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# **Bath & North East Somerset Council**

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**Highways Maintenance and  
Public Rights of Way**

## **Highways Act PPO Application Pack**

Advice to applicants applying for  
Creation Orders, Diversion Orders or Extinguishment Orders  
under sections 26, 119 or 118 of the Highways Act 1980

**THIS APPLICATION PACK IS FOR ORDERS TO BE MADE  
UNDER THE HIGHWAYS ACT ONLY. IF THE APPLICATION  
IS TO ALLOW DEVELOPMENT TO TAKE PLACE PLEASE  
USE THE TCPA APPLICATION PACK INSTEAD.**



## GUIDANCE FOR APPLICANTS

Bath and North East Somerset Council ("the Authority") have discretionary powers under the Highways Act 1980 to create, divert or extinguish public rights of way by means of Public Path Orders ("PPO"). These Guidance Notes are intended to provide any prospective applicant for a PPO with a background to the process. A guide on how to complete the necessary application form is contained at Appendix 2 and the forms themselves are contained at Appendix 3.

Please ensure you complete the current application form; this application pack only relates to applications submitted to the Authority by 31<sup>st</sup> March 2025. If the application is to allow development to take place, please use the TCPA application pack instead.

### Legislation and Policy

Any application for a PPO must meet the tests laid out in the relevant legislation. The legislation can be summarised as follows:

- i) A path can be *created* under section 26 of the Highways Act 1980 only if it can be shown that it is needed for public use.
- ii) A path can be *diverted* under section 119 of the Highways Act 1980 if it can be shown to be in the interests of the landowner, lessee, occupier or public.
- iii) A path can be *extinguished* under section 118 of the Highways Act 1980 only if it can be shown that it is no longer needed for public use.

The legislation contains other legal tests which must also be met and taken into consideration. The Authority will also consider any application in relation to its PPO Policy. The Policy identifies a number of additional criteria against which any application will be judged. These include:

- |                     |                |                        |
|---------------------|----------------|------------------------|
| • connectivity      | • status       | • gradients            |
| • safety            | • gaps & gates | • features of interest |
| • equalities impact | • width        | • maintenance          |

The Policy states that the Authority does not generally support applications for extinguishment orders unless they are part of a wider package with compensating public benefit. The Authority will accept stand-alone applications for extinguishments only in exceptional circumstances.

### Process

The process for dealing with PPOs can be complex and time consuming. It would be advisable to informally consult with the parish council, your neighbours and relevant user groups before you make an application. Whilst their opinions are not in any way conclusive, it may prove useful to gauge the likely support and opposition to the proposals.

The completed Application Forms (see Appendix 3) and accompanying paperwork should be submitted to the Authority. As the Authority's power to make PPOs is purely discretionary, it can withdraw from the process at any time if it becomes apparent, from responses received following consultation, that the proposals do not meet the statutory criteria, or will attract too much opposition. If the new route cannot be agreed through negotiation, or opposition is strong, the Authority may decide to abandon the Application.

Even if the Authority continues to make and support an order, it cannot guarantee that it will be confirmed and therefore take effect. This is because if objections to it are received and not withdrawn, the responsibility of confirming it passes to the Secretary of State for the Department of Environment, Food and Rural Affairs who will consider the matter independently.

Applications are ordinarily dealt with in chronological order of receipt and the process of diverting rights of way is both lengthy and complex; a flowchart of the process can be found at Appendix 1 below. The Authority will carry out an informal consultation and applicants are given the opportunity to comment on any objections received. The Authority will then decide whether an order should be made and, if an order is made, it will be advertised and any member of the public can formally object. If no objections are received, the Authority can confirm the Order and it will come into effect upon certification. If objections are received, the Authority will decide whether to abandon the Order or submit it for determination by the Secretary of State. If the Authority decides to pursue the latter course of action, an Inspector acting on behalf of the Secretary of State will hold a Public Inquiry or Hearing or consider the Order through Written Representations and decide whether the Order should be confirmed.

As a general estimation of timescales, the time period from the start of processing to the confirmation of an order is likely to be at least eight months and may be considerably longer. It should not be underestimated how long it can take to achieve consensus. If there are objections and agreement cannot be reached it can take several years.

### **Cost**

The total administrative cost of successfully applying to divert a public right of way under the Highways Act is £4,349. The first £1,089 is payable at the time of applying and if the Authority decides to make an order then the remaining £3,260 is payable at that time. As detailed above, this is a complex legal process and the fee reflects the costs incurred by the Authority which include newspaper notices, officer time, legal expenses and site visits.

