

**Democratic Services**

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**Our ref:**

**Date:** 13 July 2010

**E-mail:** Democratic\_Services@bathnes.gov.uk

**To: All Members of the Regulatory (Access) Committee**

Councillor Chris Cray  
Councillor Neil Butters  
Councillor Shaun McGall  
Councillor Tim Warren  
Councillor Stephen Willcox

Chief Executive and other appropriate officers  
Press and Public

Dear Trustee

**Regulatory (Access) Committee: Tuesday, 27th July, 2010**

You are invited to attend a meeting of the **Regulatory (Access) Committee**, to be held on **Tuesday, 27th July, 2010 at 10.00 am** in the **Council Chamber - Guildhall**.

The agenda is set out overleaf.

Yours sincerely

Mike Curtis  
for Chief Executive

**If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.**

*This Agenda and all accompanying reports are printed on recycled paper*

## NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Mike Curtis who is available by telephoning Bath 01225 477048 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting Mike Curtis as above.

- 3. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Mike Curtis as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

**For Councillors and Officers** papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

**Regulatory (Access) Committee - Tuesday, 27th July, 2010**

**at 10.00 am in the Council Chamber - Guildhall**

**A G E N D A**

1. EMERGENCY EVACUATION PROCEDURE

The Chairman will draw attention to the emergency evacuation procedure as set out under Note 6.

2. ELECTION OF VICE-CHAIRMAN (IF DESIRED)

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1972

Members who have an interest to declare are asked to state:

(a) The Item No in which they have an interest,

(b) The nature of the interest, and

(c) Whether the interest is personal or personal and prejudicial.

Any Member who is unsure about the above should seek advice from the Monitoring Officer prior to the meeting in order to expedite matters at the meeting itself.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

At the time of publication, no items had been submitted

7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

To deal with any petitions or questions from Councillors and where appropriate co-opted members.

8. MINUTES OF PREVIOUS MEETING (Pages 1 - 4)

9. PUBLIC PATH ORDER DIVERSION - ABBOTTS BARN FARM, HINTON BLEWETT.  
(Pages 5 - 26)

10. UPDATE ON DEFINITIVE MAP MODIFICATIONS ORDERS AND PUBLIC PATH ORDERS WORK (Pages 27 - 30)

## 11. NOTICE OF ITEMS FOR FUTURE MEETINGS

There will be a verbal update from Officers on any future agenda items coming to this Committee.

The Committee Administrator for this meeting is Mike Curtis who can be contacted on 01225 477048.

**BATH AND NORTH EAST SOMERSET COUNCIL****MINUTES OF REGULATORY (ACCESS) COMMITTEE**

Tuesday 6<sup>th</sup> April 2010

PRESENT -: **Councillors:** Chris Cray (Chairman), Neil Butters, Tim Warren and Stephen Willcox.

Also in attendance: Graeme Stark (Public Rights of Way Mapping Officer), and Mike Curtis (Democratic Services Officer).

**26 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer drew attention to the emergency evacuation procedure as set out on the Agenda.

**27 ELECTION OF VICE CHAIR(PERSON) (IF DESIRED)**

**RESOLVED** that a Vice-Chair (person) was not required on this occasion.

**28 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Simon Elias (Legal Adviser)

**29 DECLARATIONS OF INTEREST**

There were none.

**30 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)**

There was none.

**31 ITEMS FROM THE PUBLIC – TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS**

The Committee noted that there was one member of the public who wished to make statements and that they would be able to do so when reaching the item on agenda.

**32 ITEMS FROM COUNCILLORS AND CO-OPTED AND ADDED MEMBERS**

There was none.

**33 MINUTES: TUESDAY 6<sup>TH</sup> JANUARY 2010**

It was **RESOLVED** that the minutes of the meeting on Tuesday 6<sup>th</sup> January 2010 be confirmed as a correct record and signed by the Chair.

**34 PUBLIC PATH ORDER DIVERSION (APPLICATION) – ABBOTTS BARN FARM, HINTON BLEWETT. (REPORT 9)**

To consider whether an Order should be made to divert a section of public footpath CL12/9 near Abbots Barn Farm in Hinton Blewett.

The officer recommendation is that the Regulatory (Access) Committee formally resolve to make an Order to divert public footpath CL12/9 as detailed in the report.

The Public Rights of Way Mapping Officer introduced the report.

The officer stated that the Committee has received the detailed report with objections against.

Additional discussion with the committee regarding the report, the main points and responses from the mapping officer were:

- The Route is slightly longer but not substantially longer.
- Enjoyment of the view is very similar.
- The start and finish of the route has not been altered.
- As the possible diversion is fifteen metres to the side edge of the slope it could be viewed as an improvement to the path.
- Improvement in privacy for property.

The Committee considered one oral statement by Members of the Public:

Bob Taylor (architect on behalf of the Applicant)

- The route has been altered for the last two years and no complaints received
- Applicant did request the diversion two years ago but at the time was informed that there were no officers available to make the order.
- The diversion was not questioned when planning application for swimming pool was approved.
- Only when new gates erected were any complaints made.

No other members of the public were present.

On a motion from Councillor Tim Warren, seconded by Councillor Neil Butters, and unanimously **RESOLVED** to authorise the Divisional Director Environmental Services to make a Public Path Diversion Order to divert public footpath CL12/9 as detailed in the report and to confirm the Order if unopposed.

Voting: All in Favour, Motion carried.

### **35 UPDATE OF DEFINITIVE MAP ORDER AND PUBLIC PATH ORDER WORK** (Report 12)

The Chairman invited the Public Rights of Way Mapping Officer to give an update.

The Public Rights of Way Mapping Officer went through the update with the Committee Members.

Councillor Neil Butters asked for an update on the Brook Lodge application at Wellow, the Mapping officer stated that he would email the councillor after the meeting to update him on the application that is to go to the secretary of state by the end of the week.

The officer updated the Committee about the cuts in staffing for the department, which have occurred since the last meeting, from three full time equivalents to one and a half full time equivalent posts, and to note the possible effect on future workloads and the speed of orders made and processed, with some diversion orders currently being put on hold.

The Chairman thanked the Mapping officer for his report

It was **RESOLVED** to note the report.

**36 NOTICE OF ITEMS FOR FUTURE MEETINGS**

Dates for the next two meetings unanimously agreed at the meeting:

<b>2010</b>	<b>Venue</b>
27 <sup>th</sup> July	Guildhall, Bath
9 <sup>th</sup> November	Keynsham Town Hall

The Chairman thanked everyone who participated in this meeting.

The meeting ended at 10.30am

Chairman.....

Date Confirmed and Signed.....

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<b>Bath &amp; North East Somerset Council</b>		
<b>MEETING:</b>	Regulatory (Access) Committee	
<b>MEETING DATE:</b>	27 <sup>th</sup> July 2010	<b>AGENDA ITEM NUMBER</b>
<b>TITLE:</b>	Abbotts Barn Farm, Hinton Blewett	
<b>WARD:</b>	Mendip	
<b>List of attachments to this report:</b>		
<b>Appendix 1 – Order and Order Map</b>		
<b>Appendix 2 – Objections received against Order</b>		
<b>Appendix 3 – Map of surrounding area</b>		
<b>Appendix 4 – Photographs</b>		
<b>Appendix 5 – Decision Risk Assessment</b>		
<b>Appendix 6 – Equalities Impact Assessment</b>		

## 1 THE ISSUE

- 1.1 To consider objections received against the Bath and North East Somerset Council (Public Footpath CL12/9 (part), Abbotts Barn Farm, Hinton Blewett) Public Path Diversion Order 2010 (“the Order”) (see **Appendix 1**) and to decide whether to abandon the Order or to send it, along with objections received, to the Secretary of State (“the SoS”) for determination.

## 2 RECOMMENDATION

- 2.1 The officer recommendation is that the Regulatory (Access) Committee (“the Committee”) formally resolve to submit the Order, along with objections received, to the SoS for determination.

