

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Planning Committee	
MEETING/ DECISION DATE:	8 March 2023	EXECUTIVE FORWARD PLAN REFERENCE:
		N/A
TITLE:	Application to divert Public Footpath BC62/3, Church Lane, Combe Down, Bath under Section 119 Highways Act 1980	
WARD:	Combe Down	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Appendix 1 – Decision Plan</p> <p>Appendix 2 – Numbered Photographs of Site</p> <p>Appendix 3 – Safeguarding Statement</p> <p>Appendix 4 – Summary of Consultation Responses</p> <p>Appendix 5 – Full Consultation Responses (redacted)</p>		

1 THE ISSUE

- 1.1 An application has been made to the Highway Authority (“the Authority”) to divert a section of Public Footpath BC62/3 adjacent to Monkton Preparatory School in Combe Down, Bath under Section 119 Highways Act 1980 (“the 1980 Act”).
- 1.2 The application has been presented by Mr Paul Pearce, Team Leader in the Council’s Parks & Green Spaces team. It is however being funded by Monkton Preparatory School (“the School”). The application seeks to divert a section of public footpath, off of land owned/occupied by the School, onto adjacent private land which is currently leased to the Council as allotments.
- 1.3 Whilst the application has been made by a particular team within the Council, the Council as a whole has not taken a position on these proposals and it is for the Committee to determine on behalf of the Highway Authority whether an order should be made.
- 1.4 The School is seeking the diversion for reasons of safeguarding – to divert members of the public away from the section of the School’s drive down which the current footpath runs; the public would instead follow a new route along the edge of the allotments, on the opposite side of the existing dry-stone wall from the School’s drive – a wall which would itself be re-built to a 1.5-metre height.

- 1.5 In accordance with the Authority's adopted Public Path Policy, an informal public consultation has been held and a total of 90 letters/e-mails have been received from members of the public in opposition to the proposed diversion. Agreed working practice is for "contentious" applications for the diversion of public rights of way to be referred to the Planning Committee for a decision, with "contentious" being defined as more than 12 objections, an objection from the parish/town council or an objection from one of the Ward Councillors.
- 1.6 The issue, therefore, is whether or not the Authority make an Order to divert the relevant section of Public Footpath BC62/3.

2 RECOMMENDATION

The Committee is asked to:

- 2.1 determine the proposals and, based upon the information presently before the Highway Authority, decline to make an order to divert a section of Public Footpath BC62/3 as detailed on the plan attached at Appendix 1 ("the Decision Plan").

3 STATUTORY CONSIDERATIONS

- 3.1 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. 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.
- 3.2 Before making an Order under section 119 of the Highways Act 1980 ("the 1980 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.
- 3.3 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 highway, or another highway connected with it, and which is substantially as convenient to the public.
- 3.4 In reaching its decision, the Authority must also have regard to:
- the needs of agriculture (including the breeding or keeping of horses) and forestry;
 - the desirability of conserving flora, fauna and geological and physiographical features;
 - the effect the path would have on members of the public with protected characteristics under the Equality Act 2010,
- 3.5 Before confirming an Order, the Authority or the Secretary of State must be satisfied that:
- the diversion is expedient in the interests of the owner, lessee or occupier crossed by the path, or in the interests of the public;

- 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 relevant provisions for compensation in the Act.

3.6 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.

3.7 These criteria are:

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

3.8 The Authority will also consider the effect of the proposals on Climate Change.

4 CONSULTATION

4.1 Affected landowners, the Bath & North East Somerset Allotments Association, 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 each end of the proposed diversion. Details of the proposals were also placed on the Authority's website to seek the views of members of the public.

4.2 A total of 90 objections were received from a combination of members of the public, individual allotment holders and one of the Ward Councillors. Representations were also received from seven other parties. These objections and representations - and in particular their common themes - are summarised in Appendix 4. Redacted copies of the full objections and representations can be found in Appendix 5.

5 THE REPORT

5.1 The application proposes that a section of Public Footpath BC62/3, commencing from grid reference ST 7645 6243 (point A on the Decision Plan) and proceeding in a generally south-easterly direction for approximately 209 metres, along the side of the private road leading to Monkton Preparatory School, to grid reference ST 7659 6228 (point B on the Decision Plan) would be stopped up, as shown by a continuous black line (“the Existing Footpath”). The new line of the footpath would commence from grid reference ST 7645 6243 (point A on the Decision Plan) and proceed in a generally south-easterly direction for approximately 210 metres, along the edge of the allotment gardens, to grid reference ST 7659 6228 (point B on the Decision Plan), as shown by a dashed black line (“the Proposed Footpath”).

