Gloucestershire
COUNTY COUNCIL

PROOF OF EVIDENCE OF:

Jaci Harris
Highway Records Officer (DMMO)
Gloucestershire County Council

TITLE OF ORDER:

Wildlife and Countryside Act 1981
The Definitive Map and Statement of Public Rights of Way for Gloucestershire
Additional Public Footpaths Across Land Known as Verney Fields & Surrounding Area
Stonehouse Parish
Modification Order 2025

GLOUCESTERSHIRE COUNTY COUNCIL REFERENCE:

573/11/212(6)-(10))

PLANNING INSPECTORATE REFERENCE:

ROW3377321

PUBLIC INQUIRY:

17-19 November 2026
Gloucester City Council
Civic Suite, North Warehouse,
Gloucester, GL1 2EP

1. Introduction

1.1 My name is Jaci Harris. I am a Highway Records Officer (the role was previously known as Asset Data Officer) for Gloucestershire County Council ("GCC"). I investigate and process Definitive Map Modification Order ("DMMO") applications in accordance with the Wildlife and Countryside Act 1981 ("WCA1981").

1.2. This Proof of Evidence supports the Council's request that the Inspector acting on behalf of the Secretary of State confirms the *'Wildlife and Countryside Act 1981, The Definitive Map and Statement of Public Rights of Way for Gloucestershire, Additional Public Footpaths across land known as Verney Fields & surrounding area, Stonehouse Parish, Modification Order 2025'* ("the Order").

1.3 The evidence relied upon by GCC in support of confirmation of the Order is detailed in GCC'S Statement of Reasons/ Case and appended documents.

2. Background and Application Context

2.1 On 4 July 2023, Stonehouse Town Council ("applicant") submitted five applications under section 53(2)(b) of the WCA, based upon the events set out in s53(3)(c)(i), namely "*..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".* The applications were supported by a total of 241 User Evidence Forms ("UEFs"). The applicant sought to add several lengths of public footpath across open land locally known as Verney Fields and surrounding land in Stonehouse Parish. For the purpose of the investigation, the routes were divided into twelve separate sections: A–B, B–D, O–Q–T, N–K, J–O, M–O, L–O, P–Q, U–H, G–I, E–F–K–O and B–C. The Order Routes cross land shaded blue, green, and yellow, representing different ownerships, as shown on the coloured plan **(GCC submission ref: 03.3)** included within the Order documentation.

2.2. The Order Routes cross land found on the urban fringe of Stonehouse Parish. Nearly all of the routes are contained within a 17-acre plot of agricultural land known locally as Verney Fields shaded green. This area of land is bounded to the west by residential development dating from the 1970s and 1980s, to the south by a former quarry,

operational between 1891 and 1968, the southern extent of which was redeveloped for housing in the 1980s (shaded yellow and crossed by part of Order Route L-O), to the north by agricultural land (shaded blue and crossed by Order Routes; B-C & F-E), and to the east by Doverow Hill (shaded pink), a 6 acre area of woodland for which there is a public right of access.

2.3 Prior to 2023, stiles existed for many years at points J, N L F & B (photo of stile below was at point J) and a bench was located under an oak tree at point O as shown in the photo overleaf. Both photos overleaf were taken in the vicinity of point O looking along Verney Fields towards point J.







3. Consultation and Evidence Gathering

GCC commenced its investigation on 17 July 2024, consulting with landowners, neighbouring landowners, user groups, statutory consultees, and other stakeholders. Responses were received from relevant parties including Stroud District Council, Open Spaces Society, The Byways and Bridleways Trust, and The Trail Riders Fellowship. Four Landowner Evidence Forms were submitted as part of the consultation by Mr. Shiner, Mrs Godsell, Ms. Maiik and her son, Kay Nagai. A last-minute letter of objection was received from John Copland & Son on behalf of Ms. Maiik dated 9 December 2024.

