The Draft Map shows Footpath 30 (then Footpath 27 / 29) along the same alignment as the Parish Survey A – C – B (see Appendix 3).

Provisional Definitive Map

- 6.18 The **Provisional Map**, published in 1964, shows Footpath 30 to the west of Charmswell Cottage, rather than on the alignment A – C - B as on the **Draft Map** (see Appendix 3).

First Definitive Map

- 6.19 The **First Definitive Map** depicts Footpath 30 as it is shown on the Provisional Map (see Appendix 3).

Special Review – Revised Draft Map

- 6.20 During **1973** a **Special Review Committee** considered the status of many routes in order to determine how they should be recorded in light of legislative changes and previously unconsidered evidence. Following their deliberations, the **Revised Draft Map** was published in 1974. Footpath 30 was subject to review and that part of it from Bare Cross to the east of East Creech Farm was proposed to be removed from the map as it had been demonstrated that it was in fact a public carriageway.
- 6.21 The **1974 Revised Draft Map**, shows Footpath 30 leading south southwest from Bare Cross then turning westward to the north of the property. It then continues along a more northerly route before realigning itself to the north side of the field boundary (see Appendix 3).

Current Definitive Map

- 6.22 As no objections in respect of the depiction of Footpath 30 on the Revised Draft Map were received, the **Current Definitive Map**, sealed in 1989, depicts the path in the same position as it was shown on the Revised Draft Map (see Appendix 3).

Summary of Documentary Evidence

- 6.23 The Parish Survey Map and its accompanying statements are poor quality. However, the routes shown on it and claimed by the Parish Council received no objections when they were presented for public comment locally.
- 6.24 Following the publication of the **Draft Map** the inclusion of the southern section of what was recorded as **Footpath 27** was objected to and that objection was upheld, and this part of Footpath 27 was not recorded on the Provisional Map. This demonstrates that the public consultation was effective. However, it should be noted that there were no objections to the inclusion of the remaining sections of **Footpath 27** or to **Footpath 29**.
- 6.25 As there were no objections to the retained parts of **Footpaths 27 and 29** the **Provisional Map** ought to have recorded them in exactly the same position. However, having renumbered the remaining sections of Footpaths 27 and 29 as **Footpath 30** the route is now shown to pass the cottage to the western side rather than the eastern side.
- 6.26 Reference to the Ordnance Survey base map indicates that the route of **Footpath 30** westward from Charmswell Cottage towards Steeple is shown to be located to the north of the field boundary.
- 6.27 The **First Definitive Map** repeats the introduced error first recorded on the **Provisional Map**.
- 6.28 The **Revised Draft Map** appears to compound the earlier error further now showing the route to be further north and west of its originally recorded position. The **Current Definitive Map** repeats the error introduced on the publication of the **Provisional Map** and further compounded on the publication of the **Revised Draft Map**.

7 Analysis of user evidence supporting the modification

- 7.1 No user evidence has been discovered or submitted for analysis.

8 Analysis of evidence opposing the Modification

- 8.1 Mr Kavanagh, the owner of Charmswell Cottage, provided a statement and accompanying documents in response to the consultation dated 15 March 2015. These documents include conveyances dated 8 February 1965, 11 October 1967 and 6 July 1988. The issues he raises are set out below with officer's comments on each in bullet points under each numbered paragraph.
- 8.2 The first conveyance is of Charmswell Cottage dated 8 February 1965. This sale related to the cottage only and not the larger area of land that now comprises the property.

- 8.3 Mr Kavanagh points out the agreement between the parties for an access along the route coloured brown as shown between points A and B on the accompanying plan (see Appendix 6). In particular, he notes that at point A that the access referred to turns south for a short distance ending at a field numbered 282 on the accompanying plan and does not continue across the garden of the property.
- 8.4 The conveyance dated 11 October 1967 is of the property known as Barnston Manor Farm, which included land to the south and west of Charmswell Cottage. The conveyance refers to “a public right of way over the footpath running along the North side of Compartments Numbered 7, 10 and 11 on the said plan”. Mr Kavanagh notes that it does not refer to a footpath being within compartment 8, the parcel immediately located to the west of Charmswell Cottage.
- Officer comments:
 - (a) The conveyance refers to a public right of way, a footpath, running along the north side of compartments 7, 10 and 11, although it would have been more helpful had the footpath being referred to been marked on the conveyance plan
 - (b) The public right of way is not shown on the conveyance plan. Whilst the location referred to may refer to the northern edge of these compartments it could also refer to the northern side, this being the other side of the boundary of these compartments, the land comprising Charmswell Cottage (compartment 8).
 - (c) It is not clear where the information came from to describe the footpath in this second conveyance. It is unlikely that it would have been by reference to the Definitive Map due to the date the Definitive Map was published.
 - (d) The Provisional Map was open to objections from the landowners and occupiers of any land affected by the proposals at the time of the conveyance. No objections to the recording of what by then was Footpath 30 were made.
 - (e) There is no footpath recorded within compartment 11 (south of Charmswell Cottage). Footpath 27, which passed north to south through it, was recorded on the Draft Map. Following objections, Footpath 27 was not recorded on the Provisional Map.
- 8.5 The conveyance dated 6 July 1988, relates to the whole of Charmswell Cottage and its land. The right of access mentioned in the earlier conveyances is maintained, although it now refers to access from the public road to point Y being in vehicles and from point Y to Z being on foot. The plan attached to this conveyance is included in Appendix 6. Mr Kavabagh notes that there is no mention of a public footpath.
- Officer comments:
 - (a) Private rights have nothing to do with public rights although they can happily co-exist.

(b) The private right to pass from the highway to point Y was with vehicles and included the right to maintain and inspect the pipeline, the route of which is shown in yellow on the earlier conveyance of 1967 and follows the general line of the private access route shown in brown and not the route of the footpath.

8.6 Mr Kavanagh refers to the Land Searches document dated 8 June 1988, provided by Purbeck District Council in respect of Charmswell Cottage. The search request asked whether the property was affected by any public right of way, whether on the Definitive Map or a draft, provisional or revised definitive map. The reply provided by the District Council confirmed the existence of a public footpath shown in purple on the accompanying plan. Mr Kavanagh states this shows a footpath located to the south of the property before turning north towards Bare Cross.

- Officer comment:

The search result provided by the District Council shows a public footpath but not along the route shown on the First Definitive Map. The search result is also different from the route shown on the Revised Draft Map albeit officers believe that was wrong.

8.7 Mr Kavanagh also comments on the Church Knowle Parish Survey of 1951, for which he has provided an annotated extract from the Parish Survey map and its key. Mr Kavanagh states that the 'red biro' line (which indicates the route of the claimed path) is shown to be neither to the north or south of the boundary line along most of its length and it is difficult to see what was intended. He notes that at point D there is a mark that may indicate what is described in the accompanying key as "wire or other obstruction". He suggests that the marking of the obstruction on the plan meant the survey could not show accurately where the paths near Charmswell Cottage met.

- Officer comments:

(a) The line on the Parish Survey is not as precise as it could be. However, the line is clearly shown to pass through the 'garden' of Charmswell Cottage to the north of the property's southern boundary. It is then shown to continue westwards appearing to straddle the field boundary although in those locations where it does not it is shown to be to the northern side of the boundary.

(b) It is considered, on balance, that this is the position of the line as shown on both the Draft and Provisional maps, which were compiled from the Parish Survey and any objections and or submissions received following their publication.

(c) Officers believe that if the correct route of the footpath was south of the Charmswell Cottage boundary, there was room to show that on the survey plan. Officers also believe it is reasonable to assume that the routes of the footpaths were drawn first and before any obstructions were marked.

8.8 Mr Kavanagh refers to the small scale of the map used for the Parish Survey which he says will have affected its accuracy.

- Officer comment:

It is acknowledged that the small scale of the maps used throughout the processes that led to the production of the Definitive Map can cause problems in interpretation. The poor quality and/or lack of detail within the accompanying schedules can compound this. However, this report considers all of the available evidence, including the Parish Survey, in order to reach its recommendation about the correct line of Footpath 30.

- 8.9 Mr Kavanagh also draws attention to the apparent movement north of Footpath 30 as depicted on the Revised Draft Map of 1974. He believes that the contours appear to be shown in the same position, relative to field boundaries and other features, as those on the 1964 map. He notes that when comparing the number of visible contour lines above and below the line of Footpath 30 (measured along two north/south running field boundaries located to the west of the cottage) there are 3 to the south and 5 to the north of the line on the Revised Draft Map and 2 and 6 respectively on the 1964 map.

- Officer comments:

Much of this apparent disparity can be attributed to the much thicker line used to depict the route on the Provisional Map than that which was used to depict the route on the Revised Draft Map. Officers do not believe this assists Mr Kavanagh.

- 8.10 Mr Kavanagh refers to the aerial photographs from 1947 and 1972, concluding that they provide no visible evidence as to the existence of a trodden path across the lawn of the cottage along the proposed line of Footpath 30.

- Officer comments:

There is no visible track on the aerial photograph, however this is attributable to the level of use, the topography and other factors.

- 8.11 Mr Kavanagh suggests that if the proposed route existed it would have gone right by a significant land feature, Charmers Well, and yet it is not depicted on any maps. However, he notes that the path from Steeple running diagonally to the top of the hill at Bare Cross is depicted on many maps, including the Ordnance Survey map of 1886, is shown in the aerial photograph of 1947 and is a popular used path today.

