

North Somerset Council

REPORT TO THE PUBLIC RIGHTS OF WAY SUB-COMMITTEE

DATE OF MEETING: 26TH JULY 2017

SUBJECT OF REPORT: PROPOSED DIVERSION OF PUBLIC FOOTPATH AX 30/18 AND PART OF PUBLIC FOOTPATH AX 30/16, OVER LAND WEST AND SOUTH OF PIGEON HOUSE FARM, CRIBB'S LANE AND PIGEON LANE, REDHILL, WRINGTON PARISH

TOWN OR PARISH: WRINGTON

OFFICER/MEMBER PRESENTING: PENNY PRICE

KEY DECISION: NO

RECOMMENDATIONS

- i) That the Committee approve the making of a Section 119 Public Path Diversion Order for Footpaths AX 30/18 and part of Footpath AX 30/16; and
- ii) to arrange its subsequent confirmation if no objections are received when the Order is published; or
- iii) if objections are received and sustained, to forward the Order to the Secretary of State for determination, and promote the Order in any subsequent proceedings

1. SUMMARY OF REPORT

North Somerset Council received a Public Path Diversion Order application, submitted under section 119 of the Highways Act 1980, in January 2017.

The proposal was consulted upon and, as objection has been received from Wrington Parish Council to part of the proposal, it is necessary to report the matter to Committee, to seek approval to make a Public Path Diversion Order.

2. BACKGROUND

The proposal is shown on 'Map No. PPO 169, attached to this Report at Appendix 1. The application seeks to divert Public Footpath AX 30/18 and part of Public Footpath AX 30/16 in the Parish of Wrington, in the following manner:

Public Footpath AX 30/18

From the eastern side of Cribb's Lane at point A (grid reference ST 49665 62321) running in a generally easterly then generally south, south easterly direction to the junction with Public Footpath AX 30/16 at point B (grid reference ST 50024 62125), a total distance of approximately 479 metres;

To a footpath running from a kissing gate at point E (grid reference ST 49671 62271), at the eastern side of Cribb's Lane, running in a generally west, south western direction to a pedestrian gate at point F (grid reference ST 49832 62178), then running in a south easterly direction to point G1 (grid reference ST 50046 61954). The path then runs in a generally easterly direction to point H (grid reference ST 50193 61940), then in a generally southerly direction to point I (grid reference ST 50196 61889) and then in an east, south easterly direction to a pedestrian gate at point J (grid reference ST 50217 61876). The total distance of the diverted path will be 727 metres, with a width of 2 metres.

and part of Public Footpath AX 30/16

From that part of Public Footpath AX 30/16, from the southern side of Pigeon Lane at point K (grid reference ST 50090 62320) running in a generally south, south westerly then generally southerly direction to the junction with Public Footpath AX 30/18 at point B (grid reference ST 50024 62125), then in a generally south, south easterly then generally southerly direction to point G (grid reference ST 50042 61952), then running in a generally south, south easterly direction to point C (grid reference ST 50377 61209), a total distance of approximately 1,222 metres;

To a footpath running from the southern side of Pigeon Lane at point K (grid reference ST 50090 62320), in a south, south easterly direction to point L (grid reference ST 50169 62157) then running in a southerly direction to a pedestrian gate at point M (grid reference ST 50190 62022) and then in a south, south easterly direction passing a piped culvert at point M1 (grid reference ST 50208 61952). The route then continues in a southerly, then south easterly direction to a bridge and 2 pedestrian gates, at point N (grid reference ST 50218 61881) and then in a southerly direction connecting with the diverted AX 30/18 footpath at point J (grid reference ST 50217 61876). The route then runs in a south, south westerly then southerly direction to a pedestrian gate at point O (grid reference ST 50230 61678), then in a south, south easterly direction to a pedestrian gate at point P (grid reference ST 50284 61501). The route then runs southerly then east, north easterly to point Q (grid reference ST 50334 61498) and then in a south, south easterly direction to point C (grid reference ST 50377 61209). The total distance of the diverted path will be 1,204 metres, with a width of 2 metres.

