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 Footpath from Oak Way to MST30
Stonehouse Parish)
Modification Order 2025

GLOUCESTERSHIRE COUNTY COUNCIL REFERENCE:

573/11/212(4))

PLANNING INSPECTORATE REFERENCE:

ROW3365454

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. In 2015, I was appointed as a Highway Records Officer (role previously known as Asset Data Officer) for Gloucestershire County Council ("GCC"), responsible for the investigation and processing of 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 Footpath from Oak Way to MST30, 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 Information

2.1 The DMMO application was submitted by Mr Tipper of Oak Way, Stonehouse on 14 February 2023. The application was made under section 53(2)(b) WCA1981 based upon the events set out in s53(3)(c)(i) WCA1981, 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*". Mr Tipper sought to add a public footpath connecting Oak Way (publicly maintainable highway 47737) with Public Footpath MST30, as shown between points A-B-C on the Order Plan **(GCC submission ref:1).**

2.2 The land crossed by the Order route is *unregistered*. Given this, GCC granted permission for notices to be erected on-site to notify anyone with an interest in the land of the application. The applicant installed the necessary Form 2 notices at points A and C, and photographic evidence of their installation was supplied.

2.3 The Order route has a length of approximately 107m. The first 34m is tarmacked and has an adjacent street light. Within this length, the first approximately 9m is recorded on the List of Streets as public highway 61293. Although the List of Streets is a record of highways maintainable at public expense, rather than a definitive

record of status, its inclusion indicates that the public enjoys at least a right of way on foot over that section. The remaining length of Order route crosses a grassy area to its junction with Public Footpath MST30.

2.4 The application was supported by 15 User Evidence Statements (UESs), comprising 10 statements submitted with the application and five additional statements originally prepared for a separate but related DMMO application: 573/11/212(6)-(10), all of which included relevant usage of the route A-B-C.

2.5 GCC undertook standard consultations with stakeholders including the applicant; Stonehouse Town Council, Stroud District Council, landowners, and various rights of way user groups. No objections were raised during the pre-determination phase.

2.6 The application was duly investigated and a Determination Report written by a member of the Highway Records Team in conjunction with our Legal Services department. The Commons and Rights of Way Committee ("CROW Committee") considered the full evidence on 10 December 2024, determining that the 'subsist' test under section 53(3)(c)(i) WCA 1981 was met and that the Order should be made.

2.7 The Order was ultimately sealed on 14 January 2025 and advertised on 22 January 2025. As the land was unregistered, dispensation was granted by the Planning Inspectorate for notices to be installed for 'owners and any occupiers of the land' at points A and C.

2.8 Eleven representations were received of which two were objections. One was received by letter from John Copland & Son on behalf of Linda Maiik, dated 3 March 2025. The second was received by email from Kay Nagai, dated 5 March 2025 **(GCC Submission ref: 4.2).**

3. Legal Tests and Statutory Framework

3.1 The relevant statutory provisions are:

- Section 53(3)(c)(i) of the 1981 Act (discovery of evidence that a public right of way subsists or is reasonably alleged to subsist).

- Section 31(1) and (2) of the Highways Act 1980 ("HA 1980"), relating to presumed dedication following 20 years' use "as of right".
- Section 31(7B) of the Highways Act 1980, establishing that where no overt challenge occurred, the date the DMMO application is made may be treated as the date the public's right was brought into question.

3.2 To meet the statutory criteria, GCC must demonstrate:

- A minimum of 20 years' uninterrupted use by the public "as of right" (without force, secrecy or permission).
- No evidence of landowner intention to prevent dedication.
- Sufficient user and/or documentary evidence to satisfy *Test A* (a right of way subsists) or at minimum *Test B* (a right of way is reasonably alleged to subsist), as outlined in Defra Circular 1/2009. Noting that it is Test A to confirm the Order.

3.3 The retrospective 20-year period assessed was **2003–2023**, derived in accordance with section 31(7B) Highways Act 1980.

4. Summary of Evidence Considered

4.1 Documentary Evidence

4.1.1 It is considered that analysis of the available historic documentary/ mapping evidence **(GCC Submission ref: 3.1A-K)** shows that none depicts the Order route in a manner that could support a historic claim.

4.1.2 I therefore consider historic documentary/ mapping evidence to be neutral in determining the existence of the claimed right.

