

**APPLICATION FOR A PUBLIC PATH DIVERSION  
ORDER AFFECTING PUBLIC FOOTPATH CL20/29 IN  
THE PARISH OF STOWEY SUTTON**

**1. The Issue**

- 1.1 An application has been made to divert a section of Public Footpath CL20/29 in the Parish of Stowey Sutton to move the public footpath away from the Bishop Sutton Sewage Pumping Station site.

**2. Recommendation**

- 2.1 That the Team Manager - Highways Maintenance and Drainage grants authorisation for a Public Path Diversion Order to be made to divert a section of Public Footpath CL20/29 as detailed on the plan attached at Appendix 1 ("the Decision Plan") and in the schedule attached at Appendix 2 ("the Decision Schedule").

**3. Financial Implications**

- 3.1 The Applicant has agreed to pay the cost for processing an Order, the cost of any required notices in a local newspaper and for the works required to raise the new route to an acceptable standard for use by the public. Should an Order be made and confirmed, the Proposed Footpath will become maintainable at public expense.
- 3.2 Should an Order be made and objections received and sustained, then the Order will either be referred back to the Team Manager - Highways Maintenance and Drainage or to the Planning Committee to consider the matter in light of those objections. Should the Team Manager - Highways Maintenance and Drainage or Committee decide to continue to support the Order, then the Order will be referred to the Secretary of State for the Environment, Food and Rural Affairs for determination. Bath and North East Somerset Council ("the Authority") would be responsible for meeting the costs incurred in this process, for instance at a Public Inquiry.

**4. Human Rights**

- 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 Authority is required to consider the application in accordance with the principle of proportionality. The Authority 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 and Policy Background**

- 5.1 The Authority has a discretionary power to make Public Path Orders. When considering an application for a Public Path Order, the Authority should first consider whether the proposals meet the requirements set out in the legislation (which are reproduced below). In deciding whether to make an Order or not, it is reasonable to consider both the tests for making the Order and for confirming the Order (*R. (Hargrave) v. Stroud District Council [2002]*). Even if all the tests are met, the Authority may exercise its discretion not to make the Order but it must have reasonable ground for doing so (*R. (Hockerill College) v. Hertfordshire County Council [2008]*).
- 5.2 Before making an Order under section 119 of the Highways Act 1980 (“the Act”), it must appear to the Authority that it is expedient to divert the path in the interests of the public and/or of the owner, lessee or occupier of the land crossed by the path.
- 5.3 The Authority must also be satisfied that the Order does not alter any point of termination of the path, other than to another point on the same path, or another highway connected with it, and which is substantially as convenient to the public.
- 5.4 Before confirming an Order, the Authority or the Secretary of State must be satisfied that:
- the diversion is expedient in the interests of the person(s) stated in the Order,
  - the path will not be substantially less convenient to the public as a consequence of the diversion,
  - it is expedient to confirm the Order having regard to the effect it will have on public enjoyment of the path as a whole, on other land served by the existing path and on land affected by any proposed new path, taking into account the provision for compensation.
- 5.5 The Authority must also give due regard to the effect the diversion will have on farming and forestry, biodiversity and members of the public with disabilities.
- 5.6 In addition to the legislative tests detailed above, the proposals must also be considered in relation to the Authority’s adopted Public Path Order Policy. The Policy sets out the criteria against which the Authority will assess any Public Path Order application and stresses that the Authority will seek to take a balanced view of the proposals against all the criteria as a whole.
- 5.7 The criteria are:
- Connectivity,
  - Equalities Impact,
  - Gaps and Gates,
  - Gradients,
  - Maintenance,
  - Safety,
  - Status,
  - Width,
  - Features of Interest,

