

North Somerset Council

REPORT TO THE PUBLIC RIGHTS OF WAY SUB COMMITTEE

DATE OF MEETING: 22 NOVEMBER 2022

SUBJECT OF REPORT: MOD 41 – FOOTPATH ADDITION AT HAWTHORN GARDENS

TOWN OR PARISH: WESTON-SUPER-MARE

OFFICER/MEMBER PRESENTING: ELAINE BOWMAN

KEY DECISION: NO

REASON: THIS PROPOSAL IS OUTSIDE OF THE COUNCIL'S KEY DECISION CRITERIA

RECOMMENDATION

It is recommended that the Public Rights of Way Sub Committee authorise the confirmation of the order made on 28th May 2022, namely North Somerset District Council (Addition of Footpath AX31/105 Hawthorn Gardens, Weston super Mare) Definitive Map Modification Order No 2 2022 as no objections have been received to the making of this order.

1. SUMMARY OF REPORT

A report was brought to this Committee on the 29th March 2022 which considered a Definitive Map Modification Order application which had been submitted on the 20th April 2000. That application requested that a route, in the ward of Weston-Super-Mare, should be recorded as a Footpath. The original application was submitted supported by 12 user evidence forms and supporting letters, however, following pre-order consultation further user evidence forms were received. That application for a Definitive Map Modification Order was submitted under Section 53(5) of the Wildlife and Countryside Act 1981. The effect of that request would be to amend the Definitive Map and Statement for the area. The report was based on user documentary evidence.

Appendix 1 Location Plan EB/MOD 41, showing the claimed route A-B is attached.

At that meeting members considered the evidence relating to that application and authorised the making of an Order, the effect of which will, if confirmed, add a public footpath to the Definitive Map.

Following the authorisation of that Order the preparation for the Order commenced where it was discovered that the alignment shown on the previous report was inaccurate and did not reflect the route being used on the ground. This alignment adjustment did not affect the start and finish of the route, therefore was not considered to be detrimental to the making of that order.

The Order was made on the 28th May 2022, advertised on the 9th June 2022 where comments were invited by 22nd July 2022. All relevant parties were consulted including the owner of the land. At the end of this period no objections had been received to the making of the Order. **Appendix 2** shows the Order Plan illustrating the actual route being used.

As no objections have been received to this Order, it is within the powers of the Council to confirm this Order as an unopposed Order.

Appendix 1 - Location Map EB/MOD 41

Appendix 2 – Order Plan North Somerset District Council (Addition of Footpath AX31/105 Hawthorn Gardens, Weston super Mare) Definitive Map Modification Order No 2 2022

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) and “An Open and Enabling Organisation” (collaborate with partners to deliver the best outcomes).

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 Planning Inspectorate who act for the Secretary of State for Food and Rural Affairs for determination. Where the Committee decides that an order should not be made, the applicant may appeal to the Planning Inspectorate.

Conclusion

This report relates to the route A-B, which is not currently recorded on the Definitive Map. Having determined on the 29th March 2022 that an Order should be made and advertised,

as no objections have been received to the making of that Order it now falls for the committee to authorise the confirmation of that order.