4.2 User Evidence

4.2.1 The absence of the path from documentary/ mapping evidence, however, does not prevent dedication arising through long term public use. Thus, the case is considered to rest upon modern user evidence.

4.2.2 It is noted that one Statement of Case by the applicant, Mr Tipper in support, was submitted ahead of the Inquiry.

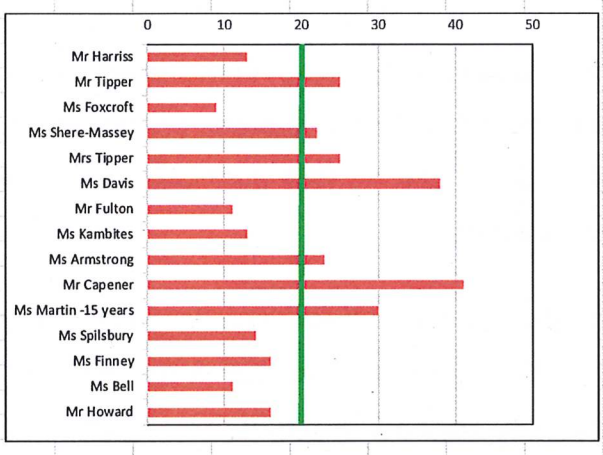
4.2.3 Of the 15 UESs submitted, all claimed use of the route on foot, one dating as far back as 1978.

4.2.4 Within the relevant 20-year period **(2003–2023):**

- No one had worked for or was tenant of the landowner.
- All fifteen witnesses gave evidence of use during some or all of the period.
- Seven of the fifteen witnesses used the route throughout the entire 20-year period, as shown in bar chart overleaf.
- Frequency in use: 6 daily, 7 weekly, 1 monthly & 1 twice in a decade.
- Activities included recreation, dog walking, and general access.

Oak Way to MST30, Stonehouse - Qualifying period 2003-2023 - 20 years (Green line)

Name	Start	End	Duration
Mr Harriss	2010	2023	13
Mr Tipper	1998	2023	25
Ms Foxcroft	2014	2023	9
Ms Shere-Massey	2001	2023	22
Mrs Tipper	1998	2023	25
Ms Davis	1985	2023	38
Mr Fulton	2012	2023	11
Ms Kambites	2010	2023	13
Ms Armstrong	2000	2023	23
Mr Capener	1982	2023	41
Ms Martin -15 years	1978	2023	30
Ms Spilsbury	2008	2022	14
Ms Finney	2007	2023	16
Ms Bell	2012	2023	11
Mr Howard	2007	2023	16



4.2.5 All 15 users replied "No" to the following critical questions set out in the User Evidence Questionnaire for the 20-year timeframe 2003-2023:

- Whether they had ever seen signs indicating the route was private (Q.10) - Mr T Howard responded 'yes', but qualified that it was "*only since spring 2023, never before that".*
- Whether they had ever been given permission to use the route (Q.12)
- Whether they had ever been stopped or challenged (Q.14)

4.2.6 There was no evidence of use being:

- By force (e.g., climbing locked gates, cutting/ barbed stock wire)
- In secrecy (confined, hidden, or only at night)

- By permission (express or implied)

4.2.7 The user evidence therefore demonstrates uninterrupted use *"as of right"* consistent with the test in R v Oxfordshire CC ex parte Sunningwell (2000).

4.2.8 One user referenced cycle use, but isolated bicycle use cannot infer dedication of a higher status route (Dorset 1999 - "*although the evidence within five UEFs was truthful, it was insufficient to satisfy the statutory test of dedication".*

4.2.9 Some of the comments made by individuals who used the Order route include:

Mr Harriss (identified as No.1 in the user Evidence Forms) stated "*the existence of a tarmac path and clear evidence of multiple use over the grass section, and the provision of a streetlight (shown on attached map) has always led me to believe it is a public path".*

Mrs Shere-Massey (No.4) stated "*I have been a daily dog walker using this route and was surprised to learn that it is not included on the Definitive Map of public footpaths especially in view of the first part (Oak Way end) being tarmac and having street lighting which is regularly maintained".*

Mrs Davis (No.6) stated *"I have used the path to access Verney Field believing it to be a public footpath. To learn that the path is not included on the Definitive Map of public footpaths is a surprise and a matter that should be corrected as soon as possible".*

