

Public Document Pack

Contact: Jessika Robinson
Direct Dial: 01934 426480
E-mail: jessika.robinson@n-somerset.gov.uk
Date: Monday, 18 March 2024

Dear Sir or Madam

The Public Rights of Way Sub-Committee – Tuesday, 26 March 2024, 3.00 pm – Kenn Room

A meeting of the Public Rights of Way Sub-Committee will take place as indicated above.

Please Note that any member of the press and public may listen in to proceedings at this meeting via the weblink below –

The agenda is set out overleaf.

Yours faithfully

Assistant Director Legal & Governance and Monitoring Officer

To: Members of the Public Rights of Way Sub-Committee

Councillors:

Timothy Snaden (Chairperson), Peter Burden, Ian Parker and Dan Thomas.

This document and associated papers can be made available in a different format on request.

Agenda

1. **Public Participation (Standing Order 17)**

To receive and hear any person who wishes to address the Sub-Committee on matters within its remit. The Chairperson will select the order of the matters to be heard. Each speaker will be limited to a period of five minutes for public participation up to a maximum of 30 minutes.

Requests to speak must be submitted in writing to the Head of Legal and Democratic Services, or to the officer mentioned at the top of this agenda letter, by noon on the day before the meeting and the request must detail the subject matter of the address.

2. **Apologies for absence and notification of substitutes**

3. **Declaration of Disclosable Pecuniary Interest (Standing Order 37)**

A Member must declare any disclosable pecuniary interest where it relates to any matter being considered at the meeting. A declaration of a disclosable pecuniary interest should indicate the interest and the agenda item to which it relates. A Member is not permitted to participate in this agenda item by law and should immediately leave the meeting before the start of any debate.

If the Member leaves the meeting in respect of a declaration, he or she should ensure that the Chairperson is aware of this before he or she leaves to enable their exit from the meeting to be recorded in the minutes in accordance with Standing Order 37.

4. **Minutes from the previous meeting** (Pages 5 - 6)

26 July 2023, to approve as a correct record (attached)

5. **Matters referred by Council, the Executive, other committees etc (if any)**

6. **Mod 57 Ruggs Road Cleeve** (Pages 7 - 16)

Report of the Director of Place (attached)

7. **PPO 199 Footpath Diversions off Engine Lane** (Pages 17 - 32)

Report of the Director of Place (attached)

8. **Urgent business permitted by the Local Government Act 1972 (if any)**

For a matter to be considered as an urgent item, the following question must be addressed: "What harm to the public interest would flow from leaving it until the next meeting?" If harm can be demonstrated, then it is open to the Chairperson to rule that it be considered as urgent. Otherwise the matter cannot be considered urgent within the statutory provisions.

Exempt Items

Should the Public Rights of Way Sub-Committee wish to consider a matter as an Exempt Item, the following resolution should be passed -

“(1) That the press, public, and officers not required by the Members, the Chief Executive or the Director, to remain during the exempt session, be excluded from the meeting during consideration of the following item of business on the ground that its consideration will involve the disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.”

Also, if appropriate, the following resolution should be passed –

“(2) That members of the Council who are not members of the Public Rights of Way Sub-Committee be invited to remain.”

Mobile phones and other mobile devices

All persons attending the meeting are requested to ensure that these devices are switched to silent mode. The chairman may approve an exception to this request in special circumstances.

Filming and recording of meetings

The proceedings of this meeting may be recorded for broadcasting purposes.

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting, focusing only on those actively participating in the meeting and having regard to the wishes of any members of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Assistant Director Legal & Governance and Monitoring Officer's representative before the start of the meeting so that all those present may be made aware that it is happening.

Members of the public may also use Facebook and Twitter or other forms of social media to report on proceedings at this meeting.

Emergency Evacuation Procedure

On hearing the alarm – (a continuous two tone siren)

Leave the room by the nearest exit door. Ensure that windows are closed.

Last person out to close the door.

Do not stop to collect personal belongings.

Do not use the lifts.

Follow the green and white exit signs and make your way to the assembly point.

Do not re-enter the building until authorised to do so by the Fire Authority.

Go to Assembly Point C – Outside the offices formerly occupied by Stephen & Co

Minutes

of the Meeting of

The Public Rights of Way Sub-Committee

Tuesday, 25 July 2023

Kenn Room

Meeting Commenced: 15.06

Meeting Concluded:
15.51

Councillors:

Timothy Snaden (Chairperson)
Peter Burden
Dan Thomas

Apologies: None

Absent: Councillor Ian Parker

Officers in attendance: Elaine Bowman, Harriet Isherwood

PRW Election of Vice-Chairperson for the Municipal Year 2023-24

1

Resolved: that the item be deferred to the next meeting.

PRW Public Participation (Standing Order 17)

2

None.

PRW Apologies for absence and notification of substitutes

3

PRW Declaration of Disclosable Pecuniary Interest (Standing Order 37)

4

None.

PRW Minutes

5

Resolved: that the minutes of the meeting be approved as a correct record.

PRW Matters referred by Council, the Executive, other committees etc (if any)

6

None.

PRW Mod 105 - The Uplands Nailsea

7

The Principal Access Officer reported on a Definitive Map Modification Order (Mod

105) under Section 53(5) of the Wildlife and Countryside Act 1981 submitted in November 2017, which requested that four unrecorded routes on land to the south of The Uplands in the Parish of Nailsea should be recorded as Public Footpaths.

The application was based on 15 User Evidence Forms claiming that use of these footpaths had been for a period of more than 20 years. A Location Plan showing the claimed footpaths was included within the report. The land over which these claimed footpaths cross was land within the ownership of the Council and was considered to be Public Open Space until appropriated to planning purposes (DP130 and DP233). This report detailed what was proposed with this land, the consultation that had been ongoing with the applicant and the requirements placed on the Developer in relation to establishment of footpaths and their dedication as public rights of way.

Members were informed that a channelled route around the land's perimeter was to be put in place during the digging process to allow access to the area, and that residents were to be updated with the progress of the scheme and given a final summary as part of a community engagement plan agreed with the Developer. Members also expressed a concern over compliance and accountability for the section 106 should the Developer collapse and the land be sold. It was noted that, having been informed of the contents of the report, the applicant had agreed to the withdrawal and closure of the file, and it was therefore proposed this be authorised by the Committee.

Resolved: that the Public Rights of Way Sub Committee authorised the withdrawal and file closure of the application for Mod 105 The Uplands Nailsea, submitted by Mr R Turvey, on the grounds that the aims of the DMMO application will be met by the developer's obligations in the s106 agreement and Public Path Creation Agreement.

PRW Urgent business permitted by the Local Government Act 1972 (if any)

8

None.

Chairperson

North Somerset Council

Report to the Public Rights of Way Sub-Committee

Date of Meeting: 26 March 2024

Subject of Report: Mod 57 Ruggs Road Cleeve

Town or Parish: Cleeve

Officer/Member Presenting: Elaine Bowman

Key Decision: NO

Reason:

The value of this decision is less than £500,000 and this decision will not have a significant impact on two or more wards in North Somerset.

