

**BRISTOL CITY COUNCIL**

**PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE  
18 APRIL 2011**

**CONSOLIDATION OF THE DEFINITIVE MAP & STATEMENT  
PROCEDURE AND REQUIREMENTS UNDER S.53 & S.57**

(Report of the Strategic Director of City Development)

(Ward: Citywide)

**Purpose of Report**

1. To inform the committee of the duty placed on this Authority to continuously modify the definitive map and statement and to undertake a consolidation process of incorporating any legal changes since the last published review of the map and statement, the relevant date of which is 30 September 1966.

**Background**

2. The National Parks and Access to the Countryside Act 1949 (the 1949 Act) introduced a duty on surveying authorities (SA) to produce a definitive map and statement (map & statement) for their area, there was an exemption for County Boroughs. The map and statement is the legal record of the location and status of all known public rights of way within an Authority's area. It is accurate to a specific date in its' preparation which is known as the Relevant Date. After that time, it becomes increasingly out-of-date as Public Path Orders (eg diversion, stopping up) and other legal events take place. At the same time the mapping base becomes ever more unrepresentative of the present as a consequence of development.
3. The Wildlife and Countryside Act 1981(W&C Act) S53 subsequently introduced a duty on surveying authorities to keep the definitive map and statement under continuous review. The Countryside and Rights of Way Act 2000 (CRoW) included an amendment to W&C Act, S53A. The amendment permits a combined process for SA's so that public path orders processed by them can provide a mechanism for modifying the map and statement

concurrently with the coming into operation of the public path order. This obviates the need for separate legal event orders to be sealed in the future but the regulations do not extend to any other procedure outside the HA or T&CP Act which came into force 6 April 2008. This therefore does not cover all legal events even post April 2008, see Appendix A.

4. Bristol is fortunate as although it was an excluded area for the purposes of the 1949 Act, it opted in and produced the first definitive map and statement, with a relevant date of 1 January 1954 and this was reviewed with a relevant date of 30 September 1966. No further reviews have since taken place. A 2010 national survey showed that 80% of surveying authorities did not have a defined practice to consolidate their map but 60% were working towards implementing a consolidation practice.
5. Concurrent with the obligation to keep the map and statement under continuous review is the development of geographic information systems which allows the data to be held in a digital format and displayed via computer mapping systems and consequently on the web. The consolidation process is inextricably linked to the digitisation program that nearly every SA is or has addressed in some form or other. Some have taken time to undertake a good digitising programme where many of the gross alignment errors made by an original digitiser have been discovered and resolved, this record also incorporates all the legal amendments to a public right of way which have occurred since the last review date. This dataset though is the 'working copy' used in the day-to-day management of the network and it has no legal basis. The Councils equivalent is the Intranet (Infocus) and web mapping (Pinpoint). The dataset although it has been checked remains unverified and is considered a '*best estimate*' of the current public rights of way alignments.
6. Currently the legal document of the map and statement can only be the hard copy of the digitised record, with a new relevant date each time it is reviewed. Many authorities though still refer to their older paper record and rely on the digital record as the working copy. Some authorities like Hampshire County Council have a procedure whereby the digital record is printed in a map series at 1:10,000 and each map and statement is sealed by the proper legal officer, for

an example see Appendix B, for Bristol the number of maps is likely to be 9.

7. This report is therefore addressing the updating of the legal record in its fullest sense. The preparation, making and sealing of legal event orders changing the network whilst concurrently digitising and verifying the alignments of unchanged routes.

