

AGENDA ITEM NO.

BRISTOL CITY COUNCIL PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE 20th January 2020

CURRENT CLAIMS, INQUIRIES AND MISCELLANEOUS RIGHTS OF WAY MATTERS

(Report of the Executive Director for Transport, Growth and Regeneration directorate)

(Ward: Citywide)

Purpose of Report

1. To report for information on the present position with regard to claims under Section 53 of the Wildlife and Countryside Act 1981; public inquiries; and miscellaneous rights of way orders, agreements and legal proceedings.

Background

2. As Surveying Authority for the purposes of the Wildlife and Countryside Act 1981 the City Council has a duty, as imposed by Section 53(2)(b) of the Act, to keep the Definitive Map and Statement under continuous review and to determine any valid applications for Modification Orders which it receives.
3. There are currently nine outstanding claims that are waiting to be determined by the Authority, the most recent of which was validated by Legal Services in November 2016. See table at Appendix A for present position with applications.
4. There is no statutory advice relating to the order in which claims should be processed. However, the Council's standard practice is to deal with each application in chronological order of receipt, unless the claim is affected by a planning application in which case it is prioritised.

Consultation None.

Appendices

- Appendix A - Table of Definitive Map Modification Order applications.
Appendix B - Table of miscellaneous rights of way orders, agreements and legal proceedings.
Appendix C - List of 'Legal Events' which require the making of a modification order under s53(3)(a) of the Wildlife & Countryside Act 1981

Policy Implications There are no specific policy implications arising from this report.

Resource Implications There are no specific resource implications arising from this report.

Other Approvals Necessary None.

Recommended - that the report be noted

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers

Contact Officers:

For queries relating to rights of way matters:
Joanne Mansfield, Solicitor, Legal Division, Business Change

Theo Brumhead, Public Rights of Way, Traffic Services, Growth and Regeneration

APPENDIX () A

**APPLICATIONS FOR MODIFICATION OF DEFINITIVE MAP AND STATEMENT UNDER
SCHEDULE 14 OF WILDLIFE AND COUNTRYSIDE ACT 1981**

LOCATION	DATE RECEIVED / VALIDATED	CURRENT POSITION**
Claimed footpath at Argyle Place, Cliftonwood	24.04.98 [Validated 1998] (Ref. ID3.83)	The Property Portfolio Officer is in the process of arranging the transfer to and adoption of the land by the Council, as required by the S106 Agreement. Investigation commenced as other means of resolving claim have reached an impasse.
Claimed footpath at South Hayes and Parkside Gardens, Lockleaze	15.06.06 [Validated 15.03.2007] (Ref. ID3.640)	Awaiting investigation
Claimed footpath at Ridgehill, Henleaze	14.10.06 [Validated 24.11.06] (Ref. ID3.654)	A meeting with the landowner to enquire about the possibility of an express dedication of the claimed route was positive. A confirmatory letter from the owner, of the discussion and understanding is awaited by the officers.
Claimed footpath rear of Shaldon Road and Morris Road, Lockleaze	09.05.07 [Validated 18.05.2007] (Ref. ID3.665)	The Definitive Map & Statement Modification Order No.1 2019 was made on 5 th February 2019 and the consultation closed on 28 th March 2019. Objections were made and not withdrawn, submission of Order to the Secretary of State underway.
Claimed footpath from Blackberry Hill (south of Frome Bridge) to FP153	28.06.08 [Validated 11.07.2008] (Ref.ID3.685)	The lead claimant lodged an appeal with the Secretary of State which has not resulted in a direction to BCC. The land has subsequently been registered as a Town & Village Green.
South Purdown, Lockleaze – route B-C	14.03.2011 [Validated 21.09.11] (Ref. ID3/739)	Officers are to prepare a report to committee, taking into consideration recent legal advice on a discrete point of law.
Claimed footpath from Machin Rd to Crow Lane, Henbury	15.10.13 [Validated 11.12.13] (Ref.ID3.776)	The Definitive Map & Statement Modification Order No.2 2019 was made on 28 th May 2019 and the consultation closed on 22 nd July 2019. Objections were made and not withdrawn, submission of Order to the Secretary of State underway.
Claimed footpath Trymwood Close	March 2014 [Validated June	Awaiting investigation

