

**APPLICATION FOR A PUBLIC PATH DIVERSION
ORDER AFFECTING PUBLIC FOOTPATH BA27/47
IN SALTFORD**

1. The Issue

- 1.1 An application has been made to divert a section of Public Footpath BA27/47 in Saltford to move the public footpath from the middle of the applicants' garden, to its edge.

2. Recommendation

- 2.1 That the Team Manager - Highways Maintenance and Drainage grants authorisation for a Public Path Diversion Order to be made to divert a section of Public Footpath BA27/47 as detailed on the plan attached at Appendix 1 ("the Decision Plan") and in the schedule attached at Appendix 2 ("the Decision Schedule").

3. Financial Implications

- 3.1 Although the applicants for an order to permanently divert a public footpath would, ordinarily, pay the fee covering the officer time processing the application and the cost of any required notices in a local newspaper, the Highway Authority's Drainage & Flooding Team has, in this instance, agreed to pay this fee in return for the applicants allowing them access to their land to carry out drainage works to alleviate a longstanding issue of flooding on The Shallows.
- 3.2 The drainage works in question were carried out in October 2025. The Drainage Team's payment of the application fee was agreed independently of the Authority's public path order process and should therefore not be a consideration with regard to whether or not an order should be made.
- 3.3 Should an Order be made and confirmed, the Proposed Footpath will become maintainable at public expense.
- 3.4 Should an Order be made and objections received and sustained, then the Order will either be referred back to the Team Manager - Highways Maintenance and Drainage or to the Planning Committee to consider the matter in light of those objections. Should the Team Manager - Highways Maintenance and Drainage or Committee decide to continue to support the Order, then the Order will be referred to the Secretary of State for the Environment, Food and Rural Affairs for determination. Bath and North East Somerset Council ("the Authority") would be responsible for meeting the costs incurred in this process, for instance at a Public Inquiry.

4. Human Rights

- 4.1 The Human Rights Act incorporates the rights and freedoms set out in the European Convention on Human Rights into UK law. So far as it is possible all legislation must be interpreted so as to be compatible with the convention.
- 4.2 The Authority is required to consider the application in accordance with the principle of proportionality. The Authority will need to consider the protection of individual rights and the interests of the community at large.
- 4.3 In particular the convention rights which should be taken into account in relation to this application are Article 1 of the First Protocol (Protection of Property), Article 6 (the right to a fair hearing) and Article 8 (Right to Respect for Family and Private Life).

5. The Legal and Policy Background

- 5.1 The Authority has a discretionary power to make Public Path Orders. When considering an application for a Public Path Order, the Authority should first consider whether the proposals meet the requirements set out in the legislation (which are reproduced below). In deciding whether to make an Order or not, it is reasonable to consider both the tests for making the Order and for confirming the Order (*R. (Hargrave) v. Stroud District Council [2002]*). Even if all the tests are met, the Authority may exercise its discretion not to make the Order but it must have reasonable ground for doing so (*R. (Hockerill College) v. Hertfordshire County Council [2008]*).
- 5.2 Before making an Order under section 119 of the Highways Act 1980 ("the Act"), it must appear to the Authority that it is expedient to divert the path in the interests of the public and/or of the owner, lessee or occupier of the land crossed by the path.
- 5.3 The Authority must also be satisfied that the Order does not alter any point of termination of the path, other than to another point on the same path, or another highway connected with it, and which is substantially as convenient to the public.
- 5.4 Before confirming an Order, the Authority or the Secretary of State must be satisfied that:
 - the diversion is expedient in the interests of the person(s) stated in the Order;
 - the path will not be substantially less convenient to the public as a consequence of the diversion;
 - it is expedient to confirm the Order having regard to the effect it will have on public enjoyment of the path as a whole, on other land

served by the existing path and on land affected by any proposed new path, taking into account the provision for compensation.

5.5 The Authority must also give due regard to the effect the diversion will have on farming and forestry, biodiversity and members of the public with disabilities.

