

Witness Statement of Case

by

Neil R Perry (User 21)

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

Neil R Perry

11 Stambrook Park, Northend, Batheaston, Bath, BA1 7HR

Tel:01225 466464, Email: neil@rawstate.com

1. This Statement of Case is made by myself, Neil Perry, 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 an Audio Design and service engineer. The route has been used for pleasure when on foot, and on bicycle as part of my commute to work from Northend (Batheaston) to Bath. Have used this route since (at least) 1992 when becoming resident nearby.
3. I have used the route on foot from 1992 to 2018
4. I have used the route on bicycle 1992 to 2018 as part of commuting to work. Used about once a month.
5. 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.

6. No one has ever attempted to turn me back or said that I have no right to use the route.
7. I have never been given permission to use the route. Also, never been denied permission.
8. In the past I have met someone who I presume was the owner of Beeks Mill Cottage. Polite conversation and no objections. From memory well before 2012. Since then have not met the landowner, their family or employees.
9. Before 2012 there was never any obstruction on the route. Use of the track was barred after 2012 by padlocked gates and private signs at both ends.
10. The Beek's Mill lane route is very useful to horse riders, walkers and cyclists. I also believe it is used by the local farming community as a route to access land in the St. Catherine's valley.
11. I attach as evidence a copy of the Completed User Evidence Form submitted by myself dated April 3rd, 2017

USER

--21--

**Bath & North East
Somerset Council**

**PUBLIC RIGHTS OF WAY
USER EVIDENCE FORM**

Parish &/or Name of Route (if known) ST. CATHERINE

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, Marvers 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. NEIL R. PERRY
2. Address: 11, STAMBRUCK PARK, NORTHEND,
BATHURSTON, BATH Postcode: BA1 7HR
Telephone: 01225 466464 (work) (home)
Email: NEIL@BAWSTATE.COM
3. Date of Birth: [REDACTED] NB: You do not have to give your date of birth,

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 BYWAY RUNS FROM THE JUNCTION WITH LEIGH LANE. DROPS DOWN THE BRIGHT TRACK, ACROSS THE BROOK. THE DIRECTION IS ROUGHLY NORTHEAST.

THE TRACK BECOMES TACTIC AS THE BYWAY BEGINS TO RISE.

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

(a) on foot



between 1992 and 2017

(b) on horseback



between and

(c) on bicycle/horse-drawn vehicle



between 1992 and 2017

(d) with motorised vehicle



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

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

daily once a week once a month

(a) on foot

		✓

(b) on horseback

(c) on bicycle/horse-drawn vehicle

(d) with motorised vehicle

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

ON FOOT 4 OR 5 TIMES YEAR

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

ON FOOT FOR PLEASURE. BICYCLE- PLEASURE AND SOMETIMES WORK

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? APPROX 3M

[] [metres] METERS

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?

NOTHING

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.

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?

SIGN & FORTH IN LANE TO BEEKS MILL AND BEEKS FARM

(b) what did they say? 'ACCESS ONLY TO BEEKS MILL' BUT THERE ARE THE FOOTPATHS ACCESSED VIA THE LANE.

(c) when were they present?

between 2015/16? and PRESENT

17. Have there ever been stiles, gates or bridges on the route?

YES

☒

NO

☐

If YES (a) what were they? LARGE GATE @ LEIGH LANE ACCESS | THEN A BARRIER WAS ERECTED | NOW A PADLOCKED GATE. | A 'NEW' GATE NEAR BROOK ERECTED

(b) when were they erected?

SOME YEARS BACK.

(c) how long were they in place?

(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?

LEIGH LANE ACCESS BARRIED OR PADLOCKED LAST SEVERAL YEARS

Please mark the location of any notices, stiles, gates or bridges etc. on the attached

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?

THE ROUTE IS VERY HELPFUL TO CYCLISTS AND HORSE RIDERS
AS ALLOWS ACCESS FROM ST CATHERINE'S VALE TO THE
MARSHFIELD AREA.

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

FOR SOME TIME THE GATE @ THE LEIGH LANE ACCESS
WAS REPLACED WITH A BARRIER - NOW A PADLOCKED
GATE.

NOW 'PERMISSIVE PATH' SIGNS - WAS 'BYWAY' SOME
YEARS BACK.

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: 3.4.2017

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



SIGN AT JUNCTION.

'ACCESS ONLY TO BEHNS MILL' 1:2500

↓
THERE WAS A
BYWAY/FOOTPATH
SIGN ~~HERE~~ FOR MANY
YEARS.

GATE ADDED
SOME YEARS
BACK

'PERMISSIVE PATH'
SINCE GATE

FOR MANY YEARS THERE WAS
A BYWAY/FOOTPATH SIGN.

ACCESS GATE

SOME TIME BACK WAS A
MERE BARRIER.
NOW A PADLOCKED GATE

