



Order Decision

Site visit undertaken on 25 March 2025

by A Behn Dip MS MIPROW

An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 28 August 2025

Order Ref: ROW/3329919

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Somerset County Council (No.5) Modification Order 2018.
- The Order is dated 23 February 2018 and proposes to modify the Definitive Map and Statement (DMS) for the area by adding a bridleway as shown on the Order plan and described in the Order Schedule.
- There were seven objections outstanding when Somerset County Council (the Council) submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed subject to the modifications set out in the Formal Decision that do not require advertising.

Preliminary Matters

1. In March 2011, the Mendip Bridleways and Byways Association made an application to modify the DMS by adding a public bridleway over Westholme Lane in the Parish of Pilton. In February 2018, following a Direction from the Secretary of State and after due investigation, the Council resolved to make an Order to record a public bridleway, as shown on the Order Plan attached. Following advertisement of the Order, seven objections and 2 letters of support were received. Late evidence was also received from Axbridge Bridleways Association (ABA). All documents have been taken into account when determining this decision.
2. The Council originally requested that should the Order be confirmed, it be modified to take into account revised widths. An exchange of emails followed where it became clear that widths were a point of dispute between the parties. I have addressed the matter of widths later in the decision, and should I be minded to confirm the Order I will modify the widths based on my findings on the matter.
3. I made an unaccompanied site visit on 25 March 2025 when I was able to view the entirety of the Order route and walk those parts that were not impassable as a result of heavily overgrown vegetation.

The Main Issues

4. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) on the occurrence of an event specified in sub-section 53(3)(c)(i) of that Act. Accordingly, the main issue is whether the evidence discovered, when considered with all other evidence available, is sufficient to show

that a public right of way not shown on the definitive map and statement, subsists over land to which the map relates.

5. Whilst it suffices under section 53(3)(c)(i) for a public right of way to be reasonably alleged to subsist to make a Modification Order, the standard of proof is higher for it to be confirmed. At this stage, the evidence is required to show, on the balance of probabilities, that a right of way subsists.
6. The evidence in support of this case relies principally on historical research, documents and maps. As regards the documentary evidence adduced, Section 32 of the Highways Act 1980 requires a court or tribunal to take into consideration any map, plan or history of the locality, or other relevant document provided as evidence, giving it such weight as is appropriate, before determining whether a way has been dedicated as a highway.
7. A number of user evidence forms (UEF's) were also submitted in evidence. For the user evidence, section 31 of the Highways Act 1980 (the 1980 Act) is relevant. This requires consideration as to whether a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years. If this is the case 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. The period of 20 years is calculated retrospectively from the date when the right of the public to use the way was brought into question. If statutory dedication is not applicable, an implication of whether dedication for use has been shown at common law can be considered.

Reasoning

Documentary Evidence

Commercial and other Mapping

8. The Day and Masters map of 1782 contains little detail and is of no assistance in this matter. Greenwoods Map of 1822 shows the Order route depicted as a 'cross road'. Whilst case law has suggested that 'cross roads' meant a public road in respect of which no toll was payable, the judge in question was considering a map produced 35 years earlier and by a different cartographer.
9. As pointed out by Mogers Drewett (MD), both public and private routes were also shown on these maps and the Council acknowledged this, drawing attention to *Merstham Manor Ltd v Coulsdon and Purley UDC [1937]* where the judge concluded there is nothing in the map to show whether the author intended to represent the road on the map as a public highway. Conversely as the maps were produced for sale to the public, the Council considered that they would have focused on those routes of use to the public. In light of the caselaw, the map holds very limited supportive weight and is of assistance when viewed as part of the overall evidence submitted.
10. I accept the thoroughly explored view of ABA that some old commercial maps can be accurate and indeed comprise valuable evidence in identifying an ancient highway, when viewed alongside the character of the way and its surrounding geography. However, I do agree with the Council that precedents set by caselaw

should be considered, but in the context of any individual map and set of circumstances for the route in question.

Brue Valley Drainage Plan Award and Map 1806

11. The map accompanying the Drainage Plan Award shows the Order route depicted between parallel lines, not numbered or labelled, albeit the map does not extend far enough east to see point C. An excerpt of the award describes some of the land plots lying south of the route as '*Paddock below the Road.*' As pointed out by MD and also acknowledged by the Council, the Award was concerned with land drainage, not public rights and the description of 'road' on this map does not necessarily mean it was a public road.
12. It was the view of MD that the Drainage Plan Award Map was the earliest portrayal of the route and highly significant. They considered that the route was put in as an accessway by the original drainage board to maintain the ditches on either side and spoke of cross pipes running under the Order route to help regulate the water flow on this low lying land.
13. I consider that the claim of MD that the Order route was created as an access to maintain essential watercourses, as well as providing access to frontagers is not an unreasonable one, however it is unclear how this hypothesis is evidenced.

Rectorial Manor of Pilton and Wootton map 1780

14. A map from circa 1780, of the Rectorial Manor of Pilton and Wootton clearly shows parts of the Order route in existence a quarter of a century earlier than the Drainage Plan Map. ABA suggested that the Order route would have provided a direct route to lands inclosed under the Pilton and North Wootton Inclosure Award of 1796. Albeit MD suggested that depiction of the parts of the route that were shown might indicate private ownership of those stretches, I do agree with the view of ABA that the sections of lane depicted on the maps were likely for orientation purposes.
15. Whilst the 1780 map does not show all of the route, and is not evidence of status, it does suggest the existence of the Order route prior to 1806 and argues against the claim by MD that the route was created by the drainage board.

