

CET/24/50

Public Rights of Way Committee
11 July 2024

Definitive Map Review Parish of Littleham 2003-24

Report of the Director of Climate Change, Environment and Transport

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

1) Recommendation

It is recommended that a Modification Order be made to modify the Definitive Map and Statement by adding a bridleway along Upadown/Shutta Lane, Littleham between points A - B, as shown on drawing number CCET/PROW/23/78 (Proposal 1). This will update the resolution made by this Committee on 23 November 2023 and 24 March 2005.

2) Introduction

This report re-examines a proposal originally raised during the Definitive Map Review in Littleham parish in 2003-05.

The Definitive Map Review was opened in the parishes of Littleham and Landcross in 2003 with an informal consultation carried out in early 2005. This consultation included a proposal to add a footpath along Upadown/Shutta Lane in Littleham village.

A report on the Upadown/Shutta Lane proposal was subsequently presented to the County Council's Public Rights of Way Committee on 24 March 2005. The Committee resolved that a Modification Order be made. Due to local requests, prior to the Order being made, a dedication agreement was sought to record the route as a bridleway, however this was not successful. It then seems that the Modification Order, as resolved by the Committee, was not made.

The report was updated and re-presented to the Committee in November 2023, and the Committee resolved that a Modification Order be made for the status of footpath. Subsequent to this, additional evidence was received within six months of the Committee meeting. Therefore, in line with current policy, the further claim with supporting evidence is being determined promptly rather than deferred to the end of the Parish by Parish Review process.

3) Background

This is the third report for the Definitive Map Review in the parish of Littleham. The background to the Review in Littleham was originally discussed in the first parish report presented to this Committee at its meeting of 24th March 2005.

4) Proposals

Please refer to the appendix to this report.

5) Consultations

General consultations were originally carried out carried out in 2004 with the following results:

County Councillor Collins	- no reply
Torrige District Council	- no objections
Littleham Parish Council	- no comment on the proposal
British Driving Society	- no reply
British Horse Society	- no reply
Byway and Bridleways Trust	- no reply
Cycling UK	- no reply
Country Landowners & Business Association	- no reply
National Farmers' Union	- no reply
Open Spaces Society	- no reply
Ramblers' Association	- supported proposal

Initial responses are detailed in the appendix of the March 2005 Committee Report. Littleham and Landcross Parish Council supports this current proposal to upgrade the Committee's resolution from footpath to bridleway.

6) 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.

7) Legal Considerations

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

8) Risk Management Considerations

No risks have been identified.

9) Equality, Environmental Impact (including Climate Change) and Public Health Considerations

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

10) Conclusion

It is recommended that a Modification Order be made to modify the Definitive Map and Statement by adding a bridleway along Upadown/Shutta Lane, Littleham

between points A – B, as shown on drawing number CCET/PROW/23/78 (Proposal 1).

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

11) Reasons for Recommendations

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

Meg Booth

Director of Climate Change, Environment and Transport

Electoral Division: Bideford East

Local Government Act 1972: List of background papers

Background Paper	Correspondence Files
Date	Current
File Reference	DMR/LITTLEHAM(TORR)

Contact for enquiries:

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sc/cr/DMR Littleham

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Appendix 1 to CET/24/50

Proposal 1 (as updated): Proposed addition of a bridleway along Upadown/Shutta Lane, Littleham between points A – B, further to this Committee’s resolution for a footpath, as originally resolved by this Committee in November 2023 and March 2005, as shown on drawing number CCET/PROW/23/78 (Proposal 1).

Recommendation: That a Modification Order be made to add a bridleway to the Definitive Map and Statement along Upadown/Shutta Lane, Littleham, in respect of Proposal 1 (as updated).

1 Background

- 1.1 The original proposal to add a footpath to the Definitive Map and Statement was made by the Parish Council and members of the public at the meeting held in October 2003. Subsequently, evidence was received indicating rights higher than footpath status following the reprised report to the County Council’s Public Right of Way Committee in November 2023.

