

**BRISTOL CITY COUNCIL  
PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE  
7th April 2008**

**CLAIMED FOOTPATH FROM HOTWELL ROAD TO CHARLES PLACE, THROUGH BEAR YARD**

(Joint Report of the Director of Planning, Transport and Sustainable Development and the Director of Central Support Services)

**(Ward: Clifton)**

**Purpose of Report**

1. To determine an application for a Modification Order under the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by the addition of a footpath from Hotwell Road, through Bear Yard to Charles Place, Hotwells, Bristol.

**Legal Framework**

2. Bristol City Council as Highway and Surveying Authority is under a statutory duty, as imposed by Section 53(2) of the Wildlife and Countryside Act 1981, to keep the Definitive Map and Statement under continuous review and to determine any valid applications for Modification Orders that it receives.
3. Section 53(5) of the Act enables any person to apply to the surveying authority for an order to be made modifying a definitive map and statement as respects any of the 'evidential events' specified in paragraphs (b) and (c) of section 53(3). The procedure for the making and determination of applications is set out in Schedule 14 of the Act. It includes the right for applicants to appeal to the Secretary of State against the refusal of the surveying authority to make an order.

## Background

4. An application for a Modification Order has been received from a member of the public to modify the Definitive Map by adding a footpath from under the Archway by the Bear Hotel, Hotwell Road, through the Bear Yard to Charles Place, Hotwells, Bristol. The claimed route is shown on the Location Plan at Appendix A.

5. The relevant statutory provision in this case, which applies to adding a route to the Definitive Map and Statement, is set out in Section 53(3)(c)(i) of the Act which requires the Surveying Authority to modify the Definitive Map and Statement following:

*“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 to which this Part applies.”*

6. Section 31 of the Highways Act 1980 provides for the presumption of dedication of a public right of way following 20 years continuous use. Subsection (1) states:

*“Where a way over any land, other than a way of such 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 to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”*

Subsection (2) states that:

*“The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice ... or otherwise.”*

7. The act that brought the public right into question and prompted the claim was the erection of gates across the way when building works commenced in Bear Yard in June 2002 (see Planning photograph of 2.07.02 and letter from Charles Church dated 12.07.02 at Appendix B). Although this prevented the use of the claimed route for the duration of the works, the footpath was subsequently re-opened to the public.

### **Documentary Evidence supporting the existence of the route**

8. The Order applicant, Ms Sue Otty, provided two items of documentary evidence – a copy of the 1918 Ordnance Survey map (reviewed in paragraph 15 below) and a copy of Condition 18 of Planning Approval for Bear Mews (Appl. 98/01181 – No. 265 & Bear Yard, reviewed in paragraph 21 below). The Bear Hotel and No. 265 Hotwell Road, which are on either side of the archway to Bear Yard, are located in the Clifton Conservation Area. Officers' evaluation of documents from the Council's Planning archive is summarised in paragraph 21 below. A list of historic documentary evidence researched in support of the claim is attached at Appendix Q and is summarised below.
9. It appears from a search of the local history of Hotwells (see published sources at Appendix Q) that No. 265 Hotwells Road (formerly No. 9 Love Street) is a Grade II Listed Building constructed circa 1730. The Bear Hotel was listed as being in business in 1775. According to *Stops & Barnes* the Bear was a coaching inn, carriages entered through the archway and horses were stabled at the back. Rainwater was collected from the roofs of Dowry Parade and piped to the stables.
10. The earliest map reviewed was the Ashmead map of Bristol dated 1833, which depicts Love Street (now Hotwell Road) and shows a clear route through to the yard at the rear, although the route is less clearly shown through to Woburn place (see Appendix R); as does Chilcott's Map of Hotwells dated 1849.
12. A copy Lease dated 1860 in respect of land between Love Street and Charles Place (listed at Appendix Q) referred to Woburn Place as "*lately erected and built by Geo. Risely deceased*". There is also

reference to the use in common with the lessees, tenants and occupiers of the Bear Inn and adjoining premises *“of all that way or passage under the arch below ... No. 9 in Love Street ... and the Bear Inn.”*

13. In April 1878 an Auction was held of ‘Long Leasehold Property’ comprising of premises in Charles Place (Nos. 6 & 7), Woburn Place (Nos. 2-12), No. 9 Love Street and a ‘Large commodious Yard’ with dwelling house and buildings rear of The Bear Inn, Love Street *“having communications with Love Street and Woburn Place ...”*. All this property was specified as Leasehold for a term of 1,000 years from 16<sup>th</sup> March 1860 from the Society of Merchant Venturers to the late Mr John Risely. The Auctioneer’s ‘Plan of Property’ depicts a *“Passage of right of way to Love Street”* running between No. 5 & 6 Woburn Place through the yard to Love Street – between No. 9 Love Street and The Bear Inn (see Appendix S). A copy of the original Deed of Apportionment dated November 1878 assigns Nos. 2, 3, 5 and 6-8 Woburn Place to *“Herbert Risely, City & County of Bristol Accountant”*.
14. An Abstract of Title (1878) of Nos. 9 & 11 Woburn Place to one Thomas Risely *“for the residue then unexpired of the term of 1,000 years”* referred to an annual rental to be paid to the Treasurer of the Merchant Venturers. Also referred to was *“the joint use in common with the other persons entitled thereto of the Well of Spring Water and the pump therein situate in the Bear Yard ...”*. A map circa 1880 clearly shows the archway between No. 9 Love Street (now No. 265 Hotwell Road) and the Bear Hotel to the Bear Yard, the passageway between Nos. 5 and 6 Woburn Place and the pump annotated ‘P’ in the Yard (see Appendix T). [N.B. The 1880 map was appended to a report provided by Architects in connection with the 1998 planning application for the construction of Bear Mews (Planning Application 98/01181/H/N – see paragraph 21 below)].
15. Woburn Place and Charles Place were adopted circa 1887. Love Street and the Woburn Place properties are depicted on the early Ashmead and Chilcott maps, but by the time the 1904 Ordnance Survey Plan was published Love Street has become Hotwell Road and the Woburn Place properties are shown fronting Charles Place

(see Appendix U.1). The 1904 and 1918 O.S. plans also show the access to Bear Yard from Hotwell Road and Charles Place.

16. According to *Oppitz*, the Council proposed in 1920 to construct a tramway linking the existing Hotwells tram terminus with the Port of Avonmouth. In 1938 the tram services to Hotwells gave way to buses as a result of the Bristol Tramway Act 1937. During the 1930s there were many businesses in Hotwell Road, but these were eventually demolished to make way for the Hillsborough flats. *Reid & Stops* published a plan circa 1930 “*drawn from memory by the late Ken Royall*” which clearly shows the way from Woburn Place to Love Street (see list of published local history sources at Appendix Q).
17. By the time of the 1949 published O.S. Plan the Hillsborough Flats fronting Hotwell Road have been built and Nos. 1 to 13 Woburn Place are shown fronting a road named both Woburn Place and Charles Place (see Appendix U.2). The 1953 published O.S. Plan shows the road now named as Woburn Place to the west and Charles Place to the east (see Appendix U.3).
18. The published Definitive Map and Statement of 1954 and the review of the Map published in 1966 do not show the claimed route as a recorded right of way.
19. In 1967 Nos 9 & 11 Woburn Place were assigned to the City of Bristol. By the time of the 1971 published O.S. Plan, the name of the adjoining road has reverted back to the sole name of Charles Place. It is apparent from the 1971 Plan that Nos. 1-13 Woburn Place have been demolished and that the path from Charles Place now runs defined through open space. The post office and letter box (No. 267 Hotwell Road) and the Garage in Bear Yard are also depicted (see Appendix U.4).
20. To summarise the historic evidence set out in paragraphs 9 to 19 above: there is evidence from the earliest maps that a route existed between Woburn Place (now Charles Place) and Love Street (now Hotwell Road) in the early 19<sup>th</sup> century. The Lease of 1860 and Title Deed of 1878 both refer to private, not public, rights of access from Love Street and Woburn Place into Bear Yard. However, the

Auctioneer's Plan of 1878 is clear evidence that the passage way between Nos. 5 and 6 Woburn Place through the Yard to Love Street was considered at that time to be a right of way. The Map circa 1880 clearly shows the passageway from Woburn Place and evidence from local history sources implies that the route was a well used shortcut to shops and trams during the 1930s and 1940s. All Ordnance Survey Maps published between 1904 and 1971 show a route between Woburn Place (Charles Place) and Hotwell Road, although for reasons as yet undiscovered it is not recorded as a public right of way on the Council's highway records.

21. Evidence from the Council's Planning archives is listed in the Timeline at Appendix C and is summarised as follows:
- In a letter dated 2 February 1951 to The City Engineer concerning the Bear Garage (located in yard at rear of 265 Hotwell Road), the Chief Constable refers to "*a right of way from Hotwell Road into Charles Place*".
  - Engineer's Report to Traffic Committee of 3 December 1965 concerning the proposal by the Housing Committee to demolish Nos. 2-13 Woburn Place and recommending appropriation of the site to establish a public off-street car park.
  - Planning permission for off-street car parking - Application 532P/71 site of 271 & 273 Hotwell Road and 1-13 Woburn Place. Plan No. 33744 (18.02.71) annotated "*Footpath to be retained*" (see Appendix D.1). The Aerial Photograph at Appendix D2 appears to show a parking layout at right angles to the claimed route and the path is clear of parked cars through the car park and Bear Yard.
  - Letter in July 1984 from Miss V Maggs to the Assistant City Planning Officer regarding removal of "*the demarcation of the existing right of way from the Bear Yard to Woburn Place*". Miss Maggs states that assurances were given "*that the removal of the curbstones marking the right of way would not affect the continuance of it but the plan does not retain a right of way ...*" Letter dated 2 August 1984 from Councillor Kerridge to City Planning Officer requesting that works be stopped and pointing out that Mr and Mrs Maggs: "*have lived in the area for approximately 80 years and that there has*

*been a right of way where the footpath now runs ever since they can remember. There used to be houses on the site, but there was then a path between the houses and there has always been a right-of-way across the middle of what you now propose to make one unified car park ... They object to your taking up the curbs to make the whole thing one car park."*

Letters dated 3 August 1984 from Assistant City Planning Officer: (a) to Miss Maggs stating that instructions had been issued to the contractor *"to provide a pedestrian access through the wall at the point of the existing access to Woburn Place. I will ensure that suitable surface markings are laid down within the car park to give pedestrians preference"*; and (b) to Councillor Kerridge regarding retention of *"the pedestrian entrance to the car park from Woburn Place ... and stating that "I have agreed to do this as have instructed the Contractor accordingly"*.

- Planning permission 6 August 1986 for chemists shop and doctors surgery with rear-access parking area, 271-273 Hotwell Road (Application 0859F/86C). Plan No. 435/4 Rev.C (dated 9 July 1986) shows Existing Car Park with gap in wall from Charles place and at entrance to Garage (Bear Yard) (see Appendix E).
- Letter of 14 April 1989 from Lyons Davidson & Rounsfell to the Planning Department re. proposed purchase of 265 Hotwell Road. Enclosed Plan marked 0847F/86 shows a building with WC and 3 Parking Bays outlined in red either side of a dashed line through the yard annotated *"Public Footpath"* (see plan at Appendix F).
- Planning permission 16 February 1994 to develop Charles Place car park as a children's play area (Application No. 2702F/93C). Planning Advice stipulates that *"future consideration should be given to the use of mechanisms to slow the passage of pedestrians through the footpath between the two play areas at each end in the interests of the safety of pedestrians"*. Plan CP/2 dated 21.5.93 shows the footpath running between the playgrounds as a *"Public Right of Way"*. Plan No. 001-2 dated 14.3.94 shows an 'existing' bollard at the entrance to Bear Yard plus safety barrier on Charles Place footway at the entrance to the path from

Charles Place. Two planning photographs – one showing path cross-hatched over the car park; and a view from Charles Place showing access via a gap in the wall from the footway and a gap in the wall at the entrance to Bear Yard. The Aerial Photograph shows a clear path between the new playground areas and the path through Bear Yard is clear of parked cars (see plans and photographs at Appendix G.)

- A report by Edward Nash Architects in connection with planning application No. 98/001181 refers to “*a public right of way cutting through the middle of the yard connecting Hotwell Road to Charles Place via the archway*”. In respect of the development proposal, the report states that “*access for the site would remain as it is and the public right of way retained...*” The photographic study with the report includes a view of the garages (now demolished) from the roof of No. 265 Hotwell Road. Cars are seen parked in Bear Yard and the footpath to Charles Place is clearly shown (see Appendix H).

A memo. dated 5 June 1998 from the Council’s Property Division to the Planning Officer, requests that existing rights of way be maintained after completion of the development. Condition 18 of planning permission granted 14 August 1998 states that “*no gate, fence, wall or other means of enclosure shall be erected within the application area, except those expressly authorised by this permission ... in order to safeguard the visual amenity of the area and to ensure that public access through the site is not restricted*”. Plan 9721/10 dated March 1998 shows a ‘new metal bollard’ at the perimeter of the yard and a ‘Public Footpath’ from the yard towards Charles Place (see Appendix I).

In conclusion, it is clear from the planning documents outlined above that the route from Hotwell Road, under the archway by the Bear Hotel through Bear Yard to Charles Place continued to be treated as if it were a public right of way in the 1950s and is set out as such on Plans in association with developments that took place in 1971, 1986, 1993 and 1998. The evidence contained in Miss Maggs’ letter in 1984 implies that following the demolition of the Woburn Place properties sometime in the 1960s that the claimed route had been marked out by kerbstones, as these were removed



when the changes to the layout of the car park took place in July 1984. That the claimed route was kept clear of parked cars and subsequently surface marked through the car park is evidenced by the 1975 Aerial Photograph at Appendix D.2 and the planning photograph circa 1993 at Appendix G.3 taken at the time that the application for Charles Place playgrounds was submitted. Finally, the erection of a pedestrian safety barrier at the entrance to the footpath from Charles Place and the retention of the bollard at the entrance to the Yard following the construction of the playgrounds (see Plan at Appendix G.2); also that parking in the Yard was kept clear of the through route (see Aerial Photograph at Appendix G.5); is further supporting evidence of the existence of a public right of way between Hotwell Road and Charles Place. In respect of any evidence of width of the claimed route; the depiction on the Plan at Appendix F (re. planning application in 1986) of a WC and parking bays at the entrance to Bear Yard, also shown in the Architects photograph at Appendix H, are strong evidence to indicate that for most of the relevant 20-year period of use of the claimed route (i.e. between 1982 and 2002) that the available width narrowed at this point in the yard. The building of Bear Yard Mews in 2002 also compounded the restriction of the claimed route at this point (see Appendix I). Nonetheless, planning permission for the Mews in August 1998 ensured the retention of public access through the site (through Condition 18).

## **Site Visits**

22. Officers undertook site visits on 2 July 2002, 16 January 2008 and 6 February 2008, and a photographic record of this is attached at Appendix J. The photographs show the development works in Bear Yard in 2002, the bollard and safety barrier at the Charles place end of the claimed route and the archway to Bear Yard from Hotwell Road, as referred to in paragraphs 7, 14 and 21 above. The cars seen in Bear Yard in 2008 are parked in marked bays away from the claimed route, as permitted by planning approval in 1998. As described in paragraph 21 above, the building of Bear Yard Mews has re-introduced a pinch-point in the footpath i.e. between No. 1 Bear Yard Mews and the return adjacent to parking space No. 12, as shown in the photograph at Appendix J, p.4. Measurements of the claimed route were taken during the site visit

in February 2008, which indicate widths as follows (with reference to Location Plan Appendix A): Point A – 4.09m; Point ‘x’ – 4.49m; Point ‘y’ – 1.69m; Point B – 1.66m; Point C – 1.59m; and at the ‘pinch point’ referred to above - 1.25m.

### **Evidence submitted in support of the Application**

23. Ms Otty’s Application to modify the Definitive Map and Statement by adding the footpath as described in paragraph 4 above, was submitted on 6 December 2002 and is supported by 70 Public Rights of Way Evidence Forms, which are included with the background papers to this report. Use of the route is claimed for varying periods of time between 1921 and 2002 (see Summary of User Evidence Forms at Appendix K for ease of analysis). Use of the claimed route has continued up to the present day, as evidenced in the witness Statements (also included with the background papers and summarised at Appendix L).
24. The maps provided with the Evidence Forms are marked to show the claimed route, shown as A-B-C on the plan attached at Appendix A. However, a majority of maps supplied with the Evidence Forms were pre-completed by the Order Applicant (55 in total) and consequently 15 of these witnesses did not personally mark and sign the pre-completed maps. Questions 1, 3, 5 and 10 of the Evidence Forms were also pre-completed by the Applicant. This misunderstanding was acknowledged by Ms Otty (see letter at Appendix M).
25. The Summary of user evidence at Appendix K shows that a majority of witnesses (52 out of 70) claim continuous use of the route for the full 20-year period from 1982 to 2002. 14 additional witnesses also claim use of the way for a lesser period during the 20 years in question (Forms 3, 4, 10-12, 18, 31, 34, 37, 44, 45, 46, 51 and 65), which nonetheless adds to the overall strength of the evidence in support of the Application. [N.B. Two of these witnesses had a break in their use of the way during this period - Form 37, route not used for two years from 1982 to 1984; and Form 44, route not used between 1996-1999. Also, one witness (Form 46) used the footpath regularly from 1930, but only occasionally from 1954 until the 1980s.]. Three witnesses provided evidence

spanning the years prior to the 20-year period in question (i.e. between 1925 and 1982 only - Forms 6, 21, and 61). One witness (Form 14) did not answer this question, but at interview stated use between 1985 to date (see Appendix L).

