

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 DELETION OF PART OF PUBLIC FOOTPATH MST28, STONEHOUSE TOWN MODIFICATION ORDER 2025

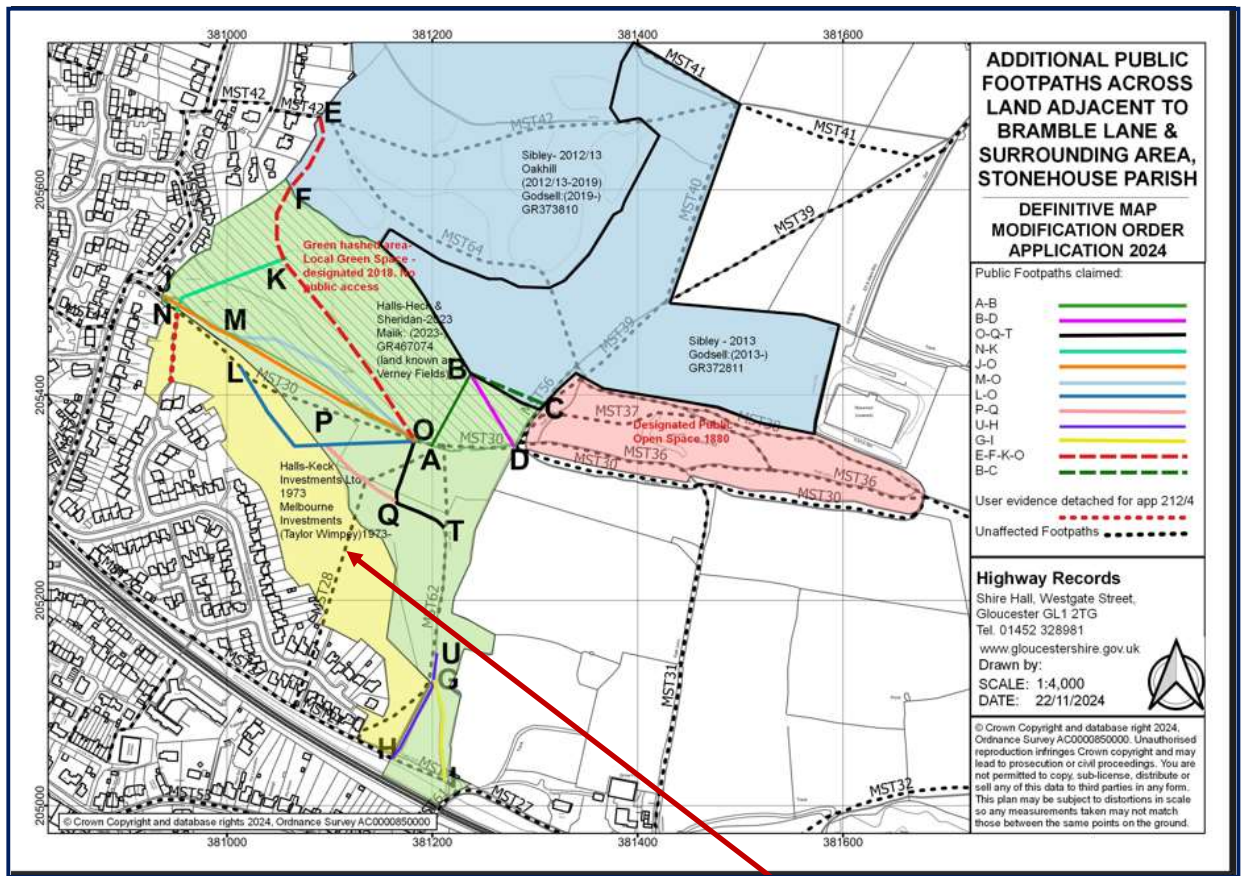
***Author;** Jaci Harris, Highway Records Officer(DMMO)*

***Date;** 29 July 2025*

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

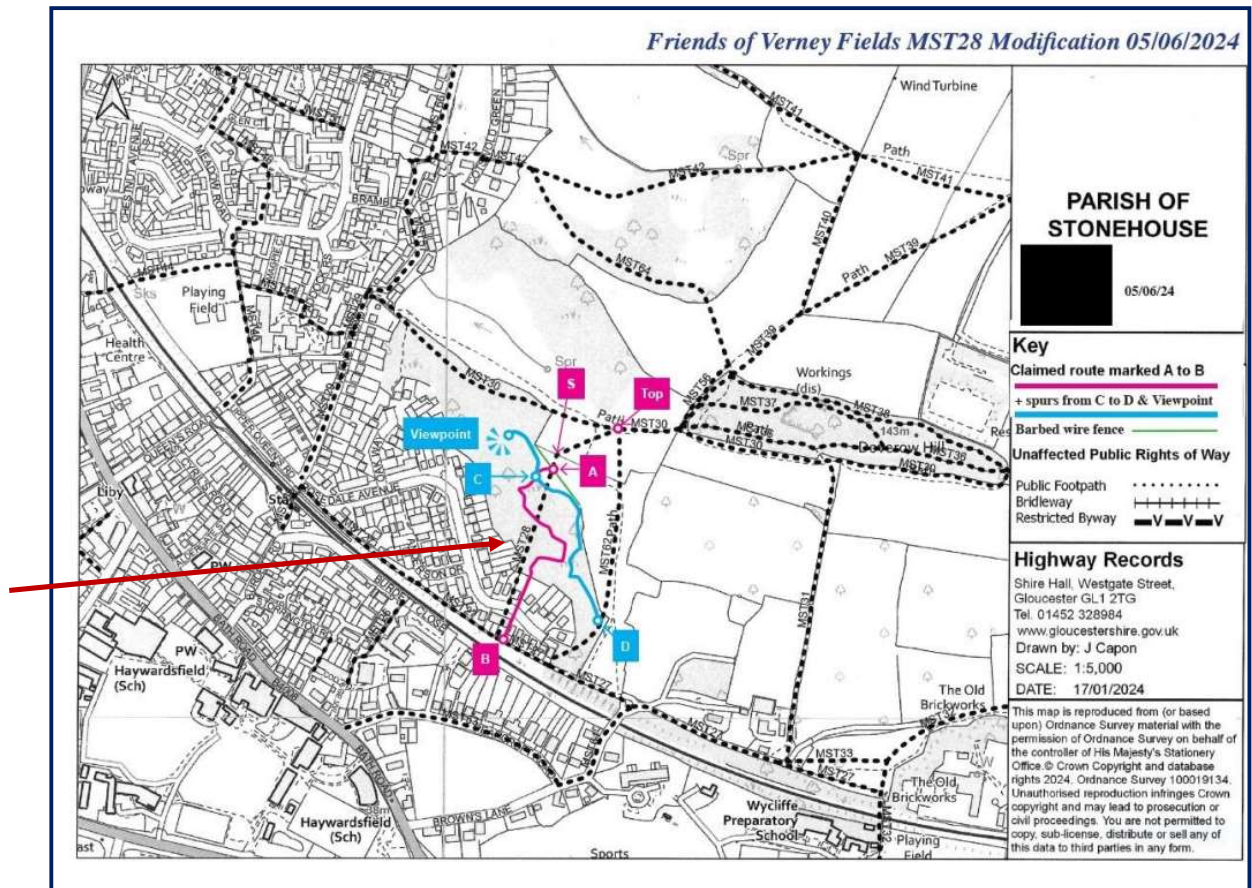
BACKGROUND INFORMATION

1. Gloucestershire County Council instigated an investigation into the route of Public Footpath MST28 (“MST28”) following receipt of five independent Definitive Map Modification Order (“DMMO”) applications; **573/11/212(6)-(10)**, submitted by Stonehouse Town Council on 4 July 2023. The plan below shows the cumulative effect of all of the claimed routes subject to the 5 applications across 4 separate land holdings. MST28 (as indicated by the red arrow), crosses land subject to these applications for which notification was served upon the affected landowners. Although these applications are irrelevant to the Inspector’s consideration of this submission relating to the deletion of MST28, they provide context for objections raised against it.



2. Similarly, a further, DMMO application, reference **573/11/212(11)**, was submitted in June 2024 affecting the same area of land. The plan overleaf shows the routes claimed and MST28 is again indicated by a red arrow. This application has not yet been investigated or determined and is also irrelevant to the Inspector’s consideration of the order subject to this submission for the deletion of MST28. Nevertheless, objections received in response to the deletion of MST28 reference the claimed routes subject to

this separate DMMO application and its inclusion in this submission therefore is to assist the Inspector by providing context.



