

Somerset County Council

County Hall
Taunton
Somerset
TA1 4DY

Agenda No 7.

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25 FEB 2017

Miss J. Norris, Clerk
Ilminster Town Council
Council Offices
North Street
Ilminster
TA19 0DG

please ask for
Erica Darch

direct line
01823 356242

email
edarch@somerset.gov.uk

my reference
RW/533M

23 February 2017

Dear Miss Norris,

WILDLIFE AND COUNTRYSIDE ACT 1981 - SECTION 53 APPLICATION 533M UPGRADING FOOTPATH CH32/20 TO A RESTRICTED BYWAY AT GREEN LANE, ILMINSTER

I refer to the above application and my consultation letter dated 8 November 2016. As you may remember the application seeks to modify the Definitive Map by recording the above mentioned footpath as a restricted byway.

I can confirm that this application has now been investigated in accordance with our procedures. I have drafted a report based on my findings and this can be found enclosed.

Please note that, although the report includes a recommendation, no decision has been made at this stage. Instead this letter is intended to offer you an opportunity to comment on the findings and, if necessary, to provide any further evidence that you feel might be relevant. Any comments or evidence that you do submit can then be fully considered and taken into account before a decision is made.

If you have any comments on, or questions about, the provisional conclusions reached in the report please let me know by Friday 10th March 2017. If I do not hear from you within this time I shall assume that you have no further comments to make.

As mentioned in previous correspondence, it is important to be aware that any evidence or correspondence that is submitted as part of, or in response to, this consultation will be treated in accordance with data protection principles. In order to decide if a public right of way exists it may be necessary to disclose any information received from you. The information provided in any response to this consultation cannot be treated as confidential. You should therefore only provide us with the information if you are happy for it to be placed in the public domain.

As you will no doubt see, the report discusses a number of complex points. Therefore, if you do have any questions or if you would simply like to discuss the conclusion then please feel free to contact me.

Please note that this letter has also been sent to the relevant landowner(s), the applicant, parish council and local County Councillor as well as the chair of County Council's Regulation Committee.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Erica Darch', written in a cursive style.

Erica Darch
Rights of Way Modification Officer
Definitive Map Team

For Environment and Community Protection services 0845 345 9188
For Roads and Transport services 0845 345 9155
Fax 01823 356113/356114

SOMERSET



County Council

WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53, SCHEDULE 14
APPLICATION TO UPGRADE FOOTPATH TO RESTRICTED BYWAY
IN THE PARISH OF ILMINSTER

533m

Author: Erica Darch

Date:

This document is also available in Braille, large print, on tape and on disc and we can translate it into different languages. We can provide a member of staff to discuss the details.



RNID typetalk

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1. Introduction

1.1 On 29th March 2010 the South Somerset Bridleways Association made an application under Schedule 14 and Section 53(5) of the Wildlife & Countryside Act 1981 for an Order to amend the Definitive Map and Statement (DMS) by upgrading footpath CH32/20 to a Restricted Byway.

1.2 A restricted byway is a right of way which can be used by any member of the public on foot, horseback, bicycle or any other non-mechanically propelled vehicles such as a horse and cart.

1.3 The purpose of this report is to establish what public rights, if any, exist over the application route. Private rights may exist over and above any public rights but have no place in this investigation and do not form part of the decision making process.

2. The Application

2.1 The application is based on documentary evidence. The applicant supplied a number of documents with the application, as follows:

- Current Ordnance Survey mapping
- Photographs of each end of the route, undated but apparently taken at the time of the application.
- Ilminster Enclosure award 1820
- Greenwoods Map 1822
- Map of Ilminster 1824
- Deposited plan, route of proposed canal 1833
- Ilminster Tithe Map and Apportionment 1838 (submitted 16/11/16)
- Chard to Taunton branch line plan 1893 - 4
- Ordnance Survey 'Cassini-Timeline' re-print 1898 – 1900
- Ordnance Survey Object Name Book approximately 1903
- 1910 Finance Act maps (sheets 88-1) 1910
- Ordnance Survey 'Cassini-Timeline' re-print 1919
- Ordnance Survey 1 inch map 1946
- Ordnance Survey 1:25,00 map approximately 1950
- Ilminster Urban District Council Town Guides 1954, 1958 and fourth edition (undated)

2.2 No user evidence was submitted with the application.

2.3 The application route 'Green Lane' is shown coloured blue on Appendix 1. The route, which is wholly within the parish of Ilminster, follows the route of footpath CH32/20 from a junction with Home Farm Way in the west (point A on appendix 1) to a junction with footpath CH32/21 Winterhay Lane in the east (point B on appendix 1). The application route is approximately 440 metres long, with a grassed surface for most of the length, with a tarmacked surface for about 100 metres at the western end. The width

of the grassed surface is approximately 6 metres 10 cm, narrowing to 2 metres at the apex of a bridge over which the route runs (that bridge crosses a disused canal).

2.4 A land registry search was carried out on 18 October 2016. It identified that there were no registered owners for the claimed route. The Common Law presumption is that adjoining landowners own up to the centre point of the lane, in the absence of any evidence to the contrary. Adjoining landowners were identified for the majority of the application route, but the ownership of some parcels of land to the east of the application route remains unknown.

2.5 A previous application led to an investigation of the public rights of way over Green Lane (SCC case number 97M). That application was submitted 2 May 1989 by Ilminster Town Council. It sought to add a footpath over Green Lane and was supported by user evidence. During the course of this investigation it was claimed by a third party that the correct status of the application route was Byway Open to All Traffic (BOAT). An order was made 10 December 1993 to show Green Lane as a BOAT on the DMS. After objections were received a public inquiry was held 12 – 13 June 1995. Shortly before this inquiry Somerset County Council (SCC) requested the Inspector modify the Order to show the application route as a footpath after new evidence was discovered in the intervening period. On 25 August 1995 the Inspector confirmed the order, with modifications, to show the application route as a footpath¹. A second inquiry was held 4 March 1997 which culminated in the confirmation of the Modification Order for a footpath on 27 March 1997². The order route is now recorded as CH 32/20 on the DMS.

2.6 The majority of the evidence considered in this report was also considered during the previous investigation and inquiries and therefore, where appropriate I will refer to the Inspectors views on them. However, the current application is supported by evidence that was not considered as part of the previous investigation. This includes the 1893-4 Chard to Taunton branch line plan and c. 1903 Ordnance Survey Object Name Book (see paragraphs 4.9.12 and 4.3.6 respectively). In the circumstances the County Council is required to consider all of the available evidence, whether previously seen or not, in order to establish what, if any, rights exist over the route in question.

2.7 While not directly relevant to the application route itself, it is also worth noting that a public inquiry into the public rights of way over Winterhay Lane (SCC case number 252M) (which joins Green Lane, see appendix 1) culminated in the confirmation of an order to show Winterhay Lane as a footpath on 29 June 2016³. That route is now recorded as CH 32/21 on the DMS. Much of the evidence considered during that Inquiry also forms part of

¹ R. A. Blomfield MA, Inspector, The Planning Inspectorate, reference: FPS/G3300/7/37

² R. A. Blomfield MA, Inspector, The Planning Inspectorate, reference: FPS/G3300/7/37M

³ H. Cruickshank BSc (Hons), MSc, MIPROW, Inspector, The Planning Inspectorate, reference FPS/G3300/7/94

this investigation, and therefore, where appropriate, I will refer to the Inspectors conclusions from that case.

3. Relevant Legislation

3.1 The Wildlife and Countryside Act 1981 specifies in Section 53(2)(b), that the County Council must keep the Definitive Map and Statement under continuous review and must make such modifications as appear to them to be requisite in the light of certain specified events. In this case section 53(3)(c)(ii) is of particular relevance. It requires the Map and Statement to be modified where the County Council discover evidence which, when considered with all the other available evidence, shows;

"that a highway shown on the map and statement as a highway of a particular description ought to be shown as a highway of a different description".

3.2 The standard of proof to be applied in determining whether the DMS should be modified in consequence of an event under section 53(3)(c)(ii) is the 'balance of probabilities'.

3.3 Later in the same Act section 53(5) enables any person to apply to the Authority (Somerset County Council) for an Order to be made modifying the Definitive Map and Statement in respect of a number of 'events' including those specified in Section 53(3)(c)(ii) of the Act as quoted above. On receipt of such an application the County Council is under a duty to investigate the status of the route. It was under these provisions that the South Somerset Bridleways Association made their application.

3.4 The purpose of Section 53 of the Wildlife and Countryside Act 1981 is to record or delete rights rather than create or extinguish rights. Practical considerations such as suitability, security and the wishes of adjacent landowners cannot be considered under the legislation.

3.5 The Natural England and Rural Communities (NERC) Act 2006, extinguished rights for mechanically propelled vehicles (MPVs) over all routes which were not already recorded as byways open to all traffic. There were of course several exceptions to this general rule but none of those exceptions appear to apply in this case. There is therefore no question of rights for MPV's existing over the claimed route.

3.6 Section 32 of the Highways Act 1980 states that *"a Court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence and shall give weight thereto as the Court or tribunal considers justified by the circumstances, including the antiquity of the tendered 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"*.

3.7 Any changes to the Definitive Map must reflect public rights that already exist. It follows that changes to the Definitive Map must not be made simply because such a change would be desirable, or instrumental in achieving another objective. Therefore, before an order changing the Definitive Map is made, Members must be satisfied that public rights have come into being at some time in the past. This might be in the distant past (proved by historic or documentary evidence) or in the recent past (proved by witness evidence). The decision is a quasi-judicial one in which the decision maker must make an objective assessment of the available evidence and then conclude whether or not the relevant tests set out above have been met.

4. Documentary Evidence

The table below shows documentary evidence sources examined as part of this investigation. In some cases it has not been possible to view the original copy of a document and it has instead been necessary to rely entirely on an extract supplied by the applicant. Where this is the case the words 'extract only' follow the title of the document. In some cases it has been necessary to give those documents less weight on account of them only being viewed in part.

<p>4.1 Enclosure Records:</p>
<p>4.1.1 Explanation of the type of evidence Enclosure Awards are legal documents that can still be valid today. They usually consist of a written description of an area with a map attached. Awards resulted from a need by the landowners to gather together their lands and fence in their common lands. A local Act of Parliament was needed to authorise the procedure and an Enclosure Commissioner was appointed as a result to oversee the compilation of the award and map. Land was divided into individual plots and fields and redistributed amongst the existing owners. Enclosure Awards provide statutory evidence of the existence of certain types of highway. They enabled public rights of way to be created as necessary, confirmed and endorsed and sometimes stopped up. Enclosure Commissioners surveyed land that was to be enclosed and had the power to 'set out and appoint public and private roads and paths' that were often situated over existing ancient ways.</p>
<p>4.1.2 Winterhay Green Enclosure Award and Map 1820. Somerset Archives (SA) reference: Q/RDE/122 Appendix: 2 (Map) and 3 (Award and transcript of award).</p>
<p>4.1.3 Description and interpretation of evidence</p> <p>In order to improve the process of enclosure, the Inclosure Consolidation Act 1801 (the 1801 Act) set out a number of provisions which could be incorporated into future acts. This included giving the Commissioner the power to set out private roads, bridleways, footways, quarries, bridges, gates, stiles and a number of other features. In each case the owners and proprietors of certain allotments could be made liable for the features maintenance. The 1801 Act also provided for the Commissioner to set out</p>

public carriage roads and highways of a minimum width of 30 feet. Public roads set out as part of the enclosure were to be repaired and maintained in the same way as other public roads in the parish.

The Ilminster Enclosure Act 1815 (the 1815 Act) recites the 1801 Act and thus incorporates these provisions. As nothing in the 1815 Act appears to contradict the 1801 Act as far as setting out public or private highways is concerned, the provisions of the 1801 Act apply. Therefore, the Commissioner was empowered to set out both public and private roads.

The map, produced by William Summers, Surveyor, shows the application route labelled as No. 4 from its junction with Winterhay Lane (labelled No. 1) in the east leading to '81 Gravel Allotment' which encompasses the western end of the application route. At the west end of the gravel allotment there is a line across the route and a depiction of a gate or stile. No gate or barrier is shown at the junction between Green Lane and Winterhay Lane, but gates are shown at either end of Winterhay Lane. Another short road south of Green Lane is shown, also running west from Winterhay lane, terminating in a dead-end and labelled No. 5.

The award, which also recites the 1801 Act, describes Allotment No. 4, No. 5 and No. 1 as Private Roads, for the use of the owners, occupiers, tenants and their servants to access their allotments. Although this is a fairly wide group of people, it is still a defined and limited group and not the general public. A public right of way would have to be for use by the public as a whole, and not a limited group such as this. In the same award the Commissioner set out a number of routes as public roads and therefore clearly distinguished between these and private ways. In addition, public footpaths are also clearly defined, and are described as following the routes of some of the private roads.

The Gravel Allotment 81 is described as being for the common use of the landowners, occupiers and tenants of Ilminster for their own purposes and for the repair of public and private roads in the parish of Ilminster. The private roads in Winterhay Green are to be repaired by the owners and occupiers of the allotments in Winterhay Green (see appendix 3).

Case law confirms that there was a distinction between public highways and private roads from at least the 18th century, and that private roads bore rights of access which were limited to a "class which might be defined by any of a number of factors or criteria" i.e. for the use of a specified group of people rather than the public at large.⁴ Therefore this evidence shows Green Lane was set out as a private road and did not carry public rights. It also shows it terminated at the gravel allotment and it does not appear to have been considered a through route.

⁴ Sedley J. Dunlop v. Secretary of State for the Environment and Cambridgeshire County Council, discussed by Willmore, C. (July 1995) 'What is a 'private carriage road'? in *Rights of Way Law Review* Sec.9.3, p.73.

Taken in isolation this is excellent evidence that the application route had no public rights over it, which was also the conclusion of the Inspector in case 97M.⁵

4.2 Tithe Records:

4.2.1 Explanation of the type of evidence Tithe maps and the written document which accompanied them, (the apportionment) were produced between 1837 and the early 1850's in response to the Tithe Commutation Act 1836, to show which landowner owned which pieces of land and as a result how much they owed in monetary terms. The tax replaced the previous 'payment in kind' system where one tenth of the produce of the land was given over to the Church.

A map was produced by the Tithe Commissioners which showed parcels of land with unique reference numbers, and these were referred to in the apportionment document, which contained details of the land including its ownership, occupation and use.

Public roads which generated no titheable produce were not given a tithe number. For the same reason some private roads were also not liable to a tithe. However, both public and private roads could be subject to a tithe, if for instance, they produced a crop e.g. for grazing or hay cut from the verges.

The Map and Apportionment must be considered together. Roads were sometimes listed at the end of the apportionment and there was often a separate list for private roads.

Tithe maps provide good topographical evidence that a route physically existed and can be used to interpret other contemporary documents but were not prepared for the purpose of distinguishing between public and private rights and so tend to be of limited weight.

**4.2.2 Tithe Map, Ilminster, 1838. SA reference number: DID/Rt/M/84
Appendix number: 4**

Tithe Map, Ilminster, 1838. Copy from file for DMMO case 97M.

Appendix number: 5

**Tithe Apportionment, Ilminster, 1837 - 1839 . SA reference number:
DID/Rt/A/84 Appendix number: 6**

4.2.3 Description and interpretation of evidence

The map held by the South West Heritage Trust is now damaged, but a copy of the tithe map made during the investigation of an earlier case (97M) and extracts submitted by the applicant, show the application route numbered '1015' to the east of a stream. To the west, and continuing to the now B3168,

⁵ R. A. Blomfield, Inspector, The Planning Inspectorate, Reference FPS/G3300/7/37M, para.42, page 6.

Green Lane is unnumbered. The plot of land originally set out as a Gravel Allotment in the Enclosure Award is divided into plots numbered 269, 269a, and 269b and the application route is now shown continuing past these plots and connecting the east and south portions of Green Lane. The apportionment identifies 269 and 269b as 'Orchard' and 269a as 'House and Garden' all owned by Henry Downs and occupied by 'Himself'. '1015' is identified as 'Roads Rivers and Waste'. This number appears in several places on the tithe map on roads which are now public (including the now B3168, Station Road and New Road, Ilminster). However, it also appears on roads which are not now public, including (see appendix 4);

- a short section of road or track extending from the west of Winterhay Lane which no longer exists on the ground
- Rag Lane, which is a short section of track extending from the public road to the south of Eams Mill and over which there are no public rights recorded
- at least the western end of Bellmoor Lane which leads to and slightly beyond Bellmoor Farm which also carries no public rights

Some roads today not recorded as public vehicular ways, were given separate allotment numbers. For example, the road accessing Dillington House over part of which footpath CH14/14 runs is numbered 475a on the tithe map, and recorded in the apportionment as 'Road'.

Although identified as a 'road' (or possibly waste, since it is clearly not a river) this does not necessarily help in determining the status of Green Lane. A road can be either public or private, and both public or private roads could be included or excluded from the payment of tithes depending on whether or not they were productive. On this map, although some private roads are numbered separately and listed individually in the apportionment, some were also labelled '1015'. Therefore, while these documents might be indicative of the existence of vehicular right they do not assist in determining whether those rights were public or private. This accords with the view of the Planning Inspectorate during the 1995 investigations of Green Lane⁶.

4.3 Ordnance Survey Records:

4.3.1 Explanation of the type of evidence The Ordnance Survey (OS) are generally accepted as producing an accurate map depiction of what was on the ground at the time of a survey.

OS Maps cannot generally be regarded as evidence of status, however they indicate the physical existence of a route at the date of survey.

4.3.2 "1802" Ordnance Surveyors' Drawing **Appendix: 7**

Two short sections of road are shown in the position of what will become the southern ends of Green Lane (now Home Farm Way / footpath CH32/19) and

⁶ Blomfield, R. A. (1995), The Planning Inspectorate reference FPS/G3300/7/37, paragraph 66, page 10.

Winterhay Lane where they join what is now the B3168. Both sections are shown uncoloured with casing lines of equal thickness, terminating in enclosed rectangular ends at Winterhay Green (labelled Winter Green on the drawing). The area of the application route is shown, but the current application route is not shown on the map as a linear route of any kind, and there is no route linking the two ends of what will later be known as Green Lane and Winterhay Lane.

**4.3.3 "1886, 1904 and 1930" 6 inch: 1 mile Ref: 88NW
Appendix: 8**

The Ordnance Survey Characteristic Sheet for the Engraved Six Inch Maps of Great Britain published in 1897 identifies two types of road; Main Roads depicted with a thickened casing line (either solid or dashed) to the south or east, and Other Roads with casing lines of equal thickness (either solid or dashed). This appears to be in accordance with the Ordnance Survey's post-1894 convention of using a shaded casing line to depict 'metalled public roads for wheeled traffic kept in good repair'⁷.

The map surveyed and published in 1886 shows the application route with casing lines of the same thickness. The 1904 edition shows the application route in a similar way as 'Other Roads' with only minor changes to vegetation. The 1930 edition is as the 1904 map.

**4.3.4 "1887, 1903 and 1929" 25 inch: 1 mile Ref: 88.1
Appendix: 9**

The 1887 map was surveyed in 1886 and shows Winterhay Lane and the section of road which is now Home Farm Way / footpath CH32/19 coloured sienna with thickened casing lines to the east. The part of Green Lane which is the application route is shown uncoloured with casing lines of equal thickness which is identified by the separately published key *Conventional Signs and Writing Used on the 25 Inch Maps of the Ordnance Survey* as a minor, fenced road. There is a dotted line across the junction with Winterhay Lane, and a solid line across Green Lane where a stream passes under it, across which is a bracing line.

The 1903 edition shows all three of these routes with casing lines of equal thickness and a dashed line at the junction of Green Lane and Winterhay Lane. The map is uncoloured and no longer has a solid line across Green Lane at the stream.

The 1929 edition shows the route in the same way as the 1903 map.

**4.3.5 "1898" New Revised Edition 1 inch: 1 mile Ref: 311
Appendix: 10**

⁷ Southampton Circular quoted in 'Ordnance Survey Maps; a concise guide to historians' by Richard Oliver.

Revised in 1896 and published 1898 this map shows the application route with narrow casing lines of equal thickness. The key identifies this as a fenced unmetalled road. Third class metalled roads are shown in the same way, but with a wider gap between the casing lines.

4.3.6 Ordnance Survey Object Name Book, c. 1903. National Archives reference number: OS 35/6424.

Appendix: 11. (extract only).

The entry for Green Lane reads "A Public Road extending from Winterhay Lane in a Westerly direction for about $\frac{1}{4}$ of a mile to the railway." The entry is corroborated by Mr R. Stephens Surveyor to the Chard Rural district.

4.3.7 "1919" Cassini / Timeline reprint and key from original 1919 OS map.

Appendix: 12 (extract only).

The application route is shown as uncoloured with casing lines of equal thickness, although the casing line to the north is partially interrupted by the label 'Winterhay Green'. The key identifies this as either a road under 14' wide with a bad surface or a minor road. It is not possible to tell which from the extract provided as they are shown in the same way with only a slight difference in the width. The key also states that "Private Roads are uncoloured".

4.3.8 "1946" One inch New Popular edition Ref: 177

Appendix: 13

The application route is shown as uncoloured with narrow spaced casing lines of equal thickness. The key identifies roads depicted in this way as a 'Minor Roads in Towns, Drives and unmetalled Roads'. Roads with under 14 feet of metalling in bad condition are shown uncoloured with wider spaced casing lines of equal thickness. Comparison with other ways shown on the map and the key show the application route is depicted with the narrower spaced casing lines.

4.3.9 "1950" 1:25000

Appendix: 14 (extract only).

The application route is shown as uncoloured with casing lines of equal thickness.

4.3.10 "1958" 1:25.000, Ref: ST31

Appendix: 15

The application route is shown with casing lines of equal thickness, with a section of the route shown with grey rather than black casing lines. The key identifies this as 'Other Roads' (in contrast to Secondary, Trunk and Main) and 'Poor, or unmetalled'.

