

# **North Somerset Council**

## **REPORT TO THE PUBLIC RIGHTS OF WAY SUB-COMMITTEE**

**DATE OF MEETING: 26 NOVEMBER 2019**

### **SUBJECT OF REPORT:**

**DIVERSION OF PART OF PUBLIC FOOTPATH AX 14/32,  
LADYMEAD FARM, WEST OF LADYMEAD LANE  
AND PART OF AX 14/46, ON LAND NORTH OF LADYMEAD LANE  
TOWN OR PARISH: CHURCHILL**

**OFFICER/MEMBER PRESENTING: PENNY PRICE**

**KEY DECISION: N**

### **REASON:**

This proposal is outside the council's Key Decision criteria.

### **RECOMMENDATIONS**

- i) That the Committee approve the making of two Public Path Diversion Orders under section 119 of the Highways Act 1980 for Footpaths AX 14/32 and AX14/46; and
- ii) to arrange the subsequent confirmation of the Orders if no objections are received when the Orders are published; or
- iii) if objections are received and sustained to one or both of the Orders, to forward those Orders to the Secretary of State for determination and promote those Orders in any subsequent proceedings.

## **1. SUMMARY OF REPORT**

North Somerset Council has received a Public Path Order application to divert part of Public Footpath AX 14/32 at the above location. Whilst processing this application, the council is also seeking to address a nearby Definitive Map anomaly, by diverting part of Public Footpath AX 14/46.

Pre-order consultations resulted in the receipt of two written objections, which relate to the proposed AX 14/32 diversion, therefore it is necessary to report the matter to Committee, to seek approval to make a Public Path Diversion Order.

With regards the diversion of AX 14/46, which is being sought by the Council, the applicants/owners of Ladymead Farm have agreed the diversion of the route onto their land. This proposal is also brought to Committee for approval to make a Public Path Diversion Order.

A copy of the proposal map, 'Map No. PPO 184' is attached to this Report as Appendix 1

## **2. POLICY**

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

## **3. DETAILS**

### **a. Background**

#### **i. Part of footpath AX 14/32**

This application seeks to divert the Public Footpath as follows:

**from** a pedestrian gate at point A (grid ref. ST 45050 60877), at Ladymead Lane, running in a generally westerly direction through points B, C and D, to point E (grid ref. ST 44775 60898) and then in a generally south westerly direction through point F, to point G (grid ref. ST 44675 60747); as shown by a bold black line. The section to be diverted is approximately 483 metres long, with a number of field gates and pedestrian gates;

**to** a footpath from a kissing gate at point H (grid ref. ST 45032 60830) at Ladymead Lane, running in a generally westerly direction to a pedestrian gate at point I (grid ref. ST 44905 60841), then a generally west, south westerly direction through points J and K (at a pedestrian gate) and on to a pedestrian gate at point G (grid ref. ST 44675 60747), a total distance of approximately 378 metres, as shown by a bold broken line.

Works to accommodate the new route will include a culvert bridge (point H), stoning of the route at point J to prevent issues in wet conditions and also minor cutback at this point, cutback to south of tree at point I to fit gate and hedge clearance to accommodate the kissing gate at point H; as well as appropriate footpath signage. The path will be 2 metres wide, on a pasture surface, with a stoned surface at point J.

The reasons for the submission of the application are as follows:

Ladymead Farm is an isolated property with Public Footpath AX14/32 routed along 140m of shared vehicular access drive, from Point A to B and through 35m of the applicants' private garden, between Points B and C. The remaining 305m between points C-D-E-F-G, suggested for diversion, is across agricultural pasture. There are numerous gates and kissing gates across the route.

The 35m of the definitive route through the applicants' garden has always been available for use, however a short 'permissive alternative' route via pasture to the south, has been in place and used by most walkers for many years, therefore the applicants have experienced few problems.

Planning consent for the development of the agricultural barn to the west of the main house as a dwelling and construction of an associated vehicular access track from Point B has been granted. The proposed development will increase the length of path shared with vehicular access by around 35m.

