

Appendix 6, Item 1

APPLICATION FOR MODIFICATION ORDER
WILDLIFE AND COUNTRYSIDE ACT 1981
Isle of Wight Council Definitive Map and Statement

Application	Deletion of section of Public Footpath NT46 along sea wall fronting Beach Cottage, Castlehaven, Niton, IW.
Interviewee	Mr A Eldridge, [REDACTED]
Interviewer	Darrel Clarke, Rights of Way Manager, Rights of Way, IWC (DRC)
Venue	[REDACTED]
Date	21 st July 2016

Mr Eldridge was born on 11th August 1946 and has lived in Niton all of his life, with the exception of 9 years whilst serving in the Royal Navy (approximately 1960 – 1970).

Mr Eldridge explained that his Mother worked at the café at Beach Cottage from the late 1940s until the early 1960s. There was a lean-to on the eastern side of the Cottage which was the kitchens/serving area for the café. The grounds/gardens of Beach Cottage, which then included the village green area, were used for seating for the café - there was seating and deck chairs etc. Access was gained between the garden of Beach Cottage and the village green area through a gate (this still exists now). There was a further structure at the southern end of Beach Cottage grounds adjacent to the sea wall. One side of this (facing the area which is now the village green) was used for the storing of seats and deck chairs. The other side of the structure was a tea-room used by patrons of the café when shelter was required from the weather.

Mr Eldridge has recollection of the area from age 5 onwards and described spending much of his childhood at Castlehaven. Between May and September he would go to Castlehaven every day after school (as his Mother was working at the café) and would often be there in the evenings as his Father (who worked for Cheek Brothers) was at Castlehaven making pots and fishing. His Father was later involved in the construction of the first timber caravans in the late 1940s, early 1950s. Mr Eldridge would spend most days at Castlehaven during the school holidays – it was a very popular beach/area. This continued until the early 60s by which time he was in his mid-teens and therefore more independent and not having to be with his parents after school.

During his childhood, Beach Cottage, the café, the village green and the campsite/caravan park was owned by a Mr Haynes. He recalls the whole of this area being owned by Mr Haynes and it was very much a private area.

He recalls the sea wall as it existed at that time. At the eastern end of it was a white picket gate with "private" on it. The word "private" was on a rectangular plaque affixed to the middle of the gate. The gate was next to the deck chair/tea room structure explained previously. On the other side of the gate was the top of the sea wall as it exists today. The situation can be clearly seen in the photo of his Mother and Sister-in-law. The plaque can be seen in the middle of the gate. The public didn't use the sea wall to gain access to the cliff path as this would have meant them going through an entirely private area i.e. garden and grounds of Beach Cottage and the camp/caravan site. At that time the public could simply walk off of the green onto the beach, between groynes. There was a well dug in the foreshore for the purposes of catching crabs and lobsters. He recall being able to walk down to this, past it and then along the beach below the sea wall and the seaward side of groynes in front of the sea wall. The public then made their way up the coastal slope but this was not where NT46 is shown on the Definitive Map – it was much further along the coast, past the camp site and

nearer the Lighthouse. He recalls that the public used to be able to walk all the way to Rocken End.

The route in front of the sea wall was very much tide dependant i.e. not possible at high tide. At that time he recalls rocks at the bottom of the sea wall and the wall itself curving outwards (a bullnose) and then becoming vertical. Originally there was no boundary wall on the northern side of the path along the top of the sea wall. Later a low 2 foot wall was built to stop the sea flooding the garden e.g. during storms. Later on the wall was made higher, as it is now, to protect the garden further from flooding.

The sea wall path was used by Mr Haynes and his family to get to their garden. Patrons of the café used the other gate in the eastern boundary wall of Beach Cottage. He acknowledges that the public used the path along the sea wall i.e. to use the toilets forming part of the camp site/cafe but they were trespassing. Mr Haynes was renowned for being slow but he recalls him being very particular about people not using the sea wall and was very quick to confront people and tell them not to use it and to use the gate in the eastern boundary wall if they wanted to go to the café and use the toilets.

Photograph of Mother and Sister-in-law: the area of land to the left of the white picket gate - Mr Eldridge explained that this was not a path or ramp to the beach. Regular works occurred to defend the cottage and grounds from the sea. Timber piles were put into the ground and then filled up with rocks and concrete to create sea defences. It was possible to climb and clamber down as an adventurous child would do but it wasn't a path or ramp that the general public would use as a path. The area in front of the green, and the sea wall always had groynes of some description to provide protection from the sea – constant work was required to provide sea defences.

In addition to his time spent in the area as a child he has regularly spent time at Castlehaven all his life. He was the Chairman of the Castlehaven Harbour Club for 31 years (ending in 2012) and his Father was the Chairman before him, starting soon after the end of the Second World War. Mr Eldridge considers himself to have very clear and detailed knowledge of and memories of Castlehaven from aged 5 onwards. Throughout all of this time he can never remember a time when there wasn't a high drop of at least 12 foot from the top of the sea wall to the beach below (at the western end of the sea wall).

Definitive Statement: Mr Eldridge knew the two surveyors who signed the Statement. Burt Sprake was a postman. He had walking difficulties due to a war injury. Mr Braversrock was a very prominent member of the village and owned the shop on the corner of Rectory Road and the High Street (now Norris stores). He does not consider that either of them had good knowledge of Castlehaven and cannot recall ever seeing them there. He considers that neither the map nor statement were drawn/completed correctly and the path was not properly surveyed. The path shown on the Map going up the coastal slope to the camp site did not exist in the 1950s. If the map does show the path going along the sea wall then continuing at the western end would have been impossible due to 12 foot drop to the beach. The public walked along the shore in front of the wall then made their way up the coastal slope much nearer the lighthouse. The statement is incorrect as what is described was over private land and not used by the public. It was access for the Haynes family only. There was a private sign on the gate at the eastern end of the wall. There was an element of public use but he considers that this was trespass due to the private sign on the gate and the fact Mr Haynes would challenge people that used it.

During the interview 15 photographs were provided by Mr Eldridge and photographs of them were taken by DC. Copies of the photos are attached. Approximate dates and comments have been added thereto. *

APPLICATION FOR MODIFICATION ORDER
WILDLIFE AND COUNTRYSIDE ACT 1981
Isle of Wight Council Definitive Map and Statement

Finally, Mr Eldridge explained that he has no strong feelings on whether the path along the sea wall should be available to the public or not. He does not need to use the path and does not live nearby and is not affected by it. He is simply providing information as a record of what the situation was in the area at the time.

End of interview.

[* note: various comments were added to the photographs by Mr Eldridge post interview]

1



Date (approximate): Not known
Comments: Very early photograph showing "green" leading straight on to beach. Steps onto sea wall shown on the left.

Date (approximate): NOT KNOWN

Comments: early photograph, "green" in the middle, Beach Cottage in the background, groyne on the beach. Foreground shows bathing tents.

2

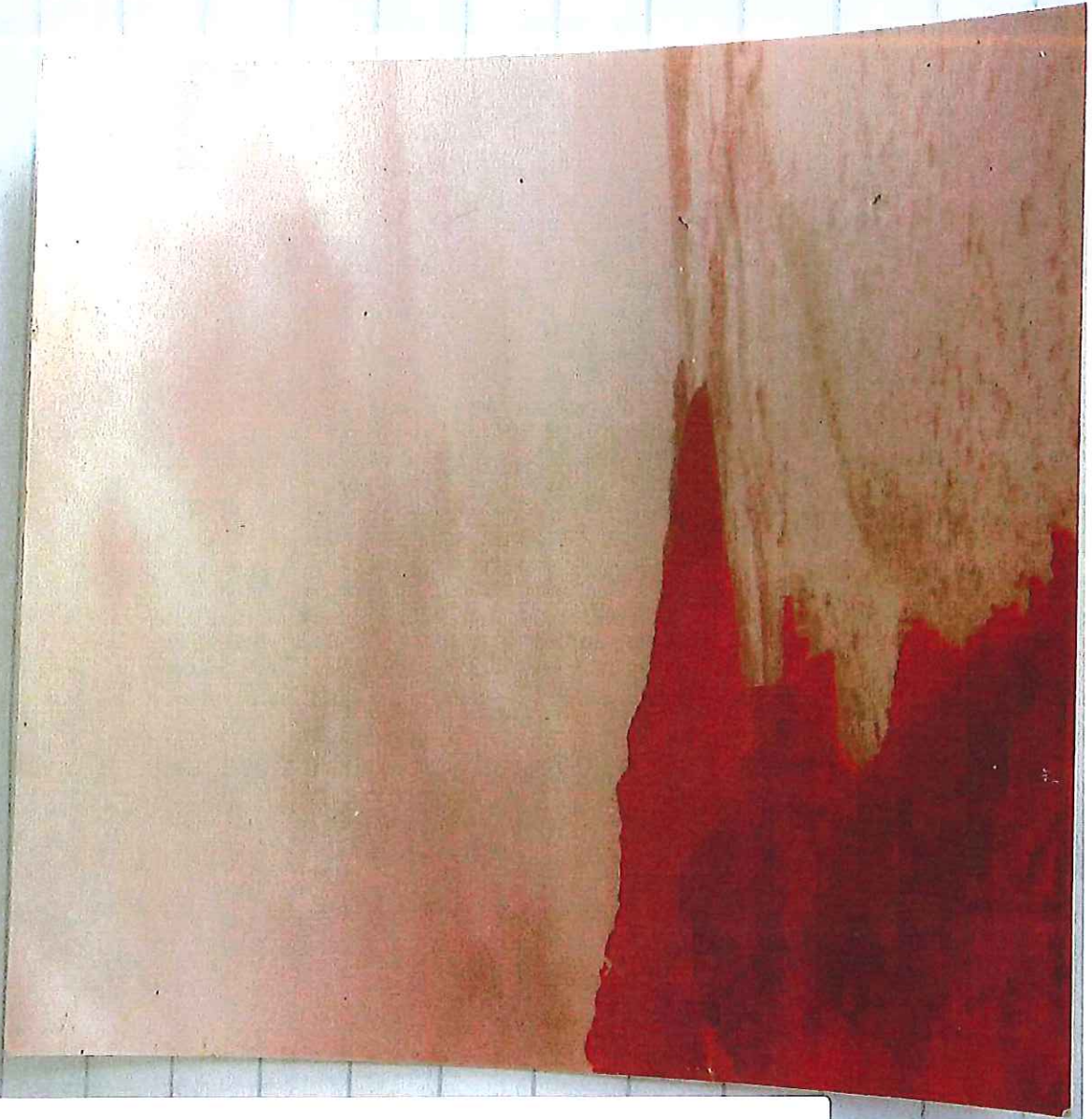


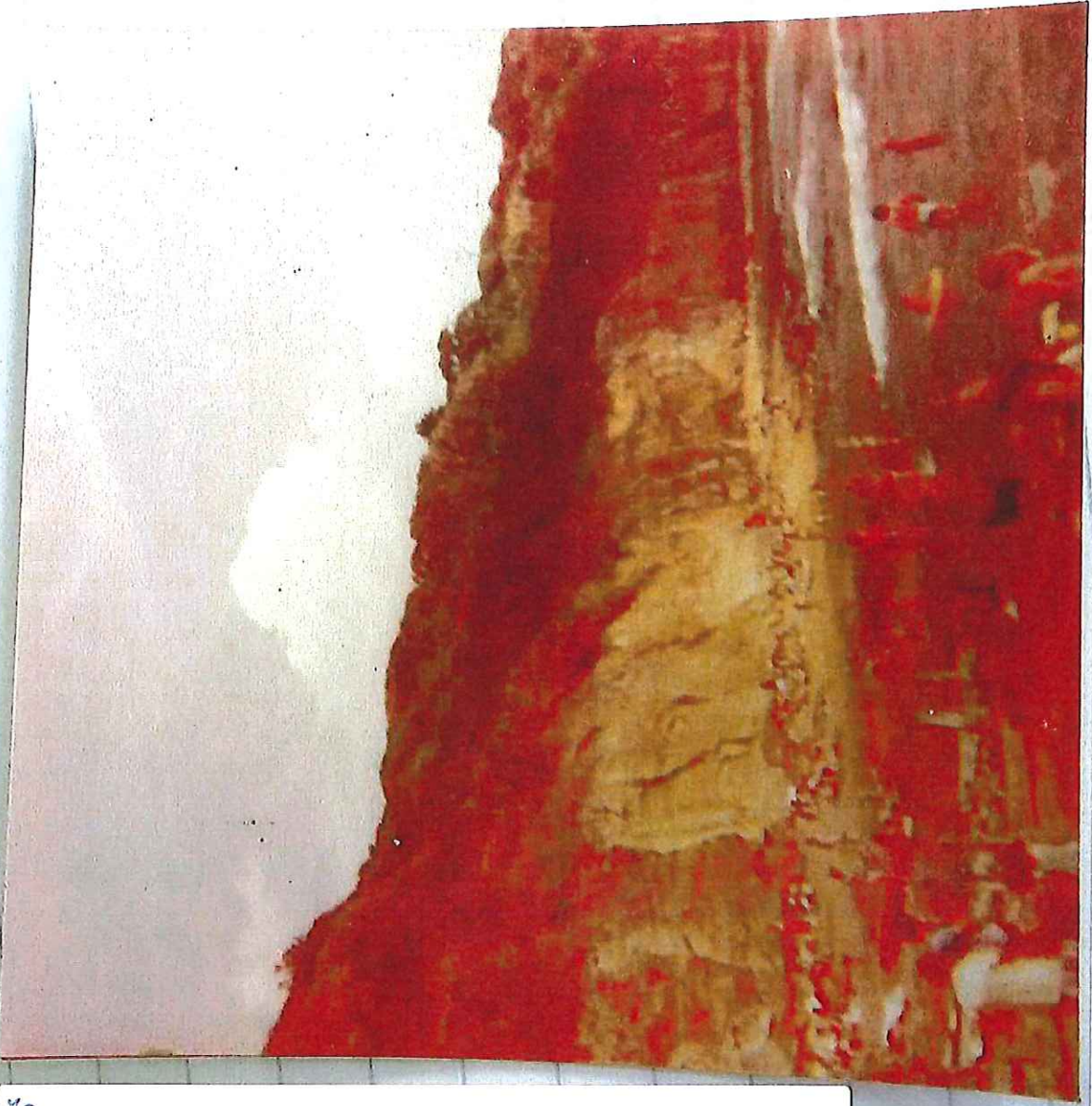
Castle Haven N/ton 3/4

3

Date (approx.): LATE 60s

Comments:
image shows drop off of sea
wall at that time.



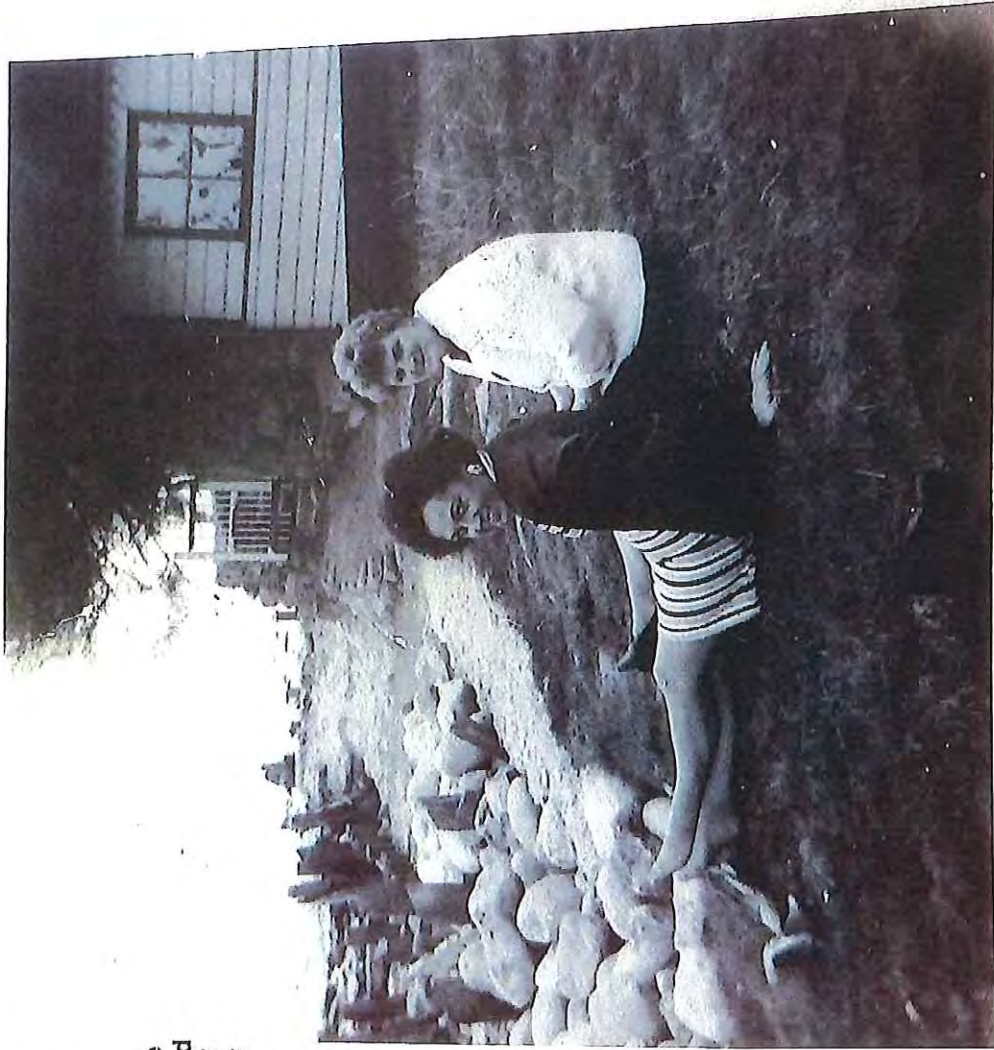


Date (approx.): LATE 50's
Comments:
Area east of Beach Cottage
and sea wall showing
popularity of area in its time.

Date (approx.): LATE 60s

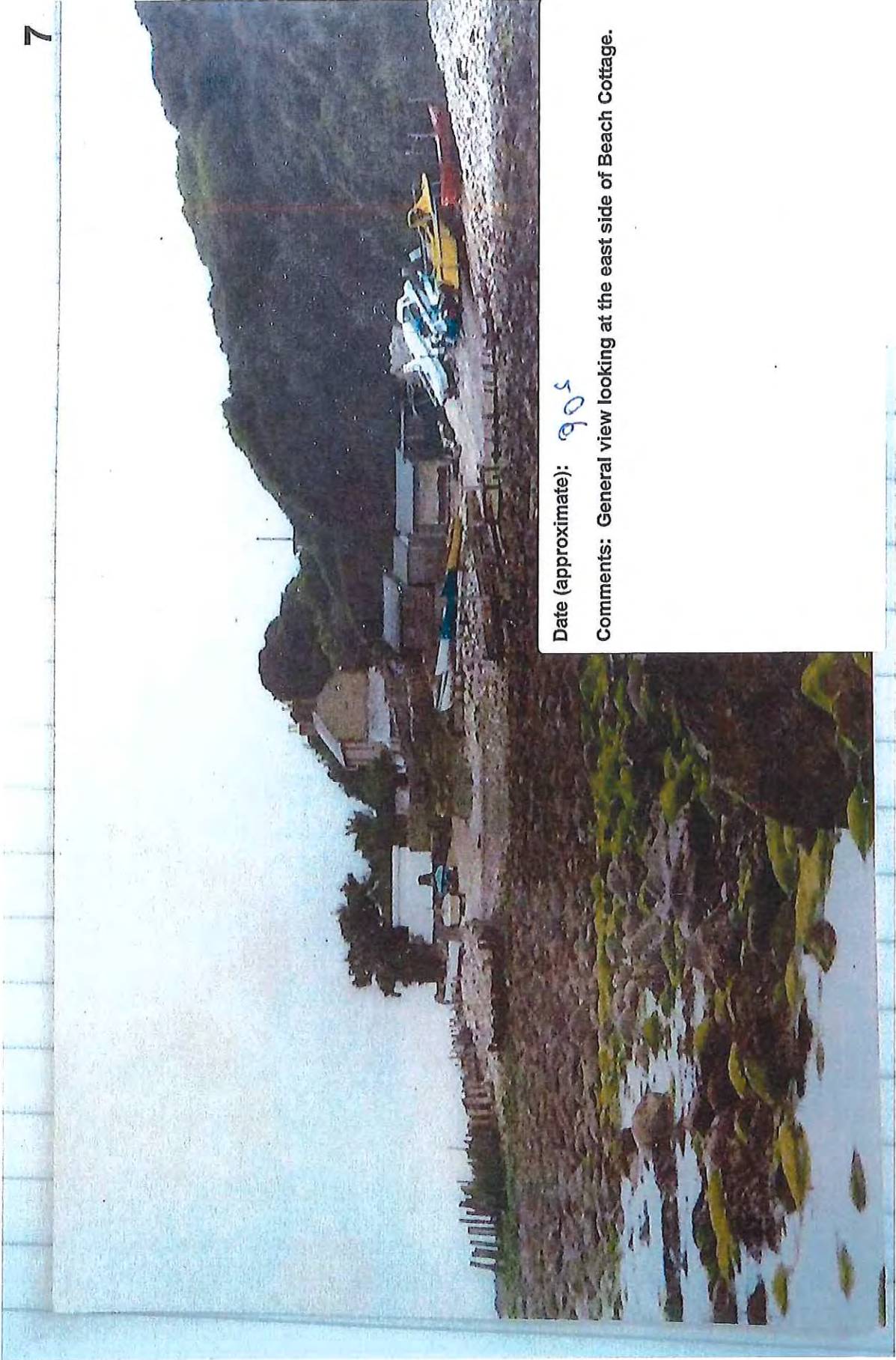
Comments:

Photograph of Mr Eldridge's Mother and Sister-in-law sat on the area known as the "green". It was possible to walk straight off of the green onto the beach. The gate in the background is at the start of the sea wall as it exists now. The plaque in the middle of the gate had the word "private" on it. The area to the left of the gate was sea defences in front of the sea wall - there was no ramps or other ways down from that area, access to the beach was off of the green. The structure to the right of the gate was a building used by Mr Haynes to store deck chairs (on the green side) and as a tea room on the other side (part of the cafe).



Date (approx.): 5/27/70
Comments:
Image shows the start of the sea wall on the right (with the gate open) and sea defences to the left of the steps (generally timber groynes or piles backfilled with rocks and concrete).





Date (approximate): 90s

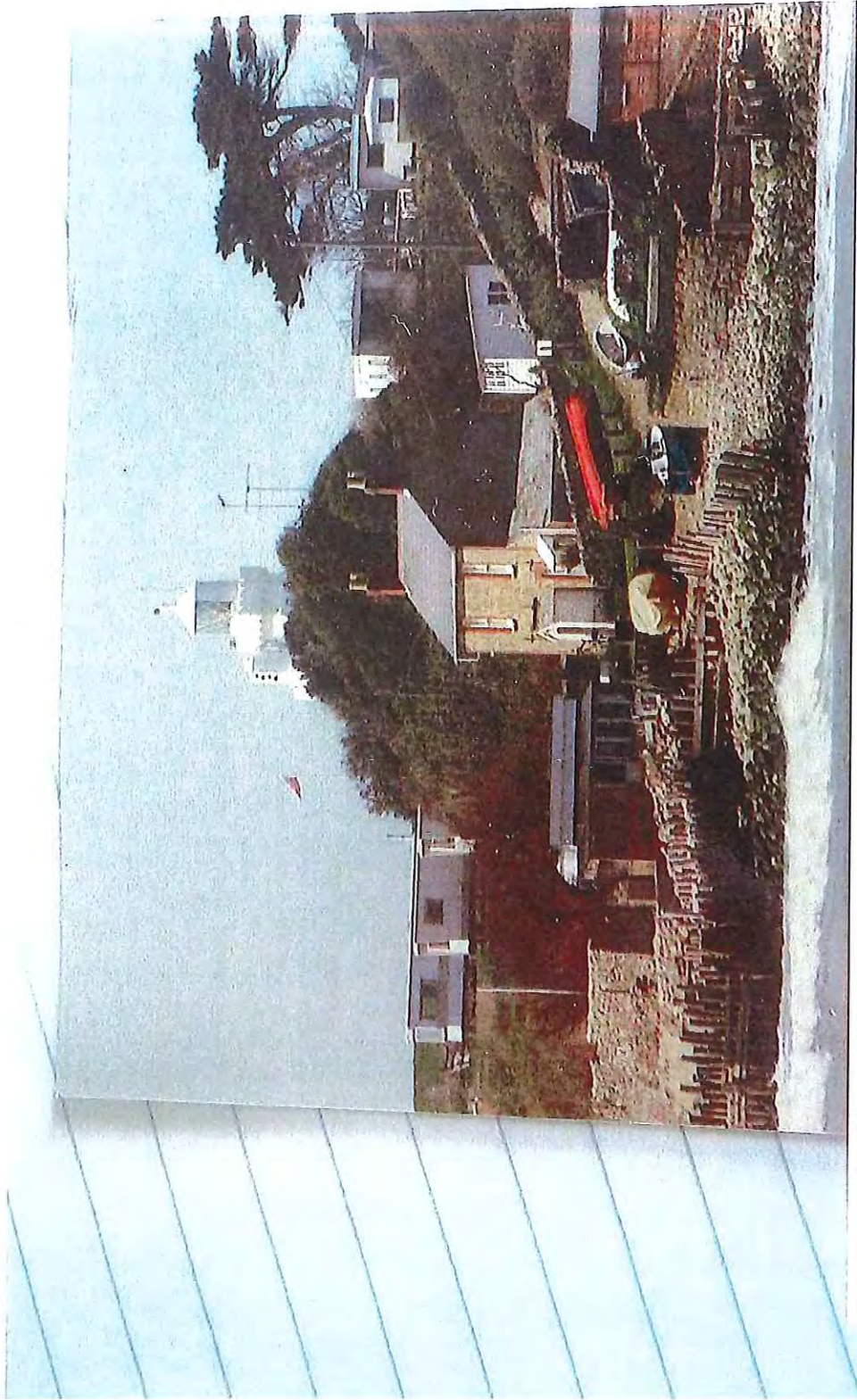
Comments: General view looking at the east side of Beach Cottage.

Date (approximate): *early 80's*

8

Comments: western end of sea wall showing drop to the beach. Groynes in front of the sea wall and along the beach in front of the mound.



