

North Somerset Council

REPORT TO THE PUBLIC RIGHTS OF WAY SUB COMMITTEE

DATE OF MEETING: 26 NOVEMBER 2019

SUBJECT OF REPORT: MOD 24 MENDIP WOODS

TOWN OR PARISH: BURRINGTON/CHURCHILL

OFFICER/MEMBER PRESENTING: ELAINE BOWMAN

KEY DECISION: NO

RECOMMENDATIONS

It is recommended that

- (i) The Public Rights of Way Sub Committee authorise the relevant officer to deny this application relating to Mod 24 Mendip Woods on the grounds that there is not sufficient evidence to upgrade Footpaths AX 10/38, AX 14/3 and section of unrecorded route to a Bridleway.

1. SUMMARY OF REPORT

Footpaths AX 10/38, AX 14/3 and an unrecorded route were the subject of a full investigation following the submission of an application by Mrs V Craggs on 15th March 1991. That application claimed that the route from the junction of Link Lane over both Footpaths AX 10/38 and the majority of AX 14/3 together with a section of unrecorded route should be recorded as a Bridleway. Following a Direction issued by the Secretary of State, in December 1994 a Bridleway Order was made which when advertised attracted 31 objections which led to a Public Inquiry which was determined by an Inspector, appointed by the Secretary of State, dated 21st January 1997. That Inspector's decision was that the Order should not be confirmed.

A second application was submitted to North Somerset Council by Miss J Roseff on behalf of Woodspring Bridleways Association (now known as Axbridge Bridleways Association) on the 13th January 1998 claiming that additional evidence had been found which proved that this route had been used during the relevant period and should be recorded as a Bridleway. The applicants claim that the previous Inspectors interpretation of the evidence and final decision was inaccurate, however did not choose to challenge that decision within the High Court.

This report is required to consider the new evidence, in conjunction with the evidence previously considered to ascertain whether this information would have led to a different decision that Footpaths AX 10/38, AX 14/3 and unrecorded route, should be recorded as a Bridleway.

Such application for a Definitive Map Modification Order is submitted under Section 53(5) of the Wildlife and Countryside Act 1981. The effect of this request, should an Order be made and confirmed, would be to amend the Definitive Map and Statement for the area. The application relates to the route A-B (AX 10/38), B-C (AX 14/3) C-D (unrecorded) shown on the attached Location Plan.

This report is based on minimal historical documentary evidence, and a rebuttal of the previous Inspectors Decision Notice. A **Location Plan, EB/Mod 24**, showing the route as a bold black dashed line A-B-C-D being claimed is attached.

In order that members may consider the evidence relating to this application, further details about the claim itself, the basis of the application, and an analysis of the evidence are included in the Appendices to this report, listed below. Also listed below are the Documents that are attached to this report. Members are welcome to inspect the files containing the information relating to this application, by arrangement with the Public Rights of Way Section.

Location Plan EB/MOD24

Appendix 1 – The legal basis for deciding the claim

Appendix 2 – History and Description of the First Claim

Appendix 3 – History and Description of the Second Claim

Appendix 4 – Analysis of the Documentary Evidence submitted by the Applicant

Appendix 5 – Consultation and Landowner Responses

Appendix 6 – Summary of Evidence and Conclusion

Document 1 – The Planning Inspectorate Decision dated 29 May 1997

Document 2 – 1797 Banwell and Churchill Enclosure Award and Apportionment extracts.

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

Background

i) The Legal Situation

North Somerset Council, as Surveying Authority, is under a duty imposed by the Wildlife and Countryside Act 1981, Section 53(2) to keep the Definitive Map and Statement under continuous review. This includes determining duly made applications for Definitive Map Modification Orders.

The statutory provisions are quoted in **Appendix 1**.

ii) The Role of the Committee

The Committee is required to determine whether or not a Definitive Map Modification Order should be made. **This is a quasi-judicial decision and it is therefore essential that members are fully familiar with all the available evidence. Applications must be decided on the facts of the case, there being no provision within the legislation for factors such as desirability or suitability to be taken into account.** It is also important to recognise that in many cases the evidence is not fully conclusive, so that it is often necessary to make a judgement based on the balance of probabilities.

The Committee should be aware that its decision is not the final stage of the procedure. Where it is decided that an Order should be made, the Order must be advertised. If objections are received, the Order must be referred, with the objections and any representations, to the Department of the Environment, Food and Rural Affairs (DEFRA) for determination. Where the Committee decides that an order should not be made, the applicant may appeal to the Government Office.

Conclusion

As this report relates to a route A-B-C which is already recorded on the Definitive Map as Footpath it is necessary for the Committee to consider whether, given the evidence available, that a highway shown in the map and statement as a highway of a particular description **ought** to be there shown as a highway of a different description.

In addition to this, the Committee also need to consider whether given the evidence available that the section C-D subsists or is reasonably alleged to subsist.

If the Committee is of the opinion that these relevant tests have been adequately met, it should determine that a Definitive Map Modification Order should be made. If not, the determination should be that no order should be made. See Appendix 1.

4. CONSULTATION

Although North Somerset Council is not required to carry out consultations at this stage affected landowners have been contacted. In addition to this Churchill and Burrington Parish Council, Local members, interested parties and relevant user groups have also been included. Detail of the correspondence that has been received following these consultations is detailed in **Appendix 5**.

5. FINANCIAL IMPLICATIONS

At present the council is required to assess the information available to it to determine whether there is sufficient evidence to support the application. There will be no financial implications during this process. Once that investigation has been undertaken, if authority is given for an Order to be made then the Council will incur

financial expenditure in line with the advertisement of the Order. Further cost will be incurred if this matter needs to be determined by a Public Inquiry. These financial considerations **must** not form part of the Committee's decision.

Costs

To be met from existing Revenue Budget.

Funding

To be met from existing Revenue Budget.

6. LEGAL POWERS AND IMPLICATIONS

Section 53 of the Wildlife and Countryside Act 1981. The Wildlife and Countryside Act 1981 requires that applications which are submitted for changes to the Definitive Map and Statement are determined by the authority as soon as is reasonably possible, within 12 months of receipt. Failure will result in appeals being lodged and possible directions being issued by the Secretary of State.

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

The Wildlife and Countryside Act 1981 requires that applications which are submitted for changes to the Definitive Map and Statement are determined by the authority as soon as is reasonably possible. Due to the number of outstanding applications awaiting determination officers of North Somerset Council, in conjunction with the PROW Rights of Way Sub Committee have agreed a three-tier approach when determining the directed applications. A report was presented to the Committee in November 2016 which outlined a more streamline approach. This could result in challenges being made against the Council for not considering all evidence.

The applicant has the right to appeal to the Secretary of State who may change the decision of the Council (if the Council decided not to make an Order) and issue a direction that an Order should be made. Alternatively, if an Order is made objections can lead to a Public Inquiry.

9. 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.

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

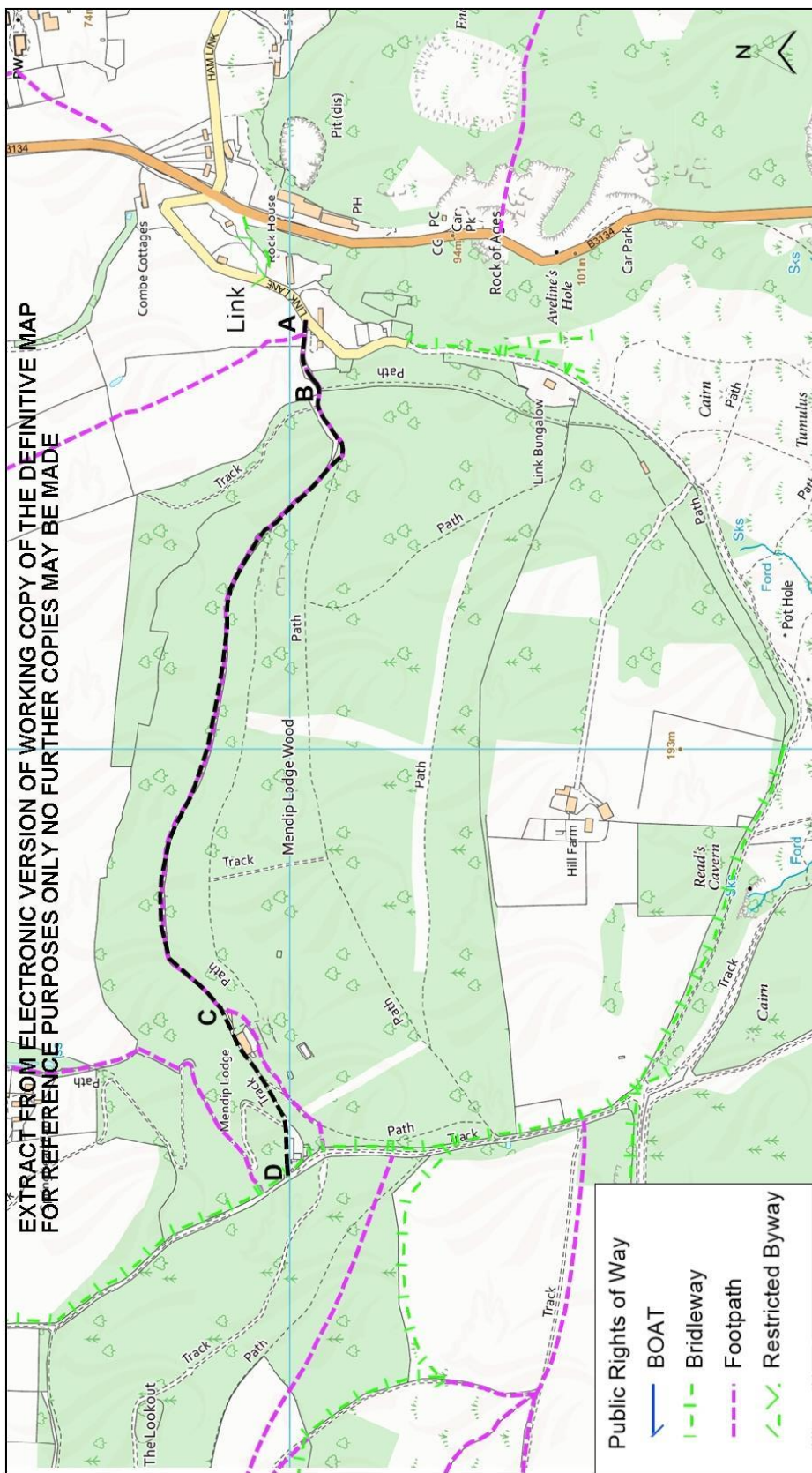
The options that need to be considered are:

1. Whether the new evidence supports the making of a Definitive Map Modification Order for the route A-B-C-D Footpaths AX 10/38, AX 14/3 and section of unrecorded route.
2. Whether the application should be denied as there is insufficient evidence to suggest that if presented would have changed the opinion of the Inspector at the previous Inquiry.

AUTHOR

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BACKGROUND PAPERS: - Public Rights of Way File Mod 24



The Definitive Map has a relevant date of 26th 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.



MOD 24 - Claimed Bridleway

Mendip Woods, Burringdon

Public Rights of Way
 Scale: 1:6500
 Drawn by: Lucy Roca
 Date: 25 June 2019
 Drawing No: EB/MOD24

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The Legal Basis for Deciding the Claim

1. The application has been made under Section 53 of the Wildlife and Countryside Act 1981, which requires the Council as Surveying Authority to bring and then keep the Definitive Map and Statement up to date, making by Order such modifications to them as appear to be required as a result of the occurrence of certain specified events.
2. Section 53(3)(b) describes one event as, "the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or restricted byway". See paragraph 4.

Subsection 53(3) (c) describes another event as, "the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

- (i) "that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over the land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic"
- (ii) "that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description"

The basis of the application in respect of the Bridleway is that the requirement of Section 53(3)(c)(i) and (ii) has been fulfilled.

3. Section 32 of the Highways Act 1980 relating to evidence of dedication of way as highway states " A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered documents, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced".
4. Section 31 (1) of the Highways Act 1980 provides that, "Where a way over land, other than a way of such character that use of it by the public could not give rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption for a full period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it".

Section 31 (2) states, “the period of twenty years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question whether by a notice or otherwise”.

Section 31 (3) states, “Where the owner of the land over which any such way as aforesaid passes-

- (a) has erected in such manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and
- (b) has maintained the notice after the 1st January 1934, or any later date on which it was erected,

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

For a public highway to become established at common law there must have been dedication by the landowner and acceptance by the public. It is necessary to show either that the landowner accepted the use that was being made of the route or for the use to be so great that the landowners must have known and taken no action. A deemed dedication may be inferred from a landowners’ inaction. In prescribing the nature of the use required for an inference of dedication to be drawn, the same principles were applied as in the case of a claim that a private right of way had been dedicated; namely the use had been without force, without secrecy and without permission.

The Committee is reminded that in assessing whether the paths can be shown to be public rights of way, it is acting in a quasi-judicial role. It must look only at the relevant evidence and apply the relevant legal test.

5. Modification orders are not concerned with the suitability for use of the alleged rights. If there is a question of whether a path or way is suitable for its legal status or that a particular way is desirable for any reason, then other procedures exist to create, extinguish, divert or regulate use, but such procedures are under different powers and should be considered separately.

History and Description of the First Claim

APPLICATION 1 – 15 March 1991

Application submitted by Mrs V Craggs	The basis that the routes AX 10/38 and AX 14/3 and unrecorded route should be recorded on the Definitive Map as a Bridleway.
Report presented to the Planning, Highway and Transport (Public Rights of Way) Sub Committee on the 27 July 1993	A report was prepared and presented. Members were advised that this application was supported by 28 User Evidence forms. Information was also presented regarding responses that had been received to informal consultations. The majority of these objected to the proposal for AX10/38 and AX14/3 to be recorded as a Bridleway. The officer recommendation at that time was " <i>that no Order be made</i> "
Report presented to the Planning, Highways and Transport (Public Rights of Way) Sub Committee dated 26 July 1994	A second report was presented to notify the Sub-committee of a Direction received from the Secretary of State for the Environment on 22 April 1994. Following the decision of the Sub-Committee at the previous meeting on 27 July 1993 an appeal was lodged by the Applicants. This Direction required an Order to be made.
Bridleway Order made on 13th December 1994	A Definitive Map Modification Order was made and sealed to upgrade Footpath AX 10/38, part of Footpath AX 14/3 and the addition of the unrecorded route to a Bridleway. This was advertised on the 20 th December 1994 stating the final date for making representations and objections being the 10 th February 1995.
Report presented to the Planning, Highways and Transport (Public Rights of Way) Sub Committee dated 19th April 1995	A third report was presented to advise members of the responses which were received to the Making of a Modification Order. Members were informed that 30 letters of objection were received. After consideration of the objection letters, it was agreed by the members that the comments were "duly made" and therefore recommended " <i>that the Order be referred to the Secretary of State with a request that Order not be confirmed</i> ".
Public Inquiry held on 21st January 1997	A Public Inquiry was held on 21 st January 1997. During that inquiry, the Inspector listened to all of the evidence put forward by North Somerset Council, the

supporters for the Order and the objectors which included the landowners.
A full copy of the Inspectors Report detailing the evidence presented and the Inspectors opinion is attached as **Document 1**.

Inspectors Decision Notice

The following tables contain information extracted from the Inspectors Decision Notice. It is strongly recommended that the full document attached as Document 1 is read in its entirety and considered in the overall recommendation of this application.

Case of Order Making Authority [para.9 to 19]

Based on the user evidence, the application was supported by 30 evidence forms, two of which were withdrawn, some of which are claiming over 20 years of public use. Based on a bar chart included in a report to the Sub-Committee, it showed 22 riders claimed use extending beyond 1985 and 6 up to 1990; most of the claimed use was assessed as dating from the late 1950s and it was noted that one claimant reported use 400 times a year. All reported the route as 14 feet wide. Four users recorded a locked gate at Stoney Lane end between 1982 and 1984, however the Applicant did not consider this to be a valid challenge; they claimed they had been able to use the way until notices were erected between 1988 and 1990. The Council also provided copies of documentary evidence in support of their case.

The Documentary evidence [para. 14 to 19]

1797 Enclosure Award, 1782 Day and Masters Map, 1817 Mudge Map (OS), 1822 Greenwood Map, 1839 Burrington Tithe Map, 1843 Churchill Tithe Map, 1886, 1903, 1931, and 1975 Ordnance Survey Maps. The applicants claim was based solely on user evidence; however North Somerset Council undertook further investigation. It was determined that the Order route first appeared on the 1817 Mudge Map and was clearly depicted on 1975 Ordnance Survey Map. It would appear that whilst these may have assisted with existence, they did not support the applicants suggest change of status.

Definitive Map process was presented [para. 16 to 18]

The Parish Survey Card for AX 14/3 records the route as a Footpath. The Parish Survey Card for AX 10/38 records the route as a CRB (Carriage Road used as a Bridleway). However, both routes were drawn on the Draft Map as footpaths. There was no record of

objections for either of the two routes claiming that they should be recorded as Bridleways

The Case for the Applicant

Woodspring Bridleways Association [para. 20 to 25]

WBA was approached by riders in 1990 for assistance in making the claim. Based on the user evidence submitted, initially The Association regarded the date of first challenge as 1988, however later conceded to the year of 1982 as the commencement point for the twenty-year period of use. They stated that 17 of the letters of objection were irrelevant because they related to the suitability which was not a matter of consideration. Two have only known the route since 1983. The applicant also makes reference to the landowner's statement and his comments regarding the use by horses.

User Witnesses [para. 26 to 36]

11 user witnesses made representations supporting the case providing details of their use and description of the route, including dates.

Summing up for Applicant [para. 37 to 41]

Further correspondence and a statutory declaration were submitted from 5 people who previously completed User Evidence Forms. 4 letters were also submitted from other riders who used the Order route. With reference to the objectors regarding the obstruction of the Laurels along the route, the applicant stated that The Forestry Consultant conceded that the route would have been passable to horses and that they had been cut back three times during the relevant period.

Additional Support [para. 42]

The Mendip Bridleways and Byways Association supported the order but provided no additional evidence.

Objectors

The Case for the Landowner [para. 43 to 68]

The landowner provided evidence to object against the applicant's case including information of the use of the woods, evidence from the Land Agents, the former landowner, a Forester, a Former Warden, a Former Parish Councillor, as well as other residents from the surrounding area. As stated in one of the statutory declarations, between 1950 and 1970, a user who ran a local riding school needed routes for the instruction of her pupils, so therefore sought permission from the

landowner, Sir J Wills. He believed this would have been evidence that others may well have done likewise, as a consequence of being a pupil. Evidence was also given suggesting that the alleged bridleway was totally impassable to horse riders.

Evidence of the Land Agents [para. 48 to 53]

A representative advised of two leases for shooting rights; first commenced in July 1981 where signs were erected in 1982. The erection of these signs caused controversy which was reported in a Newspaper Article. There was no mention here of a bridleway or of horse riders, yet if they were using the footpaths at that time, they would have been at much greater risk from the alarm mines and shooting. The Agents also mention a letter regarding the permissive rights of riders in the past in 1993.

Evidence of the Former Landowner [para 54 to 57]

The former landowner recalls pigeon shooting from 1961 onwards and his private use of the route with his dogs and for riding with his children; however, states that when riding they only used the upper part of the path as the Order route was not passable on a horse at that time and believes it was not cleared until at least 1969. The Lodge Annex in the old stables was occupied until 1965 and the gate between the Wood and Stoney Lane was kept shut but not locked because of the Footpath. Some riding was permitted in the woods; the local hunt and three individual riders were given permission, one rider made a statutory declaration indicating that she only used the upper path. He mentions that he turned quite a few riders away, but the Order route was very difficult to get through at that time. Notices were placed at Link Lane, at the stable block and the upper path, stating that the woods were private.

