

HAMPSHIRE COUNTY COUNCIL

Officer Decision Record

Decision Maker	Jonathan Woods <i>Countryside Service Strategic Manager</i>
Title	Application for a Definitive Map Modification Order to record a footpath between the A32 (near Abbey House) and Beaconhill Cottage Parish of Warnford
Reference	DMMO 963

Tel: 0370 779 0383

Email: Jennifer.holden-warren@hants.gov.uk

1. The decision:

- That the application for a Definitive Map Modification Order (DMMO) to record a public footpath between the A32 (near Abbey House, Point A on the report plan) and Beaconhill Cottage (Point B) should be accepted. The public footpath to be recorded should continue as far as Beacon Hill and Warnford Footpath 502 (Point D).
- The width of the route should be 1.5 metres between Points A and B, between 3.3 and 5 metres between Points B and C, and between 2 and 7.3 metres between Points C and D.

2. Reason(s) for the decision:

- The application, which relies on documentary evidence, was submitted in 2007 by a resident of Winchester.
- Documentary evidence demonstrates that the Quarter Sessions of 1779 diverted an existing public footpath to the alignment of the claimed route. Although the Quarter Sessions map does not cover the entire length of the route, it is accompanied by a comprehensive description which sets out that the footpath continued to Beacon Hill and to Exton; this description appears to be reflected in part by Taylor's and Andrews' Maps (1759 and 1791), and by the first edition of the Ordnance Survey County Series maps (c.1870), which show a route which appears to be between Points C and D on the report plan.
- The claimed route (between Points A and B) is depicted on three railway plans (1863, 1865 and 1881) and is described as a public footpath in the accompanying books of reference. Depictions of the route which are consistent with the footpath illustrated and described in the Quarter Sessions record are shown on three editions of the Ordnance Survey county series map as far as Beaconhill Cottage; the first edition shows an onwards route to Beacon Hill.
- The claimed route and the onward route to Beaconhill Farm are not shown on later maps (including the Highways Handover and Maintenance Maps) and was not claimed as a footpath by the parish at the time the first Definitive Map was being compiled, although there is evidence that the Parish Meeting had concerns about paths which crossed fields. Despite these omissions, no record

of a stopping up or extinguishment of claimed route has been discovered and the ruling in *Dawes v Hawkins (1860)* has set a precedent of ‘once a highway, always a highway’.

- As the legal threshold for making an Order is that a route is ‘reasonably alleged’ to subsist, it is considered that there is sufficient evidence to make an Order for a public footpath from the A32 (near Abbey House) to Beacon Hill and Warnford Footpath 502. Notably, the ‘reasonably alleged’ threshold has recently been tested and upheld by the Court of Appeal in the case of *R (on the application of Roxlena Ltd) v Cumbria County Council & Peter Lamb, (2019)*.

3. Consultations:

The following people and organisations have been consulted on this application: Warnford Parish Meeting, Exton Parish Meeting, Winchester City Council, South Downs National Park Authority, Ramblers, Open Spaces Society. Additionally, the County Council Member for Meon Valley, Councillor Roger Huxstep, has been made aware of the application. Where responses were provided, these are set out below.

South Downs National Park Authority

“The SDNPA Access team has no further evidence to either support or refute the claim for public rights along the path marked on the supplied plan running between the A32 and Beacon Hill Cottage.”

Warnford Parish Meeting

“We have made enquiries within the village but unfortunately haven’t turned up any new evidence. We recognise that a path is shown on Ordnance Survey maps prior to World War I, but there doesn’t appear to be any memory of it in a period going back to roughly the early 1960s.”

Exton Parish Meeting

“I presented the plans to the meeting. Overall there was little support.

Ramblers

“I have no evidence of use for this particular route (...). It would make a welcome addition if it connected to another right of way. Beaconhill Lane which is marked on the map as footpath created following creation order was never put in place. This was going to be the pedestrian route of The SOUTH DOWNS WAY across the Meon Valley, and was to link up with Warnford footpath 502. The order was quashed in the high court due to the over excessive width for a footpath which the land owner objected to. (...) As it stands the proposed route would be a dead end, but if in any way it would help to get the outstanding pedestrian route across the Meon Valley put in place that would be great!”

Comments by the Landowners

The affected landowners are MJI Farming Ltd and the owner of Beaconhill Farm. The landowners instructed a land agent to act on their behalf. The land agent responded to the consultation to state their clients’ opposition to the application; they made the following comments:

Apart from the documents that were submitted by the applicant we have no other material that appears to be relevant to the claim. I have looked at the original [Quarter Sessions] documents. The [Quarter Sessions] plan in no way reflects the alignment of the claimed route. The Railway Map which I have also looked at, shows a small section of a route without it being possible to ascertain

the points to which it may connect and also appears to reflect a different route to the claimed route.

4. Other options considered and rejected:

N/A

5. Conflicts of interest:

None.

6. Dispensation granted by the Head of Paid Service:

N/A

6. Supporting information:

- Full Officer Report
- Location Map
- Documentary evidence

Approved by:

Date:

22 April 2021

Jonathan Woods – Countryside Access Group Leader

**On behalf of the Director of Culture Communities and
Business Services**

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

Hampshire safer and more secure for all:	yes/no
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes/no
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes/no
Corporate Improvement plan link number (if appropriate):	
OR	
This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because: the County Council, in its capacity as ‘surveying authority’, has a legal duty to determine applications for Definitive Map Modification Orders made under s.53 Wildlife and Countryside Act 1981.	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Claim Reference: DMMO 963

Location

Countryside Access Team
Castle Avenue
Winchester
SO23 8UL

IMPACT ASSESSMENTS:

1 Equalities Impact Assessment: N/A

2. Impact on Crime and Disorder: N/A

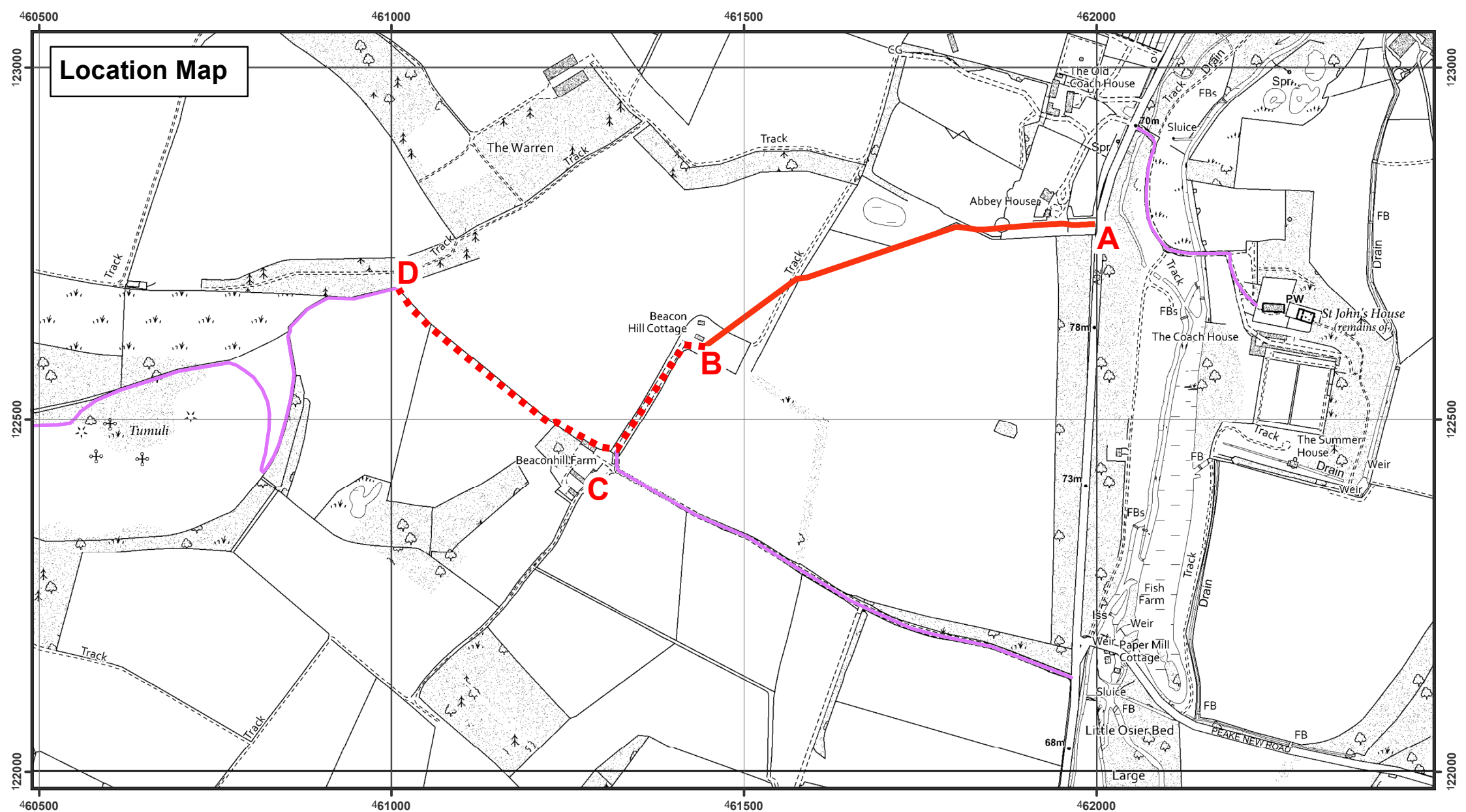
3. Climate Change:

How does what is being proposed impact on our carbon footprint / energy consumption? N/A

How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? N/A

This report does not require impact assessment but, nevertheless, requires a decision because the County Council, in its capacity as the 'surveying authority', has a legal duty to determine applications for Definitive Map Modification Orders made under s.53 Wildlife and Countryside Act 1981.

Location Map



Application for a Definitive Map Modification Order to record a footpath in the Parish of Warnford

LEGEND

- Claimed route
- - - - - Additional route under investigation
- Public Footpath

1:7,000

Countryside Access Team
 Culture, Communities &
 Business Services
 Castle Avenue
 Winchester, SO23 8UL

© Crown copyright and database rights 2021 Ordnance Survey 100019180.
 Use of this data is subject to terms and conditions. You are granted a non-exclusive, royalty free, revocable licence solely to view the Licensed Data for non-commercial purposes for the period during which HCC makes it available. You are not permitted to copy, sub-license, distribute, sell or otherwise make available the Licensed Data to third parties in any form. Third party rights to enforce the terms of this licence shall be reserved to Ordnance Survey

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Jonathan Woods <i>Countryside Service Strategic Manager</i>
Date:	22 April 2021
Title:	Application for a Definitive Map Modification Order to record a footpath between the A32 (near Abbey House) and Beaconhill Cottage Parish of Warnford

Contact name: Jennifer Holden-Warren

Tel: 0370 779 0383

Email: Jennifer.holden-warren@hants.gov.uk

Purpose of this Report

1. The purpose of this report is to assist the Countryside Service Strategic Manager in determining whether to accept an application for a Definitive Map Modification Order to record a public footpath in the parish of Warnford.