26. Other evidence contained in the Evidence Forms is also summarised in the Table at Appendix K as follows:

- As explained in paragraph 24 above, the width of the way was pre-completed by the Applicant in respect of Question 3 'How wide is the way?', and pre-hatched on the maps supplied with a majority of the forms, although the maps were marked and signed by 40 of these 55 witnesses.
- Of the 15 witnesses who did not mark and sign the maps, five confirmed agreement with the pre-completed Question 3 on the width of the way by signing a note to that effect at the top of their forms (Forms 6, 8, 31, 48 and 61) and ten subsequently confirmed agreement with the pre-completed evidence following interviews (Forms 4, 34, 35, 39, 45-47, 51, 53, 54, 58 and 67).
- The evidence of width of the way is thus stated by the majority of witnesses to be a minimum of 4.2 metres through the Bear Yard and a minimum of 1.65 metres from the boundary of the Bear Yard to Charles Place.
- Seven witnesses provided evidence of width which differs only marginally from this – Form 14, less than 4m to 1.5m; Form 18, over 4m to 1.5-2m; Form 24, 4.5m to 1.75m; Form 25, approx. 5ft Woburn PI to Bear Yard; Form 65, 6-8ft across playground and undefined through yard; Form 68, approximately 4m to 1m; and Form 69, approximately 4m to 1.6m.
- All witnesses believe the status of the way is as Footpath.
- The majority of witnesses (57 of 70) believe the way has been known as public for over the 20 years claimed, and some for 70 years or more (Forms 1, 5, 21, 25, 27, 32, 38 and 46).
- The claimed way was used by the majority of witnesses on their way to post office, shops, doctors, car park, pub, work, playground, school, city centre, bus stops and for business,

social or recreational purposes. Four witnesses used the route as it was a traffic free short cut (Forms 33, 50, 57 and 58); one witness used the route before the 2<sup>nd</sup> World War for his duties as home guard (Form 21); one used the way to catch a tram in the early years (Form 25); and one witness actually worked for the landowner Trinity Garage in Bear Yard between 1970 and 1986 (Form 36 – see also the statement provided by this witness indicated \*\* in the summary of evidence from statements at Appendix L).

- All witnesses used the route on foot, although three witnesses didn't specify how they used the route or how frequently (Forms 7, 16 and 32):- 41 out of 70 walked the route daily/weekly or more over the full 20-year period claimed (Forms 1, 2, 5, 8, 9, 13, 15, 17, 19, 20, 22, 25, 26, 27, 28-30, 36, 39-43, 47-50, 52-56, 58, 59, 63, 64 and 66-70 - see Table at Appendix K); 8 witnesses walked the route monthly or less during the 20 years claimed – Forms 23, 24, 33, 35, 38, 57, 60 and 62). A small minority of witnesses also used a bicycle over the 20-year period in question (Forms 33, 49, 50 and 69), but do not specify how frequently. No witnesses recall any Notices on the claimed route;
- In respect of obstructions to the way, all 70 witnesses refer to the route being blocked off following the start of works in Bear Yard in 2002, although this question (Question 10) was pre-completed by the Applicant (N.B. 37 witnesses had not indicated on their form that they accepted this pre-completed evidence). One witness referred to the reinstatement of the path following the works (Form 65).
- Almost all witnesses knew or had seen others using the claimed route.
- The answer to Question 5 of the Evidence Form (any diversions or alterations to the route) was pre-completed by the Applicant for the majority of witnesses, although (as for Q10 above) 37 witnesses did not indicate acceptance of this pre-completed evidence. One witness did not answer this question (Form 2), one answered 'none' (Form 18) and two others independently confirmed that the path was fenced when the playground was built (Forms 14 and 33), in the mid-1990s (Form 25) or in approximately 1993 (Form 68). One witness stated that the route was reduced in width at the

Charles Place end when the children's playground was built and that the route had been blocked by building works in early 2003 (Form 69). One witness also referred to the building works in the yard in answer to Question 5 (Form 65).

- One witness supplied additional comments attached to her Evidence Form (Form 32), which are confirmed in her subsequent Witness Statement and corroborated by the documentary evidence set out in paragraphs 9 to 21 above.

27. During January and February 2008, 21 witnesses were interviewed, including the DMMO Applicant. A précis of the additional evidence, i.e. that is not already displayed in the Table of user evidence, is shown at Appendix L. The Statements are included as background papers to this report. The additional evidence contained in the Statements indicates that there has been a bollard in situ between Bear Yard and the continuation of the footpath to Charles Place since the 1930s; that the path through Charles Place car park, prior to the construction of the playgrounds, was defined by kerbstones; and finally that the footpath was never obstructed by parked cars either in the car park or in Bear Yard.
28. In conclusion, the user evidence supplied by Ms Otty in support of her Application is substantiated by the Witness Statements subsequently made. There is strong evidence of use of the route for the relevant 20-year period from 1982 to 2002 contained in the evidence forms, which is supported by the additional user evidence set out in the Statements. Further user evidence indicating that a route has been available between Charles Place and Hotwell Road since the 1920s is corroborated by the documentary evidence set out in paragraphs 9 to 21 above. There is evidence, both user and documentary, that the only major change affecting the claimed route during the relevant 20-year period occurred in 2002 during the construction of Bear Yard Mews. This change affected the width of the route by re-introducing a 'pinch point' between No. 1 Bear Yard Mews and the nearby parking bay, which effectively reduced the width of the claimed route from 1.65m to 1.25m at this point. The minimum widths claimed in the user evidence of 4.2m through Bear Yard and 1.65m from the boundary of Bear Yard to Charles Place accords with the measurements taken on site (see paragraph 22 above).

## **Landowner Evidence**

29. The title to the land over which the claimed route runs is held by Trinity Garage (Hotwells) Limited and Charles Church Developments Ltd. Bristol City Council holds a long leasehold of the land between Bear Yard and Charles Place and on either side of the claimed route (i.e. the children's playgrounds, Charles Place) - see Plans showing Land Registry Title at Appendix N. The Applicant, Ms Otty, served notice of the claim in accordance with the requirement in Schedule 14 of the Wildlife & Countryside Act 1981. It was served on all landowners and occupiers on 6 December 2002 and re-served on the Head of Property Services, Bristol City Council on 24 March 2003. It should be noted that only one landowner - Trinity Garage - owned the freehold title to the land during the 20-year period from 1982 to 2002. Part of the land was acquired by Charles Church at the time of the development of Bear Yard in 2002.
30. Comments from these landowners are appended to this report (see Appendices O and P) and are self-explanatory.
31. Officers' comments on the points raised in these letters are that both landowners imply their support and acceptance of the existence of a public right of way over their land.
32. An email was received from Ms Otty on 14 March 2008, following receipt of the draft report on her modification order application. This states that Ms Otty confirms acceptance of the 'post-development' width of the claimed route outlined and hatched in red on the Location Plan at Appendix A.

## **Consultation**

33. Informal consultation with footpath societies and other user groups has been undertaken and no comments have been received to date.

34. Both landowners have been given an opportunity to comment on a draft of this report. No further correspondence has been received to date.

## **Conclusion**

35. The Committee must decide on all the evidence before it whether the allegation that the claimed route is a public footpath is substantiated. There must be evidence to show that the route marked with a black line on the plan attached at Appendix A (points A-B-C) has been used by the public at large, rather than individuals exercising a private right, over the relevant 20 year period. The evidence must be sufficient to raise a presumption that the way has been dedicated as a public footpath which has not been rebutted by any other evidence to show that there was no intention on the part of the landowner to dedicate.
36. Officers consider that use of the claimed footpath as a public right of way was brought into question in June 2002 when the route was blocked preventing public access (see paragraph 7 above and Appendix B). Members should therefore look for evidence of continuous use of the claimed route up to this date and should decide whether the evidence supplied supports the full period of 20 years.
37. Use of the route as a public footpath is claimed by a total of 70 people through user Evidence Forms. Use of the route by the public is confirmed by written Statements supplied by 21 witnesses who were interviewed by the Council. 52 of the people who completed evidence forms claim use for a period of 20 years or more up to 2002 unhindered and unchallenged. Only one of these witnesses claimed to be an employee of the landowner (for four years - 1982 to 1986) during the relevant 20-year period of use and none stated that they had asked or been given permission to use the route.
38. There must be sufficient evidence to show that the route marked [A-B-C] on the plan attached at Appendix A has been used by the public at large, rather than individuals exercising a private right, for such a period to raise a presumption that it has been dedicated as

a public footpath and that this evidence has not been rebutted by any other evidence.

39. Officers conclude that on the basis of all evidence available to them at this time and on the balance of probability that there is sufficient evidence to reasonably allege that the presumption of dedication contained in Section 31(1) of the Highways Act 1980 has been raised for the claimed footpath. It appears to officers more reasonable than not to allege that the public has used the claimed footpath for 20 years or more. By the same token there has not been at this time any evidence submitted by the landowners to rebut the presumption of dedication, nor to rebut the claimed use of the way.
40. In deciding whether the claim is made out, Members have to decide whether the rights as claimed subsist or are reasonably alleged to subsist. It is the opinion of the Director of Central Support Services (Legal Division) and the Director of Planning, Transport & Sustainable Development that, on balance, the rights claimed are reasonably alleged to subsist.

## **Options**

41. The Committee must consider whether there is sufficient evidence to support the allegation that the presumption of dedication is raised under Section 31 of the Highways Act 1980, following 20 years of continuous use of the claimed route by the public. The standard of proof is the civil one, being a proof of the balance of probabilities; i.e. that it is more likely than not that the allegation of presumed dedication is true. Members must weigh up all the evidence provided and if, on balance, they consider that the claimed public right of way is reasonably alleged, then the presumption is raised. If, on the other hand, Members consider that there is insufficient evidence to support the allegation of presumed dedication; or that the evidence in support has been rebutted by sufficient evidence to show that there was no intention to dedicate; then on balance they may consider that it is more likely than not that the allegation of presumed dedication is false.



42. The onus on the landowners is to produce evidence that there was no intention on their part to dedicate; for example an overt act on the part of the landowner to show the public at large that there was no such intention. Such evidence may consist of notices or barriers, or the locking of the way on one day in the year and drawing this to the attention of the public; or the deposit of a Statutory Declaration under Section 31(6) of the Highways Act 1980 to the effect that no additional ways (other than any specifically indicated in the Declaration) have been dedicated as highways since the date of the deposit.
43. If the Committee considers that the claim is made out - i.e. that there is sufficient evidence to reasonably allege that there has been uninterrupted use by the public over a period of 20 years which has not been sufficiently rebutted by other evidence - it must resolve to make a Definitive Map Modification Order as requested. Public use of the way must have been without hindrance or permission from the landowner or his agents. The 20 year period must end with the date when use of the path was first 'called into question', which in this case is considered to be June 2002 (see paragraph 7 above).
44. Alternatively, if the Committee considers that the claim is not made out, it should resolve not to make an Order.
45. As Members are aware, financial implications must not be taken into consideration when determining this modification order application, as the Council has a statutory duty to make an Order if it believes there is sufficient evidence to support it.
46. Should the Committee decide to make and advertise an Order, authority is given to the Head of Legal Services to prepare and seal an Order to modify the Definitive Map and Statement by including the claimed route as a footpath. A Notice of Making of the Order will be served on all affected owner/occupiers and statutory consultees, advertised in the local press and displayed on site. The Notice will indicate a period during which the public and those affected by the Order will have an opportunity to make formal representations or objections. If any are received, they will be reported back to this Committee at a future date. If none are

received within the time limit specified, the Order may be confirmed as unopposed.

## **Appendices**

- Appendix A: Location Plan
- Appendix B.1: Planning Photograph of 2.07.2002
- Appendix B.2: Letter from Charles Church dated 12 July 2002
- Appendix C: Planning Timeline
- Appendix D.1: Plan No. 33744 dated 18.02.1971 (Appl. 532P/71)
- Appendix D.2: Aerial Photograph dated 1975
- Appendix E: Plan 435/4 Rev. C dated 9.07.1986 (Appl. 0859F/86C)
- Appendix F: Plan 0845F/86 – WC and parking bays in Bear Yard
- Appendix G.1: Plan CP/2 dated 21.5.1993 (Appl. 2702F/93C)
- Appendix G.2: Plan 001-2 dated 14.3.1994 (Appl. 2702F/93C)
- Appendix G.3: Planning photograph - cross-hatched path (Appl.2702F/93C)
- Appendix G.4: Planning photograph – gaps in walls (Appl. 2702F/93C)
- Appendix G.5: Aerial Photograph dated 1999
- Appendix H: Architects Photograph of Bear Yard (Appl. 98/001181)
- Appendix I: Plan 9721/10 dated March 1998 – Bear Yard Mews site
- Appendix J: Photographs from site visits 2.07.2002, 16.01 and 16.02.2008
- Appendix K: Summary of User Evidence Forms
- Appendix L: Summary of Additional User Evidence from Statements
- Appendix M: Letter from Sue Otty dated 15 January 2003
- Appendix N.1: Current Land Ownership Plan
- Appendix N.2: Plan showing land at Charles Place (formerly 1-13 Woburn Pl.)
- Appendix O: Letter from Charles Church dated 13 June 2003.
- Appendix P: Letter from Trinity Garage (Hotwells) Ltd. dated 12 January 2008.
- Appendix R: Ashmead Map dated 1833
- Appendix S: Auctioneer's 'Plan of Property', Auction dated 9.04.1878
- Appendix T: 1880s Map supplied by Architect (Appl. 98/01181/H/N)
- Appendix U.1: Ordnance Survey Plan published 1904
- Appendix U.2: Ordnance Survey Plan published 1949
- Appendix U.3: Ordnance Survey Plan published 1953
- Appendix U.4: Ordnance Survey Plan published 1971

## **Policy Implications**

None arising directly from this report.

## **Resource Implications**

There are no specific resource implications arising from this report, although if an Order is made which receives objections that are not withdrawn, there would be cost implications if a public inquiry were to ensue. A way added to the definitive map is publicly maintainable only if it can be shown to have come into existence prior to the 1959 Highways Act.

## **Other Approvals necessary**

None

## **Recommended:**

**that the Head of Legal Services be authorised to make and advertise a Definitive Map Modification Order to show a footpath in the Definitive Map and Statement, as shown on the plan attached to this report; and**

**that if the Order is unopposed or any objections lodged are subsequently withdrawn, the Head of Legal Services be authorised to confirm the Order.**

## **Local Government (Access to Information) Act 1985**

### **Background Papers:**

- 1 Wildlife & Countryside Act 1981 (obtainable from HMSO);
- 2 Application for Modification Order dated [date] (held by Legal Officer, Statutory Orders, CSS)
- 3 Public Rights of Way Evidence Forms [and documentary evidence] in support of the Application (held by Legal Officer, Statutory Orders, CSS)

- 4 Letters of Representation, plans and correspondence relating to the claimed route (held by the Public Rights of Way Officer, Traffic Management, PTSD).

**Contact Officers:**

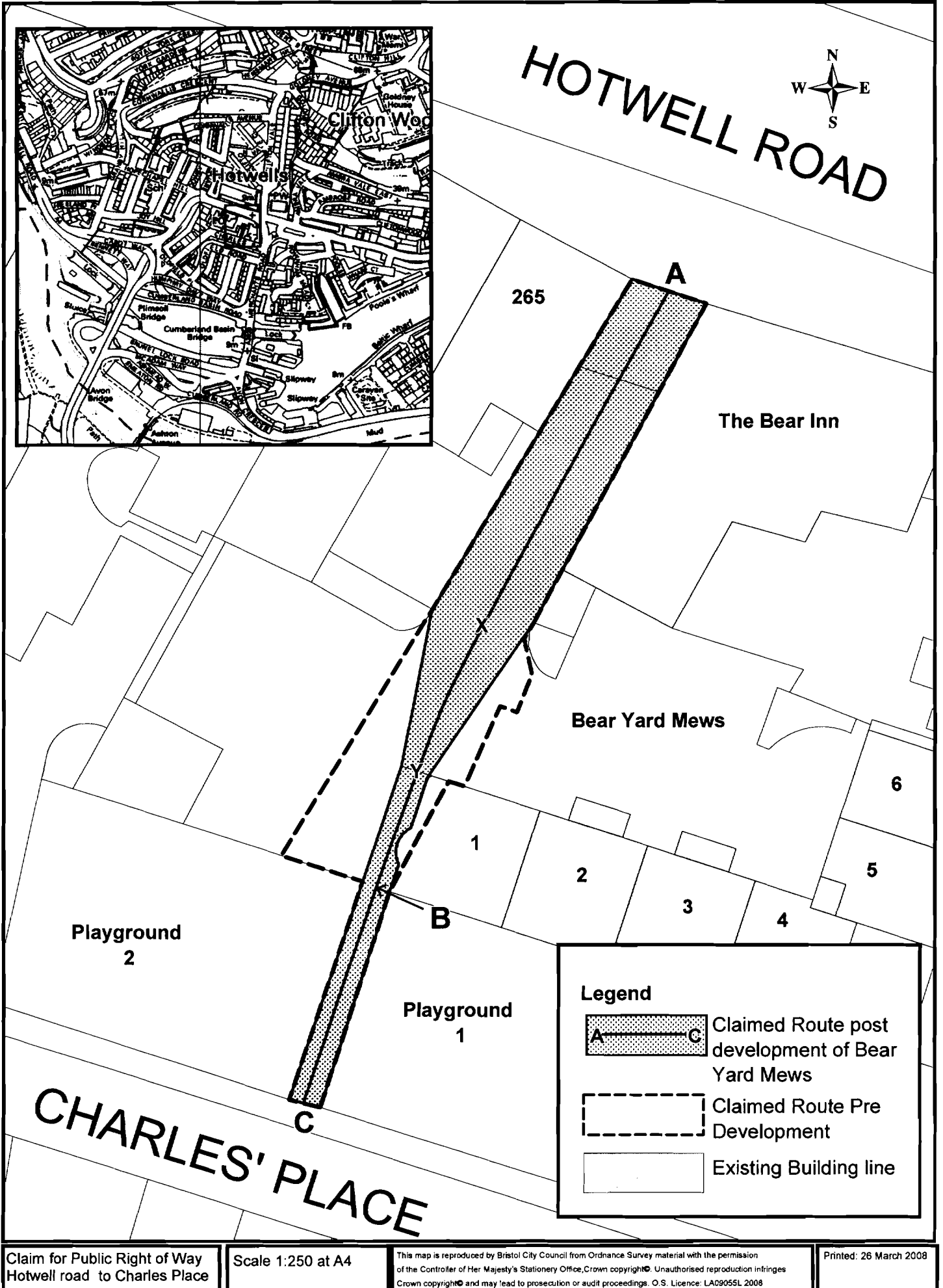
Andrew Whitehead, Road Safety, Walking and Cycling Team,  
Traffic Management Department of Planning, Transport &  
Sustainable Development  
Tel. (0117) 903 6592

Rachel Johnson, Solicitor – Planning and Highways, Central  
Support Services.  
Tel. (0117) 922 2338

**PLEASE NOTE:**

Some of the following Appendices are unavailable electronically and have therefore been scanned onto the system. If you require a hard copy of this document please contact the report author direct whose name and telephone number is displayed on the front page of the report.

