

**Definitive Map Review 1997-2013  
Parish of Georgeham (Part 4)**

Report of the Head of Highways, Capital Development and Waste

***Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.***

**Recommendation: It is recommended that no Modification Orders be made in respect of Proposals 22 and 28, as shown on drawings HTM/PROW/13/48 and HTM/PROW/13/54.**

**1. Summary**

This report examines two Schedule 14 applications arising from Definitive Map Review in the Parish of Georgeham in the District of North Devon. Six proposals were previously reported to the June 2013 Committee, while a further eight proposals were previously reported to the March 1999 Committee and another ten proposals to the September 2002 Committee. The remaining proposal will be referred to a subsequent Committee meeting.

**2. Background**

The original survey under s. 27 of the National Parks and Access to the Countryside Act 1949 revealed 21 footpaths and 2 bridleways in Georgeham, which were recorded on the Definitive Map and Statement, with a relevant date of 1 September 1957.

The review of the Definitive Map, under s. 33 of the 1949 Act, which commenced in the late 1960s but was never completed, produced a number of proposals for change to the Definitive Map at that time.

The Limited Special Review of RUPPs, carried out in the 1970s, did not affect the parish.

The following Agreements and Orders have been made:

Footpath No. 32, Georgeham Public Path Creation Agreement and Deed of Dedication;  
Devon County Council (Footpath No. 18, Georgeham) Public Path Diversion Order 1978;  
Devon County Council (Footpath Nos. 5 & 9, Georgeham) Public Path Extinguishment Order 1979;

Devon County Council (Footpath No. 13, Georgeham) Public Path Diversion Order 1995;  
Devon County Council (Footpath Nos. 40, 41, 42, 43, & 44, Georgeham) Definitive Map Modification Order 2001;

Devon County Council (Footpath No. 44, Georgeham) Public Path Diversion Order 2001;  
Devon County Council (Byway Open to All Traffic No. 45, Georgeham) Definitive Map Modification Order 2003;

Devon County Council (Byway Open to All Traffic No. 46, Georgeham) Definitive Map Modification Order 2003;

Devon County Council (Bridleway No. 47, Georgeham) Definitive Map Modification Order 2003;

Devon County Council (Bridleway Nos. 48 & 49 & Footpath Nos. 13, 15, 17, & 19, Georgeham) Definitive Map Modification Order 2003;

Devon County Council (Bridleway No. 50 & Footpath No. 10, Georgeham) Definitive Map Modification Order 2003;  
Devon County Council (Bridleway No. 6, Georgeham) Public Path Diversion and Definitive Map Modification Order 2013.

Legal Event Modification Orders will be made for these amendments in due course.

### **3. Review**

The current Review began in September 1997 with an initial meeting in the parish and a public meeting in June 1998. Sixteen proposals arose as a result of the initial consultations with a further four proposals included, along with several diversions. Full public consultations were carried out in April 1998 and November 2001, on 20 proposals for modifying the Definitive Map and Statement. An additional consultation was carried out in the summer of 2013 for a number of additional Schedule 14 applications besides a previous proposal which has yet to be presented to the Committee.

The responses from councils and user/landowner groups were as follows:

County Councillor C Chugg	-	no comment
North Devon Council	-	no comment
Georgeham Parish Council	-	comments included in this report
British Horse Society	-	no comment
Byways and Bridleways Trust	-	no comment
Devon Green Lanes Group	-	no comment
Country Landowners' Association	-	no comment
National Farmers' Union	-	no comment
Open Spaces Society	-	no comment
Ramblers'	-	comments included in this report
Trail Riders' Fellowship	-	application included in this report

Following the confirmation of the 2003 Modification Orders, the Trail Riders' Fellowship submitted eight Schedule 14 applications proposing to record a number of routes in the parish as Byways Open to All Traffic. Six of these routes were consulted upon in 2001 and therefore did not require further consultation, and were included in a previous report. A further two Schedule 14 applications proposing to record routes in the parish as Byways Open to All Traffic had not previously been consulted on and are the subject of this later report.

### **4. Conclusion**

It is recommended that no Orders be made in respect of the proposals.

Should any further valid claim be made in the next six months it would seem sensible for it to be determined promptly rather than deferred.