## 3 FINANCIAL IMPLICATIONS

- 3.1 The Applicant has paid Bath and North East Somerset Council’s (“the Council”) standard administration charge of £800 for the making of the Order and the cost of advertising the making of the Order in the Chew Valley Gazette. The Applicant must cover the costs of any subsequent newspaper adverts and also the cost of bringing the new route of the path into a condition suitable for public use, if the Order is confirmed.

- 3.2 If the Committee decides to send the matter to the SoS for determination, then the Council would have to meet the costs of preparation for any public inquiry, hearing or written representations that subsequently take place. The Council will also have to cover the cost of providing the location for any public inquiry or hearing.

#### **4 HUMAN RIGHTS IMPLICATION**

- 4.1 The Human Rights Act incorporates the rights and freedoms set out in the European Convention on Human Rights into UK law. So far as it is possible, all legislation must be interpreted so as to be compatible with the convention.
- 4.2 The Committee is required to consider the proposals in accordance with the principle of proportionality. The Committee will need to consider the protection of individual rights and the interests of the community at large.
- 4.3 In particular, the convention rights which should be taken into account in relation to this application are Article 1 of the First Protocol (protection of property), Article 6 (the right to a fair hearing) and Article 8 (right to respect for family and private life).

#### **5 THE LEGAL BACKGROUND**

- 5.1 The Council has a discretionary power with regard to Public Path Orders under section 119 of the Highways Act 1980 ("the Act"). On 6<sup>th</sup> April 2010, the Committee resolved to authorise the making of a Public Path Diversion Order.
- 5.2 As objections have been duly made and sustained, the Council may not confirm the Order. The Council should therefore:
- a) make a formal resolution not to proceed with the Order,
  - or
  - b) send the Order, together with the objections, to the SoS for determination.
- 5.3 Before Confirming an Order the SoS must be satisfied that;
- the diversion is expedient in the interests of the person(s) stated in the Order (in this case the landowner),
  - the point of termination of the path is not altered other than to another point on the same highway, or a highway connecting with it, and which is substantially as convenient to the public.
  - the path will not be substantially less convenient to the public as a consequence of the diversion,
  - due regard has been given to the effect the diversion will have on public enjoyment of the path as a whole,
  - due regard has been given to the effect of the diversion on other land served by the existing path and on land affected by any proposed new path, taking into account the provision for compensation,

- due regard has been given to farming, forestry and the keeping and breeding of horses, as well as the Council's wider responsibilities to consider biodiversity and the needs of those with disabilities.

## 6 PPO POLICY

6.1 In addition to the legislative considerations detailed in section 5 above, the Order should also be considered in relation to the Council's adopted Public Path Order Policy. The Policy sets out the criteria against which the Council will assess any Public Path Order, these expand on and are in addition to the tests set out in the legislation. The criteria are:

- Connectivity
- Equalities Impact
- Gaps and Gates
- Gradients
- Maintenance
- Safety
- Status
- Width
- Features of Interest

6.2 The Policy stresses that the Council will seek to take a balanced view of the proposals against all the criteria as a whole.

6.3 The proposals should also be considered in relation to the Joint Rights of Way Improvement Plan 2007 – 2011.

## 7 LEGISLATIVE CONSIDERATIONS

7.1 Three objections were received against the Order and these can be read in full at **Appendix 2**. The points raised in the objections are considered, along with a wider assessment of the Order's compliance with the legislative tests and the PPO Policy criteria, below.

7.2 The general effect of the Order is to divert the section of public footpath CL12/9 which runs between points A and D, and which is delineated by a solid black line on the Order Map at **Appendix 1** ("the Existing Footpath"), onto a new line running between points A, B, C and D, and which is delineated by a broken black line on the Order Map at **Appendix 1** ("the Proposed Footpath"). The Existing Footpath is obstructed by a hedge and fence and members of the public are currently using the Proposed Footpath instead; it should be noted that members of the public have previously used a permissive route which followed a line which ran somewhere between the Existing and Proposed Footpaths. A map showing public footpath CL12/9 in relation to the wider public rights of way network is attached at **Appendix 3** and photographs of the Existing and Proposed Footpaths are attached at **Appendix 4**.

- 7.3 **Expediency.** The Order has been made in the interests of the owner of the land over which the Existing and Proposed Footpaths run (“the Landowner”) and it must therefore be shown to be expedient in their interests for the path to be diverted. It should be noted at this point that the Existing Footpath runs over a driveway and through the garden of Abbott’s Barn Farm.
- 7.4 In the application form, the Landowner states that the reason for seeking the diversion of the footpath is; *“To afford a level of privacy to property as currently ramblers/dog walkers follow the fence line close to the property. Also dog walkers cause a nuisance to our dog, quite often letting their dog off leads to run in our field. We would therefore like to move the footpath a little further away from our house”*. The Existing Footpath runs through the garden of Abbott’s Barn Farm and passes approximately 15 metres from the residential dwelling. The diversion would take the footpath outside of the garden and mean that the footpath passes 35 metres away from the house at the nearest point that one is visible from the other.
- 7.5 Additionally, the Existing Footpath runs immediately adjacent to a swimming pool which has been recently constructed. Diversion of the public right of way would mean that the Landowner could construct a wall around the swimming pool to further improve privacy; without prior diversion of the Existing Footpath the wall would constitute an unlawful obstruction.
- 7.6 Objector 2 (John Ives on behalf of the Open Spaces Society) states that; *“As regards the issue of privacy there are contrasting views on which I would be quite happy to put (to) an Inspector”*. The Objector has not expanded on this point or detailed why the Order would not be in the interests of the Landowner.
- 7.7 Objector 3 (Mrs R Walker on behalf of the Hinton Blewett History Group) states that; *“The distance of this path from the house is still sufficient not to pose a privacy issue. However, the applicant chose to locate a swimming pool alongside the path.”* As stated above the footpath passes within 15 metres of the house and runs through the middle of the property’s garden; the location of the Existing Footpath does therefore appear to constitute a privacy issue. Diverting the Existing Footpath away from the swimming pool would be in the interests of the Landowner irrespective of when it was built and this is the legislative test under consideration.
- 7.8 Having given full consideration to the objections, the Order appears to be in the interests of the Landowner and this test should therefore be considered to have been met.
- 7.9 **Point of Termination.** The Order would not alter the current points of termination and this test should therefore be considered to have been met; no objections were received on this point.
- 7.10 **Convenience.** The Order would increase the distance which users would have to walk by approximately 17 metres; this represents a 17% increase on the current section of footpath which is approximately 100 metres long.
- 7.11 The nature and location of the footpath within the wider rights of way network is such that the majority of users are likely to be using the path as part of a longer recreational walk rather than as a means of getting from one point to another. The 17 metre increase in the length of their walk is therefore likely to represent a much smaller percentage increase in their overall walk.

- 7.12 The diversion is not 'substantially less convenient' for the public and this test is considered to have been met; no objections were received on this point.
- 7.13 **Enjoyment.** The proposed diversion would take the footpath no more than 19 metres away from the existing legal route. The Proposed Footpath enjoys substantially the same terrain, and views across the countryside to the east, as the Existing Footpath.
- 7.14 Objector 1 (Nigel Scutt on behalf of Hinton Blewett Parish Council) states that; *"...one of the pleasurable perceptions of walking a path derives from knowing that it has about it an element of history; that it has been trodden by many generations of ancestors or others from a particular community; that it has been the public's 'desire-line' for centuries through being the shortest or most natural route between two points; that it is part of a nexus of paths put in place through usage many years ago."*
- 7.15 The Existing Footpath, which formally ran through a field, now runs over a driveway and through the garden of Abbott's Barn Farm. Consequently the Proposed Footpath, which runs through a field, would appear to share more physical characteristics with the historic nature of the path than the Existing Footpath. If diverting this footpath from its historic alignment could be held to be unduly impinging upon the public's enjoyment of the way then almost all public right of way would be incapable of being diverted and this is clearly not the intention of section 119 of the Act.
- 7.16 The Proposed Footpath deviates from the Existing Route by no more than 19 metres and any perceived loss of enjoyment as a result of not walking the historic line of the footpath is not considered to be so great as to justify not diverting the footpath; this test is therefore considered to have been met.
- 7.17 **Affected Land.** The Order is not considered to have an adverse affect on the land onto which the footpath is proposed to be diverted and the Existing Footpath does not provide the sole or primary means of access to any parcels of land. This test is therefore considered to have been met and no objections were received on this point.
- 7.18 **Other legislative considerations.** In considering the merits of the Order, the Council must give due regard to the effect on farming, forestry and the keeping and breeding of horses. The Landowner has confirmed that the diversion would not adversely affect farming operations and that the land is not currently used for forestry or the keeping and breeding of horses.
- 7.19 None of the land affected by the proposals is subject to a particular biodiversity designation and the diversion is not likely to adversely affect biodiversity.
- 7.20 The Existing and Proposed Footpaths follow routes which are largely comparable in terms of terrain and navigability for the visually impaired; the diversion is likely to have a neutral effect on members of the public with disabilities.
- 7.21 These considerations do not provide grounds that suggest the Order should not be confirmed and no objections were received on these points.

- 7.22 Objector 1 states that; *“...the authority should weigh our view properly in the balance, which it has not done: instead, it has written our view off on the basis that, since the view can be taken that statutory criteria can be said to have been met and that the effect on public enjoyment is not (in the view of the authority when they do not have the benefit of the view of the Parish Council) significant, there is not scope whatsoever for entertaining the view that the order should not be made, even when it is the Parish Council which articulates that view.”*
- 7.23 Section 119(6) of the Act states that; *“The Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless he or, as the cases may be, they are satisfied that...”* the tests detailed in paragraph 5.3 above have been met. The SoS and the Council must give full consideration to any objections or representations received in relation to the Order but ultimately it is for the SoS and the Council to be satisfied that the tests have been met. This is consistent with the judgement in *R (Hargrave and Hargrave) v Stroud District Council (CA) [2002] EWCA Civ 1281* (“the Hargrave Case”) to which Objector 1 refers.
- 7.24 **Other common law considerations.** Objector 1 states that the Council; *“...has unreasonably fettered itself by setting its mind against the views of the Parish Council”* and refers to the Hargrave Case in this respect.
- 7.25 The judgement in the Hargrave Case states that an Authority must not fetter its discretion. At the meeting on 6<sup>th</sup> April 2010, the Committee considered all of the evidence and representations received in relation to the proposed diversion. Objector 1’s objection to the initial proposals were reproduced in full and considered in the report to the Committee. Having considered the objection and all other factors, the Committee considered that all legislative tests and policy considerations had been met and that an Order should be made. The Committee’s resolution stated that if objections were made to the Order then it should be referred back to the Committee. In doing so the Council is looking afresh at the proposed diversion and has not therefore fettered its discretion.
- 7.26 Objector 3 states that; *“One can learn a lot about the history of a settlement from the alignment of footpaths within the local network of routeways. Abbots Barn (farm) is a well documented, historical property that was associated with Keynsham Abbey which was founded in the 12<sup>th</sup> century...By highlighting the historical issues that concern the History Group it is hoped that the committee will appreciate the heritage importance of the path when making their decision.”*
- 7.27 If the Existing Footpath was diverted, the Definitive Map and Statement and the Order itself would provide a historical record of the original alignment of the footpath if it was required for historical research as suggested by Objector 3.

## **8 POLICY CONSIDERATIONS**

- 8.1 The Public Path Order Policy expands on, and is in addition to, the tests set out in the legislation; therefore some of the policy criteria have already been considered in section 7 above.

- 8.2 **Gaps and Gates.** The proposals do not contain any limitations on the Proposed Footpath, however two gates which are already in situ would be authorised to control the egress and ingress of livestock; these conform to the principle of 'least restrictive access'.
- 8.3 **Other policy considerations.** The proposals would have a neutral affect on the connectivity of the rights of way network, equalities considerations, gradient of the path, maintenance liability, public safety, status and width of the right of way or access to features of interest on the public footpath.
- 8.4 The proposals are therefore considered to have met the criteria set out in the Council's Public Path Order Policy and no objections were received on these points.

## **9 RISK MANAGEMENT**

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance, and is attached at **Appendix 5**.

## **10 EQUALITIES**

- 10.1 An equalities impact assessment has been carried out in relation to these proposals and is attached at **Appendix 6**.

## **11 CONSULTATION**

- 11.1 Ward Councillor; Parish Council; Service Users; National and Local User Groups; Local Residents; Affected Landowners; Statutory Undertakers.
- 11.2 Notices were erected and maintained on site and posted on the Council website for 28 days, as required by the legislation.
- 11.3 As stated above, 3 objections were received against the Order and these are reproduced at **Appendix 2**.

## **12 ISSUES TO CONSIDER IN REACHING THE DECISION**

- 12.1 Customer Focus; Sustainability; Property; Human Rights; Health & Safety.

## **13 ADVICE SOUGHT**

- 13.1 The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Strategic Director - Support Services) have had the opportunity to input to this report and have cleared it for publication.

## 14 CONCLUSIONS

- 14.1 The Order meets the legislative tests and policy considerations and the objections do not provide grounds for abandoning the Order.
- 14.2 It is therefore recommended that the Committee formally resolve to send the Order, along with objections received, to the SoS for determination.

<b>Contact person</b>	Graeme Stark
<b>Background papers</b>	Public Path Order File (held by PROW team 01225 477650). Public Path Order Policy Joint Rights of Way Improvement Plan 2007 – 2011 Bath & North East Somerset Council Corporate Plan 2008-2011
<b>Please contact the report author if you need to access this report in an alternative format</b>	



PUBLIC PATH DIVERSION ORDER

HIGHWAYS ACT 1980

BATH AND NORTH EAST SOMERSET COUNCIL

Bath and North East Somerset Council (Public Footpath CL12/9 (part), Abbots Barn Farm, Hinton Blewett) Public Path Diversion Order 2010


This Order is made by Bath and North East Somerset Council ('the authority') under section 119 of the Highways Act 1980 ('the 1980 Act') because it appears to the authority that in the interests of the owner of the land crossed by the footpath described in paragraph 1 of this order it is expedient that the line of the path should be diverted.

BY THIS ORDER:

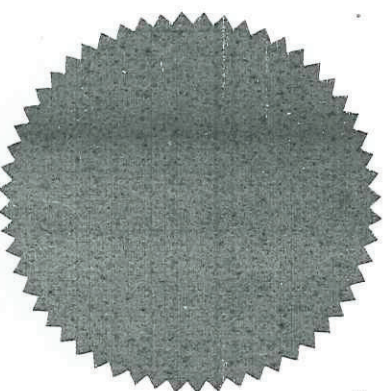
1. The public right of way over the land situated at Abbots Barn Farm, Hinton Blewett and shown by a bold continuous line on the map contained in this order and described in Part 1 of the Schedule to this order shall be stopped up from the date that Bath and North East Somerset Council certifies that work has been carried out to bring the site of the new highway mentioned in Article 3 into a fit condition for use by the public.
2. Notwithstanding paragraph 1 of this order statutory undertakers shall have the same rights over the land referred to in paragraph 1 above, in respect of their apparatus under, in, upon, over, along or across the said land as they had immediately before the date of confirmation of this order.
3. There shall from the date of confirmation of this order be a public footpath over the land situated at Abbots Barn Farm, Hinton Blewett described in Part 2 of the Schedule and shown by a bold broken line on the map attached to this order.
4. The rights conferred on the public under this order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.