5.2 A number of pieces of construction & clearance work also form part of the proposals:

- The demolition of the dry-stone wall currently running between the Existing Footpath and the Proposed Footpath (including the pillars and pedestrian gateway set into it), with the wall then being rebuilt to a greater height of 1.5 metres;
- A two-metre wide gap would be left in the new wall at point A on the Decision Plan, for walkers to pass through¹;
- A two-metre wide gap would similarly be made in the green metal fencing at the southern boundary of the allotments, approximately seven metres northwest of point B on the Decision Plan²;
- Vegetation would be cleared along a 46-metre section immediately southeast of point A on the Decision Plan, and along a seven-metre section immediately northwest of point B on the Decision Plan;
- A stockproof fence, 1.2 metres in height, to be erected on the opposite side of the Proposed Footpath with a gate installed within it to allow allotment holders access to their plots, on foot;
- A surface of rolled stone would be laid on the Proposed Footpath³;
- The existing street lights, currently fixed over the Existing Footpath, would be swivelled 180 degrees to face the Proposed Footpath.

All of the above works would be commissioned and funded by the School.

5.3 It is recommended that the various tests outlined in Section 3 above are considered in turn. Issues raised during the consultation (and summarised in Appendix 4) are also addressed below:

5.4 Before making an Order under section 119 of the Highways Act 1980 (“Section 119”), it must appear to the Authority that it is expedient to

¹ The relevant section of existing wall can be seen in Appendix 2, Photo 2

² This fencing can be seen in Appendix 2, Photos 4 & 5

³ The application states the Proposed Footpath would be 1.6 metres wide. However the School has since confirmed that it would in fact surface the new footpath to a width of two metres, in accordance with the minimum permitted width for a new footpath under the Authority’s adopted Public Path Policy.

divert the path in the interests of the public and/or of the owner, lessee or occupier of the land crossed by the path:

- 5.5 The School, who occupy the land across which the Existing Footpath runs, are seeking the diversion for reasons of safeguarding – to divert members of the public away from its grounds and onto land occupied by another party, on the opposite side of a wall; the School’s Safeguarding Statement can be found at Appendix 3. If it was demonstrated that safeguarding would be sufficiently improved then this would be likely to satisfy the expediency test under Section 119 of the 1980 Act.
- 5.6 However 32 objectors have claimed that, notwithstanding the Existing Footpath running down the School’s drive, members of the public currently have access, daytime and evenings, to the School’s sports centre, which is reached by walking down that drive⁴. If this is indeed the case, and there are no plans to cease, or at least greatly restrict, this open public access down the School’s drive and into its sports centre following a diversion of the footpath, then it is difficult to see how there will be a sufficiently positive impact on safeguarding for the expediency test to be satisfied, as regards the owner, lessee or occupier of the land. It has therefore not been demonstrated that diversion of the footpath would be expedient, taking into consideration other safeguarding issues relating to access on site.
- 5.7 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 highway, or another highway connected with it, and which is substantially as convenient to the public:**
- 5.8 The termination points of the footpath are not changing so this test is satisfied.
- 5.9 The path must not be substantially less convenient to the public as a consequence of the diversion:**
- 5.10 Matters such as length, difficulty of walking and the purpose of the path pertain to convenience to the public. As the proposals simply divert the route walked to the opposite side of a wall, in a line running parallel to the existing line, there would only be a one metre increase to the overall length of the route as a consequence of the diversion and it follows therefore that there would be no decrease in convenience to the public in this particular regard.
- 5.11 It is however proposed that the new diverted section of footpath will have a rolled gravel surface, in contrast to the tarmacked surface of the Existing Footpath. This new section of path, whilst not likely to be used by motor vehicles with the frequency of a public road, is likely nevertheless to be passed over by such vehicles on occasions when heavy or difficult to handle allotment items are delivered to (or taken from) individual plots⁵.
- 5.12 As has been highlighted by a number of objectors, the new rolled stone surface – particularly with the added passage of motor vehicles - is likely to deteriorate more rapidly than the tarmacked surface of the current route, making walking

⁴ See Appendix 4, Section A2

⁵ See Appendix 4, Section A6

more difficult and muddy⁶. Such deterioration would make the use of the new footpath more difficult and consequently, less convenient.