## **Procedure**

8. The stages of consolidation are systematically set out in Appendix C. The flow chart also takes into account the need to record the unchanged alignments and record separately where there are anomalies between the map record and the statement description.
9. The next phase is to identify all the legal event orders processed since 1966. Where paths have been subject to a previous legal event, such as a diversion, creation or stopping up, the changes can be recorded on the definitive map and statement with a simplified procedure requiring no consultation because at the time of making and sealing the proposal was advertised and consulted on. The details within the order have to be complete and correct to be included in the consolidation. The effect of the legal event modification order (LEMO) is to modify what is shown on the map & statement.
10. The timescale to completion cannot be accurately estimated due to the following variables:
  - Legal Event Modification Orders
    - Cataloguing all the legal event orders made under the Town & Country Planning Acts or Highway Acts since 1966 is 75% complete
    - Further research is needed to complete the paper records where there is uncertainty that the orders were confirmed and operative. Experience has shown that often a catalogue search of Bristol and other local record offices or Council sources do not produce the answer and that the National Archive at Kew may have a record.

- Procedures to be agreed in association with legal services where the records are incomplete or badly drafted so that the map and schedules do not agree. This might often result in public footpaths now going through properties.
- To categorise what comprises a legal event so that the event can be included under the umbrella of LEMO.
- Experienced officer resource in traffic management and legal services.

#### Digitisation programme

- Comparison of the definitive map (scanned paper format) and the digitised working copy. This has been completed during the early summer of 2010 by GIS University students on placement, this work needs checking for accuracy.
  - Reviewing the above work and after the appropriate checks amending the existing working definitive map alignments using the current specialised software (CAMS)
  - The validation of the newly digitised network is best undertaken by site visits using a handheld geographic positioning system (gps) with accompanying specialised software, which is already in place within the team (CAMS).
  - Following validation a number of anomalies between the actual route on the ground and mapped lines will arise. These will be categorised and some of the errors will not prevent a map and statement being produced, but there are anomalies which will need resolving and the mechanism for this should be in hand and considered as part of an annual rolling programme.
11. Project planning the process outlined above and illustrated by the flow chart in Appendix C is guided by previous officer experience. A legal event order in this procedure will combine all the orders made for a group of routes. Based on an estimate of a maximum of 20 routes and their associated changes, without any queries or loss of paperwork it takes an officer full time a minimum of 4 – 6 weeks per legal event order.
  12. Combined with the drafting of the legal orders, drawing plans, writing new definitive statements and having this work checked for accuracy is the checking of the alignment currently transcribed from the Definitive Map onto the digital record. Each query that needs clarifying could take several

days to resolve as records have to be requested from different sources.

## **Legal**

13. The map and statement is conclusive in a court of law, many important decisions are based on the information it shows, including prosecutions and must therefore be trusted that this legal record represents a true record of what it shows. To change or rectify any of the information whether on the map or in the statement requires a formal legal procedure of a Modification Order.
14. Investigation has shown it is not possible within the current law to move to a wholly digitised map and dispense with a paper copy; hence the solution Hampshire County Council has arrived at. Current law requires that any digitised definitive map must be reproduced onto hardcopy and sealed to perform its role. as a legal document. There is no problem however in storing the data from which the map and statement is printed in a digital format.
15. As SA for its area, the City Council now has power to include in any legal event order (that is any order, enactment, instrument etc which stops-up, diverts, widens or extends, changes in status, or creates a highway), a provision to alter the Definitive Map and statement at the same time. This change was made by the CRoW Act and is now included in the W&C Act as section 53A. Previously, a further order was required to affect this.
16. A SA may prepare an updated Definitive Map and Statement from time to time, incorporating any modifications made by order since the previous Map was published. Section 57 W&C Act refers. Every SA must take steps to bring the preparation of consolidated maps and statements to the attention of the public. A copy of the maps which are superseded by the consolidated map must be kept available for public inspection.

## **Resources**

- 17 The procedures described are resource heavy in officer hours, there is currently the equivalent of two officers dealing with rights of way matters - one full-time, two part-time. One

of the part time officers has experience in processing legal event orders and GIS procedures. The background work which has already taken place was undertaken by appropriately skilled people, but not people who are familiar with public rights of way. In good practise guidelines it is emphasised that people who possess a skill with interpreting public rights of way data coupled with the validating of the digital map alignments are important. Errors introduced into the digitised dataset which, when printed and sealed by the proper officer, becomes the Definitive Map can only be amended by undertaking a full S53 W&C Act definitive map modification order procedure with all the inherent costs of staff and advertising.