Additionally, you will be responsible for any compensation which may become payable as a result of the Order and any costs incurred in bringing the new path into a suitable condition. Prior to a decision being made by the Authority, as to whether an order should be made, you will be required to enter into an agreement with the Authority regarding what works are necessary.

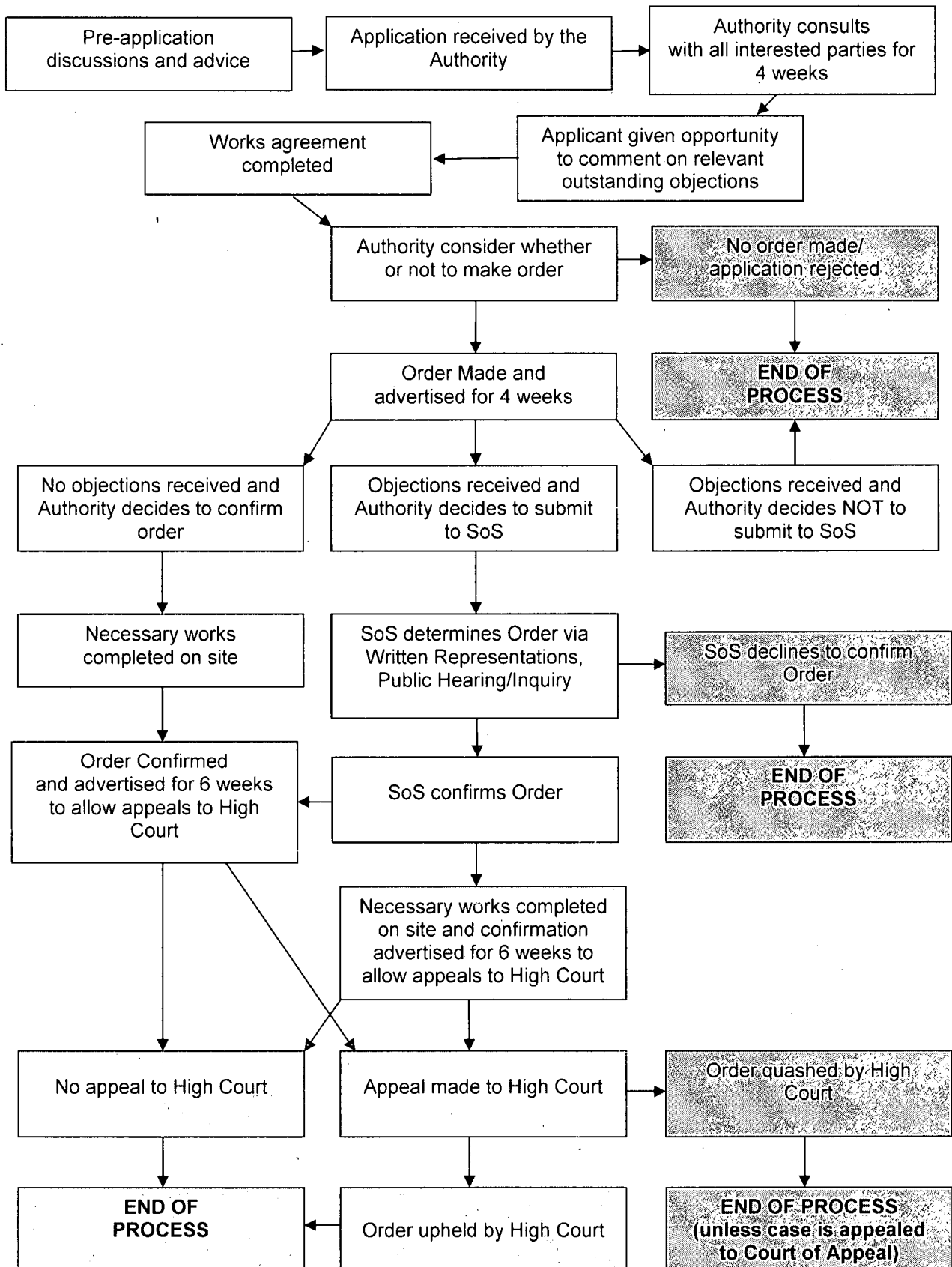
### **Additional Considerations**

It should be noted that no authority for the extinguishment or diversion of a highway is conferred unless and until a Public Path Extinguishment or Diversion Order has been made, confirmed and come into effect. Any preliminary obstruction of, or interference with, the highway concerned may not only be an offence, but may make it impossible to proceed with the making of an order.

