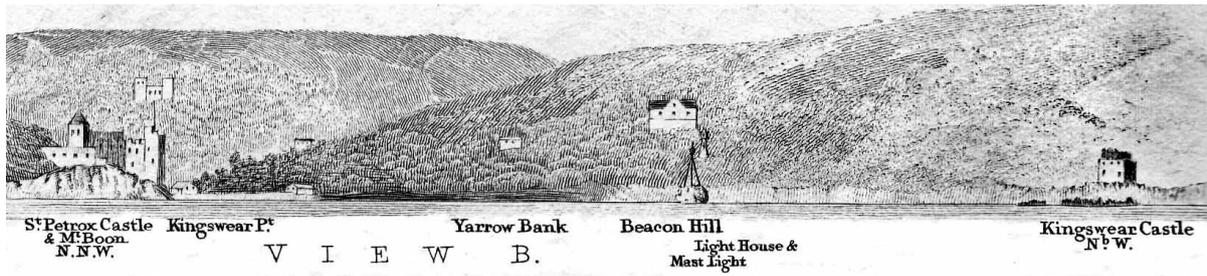


## The history of Lighthouse Beach



The above picture is from an Admiralty chart of 1853 and shows the house “The Beacon” which Arthur Holdsworth, the last Governor of Dartmouth Castle, built after he bought the land in 1845. There is a lighthouse, or beacon, and a mast light below the house which possibly gave the house its name.

The Kingswear Parish Council was formed in 1894 following the Local Government Act of 1894 and its minutes exist from that time. The first mention of Lighthouse Beach in the business of the Council appears in the minutes of the 12th August 1897:

*the Clerk to write and inform Col. Daubeney that the Parish claim a right of way down the zig-zag path leading to Lighthouse Beach on the grounds that the path has been used by the public for a period of over forty years unopposed and without interruption”.*

and then on the 31 August 1897 it is minuted that the owner of the land writes that

*I concede to the Parish that right. But it must clearly be understood that the existent path is strictly adhered to and I have no wish to debar the parishioners and others from the enjoyment of Lighthouse Cove.*

On the 11th August 1904 Col. Daubeney sold the land to Mr Home William Popham and the conveyance included the following condition:

*reserving to Nathaniel Baker or other the owner of owners for the time being of the land then or lately his property and lying adjacent to the said premises thirdly hereinbefore described a right of footway for foot passengers only through over and along the footpath or zig-zag way leading from the said public highway across the piece of land thirdly herein described down to the beach and also the right to land and embark at the said beach at all times and subject also to the existing public right of way to the beach.*

The original conveyance is lost but the above is contained in a subsequent sale of the 19th December 1949 and quotes that it is copied from the conveyance of 1904.

The Council minutes continue to record the Council’s management of the beach and the path to it. Early on there were reports of “bathing without bathing drawers on” and “men bathing was indecent and a great nuisance to females”. The Council dispatched a police constable to the beach to catch and prosecute offenders, but it is not reported that any were caught. There are 94 references in the Council minutes during the 105 year period up to 1999. The Council were mainly concerned with the maintenance of the path and the steps to the beach. In 1931 the Council purchased a life buoy and one is still evident in more recent photographs.

Mr Popham died in April 1935. The Council minutes of the 13th December 1935 reported that:

*In view of the serious land slide that has taken place at the Public Path leading to Light House Beach.....that a letter be written to Mrs Popham the owner ...to consider a deviation.*

and then again on the 9th April 1936:

*The Chairman reported having with Mr Turner met Mrs Popham regarding the right of way to Light House Beach. Mrs Popham gave assurance that the Right of Way should be maintained and that the Surveyor had kindly promised to prepare a plan of the proposed route, she would sign it and the respective solicitors would draw up the agreement.*

The agreement has not been found but the minute of the 8th April 1938 reported that work was about to start and a year later access to the beach was apparently open again as it is recorded that another life buoy was placed on the beach, a gate to the path provisioned and a refuse basket requested. By this time the country was at war.