### **5. Financial Considerations**

Financial implications are not a relevant consideration to be taken into account under the provision of the Wildlife and Countryside Act 1981. The Authority's costs associated with Modification Orders, including Schedule 14 appeals, the making of Orders and subsequent determinations, are met from the general public rights of way budget in fulfilling our statutory duties.

### **6. Sustainability Considerations**

There are no implications.

## **7. Carbon Impact Considerations**

There are no implications.

## **8. Equality Considerations**

There are no implications.

## **9. Legal Considerations**

The implications/consequences of the recommendation have been taken into account in the preparing of the report.

## **10. Risk Management Considerations**

There are no implications.

## **11. Reasons for Recommendation/Alternate Options Considered**

To progress the parish by parish review of the Definitive Map in the North Devon district area.

David Whitton  
Head of Highways, Capital Development and Waste

### **Electoral Division: Braunton Rural**

Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Ref.
Georgeham Part 4	1997-2013	DMR/Georgeham

cg231013pw  
sc/cr/dmr georgeham part 4  
03 111113

## **Background**

### **Basis of Claims**

The Wildlife and Countryside Act 1981, Section 53 (5) enables any person to apply to the surveying authority for an order to modify the Definitive Map. The procedure is set out under WCA 1981 Schedule 14.

Common Law presumes that at some time in the past the landowner dedicated the way to the public either expressly, the evidence of the dedication having since been lost, or by implication, by making no objection to the use of the way by the public.

The Highways Act 1980, Section 31 (1) states that where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

The Highways Act 1980, Section 32 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 such 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.

The Wildlife & Countryside Act 1981, Section 53[3] [a] [ii] enables the Definitive Map to be modified following the occurrence of an event whereby a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description.

The Wildlife and Countryside Act 1981, Section 53[3] [c] enables the Definitive Map and Statement to be modified if the County Council discovers evidence which, when considered with all other relevant evidence available to it, shows:

(i) that a right of way not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates.

(ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.

The Wildlife and Countryside Act 1981, Section 56[1] states that the Definitive Map and Statement shall be conclusive evidence as to the particulars contained therein but without prejudice to any question whether the public had at that date any right of way other than those rights.

Section 67 of the Natural Environment and Rural Communities Act 2006 (NERC) extinguishes certain rights of way for mechanically propelled vehicles except for the circumstances set out in sub-sections 2 to 8. The main exceptions are that:

- (a) it is a way whose main use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles;
- (b) it was shown on the List of Streets;
- (c) it was expressly created for mechanically propelled vehicles;
- (d) it was created by the construction of a road intended to be used by such vehicles;
- (e) it was created by virtue of use by such vehicles before 1 December 1930.

**Proposal 22: Addition of a public Byway Open to All Traffic between North Buckland House and Eastern Down Lane, North Buckland.**

Addition of a public byway open to all traffic partly known as Down Lane, running between North Buckland House and Eastern Down Lane, North Buckland, as shown between points H – G – I on drawing number HTM/PROW/13/48.

**Recommendation: That no Modification Order be made in respect of Proposal 22.**

## **1. Background**

Part of the proposal route was originally put forward by the British Horse Society as part of Proposal 19 for addition to the Definitive Map and Statement as a bridleway between points H – G. At the Public Rights of Way Committee meeting of September 2002 it was resolved that a Modification Order should be made to add part of the route between H – G as a Byway Open to All Traffic. It was duly made in November 2003 and was known as the ‘Devon County Council (Byway Open to All Traffic No. 52, Georgeham) Definitive Map Modification Order 2003’. The Order attracted a number of objections which were not withdrawn and resulted in a local public inquiry being held in May 2005. The Inspector appointed by the Secretary of State to determine the Order concluded that it should not be confirmed. Consequently the Trail Riders Fellowship submitted a Schedule 14 application in respect of this route, H – G – I.

## **2. Description of the Route**

The route starts at point H, as shown on drawing number HTM/PROW/13/48, at the county road by North Buckland House. It proceeds north north westwards then north eastwards along Down Lane to point G, where the track turns eastwards then bearing south eastwards across Buckland Down. It then follows following the southern edge of several fields to meet Georgeham Bridleway No. 50 on Eastern Down Lane at point I. The total length of the route is 1,595 metres. The surface is stone, earth and grass.

