

**APPLICATION FOR A PUBLIC PATH DIVERSION
ORDER AFFECTING PUBLIC FOOTPATH BA27/31,
BROADMEAD ROUNDABOUT, KEYNSHAM**

1. The Issue

- 1.1 An application has been made to divert a section of Public Footpath (FP) BA27/31, adjacent to Broadmead Roundabout in the parish of Keynsham. The applicants Zyppon Ltd ("the Applicant") are the freehold landowners. Bath & North East Somerset Council, the current leasehold occupiers of the land, are in agreement with the proposals. The Applicant wishes to divert the FP from the existing service yard to its perimeter in order to segregate pedestrians from service vehicles.

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 the section of Public Footpath BA27/31 as detailed on the Decision Plan attached at Appendix 1 ("the Decision Plan") and in the schedule attached at Appendix 2 ("the Decision Schedule").

3. Financial Implications

- 3.1 The Applicant has agreed to pay the cost of processing an Order and the cost of any required notices in a local newspaper. Should an Order be made and confirmed, the Proposed FP will become maintainable at public expense.
- 3.2 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 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 and
 - should consider any material provision of the Joint Rights of Way Improvement Plan.
- 5.5 The Authority must also give due regard to the effect the diversion will have on farming and forestry, biodiversity, members of the public with protected characteristics under the Equality Act 2010.
- 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,

5.8 The Authority will consider the effect on Climate Change.

6. Background and Application

6.1 Public Footpath BA27/31 is recorded on the Definitive Map and Statement which have a relevant date of 26th November 1956. The FP was subsequently diverted onto its current route by The Diversion of Highways (County of Somerset) (No. 1) Order 1967.

6.2 Description of the Route to be Diverted (“the Existing FP”):

The full width of the section of Public Footpath BA27/31 commencing from grid reference ST 6662 6829 (point A on the Decision Plan) and proceeding in a generally southerly direction for approximately 58 metres to a junction with Bath Road at grid reference ST 6662 6823 (point B on the Decision Plan).

6.3 Description of the Proposed Footpath (“the Proposed FP”):

A section of public footpath commencing from grid reference ST 6662 6829 (point A on the Decision Plan) and proceeding in a generally westerly direction for approximately 26 metres to grid reference ST 6659 6829 (point C on the Decision Plan) and turning in a generally southerly direction for approximately 26 metres to grid reference ST 6660 6826 (point D on the Decision Plan) and turning in a generally south-easterly direction for approximately 35 metres to grid reference ST 6662 6824 (point E on the Decision Plan) and turning in a generally southerly direction for approximately 5 metres to a junction with Bath Road at grid reference ST 6662 6823 (point F on the Decision Plan).

6.4 The Proposed FP will be 2.5 metres wide between points A and D; and 2 metres wide between points D and F.

6.5 **Limitations and Conditions** - The Proposed FP will be created without any limitations or conditions.

7. Consultations

7.1 Affected landowners, Keynsham Town Council, national and local user groups, the Ward Councillors and statutory undertakers were all consulted for a period of four weeks (“the Consultation Period”).

Additionally, site notices were erected at either end of the Existing FP and Proposed FP 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 or that they had no plant in the area. Atkins on behalf of Vodafone originally objected but after further correspondence this was withdrawn as their apparatus was not affected.
- 7.3 Bath and North East Somerset Council, as leaseholder stated 'the Council's leasehold tenure of the Recycling Depot site may not be continuing for much longer but the proposal seems to make obvious sense and so I don't think we'd have any objections'.
- 7.4 The local Ramblers representative stated: "We can see no real benefit for the public. The line of the proposed route on the map appears to run around the inside of the fence, within the site. It is not currently possible to access the proposed route on the ground. There is some "woodland" between the fence and the stream that is there. It might be that the intention is to route the proposal outside the fence, between the fence and the stream. That area looks very narrow and possibly quite sloping with the stream bank. However, if it is possible for the Applicant to create a suitable path "through a woodland area" and with adequate support of the stream bank, with no expense to the public purse, then I would not object to this minor diversion which should, of course, be in place before the previous/current route is closed."
- 7.5 One Ward Councillor stated: "the current footpath isn't great so an improved one would be better. Will it have disabled access? I note that the new one is quite a bit longer than the old one so I don't think the route has improved".
- 7.6 The Authority responded to both the local Ramblers representative and the Ward Councillor, advising that woodland management would be required in advance of the footpath being diverted; that the surface of the new route would be stoned; and that the section of the Proposed FP running through the service yard (i.e. between points A and D on the Decision Plan) would be fenced off from the section used by motor vehicles. The Ward Councillor then replied, stating that the proposals sounded "most satisfactory".
- 7.7 Following the Consultation Period, the Applicant carried out clearance works in the woodland area (i.e. between points D and E on the Decision Plan). The Authority has since entered into a binding works agreement with the Applicant, requiring them to erect a fence along the entirety of the yard side of the Proposed FP (between points A and D), to separate walkers from service vehicles.

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 FP runs through a service yard whereas the Proposed FP would run around its perimeter, with walkers fenced off around from the working part of the yard used by service vehicles, thus securing it for the occupier's benefit. Consequently, this test should 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 FP starts at the same point as the Existing FP and finishes a mere two metres away from it on the same highway. This part of the test should therefore be 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.
- 8.5 The Existing FP is approximately 58 metres long and the Proposed FP is approximately 92 metres long, adding approximately 34 metres in length to a FP, the full length of which is approximately 200 metres.
- 8.6 However the Existing FP has no drainage, can get waterlogged and takes walkers through a space used by motor vehicles. The Proposed FP will have an improved, stoned surface which will drain better than the Existing FP and it will be fenced off from the service yard where vehicles may be in use. It is considered that any inconvenience caused by having to walk an additional 34 metres would be more than offset by these improvements to surface, drainage and safety. Consequently, this part of the test should be considered to have been met.
- 8.7 **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.**
- 8.8 **Public enjoyment of the Path:** It is considered that walking around a fenced-off perimeter, rather than through a service yard where vehicles may be in operation, will be more enjoyable for the public, as will the addition of a short woodland area through which to walk. This test should therefore be considered to have been met.
- 8.9 **Effect on other land served by the existing footpath and land affected by the proposed path:** The Proposed FP and Existing FP both run over land owned by the Applicant. The Proposed FP does not have an adverse effect on other land served by the Existing FP or on

land affected by the Proposed FP; this test should therefore be considered to have been met.

- 8.10 **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 FP with regard to compensation as the land affected by the Existing and Proposed FP are both owned by the Applicant; this test is therefore considered to have been met.
- 8.11 **The Authority must have regard to the contents of the Rights of Way Improvement Plan.** The removal of the Proposed FP from the service yard and improvements to the surface will follow Themes 1 and 4 of the Statement of Action: namely improving network accessibility (Action 1.3); and improving access for local travel.
- 8.12 **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.**
- 8.13 The Proposed FP is not in an agricultural area and will therefore have no effect on farming. The Proposed FP is to be moved from one side of the service yard and woodland area to the other, allowing the Existing FP outside of the service yard to return to woodland so there should be no net effect on forestry or biodiversity. Members of the public with visual, hearing or mobility impairments will benefit from the removal of the Existing FP from the service yard and segregation from vehicle movement, as well as from the improved footpath surface.
- 8.14 **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.**
- 8.15 There will be no impact on connectivity as the Proposed FP starts at the same point at the Existing FP and finishes a mere two metres away, on the same highway.
- 8.16 Members of the public with visual, hearing or mobility impairments will benefit from the improved surface and from the removal of the Existing FP from the service yard and vehicle movements. The proposed diversion has a neutral effect on those with other impairments.
- 8.17 Maintenance of the Proposed FP should be improved as the surface will be stoned, allowing it to drain more freely; neither will there be vehicle movement creating wear and tear on the surface.
- 8.18 Removing the Proposed FP from the service yard and segregating walkers from vehicles will improve public safety.

- 8.19 At 2.5 metres, the section of the Proposed FP between Points A and D will be wider than the Existing FP. There will be no decrease in width along the remaining section, compared with the Existing FP.
- 8.20 There are no plans to add any gates to the Proposed FP. Neither will there be any impact on gradient, status or Features of Interest.
- 8.21 It is considered that on balance the proposed diversion is in accordance with the 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 FP.

11. Conclusion

- 11.1 It appears that the relevant statutory tests for making such a diversion Order have been met and that the proposal is in compliance with the Public Path Order Policy.
- 11.2 The diversion Order would be in the interests of the occupier of the relevant land.
- 11.3 The Order should be made as proposed.

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 the section of Public Footpath BA27/31 as shown on the Decision Plan and detailed in the Decision Schedule; and to confirm the Order if no sustained objections are received.