Recommendations

It is recommended that the Committee authorise the relevant Officer to place on record at the time of submitting North Somerset District Council (Addition of Footpath LA6/18, Ruggs Lane Cleeve Woods) Cleeve Definitive Map and Statement Modification Order No 1 2022 to the Secretary of State, that North Somerset Council intend to be a Neutral party in the determination of this order.

1. Summary of Report

This report is to advise the Committee that following the making of the legal order under the Wildlife and Countryside Act 1981 Section 53 entitled North Somerset District Council (Addition of Footpath LA6/18, Ruggs Lane Cleeve Woods) Cleeve Definitive Map and Statement Modification Order No 1 2022 on 3 March 2022, that the order received two objections. Having received objection, the above Order must be sent to the Secretary of State for determination. When this matter was previously brought to committee on 24 November 2020 the Committee recommended that once the outcome of the order was known that a further report be brought back to committee to establish the stance that North Somerset Council will play in any forthcoming procedures.

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 "A Thriving and Sustainable Place" (a great place for people to live, work and visit) (a transport network which promotes active, accessible and low carbon travel) and "An Open and Enabling Organisation" (collaborate with partners to deliver the best outcomes).

3. Details

This location was the subject of a report on 26 September 2018 where a Definitive Map Modification Application submitted by Woodspring Bridleways Association on 1 August 2004 was considered. That application claimed that a bridleway should be recorded through a woodland area leading from Ruggs Road. Having considered all the evidence

submitted and reviewed, the Committee accepted the officer recommendation that the application should be rejected as there was insufficient evidence to support the claim that this was an ancient bridleway.

Further to the above a report was brought back to the Public Rights of Way Sub Committee on the 24 November 2020. That report advised the committee that following the decision made in 2018, the applicants had exercised their right of appeal to the Secretary of State against the decision of North Somerset. The report in 2020 advised that the Secretary of State, having reviewed the evidence submitted by the applicants, felt that North Somerset Council should be directed to make an order for a Footpath over the route which the applicants previously claimed should be a bridleway **Appendix 1**.

Within the report in 2020 the following recommendations were made to the Committee:

1. Authorise the relevant Officer to place on record at the time of the making of the Order, that North Somerset Council wish to retain the right to oppose any proposal to change the made Order following receipt of representations or objections.
2. Authorise the relevant Officer to bring a further report back to Committee detailing the responses received to the making of the Order. At that time the Committee will confirm the stance that North Somerset Council will take in any forthcoming procedures.
3. Authorise the relevant Officer to confirm the made Footpath Order if no objections are received.

The Order was made on 3rd March 2022, advertised in the North Somerset Times on 20th April 2022 where objections could be submitted before 1st June 2022.

During that period two objections were received, one from the owner of the land Mr D Ridley and the other from Mr R Floyd who claimed that his land was affected. The full details of those objections are included and evaluated within **Appendix 2**.

In line with the minutes of the meeting held for the report in 2020 where the recommendations of the officer were accepted, this Committee is now being asked to decide upon the stance that North Somerset Council wish to take when this order is forwarded to the Secretary of State.

4. Consultation

As part of the consultation process for making legal orders the relevant Parish Council, Ward Members, Statutory Consultees and affected landowners have been consulted. In addition to this, the order was also advertised in the local press and available on North Somerset Website so that members of the public could comment. No further consultation has been made on the stance that North Somerset Council should be taking.

5. Financial Implications

Financial costs have been incurred with the making and advertising of the Footpath Order. As the relevant authority it is our duty to facilitate whichever process is chosen by The Planning Inspectorate to determine this order. These could be Written Representations, A Hearing or a Public Inquiry. If a Hearing or Public Inquiry are held then the costs such as providing a venue, refreshments and any resources needed for smooth running will be met by North Somerset. In addition to this if the committee believe that North Somerset should appear in support or objection to the order then we will need to appoint a legal practitioner.

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 requires that we, as the relevant local authority assist with the arrangements required by the Inspector appointed to determine this Order however, we do have the choice of the role that we wish to take whether that is Neutral, Opposing or Supporting the made Order.

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 three choices open to North Somerset are as follows:

Neutral – This requires North Somerset to be involved within the legal processes of arranging which ever process is chosen to determine this Order but playing no legal part in the discussion or determination.

Opposing the made Order – This option should be chosen if we believe that the evidence does not support the decision to make a Footpath Order. This could lead to the instruction of legal representatives to make our case.

Supporting the made Order – This option should be chosen if we consider that the decision of the Inspector in the report of 2020 was correct. Again, this could lead to instructing legal representatives.

Any one of the above will incur costs for the Council. If successful, then the creation of this footpath would add another right of way to our network.

9. Equality Implications

No - All rights of way are available for the population as a whole to use and enjoy irrespective of gender, ethnic background or ability and are free at point of use.

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 Council must now consider which stance the officer is to take when forwarding the legal order “North Somerset District Council (Addition of Footpath LA6/18, Ruggs Lane Cleeve Woods) Cleeve Definitive Map and Statement Modification Order No 1 2022” to the Secretary of State for determination. The Options are:

- (i) To advise the Secretary of State that in respect of the above order that North Somerset Council intend to take a Neutral Stance. The officer concerned will undertake the arrangements, if necessary, of any proposed venue etc but will

not submit any further legal submissions or evidence to the proceedings other than those required with the submission of the order.

- (ii) To advise the Secretary of State that in respect of the above order that North Somerset Council intend to take a Supporting Stance.
- (iii) To advise the Secretary of State that in respect of the above order that North Somerset Council intend to take an Opposing Stance.

Author:

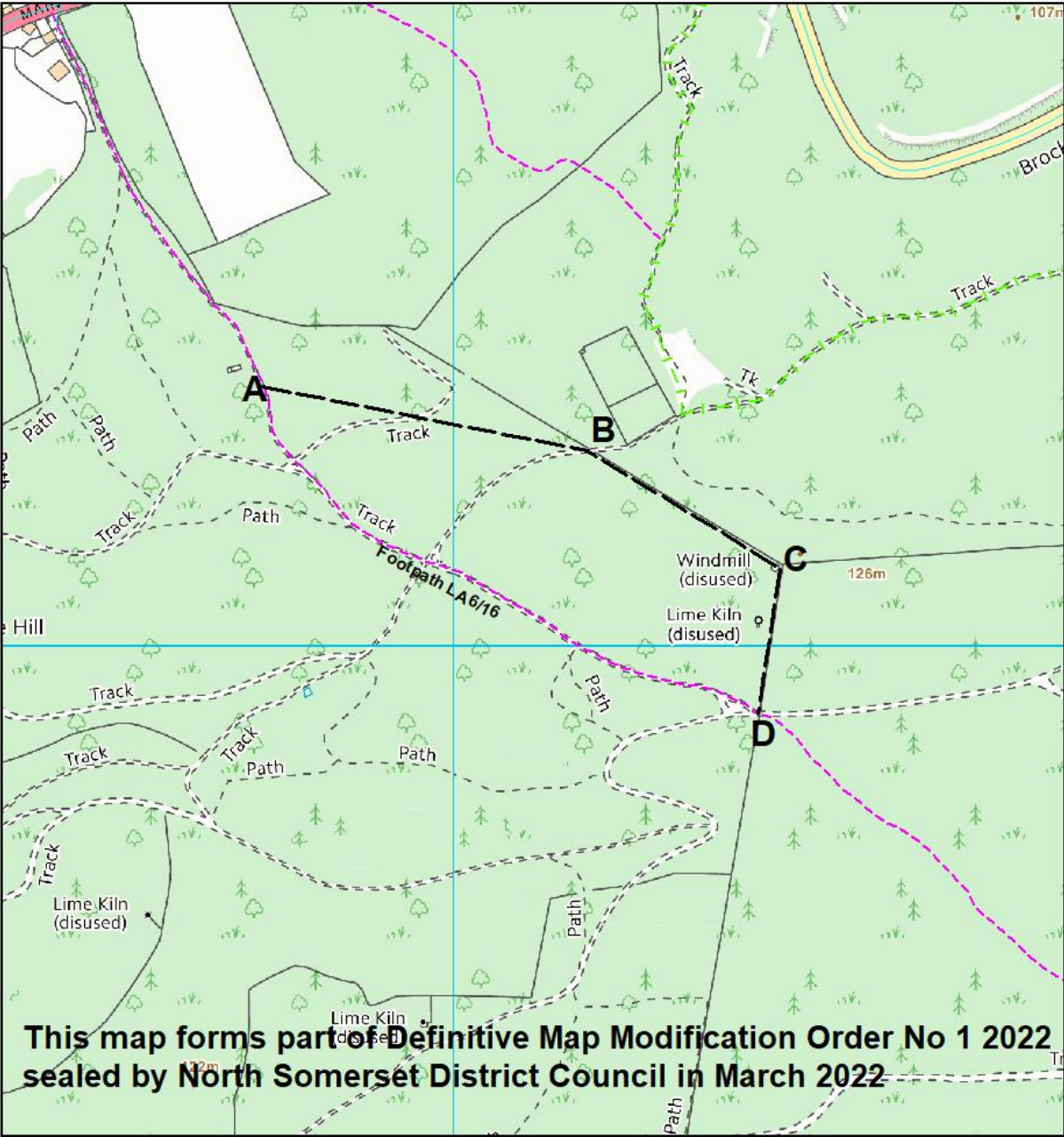
Elaine Bowman
Principal Access Officer – Ext 7406

Appendices:




Appendix 1 – Location Plan
Appendix 2 – Letters of Objection.

Background Papers:

File ref – Mod 57
PROW Sub Committee Papers – 26 September 2018
PROW Sub Committee Papers – 24 November 2020



Wildlife & Countryside Act 1981 - Section 53 North Somerset District Council
Footpath LA6/18 Ruggs Lane Cleeve
Definitive Map Modification Order No.1 2022

 <p>Place Directorate Public Rights of Way Streets and Open Spaces North Somerset Council Town Hall Walliscote Grove Road Weston-super-Mare BS23 1UJ Tel: 01934 888 802</p>	 <p>Location Plan Not to Scale</p>	<p>Scale 1:5000 </p>
		<p>Date 1 March 2022</p> <p>Grid Ref.</p> <p>Map No. EB/Mod 57</p> <p>Claimed Footpath ———</p>

© Crown copyright and database rights 2022 Ordnance Survey 100023397. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.

Mr D Ridley – Goblin Combe Farm

Letter dated 27 April 2022

I wish to object to the above Order, for the following reasons:

- 1] The Order route is different to that claimed and previously mapped
- 2] The adopted consequence of the alleged Awarded route does not stand up to scrutiny and is contrary to the factual outcome.

Mr R Floyd – Brockley House

This response to our formal consultation was sent via Dr Liam Fox's office, 13 June 2022

My constituent, Mr Ross Floyd, has raised the following issue with me. He lives at Brockley House, Main Road Cleeve. The local councillor is Steve Hogg. Mr Floyd often has to deal with trespassers on his land with multiple family and uncontrolled dogs. Please see his email below protesting against this change. If this is not a matter for NSC, please advise to whom I should direct Mr Floyds letter. Otherwise, I would be grateful for reassurance that Mr Floyd's entirely understandable objections are taken into consideration.

Dear Sirs,

MOD57 footpath changes - Brockley/Cleeve

I am most concerned about the proposed changes to the layout of footpaths in Brockley and Cleeve Woods proposed by MOD57. I own woodland that will be directly affected by this proposed alteration.

Firstly, there has been no formal notification to surrounding owners. Two notices have been pinned to posts in the woods, one partly obscured by vegetation and no intimation of a change has been given at a place where anyone affected but not using the footpath would see it. The way this has been promulgated seems rather strange.

Secondly, having land crossed by the footpath affected, I can advise that pedestrian traffic on the existing footpath is minimal and that changes are not needed as an average of only one or two people a day use the route. Adding a further section will have no practical benefit and will merely cause the current landowner aggravation and expense.

Thirdly, as you will already know from complaints and reports to the police, this area suffers from trespassing and criminal damage. We have more people wandering the woodland as trespassers than using the legal right of way despite local landowners having marked and cleared the route and provided a beautiful stone-built stile. These people seem happy to disturb our wildlife, allow dogs to run free and foul the ground, chase nesting birds, deer and wildlife, rip down notices and verbally abuse landowners. We also have illegal mountain bikes racing down the private forest tracks as well as the public footpath, and despite clear signs in place regularly have walkers who prefer to use the access roads and logging tracks rather than stay on the legal access. As part of our attempts to restore the woodland we have rebuilt a large section of the parish boundary wall to its original 1811 style and even this has been subject to vandalism, one section that had been rebuilt for less than a month being partly demolished by youths with motorbikes in an attempt to get into our woodland so that they could ride around. We have walkers climbing over the wall and damaging it, and others refusing to accept that the land is private and a wildlife

conservation area, treating it as a public park and dog exercise area with no regard to the wildlife and plants.

To add a further path to this area, particularly one that is unnecessary, will just add to the available routes that can be used to access wider parts of the woodland for trespassing and illegal use, and make it even harder for owners to safeguard the area, birds and animals that live there. There is no practical benefit to this proposal and it will encourage people to wander into a lovely secluded area and then trespass both on foot and on bikes, causing more damage and disturbance than they already do. Landowners have placed a very large number of bird boxes and habitats in this area. Largely due to the huge amount of conservation work that has been done privately the wildlife has massively regenerated in the last few years to include bats, owls, buzzards, various woodpeckers, badgers and hares. These improvements are at risk every time trespassing occurs as the culprits neither know nor care about the area.

While the footpath change may appear to be a good idea to people who do not know the area, the lack of consultation and the existing pattern of illegal use, trespass and criminal damage to the features, flora and fauna can have no possible long-term benefit to the local environment and work that is ongoing to improve the biodiversity and long term management of this area.

I thus wish to object to the proposal.

Regards, Ross Floyd 183 Main Road, Cleeve. BS49 4PP

Mr D Ridley – 24 February 2024

Dear Mrs Bowman,

Thank you for your letter,

As for my objection, I feel that no public rights of way exist, and the claim will not pass the test to confirm.