If other landowners are affected by the proposals you should obtain written confirmation that they have no objections to the proposals including any requirements relating to the provision of gaps or gates in any boundaries and written confirmation that they waive their right to compensation.

## APPENDIX 1

### FLOWCHART OF THE PUBLIC PATH ORDER PROCESS



## **APPENDIX 2**

## **HOW TO COMPLETE THE APPLICATION FORM**

Only use this form if submitting an application  
between 1<sup>st</sup> April 2024 and 31<sup>st</sup> March 2025

- Section 1 Complete name and contact details of applicant. It should be noted that the application will be included in the Authority's statutory register and the applicant's names and postal addresses will therefore be publicly available. Signatures, telephone numbers and email addresses will be redacted and will not be publicly available.
- Section 2 Complete name and contact details of agent, if applicable
- Section 3
- (a) Complete with path numbers as shown on map enclosed with application form.
  - (b) Complete names of all parishes affected by the proposals.
  - (c) Use scale-rule or measure on site. Use 'approximate' for length measurements.
  - (d) Width recorded in Definitive Statement or measured on site.
  - (e) e.g. *"the section of public footpath BA28/12 running from the High Street (grid reference ST 5725 6467) south to a junction with public bridleway BA28/32 (grid reference ST 5728 6482)"*
  - (f) Confirm that the 'legal' line (i.e. the route currently recorded on the Definitive Map and Statement) is not blocked, and can be currently used by the public. Obstruction or interference with the highway may make it impossible to proceed with the making of an order.
- Section 4 Please complete, with reasons for the diversion or extinguishment, i.e. it is in the interests of land owner/unnecessary for public use etc. It must also be stated why a diversion is in the interests of the person(s) stated.
- In accordance with paragraph 7 of the Public Path Order Policy, the Authority does not generally support applications for extinguishment orders unless they are part of a wider package with compensating public benefit.
- Section 5 It is important to note that the new path should not be substantially less convenient to the public or negatively affect the public's enjoyment of the network.
- Complete with details of the proposed alternative route.
- (a) Use scale-rule or measure on site. Use 'approximate' for length measurements.
  - (b) The MINIMUM level width for a footpath is 2 metres, for a bridleway is 3 metres and for a restricted byway is 5 metres.  
In some circumstances, such as if the path is to be fenced on either side, then a greater width may be required. The width will form part of the legal description of the path on the Definitive Statement.
  - (c) Description of surface type i.e. arable, grass, tarmacked etc.
  - (d) e.g. *"a new section of public footpath running from the High Street southeast to a junction with public bridleway BA28/32"*

- (e) Describe any gates, bridges, steps, furniture or resurfacing works etc. that will be necessary to make the path useable by the public.

Section 6 In addition to the legislative tests the Authority will assess any application for a PPO against the criteria of connectivity, equalities impact, gaps & gates, gradient, maintenance, safety, status, width and features of interest. Fuller explanations of these criteria are contained in paragraph 13 of the Public Path Order Policy which is available on the Authority's website and applicants should state what impact the application would have on each criteria. It should be stressed that the Authority will seek to take a balanced view of the assessment against all the criteria as a whole.

Section 7 Complete ownership details

- (a) Confirm whether you are the owner/occupier/lessee of the land over which the legal line of the path runs, or whether other reasons apply for diverting or extinguishing the path
- (b) Confirm whether you are the owner/occupier/lessee of the land over which the alternative path is proposed to run
- (c) Confirm details of other persons with an interest in the land over which the existing or proposed path runs e.g. tenants, individuals holding sporting rights etc.
- (d) If other persons do have an interest in the land affected, the box should be ticked and a copy of their written consent to the proposals and written confirmation that they waive their right to compensation must be attached to the completed application form.

- Section 8
- (a) Please use a current Ordnance Survey base map of a scale not less than 1:2500. The Authority can provide such a plan, but a small charge may be made. Please mark:
    - the section of existing path to be extinguished
    - the route of the proposed new path
  - (b) Payment can be made via cheque or credit/debit card and the initial fee is £1089 Cheques should be made payable to '*Bath and North East Somerset Council*', marked '*YF2 LGA60 PR10 No VAT*' on the reverse and enclosed with the Application. Alternatively, payment can be made electronically [here](https://www.civicaepay.co.uk/BathNESEstore/estore/default/Catalog/Index) (<https://www.civicaepay.co.uk/BathNESEstore/estore/default/Catalog/Index> then search for PROW) please state '*PPO*' followed by your name/company name in the reference box. The total administrative cost will be £4,349
  - (c) Applicants will be invoiced for the remaining £3,260 if the Authority decides to make an order. The invoice must be paid before the Authority will proceed with the making of the order.

