

Statement of Case

by

Donald MacIntyre

Determination by

The Secretary of State for Environment, Food and Rural Affairs

LOCAL PUBLIC INQUIRY October 15th, 2019

Bath and North East Somerset Council

(Restricted Byway BA21/12, Beek's Mill, St Catherine)

Definitive Map Modification Order 2017

Appeal Reference: ROW3186868M

*In respect of modified parts of the Order **and** new evidence in respect of
unmodified parts of the Order*

Donald MacIntyre

Manor Farm, Langridge, Bath, BA1 8AJ

Tel: 07515 561726, Email: donald.macintyre@hotmail.co.uk

1. INTRODUCTION

1.1. This Statement of Case is made by myself, Donald MacIntyre, and is submitted in support of the Definitive Map and Statement Modification Order issued by Bath and North East Somerset Council on July 18th 2017. It is also submitted in support of the Formal Decision of the Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs who has proposed confirmation of the Order subject to modification, having held a Public Inquiry on August 7th and 8th, 2018.

1.2. I am a farmer and I own and I have farmed for 52 years all the land immediately adjacent to the east of the application route.

1.3. I am the applicant in this case, and at the Public Inquiry on September 15th 2019 I will be advocate for The Order and The Modified Order, and I will be a witness.

1.4. I request that all evidence and statements submitted before, during and after the 2018 Public Inquiry are likewise taken as submitted in relation to the 2019 Public Inquiry.

2. THE PUBLIC INQUIRY OF 7/8th AUGUST 2018 AND ORDER DECISION

2.1. The 2018 Inquiry was fair, thorough, wide ranging and professionally conducted. Everyone was given unlimited time to have their say, late submission of documents and proof of evidence was accepted and witnesses who turned up on the day were allowed to address the Inquiry.

2.2. I agree with and support the Inspectors Decision to propose confirmation of the Order subject to modification.

3. CALLING OF A SECOND PUBLIC INQUIRY

3.1. The second Public Inquiry has been called in response to submissions from Andrew Dunlop and Robin Guild in which they request that the first Inquiry is re-opened so that they may have a further opportunity to argue their case and call witnesses. But they do not say what new evidence they may have, if any, and they do not say which witnesses they wish to call. Without this information I cannot judge the justification for a second Inquiry. Nor can I put forward a proper Statement of Case if the evidence I should be responding to has not been disclosed.

3.2. Regardless of the above, I welcome the opportunity to present further new evidence and witnesses in support of confirmation of the unmodified part of the Order, and I welcome the opportunity to comment on modifications to the Order.

4. NEW EVIDENCE AND WITNESSES IN SUPPORT OF THE UNMODIFIED PART OF THE ORDER

4.1. I will call a number of user witnesses at the Inquiry, some of which have come forward since the last Inquiry, some who have given evidence at the last Inquiry, but now have further new evidence, and some who were unable to attend the last Inquiry but are able to attend the Inquiry in October.

4.2. I will also stand as a witness myself and give new evidence in support of the unmodified part of the Order and comment on the proposed modifications.

5. COMMENT ON PROPOSED MODIFICATIONS TO THE ORDER

5.1. I support the proposed decision that the route should be recorded as a "*bridleway*" on the Order Map and Statement, rather than as a "*restricted Byway*".

5.2. Under "*Limitations*" in Part II of the Order Schedule The Inspector proposes replacing the text "*The right of the landowner to erect and maintain a field gate at grid reference ST 7624 7121*" with "*The right of the landowner to erect and maintain gates at grid references ST 7611 7106 and ST 7624 7121*". I offer the following comments on this:

5.2.1. The use of the word "*gates*" is not sufficiently precise. I suggest that the word "*gates*" is replaced with "*gate*", and that a minimum passing width at Points A and B is specified

5.2.2. During "the relevant period", 1992-2012, the unrestricted width at ST 7611 7106 (Point A) was 4.6m, while the width along the length of the route was 3.1m. In 2012 an off-centre gate post was inserted at Point A reducing the passing width at the junction with St Catherine Lane to 3.1m. I suggest that the "*Limitations*" should provide for a gate with a minimum width of 4.6m at Point A on the route. This would require removal of the existing restrictive off-centre gate post.

5.2.3. Neither side has claimed that there was a gate at ST 7624 7121 (Point B) during "the relevant period" 1992-2012. Nevertheless, there is historic mapping evidence that the route was once gated at both ends. Point B is on the county

boundary, half way across the bridge that crosses the St Catherine Brook, and here the width is restricted to 3.1m by the bridge. Ms Chubb gated the route close to point B in 2012 creating a passing width of 3.1m. It is reasonable to allow this gate to remain. I suggest that the "Limitations" should provide for a gate near to Point B with a minimum width of 3.1m.

Donald MacIntyre, August 6th, 2019