/Henbury Hill to Arnall Drive	2014] (Ref. ID3.788)	
Claimed footpath Fishponds Road to Laburnum Grove.	26.02.2007 [Validated 24.11.16] (Ref. ID3/651)	Awaiting investigation
Claimed footpaths West Dene to Stoke Lodge, Cheyne Rd to Druid Hill, Cheyne Rd to Stoke Lodge, Cheyne Rd to West Dene.	30.05.2018 [Validated 07.06.18] (Ref. IEO14/15)	Awaiting investigation
Claimed footpath Penpole Lane to Public Footpath BCC/565	18.12.2018 [Validated 01.10.19] (Ref. IEO.1500)	Awaiting investigation
Claimed footpath Woodgrove Road to Public Footpath BCC/21	18.11.2019 [Validated 25.11.19] (Ref. IEO.1644)	Awaiting investigation
** Valid applications will be dealt with in chronological order of receipt, with the exception of those which must be prioritised as a result of development proposals.		

APPENDIX () B

1. To report for information on the present position with regard to miscellaneous rights of way orders, agreements and legal proceedings.

Item	Ward	Site address/ description	Remarks
PUBLIC PATH ORDERS – Town and Country Planning Act 1990			
1	Filwood	Public Footpath 547(part) – combined order	Diversion Order made on 07.09.2018 Awaiting certification
2	Bedminster	Public Footpaths 207 & 424 (part) Ashton Vale – combined order	Diversion order made on 29.05.2017 Confirmed on 01.08.2017 Awaiting certification
PUBLIC PATH ORDERS – Highways Act 1980			
3	Avonmouth & Lawrence Weston, Henbury & Brentry	Public Footpaths 8 & 11(part), Atwood Dr and Avon Riding Centre - combined order.	Diversion Order made 06.02.2018 Confirmed on 17.04.2018 Awaiting certification
4	Lockleaze	Public Footpaths 141 & 142 (part), Dovercourt Rd to Brangwyn Grove combined order.	Diversion Order made 13.03.2018 Confirmed on 05.06.2018 Awaiting certification
5	Brislington	Public Footpaths 477, 479 & 480 Victory Park combined order.	Diversion Order made 07.11.2019 Awaiting confirmation
PUBLIC INQUIRIES			
4	None		
Miscellaneous Rights of Way Matters			
4	See list of outstanding ‘Legal Event’ Orders at Appendix C .		

APPENDIX () C

'Legal events'* requiring the making of a modification order under Section 53(3)(a) of the Wildlife & Countryside Act 1981

[N.B. List incomplete – comprises list of events between 1999 to 2014 – see footnote**]

*The term 'Legal Event' under s.53(3)(a) of the Act comprises the coming into operation of any enactment or instrument, or any other event, whereby:

“(a) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;

“(b) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description; or

“(c) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.”

- 1) Burfords, Lawrence Weston Road – Public Path Diversion Order BCC/1A & BCC/1B Confirmed 27.04.2000 (Ref. FRP/TC/24/1) & BCC/1A Certified 28.11.2011
- 2) Cabot park, Avonmouth – Public Path Diversion Order BCC/1 (part) (two Orders – 2004 & 2006)
- 3) Wintour House, Kingsweston Lane – Public Path Diversion Order BCC/563 (Ref. DJE/IA2/323)
- 4) Units 1-4 Foundry Lane, Fishponds – Public Path Diversion Order BCC/246 (Part) (Ref. ID3.461)
- 5) Church Lane, St George – Public Path Stopping Up Order BCC/339 (Part) (Ref. IA5/296)
- 6) Meg Thatchers Gardens, St George – Public Path Diversion Order BCC/373 (Part) (Ref. ID3/518)
- 7) Sturminster Road, Stockwood – Public Path Diversion Order BCC/514 (Part)
- 8) Greystoke Avenue/Cricket Lane, Southmead – Dedication of public footpath linking BCC/41 to Cricket Lane & Public Path Order BCC/41 (Part) (Ref. ID3.599).
- 9) Briarwood, Westbury on Trym – Public Path Stopping Up Order BCC/112 (Part) (Ref. ID3.533)
- 10) Wilson Street, St Pauls – Public Path Extinguishment Order BCC/548 (Part) (Ref. ID3.269)
- 11) Blackswarth Road bridge, St Annes – Public Path Diversion Order BCC/524 (Part) (Ref. ID3.567)
- 12) George & Dragon Lane, Church Road, Redfield – Stopping Up Order BCC/340 (Part) (Ref. GOSW-SW/THM/8247/258)
- 13) Bentley Close, Whitchurch – Public Path Diversion Order BCC/520 (Part) (Ref. IA5/304).
- 14) Temple Way – Public Path Diversion Order BCC/345 (Part) (Ref. ID3.636).
- 15) Dovercourt Road – Public Path Diversion Order BCC/140 (Ref. ID3.635).
- 16) Cabot Park Avonmouth – Public Path Diversion Order BCC/1 (Part) 2004 (Ref. ID3.570) & Public Path Diversion Order BCC/1 (Part) 2006.
- 17) Wessex Water Works, Avonmouth – Public Path Diversion Order BCC/5 (Ref. ID3.642).
- 18) Eastwood Road/Wyndham Crescent, Brislington – Public Path Diversion Order BCC/416 (Ref. DP5/45).
- 19) Malago Sidings, Bedminster – Public Path Diversion Order BCC/437A (Part) 2003 (Ref. IA5/283) & Public Path Diversion Order BCC/437A (Part) 2007 (Ref. ID3.670).