3. GCC started an investigation into all the available evidence relating to the routes and consulted the following: The Open Spaces Society, The Ramblers' Association, The British Horse Society, The Byways & Bridleways Trust, Cycling UK, Cotswold Carriage Driving, Trail Riders Fellowship, Stroud District Council, Mr Nagai, Mr & Mrs Godsell, and Taylor Wimpey (Melbourne Investments). They were asked to submit any evidence that they were aware of relating to MST28. Formal responses were received from the Open Spaces Society (9 September 2024), and The Stroud Ramblers Association Group (13 August 2024). The latter was concerned about the safety of the route and noted that it was impossible to use the section crossing the housing development. The Open Spaces Society considered that MST28 should remain along with other routes which have come into being under the 'right to deviate' principle. Copies of the representations are held **(07)**.
4. A decision was made on 10 December 2025 by the County Council's Commons and Rights of Way Committee ("Committee"). The Committee considered all the evidence

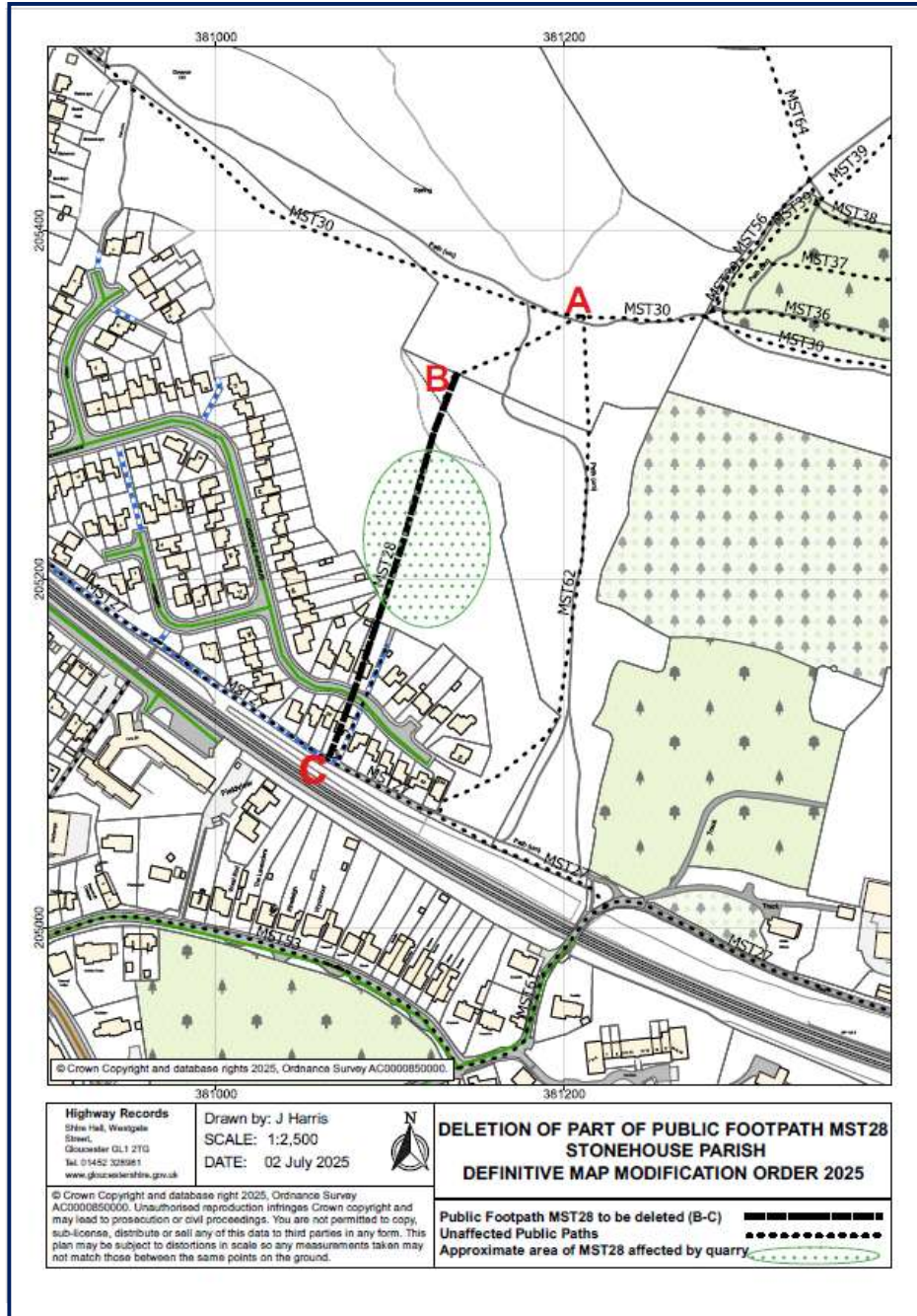
set out in the investigation report prepared by the definitive map officer together with comments received during the consultation period and were instructed regarding the relevant legislation and case law. The Committee decided that in consequence of the occurrence of the events specified in section 53(3)(c)(iii) of the WCA, an order should be made to delete section B-C of Public Footpath MST28 leaving section A-B because it would potentially connect with unrecorded routes claimed under the separate 5 applications **573-11-212(6)-(10)** referred to in paragraph 1 of this submission.

- 10 December 2024 CROW committee agenda - item 7 records the officer's recommendation and is held – **(03.5)**, &
 - 17 March 2025 CROW committee minute agenda records councillors' approval of the 10 December 2024 minute and is held – **(03.6)**.
5. The Order has the title; "*Wildlife and Countryside Act 1981, The Definitive Map and Statement of Public Rights of Way for Gloucestershire, Deletion of Part of Public Footpath MST28, Stonehouse Town, Modification Order 2025*" – **(01)**.
 6. The Inspector is respectfully asked to consider however whether in his opinion, the evidence supports the deletion of the whole route A-B-C on the basis that any connection with other potential claimed routes is irrelevant. A copy of the report is held **(03.2)** along with extracts of documentation **(03.3)** and supporting Powerpoint slides **(03.4)**.
 7. 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. Copies of the notice and advertisement are held **(05)** and details of the recipients of the notices are held **(08)**. Nine representations were received to the Order, five of which were objections. These are detailed from paragraph 49 onwards.
 8. The County Council requests that the Order be confirmed as made with consideration of the remaining section A-B.

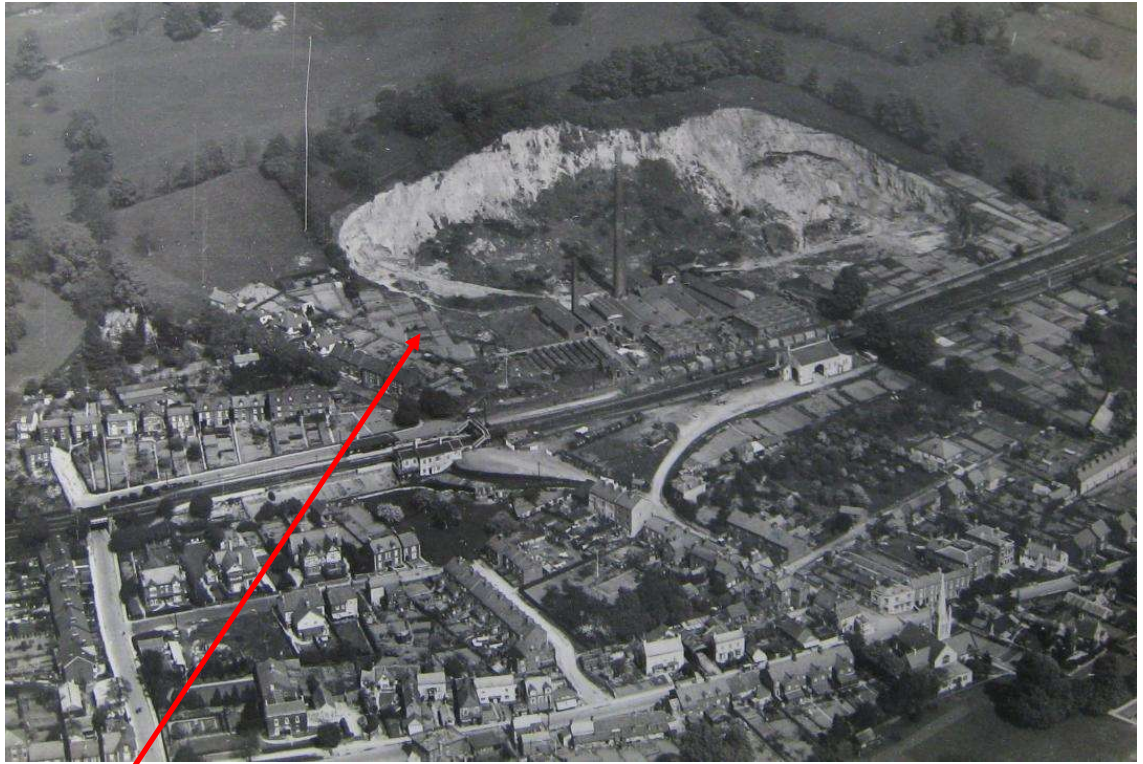
DESCRIPTION OF ROUTE

9. A description of the whole route is set out in paragraphs 6.1 of the report. It runs between points A-B-C, connecting Public Footpath MST30 with Public Footpath MST27 and is obstructed by a quarry and 2 properties; No's 67 & 52 Rosedale Avenue.

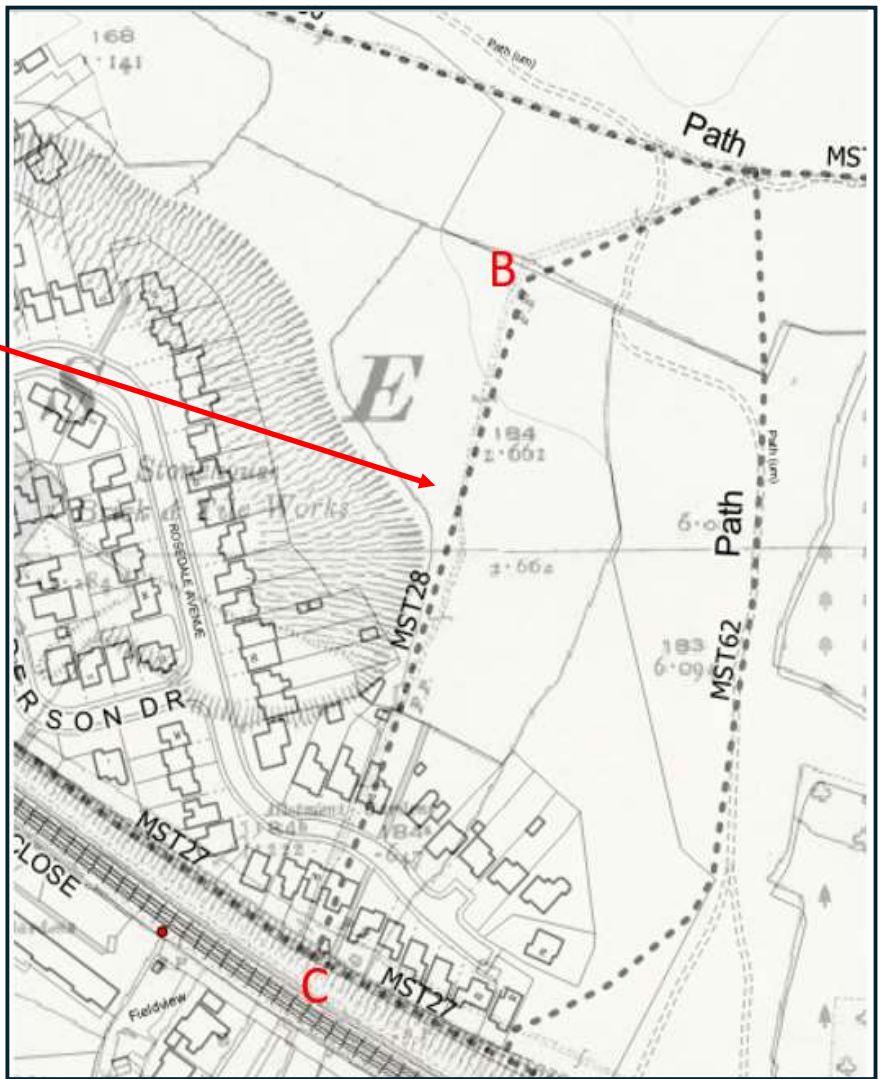
The Order route however, subject to the Committee’s determination for deletion, is shown below between points B-C. For information, the approximate extent of quarry affecting MST28 is also shown.