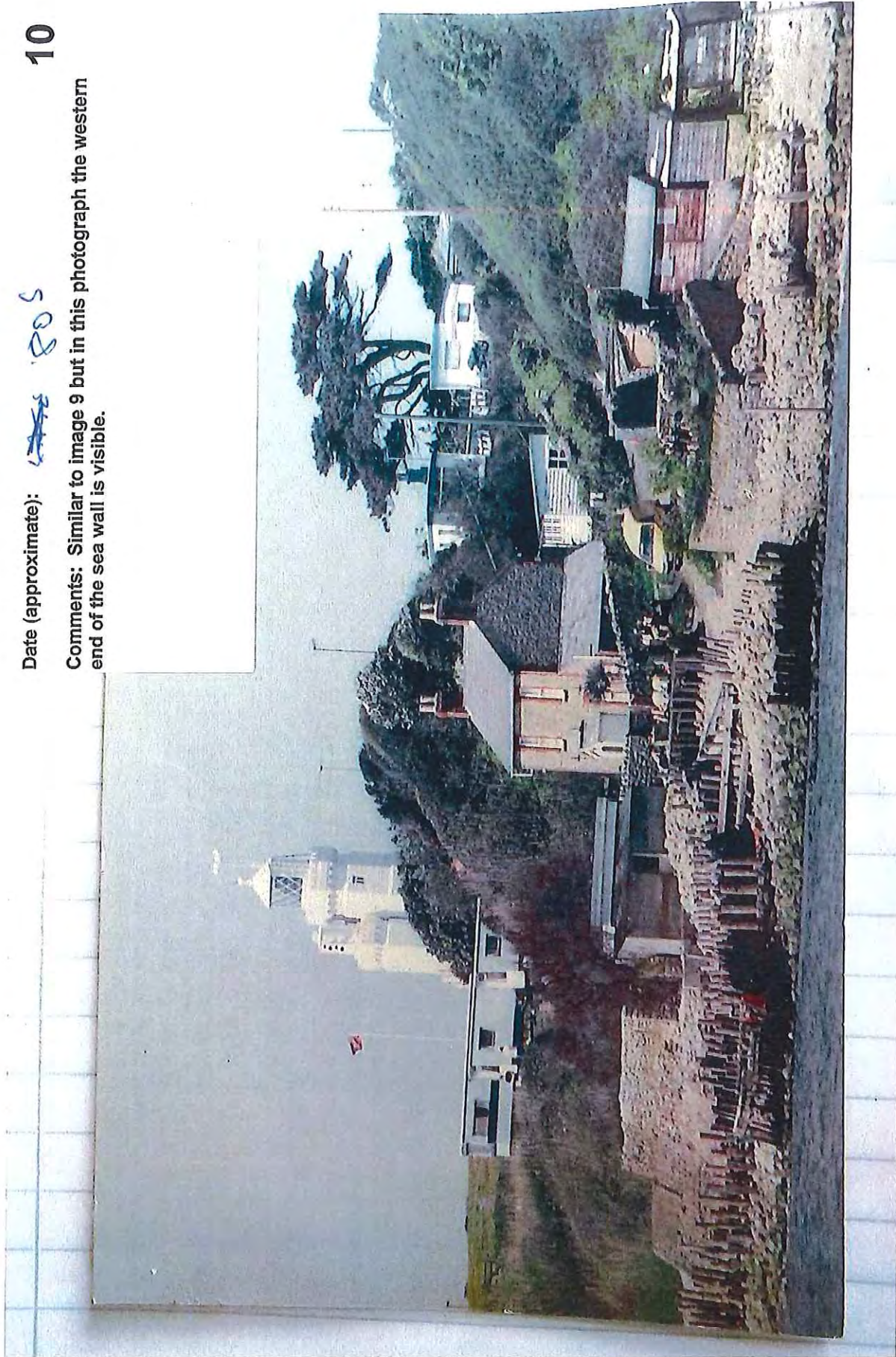


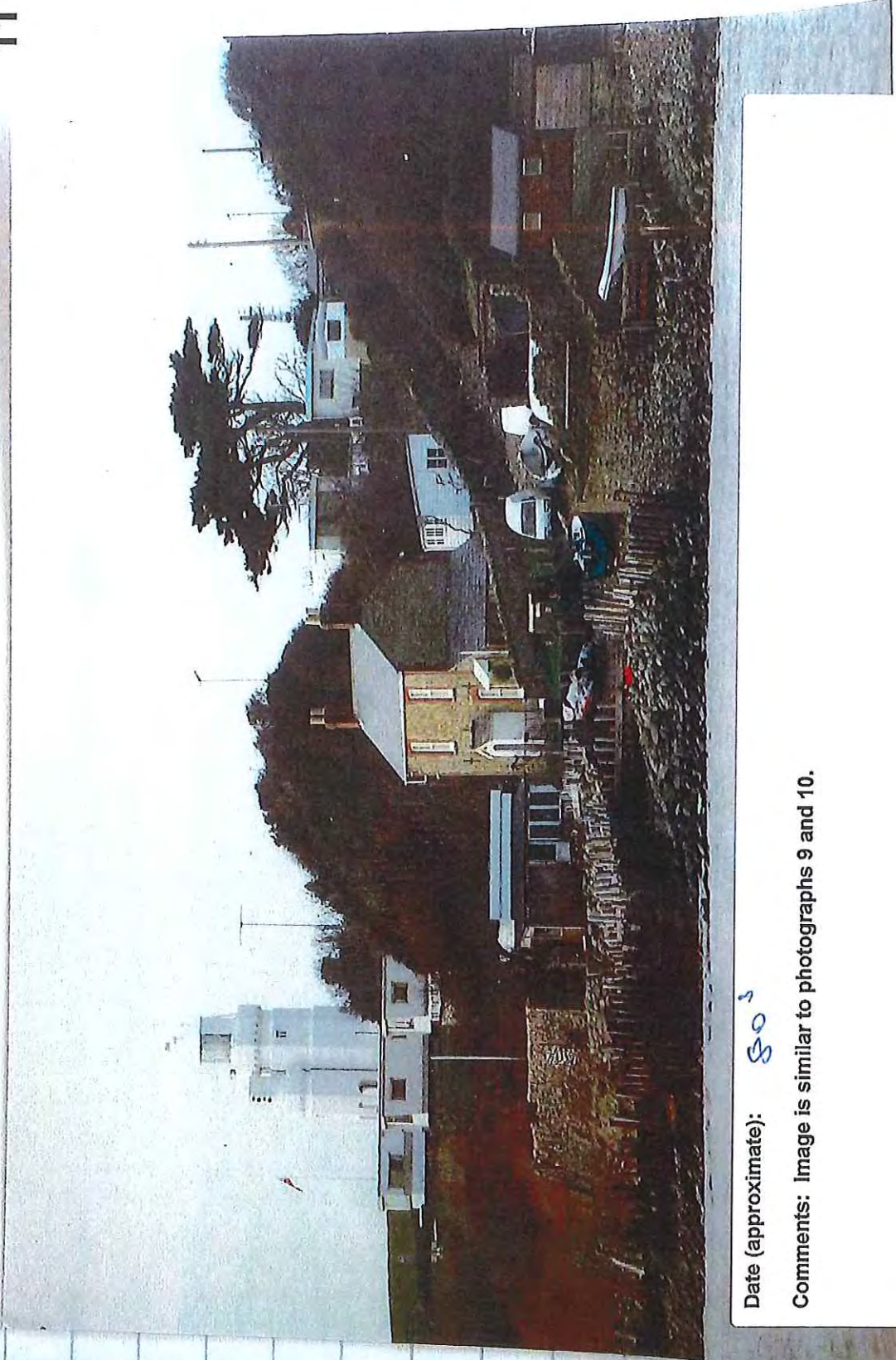
Date (approximate): 90's

Comments: Image shows the tea room building in front of the cottage. To the left of that structure the steps on to the sea wall are visible as is the post to the former white picket gate.

Date (approximate): ~~1980s~~ 1980s 10

Comments: Similar to image 9 but in this photograph the western end of the sea wall is visible.





Date (approximate): 80's

Comments: Image is similar to photographs 9 and 10.

Date (approximate): 87-88

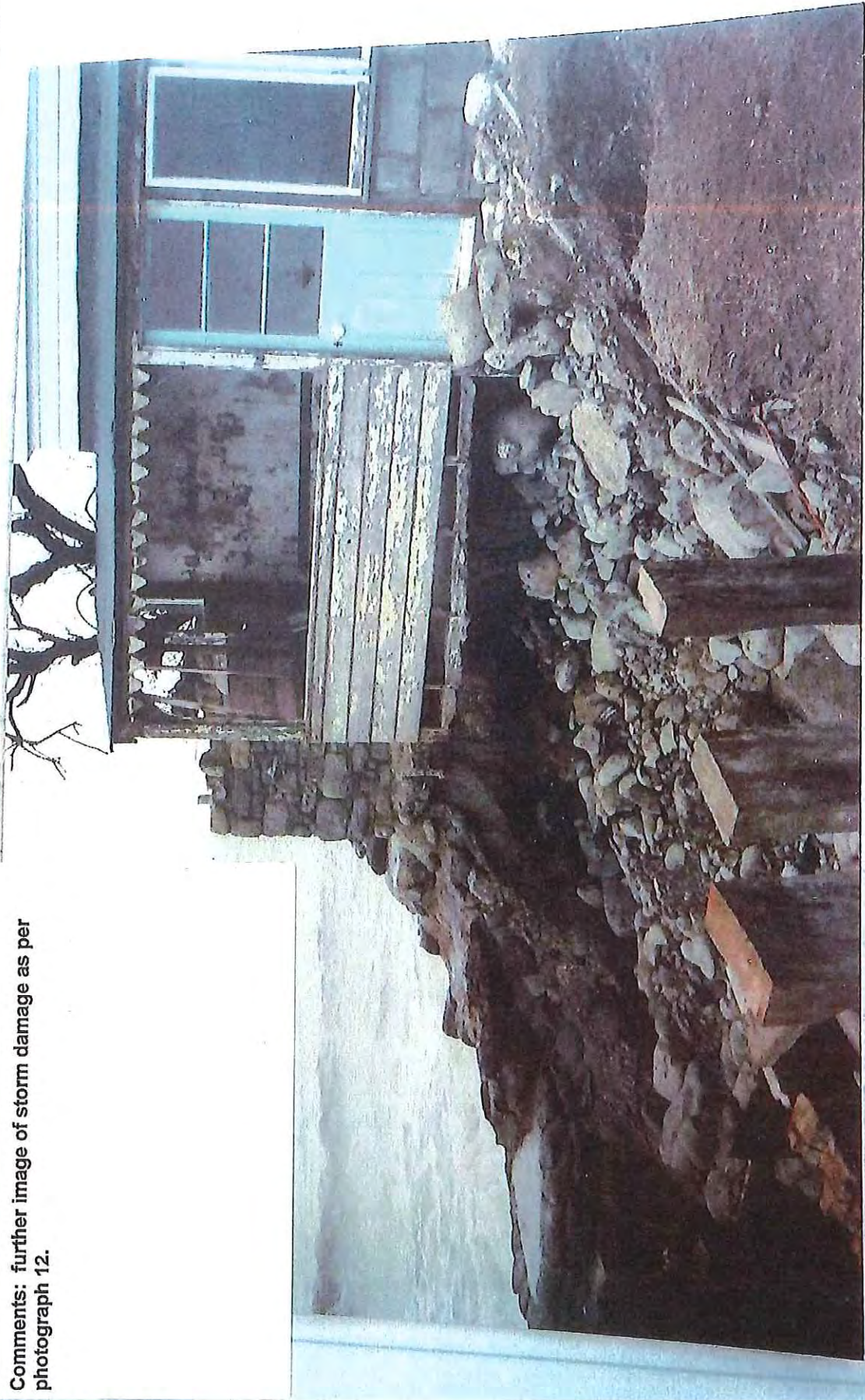
Comments: image shows severe damage to the green following a storm. This undermined the structure used as a tea room. The post of the former white picket gate at the start of the sea wall can be seen just to the left of the tree.



Date (approx.): 87 - 88

Comments: further image of storm damage as per photograph 12.