4. Statutory Framework and Order

4.1 The Commons and Rights of Way Committee considered the applications on 10 December 2024 **(GCC Submission ref: 03.2).** Following the deliberating of all evidence and relevant case law, the Committee resolved that an event under section 53(3)(c)(i) WCA; *the discovery of evidence which, when considered with all other relevant evidence, shows that a right of way not currently shown on the Definitive Map and Statement subsists or is reasonably alleged to subsist*, had occurred and that the Order should be made.

4.2 Part of section L–O crosses unregistered land; permission was granted by the Planning Inspectorate for notices to be erected to inform any interested owners or occupiers, and the applicant provided photographic evidence of compliance **(GCC Submission Ref: 13).** Prior to receipt of the application, photographic evidence of the claimed routes was collected in March and May 2023 **(GCC Submission ref: 03.6).**

4.3 The Order was sealed on 14 January 2025 and advertised on 22 January 2025, attracting fourteen representations including five objections. These objections were not withdrawn, and so GCC referred the Order to the Secretary of State to be determined.

4.4 The evidence relied upon by Gloucestershire County Council ("GCC") in support of confirmation of the Order is detailed in my Statement of Case **(GCC Submission ref: 03.1).** I continue to rely upon the analysis and conclusions set out therein, subject only

to the revision of the relevant period of dedication affecting sections B-C, A-B and B-D following clarification provided by Mr and Mrs Godsell in their Statement of Case.

4.5 I have not received any further Statements of Case. In accordance with paragraph 7 of Appendix E of the Planning Inspectorate Guidelines (November 2008), I will first address in my Proof the points in dispute arising from the SofC received from Mr & Mrs Godsell.

5. <u>Mr. and Mrs Godsell; (Statement of Case (undated but received by PINS on 10 September 2026)</u> GCC Section B:02.01

5.1 Mr. and Mrs Godsell's Statement of Case should be read in conjunction with a Clarification Note, **(GCC Section B:02.02)** dated 3 July 2026 specifically relating to point B stemming "*from an erroneous date stated in their Landowner Statement submitted on 15 August 2024*".

5.2 Mr. and Mrs Godsell stated in response to Q.12a of the Landowner Statement; **(GCC Submission Ref: 07.8)** <u>Please describe the nature of the gate or obstruction and mark the location on the attached plan?</u> "*Point B on the map has nearly always been a gate. At one time there was a stile by the gate, but we removed this in 2020 and replaced the corroding gate with a fence consisting of stock fencing and 2 strands of barbed wire. After this was repeatedly destroyed, we replaced the fence with a new gate and welded it shut.*"

5.3 This response was amended by Mr. and Mrs Godsell by email of 5 December 2024 to say; "*After we purchased the field coloured blue in 2013, there was little activity around the point B where there was an old wooden gate and a stile. This is reinforced by the evidence given to the committee at point 6.4, that there is no evidence on Google Earth of its use as a route. At no point did we allow walkers to use that route and if we saw anyone off the footpath we asked them to keep to the public footpaths. Therefore, there was no acquiescence. When Western Power put a route through there in early 2019 we had to replace the old gate and removed the stile….*" **(Appended VF1).**

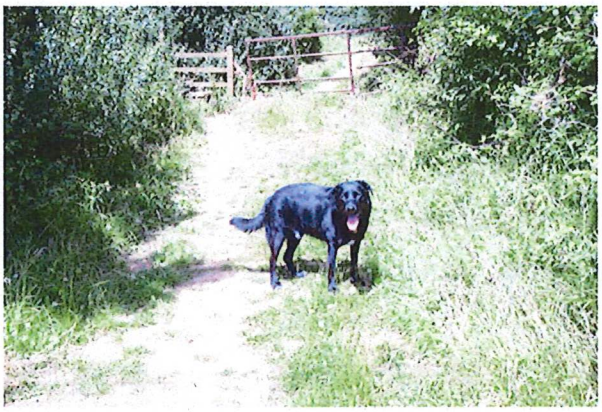
5.4 The Clarification Note of 3 July 2026, provides a further amendment relating to point B. Using Mr and Mrs Godsell's bullet points:

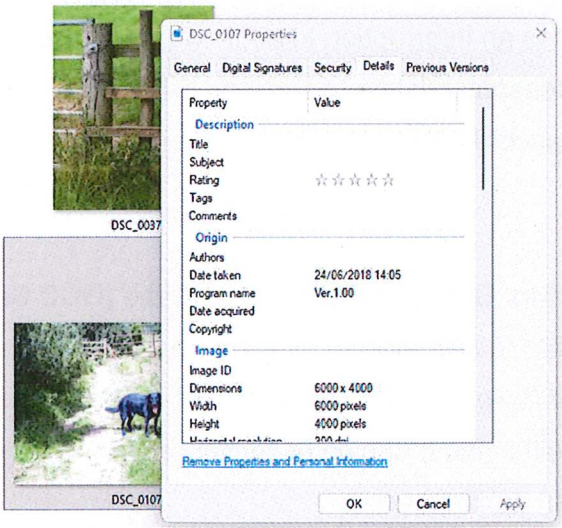
3(a) *The gateway at Point B was blocked during Western power works in July 2018, and this was the period during which the stile and old gate at point B were removed, and*

(b) A welded shut gate was installed at point B in 2020, after repeated vandalism/ damage to fencing intended to keep the boundary stock-proof; and

(c) A high-tensile fence was erected shortly after the welded gate installation (again in the context of repeated vandalism).

5.5 Separately, a photograph with associated property page of the stile at point B was supplied by Mr Lawrence. The photo, numbered, DSC_0107, was taken on 24 June 2018.





5.6 Mr and Mrs Godsell's Landowner Statement (August 2024) was relied upon by Gloucestershire County Council when writing the report for determination by the Commons and Rights of Way Committee on 10 December 2024 and was consistent with the evidence of 14 of 55 users of section A-B who referred to continued use of the stile until approximately 2020.

5.7 The Council's original assessment of sections E-F-K-O, and B-C, across the land shaded blue on the coloured plan **(GCC submission ref 03.3)** proceeded on the basis that the section 31(6) deposit lodged on 20 August 2019 provided the event bringing the public's rights into question. Further, at the time of writing this report, the Foot and Mouth Restrictions in 2001 were considered to constitute an interruption in the 20 years required for statutory dedication. A consideration of inferred dedication at common law was therefore initially deliberated over the 18-year period **2001-2019.**

5.8 Sections A-B and B-D originally formed part of application 573-11-212(7) along with section B-C. They were split into individuals sections, to reflect the different ownership and challenge dates. Sections A-B and B-D, across the land shaded green, were previously considered against the statutory 20-year period 2003-2023.

5.9 Following the High Court's decision in R (Roxlena Ltd) v Cumbria County Council [2025], the temporary Foot and Mouth restrictions in 2001 position was overturned and no longer constitutes an interruption to a full twenty-year statutory period. The Council's Statement of Reasons relating to sections E-F-K-O, and B-C across the land shaded blue was amended accordingly to consider a statutory presumed dedication over the period **1999-2019.**

5.10 In Mr and Mrs Godsell's Statement of Case **(GCC Section B:02.1, paragraph 5.4a),** they now say that "*a stile existed by the gate, but the Godsell's removed it before Western power removed the gate in 2018*" (July 2018 – as per Clarification Note). This means that public access within the meaning of section 31(2) of the Highways Act 1980 was challenged at an earlier date.

5.11 The photograph in paragraph 5.5 of this Proof shows that the stile was in situ on 24 June 2018. Either the stile remained until 2020, in which case this clarification is incorrect; or it was removed in 2018, in which case that removal itself constitutes the challenge and a full twenty years' user is available retrospectively following Roxlena. I therefore invite the Inspector to consider whether the removal of the stile in 2018 at point B constituted the event challenging the public's rights of section B-C and connecting routes A-B and B-D, such that the relevant twenty-year period falls within the years immediately preceding its removal.

