

# GLOUCESTERSHIRE COUNTY COUNCIL



## STATEMENT OF REASONS (& CASE)

Modification Order Application

### **WILDLIFE AND COUNTRYSIDE ACT 1981 THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY FOR GLOUCESTERSHIRE ADDITIONAL PUBLIC FOOTPATH FROM OAK WAY TO MST30, STONEHOUSE PARISH MODIFICATION ORDER 2025**

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*Date; 6 May 2025*

*Please note that all appendices refer to the electronic list submitted to PINS in association with this order.*

## BACKGROUND INFORMATION

1. On 14 February 2023, Mr Tipper (“applicant”) of 10 Oak Way, Stonehouse, Gloucestershire, submitted an application to Gloucestershire County Council (“GCC”) for an order under section 53(2)(b) of the Wildlife and Countryside Act 1981 (“WCA”) to modify the Definitive Map and Statement for Gloucestershire (“DMS”) by adding a public footpath between Oak Way and Public Footpath MST30 in Stonehouse Parish, Gloucestershire, shown running between points A-B-C on the plan annexed to the *“Wildlife and Countryside Act 1981, The Definitive Map and Statement of Public Rights of Way for Gloucestershire, Additional Public Footpath from Oak Way to MST30, Stonehouse Parish, Modification Order 2025”* (“the Order”) – **(Doc ref 1)**.
2. The land over which the Order route crossed was unregistered. Gloucestershire County Council therefore granted permission for notices to be erected to give notice of this application. The applicant erected copies of Form 2 at points A and C and submitted signed and dated photos as proof. The application was supported by 10 Public Right of Way User Evidence Statements (“UESs”) completed by 10 named individuals. Five further UESs associated with a separate application, but referencing use of the claimed route subject to this report, were also incorporated. Copies of all 15 UESs are held **(Doc ref 20b)**.
3. GCC started an investigation into all the available evidence relating to the routes and consulted the following: Stonehouse Town Council, the applicant, Ms Maiik, Mr and Mrs Lane, Ms Foxcroft, Taylor Wimpey (Melbourne Investments) who were thought to be the landowner, Stroud District Council, County Councillor Housden, The Ramblers Association, and the Open Spaces Society. They were all asked to submit any evidence that they were aware of relating to the application route. Responses were received from Mrs Foxcroft, the Open Spaces Society, and Stroud District Council. No objections or concerns were raised at this pre-determination stage. Copies of the three representations are held **(Doc ref 9)**.
4. A decision was made on 10 December 2024 by the County Council’s Commons and Rights of Way Committee (“Committee”). The Committee considered all the evidence set out in the investigation report prepared by the Asset Data Officer, together with comments received during the consultation period and were instructed regarding the relevant legislation and case law. GCC decided that in consequence of the occurrence of the events specified in section 53(3)(c)(i) of the WCA, an order should

be made to add a footpath connecting Oak Way and public Footpath MST30 (section A-B-C on the order plan). A copy of the report is held (**Doc ref 3.2a**).

5. Due to the land being unregistered, dispensation was sought from the Planning Inspectorate under Schedule 15(3)(4) Wildlife and Countryside Act 1981, to erect notices to the ‘*owners and any occupiers of the land*’. This was granted (**Doc ref 18**) and the Order was sealed on 14 January 2025 and advertised in accordance with Schedule 15 of the Wildlife and Countryside Act 1981 on 22 January 2025. A copy of the advertisement is held (**Doc ref 6**) and a list of the recipients of the notices are held (**Doc ref 10**). Eleven representations were received to the Order, two of which were objections. These are detailed from paragraph 43 onwards.
6. The County Council requests that the Order be confirmed as made.

#### **DESCRIPTION OF ROUTE**

7. A description of the Order route is set out in paragraphs 6.1 of the report. It runs between points A-B-C and connects Oak Way (publicly maintainable highway 47737) with Public Footpath MST30. A plan of the Order route is held (**Doc ref 1**).
8. Photos of the order routes taken on 10 September 2024 are held as slides 4-10 in the accompanying PowerPoint (**Doc ref 3.2c**).

