

Donald MacIntyre BSc MSc

donald.macintyre@hotmail.co.uk

EMORSGATE SEEDS
Manor Farm
Langridge
Bath, BA1 8AJ

(01225) 858656
07515 561726

Public Rights of Way Team
Bath and North East Somerset Council
Riverside
Temple Street
Keynsham, BS31 1LA

February 6th, 2013

Dear Sir or Madam:

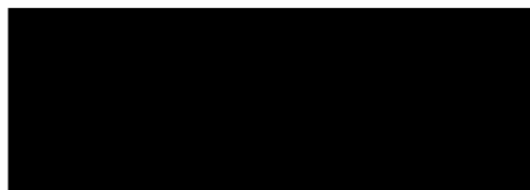
APPLICATION for a MODIFICATION ORDER to the DEFINITIVE MAP and STATEMENT of PUBLIC RIGHTS of WAY in BATH and NORTH EAST SOMERSET
Beek's Lane from St Catherine Lane to Beek's Mill

Please find enclosed an application to record a byway open to all traffic on the above route. My application includes the following:

- Form A: application form and location map
- Form C: certificate of service of notice and copies of notices served
- Form D: summary of modification order application
- 13 • ~~14~~ completed user evidence forms
- Documentary evidence, and other evidence, in support of the application

I trust that this is all in order.

Yours faithfully



Donald MacIntyre

APPLICATION FOR A MODIFICATION ORDER

Wildlife and Countryside Act 1981 The Definitive Map and Statement of Public Rights of Way in Bath and North East Somerset

To : *Public Rights of Way, Bath and North East Somerset Council*
of : *Riverside, Temple Street, Keynsham, BS31 1LA*

I/we : DONALD MACINTYRE
of : MANOR FARM, LANGRIDGE, BATH, BA1 8AJ

name and address of applicant(s)

hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statement for the area by;

N.B. CHOOSE ONE OR MORE OF THE FOUR OPTIONS GIVEN BELOW

1. deleting the ~~*footpath~~ from # _____ to # _____
~~*bridleway~~
~~*restricted byway~~
~~*byway open to all traffic~~

** delete as appropriate*

2. adding the ~~*footpath~~ from # ST 762711 to # ST 763712
~~*bridleway~~
~~*restricted byway~~
~~*byway open to all traffic~~

fill in grid references for start and end of routes

3. upgrading/downgrading the route currently shown as a ~~*footpath~~ from # _____ to # _____
~~*bridleway~~
~~*restricted byway~~
~~*byway open to all traffic~~

so that it is shown as a ~~*footpath~~
~~*bridleway~~
~~*restricted byway~~
~~*byway open to all traffic~~

3. varying /adding to the particulars relating to the ~~*footpath~~ from # _____ to # _____
~~*bridleway~~
~~*restricted byway~~
~~*byway open to all traffic~~

by providing that _____

explain how you want the particulars altered

and shown on the map accompanying this application.

I/we attach copies of the following evidence in support of this application;

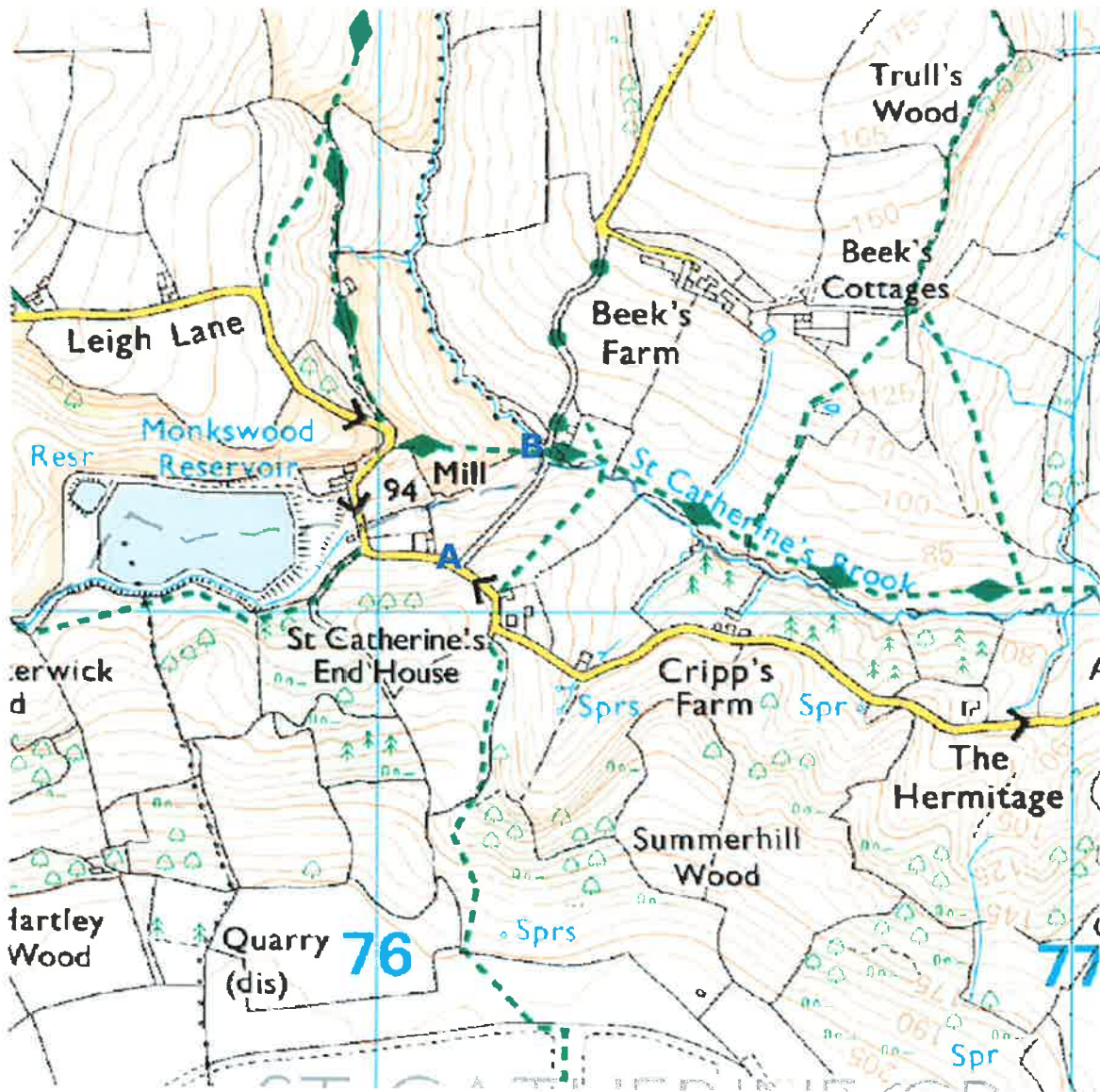
COMPLETED USER EVIDENCE FORMS
DOCUMENTARY EVIDENCE

list the evidence which supports your application

Dated 6.2.13 Signed _____

Beek's Lane, St Catherine, Bath

Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way for Bath and North East Somerset



The application route is the southern part of Beek's Lane from the junction with St Catherine Lane (A) to just south of Beek's Mill (B), as marked on the map above.