Recommendation(s)

2. That authority is given for the making of a Definitive Map Modification Order to record a footpath between Points A and D on the attached plan. The width of the route should be 1.5 metres between Points A and B, between 3.3 and 5 metres between Points B and C, and between 2 and 7.3 metres between Points C and D.

Executive Summary

3. This is an application made by a member of the public ('the applicant') in 2007 under Section 53 of the Wildlife and Countryside Act 1981, to record a public footpath in the parish of Warnford between the A32 near Abbey House (Point A) and Beaconhill Cottage (Point B). The application is supported by historic documentary evidence that the applicant believes demonstrates that a public right of way should be recorded.
4. Having considered the evidence submitted with the application, and undertaken additional research of historic documentary evidence, it is considered that there are sufficient grounds to record a footpath along the route. During the course of the investigation, evidence reviewed confirmed that there was once a route linking Warnford to Beacon Hill that continued on to Exton. This evidence suggests that the alignment of the route to Beacon Hill was between Points C and D on the attached plan. There is less evidence documenting the alignment of the route continuing to Exton beyond Beaconhill

Farm; for this reason, the recommendation is that a route should be recorded as far as Beacon Hill only.

Legal framework for the decision

WILDLIFE AND COUNTRYSIDE ACT 1981 - Section 53: Duty to keep definitive map and statement under continuous review

(2) As regards every definitive map and statement, the surveying authority shall:

b) keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence.... of any of [the events specified in sub-section (3)] by order make such modifications to the map and statement as appear to them to be requisite in consequence of that event.

(3) The events referred to in sub-section (2) are as follows: -

c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows...

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;

RELEVANT CASE LAW

- *Dawes v Hawkins (1860)*

The judge ruled that highway status can only be revoked by the highway being stopped up. This ruling created the precedent of 'once a highway, always a highway'.

- *R (on the application of Roxlena Ltd) v Cumbria County Council & Peter Lamb (2019)*

Examined, amongst other issues, whether the County Council was correct to make an Order for a route which they had been unable to survey, as the landowner had not permitted them access to the land, and no aerial photography was available. The Order was made on the basis of the alignment of the route provided in the user evidence forms and the presumption that these provided a 'reasonable allegation' for the alignment of the route. The Court of Appeal upheld this decision.

Description of the Claimed Route (please refer to the map attached to this report)

5. The claimed route commences at a junction with the A32 near Abbey House (point A on the attached plan), before continuing in a generally westerly direction to Beacon Hill Cottage (point B).
6. The length of the claimed route is approximately 600 metres.
7. The land over which the claimed route runs is owned by MJI Farming Ltd.

8. During the investigation, evidence reviewed confirmed that there was once a route linking Warnford to Beacon Hill that continued on to Exton. This evidence suggests that, from Beacon Hill Cottage (Point B), the route continued in a south-westerly direction to Beaconhill Farm (Point C), then in a north-westerly direction to Beacon Hill (Point D) where an existing public footpath terminates (Warnford Footpath 502).

Issues to be decided

9. The primary issue to be decided is whether there is clear evidence to show that public rights subsist or are 'reasonably alleged' to subsist. Case law has decided that the burden of proof associated with Map Modification Orders is 'on the balance of probabilities', so it is not necessary for evidence to be conclusive or 'beyond reasonable doubt' before a change to the Definitive Map can be made. If there is genuine conflict in the evidence, for example between the evidence of users on the one hand and landowners on the other, an order should be made so that the evidence can be tested at a public inquiry. Officers do not consider that there is such a conflict in this case.
10. 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, it must be demonstrated that any change to the map is supported by evidence. This might be proved by historic documentary evidence or by evidence of use in the recent past.
11. If a right of way is considered to subsist or reasonably alleged to subsist, then the route, status and width of that way must also be determined, and authority for the making of an Order to record that right on the Definitive Map should be given.
12. Where a Map Modification Order is made, the process allows for objections to the Order to be made. Further evidence could potentially be submitted for examination along with an objection. In these circumstances, the County Council cannot confirm the Order, and the matter would need to be referred to the Secretary of State.
13. Where an Order has been made, and no objections to the Order are received, the County Council can confirm the Order. In the event of an application under Section 53 being refused, the applicant has the right to appeal against the County Council's decision to the Secretary of State, who may direct the County Council to make the order that is sought.
14. Should an Order to record a route be made and subsequently confirmed, the landowners may choose to apply for an extinguishment or diversion of the route under the provisions of sections 118 and 119 of the Highways Act 1980. Such an application would be subject to a consultation and further consideration by the County Council prior to a decision being taken.

Background to the Application

15. The application was submitted in 2007 by a member of the public. Due to a backlog of applications the matter was not taken up for investigation at the time.
16. The applicant submitted a five-page report setting out the evidence which they believe demonstrates that the claimed route existed historically. The following evidence was cited by the applicant:
 - a. Quarter Sessions records, authorising the diversion of an existing public footpath, 1779
 - b. Alton, Alresford and Winchester railway plan, 1864
 - c. Ordnance Survey 6-inch map, first edition, 1868
17. The evidence provided by the applicant is discussed below in addition to other evidence that has been discovered.
18. Near to the application route, there are two cul-de-sac footpaths; one which terminates at the foot of Beacon Hill, and one which terminates at the foot of Beaconhill Lane (point C on the attached plan). Both routes were created following the making of a Creation Order under Section 26 of the Highways Act 1980 by the County Council, confirmed by the Secretary of State but partially quashed following application to the High Court in 2009. The Order sought to record part of a public right of way at a point where there is a disconnection in the South Downs Way. The affected landowner was MJI Farming Ltd. Whilst this matter is outside the scope of this application and has no bearing upon its determination, it is mentioned here to give additional context to the apparently anomalous rights of way network in this area.

Consultations

19. The following people and organisations have been consulted on this application: Warnford Parish Meeting, Exton Parish Meeting, Winchester City Council, South Downs National Park Authority, Ramblers, Open Spaces Society. Additionally, the County Council Member for Meon Valley, Councillor Roger Huxstep, has been made aware of the application. Where responses were provided, these are set out below.

20. South Downs National Park Authority

"The SDNPA Access team has no further evidence to either support or refute the claim for public rights along the path marked on the supplied plan running between the A32 and Beacon Hill Cottage."

21. Warnford Parish Meeting

"We have made enquiries within the village but unfortunately haven't turned up any new evidence. We recognise that a path is shown on Ordnance Survey maps prior to World War I, but there doesn't appear to be any memory of it in a period going back to roughly the early 1960s."

22. Exton Parish Meeting

"I presented the plans to the meeting. Overall there was little support."

23. Ramblers

"I have no evidence of use for this particular route (...). It would make a welcome addition if it connected to another right of way. Beaconhill Lane which is marked on the map as footpath created following creation order was never put in place. This was going to be the pedestrian route of The SOUTH DOWNS WAY across the Meon Valley, and was to link up with Warnford footpath 502. The order was quashed in the high court due to the over excessive width for a footpath which the land owner objected to. (...) As it stands the proposed route would be a dead end, but if in any way it would help to get the outstanding pedestrian route across the Meon Valley put in place that would be great!"

Comments by the Landowners

The affected landowners are MJI Farming Ltd and the owner of Beaconhill Farm. The landowners instructed a rights of way consultant to act on their behalf. The land agent responded to the consultation to state their clients' opposition to the application; they made the following comments:

Apart from the documents that were submitted by the applicant we have no other material that appears to be relevant to the claim. I have looked at the original [Quarter Sessions] documents. The [Quarter Sessions] plan in no way reflects the alignment of the claimed route. The Railway Map which I have also looked at, shows a small section of a route without it being possible to ascertain the points to which it may connect and also appears to reflect a different route to the claimed route.

Documentary Evidence

Documents held in archives, whether Hampshire Record Office, the National Archives, or online archive collections, are marked by an 'A'. Please refer to Appendix 1 for a brief background and introduction to each type of document. Images of maps, where held, are contained in Appendix 2 and annotated with letters which approximately correspond with letters on the Report Plan.

24. Taylor's Map of Hampshire (1759) (A¹)

The map shows a route which leaves the Warnford to Exton road and bears west (being consistent with the location of Beacon Hill Lane) before splitting into three routes. Beyond the split in the route, one route continues northwards towards the present Wheely Down Road, one road continues in a north-westerly direction towards Beacon Hill, and the third route continues in a south-westerly direction towards Exton. The routes are shown as sepia lines, enclosed by either solid or pecked lines. The map legend describes these as 'roads' either enclosed by hedges (solid lines) or 'open over Heaths Downs &c' (pecked lines). Minor routes such as footpaths are not shown on the map.

This document provides evidence which suggests that Beaconhill Lane may have been used by the travelling public at the time this map was produced. It also

¹ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate <http://www.oldhampshiremapped.org.uk/hantsmap/taylor4/TY53F.htm>

suggests that there were three different destination points leading from Point C, and one of these appears to have continued towards or to Beacon Hill. It is not possible to infer from this document whether the public had any rights of access along it.

25. Andrews' Map (1791) (A)²

The full title of this document is 'A map of the country sixty five miles round London'. The map is very similar to the depiction of the area on Taylor's Map – a route consistent with Beacon Hill Lane is shown (depicted with solid lines) and it splits into three onward routes depicted with pecked lines. The central onward route continues towards and over Beacon Hill, which is labelled 'Lower Beacon'. No footpaths or minor ways are depicted, and the map does not appear to have a legend.

As with Taylor's map, this document appears to provide evidence that Beaconhill Lane was in use by the travelling public at this time, although it cannot be said with certainty what status the route had. However, the clear depiction of the route over Beacon Hill suggests that the lane was a means of accessing the hill.

26. Milne's Map of Hampshire (1791) (A)³

The map shows two routes bearing westward from the Warnford to Exton road; a road consistent with the current Wheely Down Road, and a second route with no apparent onward connection, marked with solid black lines which the legend denotes as 'enclosed road'. There are no other routes depicted in the area surrounding the claimed route, including an absence of Beacon Hill Lane, although Winnell's Copse is clearly shown (which is also identified on the Warnford Tithe). No minor ways have been depicted on the map.