LOCATION PLAN - APPENDIX A



APPENDIX (5) B.1





CHARLES CHURCH

TDH/VH

12 July 2002

Bristol City Council  
Planning Enforcement Team  
Brunel House  
St George's Road  
Bristol  
BS1 5UY



For the attention of: Miss E McMillian

Dear Miss McMillian

RE: **PLANNING APPLICATION NO. 98/01181 – REDEVELOPMENT OF BEAR YARD,  
HOTWELL ROAD, BRISTOL**

We understand from our Architects, that you have received telephone calls from the public regarding gates we have erected at the above scheme.

Can we advise you that these gates are only of a temporary nature and are there to protect the public from this construction site.

One of our main concerns is to protect the public from danger and when commencing a new site, we assess the best way to screen off the building area.

We estimate that construction will take less than a year, the gates will then be removed.

Yours sincerely

  
**T D HUMPHRIES**  
Development Co-ordinator  
of Charles Church Western



## PLANNING TIMELINE - Claimed Footpath from Hotwell Road to Charles Place (through Bear Yard)

DATE	DOCUMENT	EVENT
2 February 1951	Letter from Chief Constable to City Engineer	Planning application - swing arms for petrol tanks in back yard of <b>No. 265 Hotwell Rd</b> (the Bear Garage). <i>"There is a right of way from Hotwell Road into Charles Place, which makes the installation less secure than if it were well placed upon private property."</i>
24 May 1960	Memo. from Asst. Planning Officer to Building Surveyor	No objection to issue of Certificate under s34 of the Factories Act 1937 to Trinity Garage (Hotwell) Ltd. re. <b>265 Hotwell Rd.</b>
2 October 1961	Copy of Certificate under Section 37 T&CPA 1959.	<i>"The applicant is entitled to a tenancy of every part of the land to which the accompanying application dated 2.10.61 relates."</i>
3 December 1965	Engineer's Report to Traffic Committee.	Re. <b>2-13 Woburn Place</b> , Hotwells. <i>"The Housing Committee will be viewing the properties shortly to consider whether to proceed with acquisition and subsequent demolition."</i> (Plan No. 23753 - not on file). Recommendation: that the Traffic Committee <i>"inform the Housing Committee that they would wish to appropriate the cleared site in order to establish a public off-street car park ....."</i> .
23 March 1971	NOD - Appl. No. 532P/71 - site of <b>271 &amp; 273 Hotwell Road</b> and <b>1 -13 Woburn Place.</b>	Proposal: Off-Street car parking. <i>Permitted temporarily subject to the use being discontinued on or before the 31 March 1974 in order not to prejudice the future redevelopment of the area.</i> Plan No. 33744 (18.02.71) Scale 1/500 annotated <i>"Footpath to be retained"</i>
10 December 1981	Memo. City Planning Officer to City Valuer  Letter of Asst. City Planning Officer to Trinity	Re. Appl. 4431T/81C <b>land adjoining 265 &amp; 269 Hotwell Road</b> by Trinity Garage (Hotwells) Ltd. - use of land adjoining 269 Hotwell Road for parking.  Advice: <i>"to withdraw your application for renewal of planning permission, keep the Portakabin in its present position and terminate"</i>

## PLANNING TIMELINE - Claimed Footpath from Hotwell Road to Charles Place (through Bear Yard)

	Garage (Hotwells) Ltd.	<i>the parking."</i>
Undated (July 1984)	Letter from Miss V G Maggs to Mr Parker, Asst. City Planning Officer	<p><b>Re: Charles Place Car Park</b></p> <p><i>"The demarcation of the existing right of way from the Bear Yard to Woburn Place was removed last Tuesday 24 July. We were assured that the removal of the curbstones marking the right of way would not affect the continuance of it but the plan does not retain a right of way. .... We would like a decision taken regarding the exit from the right of way or access from Woburn Place before moneys are spent on building a wall which may have to be removed again."</i></p>
2 August 1984	Memo. of Councillor R Kerridge to City Planning Officer	<p><b>Re: Charles Place Car Park, Hotwells and objection of Mr &amp; Mrs Maggs about works to remove or re-route footpath across site.</b></p> <p><i>Mr &amp; Mrs Maggs state that they have lived in the area for approx. 80 years and that there has been a right of way where the footpath now runs ever since they can remember. There used to be houses on the site, but there was then a path between the houses and there has always been a right-of-way across the middle of what you now propose to make one unified car park. .... They object to your taking up the curbs to make the whole thing one car park."</i></p> <p>Cllr Kerridge requested works be stopped.</p>
3 August 1984	Letter of Asst. City Planning Officer to Miss V C Maggs	<p>Instructions issued to contractor <i>"to provide a pedestrian access through the wall at the point of the existing access to Woburn Place. I will ensure that suitable surface markings are laid down within the car park to give pedestrians preference."</i></p>
3 August 1984	Memo. Asst. City Planning Officer to Cllr. Kerridge.	<p><i>"Miss Maggs is one of a number of local residents who have urged me to retain the pedestrian entrance to the car park from Woburn Place. You will see from my letter that I have agreed to do this and have instructed the</i></p>

## PLANNING TIMELINE - Claimed Footpath from Hotwell Road to Charles Place (through Bear Yard)

		<i>Contractor accordingly."</i>
6 August 1986	NOD - Appl. No. 0859F/86C <b>271-273 Hotwell Road.</b>	Proposal: Chemists shop and doctors surgery with 6 x bed apartments over and rear access parking area. Permitted. <i>Drg. No. 435/4 Rev. C Scale 1:200 (9.07.86) shows Existing Car Park with gap in wall from Charles Place and at entrance to Garage (Bear Yard).</i>
26 November 1987	Planning Appl. No. 3537F/87C <b>271-273 Hotwell Rd</b>	Proposal: Doctors surgery with 6 flats over, new rear access, parking and amenity areas. <i>Drg. No. 435/10 (11/87) Scale 1:200 shows Existing Car Park with gap in wall from Charles Place and at entrance to Bear Yard.</i>
9 June 1989	NOD Appl. No. 0483F/89C <b>Charles Place Car Park</b>	Proposal: Form new access to public car park and erect 1.80m high facing brick wall to subdivide car park from private access. <i>Drg. No. 435/13 Rev.A (10.02.89) Scale 1:200 shows Existing Car Park with gap in wall from Charles Place and again at entrance to Bear Yard. New access and new wall shown on plan at western boundary of car park.</i>
14 April 1989	Letter from Lyons Davidson & Rounsfell to Planning Dept.	Re: proposed purchase of <b>265 Hotwells Road</b> . <i>Enclosed Plan (ref. Appl. 0847F/86) showing No. 265 and building at rear with WC and 3 Parking Bays outlined in red on either side of dashed line through yard annotated "Public Footpath".</i>
29 June 1989	Letter from Principal Planner to Lyons Davidson	No record of planning permission for property referred to, with exception of Appl. 2786T/86C for private indoor pistol range.
10 December 1992	Petition to Leisure Services Committee	Re. Cumberland Basin Children's Playground, Hotwells. Referred to a deputation to Planning & Development Committee on 18.11.1992 <i>"proposing the use of an <b>existing car park at Charles Place, Hotwells, for a play area.</b>"</i> Attached Plan Scale 1:1250 shows proposed Play Area B ( <i>hatched area to west of existing path from Charles Place to Bear Yard</i> ).
24 September 1993	Memo. from Planning Services to City	Re. Proposal to redevelop <b>271-273 Hotwell Road</b> and vehicular access from <b>Woburn Place</b> . <i>Attached Plan shows path from Woburn</i>

## PLANNING TIMELINE - Claimed Footpath from Hotwell Road to Charles Place (through Bear Yard)

	Valuers.	<i>Place to Bear Yard.</i>
16 February 1994	NOD Appl. No. 2702F/93C <b>Car Park, Charles Place</b>	Approval to develop car park as a children's play area. Drawing CP/2 (21.5.93) Scale 1:100 annotated 'Public Right of Way'. Subsequent Drawings 001 & 002 received on 14.3.94 Scale 1:100 show 'Existing Bollard' centred in path at entrance to Bear Yard and Safety Barrier in pavement by gap in wall at entrance to path from Charles Place.  Two planning photographs: one showing a path cross-hatched over the car park; and another a view from Charles Place showing gap in the wall at entrance to FP and gap in wall at the entrance to Bear Yard.
6 April 1998	<b>Bear Yard &amp; No. 265 Hotwell Rd</b> Character Assessment Study Planning Appl. No. 98/01181/H/N	Report by Edward Nash Architects. P.1 "No. 265 fronting onto Hotwell Road forming one side of the only vehicular access to the yard behind, with the Bear Hotel on the other side. .... There is no current parking provision for No. 265 and there is also a public right of way cutting through the middle of the yard connecting Hotwell Road to Charles Place via the archway." Attached 1880s map shows Bear Yard with a footpath between Nos. 5 & 6 Woburn Place (now Charles Pl.) P.2 "Access onto Charles Place from Bear Yard is non-vehicular." P.3 'The Proposal'. "Access for the site would remain as it is and the public right of way retained. All necessary parking is provided separately from the dwellings, on-site with some garaging." P.5 'Conclusion'. The site would be opened up to form an attractive and active Mews courtyard which would enhance the public thoroughfare through the site and improve the security and safety question. Photographic Study, p.1 - "View of entrance of Bear Yard from Hotwell Road .... The proposal would add an interesting dimension to this stretch of Hotwell Road and also to the public

## PLANNING TIMELINE - Claimed Footpath from Hotwell Road to Charles Place (through Bear Yard)

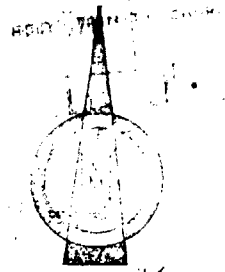
		<p><i>right of way through the site."</i></p> <p><b>P.3 "View of garages from Roof of No. 265 showing the context beyond." Cars parked in Bear Yard and footpath to Charles Place clearly shown.</b></p>
5 June 1998	Memo. from Property Division to Planning Officer	<p>Re. Application 98/01181/F/C.</p> <p><i>"Providing the 'rights of way' in existence are maintained after the completion of the development, there do not appear any problems from the City's property ownership viewpoint."</i></p>
14 August 1998	NOD Appl. No. 98/01181 <b>No. 265 and Bear Yard (Land at Rear) Hotwell Rd.</b>	<p>Proposal: Conversion to 3 s/c flats over existing retail unit, No. 265, incorporating new 4-storey rear extension ... and erection of 6 x 3-storey residential mews properties with associated garages and parking bays.</p> <p>Condition 17 - Detailed drawings to be submitted and approved ..... <i>"revised detail to boundary wall adjacent to childrens play area to provide a return adjacent to Parking Space No. 12 ....."</i></p> <p>Condition 18 - ..... <i>"no gate, fence, wall or other means of enclosure shall be erected within the application area, except those expressly authorised by this permission ...."</i> Reason - <i>"in order to safeguard the visual amenity of the area and to ensure that public access through the site is not restricted."</i></p> <p>Plan Drg. No. 9721/10 (Rev. C, September 1998) shows Mews parking bays Nos. 1 - 12 on perimeters of Bear Yard. Plan annotated 'New Metal Bollard' at southernmost perimeter of yard and 'Public Footpath' from the yard towards Charles Place. The path has narrowed resulting in a 'pinch-point' between the western wall of the Mews property and the return to Bay 12. The 'line of existing sheds removed' shown on the plan indicates that the SW corner of the Mews property coincides with the corner of the former building.</p>
14 August 1998	NOD Appl. No. 98/01557	Proposal: Demolition of existing garage sheds and adjoining outbuildings.

## PLANNING TIMELINE - Claimed Footpath from Hotwell Road to Charles Place (through Bear Yard)

	<b>No. 265 &amp; Bear Yard at rear Hotwell Road</b>	Listed Building Consent Application Form dated 1.6.98 section 3 states " <i>Demolition of existing garage sheds etc. ... <b>Boundary walls retained.</b></i> "
24 June 2002	Enforcement Record <b>265 Hotwell Road and Bear Yard</b>	Complaint re. <i>obstruction of right of way linking Charles Place with Hotwell Road.</i>
12 July 2002	Letter of Charles Church to Planning Enforcement Team	Re. Planning Appl. 98/01181 - Redevelopment of Bear Yard, Hotwell road. . <i>"....Regarding gates we have erected at the above scheme. Can we advise you that these gates are only of a temporary nature and are there to protect the public from this construction site. .... We estimate that construction will take less than a year, the gates will then be removed."</i>
19 February 2003	Letter from Noble Design Associates to Planning Officer	Requesting discharge of some of the conditions of planning permission (Appl. 98/01181/F/C - <b>Bear Yard / 265 Hotwell Road</b> ), including Condition 17 - " <i>segregation of the parking bays from the public right of way adjacent to the mews properties and parking bay 12.</i> " Enclosed copy drg. No. 409/100 Rev. C showing revised paving detail adjacent to Parking Space No. 12, i.e. 100mm high brick kerb.
26 February 2003	Letter from Planning Officer to Noble Design Associates	Re: Condition 17 - Brick kerb detail on Drawing 100 Rev C is acceptable and discharges the terms of the condition that require submission and approval of details.

SED OFF STREET CAR PARK HOTWELLS.

5328/71



SCALE 1/500

CLIFTON  
VALE

A

Plan No. 33744 received on 18.02.71

Footpath to be retained.

BEAR HOTEL  
P.H.