Evidence of the Present Landowner [para. 58]

Statement of use; lived in the area all his life, except in the 1970s; rode the woods as a child and knows the Order route well and did not see any riders use it in the 1960s. Between Point P and M (Location Plan A-B) there were no obstructions except a difficult climb, beyond the junction with the Cottage Path (Location Plan C), the Order route was impassable until 1969.

Evidence of a Forester [para. 59]

Since 1975 made sporadic visits. Between 1980 and 1982, spent half days clearing land; the eastern end may have been passable for horses, but it was impossible to get timber out and bulldozers were brought in. he also worked at the western end above the stables; recalls seeing two riders but not on the

Order path. Route was overgrown with laurels in 1975 and 1984.

Evidence of a Former Warden [para. 60]

Warden had known the woods since 1951 and made frequent visits from 1955 and used them weekly from 1966. From 1983 to 1993 he was Head Warden of the Mendip Hills. During all that time he did not see any horse riding on the Order route or any signs of it, although he did on Link Lane and Stoney Lane.

Evidence of a Former Parish Councillor [para. 61]

Statement of use; lived near Point K (Location Plan D) since 1983. Walked the route in the late 1970s and there was a gate at Point K which fell down in 1987 and was replaced by the rails. At point P (Location Plan A) the route was very narrow. Horses could not have got through from M (Location Plan B) because there was a kissing gate and later a stile. He saw horses in the woods but not on the route. Was a member of the shooting syndicate since 1986 and has challenged riders, including some who gave evidence at the inquiry.

Other witnesses [para 62 to 64]

User statements from 2 residents and a former Chairman of the Churchill Parish Council, all of which believe the route was impassable and have seen/challenged riders who have used other routes in the area, especially using the upper path of which was wider and passable.

Summing up for the Landowner [para. 65 to 68]

A document was prepared for the European Architectural Heritage Year (1975) suggesting that the route was once a carriageway stating; *“many footpaths intersected the winding drive to the house [Mendip Lodge], one of which, a mile in length, leads to Burrington Church.”*

Believed that although suitability cannot be taken into account, impassability should, and several witnesses had testified that the route was impassable.

Footpath signs were also erected in 1982/3. The issue of the signs and alarm mines placed in 1982 was well known to walkers, as evident in the newspaper article.

Other Objectors

The Ramblers' Association [para. 69]

The representative had no personal knowledge of the Order route and conceded that his evidence was hearsay. The two statements by walkers that he submitted did not cover the relevant period. He was led to believe that there was a gate at the Stoney Lane end but that the posts and rails were put up in the 1970s; also understood that there was a footpath sign

erected between the stables and the Lodge and that the route was overgrown for much of the time.

A Resident of Link Cottage [para. 70 and 71]

The cottage is situated at point P (Location Plan A) of the Order route, believed the evidence given by riders was not all true and had been co-ordinated by a pressure group; in particular the agreement with width. The signs put in place were erected in the early 1980s to deter riders and were a clear indication of no intention to dedicate.

A Resident of Spring Head Farm [para. 72]

The resident submitted 4 extracts from Halsbury's Laws of England relating to evidence of intention on the part of a landowner. Shows the evidence can take a variety of forms and that a locked gate or other means by which the way is barred may be sufficient.

Written Representations [para. 73]

The majority of letters of objection relate to the unsuitability of the route for horse riders and the dangers that may be associated with the steep drop to one side of the claimed route. Many also claim they have used the route as walkers and have never seen horses on the route. Six of which are confident that it cannot have been used by riders for a continuous period of 20 years as they could not have got along it.

Inspectors Comments and Conclusions Para 74 to 90

The Inspector concluded from para. 86 to 88 with the following statement;

If the riders played no part in the public processes by which the Maps were to be drawn up (paragraph 41), but continued regularly to use the route, then and thereafter, without claim, I conclude that they may well not have believed in a legal right, at that time, and that they did not act with due regard for the rights of the Landowner.

I accept that other riders, who came on the scene after 1966 (paragraphs 33, 34 & 36), may have seen the use and believed honestly, for a time, that they could do likewise. But, for the four years 1962 to 1966 and for 1982 onwards, I conclude that the users have not satisfactorily demonstrated that their use was 'as of right', in accordance with Section 31 of the Highways Act 1980.

The Order does not therefore meet all of the criteria contained in that Section 53(3)(b) of the Wildlife and Countryside Act 1981. I have taken into account all other matters raised at the inquiry and in the written representations, but they do not outweigh the considerations leading to my decision.

For the reasons given within the Inspectors Decision Notice, the Inspector decided not to confirm the Order.

History and Description of the Second Claim

APPLICATION 2 – 13th January 1998

Miss J Roseff on behalf of the Woodspring Bridleways Association (WBA) now known as Axbridge Bridleways Association submitted a new application relating to Footpaths AX 10/38 and AX 14/3 and the section of unrecorded route dated 13 January 1998. The route is described as upgrading Footpaths AX 10/38 and AX 14/3 to Bridleway and the addition of a Bridleway between Stoney Lane and the junction with Footpath AX 14/3 north-east of Mendip Lodge, on land at Mendip Lodge Wood Burrington. This is shown on the attached location plan EB/Mod 24 as A-B-C-D. This application was supported by the following documentation. As the User Evidence Forms were considered at the 1st Inquiry, these are not attached to this Report. The only document considered relevant is the Enclosure Award, the Plan and extracts are attached as **Document 2**.

User Evidence Forms already submitted with the previous claim in 1991.

DoE Appeal Decision dated 22nd April 1994.

1797 Banwell and Churchill Enclosure Award and Map

A Rebuttal of the Inspectors decision – Report by Woodspring Bridleways Association.

These documents will be reported on in **Appendix 4**.

The applicant believes that this new evidence in conjunction with the evidence produced with the first application shows that Footpath AX10/38 and AX 14/3 and unrecorded route should have a status higher than a footpath, therefore should be recorded as a **Bridleway**.

Analysis of the Documentary Evidence submitted by the Applicant

As stated within Appendix 1 the legislation is quite clear as to what needs to be taken into consideration. The first application relied upon user evidence trying to prove that the requirements of Section 31 of the Highways Act 1980 had been proven, this was not accepted by the Inspector. The second application is now trying to claim with very minimal evidence as additional support that this was a historical route. As the applicant has submitted an additional document which they consider to be new evidence, these need to be considered against the original evidence to establish whether these would have presented a different case to the Inspector.

User Evidence Forms

These User Evidence Forms were considered in depth by the Inspector who presided over the Public Inquiry held in 1997. He had the benefit to cross-examine some of those Users before drawing his conclusion that sufficient evidence had not been presented to prove their case. Therefore, no further analysis has been undertaken when considering this second application.

Rebuttal of the Inspectors Decision

Following the Decision of any Inspector appointed by the Secretary of State, all parties have the opportunity of appealing that Decision if they do not agree with it. That process involves registering an appeal in the High Court within 6 weeks of receipt. In the case of the decision made on 29th May 1997, the applicants chose not to follow this procedure. Therefore, any rebuttal of the Inspectors Decision should only be taken as their opinion, so no further analysis will be undertaken on this document.

Banwell and Churchill Enclosure Award 1797

The Applicant appears to have referred to the 'The Cottage Road' which is already depicted on the Definitive Map as a Bridleway. A section of the claimed route is depicted upon the Enclosure Award Plan this is named as 'The Cottage Path' and is described in the Award as a Public Footpath.

The applicant refers to a paragraph in the Enclosure Award;

"And we do by these presents order direct and award that the several private roads or droveways hereinbefore particularly mentioned to be set out and appointed in through and upon the said Moors Commons and Wastelands shall be and remain of the several and respective widths aforesaid between the ditches and fences and for the benefit use and enjoyment of all and every the Owners Tenants and Occupiers of the several and respective Divisions and Allotments Plots and Parcel of land hereinafter mentioned to be by us Allotted Inclosed and Awarded with free liberty for them and every of them and all other person or persons who shall or may have occasion to travel there to go pass and repass in through upon and over the same

either on foot or horseback with Horses Cattle Carts and Carriages loaded or unloaded at their and every of their free will or otherwise howsoever when and as often as they any or either of them shall think proper...”

The applicant states that the Cottage Road on the Enclosure Award is open to the user described in the Award and is therefore deemed to be open to the public. A small cul-de-sac at Point A on the Award, goes well into the present Mendip Wood. The applicant believes this is where the obstruction is placed in the form of rails at the time of the application.

Upon further inspection of the Enclosure Award, after the paragraph in italics above, the document proceeds to appoint a number of Private Ways or Passages. In this case, there are four Private ways or passages on Churchill Hill known as Under Hill Way, Cottage Upper Way, Cottage Lower Way, and Doleburrow Way. From the applicants' statement it appears they believe that the Cottage Road was open to the public to pass and repass on foot, horseback, carts and carriages.

The applicant believes that there is a section of the claimed route that is the termination point within the Cottage Road which would have had public rights even for those on horseback. However, the section of the paragraph “*the benefit use and enjoyment of all and every the Owners Tenants and Occupiers of the several and respective Divisions and Allotments Plots and Parcel of land hereinafter mentioned to be by us Allotted Inclosed and Awarded with free liberty for them and every of them and all other person or persons...*” actually refers to the Private Ways and Passages that are described after this paragraph. The Cottage Path is listed under the headings Private Ways or Passages, Footpaths on Churchill Hill. There is no indication that these are public or private footpaths.

The Documents held by North Somerset Council relating to the first Public Inquiry, confirm that the Enclosure Award was discussed and considered. However, it is unclear as to whether the inspector was presented with the Apportionment which describes most of the claimed route as a Footpath (Enclosure Award Plan shows route as L to K).

Consultation and Landowner Responses

Consultation Responses

On the 3 July 2019 informal consultations were undertaken where the landowners, applicants and local ward members were contacted.