The proposed diversion is more in keeping with the rural nature of this and other connecting paths and will provide a shorter, more direct route west from Ladymead Lane alongside a mature hedge and on well drained pasture. The proposed alternative route will also have fewer gates than the existing. In addition, the proposed route is well away from the vehicular access drive and private garden, which should encourage public use and allow the applicants to better manage access to their property and the new barn development.

The proposed diversion will clearly benefit the applicants but will also provide benefit to the walking public as most prefer to walk a more rural route with fewer gates to negotiate.

## **ii. Part of footpath AX 14/46**

At the same time, the council is seeking to address an apparent mapping anomaly arising during the Definitive Map process, which shows the legal line of Public Footpath AX 14/46 following a historic drainage ditch for approximately 185 metres, between points L (grid ref. ST 45071 61051) to M (grid ref. ST 45054 60871).

The public have been taking a route via a stile at point O (grid ref. ST 45056 60886), then walking along the field edge on the west side of the drainage ditch, to a field gate at point N (grid ref. ST 45063 61034), before re-joining the definitive line at point L, a total distance of approximately 169 metres.

The formal diversion to a route between points O-N-L is necessary to address the historic mapping anomaly, providing clarity for landowners and walkers, with the public being the main beneficiary of the diversion.

The stile at point O will be replaced with a kissing gate and appropriate footpath signage will be affixed.

## **b. Legal context – Highways Act 1980, section 119**

The proposals comply 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 an 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 an 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 ...“

### c. Response to pre-order consultations

Responses to pre-order consultation included two parties expressing support for the proposals and two objecting parties.

### SUPPORTING COMMENTS

i.	<p>AX 14/46 proposal is fully supported by <b>The Mendip Society representative</b>. When they went by, they found the ditch was very muddy/heavily overgrown and advise they certainly wouldn't want to try to walk it!</p> <p>AX 14/32 diversion is also supported by <b>The Mendip Society</b>, with their <b>representative</b> feeling that the proposed diversion would take the footpath well away from Ladymead Farm and remove problems of loss of privacy and security issues caused by users crossing the garden close to the farmhouse. They consider the new line is sufficiently remote from both the farm and Ladymead Cottage as not to cause problems for the occupiers and looks to be a more acceptable and pleasant route for path users.</p>
ii.	<p>An <b>owner of land adjacent to the footpaths</b> (but not directly affected by the proposed route changes) advises, as a regular user of these paths, that they believe the new layout proposals to be a very positive advantage, which will lead to increased enjoyment of their use. They fully support the proposal.</p>

### OBJECTION POINTS

i.	<p><b>1<sup>st</sup> objecting party</b></p> <p>Objection to and opposition to route of proposed diversion from <b>local resident</b> on following grounds.</p> <p>“1. There are good and available alternative routes for the footpath across/around the edge of fields and no need to route walkers and their dogs onto the road. Please see attached plan indicating a suggested alternative route for the diversion which avoids re-routing walkers along the road.” <b>(this map is shown as Appendix 2 to this Report)</b></p> <p>“2. The proposed new access point will create an additional hazard and risk for walkers and users of Ladymead Lane as</p>
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	<p>(i) the re-routed access of the footpath onto the road is at a point where there is a bend in the road and emerging from the footpath will be dangerous; walkers waiting on the road to pass through the single file kissing gate will be exposed to traffic on Ladymeade Lane as there is no pavement or verge for pedestrians to walk along or wait off the road</p> <p>(ii) this new and unnecessary hazard will require additional road signage to be erected warning traffic of the presence of walkers and to slow down.</p> <p>(iii) Traffic not only emerges from Ladymeade Cottage at that very point, but the lane not only carries delivery vehicles to and from Ladymeade Farm (and its proposed converted barns) and to and from Ladymeade Cottage, but also large farm and other traffic . It is also used for livestock movements. All of these will pose a danger to walkers and their dogs along the diverted footpath route.</p> <p>(iv)Traffic volumes along Ladymeade Lane will increase with the proposed conversion of barns at Ladymeade Farm, increasing the level of risk.</p> <p>3. The proposed re-routing of the footpath requires an additional gateway to be created into the field which already has a perfectly adequate gateway (at point A): the suggested alternative re-routing (see 1 above) would use the existing gateway. Using the existing gateway would also avoid unnecessary interruption of the wildlife corridor and avoid destruction of a length of ancient hedge.</p> <p>4. The current existing route of the footpath conjoins the routes of two other existing footpaths providing safe walking, and clearly has been long established for historical purposes.</p> <p>5. The diversion will shorten the length of the footpath and reduce public amenity.”</p>
ii.	<p><b>2nd objecting party</b></p> <p>From the <b><i>organiser of a walking group</i></b> for 25 years, using most if not all the footpaths in and around North Somerset.</p> <p>“I have organised a walking group for the past 25 years, using most if not all the footpaths in and around North Somerset.</p> <p>The diversion of footpath AX 14/46 would require walkers to proceed from Point A &amp; M along Ladymeade Lane to point H. In order to proceed to point J via a kissing gate.</p> <p>Ladymeade Lane is a very narrow country lane &amp; the proposed gate would be situated close to a sharp bend.</p> <p>The proliferation of the new housing estate known as Langford Fields, will inevitably mean more vehicular and pedestrian traffic on this already quite busy lane. My objections are on the grounds of safety for both drivers and walkers.</p> <p>A fairer solution to this problem (If indeed one exists, as this footpath has been diverted previously) would be that a kissing gate be installed at point A in order for walkers to proceed diagonally across fields to point J. Thus mitigating the possibility of accidents.”</p>