- Nature has reclaimed much of the quarry since its closure in 1968. The scrub and woodland make it impossible to appreciate its extent and scale. A photo, courtesy of the Stonehouse History Group, believed to be circa 1920, showing the extent of the quarry at that time, is held overleaf along with an extract of 25” third edition OS County Series Map (1923) which shows MST28 running along the boundary of the quarry at this time.



Quarry circa 1920 (MST28 ran along the boundary of the quarry at this time) as shown on 25" third edition OS Map (1923)



STATUTORY PROVISIONS

11. 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)(iii) of the WCA, namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:

- *“that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained on the map and statement require modification”*

12. Highways Act – section 31(1);

- *“Where a way over any land...has been actually enjoyed by the public as of right 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”.*

13. 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”.*

14. NATIONAL PARKS & ACCESS TO THE COUNTRYSIDE ACT 1949 – SECTION 27:

- *“Subject to the provisions of this Part of this Act, the council of every county in England or Wales shall, as soon as may be after the date of the commencement of this Act, carry out a survey of all lands in their area over which a right of way to which this Part of this Act applies is alleged to subsist, and shall, not later than the expiration of three years after that date or of such extended period as the Minister may in any particular case allow, prepare a draft map of their area, showing thereon a footpath or a bridleway, as may appear to the council to be appropriate, wherever in their opinion*

such a right of way subsisted, or is reasonably alleged to have subsisted, at the relevant date.

- *(2)A map prepared in accordance with the last foregoing subsection shall also show thereon any way which, in the opinion of the authority carrying out the survey (hereinafter referred to as " the surveying authority "), was at the relevant date, or was at that date reasonably alleged to be, a road used as a public path.*
- *(3)For the purposes of this section, the relevant date shall, in relation to the preparation of a draft map, be such date, not being earlier than six months before the date on which notice of the preparation of the draft map is published in accordance with the following provisions of this Part of this Act, as the surveying authority may determine.*
- *(4)An authority by whom a draft map is prepared as aforesaid shall annex thereto a statement specifying the relevant date and containing, as respects any public path or other way shown thereon in accordance with the foregoing provisions of this section, such particulars appearing to the authority to be reasonably alleged as to the position and width thereof, or as to any limitations or conditions affecting the public right of way thereover, as in the opinion of the authority it is expedient to record in the statement".*

15. CASE LAW

- *Trevelyan v Secretary of State For Environment, Transport & Regions [2001]* – paragraph 17
- *Dawes v Hawkins (1860)*. In such cases of temporary obstruction (upwards of 50 years in this case) the right to deviate would not equate to use along the temporary deviation ‘as of right,’ giving rise to dedication- paragraph 55.
- *R v Inhabitants of the Parish of Hornsea [1854]*, where a right of way was washed away through the encroachment of the sea – paragraph 55.
- *Gloucestershire County Council v Secretary of State for the Environment, Transport and the Regions [2001]*, where a section of public footpath running along bank of the River Severn was swept into the river – paragraph 55.

16. REASONS FOR CONFIRMING THE ORDER

The decision to make the Order was based on the documentary evidence available to GCC (paragraph 18 onwards). The Committee was reminded that the inclusion of Public Footpath MST28 on the Definitive Map constitutes conclusive evidence as to its existence and status, whilst the accompanying Statement is conclusive evidence as to the position, width and limitations or conditions (without prejudice to other rights).

17. Further, although section 53(3)(c)(iii) of the WCA81, permits the deletion of an existing public right of way, as discussed in *Trevelyan v Secretary of State For Environment, Transport & Regions* [2001], the evidence would need to be new, cogent & of sufficient substance to displace the presumption that the Definitive Map and Statement (“DMS”) is correct. It follows therefore that a higher test must be applied to the investigation, i.e., is there sufficient evidence on the balance of probabilities that the recorded right does not subsist. It is considered that the evidence presented in this submission supports this criteria.

18. DOCUMENTARY EVIDENCE

As is the Council's normal practice, a search was undertaken in Gloucestershire Heritage Hub (Archives) of 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 1844, Stonehouse Tithe Map 1839, Inland Revenue Map 1910, and the papers relating to the survey of public paths under National Parks and Access to the Countryside Act 1949. Consideration of the documents is set out in paragraphs 8.1–8.28 of the report. Copy extracts of all of the documents referred to in the report, both before and after construction of the Swindon & Gloucester railway in 1845, are identified individually and held under **(03.3)**. Extracts of documents relevant to MST28 however are embedded within this submission.

19. Some of the documents show an image digitally overlaid with another. This is achieved through a process called “georeferencing”. Georeferencing involves aligning a digital copy of a document such as a map or aerial photograph over another by matching specific points, such as field edges, landmarks or street corners, so they overlap

correctly. This process is informative as it allows us to compare and analyse changes over time. This provides valuable insight into the historical development of MST28.

20. Ordnance Survey Second Edition; 6"1 mile, Map sheets 49NW & 41SW; published 1903 - (National Library of Scotland);

This map series offers strong corroborative evidence of the physical presence and characteristics of routes as they existed at the time of survey. While it was not within the Ordnance Survey's remit to determine the legal status of these routes, surveyors were instructed to annotate paths that, based on their physical features, appeared to be footpaths or bridleways. However, a disclaimer, added to maps, circa 1898 for Gloucestershire, clarified that the depiction of any track or way on the map does not constitute evidence of a public right of way.

21. This map shows a track across agricultural fields (annotated F.P) abutting a quarry prior to its diversion to the alignment of MST28. The route has been georeferenced against a modern map to show its alignment at this time. This route is also recorded on the Stonehouse Tithe Map 1839.

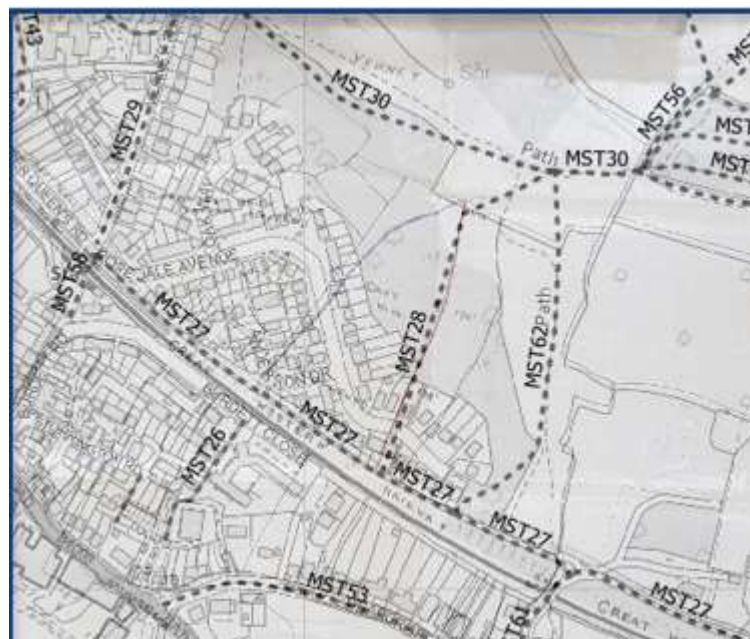


22. Stonehouse Parish Council minutes (Gays Hill): Regarding the diversion of this 'original' route;

17 Jan 1908; *“The Council accepted a plan submitted by the Brick & Tile Co.in 1904 and are willing to meet them to further discuss this, failing which they will feel obliged to take measures to protect the public rights”.*



Georeferencing the plan submitted by the Stonehouse Brick & Tile Co. with a modern map (with public rights of way layer), indicates that the proposed 'new red' diverted route is the route known today as MST28; B-C.



25 March 1908; Members of the parish council met Mr Davies, of the Brick & Tile Co. and advised that *“they were willing to come to terms as to the path, which would satisfy the Council. These terms are contained in a letter from the Brick & Tile Co. dated 23 March as follows: To give a right of way up Gays Hill as suggested in place of the present one and undertake not to divert that way without the consent of the Parish*

Council as the Local Authority for the time being, provided the Parish Council will join us in persuading the public to use the new way....”

15 April 1908; *“A letter dated 4 April 1908 was read re the right of way up Gays Hill and it was proposed by G.W.Sibley & seconded by C.Smith, that the clerk write and say that we accept the terms contained in the letter as far as we can as a parish council”.*

23. 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 sheets 49.2 & 41.14.