The existing routes are indicated on Map No. PPO 169 by bold continuous lines, with the proposed routes shown by bold broken lines. In order to establish the diverted path, a bank will be graded and gaps will be made in hedges. New kissing and pedestrian gates, a piped culvert and a bridge will be installed.

The applicants have submitted the proposed diversion application for the following reasons:

The routes of Public Footpaths AX 30/18 and AX 30/16, through Pigeon House Farm have been unavailable for many years due, in part, to drafting errors and a lack of clarity during the definitive map process. Subsequent development of farm buildings has compounded the problem, resulting in sections of the legal line being unavailable. In addition, other sections of the legal line take users through areas of cattle penning and where there are frequent movements of agricultural machinery.

The lack of clarity with regards to the line of these paths has led to confusion and confrontation for members of the public wishing to walk the paths. People have frequently had difficulty with regards to route finding, resulting in fences being climbed and trespass.

The proposed new routes seek to remove any confusion with regards to the legal lines people should be following. They are on well-drained land with good views of the surrounding countryside and are positioned so as to ensure the public will be well away from farm buildings and main areas of farming operations. Five stiles on the existing routes will be removed and replaced with metal gates allowing for safer access, especially for less able walkers.

Overall, the proposed diversions, if successful, will benefit the walking public as they will be able to follow clearly waymarked paths, via improved structures and away from areas of potential conflict with agricultural operations. The landowners will also benefit as they will be better able to manage their farming operations.

3. 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”.

4. DETAILS

i) Legal context

The Order complies with the various provisions of Section 119 of the Highways Act 1980 and the relevant sections are extracted below:

Section 119 (1)

This deals with the making of the Order and states that:

“Where it appears to the council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or special road) that, in the interests of the owner, lessee or occupier of the land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line should be diverted (whether on to land of the same or of another owner, lessee or occupier) the council may” divert the path.

Section 119 (6)

This deals with the confirmation of the Order and states that:

“The Secretary of State shall not confirm a public path diversion order, and a Council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that the diversion to be effected by it is expedient as mentioned in subsection (1) above, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which:

- a) the diversion would have on public enjoyment of the path or way as a whole;
- b) the coming into operation of the order would have as respects other land served by the existing right of way; and
- c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it ...“

Objection

Responses to pre-order consultation from Parish Councils and user group representatives comprised:

- a. one objection to part of the proposal from Wrington Parish Council, whose area the proposal falls within;
- b. expressions of support from the Open Spaces Society and Butcombe Parish (the southern part of the proposed AX 30/16 diversion at point C is near the Butcombe Parish boundary, within the continuing route of AX 30/16 running into Butcombe);
- c. advice of no objection from Woodspring Bridleways Association.

North Somerset Council did not receive any responses from the local landowners consulted at this stage.

The receipt of objection to the current proposal necessitates reporting this matter to Committee, for consideration whether a Public Path Diversion Order should be made.

The text from the objection by Wrington Parish Council from their letter dated 31st May 2017, which necessitates this report is extracted below:

(the Officer has separated the paragraphs of the text into numbered rows, for ease of reference to these comments in the report)

1.	Thank you for your email and letter dated 8 May 2017 concerning a proposal to divert public footpaths AX30/16 and AX30/18, both these located within Wrington parish. The Council has considered the proposed revisions and offers the following comments.
2.	First, we note the reference in the letter to an application received by NSC. It would have been helpful had more information been provided about the background to this application, included details of the applicant, although we have noted the reasons quoted. We are aware that the subject was raised some time ago and we have previously seen a plan showing the proposed diversions, this dated 25 October 2016.
3.	We can accept the argument for amending the route of path AX30/18 to avoid the farm yard and buildings. In this respect we would support a new route linking the points shown as: A - E - F – G, which is short and relatively straightforward.
4.	However, after discussing the proposal with local residents and having walked the existing route of path AX30/16, we feel that the proposed diversion here is more complicated and is unnecessary. It seems to us that there should be little scope for confusion with the existing route as it is mapped and reasonably clear.
5.	In the circumstances it is hard to see how NSC could justify the potential expenditure, especially when budgets are currently under considerable pressure. We have noted the suggestion that <i>'new kissing and pedestrian gates, a piped culvert and a bridge will be installed'</i> and that <i>'five stiles on the existing route will be removed and replaced with metal gates'</i> .
6.	Unfortunately, we do not agree with the reasons provided which, in our opinion, do not reflect personal experience and ground conditions and, therefore, we object to any diversion of, or new routing for, footpath AX30/16. We recommend that this is not progressed further.