27. Quarter Sessions Record (1779) (A)⁴

The record of the Quarter Sessions held at Easter in 1779 sets out a diversion of an existing route, the status of which is described as a 'highway or footway', amending the alignment of part of the route. The record consists of a comprehensive written description of the route (see Appendix 2 for full text) and an annotated plan showing the existing route and the diversion. By reference to the descriptions of the names of the roads in close proximity, and later large-scale Ordnance Survey Mapping, it is clear that the diversion route set out in this document corresponds with the application route. Significantly, the plan describes the route as a "footway to Beacon Hill", and the description sets out the route as "to Bacon [sic] Hill aforesaid with perfect ease and convenience". The diversion of the route is described as being diverted along the Winchester to Warnford

² Available from McMaster University online archive:

http://digitalarchive.mcmaster.ca/islandora/object/macrepo:79329/print?clip=rft_id%3Dhttp%253A%252F%252Fdigitalarchive.mcmaster.ca%252Fislandora%252Fobject%252Fmacrepo%25253A79329%252Fdatastream%252FJP2%252Fview%253Ftoken%253D198c62f44d5e85b0489098005e717c18bfccea861d858d1b657e59ffd8241f03%26svc.region%3D5479%252C3581%252C1413%252C1814%26dimensions%3D642%252C500

³ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate <http://www.oldhampshireremapped.org.uk/hantsmap/milne1/milne1.htm>

⁴ Hampshire Record Office Reference number – Q1/19

turnpike road from its former position commencing at a junction with the current Wheely Down Lane. The diverted route then continues along a 'footway' at 'Winnall field' and on to Beacon Hill ('Winnalls' is also clearly depicted on the Warnford Tithe Map and described as 'arable', see paragraph 29). Beyond Beacon Hill, the route is described as continuing "towards and unto the village of Exton".

Although the Quarter Sessions plan does not show the full extent of the route, the references to Beacon Hill and Exton demonstrate that the claimed route continued beyond Beacon Hill Cottage; this is also reinforced by the map legend, which describes the diverted route as "allowed footway to Beacon Hill" Furthermore, the diverted route is shown in the context of its surroundings, which are identified on the map legend (including the names of the fields); the map provides sufficient detail that even a nearby dog kennel is identified.

28. Greenwood's Map of Hampshire (1826) (A)⁵

The claimed route is not shown on the map, which does not appear to show other minor routes in the area. However, Beaconhill Lane is clearly shown, including a south-westerly route from Beaconhill Farm to Exton, with a spur from this route leading to Beacon Hill. There is a 'tumuli' label on the map at the point where the spur route to Beacon Hill meets the hill itself; this obscures the depiction of the route at the point where it meets the hill.

This depiction may reflect the description of part of the route in the Quarter Sessions records- that there was a route between Beacon Hill and Exton.

29. Tithe Records (1839) (A)⁶

Tithe maps and apportionment awards were created following the Tithe Commutation Act (1836), which sought to update the historic arrangement of landowners making payments in kind to the church, instead requiring them to pay a monetary payment. The maps and awards were created to calculate the value of the land in order to ascertain how much money the landowner should contribute to the church.

The claimed route is within the area covered by the Warnford tithe, which does not show any indication of the claimed route. However, the map does not show any paths or minor ways anywhere in the parish; it is therefore neutral evidence of the existence of the claimed route at that time. Nonetheless, the map is a significant piece of evidence when viewed alongside both the Quarter Sessions record, and a contemporary map of the area. The Quarter Sessions record refers to 'Winnell Field' in relation to the diverted footpath; a field called 'Winnells' is depicted on the tithe map and matches the depiction shown on the Quarter Sessions map. Viewing both documents alongside a contemporary map of the locality (see page 20 in Appendix 2) the current location of the field previously known as Winnells can be clearly identified.

⁵ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate

<http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/grnwood2/grw74.htm>

⁶ Hampshire Record Office Reference numbers – 21M65/F7/244 and 21M65/F7/84

The Exton tithe has also been reviewed to check whether the path to Beacon Hill and Exton referenced in the Quarter Sessions record has been shown. Whilst the Exton tithe also does not appear to show paths and minor ways (and therefore there is no route shown between Points B-C or Points C-D), routes between Beaconhill Farm and Beacon Hill, and from Exton towards Beacon Hill are depicted. These routes are coloured sepia in the same style as Beaconhill Lane, the current A32 and the Whiteway (the public road currently leading from Beacon Hill to Exton). As the routes are coloured sepia, they do not have apportionment numbers and have not been listed within the tithe apportionment. As the claimed route was set out as a footway and this map does not show minor ways, no inferences about its omission can be drawn.

30. Tracing of a map of Exton parish by IW Blackman, surveyor (c.1839) (A)⁷

This map shows a very similar depiction of the landscape to that of Tithe Map.

This map is of Exton, therefore the claimed route is outside of the area depicted. However, Beaconhill Lane is shown enclosed with solid black lines in the same style as the road from Exton to Warnford. Beyond Beaconhill Farm, the lane continues southwest towards Exton for the length of two fields before bearing northwest to Beacon Hill (as shown on the maps of the OS and Greenwood).

31. Map of the manor of Exton (1848) (A)⁸

This map is titled "*Map of the manor of Exton in the County of Southampton describing by a red boundary the copyhold and leasehold lands – the property of the Reverend the Dean and Chapter of Winchester, 1848*".

As this map is of Exton, the claimed route is outside of the area depicted. However, Beaconhill Farm and the fields immediately surrounding it are shown. It is interesting to note that Beaconhill Lane is not depicted as a continuous route – the lane is shown coloured sepia and with solid black lines in the same style as the Warnford to Exton road and there is a short break in the lane of an approximate distance of 90 metres. Beyond Beaconhill Farm, the sepia line of the lane continues southwest towards Exton for the length of two fields before bearing northwest to Beacon Hill (reflecting the other maps produced in the early part of the nineteenth century).

32. Ordnance Survey Old Series (c.1855) (A)⁹

The map reflects the depiction of the route on Greenwood's Map of Hampshire, and part of the description of the route in the Quarter Sessions; the claimed route is not shown on the map, which does not appear to show other minor routes in the area. However, Beaconhill Lane is shown, including a route from Beaconhill Farm to Exton, with a spur from this route leading to Beacon Hill; the route is open-ended where it meets Beacon Hill. This document supports the notion of the claimed route continuing to Beacon Hill and Exton.

⁷ Hampshire Record Office Reference number – 8M61/117

⁸ Hampshire Record Office Reference number – DC/J13/3/1

⁹ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate

<http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/ordnce6/oss43.htm>

33. Alton to Petersfield Railway Plan (Extensions from Petersfield to Havant and Fareham) (1851) (A)¹⁰

The proposed line of the railway crosses fields where the claimed route is, but there is no indication on the plan or in the book of reference to a footpath. Notably, Beaconhill Lane is described as an 'Occupation Road', suggesting that it was not considered to be a public road at this time.

34. Alton, Alresford and Winchester Railway Extension Plan (1863) (A)¹¹

The line of the footpath which was diverted by the Quarter Sessions (see paragraph 27) is shown on this plan by a pecked line crossing field number 32. The book of reference describes parcel 32 as "Arable Field, Row and public footpath" and occupiers as "Benjamin James Fish and The Public". The path appears to turn southwards rather than continuing south-westwards to what is now Beacon Hill Cottage, an alignment shown on later OS maps. Beaconhill Lane is described as an "Occupation Road" in private ownership. The end of the lane and any possible onward link to Beacon Hill is outside of the area shown on the map.

35. Mid Hants Railway – Deposited plan and book of reference (1865) (A)¹²

This shows deviations in the proposed route of the railway from the previous plan of 1863, but the intended line is still on the west side of the main road to Exton. The footpath is shown crossing the field exactly as on the plan of 1863 and the description in the book of reference is also the same, with the exception of the land parcel numbers being different. Beaconhill Lane is again described as an 'Occupation Road'.

36. Windsor, Aldershot and Portsmouth Railway Plan (1881) (A)¹³

The route of the footpath is shown by parallel pecked lines crossing fields numbered 56 and 58. The route of the path differs from the railway plans of 1863 and 1865 in that it appears to run south-westwards towards Beacon Hill Cottage (as shown on contemporary OS maps). Both fields are described in the book of reference as 'Field, Copse and Public Footpath' in the ownership of 'Henry Woods' and 'The Droxford District Highway Board, Francis Clark, Clerk.'

37. Ordnance Survey Maps - County Series (25 inches to 1 mile) – 1870 – 1909

Three maps were published by the Ordnance Survey at a scale of 25 inches to 1 mile between 1870 and 1909.

On the first edition of the map (circa 1870), the claimed route is shown by a pair of pecked lines which reflect the first section of the route's alignment set out in the Quarter Sessions records. The path leads from the Warnford to Exton Road adjacent to the current Abbey House and crosses the field to Beacon Hill Cottage. Beyond Beacon Hill Cottage, the path continues along the field boundary to

¹⁰ Hampshire Record Office Reference number – DP/A14

¹¹ Hampshire Record Office Reference number – DP/220

¹² Hampshire Record Office Reference number – DP/267

¹³ Hampshire Record Office Reference number – DP/392

Beaconhill Farm, beyond which there is an enclosed route to Beacon Hill, and an onwards enclosed route towards (but not to) Exton.

On the second and third editions (circa 1896-1909), the claimed route is again shown as a pair of pecked lines between the main road and Beacon Hill Cottage; the route is marked 'FP'. There is no indication of an onward route from the cottage towards Beaconhill Farm. Beyond Beaconhill Farm, there is an onward track towards Exton, but no route towards Beacon Hill.

The Ordnance Survey surveyors marked what they observed on the ground; therefore, although the claimed route is shown as a 'footpath', this means that it had the appearance of being a path used by pedestrians, it does not necessarily mean that there was a public right of way along the route (for example, the individuals using the route may have been doing so in exercise of a private right). As such, the maps carry a disclaimer that the depiction of a path does not reflect public rights of access. However, as the route shown on these maps corresponds with the alignment of the diversion route described in the Quarter Sessions proceedings as far as Beaconhill Farm (Point C), it can be inferred that there were public rights along the route at that time, and there is no record of an extinguishment or further diversion in the interim. Beyond Beaconhill Farm, the maps show that the route continued, but they do not show the complete alignment of the continuous route from Beaconhill Farm to Beacon Hill and to Exton. However, Taylor's Map (1759) and Andrews' Map (1791) suggest that the route to Beacon Hill was along the alignment depicted on the First Edition County Series.

The apparent width of the claimed route (determined by the distance between the pecked lines or solid boundary features as depicted on the first edition County Series map) is around 1.5 metres between Points A and B. Beyond this, the route appears to have a width of between 3.3 and 5 metres between Points B and C, and between 2 and 7.3 metres between Points C and D.