The Finance (1909-1910) Act 1910 was passed in order that a tax could be levied on any increase in the value of land when it changed hands. To ascertain the value of all land as of 30 April 1909, a survey was conducted assessing each piece of land. The OS 2nd Edition Plans (1898 -1902 in Gloucestershire) were used as the base maps and annotated. Details were recorded in field books and valuation books. These books included a column which allowed a deduction in tax if a public right of way crossed the land. Every property was given a plot or 'hereditament' number which was then referred to in the valuation books and maps. Hereditaments were coloured on the maps to identify land holdings.

24. Once a provisional valuation of a property had been reached, landowners were given the opportunity to appeal. The entire process was conducted under statutory authority by the Valuation Department of the Inland Revenue and there were criminal sanctions associated with the falsification of evidence. It would have been negligent to omit such land from the survey, including private roads, which might have had value. However, it was not a criminal offence not to deduct tax if a right of way did cross your property. A landowner may have preferred not to admit to the existence of a public right of way. Consequently, the resultant records carry an important level of evidential weight as to the routes which they show to exist but are unlikely to be good evidence that rights of way do not exist.

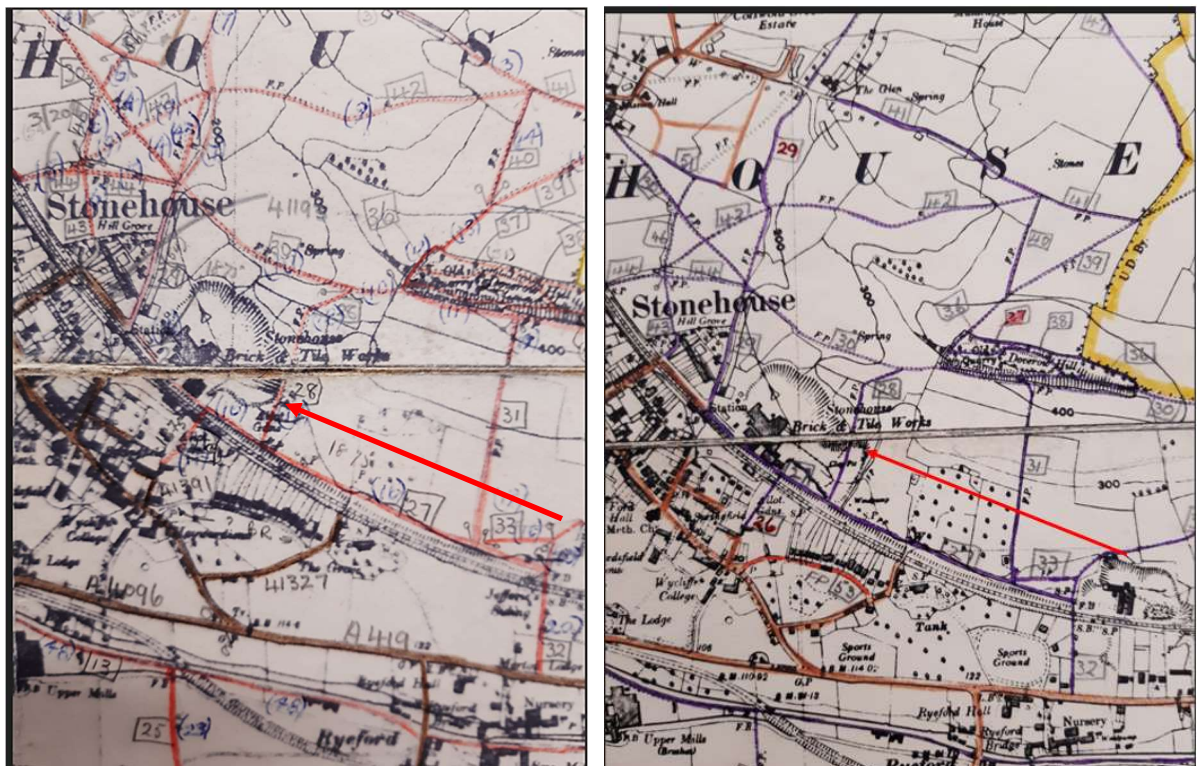


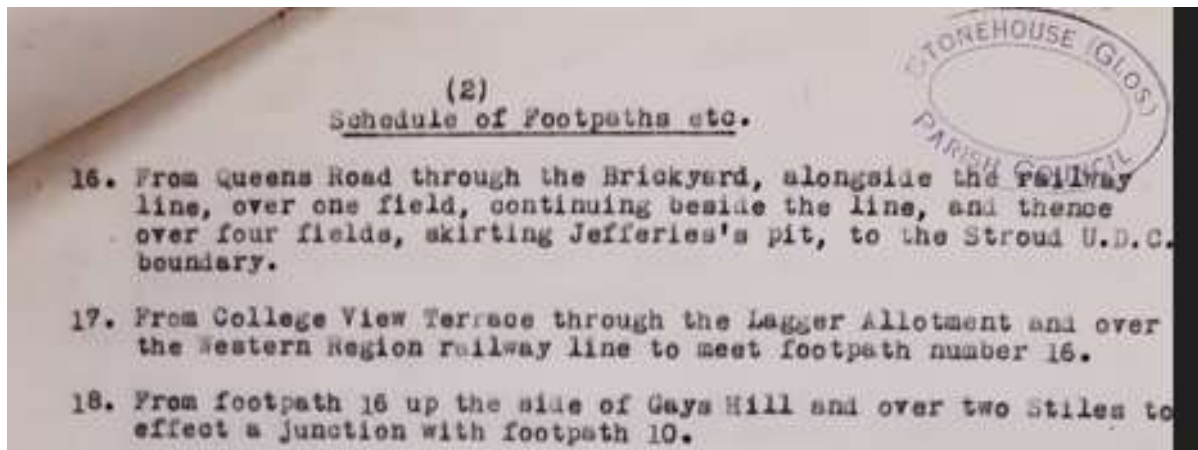
25. Georeferencing the Finance Act map sheets with a modern base map, suggests that the 'original' route described in paragraph 21 above, crossed hereditament 998 whilst the diverted route, MST28, crossed hereditament 1047. Both fields were in the ownership of the Stonehouse Brick & Tile Co. No deduction of tax was claimed for a public right of way across 998 whilst a £15.00 deduction was claimed across 1047. As no other tracks were identified across 1047, it would be reasonable to attribute this deduction to MST28.

25. **Ordnance Survey; Third Edition, 25" : 1 mile, Map sheets 49.2 & 41.14; published 1923- (National library of Scotland);** This georeferenced map shows an extended quarry, with MST28 (annotated F.P) abutting it.



26. **County Surveyor: papers relating to survey of footpaths under National Parks and Access to Countryside Act, 1949 (“NPACA 1949”); Glos Archives (any paperwork referred to is held as a background paper to this report).**
27. Under this Act, all highway authorities were required to draw up a DMS which would form the legal record of public rights of way. Gloucestershire County Council initially provided parish councils with Ordnance Survey 6”:1 mile, 1923 edition maps to record their local public path networks. The returned documents are referred to as ‘Parish Surveys’ or ‘Original Submissions.’
28. Stonehouse Parish Council’s original submission included a written report along with two maps. A covering letter dated 19 September 1950, stated, “....*please find Maps showing all footpaths in the parish of Stonehouse as at present known and which have been approved by a Parish Meeting held on June 5th last, together with a Schedule giving number and location*”.
29. The road network was marked in brown whilst the public footpaths were initially coloured red. MST28 (indicated by a red arrow on the map to left) was claimed by the parish council and numbered initially 18 (blue ink). The route was described in the schedule, “*From footpath 16 (now MST27 (case officer’s note)) up the side of Gays Hill and over two stiles effect a junction with footpath 10 (now MST30 (case officer’s note))*”.





30. The surveys once completed were sent to the Divisional Surveyor's Office at the County Council where officers would examine the returned maps, make queries and seek clarification where necessary before publishing the Draft Map on 8 May 1953 and made subject to public consultation for nearly 9 months until 31 January 1954. The 6" 1938-1950 revised edition base map was used for the Draft Map. MST28 crossed map sheets 4 & 10. An extract from No.4 is shown below.



31. Sheet 10, covering the southern end of MST28 has been lost. The footpaths on the Draft Map are coloured purple and have been re-numbered, i.e., No.18 (now MST28), No.10 (now MST30) & No.16 (now MST27). An extract from the same base map, with the route of MST28 georeferenced, indicates that by this time the quarry had encroached upon and overtaken MST28.



32. The accompanying Draft Written Statement described MST28 as a footpath connecting MST27 & MST30 across field parcels; 185,184 & 173 (shown on 25" third edition County Series map below).



33. Draft Map - 1954 objections re obstruction of MST28

Two objections were received to the Draft Map regarding MST28.

- 1) Stonehouse Parish Council (recorded; **No.27**) raised objections to various routes shown on the Draft Map by letter dated 11 January 1954.. One of the objections was described as follows: *“.....A further point has arisen since Mr Conway’s visit with regard to Footpath No.28. The Brickworks Claypit is now much larger in area than that shown on the map, and in consequence the footpath as at present shown on the draft map, does not exist, it should be moved to the right to occupy the track marked “footpath” (or FP) on the map slightly to the left of the windpump, thence continuing on or almost straight line to meet footpath no.30”*. The route described is A-B-C as shown on the Order plan. The County Surveyor added the following handwritten note with regard to MST28, *“This can be adjusted at Prov (Provisional Map (Ed’s note)) stage”*.