## **3. Evidence**

### **3.1 Application Evidence**

Extracts of the Finance Act mapping alone were supplied with the application, though it also referred to:

- Georgeham tithe map;
- Bartholomew’s maps;
- Ordnance Survey maps;
- Greenwood’s map;
- Walking guide by F.C. Elliott;
- Croyde and District walking map;
- OS Object Name Books; and
- Eyre v New Forest Highway Board (1892) case law.

These were referred to but not supplied.

### **3.2 Evidence considered previously by Committee**

All the available evidence discovered in relation to the section H – G was fully considered at the Committee meeting of September 2002, and included:

- Ordnance Survey mapping;
- Georgeham tithe map;
- Ordnance Survey Name Books;
- Finance Act records;
- Bartholomew's maps;
- Georgeham Parish Council minutes;
- FC Elliott guide book;
- Croyde Area Residents Association walking maps;
- User evidence from eleven people, nine on horseback; and
- Landowner evidence.

### **3.3 Determination of the 2003 Modification Order**

At a local public inquiry in May 2005 lasting 5 days all the evidence relating to part of the proposal route was heard, tested, evaluated and weighed, with the Inspector issuing his decision in August 2005. He decided not to confirm the Order.

### **3.4 Evidence for section G to I not considered previously**

#### Ordnance Survey Draft Drawings

This proposal is not shown.

#### Ordnance Survey mapping

This proposal is shown on the 1<sup>st</sup> edition 25" mapping from the 1880s and subsequent editions as an enclosed lane from point H to a point approximately 370 metres east of point G and from point I for 150 metres westwards, with the middle section open to fields on one side. On the 1" to 1 mile New Popular Edition of 1946, Sheet 163, the route is shown as a minor road. Ordnance Survey maps do not provide evidence of the status of this route but rather its physical existence over a number of years. These early Ordnance Survey maps carried a disclaimer, which states that: "The representation on this map of a road, track or footpath is no evidence of a right of way".

#### Greenwood's map

This route is not shown.

#### Tithe map

Part of the proposal approximately H – G is shown on the tithe map in a similar fashion to current Ordnance Survey mapping. Tithe Maps were drawn up under statutory procedures laid down by the Tithe Commutation Act 1836 and subject to local publicity, which would be likely to have limited the possibility of errors. Roads were sometimes coloured and the colouring generally indicates carriageways or driftways. Public roads were not titheable. Tithe maps do not offer confirmation of the precise nature of the public and/or private rights that existed over the route shown.

### OS Object Name Books

The section known as Down Lane between points H – G is listed as ‘semicircular lane extending from a point about 27 chains north of Gibb’s Farm to junction with roads about 10 chains southeast of Castlestreet’. The name spelling and description was authorised by District Surveyor. The purpose of these records is to list and define the location and extent of named objects and area features depicted on Ordnance Survey mapping together with authority on spelling. They can provide supporting evidence and status of routes.

### Finance Act records

This route is shown excluded between points H and G, and from point G to a point approximately 355 metres east, and hereditament boundaries of 160 and 166 which cross the proposal route are broken. It is also excluded for a distance of approximately 130 metres west from point I. The remainder of the route is included within hereditament 149. The Finance Act imposed a tax on the incremental value of land which was payable each time it changed hands. In order to levy the tax a comprehensive survey of all land in the UK was undertaken between 1910 and 1920. It was a criminal offence for any false statement to be knowingly made for the purpose of reducing tax liability. If a route is not included within any hereditament there is a possibility that it was considered a public highway, though there may be other reasons to explain its exclusion.

### Bartholomew’s Maps

Bartholomew’s maps were designed for *tourists and cyclists* with the roads classified for *driving and cycling purposes*. They were used by and influenced by the Cyclists Touring Club founded in 1878 which had the classification of First Class roads, Secondary roads which were in good condition, Indifferent roads that were passable for cyclists and other uncoloured roads that were considered inferior and not to be recommended. Additionally, Footpaths and Bridleways were marked on the maps as a pecked line symbol. Cyclists were confined to public carriage roads until 1968.

The proposal is shown as an uncoloured road, which is classed as inferior and not to be recommended. The small scale permitted only the most important routes to be shown. The purpose of these maps was to guide the traveller along the routes most suitable for their mode of transport, not to encourage trespass.

### Aerial photography

The route is shown on the 1940s RAF and modern aerial photography as described on the Ordnance Survey 25” mapping.