In 1941 the Women's Institute wrote to the Council about the life saving equipment at Lighthouse Beach but this time the Council claimed that it had no jurisdiction over the beach only the right of way over it. There was also concern about misconduct, trespass and damage to property. Notices were posted, a letter sent to the school, rewards offered for catching offenders and even a threat to close the beach.



Mrs Constance Popham and her daughter Betty continued to live at The Beacon until she died on the 30th March 1943 and her daughter on the 29th July the following year. The Council were convinced that Mrs Popham would leave the land, including Lighthouse Beach, to the Council but when the will was read there was no mention. It transpired that the land was owned by a trust and was not Mrs Popham's to give. The Popham estate, which included The Beacon and much of the surrounding land, was sold by the trust to Mrs Elizabeth Bankart who was then living at the house Eastney.

Between July 1947 and June 1949 the minutes claim that the path was a Registered Right of Way with Totnes Rural District Council.

On the 19th December 1949 Mrs Bankart sold the estate to Charles Fitch-Northern.

In January 1950 there was concern of:

*possible danger to people on Lighthouse Beach due to subsistence of the land above.*

and in February it is minuted that:

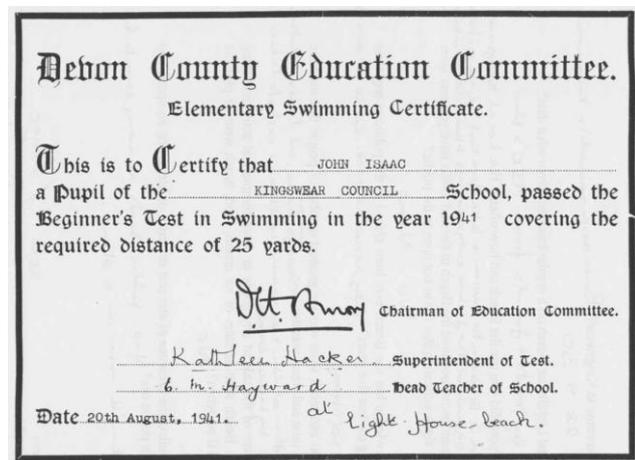
*The landowner, Mr C Fitch-Northern, is to erect warning notices on his land at both ends of the public right of way to the beach regarding the danger to the public.*

*On the 5th May:*

*A letter was read from Miss E M Hayward, Head mistress of Kingswear Primary School stating that she was distressed at the prospect of this delightful beach being closed and requesting immediate steps to be taken to render it safe for the enjoyment of the public.*

During the war the two beaches on the Dartmouth side, Castle Beach and Sugary Cove, were closed to the public due to fears of invasion and a submarine net was placed across the entrance to the river. Lighthouse Beach on the Kingswear side was the only clean and safe beach available to both the inhabitants of Kingswear and Dartmouth.

The school had used it for swimming lessons and shown here is a swimming certificate awarded at that time.



On the 16th September 1950 the Council applied to register the path to the beach. The application was endorsed by the Totnes Rural District Council on the 2nd November 1950 with the remark that it was already registered as Public Right of Way No. 1 under the 1932 Act. A draft Definitive Map was published in January 1956, a Modification Map in November 1958, a Provisional Map in November 1959 and the final Definitive Map in March 1960 on which the path is no. 8. At each stage the process was advertised and comments from the public invited but none are recorded. There were no objections from the owner of the land over which the path ran or the owner of Lighthouse Beach (same person). The official entry describes the footpath as starting at *“the unclassified County Road, Beacon Road at an iron gate and proceeds down a flight of steep concrete steps to a landing, continuing in a series of small flights of steps and zig-zag paths and a further flight of steps on to the beach”*. The word ‘on’ may be significant. The only purpose of the right of way is to provide public access to Lighthouse Beach.

