



Report of the Head of Planning and City Regeneration

Planning Committee – 4 February 2025

Application to Add Footpaths to Definitive Map, at Hazel Court, Sketty

Purpose:	To consider an application made to this Authority to make a Modification Order to add footpaths from Glan yr Afon Gardens to Maes y Gollen and Sketty Park Close to the Definitive Map of Public Rights of Way.
Policy Framework:	Public rights of way statutory function.
Consultation:	Legal, Finance and Access to Services and all the statutory consultees, including local members, landowners and the prescribed organisations.
Recommendation(s):	It is recommended that: 1) The Council refuses the application on the grounds that there is insufficient evidence that the claimed routes are public, and that one of the footpaths is already adopted as a public highway.
Report Author:	Chris Dale
Finance Officer:	Peter Keys
Legal Officer:	Jonathan Wills
Access to Services Officer:	Catherine Window

1.0 Background

- 1.1 The definitive map and statement is the legal record for all registered public rights of way (footpaths and bridleways) in the City and County of Swansea. Swansea Council is responsible for ensuring the definitive map correctly records the public rights of way shown on it.

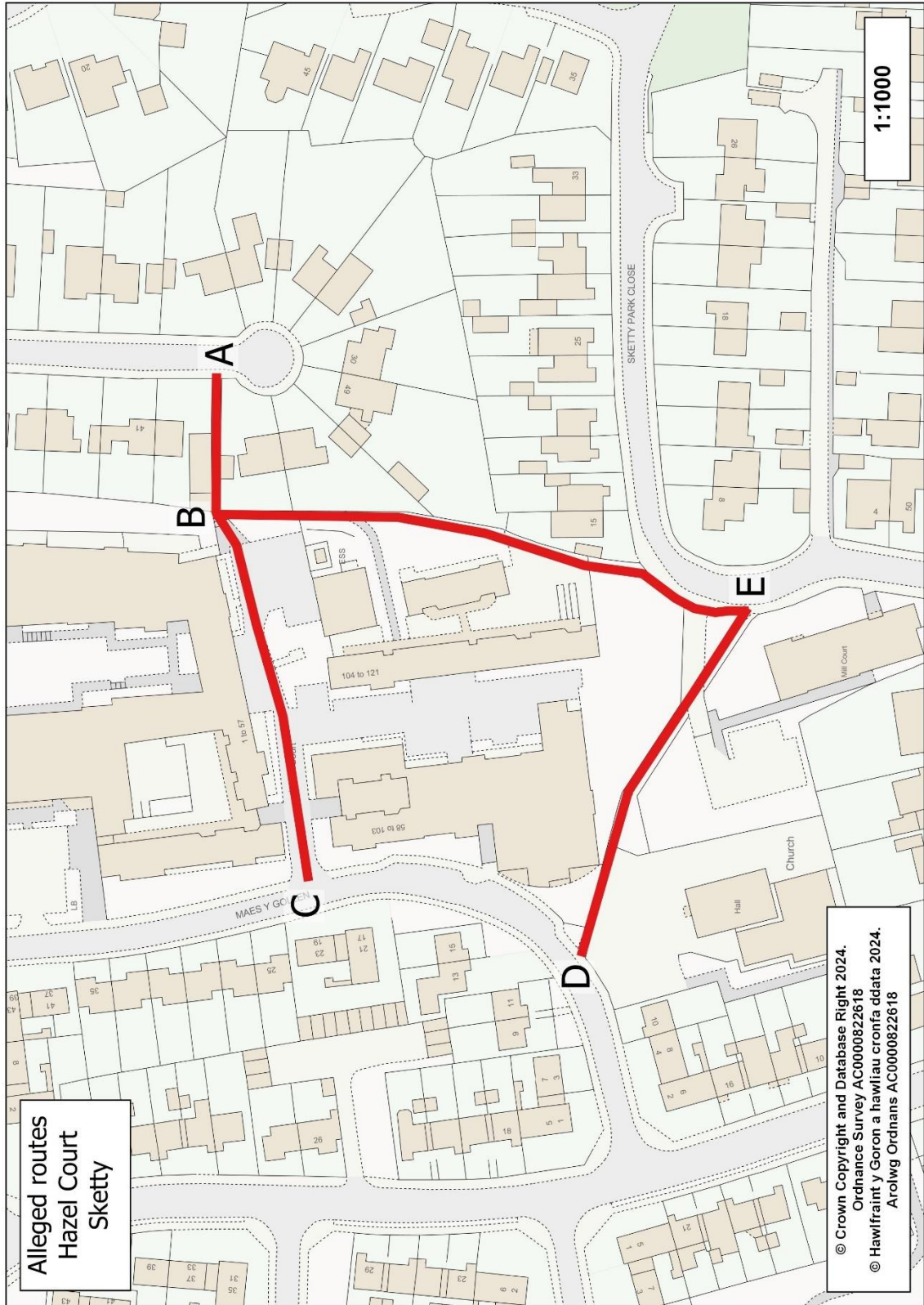
- 1.2 Under the Wildlife and Countryside Act 1981 the public can apply to the Council to have the definitive map and statement modified if they consider there is an error on the map or statement. Applications are usually to record a right of way considered to be missing from the definitive map and statement. A copy of the relevant legislation can be found in appendix 5.
- 1.3 Under section 31 of the Highways Act 1980, a route that has been used by the public as of right and without interruption for 20 years, is to be deemed to have been dedicated as a highway, unless there is sufficient evidence that there was no intention during the 20 year period to dedicate the route.
- 1.4 Swansea Council is responsible for recording, maintaining and protecting all 407 miles of public rights of way within the City and County.