7.	<p>Please note that we feel strongly that established public footpaths should only be diverted or re-routed where it can be shown to be absolutely essential, since it would obviously impact on all records, as well as on maps held by residents. The existing path is shown clearly on OS maps, both those in print and historical, with these known to be regularly used by walkers, and any new route will inevitably result in confusion without significant signage, which would be out of character with other local footpaths. This would be more likely with what is a complicated proposal.</p> <p>Also, in addition to the OS maps, the existing footpath is shown on all our records and on a large scale map in our office. While an interesting rural footpath, AX30/16 is not locally distinctive and does not form part of the Two Rivers Way.</p>
8.	<p>Working with NSC, we undertook a survey of all our parish paths in 1999, with this repeated in full in 2006 and then in part in 2015, although our surveyors were unable to assess all the paths in the last survey, this including AX30/16. This work is still outstanding. In a previous informal survey all the stiles were found to be in good condition, with just one slightly overgrown, the only real issue being that two fields had been ploughed. This understandably happens from time to time, although it would also have affected the proposed new route.</p>
9.	<p>As an alternative to diversion we suggest that any landowner concerned is encouraged to ensure that the existing route is not obstructed and can be easily walked, which should be standard practice. This approach should be far more cost effective.</p>
10.	<p>Please let us know if you require further information or clarification of any of the points made above.</p>

Comments from Applicants, when advised of objection points, in their letter dated 3rd July 2017. The 3 photographs attached to the applicants' letter are shown at Appendix 2:

(the Officer has separated the paragraphs of the text into numbered rows, for ease of reference to these comments in the report)

1.	<p>Pigeon House Farm is one of the few purely agriculture working farms left in the parish and it is about to be handed over to the next generation. In these days of large machinery working at high speeds it is crucial to keep the public and farming operations separate.</p>
2.	<p>We have spent significant time working with the local highway officer to reroute the footpath to make it both safe and practical for the public and agricultural operations. With the tragic death of Derek Mead, freak accidents can happen to the most experienced of farmers and with the current footpath coming so close to buildings which are stocked with cattle and the use of machinery in and around the buildings, we feel strongly that the public are kept a safe distance away to ensure that they enjoy their walk not worrying about their safety. There have been a lot of press coverage regarding walkers who have been trampled by cattle whilst walking and we feel that a route of path AX30/16 would significantly reduce this risk.</p>
3.	<p>The new proposed route will be mainly on permanent pasture grass field thus alleviating the problem of ploughed land which can be uneven to walk on and even when planted straight away can take months to recover.</p>
4.	<p>The objection states it would not be financially viable to reroute the path however we agreed with the officer that, if necessary, we would consider putting in the bridge and piping the culvert at points M1, N & J, therefore placing the financial burden on us and not the council. Also the objection states, that in previous surveys the stiles have been found to be in good condition, however, from our review of the them over the weekend, they have become rotted and unsafe, and would need to be replaced, (pictures attached), to ensure the safety of the walkers. The stiles were installed some years ago and are made of treated softwood and have exceed their useful economic life. When Adrian visited the farm, we agreed to help him and his volunteers to install new stiles as required.</p>

5.	I understand that the Ramblers Association and the Open Space Society are both in favour of the re- routes of the footpaths.
6.	Lastly, the objection states that the maps would need to be changed for the change to route AX30/16 however the maps will need to be changed for approved change to footpath AX30/18.
7.	I would like to take this opportunity to thank the council for accepting the proposed route for AX30/18 and hope that the reasons above to re-route of AX30/16 will be considered carefully.