5.6 In addition to the legislative tests detailed above, the proposals must also be considered in relation to the Authority's adopted Public Path Order Policy. The Policy sets out the criteria against which the Authority will assess any Public Path Order application and stresses that the Authority will seek to take a balanced view of the proposals against all the criteria as a whole.

5.7 The criteria are:

- Connectivity,
- Equalities Impact,
- Gaps and Gates,
- Gradients,
- Maintenance.
- Safety,
- Status,
- Width,
- Features of Interest,

6. Background and Application

6.1 Public Footpath BA27/47 is recorded on the Definitive Map and Statement which has a relevant date of 26 November 1956. The footpath was subsequently diverted onto its current route by the Wansdyke District Council (Footpath No. BA27/47 at Saltford) Public Path Diversion Order 1980.

6.2 The Existing Footpath runs through the middle of the applicant occupiers' garden before turning ninety degrees to follow the bank of the River Avon. The applicant occupiers wish to divert the footpath away from the middle of their garden so that it instead runs along its edge.

6.3 Description of the Existing Footpath

The proposal is to divert the full width of the section of Public Footpath BA27/47 commencing from a junction with The Shallows at grid reference ST 6871 6692 (point A on the Decision Plan) and proceeding in a generally north-easterly direction for approximately 42 metres to grid reference ST 6875 6694 (point B on the Decision Plan) and turning in a generally south-easterly direction for approximately 7 metres to grid reference ST 6875 6694 (point C on the Decision Plan) would be stopped up. This route is referred to as the "Existing Footpath".

6.4 Description of the Proposed Footpath

The proposed new route commences from a junction with The Shallows at grid reference ST 6871 6691 (point D on the Decision Plan) and

proceeds in a generally north-easterly direction for approximately 46 metres to grid reference ST 6875 6694 (point C on the Decision Plan). The width would be 2.5 metres along its entire length. This route is referred to as the "Proposed Footpath".

6.5 **Limitations and Conditions**

No limitations or conditions are proposed.

7. Consultations

- 7.1 The affected landowner, Saltford Parish Council, national and local user groups, the Ward Councillors and statutory consultees were all consulted about the proposed diversion for a period of four weeks ("the Consultation Period"). Additionally, site notices were erected at both ends of the proposed diversion and on the Authority's website to seek the views of members of the public.
- 7.2 In response to the consultation, a number of statutory undertakers stated that their plant would not be affected and/or that they had no objections to the proposals.
- 7.3 Similarly, one of the Ward Councillors stated that they had no objections to the proposals.
- 7.4 Saltford Parish Council submitted a written objection to the proposal to divert the public footpath, on account of the landowners "*not following due process*". They stated that the proposed diversion of the path "*should have been done with the full consultation and involvement with the relevant authorities from the start*".
- 7.5 No other comments were received in relation to the proposals during the Consultation Period.
- 7.6 The Authority have subsequently invited Saltford Parish Council to clarify and/or expand upon their reasons for objecting to the application. However, at the time of writing this report, they have not done so.
- 7.7 To the best of the Authority's understanding, the basis of the Parish Council's objection is that the applicants previously obstructed the public footpath that they are now seeking to divert. However, in line with the Authority's policy, the Authority required the removal of the obstruction before they would consider the applicants' application. With this obstruction having since been removed, there is no ongoing issue with the public footpath, nor is there any impediment with processing this application.
- 7.8 The objection does not appear to have been made in respect of any of the statutory tests or any of the provisions of the Authority's adopted Public Path Order Policy, which are addressed below.