2.0 The application

- 2.1 On 18th February 2011 an application was received to record 3 public footpaths across a housing development known as Hazel Court between Glan yr Afon Gardens, Maes y Gollen and Sketty Park Close in the Community of Sketty. The application was made in response to the re-development of the site 18 months after the new development was completed.
- 2.2 The application was submitted together with 40 supporting evidence forms from witnesses detailing how they have used the claimed routes. A summary of the witness evidence contained in the forms can be seen in appendix 4.

Map 1 below shows the routes on the evidence forms supplied by the claimants.

MAP 1



3.0 Investigation

3.1 The adopted highways records were checked upon receiving the application and they showed that the claimed route between Maes y Gollen and Sketty Park Close (D-E on the map) was already a highway.

3.2 The adopted highways records also showed that the section of claimed route from Glan yr Afon Gardens (A-B on the map) is also already a highway.

3.3 This report will therefore only consider the claimed routes between B and C, and B and E as shown on map 1 above.

3.4 The evidence forms (dated May-July 2010) imply that the statutory 20 year period is between 1990 and 2010. However, this could not have been the case, as the original buildings on the site were demolished in 2005 and the site was fenced off, thereby interrupting public use of the routes. Further interruptions must have occurred during the construction of the new Hazel Court flats until the development was completed in June 2009.

3.5 Hence, **the statutory period must be from 1985 to 2005.**

3.6 Due to the application being submitted after the Hazel Court development was completed it was not possible for officers to inspect the claimed routes as they would have been used during the statutory 20 year period. However, photographs of the claimed routes as they are now can be seen in appendix 1.

3.7 As can be seen from the photos, the route B-C is fully accessible to the public walking between Glan yr Afon Gardens and Maes y Gollen and has been since June 2009 when the development was completed.

3.8 However, the route B-E has been blocked since approximately 2007 by the new development. Due to the construction over this route, it would not be possible to re-open it, and should sufficient evidence be found that this route should become a public footpath, the most likely outcome would be the extinguishment of the footpath.

Available documentary evidence

Aerial photographs

3.9 Aerial photos of 1981, 1992, 2005, and 2009 can be found in appendix 2.

3.10 The photos of 1981 and 1992 show the site as it would have been during the statutory 20 year period. It appears that the route between points B and C could have been in use at this time, as there do not appear to be any structures blocking the route. However, there is no clear walked route shown on the photos between B and C.

- 3.11 The aerial photo of 2005 shows that the original Hazel Court flats have been demolished and the site in the process of being cleared, with the whole site clearly fenced off, therefore blocking access between points B and C. This photo shows what appears to be a used path leading from point B towards point E.

Ordnance survey maps

- 3.12 An Ordnance Survey map dated 1970/78 is shown in appendix 3. The map sheet showing Glan yr Afon Gardens was published in 1970 and the map sheet showing Hazel Court was published in 1978.
- 3.13 Ordnance Survey maps can show footpaths labelled as 'Path' or, on the earlier maps, 'F.P.'. However, the lack of a path shown on the OS map does not mean that a public right of way does not exist at the point in time when an application for a modification order is received.
- 3.14 The OS map does not show a complete path between points B and C. However, it appears that it would have been possible to walk from point B to point C via any number of different routes other than the precise route that has been claimed, as the land was a grassed area open to access on foot from all directions.
- 3.15 The 1970 map clearly labels the route B-E as a 'path', indicating that, at the time of the survey the Surveyors found a path at this location. This does not prove that the path shown is public.