2 Description of the Route

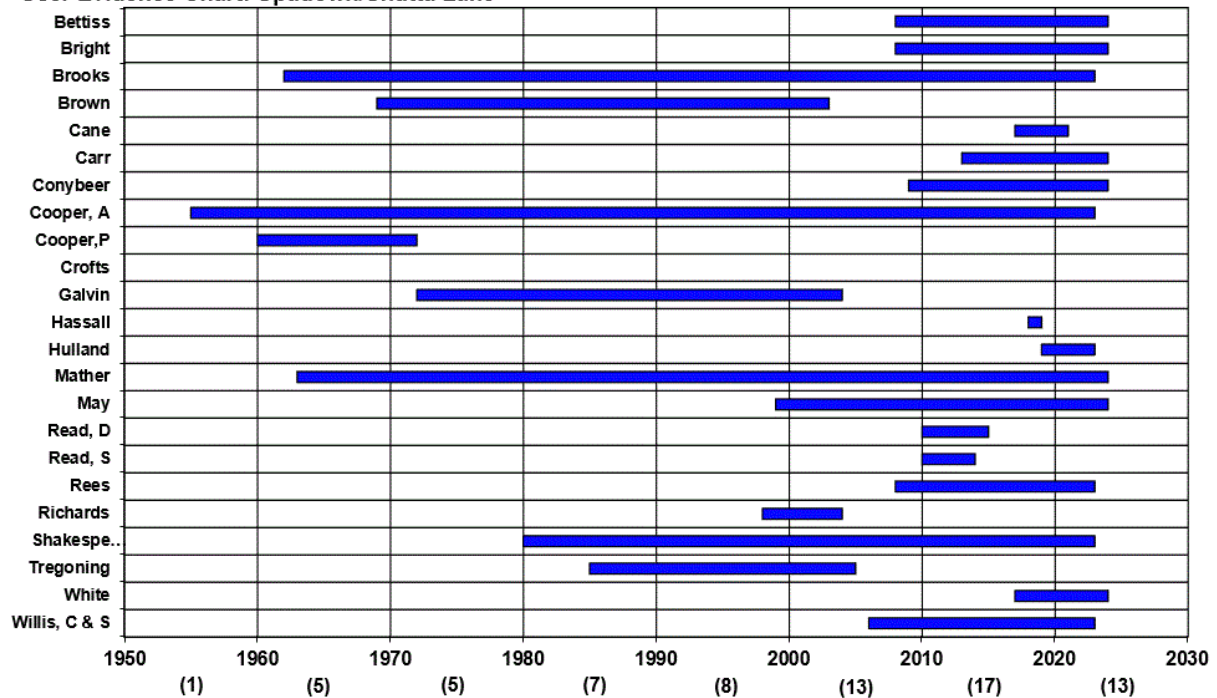
- 2.1 The proposal route runs from just north of the Crealock Arms, indicated as Point A on drawing no. CCET/PROW/23/78, along a hedged lane known as Upadown/Shutta Lane, to the road between Littleham and Littleham Cross, Point B. It is approximately 180 metres in length.

3 User Evidence

- 3.1 Thirteen additional user evidence forms from 14 members of the public were collected by the Clerk to Littleham and Landcross Parish Council, covering the period 1955 to the present, detailing use on foot and horse of the proposal route, Shutta/Upadown Lane. Consequently, a total of 23 forms from 24 members of the public have been received in support of the proposal route.
- 3.2 L Bettis has used the proposal route, known as Shutta/Upadown Lane between points A – B on a weekly basis since 2008 on foot and horse. She has not seen any notices or obstructions on the route, or been challenged.
- 3.3 C Bright has used the proposal route weekly since 2008. She states that there have been ‘*no barriers or sign to say [it is] not public*’. She was never challenged or turned back.
- 3.4 M Brooks has used the proposal route between points A – B since 1962 regularly on foot and horse. She first used the lane when she was 8 years being lead on a pony by her Mum. The only times the route has not been easy to use is when it has become overgrown or a van was parked at point A.
- 3.5 D Brown has used the proposal route, known as Shutta/Upadown Lane, monthly on horseback between 1969-2003 to avoid the busy village road.

- 3.6 T Cane has ridden the proposal route between 2017-21 every few months. She recalls a van being parked at point A, but no obstructions or signs.
- 3.7 J Carr has ridden her horse weekly along the proposal route since 2013 between points A – B. The only difficulty she recalls was when the lane became overgrown. She was never challenged or turned back.

