
Bath & North East Somerset Council

DEFINITIVE MAP MODIFICATION ORDER INVESTIGATION REPORT

BATHAMPTON DOWN

Date: 22/09/2026

INVESTIGATION REPORT

AUTHOR: GRAEME STARK

DATE: 22/09/2026

An application has been made under section 53(5) of the Wildlife and Countryside Act 1981 for an order to be made to amend the Definitive Map and Statement of Public Rights of Way by adding a footpath.

This report summarises the evidence of which Bath and North East Somerset Council ("the Authority") is aware following a preliminary investigation of records held by the Authority and the Somerset Heritage Centre and submitted by the applicant. When the decision is taken as to whether an Order should be made, and if so the status of the route (i.e. footpath, bridleway, restricted byway or byway open to all traffic), it will be based on the Authority's interpretation of this evidence and any other relevant evidence produced to the Authority before the date of the decision. This Investigation Report is a factual account of the application and its processing up to this point, and the evidence provided and/or discovered which is relevant to the existence and status of the route.

The final decision will be based upon the evidence summarised in this report together with any further comments, documents and other evidence supplied by landowners, consultees and other interested parties.

The plan attached at page 4 shows the location of the route under investigation in the parish of Bathampton and the City of Bath.

An order will be made if the evidence shows that:

- A right of way "subsists" or is "reasonably alleged to subsist"
- "The expiration... of any period such that the enjoyment by the public...raises a presumption that the way has been dedicated as a public path"
- The status of a recorded right of way needs to be changed
- There is no right of way over land as recorded on the Definitive Map and Statement
- Details of the Definitive Map and Statement need to be changed.

When considering evidence, if it is shown that a highway exists, then highway rights continue to exist ("once a highway, always a highway") even if a route has since become disused; this is until a legal order stopping up or diverting the rights has been made.

Section 53 of the Wildlife and Countryside Act 1981 does not allow factors such as suitability, the security of properties or the desirability of a route to be taken into consideration.

2. RELEVANT LEGISLATION CONSIDERED

The following legislation was considered when this case was investigated; National Parks and Countryside Act 1949, Countryside Act 1968, Highways Act 1980, Wildlife and Countryside Act 1981, Countryside and Rights of Way Act 2000, Natural Environment and Rural Communities Act 2006.

3. APPLICATION DETAILS

An application was made by Bathampton Parish Council on 21 February 2022, pursuant to section 53(5) of the Wildlife and Countryside Act 1981 to add a route to Definitive Map and Statement.

4. THE ROUTE

The route under investigation commences from a junction with public footpath BA1/30 at grid reference ST 7687 6492 (point A on the Investigation Plan on page 4 below) (see Fig. 1 below) and proceeds in a generally easterly direction for approximately 72 metres to grid reference ST 7694 6491 (point B on the Investigation Plan) (see Fig.2) and turning in a generally southerly direction for approximately 141 metres to the Bathampton parish boundary at grid reference ST 7698 6478 (point C on the Investigation Plan) and continues in a generally southerly direction for 17 metres to a junction with public bridleway BC74/4 at grid reference ST 7699 6476 (point D on the Investigation Plan). This route is hereafter referred to as “the Application Route”.

During a site survey carried out by the Authority on 30 March 2026, a sign was present at point A on the Investigation Plan stating: *‘Danger. Risk from flying golf balls. Proceed with Caution. Stay on footpath. Please keep dogs on lead.’* A public footpath waymarker pointing in a westerly direction along BA1/30 and an arrow without any further text was pointing in an easterly direction along the Application Route was also present on the same waymarking post. A public footpath waymarker and a Permissive Path waymarker were present on a waymarking post at point B on the Investigation Plan. A sign was present at point C on the Investigation Report stating: *‘University of Bath. This is Private Land. Access is prohibited unless with the express permission of the University, except when using public footpaths or bridleways’.*