### Croyde Area Residents Association Walking Map 1974

The route shown in its entirety as part of one of their walks, but is not included on the 1990 revision or later versions.

### **Landowner Evidence**

Mr and Mrs Barnes own Broadgate Farm and have land between H and G and also at point I, which has been in the family for over 200 years. They have believed the way not to be public for all of that time. Local dog walkers are allowed to use Down Lane between point H and G, and holidaymakers are required to ask permission. They have told people the route is not public and turned them back. Though no notices have been erected against public use, the family have stopped people and told them it was not public. Gates on the route over Buckland Down have been locked. The way has also been obstructed during surface improvements between H and G. They also refer to the 2005 public inquiry evidence and decision regarding this section.

Mr and Mrs Thorp of North Buckland House have lived adjacent to the route for 6 years. They do not believe it is public and contribute to maintenance for their property access. They are aware that several local dog walkers use the route by permission, and that there are padlocked gates.

Mr Burrows of Burrow Farm has been tenant of land crossed by the route for the last 13 years and does not believe it to be public. He has not been aware of anyone using the route and has not challenged anyone. Several gates have been locked on the route during his tenancy.

Ms Tarn of Barn Cottage lives adjacent to the proposal route. She referred to the public rights of way public inquiry decision of 2005 in which the Inspector did not confirm the Modification Order for a byway open to all traffic affecting part of this proposal route.

Miss Abbott of Castlestree Farm has owned land adjacent to the route for 17 years between points H – G. She is aware of the public inquiry decision in relation to the section H – G. She has used part of the route for walking and riding and access. She believes the TRF application grounds are insufficient.

#### **Rebuttal Evidence**

Georgeham Parish Council refer to the 2005 inquiry evidence for the section H – G. Though the parish would like this as a footpath, they accept that there is currently no right of way along it.

Mr and Mrs Rawlinson of Florians object to the proposal on the grounds it would alter the route's character, and that there is no necessity particularly in a time of financial constraints.

Mrs Barnes of Denham Farm is related to Mr and Mrs Barnes of Broadgate Farm. She has been there since 1952. She does not believe the route is public and has not seen any use. It is for private access only and there are locked gates.

Mrs Barnes of Forest House is related to the Barnes' of both Broadgate and Denham Farms. She has lived in North Buckland since 1946. She refers to the 2005 public inquiry evidence and decision in opposition to the section H – G. She believes the route is unsuitable and has been cropped periodically rendering it impassable.

Mrs Taffinder of Gibbs has lived at North Buckland for 12 years. She debates the necessity of the proposal and is also aware of locked gates along its route.

Ms Beckett and Mr Humble-Smith of Garden Lodge are only recent residents of North Buckland but are aware of the 2005 public inquiry decision. They have concerns regarding safety and necessity in a time of financial constraints.

#### **4. Discussion**

The Schedule 14 application was made by the Trail Riders Fellowship following the non-confirmation of the Modification Order to add a route as a Byway open to All Traffic which included part of this proposal H - G, in an attempt to record vehicular rights which might otherwise be lost through the NERC Act. Despite the non-inclusion of copies of the evidence referred to, this same evidence and more was considered by the Public Rights of Way Committee in September 2002, and in detail at the public inquiry in May 2005 and in the Inspector's decision of August 2005.



With regard to the evidence for the remainder of the proposal route between points G to I, the documentary evidence shows it in a consistent manner similar to that existing on the ground. Little indication is given as to information regarding status though there is some inference as to public reputation from the Finance Act records and Bartholomew's maps.

No user evidence has been submitted in relation to the proposal route.

Landowners affected by the proposal rebut it by way of reference to the 2005 public inquiry decision relating to the section H – G. Permission has been requested from local people and holidaymakers who have used the route, while others have been challenged and turned back. There are also locked gates on the route. Issues such as necessity, safety and financial constraints have been raised however these cannot be taken into account in the determination as to whether public rights exist or not along the proposal route.

Therefore there is insufficient evidence under either statute or common law.

## **5. Conclusion**

It is recommended therefore, that no Modification Order be made to add a byway open to all traffic between points H – G – I, as shown on drawing number HTM/PROW/13/48.