Mrs Kambites (No.8) stated "*The path concerned is a well-used route to access Verney Fields. It needs to be made a public right of was as soon as possible".*

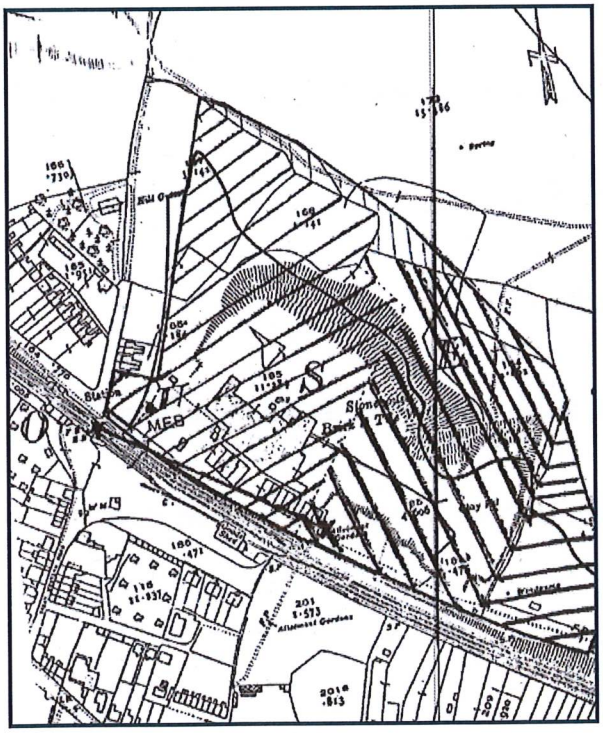
Mrs Armstrong (No.9) stated *" I have used this path pretty much everyday (except when away from home obviously) and just accepted it was a footpath as well-defined track, lots of people use it. If not official already, would be good to make official as widely used by community".*

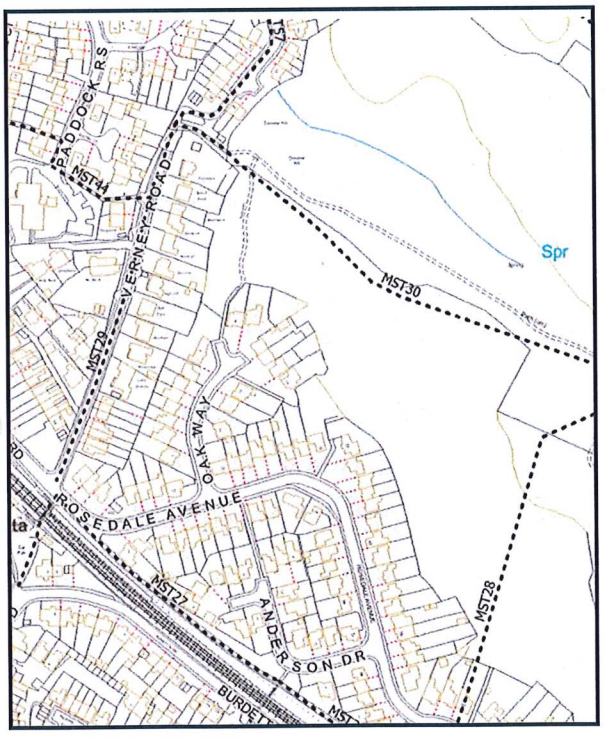
Mr Capener (No.10) stated *"I have used the path to access Verney Field and then to Doverow Wood and the Cotswold Way believing it to be a public footpath. To learn that the path is not included on the Definitive Map of public footpaths is a surprise and a matter that should be corrected as soon as possible".*

I consider the user evidence to be both credible and sufficient to establish presumed dedication under HA 1980 s31.

4.3 Landowner Evidence and Intent

4.3.1 The land over which the Order route crosses is unregistered. There is no explicit reference however in section 31(1) HA80 to use having to be of a level to have come to the attention of the landowner. It does not speak of a *landowner being deemed to have dedicated* the way, but of the *way being deemed to have been dedicated*, i.e., irrespective of the existence or non-existence of a person capable of dedicating the way. A plan (below left) shows the extent of land conveyed on 6 February 1973, to Melbourne Investments Limited (a wholly owned subsidiary of Taylor Wimpey plc) by way of purchase from Halls-Keck Investments Limited. This company was consulted throughout the process, from the pre-determination stage, but they have not clarified their interest in the land.