4. EQUALITY IMPLICATIONS

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

5. CORPORATE IMPLICATIONS

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

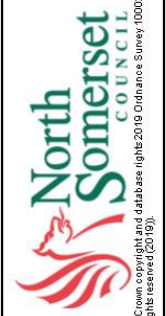
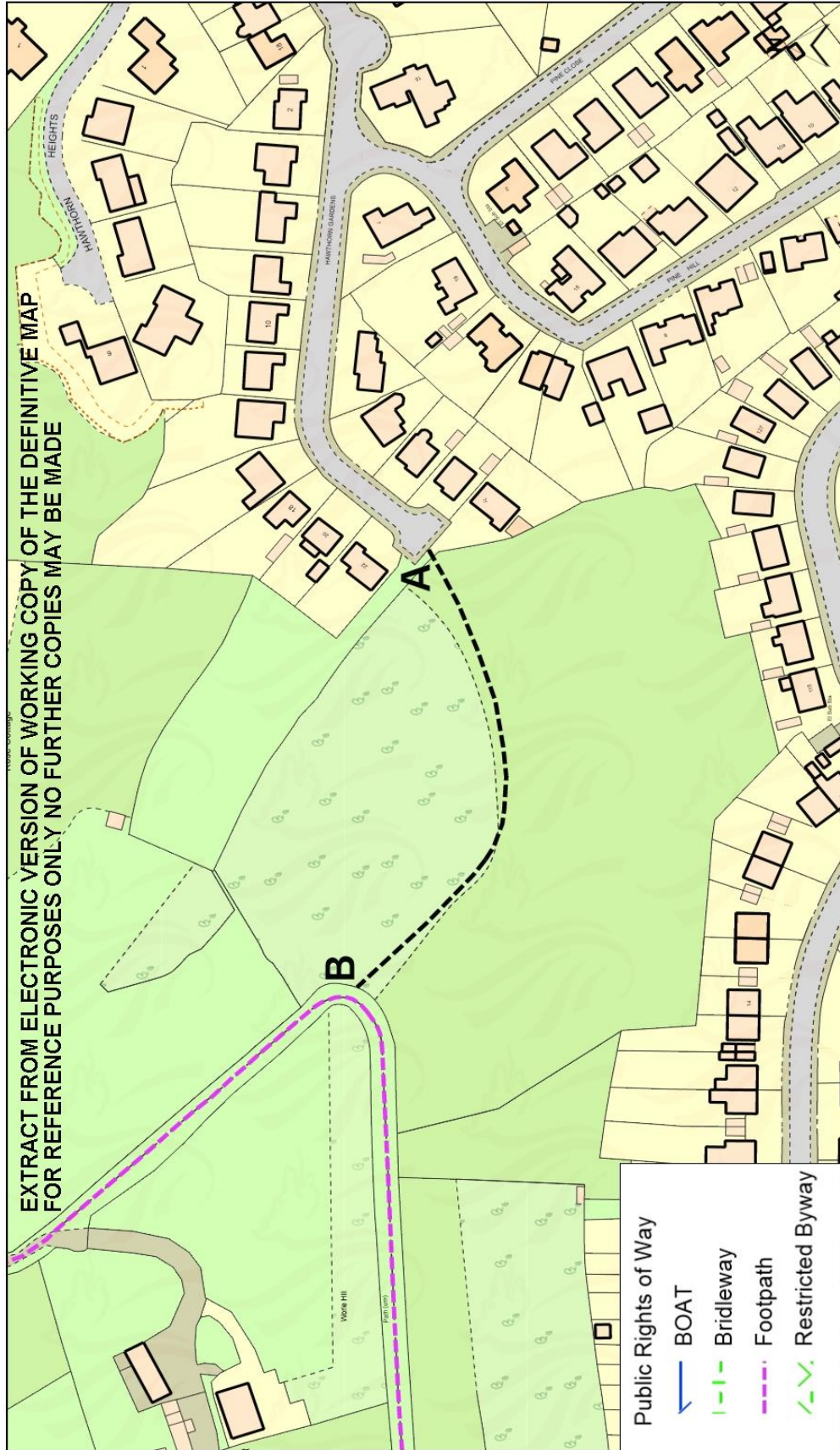
6. OPTIONS CONSIDERED

The only option to be considered is that which has been recommended.