CERTIFICATE OF SERVICE OF NOTICE
OF
APPLICATION FOR A MODIFICATION ORDER

Wildlife and Countryside Act 1981
**The Definitive Map and Statement of Public Rights of Way
in Bath and North East Somerset**

To : *Public Rights of Way, Bath and North East Somerset Council*
of : *Riverside, Temple Street, Keynsham, BS31 1LA*

I/we : DONALD MacINTYRE
of : MANOR FARM, LANCRIDGE, BATH, BA1 8AT

*name and
address of
applicant(s)*

hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with and attach a copy of each notice served pursuant to that Paragraph.

Dated 6.2.13 Signed 

Paragraph 2 of Schedule 14 to the Wildlife and Countryside Act states that ;

"the applicant shall serve a notice stating that the application has been made on every owner and occupier of any land to which the application relates"

"if, after reasonable inquiry has been made, the authority are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates the authority may direct that the notice ... may be served by addressing it to him by the description 'owner' or 'occupier' of the land (describing it) and by affixing it to some conspicuous object or objects on the land"

Donald MacIntyre BSc MSc
donald.macintyre@hotmail.co.uk

EMORSGATE SEEDS
Manor Farm
Langridge
Bath, BA1 8AJ

(01225) 858656
07515 561726

Kate Chubb
Beek's Mill
St Catherine
Bath, BA1 8HF

February 6th, 2013

Dear Ms Chubb

NOTICE of APPLICATION for a MODIFICATION ORDER

Please find attached Notice of Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way in Bath and North East Somerset. This application refers to the section of Beek's Lane between St Catherine Lane and Beek's Mill, as marked on the attached map.

Please contact Banes Public Rights of Way Team, or myself, if you would like further information.

Yours sincerely



Donald MacIntyre

NOTICE OF APPLICATION FOR A MODIFICATION ORDER

Section 53(5) and Schedule 14 to the Wildlife and Countryside Act 1981
**The Definitive Map and Statement of Public Rights of Way
 in Bath and North East Somerset**

To : KATE CAURR name and address of owner or occupier
 of : BEEK'S MILL, ST CATHERINE, BATH, BA1 2HF

Notice is hereby given that on the 6th day of FEBRUARY 2013 give the date of your application

I/we : DONALD MacINTYRE name and address of applicant(s)
 of : MANOR FARM, LAUNCEICE, BATH, BA1 2AJ

made application to the Public Rights of Way Team, Bath and North East Somerset Council, Riverside, Temple Street, Keynsham, BS31 1LA that the Definitive Map and Statement for the area be modified by;

N.B. CHOOSE ONE OR MORE OF THE FOUR OPTIONS GIVEN BELOW

*deleting the *footpath from# _____ to# _____ * delete as appropriate - take detail from application
 *bridleway
 *restricted byway
 *byway open to all traffic

*adding the *footpath from# ST 762 711 to# ST 763 712 * fill in grid references for start and end of routes
 *bridleway
 *restricted byway
 *byway open to all traffic

*upgrading/downgrading the route currently shown as a *footpath from# _____ to# _____
 *bridleway
 *restricted byway
 *byway open to all traffic
 to be shown as a *footpath
 *bridleway
 *restricted byway
 *byway open to all traffic

*varying /adding to the particulars relating to the *footpath from# _____ to# _____
 *bridleway
 *restricted byway
 *byway open to all traffic

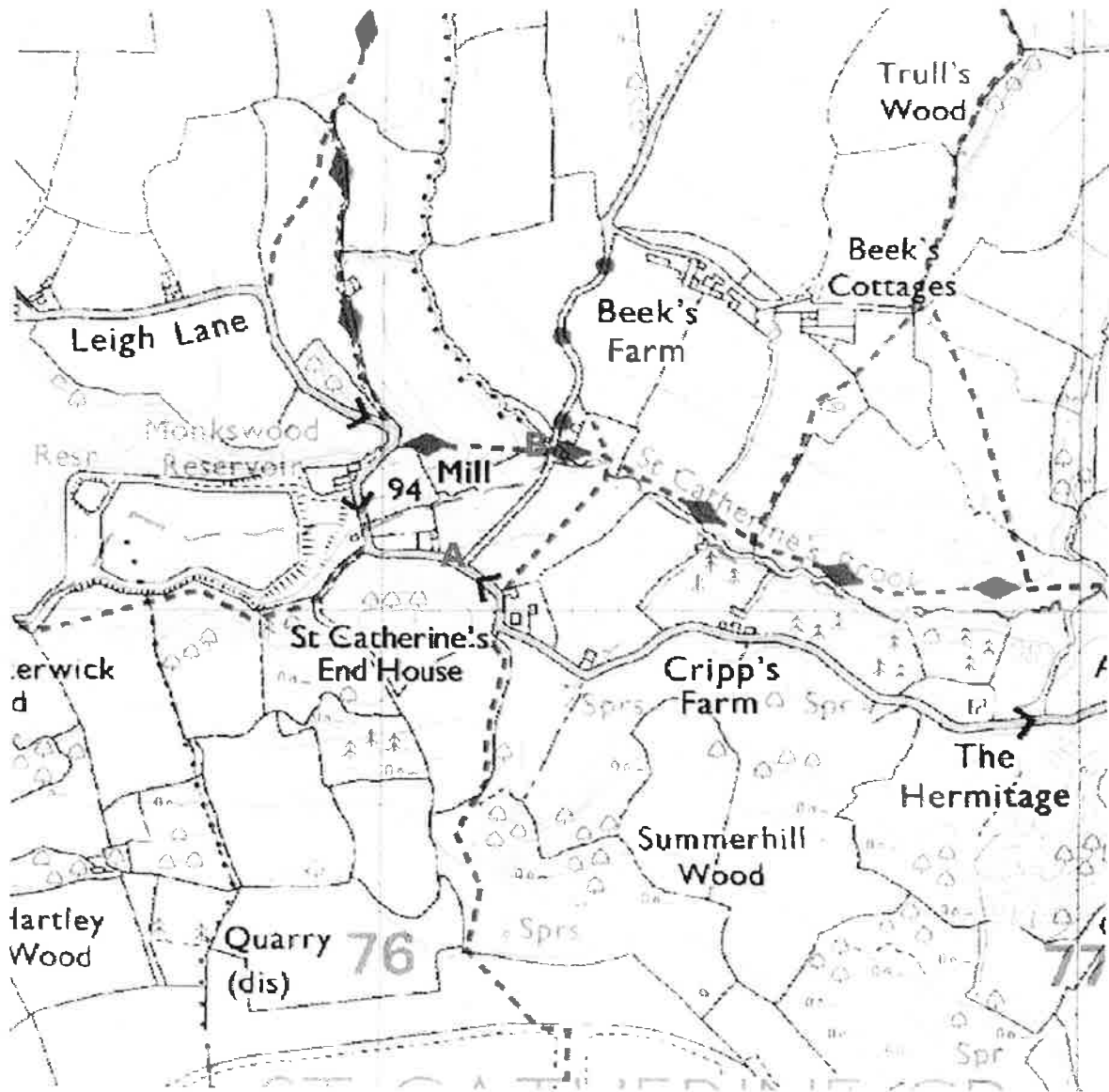
by providing that _____ explain how you want the particulars altered

and shown on the map accompanying this notice.