### **Proposal 28: Addition of a public byway open to all traffic and upgrade part of Footpath no. 11, Georgeham between the county road south of Broadgate Farm and North Buckland Hill.**

Addition of a public byway open to all traffic known as Adwell Lane, running between the county road south of Broadgate Farm and North Buckland Hill, North Buckland, as shown between points W – X – Y on drawing number HTM/PROW/13/54.

**Recommendation: That no Modification Order be made in respect of Proposal 28.**

## **1. Background**

The Schedule 14 application was made by the Trail Riders Fellowship user group as part of the Definitive Map Review following a public inquiry into other routes in the parish.

## **2. Description of the Route**

The route starts at point W, as shown on drawing number HTM/PROW/13/54, at the county road approximately 150 metres south of Broadgate Farm, North Buckland. It proceeds east south eastwards along Adwell Lane towards point X. This section of Adwell Lane is currently unrecorded. At point X the proposal route meets Georgeham Footpath No. 11. It turns north northeastwards along the footpath which also runs along Adwell Lane then bears northwards to meet the county road, North Buckland Hill, east of Gibbs at the eastern end of the hamlet of North Buckland. A number of years ago stiles and fencing were erected at both points X and Y on Georgeham Footpath No. 11, apparently to protect the route from non-walking traffic which had been damaging the lane due its damp nature in places. The surface is generally stony, with mud and a boardwalk where a watercourse crosses the route between points X and Y. Its length is 675 metres.

### **3. Evidence**

#### **3.1 Application Evidence**

Extracts of Greenwood's map of 1825 and the Finance Act mapping 1909-10 alone were supplied with the application, though it also referred to:

- Georgeham tithe map;
- Bartholomew's maps;
- Ordnance Survey maps; and
- Eyre v New Forest Highway Board (1892) case law.

These were referred to but not supplied.

#### **3.4 Documentary Evidence**

##### Ordnance Survey Draft Drawings

This proposal is shown as a cross road, open and available to the rest of the local public highway network.

##### Ordnance Survey mapping

This proposal is shown on the 1<sup>st</sup> edition 25" mapping from the 1880s and subsequent editions as an enclosed lane for its entire length. On the 1" to 1 mile New Popular Edition of 1946, Sheet 163, the route is shown as a minor or unmetalled road. Ordnance Survey maps do not provide evidence of the status of this route but rather its physical existence over a number of years. These early Ordnance Survey maps carried a disclaimer, which states that: "The representation on this map of a road, track or footpath is no evidence of a right of way".

##### Greenwood's map

The proposal route is shown as a cross road, open and available to the public with buildings adjacent at the north end.

##### Tithe map

The route is shown coloured ochre and as part of the local highway network. Tithe Maps were drawn up under statutory procedures laid down by the Tithe Commutation Act 1836 and subject to local publicity, which would be likely to have limited the possibility of errors. Roads were sometimes coloured and the colouring generally indicates carriageways or driftways. Public roads were not titheable. Tithe maps do not offer confirmation of the precise nature of the public and/or private rights that existed over the route shown.

##### OS Object Name Books

Adwell Lane is described as 'a lane extending from junction of roads about 7 chains south west of Buckland Dinham to junction with roads about 4 chains north east of Gibbs Farm'. The name spelling and description was authorised by the District Surveyor, Mr W Edger.

##### Finance Act records

This route is shown excluded for its entire length. The Finance Act imposed a tax on the incremental value of land which was payable each time it changed hands. In order to levy the tax a comprehensive survey of all land in the UK was undertaken between 1910 and 1920. It was a criminal offence for any false statement to be knowingly made for the purpose of reducing tax liability. If a route is not included within any hereditament there is a possibility that it was considered a public highway, though there may be other reasons to explain its exclusion.

### Bartholomew's Maps

Bartholomew's maps were designed for *tourists and cyclists* with the roads classified for *driving and cycling purposes*. They were used by and influenced by the Cyclists Touring Club founded in 1878 which had the classification of First Class roads, Secondary roads which were in good condition, Indifferent roads that were passable for cyclists and other uncoloured roads that were considered inferior and not to be recommended. Additionally, Footpaths and Bridleways were marked on the maps as a pecked line symbol. Cyclists were confined to public carriage roads until 1968.

The proposal is shown as an uncoloured road, which is classed as inferior and not to be recommended. The small scale permitted only the most important routes to be shown. The purpose of these maps was to guide the traveller along the routes most suitable for their mode of transport, not to encourage trespass.