I do ask that the Authority agree to oppose the Confirmation Order they were forced to make once the evidence is known.

One other small point the words Ruggs Lane appears now and then, but the award says (one other private road Ruggs Road)

Kind Regards

David Ridley

NSC Response – Mr Ridley 22 April 2022

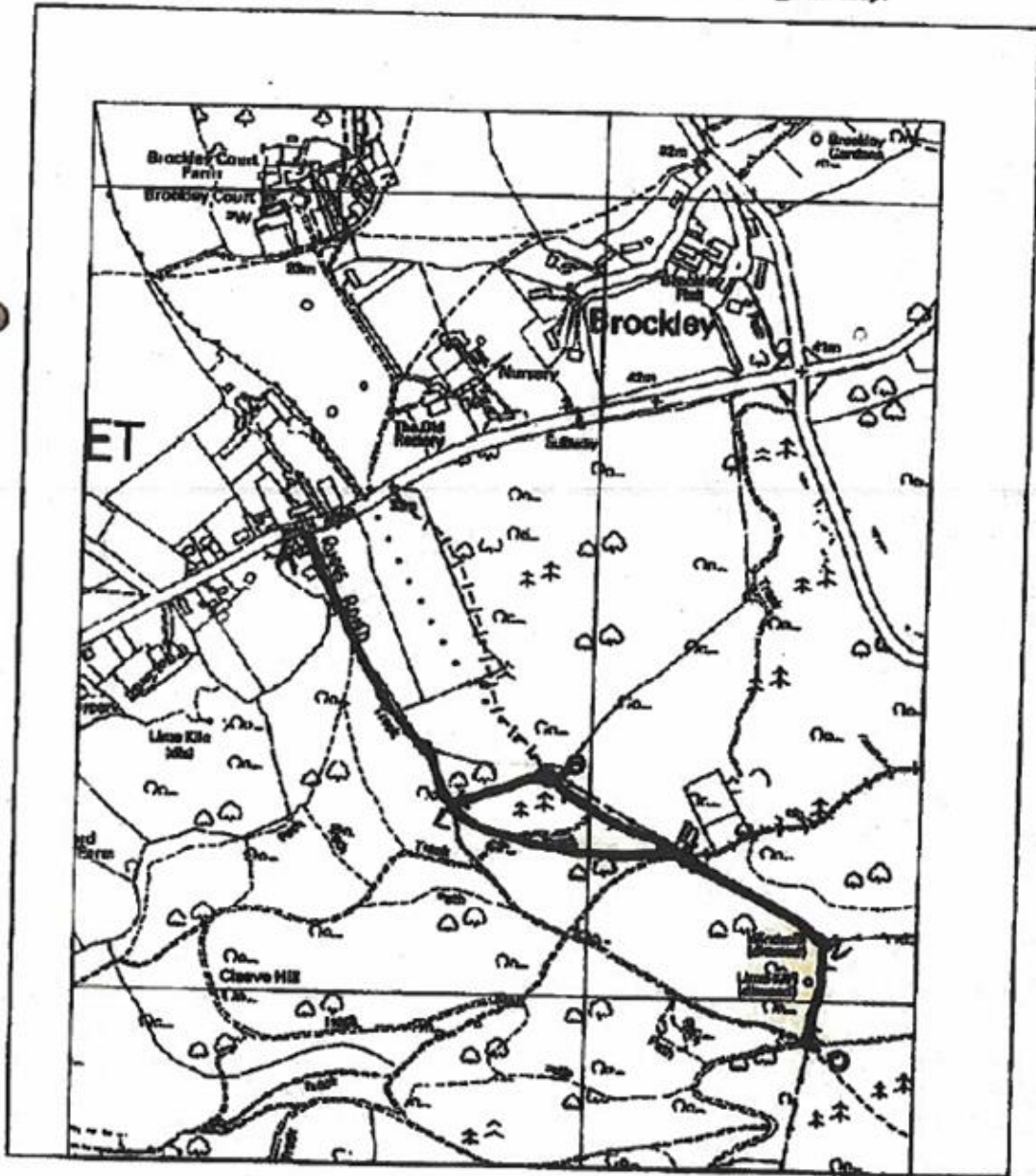
1] – the route depicted within the legal order for this footpath shown in Appendix 1 is the same route which the Inspector described in his formal decision:

2] – I am unclear as to the meaning of this statement despite asking for clarification on the grounds of objection. In my opinion Mr Ridley could be referring to the Planning Inspectorate decision which I am presuming he will expand upon once this matter is referred to the Secretary of State for determination. The formal decision and plan referred to by the Planning Inspector is detailed below.

Formal Decision

24. I allow the appeal in part. In accordance with paragraph 4(2) of Schedule 14 to the 1981 Act, North Somerset Council is directed to make an order under section 53(2) and Schedule 15 of the 1981 Act to modify the definitive map and statement to add a footpath between points L-M-N-O as set out in the application dated 1 August 2004. The decision is made without prejudice to any decision that may be given by the Secretary of State in accordance with powers under Schedule 15 of the 1981 Act.

Plan of Route Used. Please mark the route you have used and sign the map.



As Per Inclusion board

NSC Response – Mr D Ridley – 24 February 2024

Mr Ridley has been advised that this report needs to be presented to the Committee before the made order can be sent to the Secretary of State. He has therefore submitted this information to the committee in the hope that the decision will be made that North Somerset Council actively engage in any forthcoming procedures as opposition to the Order.

Regarding the title of this location, I agree with Mr Ridley that this route should be known as Ruggs Road, not Lane. Therefore, when the order is submitted to the Secretary of State we will be asking, that if the Inspector is minded to confirm the Order that the reference to Ruggs Lane is changed to Ruggs Road.

NSC Response – Mr R Floyd

Following the receipt of the objection from Mr Floyd an email was sent to him asking for clarification upon the land within his ownership as Land Registry shows all of the land affected by this order as owned by Mr Ridley. No response has been received; therefore, I hadn't been able to ascertain the land to which he is referring. Having recently spoken to Mr Ridley I have been advised that Mr Floyd's land is the land to the east of points C and D on the plan in Appendix 1.

Regarding consultation on this matter, initially Land Registry searches were undertaken to establish who was the owner of the land affected. Following that there were pre order consultations with local user groups, Parish Council and Ward Members. When North Somerset Council were directed to make the Footpath Order this was advertised in the press and notices placed on site. At no time through this process have I been made aware that Mr Floyd had any interest in the affected land.

The illegal use which has been detailed within this objection relate to matters which are not for North Somerset Council to address, they relate to civil trespass and criminal damage against the owner of the land and should be reported to and dealt with by the Police.

North Somerset Council comment

A report brought to the Public Rights of Way Committee on the 26 September 2018 provided members with a detailed analysis of the evidence which had been considered relating to the claimed bridleway. Within that report 21 documents were looked at to ascertain whether it could be proven that the claimed route should be a bridleway. This link relates to that report. [Report - 8 Mod 57 - Ruggs Lane Cleeve](#). The conclusion of that report clearly considers all of the documents presented and their relevance to the claim. Other than the claimed use by the three user evidence there was not further evidence of public use.

Following the submission from Woodspring Bridleways against the decision of North Somerset Council not to make a bridleway order, they exercised their right of appeal against the decision to the Secretary of State. An appointed Inspector, having reviewed all the previous evidence considered and written representations sent to him by the applicant, concluded that an order should be made for a footpath. This link relates to the report brought to the Public Rights of Way Sub Committee on 24 November 2020. [Mod 57 - Ruggs Lane, Cleeve, Secretary of State Direction \(Agenda Item 7\)](#)

Having made the order as directed following the statutory procedures laid down objections were received. Through the submission of the objections to the made Order no evidence has been submitted which could cause North Somerset Council to challenge the decision of the Inspector who proposed a footpath. As North Somerset Council had already decided not to make an Order, the question needs to be asked as to whether there is anything that would cause North Somerset to challenge the decision of the Inspector and object to this Order. Within the report of 2020 (section 3.10) the only cause for challenge was believed to be in relation to any objection submitted by the bridleway's association. That objection did not come therefore this officer does not see anything which should be regarded as cause to object to this order.

Conclusion

It is therefore recommended that the North Somerset Council Officer be authorised to take a Neutral Stance in all future proceedings relating to Ruggs Road.

North Somerset Council

Report to the Public Rights of Way Sub-Committee

Date of Meeting: 26 March 2024

**Subject of Report: PPO No 199 Highways Act 1990 Section 119
Proposed Public Path Diversion Order - Parts of footpaths LA 13/5/10 LA
13/5/20 and LA 13/6, west of Engine Lane, Nailsea**

Town or Parish: Nailsea

Officer/Member Presenting: Paul Hayward

Key Decision: NO

Reason:

The value of this decision is less than £500,000 and this decision will not have a significant impact on two or more wards in North Somerset

Recommendations

It is recommended that the Public Rights of Way Sub-Committee authorise the following:

(1) (i) the making of two Public Path Diversion Orders (PPOs) under section 119 of the Highways Act 1990, diverting those parts of Public Footpath LA 13/510, LA 13/5/20 and LA 13/6/20 as shown on the proposal maps (Appendix 1 and 2) on the grounds that it is in the public interest to do so

(ii) if no objections are made and sustained that authorisation be given for the confirmation of the PPO or;

(iii) if objections are made and sustained, that the PPOs mentioned at (1) above be forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination and the council support the Orders through any subsequent procedure.

Summary of Report

North Somerset Council has received a Public Path Order application to divert part of Public Footpaths LA13/5/10, LA 13/5/20 and LA13/6/20 at the above location.

This application arises because of the applicants being granted planning permission 17/P/1250/F for a proposed development of 171 dwellings (Use Class C3 including affordable homes), open space (including children's play spaces and replacement playing fields including drainage and associated infrastructure), landscaping, sustainable urban drainage, vehicular accesses, pedestrian and cycle accesses, related infrastructure and engineering works on the site where the diversion is sought.

Pre-order consultations resulted in the receipt of two written objections, which relate to the proposed LA13/5/10, LA 13/5/20 and 13/6/20 diversions, therefore it is necessary to report the matter to Committee, to seek approval to make two Public Path Diversion Orders.

A copy of the proposal maps, 'Map No. PPO 199/1' is attached to this Report as Appendix 1 and 'Map No. PPO 199/2' is attached as Appendix 2.

Policy

The maintenance of the Definitive Map should be considered as part of the management of the Public Rights of Way network and so contributes to the corporate plan objectives of “A Thriving and Sustainable Place” (a great place for people to live, work and visit) (a transport network which promotes active, accessible and low carbon travel) and “An Open and Enabling Organisation” (collaborate with partners to deliver the best outcomes).

Details

BACKGROUND

Further to the grant of planning permission 17/P/1250/F the applicants seek to amend the public footpaths as follows.

Part of footpath LA 13/6/20

Existing Route- A section of physically undefined footpath (LA13/6/20) running northeast from bridleway LA13/4/30 across open field, shown as A-C, connecting to LA13/6/20 running north. This footpath is located to the west of the development site boundary 17/P/1250/F as indicated on drawing P20-0001_20C (Attached at Appendix 4). Shown on Map PPO 199/1 as solid black line between points A-C, a total distance of 80m.

New route – Commencing at Point A to follow stone wall and hedgerow along boundary of development site through point B shown on 17/P/1250/F. New footpath to connect to existing LA13/6/20 at point C shown on drawing P20-0001_20C. New route to be within 8m maintained ecological buffer. Surface to be mown grass path min 2m in width. Shown on Map PPO 199/1 as a black dashed line between points A-C a total distance of 156m.

Part of footpath LA13/5/10 13/6/20 and LA13/5/20

Existing Route - A section of footpath A13/5/10 commencing at point G , across open field connecting to the northern edge of development boundary 17/P/1250/F point I , then running east across playing fields, through points J,K,L,M, footpath LA3/5/20 hedgerow boundary into adjacent field M,N and connecting to Engine Lane through kissing gate point O (Shown as G-O on drawing P20-0001_20C). Also, section of LA13/6/20 running south from point I junction with LA13/5/10 down to ditch line point D (shown as I-D on development drawing P20-0001_20C). Shown on Map PPO 199/2 as solid black lines G-O a total distance of 335m and I-D distance a total distance of 100m.

New route – Footpath LA13/5 will commence from Point G to follow existing hedge and ditch line shown on drawing P20-0001_20C towards site boundary of development 17/P/1250/F (D) to point D. Shown on Map PPO 199/2 as black dashed lines G – D a total distance of 63m.

Footpath LA13/5 will continue from point D through landscaped development to point E and connecting to Engine Lane at new vehicular junction (F). Surface to be mixture of mown grass path, hoggin path and tarmac pavement minimum 2m in width. Shown on Map PPO 199/2 as black dashed lines G – F a total distance of 236m.

We have been advised by the applicant that users of the network will also have the option of using adopted highway.

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

- 1) To divert the existing route which runs across agricultural land, instead to follow the line of stone boundary wall and hedgerow located within managed ecological buffer
- 2) To divert the existing routes which run across playing fields, instead to follow routes through new development to connect with Engine Way at a new, safe junction with access to a pavement and improved visibility compared to current egress through hedgerow. Stopping up access across playing fields will reduce antisocial use of the pitches.

The applicant originally submitted their application requesting that these footpaths were diverted under section 257 of the Town and Country Planning Act 1990 Appendix 3. However, due to delays in progressing this application, the development of this site has substantially been completed, rendering section 257 unusable therefore it is necessary to progress this application through the Highways Act 1980.

The Order relating to Footpath LA13/6 would be made by North Somerset Council (“the authority”) under Section 119 of the Highways Act 1980.