**PLEASE SIGN AND DATE THE FORM AND SEND TO THE ADDRESS SHOWN TOGETHER WITH THE REQUIRED DOCUMENTS**

## **APPENDIX 3**

# **APPLICATION FORM FOR DIVERSION OR EXTINGUISHMENT OF PUBLIC FOOTPATH / BRIDLEWAY / RESTRICTED BYWAY**

**SECTIONS 26, 118 AND 119 OF THE HIGHWAYS ACT 1980**

### **IMPORTANT**

**No authority for the extinguishment or diversion of a highway is conferred unless and until a Public Path Extinguishment or Diversion Order has been made, confirmed and come into effect. Any preliminary obstruction of, or interference with, the highway concerned may not only be an offence, but may make it impossible to proceed with the making of an Order.**

## **1. NAME AND ADDRESS OF APPLICANT**

Name: PUBLOW WITH PENSFORD PARISH COUNCIL

Postal Address: Helen Richardson, Parish Clerk, 10 Watts Corner, Glastonbury,  
Bristol BA6 8FD

Email address: clerk@publow-with-pensford-pc.gov.uk

Telephone No: 01458 741336 07899 970173

Name: MICHAEL CHRISTOPHER NEWAY AND LINDA MARY NEWAY

Postal Address: Popham Cottage, 148 High Street, Pensford BS39 4BH

Email address: [REDACTED]

Telephone No: [REDACTED]

Name: DAVID MILES PARNELL AND PAULINE ANN PARNELL

Postal Address: Stonehouse, Publow Lane, Publow BS39 4HW

Email address: [REDACTED]

Telephone No: [REDACTED]

## **2. NAME AND ADDRESS OF AGENT(S)**

Name: Stephen Grimes

Postal Address: 11 Station Approach, Pensford, Bristol BS39 4AE

Email Address: [REDACTED] Telephone No: [REDACTED]



### 3. PARTICULARS OF RIGHT OF WAY TO BE EXTINGUISHED/DIVERTED\*

- a) Footpath No CL17/40
- b) Parish of Publow with Pensford
- c) Length in metres of section to be extinguished/diverted   99
- d) Width in metres of section to be extinguished/diverted   2
- e) Description of length to be diverted by reference to terminal points on plan to accompany this application

The existing footpath is marked purple on the attached plan. The section we wish to divert has a blue outline on the plan and starts from the southern edge of the allotments (near the rear garden gate of 148 High Street, Pensford) and runs through to the public highway at High Street, Pensford.

- (f) Is the existing route freely available to the public? If NOT, please give reasons:

YES

### 4. REASONS FOR THE DIVERSION OF THE PATH

The owners of 148 High Street, Pensford and Stoneleigh, Publow have agreed to donate the land behind their property to the Parish Council to facilitate relocation of a part of the existing allotment area to make space available for public car parking. This offer is subject to the applicants receiving approval to divert the footpath away from the private garden.

It is in the interests of the Parish Council because it will help to achieve our strategic aim to create a badly needed public car park for the village.

It is in the interests of the householders because the existing route runs through their private (gated) land and is therefore not a good route for a public footpath.

It is in the interests of the community because lack of parking spaces in the village is a serious local concern.

There would be no detriment to the public because the proposal does not involve any increase in footpath length.

#### **Please Note:**

- i) A path can be created under **Section 26 of the Highways Act 1980** only if it can be shown that it is needed for public use;
- ii) A path can be diverted under **Section 119 of the Highways Act 1980** in the interests of the landowner/occupier/lessee, or of the public, or
- iii) A path can be extinguished under **Section 118 of the Highways Act 1980** only if it can be shown that it is no longer needed for public use.

If an extinguishment application, please give details of an alternative route, or the reasons why an alternative route is not considered necessary.

N/A

5. **PARTICULARS OF NEW PATH TO BE PROVIDED (if applicable)**

- a) Length in metres 60
- b) Width in metres 2
- c) Surface Grass
- d) Description of length to be provided by reference to terminal points on plan to accompany this application

The new section of the footpath is marked red on the plan. This section would meet the existing footpath at the southern edge of the allotments and would exit the allotments through to the roadway leading to Publow Lane.