13

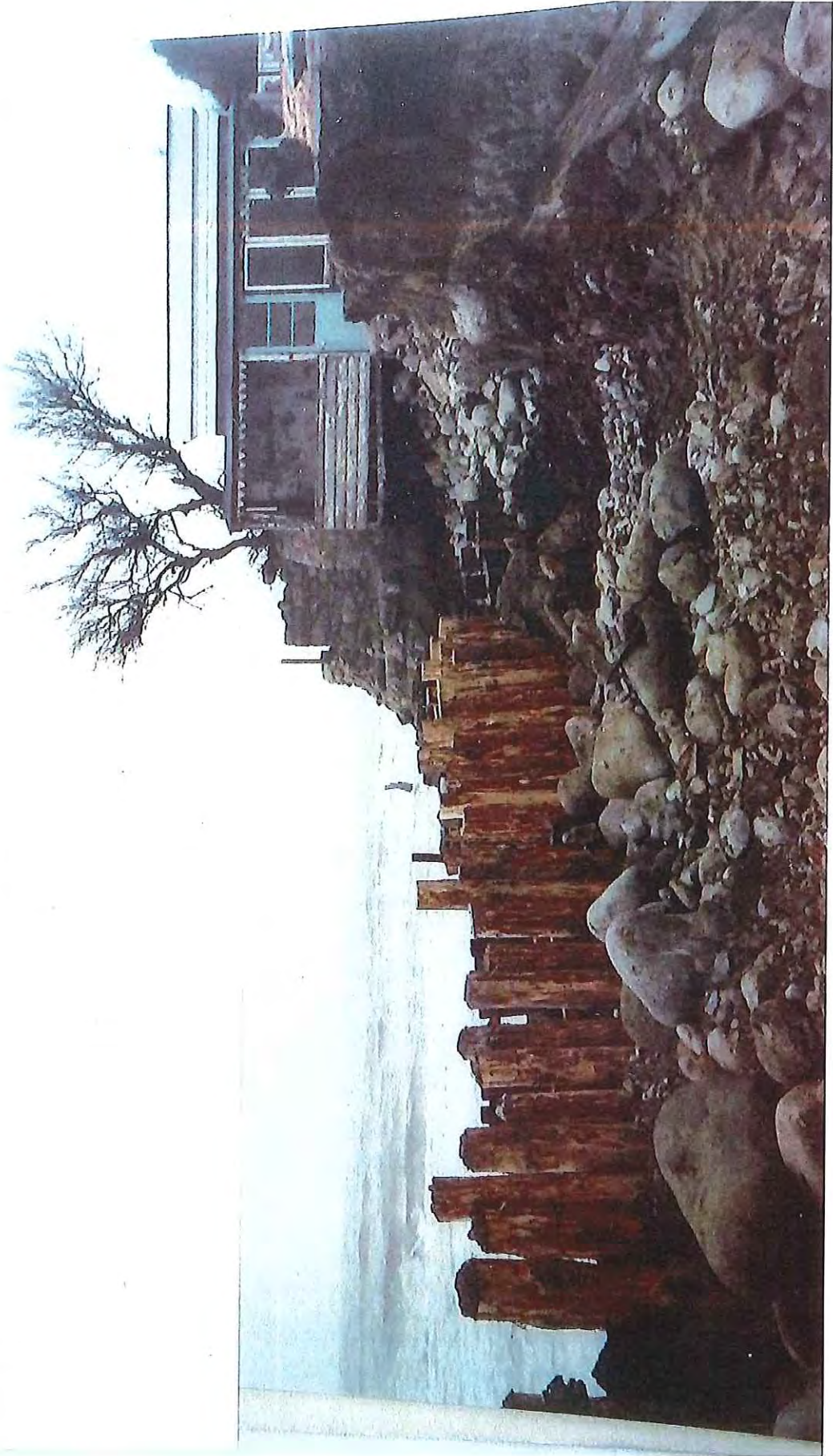


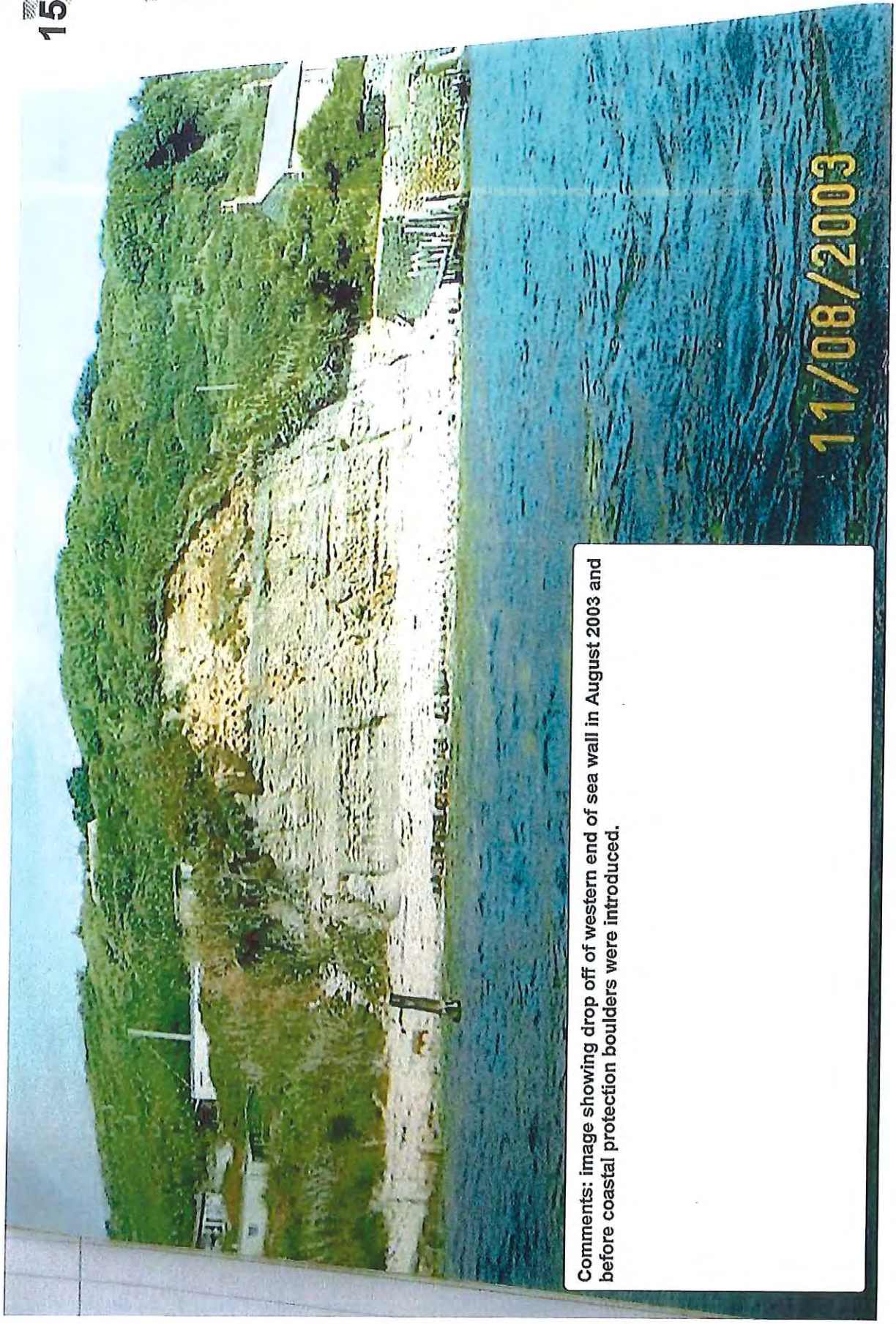
Date (approximate):

1987-88

Comments: Further image of storm damage as per photographs 12 and 13.

14

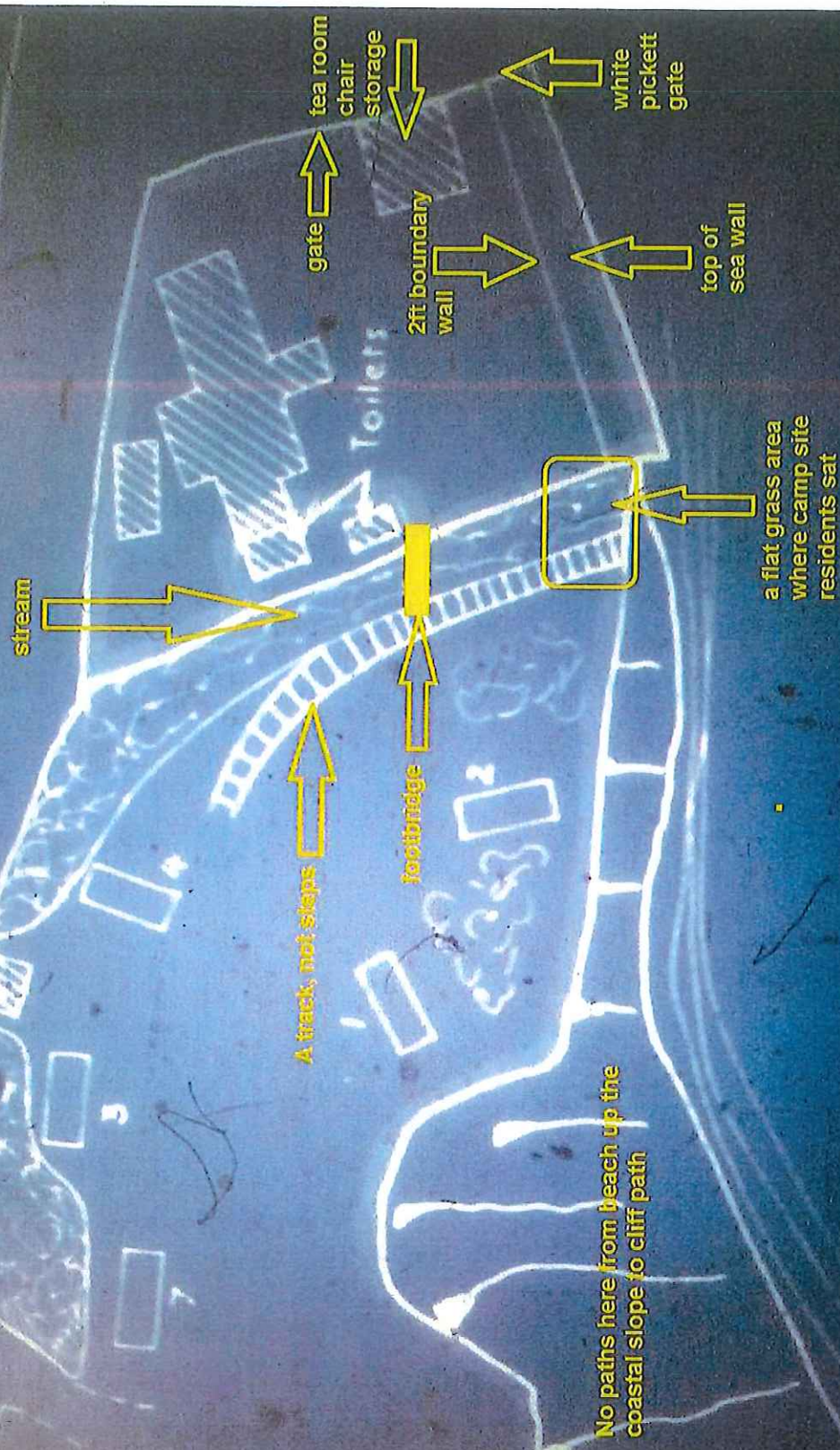




Comments: image showing drop off of western end of sea wall in August 2003 and before coastal protection boulders were introduced.

1961 Planning Application Plan

Description of area as provided by Mr Eldridge at interview on 21st July 2016
1950s and 1960s



ADDITIONAL PROPERTY INFORMATION FORM

If you are able to complete this form now, it will save time later.

If you need more space please use the back of the form.

	Question	Reply
1.	Do you know if the property including the garden or common parts been used for any non-residential purpose or any purpose which might have contaminated the land? If so please provide details.	Not contaminated
2.	Do you know if there has been any flooding at the property including the garden or common parts from natural causes? If so please provide details.	No flooding
3.	Since its original construction, has it been Extended / Added to / Altered / Underpinned / Changed use If so, please give details overleaf and enclose all Planning Permissions, Building Regulation Approvals, plans & specifications	No
4.	Has the property had replacement windows since 1 st April 02? Please say which were replaced and enclose the guarantee/s and FENSA certificates or Building Regulation Approvals	No
5.	Has any work to the electric wiring in the house, garden or outbuildings been carried out since 1 st January 2005? If so, please confirm what was done and supply a registered electrician's Certificate or Building Regulation Approval	No
6.	Has any work to the gas boiler or appliances been carried out since 1 st April 2002? If so, please confirm what was done and provide a certificate from a Corgi Registered Engineer.	Only the annual service.
7.	When was the central heating / hot water system last serviced? Is it in good working order? Is there a service contract? – If so please supply details	August 2005 Yes/ Yes with Necta
8.	Is there a burglar alarm? Is there a service contract for it? – if so please supply details Will code / operation details will be given to buyer on completion?	No — —
9.	Do you have a satellite or cable system?	No
10.	Please supply the names of the suppliers for Electricity Gas (Propan) Water Drainage Telephone / Cable / TV	Southern Electricity Medica Gases Southern Water Septic Tank Telephone = BT
11.	Do you know if any of the following matters affect the property? Leases or tenancies or rights claimed by anyone living in the property Rights of way across the property for access etc (including public rights) Pipes, wires or cables crossing on, over or under the property Rights of light Rights of support from adjoining properties Other people's rights to take things from the land (such as wood or hay) Any customary rights (rights deriving from local traditions) Other people's rights to mines and minerals under the land Franchises (such as the right to hold a fair) or Manorial rights Rents reserved to the Crown on the granting of a freehold estate Any rights relating to embankments or sea or river walls Any rights to payments in lieu of tithe (usually called Corn Rents) Any liability to repair the Chancel of a local church	No No Pipe to septic tank No No No No No No No No No No No
Signed by all Sellers		
Date		JONG140073

anything resem-
 socket, ferrule,
 nts, machinery,
v.t. (past and
 with shoes; to
 pair of shoes;
 altogether. to
 other's place or
 it with a violent
 A man or boy
 s of passers-by
 ng a shoe over
 to assist one
n. (Bibl.) A
 uee-leather, *n.*
 shoemaker,
pres.n. shoe-
 puts on shoes;
v.t. (prov.)
 or jog (along);
 The heredi-
 y and virtual
 e, abolished in

oy sailors. shop-boy, -girl, *n.* One employed in a
 shop. shopkeeper, *n.* The owner of a shop, a trades-
 man who sells goods by retail. shoplifter, *n.* One
 who steals from a shop under pretence of purchasing.
 shoplifting, *n.* shopman, *n.* A shopkeeper or a
 man employed to assist in a shop. shop-walker, *n.*
 A person employed in a large shop to direct customers,
 etc. shop-worn, *a.* Faded, soiled, etc. by expo-
 sure in a shop. shopper, *n.* shopping, *n.* shoppy, *a.*
shore (1) (shōr) [A. S. *scora*, from *seoran*, to SHEAR].
 The land on the borders of a large body of
 water, the sea, a lake, etc.; (*Law*) the land between
 high- and low-water marks. shoreless, *a.* shoreward,
a. and adv.
shore (2) (shōr) [M. H. *schore* (cp. M. Dut. *schōre*,
 Dut. *schoor*, Icel. *skorða*), etym. doubtful], *n.* A prop,
 a stay; a support for a building or a vessel on the
 stocks. *v.t.* To support or hold (up) with shores.
 shoring, *n.*
shore (3), past [SHEAR].
shoreless, shoreward [SHORE (1)].
shori [SCHORL].
***shorling (shōr' ling) [SHORE (3) or SHORN, -LING].**
n. (prov.) A newly-shorn sheep; wool shorn from a
 living sheep, opp. to merling.
shorn, *v. n.* [SHEAR].

Event: Planning Hearing, Beach Cottage, Castlehaven Lane, Niton Undercliff, PO38 2 ND

Date: 16 December 2009

Speakers: Mr GP Bailey (Inspector)
Lynne & Les Thorne (Appellants)
Mrs J Penney
Ms S Jones & Mr R Chick (Isle of Wight planning officers)
Mrs A Russell (IoW Council Rights of Way Manager)
Mrs C White (Member of the public)
Mr N White (Member of the public)
Mr LF Wayman-Hayles (Member of the public)

**MERRILL
LEGAL SOLUTIONS**



Digital Transcript of Wordwave International, a Merrill Communications Company

101 Finsbury Pavement London EC2A 1ER

Tel No: 020 7422 6131 Fax No: 020 7422 6134

Web: www.merrillcorp.com/mls

Email: mlsukclient@merrillcorp.com

MR WHITE: Right. I've been at Castlehaven now for the -- I'm 73. I've fished out of Castlehaven for the past 50 years, right? That footpath has been on top of that wall for at least as long as I can remember. I've walked it since I was over 60 and my mother and so forth before, right, so I've been there that length of time.

That footpath has always run along the top of the sea wall, directly down over the end, before the big storm came and took the end of the wall away. And it then was replaced at the western end at a right angle to Mr Thorne's property because it was not practical at that time to put the wall back where it was. So there is still a footpath that runs along the top of the wall and it's still accessible by going down over the rock at the end, on to the beach, which is above high water, and up over the caravan site and along.

There never was a footpath turning off the point where the wall was replaced at the end up the side of the stream, right, heading north. There never was a footpath there. That was just access for Rolly Heinz(?) that owned the cottage and the caravan site. That was just a trodden track. There was never, ever a footpath there.

that is described in the statement, but it was never a public footpath.

MR WHITE: No.

COPY

MR BAILEY: No, I understand that.

MR THORNE: The path -- that photograph --

MR BAILEY: Just a moment. Before you come back, Mr Thorne, let us hear Mr Wayman-Hayles.

MR WAYMAN-HAYLES: I can endorse everything that Mr White says. I actually bought the cottage from Rolly Heinz when he retained the caravan site before my purchase, the toilets -- or the caravan site was served by toilets in the curtilage at the cottage. I insisted, obviously, when I bought the cottage divorced from the caravan site that they be removed. And up until the point the access to those toilets was down this private path, never a public path, that is described as the one in the note, I believe, rather than on the definitive map as such.

MR BAILEY: What years are we talking about, Mr Wayman-Hayles?

MR WAYMAN-HAYLES: About 1972, 1973, something like that.

MR BAILEY: Is that when you disposed of the property?

MR WAYMAN-HAYLES: No, that's when I bought it.

MR BAILEY: When did you dispose of it?

MR WAYMAN-HAYLES: The cottage I disposed of -- it's just that I can't remember.

MALE SPEAKER: About 1983?

MR WAYMAN-HAYLES: It could well be, yes, but I retained the caravan site until 2005.

MR WHITE: Could I come back in a minute, please?

MR BAILEY: Yes, Mr White.

MR WHITE: The land, which is a public land, which adjoins Mr Thorne's property --

MR BAILEY: To the east?

along the front of Mr Thorne's property --

MALE SPEAKER: On the south side?

MR WHITE: Yes. As I say, I can go back 60 years plus knowing that path was there, used the path regularly and still do when I want to go along that way. The fisherman love to stand on that area. They fish out of the sea. I would hate to ever see it done away with because it would be totally wrong.

MR BAILEY: All right. Let me come back to you, Mr Thorne.

MR THORNE: Yes. I'm not disputing there's a footpath there. What I'm disputing is that that was not NT46. This photograph --

MR BAILEY: Wait a moment. All right.

MR THORNE: This photograph, 1960s, you can see the top of the sea wall. You can see a private gate. You can see that the top of the sea wall is substantially higher than the green.

MR BAILEY: The sea wall being ...?

MR THORNE: The sea wall being the top of that level there.

MR BAILEY: All right.

MS JONES: Can I just say that we have not had (overspeaking)

MR BAILEY: No, I know you have not. We will get some copies for you.

MR THORNE: Mrs Russell's got it.

MRS RUSSELL: Yes.

MR BAILEY: I see. That gate was leading to the top of the sea wall, was it?

MR THORNE: Yes.

MR WHITE: Yes, which we removed as fast as it was put there.

copy/PAW - was it?
MR THORNE: By me.

MR WHITE: Yes, by you and me and all the club members.

MR THORNE: And then you can -- and then you can see the ramp. Can you see the ramp going down to the foreshore? This is the ramp going down to the foreshore.

Clarke, Darrel

From: Les Thorne [REDACTED]
Sent: 10 March 2017 10:18
To: Clarke, Darrel
Subject: Re: Public Footpath NT46 : Application for Modification Order

Dear Mr Clarke,

Thank you for your email but it was disappointing to learn so long after the event that you do not believe that you received this evidence.

We have already evidenced that the owner since the late 70s asserts that the top of the sea wall was never the route of NT46. The evidence you do not believe you received was the audio recording of the dialogue between the previous owner, the late Mr Fabian Wayman-Hayles, and Mr Neil White which established that the former was adamant that NT46 did not run on top of the sea wall, that his gate on its eastern end was removed by local people every time he returned to his home in Maidenhead. This facilitated trespass by all for the vast majority of the period of his ownership and led to the mistaken belief that it was a RoW.

Mr White should be prepared to confirm this but if he refuses to and if it is critical to the application we will attempt to source a further copy, which might delay progress.

I look forward to hearing from you.