The Orders sought from the committee would be in the following terms –

In relation to the Part of footpath LA 13/6/20

BY THIS ORDER:

1. The footpaths over the land shown by bold black lines on the attached map no. PPO 199/1 and described in Part 1 of the Schedule to this Order (“the Schedule”) shall be diverted as provided below.
2. There shall be created to the reasonable satisfaction of North Somerset District Council alternative highways for use as replacements for the said footpaths as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map no. PPO 199/1.
3. The diversion of the footpaths shall have effect on the date on which North Somerset District Council certify that the terms of Article 2 above have been complied with.
4. Works shall be carried out in relation to the highways described in Part 2 of the Schedule: with mown grass footpath surfaces, to a width of two metres and affixing of adequate Public Footpath signage.
5. Where immediately before the date on which the footpaths are diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

In relation to Part of footpath LA13/5/10 and LA13/5/20

BY THIS ORDER:

1. The footpaths over the land shown by bold black lines on the attached map no. PPO 199/2 and described in Part 1 of the Schedule to this Order (“the Schedule”) shall be diverted as provided below.
2. There shall be created to the reasonable satisfaction of North Somerset District Council alternative highways for use as replacements for the said footpaths as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map no. PPO 199/2.
3. The diversion of the footpaths shall have effect on the date on which North Somerset District Council certify that the terms of Article 2 above have been complied with.
4. Works shall be carried out in relation to the highways described in Part 2 of the Schedule: establishment of macadam and hoggin footpath surfaces, to a width of two metres and affixing of adequate Public Footpath signage.
5. Where immediately before the date on which the footpaths are diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

SUPPORTING COMMENTS

The owners of land adjacent to the footpaths (but not directly affected by the proposed route changes) advises, as a regular user of these paths, that they believe the new layout proposals to be a very positive advantage, which will lead to increased enjoyment of their use. They fully support the proposal and letters of consent from them are attached in Appendix 4.

OBJECTION POINTS

- i. 1st objecting party originally objected on the following grounds.

“Objection to and opposition to route of proposed diversion from the organiser of a walking group for 25 years, using most if not all the footpaths in and around North Somerset. on following grounds.

As you will be aware the only test to be met for such diversions is that it is necessary to stop-up or divert the way in order to enable the development to be carried out. In the case of both these paths I cannot see how this test is passed.

1. The original plan to divert the footpaths under Section 257 of the TCPA 1990 should be dropped.

2. Instead it is suggested that the existing meeting point of LA13/5 with Engine Lane be moved further south to the location of the proposed new pedestrian access point from Engine Lane to the housing estate (ie a few metres north of the junction of Worcester Gardens with Engine Lane).

From this new access point the footpath would be route along the new estate road to point “K” (D) and then directly west, through point “I” (G). The paths to the north of this new route being extinguished. This would resolve the Nailsea Rugby Club’s issues.

3. The section of path LA13/6 between points "A" and "B" (C) to be diverted to a field edge route from point "A" via point "A1" to point "C".

If the above proposal is accepted, then we would not raise any objections to it subject to the following conditions:

(a) The above changes are made under the Highways Act 1980. This will allow for proper public consultation as well as avoiding any debate concerning the use of the TCPA 1990 for this purpose and the current degree of the completeness of the relevant development.

(b) Proper measures are taken to construct the new path between points "M" (D) and "K" to a standard which provides an all year round surface. Observations during the past year have shown this area to be very wet and muddy. As all foot traffic under the new scheme will now be routed through this area the path surface will need to be able to cope with these conditions.

(c) Long term arrangements are put in place to ensure that the route of LA13/6 between points "K (D) ' and "A" (which will be an enclosed fenced in path) is properly maintained and kept free of excessive vegetative growth. Please see attached photo of the current state of affairs."

NSC Comment – it should be noted that the reference points mentioned above are those from a previous plan. The brackets confirm these points on the attached PPO 199/1 and PPO 199/2 map. Following receipt of this objection discussion has taken place with both the objector and the applicant to address the points raised. The proposals contained within this report have been submitted to the objector who has confirmed that they are now taking a neutral position neither consenting or objecting to the application.

ii. 2nd objecting party

From the organiser of a local horse riding/bridleways group Axbridge Bridleways Association, using most if not all the bridleways in and around North Somerset.

"I have asked for a dedication along Engine Lane. He (the applicant) has said we can use it. But He has said that the housing Association when built might decide that they don't want horses. So a dedication is paramount.

Gates within the dedication must be 5 foot.

I also asked for the eastern FP to be dedicated but he was hesitant but if cyclists can use it so can horses. You can't keep cyclists from using F/P they all do everywhere."

Not happy with the proposal as there is plenty of grass beside the supposed two Metres. There are many Bridleways of far less than 2 metres and a dedication does not I think have to have a particular width Yadley Lane. Cleeve Lane [Ridleys] we have asked for the fence to be put back!!! . I could find many more.

You clearly ask for footpaths and cycleways, on planning applications. I imagine the ramblers don't get involved. So why in a case like this did your team not think of bridleways. We have North Doves, Morgans Hill and the Engine lane to Nailsea Westend. Engine Lane use to be a very quiet Lane but with all these housing Estates, Engine Lane will become more of a rat run. These routes need some help to join them together and with respect should have included the horse together with cyclists at the time planning was

given with a 106 agreement one would imagine you agreed a 106 to cyclists using this route.

So, horses should have been included, and still could be”

OFFICER COMMENTS

The proposals comply with the various provisions of Section 119 of the Highways Act 1980:

- a. It is expedient to make both Orders, in the interests of the owners of the land or of the public.
- b. Diverting Public Footpath LA13/5/10 13/5/20 and LA13/6/20 will clearly benefit the applicants/landowners providing an unobstructed route through to Engine Lane.
- c. The proposals are not substantially less convenient to walkers.
- d. The original distance from point D on LA 13/6/20 to point O on Engine Lane is longer than the proposed diverted route D-F where LA 13/5/10 will meet Engine Lane.
- e. The walking public will also benefit as the end of the proposed route, point F on Map 199/2 is closer to footpath LA13/20/60 located in Worcester Gardens
- f. The diversion would not have a detrimental effect on public enjoyment of the paths as a whole.
- g. The coming into operation of these orders would not have a detrimental effect on other land served by the existing and proposed Public Footpaths.
- h. The applicants have advised that although the official route of the diverted path will follow route DEF on Map 199/2, walkers will be able to use the other roads on the new estate, which are all to be adopted, to access Engine Lane.

2nd objecting party – general Officer comments

The dedication of this new path as a Bridleway is not something that can be provided. The planning permission for this path has set out 2 metres wide, so not the required 3 metres width for a new Bridleway. Maintenance of this path will be for the future management company.

Despite all efforts being made to achieve the request for use/dedication of a new estate path as a bridleway, this had not been forthcoming from the applicants/developers. The estate planning permission had already been granted and hadn't provided for this. Maintenance of the new estate path would be for a future management company; therefore, the developers didn't want to burden future householders with bridleway-standard maintenance.

It is felt that a bridleway dedication request is outside the remit of the Public Path Diversion Order consultation process. It is outside of the two sections sought for diversion and are views that should have been expressed at the planning stage, therefore Officer opinion is that such objection is not relevant to the diversion proposals.