- e) What works do you propose to undertake to bring the new path into a condition fit for use by the public?

The Parish Council will clear any existing vegetation and obstructions.

6. **RELEVANT CONSIDERATIONS**

In what way would the proposals affect the following factors, as set out in the PPO Policy:

a) **Connectivity**

The new footpath improves connectivity, as the public will no longer need to pass through a private garden. This will reduce the number of gates by two.

b) **Equalities Impact**

The new footpath is of a standard at least equal to the existing route, and is suitable for all users including those with mobility or visual impairments.

c) **Gaps & Gates**

A kissing gate or similar may be installed to exit the allotment area. There will be no other gaps, gates or obstructions.

d) **Gradients**

The gradient of the new footpath will be broadly similar to the existing route.

e) **Maintenance**

The new footpath will require minimal maintenance. The Parish Council employs a Footpaths Officer who will ensure that it remains clear of undergrowth.

f) **Safety**

The new footpath does not introduce additional hazards nor encourage or be likely to encourage antisocial behaviour or criminal activity

g) **Status**

The new footpath will be more visible to the public than the existing route, which starts behind a private garden fence/gate

h) **Width**

The Parish Council will maintain the new footpath to a minimum of 2m width.

i) **Features of Interest**

No features of interest or special views affect the existing or diverted footpath

## **PARTICULARS OF OWNERSHIP**

- a) Applicant's interest (*owner/occupier/lessee*) in the land over which the existing path referred to in this application passes.

None. The existing footpath runs through private land. One section owned by Mr and Mrs Newey and another section owned by Mr and Mrs Parnell. The owners intend to transfer ownership of part of their land behind 148 High Street to the Parish Council upon approval of this application.

- b) Applicant's interest in the land over which the new path is to be provided

The Parish Council owns the freehold of the allotment area over which the diverted footpath will run.

- c) Do any other persons have an interest in the land over which existing or proposed paths pass? If so, give names and addresses of persons and nature of interest

NO

- d) If other persons have an interest in the land affected, please tick to confirm that a copy of their written permission for the proposals to go ahead and written confirmation that they waive their right to compensation is enclosed. ☐

## **8. ACCOMPANYING DOCUMENTS AND CONSENT**

**Please tick boxes as appropriate**

- a) A plan based on a current Ordnance Survey base map showing section of path to be extinguished and new path to be provided is attached. ☒

- b) A cheque for £1089 is enclosed. ☐

- c) Payment has been made ~~by credit/debit card~~ for £1089 ☒ \*

- d) It is understood that if the Authority decides to make an order then the remaining £3,260 will be payable at that time. ☒

\* As agreed by Parish Clerk with Tim Haynes payment will be made by BACS upon receipt of invoice.

## DECLARATION

We understand that no authority for the extinguishment of a public right of way is conferred unless and until any order made has been confirmed and come into effect and notice of this has been published.

We declare that the public right of way to be stopped up is not obstructed and that it is fully available to the public. (Subject to Article 3(f) above).

We hereby agree that if a diversion order is made we will defray any compensation which becomes payable under section 18 or 121 of the Highways Act 1980 in consequence of the coming into operation of the Order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

We agree to pay a further £3,260 if the Authority decides to make an order.

We apply for the diversion of the highway described above.

We declare that to the best of our knowledge and belief all the particulars given are true and accurate.

Signed ..... Date 10/3/25

Name Helen Richardson, Parish Clerk for Publow with Pensford Parish Council

Signed ..... Date 10/3/25

Name Michael Christopher Newey

Signed ..... Date 10/3/25

Name Linda Mary Newey

Signed ..... Date 10/3/25

Name David Miles Parnell

Signed ..... Date 10/3/25

Name Pauline Ann Parnell

On completion, this form, should be returned, together with the plan, cheque/confirmation of electronic payment and copies of any consents if appropriate, to:

*Public Rights of Way, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath, BA1 1JG.*