#### **STATUTORY PROVISIONS**

9. **Wildlife & Countryside Act 1981** - The Order was made under section 53(2)(b) of the WCA based on “events” as set out in subsection 53(3)(c)(i) of the WCA, namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:
  - *“that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic”*

**10. Highways Act 1980 - Section 31: Dedication of a way as highway presumed after public use of 20 years.**

- *Section 31(1) of the Highways Act 1980 (“s31HA80”) states that where a way over any land, other than a way of such character that use of it by the public could not give rise at Common Law to any presumption of dedication, has been actually enjoyed by the public ‘as of right’; without force, secrecy or permission and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless “there is sufficient evidence that there was no intention during that period to dedicate it”.*
- *Section 31(2) states that the period of 20 years in sub-section (1) is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether through an overt act by the landowner which makes it clear to the public that their right is being challenged or otherwise.*

**11. Highways Act – section 32:**

- *A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified in the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.*

**12. Natural Environment and Rural Communities Act 2006 (NERC) - section 69:**

- (7A)Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the definitive map and statement.
- (7B)The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.”

### 13. CASE LAW

- *R v Secretary of State for the Environment, Transport, and the Regions ex parte Dorset CC [1999]* – paragraph 33
- *(Davis v Whitby (1974))*.- paragraph 33
- *R v Oxfordshire County Council, ex parte Sunningwell Parish Council [2000] 1 AC 335 (Sunningwell)* – paragraph 39
- *R (on the application of Godmanchester Town Council v S of S for Environment, Food and Rural Affairs; R (on the application of Drain) v S of S for EFRA [2007]* - paragraph 40
- *Fairey v Southampton County Council [1956]*- paragraph 40
- *Roxlena 2019 (appeal)* -paragraph 45
- *R v SSW ex parte Emery 1998* – paragraph 45
- *Secretary of State for Defence v Percy 1998* – paragraph 45
- *Moser v Ambleside 1925* – paragraph 47

### REASONS FOR CONFIRMING THE ORDER

14. The decision to make the Order was based mainly on the user evidence available to GCC (paragraph 26 onwards). The documentary evidence was considered to be insufficient to support an order on its own. Members were advised of the two tests to be considered when considering modification applications as set out section 4.4 of the Defra Rights of Way Circular 1/2009, version 2 (October 2009): test A – whether a right of way subsists; and test B – whether a right of way is reasonable alleged to subsist. It was considered that the claimed right of way subsisted thus leading to the recommendation that an order be made.

- 10 December 2024 CROW committee minutes - item 6 records the officer's recommendation and is held – **(Doc ref 3.4)**, &
- 17 March 2025 CROW committee minutes item 1 records councillors' approval of the 10 December 2024 minutes and is held – **(Doc ref 3.5)**.

## 15. DOCUMENTARY EVIDENCE

As is the Council's normal practice, a search was undertaken in Gloucestershire Heritage Hub (Archives) to see if there was any documentary evidence which would assist with reference to the existence and status of the Order route. Documents examined included Ordnance Survey maps, commercial mapmakers Greenwood & Bryant (both 1824) Stonehouse Inclosure Map & Award, Stonehouse Tithe Map 1839, Inland Revenue Map, and the papers relating to the survey of public paths under National Parks and Access to the Countryside Act 1949. The results are set out in paragraphs 7.–7.13 of the report (**Doc ref 3.2a**). Copy extracts of the relevant documents are considered individually but held together under (**Doc ref 3.1 A-K**).

The application is not assisted by the documentary evidence. The following documents examined were as follows;

16. **Ordnance Survey Maps;** The original surveys were carried out by Royal Engineers at the time of the Napoleonic wars to better plan the transportation of ordnance around the country. It was only in the early 20th century that the OS evolved to become a public service that sold its mapping information to the public. Since the 1960s this mapping information has included public rights of way, which are derived from each county's Definitive Map.
17. The Ordnance Survey has produced a series of topographic maps at different scales notably the one inch, six inch and 1:2500. The detailed, large scale 1:2500 maps from the 1870s onwards provide the best evidence of the position and width of routes and the existence of any structures on them. These maps provide good evidence of the physical existence of routes at the time the map was surveyed. When compared with earlier, less accurate maps they can help corroborate the existence of routes. Ordnance Survey maps show features that physically exist and may label routes as footpaths and bridleways etc. However, the disclaimer which has been added to all editions since the 2nd edition maps (circa 1898 in Gloucestershire), along with official guidance to the surveyors of the maps at the time, states that the representation of any track or way is no evidence of a public right of way.