Pilton and North Wootton Plan 1809, Maps of Pilton 1810 and 1826

16. Labelled as '*South Mead Lane*' on the 1809 map and depicted between parallel lines, in the same manner as other known vehicular highways notated on the legend as a 'Road', the map shows the Order route in its entirety, laying open to the highways at both ends. It would seem both public and private roads were shown and so the main value of the map is in showing the existence of the route at this time. Unsurprisingly a Map of Pilton from 1810 is very similar, as is the 1826 map, albeit this particular map depicts the route between darker parallel lines than some other roads illustrated nearby.
17. The Order route being named on the 1809 map could be supportive of public rights, as, at that time, highways were named for the purposes of indictment, however as the maps were not produced to record highway status their weight is very limited.

North Wootton Tithe Map 1840 & Pilton Tithe Map 1839

18. A small extract of the Tithe maps shows the route in its entirety, depicted between solid parallel lines and coloured sienna. There are no gates or obstructions shown on the route and it lies open to Lower Westholme Road at its eastern end. At its western end it joins to 'Mead Lane,' recognised today as bridleway WS 7/54.
19. There is a number allocated to the route, which is largely indecipherable, albeit ABA thought it likely that the number was 1310 which was included in the 'Roads, Rivers and Waste' of the Apportionment. ABA considered that the Order route likely fell into the waste category, which they interpreted as barren land standing open to all to traverse. Whilst I follow the reasoning used to come to this conclusion, it is the case that both public and private roads were shown on the map.
20. The Tithe Maps offer good evidence of the physical existence of the claimed route, however as acknowledged by the Council and also the view of MD, who represent adjacent landowners, the Tithe Maps were not produced for the purposes of ascertaining public rights.

Ordnance Survey (OS) mapping

21. Whilst OS maps are not evidence of the status of any road, track or path shown, and the surveyors were directed not to enquire into them, they are usually reliable in depicting the physical existence of features on the ground at that time.
22. The Old Series Map of 1817 and the First and Second Edition Maps of 1885 all show the Order route in its entirety, depicted by two parallel lines in the same manner as some other roads that are recognised as public today, but also some that are not. On the 1885 First Edition map, the claimed route is labelled as Westholme Lane, with the western end joining what was referred to as Mead Lane in the Tithe Map, albeit on this map it is depicted as 'drove'. The route is shown bordered by trees for much of its length and joins Lower Westholme Road, which is coloured sepia, at its eastern end.
23. The three reprint maps, two of which appear to be Cassini reprints of a similar age to the OS maps above, appear to show the route in the manner of an unmetalled road.

OS Boundary Remark Book 1882

24. A short section of the Order route south of point A is shown. North of point A, outside of the Order route, the word 'Drove' is depicted. The purpose of this book was to record information about public boundaries and although it depicts a section of the route, it is not helpful in ascertaining status.

OS Objects Name Book (ONB) 1902

25. The ONB describes the Order route as follows; '*Applies to an ~~occupation~~ public lane leading from Mead Lane and joining public road a little east of Lower Westholme Farm.*' The word 'occupation' has been deleted and the word 'public' inserted by hand, in red ink.
26. Whilst the purpose of the ONB was to ensure the correct spellings were recorded on maps, not to determine the public status of a way, the Council considered this entry offered reputation of a highway. They drew attention to other routes that were called public roads and that are recognised as public roads today. As the wording

used was public lane as opposed to public road, they felt that public lane indicated a lower right than a vehicular highway.

27. MD held an opposing view, stating that the original entry before alteration, clearly stated occupation lane and that a Mr Counsell who signed the form 231 as owner of nearby Perridge Farm, Perridge Cottage and Westholme Lane must have clearly agreed with the Order route being an occupation lane. However as the Council pointed out, form 231 does not refer to Westholme Lane as an occupation lane and the form was confirming the 'mode of spelling'. MD considered that the red ink modification, which they believe was made by a Mr Oakley at the OS office, was made on the basis of unknown evidence and on questionable authority. They further commented that Mr Oakley's alteration was ultra vires and that no weight should be given to the description given in the ONB.
28. I agree that the basis on which Mr Oakley made the change is unevidenced and thus reduces the weight of this document, however the alteration is clearly made consciously and there must have been a reason to do so. Whilst MD pointed out three other local lanes in the ONB whose descriptions were not altered, I do not follow the reasoning that this then reduces the weight of the alteration to Westholme Lane. I consider the ONB holds limited supportive weight for public rights existing along the Order route.

Finance Act 1910 Map

29. On this map, the Order route is shown between double parallel lines, uncoloured and wholly excluded from adjacent land. Such depiction can be considered strong evidence that the route held public rights, but it is also recognised that there could be other reasons for exclusion.
30. The Council considered that in light of the contemporaneous ONB describing the Order route as a public lane, and that Mead Lane leading to point A of the claimed route is a definitive bridleway, it would seem more likely that the exclusion of Westholme Lane was that it was believed to be public highway.
31. Conversely MD stated that as the map was about ownership and valuation, the exclusion of a route did not itself, import any public status. They considered that the Order route was a Drove, as per the notation on the 1882 boundary remark book and a private occupation lane. They considered that the uncertainty of ownership, the lack of evidence of any public maintenance and their view of the origin of the route stemming from the land drainage significance of the twin ditches either side of the route, were attributing factors to the route's exclusion on the map.
32. The notation of the word Drove on the earlier Boundary Remark Book refers to a section of lane adjoining the Order route. While I accept the word Drove could possibly apply to the Order route as well, it is the case that the section notated as drove on the Boundary Remark Book is recognised today as public bridleway WS 7/54.
33. I agree that a private occupation lane in multiple ownership could also be a reason for a route to be shown excluded from the Finance Act Map. However, the Order route, as pointed out by the Council, is adjoined mostly by land forming one hereditament and as such is more unlikely to be considered land under multiple ownership. ABA's consideration for exclusion was that the land was an ancient

Manor and the Order route was an ancient common way on manorial waste, which would explain why the Order route was excluded and is unregistered today.