Dated: 28th August 2025

Craig Jackson

Team Manager - Highways Maintenance and Drainage

Appendix 1 Decision Plan

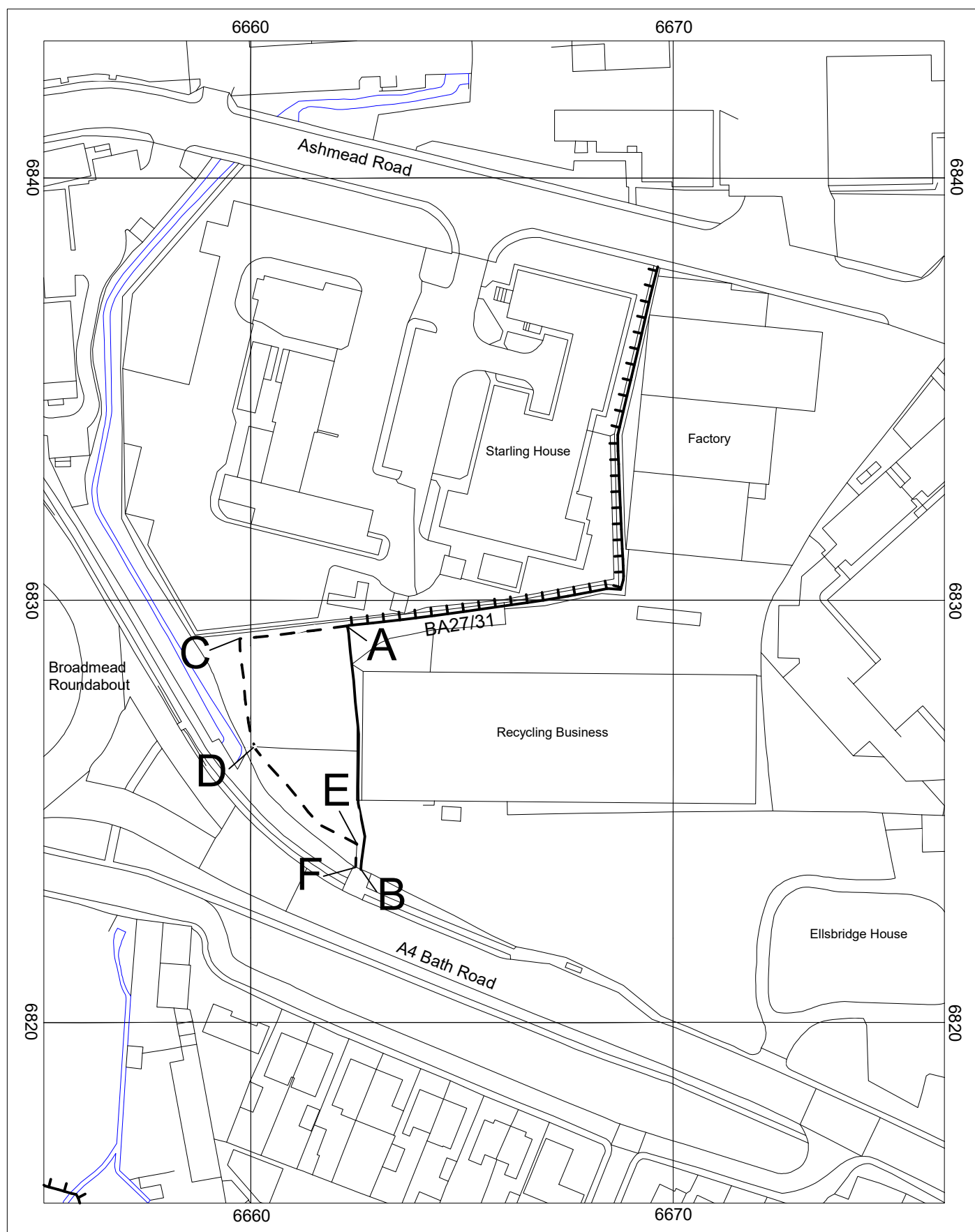
Scale: 1:1250



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

A C D E F

A B



APPENDIX 2 - DECISION SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

The full width of the section of Public Footpath BA27/31 commencing from grid reference ST 6662 6829 (point A on the Decision Plan) and proceeding in a generally southerly direction for approximately 58 metres to grid reference ST 6662 6823 (point B on the Decision Plan).

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

A section of public footpath commencing from grid reference ST 6662 6829 (point A on the Decision Plan) and proceeding in a generally westerly direction for approximately 26 metres to grid reference ST 6659 6829 (point C on the Decision Plan) and turning in a generally southerly direction for approximately 26 metres to grid reference ST 6660 6826 (point D on the Decision Plan) and turning in a generally south-easterly direction for approximately 35 metres to grid reference ST 6662 6824 (point E on the Decision Plan) and turning in a generally southerly direction for approximately 5 metres to a junction with Bath Road at grid reference ST 6662 6823 (point F on the Decision Plan).

Width: 2.5 metres wide between grid reference ST 6662 6829 (point A) and grid reference ST 6660 6826 (point D); 2 metres wide between grid reference ST 6660 6826 (point D) and grid reference ST 6662 6823 (point F).