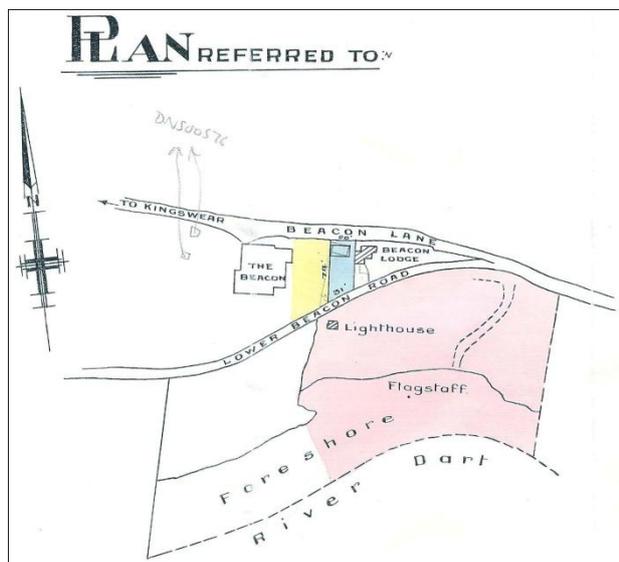
During this period most of the minutes refer to the state of the path to the beach with claims that the District or County Councils should pay for repairs and notice boards. This was successful and the minute of the 29th April states that:

*the County Council had promised to carry out temporary repairs to enable the right of way to be re-opened before the summer season.*

and the following month it is minuted that:

*the County Council had now completed the erection of the new ladder leading to the foreshore.*

On the 14th December 1961 Mr Charles Fitch-Northen sold Lighthouse Beach to Reginald Barton Southwick and the accompanying map above shows the land conveyed.



The same condition of the sale, first registered in the conveyance of 1904 was included, namely the requirement to respect that there is a public right of way down to the beach as well as a right to land and embark from beach at all times.

Mr Fitch-Northen still resided in The Beacon and does not seem to have lost interest in Lighthouse Beach as on the 30th May 1961:

*A letter was read from Mr C H Fitch-Northen, dated 4th May 1961, referring to the damage recently caused to the lifebelt and lifeline at the above property. RESOLVED That the Clerk make representations to the District Council for the lifebelt and lifeline to be replaced as soon as possible in the interests of public safety.*

the response was:

*A reply dated 6th June 1961 was read from the Clerk to the Rural District Council stating that it had been ascertained that the present lifebelt is beyond repair. In consequence a new one had been ordered from The Bosun's Locker, Dartmouth.*

Two years later Mr Fitch-Northen writes again and the minutes of the 26th February 1963 reports:

*The Clerk read a letter from Mr Fitch-Northen asking that the Council should consider the possible damage to the amenities of Lighthouse Beach in the matter of the appearance of a new tower proposed for the support of the light on the small rock off shore at this point.*

It is interesting that Mr Fitch-Northen wrote to the Parish Council, as guardians of the public interest, and not apparently to the owner of the beach.

The next nine mentions of Lighthouse Beach in the Council minutes relate to the condition of the path or the equipment on the beach culminating in the County Council agreeing to spend £400 on the path with the Parish Council also making a contribution. However the public continued to use the beach. This photograph is of the writer's two sons in 1970.



The 28th February 1978 saw a challenge to the public right of access to the foreshore in apparent contradiction to the conditions of the sale of the land. The minutes quote from a letter received:

*The owner of the land has given permission for the repairs to be carried out subject to the reinstatement of the fencing to keep trespassers out of his land. The minutes also quoted from a letter sent by the owner's solicitor to the County Council which stated that: their client had asked for it to be made quite clear that such Public Right of Way, as there might be, does not include the foreshore between High and Low Tides, and does not include landing from the sea or the storage of boats of any kind.*

and on 28th March 1978:

*“Mr Southwick has stated that he was not preventing the public, particularly the residents of Kingswear, from using the Beach, but had requested the County Council to make good the demarcation fence to keep trespassers out of his land, and to the erection of a sign requiring the public to stay on the path. Mr Southwick also stated that boats were being left moored at the beach for long periods.*

This resulted the minutes of the 25th April 1978 reporting:

*Resolved: "That an approach be made to Mr Southwick to consider the sale of the beach to the Council".*

