

**Definitive Map Review: Woodbury  
Claimed Public Right of Way – Riverfront Road to the Foreshore and Green Lane,  
Exton**

Report of the Head of Highways and Traffic Management

***Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect***

**Recommendation:** It is recommended that no Modification Order be made, on the basis of evidence submitted, to record a public right of way from Riverfront Road to Green Lane in Exton, as shown on the attached drawing number HTM/PROW/11/55 between points A–B–C–D–E.

**1. Summary**

This report arises from an initial claim in December 2007 by local residents in the village of Exton in the parish of Woodbury in East Devon District that Riverfront Road, having no current recorded highway status, should be recorded as a Byway Open to All Traffic, from A–B. However, when evidence forms were submitted early in 2008, they indicated that a much longer route was claimed to have been used, on foot as well as partly in vehicles.

The users also claim to have continued from the end of the road on foot, using a level crossing over the railway line onto land alongside the foreshore, back over another level crossing to the north and along a track from B–C–D–E, then following the minor public roads, Green Lane and Station Road, back to the start of the claimed route, between points E–F–A. As those are already recorded as maintainable public roads, with rights from the public to use on foot, horseback, bicycles and in vehicles, there is no need to consider them as part of the claim. The issue, therefore, is whether public rights should be recorded for the original claimed route and part of its continuation, from A–B–C–D–E.

**2. Background**

Members of the public claimed to have used the whole route for many years without obstruction. Riverfront Road provides vehicular access to a large number of private residences, whose owners in 2007 placed notices at the start of the road stating that it was privately owned and not a public right of way. The road ends beside a level crossing, whose gates have been locked preventing access to the foreshore on foot. These factors appear to have prompted the original claim.

The parish by parish review in East Devon District has yet to reach Woodbury and as the road is unobstructed the claim would not normally be considered out of turn. Riverfront Road had previously been identified for possible use as part of the proposed Exe Estuary cycleway from Exeter to Exmouth, for which consultation documents in 2004 had described it as a private road. It was felt important to consider at an earlier stage whether public vehicular rights may exist on the road and was not intended initially to consider whether a public right of way on foot may have been acquired. However, an alternative route for the cycleway was chosen to run partly on a track created alongside the claimed route and continuing along Green Lane and Station Road to near point A, continuing southwards towards Lymstone and ultimately to Exmouth.

### **3. Description of Route**

The original claimed route along Riverfront Road runs along the estuary frontage of the village of Exton, and commences at the end of Station Road leading to the car park at Exton railway station, from point A. Further on, at the start of Riverfront Road, there is a gate with a sign saying "Private Road", and a lock and chain, but it is usually left open. A sign on an adjoining wall states "Private Road (no turning spaces)" alongside a cul-de-sac symbol. Another sign states "Private No Through Road", names the 22 properties to which it leads and adds "This road is privately owned and is not a public right of way."

Riverfront Road runs generally north-westwards for nearly 400 metres as a tarmac road 3–4 metres wide, initially flanked by residences on each side then by further houses on the east and the railway line on the west. The route is owned by Exton Riverfront Road Co. Ltd., whose members are the occupiers of the adjoining properties and which has a possessory title registered in 2006. For a short time prior to this, possessory title of the route was registered with the ownership of four residents, having previously been unregistered but maintained by a committee formed by residents. It is stated that "Private" notices have been placed on the road in the past by these persons.

The road ends at point B, where there is a level crossing over the railway line leading onto land adjoining the estuary foreshore, with a driveway continuing ahead to provide vehicular access only to other properties. The level crossing gate has a locked chain, with notices relating to its use and a telephone for users in vehicles. The claimed route continues northwestwards alongside the foreshore to another level crossing over the railway line at point C, also with gates, notices and a telephone. That leads onto a track providing access to properties, as well as the foreshore, from the end of the recorded minor public road, Green Lane. The new length of the cycleway has been created partly on a line parallel to the track on the claimed route from near point C to point D, then joining it to connect with Green Lane at point E.

### **4. Basis of Claim - Statute and Common Law**

A highway may be created through dedication by the landowner of a public right of passage across his land, coupled with acceptance of the route by the public. Such dedication may be expressed through some overt action; or presumed, either from documentary evidence recording at some time in the past the status then attributed to the way concerned, or from a period of undisputed use as of right and without interruption by members of the public.

The Wildlife and Countryside Act 1981, Section 53 (5) enables any person to apply to the surveying authority for an order to modify the Definitive Map. The procedure is set out under Schedule 14 of the Act.

The Wildlife and Countryside Act 1981, Section 56(1) states that the Definitive Map and Statement shall be conclusive evidence as to the particulars contained therein, but without prejudice to any question whether the public had at that date any right of way other than those rights.

The Wildlife and Countryside Act 1981, Section 53 (3)(c) enables the Definitive Map and Statement to be modified if the County Council discovers evidence which, when considered with all other relevant evidence available to it, shows that:

- (i) a right of way not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, ... ;

The Highways Act 1980, Section 31 (1) states that 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 actually been enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

The Highways Act 1980, Section 32 states that a court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan, or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

Common Law presumes that a public right of way subsists if, at some time in the past, the landowner dedicated the way to the public either expressly, the evidence of the dedication having since been lost, or by implication, by making no objection to the use of the way by the public.

## **5. Historical Map and Documentary Evidence**

### **Pre-railway historical maps 1765–1839:**

Earlier maps at a range of scales from before the railway line was built include:

- Donn's map of 1765;
- Ordnance Survey – Surveyors' drawings 1801, 3"/mile and 1<sup>st</sup> edition 1"/mile map, published 1809 and later;
- Greenwood's map of 1827, based on the Ordnance Survey map; and
- Tithe Map of 1839, Woodbury parish.

All of these maps show the lines of tracks or roads including E–D–C and F–A on the claimed route, as continuations of the roads leading from the main Exeter to Exmouth road, now the A376, between Topsham and Lympstone down to the estuary foreshore. None of them shows the line of any road or track on the rest of the claimed route between A–B–C. The Tithe Map at a larger scale shows them mainly with a coloured wash in the same way as other roads in the parish now recorded as public, but which also includes many others obviously providing access only to land or properties. Public roads are not numbered or identified separately in the accompanying Apportionment.

### **Railway plans 1845–57**

A railway line between Exeter and Exmouth was proposed from the early 1820s to overcome problems with the increasing size of ships using the Exeter Canal from the Exe estuary. Some speculative proposals were considered from the 1830s, with disagreement between those who favoured a route on the west bank of the estuary to Starcross and crossing the estuary, or on the east bank and a dock in Exmouth. It was only later with the railway 'mania' in the 1840s that three companies competed more seriously to build a railway. One favoured a standard gauge route on the east bank of the Exe estuary and two others, which later merged, backed a broad gauge connection over the estuary and a canal at Topsham. Several plans for the proposed railway line on the eastern route via Topsham were prepared for Parliamentary assent between 1845 and 1854, with Parliament passing the Exeter and Exmouth Railway Company's bill in 1855. Plans of later amendments at Topsham and Woodbury proposed in 1857 were agreed by Parliament in 1858. Construction was started in 1859 and completed within a year, with the railway opened on its current line in 1861.

All of the railway plans show that between 1845 and 1857 there was still then no line of a track on most of the claimed route from A–B–C, with only the road leading into it recorded as a public road up to near point A. Part of the line of the claimed route from its start at point A is recorded as a “Yard and Occupation Road” also with named owners and occupiers and no reference to the Surveyors of Highways, probably connected with the operation of lime kilns recorded in the yard. Part of the section between C–D–E is shown crossing the proposed line of the railway, identified as a ‘Road’, ‘Occupation Road’ or ‘Farm Road’ in the plans and books of reference, with named owners and occupiers and no reference to it being owned by the Surveyors of Highways to suggest that it may then have been considered as a public road.

**Later historical and recent maps and aerial photography:  
Ordnance Survey 25”/mile 1<sup>st</sup> and 2<sup>nd</sup> editions of 1888 and 1905**

Larger scale maps after the railway was built show the roads and tracks in more detail, but with an added continuation from A–B–C on the line of what later became Riverfront Road. It passes what is shown as the site of old limekilns and Woodbury Road station, which was renamed as Exton station in 1958. The road will have been constructed after 1859-60 as part of accommodation works associated with the railway line and the station. The fields adjoining the estuary at this point were owned by Lord Clinton and access from them to the foreshore would be obstructed by the railway, so an agreement was made whereby the railway company constructed the road with a level crossing at its far end, point B, and maintained it thereafter. It will have also provided access from and to the foreshore for operation of the limekilns.

The road also served as access to sidings adjoining the station, perhaps also connected with railway access to the limekilns. It was thus a private accommodation road rather than a public highway, and no evidence has been found that it was subsequently adopted as a public road or has ever been maintained as such by the highway authority. At the earlier date, no properties are shown in the adjoining fields, although the road probably also provided agricultural access to the land. Properties built later appear to have had access from Green Lane, rather than from the road on the claimed route.

The level crossing at point C is shown as providing access over the railway line to the foreshore and land beyond the railway line, continuing from the track leading from the end of Green Lane.

**RAF Aerial photography 1946–9**

Aerial photography from after 1945 shows the road on the claimed route continuing from the recorded end of maintainable highway, Station Road, from A–B–C with a track for private vehicular access to the station and properties built by then continuing from the entrance to the level crossing. Other properties are shown having been built in the adjoining fields with access from the road. The route from C–D–E is shown as an unsurfaced and hedged track continuing from the end of Green Lane, with no adjoining properties built by then, providing access only to land on both sides of the railway line including to the foreshore over the level crossing.

**Later larger-scale Ordnance Survey mapping 1955/1978 and maintainable highways records**

Ordnance Survey’s ‘A’ edition postwar mapping from 1955 adds detail to the earlier aerial photography, showing that Riverfront Road then still provided access only to adjoining properties or land and the level crossing. The only other access to it is indicated by the lines of footpaths or tracks from properties adjoining Green Lane, which will have been for the private use of the property owners only and not the wider public. The track from C–D–E continued to provide access only to land and the level crossing and not to properties. The

'B' edition mapping available from 1978 is not complete to show the whole route, but shows the start of the route beyond point A providing access from the end of the recorded public road to the renamed station and beyond to properties and land.

The earliest highways records and maps show the extent of what has been recorded as maintainable highway in relation to the claimed route. Green Lane is shown as a maintainable public road to point E at the end of the claimed route and numbered 1741. Station Road is shown ending at point A, numbered 1773 and described as a cul de sac ending at the station. Its ending is indicated on the ground by an official boundary post, marked "D.C.C. Bdy.", showing the extent of the County Council's maintenance responsibility near the entrance to the station carpark and the start of Riverfront Road. Maintenance beyond that is the responsibility of Network Rail for the station, carpark and access to the level crossing and also the Riverfront Road residents for private vehicular access to their properties.

### **Recent aerial photography from 1999–2000, 2005–6 and 2007**

Aerial photography from 1999–2007 shows the more recent position relating to the claimed route, with further properties having vehicular access from Riverfront Road and also adjoining the track between points C–D–E. Heavier use of the level crossing at point B than that at point C is shown, which will have included for agricultural use of the land adjoining the foreshore, with some indication of worn tracks beyond the crossings to the fields. A more recent track is shown from 2005 parallel to the claimed route from C–D–E, providing vehicular access for South West Water utility works and Network Rail. It may have been included in the claimed route as a recent alternative to the track from the level crossing at point C to reach Green Lane, but more recently has been used for the creation of the cycleway route.

## **6. User Evidence**

User evidence forms filled in by 35 people were submitted in connection with the claim, mainly late in 2007 and early in 2008. Most of them had been completed in December 2007 or January 2008, with some completed and submitted later in October 2009. All of the forms had maps attached, most of them marked to show the claimed route used and some had additional information, including copies from old maps. Most of them marked on the maps that they had used the whole of the route claimed, including the public roads, or mainly along Riverfront Road from A–B and continuing, shown as a circular on the whole route, with some indicating that they had only used Riverfront Road. Some did not mark the route used at all, but indicated points referred to in their forms.

