

Witness Statement of Case

by

Ian Plaister (User 01)

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

Ian Plaister

Sandybank House, St Catherine, Bath, BA1 8EZ

Tel: 01225 858403, Email: ianplaister@tiscali.co.uk

1. This Statement of Case is made by myself, Ian Plaister, 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 retired Company Director and Senior Civil Servant and have lived in the area for 41 years
3. I have used the route on foot from 1977 to 2012 for mainly leisure and recreational purposes. Close friends of mine lived in Fry's Farm Cottages – half mile from Beek's Mill – and between 1977 and approximately 2003 it was a favourite walking route and occasional picnic spot.
4. I have used the route by bicycle over the same period for journeys from St Catherine to Marshfield and beyond. When my children were young we used this route as the easiest, less steep route to visit friends in Marshfield.
5. I have used the route to travel by car over the same period and at least until 2011. These were occasional and slow journeys as the first part of

the route was over an unmade track with some ruts and wash out from rainfall. Whilst the centre of the track was grass, the track itself was bare and clearly in frequent use, for example by the postman who used it on an almost daily basis as a through route to local homes and Marshfield. The obstruction caused by the fitting and padlocking of gates was a source of annoyance to the postman.

6. Prior to 2012 I have never seen any private signs or notices on or near the route that discouraged or encouraged me to use it. Since coming to the area in 1977, the gate to Beek's Mill from St Catherine Lane, was always open; I cannot ever recall seeing it closed or locked and in fact in more recent times the gate had parted company from its hinges and was left to the side of the track.
7. No one has ever attempted to turn me back or said that I have no right to use the route. For many years and certainly at least from 1977 to 2001, there was a rope swing attached to a large, mature Beech tree, directly opposite Beek's Mill. My children and other local children would play on this and in the adjoining ruin, when passing along the route, particularly in the evening and weekends. We were never challenged by the occupant of Beek's Mill.
8. I have never been given permission to use the route.

9. I have never met the landowner, their employees or family while I was using the route.
10. 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. I have taken this barring as an unlawful act, which only occurred following residence by the existing occupant, along with the fitting of a further set of gates near the St Catherine Brook. Apart from obstructing what has been presumed as a public right of way, by local people, it has caused access difficulties for emergency vehicles.
11. My own limited research indicates that prior to the construction of the nearby Monkswood Reservoir at the end of the C19th, and the consequent construction of a service road from the present A46 to St Catherine – now known as Leigh Lane – the route through Beek's Mill would have been the natural route – at the upper end of the valley – from St Catherine to Marshfield. A local resident once told me that this was a route regularly travelled by him, by pony and trap and by other members of the old farming community.
12. I attach as evidence a copy of the Completed User Evidence Form submitted by myself dated February 2nd, 2013

PUBLIC RIGHTS OF WAY USER EVIDENCE FORM

B&NES File Reference (if known) _____

Parish &/or Name of Route (if known) BEEKS LANE / 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 25). 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 do not wish your personal information to be disclosed prior to an Inquiry please tick the appropriate 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.

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,
Riverside, Temple Street, Keynsham, BA31 1LA.

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

1. Name (Mr/Mrs/Miss) IAN PLAISTER
2. Address: SANDY BANK HOUSE, St Catherine
BATH Postcode: BA1 8EZ
Telephone: 01225 858403 (work) (home)
Email: ianplaister@tiscali.co.uk
3. Date of Birth: [REDACTED] ...NB: You do not have to give your date of birth, but it helps the Authority assess your evidence.

4. Please give a full description of the route you use and mark it on the attached map.
e.g. where you start from, where you go and where you finish

The route in question I have regularly accessed from St Catherine Lane. The old gate that used to be at the entrance was either left open or left off its hinges. There was never to my knowledge a gate over the track and I was never approached by anyone challenging my use of the track on foot, on bicycle or in a car.

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

(a) on foot	<input checked="" type="checkbox"/>	between 1977 and 2012
(b) on horseback	<input type="checkbox"/>	between _____ and _____
(c) on bicycle/horse-drawn vehicle	<input checked="" type="checkbox"/>	between 1977 and 2012
(d) with motorised vehicle	<input checked="" type="checkbox"/>	between 1977 and 2011

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.

Combined use (foot, bicycle, car amounts to 10 times each year.

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

Pleasure and main route to Marshfield.

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] Approx 4 mtrs

11. Has the route always been the same width?

YES ☒ NO ☐

If not, how wide did it used to be?

[feet][metres] _____

12. When you have used the route were you:-

(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 ☒

If you have answered 'YES' to any of the above, please go to Question 14.

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?

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?

(b) what did they say?

At St. Catherine, junction with Beeks Mill Lane.
"BECKS MILL" PRIVATE (and other restrictions)

(c) when were they present?

From 2012 until present day between _____ and _____

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

YES ☒ NO ☐

If YES (a) what were they?

(b) when were they erected?

(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?

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

18. Has there ever been an obstruction to your use of the route? YES ☒ NO ☐
- If YES (a) what was the obstruction? Fitting of gates over the brook and with gate in of Leigh Lane.
- (b) when was it put there? 2011
- (c) how long was it in place? Currently 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?
This route has been regularly used by St. Catherine residents and by postal services on a daily basis. The signs I regard as unlawful and misleading as to the true status of the brook. This is underlined.
20. If you wish to add any further details about the route which you cannot show on the attached map, please sketch them here. the fixing of padlocks.