- 18 Using the guidelines of 4-6 weeks per LMMO and estimating that 50% of the paper records are in order it will take 1 FT officer 24 weeks to complete 4 LEMO's. Concurrently the associated work of verifying the digitised dataset would take 1 FT officer 7.5 weeks to check 50 % on the network. This is based on 30 minutes per route. A further 2 LMMO's or 25% of the legal event orders may have the correct paperwork but it has to be sourced from other archives. Given this further investigation, the estimate is of 1 FT officer for 24 weeks and 7.5 weeks for a further 25% of the dataset verification. The remaining 25% represents the legal events where the paperwork after an archive search remain incomplete and the changes which had been intended cannot be shown on the definitive map and statement. The method of resolving these issues would be the subject of a further report as it is likely that the Council would need to promote public path orders to remedy the problem. The digitisation process would not be hindered as it is likely the routes would be shown undiverted and therefore through properties.
- 19 Using this estimate: to complete 75% of the consolidation procedure and 100% of verifying the digitised dataset would take 1 FT officer 18 months. The remaining 25% would require remedial action in as much the authority might find it has to re advertise very old orders to complete the procedure to change a route with an estimate of a minimum of 12 months.

## **Finance**

- 20 It is not anticipated that the majority of the consolidation process requires capital funding; funding will be required to resolve the anomalies which will be categorised and prioritised.

**RECOMMENDATION** That the report be noted.

**APPENDICES**                    **Appendix A: Legal event orders**  
**Appendix B: Hampshire example**  
**Appendix C: Flow diagram**

**CONSULTATION**  
**Internal**                    Legal Division, Central Resources

## **LEGAL AND RESOURCE IMPLICATIONS**

### **Legal:**

The legal implications are as set out in the report above

### **Financial:**

Non arising from this report

**OTHER APPROVALS NECESSARY** None

## **LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985**

### **Background Papers:**

1. Wildlife & Countryside Act 1981
2. The Countryside and Rights of Way Act 2000
3. The National Parks & Access to the Countryside Act 1949

### **Contact Officer:**

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**Legal Events pre 6 April 2008**

Public Path Orders		Dedications	Other Events	
Highways Act	T&CP Act	Council Land	S.38 HA Adoption	S.106 Agreement
Stopping Up S118 all	Extinguishment S257, 258	Private Landowner		
Diversion S 119 all	Diversion S257, 258	Parish Council		
Creation S 26				
Magistrate Court S116				

**Legal Events post 6 April 2008**

Magistrate Court S116	Dedications	Other Events	
	Council Land	S.38 HA Adoption	S.106 Agreement
	Private Landowner		
	Parish Council		

Given this      day of

The Common Seal of Hampshire County Council was hereunto affixed in the presence of:-

.....  
Authorised Signatory

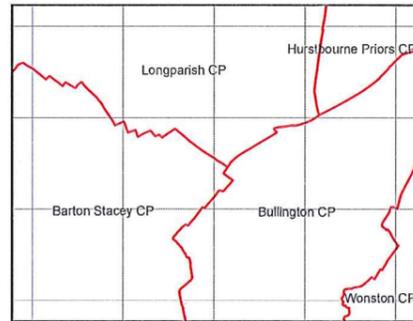
Map Scale 1:10,000



Legend

- Footpath 
- Bridleway 
- Restricted Byway 
- Byway Open to All Traffic 
- Parish Boundary 
- County Boundary 

Public Rights of Way are not shown over any areas shaded in grey on the map below, as these are outside the administrative boundary of Hampshire County Council