User Evidence Chart: Upadown/Shutta Lane



- 3.8 S Coneybear has used the proposal route between points A – B at various times since 2009. She states that it is local knowledge that the lane is an historic footpath and bridleway. The only issues she recalls is the lane getting overgrown and a van being parked at point A.
- 3.9 P Cooper has used the proposal route, known as Shutta/Upadown Lane, on foot and horse between 1960-72 when visiting his aunt in the village, often going to the village shop. He recalls a Mis Babcock and the Alvis girls also using the lane on horseback.
- 3.10 S Rees has used the proposal route between points A – B since 2008 on foot and horse. She states that there were 'no barriers or sign to say [it was] not public'. The only issue she recalls on the route was a van parked at point A.
- 3.11 C White has used the proposal route on horseback every few months since 2017. She recalls the only issue on the route being a van parked at point A. She has never been challenged or turned back.

4 Rebuttal Evidence

- 4.1 No rebuttal evidence has been received.

5 Landowner Evidence

- 5.1 Landowner responses are summarised within the previous reports. Public use of the path has not been challenged. No additional landowner evidence has been received.

6 Discussion

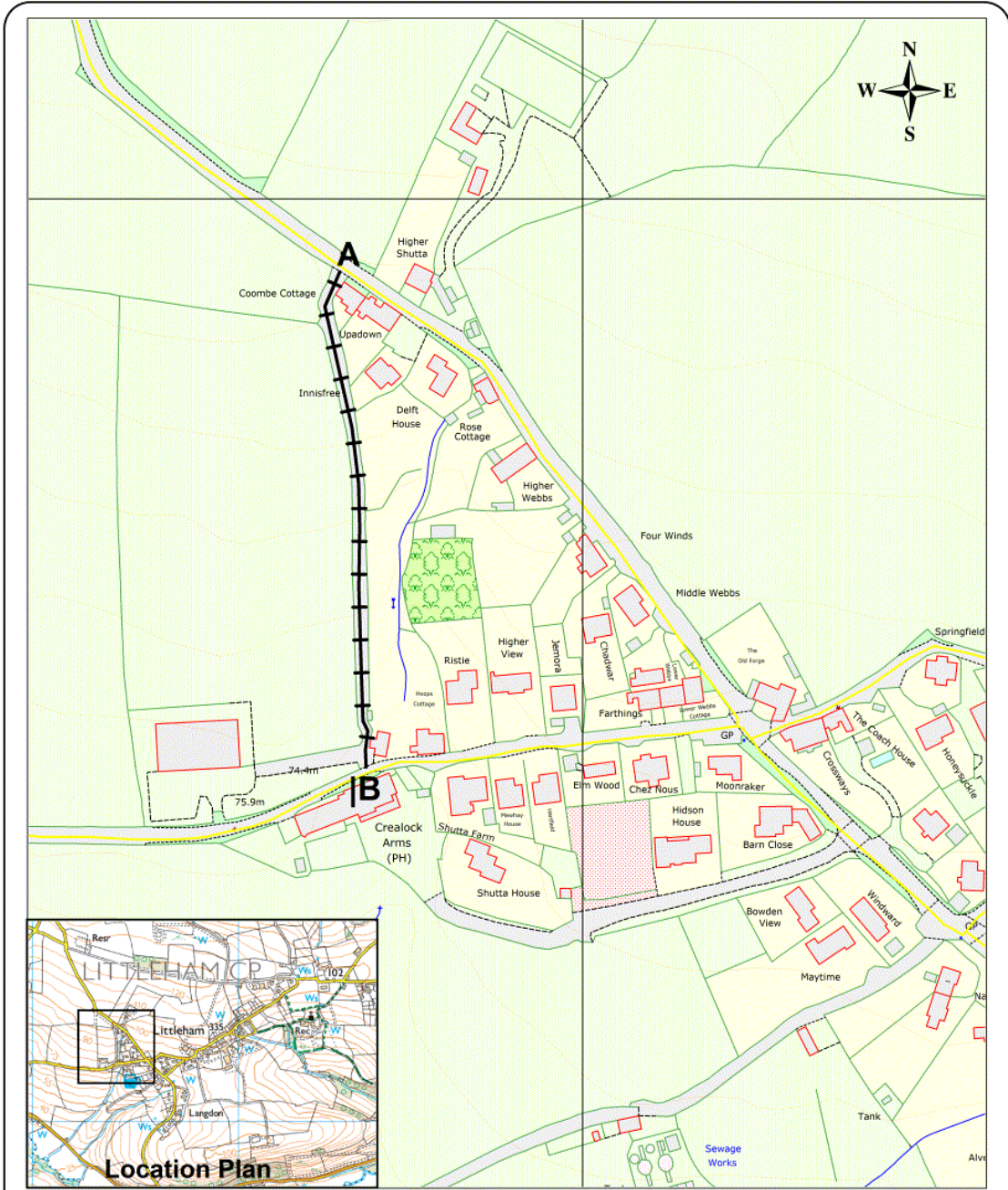
- 6.1 Statute – Section 31 Highways Act 1980. It is considered that there is no event prior to the claim being made to Devon County Council which is sufficient to call the public's use of the application route into question. The parking of a van at point A is not considered to be sufficient, as a parked vehicle is a temporary obstruction. Local residents have continued to use the route and also carried out some clearance in response, which has not been challenged.
- 6.2 Additionally, a claim for a right of way along the proposal route between points A – B may also exist at common law. Evidence of dedication by the landowners can be express or implied and an implication of dedication may be shown at common law if there is evidence, documentary, user or usually a combination of both from which it may be inferred that a landowner has dedicated a highway and that the public has accepted the dedication.
- 6.3 Common Law. On consideration of the proposal at common law, the historical mapping shows that the proposal route, known as either Shutta or Upadown Lane, between points A – B has physically existed as a through route, open and available since at least the early 19th century, as dealt with in the previous Committee reports, along with the relevant documentary evidence.
- 6.4 What needs consideration here is the additional evidence received since the last report on the matter was presented to the Committee in November 2023, and whether it alters the resolution made by the Committee members at that meeting. Since the resolution of the Committee on the proposal route between points A – B, known as Shutta or Upadown Lane, 13 user evidence forms have been received from 14 members of the public, giving a total of 23 forms and 24 users.
- 6.5 The original user evidence only detailed use of the proposal route on foot by members of the public between 1972 and 2005, though there was indirect evidence of equestrian use. The additional user evidence forms detail use on foot and horse between 1962 and the present day. The level of use is appropriate to and in character with the rural location of the route.
- 6.6 The additional user evidence details regular use on horseback of the proposal route between points A – B between 1955 and 2024, without permission, force, or secrecy. No users recalled any challenges to their use of the lane. The only notice one user recalls seeing was what they described as a homemade bridleway sign, but there is no further information on it. The only obstructions some users recalled were the overgrowth of the lane and a van being parked at point A. However, these are temporary obstructions and their purpose /effect was not to deter or stop public use of the proposal route. Local residents have

undertaken works on the proposal route to clear the overgrowth without objection.

- 6.7 No landowner claims formal ownership of the proposal route, known as Shutta or Upadown Lane, between points A – B. No additional landowner or rebuttal evidence has been received in relation to the proposal.
- 6.8 Littleham and Landcross Parish Council supports the current proposal to upgrade the Committee's resolution from footpath to bridleway.

7 Conclusion

- 7.1 The documentary evidence demonstrates that the proposal route known as Shutta/Upadown Lane between points A – B has existed since at least the early 19th century. It has been open and available and appears to have been considered public since that time, and part of the parish highway network, as detailed in the user evidence. The user evidence details use on foot since at least 1955 and on horseback since 1962, which has not been called into question or challenged. The evidence when taken as a whole is considered sufficient to show that a public right of way not shown in the Definitive Map and Statement subsists or is reasonably alleged to subsist.
- 7.2 It is therefore recommended that a Modification Order should be made to add a bridleway between points A – B along Shutta/Upadown Lane to the Definitive Map and Statement. If there are no objections, or if such objections are subsequently withdrawn, that it be confirmed.



map ref: SS 4323

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Devon County Council
Definitive Map Review - Parish of Littleham
Proposed addition of a brideway
along Shutta/Upadown Lane

drawing no. **CCET/PROW/23/78**
 date **April 2024**
 scale **1:2,000**
 drawn by **CLG**

Notation

Proposed brideway addition A - B (approx 195 metres) + + + + +
 Existing footpath - - - - -

Meg Booth

Director of Climate Change,
 Environment & Transport