## OFFICER COMMENTS

i.	<p><b>The proposals comply with the various provisions of Section 119 of the Highways Act 1980:</b></p> <p><b>a. It is expedient to make both Orders, in the interests of the owners of the land or of the public.</b></p> <p>Diverting Public Footpath <b>AX 14/32</b> will clearly benefit the applicants/landowners but will also benefit the walking public, as most will prefer to walk a more rural route, with fewer gates to negotiate;</p> <p>In addressing a historic mapping anomaly, the <b>AX 14/46</b> proposal will provide clarity all round, with the main beneficiary being the public;</p> <p><b>b. The proposals are not substantially less convenient to walkers.</b></p> <p><b>AX 14/32</b> from points A-G (existing route) is approximately 483 metres and points H-G (proposed) is approximately 378 metres. Adding the approximate 50 additional metres that footpath users would have to walk along Ladymead Lane, if wanting to get back to the original start at point A, this gives a total proposed distance of approximately 428 metres. Therefore, for walkers to get between the same start and finish points as the existing route, the proposed diversion would be approximately 55 metres less.</p> <p><b>AX 14/46</b> between points M-L (existing route) is approximately 185 metres and points O-N-L (proposed) is approximately 169 metres. Again, adding the approximate 14 additional metres that footpath users would have to walk, if wanting to get back to the original start at point M, this gives a total proposed distance of 184 metres. Therefore, for walkers to get between the same start and finish points as the existing route, the proposed diversion would be approximately 1 metre less;</p> <p><b>c. the diversion would not have a detrimental effect on public enjoyment of the paths as a whole.</b></p> <p><b>AX 14/32</b> - The proposed route will take walkers away from the shared vehicular access drive, it will be on a more rural route on well-drained pasture land (with some stoning at point J), without the ambiguity of whether walkers should be going through a private garden and it will have less path furniture to negotiate.</p> <p><b>AX 14/46</b> - in addressing the apparent mapping anomaly and providing clarity of the route walkers should follow, the proposed route will give a better walking surface than the historic drainage ditch and will include a kissing gate instead of a stile, on the route which people have been walking;</p>
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	<p><b>d. the coming into operation of the order would not have a detrimental effect on other land served by the existing and proposed Public Footpaths.</b></p> <p>Both diversions offer improved routes for all parties. Part of the existing and proposed <b>AX 14/32</b> routes are in neighbouring land ownership. The neighbouring party has given written permission for this diversion, which will move the route further southerly, allowing for improved use of their land.</p> <p>The immediate neighbouring (southerly) landowners for the proposed route have not expressed objection to the proposed route running nearer to their land. Although it is acknowledged that part of the proposed route near point H will be nearer to 'Ladymead Cottage' than the existing route at point A, walkers will be going along the far side of a mature hedge and not on land immediately adjacent the property.</p> <p>The applicants/landowners for the Ladymead Farm diversion have given their written consent to the majority of the proposed route of <b>AX 14/46</b> running inside their field boundary.</p>
ii.	Two separate parties have written in support of the proposals.
iii.	<p><b>1<sup>st</sup> objecting party – general Officer comments</b></p> <p>It is open for applicants/landowners to apply for a footpath diversion, in their and/or the public's interest. The proposed AX 14/32 diversion is the route the applicants/part-landowners have requested and will take walkers away from a shared access drive, have less path furniture to negotiate than the existing route and will partly run along a field edge boundary, allowing the applicants/part-landowners to better-manage their land. The neighbouring landowners, whose land the west part of the diverted route will run, will also benefit from better management of their land.</p> <p>The applicants/landowners wish to keep the proposed diverted route, as that shown on their application.</p> <p>If walkers wish to get from point H on the proposed route, back to point A on the existing route (to link back towards connecting Public Footpaths), this would only mean walking along Ladymead Lane for approximately 50 metres. Ladymead Lane is a cul-de-sac, only going as far as Ladymead Farm. There may be walkers taking a southerly route along AX 14/46 who, if they don't want to turn east or west along the existing connecting routes, would have to walk along Ladymead Lane.</p> <p>The slight bend in the orientation of the road is at the turning to Ladymead Cottage. However, the proposed point H is approximately 13 metres north of both these features. The hedge removed at the proposed point H will only be of the short length necessary to accommodate the new kissing gate.</p> <p>If walkers wish to get between the two existing start/finish points, along the proposed route and Ladymead Lane, this will be 55 metres less to walk in total. However, the proposed route will take walkers away from the shared vehicular access drive, it will be on a more rural route on well-drained pasture land, without the ambiguity of whether walkers should be going through a private garden and it will have less path furniture to</p>