Responses were received from the following parties, extracts of their comments are as follows:

Name	Support/Objection/No Objection	Statement
Virgin Media	No Objection	Virgin Media and Viatel plant should not be affected by your proposal work and no strategic additions to our existing network are envisaged in the immediate future.
Atkins Telecoms	No Objection	We refer to the below attached order and confirm that we have no objections.
Cadent National Grid	No Objection	Searches based on your enquiry have identified that there is no record of apparatus in the immediate vicinity of your enquiry.
Bristol Water	No Objection	<p>The information given shows the approximate location of our 3" diameter main but it will be necessary to take trial excavations to assess its precise position and depth. This work can be carried out by the company with the cost being recharged to the council and approximate costs are available on request.</p> <p>We wish to inform you that part of your proposed bridleway, from A to B, will be in our easement strip which extends 2.5 metres either side of our 3" diameter main. Within which any proposed construction works would be strictly regulated. We shall also require vehicular access along the length of the pipeline at all times and therefore your proposals should take this into account. You should ensure that no reduction in cover or increases in ground levels, more than 200mm over our pipeline, take place.</p> <p>We confirm that we have no objection to the proposed order so long as the above requirements are adhered to.</p>
Mr M Raines – Footpath	Comments	I have recently walked this route and have found it well used by pedestrians. I find it would

Secretary,
Woodspring
Ramblers

need substantial clearing both in width and height should it be made available to horse riders.

My main observations are on safety however;

At grid reference ST 47406 58962 there is a steep rising section of the path that has a stone metalled surface at a considerable slope. Should a horse rider lose control of their steed on this downhill slippery slope whilst pedestrians are present, I believe that severe harm or death could befall the pedestrians.

At grid reference ST 47298 58988 there is a severe drop off on the northern side of this path. The path would need to be substantially wider so that all parties can share this path safely or a barrier to protect pedestrians from this hazard.

This path at present is safe for pedestrians and any changes made to its designation should not impact on that situation.

Mr D Parker –
Mendip
Society

No Objection

I understand that this proposal will be dealt with on the basis of historical use rather than on the suitability of the route as a bridleway.

My records do not contain any historical reference to the use of the track concerned, so I am unable to provide any legal evidence for or against public usage for horse riding. My understanding is that the track was formed as one of the carriage drives to Mendip Lodge, construction of which commenced in 1785 and continued for some years thereafter, the track running directly across the front windows of the mansion. I would be very surprised if the Reverend Doctor Whalley would have been over-enamoured to have the public riding their horses in such close proximity to what was a very grand house. The 'drive' would certainly have been used by horses and horse drawn vehicles but these would be more likely to have been in connection with Mendip Lodge rather than by casual passers-by.

Any new bridleway would join the public highway at Burrington Link with the existing bridleway at Stoney Lane and, in principle, I can see no objection to its provision - it would be a useful addition to the bridleway network with little adverse effect on other path users. Bearing in mind who the applicants are, I passed the proposal to the Mendip Society's

Management Committee for consideration. They agreed not to raise any objection to any proposal to modify the footpath to a bridleway.

The Committee did raise concern that a bridleway would be likely to increase the number of horses using Stoney Lane and increase the danger of horses emerging blind onto the A.368 at its northern end and wondered whether North Somerset could provide some form of barrier at this point to slow them down (nothing to do with the present case but, to keep them happy, I said I'd mention it!).

Mr & Mrs
Green –
Residents of
Link Cottage

Objection

We are the owners and residents of Link Cottage, which is the property on both sides of Link Lane at the eastern end of the footpath (Point A on your Map); this is the only house adjacent to the footpath in question. We have lived there since September 1990.

We are writing to express our strong objection to this re-designation, on several grounds.

1. Historic Usage. The whole question of the claimed usage of this footpath as a bridleway was very thoroughly dealt with in the Planning Inspector's Inquiry on 21 January 1997. These claims were clearly coordinated by a pressure group, being remarkably consistent on the matters of detail, even on the issues of apparent fact (such as the width of the path) which are incorrect. However, in specifying the consecutive period of 20 years for which unchallenged use of the path by horse-riders was claimed, the claims were very imprecise. For all the time we have lived there (nearly 29 years) there has been a 'no riding' sign at point A, and for much of the time also a council Public Footpath sign and/or a wooden barrier. We have never seen a horse rider on the path in these 29 years; we have been retired since 2011 and 2007 respectively, usually at home, and would have noticed. We cannot see the possible relevance of additional historic usage from 1795.

2. Safety. Path of the path (particularly immediate west on your Point B), is extremely steep, and slippery with bare rock and loose stones, it would be dangerous for most riders. At the east end of the path (Point A), it emerges onto the steep and narrow Link Lane. This is a winding single track road with no verges, and

cars and cycles travel up or down it often quite recklessly.

3. Amenity. At point A, there is no space for groups of riders or cyclists to assemble before or after using the path as a bridleway. Such assembly would damage the amenity of the lane for other users, and particularly for ourselves. We can foresee that groups of riders would trespass into our drive and garden, in the absence of other space to assemble.

4. Maintenance and practical issues. The pathway is very overgrown for use even as a footpath. For most of its length, pedestrians can only pass in a single file, and even this require pushing through vegetation. Who would be responsible for clearing and maintaining the path in a state adequate for use as a bridleway? Resources could be much better used elsewhere – and there are so many bridleways on the Mendip Hills, and on Black Down in particular, that there is no serious loss of amenity or freedom to the horse-riding and mountain-biking communities if they cannot use this footpath.

Mrs L Back –
Sworders
Chartered
Surveyors (on
behalf of Sir
D Wills

Comments/Objection

We have reviewed the information submitted by WBA but do not feel that any of this information materially affects the Inspector's decision made on the application for the same route in 1997.

The Statutory Declarations provided for the previous application are quite clear that the route has not been used as a bridleway for decades as no riders have been using the route.

Our interpretation of the Transcript wording submitted for the 1998 application suggests the route is only for owners, tenants or occupiers of the Inclosures on the plan, or those persons having reason to visit an owner, tenant or occupier. This does not suggest the route is open to anyone as WBA is claiming. In addition, the sole owner and occupier of the area on the Inclosure Map is Sir David Wills so it would be at his discretion that any members of the public were visiting his land here.

We have very little to add to the information already submitted for the 1994 application other than the above comments on the interpretation of the Transcript wording submitted for the current application. The action taken by the Estate in 1982 and 1983 to notify the public of

mining operations in the area was noticed by locals using the area but not horse riders. The WBA is now suggesting the signs and press coverage could have been "missed" by horse riders. This would only seem to support the fact the route was not being used by horse riders therefore the signs were not noticed.

Due to the above, we consider that Inspector drew the correct conclusion in 1997 and have not seen anything in the new evidence submitted by WBA to alter this decision.

Each of the full documents detailed above has been placed on file and can be produced if required.

Summary of Evidence and Conclusion

As can be seen from the Inspectors Decision [**Document 1**] a large amount of evidence was presented and considered at the Public Inquiry held in January 1997. The 1st Application submitted relied upon User Evidence claiming that 20 years or more uninterrupted use had been made of this route as a bridleway. This argument was accepted by the Inspector who concluded the following:

[Para 77] – *“The case presented on behalf of the applicant rests solely on User Evidence (paragraph 12), without reference to the documentary background... The applicant now concedes that use by horse riders was first brought into question in 1982 and not 1988 (paragraph 21). I endorse that conclusion and note that it carries with it the consequence that the Order would now fail the Section 31 criteria, if based on the case as made in 1993.”*

[Para 78] – *“Addressing the period 1962 to 1982, there remains a clear conflict of evidence between those who claim a very substantial level of use... and those who assert that the route was largely impassable to riders, that they did not see riders using it and that any use was not sufficient to alert them to the need for action to halt it.”*

[Para 79] – *“I find no firm evidence that the route was ever completely blocked and I incline to believe that, on the balance of probability, the route was passable to horse riders for most or all of the period; a varying level of difficulty may have been experienced and the use may have been exaggerated in memory but, in my view, there probably was use by horse rider regularly during the 20 years.”*

[Para 80] – *“To satisfy Section 31, the 20 years of public use must also be ‘as of right’ (the user must have been by persons who honestly believed that they had a legal right to do so, as distinguished from user by persons who thought that they had the express or tacit license of the owner or were regardless of the rights of such owner)”*

In Paragraphs 81 to 87, the appointed Inspector has analysed his misgivings and opinion upon the evidence presented, reaching the conclusion that the Users had not satisfactorily demonstrated that their use was ‘as of right’ in accordance with Section 31 of the Highways Act 1980. Therefore, the Order did not meet all of the criteria contained within that Section or Section 53(3)(b) of the Wildlife and Countryside Act 1981.

Following the decision of the Inspector, Woodspring Bridleway Association submitted a further application, the only documentation which has been taken into account in this investigation is the 1797 Banwell and Churchill Enclosure Award. It is known that the Enclosure Plan was presented at the first Public Inquiry, therefore this is not new evidence (Appendix 4). However, the Banwell and Churchill Apportionment accompanied this plan providing evidence relating to the status of routes which were to be laid out either as public or private routes. The applicant believes that this latter

document proves their case that the claimed route should be a Bridleway by carrying public rights over the initial section.

Officers Opinion

I have been advised by the Planning Inspectorate that when a new application has been submitted following the decision of an Inspector to decline the confirmation of an Order it is necessary for the authority to look at both the initial application and the new application to see if the new evidence would have presented a differing view from the Inspector.

I believe that all evidence relevant to this matter has been included within this report so that the Committee can make a balanced judgement as to whether another order should be made.

I believe the new evidence submitted shows little support to the claimed route A-B-C-D which would challenge the Inspectors decision. As shown in Document 2, the Enclosure Award states that the Cottage Path was a Footpath. The applicant appears to have focused on The Cottage Road which today is already recorded on the Definitive Map as Bridleway AX 14/2. Although it is acknowledged that the plan appears to show a short spur leading into the Cottage Plantation on the Enclosure Award Plan, there is also shown a line creating a cul-de-sac. There is no evidence whatsoever to show that at this time any public access rights existed in this location.