38. Droxford Rural District Council Highway Handover Map (1929) (A)¹⁴

Highway handover maps were prepared when responsibility for highways transferred from rural district councils to county councils under the Local Government Act (1929). The maps, which use one of the Ordnance Survey county series maps as the base map, indicated which highways were maintainable by the County Council, and also indicated routes which were not considered to be the responsibility of the highway authority. Only roads have been marked on the map; no footpaths have been annotated. This is unusual – highway handover maps usually show responsibility for both roads and footpaths. As no footpaths have been annotated on the map, it is not possible to draw any conclusions about the omission of the claimed route from this map. Notably, the annotations of roads are not exhaustive – the A32, Warnford to Exton road has not been annotated.

39. Highways Maintenance Map, Droxford Division (1946) (A)¹⁵

¹⁴ Hampshire Record Office Reference number – H/SY3/6/6

¹⁵ Hampshire Record Office Reference number – H/SY3/3/24/4

Highway maintenance maps were produced following the responsibility for highways being transferred to county councils; the maps show the highways maintained by Hampshire County Council at the time. Whilst the Highway Handover map (see above) did not show any footpaths, annotations for footpaths have been included on this plan, although these were added retrospectively after the First Definitive Map was produced in the early 1950s. The claimed route is shown on the base map but has not been annotated, indicating that it was not being maintained by the County Council at the time the map was produced.

40. Documents relating to the National Parks and Access to the Countryside Act (1949)

The National Parks and Access to the Countryside Act (1949) required surveying authorities to record rights of way on maps, which were to be periodically updated (later legislation required the maps to be kept under continuous review). This legislation resulted in a number of key documents that can assist with tracing the history of rights of way.

Parish Map (c.1950)

Parish maps were prepared by parish councils for the County Council when the first Definitive Map was being prepared; the map was produced to inform the County Council of the rights of way in each parish in order for the Draft Definitive Map to be produced.

The Warnford parish map uses an Ordnance Survey map as the base map; the line of the claimed route is therefore shown as a pecked line marked 'FP'. The claimed route has been annotated and then crossed out; the annotation goes from the Warnford to Exton road, up to Beacon Hill Cottage, which is at the boundary of the map, and then beyond (indicating that the route continued into Exton parish). There are six other routes on the map which have been annotated and crossed out, all of which cross fields. The map has been signed and dated by the Chair of Warnford parish meeting. The Parish File (see paragraph 42) and the Parish Meeting Minute Book (see paragraph 41) indicate that the Parish Meeting was concerned about rights of way which crossed fields and wanted these to be diverted to the field edge, this may be why these routes have been crossed out.

On three other maps of Warnford (which appear to be County Council reference copies), the claimed route is annotated and labelled '4'.

There are three copies of the Exton parish map and it is not possible to be certain about which copy of the map was the one which the parish meeting scrutinised. One of the maps shows Beaconhill Lane and the onward path to Beacon Hill Cottage (at the parish boundary) annotated as a claimed footpath; the route has been circled in pencil and labelled 'XXII'. The route has then been crossed out in faint red pencil.

These maps demonstrate that the routes were, at some stage, considered for inclusion on the Definitive Map, but were ultimately not put forward by the parish.

Objections Book

The book of objections contains a record of all objections received when the draft definitive map was open to public scrutiny. It also contains records of objections and amendments made when the Definitive Map was open to periodic review. There is no mention in the objections book of the omission of the claimed route from the Definitive Map.

Definitive Maps (A)¹⁶

On both the first (1954), second (1958) and third (c1958-1964) Definitive Maps, the claimed route is not shown. This is consistent with the footpath not being recognised as a public right of way in recent times.

41. Warnford Parish Meeting Minute book (1948-1987)¹⁷

As Warnford is a small parish, it does not have a full parish council. Instead, there is a parish meeting. The minute book covers all meetings held between 1948 and 1987 covering a range of matters in the parish. Whilst there is no specific reference to the claimed route, there are several relevant points of interest within the minutes:

- March 1950 – *“The chairman explained that we had received a map from the County Surveyor with most of the public footpaths and rights of way marked upon it. The Parish Meeting was now asked to have these footpaths walked to ascertain whether they were still in existence, and to return the map to the County Surveyor, presumably with any comments or additions they wished to make.”*

The decision was then taken to form a committee to examine rights of way within the parish. It is notable that the Parish Meeting was considering whether the routes physically existed, rather than whether there was local knowledge or memory of the existence of particular routes.

- June 1950 – the meeting discussed a report from the rights of way committee. Part of the discussion related to footpaths which cross fields; it was suggested that such routes should be diverted “so as to follow the shortest edge of the field”. This recommendation was added to the report, which was submitted to the County Council. Whilst the report is missing, correspondence relating to it, including the discussion about cross-field paths, is contained within the parish file (see paragraph 42).
- March 1951 – *“The Draft Map showing the agreed Rights of Way in the parish had been exhibited and it was agreed by the meeting that no further action was required.”*

The parish meeting minute book for Exton Parish¹⁸ was also reviewed; it contained nothing relating to the path between Exton and Beacon Hill. In 1911, the minutes note that “the glebe path from Exton village to Beacon Hill has been

¹⁶ Hampshire Record Office Reference numbers – H/CL1/4 and H/CL1/2/30a. The Third Definitive Map is held by Hampshire Countryside Service and is available to view by appointment.

¹⁷ Held by Warnford Parish Meeting and supplied to Hampshire County Council upon request.

¹⁸ Hampshire Record Office Reference number – 86M71/PX1

much cut up by manure carts and agricultural implements". However, this is likely to be the current Exton Footpath 3.

42. Parish File

The County Council maintains a file relating to countryside matters (including countryside management and rights of way) for each of the parishes in the county. These files date back to around the 1940s-50s and contain, amongst other things, correspondence, maps, and work orders. There are a number of relevant documents within the Warnford parish file:

- A letter from Richard, Austin & Wyatt, surveyors acting for the Warnford Estate, dated 7 April 1948. The letter states that they have reviewed the provided plans and, in relation to footpath number 4: "There is certainly no footpath here and no public footpath for the short length coloured blue."

The map, which the surveyor returned, has become separated from the letter, but it seems likely that it would be consistent with one of the additional maps which has been filed with the parish map, and which showed the claimed route as a footpath numbered '4'.

- A document entitled "Schedule of Warnford Parish Footpath Claims as at 2nd June, 1946" lists path numbers and the parish meeting's comments on the route. Against path number 4, the comment is "Parish do not claim, is also disputed by R.P. Chester Esq."
- A document which is untitled but likely to date to around 1951-1953 states that footpath number 4 is "disputed by Sir Alwyne Pelley. This path was claimed in 1932."
- A letter dated 27 September 1957 from the chair of the parish meeting, Guy Cholmeley, reads "*The report which our committee made to me on 2 June 1950 and of which a copy was forwarded to the Castle still holds good but I was asked to stress very strongly the importance of the last paragraph to which the definitive map and statement did not give effect: 'Where footpaths as shown are found to cross fields, the right of way should be diverted so as to follow the shortest edge of the field'.*"
- A letter from the County Council to Mr Cholmeley dated 21 October 1958 states that the Rights of Way Committee considered the proposal about diverting cross-field paths to the shortest field edge: "*They felt unable to reach any conclusion in this matter without more specific information about the diversions which are proposed. I should be glad if you could send me further details of your suggestions*".
- A letter from Mrs Cholmeley to the County Council dated 13 May 1959 states that her husband died in November 1958. The matter of the diversion of cross-field paths is not discussed again.

Additionally, within the Exton parish file, there is a document entitled "Schedule of additional rights of way, Exton parish as at 20th May 1948". The document lists path numbers and a column records the parish council's comments. Against path number 12, the parish council comment is 'claimed'. Whilst this schedule has become separated from the map it accompanies, this

numbering may correlate to the Exton parish map, where a route along Beaconhill Lane to Beacon Hill Cottage had been claimed, numbered 12 and then crossed out.

43. Contemporary Ordnance Survey maps – OS VectorMap

On contemporary Ordnance Survey maps, the claimed route is not shown; this is consistent with the route having fallen out of use and there no longer being a discernible line on the ground. However, it is worth noting that the angle of the enclosure around a pond, at the point where the route bears south-westward from Abbey House, mirrors the alignment of the route reflected on successive OS maps during the 19th and early 20th centuries.

Analysis of Documentary Evidence

44. The first depiction of the claimed route (albeit only a part of it) is shown in the Quarter Sessions record of 1779. The record, consisting of a map of part of the route and a written description, sets out a diversion of part of an existing public footpath and provides clear evidence for the existence of the claimed route. Earlier maps of the area do not show pedestrian routes and the claimed route is therefore not depicted, however, these earlier maps appear to indicate that Beacon Hill Lane was a means of reaching Beacon Hill, as the name of the lane suggests.
45. The Quarter Sessions record described the route as continuing to Beacon Hill and on to Exton 'with perfect ease and convenience'. This appears to reflect the depiction of the area on Taylor's and Andrews' Maps (1759 and 1791), which, whilst not showing minor ways, depict a route leading from Beacon Hill Lane towards and over Beacon Hill. A similar depiction is also shown on the first edition of the Ordnance Survey County Series maps (c.1870), which shows a clear route between Points C and D, although there is no indication of an onward route over Beacon Hill, which suggests that it may not have been in use by the public by this time.
46. The claimed route has been depicted on three railway plans (1863, 1865 and 1881) and described as a public footpath in the accompanying books of reference. The full extent of the claimed route (including the continuation to Beacon Hill) is not shown as it is outside the area shown on the map. An earlier railway plan (1851) does not show the claimed route, nor is it mentioned within the book of reference. However, the successive plans (produced between 1863 and 1881) provide strong support to the presumption that the claimed route was a public footpath, and these compliment the other contemporary evidence of the Ordnance Survey maps.
47. The claimed route and any connection between Points B and C and Points C and D have been omitted from the Warnford Tithe and the Exton Tithe, although these documents do not appear to depict any pedestrian routes. The Exton Tithe Map shows a route from Beacon Hill, southwards towards Exton, then north-westwards towards Beacon Hill, whilst a route is depicted from The Whiteway in Exton, northwards towards this point. There is a minor disconnection in the routes, which are shown as sepia in the style consistent with fields. It appears that these may have provided a means of accessing nearby fields.