4.3.2 Notwithstanding the above, following advertisement of the Order in January 2025, Taylor Wimpey stated that they had no objection.

4.3.3 No signs, obstructions, challenges, or deterrent actions over the qualifying period 2003-2023 were reported by any users or landowners.

4.3.4 In *Godmanchester (2007)* the House of Lords established that evidence of lack of intention to dedicate must be overt, contemporaneous, and communicated to the public. No such evidence exists in this case.

4.3.5 I conclude therefore that there is no evidence of overt actions sufficient to rebut the statutory presumption of dedication over the timeframe 2003- 2023.

5. Points of Dispute

The arguments, as set out in the objector's filed 2025 objections have been commented on previously in the Council Statement of Reasons, **(GCC Submission ref: 3.1, paragraphs 44-47)** but the main points of dispute are themed and summarised together as follows:

a) Alleged failure by GCC to present all evidence before Committee

b) Alleged inadequate assessment of "force" in user evidence

c) Claim that A–B is a private access path

d) Alleged lack of evidence for a 2m width

e) Reference to historic features (pond, brickworks, 1972 fencing requirement) as evidence of opposition

f) Claim that the route continued beyond MST30, along the alignment of an unrecorded route within Verney Fields.

Responses

5.1.1 (a) GCC supplied elected members of the CROW committee with copies of the documentary evidence, consultation responses and analysis of the submitted used evidence two weeks before the meeting.

5.1.2 (b) No evidence of user "by force" was alleged over the qualifying period 2003-2023 by a landowner or by any of the 15 individuals claiming use as indicated by the responses to questions in the user Evidence Forms:

Q8c: no one noted barriers preventing use

Q.10: no one noted signs suggesting that the route was not a public right of way

Q.12: no one was given permission to use the route

Q.14: no one was stopped or turned back when using the route

5.1.3 (c) The first approximately 9m from Oak Way is designated on the List of Streets, a record of publicly maintainable highways required to be held and maintained under s36(6) Highways Act 1980. As previously stated, although this record does not identify status, its inclusion indicates that the public enjoys at least a right of way on foot over that section. Any private rights of access would not preclude the dedication of public rights. For example, a farm track may provide a landowner and adjoining property owners with private rights of access to their land. At the same time, if the public have used the track on foot openly, without force, without secrecy and without permission for a continuous period of 20 years, a public footpath may be presumed to have been dedicated under section 31 of the Highways Act 1980. The existence of the landowners' and occupiers' private rights to use the track would not prevent public rights from arising over the same route. As previously noted, the responses to the User Evidence Forms show that individuals were not prevented orally or physically from using the Order route and no one noted signs denying use.

5.1.4 (d) The width of 2m is based upon the common law presumption that a footpath should be wide enough to allow 2 people to pass and re-pass.

5.1.4 (e) Historic land uses (pond, brickworks, fencing, etc.) predate the 2003–2023 qualifying period and have no relevance to the modern user-based dedication.

5.1.5 (f) For a valid claim, a route must have clear termini. As stated by the objector, the applicant originally intended to claim a length of Order route which would connect with an unrecorded route across Verney Fields. However, Mr Tipper's application was submitted in February 2023, prior to the applications in July to add several unrecorded routes across

Verney Fields. Mr Tipper was advised that legally a route must terminate at a highway or place of popular resort. The claimed route was therefore drawn to terminate at Public Footpath MST30.

5.2 The objections submitted do not present credible counter-evidence capable of overturning GCC's findings. The issues raised have been addressed in the investigation and clarified within this proof.

6. Conclusion

6.1 I consider that the evidence clearly demonstrates:

- That it meets the statutory test of presumed dedication; full period of 20 years public use, as of right and without interruption.
- Absence of any landowner challenge or overt actions specifically aimed at members of the public to show his lack of intention to dedicate over the qualifying period 2003-2023.

6.2 Accordingly, it is my professional opinion that the Modification Order is correctly made and that the legal tests for confirmation of the length of public footpath between Oak Way and public Footpath MST30 shown as A-B-C on the Order Plan are fully met.

7. Statement of Truth

I, **Jaci Harris**, confirm that the evidence I have given in this proof is true and that the opinions expressed are my genuine professional judgement.

Signed: 

Dated: 9-10-2026