- Officer comments:

The diagonal route from Bare Cross has been depicted on several maps, is visible on the aerial photographs and is waymarked and has been used by the public for some time. However, the route was not claimed by the Parish Council during its survey, is not shown on the Definitive Map and it is unclear why it is waymarked.

- 8.12 Mr Kavanagh concludes stating that access to the well has always been an important issue. If there was access to the well along an established public footpath, why was a private access provided?

- Officer comments:

The private access relates to the right to repair and maintain the pipeline as well as providing access to the area containing the well. Whilst a private right can coexist with a public right, in this instance the pipeline does not coincide with the route of the footpath and even had it done so the provision of a private right would still be necessary in case the public right was ever diverted or extinguished.

8.13 Mr J Hart, Legal Manager, Purbeck District Council submitted a written response to the consultation dated 19 March 2015. He suggested that the correct route of Footpath 30 was along a different route. He attached a plan on which the current definitive line of Footpath 30 is shown between points W, X, Y and Z, the proposed modification route is shown between points X, T and Y and the route that Purbeck District Council believes Footpath 30 should be modified to is shown between points A, B and Z (see Appendix 5).

8.14 Mr Hart refers to the Draft Map Survey Sheet (Schedule) which describes a route (Footpath 27?) as commencing from Barnston Farm and terminating at Road N (East of East Creech Farm. He notes that from Charmswell to Barnston Farm the route was blocked and that the "southerly section was therefore deleted from the draft map". Mr Hart suggests that through "natural and logical deduction" this would mean that the path no longer existed as it started from Barnston Farm and was blocked near Charmswell Cottage (near the point marked T). Consequently, Mr Hart concludes that what was left of the path would have run north from the cottage to the road and would not have been a public footpath, but rather a path for the farmworker living at the cottage to access fields to the north.

- Officer comments:

(a) Although the accompanying schedule suggests that the route that led south to Barnston Farm was obstructed by barbed wire at the time of the survey, the obstruction itself did not lead to the deletion of the route following the publication of the Draft Map.

(b) The deletion of part of Footpath 27 followed an objection to the route's inclusion on the Draft Map which was upheld. This fact is recorded in the Parish Council minutes, see Appendix 4.

(c) The remaining section of Footpath 27, from Bere Cross to Charmswell Cottage, was not objected to and therefore remained recorded on both the Provisional and First Definitive Maps. Footpath 29 was not objected to either and consequently what was Footpath 27 and Footpath 29 became Footpath 30, this being a through route from Bere Cross to Steeple.

8.15 Mr Hart asserts that the Parish Council did not survey the routes on the ground but undertook a 'desktop' survey only marking as footpaths any broken line on the base map.

- Officer comments:
 - (a) The Parish Council were required to record all public paths within the parish, whether or not they coincided with paths depicted by means of broken lines on the Ordnance Survey base map that was used for the purpose.
 - (b) The evidence provided by the Parish Council minutes would support the conclusion that widespread consultation had been undertaken in accordance with the legislative requirements.
- 8.16 Mr Hart refers to the 1947 aerial photograph, which shows no visible sign of a path running through the garden of Charmswell Cottage or from the road to the cottage. However, he notes that it does show a well worn and much used footpath leading from the road above Charmswell in a south-westerly direction towards Steeple. This he believes demonstrates a marked difference between the location of footpaths shown on the aerial photograph and the Parish Claim Map.
- Officer comments:
 - (a) Whilst it is correct to note that there is no visible track on the aerial photograph. This would be attributable to the level of use, the topography and other factors.
 - (b) The route from Bare Cross leading south-westerly towards Steeple has been depicted on several maps and is visible on the aerial photographs. It is also waymarked and appears to have been used by the public for some time. However, the route was not claimed by the Parish Council during its survey and there are no records as to when, by whom, and under what authority it was waymarked.
- 8.17 Mr Hart refers to Ordnance Survey maps which predate the Definitive Map. He states that there are no footpaths shown around Charmswell although there are others shown in the vicinity.
- Officer comments:

These maps predate the First Definitive Map. Whilst they may depict many of the routes that were later recorded as public rights of way upon it, they would not necessarily. It was not their primary purpose to record public rights of way.
- 8.18 Mr Hart then sets out why the District Council believes the correct route of Footpath 30 is between points A, B and Z on his plan (Appendix 5). Mr Hart states that this route has been way-marked for a very long time and is also signposted with a well weathered DCC signpost. Mr Hart states that it is the belief of the District Council that DCC way-marked the route because it was obvious that the definitive route was never feasible and rather than go to the trouble that formal procedures would require they simply way-marked what was obviously the route across the adjoining field, which had been well worn by walkers for decades.

- Officer comments:
 - (a) As discussed above, the route A - B - Z, the route from Bare Cross leading south-westerly towards Steeple, has been depicted on several maps and is visible on the aerial photographs. It is also waymarked and appears to have been used by the public for some time. However, the route was not claimed by the Parish Council during its survey and there are no records as to when, by whom, and under what authority it was waymarked.
 - (b) Although there may be evidence of use by the public of the route to which Mr Hart refers there has never been an application to record the route on the Definitive Map.

8.19 Mr Hart notes that although the base map used on the Parish Claim Map does not show a footpath through Charmswell Cottage garden, it does, significantly, show a dotted line in the field below the cottage. Additionally, he notes that the 1947 aerial photograph may show a path to the field side of the hedge to the south of the cottage and also what appears to be a stone wall from the eastern side of the cottage down to the field boundary to the east and south of the cottage.

 - Officer comments:
 - (a) The broken line denotes the foot of the bank below the cottage which extends both east and west. This 'bank' was recorded separately on the Church Knowle Tithe Apportionment 1843 as a "row" and area of coppice within Great Cocknoll Field.
 - (b) Whilst the aerial photograph may depict a wall, fence or hedge it does not follow (and there is insufficient detail to determine) that there was not a means of passing through or over it by way of a stile, gate or gap.

8.20 Mr Hart concludes by suggesting that there are no reasons not to implement the modification proposed by the District Council and realign Footpath 30 from its recorded line to that proposed, along the currently way-marked route as shown between points A, B and Z (Appendix 5). However, the County Council is proposing to modify the route using the steep bank to eastern side of the cottage and then westerly across the front of the cottage.

 - Officer comments:
 - (a) It is acknowledged that the current recorded route of Footpath 30 appears to be in error and that this investigation was commenced in order to determine it.
 - (b) Had the evidence, 'on the balance of probability' shown that the 'correct' route of Footpath 30 is as Mr Hart believes it to be, then an Order to that effect would have been recommended. It may well be that Mr Hart's alternative route has become a public right of way but no application to record it has been received.

9 Analysis of other submissions

9.1 Mr B Panton, Ramblers observes that the northern end of Footpath 30 ought to be extended to reach the C114 road.

(a) Also, that an unrecorded footpath exists leading from the C114 from where it is signposted towards Steeple following a south-westerly direction for approximately 300 metres to a point where it joins the definitive line of Footpath 30. This is the same route put forward by Mr Hart.

(b) Mr Panton believes it to be of some significance that this route has been shown by the Ordnance Survey as a footpath, but not a right of way since approximately 2002.

(c) Mr Panton states that it is the Ramblers' view that the [definitive] route of Footpath 30 should be altered and re-aligned onto the unrecorded route, which would eliminate the requirement for a diversion of the route around Charmswell Cottage.

- Officer comments:

(a) The definitive line of Footpath 30 does reach the C114 road, reference to the Ordnance Survey maps indicate that it extends as far as the shaded boundary that indicates the extent of the adjacent highway, the C114.

(b) This route is not a recorded public right of way, although there may be evidence to support an application to have the route recorded. As discussed earlier in the report, although it is known that this route has been used by the public for some time there are no records as to exactly when, by whom and under what authority the route was signposted.

(c) The owner of the property affected by the proposed modification may apply to divert Footpath 30 onto the unrecorded route to which Mr Panton refers.

9.2 The other letters or submissions contain no other relevant evidence.

10 Conclusions

10.1 Although the Definitive Map is presumed to be conclusive evidence as to the existence and status of any way shown upon it, there is a statutory duty mechanism to change it if evidence to the contrary is discovered that on the balance of probability demonstrates the Definitive Map is in error and requires modification.

10.2 As Footpath 30, Church Knowle is already recorded on the Definitive Map, although the legal test to delete or alter any of the particulars related to it remains that of the balance of probability, the evidence relied upon to make such a decision needs to be clear, logical, convincing and compelling.