- 5.13 There is also the matter that whilst walkers are currently separated from motor vehicles on the Existing Footpath (with the said path running along a pavement immediately adjacent to the School's vehicular driveway), they would share the same space with motor vehicles on the Proposed Footpath.
- 5.14 A number of objectors have submitted that the Proposed Footpath would be too narrow to be suitable for walkers and motor vehicles to share use⁷. The width originally proposed by the applicant for the Proposed Footpath was 1.6 metres⁸. However the minimum width permitted for a new footpath under the Authority's adopted Public Path Policy is two metres. There would not be space for a footpath much wider than two metres without it encroaching onto existing allotment plots. Although the frequency of motor vehicles, on the Proposed Footpath, is considered likely to be low and sporadic, use of the new path by walkers, on those occasions when motor vehicles are present, will be more difficult even at a two metre width, and consequently less convenient at those times.
- 5.15 The point has also been raised by one objector that members of the public using the School's Sports Centre and who access it by foot from the Mount Pleasant end, would have their walk lengthened by the proposals⁹. Indeed (and assuming that the School block off the access to the existing route at point B on the Decision Plan), this walk would be lengthened by approximately 400 metres for anyone using the footpath for this purpose so would be less convenient for those particular people.
- 5.16 It is worth emphasising however that a proposed new footpath can be less convenient and still pass this particular legal test as the requirement is that the new path must not be *substantially* less convenient. As the only motor vehicles taken on the Proposed Footpath will be those belonging to or commissioned by allotment holders at necessary times, it is considered that there will be a significant proportion of time when walkers using the new footpath will not have to share it with motor vehicles. Similarly, members of the public who use the School Sports Centre and who access it on foot from the Mount Pleasant end are likely to be a relatively limited proportion of the overall members of the public who use the path. This said, the gradual deterioration of the Proposed Footpath's rolled stone surface with the passage of vehicles will adversely affect all walkers.
- 5.17 The Authority must also give due regard to the effect the diversion will have on the needs of agriculture (including the breeding or keeping of horses) and forestry, the desirability of conserving flora, fauna and geological and physiographical features and the effect the path would have on members of the public with protected characteristics under the Equality Act 2010.**
- 5.18 Needs of Agriculture (including the breeding or keeping of horses) and Forestry:** This is a horticultural setting rather than an agricultural one and no

⁶ See Appendix 4, Section A3

⁷ See Appendix 4, Section A4

⁸ See footnote 2 above

⁹ See Appendix 4, Section A8

horses are kept on the land which is the subject of the diversion. Neither is it anticipated that any trees will need to be felled, as a result of the proposals.

5.19 Conserving flora, fauna and geological and physiographical features:

5.20 During the consultation, five objectors raised biodiversity concerns surrounding the proposed rebuilding of the dry-stone wall between the Existing Footpath and the Proposed Footpath, with the likely destruction of both flora and fauna being referenced.¹⁰ Concerns have also been raised surrounding the proposals to swivel the existing street lights from the Existing Footpath onto the Proposed Footpath— specifically that this will create a light pollution issue adversely affecting nocturnal creatures and pollinating insects.¹¹ However there is no specific biodiversity designation for this site.

5.21 The diversion would include a limited amount of vegetation clearance along a 46-metre section immediately southeast of point A on the Decision Plan, and along a seven-metre section immediately northwest of point B (this vegetation can be seen in Photographs 2 & 5 in Appendix 2). However this clearance is considered minimal.

5.22 There will be no effect on any geological or physiographical features.

5.23 The effect the path would have on members of the public with protected characteristics under the Equality Act 2010:

5.24 A number of objectors expressed the view that the rolled gravel surface of the Proposed Footpath would be unsuitable/less suitable than the current tarmacked path for elderly people and for users with visual/mobility issues.¹² It is considered certainly, that in comparison to the existing tarmac surface, the new surface would be more difficult for wheelchair users to pass along – particularly as it deteriorates due to use by motor vehicles. On those occasions when such vehicles are also on the footpath it would be difficult, particularly at a two-metre width, for both wheelchair users and persons with visual/mobility issues to navigate around them.

5.25 It must be expedient to confirm the Order having regard to the effect the diversion will have on public enjoyment of the path as a whole; the effect which the coming into operation of the order would have on other land served by the existing footpath; and the effect which any new public right of way created by the order would have on the land over which the right is created and any land held with it, taking into account the provisions for compensation in the 1980 Act.

5.26 Public enjoyment of the path as a whole:

5.27 The proposals include rebuilding the dry-stone wall, currently situated between the line of the Existing Footpath and the line of the Proposed Footpath, to a greater height of 1.5 metres and to also erect a stock fence, 1.2 metres in height, on the opposite side of the new footpath. A substantial number of objectors have raised various concerns about this, ranging from a loss of ambience and/or an open/safe feel of the walking; comments about the new

¹⁰ See Appendix 4, Section A1

¹¹ See Appendix 4, Section A5

¹² See Appendix 4, Section A3

fence being ugly/unsightly; observations that walkers would, in effect, be funnelled in a “long tunnel” that would have no exit point “for nearly a mile” (presumably when one also takes into account the continuation of the existing footpath towards Monkton Combe, beyond Point B on the Decision Plan).¹³

5.28 Furthermore, the objections already discussed in paragraphs 5.11 to 5.14 above relating to walkers having to share the Proposed Footpath with allotment vehicles, also pertain to loss of enjoyment.