4.3.11 Description and interpretation of evidence

The Surveyor's Drawing clearly shows that the application route didn't exist on the ground in 1802, and there was no through route between the two short sections of road which would become the southern ends of Green Lane (now Home Farm Way / footpath CH32/19) and Winterhay Lane. Both routes appear to be access to property along their length, the area that will later be defined as gravel pits in the Enclosure award, and Winterhay Green.

The later 19th and 20th century maps clearly show the application route existed on the ground, although none depict the route in a way which indicates what public or private rights the surveyor believed existed over it. The 1887 25 inch to 1 mile map shows a solid line across the application route probably indicating a barrier, most probably a gate (although this line corresponds with the position of a stream, there is no similar line across Green Lane where it crosses another stream). A physical barrier across the route would be slight evidence against public vehicular rights (as it is rare, but possible, for public roads to be gated).

The OS maps are excellent evidence for the existence of the route on the ground, but would be consistent with either public or private rights. They do not help determine whether the general public had a right of way over the application route, or if they did, what type of right of way they had. OS maps themselves have carried a statement to this effect since 1888 and case law confirms this view.⁸

The OS produced 'object names books' the primary purpose of which was to ensure that the various names recorded on the maps (e.g. names of farms, roads, places etc) were accurate and correctly spelt. Each book contained a list of those names and a description of the feature to which they related which was later corroborated by a prominent member of the local community (e.g. landowner, clergyman). The OS Instructions to field examiners gave a list of the best individual authorities for this in the order in which they should be taken; "Owners of property; estate agents; clergymen, postmasters, and schoolmasters, if they have been some time in the district; rate collectors; road surveyors; borough and county surveyors; gentlemen residing in the district; Local Government Board Orders; local histories; good directories"⁹. This shows that although a surveyor was a good authority for a name, they were not considered the best authority by the OS. Were the names of roads only being considered the surveyor may have appeared higher up the list.

The Object Name Book suggests that at least one local person with knowledge of highways believed Green Lane to be a public road. This is good evidence in favour of the application but it is not conclusive of public vehicular rights particularly as the primary purpose was to check the spelling of names, not the status of roads. It therefore needs to be considered in the context of

⁸ Attorney General v Antrobus (1905), quoted in *DMO Consistency Guidelines – 5th revision July 2013*, Section 12, page 1

⁹ Quoted in Oliver, R. (2005) *Ordnance Survey Maps. A concise guide for historians* Charles Close Society for the Study of Ordnance Survey Maps, London, page 92.

the rest of the evidence.

4.4 Records relating to Ordnance Survey maps:

4.4.1 Evidence Source: Reference to Ordnance Map of Parish of Ilminster, c. 1900. SA Reference number: D/U/ilm/38/1.

Appendix: 16

4.4.2 Description and interpretation of the evidence:

Although the provenance of this document is unclear, it appears to be a book of reference apparently corresponding with the Ordnance Survey 1887 25 inch to 1 mile maps of Ilminster, but with different sheet numbers and slightly different areas given for the fields. The book lists the 'Number. On Ordnance map' followed by the 'Number of Sheet', 'Name of Landowner', 'Name of Occupier', 'Description' and 'Name or Situation' followed by the 'Statute Measure'. This information is similar to that recorded in OS area books or books of reference. However, these were not made after circa 1884 – 5¹⁰, so this was probably not produced by the OS. Green Lane is numbered 202 and Winterhay Lane 198 on the map, but neither of these numbers are entered in the book. Plots 209, 210 and 211 (the plots of land partially filling the area originally laid out as a gravel allotment in the Enclosure Award) are described as land, and cottage and garden.

Although numbered on the map few roads, public or private, are entered in the book of reference. Exceptions include;

- plot 860 which is listed as a 'Roadway' (extending south from the public road at Lawless Farm in Donyatt) and which is a dead-end and not now a public right of way of any kind
- plot 208 which was originally recorded as 'Land' 'Part of old canal' but was crossed through and 'Roadway only' written in (this corresponds with the private road 'The Old Orchard' which extends south from Green Lane),
- plot 184 recorded as 'Orchard and Drove' now a field.

The track numbered 192 which extends east from Winterhay Lane to Green Farm, and over which there is no public right of way is an example of a way numbered, but not listed in the book.

This shows that both public and private roads were not listed in this book of reference, and it is therefore not helpful in determining what public or private rights existed over the application route at the time.

4.5 1910 Finance Act

4.5.1 Explanation of the type of evidence The Finance Act of 1910 provided, among other things, for the levy and collection of a duty on the

¹⁰ Oliver, R. (2005), *Ordnance Survey Maps. A concise guide for historians* Charles Close Society for the Study of Ordnance Survey Maps, London, page 54

incremental value of all land in the United Kingdom.

Land was broken into land ownership units known as hereditaments and given a number. Land could be excluded from payment of taxes on the grounds that it was a public highway and reductions in value were sometimes made if land was crossed by a public right of way. Finance Act records consist of two sets of documents which are:-

- Working Plans and Valuation Books. Surviving copies of both records may be held at the Local Records Office. Working maps may vary in details of annotation and shading. The Valuation Books generally show records at a preparatory stage of the survey.
- The record plans and Field Books (small bound books) are the final record of assessment and contain more detail than the working records. The Record Plans and Field Books are deposited at The National Archives, Kew.

While the Valuation and Field Books were generally kept untouched after 1920, many of the working and record maps remained in use by the Valuation Offices and sometimes information was added after the initial Valuation process.

The 1910 Finance Act material did not become widely available until the mid 1980s. It cannot therefore have been considered during the Definitive map making process and can be considered "new evidence", if it is relevant.

4.5.2 1910 Finance Act Record Plan, sheet 88.1.

Appendix: 17 (extract only).

4.5.3 Description and interpretation of evidence

The working copy maps held at the South West Heritage Trust do not show valuations for the area of the application route.

The record plan uses the 1903 Ordnance Survey base mapping and shows the application route excluded from the surrounding hereditaments 799, 877, 483 and two further hereditaments on which the numbers are unclear. Although there may be other explanations, if a route in dispute is external to the numbered hereditaments there is a strong possibility that it was considered a public highway, normally but not necessarily, vehicular.

On the extract provided a short section of road to the south of Green Lane leading west from Winterhay Lane to a building and fields (labelled X to Y on Appendix 17) which is not a public road or right of way, is excluded from the surrounding hereditaments and was also set out as a 'private road' in the Enclosure Award (No. 5). It is possible the valuer for this area treated a road which was not public in the same way as public roads for the purposes of valuation because multiple landowners had rights over it, whether or not he was correct to do so at the time. The Consistency Guidelines give the example of routes laid out as private roads for multiple users in an enclosure

award as a reason for a road being excluded from the hereditaments on a valuation map other than because it was a public highway.¹¹ Green Lane was laid out in the enclosure award in just this way, as a private road for the benefit of multiple users (but not the general public). Therefore, although exclusion from a Finance Act map is good evidence for public vehicular rights, in this case it is possible it was excluded for other reasons unrelated to public rights, and the documents are therefore less helpful in determining what public rights exist over the route. This accords with the view of the Inspector in relation to 97M, (FPS/G3300/7/37, p10, para.66) who included the 1910 Finance Act documents with "factors that generally did not help decide if vehicular rights did or did not exist" and with the Inspector in relation to 252M, (FPS/G3300/7/94, p9, para.57) who did not consider the Finance Act information indicated public vehicular rights over Winterhay Lane. The Finance Act evidence therefore needs to be read in the context of all the other documents.

4.6 Highway Road Records held by the County Council

4.6.1 Explanation of the type of evidence The Local Government Act 1929 transferred the responsibility for maintenance of highways from Rural and Urban District Councils to County Councils. At that time 'Handover Maps' and schedules were prepared showing all roads to be maintained by the County Council at this point. Subsequent maps showing roads which the County Council was liable to maintain were produced in the 1930s, 1950s and in the 1970s.

4.6.2 1929 Handover Map and Schedule
1930's Road Records
1950's Road Records
Appendix: 18

4.6.3 Description and interpretation of evidence

The southern ends of Winterhay Lane and Green Lane (now Home Farm Way / footpath CH32/19) fall within the Ilminster urban area, for which it has not been possible to examine a map. The application route itself was in the parish of Ilminster Without but is not shown as a road maintainable at public expense on the 1929, 1930's or 1950's records. Had the route been shown on one of these documents it would have been excellent evidence in favour of the existence of public vehicular rights. However, its omission is not necessarily evidence that such rights did not exist.

4.7 Urban, Rural and Parish Council Minutes

4.7.1 Ilminster Urban District Council Minutes. SA reference: D/U/ilm/2/1/7. Appendix: 19

4.7.2 Description and interpretation of evidence

¹¹ *DMO Consistency Guidelines – 5th revision July 2013 Section 11.7 page 4*

No direct reference to the application route was found, but two entries of indirect interest were noted.

Minutes for a meeting held 24th January 1928.

"G. P. 284 Repairs Winterhay Lane.

In reply to an application by Mr I. J. Morgan that the Council should repair a portion of Winterhay Lane, the Clerk was instructed to call his attention to the provisions of the "Winterhay Enclosure Award".

Minutes of a meeting held 30th January 1929.

"G. P. 345 Repairs, Winterhay Lane.

A letter was before the committee signed by persons resident at Winterhay calling attention to the condition of the lane leading from the four cross way in Winterhay Lane up to Mr. Ashton's premises.

Resolved to recommend that as there was a public footpath leading from the New Road to this lane the surveyor be instructed to have this portion of the lane repaired so far as was applicable as a Public footway."

The first extract implies the Urban District Council refused to repair Winterhay Lane on the grounds that the Enclosure Award made the repair of the lane the responsibility of some other party. It also shows that the Urban District Council thought the conditions laid out in the award still applied at least as far as Winterhay Lane was concerned.

It is assumed that the "four cross way" described in the second extract refers to the point at the southern end of footpath CH32/21 where Winterhay Lane forms the north, east and south branches of a crossroads and the west branch is formed from a private road or drive. If this is the case then the section of Winterhay Lane to be repaired is probably that which runs east from the 'cross way' almost to the western end of footpath CH32/1. It seems likely that if Winterhay Lane north of this point and / or Green Lane were considered to have public vehicular rights then it would have been mentioned when discussing these repairs. Instead, only a public footpath is explicitly referred to and the repairs were to be limited to those suitable for a public footway.

As the application route itself is not discussed this indirect evidence can only be given slight weight against the application route having higher public rights than a footpath.

4.8 Definitive Map and Statement preparation records

4.8.1 Explanation of the type of evidence The Definitive Map and Statement were produced after the National Parks and Access to the Countryside Act 1949 placed a duty on County Councils to survey and map all public rights of way in their area. The process was undertaken in four stages:

- Walking Survey Cards and maps - Parish Councils were required to survey the paths they thought were public paths at that time and mark

them on a map. The route was described on a survey card. On the reverse of the card were details of who walked the route and when. Queries for the whole parish are often noted on a separate card.

- Draft Map – Somerset County Council produced the Draft Map from the details shown on the Survey Map. These Maps were agreed by the County Works Committee and the date of this Committee became the 'relevant date' for the area. The map was then published for public consultation. Any objections received were recorded in a Summary of Objections.
- Draft Modification Map – This stage in the process was non statutory. SCC produced a map to show any proposed changes as a result of objections to the Draft Map. Any objections received were recorded in a summary of Counter Objections to the Draft Modification map.
- Provisional Map – This map incorporates the information from the Draft Maps and the successful results of objections to the Modification Maps. These were put on deposited in the Parishes and District Council offices at this point only the tenant, occupier or landowner could object.
- Definitive Map and Statement – Any path shown is conclusive evidence of the existence and status of a public right of way until proved otherwise. The Definitive Map is without prejudice to other or higher rights.

4.8.2 Definitive Map and Statement for footpath CH 32/20 Appendix: 20

4.8.3 Description and interpretation of evidence

The application route was not recorded as a public right of way until the confirmation of Definitive Map Modification Order No. 4 (1993) which added a footpath (see paragraph 2.5 for details). Therefore the route does not appear on the Definitive Map and Statement preparation documents listed above. Since the confirmation of that order The Definitive Map has shown the application route in purple ink as footpath CH32/20.

The Definitive Statement describes footpath CH32/20 as "Another length of footpath starting at "Home Farm Way" west of "Home Farm" and running in an easterly direction for approximately 32 metres. It then runs in a north easterly direction for approximately 156 metres and then in an easterly direction for approximately 262 metres to join Winterhay Lane."

The available evidence in 1997 therefore showed that a footpath existed over the application route but that there were no higher rights. However, while the Definitive Map and Statement is conclusive evidence of what it contains it is not conclusive of what it omits. In this case new evidence has been put forward which was not considered in 1997.

4.9 Deposited Plans

4.9.1 Explanation of the type of evidence Railways, canals and turnpike roads all required an Act of Parliament to authorise construction. Detailed plans had to be submitted that showed the effect on the land, highways and private accesses crossed by the proposed routes. Plans were accompanied by a Book of Reference, which itemised properties (fields, houses, roads etc) on the line of the utility and identified owners and occupiers. Where there is a reference to a highway or right of way these documents can generally be regarded as good supporting evidence of its status at that date.

4.9.2 Plan of Proposed Canal from the Bridgewater and Taunton Canal at Creech St Michael to Chard in the County of Somerset 1833. SA reference number: Q\Rup/119. Appendix number: 21

Book of Reference of Proposed Canal from the Bridgewater and Taunton Canal at Creech St Michael to Chard in the County of Somerset 1834. House of Lords Record Office. Appendix number: 22

Conveyance associated with the Canal from the Bridgewater and Taunton Canal at Creech St Michael to Chard. The National Archives Reference: RAIL 889/9 (1836), RAIL 889/15 (1837) and RAIL 889/20 (1837). (extract only) Appendix number: 23

4.9.3 Description and interpretation of evidence

The plan shows the proposed route of the canal (which was eventually built) as a red line with details of the land it passes through on either side with the plots numbered. The application route is shown from its western end to about the midpoint, and although both the Turnpike (which will become the B3168) and the southernmost end of Winterhay Lane are shown, the junctions between these routes and Green Lane is beyond the limits of the plans. All the linear routes on the plan, including the application route, are depicted with casing lines of equal thickness and coloured buff. There is a transverse line across the application route at about the point it crosses a watercourse to the west of which it is numbered '14'. The turnpike road is numbered '25'.

During the investigation of DMMO case 97M the accompanying book of reference was found in the House of Lords Record Office in which plot 14 was described as a 'road to fields' with no owner, occupier or lessee listed. A road could be public or private, but given that it was described as leading to fields it is more likely to be private as only the owners, tenants or those whose employment took them to those fields would have a reason to use it, all of whom would have had a private right over at least part of the route by virtue of the Enclosure Award. This conclusion was supported by the Inspector in 1997 who inferred that in 1833 the application route was "certainly not a public road".¹²

¹² The Planning Inspectorate report FPS/G3300/7/37M, p4, para. 25, March 1997.

The bridge which carries the application route over the former canal was examined on 10 November 2016 and was found to have suffered significant damage, erosion and repair, and is now partially overgrown. The gap between the surviving parapets of the bridge at about the apex was measured and was found to be 2 metres. During the investigation of 97M when the bridge was more accessible and more of the original structure survived the parapets of the canal bridge were found to be 2.4 metres apart. Comparison with other bridges carrying public roads over the same canal showed it was considerably narrower than the standard public road bridge width of 4.5metres. As the canal bridge has altered significantly since 1995 any re-examination of it today would be less informative than that carried out during the investigation of 97M. The width of the canal bridge therefore seems to be more consistent with a private road than a public one.

An undertaking such as a canal would have required considerable investment, and it would have been a major concern of the commissioners of the plan to ensure information such as the owner of land through which the canal would travel was accurate. If there were inaccuracies in the plan it could have prevented, or at least delayed, the private act's passage through Parliament. Therefore, this is good evidence that the application route did not carry public vehicular rights in 1833.

When the canal was built it was necessary for the land through which it would pass to be purchased. The conveyance documents for the relevant parcels of land have been supplied by the applicant. The numbering used on the conveyancing does not correspond exactly with that used on the deposited plan.

The conveyance from Henry Down of a plot numbered 14 (corresponding with plot 15 on the deposited plan) relates to land described as being bounded on the south by "a roadway leading from the Ilminster and Honiton Turnpike road to Winterhay". A plan in the margin of the document shows plot 14 coloured red with a short section of Green Lane labelled 'Road' to the south.

The conveyance from Thomas Burrough describes the plot of land to be sold as numbered 16 and coloured blue on the plan. The plan shows the plot of land numbered 16 (the same number as that used for this plot on the deposited plan) and the part being conveyed coloured blue. It is bounded on the north by part of the application route which is labelled 'Road'.

The conveyance from Thomas Bower describes the land which will be used for the canal as coloured red and labelled 17 (the same number as that used for this plot on the deposited plan), to be exchanged for the plot coloured green which was part of the land purchased from Henry Down. Part of the application route is shown, but not numbered or described.

No conveyance for Green Lane itself has been found. However, the Enclosure Award did not assign a landowner to the private roads or gravel allotment (through which the canal runs on the plan) and it may therefore not have been possible to identify an individual landowner to purchase the land from.

The description of the application route as a 'road' in the conveyance documents does not help determine whether or not there were public rights over it or what those rights may have been as a 'road' could be either public or private.

4.9.4 Taunton and Chard (Canal) Railway. Plan and section. 30 November 1845. SA reference number: Q/Rup/191

**An Act to enable the Chard Canal Company to convert into a Railway the Portion of the Chard Canal from Creech Saint Michael to Ilminster, all in the County of Somerset. 16 July 1846. SA reference number: DD/SAS/C909/132/14
Appendix number: 24**

4.9.5 Description and interpretation of evidence

This scheme was not implemented but resulted in an Act which authorised the construction of the scheme and would have been subject to the Railway Clauses Consolidation Act of 8 May 1845.

The Taunton and Chard (Canal) Railway (TCCR) plan (which was drafted in the same year as the BWEJR plans, see below) shows the proposed route of the new line over the route of the existing canal. The plan also gives the limit of deviation. About two thirds of Green Lane is shown from almost the west end of the application route, but neither the junctions with Winterhay Lane nor with the now B3168 is covered by the area of the plan. Green Lane is numbered 37 to the east of the canal and proposed railway line. The book of reference identifies 37 as a 'Parish road', the owner or reputed owner as 'Richard Sharland, Surveyor of Highways' with no lessee or occupier. Plot 36, which appears next to the application route on the plan, is identified as a Bridge owned by 'The Company of Proprietors of the Chard Canal Navigation, Isaac Cooke and Sons, clerk, Richard Sharland, Surveyor of Highways'. The bridge is recorded as being in the occupation of 'Richard Sharland, Surveyor of Highways'. Richard Sharland is identified as the owner of other plots without his role as Surveyor of Highways.

At least one public footpath (corresponding with footpath CH32/5) is shown as a single dashed line. It runs through several plots of land including plot 65 and 66, is labelled 'Publick Footpath' but is not numbered. The book of reference described plot 65 and 66 as including a footpath.

The now B3168 is numbered 49 on the plan and described in the book of reference as 'Turnpike road' owned by 'Trustees of the turnpike road leading from Ilminster to Honiton, John Baker, clerk'. Plot 34 (a short linear route leading from Green Lane) is identified as "Occupation Road" owned by John Scott Gould, Thomas Burrough and Henry Down". Other occupation roads are described in the book of reference.

The section plan, which only shows features actually crossed by the intended

line of the railway, describes a "Public road to be lowered 9 feet and crossed on level See Cross Section No. 22" which corresponds with the position of the application route. A level crossing on a public carriage road would usually be contrary to the provisions of the Railway Clauses Consolidation Act 1845. However, the Act of Parliament which authorised the construction of the TCCR specifically allows for the railway to be constructed on the level "In the Parish of Ilminster, the public Road numbered 37".

It is clear the TCCR surveyor believed Green Lane to be a public road. At least three types of road are identified – Occupation Roads which seem to be private, Parish Roads which the section plan identifies as public roads, and Turnpike Roads. Footpaths are identified as such on the plan and in the book of reference and if the surveyor believed the route to be a footpath or occupation road he would have shown it as such particularly as crossing public roads was more costly than crossing private ones.

The TCCR documents are strongly in favour of public vehicular rights. Although never constructed, the plans must have been prepared to at least the standard required by parliament to successfully result in an Act. It would not have been in the interests of the railway company to record a route as public if it was not because it was more expensive to cross a public road than a private one. Extensive consultation had to be carried out in advance of the plans being submitted to parliament, and The Surveyor of the Highways would have been likely to object if a road was recorded as public in error in case this lead to his liability for future maintenance. Finally, the plans require the application route to be crossed on the level. Under the Railway Clauses Consolidation Act public carriage roads could not be crossed on the level unless specifically authorised by the individual railway act. The 1846 act which authorised the construction of the TCCR therefore lists the roads where level crossings were authorised which includes the application route identified as a public road. The status of the route as a public road is therefore confirmed in an act of parliament.

**4.9.6 Plans and Sections Bath, Wells and Exeter Junction Railway 30 November 1845. SA reference number: Q/Rup/199.
Appendix number: 25 (plans) and 26 (book of reference)**

4.9.7 Description and interpretation of evidence

This scheme was not implemented but would have been subject to the Railway Clauses Consolidation Act of 8 May 1845.