Officer comments:

1.	<p>This proposed diversion meets the requirements of Section 119 of the Highways Act 1980.</p> <p>The landowners/applicants have given their reasons for wishing to divert the routes in their application and further in their letter dated 3rd July 2017. Officers are satisfied that it is expedient to divert the Public Footpaths in the interests of the landowners.</p> <p>In addition, the whole of the proposed diversion, taking it away from agricultural operations and proposed works improving the resulting paths for walkers from that of the existing route, will be more convenient for, and benefit, public enjoyment.</p> <p>There will be no detriment, infact only improvement, to the land served by the existing and proposed Public Footpaths.</p>
2.	<p>North Somerset Council has worked with the applicants/landowners from the pre-application stage, to seek the best solution to the historic problems of drafting errors of the routes and the routes being obstructed by farm buildings/operations, whilst ensuring the diversion request meets the needs of the landowners and walkers alike. The proposed diversion is seen as the best solution for all parties.</p>
3.	<p>Wrington Parish Council support a diversion of AX 30/18 to avoid the farm yard and buildings (their point at row 3 of their comments). As they do not support the diversion of part of AX 30/16, they suggest the proposed route of AX 30/18 should stop at point G (on the proposal Map No. PPO 169).</p> <p>However, the proposed diversion of AX 30/16 also addresses moving part of this route away from farming operations between points K and B and further to point G, between which points there are cattle, which are fed in that area (around point B), with the area becoming very muddy in winter months; and there is also use by farm machinery/vehicles. Furthermore, there is a spring area between points B and G.</p> <p>Diverting AX 30/16 to the east (points K-L-M and onwards) seeks to negate any such conflict described above. Therefore, the proposed AX 30/18 route will need to run easterly past point G, to reach point J and the continuing AX 30/16 proposal to point C will complete tying matters-up, with the route on permanent pasture grass field.</p>
4.	<p>With regards Wrington Parish Council's objection point, at row 4 of their comments, although the Wrington Parish Council objection indicates that the Parish had discussed the proposal with local residents, North Somerset Council did not receive any responses from the local landowners consulted.</p>

5.	<p>On the Parish Council's concerns over expenditure, at row 5 of their comments, the applicants/landowners are contributing to the council's costs of the diversion application and will also be involved in the works to bring the diverted routes into a fit condition for use by the public. This will ultimately be a benefit to the council, in that clear unobstructed routes will be open for public use and, once path furniture is installed, it's maintenance becomes the responsibility of the landowner.</p>
6.	<p>It is considered that the Parish Council's concerns over mapping at row 7, are not valid objections reasons. The Parish do not object to a diversion of AX 30/18 and it's diversion would necessitate a change to mapping. As stated above, Officers are satisfied that it is expedient to divert the Public Footpaths and, when changes are made to any Public Rights of Way, the council's online/'electronic Working Copy of the Definitive Map' of the Definitive Map is updated, as well as a copy of the Public Notice and Order Map displayed on the council's website and at the site. We also notify Ordnance Survey, so that their mapping can be updated.</p> <p>Waymark discs are also used along diverted footpaths, to delineate the routes and, where a path leaves a metalled route, a fingerpost sign is affixed.</p>
7.	<p>The local representative of the Ramblers Association does not object to the proposed diversion as applied for and the local Open Spaces Society representative has expressed support for the proposal.</p>
8.	<p>In light of all the above points, it is recommended that a Public Path Diversion Order for the whole proposal as outlined in this report is made.</p>

5. CONSULTATION

Pre-order consultations were undertaken (including landowners, neighbouring landowners/properties, interested parties/local user groups, utility companies, Wrington Parish Council, the adjoining Butcombe Parish Council and the local ward councillor). One objection was received to part of the proposal from Wrington Parish Council and this is summarised at section '4. Details' of this Report, above.