	negotiate. Furthermore, the local representative of the Ramblers Association has not objected to the proposal.
iv.	<p><b>2nd objecting party – general Officer comments</b></p> <p>The slight bend in the orientation of the road is approximately 13 metres south of the proposed kissing gate/point H.</p> <p>The section of Ladymead Lane at points H and A is a cul-de-sac, running just to Ladymead Farm, therefore it is argued that the new housing estate known as Langford Fields will not lead to more vehicular traffic on this section.</p> <p>The applicants/landowners wish to keep the proposed diverted route, as that shown on their application.</p>

#### 4. CONSULTATION

Joint pre-order consultations were carried-out for the two proposed diversions (including local Public Rights of Way user groups, utility companies, landowners/neighbouring landowners, Churchill Parish Council and the local Ward member). Responses included two parties expressing support for the proposals and two objecting parties, appearing to only object to the proposed AX 14/46 diversion.

#### 5. FINANCIAL IMPLICATIONS

Of the two proposals, AX 14/46 is a council application, seeking to address an apparent mapping anomaly, for which Officer time in processing the application cannot be recharged. It is therefore prudent to deal with both proposals jointly, with part-reduced fees for the AX 14/32 applicants, as detailed below and, if the two proposed Orders are made and advertised jointly, the council will deduct a portion of that fee commensurate to the size of the AX 14/46 proposal, when recharging the applicants.

The diversion will have further financial implications for the council if Orders are objected to and need to be submitted to the Secretary of State for determination.

##### Costs

Costs applicable to the **AX 14/32** application, are as follows:

- i. pre-application and further negotiations **£57.70** per hour;
- ii. undertaking informal consultations and Report **£815.00**;
- iii. drafting, publishing and confirming the order **£1090.00** (*£500 less than usual fee*);
- iv. advertising the Order (actual cost dependent on size) approx. **£450** per advertisement (two adverts required if an Order is made and confirmed).

If the AX 14/32 proposal does not reach the Order-making/Confirmation stages and has not been withdrawn by the applicants, the council would not pass on any charges to the applicants. However, if the applicants withdraw their application, the council would reserve the right to charge for any advertisement costs incurred.