Dated 6.2.13 Signed _____

Beek's Lane, St Catherine, Bath

Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way for Bath and North East Somerset



The application route is the southern part of Beek's Lane from the junction with St Catherine Lane (A) to just south of Beek's Mill (B), as marked on the map above.

Donald MacIntyre BSc MSc

donald.macintyre@hotmail.co.uk

EMORSGATE SEEDS
Manor Farm
Langridge
Bath, BA1 8AJ

(01225) 858656
07515 561726

Richard Pease
Crux Easton House
Crux Easton
Newbury
Berkshire, RG20 9QF

February 6th, 2013

Dear Mr Pease

NOTICE of APPLICATION for a MODIFICATION ORDER

Please find attached Notice of Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way in Bath and North East Somerset. This application refers to the section of Beek's Lane between St Catherine Lane and Beek's Mill, as marked on the attached map.

Please contact Banes Public Rights of Way Team, or myself, if you would like further information.

Yours sincerely

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes.

Donald MacIntyre

NOTICE OF APPLICATION FOR A MODIFICATION ORDER

Section 53(5) and Schedule 14 to the Wildlife and Countryside Act 1981
The Definitive Map and Statement of Public Rights of Way
in Bath and North East Somerset

To : RICHARD PETER PEASE name and address of
 of : CRUX EASTON HOUSE, CRUX EASTON, NEWBURY, RG26 7AF owner or occupier

Notice is hereby given that on the 6TH day of FEBRUARY 2013 give the date of your application

I/we : DONALD MACINTYRE name and address of applicant(s)
 of : MANOR FARM, LANGRIDGE, BATH, BA1 8AJ

made application to the Public Rights of Way Team, Bath and North East Somerset Council, Riverside, Temple Street, Keynsham, BS31 1LA that the Definitive Map and Statement for the area be modified by;

N.B. CHOOSE ONE OR MORE OF THE FOUR OPTIONS GIVEN BELOW

*deleting the *footpath from# _____ to# _____ * delete as appropriate - take detail from application
 *bridleway
 *restricted byway
 *byway open to all traffic

*adding the *footpath from# SK762711 to# SK763712 * fill in grid references for start and end of routes
 *bridleway
 *restricted byway
 *byway open to all traffic

*upgrading/downgrading the route currently shown as a *footpath from# _____ to# _____
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 *restricted byway
 *byway open to all traffic
 to be shown as a *footpath
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 *restricted byway
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 *restricted byway
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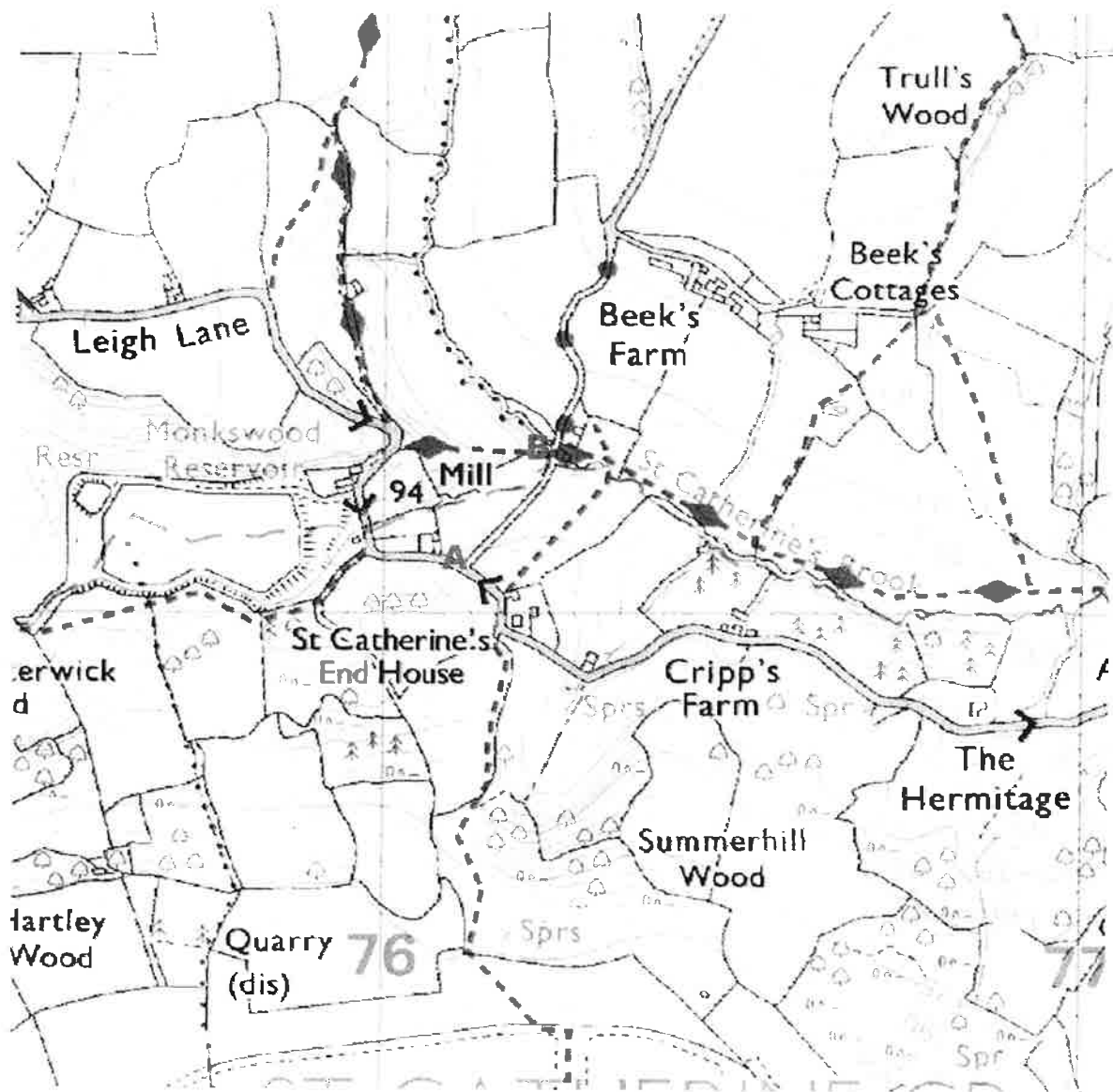
by providing that _____ explain how you want the particulars altered

and shown on the map accompanying this notice.

Dated 6.2.13 Signed _____

Beek's Lane, St Catherine, Bath

Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way for Bath and North East Somerset



The application route is the southern part of Beek's Lane from the junction with St Catherine Lane (A) to just south of Beek's Mill (B), as marked on the map above.