My children used to regularly play on the rope swing adjacent to the brook. This was accessed on the way to Merolfield using the route marked (A) to (B) on the attached map

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: 2nd February 2013

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

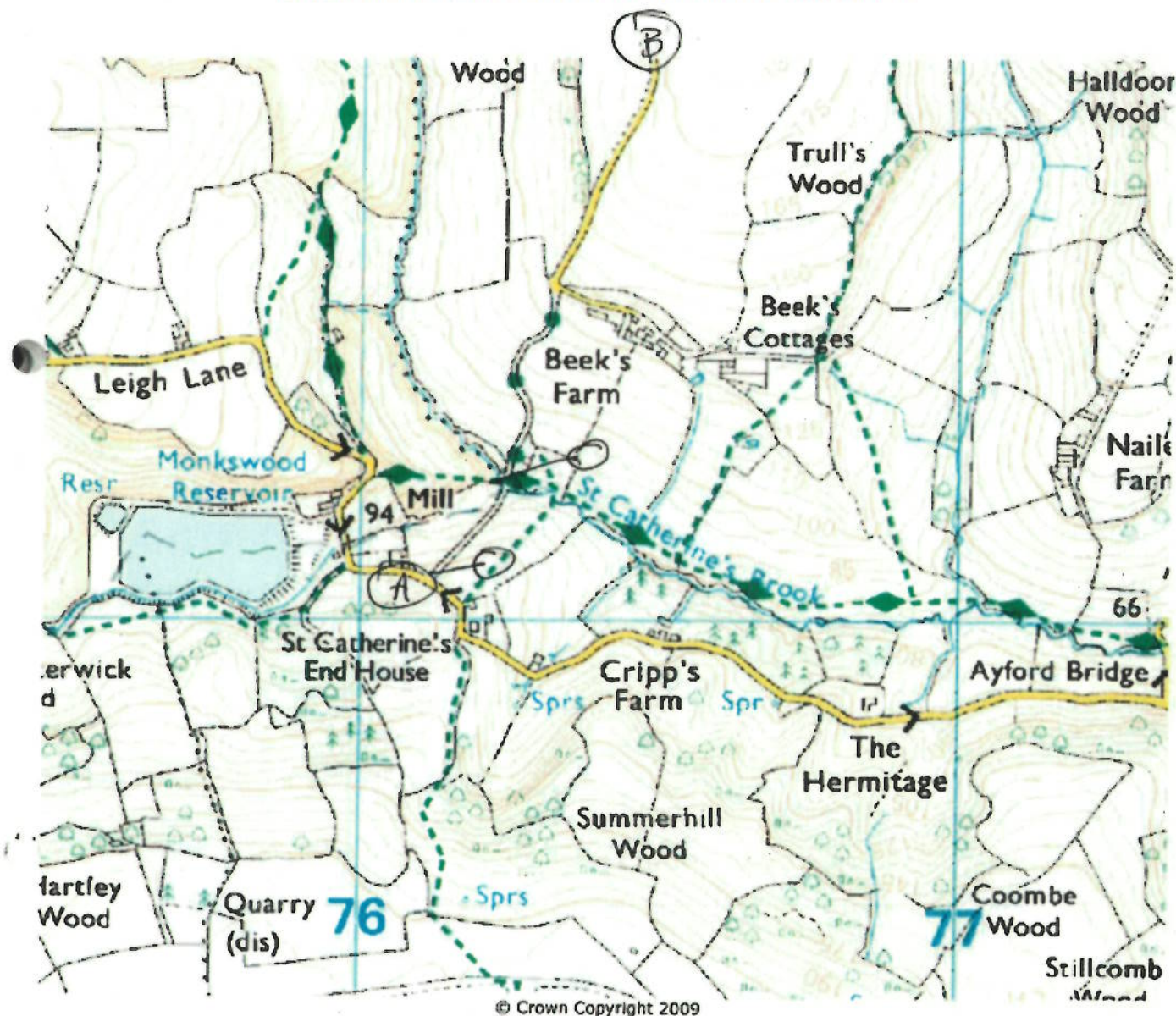
If you do not wish Bath and North East Somerset Council to disclose your personal information prior to a Public Inquiry, to anyone reasonably requiring access to this evidence form, please tick this box. ☒

Beeks Lane, St Catherine, Bath

Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way

○ = Obstruction

Please indicate the route you take on the map below



The section of Beeks Lane between Leigh Lane and Beeks Mill has a long history of use as a route with public access, but it is not recorded on the definitive map as a public right of way. At present the way is barred by new gates at the junction of Beeks Lane with Leigh Lane and at Beeks Mill, and by private signs and padlocks. Public access to this route can only be restored by making a successful Application for a Modification Order to the Definitive Map and Statement for Bath and North East Somerset.

Please return completed form to Bath and North East Somerset Public Rights of Way Officer or:

Donald MacIntyre, Manor Farm, Langridge, Bath, BA1 8AJ