## **Funding**

Expenditure associated with both diversion proposals, such as advertisement of any Orders (in the region of £900), will be recorded against normal Public Rights of Way budgets. The applicants for the AX 14/32 proposal will be recharged for their contribution, as detailed in the costs section above, when processing of the application is complete.

If the Order(s) needs to be submitted to the Secretary of State for determination, these further submission and any subsequent proceedings costs will be borne by the council.

## **6. LEGAL POWERS AND IMPLICATIONS**

Committee authority is sought to make Public Path Diversion Orders under section 119 of the Highways Act 1980, as shown at section '3. DETAILS' of this report.

## **7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

Improvements or additional routes added to the Public Rights of Way Network encourage sustainable travel by enabling the public to walk, cycle or ride a horse across our District reducing carbon emissions and improving our Environmental footprint.

## **8. RISK MANAGEMENT**

If an Order is made and objections are received at the formal consultation stage which cannot be resolved by the council, and if the Order is then 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.

## **9. EQUALITY IMPLICATIONS**

Have you undertaken an Equality Impact Assessment? No

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.

## **10. CORPORATE IMPLICATIONS**

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

## **11. OPTIONS CONSIDERED**

The options to be considered by this Committee are:

- i) to approve the making of a Public Path Diversion Order under section 119 of the Highways Act 1980 for part of Footpath AX 14/32;
- ii) and to approve the making of a Public Path Diversion Order under section 119 of the Highways Act 1980 for part of Footpath AX 14/46;

and

- iii) if/where an Order(s) is made as options i) and ii) above, to arrange the subsequent confirmation of the Order(s) if no objections are received when the Order(s) are published;

- iv) if/where an Order(s) is made as options i) and ii) above and objections are received and sustained to any of the Orders, to forward those Orders to the Secretary of State for determination and promote those Orders in any subsequent proceedings.

OR

- v) to abandon the proposed Public Path Diversion Order under section 119 of the Highways Act 1980 for part of Footpath AX 14/32 and advise the applicants, having regard to the risk management factors at section 8, above:
- vi) to abandon the proposed Public Path Diversion Order under section 119 of the Highways Act 1980 for part of Footpath AX 14/46 and advise the applicants, having regard to the risk management factors at section 8, above.