AUTHOR

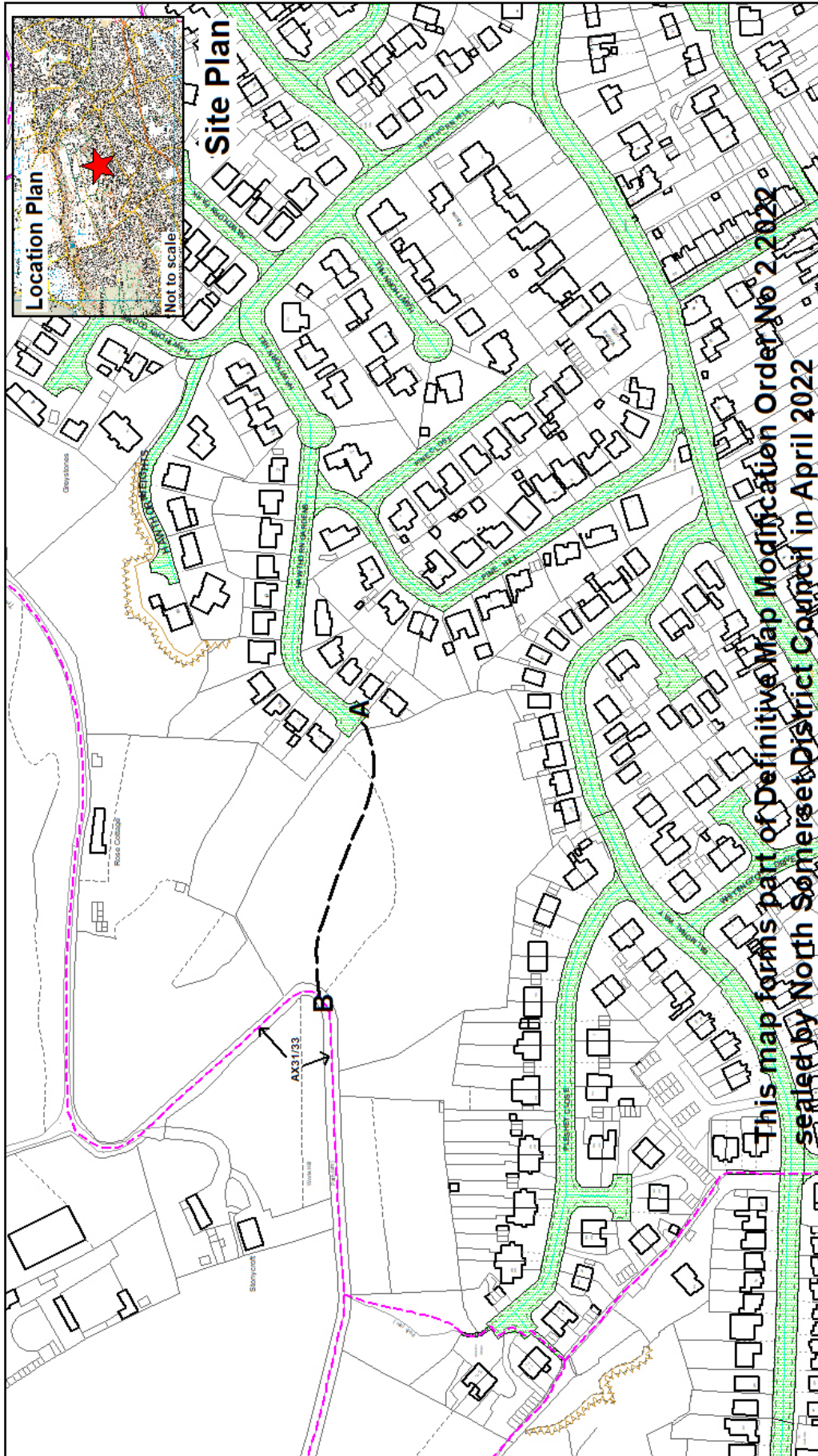
Elaine Bowman, Principal Access Officer, Access Team, Natural Environment
Telephone 01934 888802

BACKGROUND PAPERS: - Public Rights of Way File Mod 41



Location Plan - MOD 41
 Hawthorn Gardens, Weston-super-Mare

Public Rights of Way
 Scale: 1:1500
 Drawn by: Lucy Roca
 Date: 20 August 2019
 Town Hall, Walliscope Grove
 Road, Weston-super-Mare,
 BS23 1UJ
 Drawing No: EB/MOD41




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

Map No.
EB/Mod 41
Grid Reference
ST3462
Footpath AX31/105

Scale 1:2500
Date
26 April 2022

North

Wildlife & Countryside Act 1981 - Sec 53 North Somerset District Council
Footpath AX 31/105 Hawthorn Gardens Weston super Mare
Definitive Map Modification Order No.2 2022



© 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.