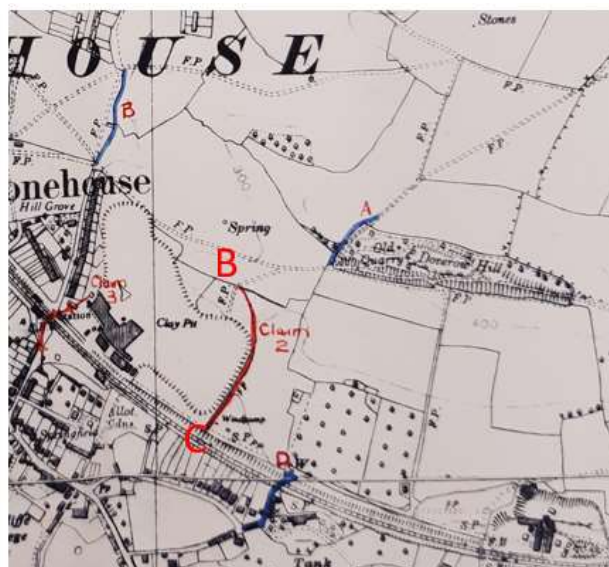
 - 2) The Ramblers’ Association raised several objections and comments under a letter dated January 1954, *“.... With regard to the draft map and statement for the Rural District of Stroud.”* One of these related to a route shown on maps 4 & 10 and described as follows: *“Stonehouse: From path No27 (alongside railway) on Map 10 by enclosed footpath at east side of Stonehouse Brick & Tile Works, as per Provisional Edition O.S. to path No28 on Map 4 (1924 edition) at stile at north end of first field from bottom of Map 4”*. The Reason for this objection was given as *“Path appears to have been diverted eastwards between 1924 survey & Provisional edition survey (author’s note - Ordnance Survey, 1:25,000 maps:1945-1973). Path 28 on Map 10 is now part of the quarry, whereas the path claimed has been used for many years”*.
- 34.** Mr W.G. Milne QC, a Barrister-at-Law, and an Acting County Justice, was appointed to hear the representations and objections made to the County Council in connection with the Footpath Survey and to submit his recommendations. A copy of the Highways Committee Report dated 8 June 1959 included Mr Milnes report: Under (1) it stated, *“The following objections and claims in respect of the Draft Map were resolved by negotiation between the Parish Councils and Objectors, hence no hearings were necessary, and my recommendations are as follows:-*

- Under part (iv) – In the Rural District of Stroud – Part objection **No.27** by Stonehouse parish Council – *“That part of footpath MST28 which is shown across the Brickworks Claypits be re-aligned to follow the track marked F.P. on the O.S. map slightly to the east of its present position”.*

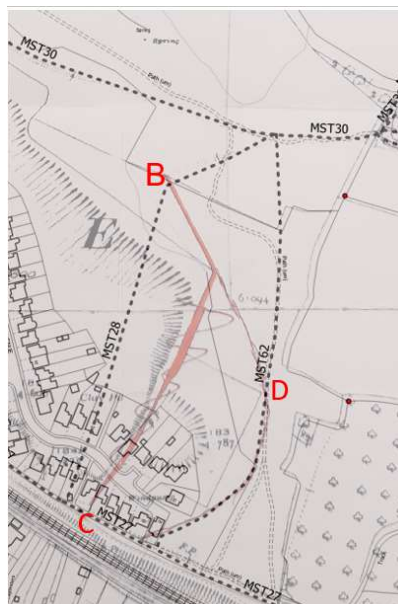
35. The Highway Committee resolved *“That the Highways Committee, in pursuance of the powers delegated to them by the County Council as Surveying Authority, hereby determine to modify the particulars contained in the Draft Map and Statement in accordance with the foregoing Report and Recommendations of Mr W.G.Milne; further, that the Clerk of the County Council be authorised to take all such action in connection with the determination of the Committee as is referred to in the provisions of the National Parks & Access to the Countryside Act 1949.* The Definitive Statement does not reflect this resolution.

36. Draft Map - 1959 ‘Claim 2’ (DRAFTING ISSUE)

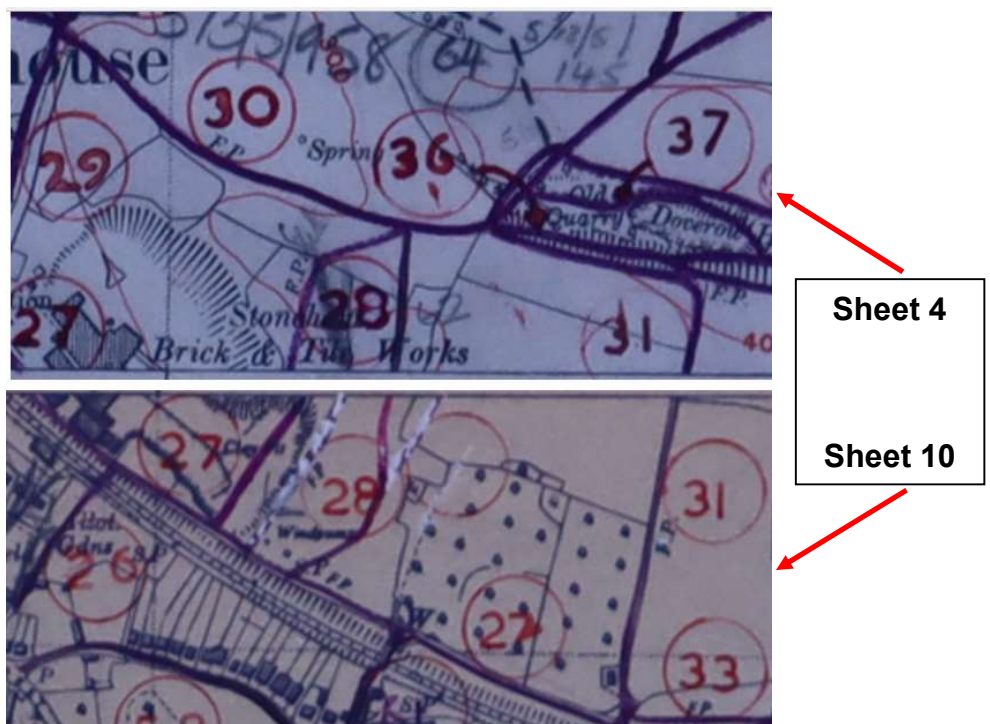
On 10 June 1959, two days after the Highway Committee resolved that MST28 should be re-aligned eastwards, the Deputy County Surveyor wrote to Stonehouse Parish Council advising them that *“During the deposit of the Draft Map of Public Rights of Way, I received several objections concerning footpaths in the Parish of Stonehouse”.....”* In addition to the above, (Ed’s note- described objections) *the Ramblers Association have made three claims, these are as follows:...Claim 2 – “A length of footpath from MST27 (alongside the railway) via enclosed footpath on east side of Stonehouse Brick & Tile works to footpath MST28 at a stile at north end of first field”.* An extract of this map, identifying the location of claim 2 is held below.



37. Claim 2 fits part of the description of Stonehouse Parish Council's 1954 objection and the subsequent agreed diversion of MST28, *"That part of footpath MST28 which is shown across the Brickworks Claypits be re-aligned to follow the track marked F.P. on the O.S. map slightly to the east of its present position"*. This was corroborated by Stonehouse Parish Council, who responded by letter dated 27 October 1959 and stated regarding Claim 2, *"This path has been diverted to the south with the agreement of the Parish Council....."*.
38. Notwithstanding the above, on 6 November 1959 the County Surveyor wrote to the Stonehouse Brick & Tile Company regarding the three claims. The company was supplied with a plan and asked to confirm that they crossed land in their ownership and *"...I shall be glad if you will confirmwhether or not you are agreeable to the paths being marked on future maps prepared under the Public Rights of way Survey."* The Stonehouse Brick & Tile Company responded on 19 November 1959 stating *"Thank you for your letter and Draft Map of Public Rights of Way. We are agreeable to the paths being marked on future maps. You will notice we have made a slight variation of the path near the edge of our quarry. This diversion was made some three years ago in co-operation with the Parish Council, due chiefly to its dangerous nature"*. Documents inspected do not suggest that between the June 1959 Highway Committee approval of the re-alignment of MST28 and this letter to the landowner in November, that the quarry operations had expanded or that the approved re-aligned route of MST28 was obstructed. However, the returned plan below shows that the Brick & Tile Company had crossed out the approved diversion of MST28 in favour of a route which was extended further eastwards.



39. The County Surveyor responded on 21 November 1959 saying, *“Thank you for your letter of the 19th instant confirming that you are agreeable to the paths claimed by the Ramblers’ Association and the Stonehouse Parish Council being marked on future maps.....I will arrange for the path near the edge of the quarry to be marked on the line which you indicated on the plan”*.
40. The Highway Committee minutes of 7 December 1959 included; *“That an additional footpath be marked in Stonehouse Parish on a line previously agreed between the Stonehouse Brick & Tile Co. Ltd, and the Parish Council along the eastern perimeter of the Claypitts, Stonehouse”*. Claim 2, which formed the route of the first agreed diversion of MST28, appears to have been overtaken by the County Surveyor’s agreement to the landowner’s subsequent request to further divert it partly to the position known today as MST62. It is important to note that MST62 was not claimed at any stage prior to this and it worth re-iterating that there is no suggestion that the agreed diverted route could not be used or had been overtaken by the quarry. Both sets of objection; 1954 & 1959, to the route of MST28 were dealt with as responses to the Draft Map. If they had all been considered together, it would have the effect of moving MST28 to the part alignment known today as MST62.
41. Gloucestershire County Council produced a Modified Draft Map to reflect the amendments in response to the Draft Map. This map was drawn across map sheets; No’s 4 & 10 and it shows the apparent confusion.



42. MST28 is shown across the quarry as recorded on the Draft Map, pre the June 1959 Highway Committee approval to re-align it to the track annotated F.P. The re-aligned route along the track annotated F.P. as claimed by the Ramblers Association (*reconnecting with MST28 at point B*) is also shown and annotated 28 but was tipped out on map sheet 10 and drawn in pencil on map sheet 4, perhaps suggesting an acknowledgement by the County Surveyor that it had been superseded by the landowner's subsequent request to further re-align the route, partly to the alignment of MST62. The route of No.62 is shown for the first time (numbered in pencil on map sheet 4) connecting with MST30 as opposed to MST28 at point B. This may be a reference to the claimed re-alignment in response to the Draft Map by Stonehouse Parish Council; "*..it should be moved to the right to occupy the track marked "footpath" (or FP) on the map slightly to the left of the windpump, thence continuing on or almost straight line to meet footpath no.30*").

43. This Modified Draft Map was placed on deposit on 7 May 1965 and was open to further public consultation until 21 June 1965. An extract of the London Gazette, dated 7 May 1965, included the following changes for Stonehouse Parish, apparently confirming the confusion with regard to the alignment of MST28.

- Maps No.4 & 10. *Add footpath along the eastern perimeter of the Claypits commencing at its junction with MST27 and extending north to its junction with MST30.*
- Map No.10. *Re-align that part of footpath MST28 which is shown across the Brickworks claypits such that it follows the track marked F.P. on the O.S. Map, slightly to the east of its present position.*

44. **Even if the County Surveyor considered the June 1959 Highway Committee re-alignment of MST28 to the track annotated F.P and the 'additional' route - MST62, subject to the December 1959 Highway Committee to be entirely separate footpaths, the question remains; why was the obstructed route of MST28, as recorded on the Draft Map across the quarry retained?**

45. The next stage of the process was the Provisional Map and Statement (produced 1971) as shown overleaf. This map was made subject to consultation by landowners/ representatives only. The suggested error on the Modified Draft Map was transposed onto the Provisional

Map, i.e., MST28, as recorded on the Draft Map, across the quarry was retained, along with the 'additional' route subject to the extended diversion, known today as MST62. No further representations or objections were received.



46. The final stage of the process was producing the Definitive Map and Statement. The drafting error on the Modified Draft Map which was transposed onto the Provisional Map was subsequently copied onto the Definitive Map (shown overleaf). The entry for MST62 on the Definitive Statement references the Highway Committee resolution of 7 December 1959 but incorrectly locates the route of MST62 across field parcels; 184a & 184 (shown on 25" third edition County Series map overleaf), which is the alignment of the original MST28 across the quarry. The entry for MST28 in this document did not reference the first Highway Committee diversion agreement of June 1959, which when considered along with the fact that the re-aligned route of MST28 was tippexed out on the Modified Draft, suggests acknowledgement that MST28 was re-aligned twice.
47. Upon publication of the DMS, section 32(4) of the National Parks and Access to the Countryside Act (NPACA) 1949, conferred legal authority upon it, making it the conclusive legal record of public rights of way, (without prejudice to the existence of any other rights that might exist) within each county. Any route depicted on the Definitive Map was deemed to be a public right of way, providing irrefutable evidence of the public's entitlement to use it. While that specific section has been repealed, the concept remains in Section 56(1) Wildlife and Countryside Act 1981.



OBJECTIONS AND REPRESENTATIONS

48. Nine representations were received following the advertising of the Order, five of which were objections. A copy of the advertisement is held (05) and copies of the recipients to the making of the order are held (08). The following 4 representation responses, including one from Taylor Wimpey, owner of the land coloured yellow on the map in paragraph 1, which is the section of MST28, obstructed by the quarry, are held (04.3).

- National Plant Enquiries emailed on 27 January 2025 stating, “*No objection*”.
- Openreach response on 28 January 2025 stating, “*Openreach are not affected regarding your Order to delete part of Public Footpath MST28 from the Definitive Map & Statement in Stonehouse Parish*”.
- The Stroud Rambling Club responded 28 January 2025 stating, “*Stroud Rambling Club has no objection to the deletion of this part of MST28 which is dangerously steep and slippery*”.
- Taylor Wimpey (landowner) responded on 23 April 2025 stating, “*....no objections*”.

49. Five objections were received from Ms Maiik (13 December 2024), Mr Nagai (5 March 2025), Mr Townley, of the Open Spaces Society (4 March 2025), Mr Tennant (24 February 2025) and Mr Fawkes (29 January 2025). They are all held as (04.2). The grounds given for objection are as follows:

50. **Ms Maiik** – (the owner of the land coloured green on the map in paragraph 1 of this submission). Ms Maiik originally supported the deletion of MST28 prior to the determination on 10 December 2024. This was withdrawn however due to the fact that councillors determined that section B-C should be deleted but not A-B)).

Agenda Item 8: OBJECT

My support was for the "DELETION OF PROW MST28" in its entirety, as stated on the Agenda; MST28 was a drafting error, registered in error without any intention to dedicate this as a highway, impassable at time of registration. The evidence

*supporting the deletion of a part of the route **applies to the whole of the route, not a part.***

*I do **not** support the deletion of a part of it only, leaving a part where the public have never walked, it was not applied for, & the only reason for leaving a section where the public have still never walked is on the "off chance" that the section that goes nowhere might join another path in the vicinity (applied for route, P-Q), (573/11/212(6)-(10)- Ed's clarification) which evidence clearly shows was a path formed during covid lockdown (2020s), if that covid path were to be approved in 20 or 30 years, an unused path near where the police have several investigations open for criminal damage corresponding to application 573/11/212(11); as GCC are aware, the applicant & supporters have extensively vandalised my land to form the routes applied for.*

i.e.. The historic evidence set out by the officer for the deletion of MST28 and supported by maps demonstrates:

- drafting error in the registration of MST28; MST28 was obstructed and impassable from the 1920s; but was registered in error in the 1950s over 30 years after it was impassable;

The evidence clearly show the registration of an impassable, superseded line was a drafting error;

- MST62 was negotiated and agreed in place of MST28 in its entirety; The route MST62 serves to allow the public to walk between MST27 to MST30;

- clear evidence supports intention to dedicate one footpath highway between the routes now known as MST27 and MST30;

The historic evidence and paperwork presented clearly confirms the right was never intended to dedicate 2 paths and that it was agreed that MST62 replaced MST28.

51. GCC's response to Ms Maiik's objection is as follows:

The separate applications referenced as 573/11/212(6)-(10) in paragraph 1 of this submission, have been determined, and an order has been made in respect of them,

to which objections have been received. In contrast, application 573/11/212(11), referred to in paragraph 2, remains undetermined.

It is important to note that these applications are irrelevant to the order made for the deletion of MST28 which is based solely on evidence arising from a comprehensive investigation conducted as part of the statutory process for compiling the Definitive Map and Statement. The investigation concluded that MST28 was to be diverted to the route now known as MST62 but was never formally removed from the map.

52. Mr Nagai (son of Ms Maiik):

I object to the DMMO decision being confirmed as a partial deletion, it is clear to all that no Highway was intended to be dedicated on the position of MST28 & it was recorded in error; there is no justification for a partial deletion when a full deletion is the appropriate outcome. Partial deletion does not resolve the issues of which the error causes.

I request decision is deferred to the Secretary of State for the correct decision, which the DC Cllrs were unfortunately unable to make. MST28 was not the original ROW, it was one of several evolutions of a path that ended up being MST62. It was registered in 1950s; it was obstructed in 1920s; this alone shows an error. It was approx. 300ft in the air, at time of registration.

GCC Highways Report, clearly evidences sufficient to prove an error has been made & there was no such intention to dedicate both MST28 & it's replacement, MST62. It is wrong that the DC Cllrs failed to decide correctly when it was set out clearly.

The error of MST28 has caused considerable issues, not just to us, but to the houses & living rooms it crosses, in the estate below. A class 6 bin alley exists on Rosedale, which is completely disconnected from MST28, however, using it as access, a local group of militant R2R Activist, NIMBY vandals have taken it upon themselves to slash through, fell our trees, dig & create a way up the cliff to wind around all sorts 'to save MST28 from deletion'. This error has led to severe repeated fence & tree vandalism at the top of the cliff, fence intended to contain livestock & safeguard the public from the cliff edge. Police records available in reference to these incidents specifically. Videos of vandalism at the top end also available. It has cost considerable time to

attempt to deal with & has rendered a 2.7 acre portion of grazing land untenable due to stock proof concerns, with 2 pony / horse grazing tenancies falling through around the time this 'Rebel Path' became a contentious fence cutting nuisance. This vandalised route is now also a DMMO, to be handled in a future year.

Deletion of part, only encourages these vandals to continue their interference; they will not simply walk a dead-end to retrace their steps; once they get to the end, they vandalise whatever is there & continue to do more damage to fences & to our land, trying to make more paths on the edge of & below a 300ft cliff face.

Tragically, I've been informed persons have been badly injured in the vicinity due to the unsafe nature of the quarry, with the 'Rebels' directing people onto it. It's a path leading to unsafe land. Any warning signs we have placed there have been vandalised or removed. We've also had considerable online backlash from these extremist activists for closing off this area; thankfully GCC have issued a formal closure due to safety concern. This however has not stopped them.

53. GCC's response to Mr. Nagai's concerns is the same as that supplied to Ms. Maiik above.

54. Open Spaces Society:

"On behalf of Open Spaces Society, I am writing to formally object to the DMMO made to delete the cliff face section of MST28 from the definitive map.

As is regularly made clear in discussions about whether to make DMMO orders the suitability and practicality of using them path are not relevant factors whether to include a route. However, the principal reason for objection is that as there is no evidence of a legal extinguishment process for MST28 having been followed.

The evidence shows that the route had been dedicated and accepted by the public before the Great War in replacement for another route across the quarry.