Given under the Common Seal of the Bath and North East Somerset Council the 21<sup>st</sup> day of April 2010.

The COMMON SEAL of the  
BATH AND NORTH EAST SOMERSET  
COUNCIL  
was herunto affixed  
in the presence of:-



Authorised signatory



<b>AUTHORITY FOR SEALING</b>	
Council resolution	Regulatory (Access) Committee
Committed minute	34 of 6/4/10
Initials	KJ

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

The full width of that section of public footpath CL 12/9 commencing from a junction with Lower Road at Grid Reference ST 5951 5701 (Point A on the Order Map) and continuing in a generally north easterly direction over the drive and garden of Abbots Barn Farm for approximately 100 metres to Grid Reference ST 5955 5710 (Point D on the Order Map).

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

A public footpath commencing from a junction with Lower Road at Grid Reference ST 5951 5701 (Point A on the Order Map) and continuing in a generally north easterly and south easterly direction for approximately 19 metres to Grid Reference ST 5953 5701 (Point B on the Order Map) and turning in a generally north easterly direction following the field boundary for approximately 92 metres to Grid Reference ST 5956 5710 (Point C on the Order Map) and turning in a generally north westerly direction for approximately 7 metres to Grid Reference ST 5955 5710 (Point D on the Order Map).

Width: 2 metres between Grid Reference ST 5951 5701 (Point A on the Order Map) and Grid Reference ST 5955 5710 (Point D on the Order Map).

PART 3

LIMITATIONS AND CONDITIONS

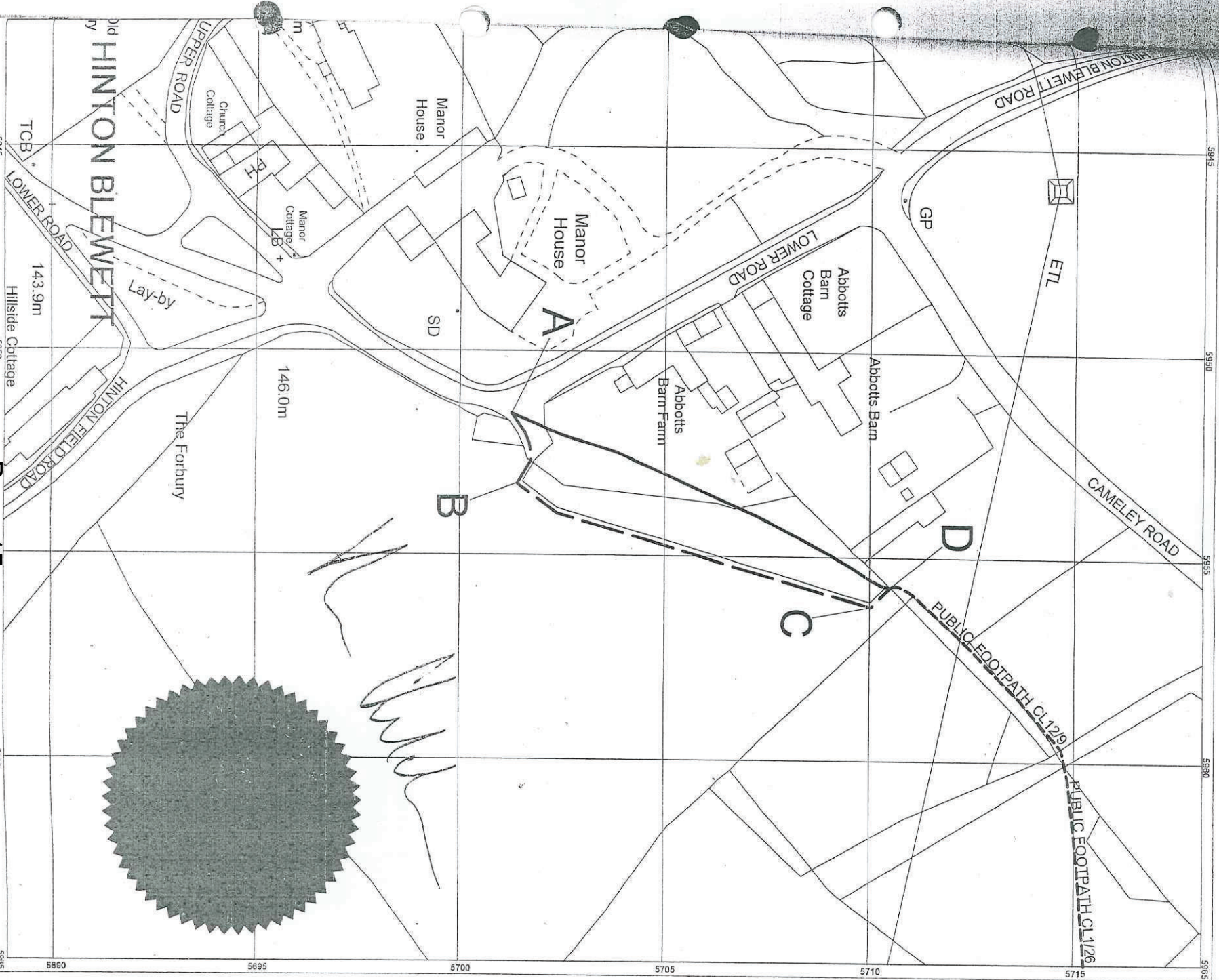
None.

This map forms part of the Bath and North East Somerset Council Public Footpath CL12/9 (part), Abbots Barn Farm, Hinton Blewett) Public Path Diversion Order 2010

- Unaffected public footpath 
- Footpath to be stopped up 
- Footpath to be created 



Scale 1:1250



*Handwritten signature*

## Hinton Blewett Parish Council

24<sup>th</sup> May 2010

Mr G Stark, Mapping Officer  
Bath & North East Somerset Council  
Environmental Services, Floor 2,  
Riverside, Temple Street,  
Keynsham  
Bristol BS31 1LA

RECEIVED  
26 MAY 2010

Dear Mr Stark,

Proposal to divert a section of definitive public footpath CL12/9 at Abbots Barn Farm, Hinton Blewett.

The Parish Council submits that Bath & North East Somerset Council ('the authority') has unreasonably fettered itself by setting its mind against the views of the Parish Council.

1. We ask that the authority have due regard to one of the leading judgments in this area of the law, namely that of the Court of Appeal in *Regina on the application of Hargrave v Stroud District Council* [2002] EWCA Civ 1281. This concerned the ability of an order-making authority to change its mind after having gone the length of making an order under section 119 of the Highways Act 1980 and duly advertised it in accordance with the provisions of Schedule 14. The Court of Appeal held that, even though it had first resolved to make an order, an authority could rescind the order in the light of objections received to its confirmation. The tenor of the judgment is that (since at least some of the factors connected with the effect of the diversion on public enjoyment of the path are to an extent a matter of subjective opinion) a council can rescind an order even where the objections are mere expressions of opinion as to heritage-value, etc, though the triggering-criteria were well-merited. We submit that the force of the judgment applies *a fortiori* to the present situation, where an order has not yet been made.

2. Two especially material passages from *Hargrave* in the Court of Appeal are—

[By Lord Justice Schiemann at paragraph 19]:

“... for my part I see no reason why, other things being equal, [the authority] should not change their mind. There is often in these questions no blindingly right answer. Different councillors may take a different view, there may be local elections, it may be that after the making of the order but before any publicity is made an objection comes in spontaneously from a Parish Council pointing out a number of reasons why the order should not be made. In those circumstances I can see no reason why one should construe this Act of Parliament in such a way as to put the authority into a straitjacket where it must continue the process just because it has started it.” (Underlining added.)

3. The judge is clearly ruling that though the authority's officers may be quite right in their assessment that the triggering-criteria are satisfied, expressions of opinion, though of necessity subjective, by persons more locally connected with the situation (and he expressly singles out the Parish Council, recognizing it to be an elected body capable of reflecting public opinion), can properly be weighed against the view, sound in legal terms though it may be, taken by the authority or its officer.