10.3 It is therefore necessary for members to decide whether:

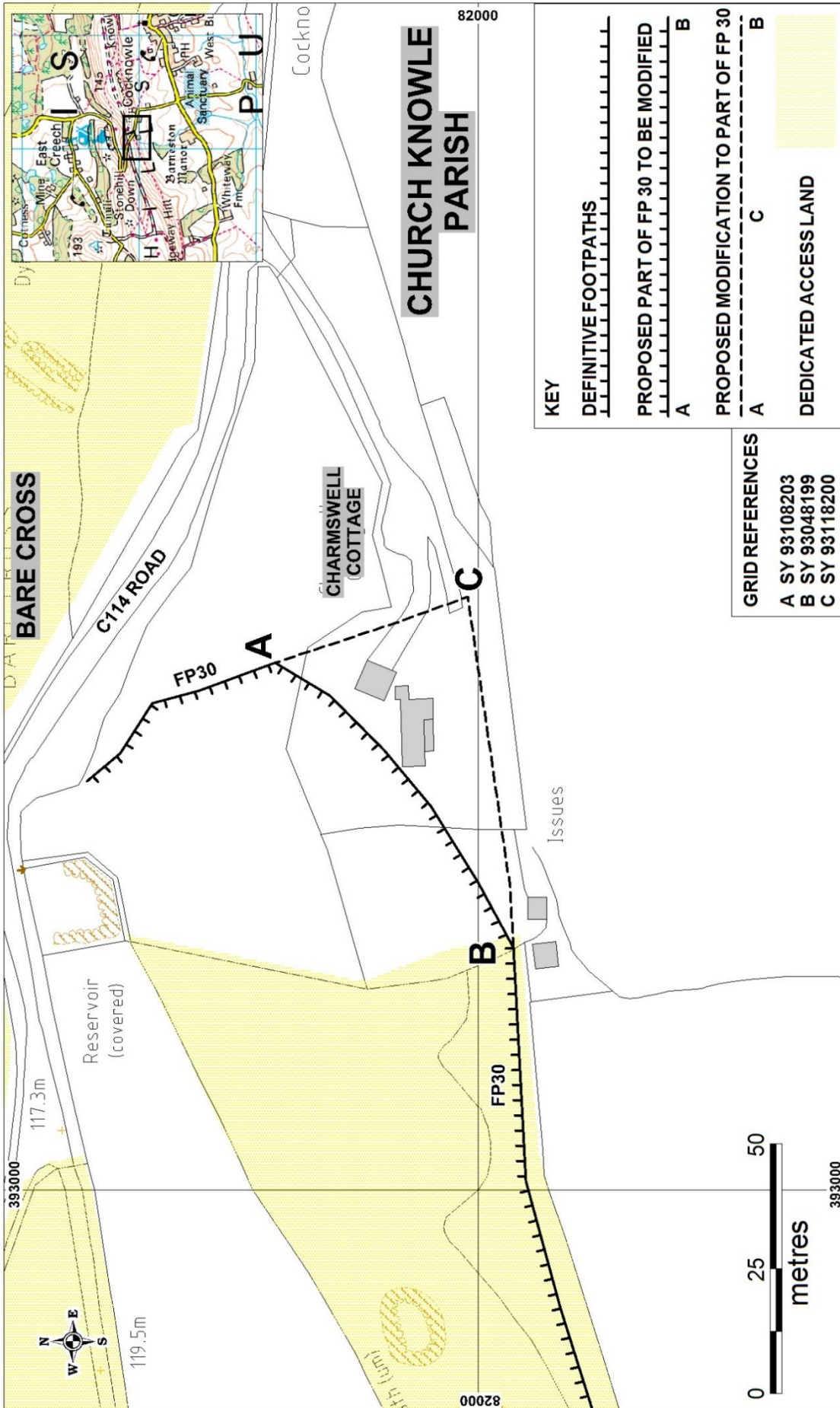
(a) There is no public right of way over land shown in the map and statement as a highway of any description (in respect of the route shown A – B); and

- (b) A right of way not shown in the definitive map and statement subsists or is reasonably alleged to subsist (in the respect of the proposed route A – C – B) as this route is not currently recorded with public rights.
- 10.4 The balance of evidence demonstrates that the currently recorded route is shown in error on the definitive map of rights of way and this should be modified to the route as proposed.
- 10.5 Therefore, it is recommended that the definitive map and statement should be modified to delete part of Footpath 30, Church Knowle as shown A – B and instead to add it as shown A – C – B on Drawing 14/44 (Appendix 1).
- 10.6 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.

Mike Harries

Director, Environment and the Economy

November 2018



GEOGRAPHICAL INFORMATION SYSTEMS

Dorset County Council

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Ref: 14/44
 Date: 05/02/2015
 Scale 1:1000
 Drawn By: ACWH
 Cent X: 393097
 Cent Y: 82010

WILDLIFE AND COUNTRYSIDE ACT 1981
 PROPOSED DEFINITIVE MAP MODIFICATION ORDER - FOOTPATH 30, CHURCH KNOWLE AT
 CHARMSWELL COTTAGE

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Law**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 by the authority of evidence which shows: -

- (a) There is no public right of way over land shown in the map and statement as a highway of any description;
- (b) That a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.
- (c) That any other particulars contained in the definitive map and statement require modification.

1.2 The committee must take into account all relevant evidence. They cannot take into account any irrelevant considerations such as desirability, suitability and safety.

1.3 The County Council must make a modification order to

- (a) Add a right of way to the definitive map and statement if the balance of evidence shows either:
 - (i) that a right of way subsists or
 - (ii) that it is reasonably alleged to subsist.

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

- (b) Delete a right of way from the definitive map and statement if evidence of some substance can outweigh the initial presumption that the way has been correctly included.

1.4 An order can be confirmed only if, on the balance of probability, it is shown that the route should be modified as described.

1.5 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.
- 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 – Human rights implications

- 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 Inclosure Consolidation Act 1801**

- 4.1 Section 8 of the Inclosure Consolidation Act required Commissioners to set out and appoint the public carriage roads and highways and to divert, turn or stop up any roads or tracks upon or over the lands to be allotted prior to the land being enclosed.
- 4.2 Section 9 of the Act required carriage roads to be well and sufficiently fenced on both sides and made it unlawful for any gate to be erected across them.
- 4.3 Section 10 of the Act, amongst other things, empowered commissioners to appoint private roads, bridleways and footpaths in, over, upon and through the allotments to be made.
- 4.4 Section 11 of the Act determined that after the public and private roads and ways had been made and set out any remaining roads, paths and ways over, through and upon such lands and grounds, which had not been set out as required, would be extinguished and deemed to be taken as part of the lands and grounds to be enclosed.
- 4.5 The Inclosure Consolidation Act 1801 could be accepted in whole or excluded in whole or part by local acts relevant to the area to be enclosed.

5 Finance Act 1910

- 5.1 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.
- 5.2 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.

6 National Parks and Access to the Countryside Act 1949

- 6.1 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.

Table of documentary evidence and extracts from selected maps (Date Order)

Date	Document	Comment
1805 and 1807	Ordnance Survey Drawing	The Ordnance Survey Drawing for the area including Church Knowle, at a scale of 2 inches to 1 mile, was surveyed between 1805 and 1807. A property annotated as “Cocknowl” is depicted in the vicinity of what is now known as Charmswell Cottage. All existing public roads are shown, their position generally corresponding to that of today. A route, defined by two parallel broken lines, is depicted immediately to the north side of “Cocknowl”, it commences from a public road heading south westerly and then easterly. There is no evidence of the existence of any other routes in the vicinity of the property.
1811	First Edition Ordnance Survey	Similar to the earlier Ordnance Survey Drawing but less detail
1843	Church Knowle Tithe Apportionment and Plan	<p>Apportionment 313 is described as a “cottage and garden”, 311 as Great Cocknoll Field, its state of cultivation being “arable”, and 312 as a “row” within Great Cocknoll Field, its state of cultivation being that of “Coppice”. The landowner was George Filliter, the occupier William Voss.</p> <p>The Tithe plan shows all of the existing public roads, which generally correspond to their present alignment. However, what is presently recorded as Footpath 30 is not shown nor is there any evidence of a route that corresponds to the proposed modification route, the existing driveway or the waymarked route to the north-west of the Charmswell property.</p>

Date	Document	Comment
1856	Church Knowle Inclosure Award and Plan	<p>The Church Knowle Inclosure Award and Plan 1856, was authorised under the provisions of the <i>“Acts for the Inclosure Exchange and Improvement of Land”</i>. It did not set out or award any new public highways, but pre-existing highways are clearly identified on the accompanying plan.</p> <p>Charmswell or Cocknowle cottage is not depicted on the plan although the area it occupies is easily identified in the vicinity of “Bare Cross”. No route corresponding to Footpath 30 is shown although a route annotated “from Barnston” is identified.</p> <p>The route annotated “from Barnston” generally corresponds to the north-eastern end of a route that physically exists today and is shown on early Ordnance Survey maps but is not a recorded highway. This route, or at least that part depicted, corresponds with part of the route one of the objectors suggests is the correct route of Footpath 30 and which lies to the north-west of the Charmswell property.</p>

Date	Document	Comment
1886	First Edition Ordnance Survey Map (Dorset LVI.NW)	<p>The First Edition Ordnance Survey Map (Dorset LVI.NW) surveyed in 1886 and published in 1888 at a scale of 6 inches:1 mile (1:10560) clearly depicts the cottage the area being annotated as Cocknowle. It is shown on an east west alignment immediately to the south of Bare Cross. A route, defined by two parallel broken lines, generally corresponds with the northern most section of what is presently recorded as Footpath 30.</p> <p>Another route is shown commencing from the public carriageway east of the cottage and leading westwards towards it. This would generally correspond to what is now used as the entrance or driveway to Charmswell Cottage.</p> <p>The route corresponding to Footpath 30 continues in a southerly direction towards Barnston Farm, the southern section being annotated with an F.P. denoting that the surveyor regarded it as a footpath, although this does not confirm its status, public or private. This southern part of the route was claimed by the Parish Council as a footpath but its inclusion was objected to and subsequently it was not shown on the Provisional map.</p> <p>To the north of the property another route is depicted, it is not annotated as to its probable use or status and is defined by two parallel broken lines. It commences from the public road leading south from Bare Cross and follows a south westerly course and generally corresponds to the waymarked route to the north-west of the Charmswell property.</p> <p>There is no route shown continuing westward that would correspond to that of Footpath 30. The broken line running generally east to west beneath the solid line to the south of the property represents the boundary between the field and the bank and would generally correspond to the coppice recorded on the Tithe Apportionment and numbered 312.</p>