The applicants/landowners wish to keep the proposed diverted route, as that shown on their application.

i) The Legal Situation

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

Section 119 (1)

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

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

Section 119 (6)

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

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

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

Consultation

Joint pre-order consultations were carried-out for the two proposed diversions (including local Public Rights of Way user groups, utility companies, landowners/neighbouring landowners, Nailsea Council, and the local Ward member). Responses included two parties expressing support for the proposals and two parties objecting to the proposed LA13/5/10 13/5/20 and LA13/6/20 diversion.

Financial Implications

A Public Path Diversion Order is subject to set charges and actual advertisement costs (for two press notices). The applicants have agreed to pay these charges on completion of the Diversion Orders.

If any Order is submitted to the Secretary of State for Environment, Food and Rural Affairs for determination, the council are liable for any further costs involved in any subsequent Planning Inspectorate procedures.

However, these financial considerations **must not** form part of the Committee’s decision.

Costs

The Applicants have agreed to pay

[1] pay North Somerset Council within twenty–eight days of receiving an invoice, the cost of:

- i. Pre-application and further negotiation/per hour £ 59.00
- ii. Undertaking informal consultations and Report £ 835.00
- iii. Drafting, publishing and confirming the Order £1630.00
- iv. Advertising the Order (at least 2 adverts, at newspaper cost)

[2] Meet the costs of bringing the new path into a fit condition for use by the public in accordance with the schedule of works agreed with North Somerset Council.

If the LA13/5/10 13/5/20 and LA13/6/20 proposal does not reach the Order-making/Confirmation stages and has not been withdrawn by the applicants, the council would not pass on any charges to the applicants. However, if the applicants withdraw their application, the council will reserve the right to charge for any advertisement costs incurred.

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

Funding

Expenditure associated with both diversion proposals, such as advertisement of any Orders (in the region of £900), will be recorded against normal Public Rights of Way budgets. The applicants for the LA13/5/10 13/5/20 and LA13/6/20 proposal will be recharged for their contribution, as detailed in the costs section above, when processing of the application is complete.

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

Legal Powers and Implications

This order will be made under legislation defined by Section 119 of the Highways Act 1980. If an Order is made, and objections received it will be referred to the Secretary of State for determination.

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.

Risk Management

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

Equality Implications

An Equality Impact Assessment has not been undertaken as it is not considered to directly affect the nature of the application.

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 the point of use.

10. Corporate Implications

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

11. Options Considered

The options to be considered by this Committee are:

- i) to approve the making of two Public Path Diversion Orders under section 119 of the Highways Act 1980 to divert parts of Footpath LA13/5, 13/5 and LA13/6;
- ii) to authorise the subsequent confirmation of the Orders if no objections are received when the Orders are published;
- iii) that where an Order is made and objections are received and sustained to any of the Order, to forward that Order to the Secretary of State for determination and promote that Order in any subsequent proceedings.
- iv) to abandon the proposed Public Path Diversion Order under section Town and Country Planning Act 1990 for part of Footpath LA13/5/10 13/5/20 and LA13/6/20 and advise the applicants, that proposal will be progressed under Section 119 of Highways Act 1980.

Author:

Paul Hayward, Access Support Officer, Access Team, Natural Environment Team
Telephone 01934 427467

Appendices:

Appendix 1 – Proposed Map No 199/1

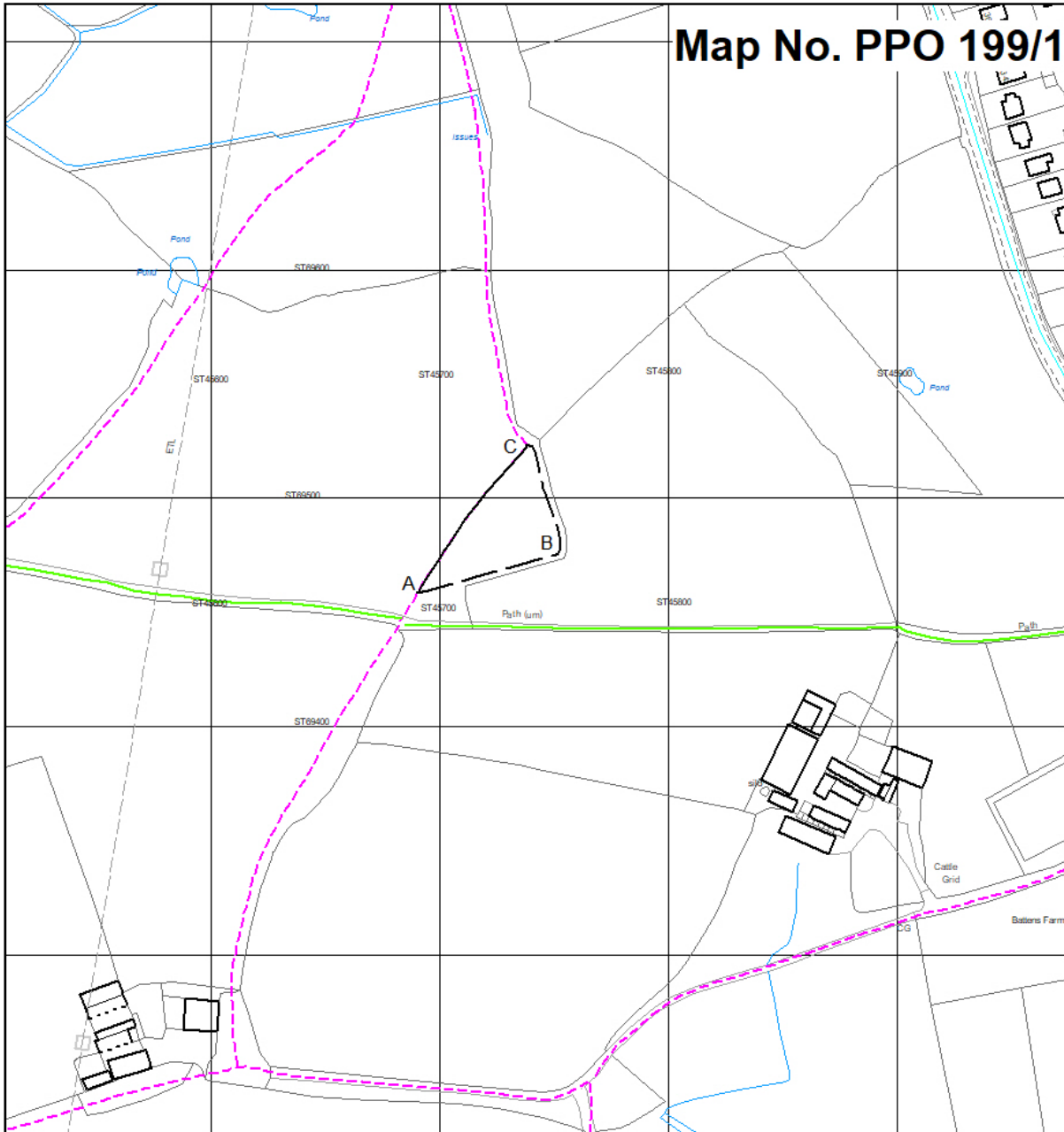
Appendix 2 - Proposed Map No 199/2

Appendix 3 – Developers Drawing P20-0001 20C

Appendix 4 – Letters in support of application

Background Papers:

Public Rights of Way File PPO 199



Map No. PPO 199/1

Highways Act 1980 - Section 119 North Somerset District Council
Proposed Public Path Diversion Order
 Parts of footpaths LA 13/5/10 LA 13/5/20 and LA 13/6, west of Engine Lane Nailsea



Place Directorate
 Public Rights of Way
 Streets and Open Spaces
 North Somerset Council
 Town Hall
 Walliscote Grove Road
 Weston-super-Mare
 BS23 1UJ
 Tel: 01934 888 802

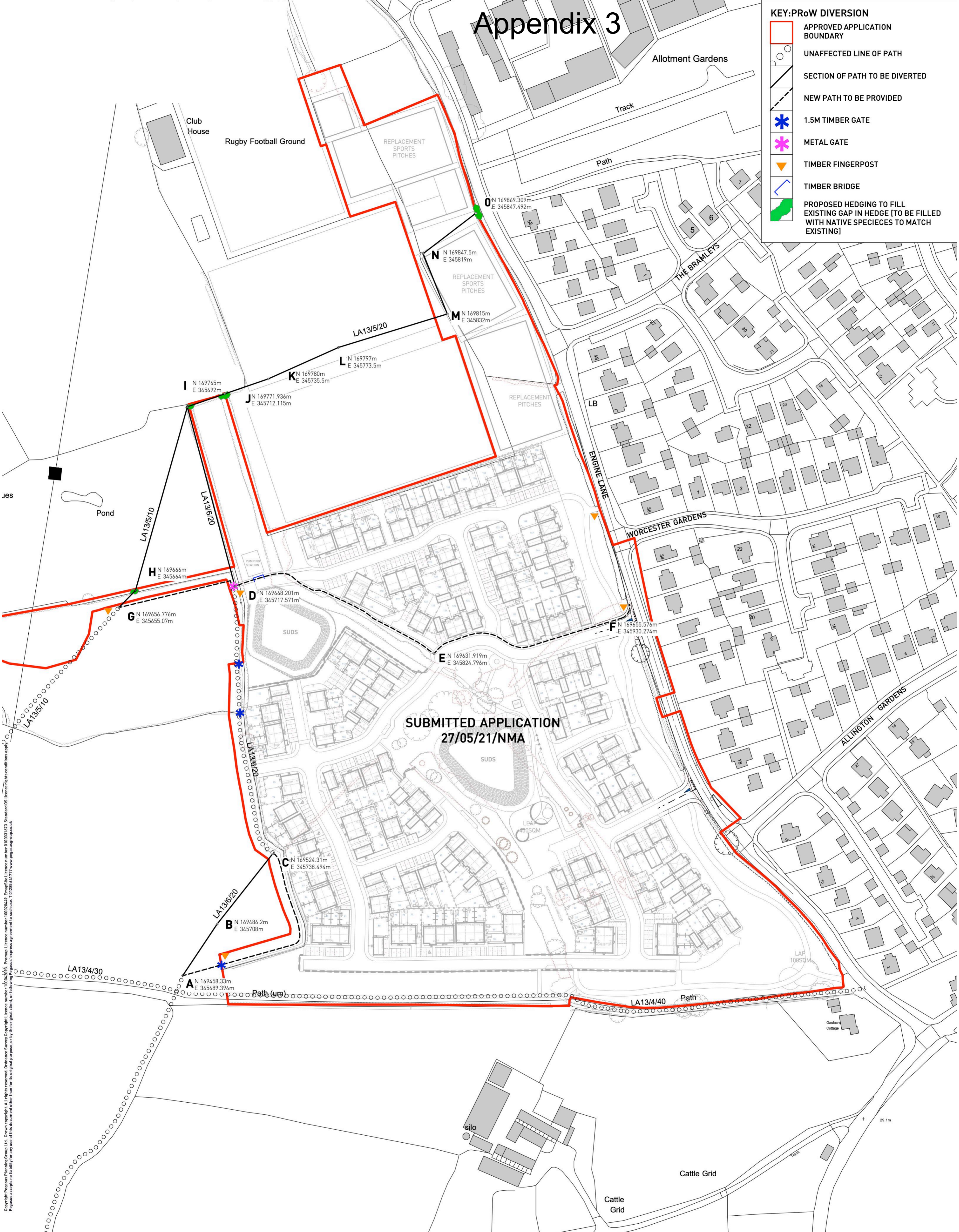


Scale 1:2485
Date 14 March 2024
Grid Square
Drawn by Paul Hayward
PATH TO BE DIVERTED
 Existing ———
 Proposed - - - - -
 Connecting Paths - - - - -

© Crown copyrights and database rights 2024 Ordnance Survey 100023367. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

Appendix 3

KEY: Prow DIVERSION	
	APPROVED APPLICATION BOUNDARY
	UNAFFECTED LINE OF PATH
	SECTION OF PATH TO BE DIVERTED
	NEW PATH TO BE PROVIDED
	1.5M TIMBER GATE
	METAL GATE
	TIMBER FINGERPOST
	TIMBER BRIDGE
	PROPOSED HEDGING TO FILL EXISTING GAP IN HEDGE [TO BE FILLED WITH NATIVE SPECIES TO MATCH EXISTING]



ENGINE LANE, NAILSEA - PUBLIC RIGHT OF WAY DIVERSION Pegasus Design



Copyright Pegasus Planning Group Ltd. Crown copyright. All rights reserved. Ordnance Survey Copyright Licence number: 100020449. Pegasus Licence number: 100020449. Pegasus Licence number: 100020449. Standard OS licence conditions apply. Pegasus accepts no liability for any use of this document other than for its original purpose, or by the original client, or following Pegasus' express agreement to such use. T: 01275 441777 www.pegasusgroup.co.uk

Appendix 4 – Letters in support of application



Cherry Orchard Farm
Nailsea
North Somerset

North Somerset Council
Town Hall
Walliscote Grove Road
Weston-super-Mare
BS23 1UJ

Dear Sirs

Land at Engine Lane, Nailsea

I hereby consent to the permanent diversion of the sections of LA 13/5/10, LA 13/5/20 and LA 13/6/20, as detailed in drawing P20-0001_20C submitted in support of the Section 257 application by BDW Trading Ltd.

Yours faithfully

D W Baker

Date: 25/01/22



Nailsea & Backwell RFC

(Register No. 30095R)

West End Park, West End Lane, Nailsea, N Somerset, BS48 4BY
Tel: 01275 810818; website: www.nbrfc.co.uk

Public Rights of Way
North Somerset Council
c/o Barratt Homes

12th February 2022

Dear Sir / madam

Reference: Public Right of Way Permanent Diversion

Nailsea & Backwell RFC hereby consent to the permanent diversion of the sections of LA 13/5/10, LA 13/5/20 and LA 13/6/20, as detailed in drawing P20-0001_20C submitted in support of the Section 257 application by BDW Trading Ltd.

Full details of the reasons for the support of the diversion will be provided during the consultation period.

Kind Regards


Treasurer
Nailsea & Backwell RFC

This page is intentionally left blank