Fig.1: Point A looking east



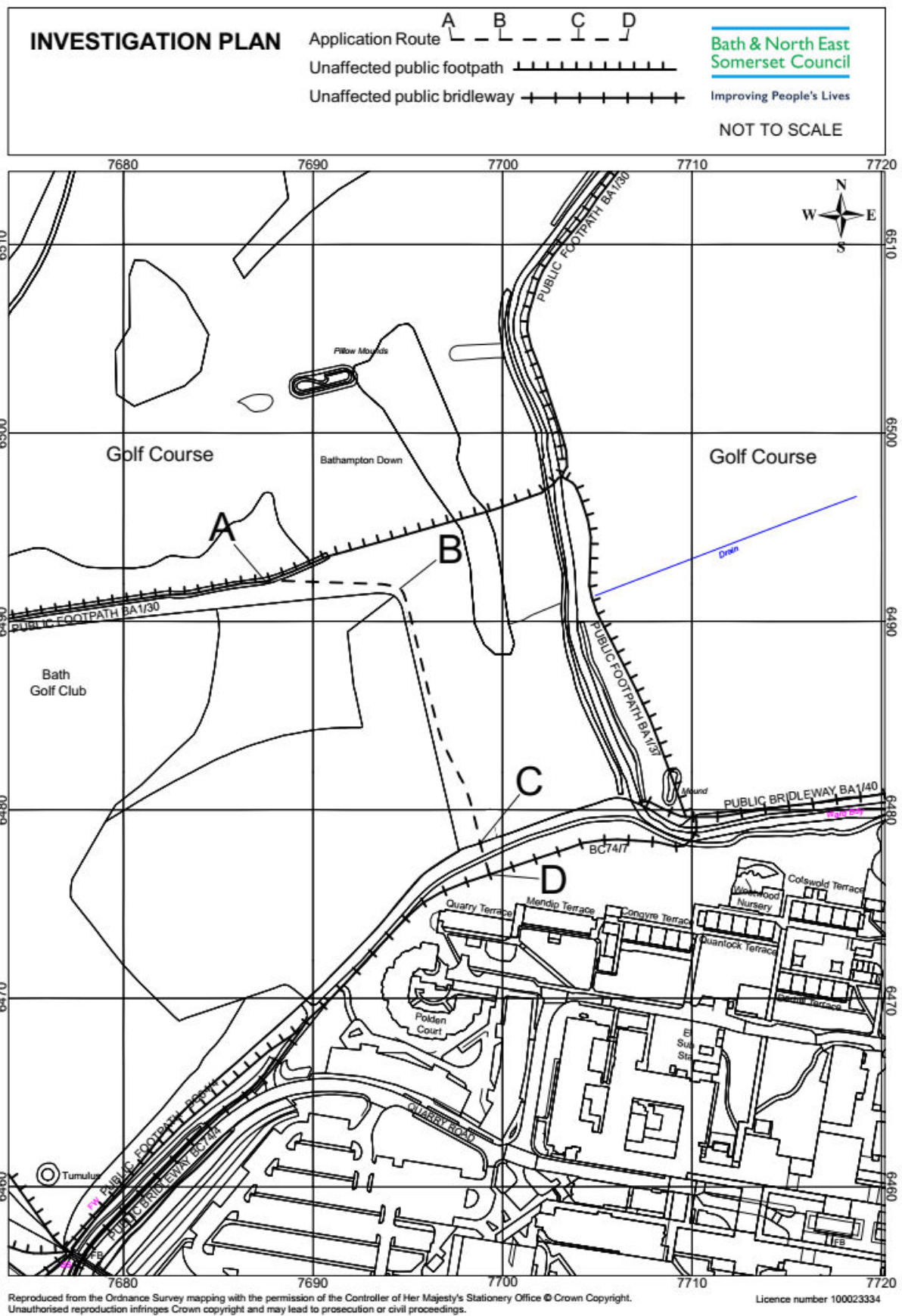
Fig.2: Looking east towards point B



Fig.3: Looking south towards point C



Fig.4: Looking north towards point D



5. DOCUMENTARY EVIDENCE

Doc No.	DOCUMENT TITLE	DATE	BRIEF DESCRIPTION OF DOCUMENT & NATURE OF EVIDENCE	DOCUMENT REFERENCE (& LOCATION)
1.	Day and Masters' Map	1782	County Map made from an original survey to be sold to the travelling public, which could be indicative of routes shown probably being public. Footnote states that the map was published according to an Act of Parliament. The Application Route is not shown on Day and Masters' map.	D\B\wsm/38/6 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
2.	Greenwood's map	1822	County Map made from an original survey carried out in 1820 and 1821 to be sold to the travelling public, which could be indicative of routes shown probably being public. The Application Route is not shown on Greenwood's map.	A\AUS\60 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
3.	Tithe Map and Tithe Award or Apportionment	c.1840	The Tithe Map is a detailed large scale map of the parish. It was produced to locate titheable land described in the award, not rights of way and their status. However, the maps do mark roads quite accurately and can provide useful supporting evidence (in conjunction with the Tithe award) to other documents. The Application Route runs through enclosure 60 on the Bathampton Tithe Map but the Application Route is not shown and the Apportionment shows that Tithe was paid on that enclosure.	D/D/rt/M/450 D/D/rt/A/450 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
4.	Ordnance Survey maps	1885-1970	The Ordnance Survey has produced a series of topographic maps at different scales. The large scale 1:2500 plans from the 1870's onwards provide the good evidence of position of routes and the existence of any structures, and also good evidence of width. They generally do not provide evidence of status. The 25" to the Mile Ordnance Survey map surveyed in 1885 and published is 1888 does not show the Application Route.	https://maps.nls.uk/

			The edition revised in 1902 and published in 1904 does not show the Application Route; a raised but covered reservoir, annotated '<i>Bath & District High Level Water Work Co.</i>', is shown on the alignment of the Application Route immediately north of point D on the Investigation Plan. The 25" to the Mile edition revised in 1930 and published in 1932 does not show the Application Route; the covered reservoir and a surrounding boundary is shown on the alignment of the Application Route immediately north of point D on the Investigation Plan. The 25" to the Mile edition revised in 1936 and published in 1938 shows a route with double pecked lines and annotated '<i>F.P.</i>' which corresponds with the section of the Application Route starting at point A on the Investigation Plan and continues for approximately 50 metres south of point B on the Investigation Plan. However, from this point the route shown deviates from the Application Route and runs further to the east before joining what is now public footpath BA1/37 without crossing the field boundary that includes point C on the Investigation Plan. The 1:2500 map revised in 1950-52 and published in 1953 and the 1:2500 edition revised in 1962-69 and published in 1970 show the same situation as the 1938 25" to the Mile map described above.	
	Investigating Officer's comments		This suggests that the Application Route was inaccessible between 1902 and 1950-52.	
5.	'Bathampton Down' book	2017	'Bathampton Down: a hill divided' by Mary Clark and Gill Huggins. (ISBN: 978-1-91202067-6). A book about the history of Bathampton Down (Hampton Warren & Hampton Down) from medieval to recent times published by the Bathampton Local History Research Group. The book states that a 99-year lease was signed on 22 November 1890 for the construction of a reservoir '<i>in the south-eastern corner of the Golf Course.</i>' The reservoir measured 16 feet by 20 feet 6 inches and was built of stone. The reservoir had become redundant by March 1955 and, on 29 September 1958, Bath Golf Club agreed to surrender the associated lease provided '<i>the Bath Corporation dismantled the surrounding fence, collapsed the walls inwards, levelled the land, made good any damage, removed the reservoir's corrugated iron roof and timbers.</i>' The reservoir was to be demolished by 25 December 1958 but the book states that '<i>it is likely that the City Waterworks Engineer had the work carried out well before that as he was anxious about the danger to trespassing school children.</i>' The book includes a photo taken in 2015 of '<i>the small iron gate</i>' at point C on the Investigation Plan which it describes was '<i>formally the entrance to the reservoir.</i>'	PP/2580 (BRO)

	Investigating Officer's comments		Although the small iron gate may have provided a means of access at point C on the Investigation Plan, the concerns about trespassing school children suggests this may have been locked. The surrounding fence appeared to cross the Application Route on the reservoir's northern boundary. It is unlikely that the public could have been able to safely walk over the reservoir's corrugated iron roof which appears to have been on the line of the Application Route. This suggests that the Application Route was obstructed by the reservoir from its construction in the 1890s until its demolition towards the end of 1958.	
6.	Stopping Up order	1965	The Stopping Up of Highways (City and County Borough of Bath and County of Somerset) (No.3) Order 1965 The Order i) stopped up a length of footpath and length of bridleway to facilitate the construction of the University of Bath's Claverton Down campus, and ii) created a bridleway which includes what is now recorded as BC74/4, which the Application Route joins at its southern terminus. The Order does not make reference to the Application Route. The Order Map is based on the 1938 25 Inch to the Mile Ordnance Survey map and shows the same situation as described in section 4 above. The Order was made under section 153 of the Town and Country Planning Act 1962 on 4 August 1965 and came into effect when the making was advertised on 20 August 1965.	(PROW)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
7.	Landowner Deposit	1993-2016	Under the Rights of Way Act 1932 (and now s31 (6) of the Highways Act 1980) landowners could deposit a map indicating what ways they admitted had been dedicated as highways across their land. On 9 December 1993, Bath Golf Club made a Section 31(6) Landowner Statement; the statement included the land over which the section of the Application Route between points A and C on the Investigation Plan runs. The Statement does not admit the Application Route to be a public right of way but no Statutory Declaration was subsequently submitted to the Authority. The Statement makes reference to the public having been granted permissive use over some paths but the Statement does not specify which paths. On 8 July 2015, the Authority made a Section 31(6) Landowner Statement; the statement included the land over which the section of the Application Route between points C and D on the Investigation Plan runs. The Statement does not admit the Application Route to be a public right of way and a Landowner Declaration was subsequently deposited on 20 July 2015 stating that there was no intention to dedicate new rights during the intervening period.	(PROW)

			On 15 August 2016, Bath Golf Club made a new Landowner Statement; the statement included the land over which the section of the Application Route between points A and C on the Investigation Plan runs. The Statement does not admit the Application Route to be a public right of way and a Landowner Declaration was subsequently submitted to the Authority on 1 September 2016 stating that there was no intention to dedicate new rights during the intervening period.	
	Investigating Officer's comments		The 1993 Landowner Statement indicates that Bath Golf Club did not regard the Application Route to be a public right of way but it does not demonstrate a lack of intention to dedicate thereafter. The Authority's Landowner Deposit demonstrates a lack of intention to dedicate the section of the Application Route on their land between 8 July 2015 and 20 July 2015. Bath Golf Club's second Landowner Deposit demonstrates a lack of intention to dedicate the section of the Application Route on their land between 15 August 2016 and 1 September 2016.	
8.	AGM Minutes	1994	The minutes of Bathampton Downs Public Footpaths Association's AGM held on 28 April 1994. The minutes refer to a planning application for change of use and it is stated that <i>'this matter has re-opened the question of waymarking on the Golf Course with the result that Bathampton Parish Council through...[the] Cotswold Warden for the area, had set up a dialogue with the Golf Club. The results of which have been the erection of signposts throughout the golf course, and also the waymarking of the various 'permissive' paths.'</i> The minutes were provided by the then Secretary and Walks Co-Ordinator for the Bathampton Downs Public Footpaths Association and they stated during a telephone interview with the Authority that the permissive path signage referred to includes on the Application Route and the signage noted at point B on the Investigation Plan during the site survey conducted on 30 March 2026.	(PROW)
	Investigating Officer's comments		This indicates that use of the section of the Application Route between points A and C on the Investigation Report since 1994 has been with the permission of the landowner.	
9.	Definitive Map records	1950-2014	The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map. Each Parish carried out a <u>Parish Survey</u>. The Parish Surveys were collated into the <u>Draft Map</u> and Statement, and given a "Relevant Date". Notice was published that the Draft Map had been prepared and the public	