## **6. Background and Application**

- 6.1 Public footpath CL20/29 is recorded on the Definitive Map and Statement which has a relevant date of 26 November 1956.
- 6.2 The Existing Footpath runs through the Bishop Sutton Sewage Pumping Station site. The applicants wish to divert the footpath away from this site so that it runs through a field to the side of it.
- 6.3 **Description of the Existing Footpath**  
The proposal is for the full width of the section of Public Footpath CL20/29 commencing from grid reference ST 5827 6010 (point A on the Decision Plan) and proceeding in a generally northerly direction for approximately 98 metres to grid reference ST 5828 6020 (point B on the Decision Plan) would be stopped up. This route is referred to as the “Existing Footpath”.
- 6.4 **Description of the Proposed Footpath**  
The proposal is for a new route commencing from grid reference ST 5827 6010 (point A on the Decision Plan) and proceeding in a generally north-westerly direction for approximately 61 metres to grid reference ST 5824 6015 (point C on the Decision Plan), and then turning in a generally north-north-easterly direction for approximately 67 metres to grid reference ST 5828 6020 (point B on the Decision Plan). The width would be two metres throughout. This route is referred to as the “Proposed Footpath”.
- 6.5 **Limitations and Conditions**  
No limitations or conditions are proposed.

## **7. Consultations**

- 7.1 The affected landowner, Stowey Sutton Parish Council, national and local user groups, the Ward Councillors and statutory consultees were all consulted about the proposed diversion for a period of four weeks (“the Consultation Period”). Additionally, site notices were erected at both ends of the proposed diversion and on the Authority’s website to seek the views of members of the public.
- 7.2 In response to the consultation, a number of statutory undertakers stated that their plant would not be affected and/or that they had no objections to the proposals.
- 7.3 Similarly, Stowey Sutton Parish Council stated that they had no objections to the proposals.
- 7.4 No other comments were received in relation to the proposals during the Consultation Period.

## **8. Officer Comments**

- 8.1 It is recommended that the various tests outlined in section 5 above are considered in turn.
- 8.2 **The first test is whether it is expedient to divert the path in the interests of the public and/or of the owner, lessee or occupier of the land crossed by the path:** Reinstatement of the entirety of the Existing Footpath would involve the demolition of a section of the Bishop Sutton Sewage Pumping Station. The Proposed Footpath will divert walkers away from the pumping station to follow an alternative line through the adjacent field. Consequently, it would be expedient to divert the path in the interests of the owner of the land crossed by the footpath and this test should therefore be considered to have been met.
- 8.3 **The Authority must be satisfied that the diversion does not alter any point of termination of the path, other than to another point on the same path, or another highway connected with it, and which is substantially as convenient to the public:** The Proposed Footpath starts and finishes at the same points as the Existing Footpath so this test is considered to have been met.
- 8.4 **The path must not be substantially less convenient to the public as a consequence of the diversion:** Matters such as length, difficulty of walking and the purpose of the path pertain to the convenience to the public. The overall length of the diverted route will be 30 metres longer than the length of the existing route which is considered an insignificant increase given the location of the Existing and Proposed Footpaths within the wider public rights of way network in the area and the predominant leisure use of the path. There is no change in the difficulty of walking. It therefore follows that the Proposed Footpath is not substantially less convenient to the public and this test should therefore be considered to have been met.
- 8.5 **Consideration must be given to the effect the diversion will have on public enjoyment of the path as a whole, on other land served by the existing path and on land affected by any proposed new path, taking into account the provision for compensation:**
- 8.6 **Public enjoyment of the Path as a whole:** The Proposed Footpath runs over improved terrain and is also the route which people would naturally walk. As the route would now pass through a field, rather a sewage pumping station, the views would similarly be improved. The effect on public enjoyment would therefore be positive.
- 8.7 **Effect on other land served by the existing footpath and land affected by the proposed footpath:** The applicant's land will benefit from the removal of the Existing Footpath as the public right of way will no longer pass through their pumping station. Although the Proposed Footpath will run through a field owned by third parties, those third parties have provided their signed written consent to the diversion proposals.

