

HIW/19/20

Public Rights of Way Committee
4 March 2019

**Definitive Map Review 2017-2019
Parish of Sampford Peverell**

Report of the Chief Officer for Highways, Infrastructure Development and Waste

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

Recommendation: It is recommended that Members note that the route shown on drawing number HIW/PROW/18/017 is already a public footpath following the North Devon Link Road (M5 Sampford Peverell – Tiverton (Bolham Road) Side Roads) Order 1981. The footpath, now numbered Footpath No. 21, Sampford Peverell, will be added to the Definitive Map by Legal Event Order under delegated powers in due course.

1. Introduction

The report examines the second of the three proposals for change arising out of the Definitive Map Review in the Parish of Sampford Peverell in Mid Devon. A report of the first and third proposals was presented at the Devon Public Rights of Way Committee Meeting on 15 November 2018.

2. Background

The Background for the Definitive Map Review in the parish of Sampford Peverell was set out in Committee report HIW/18/76 of 15 November 2018. The Sampford Peverell Definitive Map Review consultation map was published in May 2018 with three proposals for change and proposals 1 and 3 were considered in the November 2018 Public Rights of Way Committee report.

3. Proposal

Proposal 2 was proposed for inclusion by the Parish Council and was for the addition of a public footpath from Leonard Moor Bridge on Station Road to the A361, North Devon Link Road, from points E to F on the drawing number HIW/PROW/18/017. The route follows Station Road south eastwards for a short distance before bearing east north eastwards along a fenced/hedged lane for a length of approximately 90 metres to the highway verge of the A361. The land was unregistered but was confirmed as not being within the ownership of Network Rail, who do own the two fishing ponds to the south of the path.

A review of the historic mapping revealed that the path was initially the route of the A373 public highway from the A38 to Tiverton and the main road into Sampford Peverell village. After crossing the railway line over a bridge, the road would turn sharply downhill and there are various references in the Parish Council minutes requesting better signage and noting accidents that had occurred on this section of the road. In the mid-late 1960s a new section of road to replace this section of the A373 was constructed from point F running westwards to join Station Road north westwards of point E. The original section of road then became a lay-by for the A373.

When the A361 North Devon Link Road was constructed in the 1980s, a new slip road was built to connect with an alternative existing road into Sampford Peverell north west of the present A373 at that time. The original section of the A373 road and the later improvement were then made redundant and the later section of road was removed and land returned to private ownership and farm land. The original section of road remained and is now the path as it is today and in the ownership of Devon County Council.

Various Side Roads and Slip Roads Orders were made in connection with the construction of the North Devon Link Road and a plan attached to the North Devon Link Road (M5 Sampford Peverell – Tiverton (Bolham Road) Side Roads) Order of 1977 showed the section of the proposal route along the lane and the eastern end of the later section of the A373 to be stopped up. Subsequently the North Devon Link Road (M5 Sampford Peverell – Tiverton (Bolham Road) Side Roads) Order 1981 included a list of modifications. Modification 1 included stopping up the entire length of the newer section of the A373; the new footpath and turning head proposed in the draft Order was not to be provided. A new footpath will instead be provided nearby along the stopped-up portion of the A373 lay-by (the original road prior to the mid-late 1960s – the proposal route).

This Order therefore stopped up the vehicular highway rights on the old A373 but with the creation of a footpath along that section. The Orders relating to the North Devon Link Road included changes to other roads and public rights of way and changes to the public footpaths that were affected have been noted in our records and recorded on the Definitive Map. It however, appears that the proposal route was not numbered as a parish footpath nor added to the Definitive Map of Public Rights of Way as a public footpath. The route was also not recorded on the National Street Gazetteer but the Neighbourhood Highway Officer has advised they have maintained the route, by trimming hedges and considered it to be a Devon County Council footpath.

As proposal 2 has already been created as a public footpath, it is not necessary for an evidential Modification Order to be made to add the route as a public footpath. The route has been allocated a parish footpath number and will be added to the Definitive Map by Legal Event Modification Order under delegated powers in due course. It will also now be added to the Council's digitised working copy of the Definitive Map.

Following publication of the proposal a number of user evidence forms were received from cyclists who used the route as a safer way to access Sampford Peverell from the M5 junction 27 roundabout. Use of a public footpath on a bicycle is a trespass against the landowner although it is not considered that Devon County Council (the landowner) would wish to take any action to prevent such use. Higher rights for cyclists could legally be provided by way of upgrading to a bridleway under a Section 25 Agreement of the Highways Act 1980 or to a cycle track under the Cycle Tracks Act 1984. Either of these could be undertaken by delegated authority. Alternatively, with the permission of the landowner cycling can remain as a permissive use of the footpath. The proposed new leisure/retail development at junction 27 of the M5 proposes to include a pedestrian and cycle bridge link to Tiverton Parkway station and this could be an alternative route if constructed.

4. Consultations

General consultations have been carried out with the following results in respect of the proposals considered in this report:

County Councillor R Radford	-	no comment
Mid Devon District Council	-	no comment
Sampford Peverell Parish Council	-	no comment
Country Landowners' Association	-	no comment
National Farmers' Union	-	no comment
British Horse Society	-	no comment
Ramblers' Association	-	response received – supported
Trail Riders' Fellowship	-	no comment
Devon Green Lanes Group	-	no comment
Cycle UK	-	no comment

5. Financial Considerations

Financial implications are not a relevant consideration to be taken into account under the provision of the Wildlife and Countryside Act 1981. The Authority's costs associated with Modification Orders, including Schedule 14 appeals, the making of Orders and subsequent determinations, are met from the general public rights of way budget in fulfilling our statutory duties.

6. Legal Considerations

The implications/consequences of the recommendation(s) have been taken into account in the preparation of the report.

7. Risk Management Considerations

No risks have been identified.

8. Equality, Environmental Impact and Public Health Considerations

Equality, environmental impact or public health implications have, where appropriate under the provisions of the relevant legislation, been taken into account in the preparation of the report.

9. Conclusion

It is recommended that Members note that the route shown on drawing number HIW/PROW/18/017 is already a public footpath following the North Devon Link Road (M5 Sampford Peverell – Tiverton (Bolham Road) Side Roads) Order 1981. The footpath now numbered Footpath No. 21, Sampford Peverell will be added to the Definitive Map. Consideration will be given on the best way to provide for continued use of the route by cyclists under delegated powers.

Should any further valid claim with sufficient evidence be made in the next six months, it would seem reasonable for it to be determined promptly rather than be deferred.

10. Reasons for Recommendations

To undertake the County Council's statutory duty under the Wildlife & Countryside Act 1981 to keep the Definitive Map and Statement under continuous review and to progress the parish by parish review in the Mid Devon District Council area.

Meg Booth
Chief Officer for Highways, Infrastructure Development and Waste

Electoral Division: Willand & Uffculme

Local Government Act 1972: List of Background Papers

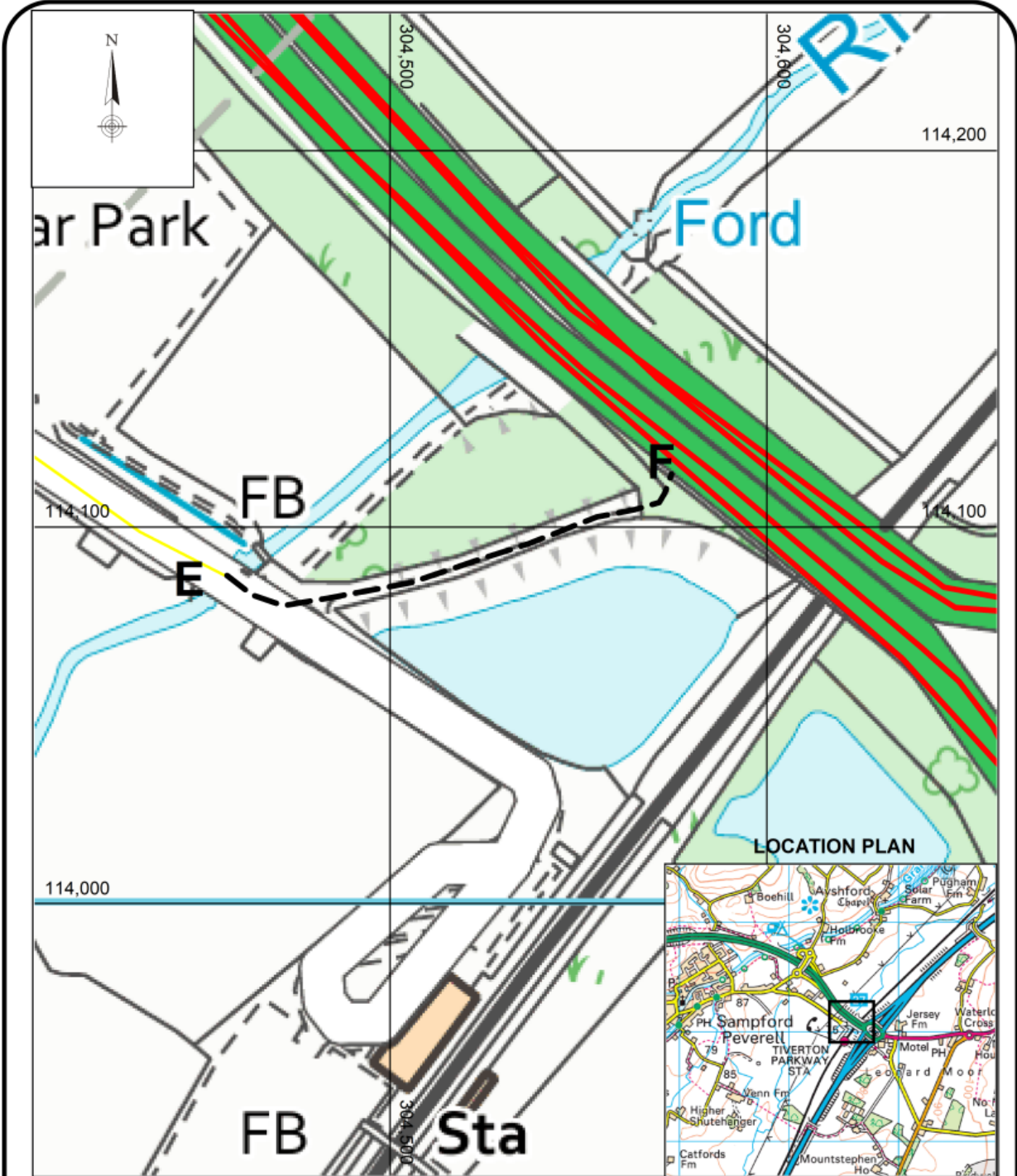
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Background Paper	Date	File Ref.
DMR/Correspondence File	2017 to date	DMR/Sampfords Peverell

tw230119pra
sc/cr/DMR Parish of Sampfords Peverell
03 200219



Map Ref ST 04 14 Grid 100m

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**DEVON COUNTY COUNCIL
DEFINITIVE MAP REVIEW - SAMPFORD PEVERELL
PROPOSAL NO 2
ADDITION OF PUBLIC FOOTPATH
STATION ROAD TO A361**

drawing number HIW/PROW/18/017
 date April 2018
 scale 1:1,500 at A4
 drawn by TW

Notation

Addition of Public Footpath E - F (130 metres approx) **---**

Meg Booth
 CHIEF OFFICER HIGHWAYS,
 INFRASTRUCTURE DEVELOPMENT AND WASTE