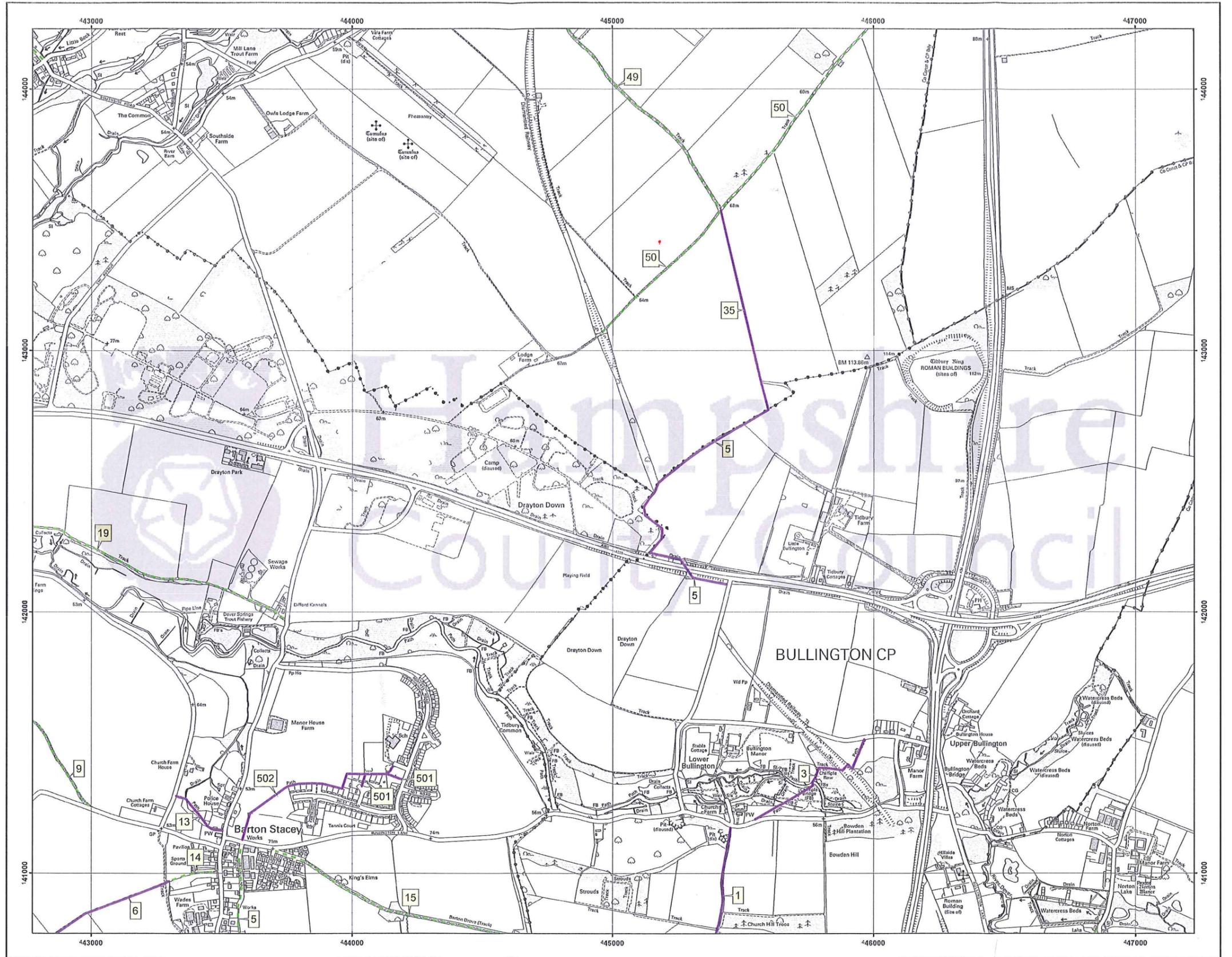


Index to adjoining maps

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Map  
Number

11.18



# Detailed list of procedures to consolidate the DM