## **AUTHOR**

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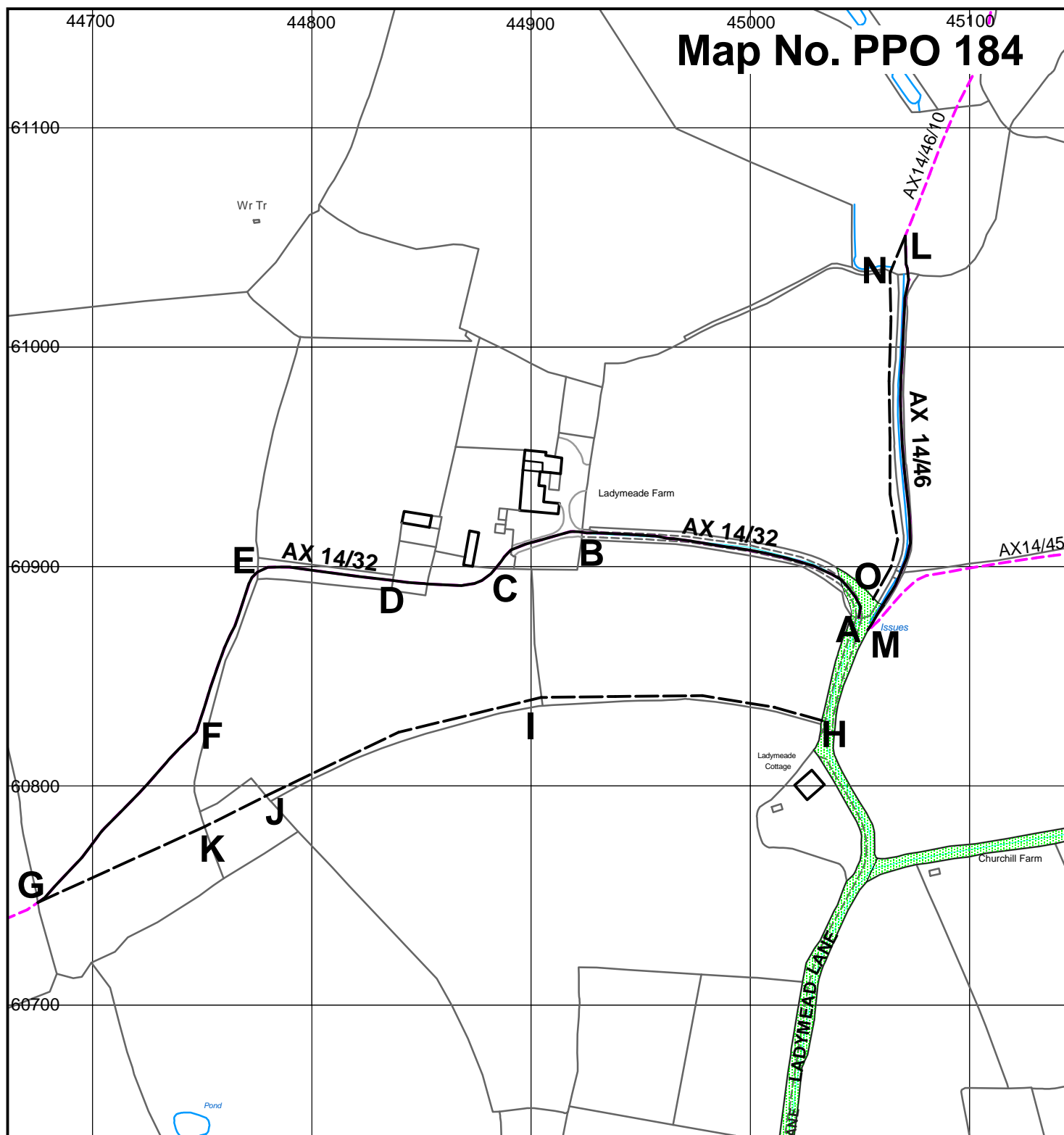
## **APPENDICES**

Appendix 1 – Proposal 'Map No. PPO 184'

Appendix 2 - 1st Objecting Party's suggested amended proposed route

## **BACKGROUND PAPERS**

Public Rights of Way Team PPO 184 file



Highways Act 1980 - Section 119 North Somerset District Council

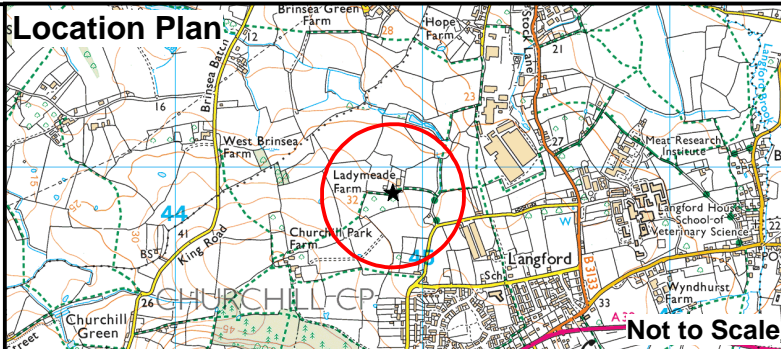
# Proposed Public Path Diversion Orders

Scale 1:2500

Parts of footpaths AX 14/32 and AX 14/46,  
at Ladymead Farm, west/north of Ladymead Lane, Langford, Churchill**Development & Environment**

Public Rights of Way  
Streets and Open Spaces  
North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

Tel: 01934 888 802



Date 23 May 2019

Grid Squares  
ST4460 & ST4561
**Drawn by Penny Price**  
**PATHS TO BE DIVERTED**

 Existing   
 (A-B-C-D-E-F-G & L-M)

 Proposed   
 (H-I-J-K-G & L-N-O)

Connecting paths

**Not to Scale**

Free

AX14/45

EXISTING  
GATEWAY

Ladyrlande  
College

Churchill Farms