4. In *Hargrave*, the objections included: that it was an ancient footpath; that the new route was longer; and that the new route was likely to be muddier. On behalf of the applicant for the orders, counsel (Mr Peter Birts QC) argued that the authority's decision not to make the order was irrational, when those considerations were weighed against the number of expressions of support for the order. Lord Justice Schiemann ruled otherwise. In paragraph 28 of the judgment, he said:

"The alternative submission made by Mr Birts was that the decision not to submit the order was perverse or irrational. He points out that there were a number of arguments in favour of confirming the order. So there are. I set them out at the beginning of this judgment. He submits that the arguments against making the order were not as strong. The arguments were that it was an ancient footpath, that the diverted footpath would be longer than the undiverted footpath and that it would be muddier than the undiverted footpath. He points out that judging at any rate by the number of people who took the trouble to write, there was much local support for the confirmation of the order. All these are fair points.... But the fact that a decision to go one way would not have been perverse does not carry with it the implication that a decision to go the opposite way therefore is perverse. In my judgment, in the present case a decision either way would have been lawful. We are here in territory where reasonable persons can differ." (Underlining added.)

5. We are not, as the Parish Council, presuming to say (i) that since we are the Parish Council our view should prevail; nor do we say (ii) that since it is an ancient footpath the authority has no option but to leave it where it is, nor do we say (iii) that because it is longer it is made substantially less convenient. But we do say that the authority should weigh our view properly in the balance, which it has not done: instead, it has written our view off on the basis that, since the view can be taken that statutory criteria can be said to have been met and that the effect on public enjoyment is not (in the view of the authority when they do not have the benefit of the view of the Parish Council) significant, there is no scope whatsoever for entertaining the view that the order should not be made, even where it is the Parish Council which articulates that view.

6. Read against the provisions of the statute and against those passages from *Hargrave*, that is the wrong approach. We ask the Council to have proper and greater regard to our views. We ask that because:

(i) we are the elected Parish Council, and Parliament clearly regards the opinions of Parish Councils as of some importance in highway matters: as evidenced by the fact that various parts of the Highways Act 1980 and other statutes give Parish Councils certain specific powers and functions in relation to them. For example, section 130(6) of the 1980 Act empowers Parish Councils to *require* highway authorities to take proceedings

in respect of obstructions; sections 43 and 50 empower Parish Councils to undertake maintenance of footpaths, bridleways or restricted byways; section 30 empowers us to create new highways by agreement. Section 27 of the Countryside Act 1968 empowers Parish Councils to insist to the highway authority that a particular footpath, bridleway, or byway be signposted where it leaves a metalled road. We submit that this shows that Parliament recognizes that the views of Parish Councils are material considerations to be taken into account by highway authorities in matters of highway management, on the footing that councillors at parish level can be better informed than the highway authority itself about such matters.

(ii) When an order under section 119 of the Highways Act 1980 is made, Parliament has prescribed it that Notice must be served on the Parish Council—Schedule 6 Paragraph 1(3)(ii). That is a reasonable indication that Parliament treats the view of the Parish Council as germane to such issues.

(iii) *Hargrave* confirms that Schiemann LJ clearly contemplates that the view of the Parish Council as to the effect on public enjoyment is a matter to be taken into consideration. He acknowledged that often in these matters 'there is no blindingly right answer'. He implied that an objection from a Parish Council can prevail against the initial view taken by the highway authority. By not upholding the applicants' submission that it was irrational not to make an order on the basis that the objectors had advanced arguments only to do with the antiquity of a path, or other heritage-related factors, he showed that these matters do have their relevance. And he said that this is 'territory where reasonable persons can differ' in their views.

7. That being so, we ask the highway authority to reconsider our objection and give it greater weight. On the wording of the statute a decision to make an order might be said to be reasonable, but then our objection is also reasonable. As the most locally-elected body which has on it persons who use the path daily or frequently, we submit we are better-placed than anyone to comment on subtler effects of diversion less likely to be appreciated by persons not resident in the area, including, we dare say, council officers who visit the area relatively rarely, and who in making their recommendations will not necessarily be at all aware of all the nuances relating to a particular proposal. It is clear from the words of the judge in *Hargrave* that this kind of factor is exactly the sort of factor likely to be pointed up by the Parish Council. Anybody can tell if a diversion is longer, or shorter, than the existing route; anybody can tell whether it is of better or worse gradient. There would be no point in consulting the Parish Council if those were the only considerations, since (if that was all that mattered) the consultation would result in a response from the Parish Council that was a mere duplication of the highway authority's own report.

8. Our view here is not that the diversion is less convenient. But one of the pleasurable perceptions of walking a path derives from knowing that it has about it an element of history; that it has been trodden by many generations of ancestors or others from a particular community; that it has been the public's 'desire-line' for centuries through being the shortest or most natural route between two points; that it is part of a nexus of paths put in place through usage many years ago.

This section of the path is in a Conservation Area and is a continuation of a path/road system that was formed as part of Hinton Blewett's medieval 'planned' village layout.

This ancient planned layout of paths and tracks were the only means by which earlier inhabitants were able to connect with neighbouring farms, the Church, the village green, the Manor, the Rectory and other villages and settlements beyond, the significance of which would be lost if this definitive path was to be diverted. The path is immediately adjacent to all the aforementioned. The Parish Council along with other residents feel that this network of paths in and around Hinton Blewett are part of what makes the village special, historically, to present day inhabitants and who it is felt have a duty to preserve it for future generations. There had better be good reason to break that thread of continuity.

It may be that here it would afford a measure of privacy to an incomer with no perception of the path's historical significance; but then, many hundreds of houses and cottages in Bath & East Somerset have paths, namely the pavement of some road, going past their windows. Many a village high-street (e.g. Temple Cloud, Bishop Sutton, East and West Harptree) is fronted by cottages which have no front-gardens and into whose windows pedestrians on the pavement can see, but nobody thinks this an oppressive intrusion or campaigns that the roads be closed. On the other hand, here an incoming individual will benefit, both from the privacy and from the increase in the value of his house, at the expense of the many members of the public, present and future, who will lose both the historical connection and the general amenity of the path, and at the expense to the public purse, out of which will have to be borne the cost of a public inquiry if the order is made. This use of public funds for private gain in the face of opposition from the elected Parish Council is questionable.

9. For the reasons connected with heritage and enjoyment, the Parish Council continues to oppose the order and regrets that it will take the matter to public inquiry in the event of an order being made. We therefore ask the authority to reconsider its report by giving proper attention to the opinion of the Parish Council, instead of disregarding it on account of it not according with the recommendation in the authority's report.

Yours sincerely,



Nigel Scutt  
Clerk, Hinton Blewett Parish Council

**Chairman:** Liz Brimmell, Abbots Barn Cottage, Hinton Blewett, Bristol BS39 5AL  
Tel: 01761 453926. Email: [EBrimmell@btinternet.com](mailto:EBrimmell@btinternet.com)  
**Parish Clerk:** Nigel Scutt, Laburnum Cottage, Main Road Temple Cloud, Bristol BS39 5BH.  
Tel: 01761 452162 Email: [hintonblewettpc@aol.com](mailto:hintonblewettpc@aol.com)

**Graeme Stark**

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**From:** JohnIves [johnives@blueyonder.co.uk]  
**Sent:** 25 May 2010 15:04  
**To:** Graeme Stark  
**Cc:** Hinton Blewett Parish Council  
**Subject:** abbotts barn farm

Dear Graeme

Given recent telecons I supposed I had better formally register an objection to this application, although I can always withdraw later on. While I clearly need to know a bit more about the history of the case my initial thoughts lean towards the expediency of the order making test i.e. if anything this will be a political decision

Regards

**John R. A. Ives**

Local Correspondent  
Open Spaces Society  
North Somerset and B&NES  
55 Glebe Road  
Long Ashton  
BRISTOL  
BS41 9LJ  
01275-543198

(Please excuse any minor "typos" I am somewhat dyslexic)

Have you visited our new website yet? [www.oss.org.uk](http://www.oss.org.uk)

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**From:** Graeme Stark [mailto:Graeme\_Stark@BATHNES.GOV.UK]  
**Sent:** 26 May 2010 13:21  
**To:** 'JohnIves'  
**Subject:** RE: Abbotts Barn Farm

Dear John

Thank you for the clarification.

With regard to the Parish Council's comments, I should state that their response to the informal consultation was reproduced in full, and each of the points raised were discussed, in my report to the Regulatory (Access) Committee. The Committee considered the response when deciding whether to make an order and although the Parish Council were informed that they could attend and speak at the Committee meeting, they declined to do so.

I will be in touch again with details of the Regulatory (Access) Committee meeting where objections to this Order will be considered.

Regards,

Graeme.



## HINTON BLEWETT HISTORY GROUP

27<sup>th</sup> May 2010,

Mr G. Stark,  
Bath & North East Somerset,  
Environmental Services, Floor 2,  
Riverside, Temple Street,  
Keynsham,  
Bristol BS31 1LA

Dear Mr Stark,

### Diversion of definitive ProW CL12/9 at Abbots Barn Farm, Hinton Blewett

The Hinton Blewett History Group always has concerns over the re-routing of any footpath. One can learn a lot about the history of a settlement from the alignment of footpaths within the local network of routeways.

Abbots Barn (farm) is a well documented, historic property that was associated with Keynsham Abbey which was founded in the 12<sup>th</sup> century. This section of the footpath is therefore within an area of great historical significance.

The footpath was always outside the curtailage of the farmhouse and its farmyard. Over recent decades the curtailage of the house has been considerably extended engulfing the route of the path.

The distance of this path from the house is still sufficient not to pose a privacy issue. However, the applicant chose to locate a swimming pool alongside the path.

By highlighting the historical issues that concern the History Group it is hoped that the committee will appreciate the heritage importance of the path when making their decision.

Yours sincerely,

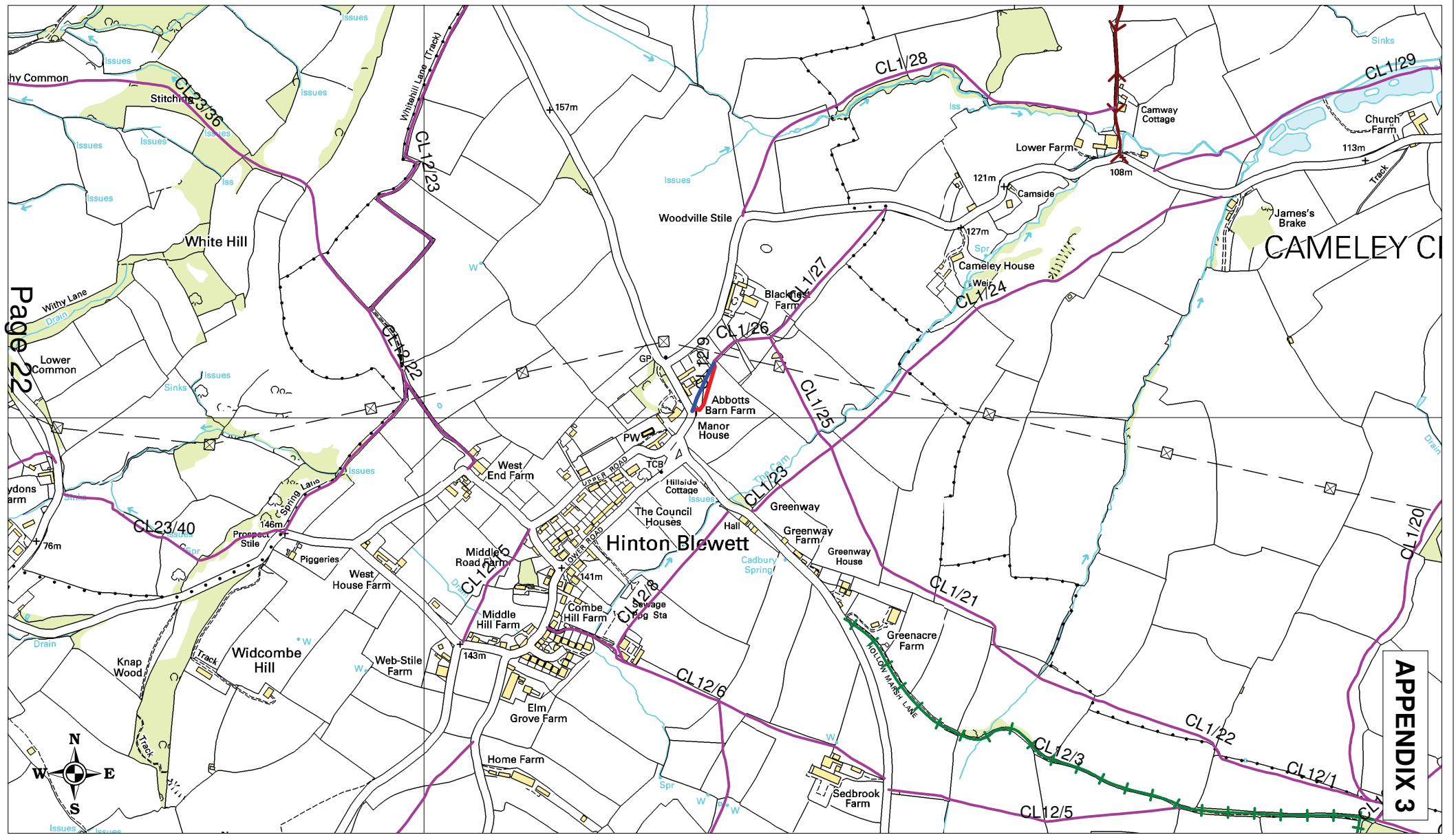
R Walker (Mrs),  
On behalf of Hinton Blewett History Group,  
Church Cottage,  
Hinton Blewett BS39 5AN

# Public Right of Way in Hinton Blewett

Scale 1:10,000

Unaffected public footpath ————  
Unaffected public bridleway ————  
Unaffected BOAT ————