48. The claimed route and any onwards connections are also omitted from the Highway Handover and Maintenance Maps, and from all editions of the Definitive Map; this is consistent with the routes having fallen out of use and not being acknowledged as public rights of way in recent history.
49. The Parish Map, Parish Meeting minutes and Parish File, when read together, indicate that there was some belief locally that the claimed route was a footpath and that it continued to Beaconhill Farm. However, Warnford Parish Meeting was opposed to footpaths which crossed fields and lobbied the County Council to automatically divert such paths; it may have been this opposition which stopped the parish meeting from claiming the route as a footpath. Additionally, the landowner at the time refuted the alleged existence of the footpath in 1948. The fact that the Parish Meeting did not claim the route when the draft map was being produced reinforces that the claimed route and its continuation beyond Beaconhill Cottage were no longer in use by the mid-20th century.
50. The case of *Dawes v Hawkins (1860)* proscribes that a highway is a highway until such a time that it has been formally stopped up or otherwise diverted ('once a highway, always a highway'). No such record of a diversion or extinguishment of the route set out in the Quarter Sessions of 1779 has been discovered, therefore the Quarter Sessions record provides strong evidence that a right of way on foot subsists on the claimed route.
51. The alignment of the claimed route is shown in the plan contained in the Quarter Sessions and this alignment is corroborated by later evidence, including all three editions of the Ordnance Survey County Series maps and the railway plans from the 19th century.
52. The Quarter Sessions Record describes the route continuing to Beacon Hill and on to Exton 'with perfect ease and convenience'. Although it is not possible to be certain about the alignment of the route beyond Beaconhill Farm, there is sufficient evidence to meet the 'reasonably alleged' threshold that, from Beaconhill Cottage, the footpath continued to Beaconhill Farm and then north-westwards; this route is depicted on Taylor's and Andrews' Maps, and the First Edition of the Ordnance Survey County Series Map.
53. The Court of Appeal decision in the recent case of *R (on the application of Roxlena Ltd) v Cumbria County Council & Peter Lamb (2019)* examined whether it was lawful for the County Council to make an Order for a route which they had been unable to survey, meaning that it was not possible for the council to be certain about the alignment of the route. The Court of Appeal upheld the application of the 'reasonably alleged' threshold when the County Council decided the alignment of the route; the decision also stated that the council could decide upon the alignment on the basis of the evidence available to them and it was not necessary for a survey of the land to be undertaken.

Applying the decision in *Roxlena* to the present case, there is enough evidence to indicate that a route between A-D is 'reasonably alleged' to subsist, even though it is not possible to be entirely certain about the alignment of this route due to the changes to the landscape and the availability of evidence regarding the route beyond Beaconhill Cottage.

Conclusions

54. As set out earlier in the report, for a change to the Definitive Map to be made, it must be on the basis of evidence which shows that the existence of a public right of way is 'reasonably alleged'. Documentary evidence demonstrates that the Quarter Sessions of 1779 diverted an existing public footpath to the alignment of the claimed route. This alignment is also shown on the Ordnance Survey County Series maps as a footpath, and the presence of a public footpath in this area is acknowledged on three railway plans (1863-1881).
55. Although the Quarter Sessions map does not cover the entire length of the route, it is accompanied by a comprehensive description which sets out that the footpath continued to Beacon Hill and to Exton; this description is reflected in part by Taylor's and Andrews' Maps (1759 and 1791), and by the first edition of the Ordnance Survey County Series maps (c.1870), which show a route which appears to be between Points C and D on the report plan.
56. No record of a stopping up or extinguishment of the route which the Quarter Sessions set out has been discovered and the ruling in *Dawes v Hawkins* (1860) has set a precedent of 'once a highway, always a highway'.
57. The recommendation is therefore that a footpath between the junction with the A32 near Abbey House (Point A) and Warnford Footpath 502 (Point D) should be added to the Definitive Map. No width for the route is described in the Quarter Sessions record, therefore the width of the recommended route should be that which is shown on the Ordnance Survey County Series maps: these widths have been measured as being 1.5 metres wide between Points A and B, between 3.3 and 5 metres wide between Points B and C, and between 2 and 7.3 metres wide between Points C and D.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes/no
People in Hampshire live safe, healthy and independent lives:	yes/no
People in Hampshire enjoy a rich and diverse environment:	yes/no
People in Hampshire enjoy being part of strong, inclusive communities:	yes/no
OR	
This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because: the County Council, in its capacity as 'surveying authority', has a legal duty to determine applications for Definitive Map Modification Orders made under s.53 Wildlife and Countryside Act 1981.	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Claim Reference: DMMO 963

Location

Countryside Access Team
Castle Avenue
Winchester
SO23 8UL

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

Hampshire County Council, in its capacity as 'surveying authority', has a legal duty to determine applications for Definitive Map Modification Orders made under s.53 Wildlife and Countryside Act 1981. It is not considered that there are any aspects of the County Council's duty under the Equality Act which will impact upon the determination of this Definitive Map Modification Order application.

Appendix 1 - Evaluation of Historical Documents

Under Section 32 of the Highways Act 1980, any court or tribunal determining the existence of public highway rights is required to take all evidence tendered into consideration before determining whether a way has or has not been dedicated as a highway, giving such weight to each document as it considers is *“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 was produced.”*

The Planning Inspectorate’s Definitive Map Orders Consistency Guidelines have the following to say on the analysis of evidence:

“There is a distinct and important difference between the ‘cumulative’ and ‘synergistic’ approach to the weighing of evidence. Under the cumulative approach a number of relatively lightweight pieces of evidence (e.g. three commercial maps by different cartographers, all produced within the same decade or so) could be regarded as mere repetition. Thus, their cumulative evidential weight may not be significantly more than that accorded to a single map. If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g. an OS map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly increase the collective impact of those documents. The concept of synergism may not always apply, but it should always be borne in mind. “

Early Commercial Maps

A number of map-makers (such as Isaac Taylor, Thomas Milne and C & J Greenwood) were producing small-scale maps (often one inch to the mile or less) during the 17th – 19th centuries. These were often sponsored by local landowners, and purchased as works of art rather than aids to navigation. The quality of surveying varied, and prior to 1800 was generally poor compared with similar scale Ordnance Survey maps produced from 1808 onwards. Although in isolation they do not prove the status of the roads and tracks shown on them, when considered alongside other evidence they can be helpful in identifying the status, location, and early origin of a route.

Estate Maps and Surveys

Prepared by landowners for their own estate management purposes, estate maps and surveys carry less evidential weight than maps which were prepared under statutory authority or subject to public scrutiny. However, they can be useful as they often contain more detail than other maps and have the advantage of having been prepared by, or for, people with an intimate knowledge of the land in question. They were frequently made immediately before, or after, a land transaction, such as a sale or enclosure.

Tithe Maps and Awards

The Tithe Commutation Act 1836 completed a process that had been going on piecemeal for some years, and required the payment of tithe (i.e. local taxes payable (usually) to the church or its representative) to be converted from a percentage of the produce of land, to a money payment, in order to calculate and

record the titheable value of land detailed maps were drawn up for each parish. These are valuable pictures of land use and ownership at the relevant time (usually between 1838 and 1845). The way in which roads and tracks are recorded on the map and in the award can be helpful in determining their status (public roads, were often untitheable, because they did not have a value for agriculture and might be recorded in the 'Roads and Waste' section of the award). These maps have a high evidential value, because they were part of a statutory process which was open to public scrutiny. However, they were not prepared with a view to recording the existence or status of public highways and, in the past, their significance for rights of way has been overstated. It is impossible to apply a general set of interpretative rules for all tithe maps: different maps treat public highways in different ways and each must be studied and evaluated individually if any reliable conclusion is to be drawn from them.

Railway and Canal Plans

Plans of the intended routes of railways (and, more rarely, canals) were deposited before Parliament at the same time as bills seeking authorisation for their construction. Plans and accompanying books of reference detailing the proposed line were required to provide details of the land to be crossed, including existing public highways. The process was open to public scrutiny and formed the basis of compulsory purchase and compensation payments. In consequence, they are normally regarded as good evidence of the status of highways crossed by the proposed lines. Not all of the railways and canals were built and so many more plans survive than routes were eventually constructed. There are sometimes inconsistencies between different plans which must cast some doubt on their reliability, but in general these are seen as a good source of evidence for the existence and status of public highways.

Quarter Sessions and Petty Sessions Records

The Court of Quarter Sessions, and Magistrates (acting either independently or in Petty Sessions) used to carry out many administrative functions, including the maintenance and protection of highways. Minutes of proceedings, or papers lodged with either Sessions (although in Hampshire far fewer records survive for the business of the Petty Sessions or Magistrates than for the higher court) can provide strong evidence of the existence and status of highways. Stopping up and diversion orders made by the Quarter Sessions have the legal effect stated in the order in the same way as orders made by the County Council and Magistrates now do.

Ordnance Survey Maps and Records

The first maps of Hampshire produced by the Ordnance Survey and commercially available date from the early 19th century and were a great improvement on contemporary maps of a similar genre. The most useful series of maps are the 1:2,500 County Series maps, produced at intervals between the late 1860s and the 1940s. These maps provide an accurate picture of the landscape at the date of survey, and carry strong evidential weight, but it should always be borne in mind that the surveyors mapped physical features and not legal rights. These maps cannot be taken in isolation as evidence of the legal status of the paths and tracks shown on them.

Additional help in determining the status of a path can be found in other Ordnance Survey Records: the first edition County Series Map was accompanied by a Book of Reference, which identified 'Roads' (and sometimes even 'Public Roads' or 'Occupation Roads'); the object name books (some have survived for the third edition, circa 1909) relied on local knowledge (for example, the Overseer of Highways) to describe features, including public roads; boundary books can record public highways where they also form parish boundaries and levelling records may also refer to roads and other features.

Maintenance Maps (the 1929 'Handover' Map & 1946 Maintenance Map)

Handover Maps were prepared by the Surveyor of each district within Hampshire when responsibility for the maintenance of rural, unclassified roads was transferred to the County Council (as prescribed in the Local Government Act of 1929). The maps must be given some weight because they are good evidence of what the highway surveyor considered to be publicly maintainable. Having said that, it is not known how rigorous were the inquiries that resulted in the colouring that appears on the maps, and it should also be borne in mind that they were internal documents that were not subject to public scrutiny. Further, the maps were a record of maintenance responsibility, not public rights – a route left uncoloured on the Handover Map may nevertheless have been in public use.

The Maintenance Maps were produced as internal working documents to provide an updated picture of local highway network maintenance responsibilities after the Second World War. They add weight to a body of evidence where they are consistent with it, but great care needs to be taken before attributing too much importance to them where they contradict earlier evidence of the use and status of a path.