5.29 The effect which the coming into operation of the order would have on other land served by the existing footpath:

5.30 Aside from the point made in paragraph 5.6 above about members of the public potentially continuing to access the School’s sports centre following the diversion of the footpath, there would be no effect on land served by the Existing Footpath following the coming into operation of any diversion order as the School is accessed by a private road and would continue to be, following the diversion, if ultimately made and confirmed.

5.31 The effect which any new public right of way created by the order would have on the land over which the right is created and any land held with it:

5.32 In addition to the existing track which runs down the side of the allotment land and onto which it is proposed the Existing Footpath be diverted, there is also a track branching off which runs around the perimeter of the allotment plots themselves.

5.33 Two objectors have emphasised that vehicular access is vital for transporting difficult to handle and heavy items to the plots¹⁴. As the BANES Allotments Association have then highlighted¹⁵, the fence currently proposed for running between the Proposed Footpath and the plots would run across this perimeter track, with no provision for vehicular gates, thus blocking off such access for allotment holders.

5.34 It also seems that even if vehicular gates were installed at the two points in the fence where the perimeter track would meet the Proposed Footpath, the fence would still block off vehicular access to the allotment plots that directly faced the new path. In this regard, it is considered that the Proposed Footpath would have an adverse effect on land held with the land over which it would be created.

5.35 Taking into account the provisions for compensation in the 1980 Act: All affected landowners have consented to the proposals.

5.36 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:

5.37 **Connectivity:** The proposals do alter the start or finish point of the public footpath so there is no effect on connectivity.

¹³ See Appendix 4, Section A7

¹⁴ See Appendix 4, Section A6

¹⁵ See Appendix 4, Section B2

- 5.38 **Equalities Impact:** The negative impact is discussed in paragraph 5.24 above.
- 5.39 **Gaps & Gates:** There are no gates along the Existing Footpath and equally there would be no gates along the Proposed Footpath with walkers entering and exiting the allotment land via two metre wide gaps. This would be in keeping with the Authority's principles of "Least Restrictive Access".
- 5.40 **Gradients:** The Proposed Footpath would run parallel to the line of the Existing Footpath and there would be no difference in gradient between the two routes.
- 5.41 **Maintenance:** As already discussed¹⁶, the rolled stone surface of the Proposed Footpath would be likely to deteriorate more rapidly than the tarmacked surface of the Existing Footpath, particularly with the added passage of allotment vehicles. Whilst the Authority would not be responsible for maintaining the fence or rebuilt wall either side of the new path, it would be liable in law for the ongoing cost of maintenance of this stone surface.
- 5.42 **Safety:** A substantial number of objectors have raised safety concerns, most of these relating to the sharing of use between walkers and motor vehicles and the "inescapable corridor" that would be created by the 1.5-metre high wall on one side of the Proposed Footpath and the allotment fence on the other side, making walkers more vulnerable to attacks or muggings.¹⁷
- 5.43 **Status:** Although it is understood that allotment holders would have a private right to use motor vehicles on the Proposed Footpath, the public right created would be no more than the right to pass and re-pass, on foot. There would therefore be no effect on status.
- 5.44 **Width:** The legal width of the Proposed Footpath would be two metres which ordinarily would be a sufficient width for walkers. However the presence of motor vehicles on this particular path on occasions is likely to cause issues at this width (see paragraph 5.14 above).
- 5.45 **Features of Interest:** A considerable number of objectors raised strong concerns about the destruction of the existing dry-stone wall and a substantial number (and several representees) similarly objected to the removal of the historical gateway and stone pillars¹⁸ set into the wall¹⁹. Some objectors also commented about the proposed higher wall and new allotment fence spoiling views over the school playing fields and the allotment plots themselves²⁰.
- 5.46 The Authority will seek to take a balanced view of the proposals against all the criteria of the Public Path Order Policy as a whole. The proposals will negatively impact on Equalities, Maintenance, Safety, Width and Features of interest; and have a neutral effect on the remaining four criteria. The proposals therefore do not accord with the Authority's Public Path Order Policy.

6 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 6.1 The School has agreed to pay the Authority's standard Public Path Order application fee. This covers the costs incurred by the Authority in all stages of

¹⁶ Paragraph 5.12 above

¹⁷ See Appendix 4, Section A4

¹⁸ Which can be seen in Appendix 2, Photograph 9

¹⁹ See Appendix 4, Sections A1, B2 & B4

²⁰ See Appendix 4, Section A7

the process except the determination of an opposed order by the Secretary of State. If the Council makes an order and it receives objections, which is highly likely given the responses to the consultation, then if the Authority chose not to abandon that opposed order it would have to submit it to the Secretary of State. The Secretary of State would then determine the order by way of a public inquiry, public hearing or exchange of written representations and the Authority would not be able to recover the costs it incurred from the School.

6.2 Should an Order be made and confirmed, the Proposed Footpath will become maintainable at public expense.

7 RISK MANAGEMENT

7.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Authority's decision-making risk management guidance.