TRINITY  
ROOMS

CHARLES' PLACE

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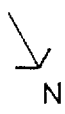
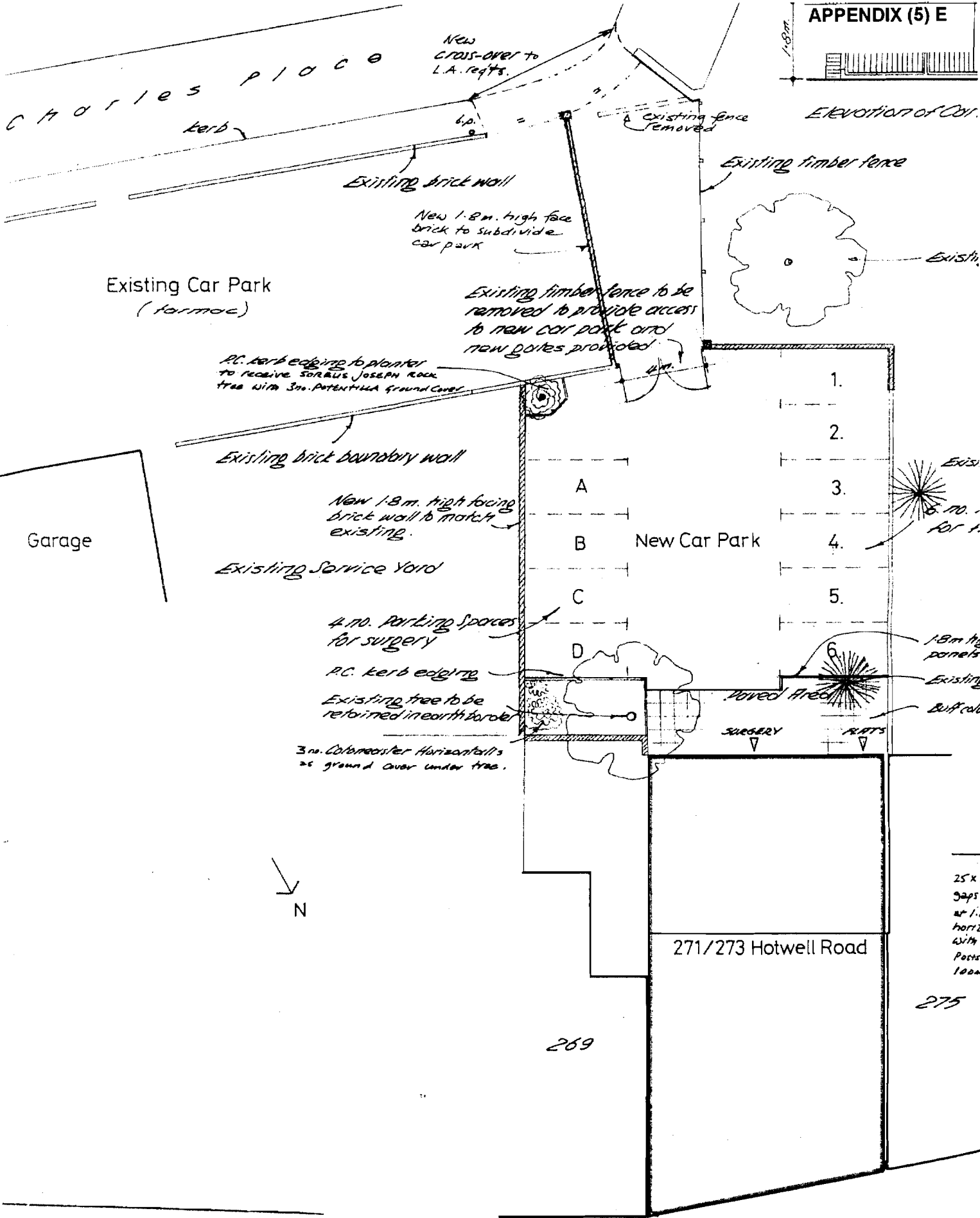
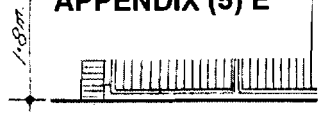
DATE 18 FEB 1971  
City Engineer  
BRISTOL

APPENDIX (5) D.1



1975 Aerial Photograph

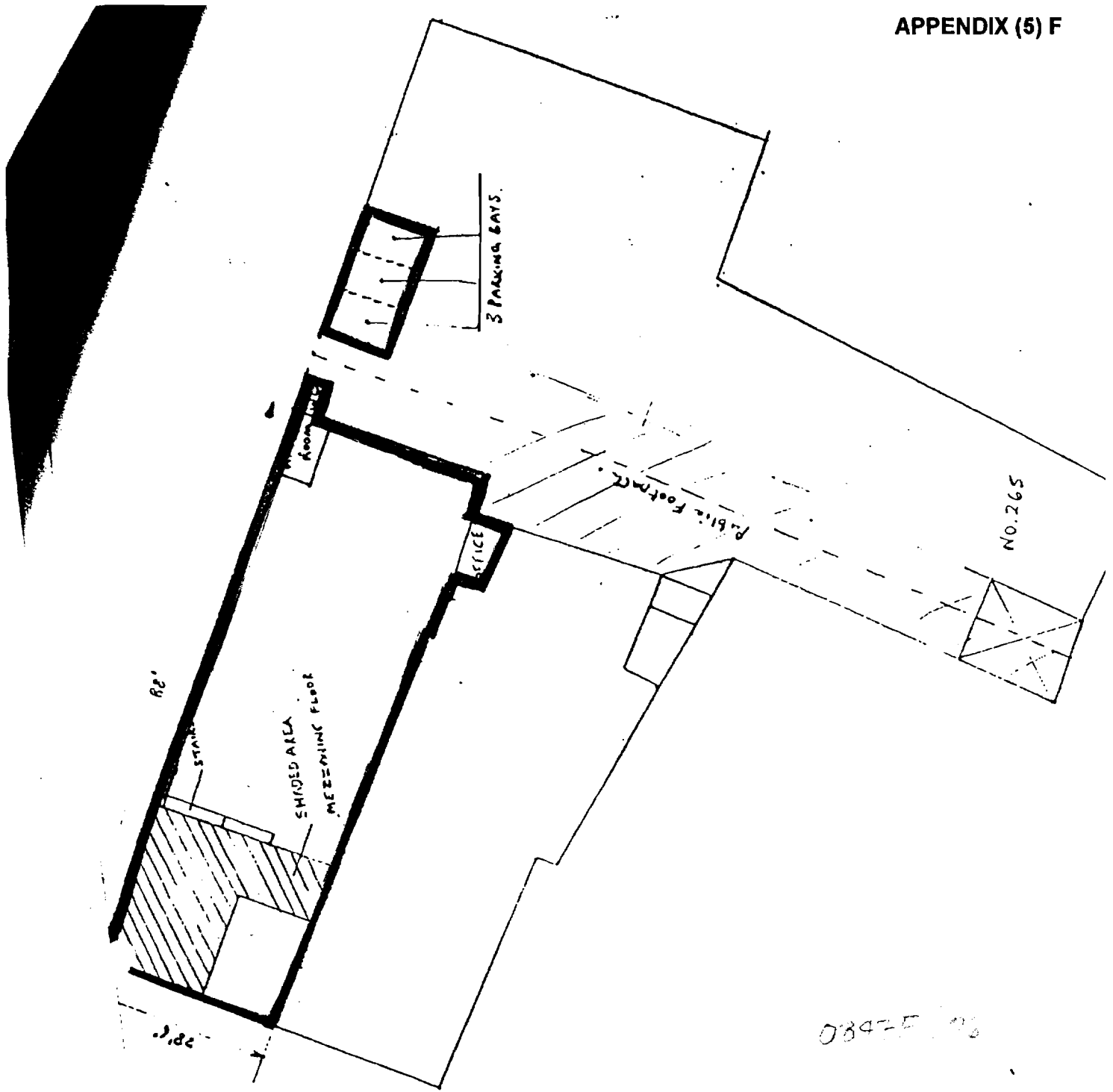




Application Number ..... 0859F / 86C .....  
 Received ..... 3/4/86 .....  
 Amended Plans Dra. No. 435/4 Rev. C. Scale 1:200

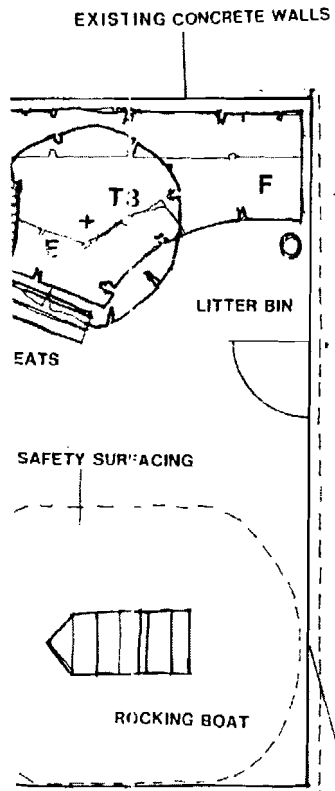
Plan 435/4 RevC (9.07.86)  
 - Car Park, Charles Place

H O T W E L L R O A D

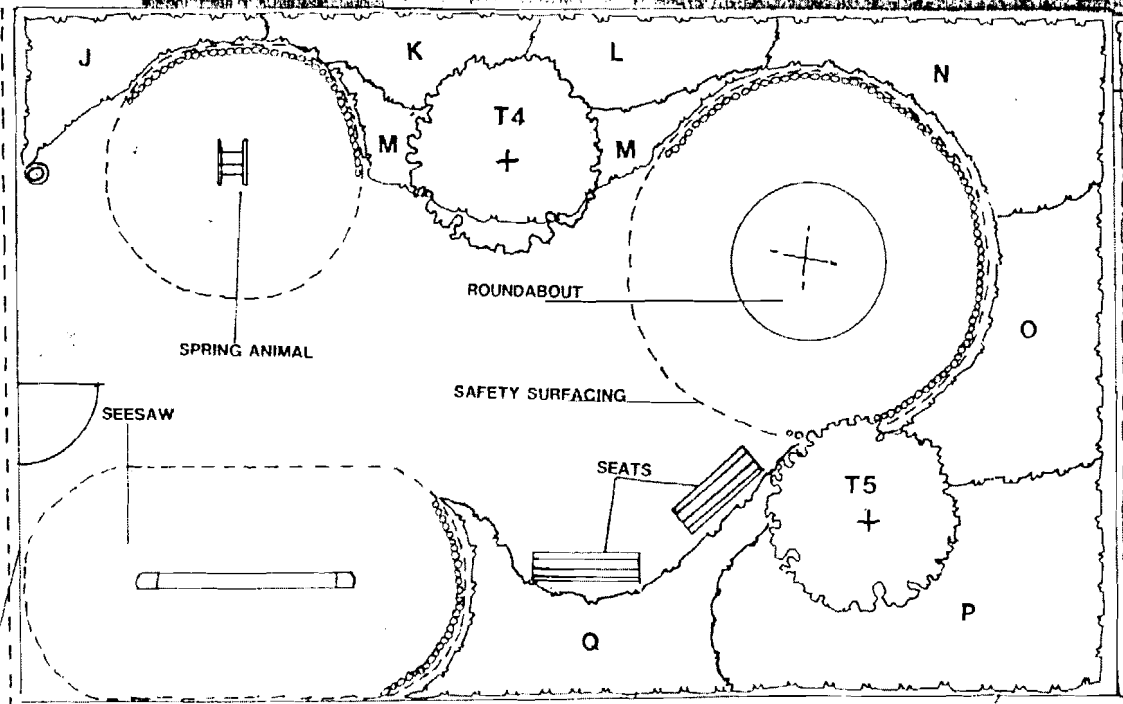


0847F/86

Plan (0847F/86) - Bear Yard parking bays



Public Right of Way



CLOSE BOARD WOOD FENCING  
1 METRE HIGH

CAR PARK  
USING EXISTING ENTR

CLOSE BOARD TIMBER FENCING WITH GATES 1 METRE HIGH



DO NOT SCALE THIS DRAWING CHECK ALL DIMENSIONS ON SITE

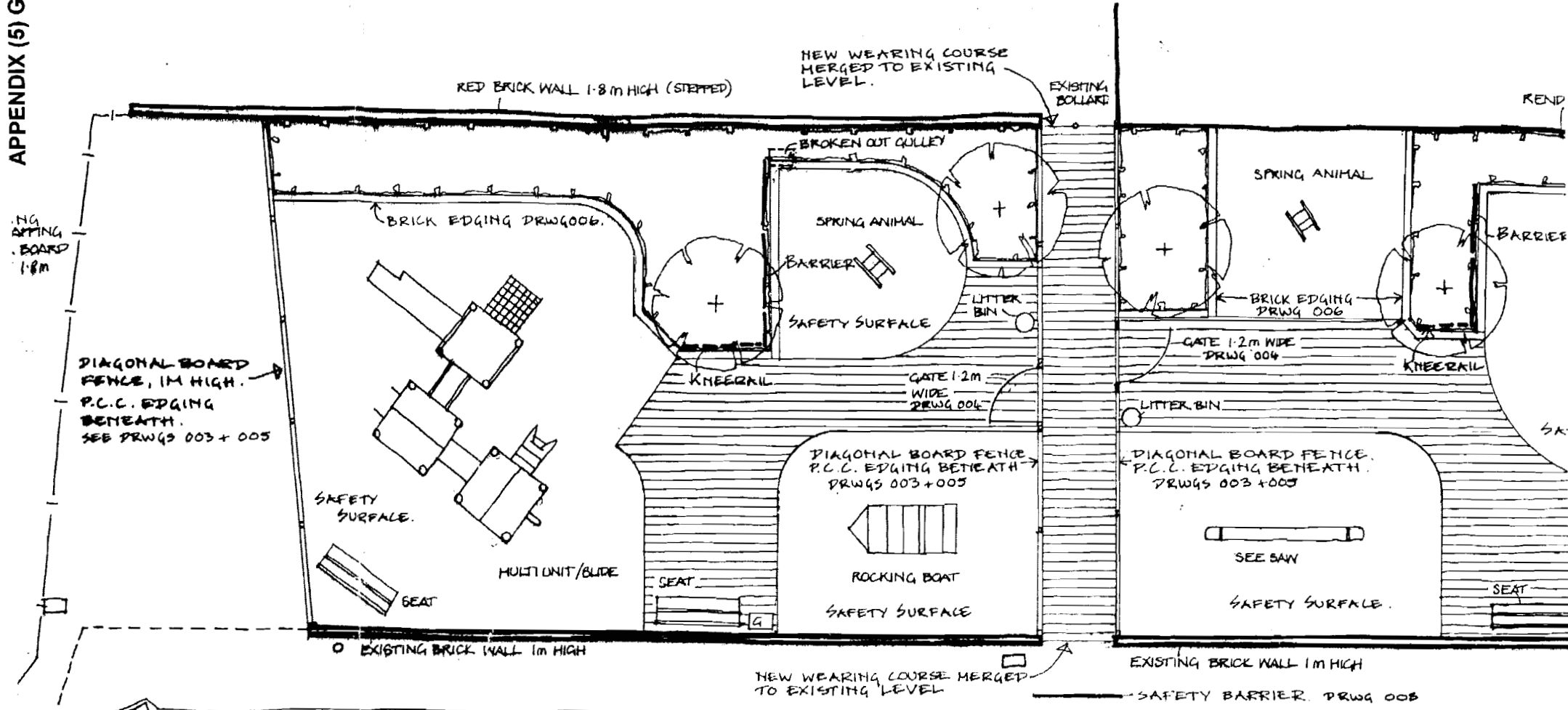
13091 P&S

CHARLES PLACE CAR PARK PROPOSED CHILDRENS PLAYGROU

DATE 21.5.93	DRAWN TCA/N2	CHECKED	SCALE 1:100	PROJECT	DRAWING CP/ 2
-----------------	-----------------	---------	----------------	---------	------------------

received 14/3/94  
 2702F/93C  
 landscape 1:100

APPENDIX (5) G.2



C H A R L E S   P L A C E

Plan 001/2 - 14.3.94  
 Bollard & Safety  
 Barrier



Planning Photograph (Appl.2702F/93C)  
— path cross-hatched through car park



Planning Photograph (Appl. 2702F/93C) – view of car park from Charles Place showing gaps in walls

HOTWELL ROAD

A high-contrast, black and white aerial photograph showing a road network. The roads are represented by bright, irregular lines against a dark background. The text 'HOTWELL ROAD' is printed in white, uppercase letters at the top of the image, following the curve of a road. The overall image is grainy and has a high level of contrast.

**Traffic  
Management**

1999 Aerial Photograph

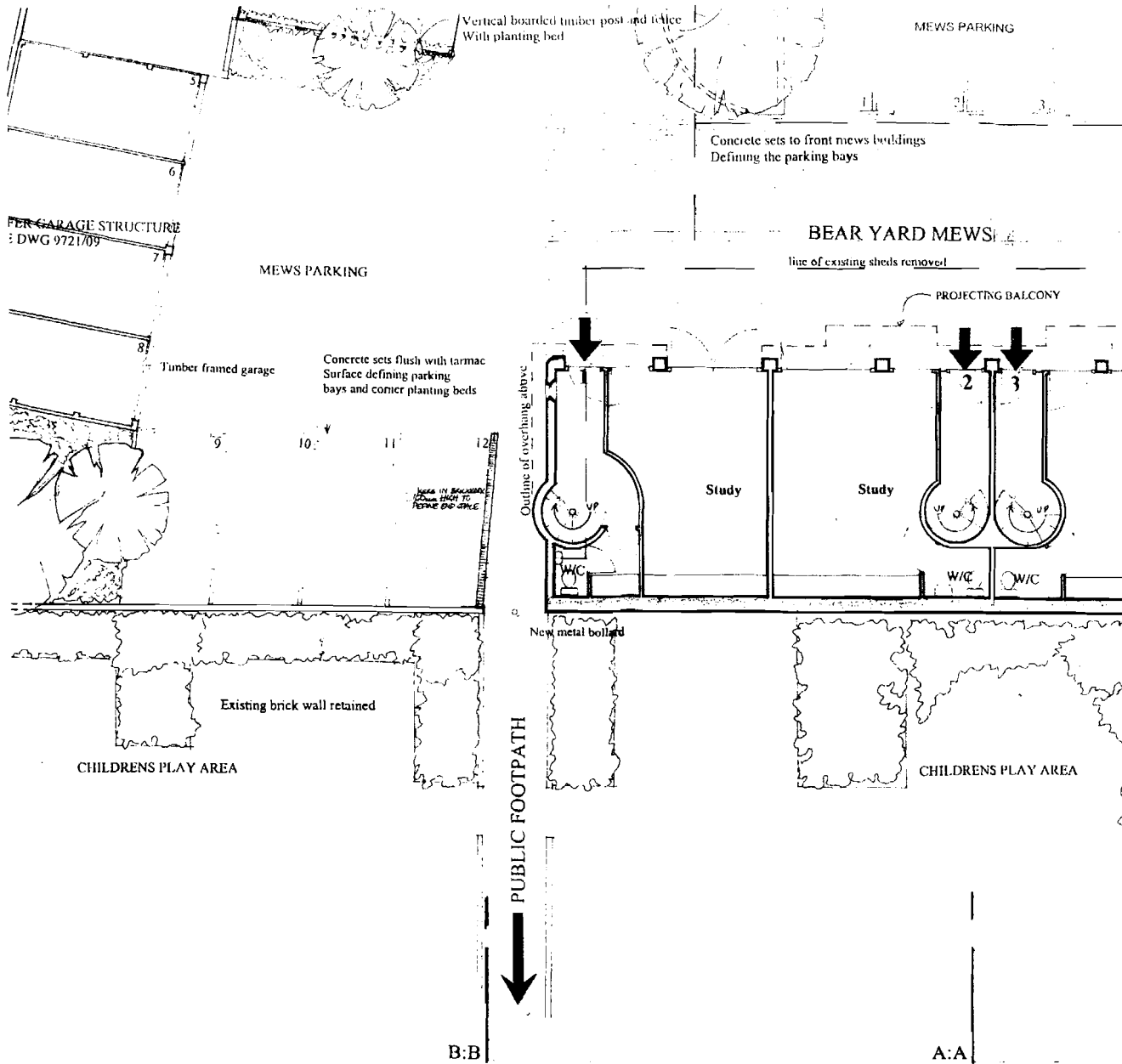
SCALE 1:500 at A4

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Printed: 12 March 2008







REV. C. SEPT '98 - RAISED BALCONY TO PARKING SPACE  
 REV. B. JULY '98 - NOTES ADDED & AMENDED

# Edward Nash Architects

Somerset Coalhouse,  
 23a Sydney Buildings,  
 Bathwick, Bath,  
 BA2 6BZ

Telephone: (01225) 442424  
 Facsimile: (01225) 442484

DRAWN BY	SCALE	DATE
CDJ	1:100	March 1998
DRAWING No.	REVISION	
9721/10		

PROJECT  
 BEARYARD MEWS  
 HOTWELL ROAD  
 BRISTOL

TITLE  
 PROPOSED BEARYARD  
 MEWS SITE &  
 GROUND FLOOR PLAN

DO NOT SCALE FROM THIS DRAWING  
 CONTRACTORS MUST CHECK ALL DIMENSIONS ON SITE  
 DISCREPANCIES MUST BE REPORTED IMMEDIATELY TO THE  
 ARCHITECT BEFORE PROCEEDING.  
 THIS DRAWING IS COPYRIGHT.