Date	Document	Comment
1889	First Edition Ordnance Survey Map (LVI.I)	The First Edition Ordnance Survey Map (LVI.I) published in 1889 at a scale of 1:2500 (25 inches: 1 mile) provides similar information to that provided by the 6 Inch series maps. A route generally corresponding to that of Footpath 30 is shown leading south from Bare Cross passing to the east of Cocknowle (Charmswell) and intersecting with what is now the driveway to the property, adjacent the boundary to the field below. Both are defined by two parallel broken lines. Footpath 30 is shown to continue south towards Barnston Farm and is annotated 'F.P'. The route to the north of the property is also shown but is not annotated F.P. or B.R. The area of coppice identified on the Tithe Map is also shown as a single broken line.
1898	Revised One Inch Ordnance Survey Map	Route to the north of "Cocknowle" is not shown
1900	Second Edition Ordnance Survey Map (LVI.NW)	The Second Edition Ordnance Survey Map (LVI.NW) surveyed in 1900 and published in 1902 at a scale of 6 inches:1 mile (1:10560), shows the same information with some exceptions. These are that the route to the north of the property is not shown. In addition, the broken line defining the boundary between the lower field and the bank, described as coppice in the Tithe Apportionment, is not shown and the southern extension of Footpath 30 towards Barnston Farm whilst shown is not annotated F.P. or B.R.
1900 / 1901	Second Edition Ordnance Survey Map (LVI.I)	The Second Edition Ordnance Survey Map (LVI.I) revised in 1900 and published in 1901 at a scale of 1:2500 (25 inches: 1 mile) is the map used for the Finance Act valuation. It provides the same information as the first edition map with the exception that the route corresponding to that shown between points A – B is not shown.

Date	Document	Comment
1910	Finance Act	The plans and field books reveal that Charmswell Cottage was located within a large hereditament numbered 21 as shown on the Finance Act Plan reference IR/125/2/595.
1948 1960	Ordnance Survey New Popular Edition Map Seventh Series Ordnance Survey Map	Both at a scale of 1 inch to 1 mile, show the area annotated "Cocknowle", with the cottage on an east west alignment and immediately south of Bare Cross, but no further details in respect of any of the routes discussed are shown
1961	First Edition Ordnance Survey Map	The 1961 Edition of the Ordnance Survey Map at a scale of 1:25000 (Sheet SY98) depicts Charmswell Cottage (Cocknowle) on its general east west alignment due south of Bare Cross. The driveway to the property is depicted by means of a single broken line but no other routes are shown
1926 / 1929	Revised Edition Ordnance Survey Map (LVI.NW)	The Revised Edition Ordnance Survey Map (LVI.NW) revised in 1926 and published in 1929 at a scale of 6 inches:1 mile (1:10560) provides similar information, Footpath 30 and the driveway to the property are shown, but the route to the north of the property, A – B, is not shown. The area identified as coppice on the Tithe is shown as a broken line and the southern extension of Footpath 30 is annotated 'F.P'.
1926 / 1928	Revised Edition Ordnance Survey Map (LVI.I)	The Revised Edition Ordnance Survey Map (LVI.I) , revised in 1926 and published in 1928 at a scale of 1:2500 (25 inches: 1 mile), provides the same information as the second edition with the route to the north of the property not being shown.

Date	Document	Comment
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>	

Date	Document	Comment
1951	Church Knowle Parish Survey	<p>The Parish Survey Map contains a number of corrections and deletions, however two footpaths that were claimed remained as they had been initially recorded. These were Footpath 27 and Footpath 29.</p> <p>Footpath 27 was described in the accompanying statement as commencing from Barnston Farm and terminating at a road east of East Creech Farm. It was said to be obstructed at Cocknowle, which appears to be annotated on the map in the vicinity of point C.</p> <p>The section leading south from Bare Cross to Cocknowle is shown to follow the route of the path annotated on the Ordnance Survey base map and defined by means of two parallel broken lines. However, at the point where it connects with Footpath 29 the detail on the base map is obscured by what appears to be the annotation denoting the obstruction on the southern section of Footpath 27.</p> <p>Footpath 29 was described in the accompanying statement as leading from Cocknowle (Footpath 27) to the Steeple parish boundary and then on to Steeple. The detail on the base map at its junction with Footpath 27 is also obscured, nevertheless it is clear that it is shown to follow a route westward through the southern curtilage of what is now known as Charmswell Cottage exiting through its western boundary and continuing westwards. Although the line indicating the course of the path is not precise it suggests that the intention was to show that the route continued on or to the north of the field boundary towards the Steeple parish boundary.</p>

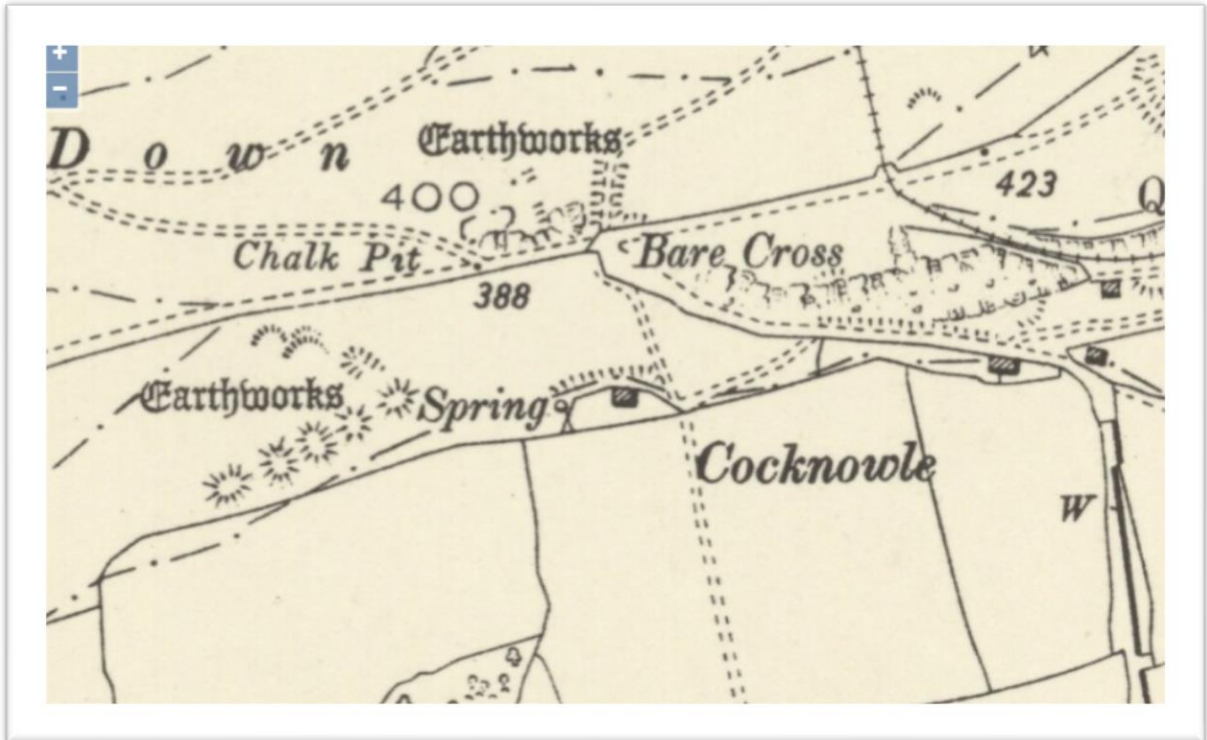
Date	Document	Comment
1953	Draft map for the Southeast area	<p>The Draft Map for the Southeast area, including Church Knowle, published in 1953, demonstrates that at this time both Footpath 27 and Footpath 29, as claimed by the Parish, were recorded on the map.</p> <p>With respect to the proposed modification, Footpath 27 is shown to follow a course leading south-south-easterly from Bare Cross to Charmswell Cottage. Although the map used is relatively small scale and any detail on the base map is obscured by the line defining the path, without any evidence to the contrary the intention must have been to show the route following that claimed during the Parish Survey. It is usually the case that routes claimed during the Parish Survey are shown along the same alignment on the Draft Map.</p> <p>With respect to Footpath 29, the same conclusions would apply and the route is shown to follow a course westwards through the curtilage of Charmswell Cottage and continuing westward adjacent but north of the field boundaries as claimed by the Parish during its survey.</p>
1958	NOTE: In 1958 the National Parks Sub-Committee determined that the designation of certain rights of way as CRF or CRB be abandoned and that in future such rights of way be shown only as footpaths (F.P.) or bridleways (B.R.)	