On the 12th June 1981 the Harbour Master wrote to David Southwick, son of the owner:

*I regret to inform you that there has been a further sizable landslip at Lighthouse Cove. Tons of rock and two trees have fallen on to the beach below and I think it would be prudent if you placed a sign warning the public of the danger that exists if they use the beach.*

A report in the Dartmouth Chronicle the following week connected the rock fall with the demolition of the old lighthouse by the Harbour Authority and a dispute with the County Council as to whose responsibility it was as the old lighthouse was held to be part of the support of the adjacent Beacon Road. There is no mention of any effect on the public footpath to the beach or of the beach being closed which might explain why there is also no mention of the incident in the Parish Council minutes of the 30th June.

On the 28th April 1987 the Council received a letter of complaint from a member of the public that the path to the beach was closed and again at the meeting on the 29th March 1988 there was a further complaint about the:

*continued closure of public right of way to the beach at Beacon Steps.*

However to was further noted at the meeting that:

*the gate seemed now to be open again.*

*A year later on the 26th April 1988 it is again recorded that:*

*Public right of way to the beach at Beacon Steps still remains closed and barred to the public. The Clerk should write to Mr Southwick pointing out that the path was a public right of way and that it must be reopened.*

Mr Reginald Southwick died in May 1988 and ownership passed to his wife Mildred.

The path remained open until the Council meeting on the 16th June 1998 which minutes refer to access to the beach being closed. Since the obstruction was attached to County property the Council reported the matter to the County Council solicitor and it was opened again. However June 1999 saw it closed once more and the access from the path on to the beach and foreshore has been obstructed ever since. The Herald Express newspaper reported the closure of the beach on the 24th June 1999 and said that Mr Southwick had been advised to close the beach on safety grounds due to his building work on the next beach at Bakers Cove. It was alleged that a four year old child had wandered on to Bakers Cove and could have been killed.

The wording of the notice refers separately to beach and foreshore although they are



usually regarded as the same. Legally the foreshore is defined as the portion of land lying between the high and low water mark at ordinary tides. Ordinary tides being the medium between spring and neap tides. There is also a fine legal point that as the public has acquired rights of access to the beach going back many years then they are authorised.



The Kingswear Parish Council decided to fight the closure and in March 2000 placed forms in the local shops and public houses asking who had used the beach. 199 people signed. Questionnaires were sent to those who had given addresses and 173 replied, covering a span of 80 years, that they had used the beach without opposition and without needing permission from the land owner. Over 100 people contributed a fighting fund to meet legal costs.

The barrier from the path to the beach was removed from time to time by persons unknown and people continued to use the beach albeit in defiance of the closure notice. The two photographs above were taken in August 2003 when access was possible for a period.

Mr David Southwick took ownership of the beach when his mother, Mildred, transferred it to him on the 18th December 2007. In the transfer document specific mention is made of the covenant on the land dating from 1904.

The building in neighbouring Bakers Cove had an impact on Lighthouse Beach as in building a small harbour the site ran out of ground on which to park the excavating machinery clear of the tide. The solution was to park them on Lighthouse Beach when not being used. Retrospective permission was given in 2004 to raise part of the level of the beach using stone from Bakers Cove. The passage of the vehicles and other movements of stone have further confused the situation and what is not now clear is where the original height of the beach was although the tide and wind have moved and weathered the deposited material.



While access to the beach from the public footpath was blocked in 1999 access from the river was not prohibited until July 2006.

It has been a frustrating time. Action was first delayed as a case known as "Trap Grounds" appeared to offer a precedent for Lighthouse Beach to be registered



under the old Commons Registration Act 1965 – only for that case to be overturned on appeal. It was taken to the House of Lords which reversed the appeal but their ruling proved unhelpful to the Kingswear situation. Meanwhile the new Commons Act was held up awaiting the Lords outcome and when that was eventually enacted legal advice suggested that the proposed Marine and Coastal Access Act would be better; however it transpired that consideration to matters in Devon, which already has a coastal path, would be delayed for many years. So it was back to applying to register Lighthouse Beach as a village green under the Commons Act 2006.