Kind Regards

Les Thorne

Clarke, Darrel

From: Les Thorne [REDACTED]
Sent: 17 March 2017 13:06
To: Clarke, Darrel
Subject: Re: Public Footpath NT46 : Application for Modification Order

Dear Mr Clarke,

Thank you for your email.

I now understand that the two items you referred to are the two formats of the evidence presented to the Planning Hearing of 16 & 17 December 2009; namely, the audio recording and the transcript of that recording.

Because the transcript was prepared as evidence for our case in the High Court it had to be prepared by a company certified to produce a truthful record for such purposes; we used Merrill Legal Solutions.

We attach the relevant pages from that transcript to an email which follows; about 6 minutes from a 2 day Hearing.

The title page lists the personnel attending who wished to speak, those who did not so indicate were not recorded but I know they included Mr Wayman-Hayles' son and, I believe, others.

Many will be known to you;

Christine and Neil White having been residents of Niton since the mid 1960's and at the time of the Hearing acted as Joint Secretaries of the Harbour Club.

Lawrence Fabian Wayman-Hayles having been the owner of Beach Cottage from 1972/3 to 1983, and owner of the caravan site from sometime after 1972/3 to 2005.

In the transcript you will see reference to Rowley Haynes (Not Heinz as written) who sold both the cottage and, later, the caravan site to LFW-H. The Haynes family having built the cottage and its predecessor and the sea wall and access to shore from the mid 19th century and operated as fishermen, with lobster keeps on the shore, and hirers of bathing machines and the like.

For completeness, LFW-H sold Beach Cottage to Maddy & Derek Harvey in 1983, who sold it to us in 2006, and sold the caravan site to Simon Rodley in 2005.

Those familiar with the cottage from 1972/3 to 2006 tell us that it was rarely occupied although in the summer months it was occasionally let to holidaymakers by the Harveys.

I attach the relevant pages of the transcript to an email which follows shortly, these are from 35 to 41 minutes into audio file ref WS320012 of the CD.

Page 134 records Neil saying that there had always been a footpath on top of the sea wall but never one northwards alongside the stream.

Page 135 records LFW-H agreeing with Neil, stating that the former caravan site toilets were accessed by paths which were private, "never a public path".

Page 136 records Neil saying that the sea wall is "public land". (This is a view we have heard from many who object to the closure of this path, their view is that we, and our predecessors, have throughout been attempting to steal land. Their assertions are founded on mistaken beliefs on land ownership rather than alignment of public rights of way).

Page 137 records Neil talking about people fishing from the sea wall (not a public footpath usage) and my stating that the footpath was not that which was NT46 and evidencing the top of the sea wall being substantially higher than the green and having a private gate on its eastern end at the time of the Haynes'

ownership, when the caravan site toilets to the front of the cottage were still in use, a gate reinstated by all owners since.

Page 138 records Neil, referring to the gate, stating "Yes, which we removed as fast as it was put there." The "By me" which follows has been wrongly attributed to me, I was never there until 2006. Again referring to the removal of the gate Neil states " Yes, by you and me and all the club members." (meaning the Harbour Club). It also records my pointing out the ramp to the foreshore.

I believe that this evidence wholly supports our case that the top of the sea wall, although long used by locals and very useful when the toilets were available, was always a private path and never the route of NT46. It supports the view that those opposing our case completely, perhaps conveniently, misunderstood the facts in critical respects including who owned the relevant land.

It is therefore very useful to our initial grounds that the sea wall was never the route and never provided the essential access to the shore to its west. But, as you know, these Grounds have been supplemented by:

- 1) The shore route connecting both east and west to the sea wall having been physically extinguished.
- 2) The top of the sea wall having repeatedly been damaged by the sea and incapable of adequate repair unless its top "lip" is protected by increasing the height of coastal protection which presently focuses waves to this point. An uneconomic prospect.
- 3) Our security and privacy. Our cottage is very remote and, particularly at night, is very exposed to risk. As you know, we have suffered more criminal damage over the past ten years than the whole of the rest of the Undercliff, perhaps the whole of Niton.

Please let me know if you require more from us.

Kind Regards
Les & Lynne Thorne

Clarke, Darrel

From: Les Thorne <[REDACTED]>
Sent: 05 December 2013 15:53
To: Clarke, Darrel
Subject: Fwd: NT46 - Modification Order Application.
Attachments: NT46 10002.jpg; NT46 10001.jpg

Dear Mr Clarke,

Forwarding my email of 8 Nov which had copies of the photographs attached.

Mr Eldridge tells us that both photographs should have been in the batch he previously provided to us but I, too, do not recall ever having seen the left hand one previously. I only wish I had because its content is significant.

I will speak to Mr Eldridge regarding the matters raised in your letter of 2 Dec. I will also speak to others who were familiar with Castlehaven in the 1950s and have claimed knowledge of relevant matters.

We have written evidence that the two previous owners were adamant that the top of the sea wall was private - Mrs & Mrs Harvey's response to solicitors conveyancing questions, the late Mr Wayman-Hayles evidence to the planning hearing of which there is a legal transcript of the audio recording. I believe that these take us back to the 1960s.

We also have the evidence of every available record of action or inaction by the council up to 2006 being compatible with the top of the sea wall being private.

I will respond further when I have more information.

Regards

Les Thorne

----- Forwarded message -----

From: Les Thorne <[REDACTED]>
Date: 8 November 2013 18:16
Subject: NT46 - Modification Order Application.
To: "Clarke, Darrel" <Darrel.Clarke@iow.gov.uk>

Dear Mr Clarke,

Please confirm receipt of my Modification Order Application dated 29 October 2013.

Please find attached scans of the original photographs displayed in the Niton Village Hall Notice Board by Mr Eldridge - as promised in the application where the images are less clear being a photograph taken through glass. You have already seen these photographs but Mr Eldridge is happy to have you inspect them again at his home should you so require.

He tells me that the black and white photograph is from the early 1960s and the colour photograph from the 1970s, that the gate had "PRIVATE" written on it and, as can be seen, is the same gate on both photographs having been there from his earliest memories in the 1950s.

These photographs pre-date Mr Neil White's appearance at Castlehaven and the commencement of his practice of removing gates in this location without successive owners' consent. He has admitted having done so as is recorded in the legal transcript of the Planning Hearing he attended when Mr Wayman-Hayles complained of such and confirmed that the top of the sea wall had always been a private path. Mrs Alex Russell also attended this Hearing.

Regards
Les Thorne





Clarke, Darrel

From: Les Thorne [REDACTED]
Sent: 16 December 2013 11:30
To: Clarke, Darrel
Subject: Re: NT46

Dear Mr Clarke,

Thank you for your email - no surfers today, thankfully.

You asked whether Mr Eldridge would be prepared to be interviewed again. I can now confirm that he is and he would also be prepared to sign a statement and to confirm that he is the source of the photograph neither you nor I can recall seeing previously.

The only persons he has identified to date who were familiar with Castlehaven 50+ years ago and are still contactable are the two I previously identified - Mr Peter McCarthy and Mr Don Squibb. I have no contact details for either but believe they live in Allotment Road and Puckaster Lane respectively. Unfortunately I have not seen either of them at Castlehaven on this visit so have been unable to ask whether they are prepared to be involved. Previously they have both been adamant that there never was a public footpath on top of the sea wall.

I doubt there are many more maps, photographs or other documents out there. But every such piece of evidence located to date shows a gate marked "Private" on the eastern end of the sea wall, a ramp and steps up to it from the foreshore, a 4 metre difference in level from the western end of the top of the sea wall to the shore alongside with no means of scaling the vertical wall face between. There is no documentary evidence to the contrary; however, I would appreciate a copy of the revised DS wording consequent on the April 2011 decision as I have never received it but I believe it is required to be available even though consolidation has yet to occur.

Regards
Les Thorne

Clarke, Darrel

From: Les Thorne <[REDACTED]>
Sent: 16 December 2014 11:57
To: Clarke, Darrel
Cc: Thorne, Justin
Subject: NT46
Attachments: img212.jpg

Dear Mr Clarke,

I hope you are well and not too busy due to the numerous landslips - which is why I have left you in peace re NT46.

It is over a year since we applied and, without wishing to infer it is a matter of high priority, we do need it resolved so it no longer restricts our options re our future at Beach Cottage.

The attached DS is a bit unclear but I have highlighted "along the top of the sea wall" in yellow and parts of the remainder in orange.

As a consequence of the April 2011 decision the orange highlighted words were agreed to be changed to indicate a route along the shore with the "20" changed to a higher figure.

Our current application would possibly be satisfied simply by the removal of the words highlighted yellow - which you now know, from all the documentary evidence either of us has found, is established.

I have no wish to create embarrassment to those who previously provided evidence to the contrary when it seems to me that whether or not the route passed over the top of the sea wall is now a little academic. Whether it did or not it has been established that either end the route was on a shore which has been permanently covered by coastal protection boulders which Council notices tell people to keep off. If it is less contentious simply to delete that part of NT 46 on this basis then we would have no objection.

Perhaps a brief email on your thoughts?

Have a good Christmas,

Les Thorne

ISLE OF WIGHT COUNTY COUNCIL.

APPENDIX 1 ITEM 7

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE
ACT, 1949.

SURVEY OF FOOTPATHS.

No. of Path ^{NT} 46

Ordnance Sheet Numbers

C - N.W.

County District Isla of Wight

Parish Niton

Status of path F.P.

Name of path or ultimate destination To shore then in front of Beach Cottage to join

Starting point Boat House then down metalled road to shore then
path 38.

Westward along the top of the Sea Wall in front of Beach

Cottage, turn right, up path beside a brook to join Path

38 about 20 yards from the start. The path is in good

condition.

We (or ridden) 22nd June 1950

by [Redacted]

of [Redacted] Downside Ave., Niton, I.W.

and [Redacted]

of [Redacted] Brooklyn, Niton, I.W.

[Redacted Signature]

Jeff 1950

Clarke, Darrel

From: Les Thorne [REDACTED]
Sent: 23 July 2016 18:51
To: Clarke, Darrel
Cc: tim.company@hampshire.pnn.police.uk
Subject: Re: NT46
Attachments: img393.jpg

Dear Mr Clarke,

I refer to your recent request for evidence of our statements regarding the sea wall and NT46.