Plan 9721/10 dated March 1998 - Bear Yard Mews site, Hotwells



Entrance to Bear Yard from Hotwell Road – Site Visit 2.07.2002



Works in Bear Yard – Site Visit 2.07.2002



View of works in Bear Yard from Charles Place – Site Visit 2.07.2002



Entrance to Bear Yard from Hotwell Road – Site Visit 16.01.2008



The Bear Hotel entrance to garage in yard – Site Visit 16.01.2008



Cars parked in Bear Yard – Site Visit 16.01.2008



'Private Parking' Notice by archway, Hotwell Road – Site Visit 16.02.2008



Narrowing of path between 1 Bear Yard Mews and parking area – Site Visit 16.02.2008

**Definitive Map Modification Order Application - s53, Wildlife and Countryside Act 1981**  
**SUMMARY OF USER EVIDENCE FORMS**

**CLAIMED:** FOOTPATH FROM HOTWELL ROAD TO CHARLES PLACE (through Bear Yard)

**FILE REFERENCE :** ID3/508

NAME OF WITNESS	FORM NO	MAP	DESCRIPTION OF ROUTE	BELIEVED STATUS	KNOWN AS PUBLIC	HOW WIDE (M)	USED BETWEEN (calendar years)	TOTAL No. OF YEARS ' USE	PURPOSE OF JOURNEY	NO. OF TIMES USED PER YEAR	ON FOOT, HORSE-BACK, OR OTHER	WHOLE LENGTH OF ROUTE / any diversions/alterations	STILES / GATES	WORKED FOR LANDOWNER	NOTICES	EVER STOPPED	EVER TOLD NOT PUBLIC	OBSTRUCTIONS /LOCKED GATES	GIVEN PERMISS-ION TO USE ROUTE	PRIVATE RIGHT	KNOWN OTHERS USING ROUTE / other information?
Mrs A Ball+	1	X	Under Archway by Bear Hotel, Hotwell Rd through Bear Yard to Charles Pl	FP	70 yrs	4.2 – 1.65	1932-2002	70	Shopping, Doctors	Daily-60 yrs Weekly-10yrs	Foot	Yes / construction of playground mid- 1990s	No	No	No	Nc	Nc	Building works 2002	Nc	Nc	-
PAULINE BARNES	2	√	Ditto	FP	28+ yrs	Ditto	1975-2003	25	Shops & car park	100	Foot	Yes / -	No	No	No	No	Nc	Ditto	Nc	Nc	Many
Belinda Blackwell+	3	X	Ditto	FP	4 yrs	Ditto	1998-2002	4	Visiting friends & playground	124	Foot	Yes / construction of playground mid-1990s	No	No	No	No	No	Ditto	No	No	Yes
B. BLOOD-WORTH	4	X	Ditto	FP	5 yrs	Ditto	1997-2002	5	Charles Place and return	120	Foot	Ditto	No	No	No	No	No	Ditto	No	No	Yes
John Blower+	5	√	Ditto	FP	Since 1930s	Ditto	1969-2002	33	Shopping and access to main road	600	Foot	Ditto	No	No	No	Nc	Nc	Ditto	Nc	Nc	See Form Q1415
Mrs J. Bohin	6	√	Archway by Bear Hotel, Hotwell Rd through Bear Yard to Woburn Place	FP	Since 1941	Ditto	1941-1968	27	Resident of 4 & 5 Woburn Place	Daily	Foot	Ditto	No	No	No	No	No	Ditto	No	No	See Form Q14/15 & map
J.R. Bohin+	7	√	Under archway by Bear Hotel, Hotwell Rd, through Bear Yard to Charles Pl	FP	40 yrs	Ditto	1962-2002	40	-	-	-	Ditto	No	No	No	Nc	Nc	Ditto	Nc	Nc	See Form Q15

**Definitive Map Modification Order Application - s53, Wildlife and Countryside Act 1981**

**SUMMARY OF USER EVIDENCE FORMS**

NAME OF WITNESS	FORM NO	MAP	DESCRIPTION OF ROUTE	BELIEVED STATUS	KNOWN AS PUBLIC	HOW WIDE (M)	USED BETWEEN (calendar years)	TOTAL No. OF YEARS ' USE	PURPOSE OF JOURNEY	NO. OF TIMES USED PER YEAR	ON FOOT, HORSE-BACK, OR OTHER	WHOLE LENGTH OF ROUTE / any diversions/alterations	STILES / GATES	WORKED FOR LANDOWNER	NOTICES	EVER STOPPED	EVER TOLD NOT PUBLIC	OBSTRUCTIONS /LOCKED GATES	GIVEN PERMISS-ION TO USE ROUTE	PRIVATE RIGHT	KNOWN OTHERS USING ROUTE / other information?
M. Bohin	8	√	Archway by Bear Hotel, Hotwell Road through Bear Yard to Woburn Place	FP	69 yrs	Ditto	1935-2003	68	Shopping	Daily	Foot	Ditto	No	No	No	Nc	Nc	Ditto	Nc	Nc	See Form Q14/15
Mr C. Britton+	9	√	Under archway by Bear Hotel, Hotwell Rd through Bear Yard to Charles Pl	FP	64 yrs	Ditto	1938-2002	64	Shopping in Hotwell Road	Daily	Foot	Ditto	No	No	No	Nc	Nc	Ditto	Nc	Nc	See Form Q14/15
Miss M.A. Buick+	10	√	Ditto	FP	16 yrs	Ditto	1986-2002	16	Used as short cut and visiting doctors, Charles Place	Average 6x monthly	Foot	Ditto	No	No	No	No	No	Ditto	No	No	Saw others
Paul Carter+	11	X	Ditto	FP	18 yrs	Ditto	1984-2002	18	Recreation	100+	Foot	Ditto	No	No	No	No	No	Ditto	No	No	No
Bronwen Chard+	12	X	Ditto	FP	14 yrs	Ditto	1988-2002	14	Visiting friends and doctors	6x weekly	Foot	Ditto	No	No	No	No	No	Ditto	No	No	Local residents
Simon Cox+	13	X	Ditto	FP	55 yrs	Ditto	1970-2002	32	Shops and Post Office	400	Foot	Ditto	No	No	No	No	No	Ditto	No	Nc	Yes/ used path as child
STEPHEN CRABBE	14	√	From Hotwell Rd through archway by Bear Hotel & Bear Yard to Charles Place	FP	10 yrs	>4m – approx. 1.5	-	-	Short cut	-	Foot	Yes/ Path fenced when play-ground built	No	No	No	No	No	No	No	No	Yes/ local residents
W.C. Creedy+	15	X	4.2 – 1.65m	FP	60 yrs	Ditto	1962-2002	40	Doctor, Friends	104	Foot	Yes/ Ditto mid 1990s	No	No	No	No	No	Ditto	No	No	-

**Definitive Map Modification Order Application - s53, Wildlife and Countryside Act 1981**  
**SUMMARY OF USER EVIDENCE FORMS**

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Micheal Driscoll+	16	X	Ditto	FP	Since 1950's	Ditto	1954-2002	48	Shops	-	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Friends & others
Mr R. Edmonds+	17	X	Ditto	FP	50 yrs	Ditto	1952-2002	50	Local Amenities	Daily	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Local people, seeQ14
Roger Foster	18	√	Archway by Bear Hotel, Hotwell Rd through yard to Charles Place	FP	2 yrs	4+ to 1½-2	2001-2002	2	Shopping, Post Office	Daily	Foot	Yes/ None	No	No	No	No	No	At start of building work Bear Yard	No	No	Neighbours / Safe Route
J.A. Gill+	19	√	Under archway by Bear Hotel, Hotwells Rd through Bear Yard to Charles Pl	FP	39 yrs	4.2 to 1.65	1963-2002	39	Visit Post Office and Shops	200	Foot	Yes/Mid 1990's Playground	No	No	No	No	No	Building Works 2002	No	No	Yes
J.C. Gill+	20	√	Ditto	FP	40 yrs	Ditto	1962-2002	40	City Centre and Shops, Hotwell Road	100	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes
J.G. GRAY	21	X	Under the archway by Bear Hotel through Bear Yard to Charles Place	FP	78 yrs	Ditto	1925-1942	17	Social visits and duties as home guard	70	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, many years ago
Mrs B. Green+	22	√	Under the archway by Bear Hotel, Hotwell Rd through Bear Yard to Charles Pl	FP	>60 yrs	Ditto	1942-2002	60	Shops	624	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Many
Jane Gunning+	23	√	Ditto	FP	32 yrs	Ditto	1970-2002	32	To park under flyover and to friends/shops	20	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	School friends /bollard



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MAUREEN HARRISON	24	√	Archway beside Bear Hotel through Bear Yard to Charles Pl	FP	30 yrs	Approx 4½-1¾	1964-2002	38	Short cut to Hotwell Road Shops	30	Foot	Yes/-	No	No	No	No	No	No	No	No	Many local residents
MRS J. HEDGES	25	√	Woburn Place to Hotwell Road	FP	>80 yrs	Approx 5 ft Woburn Pl to Bear Yd	1929-2002	73	Going to shops and to catch a tram	365	Foot	Yes/Path fenced mid-1990's	No	No	No	No	No	When building in Bear Yard	No	No	People living in area. See Q14+ map
Helena Hobbs+	26	X	Under the archway by Bear Hotel, Hotwell Rd through Bear Yard to Charles Pl	FP	20+ yrs	4.2 to 1.65	1982-2002	20	Shops on Hotwells Road	Approx. 100	Foot	Yes/ mid-1990's Playground	No	No	No	No	No	Building Works 2002	No	No	Family Neighbours and Friends
Mrs E. Jones+	27	X	Ditto	FP	70 yrs	Ditto	1932-2002	70	Social visits, shops and doctor	Approx. 100	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes
P.A. Jones+	28	√	Ditto	FP	22 yrs	Ditto	1980-2002	22	Shops and Post Office	200+	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	-
Maurice Kerwood+	29	√	Ditto	FP	22 yrs	Ditto	1980-2002	22	Shopping	10x weekly	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Shortest and safest route
June Lancaster+	30	√	Ditto	FP	25 yrs	Ditto	1977-2002	25	Shopping	100+	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	-
Mr P.R. Low	31	√	Ditto	FP	60 yrs	Ditto	1937-1984	47	Shopping and Bus/Work	Daily	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Local people

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MISS V.G. MAGGS	32	√	Under archway by Bear Hotel, Hotwell Road through Bear Yard to Woburn Place	FP	Over 100 yrs at least	Ditto	1933-2002	69	-	-	-	Yes / see further comments attached to form	No	No	No	No	No	Ditto/path closed for health and safety reasons	No	No	See further comments attached to form
Robin Marley	33	√	Under archway by Bear Hotel, Hotwell Rd through Bear Yard to Charles Pl	FP	At least 33 yrs	Ditto	1970-2003	33	Traffic Free Short-Cut	46	Foot or Bike	Yes / Path fenced through playground	No	No	No	No	No	Building work in Bear Yard	No	No	Yes – see Form Q15
FRANK MARTIN	34	√	Ditto	FP	3 yrs	Ditto	1999-2002	3	To visit shops from work	300	Foot	Yes / playground mid-1990s	No	No	No	No	No	Building Works 2002	No	No	Use path regularly lunch times
KATHERINE MARTIN	35	√	Ditto	FP	36 yrs	Ditto	1968-1969 1975-2002	28	Walking around Hotwells	Approx. 6x	Foot	Yes / Ditto	No	No	No	No	No	Ditto	No	No	Always used by local people
Mr. R. McGuirk+ **	36	√	Ditto	FP	32 yrs	Ditto	1971-2002	31	To shops and work at Trinity Garage	556	Foot	Yes / Ditto	No	No	No	No	No	Ditto	No	No	Yes – see Form Q15
Jeremy McNeill+	37	√	Ditto	FP	35 yrs	Ditto	1962-1970 1984-2002	26	Visit friends. Short cut to shops	100-150	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes – see Form Q14 + Q15

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W. Murphy+	38	√	Ditto	FP	Yes, as Adult	Ditto	1921-2002	81	Business and to Post Office	Approx. 30	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Many neighbours
ANTONIOS NIELSEN	39	√	Ditto	FP	Approx x 40+ yrs	Ditto	1954-1973 1980-2002	22	To shops on Hotwells Road	100	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	-
Ruth Nielsen+	40	√	Ditto	FP	50+ yrs	Ditto	1980-2002	22	Shops, Hotwells Road and bus stop Merchants Road	Approx. 100	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes/see Form Q14 + Q15
Mrs E. O'Connor+	41	√	Ditto	FP	43 yrs	Ditto	1959-2002	43	To shops and bus stops and to visit friends	700 almost daily	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes/see Form Q14 + Q15
John O'Neill+	42	X	Ditto	FP	60 yrs	Ditto	1942-2002	60	Shopping etc.	700	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes/see Form Q14
(Applicant) SUE OTTY	43	√	Ditto	FP	35 yrs	Ditto	1967-2002	35	Shopping, business and doctor	250 minimum	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Many people / see Form Q15
D. Pangalos	44	√	Ditto	FP	10 yrs	Ditto	1990-1996 1999-2003	10	From home to shops, Hotwell Road	104	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Saw others often. See Form Q14 + Q15

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EMMA PEDDIE	45	√	Ditto	FP	11 yrs	Ditto	1999-2002	3	Visiting children's playground	12 - 15	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Often saw others/see form Q14
JEAN M. PRICE	46	√	Ditto	FP	74 yrs (since a child)	Ditto	1930-1954 / occasionally until 1980's	50	To get to Hotwell Road shops	Several times a week	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	People in vicinity used regularly
MRS M. PRICE	47	√	Ditto	FP	46 yrs	Ditto	1960-2002	42	Taking children to Harbourside etc.	Weekly	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q15
Mrs S Purdy	48	√	Ditto	FP	45 yrs	Ditto	1937-2002	45	Shops, School and Social	Daily	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q15
Gregory Rafter+	49	√	Ditto	FP	40 yrs	Ditto	1965-2002	37	To Hotwell Road	At least 400	Foot + Bike	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q15
Helen Reid	50	√	Ditto	FP	At least 33 yrs	Ditto	1970-2003	33	Traffic free Short cut	52	Foot or Bike	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q15
STUART ROBINSON	51	√	Ditto	FP	12 yrs	Ditto	1990-2002	12	Short cut from home to pub shops and friends	-	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes

**Definitive Map Modification Order Application - s53, Wildlife and Countryside Act 1981**

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T.J. Royal+	52	√	Ditto	FP	50+ yrs	Ditto	1950-2002	52	Mostly shopping	50+	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q15
MR D. SANDERS	53	√	Ditto	FP	46 yrs	Ditto	1956-2002	46	To shops, Hotwell Road and to work	Once or twice daily	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q14 & Q15
MRS S. SANDERS	54	√	Ditto	FP	61 yrs	Ditto	1945-2002	57	To shops, post office, work and to visit friends	Twice daily	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q14 & Q15
John F. Silk+	55	√	Ditto	FP	60 yrs	Ditto	1941-2002	61	Shops	Daily	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	-
Mary Skinner+	56	√	Ditto	FP	22 yrs	Ditto	1980-2002	22	To local shops	Countless times	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Many local residents
Helen Smith+	57	√	Ditto	FP	24 yrs	Ditto	1978-2002	24	Short cut, business and visiting friends	At least 6	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q15
LYNDA STAHL	58	√	Ditto	FP	30+ yrs	Ditto	1970-2002	32	Traffic free short-cut between shop and home	Approx. 200	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q15
MRS R. STIBBON +	59	√	Ditto	FP	Over 21 yrs	Ditto	1981-2002	21	To shops, post office, bus stop and friends	500+	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q14 & Q15

