
Bath & North East Somerset Council

DEFINITIVE MAP MODIFICATION ORDER INVESTIGATION REPORT

Combe Grove and Claverton Down,
Monkton Combe and Combe Down

Date: 25/03/2026

INVESTIGATION REPORT

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DATE: 25/03/2026

Two applications have been made under section 53(5) of the Wildlife and Countryside Act 1981 for orders to be made to amend the Definitive Maps and Statements of Public Rights of Way by adding public footpaths.

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 and landowners. When the decision is taken as to whether orders should be made, and if so the status of the routes (i.e. footpaths, bridleways, restricted byways or byways 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 applications and their processing up to this point, and the evidence provided and/or discovered which is relevant to the existence and status of the routes.

The plan contained at page 4 shows the location of the routes under investigation which are in the parish of Monkton Combe and the city of Bath.

Orders 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/confirmed.

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 Kate Bowman on 21 February 2023, pursuant to section 53(5) of the Wildlife and Countryside Act 1981, to add a public footpath to the City of Bath Definitive Map and Statement between points D and G on the Investigation Plan at page 4 below. A further application was made by Kate Bowman on 8 September 2023, pursuant to section 53(5) of the Wildlife and Countryside Act 1981, to add a public footpath to the Bathavon Definitive Map and Statement between points A and D on the Investigation Plan. Both applications will be considered together.

2. THE ROUTE

The route under investigation commences from a junction with Claverton Down Road at grid reference ST 7689 6276 (Point A on the Investigation Plan) (see Fig.1) and proceeds in a generally south-south-easterly direction for approximately 130 metres to the Combe Down/Monkton Combe boundary at grid reference ST 7695 6265 (Point B on the Investigation Plan) and turns in a generally south-easterly direction for approximately 200 metres to grid reference ST 7706 6253 (Point C on the Investigation Plan) and turns in a generally east-north-easterly direction for approximately 260 metres to the Monkton Combe/Combe Down boundary at grid reference ST 7730 6261 (Point D on the Investigation Plan). The route continues in a generally east-north-easterly direction for approximately 440 metres to grid reference ST 7771 6275 (Point E on the Investigation Plan) and turns in a generally north-north-westerly direction for approximately 201 metres to a junction with public footpath BC72/1 at grid reference ST 7766 6294 (Point F on the Investigation Plan) and continues in a generally north-north-westerly direction for approximately 18 metres to a junction with Claverton Down Road at grid reference ST 7766 6296 (Point G on the Investigation Plan). This route is hereafter referred to as “the Application Routes”.