Date	Document	Comment
1964	Provisional map	<p>The Provisional Map, published in 1964, used a 1:25000 Ordnance Survey base map. The first section of Footpath 27 from Barnston Farm to Cocknowle was deleted following an objection to its inclusion on the Draft Map that was upheld. The remaining sections of Footpath 27 and the whole of Footpath 29 were retained but renumbered as Footpath 30.</p> <p>As there were no objections to the retained parts of Footpath 27 or in respect of Footpath 29, it would be expected that the route of Footpath 30 depicted on the Provisional Map would correspond to those shown on the preceding Draft Map. With respect to the section from Bare Cross to Charmswell Cottage, the route appears to have moved as it is now shown to be located to the west of the cottage before it changes its direction to the west rather than to the east of the cottage as shown on the Draft Map.</p> <p>With respect to what was recorded as Footpath 29 now Footpath 30, the purple line defining its route obscures most of the detail shown on the base map, including the field boundaries. However, reference to the base copy map demonstrates that the purple line abuts the 'earthwork' features depicted to the west of the cottage, which are located to the north of the field boundary. Further west a small area of woodland, located immediately to the south of the field boundary, is defined by tree symbols. The purple line is drawn to the north of these symbols.</p>
1966/7	First definitive map	<p>The First Definitive Map published in 1966-67 also uses the Ordnance Survey 1:25000 series as a base map. It depicts Footpath 30 in the same manner as it is shown on the Provisional Map</p>

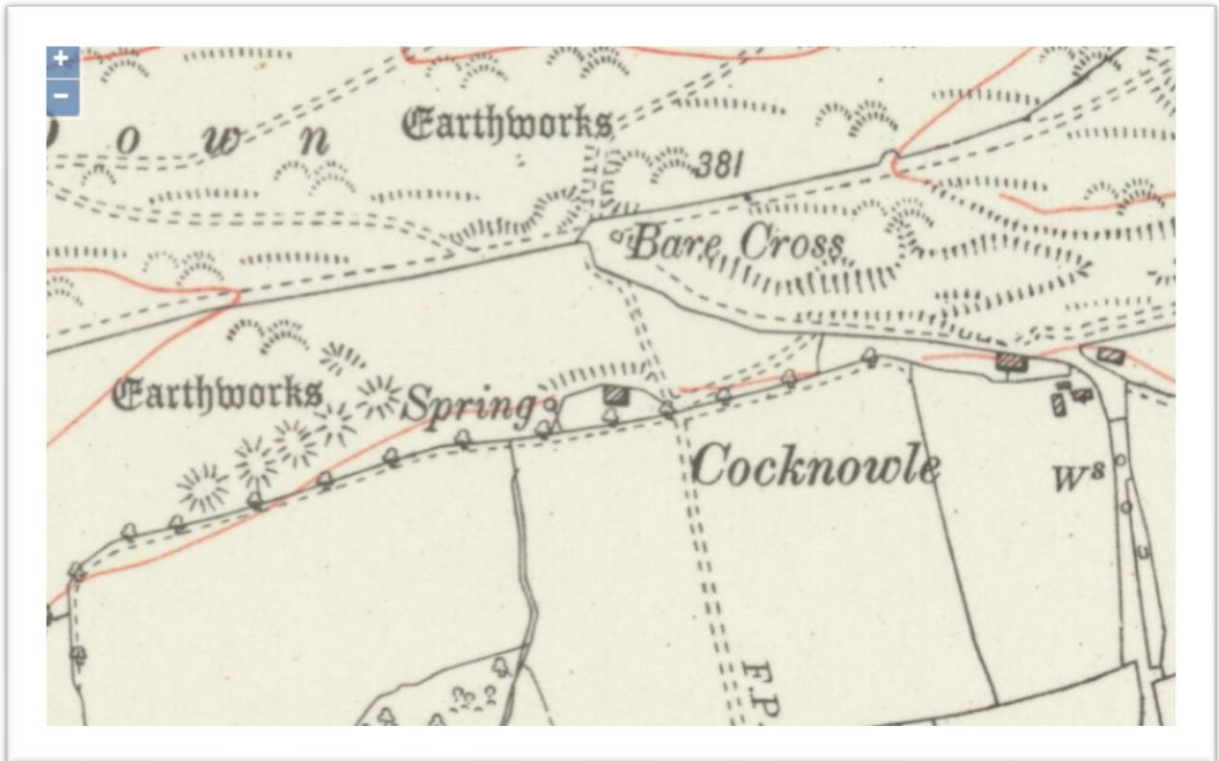
Date	Document	Comment
1974	Revised draft map	The 1974 Revised Draft Map , which uses a revised Ordnance Survey 1:25000 base map, therefore shows that part of Footpath 30 north of Bare Cross as a carriageway. However, in respect of the route of Footpath 30 from Bare Cross south and then west towards Steeple, the route although commencing from the same point and leading south towards Charmswell Cottage now turns westward to the north of the property. It then continues along a more northerly route before realigning itself to the north side of the field boundary.
1989	Current definitive map	As no objections in respect of the depiction of Footpath 30 on the Revised Draft Map were received, the Current Definitive Map , sealed in 1989, depicts the path in exactly the same position as it was shown on the Draft Map.

Ordnance survey maps– enlarged extracts

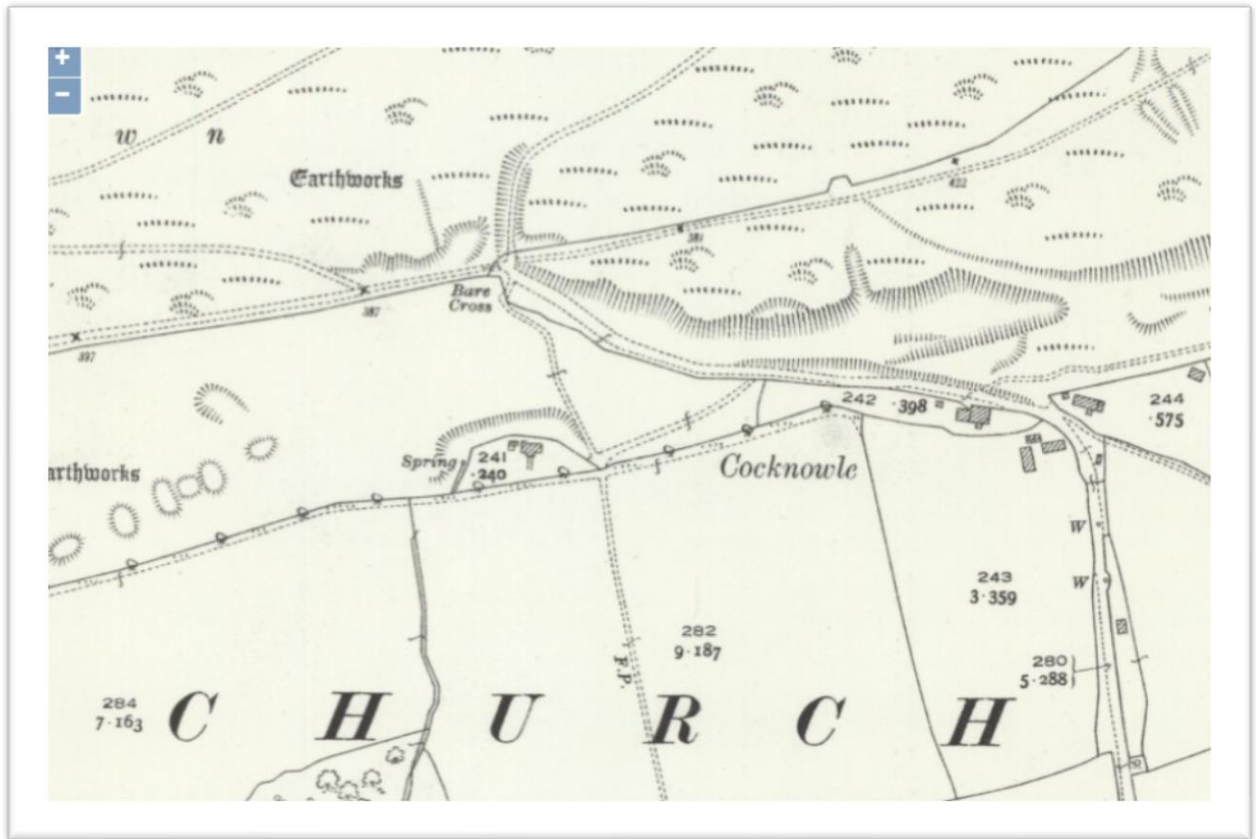
Ordnance Survey Six Inch 2nd Edition 1902



Ordnance Survey Six Inch Revised Edition 1929

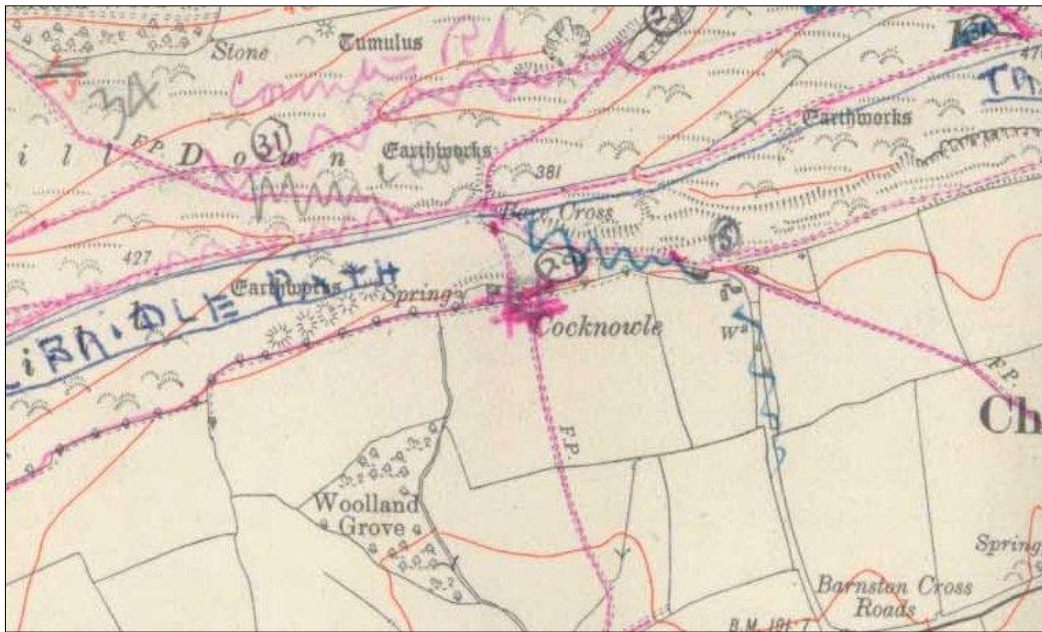


Ordnance Survey 25 Inch Revised Edition 1928



Dorset County Council rights of way mapping (enlarged extracts)

Parish Survey 1951



1925
ORDNANCE MAP, 1925.
DORSET L.S.W.

RIGHTS OF WAY
DELINEATION, 1951.