The plan of the Bath, Wells and Exeter Junction Railway (BWEJR) shows the proposed route and line of deviation of the line. Although not within the line of deviation the western end of the application route is shown along with the road which is now Home Farm Way / footpath CH 32/19. Home Farm Way is numbered 27 and described in the accompanying book of reference as a "Drove" and the owner or reputed owner as "Richard Sharland Surveyor of the Highways of the tything of Winterhay". No lessee or occupier is listed. The road which will become the B3168 is numbered 33 and listed in the book of

reference as "Turnpike Road" owned by "The Commissioners of the Ilminster turnpike roads John B[...] J[...] of Ilminster their Clerk". No lessee or occupier is listed.

Richard Sharland is also listed as the owner of the River Isle and, with Mr Marshall, a stream, as well as other property, where his name only appears and not his role as Surveyor of Highways. Elsewhere in the book of reference the terms 'Occupation Drove' (4, owned by John Collins, occupied by Malachi Collins and not currently recorded as a public right of way) and 'Parish Road' (46 in Donyatt Parish, owned by George Paul, Surveyor of the Highways, no lessee or occupier and now a public road) appear.

The fact that Richard Sharland as Surveyor of the Highways is given as the reputed owner for Green Lane in the BWEJR records is good evidence of public vehicular rights. However, there are plausible alternative explanations. Firstly, the Winterhay Green Enclosure Award of 1820 set out allotment 81 for gravel for the repair of public and private roads. That allotment could have been accessed by the section of road numbered 27 on the BWEJR plan. Richard Sharland may therefore have been named as the owner in his capacity as Surveyor of the Highways not because the road had public vehicular rights over it, but because the Surveyor of the Highways would have used it to access materials for the repair of public roads. It appears that by 1845 the gravel allotment was no longer in use as the land it was on is identified on the BWEJR plan and in the book of reference as 23 and 24, Cottage and Garden and Garden, not gravel pit. However, this does not in itself mean that the rights granted by the enclosure award would have been lost. The second alternative explanation is that although these plans should have been subject to a rigorous consultation process, as the application route and the road that will become Home Farm Way fell outside of the line of deviation their details may not have been subject to the full scrutiny that the areas within the line of deviation were.

The term 'Drove' in the BWEJR book of reference is also important. Although a drove has been defined as a route for the long distance movement of animals for the purpose of trade the term doesn't seem to have been used consistently in this way in the past¹³. Frequency of the term 'Drove' in the names of tracks with or without public rights of way in Somerset would suggest that locally the term had a different meaning probably relating to the physical characteristics of the way. For example Slade's Drove, Copse Drove, Middlemoor Drove, Stanmoor Drove and Brownings Drove between North Newton and Burrowbridge, and Hatch Drove, Broadway Drove, Swell Drove, Fivehead Drove and South Drove in the parish of Fivehead. Irrespective of their public or private status, all of these appear to be relatively short distance tracks accessing fields.

¹³ Moore-Colyer, R. J. (1998) 'Drove Roads' in *Rights of Way Law Review*, October 1998, p7 – 13. See also Wright, J. (1905) *The English dialect dictionary, being the complete vocabulary of all dialect words still in use, or known to have been in use during the last two hundred years*, The English Dialect Society, Oxford in which a variety of uses of the term 'drove' are given including "a rough track affording access to marsh-lands; a road leading to different fields; a roadway, not a constructed road".

The discrepancy in the terms used on the TCCR (see above) and BWEJR plans to describe the same route (parish / public road and drove) implies either uncertainty or inaccuracy in at least one document, or the inconsistent definition of the terms used at the time. One of the reasons deposited plans are considered such reliable evidence of the status of the routes they show is that the process of creating the plan and book of reference included consulting (amongst others) the Surveyor of the Highway and Waywardens. In this case, two plans of the same date refer to the same route in two different ways, and although the TCCR documents are unambiguous, the BWEJR documents are more open to interpretation. However, it is possible consultation on areas outside of the line of deviation was not carried out in the same way as for those features which would potentially be affected by the railway and there was therefore no opportunity to challenge the term 'drove'. Richard Sharland as Surveyor of the Highways being named as the owner is in favour of public rights of some kind and when read in conjunction with the TCCR documents it seems likely Richard Sharland as Surveyor of the Highways was named as the owner because the route was thought to be a public road.

4.9.8 Evidence source: Proposed Railway from Yeovil to Exeter with Branches, 1846. SHC reference number: QRUP/213. Appendix number: 27

4.9.9 Description and interpretation of evidence

The plan shows the west end of the application route and the southern part of Green Lane continuing to the now B3168 along approximately the route of what is now Home Farm Way. This route is labelled 38 on the plan, but no accompanying book of reference was found and the application route is not shown in the sections.

Apart from confirming the physical existence of the route, without a book of reference, this evidence is unhelpful in determining public rights over the application route and is given no weight.

4.9.10 Chard and Taunton Railway Plans and Sections Session 1861. SA reference number: QRUP/273d. Appendix number: 28 (plan and section) and 29 (book of reference)

4.9.11 Description and interpretation of evidence

This source includes plans, sections and a book of reference for a scheme which was later built. The proposed route of the railway line is shown on the plan running through Green Lane at about the western end of the application route with Green Lane itself being numbered 34 and the road that is now the B3168 numbered 24 on the plan. All linear routes shown on the plan are shown in the same way with casing lines of equal thickness.

The section describes the application route as 'Road' and the Book of

Reference describes 34 as "Occupation Road" and the owners or reputed owners and occupiers as "William Channell and Henry Down". The B3168 is recorded as a "Turnpike Road" owned by "The Trustees of the Ilminster Turnpike".

Elsewhere the Book of Reference describes number 7 in the parish of Ashill as "Pasture Field, Footpath and Occupation Road" and the sections distinguish between Turnpikes, Roads and Public Roads.

This shows that different types of road and right of way were identified and recorded in detail, and that the surveyor believed the application route to be an occupation road in private ownership. If he had believed it to be a public road or footpath he would have shown it as such.

Although not completely immune from error, deposited plans and the accompanying books of reference for railway schemes were prepared to a high standard and were available for public scrutiny¹⁴. In isolation, therefore, these records are considered very good evidence that the application route was not considered to carry public rights in 1861. However, the way in which the application route is described is different from both of the 1845 railway plans. Although this scheme was built and the two 1845 schemes were not, all three should have gone through a similar rigorous process of consultation regardless of whether or not they were built.

**4.9.12 Chard to Taunton Branch Line, 1893 - 4. The National Archives reference: RAIL 247/178 (extract only)
Appendix number: 30**

4.9.13 Description and interpretation of evidence

This plan dated 1893 - 4, is for part of the railway which was built in 1866 (see 4.9.10 and 4.9.11, above). It shows the west end of the application route coloured yellow, numbered '34' and labelled 'from Ilminster'. Red lines around pale pink shaded areas divide up the track and immediate surroundings into irregular portions which seem to correspond to the numbered plots of land identified on the 1861 plan albeit for a smaller area. Where the plots are numbered they correspond with the 1861 deposited plan but no separate book or reference has been submitted or found for the 1893 - 4 plan. The application route is partly included and partly excluded from the shaded areas.

The plan seems to relate to land ownership, perhaps prior to the railway being built, and also makes particular note of culverts. Without a key all that can be determined is that the west end of the application route existed on the ground, and that the surveyor believed a route existed from this west end of the application route to Ilminster but not whether this route was public or private, vehicular or otherwise. It doesn't indicate who held what rights over the route, and doesn't provide additional information to that included in the 1861 plan. This accords with the view of the Inspector when he looked at this document in relation to 252M, (FPS/G3300/7/94, p8, para.47) who concluded that "The

¹⁴ DMO Consistency Guidelines - 2nd revision May 2013 Section 10.2 - 10.4, page 2

book of reference is not before me and I am unclear on the reason for and status of this plan given the information apparently in the 1995 order decision that the railway opened in 1866”.

As its purpose and meaning (particularly in relation to public or private rights of way) are unclear, it is given little weight in this investigation.

4.10 Other Maps

4.10.1 Greenwoods 1822

Appendix: 31

4.10.2 Description and interpretation of evidence

Green Lane is shown with casing lines of equal thickness running from Winterhay Lane to the now B3618 with a solid line across the junction with the B3168. The map includes a key which identifies the application route as a Cross Road.

The term ‘cross road’ was clearly not being used to refer simply to the point at which two roads cross. While the precise meaning of the term therefore needs to be considered in relation to what the map itself shows, it is worth noting that in one prominent case the courts defined the same term as meaning ‘a public road in respect of which no toll is payable’¹⁵ (my emphasis). In that case the judge was not referring specifically to Greenwoods map but to a different map and it is of course possible that the term was used for a different purpose on different maps¹⁶.

The majority of routes shown on Greenwood’s map would appear to be public roads. However, it also includes routes depicted in the same way as the application route which are cul-de-sacs and apparently access to land or buildings only. For example, the track or drive leading from Winterhay Lane to Manor Farm, a track leading from Winterhay Lane and part of the current footpath CH14/11 which provided access to Green Farm and neighbouring properties.

As the map was produced for use by members of the public it is very likely that the surveyor would have placed more importance on depicting those roads that he believed to be publically accessible. However, at a time when travel could only be on foot, horseback or by horse drawn vehicle, it is entirely plausible that footpaths and bridleways could have been included as important routes. It seems likely that Greenwood either did not consider all ‘cross roads’ to be public vehicular routes, or that he did not make very careful checks about the public status of the routes he recorded.

Overall therefore, Greenwood’s map is not good evidence for public rights over the route, and not good evidence for distinguishing different levels of

¹⁵ Hollins v Oldham (1995) in *DMO Consistency Guidelines – 5th revision July 2013*

¹⁶ Section 2.24, page 7, *DMO Consistency Guidelines – 5th revision July 2013*

public rights.

4.10.3 Nightingale's New Survey Map of Somerset, Dorset, Wiltshire and parts of the adjoining counties showing County Boroughs, Municipal Boroughs, Urban Districts, Rural Districts, Railways, Roads, Road Distances, Parks, Woods & c., circa 1920. SA reference number: DD/X/BAN/6.

Appendix number: 32

4.10.4 Description and interpretation of evidence

A map at the scale of 1 inch to 3 miles, including a key showing footpaths as parallel dashed lines, roads as parallel continuous lines, and main roads coloured red, as well as other details.

Neither the application route, Winterhay Lane or the southern end of Green Lane (now Home Farm Way) joining the now B3168 are shown on the map as a road or footpath.

In the title and key the map maker clearly indicates that the map shows roads and footpaths, and as a commercial map for sale to the general public it might be expected that public roads and public footpaths would be shown.

Therefore omission from the map might be slight evidence that the map maker did not consider the application route or Winterhay Lane to have public rights. However, at this scale it seems that minor routes might have been omitted. For example, Ludney Lane, Wood Close Lane, Longforward Hill and an un-named road which form all the public roads leading into the village of Allowenshay south-east of Ilminster, and the village of Allowenshay itself, are missing from this map as are other public roads leading north and south from the Fosse Way between Dinnington and Lopen. Alternatively, the surveyor may have made a mistake, or failed to make sufficient enquiries into the status of the route.

4.11. Manorial and Estate Records

4.11.1 "The Manor and Town of Ilminster being the property of the Rt Hon. Frederick Lord North of Dillington made by Samuel Donne of Melbury Osmond in Dorset" 1768. SA ref: DD\CA/165

Appendix: 33

4.11.2 Description and interpretation of evidence

A pre-enclosure map covering the whole area of the application route, drawn in detail with individual houses, bridges, gates etc. Almost all linear routes are shown with casing lines the same on both sides consisting of shading either with a single line to one side or between parallel lines, with a few shown with dotted casing lines. Barriers between fields are shown as parallel lines with shading between and individual fields are numbered and / or named. Some roads are named, some are identified as Turnpikes, and some of the roads which continue beyond the surveyed area are labelled with the destination. There is no key.

Two short sections of linear way are shown in the position of what will become

the southern ends of Green Lane (now Home Farm Way) and Winterhay Lane where they join what is now the B3168. Both sections are depicted with casing lines consisting of shading between parallel lines. Neither are named or numbered and both clearly terminate after only a short distance at the point they meet what was a large open area known as Winterhay Green. In each case there are gates onto the Green. The current application route is not shown on the map as a linear route of any kind, and there is no route linking the two ends of what will later be known as Green Lane and Winterhay Lane.

Other cul-de-sacs which could only have been access to property or fields are depicted in the same way, for example (see appendix 32);

- a short linear route leading to a house between field 19M and 21N
- another accessing several plots and terminating at 48S and 17C
- the route of foot path CH 14/9 with a stile or gate across the end.

Some routes which are today recorded as footpaths are shown in the same way as what will become the southern end of Home Farm Way (casing lines consisting of shading between parallel lines) including CH 32/16. No way is shown providing access to a number of properties to the north east of Winterhay Green.

Although the book of reference exists no additional information relating to the application route was contained within it.

The detail within the map indicates the survey of the physical features was carried out accurately. Therefore, if a public vehicular route existed physically it would be shown on the map. No linear route is shown on or approximating the application route and the southern end of what will become Home Farm Way is shown with a definite terminus. This is excellent evidence that the application route did not exist as an enclosed and defined route in 1768. However, the possibility that a public footpath or bridleway existed, unfenced and not well defined physically on the ground, is not disproved by this map.

4.11.3 Map of the Parish of Ilminster in the County of Somerset 1821. SA reference number: DD\CA/335.

Appendix number: 34

4.11.4 Description and interpretation of evidence

The applicant provided copies of a map of Ilminster dated 1824 with the application (South West Heritage Trust reference number T/PH/S/C/1289) which subsequent investigation has shown is a modern copy of the map contained as appendix 34 in this report (DD\CA/335). During the course of copying the map it appears that the date was miss-transcribed as 1824 when it should have been 1821, and giving the false impression that this map was republished. This has been confirmed by the South West Heritage Trust who have amended their catalogue. It is the original map correctly dated 1821 which I refer to below.

The map is by William Summers, Surveyor, and shows details of Ilminster and

surrounding area. The explanation or key distinguishes Arable Lands, Meadow and Pasture, Orchards and Gardens, Roads and Rivers, Woods and Plantations, Buildings, and the outline of five Tithings. 'Roads' are shown pale yellow with green vegetation to either side. The fields are numbered. Winterhay Lane, the road that is now the B3168, the section of Green Lane that runs west from Winterhay Lane and the road that will become Home Farm Way running from the B3168 north are all shown in the same way as 'roads'. The private roads leading to Manor Farm, Winterhay Lane Farm and Green Farm are depicted in the same way. Some of the areas around buildings are also shown coloured pale yellow. None of the roads are numbered. The east end of Green Lane and the road that will become Home Farm Way are separated by a plot of land numbered 269 which corresponds to the plot numbered 81 and described as a gravel allotment in the Enclosure Award and Map discussed above. Both ends of plot 269 terminate in transverse lines and no through route is shown.

The book of reference (*Particulars of the Lands and Premises comprising the parish of Ilminster in the County of Somerset with a rate of one shilling in the pound on the Value thereof according to the survey of 1822*, SA reference number DD\PLE/Box10) which is thought to relate to this map but which refers to a survey of 1822, a year later than the date of the map, does not include an entry for 269.

Although the exact purpose of this map is uncertain it includes detailed information suggesting it was carefully surveyed. Based on the inclusion of the tithing borders and the title of the probable book of reference it appears to be related to the valuation of land, payment of tax or payment of tithes and is therefore likely to be reasonably accurate in terms of the physical features shown. As all roads, public or private, are shown in the same way on this map it does not seem to have been concerned with the status of the routes it depicts which does not help determine whether there were public or private rights over the application route. However, it does appear to show the application route terminating at plot 269 and not as a through route to the now B3169 which is fair evidence there were no public vehicular rights over it.

4.11.5 Map of the parish of Donyatt and lands in the parish of Ilminster Somerset the property of Richard Thomas Combe Esq. 1839. SA Reference: DD\CM/130. Appendix: 35

4.11.6 Description and interpretation of evidence

The map includes a key showing 'Turnpike Roads' coloured pink and 'Parish Roads' coloured buff. The map does not extend as far as the application route, but shows the now B3168 coloured pink and the southern end of Green Lane (now Home Farm Way / CH32/19) where it joins the turnpike road coloured buff indicating a parish road. Other ways on the map also coloured buff include the towpath of the canal, the footpath CH 14/9, and Bellmoor Lane in Donyatt over which there is no public right of way. Therefore, either 'Parish Road' did not mean 'Public Road' on this map or the surveyor made several mistakes as to status, or regardless of the key used the same colour

for parish roads and some other features. As the application route itself is also not shown, this document is not evidence for or against public vehicular rights along the application route.

4.11.7 Iminster Urban District Council Town Guides 1954, 1958 and fourth edition (undated) (extract only)

Appendix: 36

4.11.8 Description and interpretation of evidence

These guides include maps of Iminster. All three maps show Winterhay Lane and Green Lane, labelled as such. In addition to public roads other ways over which no public rights are recorded or currently alleged are shown depicted in the same way as the application route, including the way which runs west from Winterhay Lane to Greenlands and Manor Farm before (on the guide maps) turning south to join Green Lane, and the way which runs north-east from Winterhay Lane to Green Farm.

Although it might be expected that these guides would show public rights of way and public roads, they were also promoting the town, its businesses and facilities. A number of properties are located off of Winterhay Lane and Green Lane which may well have included businesses and it would therefore have made sense to include them on the map. Regardless of the reason, these maps seem to have included public and private ways and depicted them in the same manner and are therefore not helpful in determining what public rights existed over the application route.

4.12. Other sources of Primary Documentary Evidence which either did not cover the relevant area or did show the claimed route but do not assist in determining the status;

Day and Masters Map 1782

Line of the Intended Bridgwater and Seaton Canal 1810

Plan of a proposed canal from Beer Harbour in the County of Devon to the Taunton and Bridgwater Canal at Hyde Farm in the County of Somerset 1822

Book of reference probably relating to 1822 Map of Iminster

Plan of the proposed English and Bristol Channels Ship Canal 1825

Plans and sections of variations in roads for Iminster Turnpike 1827

Bristol and English Channels Direct Junction Railway, Sections, Intended Line and Book of Reference 1845

Bristol and English Channels Connection Railway 1845

Bristol and English Channels Direct Junction Railway 1845

Exeter Yeovil and Dorchester Railway plans and book of reference 1846

Chard Canal and Railway. Extension from Iminster to Chard 1847

Map of Somerset originally coloured to show disturnpiked or existing turnpike roads and then roads proposed to be mained c.1880

Chard District Highway Board Check Book 1879 - 1890

Plans of alterations to roads, culverts and bridges 1866 – 1893

Ilminster (Without) Parish Meeting Minutes 1894 – 1934
Chard Rural District Council Ilminster Highways Board Minutes 1882 - 1896
Ilminster Parish Council Minutes 1895 – 1899
Rearrangement of Districts – Ilminster 1899 - 1901
Bartholomew's Map 1902

4.13. Documentary evidence conclusions

Both pre-enclosure maps of 1768 and 1802 show that although the southern end of Green Lane (which is now Home Farm Way) existed there was no defined linear route corresponding with the application route until it was created by enclosure in 1820. It is possible a footpath existed and was not shown, but neither of these maps would be consistent with a public vehicular route nor are they evidence of the existence of a bridleway.

In 1820 the Winterhay Green Enclosure Award and Map set out the application route as a gravel allotment and private road for the use of a limited group of people rather than the general public. A gate or stile is shown at the southern end of the gravel allotment on the map and although it may have been accessed from the southern end (an area not covered by the enclosure), the gravel allotment itself and the route running east to Winterhay Lane were not set out with public rights.

The 1821 map of the parish of Ilminster corresponds with the Enclosure Map, showing a linear route from Winterhay Lane to the plot laid out as a gravel allotment and from the southern end of the gravel allotment to the now B3168. Both routes are identified as 'Roads' according to the key and separated from the gravel allotment by transverse lines at either end. This map does not distinguish between public and private roads and so only confirms the topography as laid out in the Enclosure Award.

Deposited plans are considered very reliable evidence of a routes status as they formed the basis of an Act of Parliament. The 1833 Canal deposited plan and book of reference describe the route as a 'road to fields' with no owner listed. This is consistent with the way in which Green Lane was laid out in the Enclosure Award (as a private road with no specified owner and for the use of a number of different people but not the public in general). The canal bridge when examined during the investigation of case 97M, was shown to be much narrower than a bridge carrying a public road would be expected to be.

These documents are therefore strong evidence that Green Lane was still not considered a public road in 1833. However, the fact that public vehicular rights were not laid out in the enclosure award or recognised on deposited plans, does not necessarily mean they could not have been dedicated after this date.

There are a number of maps which do not help determine whether public rights exist over the route but do confirm the physical existence of the route or parts of the route including Greenwoods map of 1822, deposited railway plans without accompanying books of reference of 1846 and 1893, Ordnance

Survey Maps from 1886 to 1958 and the Ilminster town guides. The inclusion of the application route in the tithe documents under the description of 'roads rivers and waste' would also be consistent with either a public or a private road as either could be excluded from the payment of tithes if they did not produce a crop or included if they did. A solid line across the application route shown on the 1887 25 inch to 1 mile OS map may indicate a physical barrier most likely a gate. While it is rare, it is possible for a public road to have been gated. Overall however, this map weighs slightly in favour of the route being a private, rather than a public vehicular way.

Similarly, although exclusion from numbered hereditaments in the 1910 Finance Act documents would normally be in favour of public vehicular rights over a route, private roads laid out in enclosure awards for the use of a number of different people but not the general public and with no specified owner could also be excluded, and the application route was laid out in just such a way at enclosure.

There are several very good sources of evidence which suggest public vehicular rights were acquired over the application route at some point after 1833. The two 1845 railway deposited plans, although never built, were prepared to a standard which anticipated an act of parliament. In fact it is known that the TCCR plans actually resulted in an Act in 1846.