Fig. 1: Point looking SSE



Fig.2: Point D looking WSW

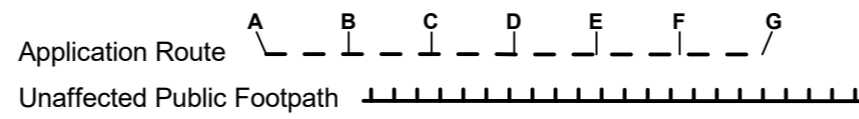


Fig.3: Point E looking WSW



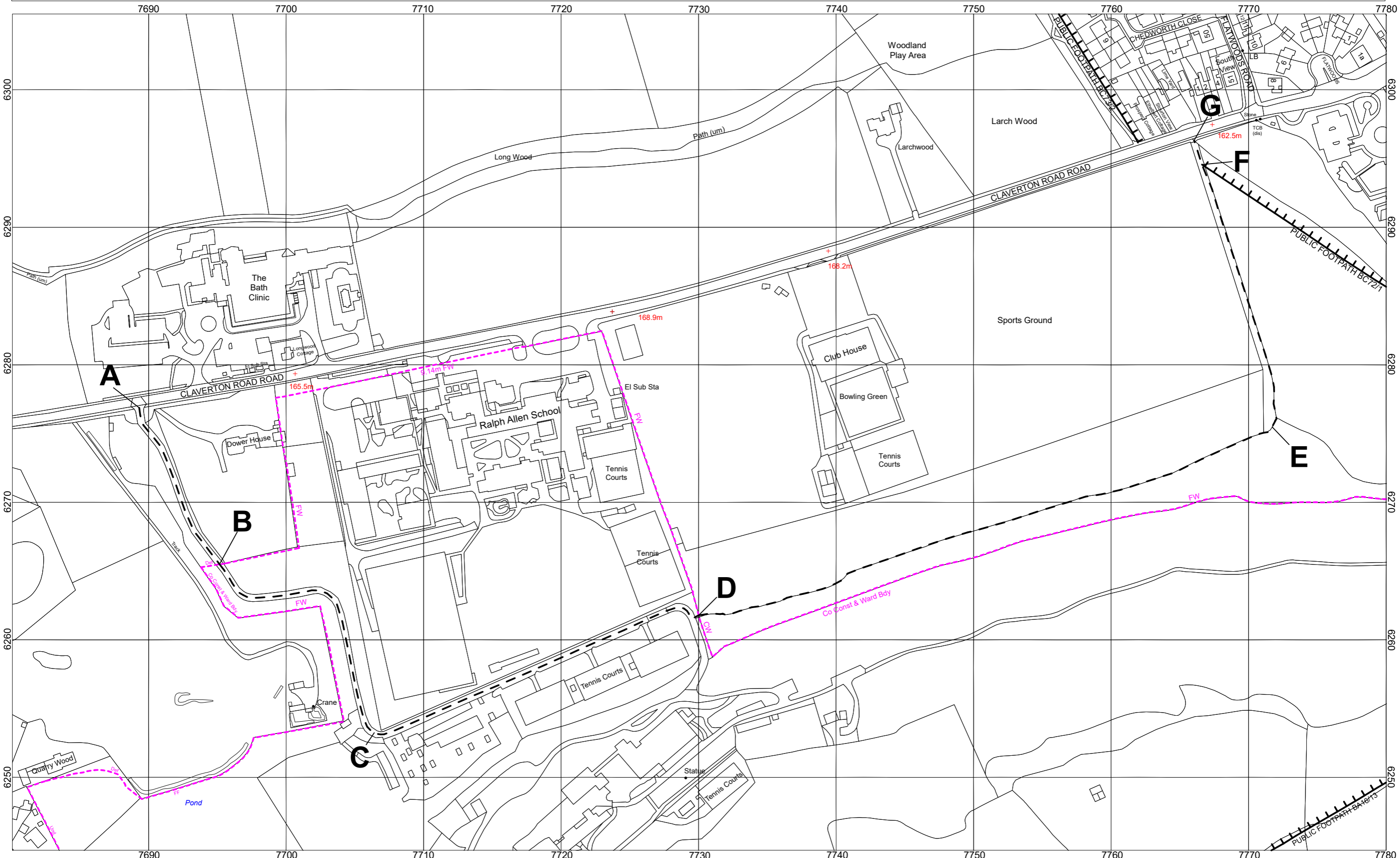
Fig.4: Point G looking SSE

INVESTIGATION PLAN



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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	<p>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.</p> <p>The Application Routes are not shown on Day and Masters' map.</p>	D:\B\wsm/38/6 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Routes.	
2.	Greenwood's map	1822	<p>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.</p> <p>The Application Routes are not shown on Greenwood's map.</p>	A\AUS\60 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Routes.	
3.	Tithe Map and Tithe Award or Apportionment	1840	<p>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.</p> <p>The Application Routes runs through enclosures 182 (Fives Acres), 181 (Eight Acres), 180 (Road Eight Acres), 179 (Longlafs) and 176 (Demask Lye) on the Monkton Combe Tithe Map. In the accompanying Tithe Apportionment, each are described as arable and Tithe was paid on all these enclosures.</p>	D/D/rt/M/477 D/D/rt/A/477 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Routes.	
4.	Ordnance Survey maps	1885- c.1952	<p>The Ordnance Survey has produced a series of topographic maps at different scales; plans from the 1870's onwards provide the good evidence of position of routes and the existence of any structures but they generally do not provide evidence of status.</p> <p>The Application Route is not shown on the Six-inch to the Mile maps published in 1885, 1904, 1933, c.1947 and c.1952.</p>	https://maps.nls.uk/
	Investigating Officer's comments		This does not provide any evidence relating to the Application Routes.	

5.	Inland Revenue documents	1910-1914	<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 Application Routes runs through hereditaments 800 and 850 but they are not demarcated on the map. The valuation book shows that tax was levied against both hereditaments. A reduction of £25 was claimed against hereditament 850 for '<i>Right of Way or User</i>' but a route corresponding with the alignment of public footpath BC72/1 is demarcated on the underlying O.S. map and annotated '<i>F.P.</i>' so it is not possible to determine whether the reduction was claimed in respect of the Application Routes.</p>	DD/IR/OS/14/10 DD/IR/B/19/4 (SHC)
	Investigating Officer's comments		This does not provide any evidence relating to the Application Routes.	
6.	Diversion Order	1968	<p>A legal order is required to divert or extinguish any public highway</p> <p>On 26 June 1968, the Minister for Transport made The Stopping up of Highways (City and County Borough of Bath) (No.2) Order 1968. The Order came into immediate force and had the effect of diverting an existing public footpath onto the route between points F and G on the Investigation Plan. The Order Plan shows the unaffected remainder of the public footpath continuing in a generally southeasterly direction from point F on the Investigation Plan and the Order does not affect any other section of the Application Routes.</p>	(BANES)
	Investigating Officer's comments		This confirms that the section of the Application Route between points F and G on the Investigation Plan was a public footpath on 26 June 1968.	
7.	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>On 12 August 2015, the Authority made the Bath and North East Somerset Council (City of Bath Definitive Map and Statement Modification Order) (No.11 – Bathwick & Combe Down) 2015; the Order has a relevant date of 14 April 2015 and the non-severed parts of the Order were confirmed on 20 January 2016. The Order records a public footpath continuing in a generally southeasterly direction from point F on the Investigation Plan as public footpath BC72/1; the Definitive Statement describes point F on the Investigation Plan as being a junction with public footpath AQ96C.</p>	(BANES)

			<p>On 9 September 2021, the Bath and North East Somerset Council (City of Bath) Legal Event Modification Order 2021 was made to record the section of the Application Routes between points F and G on the Investigation Plan as a public footpath pursuant to the 1968 Order detailed above. The Legal Event Modification Order modifies the Definitive Map and Statement to record the section of the Application Routes between points F and G on the Investigation Plan (which was formally known as AQ96C) as part of public footpath BC72/1; and the kissing gate at point G on the Investigation Plan is recorded as a limitation.</p> <p>The remainder of the Application Routes are not referred to in any other Definitive Map record.</p>	
	Investigating Officer's comments		This confirms that the section of the Application Route between points F and G on the Investigation Plan is a public footpath but this does not provide any evidence relating to the remainder of the Application Routes.	
8.	Aerial Photography	c.1951-2018	<p>Aerial photography shows the physical existence of landscape and manmade features but it should be noted that this is distinct from evidence of status.</p> <p>The Application Routes are not visible in the aerial photography held at the Somerset Heritage Centre. The photograph is undated but features buildings which do not appear to have been constructed when the O.S. map published in 1952 was surveyed.</p> <p>Google Earth contains a series of aerial photographs taken between 1985 and 2025. The resolution of the photograph taken in 1985 is too low to discern any details relating to the Application Routes. However, except where tree cover is present, the access road which runs between points A and D on the Investigation Plan is visible in each capture from 1999 to 2025; additionally, a worn path can be seen between points E and G on the Investigation Plan. The aerial photography relating to the section of the Application Route between points D and E on the Investigation Plan varies over time; there is no worn path in 1999, a circular vehicular track crosses the Application Routes in 2005 and the access point into the field appears to be approximately 40 metres south of point E on the Investigation Plan in 2006. A worn path is visible in 2009 but not visible in 2013, 2014 or 2017 and a worn path is then visible again from 2018 onwards.</p>	A/DXC/2/89/1 (SHC) https://earth.google.com/web/
	Investigating Officer's comments		This indicates that sections of the Application Routes physically existed at various points in time but it does not provide evidence of the existence of public rights.	

9.	Emails	2016-2018	<p>Wessex Water Services Ltd, who own the land over which the section of the Application Routes between points D and G on the Investigation Plan runs, submitted three emails which reference the gate at point D on the Investigation Plan.</p> <p>An email sent on 22 September 2016 from an Estates Manager at Wessex Water to the maintenance team at Combe Grove states <i>'I am happy for you to access the site through the locked gate from Combe Grove Manor access road , however as you know this gate is very overgrown with brambles and nettles'</i> and <i>'...I can arrange the gate to be unlocked.'</i></p> <p>An email sent on 2 February 2017 from an Estates Manager at Wessex Water to the maintenance team at Combe Grove states <i>'If you need access, I can either get you in through the gate next to your access drive or alternatively you are welcome to come in through the main gate from Claverton Down Road.'</i></p> <p>An email sent on 3 December 2018 from an Estates Manager at Wessex Water to the maintenance team at Combe Grove states <i>'Just to let you know the side gate into our field from your access road is unlocked. I will lock it again on my way home and open again tomorrow for you to continue with the clear up.'</i></p>	(BANES)
	Investigating Officer's comments		This indicates that the gate at point D on the Investigation Plan was locked in September 2016 and December 2018.	
10.	Photographs	2018-2019	<p>The Elmhurst Foundation, who own the land over which the section of the Application Routes between points A and D on the Investigation Plan runs, submitted two showing the gate at point D on the Investigation Plan.</p> <p>Photographs taken on 18 July 2018 and 7 March 2019 show a chain around the gate leaf and the hanging post; however, the resolution of the photographs currently held by the Authority are not sufficiently high to determine whether the gate is locked around the slamming post or catch.</p>	(BANES)
	Investigating Officer's comments		The photographs currently available to the Authority provide only indeterminate evidence relating to the Application Routes.	
11.	Landowner deposits	2023	<p>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.</p> <p>The Elmhurst Foundation submitted a statement under section 31(6) of the Highways Act 1980 on 1 June 2023 in respect of the land they own which includes the section of the</p>	(BANES)