SYMBOLS:

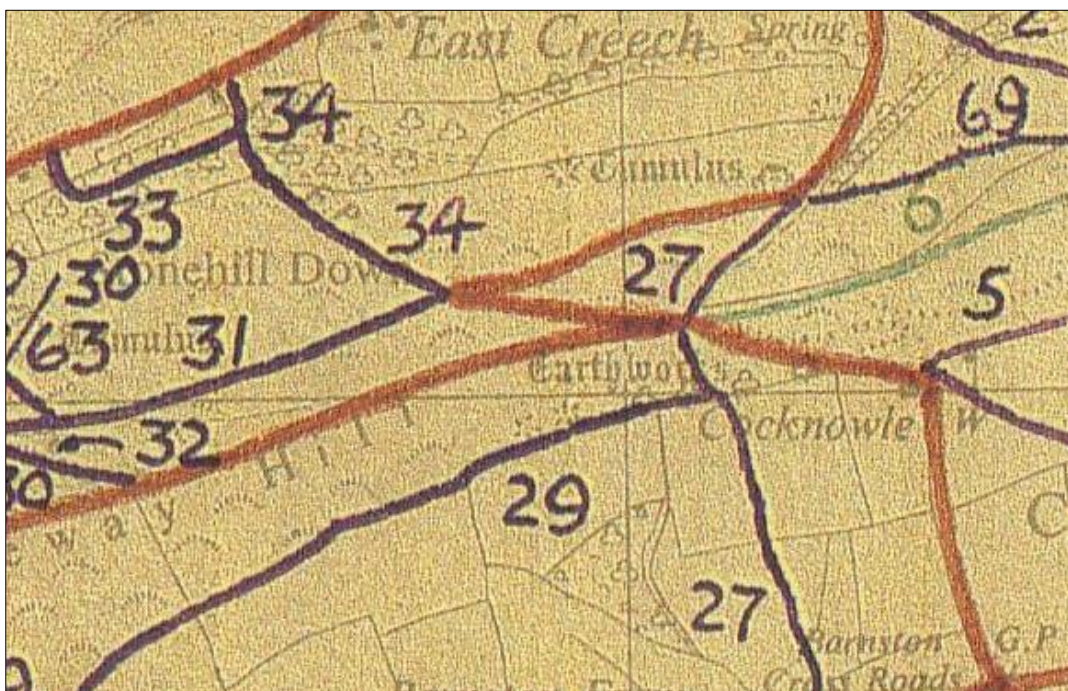
(Parish boundaries
certified by Mr
A. Payne, Westport
House, Wareham.)

RIGHTS OF WAY: ~~~~~

WIRE OR OTHER
OBSTRUCTION: #

PLOUGHED UP: P+++P

Draft Map 1955



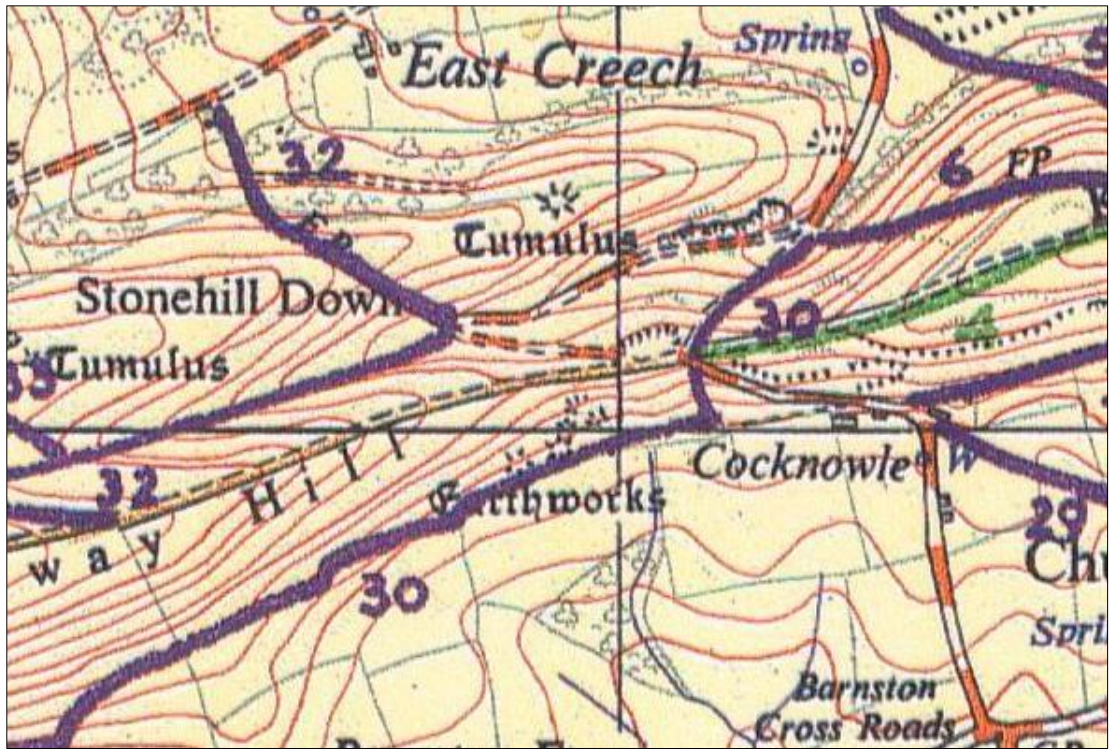
Schedule dated 1954 (for draft map)

DORSET COUNTY COUNCIL
RIGHTS OF WAY SURVEY

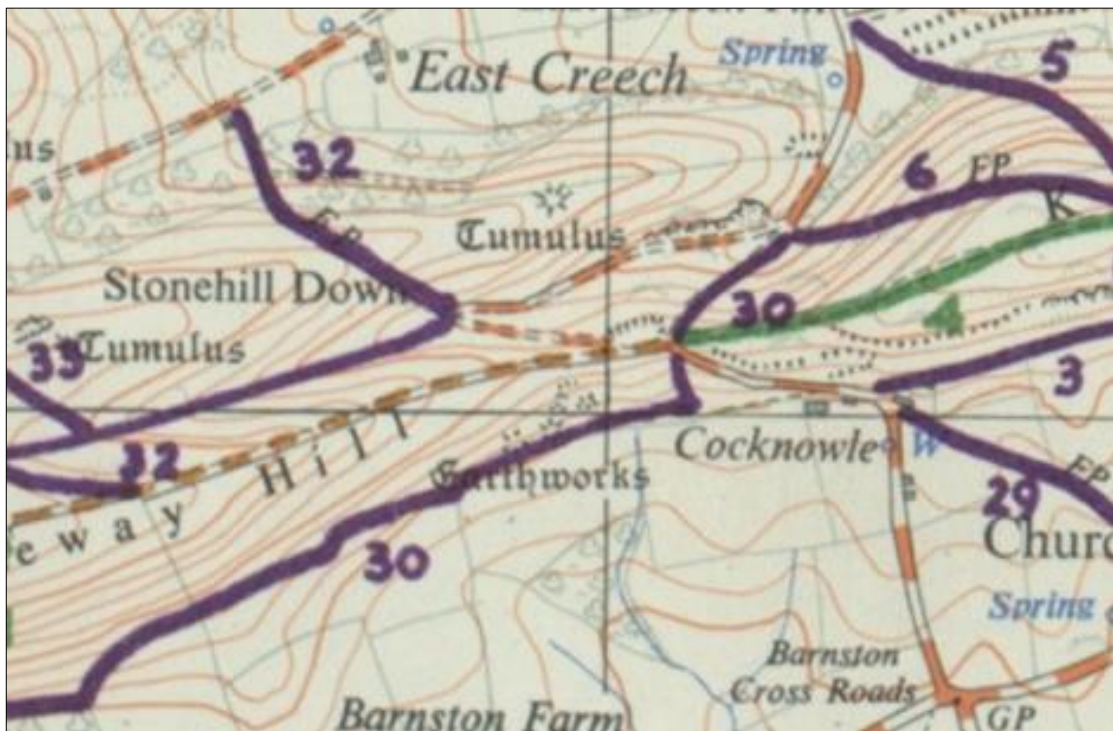
Parish: Church Knowle Path Section No: Twenty Seven
From: Bamaton Farm To: Road N. (East of East Creek Farm)

Kind of Path: footpath
Where path leads to (if out of Parish):
Condition of Path:
Condition of Adjoining hedges/fences:
Width (in feet):
If over ploughed:
Type of Gates, Stiles etc. : Condition:
Details of Notice Boards, Direction Signs etc. :
Details of Obstructions: at Cocknowle
Whether maintained for use as Bridlepaths:
Reasons for believing Path to be Public:
Objectors Name and Address:
Reasons for Objection:
Improvements Necessary:

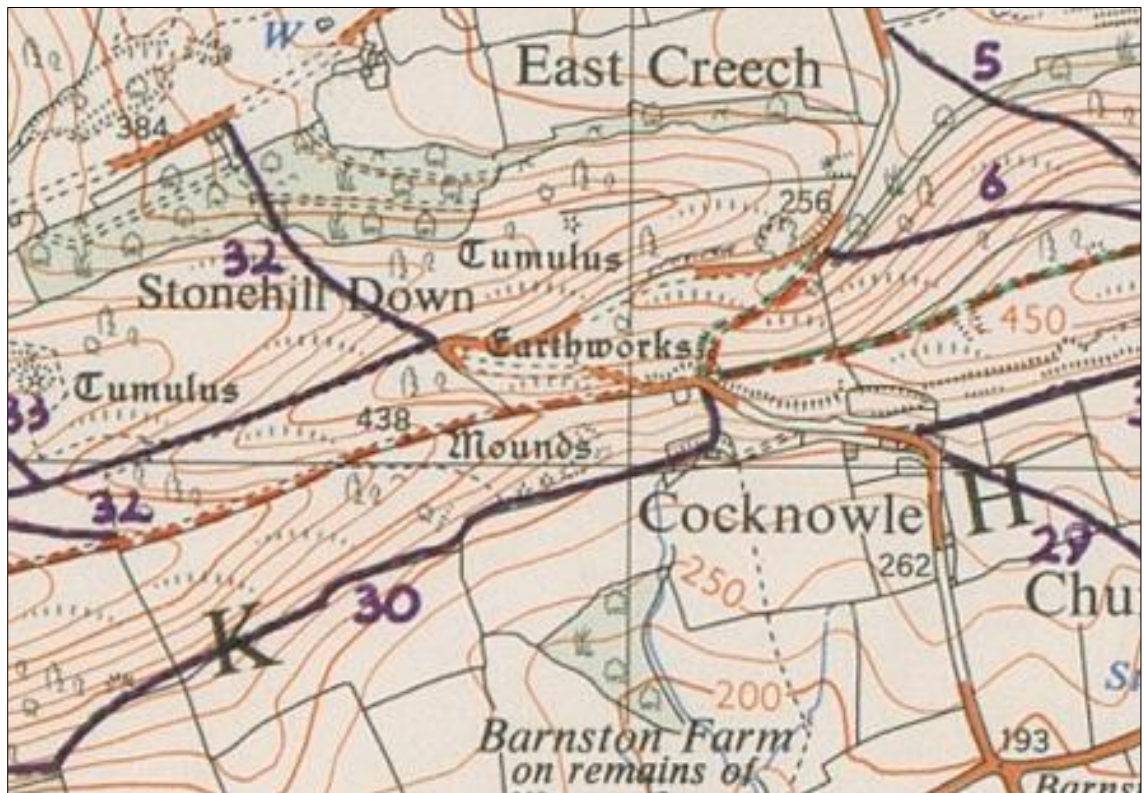
Provisional map 1964



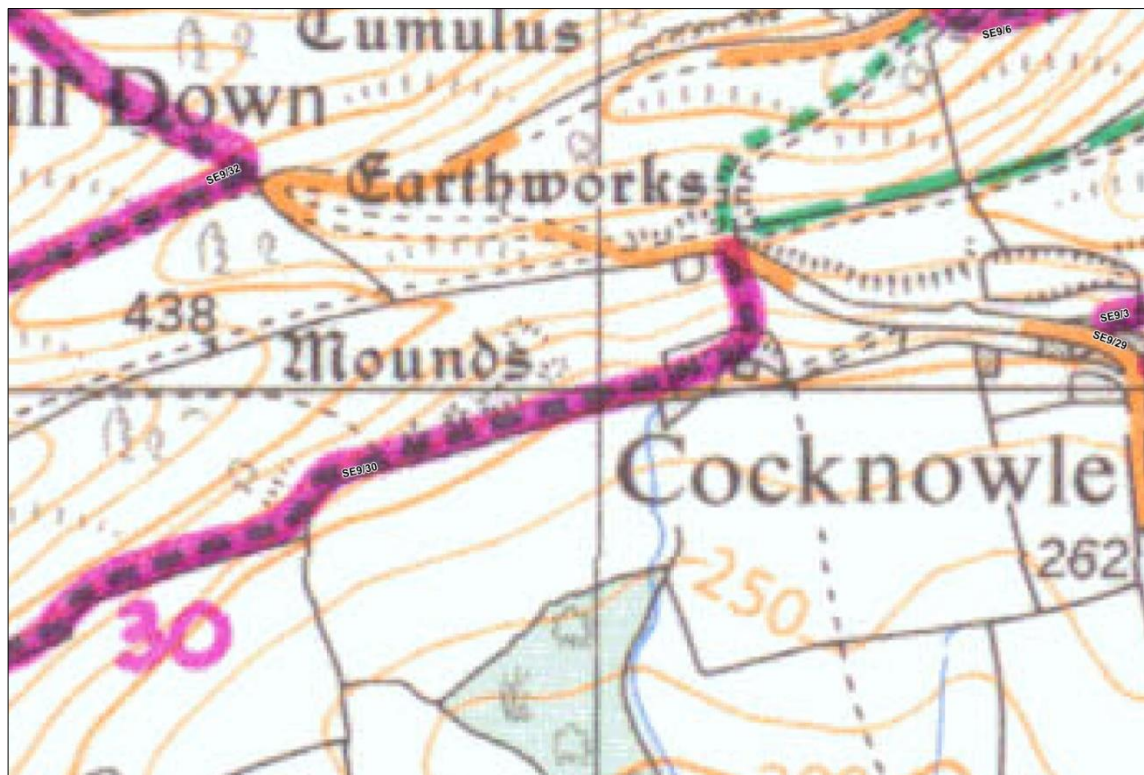
First definitive map 1967



Revised draft map 1974



Current definitive map 1989



Summary of Church Knowle Parish Council Minutes 1950 – 1973

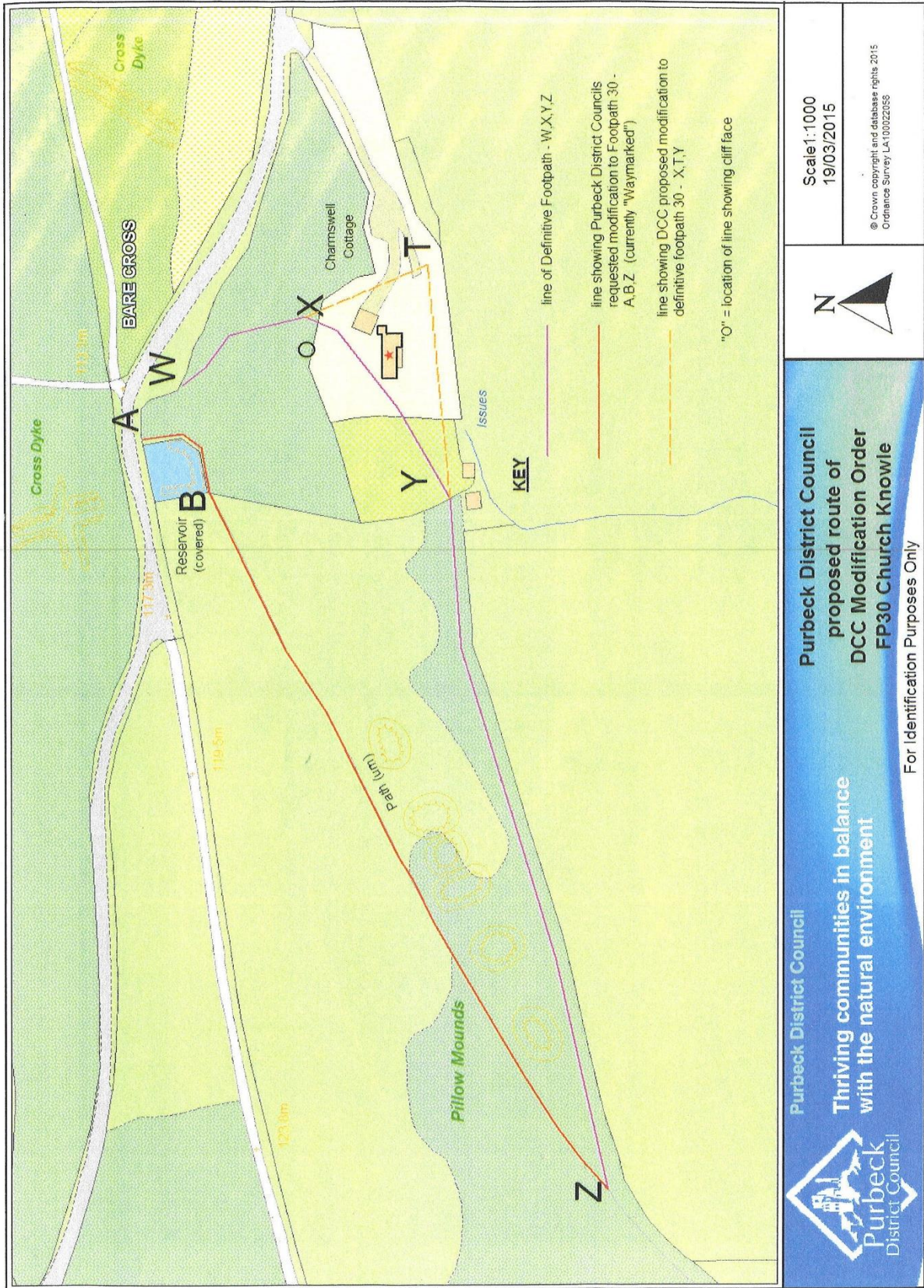
- 1 The Church Knowle Parish Council minutes have been examined. They reveal that during their Annual General meeting held on 1 June 1950 the forthcoming survey of public rights of way, in response to the National Parks and Access to the Countryside Act 1949, was discussed. However, as the parish was yet to receive maps of the parish nothing could be decided at this stage. It was agreed that the Clerk and Mrs Best would attend the meeting with the County Planning Officer at Westport House.
- 2 During the Parish Council meeting held on 21 September 1950 it was agreed that the members for Church Knowle would finish their part of the rights of way survey first before passing the maps to the East Creech and Furzebrook members to complete.
- 3 At their Annual General Meeting held on 1 June 1951, a letter was read from the Planning Officer at Dorchester complimenting them on the excellent way the survey of rights of way had been completed.
- 4 At their Annual General Meeting held on 3 June 1954 the Chairman stated that she had received from the County Planning Officer a supply of blank schedules to be completed for the rights of way survey. After discussing this with the Vice Chairman it was decided that it was impossible for the “ordinary lay man” to complete the schedules properly, and on being informed of this the Planning Officer agreed to do them for the Parish Council.
- 5 At their meeting held on 13 October 1955, the Clerk stated that since the 1 July the Draft Map and Schedules for the parish had been deposited at the Post Office and at Westport House for public inspection. They would remain on deposit until the 5 November during which time any objections may be made in writing to the County Planning Officer at Dorchester.
- 6 At their meeting held on 19 January 1956 it was stated that 43 objections had been received by the County Planning Officer in respect of the rights of way in the Parish. The Chairman had informed the Planning Officer that he was “unable to provide any documentary evidence substantiating the Councils claims to these footpaths”.
- 7 At their meeting held on 16 April 1957 the objections lodged against the rights of way shown on the Draft Map were discussed at length. It was decided to instruct the Clerk to return the evidence forms to Dorchester with suitable comments.
- 8 At their meeting held on the 7 November 1957 the Clerk reported that a total of 67 objections had now been received by the County Planning Officer who had asked the Council for their observations on the evidence entered on the objection forms. It was determined that the objections in respect of the footpaths described on the Draft Map as numbers 5; 9; 11; 12; 13; 14; 19; 20; 24; 25; 26; 27; 28; 31; 33; 35; 39; 40; 41; 46; 47; 48; 49 50; 51; 53; 54; 61; 62; 63; 67; 68; and 69 be accepted, and those in respect of numbers 4; 7; 8; 15; 22; 30; 32; and 45 be rejected. Additionally, the objections made by the Rights of Way Committee would be rejected and those made by Col Bond in respect of those paths numbered 36; 56; 57; 58; 59; 60 and 65 would be accepted.