Footpath to be created ————  
Footpath to be stopped up ————



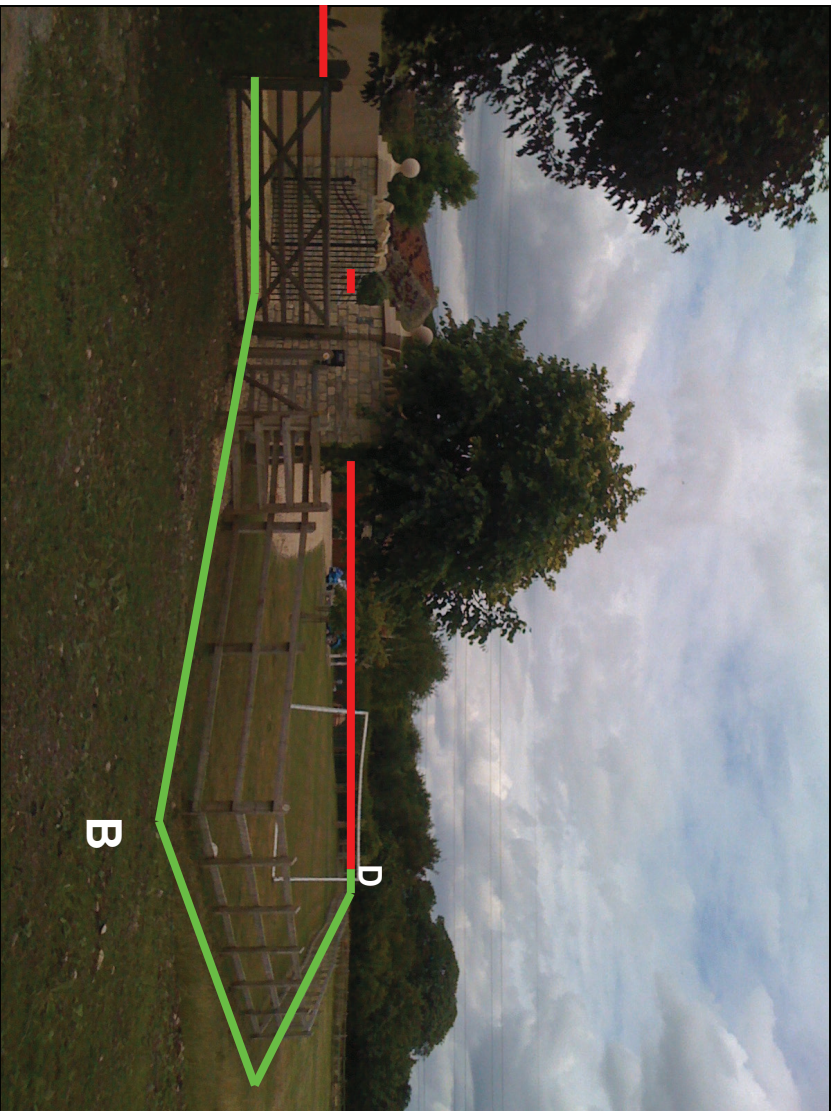


Fig 1 : View from near point B looking northeast

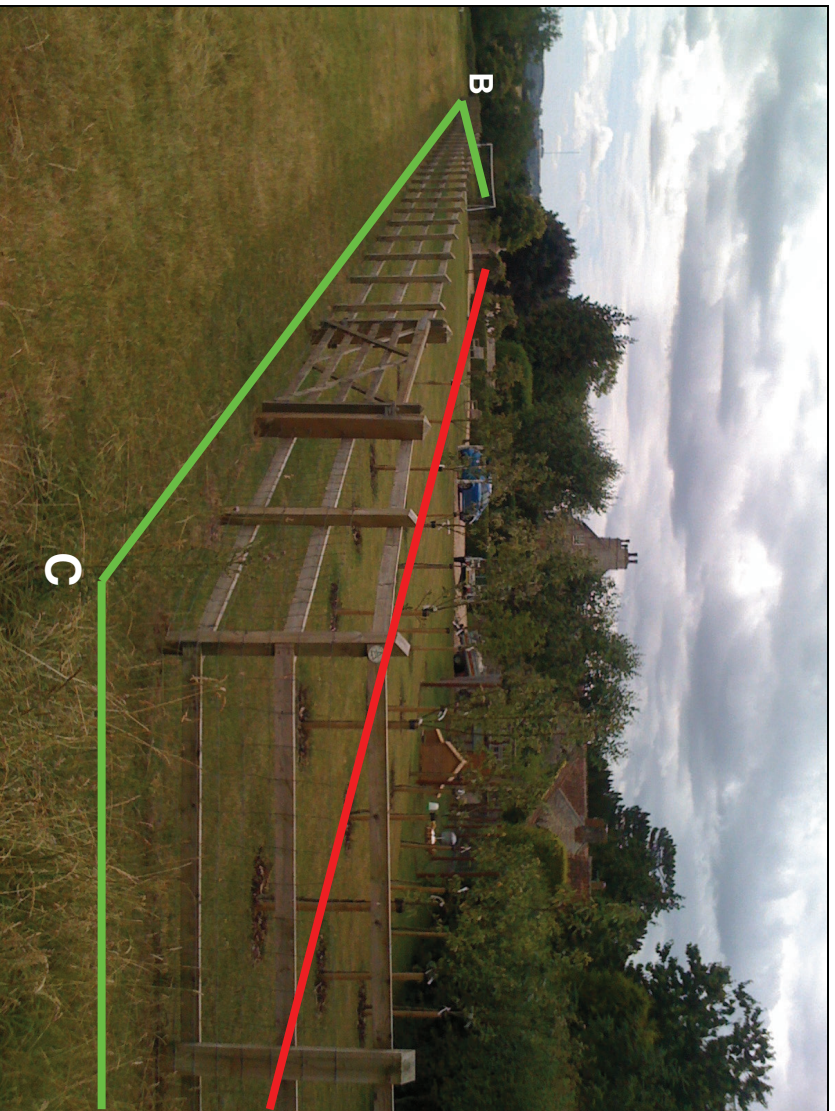


Fig 2 : View from Point C looking southwest

Approx. line of Existing Footpath = 

Approx. line of Proposed Footpath = 

## Public Rights of Way Network Alteration Decision Making Risk Assessment

This form is designed to be used during the processing of an application (external or internal) for a Public Path Order, Public Path Creation Agreement or other similar process. The assessment will be carried out by PROW Staff, with external advice or assistance as necessary, prior to the determination of the application and should take into account any proposed mitigation measures.

Note: The form may also be used in considering the impacts of a Definitive Map Modification Order although it should not influence the determination in these cases but rather should highlight issues that the Council would need to address should an order be confirmed.

For further guidance see: [http://intranet/need\\_to\\_know/auditriskmgmt/riskman/Pages/decisionmaking.aspx](http://intranet/need_to_know/auditriskmgmt/riskman/Pages/decisionmaking.aspx)

### 1. Description of alteration proposed

Diversion of a section of public footpath CL12/9 near Abbots Barn Farm.

### 2. Significant risks envisaged if the proposed order and related work is not made and confirmed.

Risk Description (Cause & implication(s))	Probability	Impact
Enforcement action to make Existing Footpath open and available	Unlikely	Negligible

### 3. Significant risks envisaged if the proposed order and related work is made and confirmed and what action will be taken to manage these risks?

Risk Description (Cause & implication(s))	Probability	Impact	Action
Judicial Review	Extremely Unlikely	Moderate	None

### 4. Further Comments

None.

**Print Name:** Graeme Stark  
**Job Title:** Mapping Officer  
**Date of Assessment:** 28/06/2010

## Public Rights of Way Network Alteration Equalities Impact Assessment

This form is designed to be used during the processing of an application (external or internal) for a Public Path Order, Public Path Creation Agreement or other similar process. The assessment will be carried out by PROW Staff, with external advice or assistance as necessary, prior to the determination of the application and should take into account any proposed mitigation measures.

### 1. Description of alteration proposed

Proposed diversion of a section of public footpath CL12/9 near Abbots Barn Farm.

### 2. Assessment of impact of proposal - including any mitigation planned and comparison with existing situation where appropriate

		<b>Impact or potential impact (negative, positive or neutral)</b>
2.1	<b>Gender</b> – identify the impact/potential impact on women, men and transgender people	Neutral
2.2	<b>Disability</b> - identify the impact/potential impact on disabled people (ensure consideration of a range of impairments including visual and hearing impairments, mobility impairments, learning disability etc)	Neutral
2.3	<b>Age</b> – identify the impact/potential impact on different age groups	Neutral
2.4	<b>Race</b> – identify the impact/potential impact on different black and minority ethnic groups	Neutral
2.5	<b>Sexual orientation</b> - identify the impact/potential impact on lesbians, gay men, bisexual and heterosexual people	Neutral
2.6	<b>Religion/belief</b> – identify the impact/potential impact on people of different religious/faith groups and also upon those with no religion.	Neutral

### 3. Further Comments

None.

**Print Name:** Graeme Stark  
**Job Title:** Mapping Officer  
**Date of Assessment:** 28/06/2010

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<b>Bath &amp; North East Somerset Council</b>		
<b>MEETING:</b>	Regulatory (Access) Committee	
<b>MEETING DATE:</b>	27 <sup>th</sup> July 2010	<b>AGENDA ITEM NUMBER</b>
<b>TITLE:</b>	UPDATE OF DEFINITIVE MAP ORDER AND PUBLIC PATH ORDER WORK	
<b>WARD:</b>	All	

## 1 THE ISSUE

- 1.1 This report is provided to update Members on the present position regarding Definitive Map Order and Public Path Order work – excluding work on the Bath Definitive Map Project.