- 8.8 **Effect on land affected by any proposed new path, taking into account the provision for compensation:** As stated above, the owners of the land affected by the Proposed Footpath have provided their signed written consent to the proposals.
- 8.9 **The Authority must give due regard to the effect the diversion will have on farming and forestry, biodiversity and members of the public with disabilities:** There will be a neutral effect on farming as the majority of the Existing Footpath already passes through the agricultural field that the Proposed Footpath will pass through in its entirety. In terms of the effect on forestry, although some tree and vegetation clearance will be necessary in the short wooded area immediately to the south of where the Proposed Footpath starts, this clearance work would still be required, even in the absence of this application as the legal line of this section of the footpath has been obstructed by overgrown vegetation for a number of years. Consequently, the diversion will have a neutral effect on biodiversity. Furthermore, in moving the footpath away from the sewage pumping station, the diversion will have a positive effect on members of the public with visual disabilities.
- 8.10 **The effect of the diversion on the additional criteria identified in the Authority's Public Path Order Policy; namely, Connectivity, Equalities Impact, Gaps and Gates, Gradients, Maintenance, Safety, Status, Width and Features of Interest:**
- 8.11 The Proposed Footpath starts and finishes at the same point as the Existing Footpath so there is no effect on connectivity.
- 8.12 The proposed diversion will have a positive effect on people with visual disabilities (see paragraph 8.9 above). There will be a neutral effect on people with other disabilities.
- 8.13 The Proposed Footpath will pass through two new kissing gates at Points A & C on the Decision Plan. These will be authorised under Section 147 of the Act to prevent the ingress and egress of livestock. However, the reinstatement of the entirety of the Existing Footpath would necessitate the installation of two additional kissing gates in the pumping station's fenced boundaries, similarly authorised under Section 147. Consequently, there is a neutral effect on gaps and gates.
- 8.14 There will be no change in gradient between the Existing and Proposed Footpaths.
- 8.15 It is not considered that the Proposed Footpath will require any more maintenance than the Existing Footpath.
- 8.16 By diverting walkers away from the sewage pumping station, the Proposed Footpath will have positive impact on Safety.
- 8.17 The Proposed Footpath will have a neutral impact on Status.
- 8.18 The Existing Footpath is considered 1.8 metres wide. The Proposed Footpath will be two metres wide.

- 8.19 The Proposed Footpath will not remove public access from any feature of interest or place of resort. It will improve the quality of views (see paragraph 8.6 above).
- 8.20 It is considered that on balance, the proposed diversion is in accordance with the Policy.

## **9. Climate Change**

- 9.1 Public rights of way are a key resource for shifting to low-carbon, sustainable means of transport. The proposal is part of the ongoing management of the network and therefore contributes towards helping to tackle the Climate Emergency.

## **10. Risk Management**

- 10.1 There are no significant risks associated with diverting the footpath.

## **11. Conclusion**

- 11.1 It is considered that the relevant statutory tests for making a Diversion Order under Section 119 of the Act have been met and that the proposal is in line with the Public Path Order Policy.
- 11.2 The Diversion Order would be in the interests of the occupiers of the land.
- 11.3 The Order should be made as proposed.
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## **AUTHORISATION**

Under the authorisation granted by the Council on 21<sup>st</sup> July 2022, the Team Leader: Place Legal Services is hereby requested to seal an Order to divert a section of Public Footpath CL20/29 as shown on the Decision Plan and as detailed in the Decision Schedule and to confirm the Order if no sustained objections are received.



