

Witness Statement of Case

by

Richard Davey (User 28)

Determination by

The Secretary of State for Environment, Food and Rural Affairs

LOCAL PUBLIC INQUIRY August 7th, 2018

Bath and North East Somerset Council

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

Definitive Map Modification Order 2017

Appeal Reference: ROW3186868

Richard Davey

Chauceth Hall Barn, Broxted, Great Dunmow, Essex, CM6 2DA

Tel:01279 851930, Email: Richard@leycol.com

1. This Statement of Case is made by myself, Richard Davey, 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. The DMMO seeks to record a Restricted Byway between St Catherine Lane at grid reference ST 7611 7106, along an existing track in a generally north-easterly direction for approximately 200m, to the border with South Gloucestershire at grid reference ST 7624 7121.
2. I am a Company Director, based in London but living in rural north Essex. My wife and family run an arable farm and correspondingly we are well versed in the issue of footpaths and access.
3. I have used the route on foot from 1977 to 2018.
4. I have used the route on horseback from 1977 to 2004.
5. I have used the route on bicycle or horse drawn vehicle from 1977 to 2018
6. I have used the route by motorised vehicle from 1986 to 2004

7. Prior to 2012 I did not see any private signs or notices on or near the route that discouraged or encouraged me to use it. I have always understood it to be an undisputed footpath, bridle path.

8. I was once stopped on one occasion in the summer of 2016 while walking down Beaks Lane, away from Marshfield, by a lady who by deduction I worked out lived at Beak's Mill. She explained that the track going up the hill was not a footpath. I expressed my surprise at this and explained that I had been using it for nearly 40 years and believed it to be a right of way. She did not attempt to stop us continuing along it. She also moved on to explain at some length the ongoing battle she was having with the owners of the Paper Mill and that she was in dispute over boundary fences. This seemed to be her greater concern at the time, given the detail she was prepared to divulge during this casual meeting.

9. I have never been given permission to use the route.

10. As per the detail in point 8 – I have met one person whom told me she lived at Beeks's Mill. Whether she is the legal landowner of the track – I have no Idea.

11. Before 2012 there was never any obstruction on the route. At the top of the track with Leigh Lane there was a wooden gate that was

generally closed but at no time in my memory locked. Use of the track was barred after 2012 by padlocked main gates and private signs at both ends. However, the smaller hunting gates were never locked and access was fine on foot / bicycle or horseback. Apart from the casual meeting in summer 2016 I never met anybody prior to 2012 and there was never any question raised over access either directly or indirectly through signage.

12. I attach as evidence a copy of the Completed User Evidence Form submitted by myself dated April 20th, 2017
13. The track is definitely a highly important link between Marshfield and St Katherine's Valley. For all my life I have known and used this track for many forms of recreational activities – walking, riding and cycling. In addition, I know many local people whom also have used this for many years. The alternative route would severely restrict and curtail this and is not as accessible and over grass field which in the middle of winter will be extremely muddy and restrictive. Cycling would be an extremely challenging to say the least. If walkers want to use a route across the fields, there is the footpath as 90 degrees which runs along the brook. Needless to say – a semi hard track is much more usable than a grass footpath – even more so if individuals are slightly less mobile or there are young children.

14. This track is extremely important in linking Cold Ashton to Marshfield and villages beyond like West Littleton and West Kingston through the network of back lanes, When I kept my horses at Cold Ashton it was key that I could access the quieter country lanes and link up to other destinations as even then the traffic on the A420 and A46 made them almost unusable. The same can be applied to all means and modes of transport as green lanes are
15. Although I no longer live full time in the area I regularly visit my mother whom still lives in Marshfield. St Katherine's Valley is an outstandingly peaceful place in today's world and access has never been an issue. This should continue to be enjoyed by new generations as I do with my own children.

USER

r-28--

**Bath & North East
Somerset Council**

**PUBLIC RIGHTS OF WAY
USER EVIDENCE FORM**

Parish &/or Name of Route (if known) _____

PLEASE NOTE:

- This form is designed to help establish whether or not the claimed route is a public right of way. It also provides evidence of how it is used e.g. on foot, on horseback, by vehicles etc.
- If the Authority proceeds with the claim, but it is contested (e.g. by a landowner), there may be a Public Inquiry. Public Inquiries are usually held locally (i.e. in the village hall). If you are unable to attend a Public Inquiry your evidence may be given in writing, but user evidence is of much greater value if you attend in person and are prepared to answer questions on your evidence (see Question 21). Inquiries are kept as informal as possible, and the Authority will help you give your evidence.
- The information you give in this form will be processed in accordance with the Data Protection Act 1998. It is held by the Public Rights of Way Team of Bath and North East Somerset Council for the purpose of processing your user evidence.
- If a Public Inquiry takes place your evidence, including your personal information and comments, will be made available to the Inquiry in order to be used as part of the case. If you consent to Bath and North East Somerset Council disclosing the personal information contained within this User Evidence Form to anyone reasonably requiring access to this evidence, please tick the box at the end of this form.
- This form should be completed by one person only and should relate to only one route. If you need more space please continue on a separate sheet. Please use black ink.
- Forms should be accompanied by a map and the person completing the form should draw the route they have used on the map themselves.

Please return this form to the person who asked you to complete it, or send it to:

The Public Rights of Way Team, Bath and North East Somerset Council,
Lewis House, Manvers Street, Bath, BA1 1JG.

If you need any help to complete this form please contact us on 01225 477650.

1. **Name (Mr/Mrs/Miss/Ms)** MR RICHARD DAVEY

2. **Address:** CHAUREN HALL BARN, BROXTON, GERRARDSTON
2992X **Postcode:** CMB 2 8A

Telephone: 0784 201449 (work) 01279 851930 (home)

Email: Richard@leycoh.com

4. Please give a full description of the route you use (e.g. where you start from, where you go and where you finish), **mark it on a map and attach the map to this form**

The route I regularly use comes down the hill from Beeks Farm, passing B22XS mill cottage on my left. I then continue to the bottom of the lead and straight up the track / path to the junction with Leigh Lane.

As an alternative, I will also turn off Leigh Lane and continue down the track to the bottom of the hill and then past B22XS mill and on up the hill towards Beeks Farm.

5. How have you used the route, and during which years?

(a) on foot	<input checked="" type="checkbox"/>	between 1997 and 2017
(b) on horseback	<input checked="" type="checkbox"/>	between 1980 and 2004
(c) on bicycle/horse-drawn vehicle	<input checked="" type="checkbox"/>	between 1977 and 2017
(d) with motorised vehicle	<input type="checkbox"/>	between and

6. Were there any years during which you did not use the route at all?

YES ☐ NO ☒

If YES, which years and why?

between and

N/A

7. How frequently do/did you use the route?

	daily	once a week	once a month
(a) on foot		<input checked="" type="checkbox"/>	
(b) on horseback		<input checked="" type="checkbox"/>	
(c) on bicycle/horse-drawn vehicle		<input checked="" type="checkbox"/>	
(d) with motorised vehicle			

If less than once a month, please specify how many times a year you use the route.

It varied as to when I was at home at Cowd Ashton but if I was there it would be generally at least once a week - if not more

8. For what purpose do/did you use the route? e.g. for pleasure, going to work etc.

pleasure + recreation

9. Has the route always followed the line described above?

YES ☒ NO ☐

If NO, please describe how, when and why it changed.

10. How wide is the route?

[feet][metres] 1 metre approx

11. Has the route always been the same width?

YES ☒ NO ☐

- (a) the owner YES ☐ NO ☒
- (b) the tenant YES ☐ NO ☒
- (c) an employee of the owner/tenant YES ☐ NO ☒
- (d) a family member of any of the above YES ☐ NO ☒

of the land over which the route runs?