5.12 If accepted, the evidence before the Inquiry demonstrates extensive public use during this revised period.

- B-C: 41 individuals claimed use of this section (dating back to 1958) of whom 19 claimed the full 20-year period. Their frequency of use can be broken down as follows; 4 daily, 11 weekly, 3 monthly and 1 annually.
- A-B: 55 individuals (dating back to 1958) claiming use of this route of whom 23 claimed use over the entire 20-year period. Their frequency of use can be broken down as follows; 5 daily, 13 weekly, 4 monthly and one annually.
- B-D: 34 individuals claimed use of this section (dating back to 1958) of whom 19 claimed the full 20-year period. Their frequency of use can be broken down as follows; 6 daily, 9 weekly and 4 monthly.

5.13 All 12 Order Routes traverse and interconnect across the same area of land and exhibit substantially similar characteristics. Witnesses described using the routes between 1948 and 2023 for recreation, dog walking and general exercise.

5.14 As none of the witnesses asserted use in the capacity of an owner, tenant or employee of the landowner, their use is considered to have been as members of the public rather than pursuant to any private right or permission.

5.15 The analysis of the user evidence contained in **(GCC's submission ref. 03.2, paragraphs 9.4 to 10.5, save for paragraph 10.3 which is addressed separately in this Proof)** supports the conclusion that the claimed use of all sections was as of right and without interruption, and the evidence does not demonstrate a sufficient lack of intention to dedicate on the part of the landowner.

5.16 The revised chronology relating to point B does not assist Mr and Mrs Godsell in establishing their lack of intention to dedicate during the revised twenty-year period. Their own evidence indicates that the section 31(6) deposit was not lodged until August 2019, after expiry of the revised period 1998-2018 now advanced by them. The overt acts relied upon by them, namely the welded gate, replacement fencing, the signage installed in 2019/ 20 and formal deposit, all post-date the expiry of that period and are therefore incapable of demonstrating a lack of intention to dedicate during it.

5.17 The assertion that "*the public was challenged and directed back to the definitive network*" **(Statement of Case B:02.1, paragraph 6.3a)** is contradicted by 55 of the 56 individuals claiming use of one or more of the sections B-C, A-B & B-D who responded 'No' to Q.14 of the User Evidence Form – Have you ever been stopped or turned back when using the application route? Witness No.105 responded 'Yes' *"during foot & mouth"*. The Roxlena 2025 ruling however means that this would not constitute an interruption of use.

5.18 Accordingly, the Inspector is respectfully invited to note that Mr and Mrs Godsell's revised evidence concerning the removal of the stile in 2018 does not undermine the Order. On the contrary, if accepted, it provides an alternative basis upon which the statutory presumption of dedication under section 31 of the Highways Act 1980 may arise over the twenty-year period 1998-2018 against sections B-C, A-B & B-D. The extensive user evidence shows that this claimed use was by the public, as of right for a full period of 20 years thus capable of satisfying the test for a presumption of dedication as public footpaths.

6. Objections to 2025 Order: No further Statements of Case or Proofs of Evidence have been received. In the interests of avoiding unnecessary duplication and remaining within the 3000-word limit for my Proof of Evidence, I rely upon and respectfully refer the Inspector to my responses to the objections received following the making of the Order.

6.1 Jones family; Please see my response at **GCC Submission ref:03.1 (15.2).** I have nothing further to add.

6.2 Ms Backus; Please see my response at **GCC Submission ref:03.1 (15.3).** I have nothing further to add.

6.3 John Copland & Son (on behalf of landowner, Ms Maiik & Mr Nagai (son))

(a) alleged failure to undertake proper assessment or to evaluate conflicting evidence. Please see my response at **GCC Submission ref:03.1 (15.4a).** I have nothing further to add.

(b) alleged failure to consider use by force; Please see my response at **GCC Submission ref:03.1 (15.4b).** I would advise the inspector that my position relating to use 'by force' is unchanged. The user evidence of 56 individuals claiming use of sections B-C, and connecting A-B & B-D shows that none considered there to be obstructions preventing their use of point B. However, in light of Mr and Mrs Godsell's clarification regarding the removal of the stile at point B in 2018 (land shaded blue), this has the result of putting the claimed use by force, i.e. repeatedly cutting the stock wire fence, beyond the revised 20-year period under analysis; 1998-2018 and is therefore incapable of supporting the objection of use by force.

(c) conflict with the concurrent TVG application; Please see my response held at **GCC Submission ref:03.1 (15.4c).** I would add that the Town and Village Green application, being for the purpose of lawful sports and pastimes, could suggest that people have wandered at will, which would not give rise to presumed dedication. It is noted however that 242 individuals claimed linear routes across the 5 applications, which can be supported by aerial photographs: **GCC's Powerpoint 03.6** – slides 12–16 (over the period 1999 -

2023) and photographs of the claimed routes taken on 1 March and 3 May 2023 – held slides 4-11.

(d) alleged failure to have regard to Stroud District Council's previous refusal to list the land as an Asset of Community Value ("ACV"); Please see my response at **GCC Submission ref:03.1 (15.4d).** I have nothing further to add.

(e) interpretation of satellite imagery/ tractor marks; Please see my response at **GCC Submission ref:03.1 (15.4e).** I have nothing further to add.

(f) "right to deviate" in relation to obstructions; Please see my response at **GCC Submission ref:03.1 (15.4f) & (15.5 G-I onwards).** It is acknowledged that further investigation has established that the stile lies on the boundary of Ms Maiik's land and that MST30, from this point, for a distance of approximately 13m, crosses land in her ownership. The previous statement concerning different ownership at this location is therefore withdrawn. This correction does not materially alter the assessment of the case however, as the user evidence does not support the claimed deviation from MST30.

(g) uniform 2m width not evidenced. Please see my response at **GCC Submission ref:03.1 (15.4g).** I have nothing further to add.

7. Conclusion

7.1 In conclusion, the extensive, and consistent evidence demonstrates that public use of all twelve claimed routes occurred regularly, as of right and without interruption over the following statutory twenty-year periods giving rise to a presumption of dedication:

- 2003-2023 (O–Q–T, N–K, J–O, M–O, L–O, P–Q, U–H, G–I,)
- 1999-2019 (E–F–K–O)
- 1998–2018 (B–C & A–B & B–D).

7.2 There is no evidence of overt actions taken by landowners over the relevant timeframes to demonstrate to the public their lack of intention to dedicate the Order Routes. The absence of any such action is consistent with acquiescence to public use. Documentary evidence is neutral in that it doesn't support the Order in its own right, but

neither does it undermine the substantial user evidence. GCC therefore submits that public footpaths A–B, B–D, O–Q–T, N–K, J–O, M–O, L–O, P–Q, U–H, G–I, E–F–K–O and B–C subsist as shown on the Order Plan and invites the Secretary of State to confirm the Order as made.

Statement of Truth

I, Jaci Harris, confirm that the contents of this Proof of Evidence are true to the best of my knowledge and belief and represent my professional opinion.

Signature [redacted] ..... **Date** 17-10-2026

APPENDIX VF1

RUSSELL, Rachel

From: BOLTON, Joanne
Sent: 09 December 2024 07:25
To: BONSER, Clare; PEARMAN, Karen; HEAL, Joanne; HAWORTH, Julie; HOULDEY, Andrew; BROWN, Jemma
Cc: HARRIS, Jaci
Subject: FW: Additional footpaths Stonehouse Parish

Dear all,

I'm just copying this to you for information.

Kind regards
Jo

Joanne Bolton
Democratic Services Adviser

Gloucestershire County Council
Block 3, Floor 2, Shire Hall, Westgate Street, Gloucester GL1 2TG
Tel: 01452 324197
joanne.bolton@gloucestershire.gov.uk
www.gloucestershire.gov.uk

From: J Godsell [redacted]
Sent: 05 December 2024 22:33
To: HARRIS, Jaci <Jaci.HARRIS@gloucestershire.gov.uk>
Cc: BAKER, Cllr Paul <Paul.Baker@gloucestershire.gov.uk>; BOLTON, Joanne <Joanne.BOLTON@gloucestershire.gov.uk>; HALE, Cllr Terry <Terry.Hale2@gloucestershire.gov.uk>; HEGENBARTH, Cllr Alex <Alexander.Hegenbarth@gloucestershire.gov.uk>; HOYLAND, Cllr Rebekah <Rebekah.Hoyland@gloucestershire.gov.uk>; MACKENZIE-CHARRINGTON, Cllr Mark <Mark.Mackenzie-Charrington@gloucestershire.gov.uk>; MORGAN, Cllr Graham <CllrGraham.MORGAN2@gloucestershire.gov.uk>; SMITH, Cllr Vernon <CllrVernon.Smith@gloucestershire.gov.uk>; VINES, Cllr Robert <Robert.VINES@gloucestershire.gov.uk>; WILLINGHAM, Cllr David <David.Willingham@gloucestershire.gov.uk>
Subject: Additional footpaths Stonehouse Parish

Dear Jaci and Councillors

I have just been informed that you have a meeting of the Commons and Rights of Way Committee on 10th December. We are disappointed that we were not given the opportunity to respond to the recommendations before the deadline closed this week. However there are a few points we wish to make and hope that you will consider them at your meeting.

Route B-C
After we purchased the field coloured blue in 2013, there was little activity around the point B where there was an old wooden gate and a stile. This is reinforced by the evidence given to the committee at point 6.4, that there is no evidence on Google Earth of its use as a route. At no point did we allow walkers to use that route and if we saw anyone off the footpath we asked them to keep to the public footpaths. Therefore there was no acquiescence. When Western Power put a route through there in early 2019 we had to replace the old gate and removed the stile. However, it started to be used as a route so we closed it off by fencing the gateway with sheep netting and barbed wire. This is contrary to the evidence stated in point 9.28 which suggests barbed wire was only installed in 2023. The

barbed wire and sheep netting was continually cut in 2019 and I persistently replaced it until we finally gave in as it was a risk for stock escaping. So we replaced it with a metal gate and welded this shut. People then cut through the hedge at the side of the gate, which had been stock proof, so they could get through there. Point 9.28 suggests there had been a gap at the side of the gate. This was not the case – it was a stock proof hedge. We then fenced that area aswell with sheep netting and barbed wire. This too was cut until we put a professional fence under tension around the whole field edge. As far as we are aware, there was never a footpath waymarker at this point as claimed on page 17 of the report. To suggest we as landowners tolerated walkers bypassing the gate (point 9.28) is quite ridiculous when there was evidence of the fence being cut many times a week and the hedge being cut back by people to allow access.

Route E-F
With the field coloured blue which we purchased in 2019, we were aware of walkers straying from the paths so decided to improve the correct routes for the rights of way before cutting off any existing routes used by walkers. We spent a lot of time and expense improving the paths and installing kissing gates to make access easy then tried to block the other routes. Point F was occasionally used to get to the Verney field but only at certain times of year as the field from F to K was full of brambles in the summer and very wet in the winter. There was never to our knowledge a gateway here but just a wooden barrier and step which was climbed. We let the step rot and tried to block the exit. There again was certainly no acquiescence. We received very negative responses from walkers when making requests to keep to footpaths and witnessed very aggressive behaviour from an individual cutting down a fence. This is not the behaviour one would expect if walkers feel they have been allowed to use a particular route.

We thank you for taking the time to read this email.

It would be much appreciated if there are any other cases in future, that the land owners be informed of an opportunity to put questions to the committee in advance of the deadline.

Yours sincerely

Mr Uriah and Mrs Jane Godsell