18. **Ordnance Survey 1811 2":1 mile Pen & Ink on Paper Drawing attributed to Robert Dawson (Cheltenham OSD172) Wikimedia** - This drawing shows Doverow Hill and surrounding area but does not show the Order route (**Doc ref 3.1A**).
19. **1824 Bryant & Greenwoods Maps** – do not identify the Order route (**Doc ref 3.1 B&C**).
20. **Ordnance Survey 1st edition 1":1 mile 1830 (Published at the Tower of London) Sheet 35 (National Library of Australia)** - This is a colour washed first edition 1":1mile map "engraved at the Drawing Room in the Tower under the Direction of Lieut. Col. Colby of the Royal Engineers"...."Published 1 May 1830" from the pen and ink drawings of the Royal Corps of Military Surveyors and Draughtsmen. The Order route is not identified (**Doc ref 3.1D**).
21. **Stonehouse Inclosure Map & Award (Gloucestershire Archives - Q-RI-129)** This document does not cover the area of land over which the Order route crosses (**Doc ref 3.1E**).
22. **Stonehouse Tithe Map 1839 (Gloucestershire Archives - GDR/T1/172)** The Order route is not identified (**Doc ref 3.1F**).
23. **Ordnance Survey First, Second & Third Editions; 25"1 mile, Map sheets 41.14; published 1885, 1902 & 1923 - (National Library of Scotland);** The Order route is not identified (**Doc ref 3.1G,H &I**).
24. **National Archives - Inland Revenue, maps compiled under the Finance Act, 1910, based on Ordnance Survey 25": 1 mile, c.1902 edition, marked up by Inland Revenue c.1915, and reference books or files. Map sheet 41.14.** The Order route is not identified (**Doc ref 3.1J**).
25. **County Surveyor: papers relating to survey of footpaths under National Parks and Access to Countryside Act, 1949 ("NPACA 1949"); Glos Archives.** The Order route was not claimed under this process.

## CONTEMPORARY EVIDENCE OF USE (APPENDIX 4)

**26. Section 31(1) of the Highways Act 1980 (“s31HA80”) states that where a way over any land, other than a way of such character that use of it by the public could not give rise at Common Law to any presumption of dedication, has been actually enjoyed by the public ‘as of right’; without force, secrecy or permission and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless “there is sufficient evidence that there was no intention during that period to dedicate it”.**

**27. Section 31(2) states that the period of 20 years in sub-section (1) is to be calculated retrospectively from the date when the right of the public to use the way is brought into question through an overt act by the landowner which makes it clear to the public that their right is being challenged.**

**28. The main issues to be considered in relation to the s31HA80 legal provision are:**

**29. When the status of the Order Route was called into question;**

There is no evidence that the public’s entitlement to use the Order route was challenged. In such cases, Section 69 of the Natural Environment and Rural Communities Act 2006 (NERC) provides that the date of the DMMO application can be used in accordance with paragraph 1 of Schedule 14 to the Wildlife & Countryside Act 1981.

**30. Therefore, the user evidence was assessed over the retrospective 20-year period 2003 – 2023 (year of application).**

**31. The extent and nature of the claimed use;** under s31HA80, after a period of 20 years of use without force, secrecy, and permission, it is presumed that a right of way has come into existence. Where a landowner can produce evidence to show that they have taken steps to prevent the accrual of new public rights of way through use of a route by the public, no such right will be dedicated. Such steps must be overt and make the public aware of the landowner’s intentions. The analysis of the user evidence is set out in paragraphs 9.– 9.21 of the report.

**32. Documents indicate that the unregistered land, over which the Order Route crosses, is owned by Melbourne Investments (a wholly owned subsidiary of Taylor Wimpey**

PLC) by way of purchase from Halls-Keck Investments Ltd on 6 February 1973. No response was received from Taylor Wimpey at the pre-determination stage but by way of a letter dated 24 April 2025, they stated that they had no objection to the made Order.