Donald MacIntyre BSc MSc
donald.macintyre@hotmail.co.uk

EMORSGATE SEEDS
Manor Farm
Langridge
Bath, BA1 8AJ

(01225) 858656
07515 561726

Richard Parry
66 Lincoln's Inn Fields
London, WC2A 3LH

February 6th, 2013

Dear Mr Parry

NOTICE of APPLICATION for a MODIFICATION ORDER

Please find attached Notice of Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way in Bath and North East Somerset. This application refers to the section of Beek's Lane between St Catherine Lane and Beek's Mill, as marked on the attached map.

Please contact Banes Public Rights of Way Team, or myself, if you would like further information.

Yours sincerely



Donald MacIntyre

NOTICE OF APPLICATION FOR A MODIFICATION ORDER

Section 53(5) and Schedule 14 to the Wildlife and Countryside Act 1981
**The Definitive Map and Statement of Public Rights of Way
 in Bath and North East Somerset**

To : RICHARD WILLIAM JAMES PARRY
 of : 66 LINCOLN'S INN FIELDS, LONDON, WC2A 3LH

name and address of owner or occupier

Notice is hereby given that on the 6th day of FEBRUARY 2013

give the date of your application

I/we : DONALD MACINTYRE
 of : MANOR FARM, LANGRIDGE, BATH, BA1 2AJ

name and address of applicant(s)

made application to the Public Rights of Way Team, Bath and North East Somerset Council, Riverside, Temple Street, Keynsham, BS31 1LA that the Definitive Map and Statement for the area be modified by;

N.B. CHOOSE ONE OR MORE OF THE FOUR OPTIONS GIVEN BELOW

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 *restricted byway
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* delete as appropriate - take detail from application

*adding the footpath from# ST 762 711 to# ST 763 712
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* fill in grid references for start and end of routes

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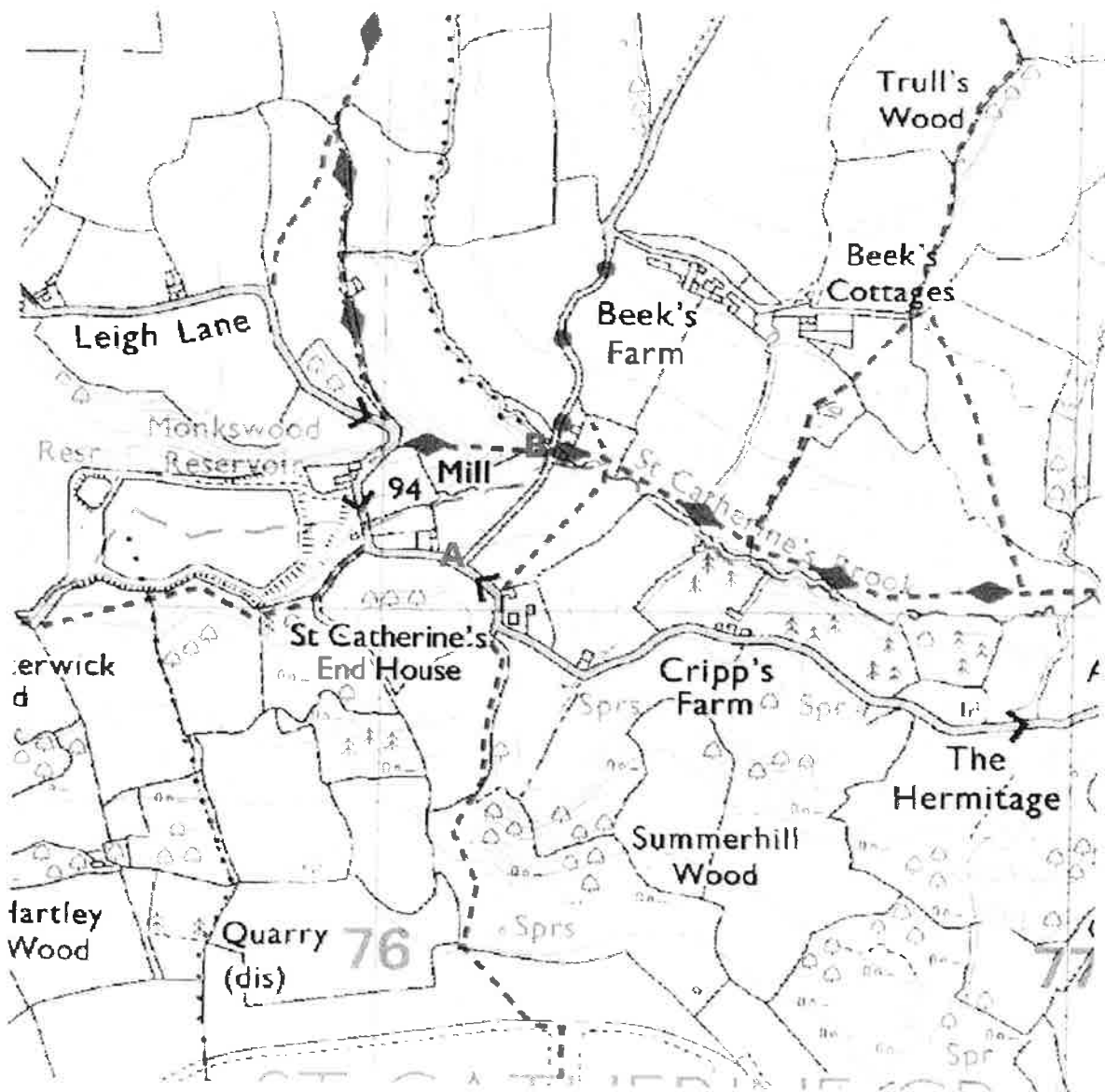
explain how you want the particulars altered

and shown on the map accompanying this notice.

Dated 6.2.13 Signed _____

Beek's Lane, St Catherine, Bath

Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way for Bath and North East Somerset



The application route is the southern part of Beek's Lane from the junction with St Catherine Lane (A) to just south of Beek's Mill (B), as marked on the map above.

SUMMARY OF MODIFICATION ORDER APPLICATION

Wildlife and Countryside Act 1981
**The Definitive Map and Statement of Public Rights of Way
 in Bath and North East Somerset**

Name and address of Applicant DONALD MacINTYRE
MANOR FARM, LAUGRIDGE, BATH, BA1 8AJ

Date of Application 6.2.13

Description

Please describe the route starting at one end and working through to the other end.
 Describe any feature of note, roads, landmarks, buildings, hedges etc.
 If the route has a name or nickname please give it here.

THE ROUTE IS A SHORT SECTION OF THE HISTORIC ROAD/BYWAY KNOWN AS "BEEK'S LANE". THE ROUTE STARTS AT THE GATED JUNCTION WITH ST CATHERINE LANE (ST 762711) AND ENDS AT THE PARISH BOUNDARY SOUTH OF BEEK'S MILL (ST 763712). THE ROUTE CONSISTS OF A ROUGH STONE ROADWAY BOUNDED BY A HEDGE BANK TO THE EAST AND A POST AND WIRE FENCE TO THE WEST.