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Mrs B. Stoate+	60	X	Ditto	FP	25 yrs	Ditto	1977-2002	25	To doctors	Occa-sional	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Neigh-bours
Mrs M.J. Stone	61	√	Ditto	FP	13 yrs	Ditto	1937-1950	13	To work locally	-	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Every-one locally
Mrs S. Stops+	62	√	Ditto	FP	30 yrs	Ditto	1972-2002	30	Business and visiting friends	40+	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	A great many. See form Q15
Ken Stradling+	63	√	Ditto	FP	50 yrs at least	Ditto	1958-2002	44	To doctors and shops	400 at least	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes,, see Form Q15
A & A.E. Tanner	64	√	Ditto	FP	29 yrs	Ditto	1974-2002	28	To shops, school and to see friends	Approx. 400	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q14 and Q15
J.D.A. Brooke-Taylor	65	√	Charles Place through playground and yard to Hotwell Road (archway by The Bear)	FP	Over 16 yrs	6-8 ft across playground, undefined through yard	1986-2008	22	To post office, shops and post box	Several times a week	Foot	Yes/ building works, site of former garage -see Form Q5	No	No	No	No	No	Blocked during building works. Path reinstated	No	No	Yes, see form Q7, Q10.4, Q12 and Q13
Janet Temple+	66	X	Under archway by Bear Hotel, Hotwell Rd through Bear Yard to Charles Pl	FP	20 yrs	4.2m to 1.65m	1980-2002	22	To shops and the Basin avoiding main road	50+	Foot	Yes / construction of play-ground mid-1990's	No	No	No	No	No	Building Works 2002	No	No	-

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M.W. TIMMINS	67	√	Ditto	FP	Approx. 30 yrs	Ditto	1972-2002	30	From home to shops and pubs etc.	Approx. 100	Foot	Yes/ Ditto	No	No	No	No	No	Ditto	No	No	Yes, see form Q14 and Q15
Marian Tucker	68	√	Ditto	FP	23 yrs	Approx 4m – Approx 1m	1980-2003	23	From Oldfield Place car park to Hotwell Road shops and playground, Charles Place	100	Foot	Yes/ path fenced when play-ground built Approx 1993	No	No	No	No	No	Bear Yard blocked by construction work	No	No	Yes, see form Q15
MARK TUCKER	69	√	Ditto	FP	25 yrs	Approx 4m to Approx 1.6m	1978-2002	24	Charles Place to Hotwell Road shops and to Charles Place playground	200	Foot and occasionally cycle	Yes/see Form Q5	No	No	No	No	No	When building work started	No	No	Yes, see form Q14
Mr N. Vaughan+	70	√	Ditto	FP	40 yrs	4.2m to 1.65m	1962-2002	40	Direct route to Cumberland Basin crossing point	80	Foot	Yes / construction of play-ground mid-1990's	No	No	No	No	No	Building works 2002	No	No	Yes, too numerous to mention

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<b>KEY</b>																					
20 years use during relevant period (1982 – 2002) [TOTAL = 52 out of 70 Witnesses]																					
√ Map marked and signed by Witness [55 out of 70]																					
X Map pre-completed by Applicant (not marked by Witness) [15 ]																					
+ Q1, Q3, Q5 + Q10 pre-completed by Applicant (Witness not signed Form to confirm agreement with evidence provided) [36 ]																					
NAME Witness Interviewed – see Appendix L [TOTAL = 21 of 70]																					
** Statement completed – Witness not interviewed																					



**Definitive Map Modification Order Application  
Section 53 of the Wildlife & Countryside Act 1981**

**CLAIMED FOOTPATH FROM HOTWELL ROAD TO CHARLES  
PLACE  
(THROUGH BEAR YARD)**

**SUMMARY OF ADDITIONAL USER EVIDENCE FROM STATEMENTS**

<b>NAME OF WITNESS</b>	<b>SUMMARY OF ADDITIONAL USER EVIDENCE</b>
Pauline Barnes	The width of the claimed route through the yard is the same as the width between the Bear Hotel and No. 265 Hotwell Road. Claimed route still used to date. The path was re-opened after building works finished. Believed owner was aware of the public using the way because everybody had always used it. Started using the path in 1975 when land from Charles Place was a car park. When became children's playground path was fenced but never changed its position. West of Bear Yard was used for parking for the garage in the yard.
B. S. Bloodworth	Used claimed route as a shortcut and still uses it to date. Has seen many other pedestrians as it is well used. The original cast iron bollard has been reinstated on completion of the building works.
Stephen Crabbe	Used the claimed route between 1985 to present day approximately 25 times per year.
John G. Gray	Always used the claimed route as a child, and later as a short cut to the Harbourside. Currently uses the route about 2 to 3 times per year.
Maureen Harrison	Used the claimed route for walking the dog and shopping. Can remember cars being parked before the playground was built. Does not think the playground works altered the route of the path but it was her impression that the path became narrower.
Mrs. J. Hedges	The width of the claimed route is approximately 5 feet from Woburn Place to Bear Yard and 2-person width at the Bear Hotel end. Used footpath to get to the shops in Love Street (now Hotwell Road) and the Tram Stop in Love Street. Path used to present day. When Woburn Place was demolished the land at Charles Place used for parking. At that time the path from Charles Place to Bear Yard was unfenced until the playground was established. The path ran between No. 5 and 6 Woburn Place – No. 5 had a bedroom across the archway to No.

	<p>6. The path has always been in the same position throughout all the development. The number of shops in Hotwell Road was much greater than present day. In the Bear Yard there was a garage on one side and open space on the other used by cars attending the garage.</p>
Valerie G. Maggs	<p>Has always used the way since childhood. Believes the Merchant Venturers and Trinity Garages own the land. Believes people were seen using the way by the owner and no-one ever attempted to stop the way being used. The bollard near the children's playground has been there since she was a child (N.B. Miss Maggs was born in 1933).</p> <p><i>The following points were raised in additional evidence supplied by Miss Maggs' with her Evidence Form:</i></p> <ul style="list-style-type: none"> <li>- Charles Place started from rear of 255 Hotwell Road to Merchants Road and is so called on her HM Land Registry Certificate, but where the children's play area and car park are now (rear of 20-27 Oldfield Road) is not named on Certificate but the houses were Woburn Place – there was a decorative name plate on No. 13 calling it Woburn Place. There was an alleyway under No. 5 and 6 Woburn Place, i.e. the front doors were in the lane, not on the frontage.</li> <li>- In 1984 when the whole area was a car park with only coping stones marking out the boundary, the Council decided to put a brick wall alongside the pavement. Following representations to the Ward councillors an opening in the brick wall was left and the pathway to the bollard retained (i.e. formerly where the walking way was under the bedrooms of Nos. 5 &amp; 6 Woburn Place). When the children's play area was created in (approx.) 1994 the pathway was fenced with gates into each half. Many members of her family recall the walking way under the houses and through the Bear Yard to Hotwell Road. The Bear Hotel was used as a Stage Coach Hostelry. The former garage site might have been used for stabling the horses and the open space at the rear of 1-4 Woburn Place and 265 Hotwell Road were said to have been the site of houses called Courts – it seems that public access would have been necessary.</li> <li>- For over 100 years no-one has been barred from using the way and as such it should be registered as a public right of way.</li> <li>- Half the play area was closed during the summer and half term holidays (2002) due to the development in the</li> </ul>

	Bear Yard.
Frank Martin	Used the way between 1975 to present day (i.e. throughout the relevant 20 year period in addition to the 3 years stated in Evidence Form). Believed that the owner was aware of the public using the way because pedestrians are likely to have been seen.
Katherine Martin	Believed the owner was aware of the public using the way because everybody used it openly as of right.
Mr. R. McGuirk**	Used the route to go to work or shops between 1970 and 1986 four times a day. (N.B. Stated use between 1971 and 2002 on Evidence Form). Worked in Trinity Garage and was told by the garage owner not to block the path because it was always a right of way. The width of the way is approximately 4 metres, the evidence of width being stone edging at one part of the path.
Antonios Nielson	Has used the way from childhood. The width of the way is defined by physical boundaries at each end. Believed the owner was aware of the public using the way as the path is used openly. The path used to run between the houses on Charles Place until they were knocked down some time during the 1960s. At the time the car park was in existence the path was marked out by kerb stones between what is currently the playground. The Garage usually left the pathway clear.
Sue Otty#	Evidence of width of the way is property boundaries and fencing. The path has been resurfaced but no diversions. Believed the owner was aware of the public using the way as personally spoke to the Managing Director of Trinity Garages and wrote to Charles Church. A planning notice was put up at Charles Place after planning permission was granted stating that the public access should remain open (Condition 18 of Application 98/01181). The path currently provides access to the Doctors Surgery.
Emma Peddie	Used the way occasionally between 1991-1999 and monthly between 1999-2002 (the occasional use is additional to the 3 years use stated in Evidence Form). Since the building works (2002) the path has re-opened as is now improved ... but remains the same as prior to the development. Cars pass through the archway to park in Bear Yard but this does not obstruct any pedestrian access.
Jean M. Price	Used way in the 1930s daily as a child and to the present day. Believed the owner was aware of the public using the way because the garage was working

	and people were seen regularly using the path. Two of the houses on Woburn Place had front doors which opened directly onto the footpath.
Margaret Price	The way has always been used as a shortcut and for safety with young children for more than 50 years. Bollard between Charles Place and Bear Yard was erected in 1976 and was cast iron. From the bollard to Charles Place the way may have been wider and was unfenced prior to the playground being built. Cars parked on the land opposite the Garage in Bear Yard but never parked over the right of way. The way was blocked by a metal fence when development started in 2002
Stuart Robinson	Used the way from 1990 approx. 15 times per year, and to date approx. 100 times a year.
Dennis Sanders	The width of the way is approximately 5 feet from Charles Place, then 25 to 40 feet in the yard, narrowing to 10 feet between the Pub and the shop. Cars park on the west side of the yard. Bollard at entrance to Bear Yard. Used path as a child (N.B. Mr Sanders was born in 1929) and still uses path to present day. He was a tenant of a property in Woburn Place between 1961 and 1965 but the owner gave no instructions as to the use of the way by the public. Has always known it as a right of way and the path was still used after Woburn Place was demolished. No. 5 & 6 Woburn Place fronted the lane. The land was used as a car park from about 1970 and the path was still in the same position. There was no change when the playground was built, although the path was fenced.
Mrs. S. Sanders	Width of way as stated by Mr Sanders above. Between Charles Place to Bear Yard the width of two people walking at a squeeze. Through the yard and by the Bear Hotel the width allows 2 to 3 people to walk abreast. Cars parked on west side of yard. Way used as a child to go to school in Dowry Place (N.B. Mrs Sanders was born in 1935). Was a tenant of 4 Woburn Place during 1961 – 1964. The path ran between 5 and 6 Woburn Place and never changed from its original position. There were no boundaries to the path before it became a children's playground
Lynda Stahl	Through Bear Yard the way is wide enough for two people to walk abreast. Approximately 10 years ago, Ms Stahl attended a 'Living Memories' walk through

	Bear Yard. According to a local resident, as a boy before the Second World War he was chased through the Bear Yard by a runaway cow and escaped because the cow couldn't get past the bollard at the Charles Place end.
Rosemary Stibbon	Uses path to present day. The fencing either side of the children's playground was not present prior to the construction of the playground.
Michael Timmins	Believes the status of the way is footpath as it is paved, open and unobstructed and leads from one place to another. Used the way mostly on foot but occasionally on bicycle. Used the whole length of the route unless taking car to be serviced at the garage. Believed the owner was aware of the public using the way because it was paved with a worn bollard. Never saw any evidence of gate posts or gate mountings and the parking bays for the Garage were marked on the wall leaving space to use the footpath. At the Charles Place end of the footpath there is a safety barrier to protect pedestrians and worn iron bollard both of which were in place when first started using footpath (in 1972).
Mark Tucker	The footpath width is defined by the width of the arch and width between the two halves of playground. Believed owner was aware of the public using the way because they would have seen people using the footpath.

\*\* This witness did not attend an interview

# Modification Order Applicant

Christine Pouncett  
Traffic Management  
Bristol City Council  
Brunel House  
Bristol 1

15<sup>th</sup> January 2003

Dear Ms Pouncett

**Bear Footpath**

Thank you for sending more Forms.

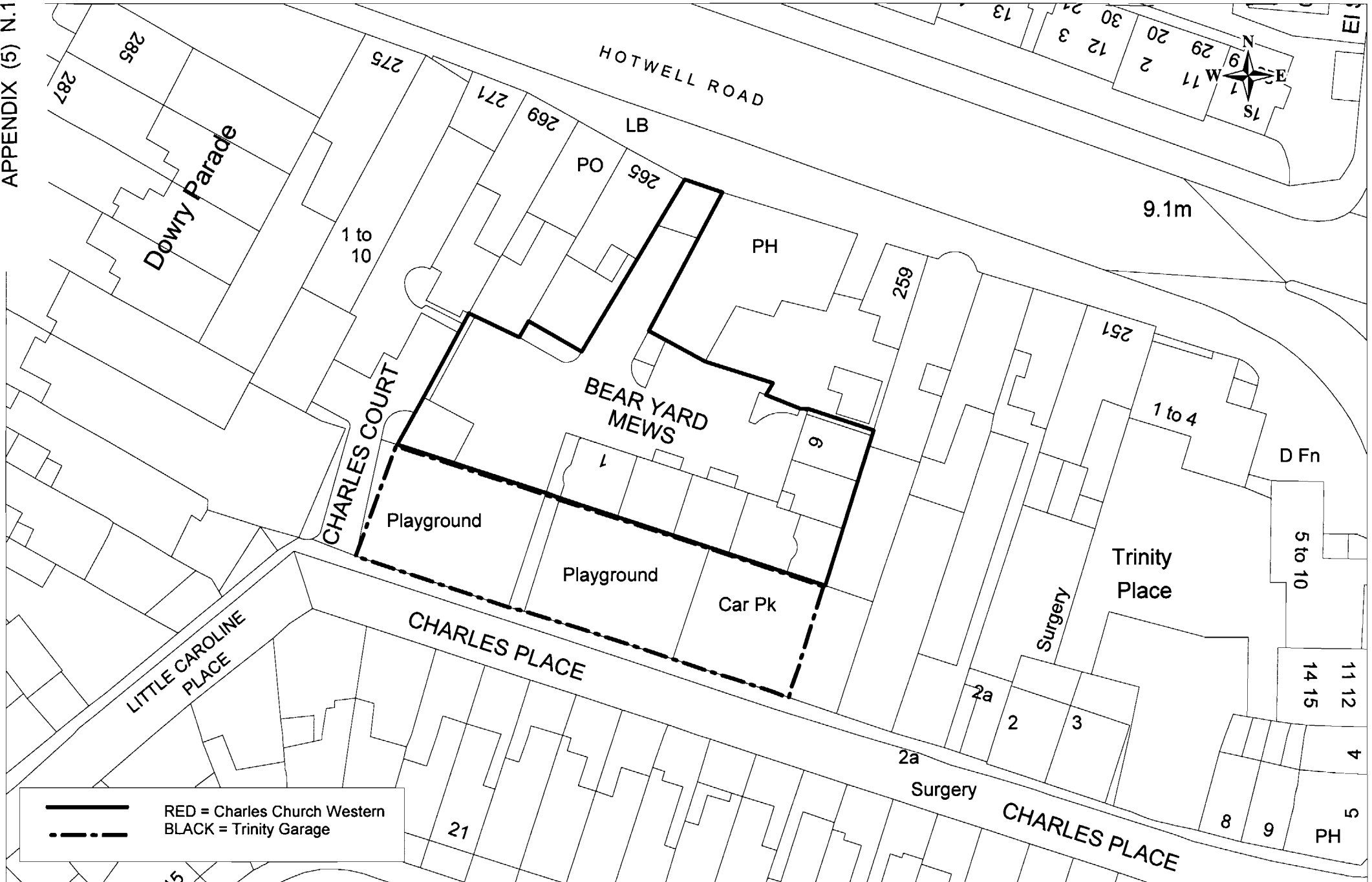
When I gave out the previous Forms I asked people to check all the information and sign the plan if they were happy with it. I wasn't aware that it was necessary for everything to be in the form-filler's own handwriting.

However, I will ask new form-fillers to write everything out themselves.

Yours sincerely





Sue Otty  
6 the Polygon  
Bristol BS8 4PW



RED = Charles Church Western  
 BLACK = Trinity Garage



**Land at Charles Place  
(formerly 1 – 13 Woburn Place)**

-  Unregistered leasehold land assigned to Bristol CC
-  Registered leasehold land assigned to Bristol CC

Bristol City Council archive reference nos.  
and H M Land Registry title nos. in red type

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SITE PLAN : To ensure boundary accuracy, please refer to deeds.



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**CORPORATE PROPERTY TEAM**

Plan No : 02.08\_SC  
 Prop ID Ref : N/A  
 Polygon Ref : N/A  
 Scale : 1:500  
 Date : 12th February 2008



**CENTRAL SUPPORT SERVICES  
PROPERTY & LOCAL TAXATION**

Floor 6, B Bond, Smeaton Road, Bristol BS1 6EE.  
 Tel : (0117) 903 7620 Fax : (0117) 903 7617  
 M C Reynell, Director of Central Support Services.





CHARLES CHURCH

PM/VG

13 June 2003

Bristol City Council  
Legal Services  
Romney House  
Romney Avenue  
Lockleaze  
PO Box 1380  
Bristol  
BS99 3HB

**For the attention of: Victoria Nims**

Dear Ms Nims

**RE: CLAIMED FOOTPATH ACROSS BEAR YARD, HOTWELLS, CHARLES PLACE, BRISTOL**

Further to your letter dated 23<sup>rd</sup> April 2003, please find attached a copy of our Land Registry Title identifying the extent of our land ownership relating to the above site.