34. MD also drew comparisons to other routes shown uncoloured on the Finance Act map, that were described as occupation lanes in the ONB, however it would appear these comparisons are shown as cul de sac routes on the Finance Act Map, whereas the Order route is a through route. The Council also pointed out that the section of Mead Lane (Pennard) which was referred to by MD as part of their comparison, is recorded as an unclassified highway on the Council's road records.
35. I find the evidence put forward by the Council more persuasive in the reasons for exclusion of the Order route, however I accept the point made by MD and their reference to *Fortune*, in that the Finance Act records are not definitive and must be considered alongside the other evidence.

Highway Authority Road Records

36. The Handover Map of 1929 shows the route on the base layer, but it is not highlighted or annotated as a road maintainable at public expense. On the 1930's Road Records the claimed route is shown highlighted by a broken purple line. An accompanying note states, '*certified non-county roads shown purple broken line.*' On the map itself, the route is notated '*FS64515 (BR on review map)*'. Of note, the adjoining route to the west known as Bridleway WS 7/54, also has BR written next to it and the broken purple line continues across this section. This in turn connects to another recognised bridleway WS 7/48, also highlighted by a broken purple line and notated with BR.
37. The 1950's and modern road records do not show the Order route as a publicly maintainable highway.
38. MD were of the view that the records only show that the Order route was not considered maintainable at public expense and that it was not a county road. They considered that the annotations of BR only showed an intention to put forward the Order route as a bridleway at the next review, which never happened. Whilst MD were of the opinion that the 1930's Road records only show an aspiration by the Council at that time to put the route up for review, I consider that there must have been a reason that the Order route was considered a bridleway at that time, in order for those annotations to be made.

Definitive Map and Statement Records

39. The Order route, along with the extension of Mead Lane north of point A, fell into two rural districts and featured on the preparation maps for both districts. The Council advised that the DMS was prepared on a district-by-district basis, with each district progressing at different rates.
40. In relation to the Order route, the Shepton Mallet DMS was completed by 1957, however the Wells DMS, despite issuing a draft map at a similar time to Shepton Mallett was not completed until 1972. Ultimately, Bridleway WS 7/54 that adjoins the Order route at Point A, was added to the Wells DMS, but the Order route was not added to the Shepton Mallet DMS, in whose district it fell. The Council felt that

the difference in the progression of the districts of their DMS explained why the adjoining Mead Lane was added to the DMS, but not the Order route.

41. The survey card for North Wootton appears to have been written by the Council Officer, rather than the parish surveyor and the Council believed the evidence pertaining to the Order route being a bridleway only came to light after the Shepton Mallet DMS was too advanced to be altered. A letter of 10 May 1957 appears to be referenced in the Summary of Objections, with the Shepton Mallet DMS being published just two months later.
42. MD by contrast, drew attention to the fact that neither parish had claimed the route or the WS 7/54 extension, which they felt the parishes would have done, if it held the reputation of being a bridleway. In their view, the letter of the 10 May 1957 was the only reason WS 7/54 was added. This letter was from the County Clerk to the solicitors of an adjoining landowner to the route. It stated, *'I find that both Westholme Lane and Mead Lane in the parishes of North Wootton and Pilton are bridleways.'* The letter further noted that Mead Lane (WS 7/54) was shown on the Draft Map and that as the greater portion of Westholme Lane was in Shepton Mallet, that a note would be made to add this section to the map of public rights of way at the Review Stage.
43. MD found this 'finding' extraordinary from the County Clerk, and they further commented that the finding was *'based on who knows what evidence,'* stating, that in their view *'it was an apparently unilateral internal finding.'*
44. Whilst I accept that no reasons were given on the letter or in the Summary of Objections as to why the routes were considered bridleways, I find the inference speculative by MD that there was no evidence to support the premise and that as such, the inclusion of WS 7/54 on the DMS was questionable in its merit.
45. I agree with the Council that it is highly unlikely that the County Clerk would have reached such a conclusion without some sort of supporting evidence. I consider that their reference to *Trevelyan v Secretary of State for Environment Transport and the Regions [2001] EWCA Civ 266* is supportive of this view, when Lord Phillips stated *'If there were no evidence which made it reasonably arguable that such a right of way existed, it should not have been marked on the map. In the absence of evidence to the contrary, it should be assumed that the proper procedures were followed and thus that such evidence existed.'*
46. The evidence of MD in relation to the Definitive Map records, discussed in detail the administrative boundaries, ultimately questioning whether Wells District Council had the authority to impose bridleway WS 7/54 upon Shepton Mallet District Council, being that the administrative boundary ran through the centre of the bridleway. They suggested that the whole process lacked due diligence and that it was not lawfully possible for one district council to impose a bridleway on land that fell partly under the boundary of another. However, as mentioned by the Council, it was the County Council, who were the surveying authority and responsible for producing the DMS, and it was the County Council that made the decision to add WS 7/54, not the district councils whose administrative boundaries the route crossed. It is also the case that the proposed changes to the map would

have been advertised, and there were no objections to the inclusion of WS 7/54, from the district councils or the parish councils.