8. Officer Comments

- 8.1 It is recommended that the various tests outlined in section 5 above are considered in turn.
- 8.2 **The first test is whether it is expedient to divert the path in the interests of the public and/or of the owner, lessee or occupier of the land crossed by the path:** The Existing Footpath runs through the middle of the applicant occupiers' garden. The Proposed Footpath would divert walkers away from the middle of this garden, to its edge, allowing the occupiers a larger private single space. Consequently, it would be expedient to divert the path in the interests of the occupiers and this test should therefore be considered to have been met.
- 8.3 **The Authority must be satisfied that the diversion does not alter any point of termination of the path, other than to another point on the same path, or another highway connected with it, and which is substantially as convenient to the public:** The Proposed Footpath starts at a point on The Shallows approximately eight metres away from where the Existing Footpath starts on the same road with comparable sight-lines. This is considered a negligible change so far as the public is concerned and certainly not an inconvenience. The other end of the Existing Footpath is not affected by these proposals. This test is therefore considered to have been met.
- 8.4 **The path must not be substantially less convenient to the public as a consequence of the diversion:** Matters such as length, difficulty of walking and the purpose of the path pertain to the convenience to the public. The overall length of the diverted route will be three metres shorter than the length of the existing route which is considered a virtually indistinguishable change, particularly taking into account the location of the Existing and Proposed Footpaths within the wider public rights of way network in the area. There is no change in the difficulty of walking. It therefore follows that the Proposed Footpath is not substantially less convenient to the public and this test should therefore be considered to have been met.
- 8.5 **Consideration must be given to the effect the diversion will have on public enjoyment of the path as a whole, on other land served by the existing path and on land affected by any proposed new path, taking into account the provision for compensation:**
- 8.6 **Public enjoyment of the Path as a whole:** The Proposed Footpath runs over improved terrain and will be wider than the Existing Footpath. Additionally, the Proposed Footpath will run along the fenced-off edge of the applicants' garden, in contrast to the Existing Footpath, which runs through the middle of it; such that it is considered that members of the public will feel less self-conscious walking the new route. There is no difference between the Proposed and Existing Footpaths in terms of the views enjoyed; the start point is only altered marginally and the

finish point is not altered. The effect on public enjoyment is therefore improved or neutral.

- 8.7 **Effect on other land served by the existing footpath and land affected by the proposed footpath:** The occupiers' land will benefit from the removal of the Existing Footpath as the public right of way will no longer run through the middle of their garden. Similarly, as the Proposed Footpath will run along the edge of the occupiers' garden, it will not have an adverse effect on that land.
- 8.8 **Effect on land affected by any proposed new path, taking into account the provision for compensation:** There is no adverse effect on land affected by the Proposed Footpath, taking into account the provision for compensation, as all of the land crossed by it is owned by the applicants.
- 8.9 **The Authority must give due regard to the effect the diversion will have on farming and forestry, biodiversity and members of the public with protected characteristics:** There will be no effect on farming as none of the land crossed by either the Existing or Proposed Footpath is agricultural. There will be no effect on forestry as neither the Existing nor Proposed Footpaths cross any woodland. There will be no effect on biodiversity. There will be a positive effect on members of the public with visual impairments as the diversion will reduce the proportion of the footpath running along an eroding riverbank. There will also be a positive effect on members of the public with impaired mobility as it will no longer be necessary to descend steps from the footpath's entrance on The Shallows.
- 8.10 **The effect of the diversion on the additional criteria identified in the Authority's Public Path Order Policy; namely, Connectivity, Equalities Impact, Gaps and Gates, Gradients, Maintenance, Safety, Status, Width and Features of Interest:**
- 8.11 The Proposed Footpath starts at a point on The Shallows approximately eight metres away from where the Existing Footpath starts on the same road. The termination point of the path is not affected. The effect on connectivity is therefore considered negligible.
- 8.12 The proposed diversion will have a positive effect on members of the public with visual impairments as the diversion will reduce the proportion of the footpath running along an eroding riverbank.
- 8.13 There are no gates on the Existing Footpath and there would be no gates on the Proposed Footpath. The roadside gap at the start of the Proposed Footpath will be wider than the roadside gap on the Existing Footpath.
- 8.14 There is no difference in gradient between the Proposed and Existing Footpath.