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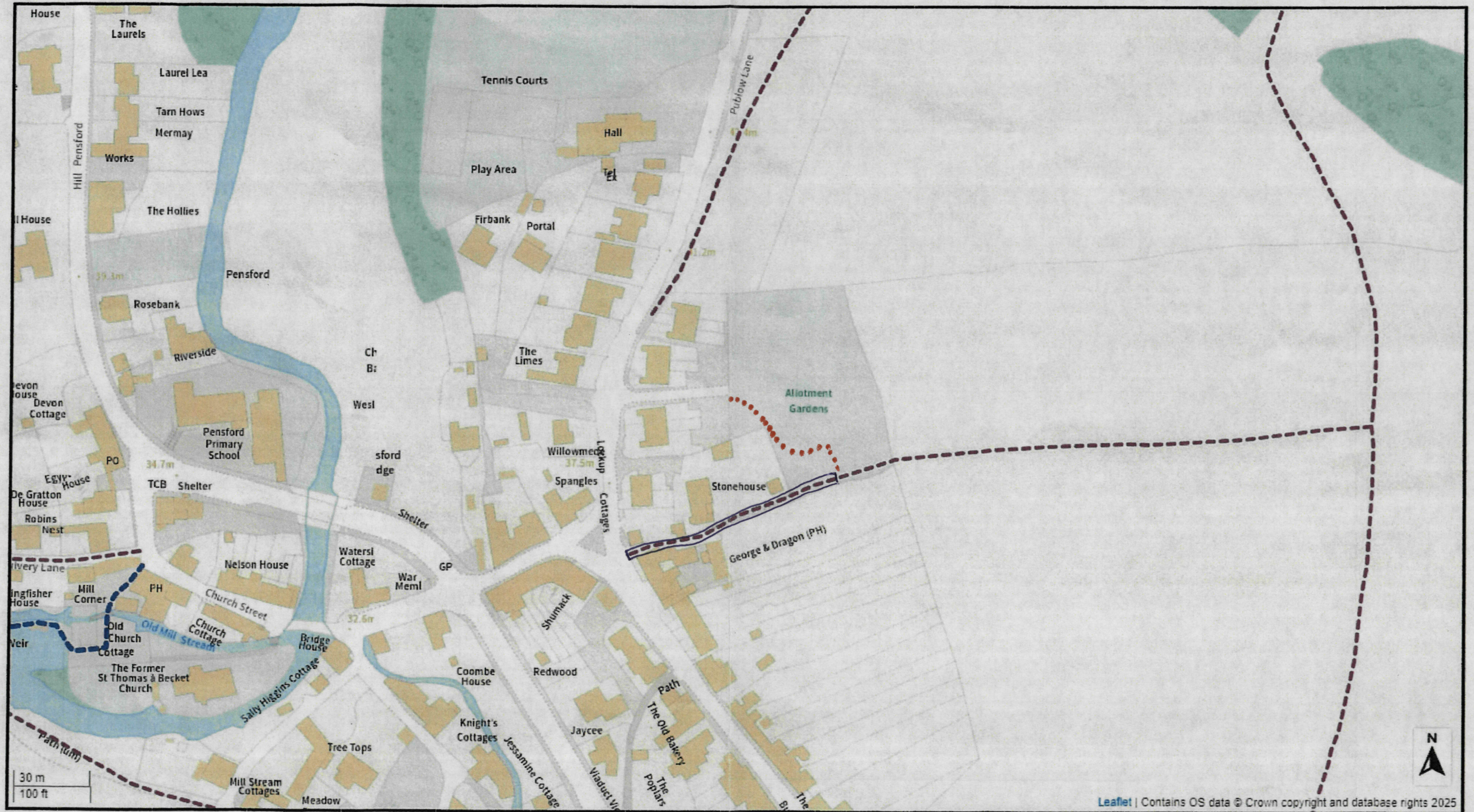
## **APPENDIX 4**

### **GLOSSARY**

<i>Applicant</i>	The person applying to divert or extinguish a public right of way
<i>Authority</i>	Bath and North East Somerset Council, in its capacity as the local highway authority
<i>Definitive Map and Statement</i>	The legal record of rights of way within Bath and North East Somerset
<i>Limitation</i>	Something which lawfully limits the public's enjoyment of a right of way e.g. a gate or a bollard
<i>Planning Inspectorate</i>	An executive agency with the responsibility for determining opposed orders on behalf of the Secretary of State
<i>Public Path Order</i>	A type of legal order to create, divert or extinguish a public right of way
<i>Public right of way</i>	A way over which the public have a right to pass and repass; the way can be a footpath, bridleway, restricted byway or byway open to all traffic.
<i>Secretary of State</i>	The Secretary of State for Environment, Food and Rural Affairs, who has the power to determine opposed orders



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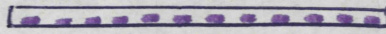






## Highways and travel

### Public Rights of Way

-  Common Land and Village Greens
-  Legal Order Applications

-  footpath to be extinguished
-  footpath route proposed
-  footpaths existing.

OS map B