Evidence provided by users of the routes

- 3.16 A total of 40 evidence forms were submitted in support of the application. A summary of the user evidence is in appendix 4.
- 3.17 Of this total 12 of the people submitting an evidence form are no longer living at the address on their form and therefore it has not been possible to contact them to ascertain if they still support the application. Two of the people who it has been possible to contact have expressed a wish to no longer support the application.
- 3.18 Of the remaining 26 evidence forms received 10 provided evidence of use of the already adopted path D-E only and no evidence for the other claimed routes. This leaves 16 forms from people providing evidence for the footpaths B-E and B-C. Of these the evidence provided by 2 people was unclear, 3 people provided evidence for the claimed route B-E and 12 people provided evidence of the claimed route B-C. Of the 12 people providing evidence for route B-C only 5 have used the route for the whole statutory 20 year period. All of these people were consulted by letter on 8th April 2021.

- 3.19 One person responded to the consultation to state that the claimed route between B and C should remain open to the public.
- 3.20 The applicant, Mr Lowen, was contacted in 2020 and he stated that the public should have a right of way between Glan yr Afon Gardens and Maes y Gollen, i.e. claimed route A-B-C.
- 3.21 There is no specific guidance as to how many users and how much use constitutes sufficient use for the purposes of dedication by section 31 of the Highways Act.

4.0 Legal issues to be considered

'The public'

- 4.1 A question arises as to whether residents from a specific area can be said to represent 'the public', as stated in section 31 of the Highways Act (appendix 5). The public is interpreted to mean 'the public at large' rather than a specific class or defined group of the public, such as people visiting a particular shop or place of work.
- 4.2 The Planning Inspectorate advice is that there is no strict legal interpretation of the term 'the public'. The dictionary definition being 'the people as a whole' or 'the community in general'. It would therefore be reasonable to assume that use should be by a number of people who together may be taken to represent the people as a whole or the community.
- 4.3 As is the case in most of these applications it is inevitable that most of those who claim to use the routes live in close proximity to the routes. This case is no exception, with most witnesses concentrated on Glan yr Afon Gardens and the nearest section of Gower Road; however, a number of the witnesses live at addresses further afield and therefore the evidence can be considered to represent the public at large.

'As of right'

- 4.4 The public must use the routes 'as of right', which means without force, secrecy or permission. There is no evidence that the routes have been used by force, secrecy or permission.

5.0 Evidence for the application

Alleged route B-C

- 5.1 During the statutory period from 1985 to 2005, before the newer Hazel Court flats were built, it seems that access on foot was possible from point B to Maes y Gollen. However, there does not appear to have been a single defined route.

- 5.2 The legislation requires that a specific, defined route must be alleged in order to proceed with a modification order to record the route.

Alleged route B-E

- 5.3 There appears to have been a walked route between points B and E, as shown on the OS map of 1970 and the aerial photo of 2005, but only 3 people have claimed to have used this route. In addition, the development was already built over this route at the time the application was submitted, and, whilst this fact should not prevent the route from being recorded, it would now not be possible to re-open the route for public use, with the most likely outcome being that any recorded footpath would be extinguished.
- 5.4 Although it is not necessary to demonstrate a motive for people to use the routes, all of the claimants have provided reasons why they use the routes – to visit friends and relatives, to walk for recreation and to get to the shops, the GP surgery, the bus stop, the hospital, the university, the schools and the community centre.
- 5.5 There is no evidence that use of either of the routes for walking was obstructed or prevented during the 20 year statutory period prior to the newer Hazel Court flats being built.

6.0 Evidence against the application

- 6.1 The owner of the land (Caredig Housing Association) has stated that the alleged footpath would breach their secure by design requirements. Although this expresses a legitimate concern, the comment is not relevant in terms of the legislation. To be relevant an objection must state how the public's use of the routes has been interrupted by deliberate acts to prevent public access, such as the installation of notices or fences.

7.0 Conclusion

- 7.1 The case for adding the footpath from point B to point C to the definitive map is entirely based on the user evidence provided by witnesses.
- 7.2 Whilst it seems that walkers could easily find their way across the open, mostly grassy, site from point B to Maes y Gollen during the statutory 20 year period, there was no defined route, and individuals could have arrived at Maes y Gollen at numerous different points. The maps provided as part of the application are all based on the more recent site layout of Hazel Court and not the layout that witnesses would have used during the statutory 20 year period prior to the re-development of the site.
- 7.3 The evidence for the route B-C is therefore insufficiently precise to enable a modification order to be made.

- 7.4 The case for adding the footpath from point B to point E to the definitive map is based on the user evidence provided by the witnesses, and the Ordnance Survey map of 1970 and aerial photograph of 2005. The documents show that there was a walked route between points B and E. However, only 3 people have supplied evidence that this route was in use by the public.
- 7.5 The evidence for the route B-E is therefore insufficient to enable a modification order to be made.

8. Integrated assessment implications

- 8.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
 - Deliver better outcomes for those people who experience socio-economic disadvantage
 - Consider opportunities for people to use the Welsh language
 - Treat the Welsh language no less favourably than English.
 - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 8.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 8.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 8.4 The determination of this application will have implications for those wishing to use the land for future development and those wishing to walk across the land. However, legally, these issues can't be considered, as the only consideration that can be taken into account by the Committee is whether there is sufficient evidence to record public footpaths or not.

8.5 Given that this matter can be determined on the basis of evidence only, and no other factors can be taken into account in the Committee's decision, the IIA screening has concluded that a full Integrated Impact Assessment is not required.

9.0 Financial implications

9.1 The Council has a legal duty to determine the application. Should the Committee decide to follow the recommendation the applicants have the right to appeal to PEDW, and there could be financial implications as a result.

10.0 Legal implications

10.1 The relevant legislative provisions are set out in the body of the report and in the Appendices. The Council has a legal duty to determine the application. If the Committee decide to follow the recommendation the applicants have the right to appeal to PEDW, who may decide that a modification order should be made.

Background Papers: The application for a modification order, evidence forms and statements from members of the public.

Appendices:

Appendix 1	Site photos
Appendix 2	Aerial photos
Appendix 3	Ordnance Survey maps
Appendix 4	Length of use
Appendix 5	Relevant legislation

Appendix 1 – Site photos 2021

Photo at point A



Photo at point B



Photo at point C



Photo at point E



Appendix 2 – Aerial photographs 1981, 1992, 2005 and 2009





Aerial photo
1992

1:2000

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Ordnance Survey AC0000822618
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Arolwg Ordhans AC0000822618



Aerial photo
2005

1:1000

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Arolwg Ordnans AC0000822618



Aerial photo
2009

1:1000

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Appendix 3 – Ordnance Survey Map 1970/78



Appendix 4

Witness Evidence

NAME	ADDRESS	ROUTE A-B-C	ROUTE A-B-E	ROUTE D-E	ROUTE UNCLEAR	YEARS USED	REASON FOR USE
[REDACTED]	[REDACTED]		YES			30-40 years Form dated 01.07.10	Visit relatives, friends
[REDACTED]	[REDACTED]	YES				60 pls years Form dated 01.07.10	Access to Sketty Park, Sketty Cross, Singleton, Sketty Green, hospital area
[REDACTED]	[REDACTED]			YES		No date on this but see above entry Form dated 01.07.10	Ditto
[REDACTED]	[REDACTED]	YES	YES			60 years Form dated 01.05.10	Walking, visit friends in Sketty Park Close
[REDACTED]	[REDACTED]			YES		When opened See above entry Form dated 01.07.10	To visit friends in Sketty Park Close (avoiding traffic); walking
[REDACTED]	[REDACTED]	YES				9 years Form dated 29.05.10	To get to the school, bus stops, shops and cycle path
[REDACTED]	[REDACTED]				YES	32 years Form dated 21.06.10	Shortcut to visit friends
[REDACTED]	[REDACTED]			YES		32 years Form dated 21.06.10	Shortcut to visit friends
[REDACTED]	[REDACTED]				YES	32 years Form dated 21.06.10	Shortcut to visit friends
[REDACTED]	[REDACTED]			YES		4 years Form dated 07.06.10	Walking dog; for access on to Sketty Park Drive and back from Gower Road
[REDACTED]	[REDACTED]	YES				4 years Form dated 07.06.10	Dog walking – access from Gower Road to Sketty Park Close and Sketty Park Drive

[REDACTED]	[REDACTED]			YES		5 years Form dated 09.06.10	Visit friends and shops in Sketty Park
[REDACTED]	[REDACTED]	YES				5 years Form dated 09.06.10	Visit shops and friends in Sketty Park
[REDACTED]	[REDACTED]		YES			32 years Form dated 26.05.10	Access to bus stops, shops, doctors and Post Office and schools
[REDACTED]	[REDACTED]	YES				12 years Form signed 22.05.10	Walking (sons use it daily to go to shops at Sketty Park; to go to school and to catch bus
[REDACTED]	[REDACTED]	YES				12 years Form signed 20.05.10	Walking (sons use as stated above)
[REDACTED]	[REDACTED]	YES				15 years (from 1990?) Form dated 11.06.10	Access to Sketty Park and Olchfa (safer route for children to attend school)
[REDACTED]	[REDACTED]	YES				18 years Form dated 27.05.10	Shops at Sketty Park
[REDACTED]	[REDACTED]	YES				23 years Form dated 27.05.10	Sketty Park shops, buses to town and hospital, access to schools and community centre
[REDACTED]	[REDACTED]	YES				31 years Form dated 26.05.10	Access to shops and Post Office. To catch bus.
[REDACTED]	[REDACTED]			YES		20 years Form dated 30.06.10	Access to shops
[REDACTED]	[REDACTED]			YES		12 years 6 months Form dated 24.06.10	To shops and to Hazel Court
[REDACTED]	[REDACTED]			YES		30.06.10 Form dated 30.06.10	To shops
[REDACTED]	[REDACTED]			YES		36 years Form dated 26.04.10	Walking from home to Sketty, University, hospital
[REDACTED]	[REDACTED]			YES		35 years Form dated 26.04.10	From home to Sketty, hospital and university
[REDACTED]	[REDACTED]	YES				23 years Form dated 01.06.2010	Visiting relatives; visit shops

Appendix 5

Legislation

Wildlife and Countryside Act 1981, section 53

Duty to keep definitive map and statement under continuous review.

(1) In this Part “definitive map and statement”, in relation to any area, means, subject to section 57(3) and 57A(1),—

(a) the latest revised map and statement prepared in definitive form for that area under section 33 of the 1949 Act; or

(b) where no such map and statement have been so prepared, the original definitive map and statement prepared for that area under section 32 of that Act; or

(c) where no such map and statement have been so prepared, the map and statement prepared for that area under section 55(3).

(2) As regards every definitive map and statement, the surveying authority shall—

(a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and

(b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.

(3) The events referred to in subsection (2) are as follows—

(a) the coming into operation of any enactment or instrument, or any other event, whereby—

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

(ii) 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

(iii) 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 or a restricted byway;

(b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period

raises a presumption that the way has been dedicated as a public path or restricted byway;

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—

- (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist 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, a restricted byway or, subject to section 54A, a byway open to all traffic;
- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description; or
- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

(4) The modifications which may be made by an order under subsection (2) shall include the addition to the statement of particulars as to—

(a) the position and width of any public path, restricted byway or byway open to all traffic which is or is to be shown on the map; and

(b) any limitations or conditions affecting the public right of way thereover.

(4A) Subsection (4B) applies to evidence which, when considered with all other relevant evidence available to the surveying authority, shows as respects a way shown in a definitive map and statement as a restricted byway that the public have, and had immediately before the commencement of section 47 of the Countryside and Rights of Way Act 2000, a right of way for vehicular and all other kinds of traffic over that way.

(4B) For the purposes of subsection (3)(c)(ii), such evidence is evidence which, when so considered, shows that the way concerned ought, subject to section 54A, to be shown in the definitive map and statement as a byway open to all traffic.

(5) Any person may apply to the authority for an order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.

(5A) Evidence to which subsection (4B) applies on the commencement of section 47 of the Countryside and Rights of Way Act 2000 shall for the purposes of subsection (5) and any application made under it be treated as not having been discovered by the surveying authority before the commencement of that section.

(6) Orders under subsection (2) which make only such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (a) of subsection (3) shall take effect on their

being made; and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of other orders under subsection (2).

SCHEDULE 14

APPLICATIONS FOR CERTAIN ORDERS UNDER PART III

Form of applications

1 An application shall be made in the prescribed form and shall be accompanied by—

(a) a map drawn to the prescribed scale and showing the way or ways to which the application relates; and

(b) copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application.

Notice of applications

2(1) Subject to sub-paragraph (2), the applicant shall serve a notice stating that the application has been made on every owner and occupier of any land to which the application relates.

(2) If, after reasonable inquiry has been made, the authority are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates, the authority may direct that the notice required to be served on him by sub-paragraph (1) may be served by addressing it to him by the description “owner” or “occupier” of the land (describing it) and by affixing it to some conspicuous object or objects on the land.

(3) When the requirements of this paragraph have been complied with, the applicant shall certify that fact to the authority.

(4) Every notice or certificate under this paragraph shall be in the prescribed form.

Determination by authority

3(1) As soon as reasonably practicable after receiving a certificate under paragraph 2(3), the authority shall—

(a) investigate the matters stated in the application; and

(b) after consulting with every local authority whose area includes the land to which the application relates, decide whether to make or not to make the order to which the application relates.

(2) If the authority have not determined the application within twelve months of their receiving a certificate under paragraph 2(3), then, on the applicant making representations to the Secretary of State, the Secretary of State may, after consulting with the authority, direct the authority to determine the application before the expiration of such period as may be specified in the direction.

(3) As soon as practicable after determining the application, the authority shall give notice of their decision by serving a copy of it on the applicant and any

person on whom notice of the application was required to be served under paragraph 2(1).

Appeal against a decision not to make an order

4(1) Where the authority decide not to make an order, the applicant may, at any time within 28 days after service on him of notice of the decision, serve notice of appeal against that decision on the Secretary of State and the authority.

(2) If on considering the appeal the Secretary of State considers that an order should be made, he shall give to the authority such directions as appear to him necessary for the purpose (which may include a direction as to the time within which an order is to be made).

Interpretation

5(1) In this Schedule—

- “application” means an application under section 53(5);
- “local authority” means a community council;
- “prescribed” means prescribed by regulations made by the Secretary of State.

(2) Regulations under this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Highways Act 1980, section 31

Dedication of way as highway presumed after public use for 20 years.

(1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

(2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.

(3) Where the owner of the land over which any such way as aforesaid passes—

(a) has erected in such manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a highway, and

(b) has maintained the notice after the 1st January 1934, or any later date on which it was erected,

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

(4) In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) above, so, however, that no injury is done thereby to the business or occupation of the tenant.

(5) Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as a highway is, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as a highway.

(6) An owner of land may at any time deposit with the appropriate council—

(a) a map of the land, and

(b) a statement indicating what ways (if any) over the land he admits to have been dedicated as highways;

and, in any case in which such a deposit has been made, ... declarations in valid form made by that owner or by his successors in title and lodged by him or them with the appropriate council at any time—

- (i) within the relevant number of years from the date of the deposit, or
- (ii) within the relevant number of years from the date on which any previous declaration was last lodged under this section.

to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgment of such previous declaration, as the case may be, are, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.

(7) For the purposes of the foregoing provisions of this section “owner”, in relation to any land, means a person who is for the time being entitled to dispose of the fee simple in the land; and for the purposes of subsections (5), (6), (6C) and (13) “the appropriate council” means the council of the county or London borough in which the way (in the case of subsection (5)) or the land (in the case of subsections (6), (6C) and (13)) is situated or, where the way or land is situated in the City, the Common Council.

(7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the definitive map and statement.

(7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.

(8) Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public or statutory purposes to dedicate a way over that land as a highway if the existence of a highway would be incompatible with those purposes.

(9) Nothing in this section operates to prevent the dedication of a way as a highway being presumed on proof of user for any less period than 20 years, or being presumed or proved in any circumstances in which it might have been presumed or proved immediately before the commencement of this Act.

(10) Nothing in this section or section 32 below affects section 56(1) of the Wildlife and Countryside Act 1981 (which provides that a definitive map and statement are conclusive evidence as to the existence of the highways shown on the map and as to certain particulars contained in the statement).

(10A) Nothing in subsection (1A) affects the obligations of the highway authority, or of any other person, as respects the maintenance of a way.

(11) For the purposes of this section "land" includes land covered with water.

(12) For the purposes of subsection (1A) "mechanically propelled vehicle" does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (electrically assisted pedal cycle).