Length

Please give the approximate length of the entire path in metres.
 If you are claiming more than one path in the same application please give the length of each path separately.

190 m

Width

Please give the full width of the path you are claiming.
 Please also give the width of the claimed path as it is now

Width claimed : 4.30 m THROUGHOUT
 Width now : 3.10 m AT GATES

Nature of surface

Please describe the surface of the path e.g. grass, made up track, ploughed, mud.

MADE UP SURFACE CONSISTING OF LOOSE ROUGH STONE

Location of structures

Please give details and grid references for any gates, stiles, fences, bollards, barriers etc which are on the route now. Do not give details of fences if they run beside the route unless they are encroaching.

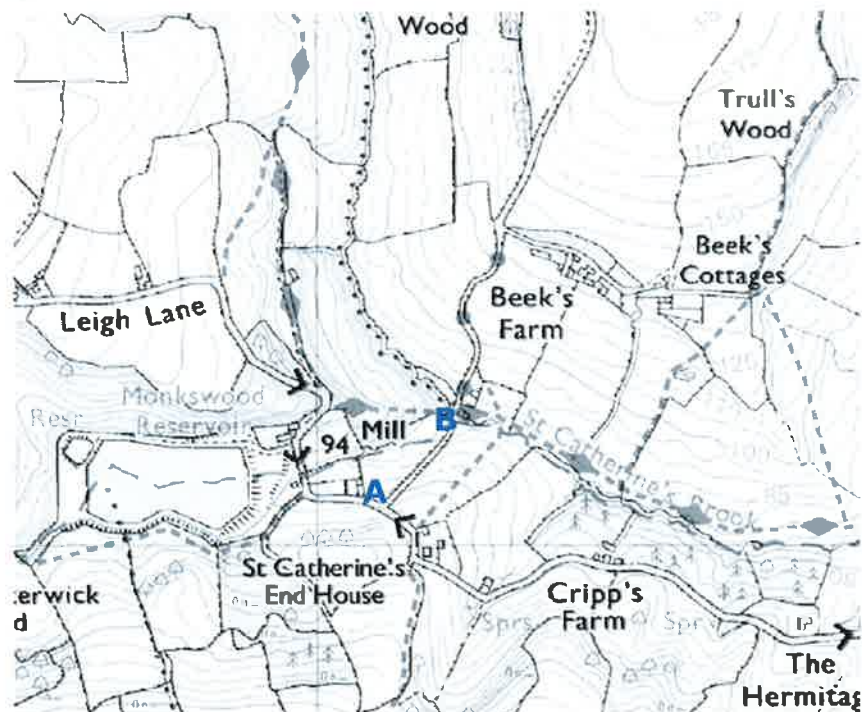
| Structure | Grid Ref | Structure | Grid Ref | Structure | Grid Ref |
|------------------------|---------------------|------------|------------------|-----------|----------|
| <u>PADLOCKED GATES</u> | <u>AT ST 762711</u> | <u>AND</u> | <u>ST 763712</u> | | |
| <u>PRIVATE SIGNS</u> | <u>"</u> | <u>"</u> | <u>"</u> | <u>"</u> | <u>"</u> |

DOCUMENTARY EVIDENCE, AND OTHER EVIDENCE, OFFERED IN SUPPORT OF THE APPLICATION

Application for modification to the Definitive Map and Statement for Bath and
North East Somerset

APPLICATION TO RECORD A BYWAY OPEN TO ALL TRAFFIC ON THE SECTION OF BEEK'S
LANE BETWEEN St CATHERINE LANE AND BEEK'S MILL

The route to which this application refers concerns the section of Beek's Lane between St Catherine Lane and Beek's Mill, and is marked on this Ordnance Survey map by the letters **A** and **B**. Public rights of way exist on the remainder of Beek's Lane



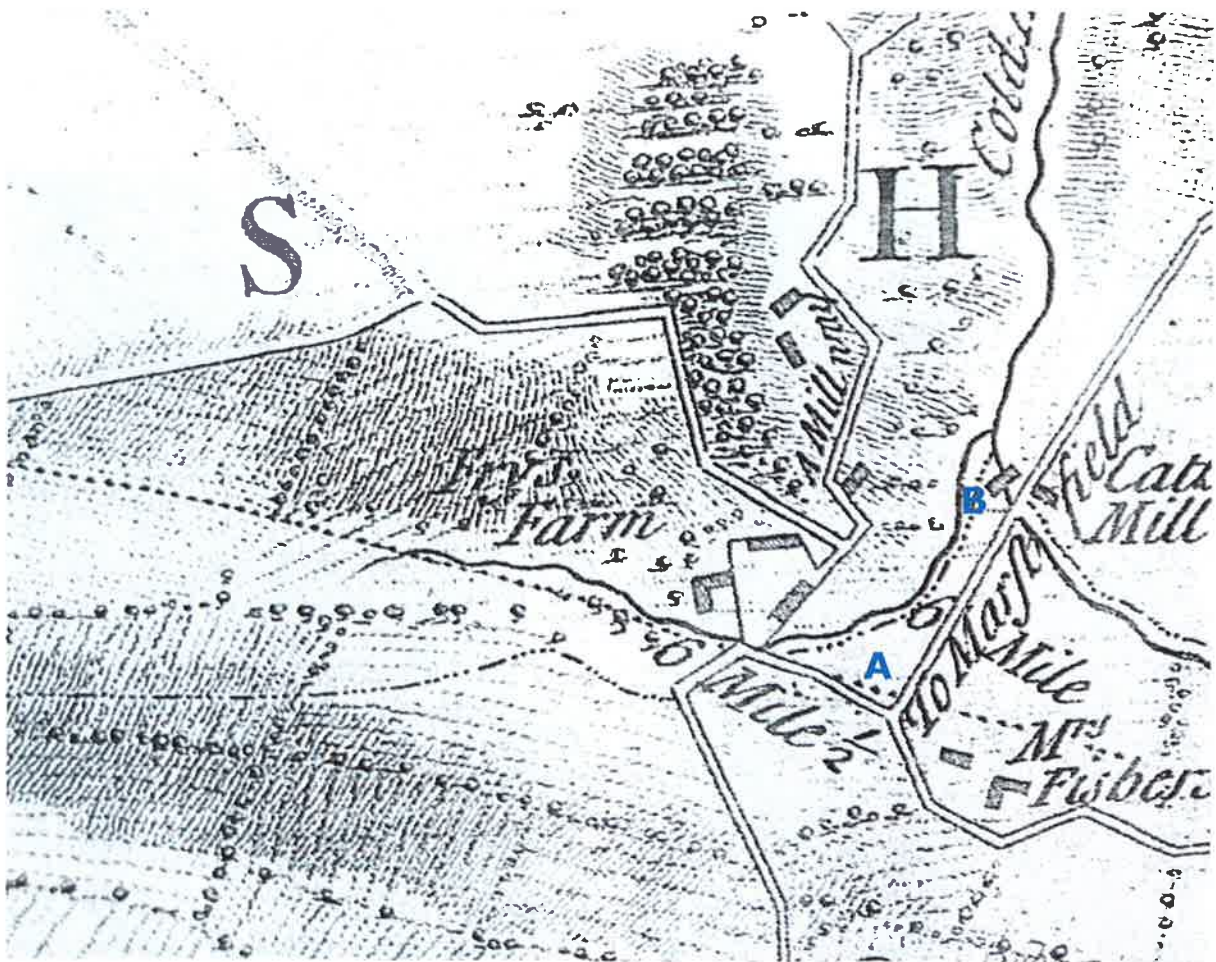
Evidence is presented below in support of this application to record public rights of way on the section of Beek's between **A** and **B** on the map above. The evidence is presented in chronological order, and seeks to give an historical account of the route, up to the present day.