### Georgeham Parish Council Minutes

Though the parish are interested in their highways there are no references to Adwell Lane, and only limited references to Georgeham Footpath No. 11.

### Aerial photography

The route is shown on the 1940s RAF and modern aerial photography.

### **Landowner Evidence**

Mr and Mrs Taffinder of Gibbs have lived adjacent to Adwell Lane for 12 years and see walkers regularly. They consider that to upgrade the route to a Byway Open to All Traffic would be detrimental to others users, and is not necessary.

Mr and Mrs Barnes of Broadgate Farm believe that only the recorded section of Adwell Lane is a right of way. They have stopped and turned back horse riders and bikers on the unrecorded section X - Y, which they have occasionally obstructed with gates when moving stock and when improving the surface. Their family have farmed in the area for over 200 years.

### **Rebuttal Evidence**

Georgeham Parish Council do not support the proposal as they consider there is insufficient evidence. They are aware of the public using the unrecorded section of Adwell Lane X – Y when it is dry enough. Because of unauthorised use of Georgeham Footpath No. 11 where it runs along Adwell Lane by scramble bikes a few years ago stiles were erected to prevent such use.

Mr and Mrs Maul of 1 Buckland Cottages have used Adwell Lane as a footpath and are aware of the only vehicles using part of it as farmers accessing fields. They are aware that there was some use by off road bikes a few years ago in response to which stiles and fencing were erected at either end of Georgeham Footpath No. 11 to prevent vehicular use.

Mr and Mrs Rawlinson of Florians object to the proposal on the grounds that it would alter the route's character, and that there is no necessity particularly in a time of financial constraints.

Ms Tarn of Barn Cottage believes there to be no historical evidence that public vehicular rights exist along Adwell Lane. She states that any vehicle would have difficulty negotiating the wet section of the lane.

Ms Whenman and Mr Deans of North Buckland Farm are only aware of the use of Adwell Lane by walkers or farmers. The issues of safety and necessity were also raised.

Miss Abbott of Castlestreet Farm has lived in the area for 17 years and does not support the proposal. It is obstructed by stiles at either end of Footpath No. 11 where it runs along Adwell Lane, though she and her family used to ride it with horses until they were erected.

Mr and Mrs Thorp of North Buckland House do not believe the proposal has merit beyond local access.

Ms Beckett and Mr Humble-Smith of Garden Lodge acknowledge the regular use of Georgeham Footpath No. 11 and believe the proposal would be detrimental to walkers and question its necessity given the current financial climate. The width and surface of Adwell Lane would also suffer.

#### **4. Discussion**

The application was made by the Trail Riders Fellowship following the non-confirmation of a number of Modification Orders in the parish to add routes as a Byways Open to All Traffic, in an attempt to record vehicular rights which might otherwise be lost through the NERC Act.