The residents of Kingswear have enjoyed the right of access to Lighthouse beach without needing the owner's permission for over 150 years since the time it was owned by the Duchy of Cornwall. This right is recorded in a covenant included in every conveyance since 1904 and in the Land Registry entry. The only purpose of the registered public right of way, footpath no. 8 on the definitive map, is to provide public access on to the beach or foreshore.

Michael Stevens,  
July 2012

Extract from the Dartmouth Chronicle

At one time the Duchy of Cornwall owned all the foreshore of the river Dart. The rights to the foreshore were leased to local land owners whose land bordered the river. This included Mr Lutterell of Kingswear who owned the next to Lighthouse Beach.

In 1863 the Duchy terminated the leases and offered the foreshore for sale. The extract on the right is a report in the Dartmouth Chronicle of December 1863 of the deliberations of the Corporation of Dartmouth which had leased a substantial part of the foreshore on the Dartmouth side. Over the centuries much of the Dartmouth foreshore had been reclaimed and had been built upon and the debate concerned the claim by the Duchy to own all the reclaimed land and the property upon it. The final sentence is of possible importance to Lighthouse Beach.

The renewal lease from the Duchy, dated 25th May, 1792. The case before mentioned, as submitted to Mr. Montague Smith, touching the rights to the foreshore, within the Borough, and concerning the Office of Water Bailiff of the Port of Dartmouth, and his opinion and advice thereon. A case submitted to the Attorney General of the Duchy of Cornwall, by the Corporation, in 1776, (wherein it is stated by them that the soil is part of the Water Bailiwick). The correspondence, that has taken place between the Town Council and the Duchy, since the opinion of Mr. Montague Smith, was produced, and a letter from Mr. Rees to the Mayor and Council. The Committee having read and fully considered the same, and having the important facts before them that since the termination of the lease to the Corporation the various landowners on the river, that is the Dartmouth and Torbay Railway Company, the Harbor Authorities, Mr. Lutterell or his assigns, Sir H. P. Seale, Mr. Harvey, Mr. Studdy, and others, have submitted to the claims and purchased the foreshores opposite their respective properties, do submit to the Town Council as follows:—That in accordance with the advice of Counsel to the effect, that although on the statement furnished to him by the Corporation, yet he cannot say the question is free from doubt; and having regard to the great expense of a contest with the Duchy, it is expedient for the Corporation to compromise their claim if it can be done on reasonable terms. The Committee are assured and satisfied that whether the soil belongs to the Crown, the Duchy, or the Corporation of Dartmouth, the right of the public to use the quays and public landing places, subject to the accustomed quayage and groundage dues, could not be interfered with, no power but an Act of Parliament could exclude the public where the public have rights of landing, passage, thoroughfare, &c., or in other words, what is now open to the public, must always remain so, without any hindrance or toll other than the accustomed toll, viz.—groundage.

The sale document to Mr Lutterell does not mention any public rights to the foreshore but that these still existed is inferred by a letter received from Jean Delbos, dated 23 September 1901 to the Chairman of the Parish Council reads:

*“Having been informed by the Secretary of the Duchy of Cornwall office that persons who have bought portions of the foreshore on the Eastern Side of the River Dart have no right whatsoever to exclude anyone from the said foreshore. I naturally came to the conclusion that an umbrella tent could be used on the shore ....”*

*“I was strengthened in that idea by the knowledge of the fact that, so long as the foreshore remains unenclosed, the public have the same rights over it after being sold by the Duchy as before and that any interference with public bathing from such foreshore is in no way countenanced by the Duchy.”*

*“Notwithstanding this, the gentleman who owns the foreshore of the lighthouse cove thought proper to object to my umbrella tent ...”*

*“If the law allows bathing on those portions of the foreshore – and it does allow it – why should not bathers be allowed to use a tent merely for the purpose of undressing and dressing up again?”*

*I am, Sir, Yours respectfully,  
Jean Delbos*