

# North Somerset Council

## REPORT TO THE PUBLIC RIGHTS OF WAY SUB COMMITTEE

<b>DATE OF MEETING:</b>	<b>15 NOVEMBER 2016</b>
<b>SUBJECT OF REPORT:</b>	<b>SECRETARY OF STATE DIRECTION RELATING TO PORTISHEAD GOLF CLUB</b>
<b>TOWN OR PARISH:</b>	<b>PORTISHEAD</b>
<b>OFFICER/MEMBER PRESENTING:</b>	<b>ELAINE BOWMAN</b>
<b>KEY DECISION:</b>	<b>NO</b>

### RECOMMENDATIONS

It is recommended that following receipt of the Secretary of State's direction dated 26 August 2016 that:

1. The Definitive Map Modification Order application submitted by Ms E Courtney (Mod 102) is determined before 28 February 2018
2. The Committee agree that the application submitted by Mrs Davey and Mrs Townsend, is determined at the same time as Ms Courtney's application.

### 1. SUMMARY OF REPORT

The Secretary of State has directed us to determine a Definitive Map Modification Order (DMMO) application submitted by Ms E Courtney dated November 2013 for the route A – B shown on the attached plan **Appendix 1**. This direction means that the claimed right of way should be investigated and reported back to the Public Rights of Way Sub Committee by 28 February 2018.

A report was brought to the Public Rights of Way Sub Committee on 29 March 2016 following a request from Mrs J Davey for her DMMO application to be taken out of sequence. The decision of the Committee was that the request should be denied. It is now proposed to determine Mrs Davey and Mrs Townsend's route, which addresses potential rights of way on the same site, at the same time. This will make the most efficient use of Officer time because they will be reviewing the same historical documents and many of the same witnesses.

### 2. POLICY

The maintenance of the Definitive Map should be considered as part of the management of the public right of way network and so contributes to the corporate plan "Health and Wellbeing" and "Quality Places".

### **3. DETAILS**

Ms E Courtney has made an application to the Secretary of State for Environment, Food and Rural Affairs seeking a direction requiring North Somerset to determine her DMMO application. This application is shown on the attached plan marked A – B, **Appendix 1**.

An Inspector was appointed by the Secretary of State to determine the application for a direction under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside. That direction would require the Council to determine Ms Courtney's application for an order, under section 53(5) of the 1981 Act, to modify the Council's Definitive Map and Statement of public rights of way for the area so as to add a public footpath described as running from the windmill, small bridge at bottom to the Sailing Club, to the south of the large trees. The claimed right of way crosses land in the ownership of the Council and used as Portishead Golf Club.

Following a period of correspondence exchange the decision of the Secretary of State has been received and is attached as **Appendix 2**.

#### **Summary of Secretary of State Direction**

The Secretary of State having considered the application and after consulting North Somerset Council as required by the Act, has concluded that the application should be determined without further significant delay.

Accordingly the Secretary of State has directed North Somerset Council to determine the above mentioned application not later than 28 February 2018. This direction is dated 26 August 2016.

#### **Application by Mrs Davey and Mrs Townsend**

The Inspector's report made reference to the determination of this application and can be found in paragraph 22 of the attached direction where it reads,

"It should be noted that the direction can only relate to the application to which it relates" meaning that it is for the Council to decide whether or not to deal with Mrs Davey and Mrs Townsend's route which is also registered under Mod 102.

#### **Processing both applications at the same time**

Having been directed to determine Ms Courtney's application it is necessary to slot this matter into the Council's work programme for determination by 28 February 2018.

Because Mrs Davey and Mrs Townsend's route relates to access on the same site a decision needs to be made as to whether one or both of the applications are to be determined under the timeline set by the Secretary of State.

Mrs Davey and Mrs Townsend's application was submitted to North Somerset in October 2015. They are claiming two routes which cross land known as Portishead Golf Course. The first being on the same alignment to that claimed by Ms Courtney A – B and an additional section from C – D which connects to Nore Road.