47. Aligning to the Definitive Map preparations, MD referred to a letter from the Council to the Ramblers in 1955, wherein JB White of the Council, in response to queries about the status of several routes, stated that *'Westholme Lane is not accepted as a county road'*. MD felt that the knowledge of this by the Parish Council would have been attributable to them not claiming the Order route during the Definitive Map Process. I do not find the reference to the Order route not being a county road is evidence against the existence of a bridleway or footpath and as pointed out by the Council, the letter was sent to the Ramblers not the Parish Council, who may have been unaware of the letter.
48. The Council considered that as the Order route adjoined a vehicular highway at one end and the WS 7/54 bridleway at the other end, that *Eyr v New Forest Highway Board [1892]* was supportive of the existence of bridleway rights. In the Eyr case it was concluded that where a section of uncertain status exists, it can be presumed that its status is that of the two highways linked by it.
49. It was the view of MD that in light of their analysis of how the adjoining WS 7/54 bridleway was added to the Definitive Map and lack of user evidence of that route or the Order route, combined with the length of the Order, meant Eyr could not be relied upon. I do not agree that the Order route being longer than that in Eyr necessarily makes the caselaw irrelevant and consider that for this case, Eyr is supportive in principle.
50. I am also not persuaded by the argument put forward by MD suggesting that the recording of the WS 7/54 was unsafe or unlawful. While MD in this argument questioned a lack of user evidence for WS 7/54, when later addressing the user evidence submitted for the Order route, they highlighted that in relation to the UEF's submitted, that *'many of the forms show that the witness only was speaking of Mead Lane'*, which is WS 7/54.

Correspondence from Council Files 1980

51. Correspondence was submitted in evidence from the Council's files, which appears to relate to a claim that the Order route was a public right of way at that time. The correspondence was principally between the County Archivist and the County Solicitor and related to clarifications between the two officers regarding interpretation of documentary evidence of the Order route.
52. The investigations appear to have stemmed from a letter by a Mrs Curtis who owned land adjoining the Order route. It concerned a dispute with other adjoining landowners who had allegedly narrowed the route in places and erected gates, making access to her own land difficult. Mrs Curtis considered that the route was public and submitted UEF's in support of her claim.
53. The report that was submitted to the Council's Planning Sub-Committee as a result of this claim, referenced a site visit undertaken in July 1980 with Council staff, two local farmers and local councillors. Of interest the report noted that *'both farmers agreed that these lanes were public rights of way'* and that *'they had no objection to the public using the lanes on foot or horseback.'*

54. The report when outlining the research undertaken, stated that the lane was an ancient highway and should be on the DMS as a Road used as a Public Path. MD asserted that to be an ancient highway there must be evidence of it being in existence prior to 1835 and evidence that it was publicly maintainable, although this was refuted by the Council and ABA, who both considered that there did not necessarily need to be evidence of public maintenance.
55. MD considered that the correspondence leading to the assertion of an ancient highway at that time, showed a surprising degree of misunderstanding and lack of clarity with regard to some of the historical documentation discussed and I agree that there may have been greater reliance apportioned to some of the mapping evidence as a result. However while the depth to which MD evaluate the 1980 correspondence is detailed, the decision does not turn on the assessment made in 1980, it forms just one piece of the evidence.
56. Ultimately the correspondence and other research undertaken, led to Somerset County Council's Planning Sub-Committee recommending that the route was considered to be a public right of way and should have been included on the map. They resolved to take no action at that time and that a further report should be submitted once the Wildlife and Countryside Bill had received Royal Assent.

User Evidence

57. As part of the 1980 claim, 28 UEF's were submitted which contained the evidence of 33 users extending back to 1925. A further 3 UEF's were submitted in 2011. It appears that some use could be considered private and some referred to use of Mead Lane, rather than the Order route. Much use that could be considered public was on foot, rather than on horseback.
58. It is common ground amongst parties that the user evidence on its own merits is insufficient to demonstrate that the Order route is a bridleway under statute, or at common law. However while the Council consider the UEF's are supportive of the historical reputation of the route as a bridleway, and further, could support a reasonable allegation of a footpath, MD disagreed. They felt it was unsatisfactory that Mrs Curtis had been involved in the completion of the forms and pointed out that that there was no accompanying map. MD asserted that if the UEF's were insufficient in their own capacity to demonstrate a bridleway, they must also be insufficient to be used as being supportive of reputation.
59. Aligning to this, a statutory declaration was made from a Mr Skidmore for whom a UEF had been submitted in support of the 1980 claim. Whilst conceding that the signature looked like his, Mr Skidmore denied that the UEF submitted in his name was his. He noted that the writing was not his and was adamant that he would have not signed a form whose evidence was not his own.
60. I agree that the lack of a map accompanying the early UEF's, alongside Mrs Curtis's involvement in much of the form filling does create some uncertainty as to the reliability of some forms, however I do not accept that the evidence should be disregarded completely. Several forms were completed entirely or partially in the users own handwriting and I consider it unlikely that such a number of users would sign a form if they did not agree with what was written on it. Whilst a number of forms relate to private use as a result of farming in the immediate locality of the Order route and would not count towards use, some of those users with a private

right stated that they thought the route was public. I therefore consider that the UEF's do hold weight, albeit very limited, in support of reputation of the Order route holding public rights.