- 20) South Purdown, Lockleaze – Public Path Diversion Order BCC/223 (Part) (*Ref. ID4.189*).
- 21) Wickham Glen, Stapleton, Eastville – Public Path Diversion Order BCC/236 (*Ref. ID4.341*)
- 22) Hallen Marsh, Avonmouth – Public Path Extinguishment Orders BCC/553 (part), BCC/555 (Part) & BCC/1A (Part) (*Ref. ID3.715*).
- 23) Hallen Marsh, Avonmouth – Public Path Diversion Order BCC/1A (part) (*Ref. ID3.716*).
- 24) Crabtree Slip Wood, Shirehampton – Section 25 Highway Act Creation Agreement of footpath BCC/588 – (*Ref. ID3.710*).
- 25) Avon Meads, St Philips Marsh - Section 25 Highway Act Creation Agreement of footpath BCC/589 (*Ref. ID3.711*).
- 26) Little Mead to Kings Weston Road, Kingsweston – Deed of Dedication of public footpath BCC/595 (*Ref. ID3.737*).
- 27) Lodge Hill to Woodland Way, Fishponds - Deed of Dedication of footpath BCC/590 (*Ref. ID3.733*).
- 28) Dundry Farm Open Space, St George East – Deed of Dedication of circular public bridleway BCC/591 (*Ref. ID3.546*) & Deed of Dedication of extension of bridleway through car park BCC/591A.
- 29) Headley Park, Broadleas to Crox Bottom open space – Deed of Dedication of footpath BCC/582 (*Ref. ID3.722 & 728*).
- 30) Barracks Lane Open Space, Avonmouth – Section 25 Highway Act Creation Agreement of footpaths BCC/592, 593 & 594 (*Ref. ID3.546*).
- 31) Severn Way Link Path, Shirehampton – Deed of Dedication of various footpaths between Riverbank and Sea Mills Lane BCC/588A & 596-599 (*Ref. ID3.747*).
- 32) Dundry Hill Farm, Whitchurch Park – Section 25 Highway Act Creation Agreement BCC/519A (Part) (*Ref. ID3.688*).
- 33) Smoke Lane Avonmouth to BCC/543 – Deed of Dedication BCC/543A (*Ref. ID3/757*).
- 34) Station Road, St Werburghs – Deed of Dedication of bridleways BCC/209A & 209B (*Ref. ID3.760*).
- 35) Extension of Whitchurch Railway Path to Craydon Grove, Stockwood – Deed of Dedication of Restricted Byway from County boundary to Craydon Grove BCC/601 (*Ref. ID3.110*).
- 36) Old Sneyd Park, Stoke Bishop – Deed of Dedication of footpath BCC/602 (*Ref. ID3.765*)
- 37) Orpen Gardens, Lockleaze – Section 25 Highway Act Creation Agreement of footpath BCC/603A and Deed of Dedication of footpath BCC/603 (*Ref. ID3.768 & 769*).
- 38) Gatehouse Close & Gatehouse Way, Hartcliffe – Deed of Dedication of four footpaths BCC/604-607 (*Ref. IE3.397*).
- 39) St. Anne's Wood, Brislington – Deed of Dedication of Footpath BCC/608 made on 16.06.2017.
- 40) Strawberry Lane, Bishopsworth – Deed of Dedication Public Footpath BCC/335A as a Bridleway on 17.05.2007.

** Section 51 and paragraph 2 of Schedule 5 to the Countryside and Rights of Way Act 2000 inserted a new section 53A into the WCA 1981. The Combined Orders Regulations were published in 2010 [S.I. 2010 No. 2127]. Section 53A enables surveying authorities to include, in orders satisfying the criteria in section 53A(1), provisions to modify the definitive map and statement, thereby avoiding the need for a separate 'legal event' modification order.