- 8.15 The Proposed Footpath will run along a smaller proportion of eroding riverbank than the Existing Footpath and is therefore likely to require a smaller area of riverbank reconstruction works at the point in the future when the continuing natural erosion of this bank makes this necessary.
- 8.16 The Proposed Footpath will have a positive impact on Safety as it will reduce the proportion of the overall footpath running along an eroding riverbank.
- 8.17 The Proposed Footpath will have a neutral impact on Status.
- 8.18 The Existing Footpath varies in width between 1.6 metres at its narrowest point and 2.1 metres at its widest point. The Proposed Footpath will be 2.5 metres wide along its entire length.
- 8.19 The Proposed Footpath will not remove public access from any feature of interest or place of resort, nor will it diminish the quality or diversity of any views.
- 8.20 **Obstruction:** The Authority's Policy states that no public path is to be obstructed until a diversion order has been finalised. Although the applicants previously blocked the roadside entrance of the Existing Footpath, the Authority, in keeping with its Policy, insisted that this roadside obstruction be removed and the public footpath be fully re-opened, before it would accept the applicants' application to divert it. Consequently this application, although submitted by the applicants on 29 September 2025, was not accepted by the Authority for processing until 4 December 2025, after the applicants had removed the roadside obstruction, thus re-opening the Existing Footpath.
- 8.21 The Authority seeks to take a balanced view of the proposals against all the criteria of the Public Path Order Policy as a whole. The proposals will positively impact upon Equalities, Maintenance, Safety and Width; and have a neutral effect on the remaining five criteria. The proposals therefore accord with the Authority's Policy.

9. Climate Change

- 9.1 Public rights of way are a key resource for shifting to low-carbon, sustainable means of transport. The proposal is part of the ongoing management of the network and therefore contributes towards helping to tackle the Climate Emergency.

10. Risk Management

- 10.1 There are no significant risks associated with diverting the footpath.

11. Conclusion

- 11.1 It is considered that the relevant statutory tests for making a Diversion Order under Section 119 of the Act have been met and that the proposal is in line with the Public Path Order Policy.
- 11.2 The Diversion Order would be in the interests of the occupiers of the land.
- 11.3 The Order should be made as proposed.
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AUTHORISATION

Under the authorisation granted by the Council on 21st July 2022, the Team Leader: Place Legal Services is hereby requested to seal an Order to divert a section of Public Footpath BA27/47 as shown on the Decision Plan and as detailed in the Decision Schedule and to confirm the Order if no sustained objections are received.