Attached are the vendor's (Mr & Mrs Harvey) replies to our conveyancing solicitor's questions when we purchased 10 years ago. As you will see under Item 11 they state that no public right of way crossed the property. Their view on this matter was reinforced by the fact that none of the procedures which the existence of a public RoW requires were followed for the duration of the site being under the control of the revetment contractor nor for the severance that this work would, had there been a RoW, have caused.

Regarding the evidence on various local persons having repeatedly removed the gate at the eastern end of the sea wall I can provide you with a CD of the two day Planning Hearing. I believe it was on the second day that it was recorded that Mr Fabian Wayman-Hayles (long term owner of both cottage and caravan site) in discussion with Mr Neil White established that various locals over a considerable period removed the gate to access what they knew to be a private route along the top of the sea wall to the caravan site (more usually to its toilet block in the front garden of the cottage).

Since our previous exchanges on these matters some years ago I have heard that Mr John Foulsham (long term owner of Castlehaven Cottage) admits that he and many others often took advantage of the fact that Beach Cottage was rarely occupied and accessed the top of the sea wall. He says that everybody knew that they should not really have gone there as they knew they were trespassing, they meant no harm and would never have claimed that they had a right to be there.

Like many with a personal knowledge of the relevant time Mr Foulsham is now very old and I have no intention of troubling him.

Regards
Les Thorne

On 14 July 2016 at 21:06, Les Thorne [REDACTED] wrote:
Dear Mr Clarke,

Thanks for your emails.

The residents will now arrange to have the sign erected.

I have delayed replying to your email on the definition of "shore" until I had access to a mid twentieth century dictionary. It confirmed the definition I stated, "between low & high water".
I attach a scan of the Odhams dictionary from that time which confirms that definition in Law.

Obviously I was not present when you spoke to Mr Eldridge so I rely on what he has told me but I was present when he attended the Hearing, when I advised that he was there to refute your claim but he was denied the opportunity to do so. You did not make any denial at the Hearing.

I will get back to you on the Harvey & Wayman-Hayles matters.

Regards
Les Thorne

... state of things altogether, to
 ... To be in another's place or
 ... To meet with a violent
 ... shoe-black, *n.* A man or boy
 ... by cleaning the shoes of passers-by.
 ... A buckle for fastening a shoe over
 ... shoe-horn, *n.* A device to assist one
 ... shoe, shoe-latchet, *n.* (Bibl.) A
 ... fastening a shoe. shoe-leather, *n.*
 ... shoes; (fig.) shoes. shoemaker,
 ... shoe-tie, *n.* shoeing, *prep.* shoe-
 ... One who makes or puts on shoes;
 ... E. shogge, shock (1), *v.t.* (prov.)
 ... To bump or jog (along);
 ... A shake, a jerk.
 ... (Jap., general), *n.* The heredi-
 ... chief of the army and virtual
 ... the feudal regime, abolished in
 ... [SHINE].
 ... [distinctive sound], *int.* Begone; be
 ... (towards etc. away) by crying 'shoo.'
 ... [SHAKE].
 ... prob. var. of shock (2), *n.* A set
 ... for a cask ready for setting up;
 ... box etc., *v.t.* To pack in shocks.
 ... [SHOOT].
 ... A. S. *scotan*, to shoot, dart, rush
 ... or throw (tr.) (cp. Dut. *schieten*,
 ...), *v.t.* (past and *p.p.* shot) To
 ... (cut, along, up, etc.) swiftly; to
 ... buds etc., to extend in growth;
 ... to jut out; to discharge a
 ... fire-arm; to hunt game etc. thus,
 ... by discharge, eject, or send with
 ... cause (a bow, fire-arm, etc.) to dis-
 ... hit, wound, or kill with a missile
 ... etc.; to hunt thus over (ground,
 ... pass swiftly through, over, or
 ... rapid, etc.); to protrude, to push
 ... A young branch, sprout, or
 ... plane or trough down which
 ... slide, a chute, a rapid; a place
 ... to be shot; a shooting-party, match,
 ... to shoot ahead; To get swiftly
 ... swimming, etc. shootable, *a.*
 ... who or that which shoots (*usu.*
 ...); (Cricket) a ball that darts
 ... without bouncing. shooting, *n.*
 ... fire-arms or arrows; a piece
 ... shooting game; the right to shoot
 ... shooting-box, *n.* A small house
 ... during the shooting season. shooting-
 ... A fire-arm. shooting-range, *n.*
 ... of an enclosed space with targets

A person employed in a shop, shop-walker, *n.*
 etc. shop-worn, *a.* Faded, soiled, etc. by expo-
 sure in a shop. shopper, *n.* shopping, *n.* shopy, *a.*
 shore (1) (shor) [A. S. *scora*, from *scoran*, to SHEAR]
 The land on the borders of a large body of
 water, the sea, a lake, etc.; (Low) the land between
 high and low-water marks, shoreless, or shoreward,
 a and adv.
 shore (2) (shor) [M. H. *schore* (cp. M. Dut. *schore*,
 Dut. *schoor*, Icel. *skorða*), etym. doubtful], *n.* A prop,
 a stay; a support for a building or a vessel on the
 stocks, *v.t.* To support or hold (up) with shores
 shoring, *n.*
 shore (3), past [SHEAR].
 shoreless, shoreward [SHORE (1)].
 shori [SCHORL].
 shoring (shor' ling) [SHORE (3) or SHORN, -LING]
n. (prov.) A newly-shorn sheep; wool shorn from a
 living sheep, opp. to morling.
 shorn, *p.p.* [SHEAR].
 short (short) [A. S. *scort*, cogn. with SHEAR (cp.
 L. *curtus*, *curr*, Gr. *katrēin*, to cut)], *a.* Measuring
 little in linear extension, not long; not extended in
 time or duration, brief; below the average in stature,
 not tall; not coming up to a certain standard; deficient,
 scanty, defective, in want (of); breaking off abruptly;
 brief, concise, abrupt, curt; brittle, friable, crumbling
 or breaking easily; (Phon. and Pros.) not prolonged,
 unaccented (of vowels and syllables); (Comm., Stock
 Exchange, etc.) not having goods, stocks, etc. in hand
 at the time of selling; not in hand (of stocks etc.) sold.
 adv. Abruptly, at once; so as to be short or deficient.
n. A short syllable or vowel, or a mark (') indicating
 that a vowel is short; (*pl.*) small-clothes, breeches
 cut short at the knees; the bran and coarse part of
 meal mixed together. *v.t.* To shorten; to make of
 no effect. In short: Briefly, in few words, the long
 and the short of it [LONG (1)]. to come short: To
 be deficient, to fall, to cut or bring or pull up
 short; To check or pause abruptly. to fall short
 [FALL]. to sell short: To sell (stocks) for future de-
 livery. to stop short: To come to a sudden stop; to
 fail to reach the point aimed at. to be taken short:
 To be seized with sudden motion of the bowels. short-
 bread, shortcake, *n.* A brittle dry cake made with
 much butter and sugar. short circuit: (Elec.) A path
 of lower resistance between two points in a circuit
 practically making this shorter. short-circuit, *v.t.* To
 form or introduce a short circuit in. short-coat, *n.*
 (*in pl.*) Clothes worn by an infant when too old for long
 clothes; *v.t.* To put into short-coats. shortcoming,
n. A failure of performance of duty etc.; a falling
 short of supply, produce, etc. short-dated, *a.*
 Having only a little time to run (of a bill, note, etc.).
 shorthand, *n.* A system of contracted writing used
 for reporting etc., stenography. short-handed, *a.*
 Short of workmen, helpers, etc. shorthorn, *n.* One
 of a breed of cattle with short horns. short-barred

ODDAMS.

MID 20th DICTIONARY

ADDITIONAL PROPERTY INFORMATION FORM

If you are able to complete this form now, it will save time later.
If you need more space please use the back of the form.

	Question	Reply
1.	Do you know if the property including the garden or common parts been used for any non-residential purpose or any purpose which might have contaminated the land? If so please provide details.	Not contaminated
2.	Do you know if there has been any flooding at the property including the garden or common parts from natural causes? If so please provide details.	No flooding
3.	Since its original construction, has it been Extended / Added to / Altered / Underpinned / Changed use If so, please give details overleaf and enclose all Planning Permissions, Building Regulation Approvals, plans & specifications	No
4.	Has the property had replacement windows since 1 st April 02? Please say which were replaced and enclose the guarantee/s and FENSA certificates or Building Regulation Approvals	No
5.	Has any work to the electric wiring in the house, garden or outbuildings been carried out since 1 st January 2005? If so, please confirm what was done and supply a registered electrician's Certificate or Building Regulation Approval	No
6.	Has any work to the gas boiler or appliances been carried out since 1 st April 2002? If so, please confirm what was done and provide a certificate from a Corgi Registered Engineer.	Only the annual service.
7.	When was the central heating / hot water system last serviced? Is it in good working order? Is there a service contract? – If so please supply details	August 2005 Yes/ Yes with Nedal cover
8.	Is there a burglar alarm? Is there a service contract for it? – if so please supply details Will code / operation details will be given to buyer on completion?	No — —
9.	Do you have a satellite or cable system?	No
10.	Please supply the names of the suppliers for Electricity Gas (Purpura) Water Drainage Telephone / Cable / TV	Southern Electric Medica Gases Southern Water Sephic Tank Telephones - BT
11.	Do you know if any of the following matters affect the property? Leases or tenancies or rights claimed by anyone living in the property Rights of way across the property for access etc (including public rights) Pipes, wires or cables crossing on, over or under the property Rights of light Rights of support from adjoining properties Other people's rights to take things from the land (such as wood or hay) Any customary rights (rights deriving from local traditions) Other people's rights to mines and minerals under the land Franchises (such as the right to hold a fair) or Manorial rights Rights reserved to the Crown on the granting of a freehold estate Any rights relating to embankments or sea or river walls Any rights to payments in lieu of tithe (usually called Corn Rents) Any liability to repair the Chancel of a local church	No No Pipe to septic tank No No No No No No No No No No No
Signed by all Sellers		
Date		JONG140073