13. Did you ever meet the landowner, their employees or family while you were using the route? YES ☒ NO ☐
 If YES, what did they say? *once in summer 2016 and the landowner said it was not a footpath. I expressed my surprise as has been using the track path for well over 30 years without any question ever being raised*

14. Have you ever been given permission to use the route? YES ☐ NO ☒
 If YES, who gave you permission and when?

15. Has anyone ever attempted to turn you back or said that you had no right to be on the route? YES ☒ NO ☐

If YES, please give details including when this happened. *When I met the landowner she stated her case but did not ask or attempt to turn me back. (see p13 for more detail)*

16. Have you ever seen any notices on or near the route either encouraging or discouraging your use of it? YES ☐ NO ☒

If YES (a) where were they?

(b) what did they say? *only notice was requesting to close the gate.*

(c) when were they present? between _____ and _____

17. Have there ever been stiles, gates or bridges on the route? YES ☒ NO ☐

If YES (a) what were they? *I seem to always remember a gate into brygh lane. the original one was replaced and a new one also was erected at the bottom of the hill. I could not specify a date.*

(b) when were they erected? *new one also was erected at the bottom of the hill. I could not specify a date.*

(c) how long were they in place? *Specify a date.*

(d) did they prevent or deter you from using the route? YES ☐ NO ☒

(e) if gates were present, were they ever locked? YES ☐ NO ☒

If YES, when and for how long?

If YES (a) what was the obstruction?

(b) when was it put there?

(c) how long was it in place?

(d) did it prevent or deter you from using the route?

YES

☐

NO

☐

Please mark the location of any obstructions on the attached map.

19. Do you have any other information about the route which might be useful?

I have lived in Cole Ashton since 1988 and have always used this route for walking, riding + cycling. It is an essential link from the marshfield side to St Catherine's + if changed would be a great loss.

20. If you wish to add any further details about the route which you cannot show on the attached map, please sketch them here.

21. If necessary, would you be prepared to give evidence at a Public Inquiry in respect of the evidence you have given?

YES

☒

NO

☐

If not, please briefly explain your reasons.

.....

I confirm that to the best of my knowledge and belief the information I have given is true.

I also understand that this evidence may be presented at Public Inquiry and I authorise Bath and North East Somerset Council to use this form for that purpose.

Signature:


Date: *20-4-2017*

Please note that the contents of this evidence form may become public knowledge.

I consent to Bath and North East Somerset Council disclosing the personal information contained within this User Evidence Form to anyone reasonably requiring access to this evidence prior to a public inquiry, please tick this box if applicable