The evidence consists of old maps and documents, accounts from living memory, artefacts on the ground, and photographic records of more recent events.

1742 MAP by THOMAS THORPE

This early map covers Bath (and 5 miles around), and shows the section of Beek's Lane between St Catherine Lane and Beek's Mill (then known as Catherine Mill), to which this application refers. The route is marked on the map by the letters **A** and **B**, and is represented on the map by two solid lines. The solid lines are open at both ends indicating that the route was un-gated at that time, and the route is annotated "To Marshfield".

The inference from this map is that the route existed in 1742 as an important public right of way for traffic between St Catherine and Marshfield and beyond, and between farms and mills along the way. St Catherine Lane did not continue west to the Gloucester Road at that time, as it does today, and no other route existed then for travel between Upper St Catherine and Marshfield.



1742 MAP by THOMAS THORPE

MILE STONE at BEEKS MILL

A milestone survives today just south of Beek's Mill on the east verge of Beek's Lane. The position of this milestone is close to the point that is marked by the letter **B** on the maps above. This milestone is two miles from Marshfield market place, and the inscription on the stone reads: 2 MARCH FIELD. Another milestone, unmarked, is situated at the Marshfield end of Beek's Lane.

A milestone serves to show travellers that a public right of way exists, and it may also show the distance to the next town or village. The presence of a milestone just south of Beek's Mill is strong evidence that an important historic public right of way has existed for many years for travellers along the entire route of Beek's Lane between St Catherine Lane and Marshfield. This milestone is evidence of a through route, as one would not normally be placed at the end of a no through road.

We are unable to date the milestone. However, its appearance, and the fact that milestones usually predate Ordnance Survey Maps and other way markers, suggest that this stone is centuries, rather than decades, old.



Milestone on the east verge of Beek's Lane

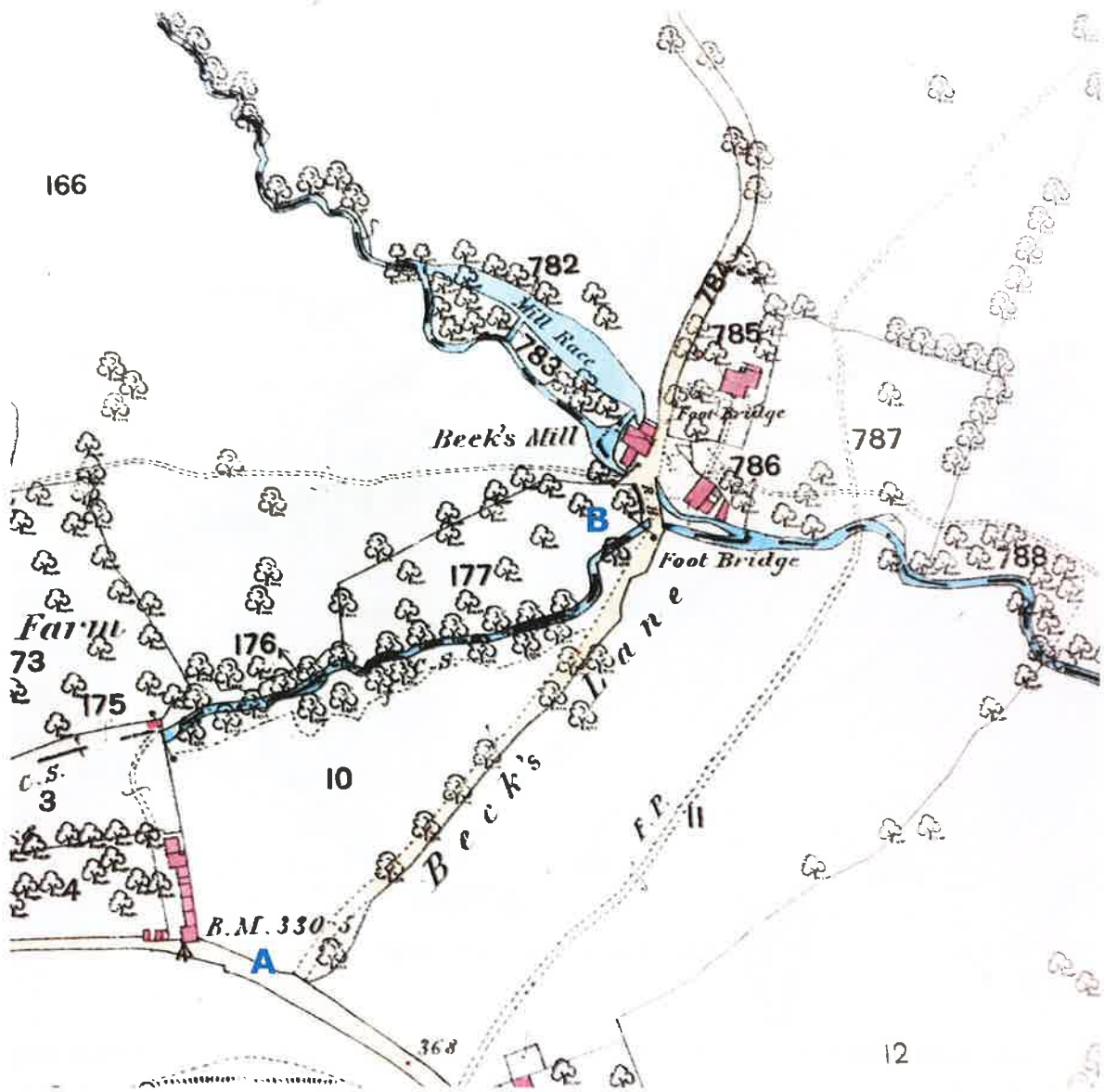


Milestone showing inscription

1886 ORDNANCE SURVEY MAP

The 1886 "1:10,000" Ordnance Survey Map shows the route of Beek's Lane as a continuous public right of way for traffic between St Catherine Lane and Marshfield. The section between St Catherine Lane (A) and Beek's Mill (B) is coloured yellow on the map, indicating that it is a route with full public access, and this section is annotated "Beek's Lane".