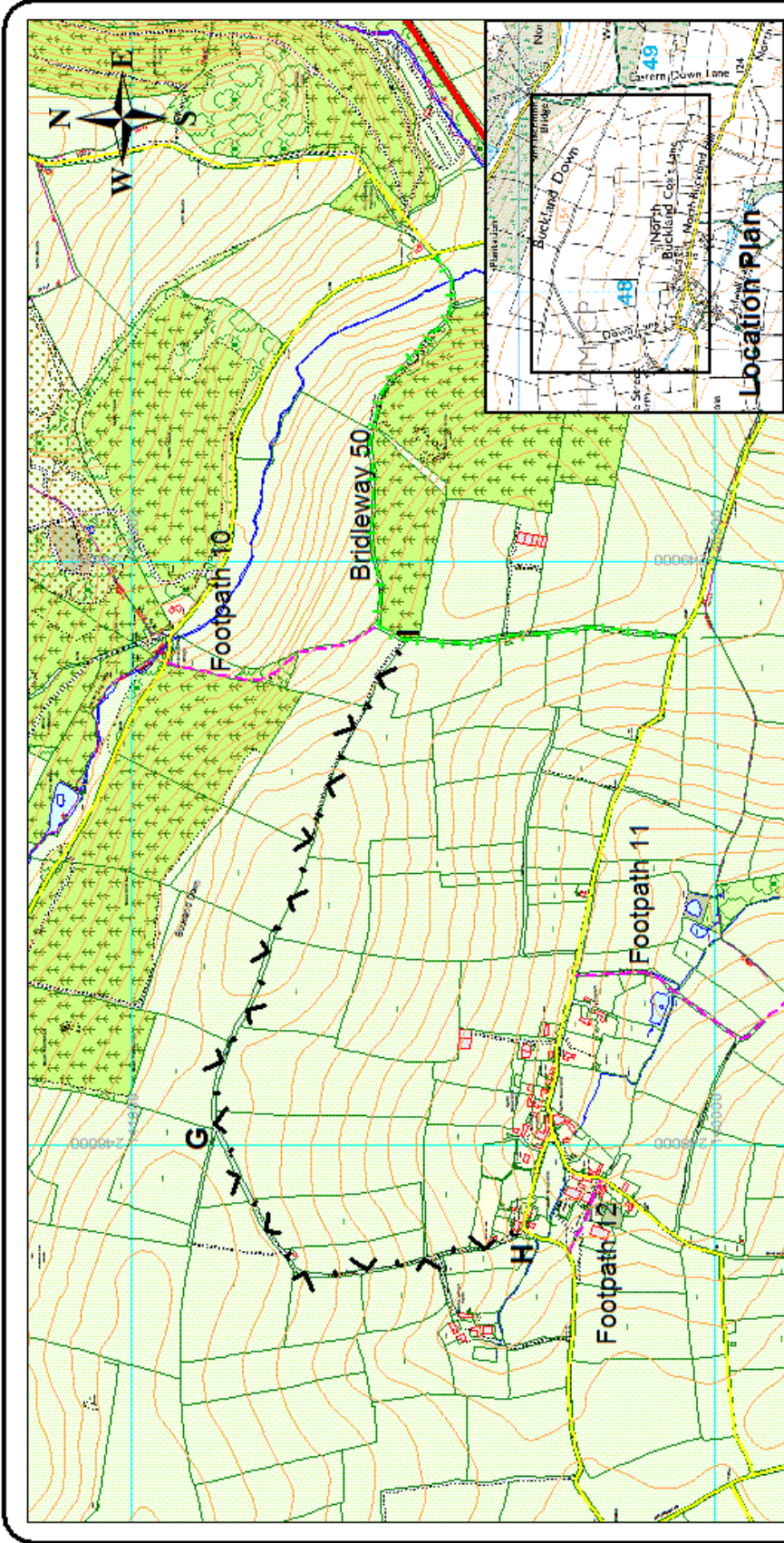
The historic mapping shows that Adwell Lane has physically existed since at least the early 1800's, and has been consistently depicted since that time in a similar manner to other currently recorded public highways. However, there is no indication as to public status other than for the section already recorded as public footpath, only the possibility of reputation through the Finance Act records and Bartholomew's maps.

Landowners affected by the proposal only acknowledge the public footpath on the section W – X recorded as Georgeham Footpath No. 11. Along with local residents, they acknowledge that there has been use of the whole proposal route by walkers, horses and motorbikes prior to the erection of the fencing and stiles on the section W – X. No one has been given permission and earlier in 2013 Mr Barnes of Broadgate Farm challenged users on horses and motorbikes. However, no user evidence has been received in support of the proposal.

As the documentary evidence is inconclusive with regard to the status of Adwell Lane and there is no user evidence, there is insufficient evidence to consider the proposal under either statute or common law.

#### **5. Conclusion**

It is recommended therefore, that no Modification Order be made to add a Byway Open to All Traffic between points W – X – Y, as shown on drawing number HTM/PROW/13/54.



map ref: SS 4741

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drawing number **HTM/PROW/13/48**  
 date **July 2013**  
 scale **1:10,000**  
 drawn by **CLG**

**Devon County Council**  
**Definitive Map Review - Georgeham**  
**Proposal 22 - Schedule 14 application - Addition of a byway**