8 EQUALITIES

8.1 An Equality Impact Assessment has been carried out and the Proposed Footpath is likely to be less suitable than the current tarmacked path for users with visual/mobility impairment. Additionally, users with visual/mobility impairments are likely to encounter greater difficulties when encountering motor vehicles due to the restricted width.

9 CLIMATE CHANGE

9.1 Public rights of way as a whole are a key resource for shifting to low-carbon, sustainable means of transport. The proposals are considered to have a small but nevertheless negative impact on the public footpath in terms of potentially dissuading the public from walking the route. The proposals will therefore not assist in tackling the Climate Emergency.

10 OTHER OPTIONS CONSIDERED

10.1 None

Contact person	Tim Haynes (01225) 477649 tim_haynes@bathnes.gov.uk
Background papers	<i>Background papers are available online at:</i> https://www.bathnes.gov.uk/services/streets-and-highway-maintenance/public-rights-way/prow-legal-order-case-documents/public
Please contact the report author if you need to access this report in an alternative format	

APPENDIX 4

SUMMARY OF CONSULTATION RESPONSES

A. OBJECTIONS

A1 The Dry-stone Wall:

The application proposes that the dry-stone wall, situated between the current line of the footpath and its proposed new line, be re-built to a greater height of 1.5 metres:

- 52 people have objected to the demolition of the existing 150-year old wall on the grounds that local heritage ought to be preserved²¹;
- Two people have objected to wall's demolition of the grounds of "vandalism"²²;
- Two objectors have raised concern that increasing the wall's height will remove walkers' views over the school playing fields²³;
- Two objectors have argued that the School should repair the current wall instead of rebuilding it, thus preserving its existing character²⁴;
- Five objectors have raised biodiversity concerns: two referring to the likely destruction of "rare succulent plants" currently growing with the wall²⁵ and three worried about the destruction of wildlife for which the existing wall provides an "important habitat"²⁶;
- One objector questioned how stable the new 1.5-metre high wall would be if a drystone method was used²⁷;
- Another argued that rebuilding the wall in such a way would be "disproportionately expensive"²⁸.

A2 Safeguarding:

The School has sought the diversion for safeguarding reasons – to divert members of the public away from the School's drive – and has appended a safeguarding statement to its application (see Appendix 3):

- 32 objectors commented that, notwithstanding the existing line of the public footpath running down the School's drive, members of the public currently have access, daytime and evenings, to the sports centre in the School's main building and questioning therefore, how diverting the

²¹ Objectors 01, 06, 08, 10, 12, 16-22, 25-28, 32-35, 37-38, 40-42, 45-46, 48-49, 52-54, 56, 58, 61, 65-66, 68-74, 76-81, 87 & 90

²² Objectors 02 & 54

²³ Objectors 07 & 09

²⁴ Objectors 11 & 25

²⁵ Objectors 14 & 46

²⁶ Objectors 26, 46 & 54

²⁷ Objector 75

²⁸ Objector 87

footpath would make any meaningful difference to safeguarding?²⁹ Two of these objectors went further, claiming the School were only granted planning permission for its sports centre on the condition that it could be used by the general public.³⁰

- 22 objectors have argued that constructing secure high fencing along the border of the School's sports field (replacing the low picket fence currently there) would satisfy safeguarding requirements more effectively than diverting the current footpath³¹; two objectors argued that the School should erect security fencing across the entrance to the car park instead³²; two objectors stated they could see no reason why the School could not simply fence the existing footpath³³; three objectors commented more generally that the School should instead erect fencing on its own land³⁴; one objector argued there was already a "substantial wooden fence" alongside the playing field to deter unwanted visitors³⁵.
- Notwithstanding the observations made about the public's open use of the School's sports facilities (referenced above), it has been argued by 17 objectors that the proposals for diverting the footpath will not prevent people entering the school's premises due to the open driveway that would remain adjacent to the proposed new line of the relevant section of path³⁶.
- 16 objectors have argued that rebuilding the existing dry-stone wall to a height of 1.5 metres will not deter determined troublemakers³⁷; another has suggested such a wall could become "a comfortable seat for possible miscreants"³⁸; another has argued the proposals will not deter troublemakers unless the entire school is completely fenced, with security at all the car entrance points as well as around the entire site³⁹.
- Three objectors do not believe the School have had the incidents with intruders that they say they have in their safeguarding statement or that there have ever been any safeguarding issues⁴⁰; three other objectors said they had never heard of any safeguarding issues affecting the School⁴¹; another claimed safeguarding was "just a pretext for closing the footpath" as the School do not even lock their existing gates⁴².
- One objector questioned whether security cameras had been considered as an alternative⁴³; another stated that the school already utilised

