SUMMARY

PROOF OF EVIDENCE OF:

Jaci Harris
Highway Records officer
Gloucestershire County Council

TITLE OF ORDER:

Wildlife and Countryside Act 1981
Definitive Map and Statement of Public Rights of Way
for Gloucestershire
Additional Public Footpath from Oak Way to MST30,
Stonehouse Parish
Definitive Map Modification Order 2025

Planning Inspectorate Reference:

ROW/3365454

1.This Proof of Evidence has been prepared by Jaci Harris, Highway Records Officer (DMMO) for Gloucestershire County Council (GCC), in support of confirmation of the Order entitled "*Wildlife and Countryside Act 1981, Definitive Map and Statement of Public Rights of Way for Gloucestershire, Additional Public Footpath from Oak Way to Public Footpath MST30, Stonehouse Parish, Definitive Map Modification Order 2025*".

2.Background

2.1 The application was submitted by Mr Tipper on 14 February 2023 under section 53(2)(b) and section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 on the basis

that a public right of way not shown on the Definitive Map subsists. The claimed route links Oak Way (highway 47737) with Public Footpath MST30.

2.2 The land crossed by the claimed route is unregistered. Accordingly, GCC authorised the erection of statutory notices on site, and evidence was provided showing notices displayed at both ends of the route.

2.3 The Order route is approximately 107 metres long. The first 34 metres are surfaced with tarmac and served by a street light. Within that section, the first approximately 9 metres are recorded on the List of Streets as highway 61293, indicating that the public lawfully enjoys at least pedestrian rights over that length. The remainder crosses grassland before joining MST30.

2.4 The application was supported by 15 User Evidence Statements (UESs), including five statements originally submitted for a related DMMO application. GCC undertook standard consultations with stakeholders, local authorities, landowners and user groups. No objections were received during the pre-determination stage.

2.5 Following investigation, a determination report was prepared and considered by the Commons and Rights of Way Committee on 10 December 2024. The Committee concluded that the statutory "subsists" test was satisfied and resolved that an Order should be made. The Order was sealed on 14 January 2025 and advertised on 22 January 2025.

2.6 After advertisement, 11 representations were received, including two objections: one from John Copland & Son on behalf of Linda Maiik dated 3 March 2025, and one from Kay Nagai dated 5 March 2025.

3. Legal Framework

3.1 The case relies principally upon:

- Section 53(3)(c)(i) Wildlife and Countryside Act 1981.
- Section 31(1) and (2) Highways Act 1980 concerning presumed dedication after 20 years' use "as of right".

- Section 31(7B) Highways Act 1980 regarding the date on which the public's right is brought into question.

3.2 The qualifying period assessed was **2003-2023**. To establish a presumed dedication, GCC must demonstrate 20 years' uninterrupted use by the public as of right, and an absence of evidence showing an intention not to dedicate.

4. Documentary Evidence

4.1 Historic documentary and mapping evidence neither confirms not disproves the existence of a public right of way and is therefore considered neutral.

5. User Evidence

5.1 The case therefore rests primarily upon modern user evidence. All 15 users claimed use of the route on foot, with one witness dating use back to 1978.

Within the qualifying period **2003-2023:**

- All fifteen users provided evidence of use during some or all of the period.
- Seven users claimed use throughout the entire 20 years.
- Six used the route daily, seven weekly, one monthly and one twice during the decade.
- Use included dog walking, recreation and general access.

All users stated that:

- They had not been given permission to use the route.
- They had not been challenged or turned back.
- They had not seen signs indicating the route was private, except one witness who reported signage only from spring 2023 onwards.

5.2 There was no evidence that use occurred by force, in secrecy or by permission. GCC therefore considers the evidence to demonstrate uninterrupted use "as of right" consistent with the principles established in *R v Oxfordshire County Council ex parte Sunningwell*.

5.3 Several users explained that the physical characteristics of the route, including its tarmac surface, street lighting and obvious public use, led them to believe it was a public footpath. Witnesses commonly described it as a well-used route connecting residents to Verney Field, Doverow Wood and the wider rights of way network.

5.4 GCC concludes that the user evidence is both credible and sufficient to establish presumed dedication under section 31 of the Highways Act 1980.

6. Landowner Evidence

6.1 The land crossed by the Order route is unregistered. A conveyance with accompanying plan dated 6 February 1973, shows that the land was owned by Melbourne Investments Limited, a wholly owned subsidiary of Taylor Wimpey plc. Taylor Wimpey was consulted throughout the investigation but did not clarify its legal interest in the land.

6.2 Following advertisement of the Order in January 2025, Taylor Wimpey confirmed that it had no objection to the proposal.

6.3 No user reported signs, obstructions, challenges or other actions designed to prevent public use during the qualifying period 2003-2023. GCC relies on *Godmanchester (2007)*, which established that a lack of intention to dedicate must be communicated openly to the public. GCC found no such evidence and therefore concludes that the statutory presumption of dedication has not been rebutted.

7. Principal Objections and GCC Responses

7.1 The objections raise several issues:

- **a)** Alleged failure to place all evidence before Committee.
- **b)** Alleged inadequate consideration of use "by force".
- **c)** Claim that section A-B is merely a private access route.
- **d)** Challenge to the proposed width of 2 metres.
- **e)** Reliance on historic features such as a pond, brickworks and fencing requirements.

f) Claim that the intended route should have continued beyond MST30 into Verney Fields.

a. GCC responds that Committee members received all of the relevant paperwork, including consultation responses and analysis of user and documentary evidence two weeks before determining the application.

b. Regarding use "by force", GCC notes that none of the user evidence identified barriers, warning signs, permissions, challenges or attempts to prevent use during the qualifying period 2003-2023.

c. GCC argues that the first approximately 9m is legally designated as the 61293 public highway. It further argues that the existence of private rights of access does not prevent public rights from arising over the same route if the public has used it openly, without force, secrecy or permission for at least 20 years.

d. The proposed width of 2 metres is based upon the common law principle that a footpath should permit two people to pass and repass.

e. Historic land uses such as the pond, brickwork and fences are said to pre-date the qualifying period and are therefore irrelevant to the question of modern dedication through public use.

f. In relation to the intended route into Verney Fields, GCC explains that the original application was amended because a claimed route must terminate at a highway or place of public resort. Consequently, the route was drawn to terminate at MST30.

8. Conclusion

8.1 GCC's position is that the evidence demonstrates:

- More than 20 years of uninterrupted public use as of right.
- No challenge, obstruction or evidence of lack of intention to dedicate during the period **2003-2023**.
- Sufficient evidence to satisfy the statutory test for presumed dedication under section 31 Highways Act 1980.

- The Council's position is therefore that the Modification Order 2025 was correctly made and that the legal tests for confirmation of the public footpath between Oak Way and Public Footpath MST30, shown A-B-C on the Order Plan, are fully met. As a result, I respectfully ask that the Order be confirmed as made.

9. STATEMENT OF TRUTH

I, Jaci Harris, confirm that this summary accurately reflects the contents of my Proof of Evidence and is true to the best of my knowledge and belief.

Signed: [redacted]

Date: 19-10-26