Consequently, the only legal method of extinguishing the route is by means of a statutory order. This process was not followed therefore the Council, notwithstanding the non-implemented decision of the Highways Committee to remove the path from the draft map whilst having some weight is not particularly relevant in making the case to use a DMMO on this route.

Clearly, where a route is affected by natural events, for example a riverside or sea cliff walk is lost through erosion the route ceases to exist and clearly at some future point as part of a Section 53 continuous review process the path might eventually be removed from the definitive map. However, the quarry at Stonehouse is a man made destruction of the path and as such, there needs to be a statutory process to either extinguish it, divert it or create some acceptable method of traversing the cliff face”.

55. GCC’s response to the objection are as follows;

“...there is no evidence of a legal extinguishment process for MST28 having been followed..”. Regulations under the National Parks and Access to the Countryside Act 1949 (“the Act “), provided a statutory framework which included public notification and consultation and provisions for appeals. This ensured transparency and allowed for community involvement in the verification and establishment of lawful public rights of way.

The assertion that there is no evidence that MST28 was extinguished is rejected. This submission has shown that MST28 was subject to the regulatory procedures associated with the preparation of the DMS. Following publication of the Draft Map, the objections relating to MST28 were considered by Mr W.G. Milne QC, a Barrister-at-Law, and an Acting County Justice, who was appointed to hear the representations and objections made to the County Council in connection with the Footpath Survey and to submit his recommendations. A copy of the Highways Committee Report dated 8 June 1959 included Mr Milnes report. Under (1) it stated, “The following objections and claims in respect of the Draft Map were resolved by negotiation between the Parish Councils and Objectors, hence no hearings were necessary, and my recommendations are as follows:-

- *Under part (iv) – In the Rural District of Stroud – Part objection No.27 by Stonehouse parish Council – “That part of footpath MST28 which is shown across the Brickworks Claypits be re-aligned to follow the track marked F.P. on the O.S. map slightly to the east of its present position”.*

The June Highway Committee resolved *“That the Highways Committee, in pursuance of the powers delegated to them by the County Council as Surveying Authority, hereby*

determine to modify the particulars contained in the Draft Map and Statement in accordance with the foregoing Report and Recommendations of Mr W.G.Milne; further, that the Clerk of the County Council be authorised to take all such action in connection with the determination of the Committee as is referred to in the provisions of the National Parks & Access to the Countryside Act 1949". This process would have had the effect of extinguishing MST28 as shown on the Draft Map and creating it along the track annotated F.P. The subsequent diversion of MST28 at the behest of the landowner, further eastwards to the route known today as MST62, and which was also accepted as an additional footpath at the subsequent December Highways Committee, further complicated matters. As both Highway Committees addressed objections relating to MST28 raised in response to the Draft Map, it would seem that the Highway Committees combined had the effect of extinguishing MST28 as shown on the Draft Map, the approved re-aligned route of MST28 along the track annotated F.P. and created a new route along the alignment known today as MST62.

The formal agreements established during that process however were not implemented as intended. As a result, the DMS now inaccurately depicts a public footpath, which presents a safety hazard in its current form.

Further, The Open Spaces Society considers that the excavation of the quarry resulted in the public having a common law '*right to deviate*'. This principle however applies to situations where the obstruction is temporary, albeit of some years duration, i.e., upwards of 50 years in *Dawes v Hawkins* (1860). In such cases of temporary obstruction, however, the right to deviate would not equate to use along the temporary deviation '*as of right,*' giving rise to dedication.

The excavated quarry subject to this submission, however, is not considered to be temporarily out of repair or foundrous (an archaic word meaning difficult to travel over; likely to cause one to stumble or sink), but rather it is a complete excavation of the affected land and as a consequence, destruction of any highway rights across it.

This was considered by Dr Alison Dunn: LLB.,Ph.D. in an article for the Rights of Way Law Review in September 1997. The following comments were made; pg2; "... *where there is a physical destruction of the land over which a right of way lies, the legal right will likewise be destroyed*"....."*In a right of way, it is the soil of the land and the*

immediately underlying sub-soil, which becomes dedicated with the right. Thus, it follows that it is only in those circumstances where the soil and the sub-soil of the right are no longer in existence that the legal right of passage will likewise be extinguished". Examples of this were found in *R v Inhabitants of the Parish of Hornsea [1854]*, where a right of way was washed away through the encroachment of the sea and *Gloucestershire County Council v Secretary of State for the Environment, Transport and the Regions [2001]*, where a section of public footpath running along bank of the River Severn was swept into the river.

Notwithstanding the 2001 judgement, it could be suggested that at common law there is an assumption that a public right of way adjacent to a crumbling cliff edge, river or canal, would naturally move inland following the new route. MST28 however is not a route which was affected by a force of nature. It was destroyed by the deliberate actions of a landowner. Dr Dunn provided an example (hypothetical) more closely related to the loss of MST28 on pg17; "*Circumstances where a right of way was irreversibly destroyed by a criminal act rather than by irresistible forces of nature will be very rare, but they can be envisaged, for example where a farmer, irked by members of the public using a cliff path over his land, dynamited it at a point where it could not be realistically restored. The dynamiting might plausibly be justified on such grounds that the cliff was in a dangerous state and had posed a risk to persons using the beach below. Doubtless in such a case, readiness to dedicate a replacement route elsewhere on the farmers land could deflect the decision to prosecute him or serve to mitigate his sentence. However strictly speaking, if the original right of way had really been destroyed, it would seem that members of the public would not be entitled to create some other alternative route, by claiming that it was a necessary diversion".*

The remedies for deliberate actions which result in the destruction of highway rights are considered on pg6; "*If a landowner were unlawfully to destroy a public footpath or other highway across his land, he would be criminally liable in public nuisance. He would also be liable for prosecution for the statutory offence of removing soil or turf from any part of a highway, as he would not have acted for the permitted purpose of improving the highway with the consent of the highway authority for that highway".* This was further considered on pg11; "*The only concession might be where it was considerably cheaper to effect an arrangement whereby the original route was closed and a suitable alternative dedicated by way of a diversion; provided this would satisfy*

the requirements of public convenience and provided the person responsible bore the associated costs”.

It is suggested that MST28 and indeed its predecessor, which was diverted with the agreement of Stonehouse Parish Council in 1908, did not constitute a temporary obstruction subject to the right to deviate or had ‘moved’ as a result of a force of nature, but were both destroyed due to the deliberate quarrying undertaken by the landowner. The soil and sub soil was totally excavated resulting in any highway rights being extinguished.

- 56. Mr Tennant:** *“For your information I am a resident of the area in which MST28 is located and a regular user of this footpath in all parts of its length. I am also aware of others in the area who find it possible to walk the path in its entirety, some with a lesser frequency than I, others more. Although conditions can be challenging on the steepest section people with robust mobility may negotiate this section safely with care, except in the worst and wettest of weather conditions or darkness. I do not doubt it possible to find PRow footpaths in this county, particularly on and around the Cotswold escarpment, with sections of their length which present equivalent difficulties and gradients which are not considered for deletion, and rightly so.*

In the recent past MST28 and its steepest section have been subject to a number of temporary closure orders which were extended, ostensibly to facilitate works to improve the conditions under foot. To actual users of the path there was never any evidence, or verification of erroneous claims of dangerous occurrences or accidents, though most would accept this section would benefit from improvements. However, neither was there any evidence of preparations for works or actual works being carried out. To my knowledge this path has never in its existence received attention to maintenance or improvement by landowners or successive local authorities This sits in contrast to recent significant public expenditure to improve MST62's less challenging topography, and there are further improvements planned for MST62 and 30.

Whilst walking between point B and C identified on the order's map does contain a difficult section, i.e. the steepest, there is a modest length of good path within B - C leading to the edge of the quarry face which is flat. Even more significant is a

substantial stretch of the path which is perfectly passable and navigable from a point at the actual foot of the old quarry face and extends approximately southwards. This section approaches the rear of properties on Rosedale Ave, passes between the houses, crosses Rosedale Ave, continues between houses on the S side of Rosedale Ave to join MST27. Incidentally, at this point there is a local authority triple way marker post with public footpath 'finger' signs. Vandalism of accidental damage seems to have removed most of the way marker pointing north for MST28, whilst the remain for E & W along MST27.

As you will be aware, in recognition of some of the difficulties for universal access presented by the topography of the quarry face section a DMMO application has been presented to GCC by local people. However, this attempt to modify the route has been pre-empted by the deletion order quite unnecessarily. Furthermore, whilst that DMMO had been submitted some time prior to the December 2024 CROW Committee meeting I recall no mention of the existence of this DMMO application in the report to members on MST28.

What I do recall from the report presented to the meeting were repeated references to a lengthy historical process of encroachment upon the path and its line as represented on the definitive map by the quarry, alongside 'drafting errors' in that representation.

However, any attempt to suggest that on historic investigation no footpath exists here is paradoxical. For many years, including the recent past, the real-world evidence on the ground makes it clear it does. This is evidenced by use by the public, recognition in public signage and in GCC temporary closures to facilitate improvement to MST28. The argument to extract GCC from this paradox seems to be the repeated assertion of historical 'drafting errors' causing a PROW to enter the definitive record erroneously. Into this argument is inserted a consideration of the 'true line' of MST28. Well, what is represented on the definitive map in relation to MST28 are a series of utterly straight lines, rather unusual features on many rural paths especially when touched by Cotswold topography. Even the Romans had to put some bends and deviations in their routes in response to conditions encountered on the ground in this area. The 'post Roman' walkers of Stonehouse are no different in this regard, and I cannot imagine who might have thought the straight lines depicted could have

survived the natural and anthropogenic intrusions upon this path.

What has clearly occurred here is an evolution of the path's line shaped by users exercising their common law right to deviate from the line depicted on the definitive map in order to circumnavigate obstructions. Those obstructions include of course the history of advancement of the quarry working and its encroachment upon the path, and the more recent development of housing on the old brickworks and quarry site following its closure.