- 33.** 15 Public Right of Way User Evidence Statements (“UESs”) were completed by 15 named members of the public claiming use of the Order route from 1978 on foot. All 15 claimed to have used it for part or all of the qualifying period: 2003-2023 and of those, 7 claimed use of the route across the whole 20-year period. It is not essential for the claimed route to have been used for the full period of 20 years by the same persons; the period may accrue as a result of use by different persons for shorter periods (*Davis v Whitby* (1974)). Nor does it matter that the use is not continuous in the sense that it may not have occurred every day. The map accompanying 10 of the UESs appears to show the Order route highlighted by the same hand but the descriptions are independently corroborated reducing the likelihood of bias or collusion. Use of the Order route was stated as being for recreation, exercise, and dog walking. When considering the frequency of use, 6 individuals claimed daily use of the route, 7 claimed weekly use, 1 claimed monthly use and 1 did not clarify the frequency of her use. One individual, identified in the summary as No.11, claimed use of the route by bicycle in addition to by foot. In the case of *R v SSETR ex parte Dorset County Council* (1999) it was accepted that, *“although the evidence within five UEFs was truthful, it was insufficient to satisfy the statutory test of dedication”*. Therefore, the evidence supplied by one individual of bicycle use along the Order Route, would also not be sufficient to infer dedication of a bridleway or restricted byway. A copy of the summary is held along with the individual UESs (**Doc ref 20a & 20b**).
- 34.** Five of the fifteen individuals identified the Order route as part of a separate application for which several routes were claimed; 573/11/212(6)-(10). As a result, their responses to Q.8a,b & c in the UESs related to structures on other claimed routes (apart from the individual identified as No.199 who noted that the Oak Way route subject to this report was overgrown). The remaining 10; Mr Harriss, Mr Tipper, Ms Foxcroft, Ms Shere-Massey, Mrs Tipper, Ms Davis, Mr Fulton, Ms Kambites, Ms Armstrong and Mr Capener responded specifically to the application subject to this report. All 15 however responded ‘No’ to Qs.10,12 &14 as follows in the UESs:

35. **Q's.8a, b & c;** 'were there any stiles, gates or barriers across the route?'
36. **Q.10;** have you seen any signs suggesting the application route is not a public rights of way?
37. **Q.12;** Did the owner/ occupier give you permission to use the application route?
38. **Q.14;** Have you ever been stopped or turned back from using the application route?
39. In addition to establishing twenty years user, for a claim to give rise to a presumption of dedication, user must be without force, secrecy, or permission. Use that complies with these three requirements is termed user 'as of right'. The House of Lords in *R v Oxfordshire County Council, ex parte Sunningwell Parish Council* [2000] 1 AC 335 (*Sunningwell*) reasserted an ancient principle namely, that if sufficient people carry on an activity openly and for long enough without anyone trying to stop them, it is right and proper that the activity should be treated by the law as having a lawful origin. The House of Lords held that it was only necessary to prove that they have made use of the route without resort to force, secrecy and as if they had a right to do so – that is, without having been granted any licence/ permission by the landowner. No evidence was submitted of user 'by force, secrecy or permission' over the 20 year period 2003-2023. The user evidence would therefore support a case for deemed dedication as public footpath.
40. **Whether there is evidence of a lack of intention to dedicate a public right of way;** "Intention to dedicate" was considered in *Godmanchester 2007*, which is the authoritative case dealing with s31HA80. In his leading judgement, Lord Hoffmann approved the obiter dicta of Denning LJ (as he then was) in *Fairey v Southampton County Council* [1956] who held "*in order for there to be 'sufficient evidence there was no intention' to dedicate the way, there must be evidence of some overt acts on the part of the landowner such as to show the public at large – the people who use the path...that he had no intention to dedicate*".
41. The 'sufficient evidence' must be inconsistent with an intention to dedicate; it must be contemporaneous, and it must have been brought to the attention of those people concerned with using the way. No evidence has been provided that this use has been challenged in any way or of a lack of intention to dedicate prior to 2023.

## **GCC's decision based on the user evidence**

42. GCC considered that the evidence of 20 years' use by the public between the years 2003 and 2023 without force, secrecy or permission raised the presumption that a public footpath has been dedicated between points A-B-C as shown on the Order Plan. No evidence was provided that this use had been challenged in any way or of a lack of intention to dedicate prior to 2023. As stated in paragraph 32 of this submission, the landowner has stated that he has 'no objection' to the Order being made. GCC considered that there are no limitations or conditions, and the width of the route was 2 metres.