The TCCR plans are unambiguous, referring to the application route as a parish road in the book of reference and public road in the sections. This evidence is further strengthened because it resulted in an act of parliament authorising the construction of the scheme in 1846 showing it passed all scrutiny. Furthermore, the 1846 Act itself specifically records the application route as a public road as part of a special provision which, as a departure from the standard terms for such Acts, would have been subject to increased scrutiny.

The BWEJR documents refer to Richard Sharland Surveyor of the Highways of the tything of Winterhay as the owner or reputed owner of Green Lane, but classify the route as a 'Drove'. In isolation this is in favour of public rights, but not necessarily vehicular ones although as the application route fell outside of the line of deviation of this scheme it may not have received the same scrutiny as features which fell within the line of deviation. In light of the TCCR documents it seems likely Richard Sharland as Surveyor of the Highways was named as the owner of the application route because it was considered to be a public highway.

Supporting evidence for Green Lane being a public vehicular road is provided by the OS Object Name Book of circa 1903. Although the primary purpose of this document was to verify the accuracy of the names and spellings of features which appeared on OS maps, this particular entry described Green Lane as a public road. Although not incontrovertible evidence, it was corroborated by Mr R. Stephens, Surveyor to the Chard Rural District Council, who would be expected to know the status of the roads. There is therefore

evidence that the person responsible for maintaining highways in both 1845 and 1903 considered the application route to be a public road.

The TCCR documents, supported by the BWEJR plans and Object Name Book are very good evidence for the existence of public vehicular rights over the application route.

Set against these documents is the 1861 deposited Railway plans for a scheme which was built. These describe the application route as an occupation road and give the names of the owners. This is at odds with the Enclosure Award which assigned no particular landowner, but is unambiguous in describing the application route as an occupation road, and not a public one. These documents would have been through the same stringent consultation process that the 1845 railway plans went through. Riley writing in the *Rights of Way Law Review* points out that although very reliable, deposited plans were not immune from error, but if an error occurred under recording of rights was more likely than over recording¹⁷.

Indirect evidence from the 1920s is consistent with no public vehicular rights over the route, particularly the 1928 and 1929 Ilminster Urban District Council (IUDC) minutes. These documents refer to Winterhay Lane, but suggest that the IUDC believed the provisions of the Enclosure Award were still valid, and that no public vehicular route existed over Winterhay Lane at least any further north than the current public road extends. The 1920s, 30s and 50s road records do not show Green Lane as a road maintained at public expense.

No evidence of legal stopping up has been found. Therefore, if public vehicular rights existed over the application route in 1845 then they will still exist today regardless of whether the route fell into disuse since then or was later considered not to be a public vehicular way. The Object Name Book entry corroborated by the Surveyor to the Chard Rural District is good supporting evidence of public rights in addition to the 1845 TCCR deposited plans and 1846 Act.

If Green Lane were to be recorded as a restricted byway then it would be a cul-de-sac as Winterhay Lane is recorded as a footpath; a fact which would normally be against public vehicular rights. A recent public inquiry into the rights of way over Winterhay Lane¹⁸ concluded that public rights higher than as a footpath did not exist. However, the inspector could not have been aware of the conclusions reached in this case. If Green Lane is determined to be a restricted byway then this would constitute new evidence, at least as far as the southern end of Winterhay Lane is concerned, and would be taken into consideration in the investigation of another DMMO application (795M) relating to Winterhay Lane.

¹⁷ Riley, B (1990) *Railway & canal deposited plans* in *Rights of Way Law Review*, October 1990, Section 9.3, page 24.

¹⁸ H. Cruickshank BSc (Hons), MSc, MIPROW, Inspector, The Planning Inspectorate, reference FPS/G3300/7/94

Overall, although this case is finely balanced and there is evidence both for and against public vehicular rights over Green Lane, the evidence for public vehicular rights is more persuasive.

5. Landowner Evidence & Evidence from those against the application.

5.1 This section of the report includes information provided by the landowners. Factual first hand evidence carries more weight than personal opinion, hearsay or third party evidence.

Landowner and summary of response
Landowner B Adjacent landowner. No comments to make.
Landowner G Adjacent landowner. Landowner G comments that, from December 1978 Green Lane has been used by numerous members of the public, on foot, on horseback and even in cars along part of the right of way. The site, on which Rose Cottage [on the north side of the application route at its western end] now stands, was the gravel pit which the then surveyor for the district accessed to gain gravel for road maintenance. The canal bridge was maintained by the surveyor for the district. The inclines to the brow of the canal bridge were of a length which suggested public, rather than merely private use. Green Lane linked the then allotments (in the field at the T junction between Winterhay Lane and Green Lane) with the animal and produce market, which was on the site of the newly-built block of flats, now known as Trafalgar Court. My only concern is that the proposal still restricts some usage, notably vehicular movement, although, historically, the evidence points to unfettered access along the entire length of Green Lane. Where at all possible, I would suggest that historic rights be preserved.
Landowner J Letter returned to SCC, addressee unknown.

5.2 Comments on Landowner Evidence.

There are no comments to make regarding the response from Landowner B and J as they submitted no evidence.

Landowner G asserts they have been aware of the public using the route on foot, horseback and in cars since 1978. During the previous investigation of case 97M user evidence was considered by the inspector, who concluded that the user evidence before him at the time was insufficient to demonstrate that

public vehicular rights had been acquired¹⁹. Landowner G has not provided details of the use they witnessed and no new user evidence has been submitted as part of the application or volunteered during the consultation process.

The gravel pit referred to by landowner G was set out in the Enclosure Award for the common use of the landowners, occupiers and tenants of Ilminster for their own purposes and for the repair of public and private roads in the parish of Ilminster (see appendix 3). Its use was neither exclusively for the repair of public roads, for use by the surveyor of highways or for the general public. Green Lane was not set out as a public road.

Landowner G suggests the canal bridge was being maintained by the surveyor for the district. The status of the application route in relation to the canal is set out in paragraph 4.9.3 (above). The physical characteristics of the canal bridge were considered in some detail during the investigation of case 97M and the inspector concluded that on balance it was probably unlikely to have been a public bridge²⁰. Since then, the bridge has suffered significant deterioration and at least some repair, as well as significant vegetation growth, making a reassessment of the bridge at this time less accurate than that carried out in 1995 (see paragraph 4.9.3, above).

The allotments referred to by landowner G abut the eastern side of Winterhay Lane. At the approximate location of Trafalgar Court on the east side of what is now Home Farm Way an 'Auction Ring' is shown on the OS 25 inch map sheet LXXXVIII.1 (surveyed 1886, published 1887) and 'Cattle Sale Yard' is shown on the 1903 and 1929 editions. No evidence has been submitted showing the general public travelled between the allotments and the market via Green Lane.

It is noted that landowner G believes public vehicular rights exist over Green Lane.

6. Consultations and other submissions

6.1. In addition to informing affected landowners, consultations regarding the claimed route were sent out to relevant local and national user group organisations and local councils in October and November 2016. Notices were also posted on site. The table below shows who was consulted and gives brief details of replies that were received.

Consultee and response
Ilminster Town Council – No evidence to submit. Councillors support the application.
British Driving Society, National Office – Support the creation of more restricted byways generally, but have no evidence to submit in relation to this

¹⁹ Blomfield, R. A. (1995), The Planning Inspectorate reference FPS/G3300/7/37, paragraph 63, page 10.

²⁰ Blomfield, R. A. (1995), The Planning Inspectorate reference FPS/G3300/7/37, paragraph 71, page 11.

case specifically.

Ramblers' Association, South Somerset Western Area – No evidence to submit.

No response was received from the following organisations;

South Somerset District Council
Somerset County Council, South Somerset Area Highways Office
Local Member, Councillor Vijeh
Ramblers Association, Local Area
British Horse Society, Local Area
Auto Cycle Union
All Wheels Drive Club
Open Spaces Society, National Office
Open Spaces Society, South Somerset Area
Natural England
Ramblers' Association, National Office
British Horse Society, National Office
Ramblers' Association, South Somerset Eastern Area
Ramblers' Association, South Somerset Southern Area
Ramblers' Association, South Somerset Northern Area
South Somerset Bridleways Association
Cycling UK
Club Zulu
Trail Riders Fellowship

7. Summary and Conclusions

7.1 It is clear from the evidence that, until 1833, the application route was a private road. However, railway deposit documents and the subsequent act of Parliament (*An Act to enable the Chard Canal Company to convert into a Railway the Portion of the Chard Canal from Creech Saint Michael to Ilminster, all in the County of Somerset. 16 July 1846*) provide very strong evidence that, by 1845/6 it had become a public road. Looked at in light of these documents the Ordnance Survey Object Name Book supports this conclusion and the Finance Act 1910 valuation documents are not inconsistent with it.

7.2 This is not to say that all of the evidence points in the same direction. It is particularly important to note that the 1861 railway documents indicate that the route was a private road. These are supported by much weaker evidence in the form of the 1887 25 inch to 1 mile OS map and urban district council evidence.

However, on balance the evidence in support of public vehicular rights is favoured. In reaching this conclusion particular weight is given to the fact that the 1845 railway documents are supported by an Act of Parliament which clearly refers to the route as a public road. Given that the at-level crossing on Green Lane strays from the standard provisions for a road/rail intersection it would be expected that this would have received even greater scrutiny than

normal. Furthermore, it is understood that where errors do occur in railway documents they are more likely to relate to the under, rather than over, recording of a route. It is for these reasons, together with the weight that can be given to the subsequent supporting evidence, that the 1845 railway documents are given greater weight than those of 1861.

Having concluded that public vehicular rights existed it then becomes necessary to consider the implications of the Natural Environment and Rural Communities Act 2006 (NERC). As mentioned in paragraph 3.5 above, NERC had the effect of extinguishing all 'unrecorded' public rights for mechanically propelled vehicles, except in certain very specific circumstances. The claimed route is not considered to meet any of these exceptions. This being the case only lower rights²¹ now exist.

8. Recommendation

I therefore recommend that

- i. an Order should be made, the effect of which would be to amend the Definitive Map and Statement of public rights of way by upgrading CH32/20 (as shown A-B on Appendix 1) from footpath to restricted byway.
- ii. if there are no objections to such an order, or if all objections are withdrawn, it be confirmed.
- iii. if objections are maintained to such an order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

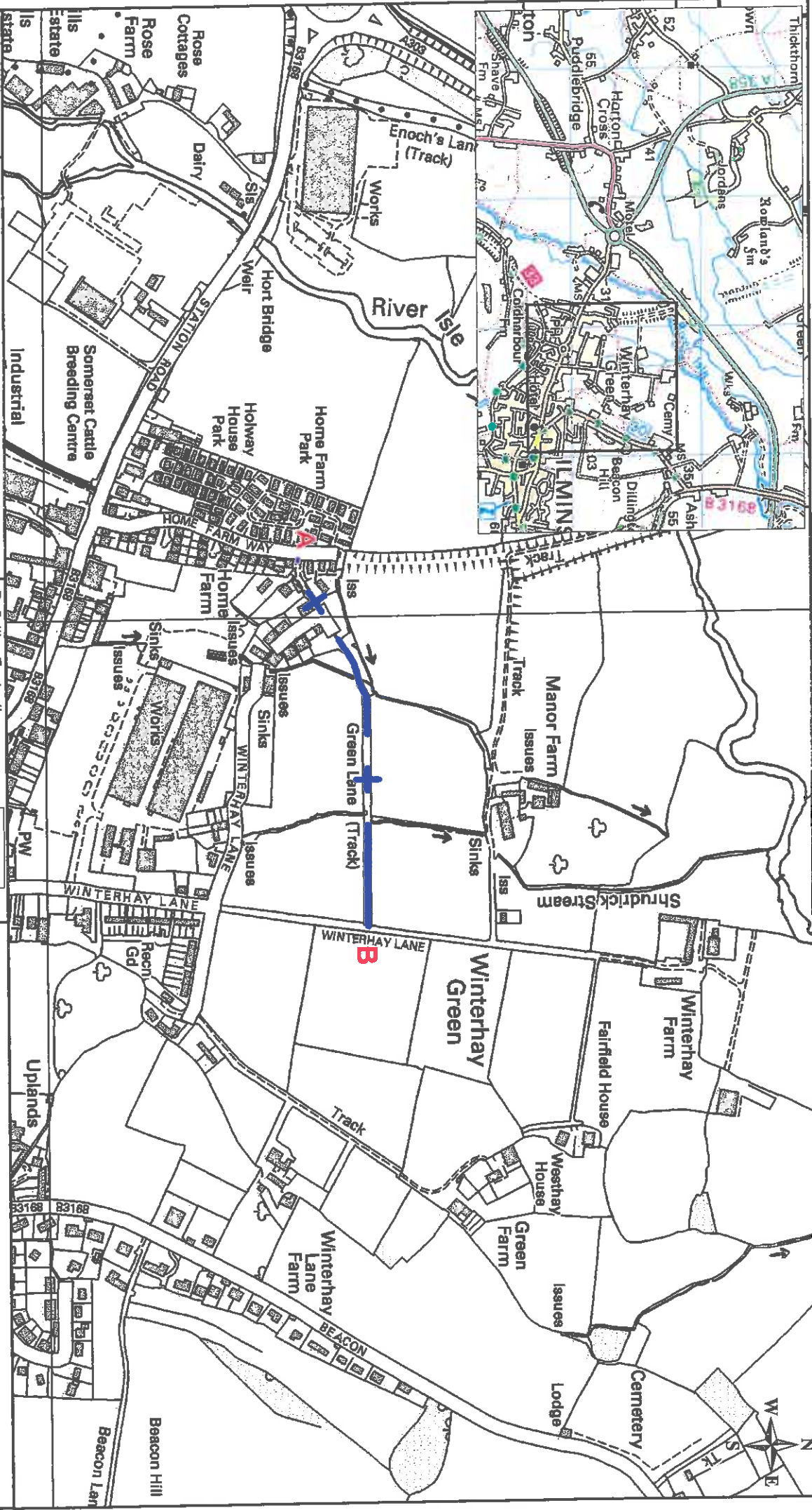
²¹ Loosely rights for those on foot, horseback, bicycle and non-mechanically propelled vehicles such as horse and cart.

10. List of Appendices

Please note that the document reproductions in the appendices are not to scale. The report writer has added the red letters A and B present on Appendix 1 to maps to help the reader identify the sections of the route the document is depicting. Red lines have also been added to some appendices to indicate the area of the interest where lettering is not appropriate.

1. Plan showing claimed route
- 1A. Plan showing recorded public rights of way near the application route
- 1B. Plan showing some of the features and places referred to in the report
2. Winterhay Green Enclosure Map 1820
3. Winterhay Green Enclosure Award 1820
4. Ilminster Tithe Map, 1838
5. Copy of Ilminster Tithe Map, 1838
6. Ilminster Tithe Apportionment 1837 – 1839
7. Ordnance Survey Surveyors' Drawing, 1802
8. Ordnance Survey 6 inch: 1 mile, map sheet 88NW
9. Ordnance Survey 25 inch: 1 mile, map sheet 88.1
10. Ordnance Survey New Revised Edition 1 inch: 1 mile, map sheet 311, 1898
11. Ordnance Survey Object Name Book, circa 1903
12. Cassini / Timeline reprint of Ordnance Survey Map, 1919
13. Ordnance Survey New Popular Edition 1 inch: 1 mile, map sheet 177, 1946
14. Ordnance Survey 1:25000, 1950
15. Ordnance Survey 1:2500, map sheet ST31, 1958
16. Reference to Ordnance Map of Parish of Ilminster, c. 1900.
17. 1910 Finance Act Record Plan, sheet 88.1
18. Road records
19. Ilminster Urban District Council Minutes
20. Definitive Map and Statement for footpath CH 32/20
21. Plan of Proposed Canal from the Bridgewater and Taunton Canal at Creech St Michael to Chard in the County of Somerset 1833.

22. Book of Reference of Proposed Canal from the Bridgewater and Taunton Canal at Creech St Michael to Chard in the County of Somerset 1834
23. Conveyance documents associated with the Proposed Canal from the Bridgewater and Taunton Canal at Creech St Michael to Chard in the County of Somerset
24. Taunton and Chard (Canal) Railway, 1845
25. Plans and Sections Bath, Wells and Exeter Junction Railway 1845
26. Book of reference for the Bath, Wells and Exeter Junction Railway 1845
27. Proposed Railway from Yeovil to Exeter with Branches, 1846
28. Chard and Taunton Railway Plans and Sections Session 1861
29. Chard and Taunton Railway Book of Reference 1861
30. Chard to Taunton Branch Line, 1893 – 4
31. Greenwood's Map, 1822
32. Nightingale's Map circa 1920
33. "The Manor and Town of Ilminster being the property of the Rt Hon. Frederick Lord North of Dillington made by Samuel Donne of Melbury Osmond in Dorset" 1768
34. Map of the Parish of Ilminster in the County of Somerset 1821
35. Map of the parish of Donyatt and lands in the parish of Ilminster Somerset the property of Richard Thomas Combe Esq. 1839
36. Ilminster Town Guides



Definitive Footpath
 Definitive Bridleway



Claimed Restricted Byway over Footpath

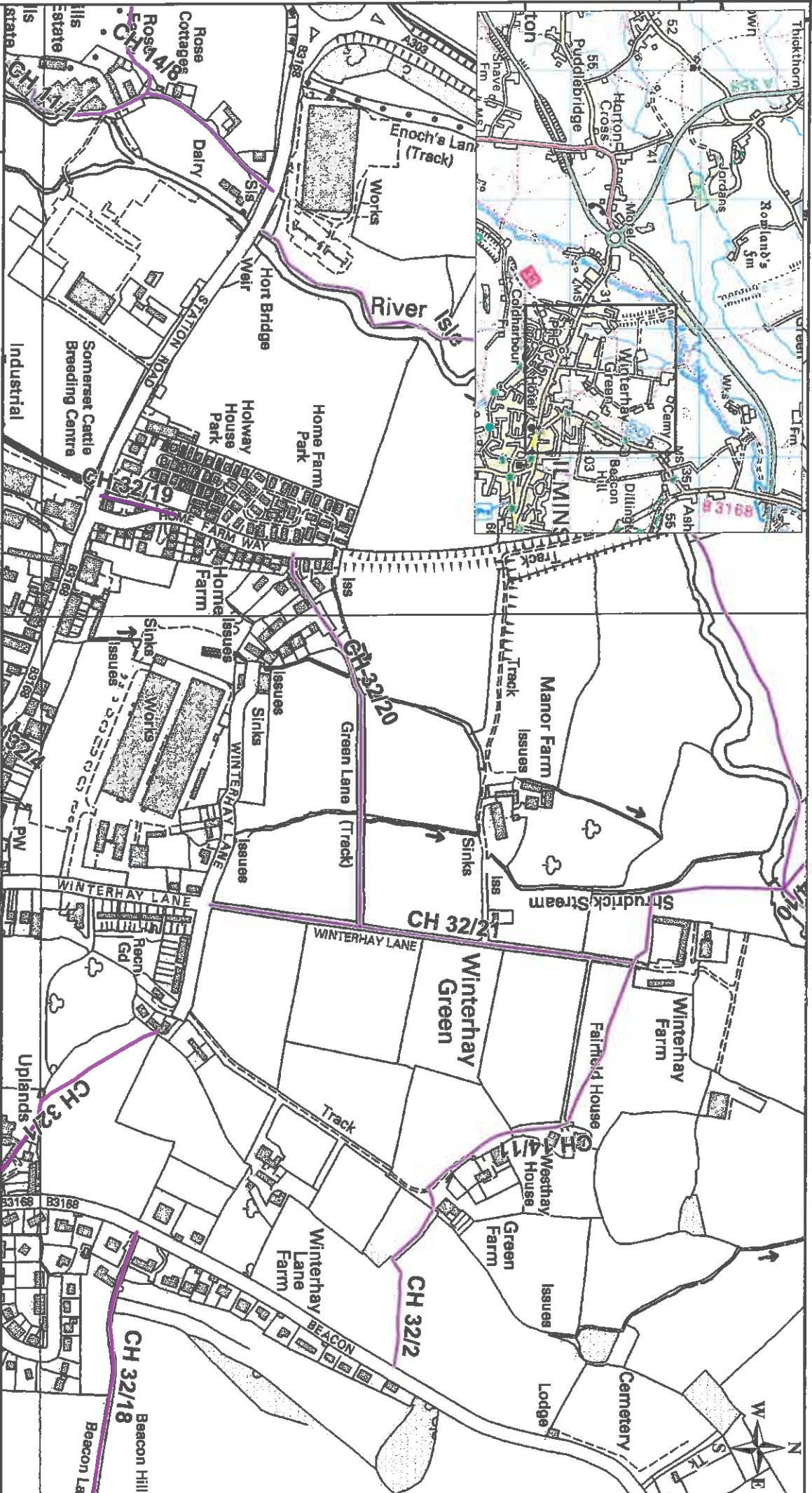


Section 53 Wildlife and Countryside Act 1981.
Claimed Restricted Byway over Footpath CH 1/23 and Copse Lane, Ashill

Parish: Iliminster
 District: South Somerset
 Date: 26/10/2016
 Drawing No: H067-2016
 Drawn By: MHardwill
 Grid Ref: 333270 117230
 Scale: 1:6000



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 The County Council can accept no responsibility for any error or inaccuracy which may arise from the transposition of the Rights of Way Definitive Map to a different scale.



Parish: Ilminster
 District: South Somerset
 Date: 26/10/2016
 Drawing No: H067-2016
 Drawn By: MHardwill
 Grid Ref: 333270 117230
 Scale: 1:6000



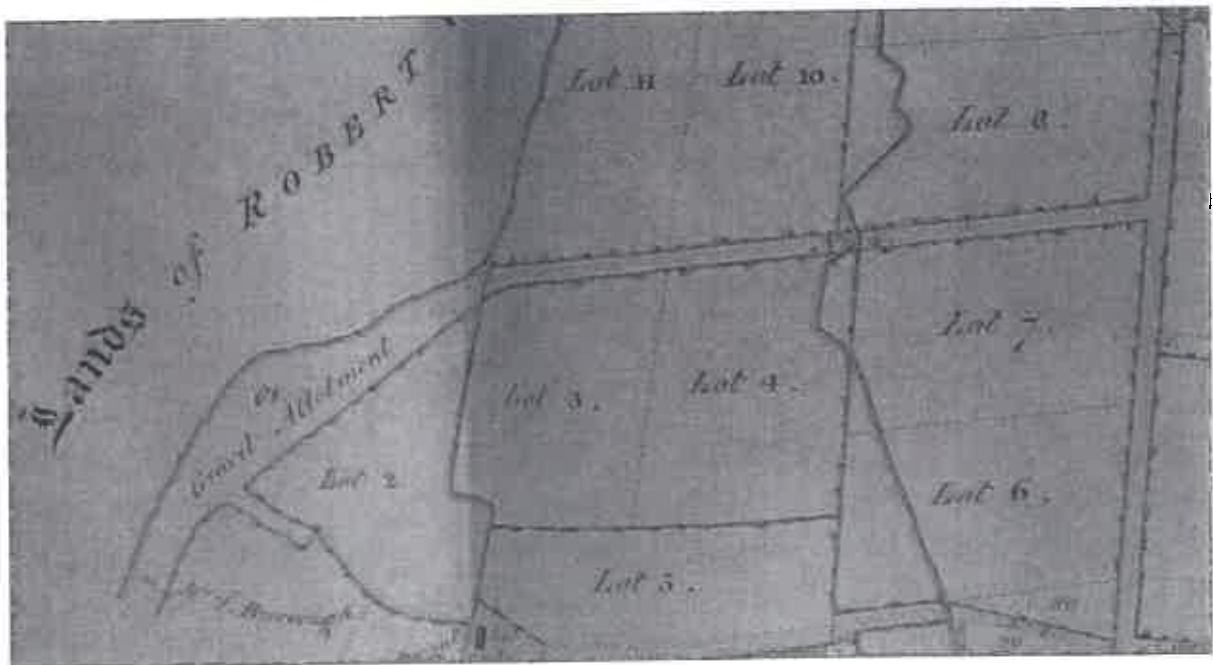
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 The County Council can accept no responsibility for any error or inaccuracy which may arise from the transposition of the Rights of Way Definitive Map to a different scale.



Appendix 1B Continued. Features referred to in the report.

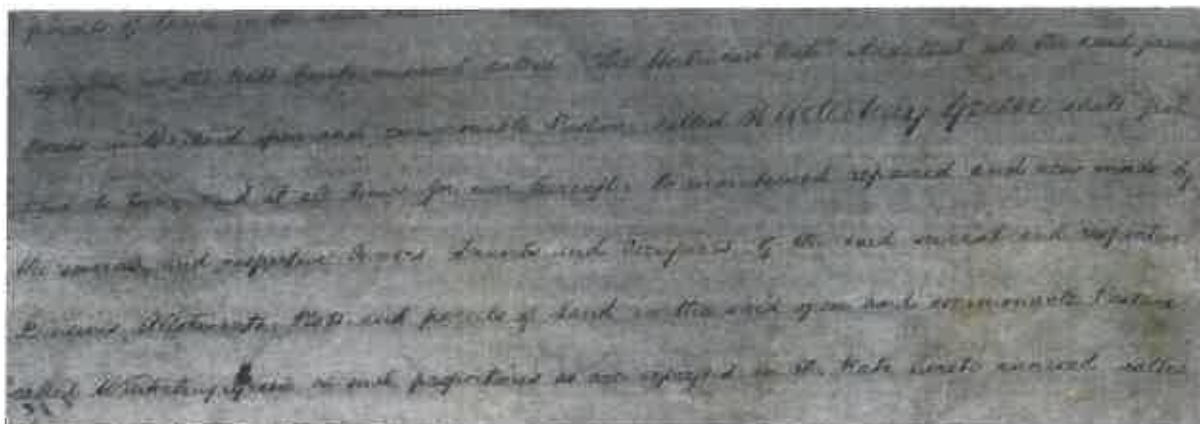
1. New Road, Ilminster
2. Way labelled '1015' on tithe map, west of Winterhay Lane
3. Eames Mill
4. Way labelled '1015' on the tithe map, near Eames Mill
5. Bellmoor Lane
6. Bellmoor Farm
7. Dillington House
8. Way labelled 475a on tithe map, leading to Dillington House
9. Lawless Farm, Donyatt
10. The Old Orchard
11. Green Farm
12. Way leading to Green Farm
13. Assumed position of 'four cross way', Winterhay Lane.
14. Canal bridge
15. Manor Farm
16. Winterhay Lane Farm
17. Market / Trafalgar Court

Appendix 2. Winterhay Green Enclosure Map 1820

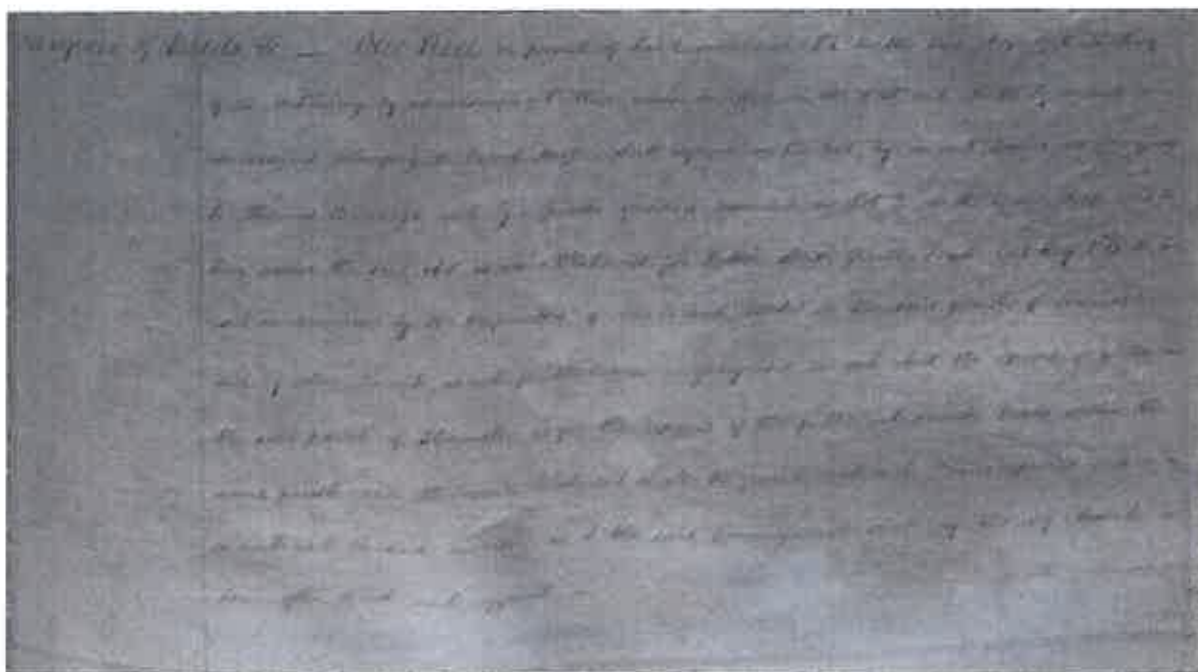


Appendix 3 continued

throu' upon and over the same to and from such their divisions allotments plots and parcels of land and old inclosures either on foot or on horseback or with horses beasts waggons carts and carriages either loaded or unloaded or otherwise howsoever at their and every of their free will..]"



“And that all the said private Roads in the said open and commonable Pasture called Winterhay Green shall from time to time and at all times for ever hereafter be maintained repaired and new made by the several and respective Owners Tenants and Occupiers of the said several and respective Divisions Allotments Plots and parcels of land in the said open and commonable Pasture called Winterhay Green in such proportions as are expressed in the Rate hereto annexed ciled “The Winterhay Green Rate’.”



“Repair of roads etc – One piece or parcel of land numbered 81 on the said map of Winterhay Green containing by admeasurement three roods bounded on the west and north by ancient inclosures belonging to Robert Hooper Scott Esquire on the east by ancient inclosures belonging to Thomas B[...]ugh and by a parcel of land

Appendix 3 continued

described as Lot 2 on the said map sold to him under the said Act, as an Allotment for public stone, gravel sand and clay pits to be used in common by the proprietors of lands and estates in the said parish of Ilminster and by their tenants as well for their own [...] uses in and about the repairs of estates in the said parish of Ilminster as for the repairs of the public and private roads within the same parish and the same allotment shall be fenced and such fences repaired and maintained in such manner as I the said commissioner shall by this my award hereafter direct and appoint”

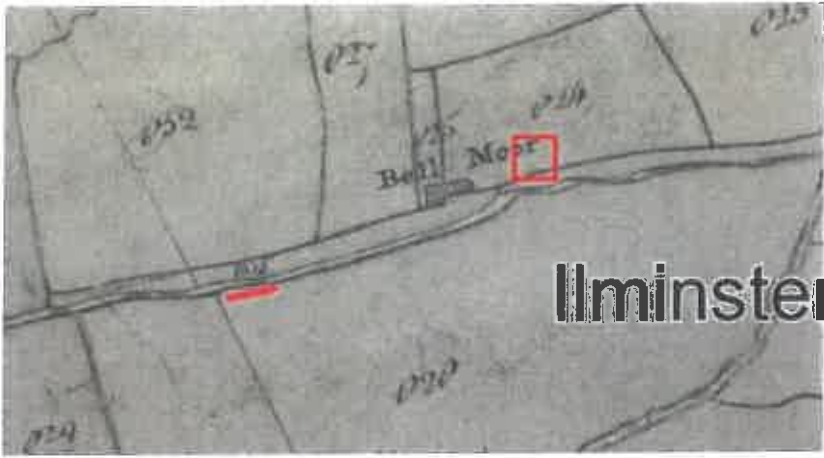
Appendix 4. Tithe Map, Iminster, 1838



'1015' west of Winterhay Lane



'1015' Rag Lane

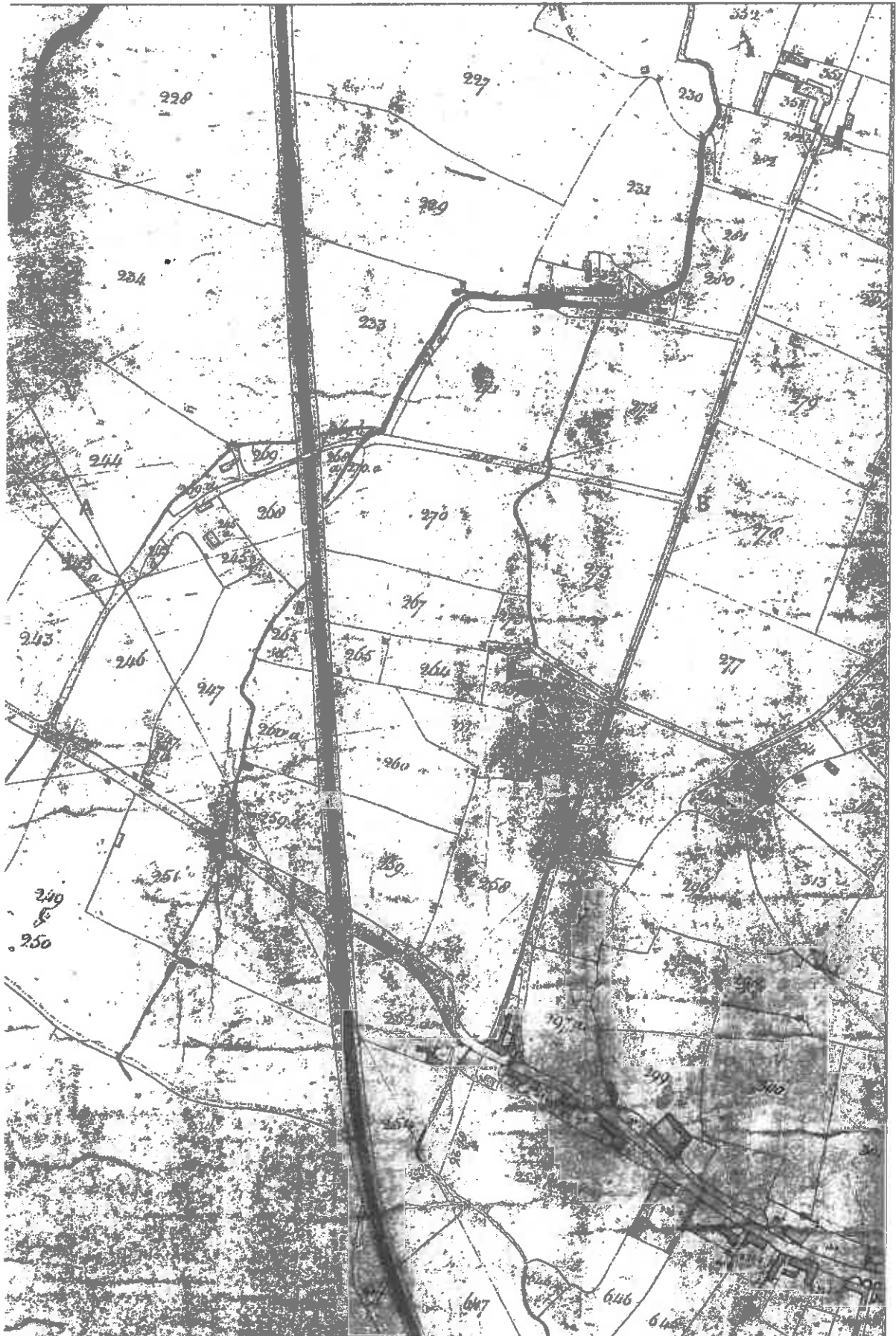


'1015' Bellmoor Lane (the red box is of no significance).



Road numbered 475a leading to Dillington House.

Appendix 5. Tithe Map, Iminster, 1838. Copy from file for DMMO case 97M.



Appendix 6. Tithe Apportionment, Ilminster, 1837 – 1839.

Number	Description	Area	Value	Notes
264	Orchard	...	...	...
264a	Front and garden	...	...	...
264b	Orchard	...	...	...

264	Orchard
264a	Front and garden
264b	Orchard

Number	Description	Area	Value	Notes
1015	Roads Rivers and Waste	...	...	...
1016		...	...	...
1017		...	...	...

1015	Roads Rivers and Waste
1016	
1017	

Appendix 6 continued.



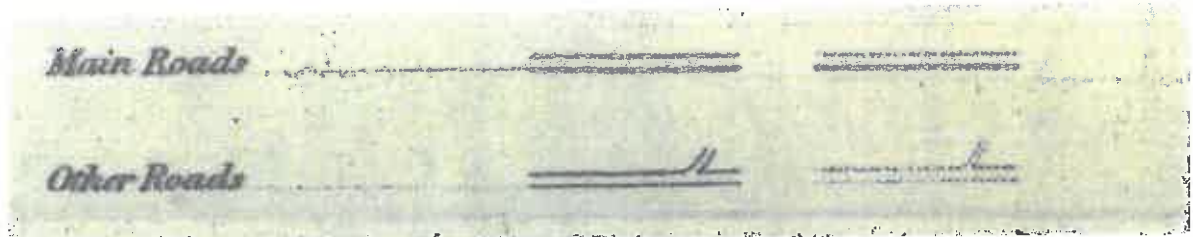
The image shows a table with several columns and rows. The text is extremely faint and illegible. The table appears to have at least 6 columns and several rows of data. The headers are not readable, but the structure suggests a list or ledger of items.

Apportionment 475 and 475a listed as 'Road'. From an extract supplied by the applicant.

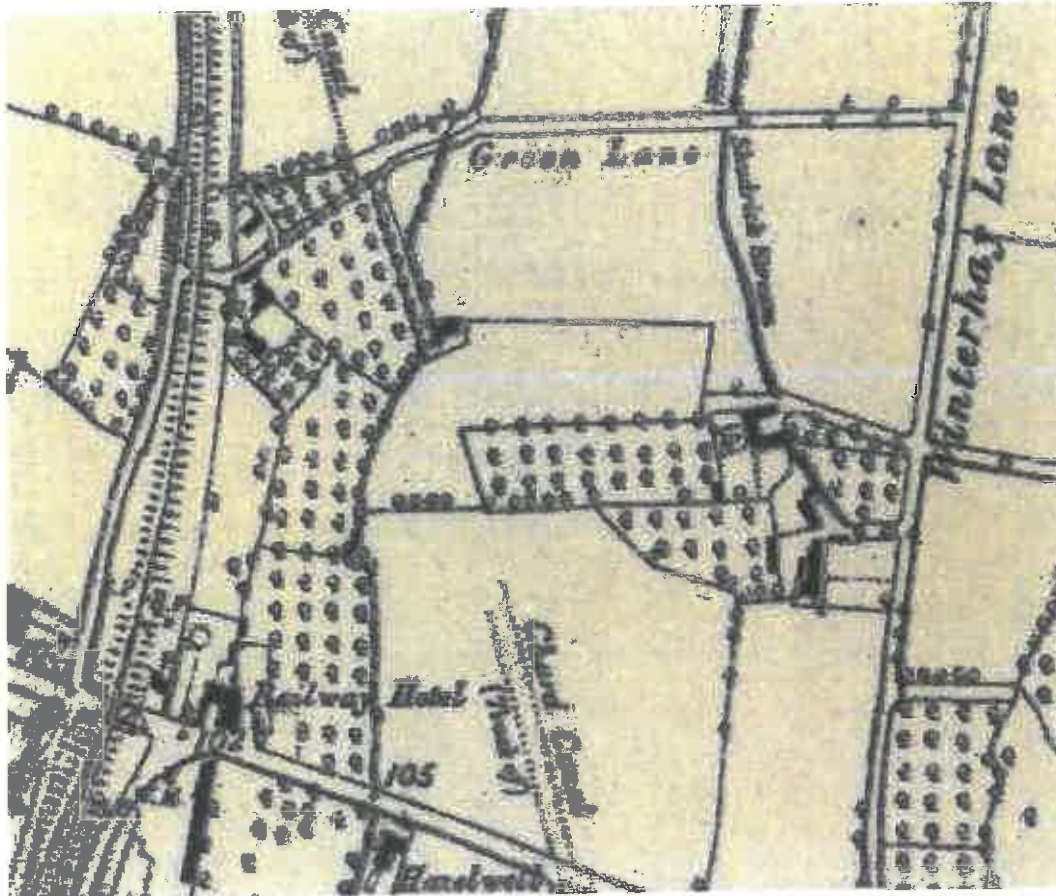
Appendix 7. Ordnance Survey Surveyors' Drawing, 1802



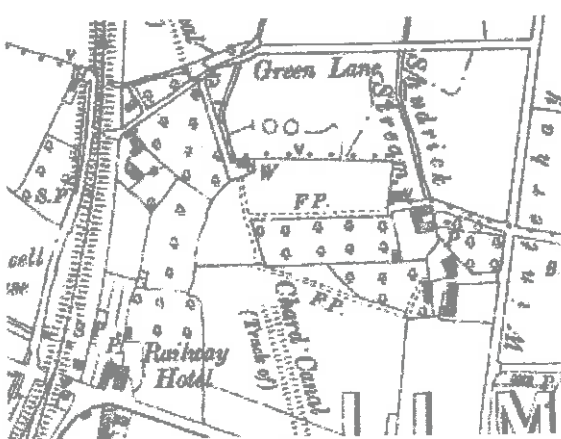
Appendix 8. Ordnance Survey 6 inch: 1 mile, map sheet 88NW



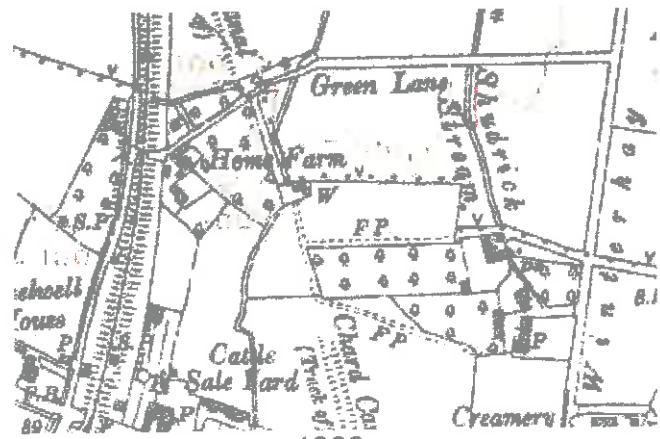
The Ordnance Survey Characteristic Sheet for the Engraved Six Inch Maps of Great Britain published in 1897



1886

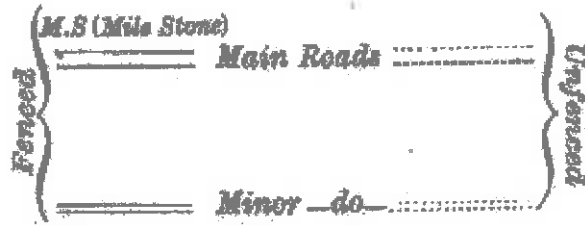


1904

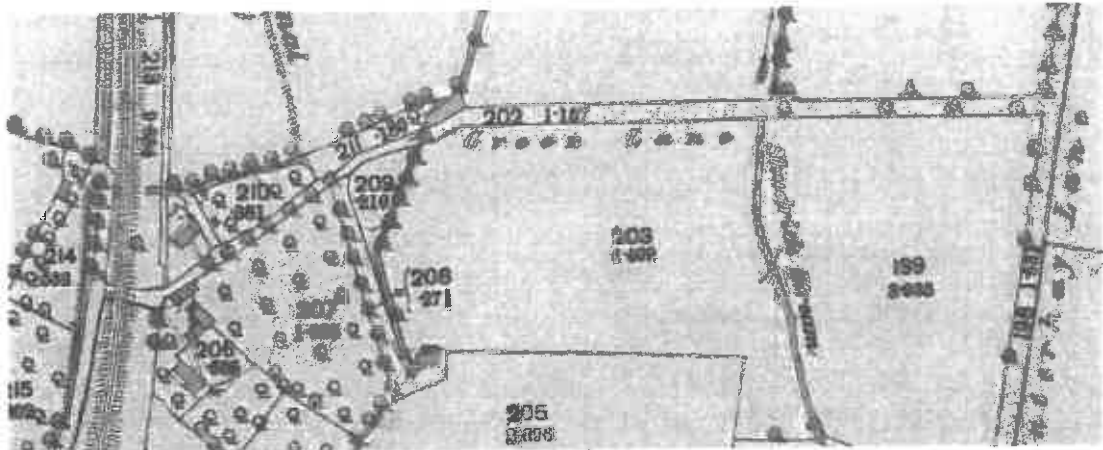


1930

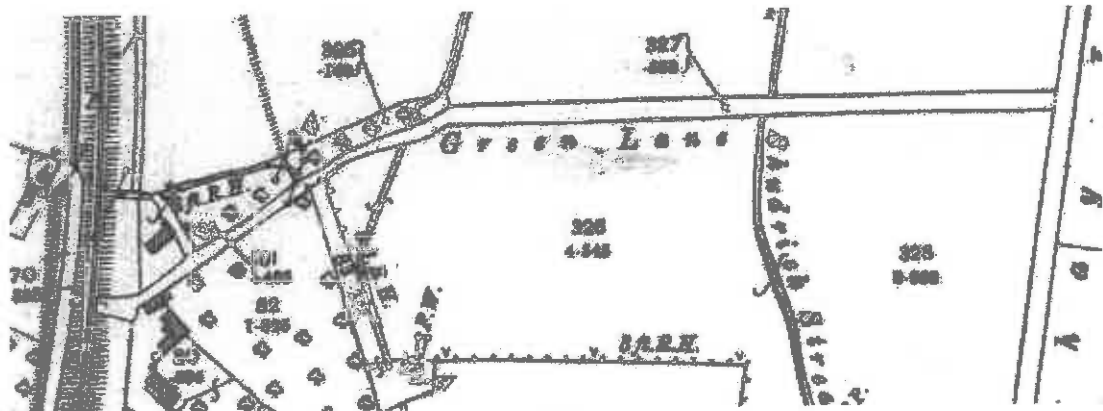
Appendix 9. Ordnance Survey 25 inch: 1 mile, map sheet 88.1



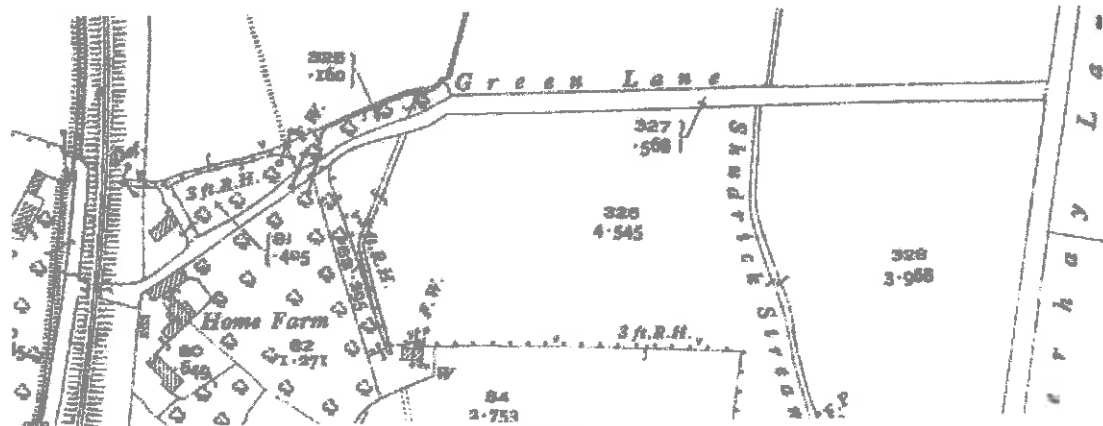
Conventional Signs and Writing Used on the 25 Inch Maps of the Ordnance



1887



1903



1929

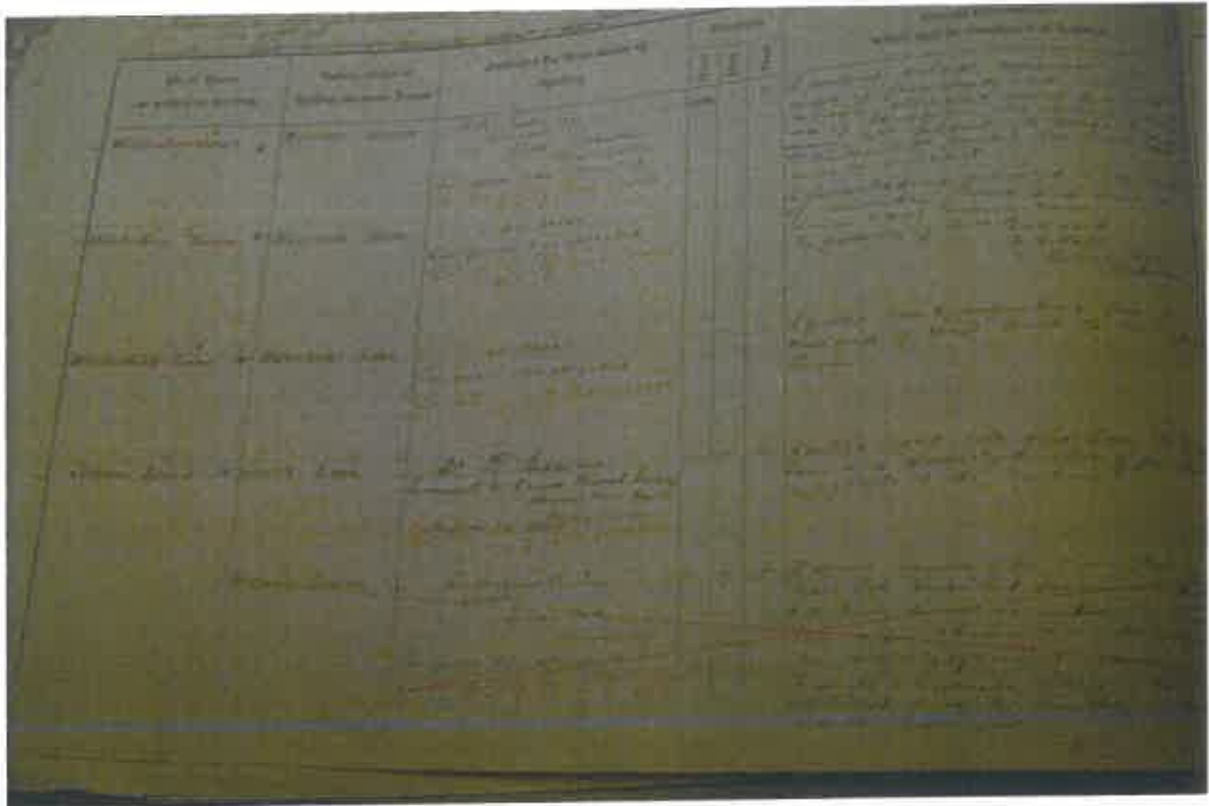
Appendix 10. Ordnance Survey New Revised Edition 1 inch: 1 mile, map sheet 311, 1898

<i>Metalled Roads, First Class</i>	<i>Little distance</i> 	<i>Church or Chapel with Tower</i>	1
" " <i>Second Class</i>		" " " " <i>Spire</i>	2
" " <i>Third Class</i>		" " " " <i>without Tower or Spire</i>	3
<i>Unmetalled Roads</i>		<i>Windmill</i>	4
<i>Footpaths</i>		<i>Letter-Box</i>	L.B.
<i>Roadways, Single Line</i>	<i>Level Crossing</i> 	<i>Contours</i>	
" " <i>Two or more Lines</i>	<i>Cuttings, Trenches, &c.</i> 	<i>Boundaries, County</i>	
<i>Mineral Lines and Drains</i>		" " <i>Parish</i>	
		<i>At Villages</i>	<i>Post Office</i> P.
			<i>Post & Telegraph Office</i> T.

*Rivers and Streams when exceeding 25 feet in width are shown with two lines.
For other information see Characteristic sheet.*



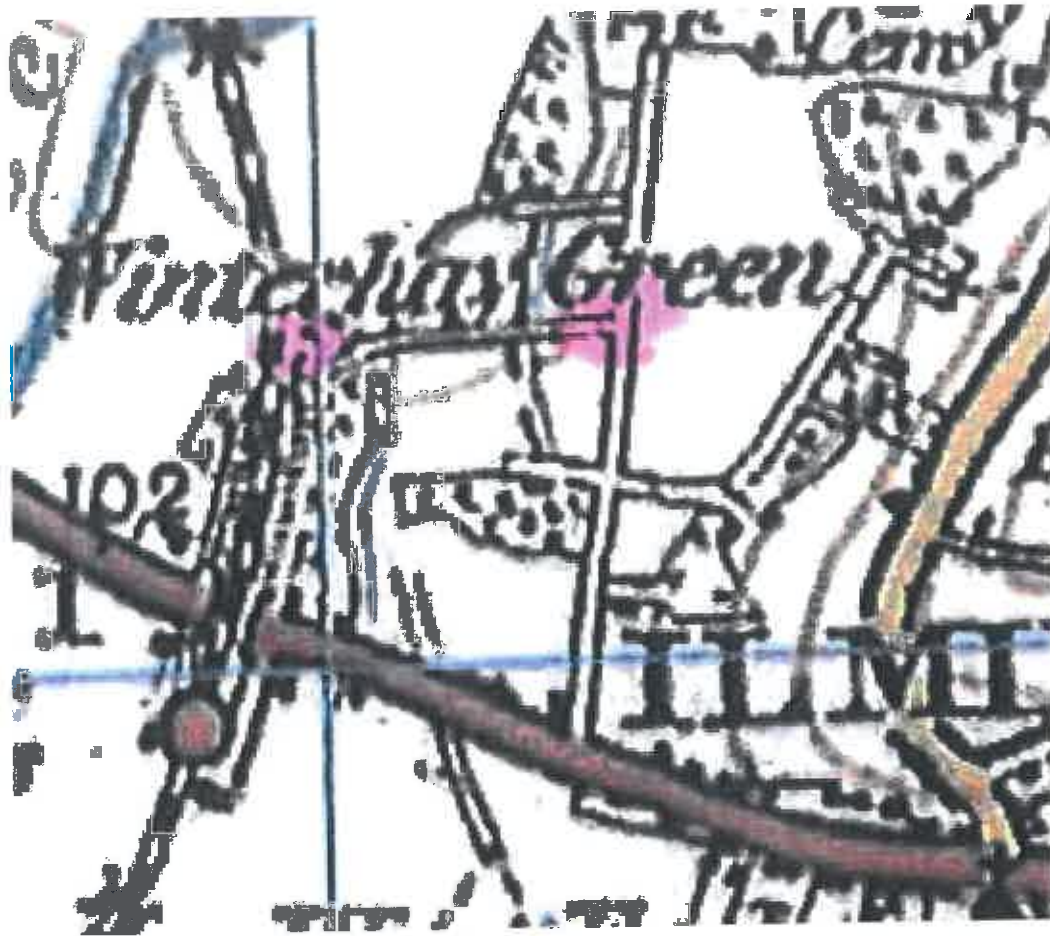
Appendix 11. Ordnance Survey Object Name Book, circa 1903.



“Green Lane. Green Lane. Mr R. Stephens. Surveyor to the Chard Rural District. West Street Ilminster. See form 231 attached. A public road extending from Winterhay Lane in a Westerly direction for about $\frac{1}{4}$ of a mile to the railway.”

A public road extending from Winterhay Lane in a Westerly direction for about $\frac{1}{4}$ mile to the railway.

Appendix 12. Cassini / Timeline reprint of Ordnance Survey Map, 1919 and original Ordnance Survey map key, 1919.



	Structure	Good & fit for most traffic	Fits for ordinary traffic	Indifferent winding roads	or Bad
Main routes between towns	over 14 ft Metalling	—————			
Other Roads		—————			
Roads under 14 wide		—————			
Minor Roads		—————			
Bridle & Footpaths		- - - - -			
Private Roads are uncoloured. Unpaved Roads are shown by dashed lines.					
Slopes steeper than $\frac{1}{4}$ ———>					

		A.38
	(Ministry of Transport, Class 1	B.3210
Roads	14 feet of Metalling and over (not classified by M. of T.)	TOLL
	Under 14 ft. of Metalling Good	Gate
	Bad	
Minor Roads in towns, Drives and Unmetalled Roads. (Unmetalled Roads are shown by dashed lines)		
Footpaths & Bridle Paths		
Steep Gradients over 1 in 7		over 1 in 5



Appendix 14. Ordnance Survey 1:25000, 1950

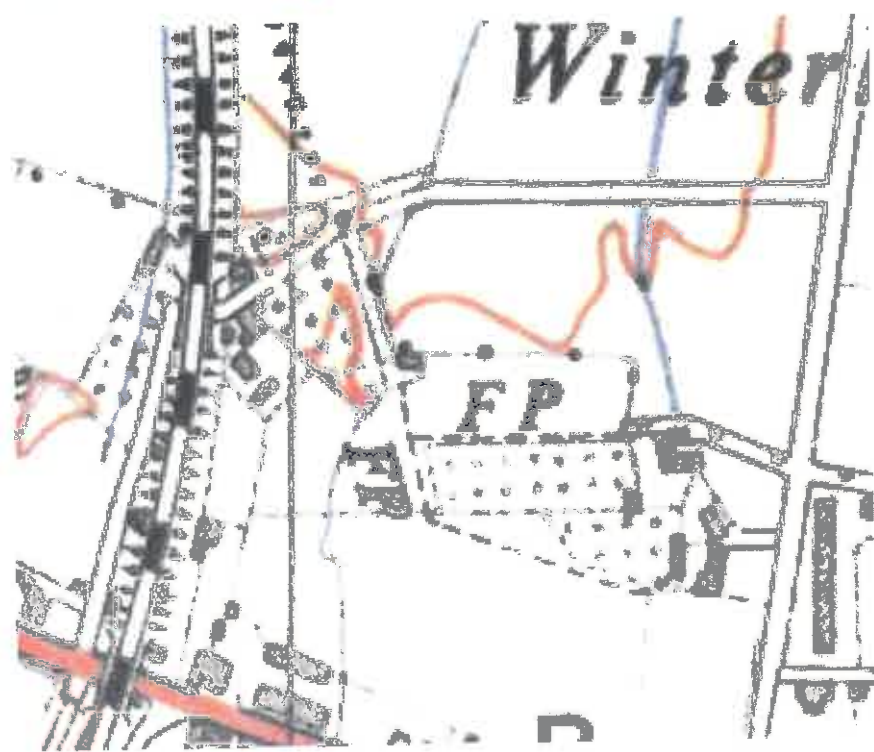
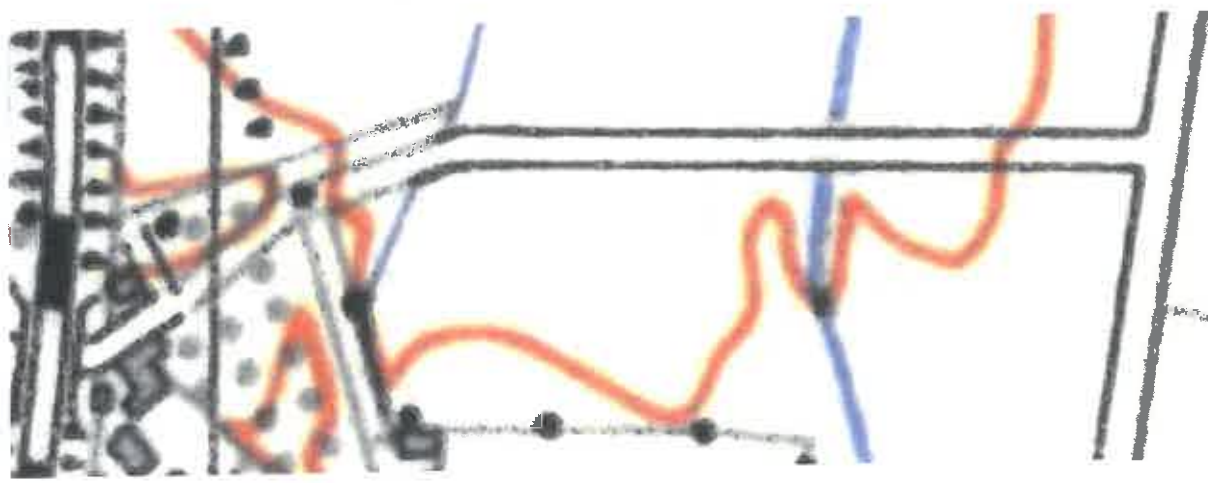


Appendix 15. Ordnance Survey 1:2500, map sheet ST31, 1958

Conventional Signs

Note - Road fillings and numbers are shown in orange on the map.

Motorway, Trunk and Main Road : Dual Carriageway,		
Trunk & Main Road		
Secondary Road		
Road Under Construction		
Other Roads		
Footpaths		
Railways, Multiple Track		



Appendix 16. Reference to Ordnance Map of Parish of Ilminster, c. 1900.



183
184
185
186
187

Land	Wentley	2	1	0
Land	Wentley	1	2	0
Land	Wentley	2	2	0
Land	Wentley	4	0	0
Land	Wentley	2	0	0

184

187	Land	Wentley	2	1	0
188	Land	Wentley	2	0	0
189	Land	Wentley	2	0	0
190	Land	Wentley	2	0	0
191	Land	Wentley	2	0	0
192	Land	Wentley	2	0	0

208 and 209

210	Land	Wentley	2	0	0
211	Land	Wentley	2	0	0

210 and 211

860	Land	Wentley	2	0	0
-----	------	---------	---	---	---

860

Appendix 17. 1910 Finance Act Record Plan, sheet 88.1



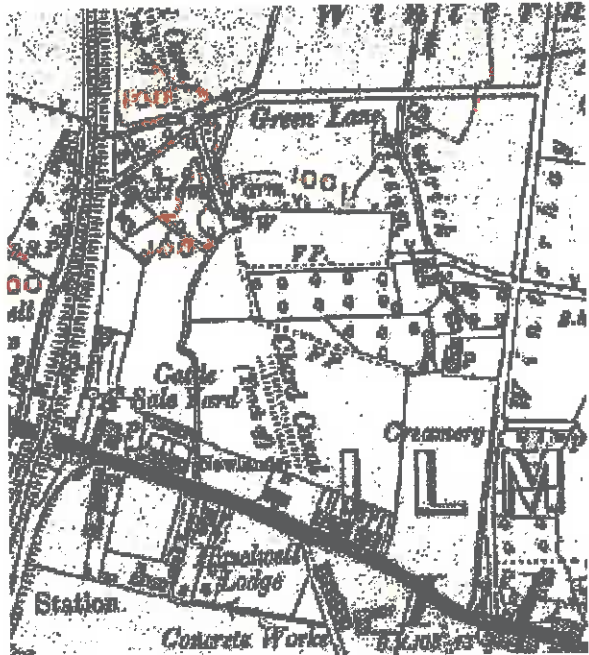
Appendix 18. Road records



1929



1930's



1950's

Appendix 19. Ilminster Urban District Council Minutes



24th January 1928

G.P. 284. Repairs Winterhay Lane.

In reply to an application by Mr. I. J. Morgan that the Council should repair a portion of Winterhay Lane, the Clerk was instructed to call his attention to the provisions of the "Winterhay Enclosure Award."



30th January 1929

G.P. 345. Repairs, Winterhay Lane.

A letter was before the Committee signed by person resident at Winterhay calling attention to the condition of the Lane leading from the four cross way in Winterhay Lane up to Mr. Ashton's premises.

Resolved to recommend that as there was a public path leading from New Road to this Lane the Surveyor be instructed to have this portion of the Lane repaired in far as was applicable as a Public Footway.

Appendix 20. Definitive Map and Statement for footpath CH 32/20



Definitive Map

Temporary Card

(1) PARISH NO. OF PATH

(2) CONCISE DESCRIPTION OF PATH (TO INCLUDE WIDTH, NATURE OF SURFACE, MEANS OF ACCESS, OBSTRUCTIONS, ETC.)

SYMBOLS TO BE USED IN BOX (5) BELOW

Footpath F.P.
 Bridle Road (including Driftway for Cycles) B.R.
 Carriage or Cars Road or Green (non-surfaced lane) mainly used by Public as:
 (1) Footpath C.R.P.
 (2) Bridleway C.R.B.

FROM Station Road
 TO Winterhay Lane
 DESCRIPTION - THE PATH IS A Footpath IT STARTS AT

Footpath

The addition of a ~~Byway Open to All Traffic~~ Footpath starting at a point in Station Road adjacent to the curtilage of 128 Station Road, Ilminster and running in a northerly direction for approximately 85m to join the unclassified county road known as "Home Farm Way". 32/19

Footpath

Another length of ~~byway~~ Footpath starting at "Home Farm Way" west of "Home Farm" and running in an easterly direction for approximately 32 metres. It then runs in a north easterly direction for approximately 156 metres and then in an easterly direction for approximately 262 metres to join Winterhay Lane. 32/20

Definitive Statement

Appendix 21. Plan of Proposed Canal from the Bridgewater and Taunton Canal at Creech St Michael to Chard in the County of Somerset 1833

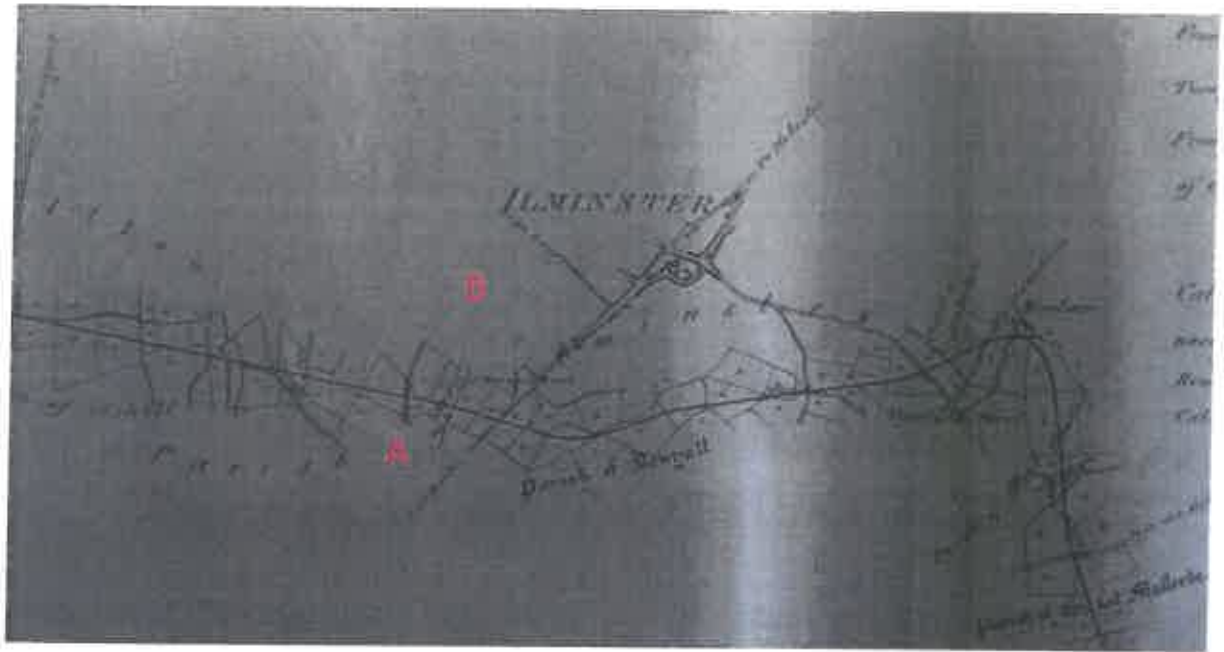
Plan
PROPOSED CANAL
from the Bridgewater and Taunton Canal at
Creech St Michael
to
CHARD
in the County of
Somerset.

Reference

[Faint handwritten text, likely a list of references or notes]



Appendix 21 continued.



Appendix 22. Book of Reference of Proposed Canal from the Bridgewater and Taunton Canal at Creech St Michael to Chard in the County of Somerset 1834

Document 5

Number on Plan	Town	Description	Owner	Leasee	Occupier	Observations
1	Brumby	Meadow	Jas. Collins		Jas. Ireland	
2	"	"	"		"	
3	"	Road to Fields				
4	"	Meadow	"		Jas. Bryant	
5	"	"	"		"	
6	"	"	"		"	
7	"	"	Jas. Pether		Jas. Pether	
8	"	"	"		"	
9	"	"	C. F. Gould		Jonathan Hill	
10	"	"	"		"	
11	"	"	"		"	
12	"	"	"		"	
13	"	"	"		"	
14	"	Road to Fields				
15	"	Spurway	Henry Jones		Henry Jones	
16	"	Orchard	Thos.borough		Charlotte Parnwell	
17	"	"	"		W. Sturkants	
18	"	"	Wm. Durham		W. Durkams	
19	"	Orchard	"		"	
20	"	Orchard	Robt. Collins Bryant		W. Shppard	
21	"	Orchard	W. Haswring		Hugh Haswring	
22	"	Pasture	"		"	

HOUSE OF LORDS RECORD OFFICE
LONDON, SW1A 0PW
Tel: 0171 219 3074 Fax: 0171 219 2570

No. 12281
To be quoted in all correspondence

Please fill in block and copy
Original Location: Edma Descent
Rights of way, Somerset, C.C.
Address (the location): Block C
County Hall, Somerset, TA14DY
Tel: 01223 858602 No. 416 Date: 20/2/91

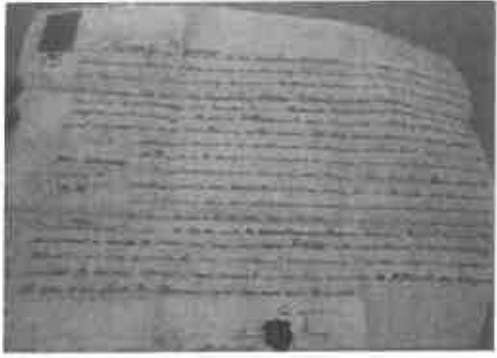
Name	No. of		Date	Date of	Date of
	Pages	Items				Accepted	Completed
Book of Reference (incl) Chard Canal 1834	2	74	90		12/2

21 FEB 1991
H.R.C.
L.F.
DEF

Receipt no. 1001
Proposals must be in duplicate
on a form of the L.C. and made available to "House of Lords Records" Dept. until 1.3.91

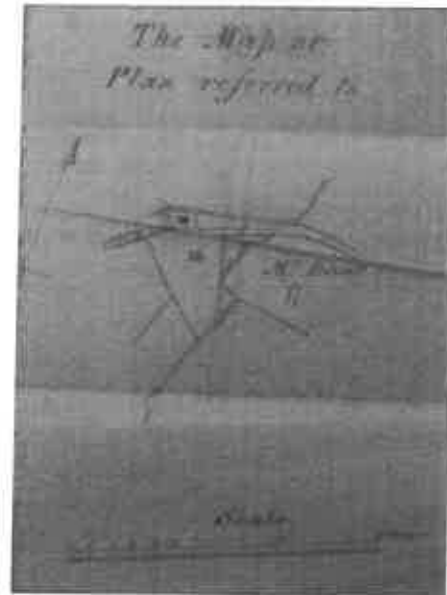
761
1.361
12/2

Appendix 23. Conveyance associated with Bridgwater and Taunton Canal

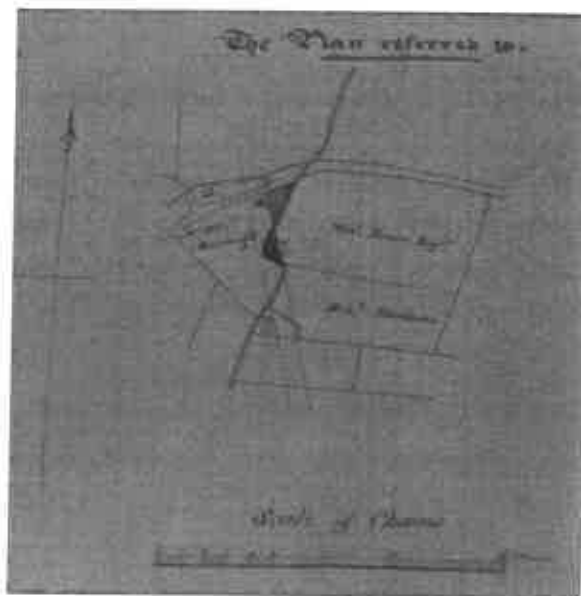


Henry Down. "...all that piece or parcel of land or garden ground containing by admeasurement Eight perches or thereabouts situate in the parish of Ilminster in the County of Somerset part of a garden now in my possession bounded on the north and part [...] side thereof by land belonging to John Scott Gould Esquire and on the southern and part [...] side thereof by a roadway leading from the Ilminster and Honiton Turnpike road to Winterhay which said piece or parcel of land or garden ground hereby conveyed or in[...]ed to be is described by the colour red in the plan in the margin of these present and there numbered 14 ..."

Appendix 23 continued.

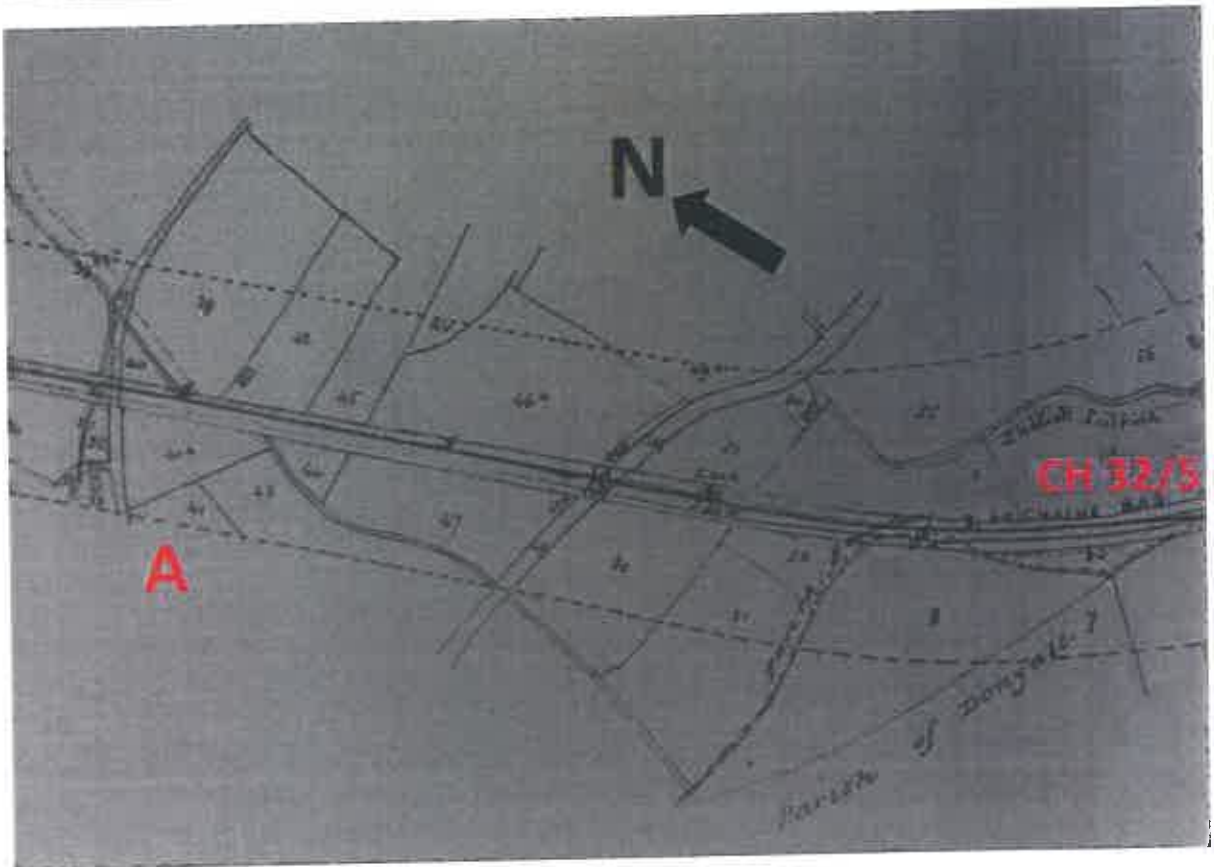


Thomas Burrough "... and so numbered 16 in the plan described on these present [...] said pieces or parcels of land thereby granted or intended so to be are those particularly described by the colour Blue in the said plan..."

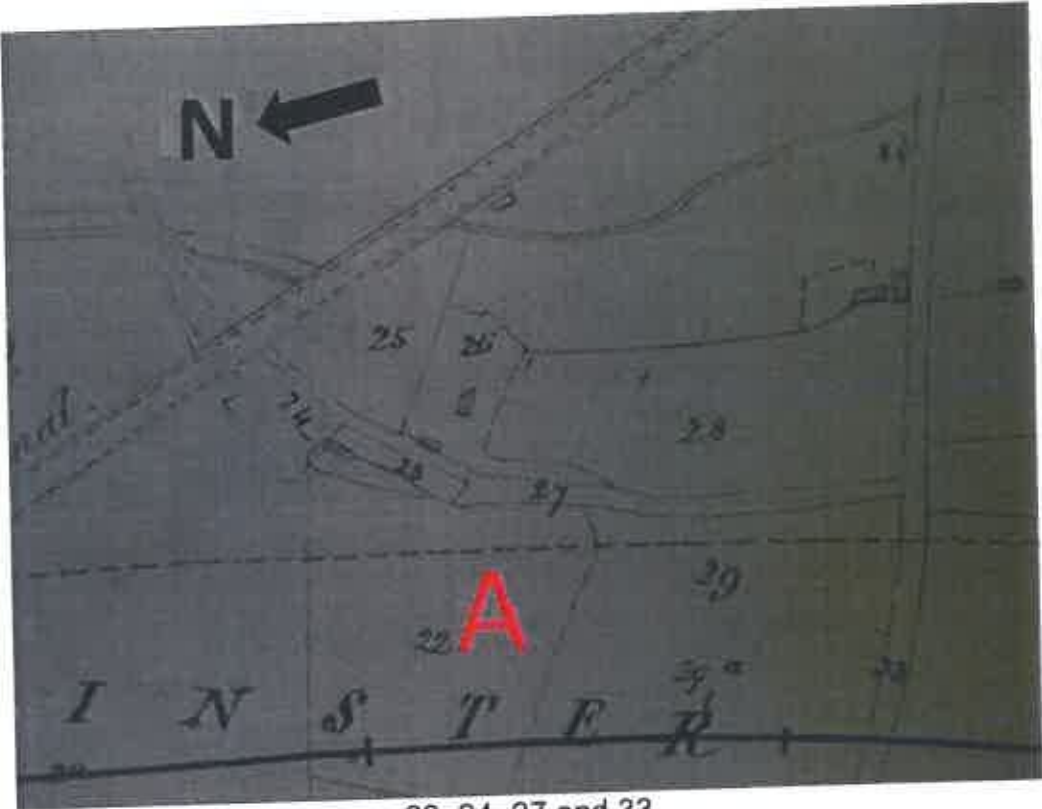


Thomas Bower "All that piece or parcel of land or ground [...] as [...] being part of a [...] close of land called Winterhay four acres situate in the parish of Ilminster in the county of Somerset and now in the occupation of Richard Shaland and numbered 17 on the plan drawn on these present [...] parts of parcels of land in particularly described in the said plan and there coloured Red the same being the site of a portion of the said intended canal or works connected therewith.."

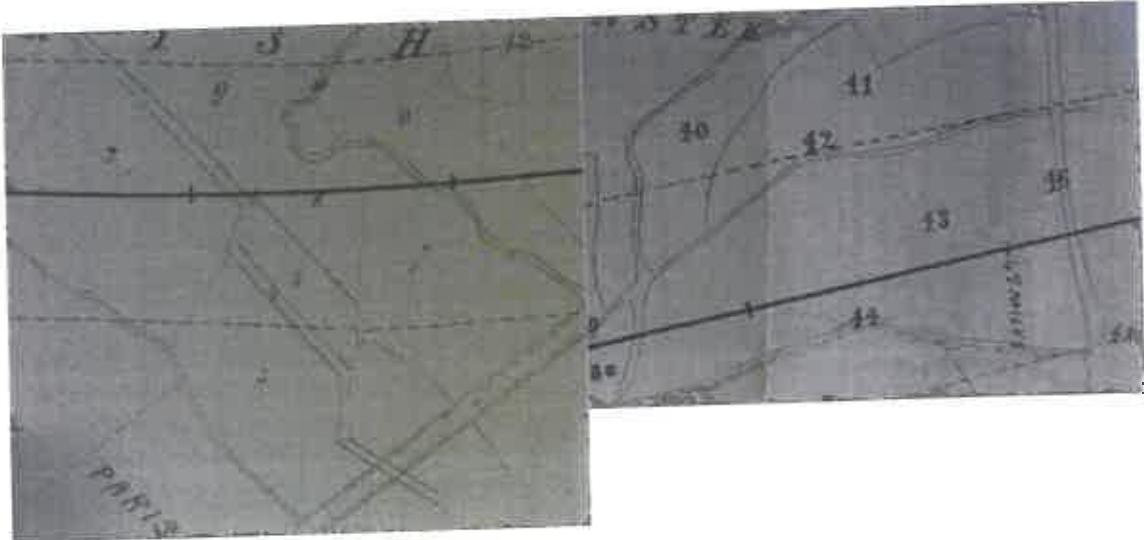
Appendix 24. Taunton and Chard (Canal) Railway. Plan and section. 30 Nov 1845



Appendix 25. Plans and Sections Bath, Wells and Exeter Junction Railway
1845



23, 24, 27 and 33



4

46

Appendix 26. Book of reference for the Bath, Wells and Exeter Junction Railway 1845

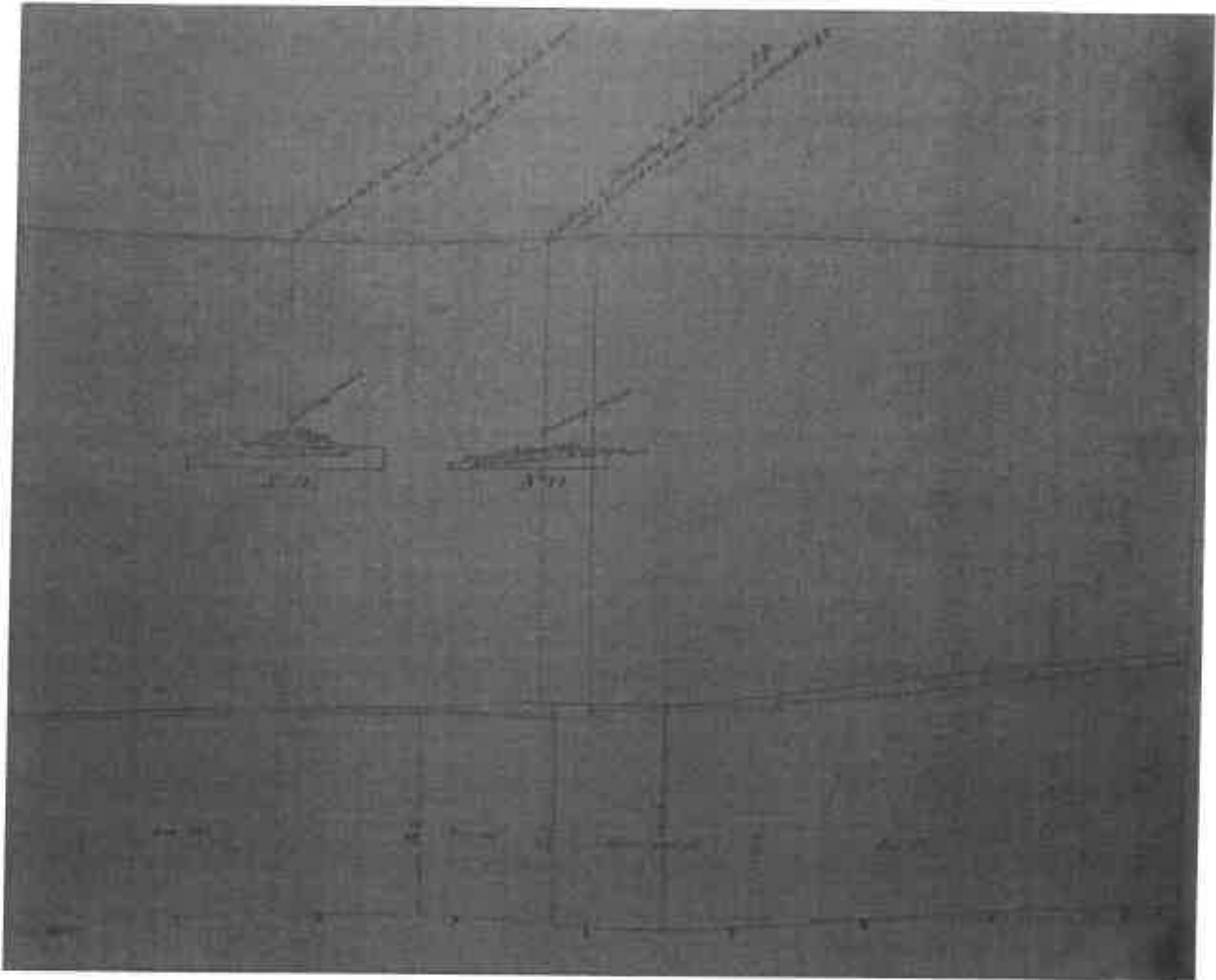
The Parish of Kilnchurch in the County of Gloucestershire

No. of PLAT	DESCRIPTION OF PROPERTY	OWNER OR REPUTED OWNER	LESSEE OR REPUTED LESSEE	RENT
1	Plot	John Colman		William Colman
2	Plot	John Colman		William Colman
3	Plot	John Colman		William Colman
4	Concession from	John Colman		William Colman
5	Plot	William Colman		William Colman
6	Plot	William Colman		William Colman
7	Plot	John Colman		John Colman
8	Plot	John Colman		John Colman
9	Plot	John Colman		John Colman
10	Mead	William Colman		William Colman
11	Mead	William Colman		William Colman
12	Mead	William Colman		William Colman
13	Mead	William Colman		William Colman
14	Mead	William Colman		William Colman
15	Mead	William Colman		William Colman

16	Plot	William Colman		William Colman
17	Plot	William Colman		William Colman
18	Plot	William Colman		William Colman
19	Plot	William Colman		William Colman
20	Plot	William Colman		William Colman
21	Plot	William Colman		William Colman
22	Plot	William Colman		William Colman
23	Plot	William Colman		William Colman
24	Plot	William Colman		William Colman
25	Plot	William Colman		William Colman
26	Plot	William Colman		William Colman
27	Plot	William Colman		William Colman
28	Plot	William Colman		William Colman
29	Plot	William Colman		William Colman
30	Plot	William Colman		William Colman
31	Plot	William Colman		William Colman
32	Plot	William Colman		William Colman
33	Plot	William Colman		William Colman
34	Plot	William Colman		William Colman
35	Plot	William Colman		William Colman

Wm. Colman *George Thomas*
of the above

Appendix 26 continued.