²⁹ Objectors 03, 10-11, 13, 15-16, 18, 21-22, 24-26, 31, 38, 46, 49-50, 53, 56, 58, 60, 64, 71-72, 74, 76-77, 81-82, 84-85 & 87

³⁰ Objectors 46 & 56

³¹ Objectors 03-04, 10, 16, 24, 26, 36, 38, 40, 50, 53-54, 56, 58, 63-64, 68, 73, 75-76, 80 & 86

³² Objectors 09 & 28

³³ Objectors 21 & 89

³⁴ Objectors 20, 75 & 78

³⁵ Objector 30

³⁶ Objectors 04, 15, 21-22, 24, 50, 56-58, 63-65, 73, 77-78, 86

³⁷ Objectors 04-05, 30, 37, 40, 42-44, 53-54, 56, 58, 61, 63, 75, 77, 86

³⁸ Objector 38

³⁹ Objector 34

⁴⁰ Objectors 02, 39 & 50

⁴¹ Objectors 14, 31 & 45

⁴² Objector 36

⁴³ Objector 30

extensive cameras but queried why they could not simply increase or upgrade their CCTV if their current system was considered insufficient⁴⁴.

- Two objectors could not see the impact on safeguarding on the basis that they rarely saw schoolchildren walking down the existing footpath either unaccompanied, or at all⁴⁵; another objector claimed the current footpath did not actually run through the school grounds⁴⁶.
- One objector questioned why the School did not instead make use of the parallel footpath that already exists within their enclosure down their playing field⁴⁷; another suggested the School should instead part with a strip of land on the opposite side of its car park to create a two-way driveway and allow fencing to be installed, enabling the existing pathway to remain unaltered⁴⁸.
- One objector stated that the School had provided no evidence to support the claim that moving the footpath would reduce unauthorised access to its site; they added that the School had “not taken all reasonable and necessary precautions” prior to presenting its application.⁴⁹
- Two objectors argued that approving the application on the grounds of safeguarding would set a precedent with wide-reaching consequences.⁵⁰

A3 Rolled Stone Surface:

- 15 objectors raised concern that this new surface would deteriorate more rapidly than the tarmacked surface of the Existing Footpath; would require greater ongoing maintenance; would be unsuitable for the footpath’s level of use; and would make walking more difficult & muddy.⁵¹
- Eight objectors expressed the view that the Proposed Footpath’s surface would be unsuitable/less suitable than the Existing Footpath’s surface for elderly people, users with visual/mobility issues and for pushchairs.⁵²
- One objector stated the new surface would not be the best for cycling on⁵³.

A4 General Health/Safety/Security Issues:

- 19 objectors considered that the Proposed Footpath on the allotment side of the dry-stone wall would be so narrow that it would be unsafe/unsuitable for walkers & vehicles to share use.⁵⁴

⁴⁴ Objector 87

⁴⁵ Objectors 13 & 37

⁴⁶ Objector 56

⁴⁷ Objector 84

⁴⁸ Objector 34

⁴⁹ Objector 54

⁵⁰ Objectors 21 & 49

⁵¹ Objectors 02, 24, 26, 38, 42, 44, 46, 53-54, 56, 62-63, 65, 74 & 86

⁵² Objectors 26-27, 42-43, 54, 56, 82 & 86

⁵³ Objector 43

⁵⁴ Objectors 15-16, 21-22, 26, 38, 42, 46, 49, 53-54, 56, 58, 62, 74, 76, 80, 82 & 86

- 12 objectors raised concern that the higher wall/fencing proposed on either side of the Proposed Footpath would not be safe for women/people generally, walking on their own⁵⁵; two such objectors commented on such a corridor being “unescapable” and a “muggers’ paradise”⁵⁶.
- Two objectors commented that the proposals would potentially increase the risk of theft from the allotments.⁵⁷
- One objector described the Proposed Footpath as “inferior...with health & safety issues”⁵⁸; two other people were concerned that such issues would discourage the local community for using the footpath for exercise & enjoyment, thus having a detrimental effect on people’s wellbeing⁵⁹; one further objector considered the proposals would significantly increase the footfall on Shaft Road which they believed was unsafe for pedestrians to walk along, due to the steepness of its banks⁶⁰.
- One objector was concerned that the proposal to swivel the existing street lights over the new footpath would make the existing route down the school’s driveway darker for the schoolchildren and sports club members still using it.⁶¹
- Another objector considered that the barbed wire in the proposed stockproof fencing on the allotment side of the new footpath would represent a safety hazard to allotment users.⁶²
- A further objector expressed the view that the proposed 1.6-metre width of the new footpath would be insufficient for two people to walk abreast.⁶³

A5 Environmental Issues:

- Five objectors raised concerns that the proposals to rotate the existing street lights onto the new footpath would create a light pollution issue adversely affecting nocturnal creatures and pollinating insects, including protected bats⁶⁴; two further objectors made reference to “rare succulent plants” growing inside the existing dry-stone wall⁶⁵; another commented that the proposed wall and stock fence would “further narrow the wildlife corridor that links Rainbow Woods and the surrounding countryside to the Midford Valley”⁶⁶; another described having seen glow-worms in the dry-stone walling on hot summer nights⁶⁷.