Witness Statements

61. Thirteen witness statements were submitted by MD. Three were from previous owners of Lower Westholme Farm and span the years from 1986 to 2024, none of whom recalled any use of the Order route by the public, or the route having any reputation of a bridleway. One remembered the daughter of Mr Curtis, who had land along Westholme Lane, infrequently riding her horse along the route, and the owner of Westholme Farm between 1986-2000 stated that although the Order route was not within their title, they treated it as their own, as they had land on both sides of the 'drove'. They recalled the useable width of the drove was narrow and the surface was poor due to use by cattle and tractors and stated it would not have been easy to ride a horse along the route. The owner from the year 2000 was told by his solicitor that the Order route was a drove and an accommodation lane, holding private rights only. This owner remembered being approached by the Mendip Bridleways Association about allowing the route to become a bridleway, which he declined following advice from his solicitor.
62. The daughter of Mr Curtis along with her son submitted evidence statements wherein they recalled the western end of the Order route being impassable by the mid-end of the 1970's. They did not share their grandmother Mrs Curtis's view that the route was public. Whilst MD considered that their statements were significant, the 1980 correspondence and investigation form just one piece of the jigsaw.
63. The owners of Wellhayes Farm which abuts the Order route, had been resident since 2007, when they purchased the farm from Mr Skidmore. They never saw anyone using the route and had never heard any local reputation of the lane being an old public right of way.
64. Another witness stated that his aunt and uncle owned Lower Westholme Farm prior to its sale in 1986, and that he used to work there at Christmas. He had never seen the public using the Order route and considered that the physical nature of the route being narrow and wet was the reason. He remembered Westholme Lane being lower and narrower in the past to what it is now, and recalled that from the mid-late 1970's, the north west end of the drove was completely blocked by undergrowth and shrubs.
65. Three owners of land close to, but not seemingly adjoined to the Order route, submitted witness statements stating that it had not, to their knowledge, been a public right of way and that they had not seen members of the public using it. One of these witnesses had lived in the area since 1953, the other two for 50 years.
66. Another witness remembered the Order route from 1987 when he was a child and a friend of the local farmers children. He remembered having to use the adjacent fields rather than the Order route due to its poor condition. He recalled that from just beyond the dog leg, (approximately points B-A) the route was impenetrable.
67. I have no reason to doubt the condition of the route. I noted on my site visit that the Order route was impassable for approximately a third of its length and that Mead Lane (WS 7/54) was also the same. The vegetation was of some age and it is not inconceivable that it had been overgrown and inaccessible for over 40 years.

Widths

68. Original measurements of the Order were taken solely from the Finance Act 1910 records, however the Council considered that evidence had shown the existence of ditches along the route within the boundaries shown on that map. As considered in *Hanscombe v Bedfordshire County Council [1938]*, it was found that as a ditch was not adapted for the exercise by the public of their right to pass and re-pass, it did not form part of the highway. The Council consequently felt that there was no evidence that the ditches formed part of the highway and requested that the Order be modified to reflect this.
69. The original modification request was to reflect new widths, based in part on historic mapping and in part from measurements taken on site. However when seeking further clarification on the widths, it became apparent that there was a conflict between the Council's measurements and those that were subsequently undertaken by the objector.
70. It was common ground that the eastern end of the route averaged 4 metres, however the width measurements submitted by the Council generally increased as the Order route headed west, whilst the detailed measurements taken by the objector showed an overall decrease as the Order route headed west. I observed on my site visit that the route generally narrowed the further west I travelled. This was accentuated by the deep drainage ditches bordering the route on both sides. Accordingly, should I be minded to confirm the Order, I will modify the widths in line with measurements submitted by the objector.

Conclusions

71. It is clear that the Order route is of some antiquity, with records physically depicting the route, or part thereof, dating back to at least the late 18th Century. It is defined consistently on the historical mapping, as a through route, separate from adjoining lands and laid open to the highways it connects to, at both ends. This is suggestive of the Order route being an integral part of the local highway network. There appear to be no gates shown on the route and there is no evidence of gates being erected until the modern day.
72. Whilst I acknowledge the assertion by MD that the evidence needs to be determinative, it does not and often cannot be determinative on its own, especially where historical records are involved. Whilst some documents are silent, others are not and it is not a single document, but the cumulation of what the evidence shows, that tips the balance of probabilities in one direction or another. I agree that some of the mapping could be considered neutral, however certain documents do favour the possibility of public rights having existed historically.
73. I also acknowledge the contrasting assertion by ABA who consider that the early documents suggest that the route was an ancient public vehicular highway. I do not consider that the early evidence in this case is sufficient to draw that conclusion. As ABA acknowledge, there were a higher quantity of early commercial maps produced for those cases considered by *The Commission for New Towns and Worcestershire County Council v JJ Gallagher [2002]* and *Fortune v Wiltshire Council [2012]*, and whilst some similarities can be drawn from the Tithe Map and Greenwoods, the remaining evidence is more supportive of a different status.

