

Application Number: **705M**
Date Registered: **25 March 2011**
Parish: **Pilton**
District: **Mendip**
Member Division: **Mendip South**
Local Member: **Councillor Hewitt-Cooper**
Case Officer: **Andrew Saint**
Contact Details: **01823 359796**
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Description of Application: **Wildlife and Countryside Act 1981 – Section 53 Schedule 14 - Application to add a bridleway at Westholme Lane, in the Parish of Pilton**

Grid Reference: **ST 5631 4040**
Applicant: **Mendip Bridleways and Byways Association**
Location: **Lower Westholme**

Recommendation:

It is recommended that:

- i. An Order be made, the effect of which would be to add to the Definitive Map and Statement of Public Rights of Way a public bridleway between WS7/54 and Lower Westholme Road, in the parish of Pilton (shown A-B on plan H063-2017).
- ii. If there are no objections to such an order, or if any objections which are made are subsequently withdrawn, it be confirmed
- iii. if objections are maintained to such an order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs.

1. Introduction

1.1. On 25 March 2011, Mendip Bridleways and Byways Association made an application under Schedule 14 and Section 53(5) of the Wildlife & Countryside Act 1981 for an Order to amend the Definitive Map and Statement by adding a public bridleway over part of Westholme Lane in the parish of Pilton.

1.2. On receipt of such an application, the County Council is under a duty to investigate and determine what, if any, public rights of way already subsist over the application route. Where the investigation shows the Definitive Map and Statement to be in error an order must be made to correct it.

2. Direction from the Secretary of State

2.1. Where applications such as the one made by the Mendip Bridleway and Byways Association remain undetermined after 12 months, the applicant is entitled to ask the Secretary of State to issue a direction requiring the County Council to determine it within a given timescale.

2.2. Last year the Mendip Bridleways and Byways Association made representations to the Secretary of State seeking such a direction in relation to their application. Their request was successful and the County Council were directed to determine the application by 31 January 2018.

2.3. In recent months there has been a significant increase in the number of directions issued by the Secretary of State nationally. In Somerset alone we have received 34 directions in the last 18 months. This has inevitably put greater strain on our already stretched resources. In order to meet the deadlines set by the Secretary of State, consultants have been instructed to investigate and report upon a number of applications, including this one.

3. Consultant's Report

3.1. Robin Carr Associates (RCA) have investigated the Mendip Bridleways and Byways Association's application on the County Council's behalf. In doing so they have followed the same procedures as those followed by officers of the County Council when investigating similar cases.

3.2. A copy of RCA's investigation report, which includes details of the relevant legislation, is attached. Where appropriate, personal information (e.g. names and addresses) has been redacted from the report. This includes removing the whole of appendix 2 which lists those who were consulted on the application during RCA's investigation.

3.3. As is explained in section 2.4, having drafted the report, it was circulated to various interested parties for comment. Two responses were received, both of which disagreed with the recommendation. The representations, together with RCA's response to them, are included in the report (see appendices 25 and 26).

4. Conclusions

4.1. As can be seen from their report, RCA conclude that the evidence in its totality is sufficient to reasonably allege that bridleway rights subsist.

4.2. RCA go on to suggest that, even if it were to be concluded that the application route had not historically been a bridleway, a right of way on foot could be reasonably alleged based on evidence of use between 1960 and 1980.

4.3. Most (although not all) of the objections raised in response to RCAs recommendation relate to the quality of the user evidence provided. However, as RCA make clear in their response 'our conclusions in respect of bridleway status are based on the historical reputation of the way as a bridleway, and [RCA] can confirm that if such rights do subsist, then they were established prior to 1910'.

4.4. The importance of this is that if bridleway rights were established prior to 1910, and if they have not subsequently been diverted or extinguished (and there is no evidence of them having been so), then they will still exist today irrespective of the level of public use that they have received in more recent times.

5. I therefore recommend that:

- i. An Order be made, the effect of which would be to add to the Definitive Map and Statement of Public Rights of Way a public bridleway between WS7/54 and Lower Westholme Road, in the parish of Pilton (shown A-B on plan H063-2017).
- ii. If there are no objections to such an order, or if any objections which are made are subsequently withdrawn, it be confirmed
- iii. if objections are maintained to such an order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs.