

RECLASSIFICATION ORDER

1. As detailed in Appendix 5, the Application Route was recorded on the Definitive Map and Statement ("the DM&S") as a 'CRF' (Carriage Road used as a Footpath) which is the equivalent of a Road Used as a Public Path ("RUPP"). Section 27(5) of the National Parks and Access to the Countryside Act 1949 ("the 1949 Act") defined a Road Used as a Public Path as; *'a highway, other than a public path used by the public mainly for the purposes for which footpaths or bridleways are so used.'* This definition was considered unsatisfactory as it did not specify whether or not a RUPP carried vehicular rights. Following an abortive attempt to reclassify RUPPs under schedule 3 of the Countryside Act 1968, Surveying Authorities were required to review all RUPPs shown on their DM&S to be reclassified as footpaths, bridleways or Byways Open to All Traffic (BOAT). Avon County Council ("ACC"), who at the time were the Surveying Authority, were therefore required to reclassify the Application Route.
2. On 22 June 1989 ACC made the 'County Council of Avon Public Rights of Way Definitive Map and Statement Reclassification Order No.2 1989' ("the Reclassification Order"). The Reclassification Order was made to reclassify the section of RUPP CL15/11 between points A and F on the Plan at Appendix 4 ("the Plan") as a public bridleway. Making of the Reclassification Order was duly advertised and objections were received from local residents and user groups. An inquiry was opened on 5 September 1995 and the Inspector issued an interim decision modifying the Reclassification Order to record the route as a Byway Open to All Traffic on 9 November 1995. The modification was duly advertised and objections were received. The Inspector reopened the inquiry on 11 February 1997 and the Inspector issued his final decision and confirmed the Reclassification Order, as originally made, on 28 May 1997. The Application Route was therefore reclassified on the DM&S as a bridleway.
3. In the Application contained at Appendix 1, the Applicants ask for paragraphs 177, 180 and 181 of the Inspector's decision to be re-examined. The Inspector's Decision Report does not in itself constitute primary evidence but rather it contains the Inspector's interpretation of the evidence which he was made aware of during the course of the Inquiry.
4. Paragraph 177 of the Decision Report (Fig. 1), indicates that the Inspector considered the section of CL15/11 between Church Road and point A on the Plan to be public highway, although without stating what status of public highway. This section was not included in the Reclassification Order and it therefore remained a RUPP on the DM&S until it was automatically reclassified as a Restricted Byway in 2006 by virtue of section 48 of the Countryside and Rights of Way Act 2000.

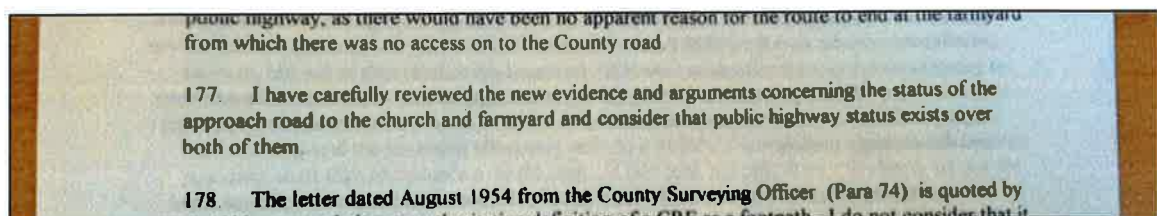


Fig. 1: Paragraph 177 of the Inspector's Decision Report dated 28 May 1997.

5. Paragraph 180 of the Decision Report (Fig.2), deals with the original DM&S process carried out by Somerset County Council and Norton Malreward Parish Council. This matter is examined in Appendix 5.

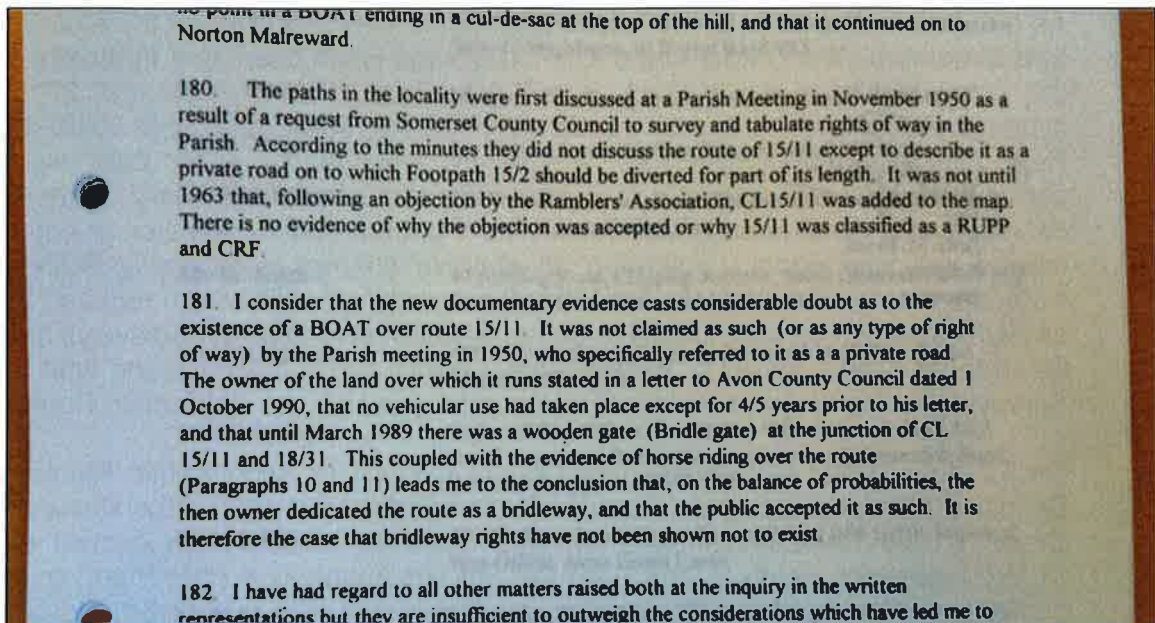


Fig. 2: Paragraphs 180 and 181 of the Inspector's Decision Report dated 28 May 1997.

6. Paragraph 181 of the Decision Report (Fig.2), deals with the issue of public vehicular rights over the Application Route. The Inspector concluded that there was no evidence of public vehicular rights over the Application Route but that the Application Route has been dedicated as a public bridleway. This is consistent with the evidence detailed in Appendices 5 and 9 and the Application Route's current recording on the DM&S.
7. On 7 August 1997 Timothy Stevens applied to the High Court – Queen's Bench Division for the confirmed Reclassification Order to be quashed (Stevens v Secretary of State (1997)). The application was not successful and the Application Route has therefore since continued to be recorded on the DM&S as a public bridleway. The Reclassification Order Map is reproduced at Fig. 3 below.

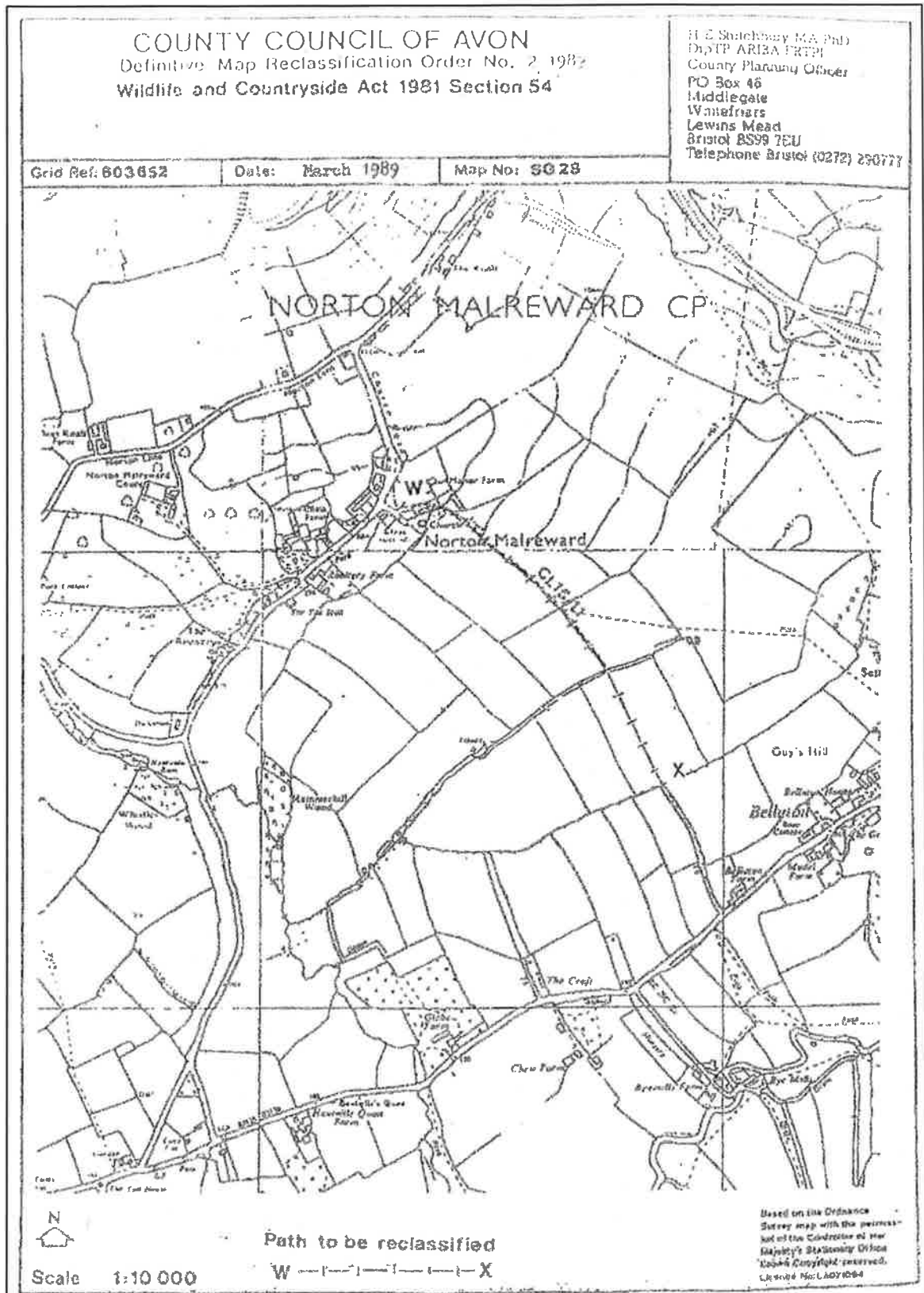


Fig. 3: County Council of Avon Public Rights of Way Definitive Map and Statement Reclassification Order No.2 1989; Order Map