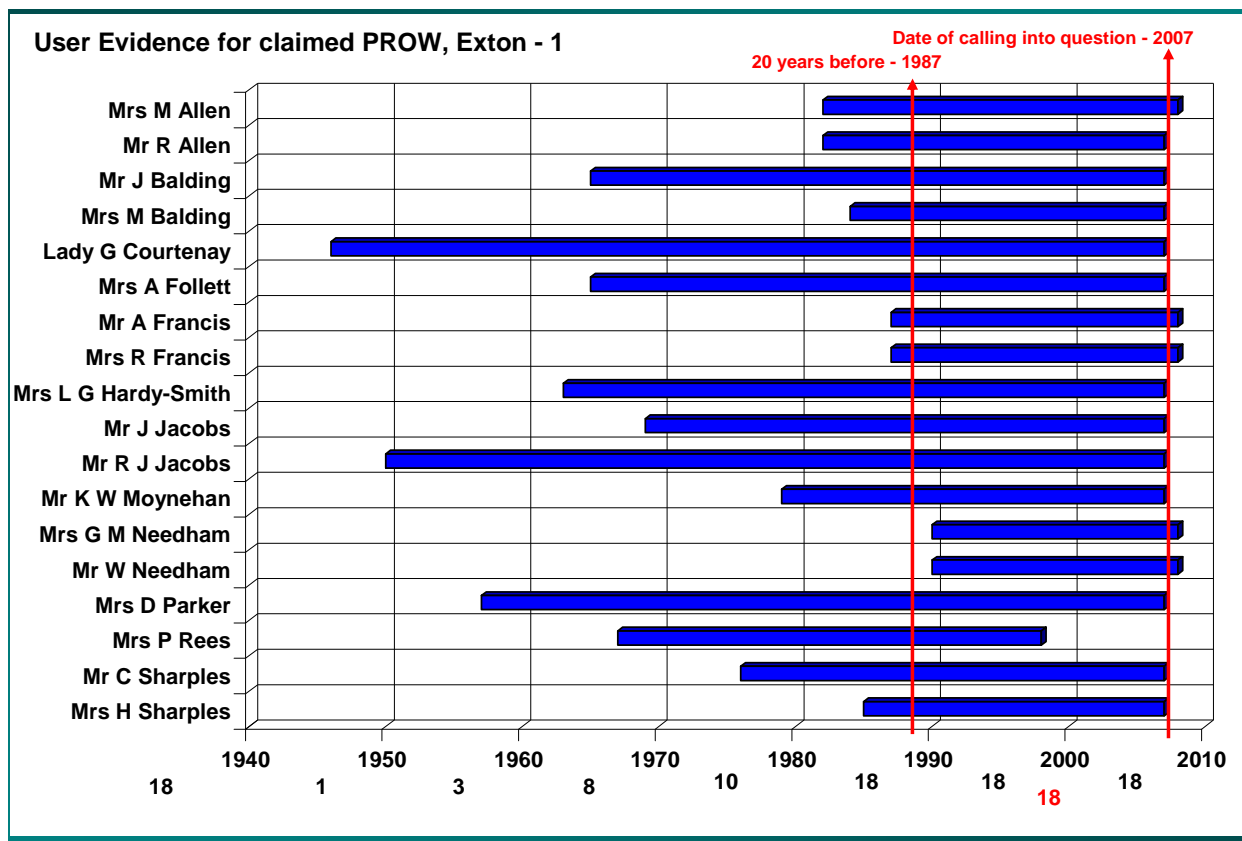
All of the users reported that they had used the route on foot, with some of them indicating that they had also used it on a bicycle or in a car. Thirteen specified use of the route only on foot, five also on a bicycle and 11 also in a car, with six on a bicycle and in a car as well as on foot. There is evidence of use in vehicles by 17 people. However, the use in vehicles related to only part of the route, particularly on Riverfront Road. Of those referring to use of the route by car, 12 cover the period of 20 years before erection of the present notices.

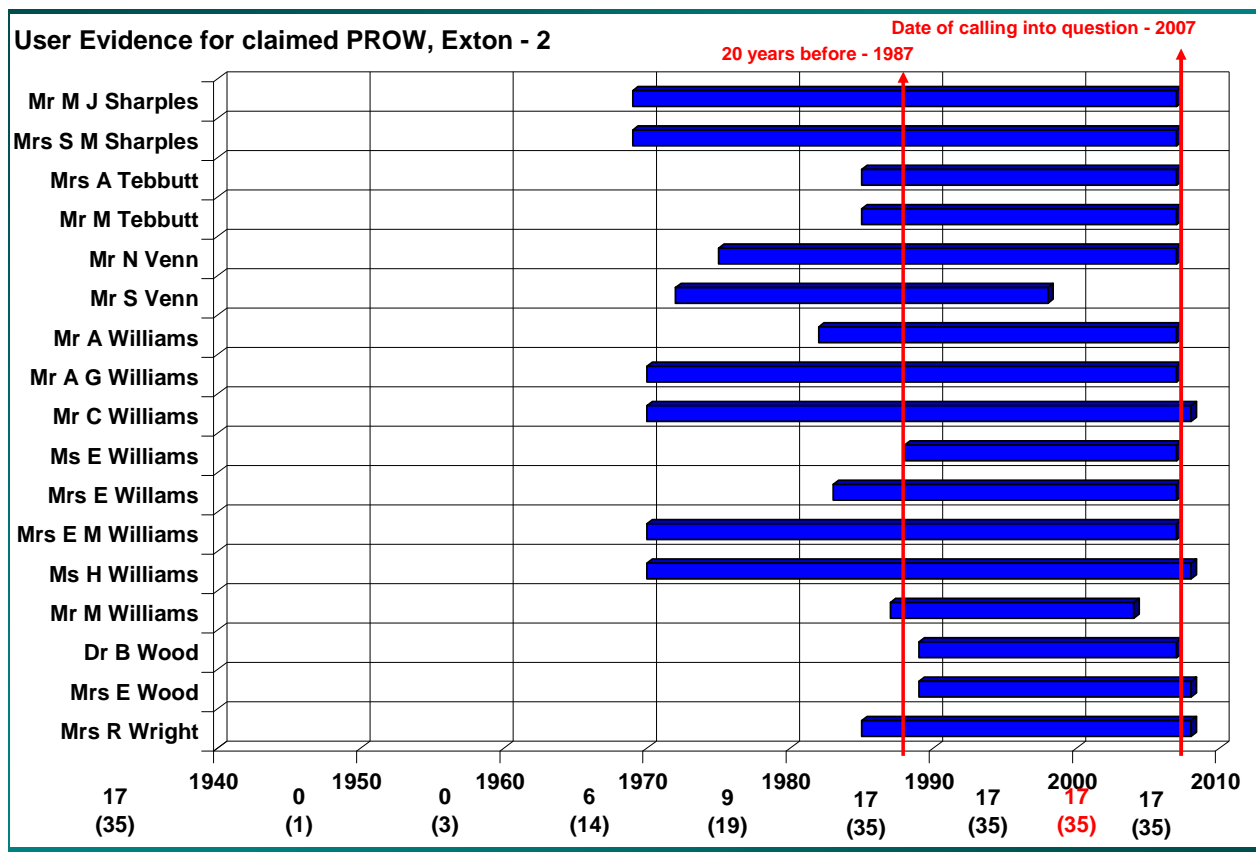
In every case vehicular use is mentioned as being only one method of use, all 17 people also stating use on foot and some on bicycle while one states use by car to have been only very occasional. None mentioned seeing any signs before those currently displayed. Of the users in vehicles, two state the purpose of their use to have been access to houses and another that it included such access. One reported that it involved access to a relative's house in the road, another for visiting and delivery and another visiting friends. Such use involves elements of invitation and permission rather than being public use as of right. Any route that serves as private access to many properties will necessarily be subject to much

use by occupiers and their invitees, making it the more difficult to presume dedication from use by others.

Ten of the forms were from people who no longer live in the village, but who had lived there previously and reported having also used the route to and from the family home since moving away. Two of those properties are connected directly onto Riverfront Road with a private right of access, so that the use from them can be considered as private rather than as public. Others from neighbouring properties reported having been given permission for access onto Riverfront Road, so that their use of it will also have been permissive rather than public.

All of the users had used the claimed route believing it to be a Byway Open to All Traffic, but may have considered that such status applied only to parts of it, particularly Riverfront Road, with some believing it to be a bridleway, although none said that they had used it on horseback.





The earliest use is reported to have been from 1946, by one person on foot and sometimes in a car, with two others indicating use since the 1950s on foot, bicycle and in a car. However one of them lived in a property with a private right of access from Riverfront Road and cannot be included for consideration as public use. The numbers reporting use since the 1960s and 1970s increased to just under 20, with another whose use was by a private right of access from the same property. All 35 indicated use from the 1980s up to completion of the forms in 2007 or 2008, mainly on foot or in a car and some on bicycles, but with others having access to Riverfront Road either by private right or permission from a neighbour.

The reported frequency of use was from between about twice or up to 10 times a year, mainly more than 20 times to about once a week or more than 50 times a year and some specifying up to 100 times and more than 350 times, or 'almost daily', up to 400 times a year. Some did not specify how often, with others referring to 'many' or 'numerous' times a year, or 'frequently' and some indicating use 'occasionally' and 'intermittently, or 'from time to time', particularly after moving away from the village. The predominant use for nearly all of the users was given as pleasure, including walking, with one referring to walking with a dog and others referring to use for leisure, exercise and fitness. Some of them specified using it for shopping, work, college and travel, by train from the station, or collecting for charity. Others referred to using it specifically for 'village business' or visiting friends and access, some of which will have been by invitation or a private right, or with the permission of the Riverfront Road owners and occupiers, which cannot be considered as public use.

Most of them indicated that they were going to and from home, mainly on circular walks around the village. Some referred to going for walks to the river or the foreshore, around the 'river path', which included for fishing, or 'perambulation'. Others specified going to the station or village pub, or going to houses on Riverfront Road, visiting and delivering letters, some of which is also private use and not as the public.

None of the users said that they had been stopped or turned back, or were told that they could not use the route, with some believing that the owners were aware of the public using it because the Riverfront Road property owners had seen them and spoken to them. Two of the users specified that they had a private or permissive right to use it from ownership of a property on Riverfront Road, or as a member of the family, but no other users reported that they had used it with permission, were tenants, or had worked for the owners. Most of them indicated that they had not seen any signs or notices on the route saying that it was a private road, or any obstruction to suggest that they could not use it, until 2007 when the gate was put in at point A, which was said to have always been left open and never locked.

Some referred also to the locking of the gate on the level crossing at point B from around the same time, although one specified that it had been locked previously with access to a key from a neighbouring property. Most of the users did not know who owned the route, with some indicating that it is owned by the Riverfront Road property owners and one specifying that it was not, but others knowing that it was their responsibility to maintain it.

## **7. Landowner and Rebuttal Evidence**

During 2008, letters were received from several of the Riverfront Road property owners, some with statements or statutory declarations, in connection with the claim to record it as a public right of way. The earlier letters were objecting to any proposed recording of a public right of way along the road, possibly as a result of its proposed use for including as part of the cycleway. Later statutory declarations and statements provide background information from half of the Riverfront Road owners in support of their view that it has always been a private road. The statutory declarations were from the current and former Chairmen of the committee for the company set up on behalf of the Riverfront Road property owners in connection with the maintenance and ownership of the road. Other correspondence in connection with the claim provides information from Network Rail on the history of the road and the level crossings from earlier railway ownership.

All of the owners state that Riverfront Road has been a private road and as a cul de sac has been only for private access to the earlier properties built along it and those that have been built since. It also provided access to the level crossing, for the railway company and those authorised for access with vehicles, including to agricultural land adjoining the foreshore. Some of the owners reported that there had previously been signs saying that it was a private road from the late 1950s through to the late 1970s, referring to contributions by owners to a fund for maintenance of the road.

Further details were provided of how that was later made more formal with a committee from the 1960s, which eventually led to the formation of a company for its ownership of the road that was taken over from British Rail and recorded with the Land Registry. They report that the gate was put up late in 2006 and is shut and locked once a year, with the signs indicating that it is a private road being renewed. In 2008, the company made a deposit under Section 31 (6) of the Highways Act 1981, with a declaration that there was no intention to dedicate Riverfront Road as a public right of way or highway of any type.

There are also more details relating to the level crossings, which are specified as being for private access only, with locked gates since the 1930s and keys held by several owners of the nearby properties for use by those with rights to use it for access to the foreshore. The locks were reported to have been broken or stolen at various times since then, but were replaced, including more recently, with telephones being provided as well for use by authorised owners when crossing in vehicles.



## **8. Discussion and Conclusions: Statute and Common Law – Reasons for Recommendation/Alternative Options Considered**

### **Statute Law – Section 31, Highways Act 1981**

The user evidence for the claim that the route should be recorded as a public right of way was not provided in support of a formal application. It was submitted from 2008 to support an informal claim made following public consultations on a proposal to consider Riverfront Road for possible inclusion in the Exeter to Exmouth cycleway. It did not result from any particular action taken by a landowner preventing access to or use of the route, although a gate was reported to have been put in after the consultations, although not reported to have been closed or locked, with signs saying that it was a private road and not a public right of way. The specific date of that action is not known, but was reported to have been in 2007, so the claim appears to have been made in response to a specific event acting as a challenge to use of the route, although not soon after but some time later. There is, therefore, evidence of an action by or on behalf of the landowners that could be considered significant for calling into question use of the route, to provide a date for consideration of the user evidence under statute law during the previous 20 years, from 1987–2007.

Considering evidence of use by the public during that period, there is use claimed by 35 people during the whole 20 years. Having discounted use of the sections already recorded as public roads on the circular routes shown, most people indicated that they have used Riverfront Road as part of a longer route, over the level crossings and onto Green Lane via the foreshore, from A–B–C–D–E. A few of the users said that they had only used Riverfront Road, A–B and some did not mark on maps the route that they had used. Two indicated that they lived in one of the properties on Riverfront Road, or had previously lived there and have used it to visit family there since moving away, with three others having been given permission by their neighbours to use it. Such use is private and permissive, so cannot be taken into account as public use.

This means that there is evidence of claimed use on Riverfront Road by 30 people to consider, all on foot with some also in vehicles and on bicycles. Many of them claim to have continued onto the foreshore and back onto Green Lane over the level crossings, probably on foot and not in vehicles, as part of a longer circular walk from other parts of the village.

### **Vehicular use**

The proportion of use in vehicles on Riverfront Road claimed by just over a third of them has not been specified in any great detail, but as evidence for public vehicular use as of right, it appears insufficient to raise a presumption of dedication for recording the route as a Byway Open to All Traffic. That is irrespective of whether previous signage has been apparent, although there is evidence for the existence of earlier signs stating that it was a private road as evidence of lack of intention by the owners to dedicate it as a highway for vehicular use. There is certainly no basis for any claim that it was created originally as a public vehicular highway, or dedicated since then.

### **Pedestrian use**

Evidence of pedestrian use is sufficient to investigate a prima facie case for footpath status, although the claim in that case would be for the longer route as well as just Riverfront Road, involving use of the level crossings and land on the western side of the railway. Of the 30 users, eight did not mark the line of the route they had used on the maps at all, but only indicating marked points on the route. In all, six specified that they had only used Riverfront Road, with the rest mainly indicating use of the whole route, or part of it to the level crossing at point C.

There has been claimed use of the whole route, or parts of it, by all of the users for the 20 years from 1987–2007. Most of them said that they had not been prevented or obstructed

and had not seen any notices to indicate that it was private until 2007. Some said that they had never seen any at all and also that there had not been a gate until the same time, which was never closed or locked. However, statements on behalf of the Riverfront Road owners refer to there having been signs or notices saying that it is private since the 1950s, which were renewed more recently when the gate was put in.

### **Level crossings**

Claimed use from the end of Riverfront Road includes use of the level crossings over the railway line, which are reported to have had locked gates since the 1930s. The locks are said to have been replaced if they were damaged or removed and left unlocked, with new keys issued to authorised vehicular users including nearby property owners. There appears to have been no provision for pedestrian access and an added specific consideration is that unauthorised access onto or across an operational railway line, except where authorised, is a criminal offence punishable by a fine. That is under Section 55 of the British Transport Commission Act of 1949, continuing provisions under earlier legislation from 1840 and 1868, regardless of whether the level crossing gates were locked or not, as reported by some of the users.

Information from Network Rail and the Riverfront Road owners shows that both were put in as private level crossings for specified authorised users only and any other unauthorised use will be considered an offence, particularly where notices are displayed, including at the nearest station. Claimed use of the whole route involving the level crossings cannot, therefore, give rise to any prescriptive right of way. It means that any claimed use from B–C cannot be considered at all, as both ends require access over the level crossings. It might be possible to consider whether public rights have been acquired from A–B and C–D–E, potentially resulting in two cul de sac routes. However, the section from B–C, use of which can only be from an offence, cannot be regarded as a legitimate point of termination sufficient to justify public rights of way leading directly to the crossings at either end. There is no evidence of anything else reported to have been an alternative point of interest at the end of either route for the public to have used them as cul de sac routes. No evidence has been found to support the existence of public rights from before the 1949 Act made unauthorised access on a railway line an offence.

The user evidence is, therefore, considered insufficient to support the recording of the route, or any part of it, as a footpath by presumption of dedication from use. There is no need to consider whether there were actions taken by the landowners during that period to provide evidence of any lack of intention to dedicate the route as public. However, there is evidence from the landowners, particularly on Riverfront Road, that notices were put up to indicate that it was private.

### **Common Law**

Alternatively, the claim can be considered in relation to common law, taking into account historical maps and other documentary evidence, in conjunction with the evidence of use. All historical mapping shows that only parts of the claimed route existed physically from the later 18th century through to the period when the railway line was built in the middle of the 19<sup>th</sup> century. Later Ordnance Survey and other mapping with aerial photography show that those sections of the claimed route, with Riverfront Road, continued to exist on their current line up to the present.

No other more significant historical maps or references in historical documentary material have been found to indicate more specifically that the whole of the claimed route may have had the reputation of being a public footpath or highway in the past and more recently to support recording any part of the route as a Byway Open to All Traffic. No section of the route has been shown on the past and current records of maintainable highways to suggest that it may have been considered more recently to be public.

Considering the historical mapping and landowner evidence, with the evidence of claimed public rather than private or permissive use, dedication at common law cannot be implied for any parts of the claimed route. The evidence does not support the claim that there is any historical basis to the claimed route being considered as public, or having the reputation of being available for use by the public as a highway or as a footpath. The evidence is not sufficient to suggest that the land or property owners intended to dedicate any part of the claimed route for public use in vehicles or on foot, or that the public accepted any dedication and have used it on that basis. Sections involving use of the level crossings cannot have been lawfully established as a highway under common law.

The user evidence submitted in respect of the claimed route is, therefore, not sufficient to support the recording of a public right of way on the claimed route by presumption of dedication from use, or in conjunction with historical evidence. It is in the light of this assessment of the evidence submitted, with all other evidence discovered and available, that it is not considered reasonable to allege that a public right of way subsists and it is not sufficient for the addition of a Byway Open to All Traffic or to record it as a footpath on any part of the claimed route.

From consideration under statute and common law there is, therefore, insufficient basis for making an Order in respect of the claim and, accordingly, the recommendation is that no Order be made for addition of a public right of way on the Definitive Map, on any route between points A–B–C–D–E.

However, should any additional evidence of use in connection with the claim be submitted within the next six months, it would seem sensible for it to be investigated further promptly rather than deferred until the Parish review is open in Woodbury.

## **9. Legal Considerations**

The implications/consequences of the recommendation have been taken into account in preparing the report.

## **10. Equality Considerations**

There are no implications.

## **11. Carbon Impact Considerations**

There are no implications.

## **12. Sustainability Considerations**

There are no implications.

## **13. Risk Management Considerations**

There are no implications.

Lester Willmington  
Head of Highways and Traffic Management

**Electoral Division: Exmouth Halsdon & Woodbury**

Local Government Act 1972: List of Background Papers

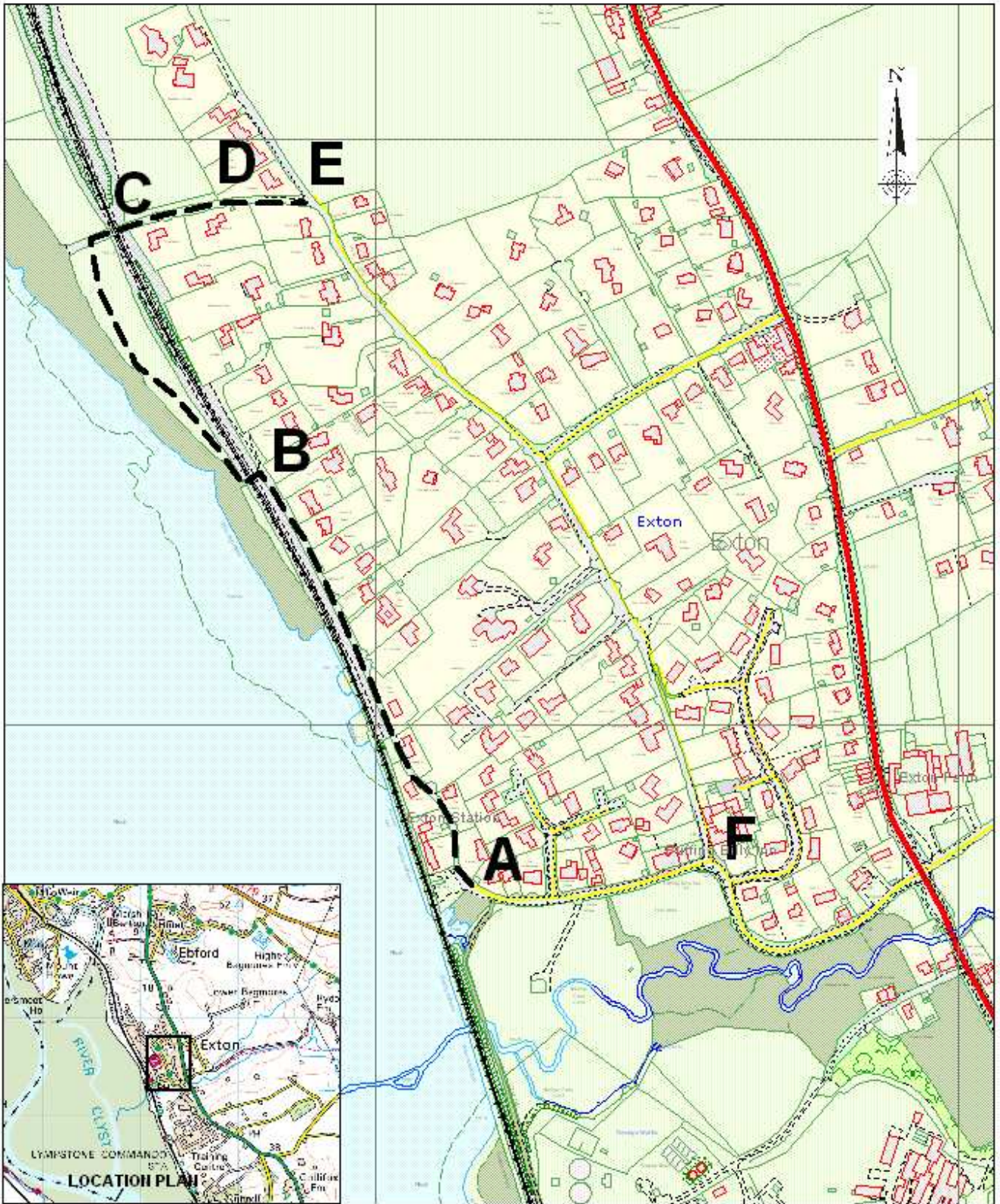
Contact for enquiries: Nick Steenman-Clark

Room No: ABG, Lucombe House, County Hall

Tel No: (01392) 382856

Background Paper	Date	File Ref.
Correspondence File	2008 to date	NSC/DMR/WOOD

nc020212pra  
sc/cr/dmr woodbury riverfront road exton  
03 hq 090212



map ref **SX9785 & SX9885**

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**CLAIMED PUBLIC RIGHT OF WAY  
FROM RIVERFRONT ROAD  
EXTON, WOODBURY**

drawing number	EEC/PROW/11/55
date	April 2011
scale	1:5000
drawn by	MM

Notation

Claimed route A - B - C - D - E (865 metres)

**Lester Willmington**  
HEAD OF HIGHWAYS & TRAFFIC MANAGEMENT