The Inspectors Decision Notice clearly lays out the information which was presented at the Inquiry and the weight which he gave. He has clearly laid out that whilst the user evidence claimed was sufficient to make the Order, once the landowners submitted their evidence doubt was cast on such use.

Taking the documentation contained within this report, including the Inspectors Decision Notice I do not consider that sufficient evidence has been submitted to show that an Order should be made to record Footpaths AX 10/38, AX 14/3 and section of unrecorded route as a Bridleway on the Definitive Map.

Conclusion

This application affects routes which are already recorded on the Definitive Map as Footpaths as well as a section of unrecorded route. To alter the status of a route on the Definitive Map, the evidence must indicate that the route which is already recorded “**ought**” to be shown as a route of a different status. This is considered a stronger test than a simple addition to the Definitive Map, where the requirement is that a right of way “is reasonably alleged to subsist”. The term “ought” involves a judgement that a case has been made and that it is felt that the evidence reviewed in the investigation supports the application on the balance of probabilities.

Having regard for the test laid down by Section 31(1) (Appendix 1 para 4) having evaluated this matter it is my opinion that the new evidence is not sufficient to alter the conclusions drawn by the Inspector at the Inquiry held in 1997.

Similarly, nothing has been presented by the applicant which would challenge the evidence presented at the 1st Inquiry by the landowners in regard to the actions taken to challenge its status. Therefore, I believe that the Inspectors decision in regard to the test as required by Section 31 (3) (Appendix 1 para 4) still stands.

I therefore conclude that nothing within this application supports changing the status of Footpaths AX 10/38, AX 14/3 and section of unrecorded route to a Bridleway and therefore should not be processed as it fails to meet the legal tests required.

1st Inquiry – Planning Inspectorate Decision, 29 May 1997

The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Directorate of Corporate Services Your Ref: MJ/WC/21/1
North Somerset Council

PO Box 138
Town Hall

Weston-super-Mare

Our Ref: FPS/D0121/7/1

BS23 1AE

Date: 29 MAY 1997

Dear Sir

**WILDLIFE AND COUNTRYSIDE ACT 1981 - SECTION 53 AND SCHEDULE 15
COUNTY COUNCIL OF AVON DEFINITIVE MAP AND STATEMENT
MODIFICATION ORDER NO.11 1994**

1. I refer to the above named Order, submitted by your Council to the Secretary of State for the Environment for confirmation, which I have been appointed to determine, in accordance with the provisions of Paragraph 10(1) of Schedule 15 to the Wildlife and Countryside Act 1981. I held a public local inquiry into the Order in the Cricket Club at Winscombe on 21 and 22 January and inspected the alleged bridleway, identified in the Order, on 23 January.
2. The effect of the Order, if confirmed without modification, would be to add a bridleway of 225 metres to the Definitive Map and to upgrade two Footpaths, of total length around 950 metres, to the status of bridleways, the three elements forming a continuous route from Stoney Lane, Churchill to Link Lane, Burrington.
3. There were 31 objectors to the Order, including the Parish Councils of Churchill and Burrington, and the Ramblers' Association; in addition to the users there was one supporter, namely the Mendip Bridleways and Byways Association; the North Somerset Council made neutral representations. I have taken into consideration all objections and representations. The Council confirmed their compliance with the statutory formalities.

RIGHT OF WAY AND SURROUNDING AREA

4. The alleged bridleway runs east/west, in woodland, along a north facing slope of the Mendips, above Upper Langford which lies immediately to the north, on the A368 classified road. It

commences on Link Lane, Burrington, on a stony path some 2 metres wide and there is a pictorial sign at this point, indicating no horses. A short distance in from point P on the Order Map, there is a wooden stile in the hedgerow on the southern side. Thereafter the path is bordered on both sides by fairly dense lines of slender trees and widens to about 3 metres; about a third of the way to point M there is a two rail wooden barrier across the route, 80cms high and 3 metres long.

5. The path gently descends towards M where it opens out at a junction with another track leading south. There are ruins of a wall at this point, running roughly north/south, with a large gap coincident with the Order route; based on the accompanied visit, the parties agree that there are no remains of an alleged kissing gate at this point. High on a tree to the left is a sign indicating that the woods are private; an estate sign relating to a public footpath lay on the ground.

6. The route climbs fairly steeply from M on a stony, irregular surface. About 75 metres from M, the track divides, with the left hand fork climbing a little more steeply away from the Order route; on the accompanied visit, this was identified as the 'upper track'. The Order route soon levels out and continues on into the wood, with a tree canopy overhead; the route is lined by trees on both sides, many of them mature and accepted by the parties as being at least 30 years old; there are also many laurels amongst them. There is a steep slope dropping away to the north and a bank to the south; the track between the trees varies between 2.2 and 3.7 metres in width. In places, stones are also piled above and below the track.

7. Close to point L there are the remains of a stone wall on the south side of the track and a gap where the definitive Footpath AX14/3 passes through, to run behind the ruins of Mendip Lodge. The Order route continues on, in front of these ruins; the front wall is still standing and the track, in the area agreed to be the location of the former verandah, is about 6.5 metres wide. Immediately beyond the ruins is a large open area agreed to be the former turning circle for carriages.

8. From here, the Order route follows the old driveway of the Lodge until the latter turns sharply downhill; there is another estate footpath sign at this point. The final stretch of the route runs along the wall of the ruined stables to another post and rail barrier at point K. The posts are substantial and of considerable age and all parties accept that they are probably former gate posts. There is a gap of 1.1 metres between the northern post and the adjacent wall. A local authority signpost, on the route at point K, now carries a pictorial sign indicating no horses; all parties accept the North Somerset Council's advice that the post itself was erected in 1983, with a footpath sign.

CASES OF THE PARTIES

Order Making Authority

History of the Order

The Application

9. The application was made in March 1991, claiming over 20 years of public use, without let or hindrance. 28 Public Right of Way Evidence Forms were submitted, two of which have since been withdrawn. The forms were summarised in a report to the Public Rights of Way Sub Committee of the County Council of Avon, in July 1993. The Sub Committee resolved not to make an order but the County Council of Avon was subsequently directed to do so.

10. The report to the Sub Committee includes a bar chart showing that 22 riders claimed use extending beyond 1985 and 6 up to 1990; most of the claimed use was assessed as dating from the late 1950s and it was noted that one claimant reported use 400 times a year. All reported the route as 14 feet wide. Four recorded a locked gate at the Stoney Lane end between 1982 and 1984 but, as noted in the Secretary of State's letter, the Applicant did not consider this to be a valid challenge; they had been able to use the way until notices were erected between 1988 and 1990.

11. The Secretary of State was satisfied that,

'a sufficient number of people used the track before 1988 for the required 20 year period under the provisions of Section 31 of the Highways Act 1980 ...'.

Transfer of Authority

12. The North Somerset Council has assumed the responsibilities of the former County Council of Avon and those of the former Woodspring District Council. The County Council of Avon made the Order, at the direction of the Secretary of State, but also resolved that it would oppose confirmation. The Order was made under sub section 53(3)(b) of the Wildlife and Countryside Act 1981, as the Applicant's claim was based solely on user evidence. Woodspring District Council took a neutral stance. On legal advice, the North Somerset Council (hereinafter the Council) decided to take a neutral stance at the inquiry.

13. The case for the Order is therefore made by, or on behalf of, the Applicant. The Council is, however, able to offer evidence relating to historical documentation, reviewed in accordance with sub section 53(3)(c)(ii) of the 1981 Act.

Historical Evidence

Mendip Lodge

14. Mendip Lodge was originally a cottage, built in 1787, with extensive plantations. It was extended to become a mansion with a verandah along the front, summer houses and landscaped walks. It fell into disrepair in the 20th century and is now a ruin.

Maps

15. The Council has provided copies of the following maps:

1797	Inclosure
1782	Day and Masters
1817	Ordnance Survey (Mudge)
1822	Greenwood
1839	Burrington Tithe Map
1843	Churchill Tithe Map
1886, 1903, 1931 & 1975	Ordnance Survey Maps

The Order route first appears to be shown on the Map of 1817 and it is clearly depicted on the 1975 Ordnance Survey Map.

The Definitive Map

16. Definitive maps were prepared in 3 stages, draft, provisional and definitive. Parish councils were required to carry out surveys and fill in survey cards classifying each route as a footpath, bridleway or Carriage Road Footpath or Bridleway (CRF/CRB). They were also required to hold open meetings to consider the rights of way claimed. At the draft stage objections could be made to what was shown or omitted and the results had to be notified to the persons concerned and advertised in the London Gazette and local newspapers. The provisional maps were then published and objectors could appeal to the Secretary of State within 28 days. In the absence of objections, these maps became definitive.

17. The parish survey card for AX14/3 records that it is an 'F.P.', that it was 'very much overgrown with bushes in places' and that it passes behind Mendip Lodge and the stables; the Council is aware that there was, until recently, a misunderstanding that AX14/3 passed in front of the Lodge. The card for AX10/38 records it as a 'CRB' but both AX14/3 and AX10/38 are shown on the Draft Map as footpaths and no alterations were subsequently made to either. The summary of objections of February 1964, for the whole of the Axbridge district, shows no entries for either of these two footpaths; after modification of the Draft Map, a schedule of counter objections was prepared but this too contains no entries for 14/3 or 10/38. The Provisional Map was dated September 1966 and published in 1967.

18. The Definitive Map for the area was finally published in about 1972, with a Relevant Date of 26 November 1956, and it has not since been reviewed. The Order route section L to M is shown as part of Footpath AX14/3, in the Parish of Churchill,

and the section M to P as Footpath AX10/38 in Burrington. The Definitive Statement for AX10/38 includes the words,

'... proceeds west for 200 yards to a door in the wall on the parish boundary, where it continues as footpath 14/3...'