⁵⁵ Objectors 03, 05, 07, 34, 40, 44, 54, 56, 62, 67, 76 & 82

⁵⁶ Objectors 67 & 82

⁵⁷ Objectors 03 & 07

⁵⁸ Objector 12

⁵⁹ Objectors 54 & 56

⁶⁰ Objector 72

⁶¹ Objector 56

⁶² Objector 63

⁶³ Objector 34

⁶⁴ Objectors 25-26, 54, 56 & 68

⁶⁵ Objectors 14 & 46

⁶⁶ Objector 67

⁶⁷ Objector 81

- Two objectors considered the building of a new path, wall & fence would have a significant carbon impact⁶⁸; one objector believed the proposals would increase local transport emissions⁶⁹; another believed re-routing the footpath would encourage greater vehicular use for people using the sports centre⁷⁰.

A6 Allotment Issues:

- Eight objectors were concerned that a 1.6-metre width on the Proposed Footpath would not be wide enough for motor vehicles to pass along⁷¹, with two making the point that vehicular access is vital for difficult to handle and heavy items such as seedlings, harvested produce and manure⁷² (and one of these emphasising that whilst the existing allotment track was not used frequently by motor vehicles, when it does need to be so used, such use is essential⁷³). Five other objectors expressed concern that they would no longer be able to park alongside their own allotment plot to load/unload items⁷⁴.
- Four objectors believed that the gated entrance to allotments shown on the School's landscaping plan would not be wide enough for vehicles/larger vehicles to even enter the allotments.⁷⁵
- Three objectors considered there was insufficient space, between the dry-stone wall and edge of the allotment plots, to have a footpath wide enough for vehicles & pedestrians to be able to share it safely⁷⁶; another objector commented that they did not consider even a 2-metre wide track to be sufficient for a car & pedestrians to share use⁷⁷; another believed the Proposed Footpath would impinge on allotment territory⁷⁸.
- One objector was concerned that the 1.2-metre height of the fence proposed between the allotment side of the new footpath, and the allotment plots themselves, would not be great enough to prevent allotment trespass⁷⁹; another commented that some allotment holders would feel very vulnerable working inside a fenced area to which the public had access⁸⁰; another observed that additional lockable gates would be required to enable holders to access plots adjacent to the new fence⁸¹.
- Two objectors considered that replacing the existing dry-stone wall with a higher one would segregate allotment holders from others, destroying the "friendly feel" of the area.⁸²

⁶⁸ Objectors 54 & 56

⁶⁹ Objector 26

⁷⁰ Objector 03

⁷¹ Objectors 04, 06, 26, 40, 42 & 63-65

⁷² Objectors 04 & 60

⁷³ Objector 60

⁷⁴ Objectors 07-08, 12, 25 & 63

⁷⁵ Objectors 04, 38, 56 & 63

⁷⁶ Objectors 16, 21 & 90

⁷⁷ Objector 07

⁷⁸ Objector 35

⁷⁹ Objector 07

⁸⁰ Objector 60

⁸¹ Objector 55

⁸² Objectors 34 & 56

- Seven objectors commented generally that the proposals would make it very difficult for allotment holders with mobility issues, or some otherwise, to reach their particular plots/do much on them⁸³; one other expressed concern about there only being one point of access to/exit from the allotments from the Proposed Footpath which they were concerned would be insufficient, and very inconvenient for allotment holders⁸⁴; another objector stated the proposals would encroach, in general terms, upon the privacy of the allotments⁸⁵.
- Two objectors believed the proposals would stop non-plot holders being able to visit the allotments to learn from the holders' practices⁸⁶.

A7 Enjoyment/Aesthetics:

- 17 objectors expressed concerns that the proposals would spoil the ambience/open/safe feel of the walking.⁸⁷ Six objectors commented specifically that views over the playing fields or allotments would be lost.⁸⁸
- Seven objectors were of the view that the proposed new fence between the Proposed Footpath and the allotment plots would be ugly/unsightly/offensive.⁸⁹
- Six objectors expressed concern about the creation, in effect, of "a narrow funnel"/"long tunnel" that would have no exit point for nearly a mile.⁹⁰
- Two objectors observed that the proposals would bring walkers into close proximity with vehicles – a situation which does not currently exist.⁹¹ Another objector described such a situation as a "significant conflict of use".⁹²
- Two objectors submitted that contrary to what was suggested in the application, the route of the proposed new path was not a level gradient and that there was a dip, part-way along, in which water accumulates.⁹³

A8 Convenience:

- Three objectors observed that pupils from Monkton Senior School currently use the public footpath adjoining the Existing Footpath to visit the Prep School and that the proposals would result in their walk to the Prep School being lengthened, and needing to double-back on themselves⁹⁴. One of these objectors added that there would also be the same issue for

⁸³ Objectors 32, 46, 51, 54, 63, 67 & 89

⁸⁴ Objector 25

⁸⁵ Objector 30

⁸⁶ Objectors 25 & 80

⁸⁷ Objectors 19, 21, 25-26, 30-31, 34, 46, 53-54, 59, 62-63, 75, 80, 82 & 85

⁸⁸ Objectors 07, 09, 26, 33, 46 & 54

⁸⁹ Objectors 05, 31, 33, 35, 77, 80 & 81

⁹⁰ Objectors 25-26, 28, 54, 56 & 82

⁹¹ Objectors 24-25

⁹² Objector 78

⁹³ Objectors 54 & 63

⁹⁴ Objectors 15, 25 & 40

members of the School's Sports Centre who access it from the Mount Pleasant end.⁹⁵

- Another objector was concerned that if the quarry owners decided to close the allotment site at some stage in the future then the Proposed Footpath would be lost forever.⁹⁶

A9 Miscellaneous

- Two objectors were concerned the proposals would have a negative impact on the relations between the School and the community⁹⁷. Another stated that the School had stopped being “friendly and open” and over the past few years had become “increasingly closed-in and restrictive”, now wishing to “push their neighbours further away”⁹⁸.
- One objector expressed “little sympathy for parents who pay for their children’s exclusive education and then want to spoil the public’s access to local walks”⁹⁹. Another commented that as the public footpath benefits the population as a whole, it should not be modified in order to satisfy the needs of a “discreet” group¹⁰⁰.
- One person objected to public money being used for the proposed diversion.¹⁰¹

B. REPRESENTEES

B1 Statutory Consultees¹⁰²

Vodafone Plc, Sky Telecommunications Plc & National Grid stated they had no objection to or would not be affected by the proposals. There was no response from any other statutory consultee.

B2 Bath & North East Somerset Allotments Association¹⁰³

BANES Allotments Association made a number of comments in relation to the impact which the proposed diversion could have on the adjacent users of the allotments:

- They expressed concerns about any potential loss of growing area or any other impact on the current levels of access, servicing and enjoyment of the site;
- They commented that the proposed design for the rebuilt wall did not match the distinctive local vernacular of Bath dry stone rubble topped by a “cock-and-hen” coping, and indeed the other dry-stone walls in the immediate vicinity;

⁹⁵ Objector 40

⁹⁶ Objector 17

⁹⁷ Objectors 26 & 85

⁹⁸ Objector 51

⁹⁹ Objector 31

¹⁰⁰ Objector 80

¹⁰¹ Objector 88

¹⁰² Representees 01-03

¹⁰³ Representee 04

- They objected to the 19th century allotment gate and its stone piers, currently a few dry-stone wall, (and its stone piers) potentially being lost in the wall's rebuilding;
- They suggested that the proposed changes to street lighting may contravene the Habitats Regulations;
- They suggested there was no need for the first section of the diverted path to be a shared surface and recommended it be segregated from the car park with a low fence and native hedge;
- They further recommended that the shared-use section of the proposed new footpath be 2.5 metres wide, with an apron connecting the track to the shared path to avoid rutting and mud spillage;
- They submitted that in order to prevent trespass, the new allotment fence should be at least 2 metres high (rather than the 1.2 metres proposed);
- They highlighted the fact that without at least one vehicular gate in the proposed allotment fence, allotment holders would be unable to drive vehicles around the site to deliver heavy items/carry out maintenance;

B3 Monkton Combe Parish Council¹⁰⁴

Monkton Combe Parish Council expressed the view that the surface of rolled gravel for the Proposed Footpath was not appropriate as it was much more prone to potholes and ruts, particularly if also used by motor vehicles accessing the allotments. They also raised concerns that the Proposed Footpath could be compromised by any implementation of Planning Application 16/05548/MINW for Upper Lawn Quarry.

B4 Other Representees

Two members of the public¹⁰⁵ also submitted written responses, supporting the proposals “broadly” or “in principle” but nevertheless raising a number of concerns. One of these related to a perceived connection between the success or otherwise of the application to divert the footpath and the future security of the allotments’ lease.

Other concerns related to:

- the historical gateway in the existing dry-stone wall;
- the inferior quality of the proposed surface for the new footpath;
- insufficient space to have a footpath wide enough for vehicles & pedestrians to share it safely;
- potential wildlife disturbance, light spill & increased energy use, in the even that extra street lighting has to be installed;

¹⁰⁴ Representee 07

¹⁰⁵ Representees 05 & 06

- the fact that the public currently have open access to the School's sports centre, in any event.