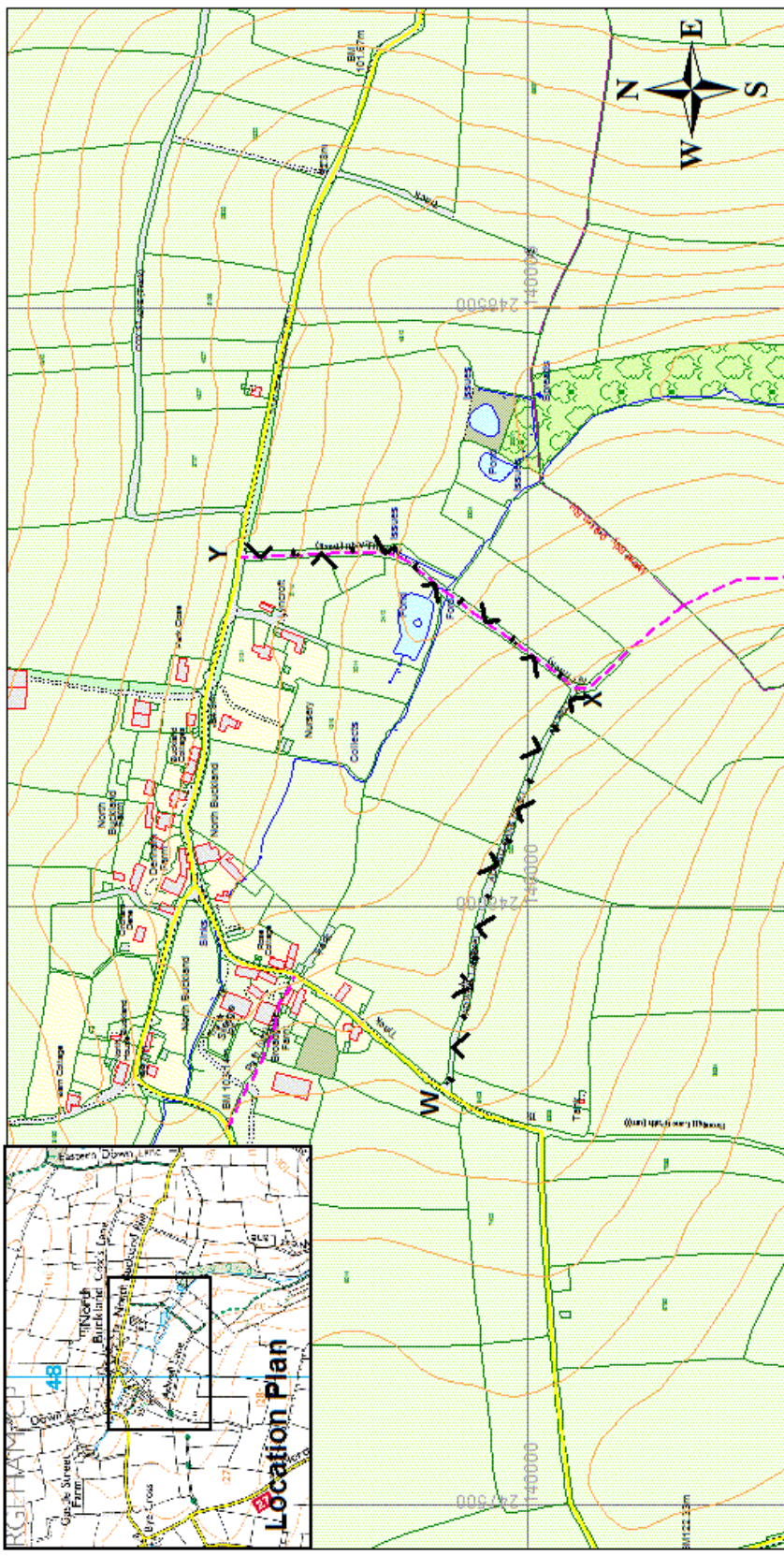
- Notation**
- Proposed byway H - G - I (1,595 metres)    ————
  - Existing footpath    - - - - -
  - Existing bridleway    - - - - -

**David Whitton**  
 Head of Highways, Capital Development & Waste



**Devon**  
 County Council  
 Capital Development & Waste





map ref. SS 4840

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**Devon County Council**  
**Definitive Map Review - Georgeham**  
**Proposal 28 - Schedule 14 application - Addition of a byway**

**Notation**  
 Proposed byway W - X - Y (675 metres)    W - X - Y  
 Existing footpath    - - - - -

drawing number **HTM/PROW/13/54**  
 date **April 2013**  
 scale **1:5,000**  
 drawn by **CLG**

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**Devon**  
 County Council  
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