- 9 At their meeting held on 29 January 1958 the Council were informed that the hearings into the 67 objections would be held at the Corfe Castle Village Hall on the 31 January and 5 and 11 February. Due to the short notice the Clerk responded stating that no member of the Parish Council would be able to attend but the Council felt that the matter would be dealt with safely by the County Planning Department on their behalf.
- 10 At their meeting held in December 1958 the Clerk reported that the public rights of way enquiries had been determined and the following alterations would be made to the Draft Map. Footpaths numbered 12; 24; 26; 27(part); 30(parts); 33; 35; 36(part); 40; 46; 47; 48; 50(parts); 54; 56; 57; 58; 59; 60; 61 and 65; and Bridleways numbered 8(parts); 9; 11; 19; 25; 28; 62 and 68 would be deleted. A footpath at Swyre Head from Corfe Castle boundary to Footpath 15 was to be added. Other amendments were to record paths 4; 7; 30 and 41 and part of paths 36 and 5 as bridleways and that part of Footpath 14 partially claimed as a bridleway to be a footpath only.
- 11 At their meeting held on the 24 September 1965 a letter was read from the Clerk of the County Council which requested that the Parish Council "provide names and addresses of witnesses who may be able to establish user of Footpath 25, as of right, for a period of twenty-five years". The Clerk was instructed to inform the County Council that the Parish Council knew of no witnesses and had no general information that would be of use.
- 12 At their meeting held on the 10 September 1971 the signposting of rights of way was discussed and the Review of Rights of Way within the Parish. With respect to the Review, the report from the Parish Meeting was discussed and it was resolved that the Parish Council should support the following new claims;
- 12.1 An additional footpath, an extension to Footpath 22 leading from West Orchard to the County Road, (supported by the County Council and the Ramblers Association)
- 12.2 A new bridleway leading from Furzebrook Telephone Kiosk to the Parish Boundary at the Railway (supported by the Ramblers Association and Mr Fooks)
- 12.3 A new footpath from road south of Creech Barrow east by north along the edge of wood to join Footpath 32 (supported by the Ramblers Association).
- 12.4 Claimed path of ascent to Creech Barrow (Supported by Ramblers Association and a number of individuals).
- 12.5 Extension of Footpath 21 through East Orchard to link with Footpath 55 (supported by the Ramblers Association, Mt Tennent and Mr Beber??)
- 13 It was also determined that the Parish Council should support the following proposed upgrades;
- 13.1 The upgrading of Footpath 30 to bridleway (bridleway 4 should remain a bridleway both these are considered by County Council to be unclassified roads)

- 13.2 The of Footpath 36 to bridleway (Supported by the Ramblers Association and Mr Hunt)
- 14 It was also agreed that the Parish Council should be made aware of any proposed changes likely to affect the Parish and ask for their support.
- 15 At their meeting held on the 21 January 1972 the Review of Rights of Way was again discussed it being reported that the claims had been submitted to the County Council. The proposed regrading of Footpath 30 and Bridleway 4 to Unclassified Roads was discussed and it was suggested that the landowners could apply to extinguish [the vehicle rights] it and they would wait for confirmation on that point.
- 16 At their meeting held on 17 March 1972 the signposting of Footpaths 17 and 34 was agreed. Mr Tennent reported that he had no further information in respect of the upgrading of Footpath 30 and Bridleway 4.
- 17 At their meeting held on 19 January 1973 it was reported that the remaining witness forms in respect of the Rights of Way Review had been returned to the County Council. It was agreed that Footpaths 5; 24; 27; 29; 34; 36 and 37 and Bridleways 4 and 16 should be signposted.

APPENDIX 5

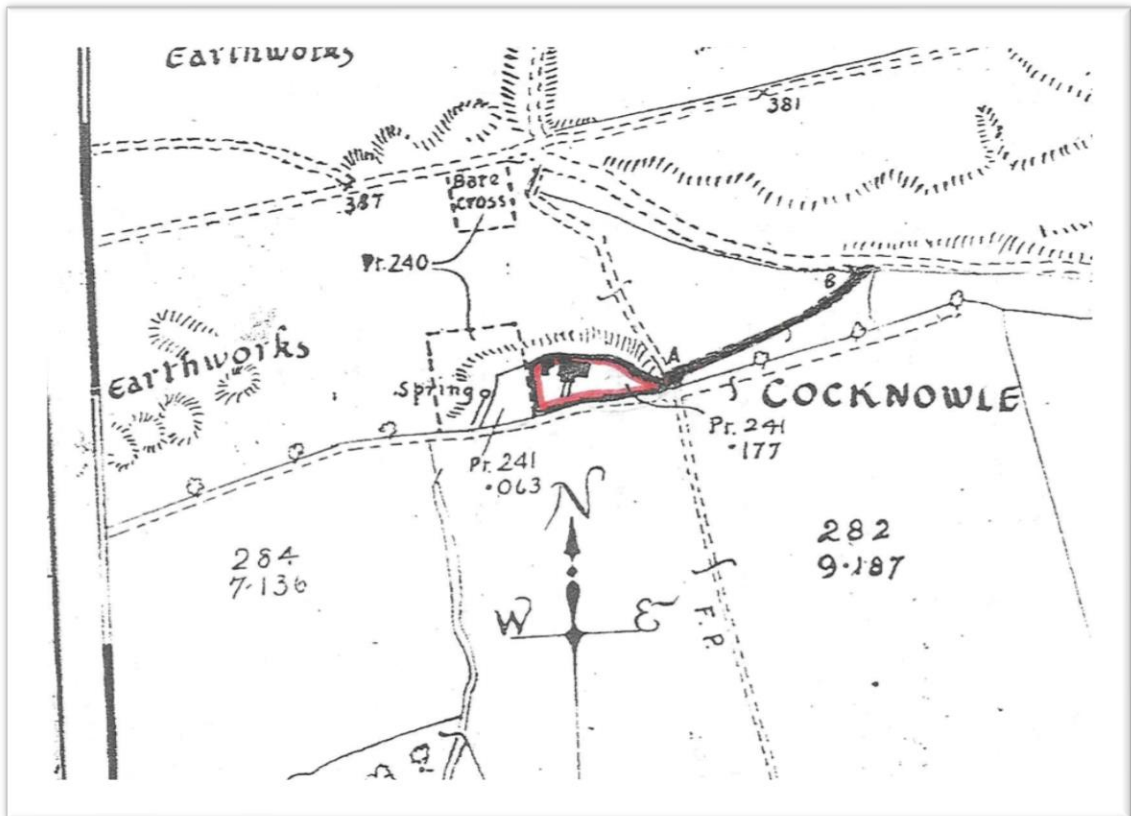
Plan submitted by Mr Hart



For Identification Purposes Only

Conveyance Plan - February 1965

APPENDIX 6



Conveyance Plan - July 1988