19. Some signposting and waymarking of the Footpaths was carried out in 1983 and again in 1995.

The Case for the Applicant

Woodspring Bridleways Association

20. The Association is affiliated to the British Horse Society and was approached by riders in 1990 for assistance in making the claim. The claimed route is about 1km in overall length and appears to have a hard stone surface under foot which would make hoof prints less noticeable. 28 people completed evidence forms covering use, without let or hindrance, for 55 years up to 1988; two have since withdrawn their evidence but another 13 forms have been collected.

21. For the purposes of Section 31 of the Highways Act 1980, the Association now regards the date of first challenge as 1982 and the twenty year period of use therefore to run from 1962 which is before the first 'footpath only' signs are said to have appeared. 37 riders used the route at some time during that period, 8 of them for the full 20 years. Following the appeal against the decision of the County Council of Avon, further submissions were made. There are two statutory declarations and several other statements.

22. All riders agree that the route is between 3.6 and 4.6 metres wide, from the bank to the rim of the combe, and all rode for pleasure or 'home to home'. The Secretary of State commented: 'that many are generally in accord with one another adds to their weight'.

23. 17 of the letters from objectors are irrelevant because they relate to suitability which is not a matter which can be considered under the provisions of the Acts. Two have only known the route since 1983. Over the relevant 20 year period, some objectors say that the laurels were overgrown, yet a woodsman reports cutting them back to allow tractors through in the early 1960s. There is no record of complaints to the parish councils that walkers could not get through on the recognised Footpaths. The Ramblers' Association say that the post and rail fences were at either end in the 1970s yet other objectors say they were put up in the 1990s.

24. The Secretary of State's letter notes that,

'there appears to have been a variety of obstructions on the path over the years. However, neither locations or dates are given in most cases, nor is the evidence consistent between witnesses.'

and,

'although ... some people were challenged, this was clearly on an intermittent basis and it is apparent from the user evidence that it was not regular enough to prevent horseriders from using the path ... '

25. The landowner says that the track was cleared in the 1970s for timber extraction and that horses may have used the route. A gamekeeper says he has been stopping horses using the route, for 20 years. A contractor says he has seen horses in the Wood but not on the route. Others say that riders have been turned back owing to shooting. A forestry consultant says that there was no evidence of regular use. Clearly riders were using the woods for these comments to arise. It was only after the shooting rights were sold in 1986 that the use was challenged by shooters and that is what gave rise to the application.

User Witnesses

26. A Resident of Yew Tree Farm, Congresbury has been a rider since the age of 13, in 1943. She rode the Order route, with friends, from 1947 and recalls the walled stable yard and the cottage above, at the Stoney Lane end; dogs barked as they rode by and she sometimes passed the time of day with the occupants. The Lodge was fairly derelict but the track was like a carriage road. Later the cottage and stables fell into disrepair and the track became overgrown. The gradient at the eastern end was not a problem; she took children along the route; it was never impassable. They rode to Burrington Combe, and home by road. She understood it to be a right of way for riders, was never stopped and does not remember any stiles or gates.

27. A Resident of Pye Cottage, Churchill rode the route with a friend before coming to live in the area in 1967, and continued to do so until the posts and rails were put up; her daughters also rode the route and she acted as leader for disabled riders using the route; it undulates but is not too steep and it is wide enough for two ponies abreast. She met others on the route and believed it to be a bridleway. She does not recall any shooters or signs or the newspaper reports about alarm mines.

28. A Resident of Churchill Green Farm started riding in 1961 with her son who was 7 years old and did so until 1973. She entered the Wood below Mendip Lodge and continued on a well marked track to the road which leads to Blackdown. From here there was a good gallop southwards, ending in a climb which helped to arrest the horses. She was never challenged and there were no signs; it was sometimes muddy and overgrown but never impassable. She is certain of her route and it was not the upper track.

29. A Resident of Holford, Bridgewater, who lived at Shipham from 1959 to 1983, used the route at least twice a week during that period, from the old stables at Mendip Lodge to Burrington or vice versa. She used it exercising horses and was never obstructed although she had to duck under overhanging branches. She was never challenged, there were no signs and friends also

used the route. The track was more or less level and wide enough for two horses abreast. At the eastern end there was a slope and a short grassy strip to the road. In her evidence form she claims use 110 times a year from 1959 to 1983.

30. A Resident of St Gorans, Shipham used the Order route when she worked for a riding school from 1968 to 1971. She returned in 1975, when she started a school of her own, and used the route again taking groups of up to 9 riders. It was overgrown with laurels in places but accessible; in places you could see the Bath Road through the trees; she recalls the ruins at the western end and the incline and grassy strip to the east; in the centre there were overhanging trees. There were no signs and she considered the route to be a bridleway. She met others using it. In her evidence form she claims use 400 times a year from 1968 to 1990.

31. A Resident of Brinsea, Congresbury started using the route with friends in the early 1950s. There was a high stone wall by the stables and a coach house where someone was still living; two large dogs would bark as they rode by. The Lodge was still standing except for the roof and, on the left, there were the remains of a terraced garden. There were laurel bushes each side of the track for quite a way; it then dipped into a valley which could be muddy and there was a fence and a small paddock on the right. On reaching the Lane they turned down to Burrington Combe and back another way. She was never stopped or challenged until barriers and signs were put up in the late 1980s. In her evidence form she claims use 30 times a year from 1952 to 1990.

32. A Resident of Wrington rode the route from 1982 until the rails were put up. She was not aware of the newspaper article of 1982.

33. A Resident of Upper Langford has used the route at least 40 times a year since he moved to the area in 1967. He recalls the main features of both ends. The track is well made up but narrows a little at the eastern end. At times it has been overgrown and once he turned back owing to a fallen tree. He often met other riders and was never challenged; on one occasion he met Lady Wills on the route and she would not have known him. A footpath sign was put up at the Stoney Lane entrance but the finger was removed within a week; later a sign was erected further up the Lane. He always believed the route to be a bridleway. There was never a kissing gate on the route, only a stile in the hedge near point P. He has read that in earlier times carriages could use the route to get to church in Burrington; there was a turning circle west of the Lodge.

34. A Resident of Rowberrow used the route about 25 times a year, except for two years, from 1968 until the rails were put up. She recalls the stables, the Lodge and the incline down to a muddy area at point M. Part of the track could get a little overgrown but she could always get through. She saw other riders but no signs. Her access to the Wood ended when the second shoot arrived.

35. A Resident of Lippiat Lane, Shipham started using the route in 1963 when she and her mother established a riding school; she continued to use it, with clients, about 35 times a year, until 1989; she names several people who used it with her. She recalls the main features of the route and used it as a part of circular rides. She understood it to be a bridleway and used this, rather than any other track, because she saw other riders do so; she saw no signs until 1989. It was never obstructed. She acknowledges that she rode with a Miss Rowlands as a pupil, but only prior to 1960 and not along the Order route. Her Mother confirms this evidence and records that she too used the route, about 20 times a year, over the same period; she was not aware of any other and she did not go into the woods.

36. A Resident of Long Ashton used the route at least 45 times a year, from 1976 to 1985, with a friend who lived locally. There were no obstructions or notices and they were never challenged. The laurel bushes sometimes were overhanging the path but it was a well established track with a good surface. She recalls scouts camping near the entrance to the Wood. She did not know of any other routes through the Wood.

Summing Up for the Applicant

37. Further correspondence and a statutory declaration are submitted from 5 persons who completed evidence forms in earlier years; four recent letters are also submitted from other riders who used the Order route.

38. The objectors have not shown that the laurels ever formed an impenetrable obstruction and they could not say that riders did not use the route because they could not watch it all of the time. The Forestry Consultant conceded that the route would have been passable to horses and that the laurels have been cut back three times during the relevant period. The statutory declaration by Miss Rowlands shows that she had permission to use another route and she says that she never rode the Order route because it was not passable, yet she walked it.

39. One objector says that the stile replaced a kissing gate, but the stile is in a hedge and not across the route. Another objector has only known the route since 1982 and, although he was able to run up the gradient at M, he believes that this would not be negotiable for most riders. The evidence on shooting relates to a period later than 1982; the newspaper article has no date but appears to be 1983. A letter dated 7 September 1982, from Churchill Parish Council to Sir John Wills, said that rights of way signs in the Wood had disappeared reducing public awareness.

40. Other notices have only said that the woods were private. Deer culling only took place around sunrise and sunset. The former Chairman of the Parish Council said that no one ever asked for the route to be cleared because hardly anyone used it, yet correspondence shows that the Parish Council was very concerned and that many people walked it. The Ramblers' Association representative has no personal knowledge of the route. The former owner of the land says that the gate at

Stoney Lane was not locked; on the other hand he says that the verandah of the Lodge was across the route but the Langford Booklet of 1975 has a picture of the front showing a wide track running past it.

41. One of the riders used the route for the disabled which does not suggest that it was difficult or unsafe. The Parish survey card shows AX10/38 as a 'CRB' but it was put on the Definitive Map as a Footpath and riders probably did not know what was going on. The riders are clear about the route used, despite robust cross examination; they have been accused of collusion but their individual evidence is clearly their own. They rode a public right of way which they believed to be a bridleway.

Supporter

42. The Mendip Bridleways and Byways Association supports the Order but has no additional evidence to offer.

Objectors

The Case for the Landowner

The Period of Claim

43. The claim originally submitted to the County Council of Avon, and subsequently considered on appeal by the Secretary of State, was that a public bridleway had been established over the Order route by virtue of 20 years use prior to 1988; it was this claim which the objectors came to the inquiry prepared to refute. It has now been conceded that the use was first brought into question in 1982 and the users' representatives have therefore shifted their case to a period from 1962 to 1982.

Permissive Use of the Wood

44. In a recent statutory declaration, a lady who ran a local riding school between 1950 and 1970 declares that she needed routes for the instruction of her pupils and therefore sought permission from the landowner, Sir John Wills, to ride through Mendip Lodge Wood along the route from point P to a point on Stoney Lane which she defines as X, this being the route described at the inquiry as the 'upper track'.

45. It is therefore evident that others may well have done likewise, as a consequence of being her pupils. The Lady has named the Applicant and 7 of those persons who completed evidence forms as having been her pupils and having used the 'upper track'. One of those pupils has recently withdrawn his evidence on the grounds that he now knows that he was not using the Order route.