## **OBJECTIONS AND REPRESENTATIONS**

43. Eleven representations were received following the advertising of the Order, two of which were objections. A copy of the advertisement is held (**Doc ref 6**) and a list of the recipients to the making of the order is held (**Doc ref 10**). Nine 'no objection' responses were received as listed overleaf and held at (**Doc ref 4.3**).

- Stroud District Council confirmed on 17 January 2025 "*that these documents have been printed and area available in our "document on Deposit" folder in reception*".
- The Open Spaces Society emailed on 21 January 2025 stating, "*...confirm that we support the making of this order*".
- Mr Tipper (applicant) acknowledged receipt on 18 January 2025.
- National Grid responded 23 January 2025 stating, "no objection".
- Mr Gulliford responded on 22 January 2025 to ask for a copy of this order.
- National Plant Enquiries emailed on 23 January 2025 stating, "*No objection*".

- The Stroud Rambling Club responded 31 January 2025 stating, “*This path will provide a useful link in the footpath network*”.
  - Openreach response on 31 January 2025 stating, “*No objection*”.
  - Taylor Wimpey (landowner) responded on 23 April 2025 stating, “*we have no objections*”.
- 44.** Two objections were received: from Ms Maiik, represented by John Copland & Son Solicitors (“Ms Maiik”) on 3 March 2025 and from Mr Nagai on 5 March 2025 (**Doc ref 4.2**). The grounds given for objecting are as follows:

**Ms Maiik:**

- a) Evidence that was in the possession of GCC which was not brought before the Committee.
  - b) Evidence brought before the Committee, particularly pertaining to user ‘by force’, was not adequately considered, assessed or evaluated and as a result the legal requirements for statutory presumed dedication were not met.
  - c) The constructed path between points A-B was created to provide rear access to private dwellings forming part of the housing development.
  - d) The path between points B-C has a stated width on the Order of 2m throughout but this was not evidenced and thus not made part of the determination by the Committee.
- 45.** GCC’s response to the objections are as follows:

- a) All evidence submitted in response to this application was considered against the statutory provision of s31(1)&(2) Highways Act 1980 over the qualifying twenty year time frame 2003-2023. The only responses to the pre-determination consultation were received from Mrs Foxcroft, the Open Spaces Society and Stroud District Council, none of whom raised objections. Elected members of the Commons and Rights of Way Committee who have the delegated authority to determine s53 applications, were provided with the officer’s report and all associated documentation on 27 November 2024 nearly two weeks before the Committee, thereby necessitating

an overview of the main points of the report only on 10 December 2024. A copy of the covering email to councillors is held (**Doc ref 3.6**).

b) I would refer the inspector to the response above to point a). Further, the comments of Lindblom LJ In *Roxlena Ltd, v Cumbria County Council 2019* (appeal) with regard to the two tests applied to the evidence, 'subsist' and 'reasonably alleged to subsist' assist with the point regarding assessment and evaluation of evidence. Lindblom said (at p.37) "*under the 1981 Act the order-making part of the process is separate from confirmation and involves a different approach to the evidence. This has been consistently recognised by the courts. The procedure under Schedule 14 to the 1981 Act was described by Roch L.J. in ex.p. Emery (at p.277b) as "preliminary". He said (at p.377e-h) that where there is no credible evidence of 20 years user and where there is incontrovertible evidence that the landowner had no intention **during the period** (officer's emphasis) to dedicate the way to the public,... then the decision should not be merely that the allegation that a right of way subsists is not reasonable, but that no right of way as claimed subsists". However, where there is "conflicting evidence on one or other or both issues" an authority "must bear in mind that an order under s53(2) made following a Schedule 14 procedure still leaves objectors with the ability to object to the order under Schedule 15 when conflicting evidence can be heard and those issues determined following a public inquiry". The evidence included consideration of historic documentation, a consultation of user groups and the landowner, and 15 UESs which allowed an analysis, by means of a series of questions, of the claimed use.*

Considering the specific charge of use being 'by force', no evidence was submitted either by the landowner or any individuals claiming use of the route which could constitute use 'by force' over the 20 year period considered as detailed in ps.34-38 of the report (**Doc ref 3.2a**).

c) Any private rights of access enjoyed by private householders over the Order route would not preclude the dedication of public rights. Under s31 Highways Act 1980, after a period of 20 years user, 'as of right', it is presumed that a public right of way has come into existence. Where a landowner can produce evidence to show that he has taken steps to prevent the accrual of new public rights of way through use of a route by the public, no such right will be dedicated. Such steps must be overt and make the public aware of the landowner's intentions. As stated in paragraph 34 of

this submission, all 15 individuals responded 'No' to Q.10 in the UES: Have you ever seen any signs or notices suggesting whether or not the application route is a public 'right of way'? ("for example, "Private", "Keep Out", "Trespassers will be Prosecuted", "Permissive Route Only"). Further, the landowner has stated that he has no objection to the making of the Order.

- d) The Definitive Map Modification Order requires a stated width to be applied. The widths supplied by individuals are approximate and varied between 1-2m across an open area of land between points B-C. Where no evidence exists as to the boundaries of a track, the presumption would be that the way is a "*strip of reasonable width*" (Secretary of State for Defence v Percy 1998). The application is for a footpath and thus a width of 2m is recommended based upon the common law presumption that a footpath should be wide enough for 2 people to pass and re-pass.

**46. Mr Nagai:**

- a) Request that decision is deferred to the Secretary of State for more in-depth investigation on the basis that evidence provided to GCC was not considered.
- b) Evidence demonstrated the landowner's lack of intention to dedicate the route to the public; in the form of a pond shown on the OS 1,1250 map (1944-1973), the brickworks, a 1972 planning condition that required the land to be fenced and the access provided in the form of the class 6 highway which was constructed as a private right for local householders to access the rear of their properties.
- c) It is contended that the Order route is wrongly shown terminating at Public Footpath MST30. Mr Nagai stated, "*it did not serve as access to MST30 but served as access to our land*". He further claimed that the Order route extended into the field to join a further Order route identified as J-O, subject to a separate Definitive Map Modification Order application 573/11/212(6)-(10) by means of a "*brand new improvised stile, freshly installed with shiny screws, using untreated softwood hardware store timber (not outdoor timber typical of fencing, stiles & kissing-gates).... into a freshly vandalised fence*".

**47. GCC's response to the objections are as follows:**

- a) Please see the response to point a) of Ms Maiik.

- b) Please see the responses made to points b) & c) to Ms Maiik. The user evidence was analysed over the period 2003-2023 which post-dates the pond, the brickworks (which closed in 1968) and the 1972 requirement that the land was fenced. Any private rights of access enjoyed by private householders over the Order route would not preclude the dedication of public rights.
- c) Mr Tipper's application was made on 14 February 2023. Ownership of the adjacent land, known as Verney Fields, was transferred in March 2023 and the application for several unrecorded public footpaths across Verney Fields was not submitted until 4 July 2023. The applicant, Mr Tipper, was advised that his application could not succeed if he drew the Order route connecting with an unrecorded length of footpath across Verney Fields. Please see email at **(Doc ref 3.3b)**. A requirement for a claim of presumed dedication is that the route has definite start and end termination points, either at a designated highway or a place of popular resort. Public user cannot give rise to a presumption of dedication if it does not. This was considered in *Moser v Ambleside 1925*, which concerned a local beauty spot, Atkin L.J. states that '*One of the first questions that one always has to enquire into in such a case as this is from whence does the highway come and whither does it lead? It has been suggested that you cannot have a highway except in so far as it connects to other highways. That seems to me to be too large a proposition. I think you can have a highway leading to a place of popular resort even though when you have got to the place of popular resort which you wish to see you have to return on your tracks by the same highway...*'. In light of this advice, Mr Tipper claimed a route connecting with the highway, Public Footpath MST30.

## CONCLUSION

48. It is submitted that Gloucestershire County Council came to a correct decision on the basis of all the evidence considered and the Secretary of State is accordingly asked to confirm the "*Wildlife and Countryside Act 1981, The Definitive Map and Statement of Public Rights of Way for Gloucestershire, Additional Public Footpath from Oak Way to MST30, Stonehouse Parish, Modification Order 2025*".