			<p>Application Routes between points A and D on the Investigation Plan. The Application Routes are not admitted as existing public rights of way and a follow-up declaration has not yet been submitted.</p> <p>Wessex Water submitted a statement under section 31(6) of the Highways Act 1980 on 14th April 2023 in respect of the land they own which includes the section of the Application Routes between points D and G on the Investigation Plan. The Application Routes are not admitted as existing public rights of way and a declaration was submitted on 24 May 2023 which stated that during the intervening period there was no intention to dedicate new rights beyond those already admitted in April 2023.</p>	
	Investigating Officer's comments		The Landowner Deposits show that the landowners did not regard the Application Routes to be public rights of way in 2023 and Wessex Water have demonstrated a lack of intention to dedicate the section of the Application Routes between points D and G on the Investigation Plan between 14 April 2023 and 24 May 2023.	
12.	Landowner Evidence Form	2026	<p>A number of Landowner Evidence Forms have been received from Wessex Water, The Elmhurst Foundation (who operate Combe Grove) and Combe Grove employees.</p> <p>A Landowner Evidence Form submitted on behalf of The Elmhurst Foundation states that The Elmhurst Foundation acquired the land on 21 March 2017 and they do not regard the Application Routes on their land to be public. It is stated that previous employees challenged walkers using the Application Routes. It is further stated that the gate at point D on the Investigation Plan was already locked when The Elmhurst Foundation acquired the land in 2017 and that it remained locked thereafter.</p> <p>A Landowner Evidence Form submitted by an employee at Combe Grove states that they do not regard the Application Routes on The Elmhurst Foundation's land to be public. It is stated that the gate at point D on the Investigation Plan was already locked when they first took up employment at Combe Grove on 8 March 2005 and that Combe Grove had a key for the lock throughout that period.</p> <p>A Landowner Evidence Form submitted by a second employee at Combe Grove states that they do not regard the Application Routes on The Elmhurst Foundation's land to be public. It is stated that the gate at point D on the Investigation Plan was already locked when they first took up employment at CG in September 2006 and that guests arriving (presumably by helicopter) from the field immediately east of point D on the Investigation Plan had to '<i>jump over the gate</i>' but Combe Grove was able to unlock the gate upon request.</p> <p>A Landowner Evidence Form submitted by a third employee at Combe Grove states that they</p>	(BANES)

		<p>do not regard the Application Routes on The Elmhurst Foundation's land to be public. It is stated that the gate at point D on the Investigation Plan was already locked since they first took up employment at Combe Grove 2001.</p> <p>A Landowner Evidence Form submitted on behalf of Wessex Water states that Wessex Water acquired the land on 6 October 2014 and they do not regard the Application Routes on their land to be public. It is stated that employees challenged members of the public using the Application Routes on six occasions between August 2016 and August 2025 and erected signage stating that the land was private but the signs were always removed within 24 hours. It is further stated that the gate at point D on the Investigation Plan was already locked when Wessex Water acquired the land in 2014 and that it remained locked thereafter except for short periods to allow access for maintenance; the gate at point E on the Investigation Plan was locked in April 2018.</p>	
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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

21 individuals have completed user evidence forms; their use on foot is summarised below. Users in blue have used both of the Application Routes and users in orange have only used one of the Application Routes (i.e. A to D or D to G on the Investigation Plan). Each black X indicates when the user first encountered the gate at point D on the Investigation Plan locked; a solid black line indicates the gate was locked thereafter and the broken black line indicates the gate was locked and unlocked periodically.