## 2 RECOMMENDATION

- 2.1 The Committee is asked to note the current workload and content regarding claims/applications to modify the Definitive Map & Statement, and to create, divert or extinguish public paths.

## 3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications at this stage, but Members should be aware that if objections are received (and sustained) to future Definitive Map Modification Orders (DMMO) and Public Path Orders (PPO), and are not withdrawn, resulting in a Public Inquiry, the Council is required to bear the associated costs.

## 4 REPORT

- 4.1 **DMMO Applications:** The following provides brief details of all Definitive Map Modification Order applications received by this Council (for which a statutory duty exists to determine the application) and current progress on each application.

APPLICATION NAME	AFFECTED PATH(S)	APPLICATION DATE	PROGRESS
Cinema Site, Keynsham	n/a	10/12/2002	Public inquiry scheduled for 6 <sup>th</sup> and 7 <sup>th</sup> October 2010.
AQ78, Bath	Add FP to DM&S	01/01/2000	Awaiting final confirmation by PINS.
BA25/53, Wellow	BA25/53	15/11/1997	Notice needs to be served on landowners to validate application.
BA25/14, Wellow	BA25/14	15/11/1997	Order made 5/2/2003 with one objection.
Manor Farm, Norton Malreward	n/a	31/03/1998	Unknown
Dransfield Way, Bath	n/a	28/11/2000	Unknown

St Nicolas' Court, Bathampton	n/a	17/08/2003	Statement of case currently being assembled for PINS.
Chew Lane, Chew Stoke	n/a	21/01/2004	Awaiting determination.
BR Upgrades, Peasedown-S-J	BA19/XX	14/03/2004	Unknown
BA19/19 Upgrade, Peasedown-S-J	BA19/19	14/03/2004	Witness statement received; notice to be served on landowners.
BA19/17 Upgrade, Peasedown-S-J	BA19/17	14/03/2004	Witness statement received, notice to be served on landowners.
Ilford Close, Saltford	n/a	25/03/2004	Order can now be confirmed by the Council.
Solsbury Hill, Bath	n/a	22/09/2004	Negotiations are ongoing with landowners.
Candlegreas Lane, Paulton	n/a	09/12/2004	14 witness statements received. Some historic evidence available.
Box, Bathford	n/a	04/10/2005	Unknown
The Tumps, Bath	n/a	11/04/2006	21 witness statements received – Legal issue to resolve.
Tuckingmill, Compton Dando	n/a	29/08/2006	Evidence being looked at and a site visit has been made.
Midford Lane, Freshford	n/a	27/04/2007	Witness evidence forms received, landowner denies any dedication.
Maynard Terrace, Clutton	n/a	17/10/2007	Witness evidence forms received – but evidence of non-dedication.
Bathampton Mill, Bathampton	n/a	12/11/2007	Some historical evidence received – further research required.
Handel Road, Keynsham	n/a	18/04/2008	29 witness evidence forms received.
Somerset Place, Bath	n/a	02/06/2008	23 witness evidence forms received.
Solsbury Lane, Bath	n/a	31/10/2008	Application received
Little Silvers, Englishcombe	n/a	03/03/2010	Application received
Clandown Colliary, MSN	n/a	n/a	Application expected shortly.
Whitehall Lane, Hinton Blewett	n/a	n/a	No application received
Charlcombe Lane, Charlcombe	n/a	n/a	No application received
Church Street, MSN	n/a	n/a	No application received
Newbridge School, Bath	n/a	n/a	No application received
Stockwood Lane, Whitchurch	n/a	n/a	No application received
Sherbourne Springs, East Harptree	n/a	n/a	No application received



**4.2 PPO Applications:** The following provides brief details of all Public Path Order applications received by this Council and the current progress on each application.

<b>APPLICATION NAME</b>	<b>AFFECTED PATH(S)</b>	<b>APPLICATION DATE</b>	<b>PROGRESS</b>
Chilcompton Road, MSN	Unrecorded	01/02/2005	Order Confirmed; awaiting completion of works on site.
Lower Gurney Farm, W.Harptree	CL23/37	17/03/2005	Advertising period ended; awaiting completion of works
Brook Lodge, Wellow	BA25/21	24/03/2005	Public hearing scheduled for 2 <sup>nd</sup> and 3 <sup>rd</sup> November 2010
Fullers Earth, Combe Hay	BA7/1	06/03/2006	Order Confirmed; awaiting completion of works on site.
Woollard Field, Publow w/ Pens.	CL17/22	09/03/2007	Awaiting determination of related planning application.
Bridge Farm, South Stoke	BA22/17	25/04/2007	Order confirmed by Secretary of State
Heathers, Stanton Wick	CL18/25	02/05/2007	Confirmation of Order being advertised.
Abbotts Barn Fm, Hinton Blewett	CL12/9	01/08/2007	Order with Regulatory (Access) Committee for consideration
Tuckingmill Ho., Compton Dando	BA8/6	06/02/2008	Consultation
Dundry Hill Farm, Whitchurch	BA26/15	08/07/2008	Order Made and being dealt with by BCC.
Charnwood Ho., Compton Dando	BA8/18 & 19	14/11/2008	Awaiting making of Order
Little Silvers, Englishcombe	BA11/1	12/12/2008	Order confirmed.
Chelscombe Fm, Charlcombe	BA5/12 & BA5/29	11/12/2008	Advertising of diversion Order complete; awaiting completion of works.
Upper Farm, Charlcombe	BA5/23	17/05/2010	Consultation ongoing.
Prior Park College, Bath	AQ63	14/01/2009	No action.
New Manor Fm, Farmborough	CL9/22 & 23	22/01/2009	No action.
148 High Street, Publow w/ Pens.	CL17/40	25/01/2009	No action.
Woodborough Mill, Compton D.	BA8/3	27/03/2009	No action.
Howgrove Farm, Kelston	CL14/20	31/03/2009	No action.
Smallcombe Farm, Bath	AQ34	08/07/2009	No action.
Henmarsh Farm, Nempnett Thrub.	CL14/45	20/10/2009	No action.
Kingswood School, Charlcombe	BA5/13	07/05/2010	No action.

4.3 The Council has recently deleted the post of Definitive Map Officer and the number of officers dealing with Legal Orders has been reduced from 3 full-time posts to 1.5 full-time posts. Consequently, the team will be reprioritising it's workload and dealing with DMMO applications, and PPO applications which are already being dealt with, ahead of PPO application which have not yet been commenced.

**5 HUMAN RIGHTS IMPLICATION**

5.1 There are no Human Rights implications to be considered from this report.

**6 RISK MANAGEMENT**

6.1 No option exists for the Council to disregard duly made DMMOs. Local Authorities are under a statutory duty to consider and determine all applications made within the provisions of section 53 of the Wildlife & Countryside Act 1981. Committee is required to consider all DMMO applications regardless of whether or not objections are received during consultation.

6.2 The power to make PPOs is discretionary but the Council must exercise this discretion with due regard to natural justice and all applicable legislative tests.

**7 EQUALITIES**

7.1 Not applicable - this report is merely to update members on the workload of the team.

**8 CONSULTATION**

8.1 Relevant consultations are carried out as part of the consideration of each individual case.

**9 CONCLUSIONS**

9.1 It is hoped that this report will provide Members with an overview of the current position regarding Public Rights of Way Order work, and will provide an awareness of possible forthcoming decisions to be taken by the Committee.

<b>Contact person</b>	Graeme Stark (Mapping Officer)
<b>Background papers</b>	No background papers accompany this report.
<b>Please contact the report author if you need to access this report in an alternative format</b>	