Whilst writing I would wish to confirm it had always been the Company's intention to re-open the footpath once building works have been completed, however it is not the Company's intention to dedicate this right of way currently enjoyed by the surrounding residents as a public footpath.

I trust the attached information is of use and I look forward to hearing from you in the fullness of time.

Yours sincerely

**PAUL MOOBY**  
Technical Director  
of Charles Church Western

Enc

**TRINITY GARAGE (HOTWELLS) LIMITED**  
**7 Kingsmill**  
**Stoke Bishop**  
**Bristol BS9 1BZ**

**0117 968 4191**

12 January 2008

Christine Pouncett  
Road Safety, Walking and Cycling Team  
Traffic Management  
Bristol City Council  
Wilder House  
Wilder Street  
Bristol BS2 8PH

Ref CP/ID3/508/Hotwell/Clifton

Dear Ms Pouncett


**Claimed Public Right of Way from Hotwells Road to Charles Place (Bear Yard)**

Thank you for your letter of 4 January 2008, relating to the above and I also refer to our telephone conversation of 8 January.

It is clear to me that the route is established as a frequently used path. In our 30 years of ownership of 265 Hotwell Road it has always been open except while the houses in Bear Yard Mews were being built.

It is the case that we no longer own the land over which the path passes, but we do have a private right to obtain access from Hotwell Road under the arch to our parking spaces behind the property at No. 265.

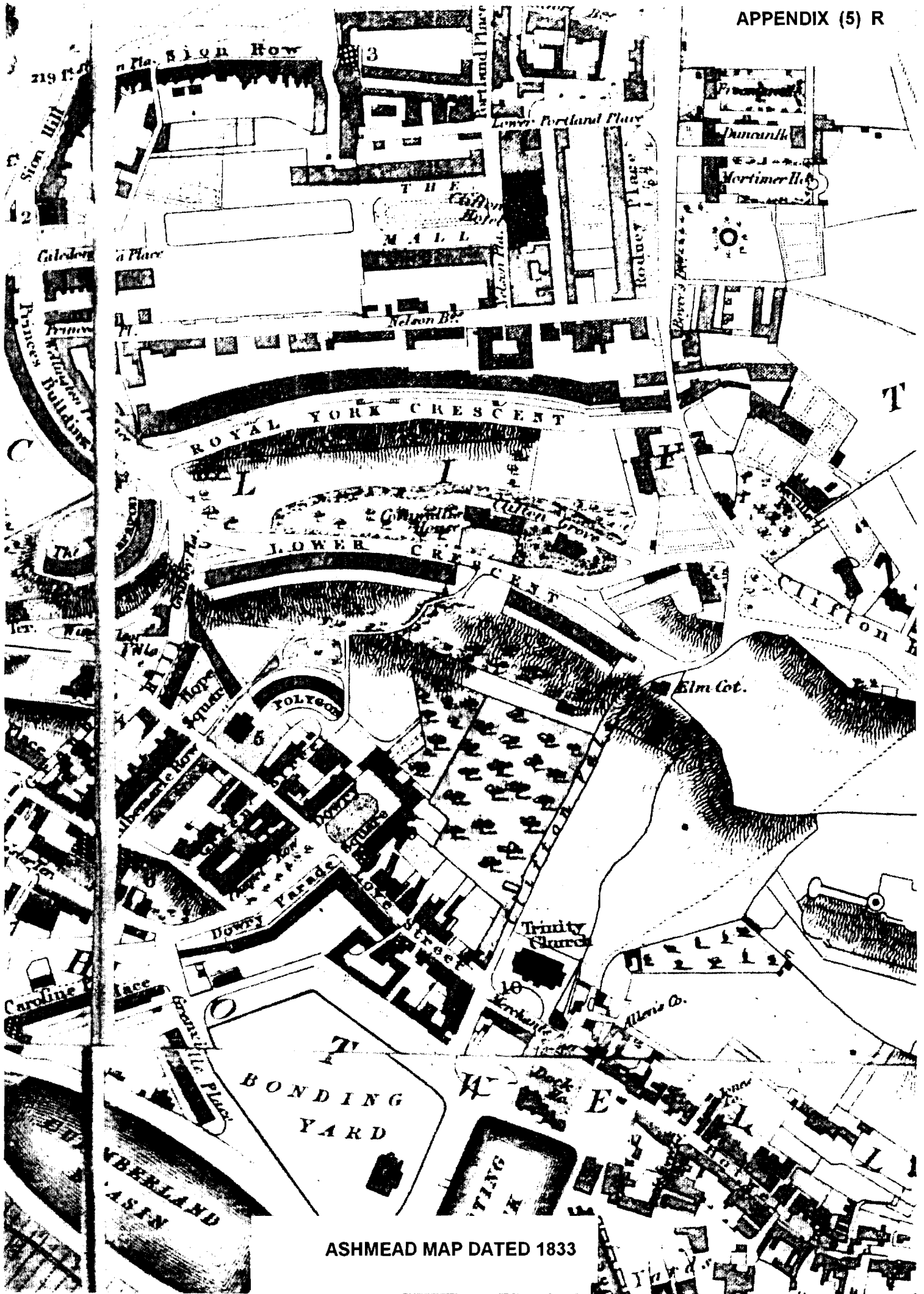
Yours sincerely



**Nicholas Finch**

**LIST OF DOCUMENTARY EVIDENCE REVIEWED**

<b>DATE</b>	<b>DOCUMENT</b>
1833	Ashmead Map of Bristol
1849	Chilcott's Map of Hotwells, reproduced in ' <i>Jezza's Bristol Guide</i> '.
1860	Copy of Lease showing parcels of land at rear of Love Street and Charles Place in the Parish of Clifton. [ <i>BRO Archive File 25878</i> ]
9.04.1878	Auction documents of Long Leasehold Property – premises in Charles Place, Woburn Place, Love Street and 'Large Commodious Yard' [ <i>BRO Archive File 25878</i> ]
14.11.1878	Copy of Original Deed of Apportionment assigning Lots in Charles Place, Woburn Place, Love Street and Yard at back of Bear Inn. <u>N.B.</u> Nos. 2, 3, 5, 6, 7 & 8 Woburn Place assigned to Herbert Risely, City & County of Bristol Accountant [ <i>BRO Archive File 25878</i> ]
1880s	1880s map included in report by Edward Nash Architects in April 1998 in connection with Planning Appl. 98/01181/H/N annotated "Bear Yard with a footpath between Nos. 5 & 6 Woburn Place (now Charles Place).
22.6.1887	Entries in List of Streets showing date of Adoption of Woburn Place and Charles Place, Hotwells.
1888	Ordnance Survey Map
1904	Ordnance Survey Map
1918	Ordnance Survey Map
1949	Ordnance Survey Map
1953	Ordnance Survey Map
1954 and 1966	Copy of Definitive Map and Statement dated 1954 and one review published in 1966.
6.03.1967	Assignment of Nos. 9 & 11 Woburn Place to the Lord Mayor & Alderman & Burgesses of the City of Bristol ("The Corporation").
1971	Ordnance Survey Map
Published 1990	' <i>Tramways Remembered</i> ' by Leslie Oppitz, pp. 83 & 84 [Local History Section, Reference Library, Bristol Central Library]
Published 2002	' <i>On the Waterfront – The Hotwells Story</i> ' by H. Reid & S. Stops, pp. 57 & 58 [Local History Section, Reference Library, Bristol Central Library]
Published 2005	' <i>Images of England, Hotwells &amp; Cliftonwood</i> ' by S. Stops & P. Barnes, pp. 10, 11 & 55 [Local History Section, Reference Library, Bristol Central Library]
Published 2005	' <i>Old Inns of Bristol</i> ' by C.F.W. Denning [Local History Section, Reference Library, Bristol Central Library]