**Application for a Definitive Map Modification Order to record a footpath in Warnford
Parish of Warnford**

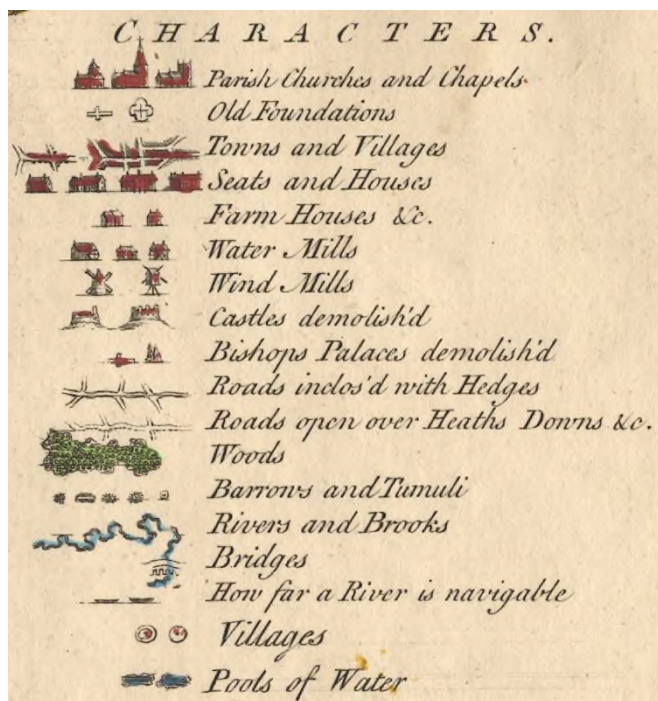
APPENDIX 2 – Documentary Evidence

Evidence is presented in the order in which it is presented within the report.

Not all sources cited within the report are illustrated here.

Letter placements are approximate and intended for guidance and illustration only.

Taylor's Map of Hampshire (1759) (A¹)



¹ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate
<http://www.oldhampshireremapped.org.uk/hantsmap/taylor4/TY53F.htm>



² Available from McMaster University online archive:

http://digitalarchive.mcmaster.ca/islandora/object/macrepo:79329/print?clip=rft_id%3Dhttp%253A%252F%252Fdigitalarchive.mcmaster.ca%252Fislandora%252Fobject%252Fmacrepo%25253A79329%252Fdatastream%252FJP2%252Fview%253Ftoken%253D198c62f44d5e85b0489098005e717c18bfccea861d858d1b657e59ffd8241f03%26svc.region%3D5479%252C3581%252C1413%252C1814%26dimensions%3D642%252C500

Milne's Map of Hampshire (1791) (A³)



³ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate
<http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/milne1/milne1.htm>

Southampton (cont.) A Report of the officers for the City of Southampton within the...

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton

...of the City of Southampton... in Southampton



- References
- 1 Village of Warminster
 - 2 Being the Road between Warminster & Exeter
 - 3 The Church of St. Andrew, Warminster
 - 4 Fields belonging to Mr. Bankham's Farm
 - 5 Road from Warminster to Winchester & Bishop's Bathham
 - 6 Mr. Bankham's House
 - 7 Dog Kennel
 - 8 Mr. Bankham's Home Field
 - 9 Mr. Bankham's Home Field
 - 10 Highgate Close belonging to Mr. Bankham's Farm
 - 11 Mr. Bankham's House & Garden at Exeter
 - 12 Mr. Bankham's House & Garden at Exeter

N.B. Mr. Bankham's Farm is now purchased by Mr. Blenkinsop

Intended Glebe Lands & Messuages &c.

...of the City of Southampton... in Southampton

“At a special session for the highways within the Division of Portsmouth in the County of Southampton held this seventh day of April one thousand seven hundred and seventy nine - at the Red Lyon Inn in Fareham within the said Division and County [illegible] of his majesty's Justices of the Peace acting in and for the said Division and county [illegible] justices have viewed a certain highway or footway situate lying and being in the parish of Warnford in the said County and leading from and out of a certain Highway in the same parish (called the road from Winchester to Warnford) through and over a certain close called Steals Paddock one other close called Hop Kiln Close and one other close called Homefield, all in the parish aforesaid in the County aforesaid towards a certain place called Bacon Hill in the same parish and also towards and unto the village of Exton in the said County do adjudge that the same highway or footway without inconvenience to the publick be diverted and turned into and along the said highway or road (called the road from Winchester to Warnford and into and along the turnpike road in the parish of Warnford aforesaid leading from that Parish to the village of Exton aforesaid. And we do adjudge that his Majesty's liege subjects can or may pass and travel from along and over the said highway leading from Winchester to Warnford (which is in good and sufficient repair) along and over the said turnpike road which is also in good and sufficient repair unto and as far as Exton aforesaid and from along and over the said highway leading from Winchester to Warnford in such repair as aforesaid along and over the said Turnpike Road in such repair as aforesaid as far as a certain other close in the parish of Warnford aforesaid called Winnall Field and by along and over another footway in the said last mentioned Close to Bacon Hill aforesaid with perfect ease and convenience as they now do by the said Highway or footway first herein before described and therefore we do hereby adjudge the said highway or footway first herein before mentioned to be unnecessary and do order that the same shall be stopped diverted and turned as aforesaid. Given under our hands and seals the day and year first above written”

The key to the map reads:

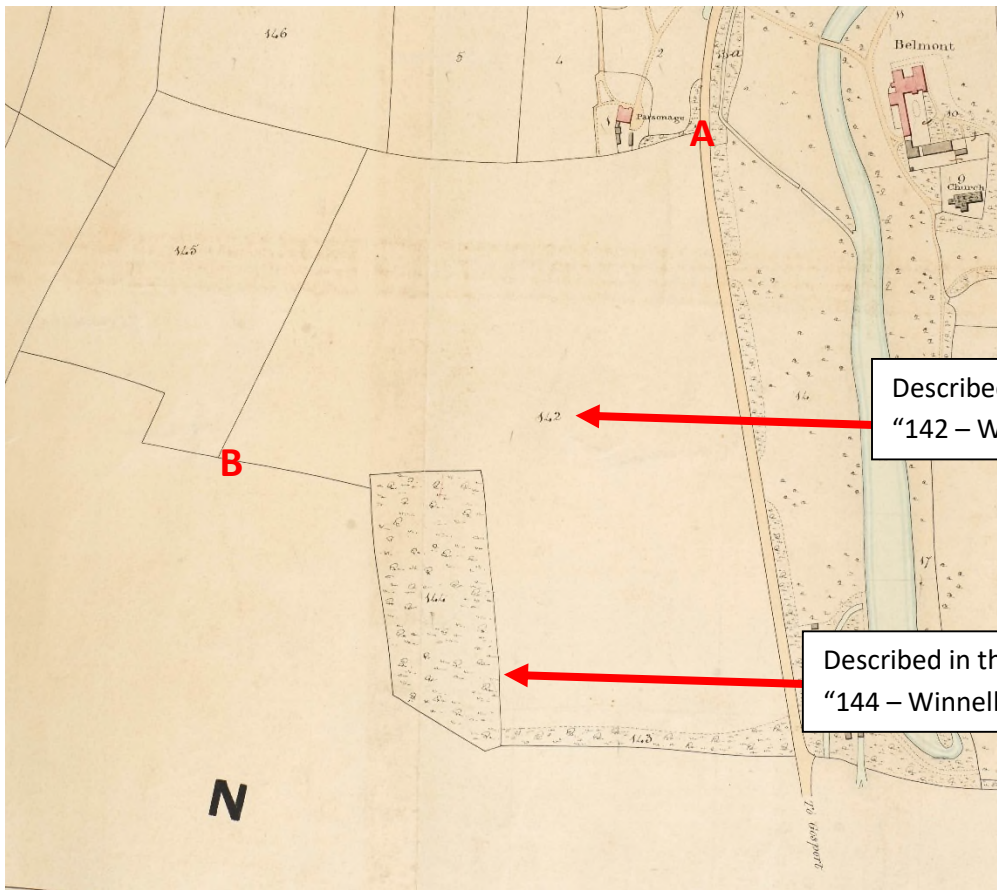
1. Village of Warnford
2. Turnpike road between Warnford and Exton
3. Ld. Clauricarde's Winnells Field
4. Fields belonging to Mr. Bonhams Farm
5. Road from Warnford to Winchester and Bishop's Waltham
6. Mr Bonham's Moor
7. Dog Kennel
8. Mr Bonham's Home field
9. Mr Bonham's Home paddock
10. Hop Kiln Close belonging to Mr Bonham's Farm
11. Mr Bonham's House gardens and orchards
12. Ld. Clauricarde Steels paddock
13. The footway to be stopped up
14. Allowed footway to Beacon Hill

(there is an annotation on 8, 9, and 10 saying 'Intended glebe lands and parsonage house')



⁵ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate <http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/grnwood2/grw74.htm>

Warnford Tithe Map (1839) (A)⁶



Described in the apportionment as:
"142 – Winnells – Arable"

Described in the apportionment as:
"144 – Winnells Coppice – Wood"

⁶ Hampshire Record Office Reference number – 21M65/F7/244/2

Exton Tithe Map (1839) (A)⁷



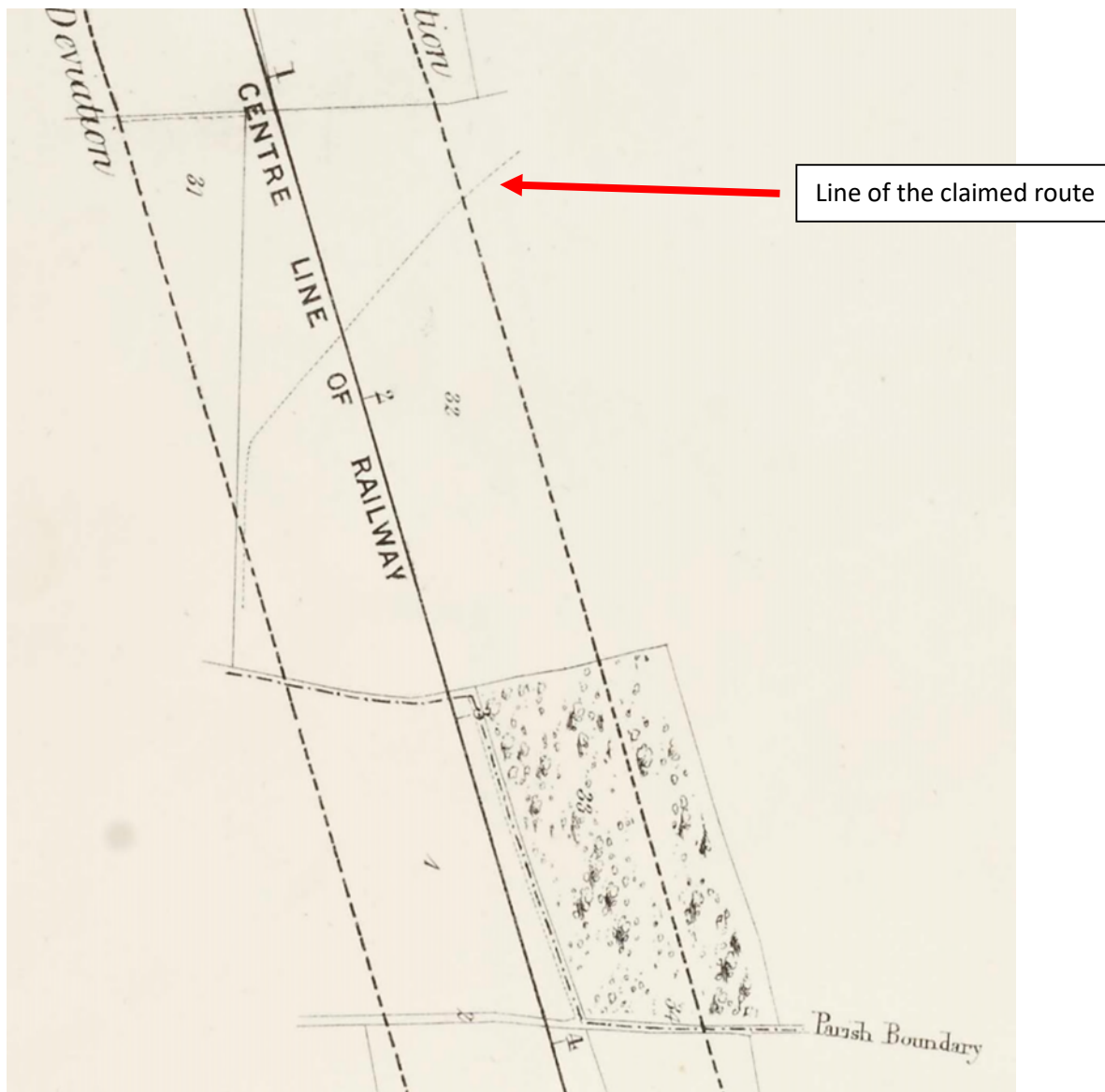
⁷ Hampshire Record Office Reference number – 21M65/F7/84/2