46. The Lady further declares that she walked the Order route and that, during the entire period of the claim, the alleged bridleway was 'totally impassable' to horses.

47. There is a letter from a Group Captain living in Winscombe withdrawing the form submitted in his name on the grounds that certain details were completed without his knowledge. He advises that his only use of the route was as a member of the local hunt.

Evidence of the Land Agents

48. A representative advises that there have been two leases of shooting rights, the first of which commenced in July 1981; signs were erected in 1982 warning of the placing of alarm mines and this gave rise to some controversy with walkers which was reported in a newspaper article in January 1983 and in correspondence with the Parish Council.

49. The newspaper article reported that,

'Skull and crossbones danger signs have been erected on public footpaths across Lord Lieutenant of Avon, Sir John Wills' estate on the edge of the Mendips... The signs were on paths in the Mendip Lodge Woods... and had the effect of intimidating people on the footpaths and discouraging them from going further.'

[Churchill Parish Council] Chairman Mr Albert Frost said there was also considerable concern that gun positions had been built right beside the paths by a shooting syndicate and walkers could be in danger of being hit.'

There is no mention here of a bridleway or of horse riders yet, if they were using the footpaths at that time, they would have been at much greater risk from the alarm mines and shooting.

50. In a letter from Churchill Parish Council to Sir John Wills, dated 7 September 1982, the Clerk writes that,

'Concern has been expressed by members of this parish that signs advertising the rights of way through the woods and asking walkers to keep to the rights of way... have been removed. It is feared that this is the start of a series of actions to diminish the public's awareness of its right to walk on the paths....'

The County of Avon wrote to Sir John Wills on 29 November 1982 saying that the problems had been brought to their attention and that, *'it is important that these paths remain open and freely available for the public to walk.'* Again, there is no reference in either of these letters to a bridleway or to horse riders.

51. In January 1983, the Parish Council wrote thanking the Land Agents for permission to erect footpath signs and noting that the route of 14/3 then appeared to run below the stable block rather than above it; the Land Agents' reply fixes the date of the newspaper article as being the week of 14 January 1983. On 18 January, the County of Avon wrote to the Land Agents

regretting that, 'a further tree has fallen adjacent to the one previously reported, and it too blocks the line of the path.'

52. On 4 February 1983, the Clerk to the Parish Council again wrote to the Land Agents, recording that,

'... someone had amended the sign on the gate between Stoney Lane and the old drive to suggest that footpath 14/3 was also a bridleway. One of our Councillors has since restored the sign to its former state; ... '

53. A letter by the Land Agents, dated 24 October 1988, records that,

'... too many riders are coming through the woods. There is only one footpath and no bridlepath, hence we require signs at each end, in the hope that it may deter at least some riders.'

And by letter of 22 February 1993, the Land Agents advised the County of Avon that,

'A limited number of riders have been permitted access in the past, as was a ride in aid of Avon Youth Association on 26 July 1992.'

Evidence of the Former Landowner

54. From 1961 onwards the Landowner went to the Wood for pigeon shooting, for walks with the dogs and for riding with his children; they used the upper path; the Order route was not passable on a horse at that time and he is quite certain that it was not cleared whilst he was a member of the hunt, which was until 1969. The woodsman who says that he cut back the laurels in the early 1960s is mistaken.

55. The Lodge Annexe, in the old stables, was occupied until 1965 and the gate between the Wood and Stoney Lane was kept closed but it was not locked because of the footpath; no forestry operations were carried out until the house and gate had been vandalised. Some riding was permitted in the woods: the local hunt and three individual riders were given permission and one of them has made a statutory declaration indicating that she used only the upper path. He did turn quite a few riders away but the Order route was very difficult to get through at this time and there was no need to deter riders; they could not use it.

56. After the tenant left the house there was a lot of activity in the area, removing a tennis court, laying a terrace and clearing the area. He was often there himself and he saw no riders nor were any reported to him. For many years there was a notice at the Stoney Lane gate; the notices were soon vandalised, along with the buildings, but there was no continuous period of use of 20 years. Notices were also placed at Link Lane, at the stable block and on the upper path, saying that the woods were private.

57. The Order route was never a carriageway to Burrington; that would have been impossible because the verandah of the Lodge went the whole length of the front, almost to the edge of the slope down to the garden. The driveway ended at the turning circle west of the Lodge. Any terrace route to Burrington would have been for private walking.

Evidence of the Present Landowner

58. The Landowner has lived in the area all of his life, except in the 1970s; he rode the woods as a child and knows the Order route well and did not see any riders use it in the 1960s. Entering at P there were no obstructions as far as M; there is then a difficult climb, more suited to ponies, and the route then forks left for the upper path. Beyond the junction with the Cottage Path, the Order route was impassable, until 1969; near L there were dense yew trees overhanging.

Evidence of a Forester

59. The Forester has known the woods since 1975 and made sporadic visits. Between 1980 and 1982, he spent half days now and then clearing land; the eastern end may have been passable to horses but it was impossible to get timber out and bulldozers were brought in; he also worked at the western end, above the stables; he recalls seeing two horses in the woods but none on the Order route; the route was overgrown with laurels between 1975 and 1984.

Evidence of a Former Warden

60. The Warden has known the woods since 1951, made frequent visits from 1955 and used them weekly from 1966 for educational purposes. From 1983 to 1993 he was Head Warden of the Mendip Hills, employing Voluntary Rangers to patrol the area. During all of that time he did not see any horse riding on the Order route or any signs of it, although he did on Link Lane and Stoney Lane; he agrees that he would not necessarily have been able to see the route much of the time. There were no reports of riding from Rangers.

Evidence of a Former Parish Councillor

61. The Witness has lived within 300 metres of point K since 1983 and has a business in Stoney Lane. He walked the route in the late 1970s and there was a gate at point K which fell down in 1987 and was replaced by the rails. The width of the route varied between one metre and six; At P the way was very narrow; horses could not have got through from M because there was a kissing gate, and later a stile, but he is unable to remember its exact location and agrees it should be checked on a site visit. He saw horses in the woods but not on the route. He has been a member of the shooting syndicate since 1986 and has challenged riders, including some who have given evidence to the inquiry.

Other Witnesses for the Landowner

62. A Resident of Burrington has known the area since he was 11 years old, in 1927. He recalls the stone wall which ran north/south through point M; it had a large stone archway in it with a door; until just after the second world war, there was also a locked gate which was only opened for the hunt, but this was not replaced; the route was not a bridleway. From the other end you could go along the verandah and into the woods but there was only a footpath until it was bulldozed in the 1950s. He did not go down again until the 1980s and a horse could get through then but the upper path was much wider and clearer and he saw riders come up from Dolberrow and use it.

63. A Resident of Cotham, Bristol, who has been responsible for deer stalking and vermin control since 1977, advises that traces of the Cottage Path, shown on the Inclosure Map, can still be seen south of the Order route: it was a formal walk, marked on each side by lines of stones. The Order route did not appear until 1886; In 1977 you could walk through but not drive or ride. He has challenged riders on many other routes in the woods but has not seen them on this one although, for 7 months a year, he spends 6 hours a day in the woods.

64. A former Chairman of the Churchill Parish Council lived at Grange Farm, on the A368, until 11 years ago. He believes that the Order route has been impassable for riding all of his life and he does not recall anyone asking for it to be cleared; there was a gate at the Stoney Lane end with 'Private' on it but it was replaced with rails. His daughter rode the upper path, with friends; his children rode there in the 1960s and up to the 1980s. He has seen horses on the upper path and when the hunt was invited in.

Summing Up for the Landowner

65. It has been suggested that the Order route was once a carriageway to Burrington Church; however, a document prepared for the European Architectural Heritage Year (1975) states that,

'many footpaths intersected the winding drive to the house [Mendip Lodge], one of which, a mile in length, leads to Burrington Church.'

66. Suitability is not a relevant issue in deciding the claim but impassability certainly is so and several witnesses, including the Landowner, former Landowner and the Lady from the riding school, have testified that the route was not passable on a horse. Riders have no doubt had ample opportunity to refresh their memories as to the physical features of the route but there is evidence that they used other routes through the woods. Permission was required and the riding school had that permission but pupils may not have realised the fact. One rider has since withdrawn for that reason and another declares that he was misrepresented.

67. Footpath signs were also erected in 1982/3. The issue of the signs and alarm mines placed in 1982 was well known to walkers, as is clear from the newspaper report and the Parish Council correspondence; why was there no reaction from riders? why did none mention it?

68. The claimed use in many cases stretches credibility: one claims 400 times a year. Proving the negative is always difficult and there was some use permitted by the hunt and others, when the route was passable, but it was not the Landowner's intention to dedicate a bridleway.

Other Objectors

Ramblers' Association

69. The representative has no personal knowledge of the Order route and concedes that his evidence is hearsay; the two statements by walkers, which he submits, do not cover the relevant period. From the walkers to whom he has spoken, he believes there was a gate at the Stoney Lane end but that the posts and rails were put up in the 1970s; he also understands that there was a footpath sign between the stables and the Lodge and that the route was overgrown for much of the time.

A Resident of Link Cottage

70. The Cottage is situated at point P, overlooking the eastern end of the route. The evidence given by riders is not all true and has been co-ordinated by a pressure group; the agreement about such matters as width is remarkable. The Secretary of State has suggested that diversions could have been made to avoid overgrown areas but the steep bank on one side and drop on the other make that impossible. The Resident believes that signs were erected in the early 1980s, to deter riders, and not only in 1988, as assumed by the Secretary of State; those signs were a clear indication of no intention to dedicate.

71. The track is steep, possibly 1 in 5 and, although the Resident can run up it, it would pose hazards to riding school pupils. To permit riding would conflict with the legitimate use by walkers and by the shooting parties. There is no need for the Order as there are already adequate bridleways in the area.