			(including landowners) then had the opportunity to object to what was included in, or omitted from the map and statement. Hearings were held on these objections, and recommendations made on the evidence presented. The Draft Map was amended following the recommendations for the area, and Notice of the <u>Provisional Map</u> was published. Landowners, lessees and tenants could apply to the Crown Court for amendment of the map, but the public could not. <u>Definitive Map and Statement</u> was then produced from the Provisional Map, and included any amendments made. There is no reference to the Application Route in the Parish Survey, Draft Map, Provisional Map, Definitive Map and Statement and the associated paperwork for the production of the Bathavon Definitive Map. A member of the public submitted a plan to the Authority in 2014 showing a number of routes which they believed should be recorded on the Definitive Map and Statement as part of the Bath DM&S Project, which sought to record rights of way within the formally excluded area of the city of Bath. The Application Route is included and marked 'I' but there is no evidence appended to the plan.	
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
10.	Site survey	2006	<i>In 2006, 'an independent survey of each of the access points, identified by the notices, was undertaken. Each location was recorded with a GPS "Waypoint", a photograph, a plan of the data was created.'</i> was carried out by a member of the public. The Application Route is shown as a dashed black line between '017' [Point A on the Investigation Plan], '018' [Point B on the Investigation Plan] and 'L' [Point D on the Investigation Plan]; the lettered points appear to identify the location of a standard sign, a photo of an example of which is included in the report, which reads: '<i>University of Bath. This is Private Land. Access is prohibited unless with the express permission of the University, except when using public footpaths or bridleways</i>'. The sign in the photograph is the same type of sign which was found at point D on the Investigation Plan which the Authority carried out a site survey on 30 March 2026 pursuant to this DMMO Application.	(PROW)
	Investigating Officer's comments		This indicates that the University of Bath have been demonstrating a lack of intention to dedicate the section of the Application Route between points C and D on the Investigation Plan since at least 2006.	

8.	Photographs	2006-2023	Site photographs show a snapshot of how the Application Route appeared on a particular day. A photograph annotated as having been taken on 18 March 2006 and submitted by a member of the public shows the section of the Application Route between points C and D on the Investigation Plan; the photograph shows the Application Route unobstructed and the near of a notice which would have been visible to members of the public walking north along the Application Route. A photograph held within the Authority's CAMS PROW asset management system which was taken on 23 July 2009 shows a waymarking post at point A on the Investigation Plan with a public footpath waymarker pointing in a westerly direction along BA1/30 and an arrow without any further text at pointing in an easterly direction along the Application Route. Another photograph taken on the same day shows a waymarking post at point B on the Investigation Plan with a public footpath waymarker; the photograph does not show the side of the post that had a Permissive Path waymarker during the Authority's site survey on 30 March 2026. A photograph which is identified as having been taken on 8 August 2022 and submitted by a member of the public shows a sign a short distance north of point C on the Investigation Plan. The sign states: <i>'Danger. Risk from flying golf balls. Proceed with Caution. Stay on footpath. Please keep dogs on lead.'</i>	(PROW)
	Investigating Officer's comments		This suggests that the Application Route has been unobstructed in 2006, 2009 and 2022.	

Notes: These documents are available for inspection; please note that the references are as follows

SHC = Somerset Heritage Centre

PROW = Documents held within the Public Rights of Way Team

BRO = Bath Record Office

6. USER EVIDENCE

20 individuals completed user evidence forms detailing use of the Application Route on foot during the periods show in the chart below. Users 2, 13, 14, 15, 19 and 20 state that they have used the Application Route with the permission for at least part of their period of use.