⁸ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate
<http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/ordnce6/oss43.htm>

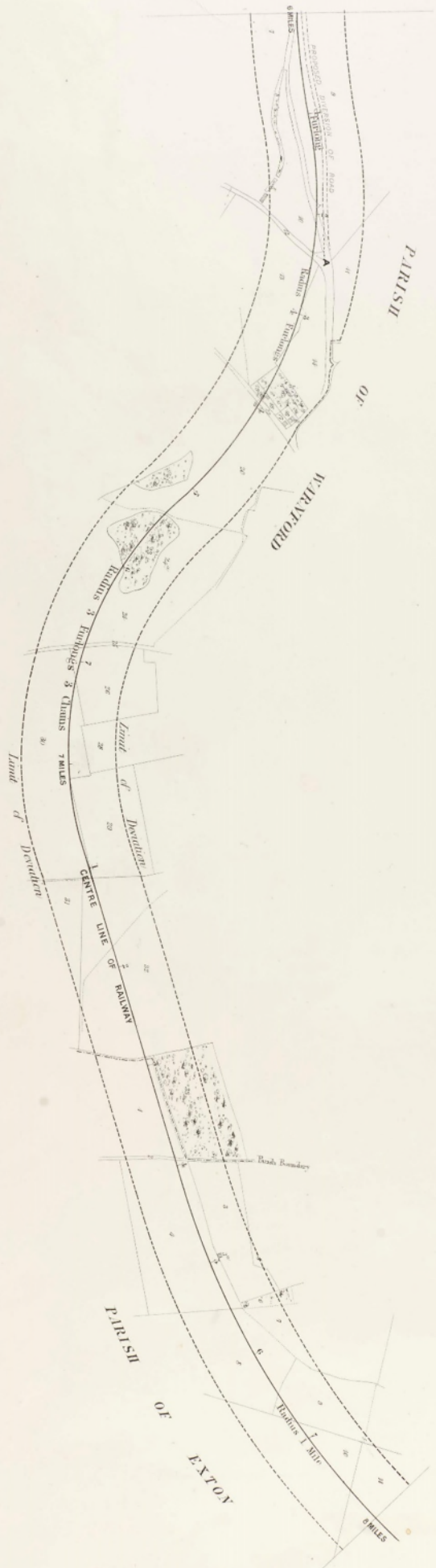
Alton, Alresford and Winchester Railway Extension Plan (1863) (A)⁹

Extract from plan (the full plan is shown on the following page):



⁹ Hampshire Record Office Reference number – DP/220

C O U N T Y O F S O U T H A M P T O N



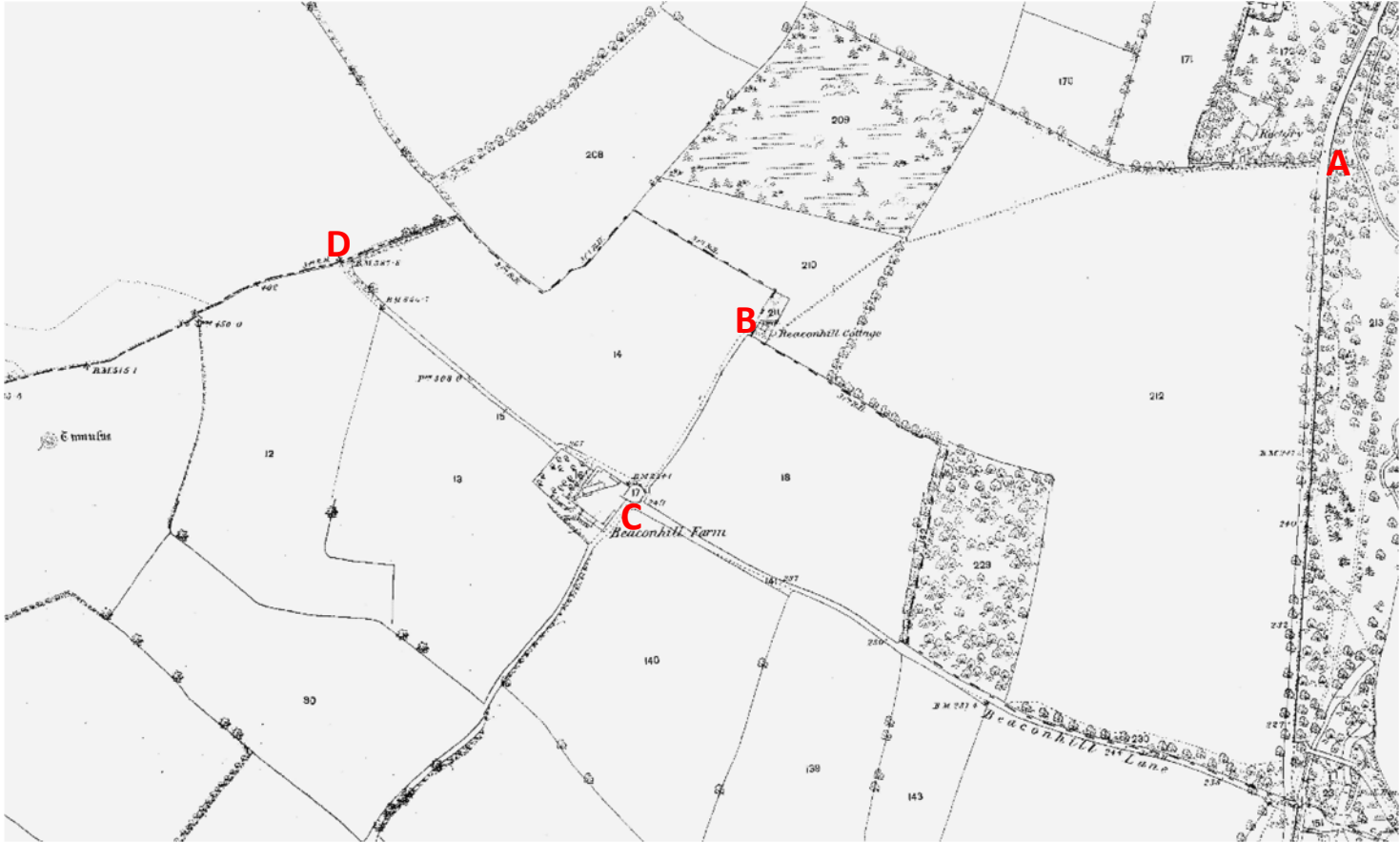
Extract from the book of reference:

M. H. Railway No 1 Parish of Wainford in the County of Southampton

Number referring to the Plan.	DESCRIPTION of PROPERTY.	NAMES of OWNERS or REPUTED OWNERS.	NAMES of LESSEES or REPUTED LESSEES.	OCCUPIERS' NAMES.
26	Arable field	Edward John Sartoris	Richard King	Richard King
28	Arable field	John Wympe Senior and John Wympe Junior	John Wympe Junior	John Wympe Junior
29	Arable field	John Wympe Senior and John Wympe Junior	John Wympe Junior	John Wympe Junior
30	Arable field	Edward John Sartoris	Robert Angel Newman	Robert Angel Newman
31	Arable field ^{and} Row and public foot path	Edward John Sartoris	Benjamin James Fish	Benjamin James Fish and the Public
32	Arable field Row and public foot path	Edward John Sartoris	Benjamin James Fish	Benjamin James Fish and the Public
33	Copse	Edward John Sartoris		Edward John Sartoris and Benjamin James Fish
34	Occupation Road	Edward John Sartoris	Benjamin James Fish	Benjamin James Fish

Edward John Sartoris - Lord of the Manor

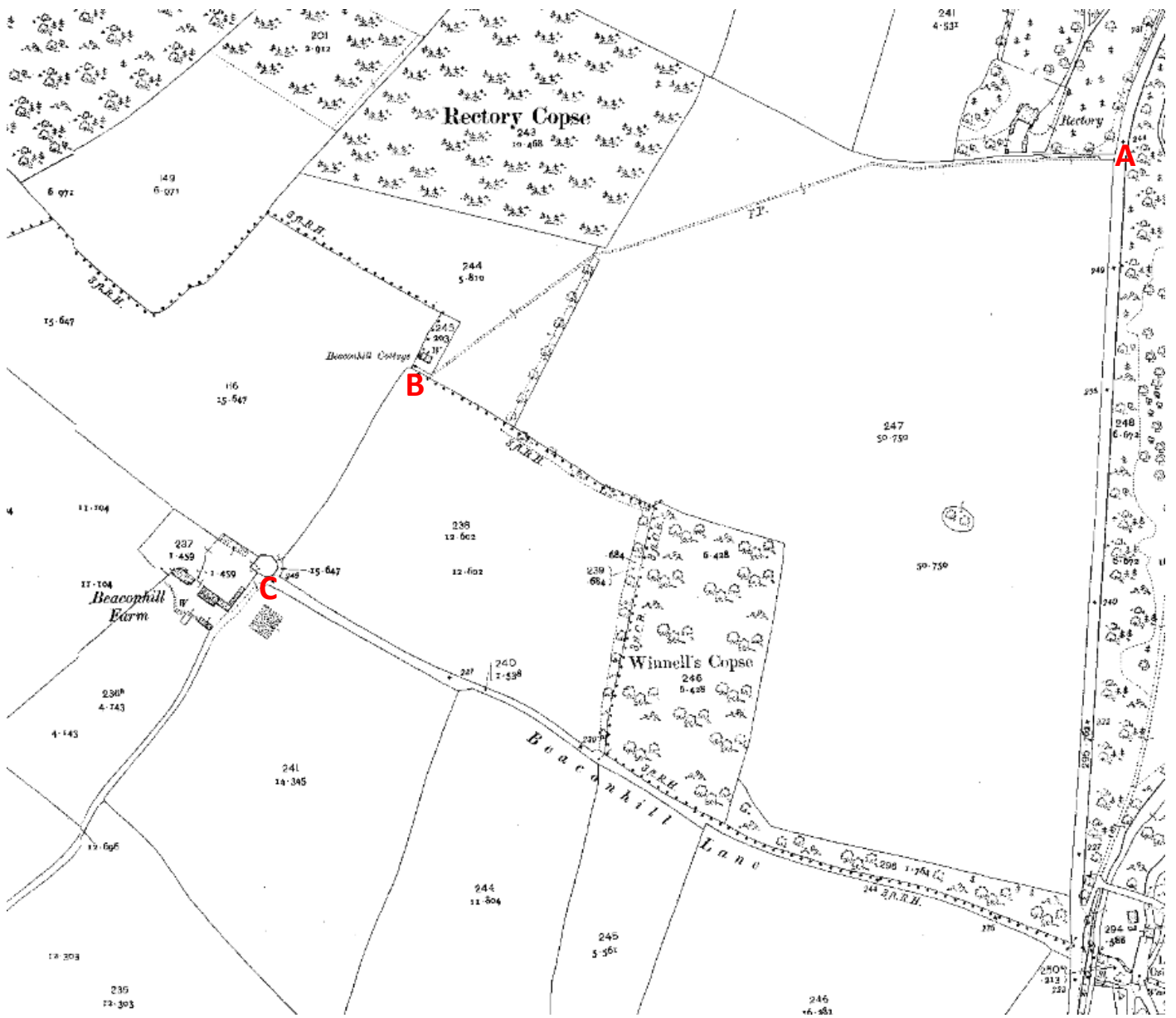
Ordnance Survey County Series Maps, 25 inches to 1 mile, First Edition (c.1870)



Ordnance Survey County Series Maps, 25 inches to 1 mile, Second Edition (c.1891-1908)



Ordnance Survey County Series Maps, 25 inches to 1 mile, Third Edition (1909)

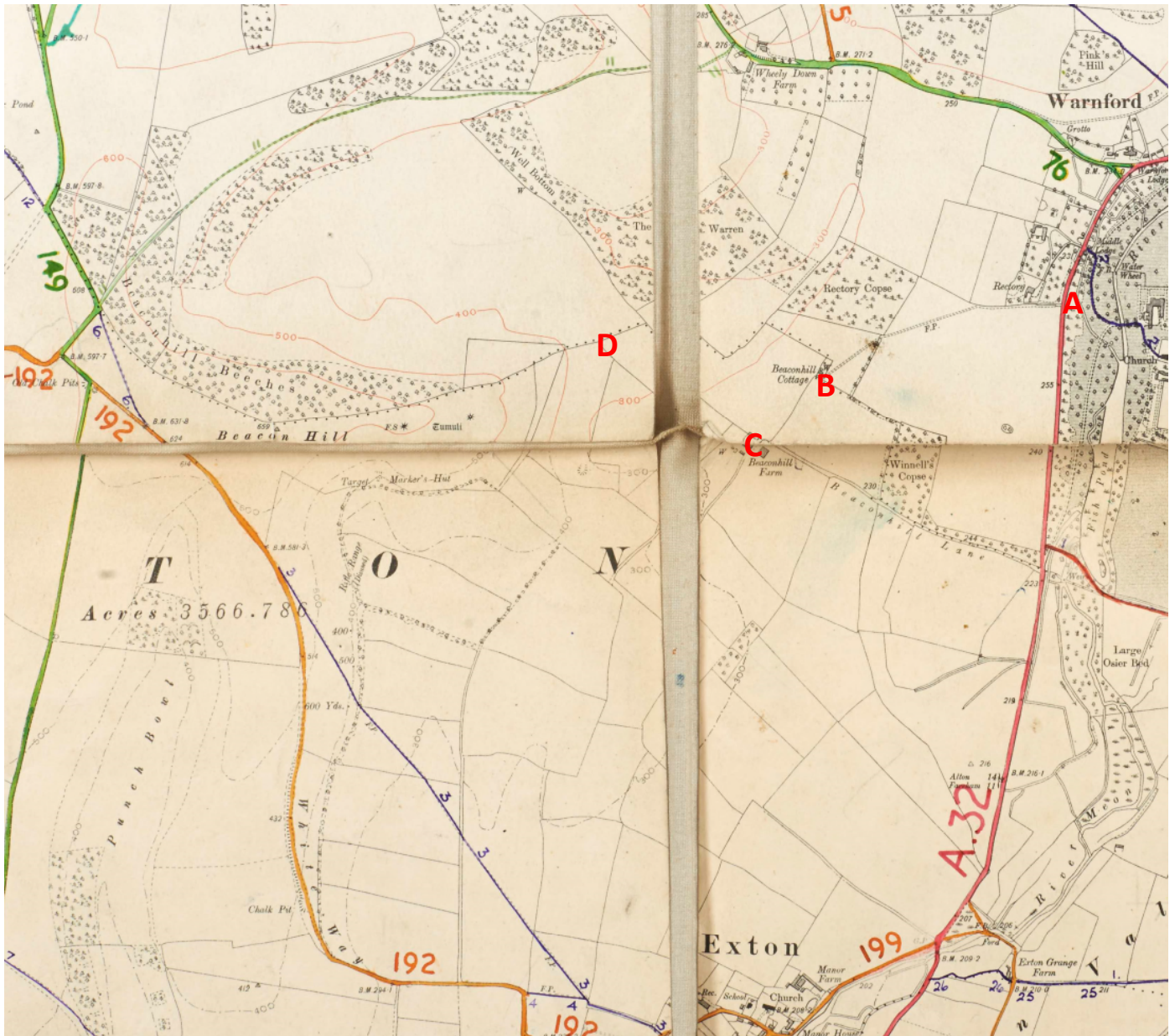


Droxford Rural District Council Highway Handover Map (1929) (A)¹⁰



¹⁰ Hampshire Record Office Reference number – H/SY3/6/6

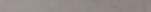




Highways Maintenance Map, Droxford Division (1946) (A)¹¹

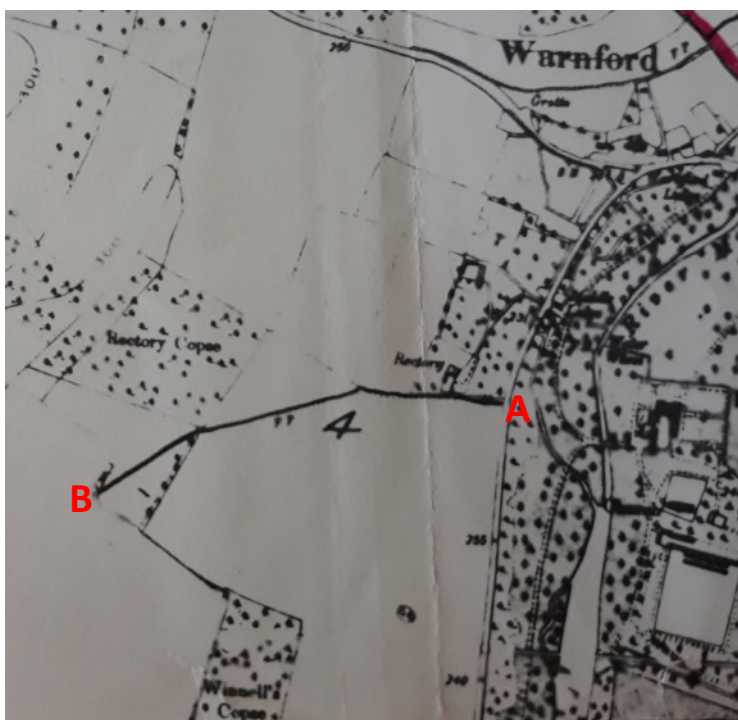
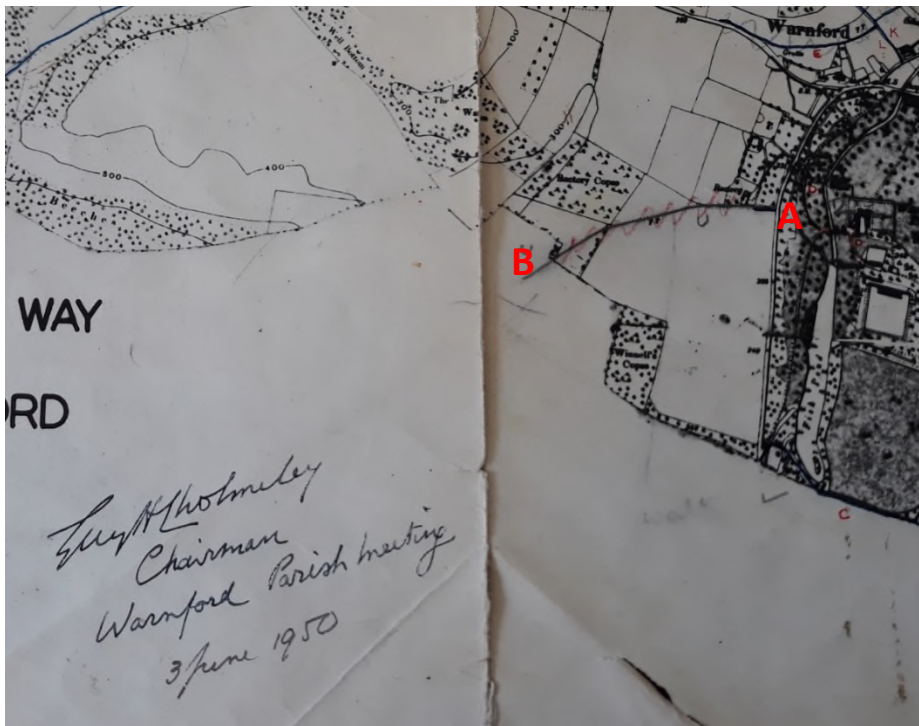


¹¹ Hampshire Record Office Reference number – H/SY3/3/24/4

Parish Map (c.1950)

Warnford parish maps:

PUBLIC HIGHWAYS (METALLED)	SHOWN THUS	
ROADS USED AS PUBLIC PATHS (UNMETALLED HIGHWAYS)	do.	
PUBLIC BRIDLEWAYS	do.	
PUBLIC FOOTPATHS	do.	
PUBLIC HIGHWAYS REPAIRABLE RATIONE TENURAE	do.	



Exton parish maps:

