
Bath & North East Somerset Council

DEFINITIVE MAP MODIFICATION ORDER INVESTIGATION REPORT

TYNING, RADSTOCK

Date: 16/10/2025

INVESTIGATION REPORT

AUTHOR: GRAEME STARK

DATE: 16/10/2025

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 public footpath.

This report contains a précis of the evidence 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 plan attached at page 4 shows the location of the route under investigation which is in the parish of Radstock.

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.

1. APPLICATION DETAILS

An application was made by Dominic Tristram on 29th February 2024, pursuant to section 53(5) of the Wildlife and Countryside Act 1981 to add a public footpath to the Definitive Map and Statement.

2. THE ROUTE

The route under investigation commences from a junction with Morley Terrace at grid reference ST 6931 5525 (point A on the Investigation Plan on page 4 below) (see fig.1) and proceeds in a generally easterly direction past Tynning Inn public house for approximately 66 metres to a junction with public footpaths CL24/81 and CL24/82 and Stoneable Road at grid reference ST 6938 5526 (point B on the Investigation Plan) (see Fig.2). This route is hereafter referred to as “the Application Route”.



Fig. 1: Looking ENE towards point A.



Fig. 2: Looking WNW towards point B.

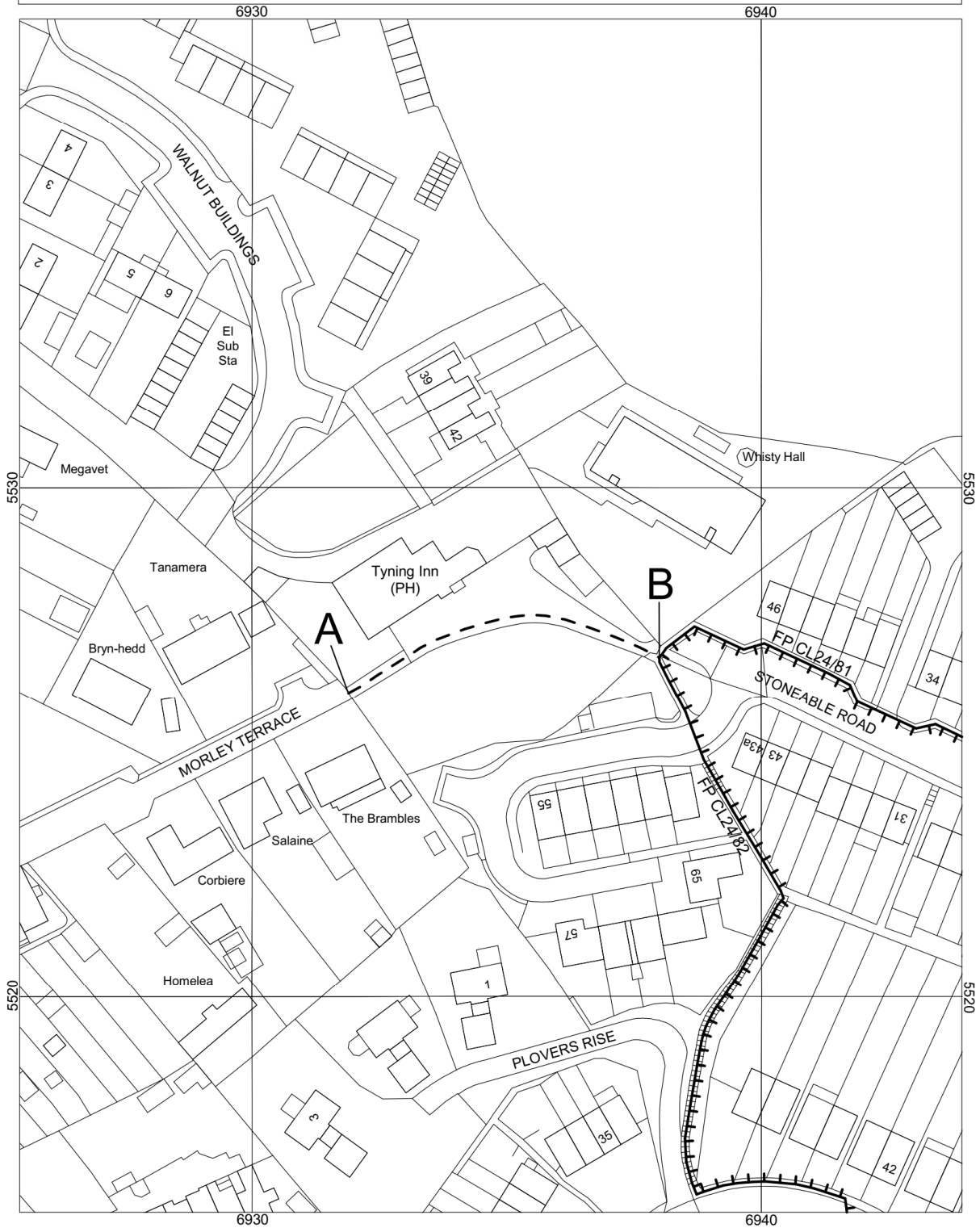
INVESTIGATION PLAN

Application Route A ——— B
 Unaffected public footpath ———

**Bath & North East
 Somerset Council**

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NOT TO SCALE



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3. DOCUMENTARY EVIDENCE

Doc No.	DOCUMENT TITLE	DATE	BRIEF DESCRIPTION OF DOCUMENT & NATURE OF EVIDENCE	DOC. REF. (& 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	1840	The <u>Tithe Map</u> 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. The <u>Tithe Award</u> is a legal document (produced under the Tithe Commutation Act of 1836) to show the value of titheable lands in a parish. The Application Route runs through enclosure 67 on the Radstock Tithe Map; the Tithe Apportionment identifies the enclosure as ' <i>Welsh Nut Tining</i> ' (arable) and shows that Tithe was paid on this enclosure.	D/D/rt/M/30 D/D/rt/A/30 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
4.	Private/Estate Maps	1877	These were often drawn up for the landowner as a record of their holding. Whilst their purpose is not to depict public rights of passage, they often do show roads which abut or cross an estate or farm. They are a good indication of whether a route was in physical existence at that time, and if the landowner considered himself to be the owner of the route. They may show if the route was gated from known highways. The Application Route is not shown on a map of Radstock Manor. The Application Route would run through a parcel of land which is surrounded by, but does not form	DD/WG/ MAP/14a (SHC)

			part of, Huish & Ludlows Farms.	
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
5.	Ordnance Survey maps	1884-1969	<p>The Ordnance Survey has produced a series of topographic maps at different scales notably the One Inch, Six Inch and 1:2500. 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.</p> <p>The Application Route would follow the boundary of a parcel of land south of Tynning Inn on the 6 inch to the mile maps published in 1885, 1904, 1931 and 1949, the 25 Inch to the mile maps published in 1886, 1904 and 1931, the 1:10,560 maps published in 1951 and 1969 and the 1:2500 maps published in 1958 and 1976. The 1885-1904 maps show part of the Application Route segregated from the remainder of that parcel of land and all show the route continuing to the west-south-west of point A and the east-south-east of point B on the Investigation Plan.</p>	https://maps.nls.uk/
	Investigating Officer's comments		This suggests that the Application Route has physically existed since at least 1885 but these maps do not provide evidence of the existence of public rights over the Application Route.	
6.	Inland Revenue documents	c.1910	<p>Plans, valuation books, and field books created under the Finance (1909-10) Act 1910. Deductions in value provide good evidence of public rights if position can be accurately located. Annotations on field maps and colouring of routes may provide supporting evidence of status. However, if no reduction was claimed this does not necessarily mean that no rights of way exist.</p> <p>The plan held by the Somerset Heritage Centre covering the Application Route only records hereditaments in the more rural areas of Radstock and this does not include the Application Route. That plan references a separate 1:2500 plan covering the more urban areas of Radstock, which includes the land over which the Application Route runs; however, this 1:2500 plan is not held by the Somerset Heritage Centre.</p>	DD/IR/OS/20/15 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
7.	Highways records	1929-2025	<p>Records kept by successive highway authorities. These can provide existence of status and maintenance liability.</p> <p>The Application Route forms part of 'Morley Terrace' (USRN 47903386) and 'Access road to</p>	(BANES)

			<p><i>Tynning Inn</i> (URSN 47903425) which are recorded on the List of Streets, which the Council is required to keep pursuant to section 36(6) of the Highways Act 1980, as highway maintainable at public expense.</p> <p>Street lighting records show that the streetlight which is located mid-way along the Application Route was replaced by the Council, in its capacity as the local highway authority, in 2009. The records do not show how long back prior to the replacement being installed the Council has been maintaining a street-light at this location.</p> <p>Highways maintenance records held on the Confirm database, which records entries from 2000 onwards. Confirm shows regular inspections and remedial works on Morley Terrace from 18th July 2001 to 7th May 2025 and on Access road to Tynning Inn from 28th November 2001 to 7th May 2025.</p> <p>The Authority has no record of the Application Route being diverted or stopped up</p>	
	Investigating Officer's comments		This indicates that the Application Route has been highway maintainable at public expense since at least 18 th July 2001.	
8.	Definitive Map records	1949-1973	<p>The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map. To this end, each Parish carried out a <u>Parish Survey</u> and <u>Draft and Provisional Maps</u> were subsequently published before publication of <u>Definitive Map and Statement</u>.</p> <p>The Application Route is not referred to in any of the Definitive Map records.</p>	(BANES)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Route.	
9.	Planning Documents	1966	<p>A private Act of Parliament was required before these could be built. Plans and books of reference relating to land either side of projected railways and canals had to be drawn up and required consultation with and the agreement of the landowners. As a result, they can provide strong evidence of status.</p> <p>A planning application was submitted in 1966 for '<i>Alterations to Tynning Inn, Radstock</i>'. The section of the Application Route immediately south of the Tynning Inn is shown on both the '<i>Premises as existing</i>' and '<i>Proposed alternations</i>' plans and labelled '<i>Lane</i>'; the remainder of the Application Route is outside the mapped area of these two detailed plans. The whole of the Application Route is shown on the incorporated insert plans; the Application Route is shown open to Morley Terrace and, although there is a line across the south western terminus the Application Route, a route is shown continuing onwards from point B with two</p>	d/U/NR/22/1/190 D/u/nr/22/1/194 (SHC)

			<p>parallel dashed lines. The planning application states that no existing highways are affected by the application.</p> <p>A separate planning application was submitted in 1966 for an '<i>Illuminated sign for Tynning Inn, Radstock.</i>' The Application Route is outside the area shown in a photograph accompanying an application for new signage on the Tynning Inn but the Application Route is shown on the incorporated insert plan which states it is based on the Ordnance Survey 1:2500 Somerset Sheet No.XX/15.</p>	
	Investigating Officer's comments		This indicates that the Application Route has physically existed since at least 1966.	
10.	Local History Magazine	2004	<p>Five Arches is the History Journal of the Radstock, Midsomer Norton and District Museum Society.</p> <p>Issue 50 published in summer 2004 refers to a local resident sampling walnuts which had fallen from a tree at Tynning House (immediately north of point A on the Investigation Plan) and "<i>passing on this way to the Board School.</i>" The article does not specify during what period this use occurred.</p>	(BANES)
	Investigating Officer's comments		This indicates that the Application Route was physically available during an unspecified period of time.	

The above documents are available for public inspection. Please note that the references are as follows:

SHC = Somerset Heritage Centre

BANES = Documents held by Bath & North East Somerset Council

4. USER EVIDENCE FORMS

12 user evidence forms were received by the Authority. The use on foot is summarised below; additionally, users 5 and 6 also used the Application Route on bicycle.