So, over something approaching 100 years a succession of local authorities, landowners and developers' failures to variously properly control, record, maintain and improve, preserve or where required modify the route of MST28. The community of Stonehouse, and particularly generations of users of MST28 to date, have been let down over long years by this neglect and should not lose a path because of it.

Whilst the element of local authority responsibility must be laid at predecessor authorities to Gloucestershire County Council, I believe current the decision to 'delete' this section of a patently used path, of which a significant portion is on less than problematic topography, only compounds this neglect.

The decision to delete is pre-emptive and premature. Other options exist to either; improve conditions under foot, record modifications or diversions to the route made in response to obstructions etc or devise alternative routes and map modifications to retain continuity of MST28 beyond point B on the map. Indeed, as mentioned above in the latter case a DMMO to that effect submitted by local people has sat with GCC for months prior to the decision to delete”.

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

Mr Tennant described the walked route as follows; *“Whilst walking between point B and C identified on the order's map does contain a difficult section, i.e. the steepest, there is a modest length of good path within B - C leading to the edge of the quarry face which is flat. Even more significant is a substantial stretch of the path which is perfectly passable and navigable from a point at the actual foot of the old quarry face and extends approximately southwards. This section approaches the rear of properties*

on Rosedale Ave, passes between the houses, crosses Rosedale Ave, continues between houses on the S side of Rosedale Ave to join MST27”. Mr Tennant further questioned the depiction of MST28 as having a straight line.

The route described by Mr Tennant does not correspond to the recorded alignment of Public Footpath MST28 as shown on the Definitive Map, which serves as conclusive legal evidence of the path’s existence and precise location. The section between points B and C follows a relatively straight line, reflecting the route originally drawn by the landowners, the Brick and Tile Company, in 1908, as referenced in paragraph 16.2 of this submission.

A public right of way entitles the public to pass and repass along a clearly defined linear route at all times, between fixed termination points. For a presumption of dedication to arise under Section 31 of the Highways Act 1980, it must be demonstrated that “a way is used...”—meaning that public use must be consistent, and sufficiently well-defined to be legally recognised. Deviation from the recorded route constitutes inconsistent use and may be regarded as “wandering at will,” which does not support a presumption of dedication under either statute or common law. It is considered that Mr Tennant has not provided sufficient evidence to show that MST28 should not be deleted.

If the inspector is minded to confirm the order to delete MST28, it should be noted that any subsequent use of it after its inclusion on the Definitive Map, whether rightly or wrongly, *cannot give rise to a claim* of presumed dedication under statute or inferred dedication at common law for the reason that by virtue of the path being shown on the legal record, people had a right to use it. Use therefore would be ‘by right’ and not ‘as of right’. The separate DMMO application (573/11212(11)) for an additional route in the vicinity of MST28, which could connect to it, is irrelevant when considering the question of whether the retention of MST28 on the Definitive Map & Statement along the alignment as shown on the Draft Map, across the quarry, was an error.

Ultimately, the Order to delete MST28 was not made due to difficulty of use or a lack of maintenance. The highway authority were initially confronted with the issues of inaccessibility along the sections of MST28 which cross the quarry and the properties in Rosedale Avenue following the transfer of adjacent land, known locally as Verney Fields in 2023 (land coloured green on map in paragraph 1).

Following the change in ownership, the new landowner stopped access to unofficial tracks across Verney Fields that had allegedly been used by the public for many years. This prompted the submission of five separate Definitive Map Modification Order (DMMO) applications; 573/11/212(6)-(10), which were subsequently combined into a single order. That order has been contested and is due to be submitted to the Secretary of State for confirmation.

This situation however renewed public interest in the official alignments of Public Footpaths MST28 and MST30, both of which either adjoin or connect with Verney Fields. In response to complaints regarding their condition, maintenance works were undertaken along MST30. However, due to the complex circumstances surrounding MST28, particularly the fact that it crosses a dis-used quarry and two private properties, a formal investigation was deemed the most appropriate course of action. In the interest of public safety, temporary closures were implemented on MST28 pending the outcome of the investigation.

A multi-arm signpost is located at point C (red arrow on the map below), directing users along the access track installed by the developer, which runs adjacent to the definitive alignment of the route. It was as a result of this investigation that this route was also found not to form part of the official alignment of MST28. The georeferenced extract of the Definitive Map overlaid on a modern base map below confirms that the official route of Public Footpath MST28 crosses the properties at Nos. 67 and 52 Rosedale Avenue. Unfortunately, there are no available records to clarify the reasoning or authority behind the placement of the signpost at this location.



58. Mr Fawkes: *"I am writing to object to the intended deletion of the part of MST28 which goes from points B to C on the G.C.C. map I am a regular user of this path which goes through a beautiful, wooded hillside with great views of the surrounding area. I often use it every day in the lighter months of the year to get to my parents' house which is near where it emerges in the Rosedale Estate. I do understand that you are deleting the true-line of the path where the cliff has fallen away and where the route goes through two houses at the bottom, though I would hope that your plan is to officially reroute the path along the deviation(s) of the route that myself and others have been using in recent years and which has been submitted by the group 'Friends Of Verney Fields' of which I am a member".*

59. The Case Officer responded on 29 January 2025: "The Order for the deletion is based upon the legal provision of s53(3)(c)(iii) Wildlife and Countryside Act 1981, i.e., the discovery of evidence which shows that *"there is no public right of way over land shown in the map and statement as a highway of any description"*. I regret that in legal terms; your objection does not fit the criteria for deletion of a public right of way from the Definitive Map. It is incredibly difficult to delete a path from the legal record but to preserve it, you need to show that MST28 was correctly added to the Definitive Map and was not, as my report suggested, subject to a drafting error.

I am happy to retain your objection, and it will be forwarded to the Secretary of State with my submission and any other objections, but in its current form, it would be deemed irrelevant.

I would like to clarify your objection, however for my own understanding. I apologise if I have misunderstood, but you state that you are objecting to section B-C being deleted on the basis that you walk in the woodland. This is a different route to the true line of MST28, and it has nothing to do with the proposed deletion for which you say you understand its reason; because it crosses an open quarry and crosses two houses.

As a member of the 'Friends of Verney Fields', you will be aware that there is an outstanding application for a route through the wood to be added to the Definitive Map in the vicinity of MST28. Even if the true line of MST28 is deleted, this would not affect the outstanding application for the path through the woodland. That application however is yet to be investigated". (This is a reference to the application 573/11/212(11) referred to in paragraph 2 of this submission).

60. Mr Fawkes responded on 29 January 2025, *“I do to some extent understand the reasons behind the intended deletion of that part of the true line of MST28. What worries me though is that we may never get another P.R.O.W. in the vicinity to replace it. I imagine Linda Maiik would object to any new path put forward and then we could possibly lose the official right to walk through that area. It would be much better if there was a P.R.O.W. there”*.
61. Definitive Map Modification Orders (DMMOs) serve to verify, correct, and update the legal record of public rights of way that have already been established. They are not intended to create new rights based on considerations of suitability or desirability.
62. As outlined in the response to Ms. Maiik and Mr Nagai’s objections, the order to delete MST28 is founded on evidence obtained through a detailed investigation. This investigation indicates that MST28 was diverted during the statutory process of compiling the Definitive Map and Statement, but the original route was never formally removed from the record.

CONCLUSION

63. On the balance of probabilities, it is submitted that Gloucestershire County Council reached a sound and justified decision based on the full body of evidence considered. MST28 was subject to the statutory procedures governing the compilation of the Definitive Map and Statement (DMS), which culminated in an agreement to realign the footpath eastwards, thereby avoiding the open quarry.
64. No documentation has been found to explain why the original alignment of MST28, although formally approved by the Highway Committee under the regulations governing the DMS process, was not redrawn, either along the adjacent track annotated ‘F.P.’ or further east to the location now recorded as MST62 following consultation with the landowner.
65. Given the renewed interest in this route, the current depiction of MST28 on the DMS now represents a hazardous path for public use. Accordingly, the Secretary of State is respectfully requested to confirm the *“Wildlife and Countryside Act 1981, The*

Definitive Map and Statement of Public Rights of Way for Gloucestershire, Deletion of Part of Public Footpath MST28, Stonehouse Town, Modification Order 2025.

- 66.** Should the Inspector be minded to confirm the Order for the deletion of section B–C of Public Footpath MST28, he is respectfully requested that consideration also be given to the broader body of evidence suggesting that the entirety of MST28 was ultimately diverted to the route now recorded as MST62. The alignment of MST62, appears to encompass the Brick and Tile Company’s preferred realignment of MST28 in the vicinity of the quarry, with the claimed description by Stonehouse Parish Council to the Draft Map in 1954, “...*A further point has arisen since Mr. Conway’s visit with regard to Footpath No. 28. The Brickworks Claypit is now much larger in area than that shown on the map, and in consequence the footpath as at present shown on the draft map does not exist. It should be moved to the right to occupy the track marked ‘footpath’ (or FP) on the map slightly to the left of the windpump, thence continuing on or almost straight line to meet footpath no. 30.*” No further documentation has been found relating to MST62 as shown on the DMS. The evidence suggests that the southern section of this route was claimed by the landowner and no objections were received.
- 67.** Some of the objections raised in relation to this Order appear to rely on the potential connection of MST28—or the remaining section A–B—to other claimed routes that are currently the subject of entirely separate DMMO applications. It is important to emphasise that these applications are not relevant to the current Order, which concerns the deletion of MST28 based solely on evidence obtained through a comprehensive investigation conducted under the statutory procedures for compiling the DMS. Accordingly, the Inspector is respectfully requested to confirm the Order in order to rectify this long-standing mapping error.