This map shows a cluster of buildings at Beek's Mill, with a row of workers cottages to the south-west. Two other mills and three farms were also nearby. Beek's Lane was probably a busy route at that time.

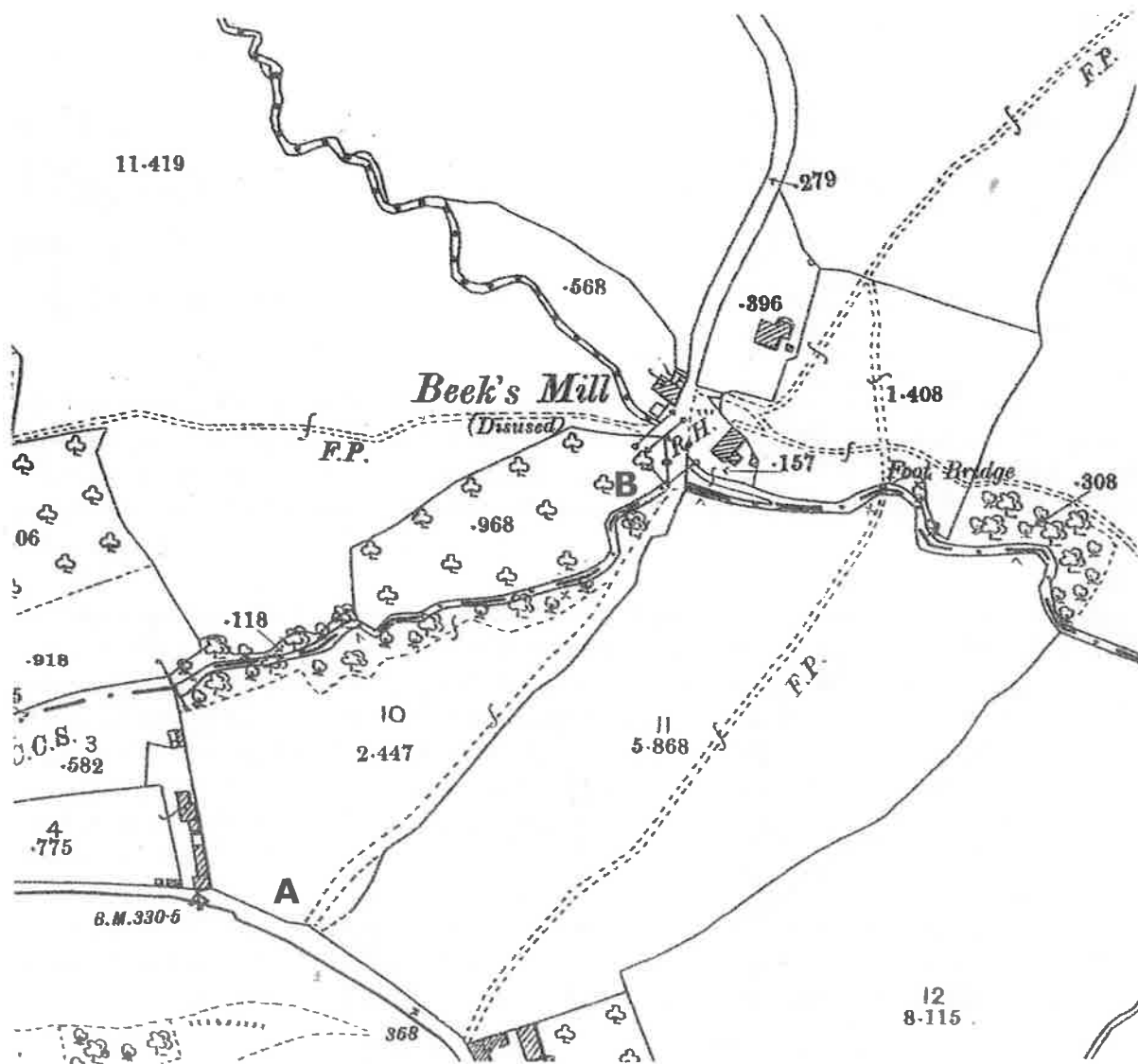


1886 ORDNANCE SURVEY MAP

1904 ORDNANCE SURVEY MAP

The 1904 "1:10,000" Ordnance Survey map continues to show the section of Beek's Lane between St Catherine Lane(A) and Beek's Mill(B).

The notation "R.H.", on the map close to Beek's Mill, refers to a "Road House" or wayside inn, and can be identified with the building to the south-east of Beek's Mill. This building is still standing. The presence of a wayside inn near to Beek's Mill is further evidence that Beek's Lane was a through route with public access continuous between St Catherine and Marshfield. It may be argued here, as with the milestone, that an inn would not be placed at the end of a no through road.



1904 ORDNANCE SURVEY MAP

There are many other maps that show Beek's Lane, but those presented above are thought to be the ones that best show the application route, it's features, evidence of public rights of way, and changes over time.

ACCOUNTS FROM LIVING MEMORY

Local residents of long standing can recall that the route from St Catherine Lane to Beek's Mill and beyond has been used freely for at least 60 years, without permission, without being challenged, and without the way being barred. During this time there has been a wooden gate at the junction of Beek's Lane with St Catherine Lane, but it has never been locked, and the route has been used on foot, on bicycle, on horseback, and by motor vehicles.

The route has been, and remains, important for travel between St Catherine and Marshfield (for agriculture, trade and leisure) and for service vehicles, such as postal deliveries, and for emergency and rescue vehicles. However, use of the route has always been at a very low level because of the poor state of the road surface and the necessity to open and close the gate at the junction with St Catherine Lane.

This application to record the route on the definitive map will allow usage to return to former levels. There will be no merit or need to improve access, or the road surface, and recording the route will not result in increased usage.

THE DEFINITIVE MAP

The bridge over St Catherine Brook, just south of Beek's Mill, marks the boundary between the counties of Bath and North East Somerset, and Wiltshire, and the parishes of St Catherine and Marshfield. The greater part of Beek's Lane lies in the Parish of Marshfield. The short section between St Catherine Lane and Beek's Mill lies in the Parish of St Catherine.

In 1948 individual Parish Councils were charged with putting forward proposals for public rights of way for inclusion on the definitive map, with separate maps held by each county. Marshfield Parish proposed that the part of Beek's Lane in their parish (and Wiltshire) should be recorded as a public right of way. St Catherine Parish did not propose inclusion of the short section of Beek's Lane that lies within Bath and North East Somerset. The consequence of these decisions is that an anomaly now exists in that a small section of Beek's Lane is not recorded as having public rights of way, while the remainder does.

Few local people have been aware of this anomaly, and all contacted in gathering evidence for this application had thought that there were long standing public rights of way on the entire length of Beek's Lane, and have used the route accordingly, over many years.

Beek's Mill recently changed ownership, and the new owners, aware of the details of the definitive map, proceeded to restrict public access to the section of Beek's Lane between St Catherine Lane and Beek's Mill, as is their right. These restrictions are recorded below to complete the chronology of events and to establish the date on which access to the route was barred.

