

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

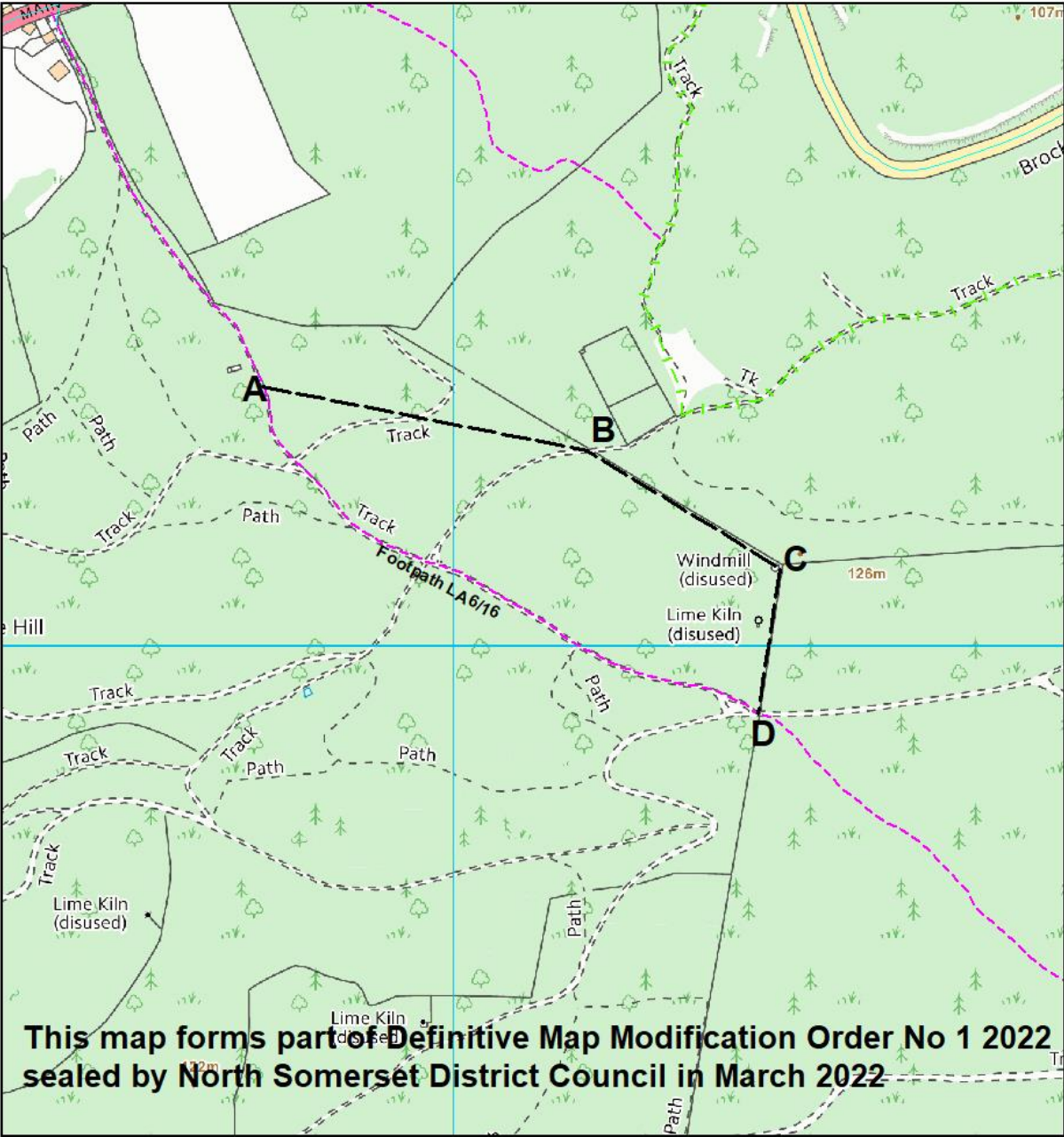
Appendices:

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

Appendix 1 Location Plan



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

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|---|---|---|
|  <p>North Somerset COUNCIL</p> <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</p> <p>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> |

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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

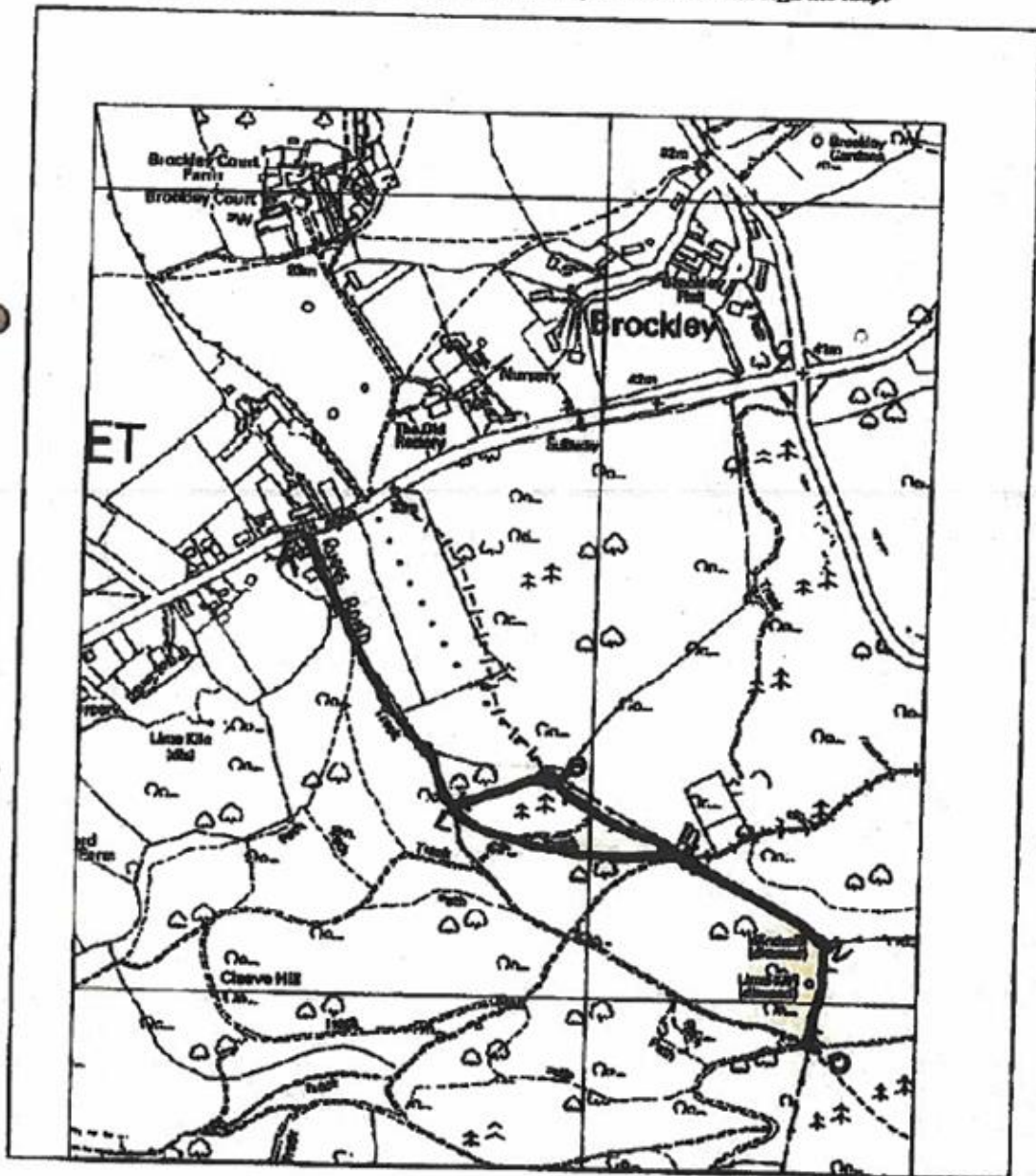
1] – the route depicted within the legal order for this footpath shown in Appendix 1 is the same route which the Inspector described in his formal decision:

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.