The appointed Inspector has not directed NSC to determine both of these applications at the same time. However it would be practical to do so. The same information will relate to both applications, the only thing different may be the user evidence. There is currently a

significant backlog of DMMOs so it is necessary to ensure that Officer time is spent efficiently so determining both of these applications at the same time would be cost effective to the Council for the following reasons:

<b>Activity</b>	<b>Pros and Cons</b>
Hire of hall to undertake User Evidence Interviews	It is practical to carry out interviewing all of the users during the same period and so a block booking of a facility to do this will be most cost effective. Ms Courtney's application has 21 Users, Mrs Davey and Townsend has 45 Users.
One visit to Record Office if considered necessary	This would be cost and time effective removing the need to undertake a second visit. This would be practical even if the Committee were to decide that they did not want both applications to be determined by 28 February 2018.
One Report to Committee	Determining all of the evidence within one report would save officer and member's time. However, determining two routes within one committee report could cause confusion and disagreement.

## **Current Work**

There are currently four applications being worked on at the moment. These are Mod 20 (which is being brought to this meeting), Mod 15 which is awaiting the making of its Order process to be undertaken and researching Mods 19 and 22.

It is proposed that work on Mods 15, 19, 20 and 22 is resolved before Mod 102 is addressed, ensuring compliance with the Inspectors deadline of 28 February 2018.

## **4. CONSULTATION**

There is no legal requirement to consult at this stage however Informal consultations will be undertaken with statutory consultees, the Town Council, local Ward Members and local user groups. In addition to this personal interviews will be held with those parties who completed user evidence forms

## **5. FINANCIAL IMPLICATIONS**

At this time the only cost implication will be associated with the hire of a local venue to hold the interviews.

## **6. RISK MANAGEMENT**

At this time the Committee has no alternative other than to follow the direction that has been issued. The Committee does however have the authority to decide whether to determine both of the applications together or separately and when a report should be brought back for consideration.

## **7. EQUALITY IMPLICATIONS**

All rights of way are available for the population as a whole to use and enjoy irrespective of gender, ethnic background or ability and are free at point of use.

## **8. CORPORATE IMPLICATIONS**

Any changes to the network will be reflected on the GIS system which forms the basis of the relevant corporate records.

## **9. OPTIONS CONSIDERED**

Options other than those proposed in the recommendations have been considered and are described below.

1. Ms E Courtney's application is determined without reference to Mrs Davey and Mrs Townsend's application.

This option is not recommended because it does not utilise Officer and Members' time effectively or efficiently because we will have to re-run the whole process for this same site at a later date.

However, this option means other applicants who have been in the queue would not be disadvantaged.

2. All the relevant data from both applications is collated but only Ms E Courtney's application is determined.

This option would:

- enable Officers to make more efficient use of their time during user evidence interviews and historical data collection;
- bearing in mind the current access arrangements on the golf course Members may consider that users are not being disadvantaged and so delaying Mrs Davey and Mrs Townsend's application is reasonable

However this option is not the most efficient use of Member's time who would have to hear potentially very similar arguments twice.