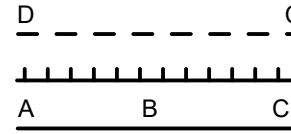
MP Johnson

Dated: 1 May 2026

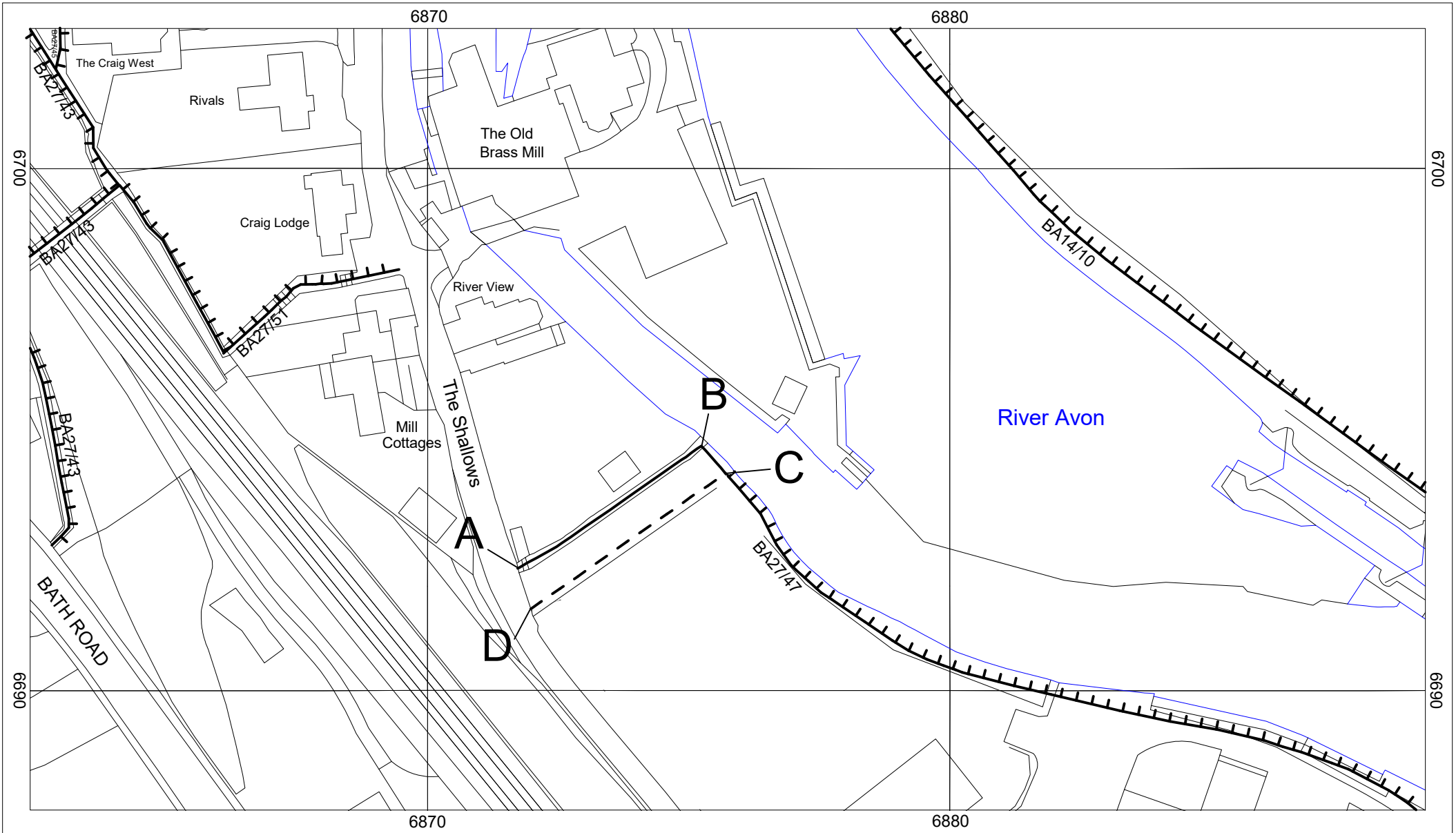
Mike Johnson – Team Manager, Highways Maintenance and Drainage

Appendix 1 Decision Plan

Public footpath to be added
Unaffected public footpath
Public footpath to be stopped up



Scale 1:1000



APPENDIX 2 - DECISION SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

The full width of the section of Public Footpath BA27/47 commencing from a junction with The Shallows at grid reference ST 6871 6692 (point A on the Decision Plan) and proceeding in a generally north-easterly direction for approximately 42 metres to grid reference ST 6875 6694 (point B on the Decision Plan) and turning in a generally south-easterly direction for approximately 7 metres to grid reference ST 6875 6694 (point C on the Decision Plan).

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

A public footpath commencing from a junction with The Shallows at grid reference ST 6871 6691 (point D on the Decision Plan) and proceeding in a generally north-easterly direction for approximately 46 metres to grid reference ST 6875 6694 (point C on the Decision Plan).

Width: 2.5 metres between grid references ST 6871 6691 (point D on the Decision Plan) and ST 6875 6694 (point C on the Decision Plan).

PART 3

LIMITATIONS AND CONDITIONS

None.