6. FINANCIAL IMPLICATIONS

The applicants are to contribute towards the council's Public Path Diversion Order application costs and those of bringing the new route into a fit condition for use by the public. If the Order is submitted to the Secretary of State for confirmation, none of the associated and subsequent costs can be recovered, so these would be borne by the Council

7. RISK MANAGEMENT

If an Order is made and objections are received at the formal consultation stage which cannot be resolved by the council, the Order will be submitted to the Secretary of State for confirmation. There are three methods which an Inspector can use to determine the matter: Written Representations; a Hearing or a Public Inquiry. The Objectors are invited to state which method they wish to be followed, the Council have no say in deciding.

8. EQUALITY IMPLICATIONS

Public 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.

9. CORPORATE IMPLICATIONS

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

10. OPTIONS CONSIDERED

The options to be considered by this Committee are:

- i) to approve the making of a Section 119 Public Path Diversion Order for Footpath AX 30/18 and part of Footpath AX 30/16; and
- ii) to arrange its subsequent confirmation if no objections are received when the Order is published; or
- iii) if objections are received and sustained, to forward the Order to the Secretary of State for determination, and promote the Order in any subsequent proceedings

OR

- iv) to abandon the proposed Public Path Diversion Order application and advise the applicant, having regard to the risk management factors at section 7, above.

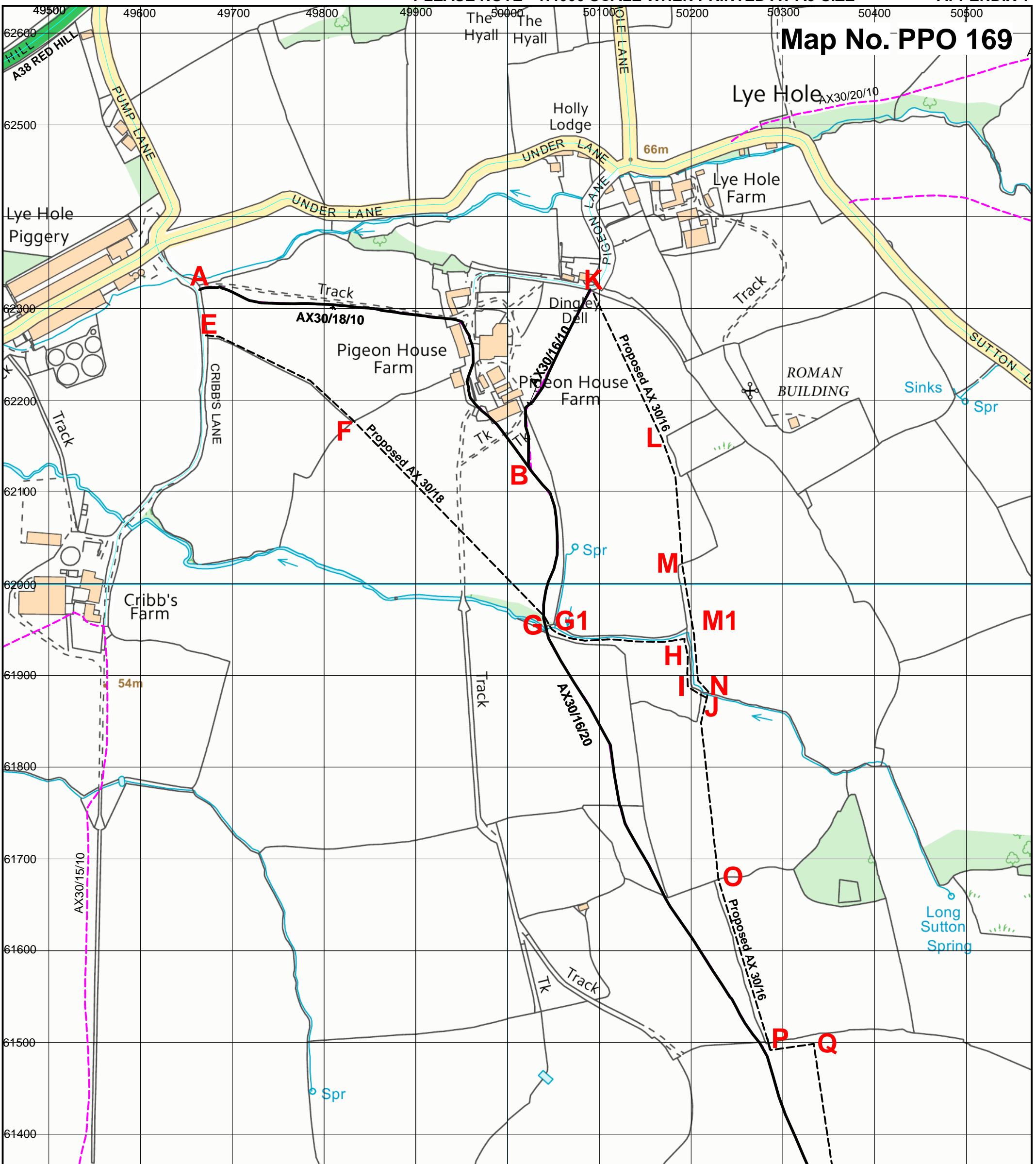
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BACKGROUND PAPERS

Public Rights of Way Section File PPO 169

Map No. PPO 169

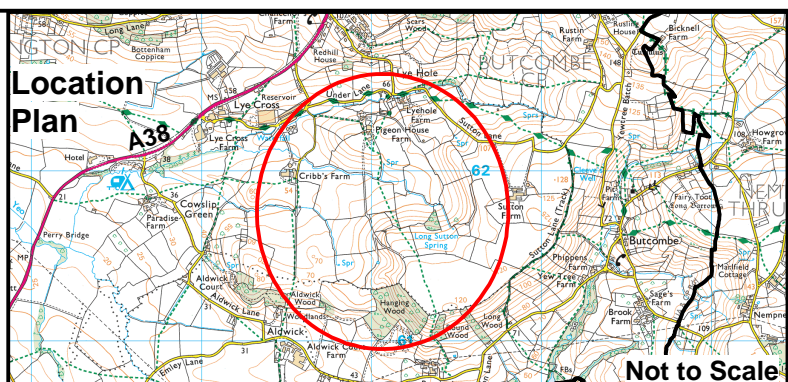


Highways Act 1980 - Section 119 North Somerset District Council
Proposed Public Path Diversion Order
 Public Footpaths AX30/18 and AX 30/16, west and south of Pigeon House Farm,
 Cribb's Lane and Pigeon Lane, Redhill, Wrington



Development & Environment
 Public Rights of Way
 Streets and Open Spaces
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Scale 1:4000 NORTH
 Date 8th May 2017
 Grid Squares ST4961,
 ST4962, ST5061 & ST5062
 Drawn by Penny Price
PATHS TO BE DIVERTED
 Existing ———
 AX 30/18 A-B & AX 30/16 K-B-G-C
 Proposed - - - -
 AX 30/18 E-F-G1-H-I-J
 & AX 30/16 K-L-M-M1-N-J-O-P-Q-C
 Connecting Paths - - - - -

PPO 169 – PIGEON HOUSE FARM, WRINGTON

3 PHOTOGRAPHS SUBMITTED WITH APPLICANTS' LETTER DATED 3RD JULY 2017

PHOTOGRAPH 1.



CONTINUATION OF APPENDIX 2

PPO 169 – PIGEON HOUSE FARM, WRINGTON

3 PHOTOGRAPHS SUBMITTED WITH APPLICANTS' LETTER DATED 3RD JULY 2017

PHOTOGRAPH 2.



PHOTOGRAPH 2.