74. The Greenwoods Map of 1822, by its association with caselaw, holds very limited weight in support of the claimed route. The 1902 ONB has a handwritten amendment, changing the description of the Order route from occupation lane to public lane. Albeit the merits or otherwise of this amendment were discussed at length by MD, I consider, whilst recognising that it was not the purpose of the Object Name Book to determine the status of routes shown on the OS, the description does indicate that the Order route was considered to be public.
75. Another document in support of public rights is the Finance Act 1910 map. Whilst I appreciate that there were other conceivable reasons for exclusion of a route from the surrounding hereditaments, I consider the most probable reason, when considering the evidence as a whole, was that there were public rights across the Order route.
76. The 1930 Road Records have the notation 'BR on the review map' notated next to the Order route. 'BR' is also depicted on other connecting routes that are recognised as bridleways today.
77. The Definitive Map preparation records illustrate that in 1957, the view of the County Clerk was that the Order route was a bridleway. An earlier letter from the Council to the Ramblers stating the Order route was not a county road is not evidence against bridleway status, as twenty years earlier the 1930 road records clearly indicated the Order route was not a county road, but suggested that a bridleway was in existence.
78. The 1980 records, including the UEF's, the associated investigation that took place, and the ultimate decision by the Planning Sub Committee that the Order route was a public right of way, was a set of documents fraught with conflict. The variable witness statements and changing opinions of the Council officers at the time, along with the questionable weight that was afforded to some of the evidence means I afford them only a little weight.
79. The witness statements submitted by MD are unanimous in reporting a lack of use of the Order route, or of a reputation of bridleway along it, however their evidence is contemporary when considering the antiquity of the route. There is also much evidence that refers to the route being impassable and it was clear from my site visit that the Order route had been vastly overgrown in places for many years. The evidence suggests that it had been in such a condition for over 40 years, albeit again, this impassability is contemporary for a route that has been in existence for well over 200 years.
80. Whilst modern evidence might cast some doubt on the status of the Order route, the maxim 'once a highway, always a highway' means that if there is sufficient evidence to give rise to an inference of dedication at an earlier date, the route will retain that status, unless there is evidence of subsequent stopping up or diversion.
81. The evidence in this case is fairly well balanced and the views of the main parties both well-reasoned and by nature, subjective. Albeit I accept that individual pieces of evidence can be explained in more than one way, I consider that there are a number of pieces of documentary evidence prior to 1980, as outlined above, which albeit not conclusive on their own, are cumulatively sufficient, to indicate, that on the balance of probabilities, the Order route historically held public bridleway rights.

82. Having reached that conclusion, the evidence that the Order route may have been viewed differently in the modern day and may no longer seem suitable as a highway, cannot detract from that status. Having regard to all matters raised in the written representations, I conclude that the Order should be confirmed with modifications.

Other Matters

83. Mr Dowden, consultant to the Land Drainage Board, in his written statement, confirmed that the Drainage Board have statutory powers to access and maintain the watercourses. His witness statement expressed concern about maintenance issues and the safety of horses, should the Order route be confirmed as holding public bridleway rights, and it was clear on my site visit that the watercourses are an important and necessary asset to drain the surrounding land. However, while I recognise these are genuine concerns, the legal basis on which I must determine this case does not allow consideration of such matters.

Formal Decision

84. I confirm the Order subject to the following modifications:

- On the Schedule, PART 1, Description of path or way to be added, **delete** the second paragraph that relates to the width.
- On the Schedule, PART 1, Description of path or way to be added, after the first paragraph, **insert**

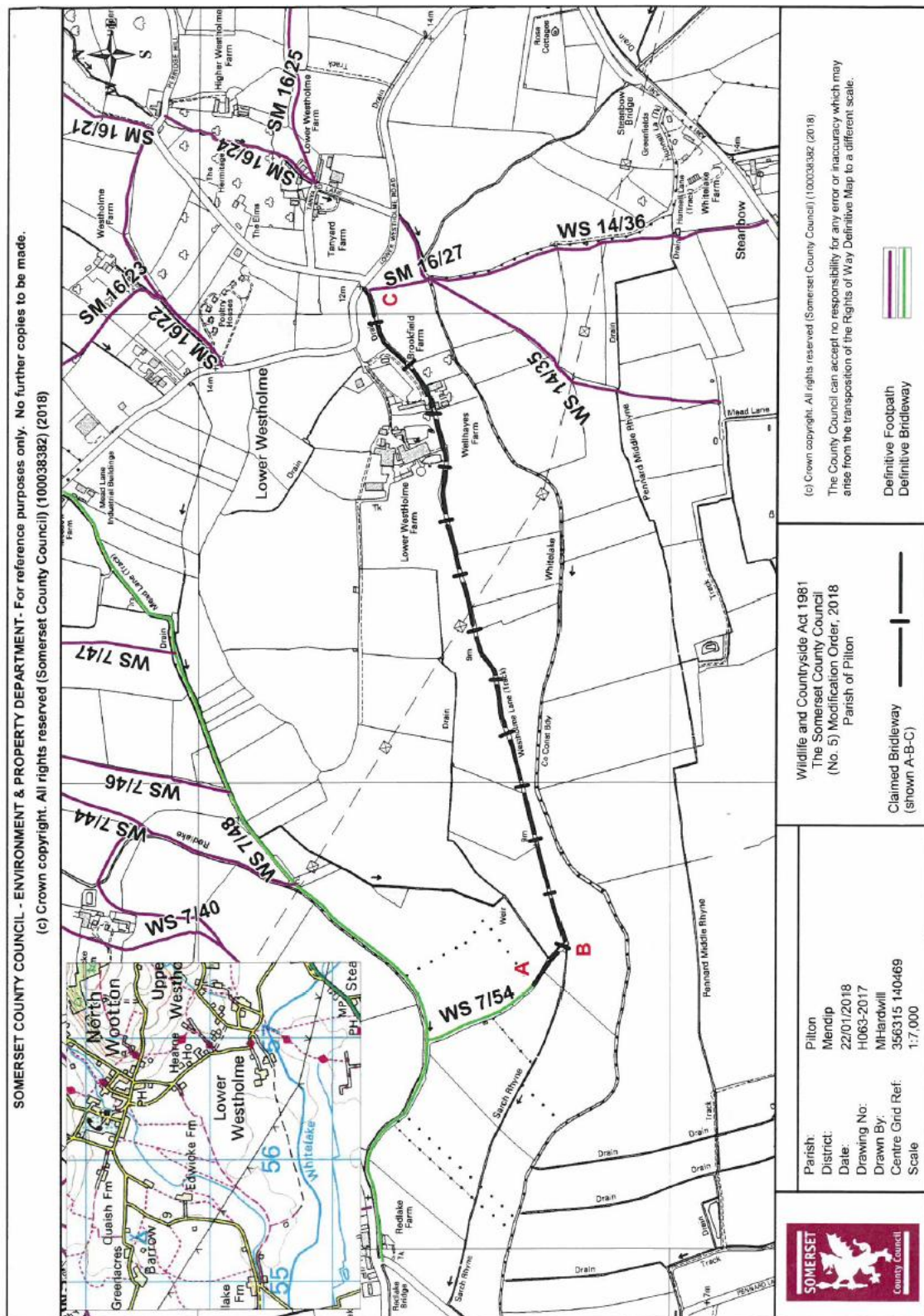
Width: Travelling from the western end, the average width is: 3.1 metres for the first 980 metres, 4.1 metres for the next 310 metres and 4 metres for the remaining 320 metres.

