

Statement of Case

in relation to the proposed modifications to the

Bath and North East Somerset Council
(Restricted Byway BA21/12, Beeks Mill, St Catherine)
Definitive Map Modification Order 2017

PINS Ref: ROW/3186868M

24 July 2019

1. On 2nd August 2017, Bath and North East Somerset Council (“the Authority”) made the Bath and North East Somerset Council (Restricted Byway BA21/12, Beeks Mill, St Catherine) Definitive Map Modification Order 2017 (“the Order”). Four objections were made and sustained and the Authority therefore submitted the opposed Order to the Secretary of State for determination.
2. A public inquiry was held on 7-8 August 2018 and the Authority took a neutral stance. The Inspector’s Order Decision dated 4 October 2018 proposed to confirm the Order subject to three modifications. The first and third proposed modifications related to the Order Route being a public bridleway rather than a restricted byway; the Authority does not oppose these modifications. The second proposed modification would see the limitations being defined as “*The right of the landowner to erect and maintain gates at grid reference ST 7611 7106 and ST 7624 7121*”; this would replace the single field gate at point A on the Order Map which is stated in the Order as made. Unfortunately, the proposed modification does not adequately describe what gates could lawfully be erected on the Order Route.
3. The proposed modification refers to ‘gates’ (plural). However, it is unclear whether this means a single gate at point A on the Order Map and a single gate at point B on the Order Map or if it means two or more gates at point A on the Order Map and two or more gates at point B on the Order Map. Additionally, it is not clear what type and width of gate(s) would be lawful.
4. The Order, as made, records a width of 3.1m throughout and the Order Decision does not propose to modify this width. If the Order was confirmed with the proposed modifications then it is unclear whether the Definitive Statement would be stating that the landowner has the right to erect and maintain more than one gate within the 3.1m width of the path.

5. At point A on the Order Map, the Order Route passes between points X and Y on **OMA16** and the evidence presented to the previous inquiry indicated that there has always been a field gate between these two specific locations rather than, for example, two narrower gates with a hanging or slamming post in the middle of the 3.1m width.
6. Alternatively, it may be that the intention was to record the 3.1m wide field gate and the adjacent 1.33m gate which can be seen between points Y and Z on **OMA16** as limitations. However, this would require the width of the Order Route to also be modified to 4.6m at point A on the Order Map and for the width to then taper down to 3.1m further along the Order Route. The same issue also exists in respect of the proposed limitation at Point B on the Order Map; however, it was not suggested by any party at the first inquiry that there was ever more than one gate at point B on the Order Map prior to the date of challenge.
7. The Authority, in its other role as highway authority, will be required to assert and protect the public's rights along the Order Route and it is therefore important for all parties that the Definitive Statement provides sufficient clarity about what the lawful limitations are on the Order Route and, by extension, what other configurations would be unlawful.