CHANGES TO GATES

On December 16th, 2011, new off-centre gateposts were put in place at both ends of the unrecorded section of Beek's Lane, reducing access from 4.30m to 3.10m, and making it impossible to pass with farm machinery. New gates were hung on these gateposts.



Gateway at the junction with St Catherine Lane, looking north



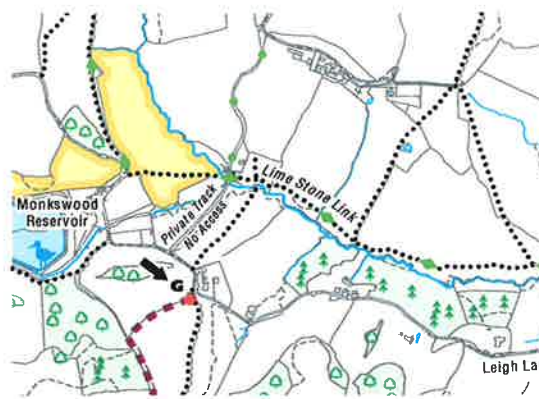
Gateway at Beek's Mill, looking north

CHANGES TO MAPPING

The new owners of Beek's Mill have requested three changes to official Ordnance Survey and Natural England mapping. These amendments were granted, but when challenged by the applicant, the changes were reversed. These changes to mapping are described in more detail below.



Ordnance Survey map



Natural England map

- (1) The owners of Beek's Mill requested that Natural England maps include the notation "Private Track No Access" beside the section of Beek's Lane between St Catherine Lane and Beek's Mill. Natural England granted this request. When challenged by the applicant, Natural England reversed the change with effect from 20th April 2012.
- (2) The owners of Beek's Mill claimed that the north-west boundary of the section of Beek's Lane between St Catherine Lane and Beek's Mill was unfenced. They therefore requested that Ordnance Survey change their mapping so that that section of Beek's Lane was mapped as one broken line and one solid line, rather than two solid lines. Ordnance Survey agreed to this request and accordingly changed the OS Master Map, the OS 1:25,000 map and the OS 1:50,000 map. When challenged by the applicant, Ordnance Survey reversed the change with effect from 3rd May 2012.
- (3) The owners of Beek's Mill claimed that there was no public right of way on the section of Beek's Lane running north from Beek's Mill to the turning to Beek's Farm. This section is marked on Ordnance Survey maps by three green dots indicating "routes with public access". The owners requested that Ordnance Survey remove the three green dots. Ordnance Survey agreed to this request and accordingly changed the OS Master Map, the OS 1:25,000 map and the OS 1:50,000 map. When challenged by the applicant Ordnance Survey reversed the change with effect from 16th May 2012.

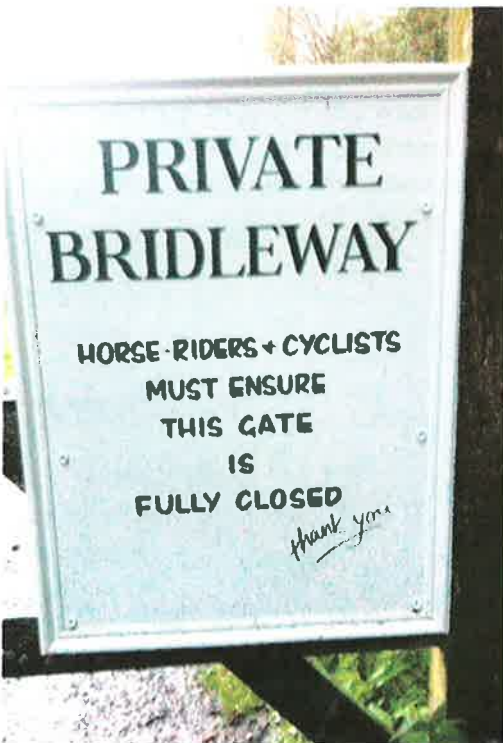
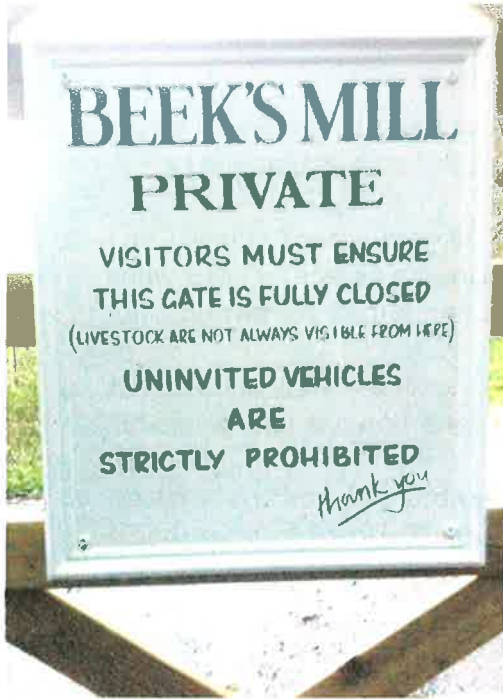
PRIVATE SIGNS AND PADLOCKS

Private signs were placed on the gates at both ends of the route, at the junction with St Catherine Lane and at Beek's Mill, on April 25th, 2012. These signs say that the route is private and that there is no public right of way.

The gates at both ends of the route, at the junction with St Catherine Lane and at Beek's Mill, were padlocked on June 28th, 2012, and remain padlocked. Use of the route by the public ceased from this date.



Private signs and padlocked gates at the junction of St Catherine Lane and Beek's Lane



Private signs and padlocked gates at the junction of St Catherine Lane and Beek's Lane

SUMMARY of the EVIDENCE

The evidence in support of this application to record the section of Beek's Lane between St Catherine Lane and Beek's Mill as a public right of way is summarized as:

1. The Thomas Thorpe map of 1742 and The Ordnance Survey map of 1886 clearly show Beek's Lane as a public right of way along its entire length from the junction with St Catherine Lane to Marshfield.
2. A milestone stands on the east verge of Beek's Lane south of Beek's Mill indicating that the entire length of Beek's Lane is an historic public right of way.
3. Notation on the 1904 Ordnance Survey map suggests that a wayside inn once stood south of Beek's Mill, providing further evidence of an historic public right of way along the entire length of Beek's Lane.
4. It is argued that the omission from the definitive map of the section of Beek's Lane that runs between St Catherine Lane and Beek's Mill is an anomaly arising because Beek's Lane crosses parish and county boundaries.
5. "User Evidence Statements" accompanying this application are evidence that Beek's Lane has been used as a public right of way, without permission, hindrance, obstruction or challenge, along its entire length from St Catherine Lane to Marshfield, for at least 60 years. Mapping evidence extends this period to 270 years.
6. Access to the route was barred from June 28th, 2012 by private notices and padlocked gates positioned at the junction with St Catherine Lane, and at Beek's Mill. The route remains barred to public access.

February 6th, 2013

Donald MacIntyre
Manor Farm
Langridge
Bath
BA1 8AJ