Section

22	Parson's hall and over-shall	Down	John Stow, Henry Adams
23	College and garden	Thomas Burrough	William Charnell
24	Geometrical tract	Henry Down	Henry Down
		John Stow, Gould,	Jacobus Hill, William
		Thomas Burrough,	Charnell, Henry Down
		Henry Down	
		R	I

Book of reference

Appendix 26 continued.

No. of Plan	Description of Property	Owners, as reported by them	Lessors, as reported by them
27 28	Highways	Henry Jones The Company of Proprietors of the Chard Canal Navigation, Isaac Goble and Sons, clerk, Richard Sharland, Surveyor of Highways	Henry Jones Richard Sharland, Surveyor of Highways
27 28	Parish road Briars	Richard Sharland, Surveyor of Highways Catherine Masters, wife of John Masters, and Charles Collins, her trustee, Thomas Burrough, Harrist Bower, wife of Richard Bower, and William Banger and John Willot, Trustees, her trustees	William Sheppard, Richard Sharland, William Thomas
28	Arable field	Harrist Bower, wife of Richard Bower, and William Banger and John Willot, Trustees, her trustees	Richard Sharland
29	Arable field	Harrist Bower, wife of Richard Bower, and William Banger and John Willot, Trustees, her trustees	Richard Sharland
45	Pasture field, footpath, and stream	Virginia Trevanion Langworthy	Virginia Trevanion Langworthy
46	Pasture field, cow-pasture, footpath, and stream	Virginia Trevanion Langworthy	Virginia Trevanion Langworthy

Book of reference

XV. And be it enacted, That in making the said Railway it shall be lawful for the Company to construct the said Railway across and on the Level of the following Turnpikes and public Carriage Roads; (that is to say,)

In the Parish of *Creech Saint Michael*, the public Roads numbered respectively 70 and 143 on the said Plans:

[Level] 42 7 It

3846 9 & 10 VICTORIA. Cap. cxxvi.

In the Parish of *Ilminster or Hinton*, the public Road numbered 11 on the said Plans:

In the Parish of *Thorne Felton or Thorne Parva*, the public Road numbered 14 on the said Plans:

In the Parish of *North Curry*, the public Road numbered 55 on the said Plans:

In the Parish of *White Lochington*, the public Road numbered 10 on the said Plans:

In the Parish of *Bton*, the public Road numbered 25, and the Turnpike Road numbered 34, on the said Plans:

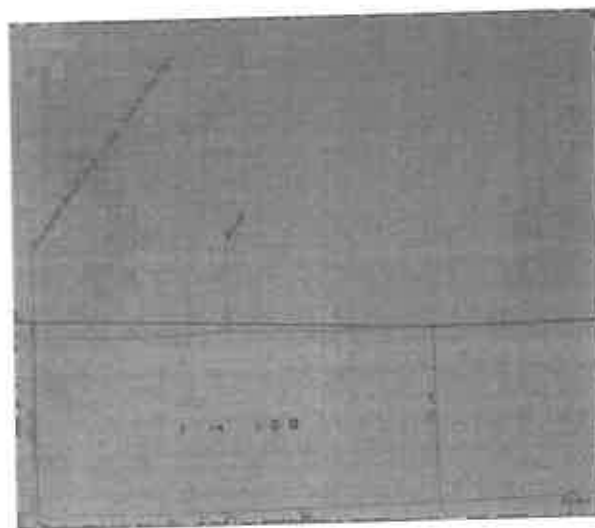
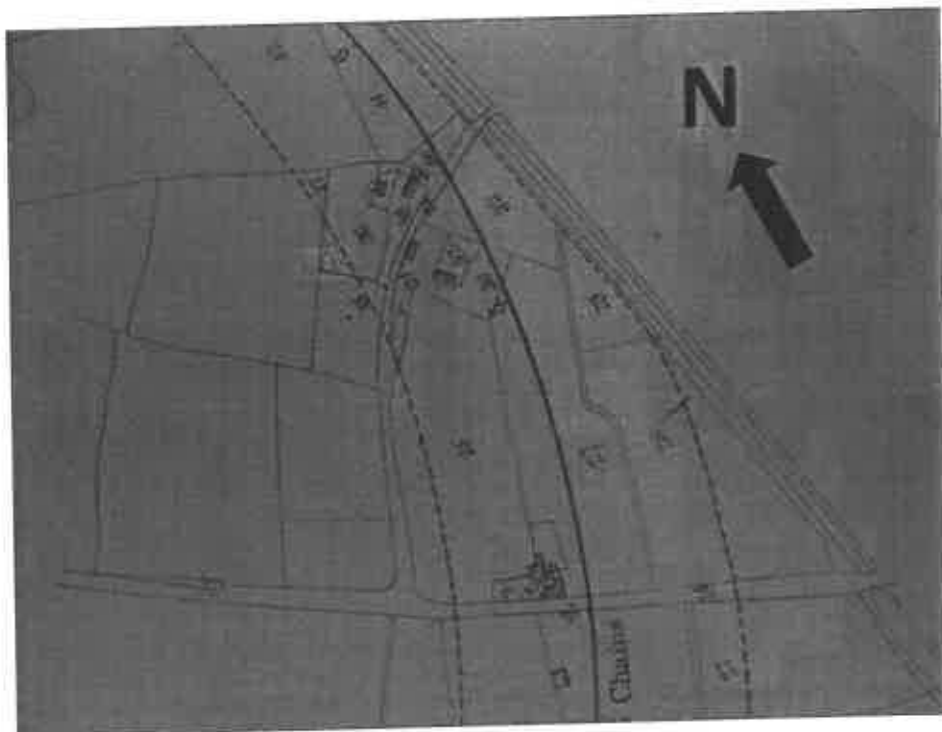
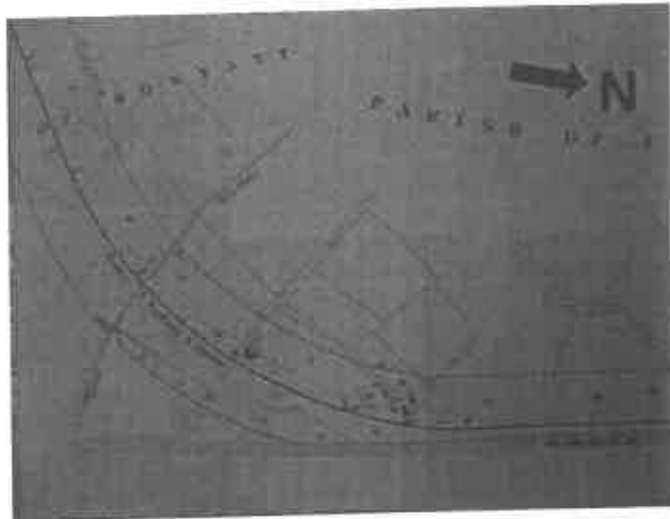
In the Parish of *Ilminster*, the public Road numbered 37, and the Turnpike Road numbered 49, on the said Plans.

An Act to enable the Chard Canal Company to convert into a Railway the Portion of the Chard Canal from Creech Saint Michael to Ilminster, all in the County of Somerset. 16 July 1846.

Appendix 27. Proposed Railway from Yeovil to Exeter with Branches, 1846



Appendix 28. Chard and Taunton Railway Plans and Sections Session 1861



Appendix 29. Chard and Taunton Railway Book of Reference 1861

The Parish of ASHILL, in the County of SOMMERSY.				
No. or Plot.	Description of Property.	Owner, or Proposed Owner.	Lessors, or Proposed Lessors.	or Assignees.
1	Stream	Hannah Maria Collins and John Roy Allen		James Baker and James Dight
2	Pasture Field and Foot-path	John Roy Allen		James Dight
3	Arable Field	The Chard Canal Company		Job Mace
4	Pasture Field and Stream	John Roy Allen		Benjamin Walker, Joseph Hall Walker, and James Adams
5	Pasture Field and Stream	John Roy Allen		Benjamin Walker, Joseph Hall Walker, and James Adams
6	Pasture Field and Foot-path	John Roy Allen		Benjamin Walker, Joseph Hall Walker, and James Adams
7	Pasture Field, Footpath and Occupation Road	Robert Hildulph Lawrence Walker, Rev. Joseph Street, and Rev. William Cooksey Thompson		John Hinton

From the Ashill section of the Book of Reference

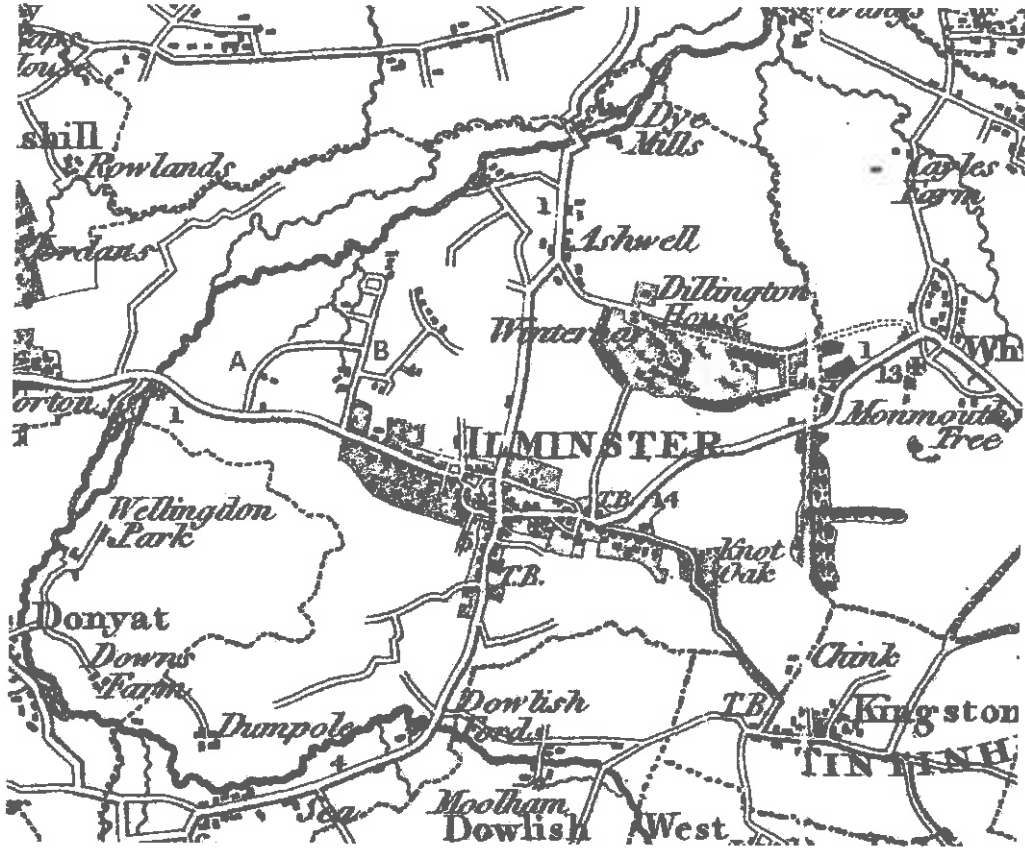
21	Turnpike Road	The Trustees of the Ilminster Turnpike		
----	---------------	--	--	--

From the Ilminster section of the Book of Reference

34	Occupation Road	William Channell and Henry Down		William Channell and Henry Down
----	-----------------	---------------------------------	--	---------------------------------

From the Ilminster section of the Book of Reference

Appendix 31. Greenwood's Map, 1822



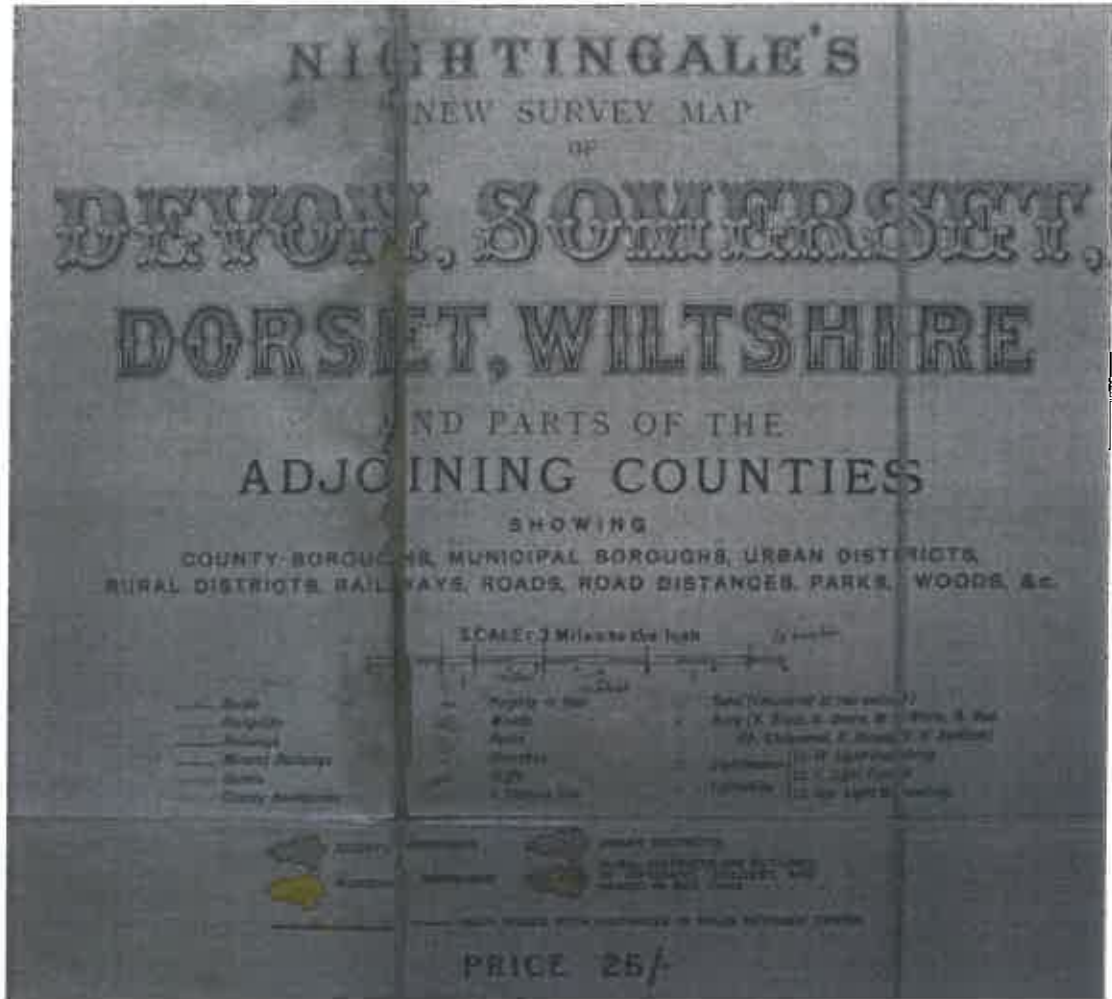
Explanation

- Churches & Chapels
- Castles & Forts
- Manors
- Water Mills
- Wind Mills
- Coal Pits
- Woods & Plantations
- Heaths & Common
- Rivers & Brooks
- Navigable Canals
- Township Boundaries
- Cross Roads
- Towns & other Places that send Members to Parliament
- Mills of Hoop & Spinning
- Boundaries of Counties
- Boundaries of Hundreds
- Boundaries of Townships & Parishes
- Market Towns in Roman Capitals or
- Towns & Townships in small Roman or
- Villages Hamlets and other Places in
- Toll Bars



BATH
 BATH
 BATH
 T.B.

Appendix 32. Nightingale's Map circa 1920



Appendix 33. "The Manor and Town of Ilminster being the property of the Rt Hon. Frederick Lord North of Dillington made by Samuel Donne of Melbury Osmond in Dorset" 1768



Appendix 33 continued

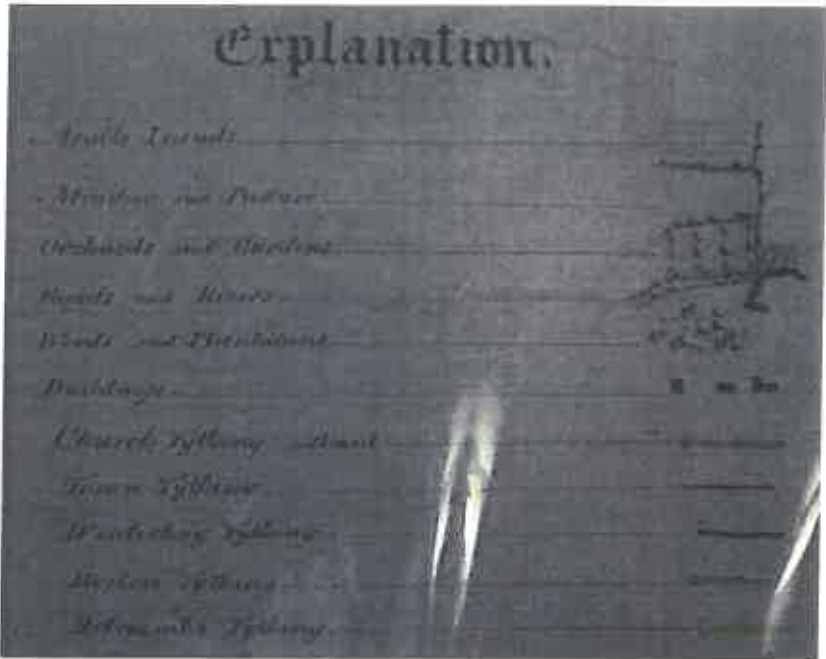


North-east end of footpath CH 14/9 labelled 'from Ripps Hill'.








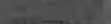
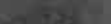

Cul-de-sac leading to plot No.48S and 17C, and 19M and 21N

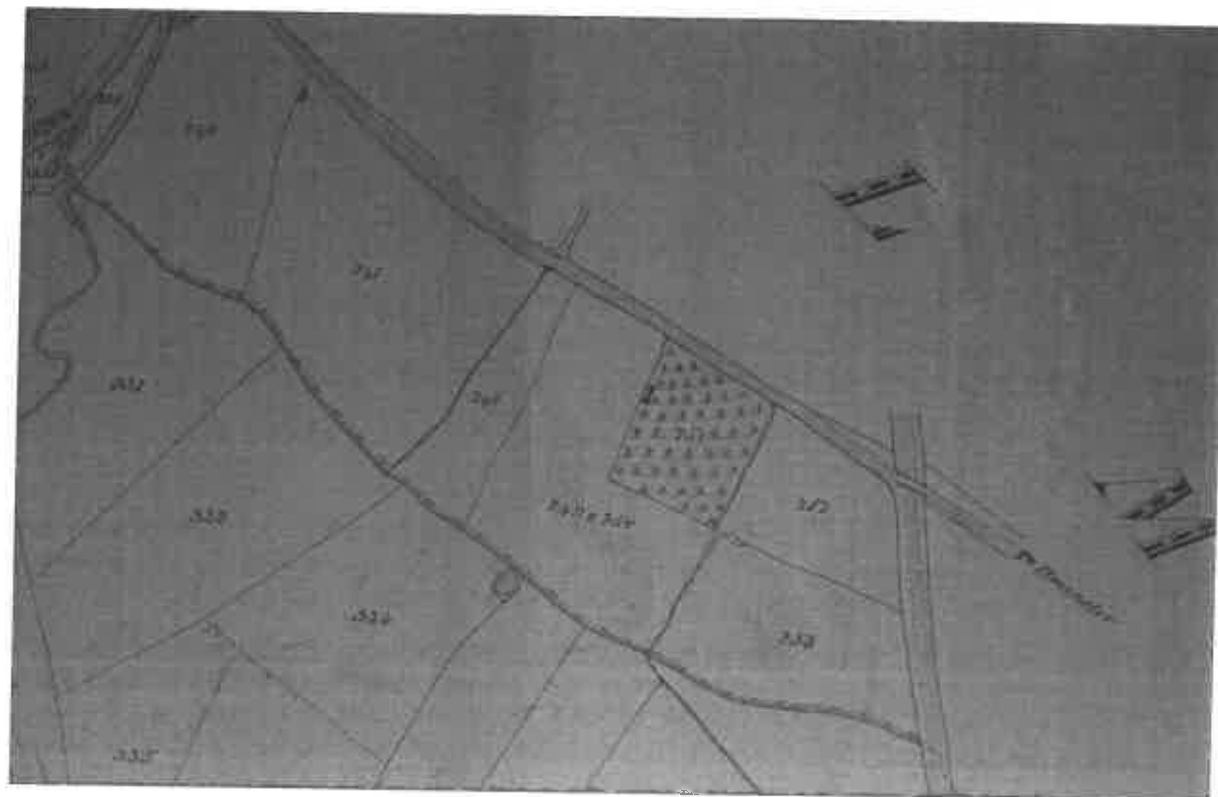
Appendix 34. Map of the Parish of Ilminster in the County of Somerset 1821



Appendix 35. Map of the parish of Donyatt and lands in the parish of Ilminster Somerset the property of Richard Thomas Combe Esq. 1839

Note

<i>Parish Roads coloured blue</i>	
<i>Parish Roads</i>	
<i>Division between Ilminster and Donyatt</i>	
<i>Rivers and Streams</i>	
<i>Houses</i>	
<i>Plantations shown thus</i>	
<i>Wells and Cypresses</i>	
<i>Orchards</i>	



Appendix 36. Ilminster Urban District Council Town Guides 1954, 1958 and fourth edition (undated).



1954



1958



Fourth Edition