- On the Schedule PART II, Variations of Particulars of Path or Way, **delete** the second paragraph that relates to the width.
- On the Schedule PART II, Variations of Particulars of Path or Way, after the first paragraph, **insert**

Width: Travelling from the western end, the average width is: 3.1 metres for the first 980 metres, 4.1 metres for the next 310 metres and 4 metres for the remaining 320 metres.

A Behn

INSPECTOR



27 August 2025

Planning East Committee Notification

Proposal: The development of a new mixed-use neighbourhood comprising of up to 620 dwellings, care home provision, land for a new primary school and nursery, a new local centre, open space, diversion of a public right of way, access roads and all other associated and necessary on-site infrastructure. Details of the new access arrangements into the development are not reserved.

Location: Mid Somerset Showground Cannards Grave Road Shepton Mallet Somerset BA4 5RT

Applicant: C G Fry And Son And The Duchy Of Cornwall Estate

Application Type: Outline - Some Matters Reserved

Application Number: 2018/1843/OTS

The above application submitted on 17 July 2018 will be reported to the Planning East Committee on 1st September 2025 starting at 2pm at The Council Chamber, Council Offices, Cannards Grave Road, Shepton Mallet, Somerset, BA4 5BT.

The Planning Committee Agenda, including the Officer's report and recommendation, will be published at least five working days before the meeting. These documents can be viewed on our website at <https://democracy.somerset.gov.uk/mgCommitteeDetails.aspx?ID=208>.

The Planning Committee will be run as a hybrid (virtual/physical) meeting meaning that, while Planning Committee Members will need to attend in person, members of the public can join virtually.

- If you wish to **attend Committee in person**, please arrive at the reception area at least 10 minutes before this starting time so that you can be seated before the meeting commences.
- If you wish to **attend virtually**, please notify Democratic Services so they can send you the link for the meeting and admit you on the day.
- If you wish to **speak** on an item on the Committee Agenda you should notify Democratic Services either by telephone: 01823 357628 or by email democratic@somerset.gov.uk no later than **5pm on the Thursday before** the meeting.

Further details on the Planning Committee process are attached. Full details, including Frequently Asked Questions, can be found on the Council's website here: www.democracy.somerset.gov.uk

If you require any further information, please contact the Case Officer.

Yours faithfully

Trudy Gallagher

Planning - East Team
Somerset Council

Planning Committee Meetings - Guidance Notes

Inspection of Papers

Agendas, reports and minutes can be accessed via the council's website <https://democracy.somerset.gov.uk/mgCommitteeDetails.aspx?ID=208> a minimum of 5 clear working days before the Committee.

If you need to access any of the papers in an alternative format (e.g. large print, audio tape, Braille etc) or in community languages please contact Democratic Services giving as much notice as possible. It should be noted that re-formatting or translation of committee reports before the date of a particular meeting cannot be guaranteed.

Can I speak?

The Applicant/Agent, Parish, Town or City Council, Divisional Members and objectors or supporters are able to address the Committee **if they have registered in advance**.

The order of speaking will be:-

- Those speaking in support of the proposal - 15 minutes shared between a maximum of 5 speakers of 3 minutes each
- Those speaking to object to the proposal - 15 minutes shared between a maximum of 5 speakers of 3 mins each
- The Parish, Town or City Council(s) - 3 minutes each
- The Councillor(s) (non-Committee members) - 3 minutes each
- The applicant or their agent - 3 minutes

Public speaking will be timed and the Chair will be responsible for bringing the speech to a close. The speaker/s will be allowed to address the Committee during their registered slot only and will not be allowed to provide further clarification. If an item on the Agenda is contentious, with a large number of people attending the meeting, a representative speaking to object or support the proposal should be nominated to present the views of a group.

Comments should be limited to relevant planning issues.

How do I register to speak at Planning Committee?

A request to speak must be made by email or telephone to the Council's Democratic Services team no later than 5pm on the Thursday before the Committee meeting.

For those speaking to object or support the proposal, the speaking slots will be allocated on a first come first served basis. If there are numerous members of the public wishing to speak in one slot it is advisable to make arrangements for one person to make a statement on behalf of all.

The meetings are hybrid and you can speak either in person at the meeting or virtually. If you wish to speak at the meeting virtually a link will be sent to all those registered.

If you have registered to speak, the Chairman will invite you to speak at the appropriate time during the meeting.

Please be advised that you cannot present documents in any form to the Committee Members at the meeting – this includes photographs and presentations (including Powerpoint presentations).

Virtual meeting etiquette:

- Consider joining the meeting early to ensure your technology is working correctly - you may have to wait in a lobby until being admitted to the meeting.
- Please note that we will mute all public attendees to minimise background noise and request that your camera is off until you are called to speak to ensure clear presentation of the applications. If you have registered to speak during the virtual meeting, your microphone will be unmuted at the appropriate time.
- When speaking, keep your points clear and concise.

- All public speaking must be conducted in a polite and respectful manner.
- Speakers are requested to refrain from making personal comments relating to Members or Officers of the Council.

Presentation of planning applications

The Planning Officer will present the application to the Committee explaining the factual matters and any salient points which need to be drawn out with the use of a visual presentation. It is important to note that the Planning Officer is **not** an advocate for either the applicant or any third parties but will make a professional recommendation based on the merits of the proposal and any relevant material considerations.

The circulation or publication of documentation including photographs or presentation materials, new representations or additional information will not be permissible if submitted after 12 noon on the Friday before Planning Committee to the Planning Service, Democratic Services or Members.

The role of Officers during the debate of an application

When an application is considered at Planning Committee, it is the Officers' role to confirm the material considerations, the recommendation and answer any points of clarification or questions that Members may have. Whilst the Committee has to reach its own decision bearing in mind the Officer advice, report and recommendation, the Lead Planning Officer and Council Solicitor have a professional obligation to ensure that a lawful and unambiguous decision is made in accordance with the Council's Development Plan, planning legislation, regulations and case law. This means that, if a contrary decision is sought, they will need to explain the implications of doing so. This can sometimes mean that Officers need to advise and guide Members as to planning policy, what are or are not material considerations, what legally can or cannot be considered or given weight and the likely outcome of any subsequent appeal or judicial review.

Recording of the Meeting

Please note that this meeting will be recorded, and the recording will be made available on the Council's website.

You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the recording will be retained in accordance with the Council's policy. Therefore, unless you are advised otherwise, by taking part in the Council meeting during public participation you are consenting to being recorded and to the use of the sound recording for access via the website or for training purposes.

Minutes of the Meeting

Details of the decisions taken at the meeting will be set out in the Minutes, which the Committee will be asked to approve as a correct record at a following meeting. In the meantime, details of the decisions taken can be obtained from Democratic Services.

Public Speaking on items other than planning applications

Members of the public can speak at any public meeting of the Council, including the Planning Committee, by registering with Democratic Services two working days before the meeting and providing brief details on the subject matter. The maximum time for each speaker is three minutes.

Pilton Parish Council
PAYMENTS & RECEIPTS LIST

3 September 2025 (2025-2026)

Vouche	Code	Date	Minute	Bank	Cheque No	Description	Supplier	VAT Type	Net	VAT	Total
35	Audit & Professional Fees	06/08/2025		Community a/c		Payment - Internal Audit	Paul Russell	X	-165.00		-165.00
36	Meeting Costs	06/08/2025		Community a/c		Payment - Meeting Room Hire	The Pilton Stage Ltd	X	-55.00		-55.00
37	Office Costs	06/08/2025		Community a/c		Payment - Parish Online subscri	Geosphere	S	-80.00	-16.00	-96.00
36	Parish Plan	06/08/2025		Community a/c		Payment - Meeting Room Hire	The Pilton Stage Ltd	X	-20.00		-20.00
39	Staff Costs	06/08/2025		Community a/c	Mth 4	Payment - Clerk	Pilton Parish Council	X	-678.47		-678.47
40	Working From Home Allowance	06/08/2025		Community a/c	Mth 4	Payment - Working From Home	Pilton Parish Council	X	-26.00		-26.00
38	Burial Groundsman	06/08/2025		Community a/c	Mth 4	Payment - Groundsman	Rick England	X	-28.18		-28.18
41	Office Costs	15/08/2025		Community a/c		Payment - Scribe	Starboard Systems Ltd t/a	S	-31.00	-6.20	-37.20
Total									-1,083.65	-22.20	-1,105.85

As indicated at our last PPC meeting, I am shocked that the budget for our meetings has increased from £350 to £1100 as result of the Pilton Village Trust increasing its prices at short notice. Moreover, other village organisations are being impacted by the same sudden price rise. I believe we are planning to discuss this matter at our PPC meeting on 3rd Sept and the purpose of this Email is lay out some of our options to reduce costs. The overall objective being that we are prudent with public money.

Location Options

A. Move location to:

- a. **Pavilion at the playing fields** - large space but not such a convenient location. Car parking acceptable compared to Village Hall.
- b. **Coffee Shop** - convenient location but limited space. Car parking limited but might work for most meetings.

B. Stay at Village Hall:

- a. Move room:
 - i. **Winding Lake** - Cheaper? Would need to choose a night when Judo Club not using upstairs room
 - ii. **Perridge** - Cheaper? More cramped?
- b. **Stay in Worthy** - negotiate a reduced rate and/or ask for price rise to be deferred to Apr 2026?

Other considerations

- Reduce the frequency of our meetings
- Change day of meeting (to accommodate change of venue)

Do you have all the room rates for a two-hour meeting at each of the possible locations? If not I'm happy to work with you ahead of our meeting on 3rd Sept to collate the facts. We may want to meet with the Pilton Village Trustees and Playing Field Trustees to discuss options so that we have all the facts to decide on 3rd Sept.

I look forward to your thoughts.

Regards

Nick