ASHMEAD MAP DATED 1833

# Plan of Property

AT THE

## HOTWELLS, BRISTOL,

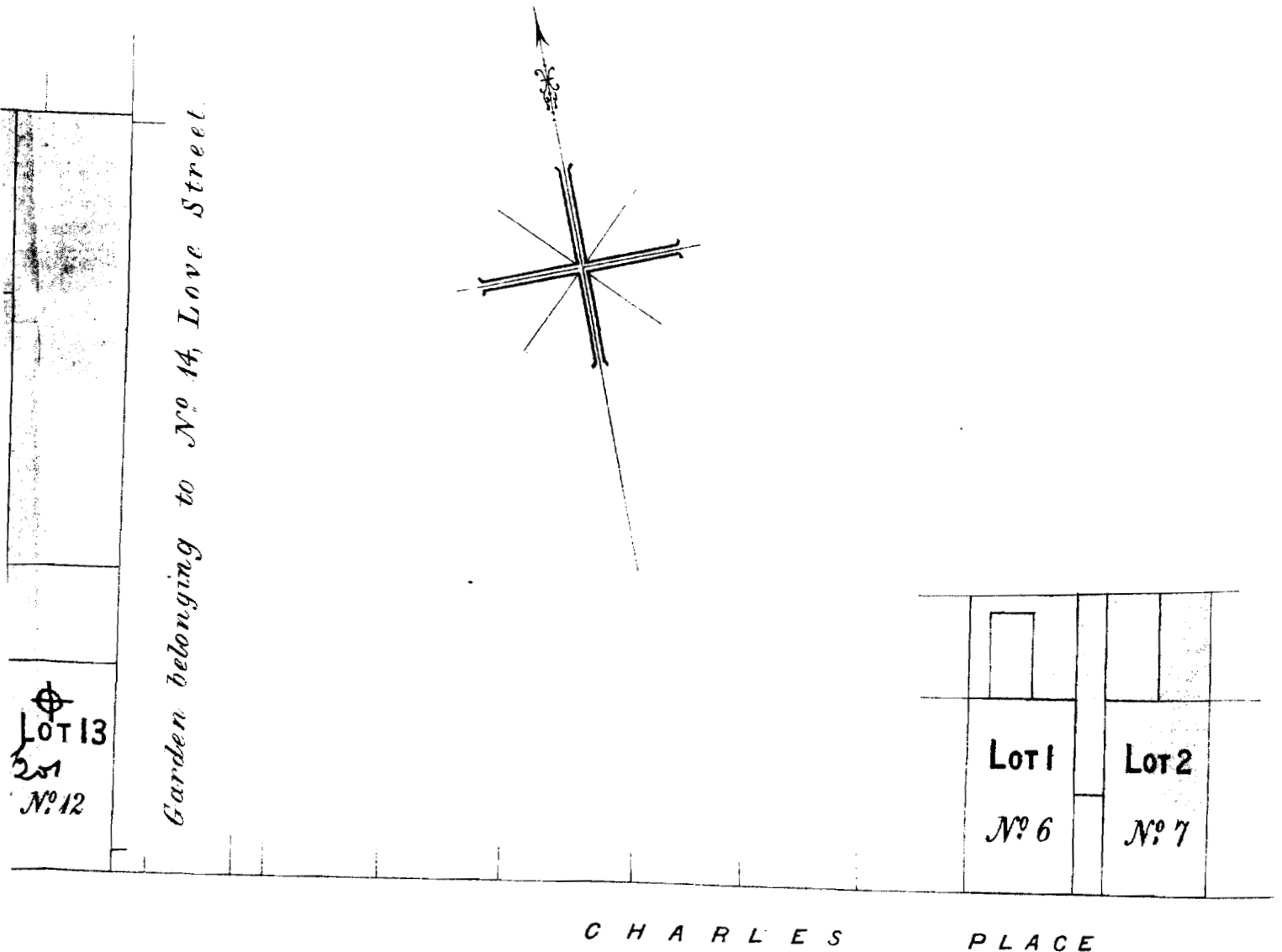
*To be sold by*

MESS<sup>RS</sup> ALEXANDER, DANIEL, & COMPY

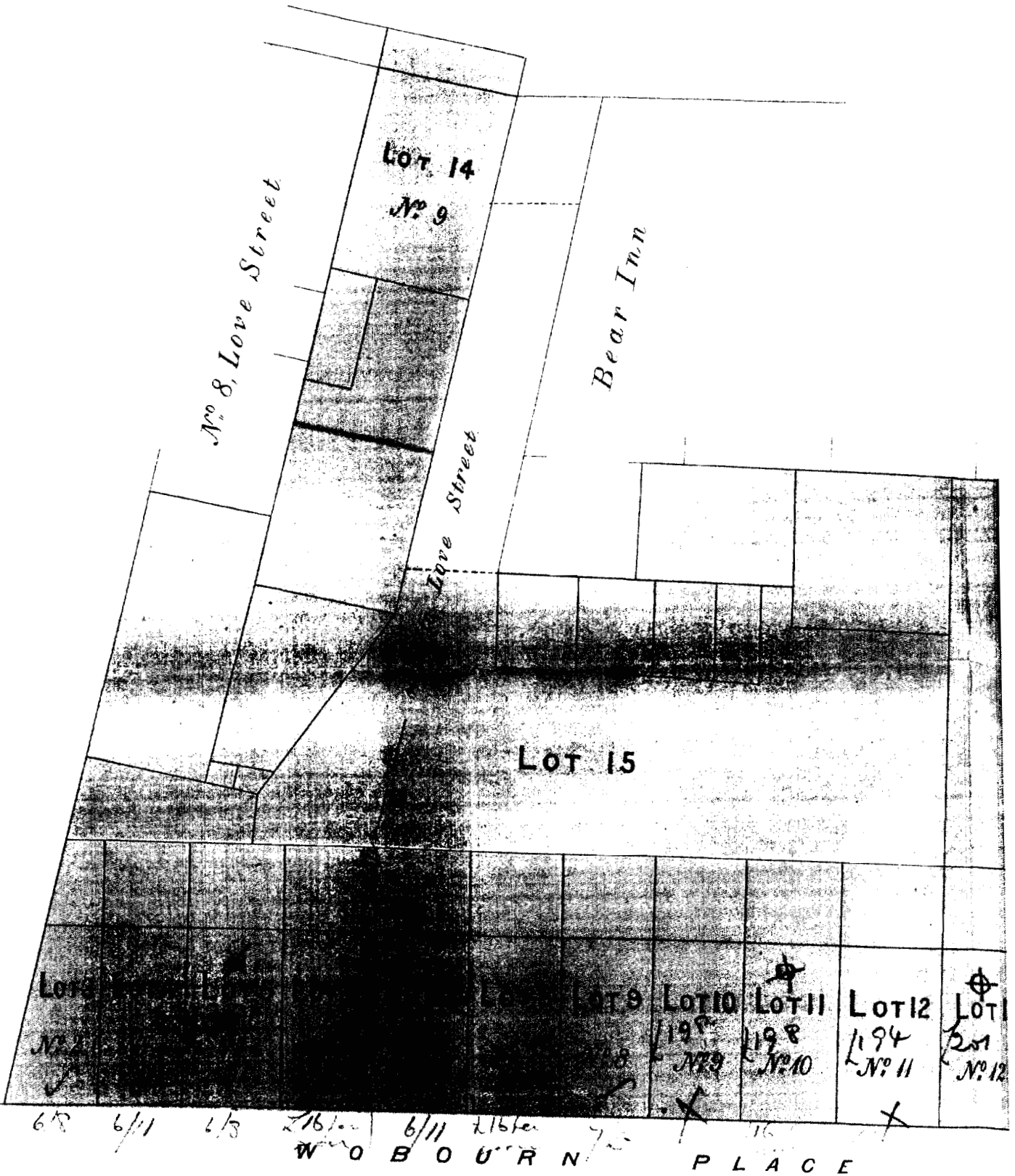
AT THE

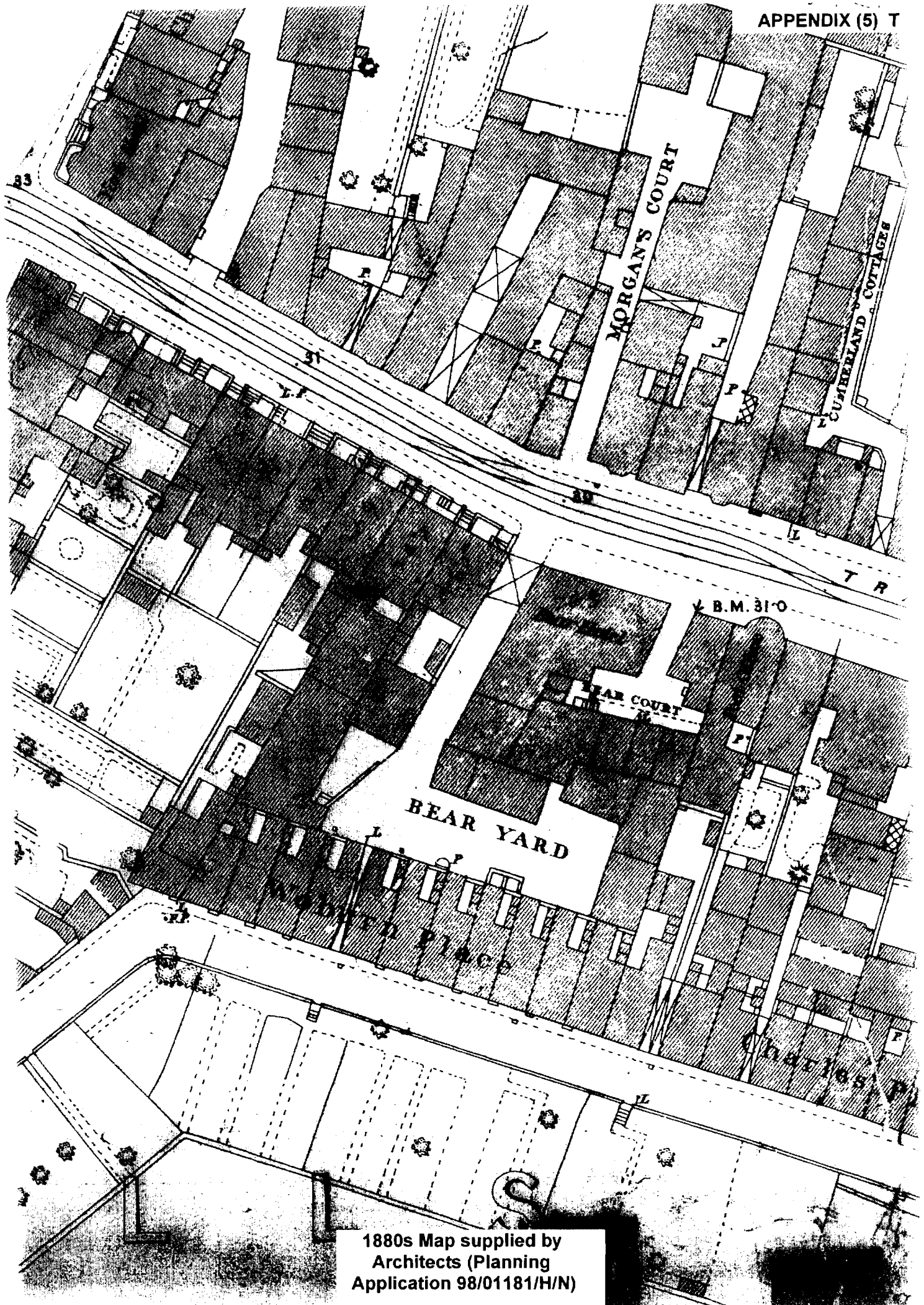
STEAM PACKET HOTEL, HOTWELLS,

*on Tuesday the 9<sup>th</sup> day of April, 1878.*

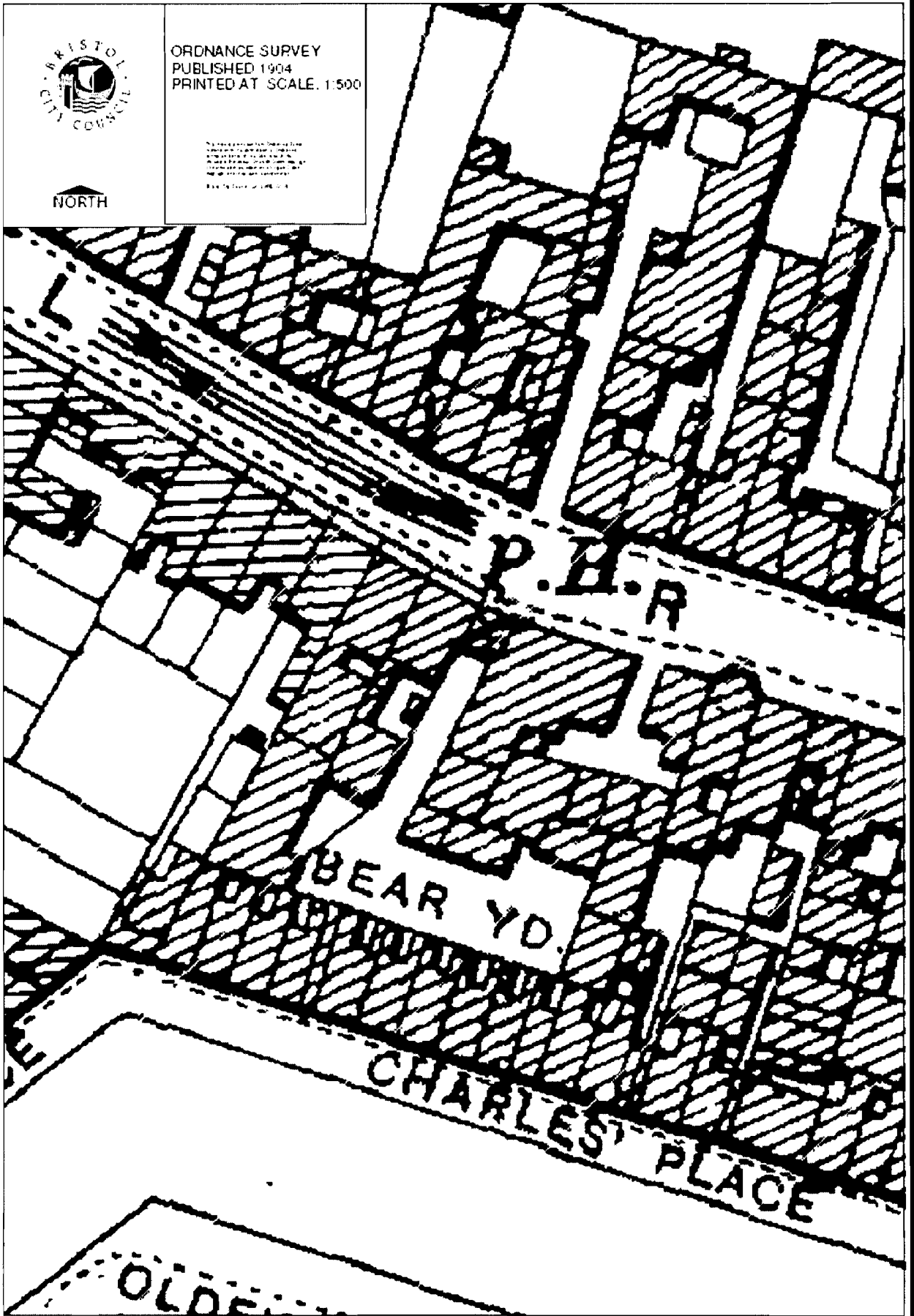


LOVE STREET



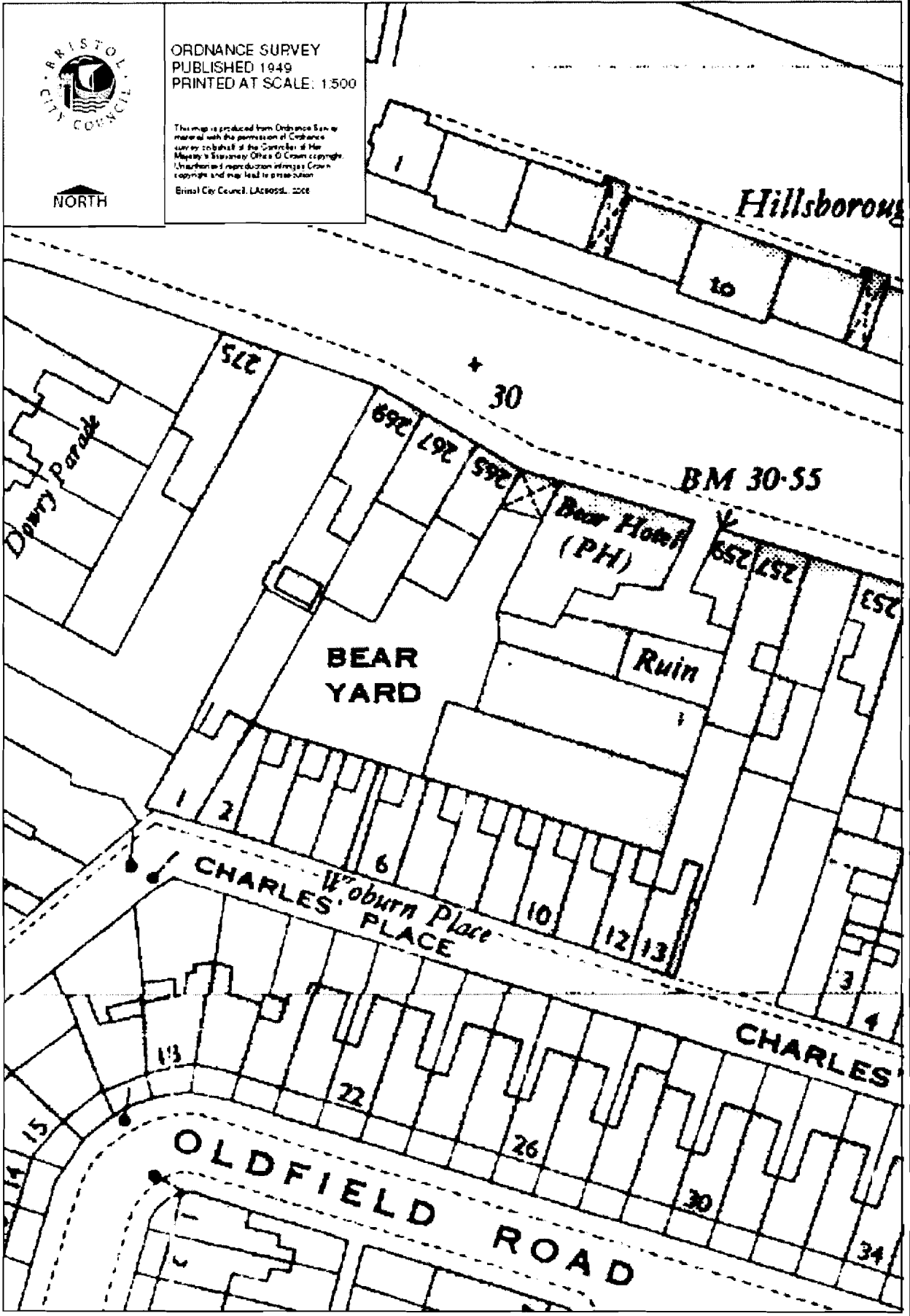


1880s Map supplied by  
Architects (Planning  
Application 98/01181/H/N)

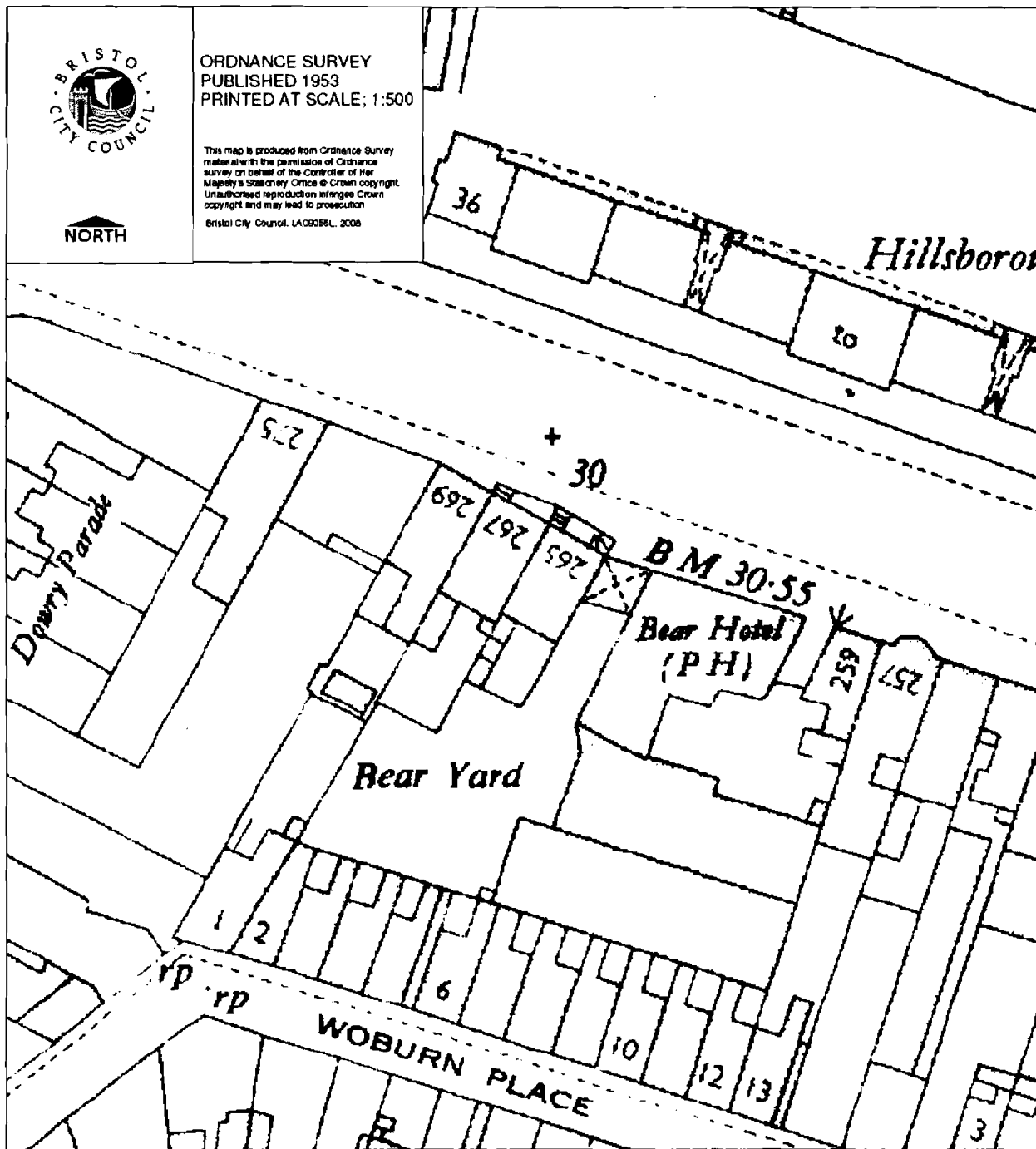


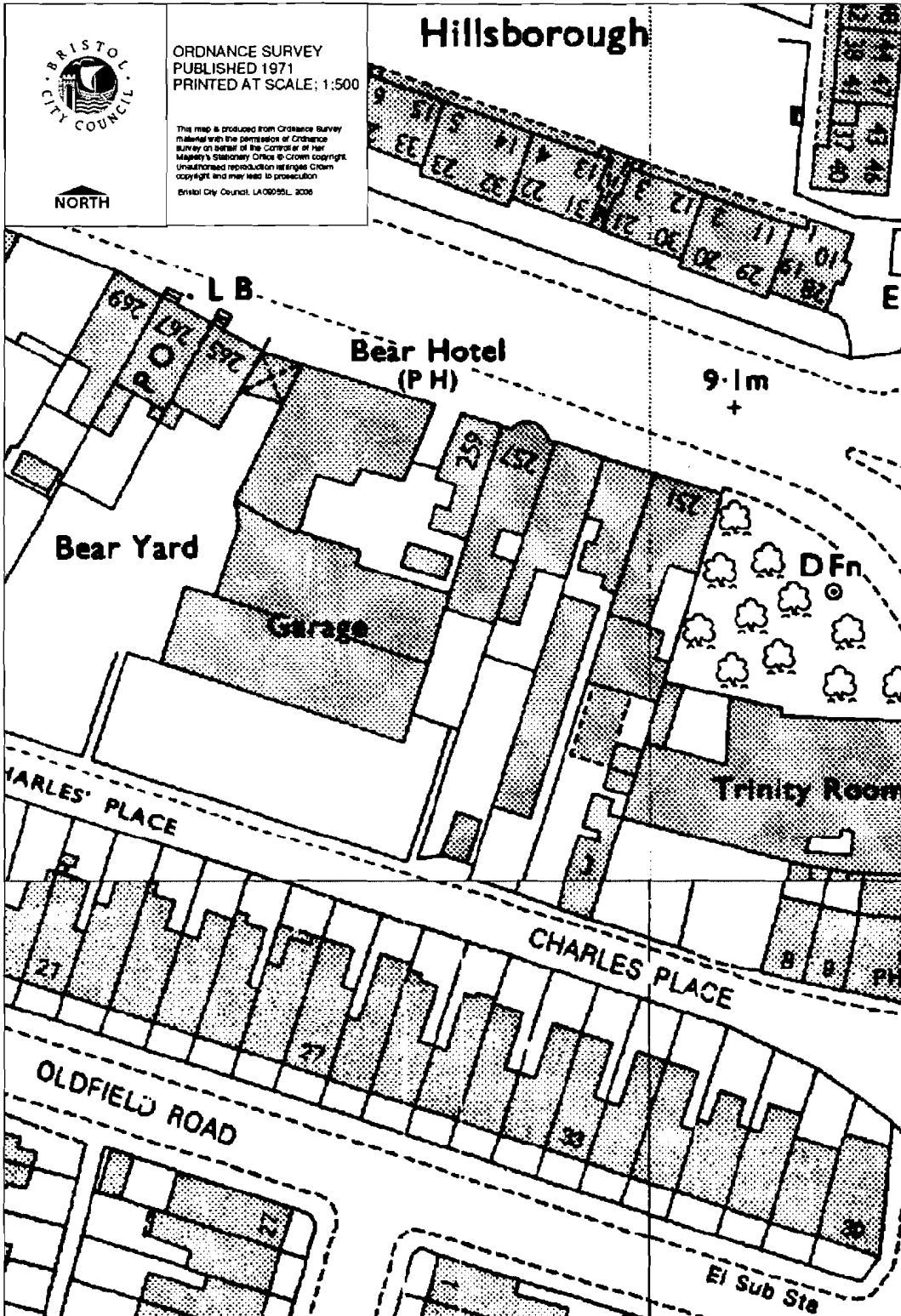
ORDNANCE SURVEY PLAN Published 1904





ORDNANCE SURVEY PLAN Published 1949





ORDNANCE SURVEY PLAN Published 1971