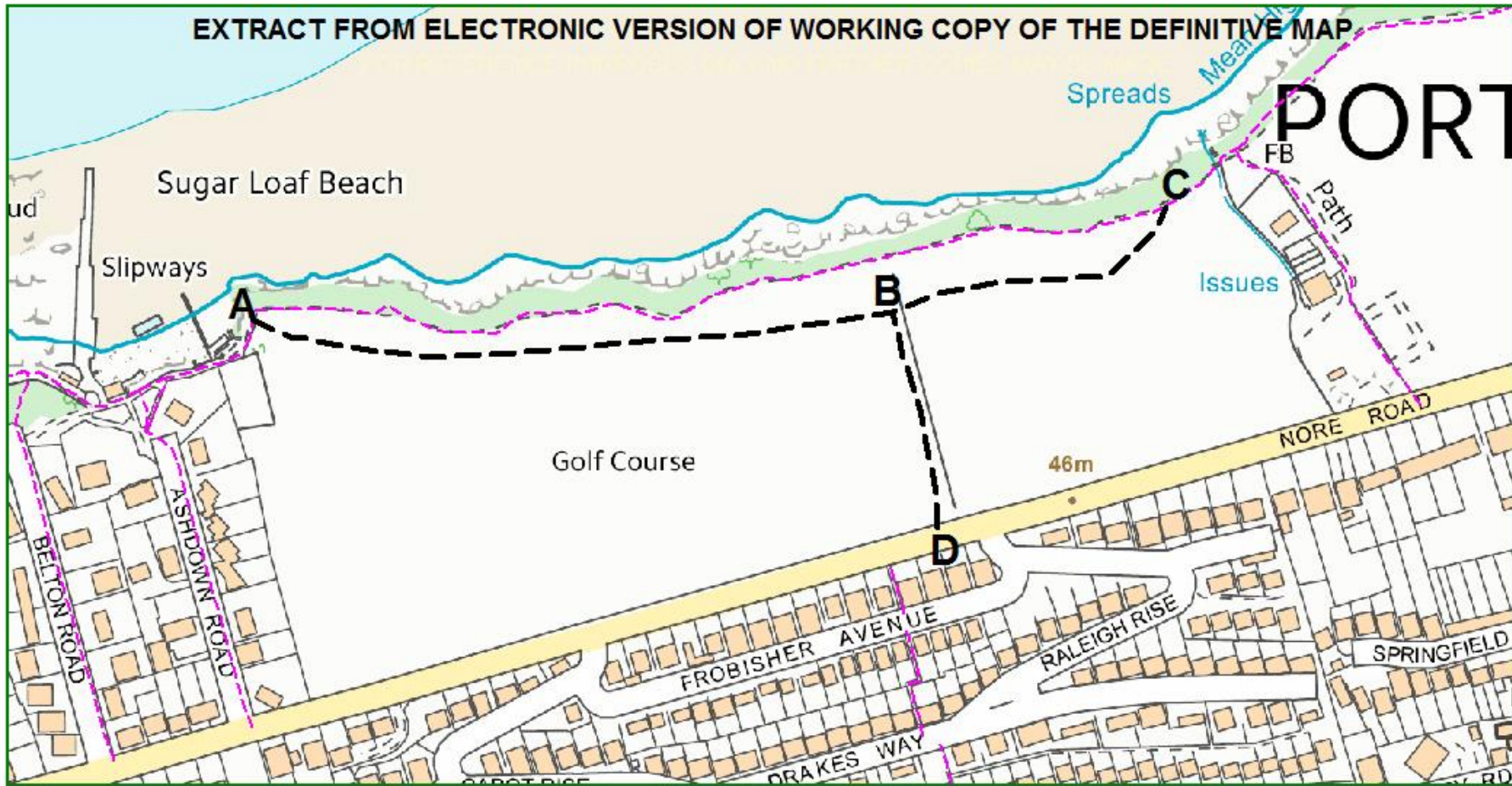
The other applicants have the option to appeal for non-determination and we may be instructed to determine their application in a timescale that is not of our making.

## **AUTHOR**

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Senior Access Officer Modifications – Ext 7406  
Public Rights of Way

## **BACKGROUND PAPERS**

File Ref Mod 102



The Definitive Map has a relevant date of 28th November 1956 and has not been formally re-published since then. This map shows an electronic working copy of the Definitive Map which attempts to show the information on the Definitive Map and any subsequent legal changes. The Council can accept no responsibility for any error or inaccuracy which may arise from use of the electronic Working Copy map.



**Development & Environment**

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**Project**

PROW Sub Committee 29 March 2016

**Location**

Portishead Golf Course

**Client**

PROW Sub Committee

**OS Licence No.**

100023397



Scale 1:3335

Drawn by  
 Mrs E Bowman

Drawing No.  
 Mod 102

Date  
 8 March 2016