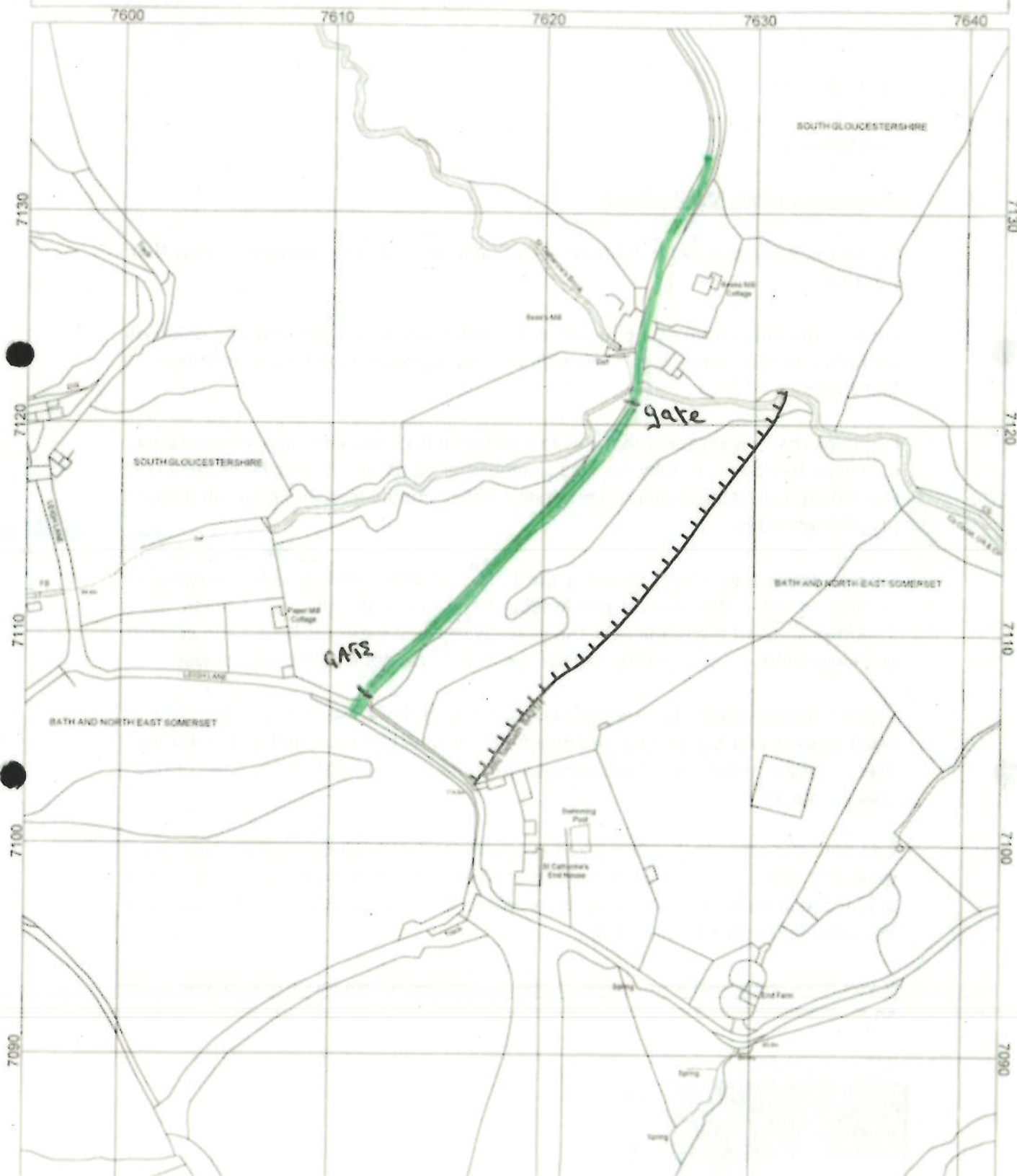
☐

User Evidence Form Plan

Unaffected public footpath 



Scale 1:2500



Chaureth Hall Barn
Broxted
Great Dunmow
Essex
CM6 2DA

April 20th 2017

Dear Graeme,

Leigh Lane / Beeks Mill Footpath

I write regarding the above footpath / track and enclose the completed forms that you sent.

I moved to Cold Ashton as a one year old in 1968 and lived there until the death of my father in 2011. Since then I regularly visit my widowed mother who now lives in Marshfield.

I do think that it is essential that this footpath and track remains open to be used as it always has been as long as I can remember. It is an essential link between Marshfield, Cold Ashton and St Catherine's Valley and its loss would curtail a lot of people's activities.

From a young age, I have spent a great deal of time walking, riding, cycling or running to enjoy this area of outstanding natural beauty. Although I might have forgotten some of the detail over the years as to when gates etc have been erected or changed I have never questioned the fact that it was not a public right of way.

When I met the owner last summer and she stated that it was not a public right of way I was extremely surprised and questioned this with her as I had used it for well over 30 years. However, I have continued to use it in the manner to which I have always enjoyed it.

I do note the other footpath marked on your map but in all the years I have never used that one. I did not even know that particular one even existed. Also, in the winter the alternative route would be a potentially very muddy option and certainly not suitable for running or cycling.

If you have any questions or need to discuss any detail I am more than happy to do so.

Yours sincerely