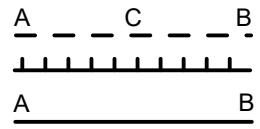
Dated: 30/01/2025

Craig Jackson – Team Manager, Highways Maintenance and Drainage

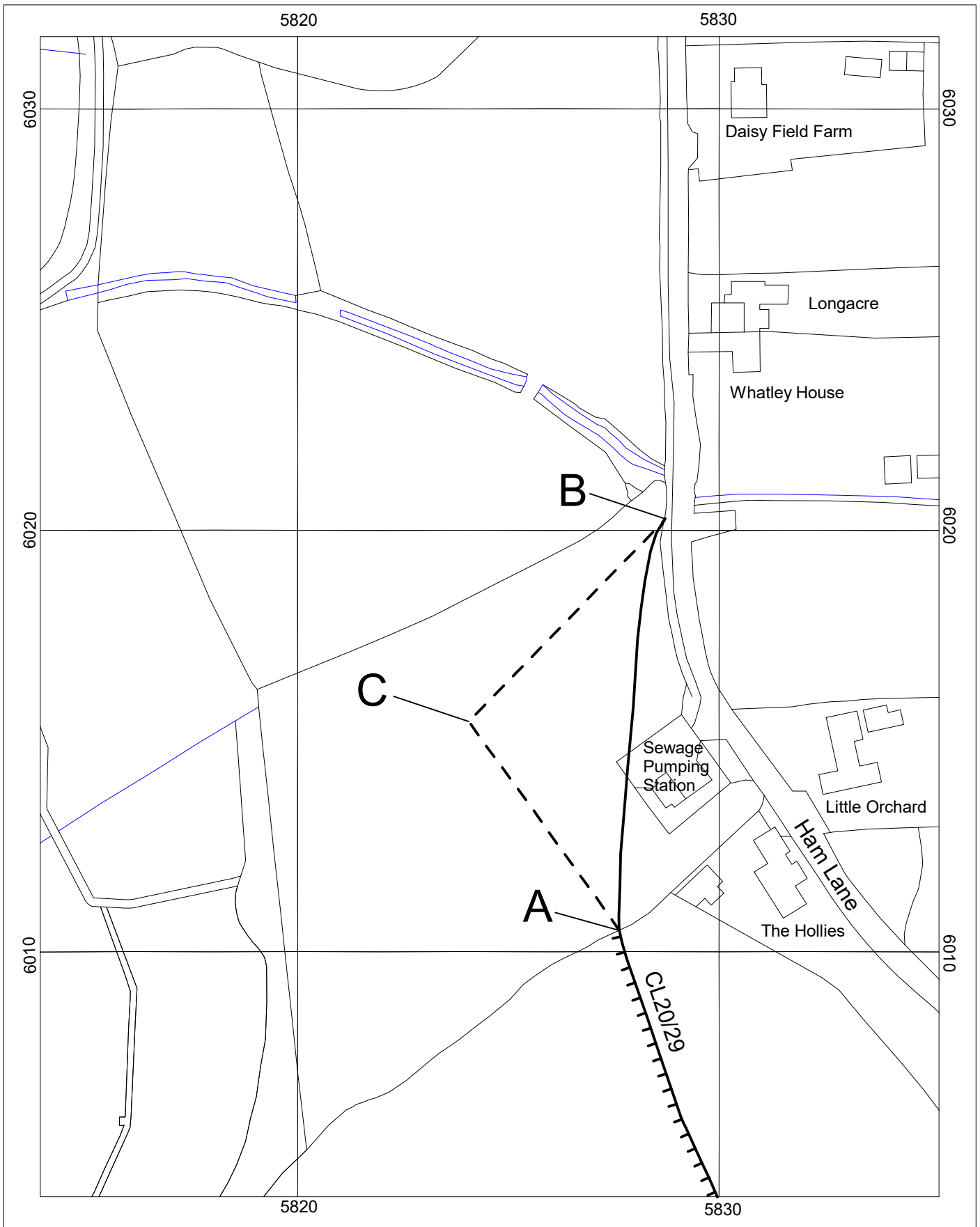
**Appendix 1 - Decision Plan  
Public Footpath CL20/29,  
Ham Lane, Stowey Sutton**



Public footpath to be created  
Unaffected public footpath  
Public footpath to be stopped up



Scale: 1:1250



## **APPENDIX 2 - DECISION SCHEDULE**

### **PART 1**

#### **DESCRIPTION OF SITE OF EXISTING PATH OR WAY**

The full width of the section of Public Footpath CL20/29 commencing from grid reference ST 5827 6010 (point A on the Decision Plan) and proceeding in a generally northerly direction for approximately 98 metres to grid reference ST 5828 6020 (point B on the Decision Plan).

### **PART 2**

#### **DESCRIPTION OF SITE OF NEW PATH OR WAY**

A public footpath commencing from grid reference ST 5827 6010 (point A on the Decision Plan) and proceeding in a generally north-westerly direction for approximately 61 metres to grid reference ST 5824 6015 (point C on the Decision Plan), and then turning in a generally north north-easterly direction for approximately 67 metres to grid reference ST 5828 6020 (point B on the Decision Plan).

Width: 2 metres between grid references ST 5827 6010 (point A on the Decision Plan) and ST 5828 6020 (point B on the Decision Plan).

### **PART 3**

#### **LIMITATIONS AND CONDITIONS**

None.