A Resident of Spring Head Farm

72. The Resident submits four extracts from Halsbury's Laws of England relating to evidence of intention on the part of a landowner. These show that the evidence can take a variety of different forms and that, for example, a locked gate or other means by which the way is barred may be sufficient.

Written Representations of Objection

73. The overwhelming majority of the letters of objection relate to the perceived unsuitability of the route for horse riding and the dangers which might be associated with the steep

drop to one side and the gradient near point M. Many also say that they have used the path as walkers and have never seen horses on the route. Several observe that the route was obstructed, at one time or another, by overgrowth, gates or stiles and that there were footpath signs on the route. Six objectors are confident that it cannot have been used by riders for a continuous period of 20 years as horses could not get along it. Minority observations are that the route is not 14 feet wide and that other routes are available.

CONCLUSIONS

The Criteria

74. The Order has been made under Section 53(3)(b) of the Wildlife and Countryside Act 1981 which provides for the addition of a way to the definitive map on the expiration of any period over which enjoyment of that way by the public raises a presumption that it has been dedicated as a public path.

75. Criteria for that presumption are contained in Section 31 of the Highways Act 1980 which provides that, if the way has actually been enjoyed by the public, as of right and without interruption, for a full period of 20 years, before the date on which it is first brought into question, then it is to be presumed that the landowners have dedicated the way, unless they can show that it was clear at the time that they did not intend to do so.

76. The Council has addressed Section 53(3)(c)(ii) of the Wildlife and Countryside Act (Paragraph 13) which requires that the surveying authority shall make such modifications as appear requisite in response to the discovery of evidence which, when taken together with all other relevant evidence available to them, shows that a right of way, which is already on the Definitive Map, ought to be of a different description.

The Period of Use

77. The case presented on behalf of the Applicant rests solely on user evidence (Paragraph 12), without reference to the documentary background. Furthermore, the case before the inquiry differs in an important respect from that which was addressed earlier by the County Council of Avon, the Secretary of State and the objectors (Paragraphs 9, 10, 11 & 43): the Applicant now concedes that use by horse riders was first brought into question in 1982 and not 1988 (Paragraph 21). I endorse that conclusion and note that it carries with it the consequence that the Order would now fail the Section 31 criteria, if based on the case as made in 1993.

78. Addressing the period 1962 to 1982, there remains a clear conflict of evidence between those who claim a very substantial level of use (Paragraphs 9, 10, 20, 21, & 26 to 37) and those who assert that the route was largely impassable to riders, that they did not see riders using it and that any use was not

sufficient to alert them to the need for action to halt it (Paragraphs 17,46,54,55,58,63,64 & 73).

79. I find no firm evidence that the route was ever completely blocked and I incline to believe that, on the balance of probability, the route was passable to horse riders for most or all of the period; a varying level of difficulty may have been experienced and the use may have been exaggerated in memory but, in my view, there probably was use by horse riders regularly during the 20 years. Another route may also have been used (Paragraphs 25,28,44,45,54,55,58,62 & 64) but that would not be fatal to the Order.

Use 'As of Right'

80. To satisfy Section 31, the 20 years of public use must also be 'as of right' and this requirement was interpreted by Mr Justice Farwell, in *Jones v Bates* (1938 - 2 All ER 237 to 253), as follows:

'...the user must have been by persons who honestly believed that they had a legal right to do so, as distinguished from user by persons who thought that they had the express or tacit licence of the owner, or were regardless of the rights of such owner.'

81. I have significant misgivings about this aspect of the user evidence. Several users have asserted (Paragraphs 26,27,30,33 & 35), that they believed the route was a bridleway, yet they have provided no evidence for that belief; two simply say that others used it (Paragraphs 27 & 35). On the evidence forms, users have affirmed that they always knew the way to be public, but then most of the route was so, at least as a footpath.

82. By contrast, there is evidence which suggests that belief in a bridleway may not be credible. The use did not stop in 1982 when it is now acknowledged that bridleway rights were first brought into question, yet that did not result in a claim. Furthermore, it is evident from the forms and the bar chart prepared by the County Council of Avon (Paragraph) that, if anything, the use was increasing in the 1980s.

83. Not one of the 40 or more users has recalled the incident which occurred in 1982 and was publicised in January 1983 (Paragraphs 48,49 & 67), and there is no evidence that any rider expressed concern to the local authorities about the effects on riding (Paragraphs 40,50,51 & 52). The letters indicate that the complaints came only from walkers and that the authorities believed they were addressing a problem with the Footpaths. This carries with it an inference that riders, using the Footpaths regularly in 1982, may not have believed that they had a legal right to do so.

84. Again, by shifting the start of the claimed 20 years of use, from 1968 to 1962, the users are saying that they honestly believed that a legal right, to ride the route, existed whilst the Draft Definitive Map was under public consideration, four

years before publication of even the Provisional version (Paragraph 16).

85. Furthermore, it means that those who were responsible for compiling the Draft Map were unconvinced by, or unaware of, regular use by riders. During the surveys, AX10/38 was initially classified as a 'CRB' but this did not survive subsequent scrutiny (Paragraphs 17 & 18), thus the possibility of a public bridleway, over this section of the route, would appear to have been considered and dismissed. Both AX10/38 and AX 14/3 were added to the Draft Map as Footpaths and there were no subsequent objections (Paragraph 17).

86. If the riders played no part in the public processes by which the Maps were to be drawn up (Paragraph 41), but continued regularly to use the route, then and thereafter, without claim, I conclude that they may well not have believed in a legal right, at that time, and that they did not act with due regard for the rights of the Landowner.

87. I accept that other riders, who came on the scene after 1966 (Paragraphs 33, 34 & 36), may have seen the use and believed honestly, for a time, that they could do likewise. But, for the four years 1962 to 1966 and for 1982 onwards, I conclude that the users have not satisfactorily demonstrated that their use was 'as of right', in accordance with Section 31 of the Highways Act 1980.

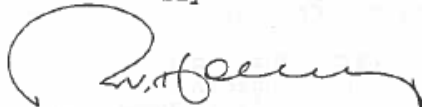
88. The Order does not therefore meet all of the criteria contained in that Section or in Section 53(3)(b) of the Wildlife and Countryside Act 1981. I have taken into account all other matters raised at the inquiry and in the written representations but they do not outweigh the considerations leading to my decision.

DECISION

89. For the above reasons, and in exercise of the powers transferred to me, I have decided not to confirm the Order. Both copies of the Order are accordingly returned.

90. Copies of this letter have been sent to the objectors and other interested persons.

Yours faithfully



Ronald Holley CB FRAes MIMechE MIEE
Inspector

Appendix A: List of Appearances
Appendix B: List of Documents, Plans and Photographs

Appendix A

APPEARANCES

FOR THE COUNCIL

Mrs S Buck Solicitor, North Somerset Council
 who called
 Mrs J Reed Rights of Way Officer

FOR THE APPLICANT

Mrs A Gawthorpe 27 Whitehouse Road, Claverham, Yatton
 (Woodspring Bridleways Association)
 representing the Applicant
 who called
 Mrs V Rossiter Yew Tree Farm, Congresbury
 Mrs R J Mizen Pye Cottage, Dinghurst Road, Churchill
 Mrs J Sacof Churchill Green Farm, Churchill
 Mrs S Izzard Glenwood, Holford, Bridgewater
 Mrs S Busby St Gorans, Shipham, Winscombe
 Mrs C Gollop King Road Cottage, Brinsea, Congresbury
 Mrs V Thorn 25 Orchard Close, Wroughton
 Mrs F Gregory Apple Tree Cottage, Rowberrow
 Mrs H Picken Wray Fell, Glovers Field, Shipham
 Mrs Palmer Braken Hill, Lippiat Lane, Shipham
 Mrs F P Webber Keepers House, Ashton Court, Long Ashton
 Mr B Gwilt Loosebox, Upper Langford

SUPPORTER

Mr G Thomas Mendip Bridleways & Byways Association
 (no address supplied)

OBJECTORS

Mr A Hignett Osborne Clarke, Solicitors
 30 Queen Charlotte St, Bristol BS99 7QQ
 who called
 Sir John Wills Bt. Langford Court, Bristol BS18 7DA
 Mr D Wills Estate Office, Langford BS18 7DA
 Mr R J Mann Humberts, Chartered Surveyors
 10 St Mary St, Chippenham SN15 3JJ
 Mr J Josephi Morgan's Cottage, St Briavels, Lydney
 GL15 6SG
 Mr G P Hibbard Hill Farm, Burrington
 Mr R Davies Fairlawn, Kingdown Parade, Cotham
 Mr A Frost Hazelwood, Bristol Road, Langford
 Mr J M Raynor Pear Tree House, Upper Langford
 Mr T K C Elkin Camrose, New Road, Churchill BS19 5NW
 Mr C Trenfield 38 Oakdale Court, Downend BS16 6DU
 representing the Ramblers' Association
 Mr P Green Link Cottage, Burrington BS18 7AU
 Mr P Forrest Spring Head Farm, Upper Langford BS18 7DN

Appendix B

DOCUMENTS, PLANS AND PHOTOGRAPHS

- Document
1. Attendance Lists
 2. Appendices to the evidence of Mrs J Reed
 3. Appendices to the Case for the Applicant
 4. Original Right of Way Evidence Forms and additional statements lodged at inquiry
 5. Correspondence between Churchill Parish Council the Landowner, the Land Agents and Avon County Council 1983
 6. Two letters by Land Agents 24.10.88 & 22.2.93
 7. Statutory Declaration by G L Rowlands
 8. Lease of Shooting Rights 4.11.91
 9. Pamphlet - European Architectural Heritage Year Burrington & Langford 1975
 10. Letter of 22.1.97 from Gp Captain J E Kirk
 11. Two letters submitted by the Ramblers' Assoc.
 12. Extracts from Halsbury's Laws of England and the Digest of British, Commonwealth & European Cases 1981 (4 Sheets)
 13. 15 recent photographs of the Order route
 14. 31 letters of objection.

DOCUMENT 2

1797 Banwell and Churchill Enclosure Aware and Apportionment
Extracts

