

**Definitive Map Review 2021-2022
Parish of Templeton**

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 a Modification Order be made to modify the Definitive Map and Statement with the addition of a public footpath along Pidland Lane A – B - C as shown on drawing number HIW/PROW/21/36a (Proposal 1).

1. Introduction

The report examines the route referred to as Proposal 1 arising out of the Definitive Map Review in the Parish of Templeton in Mid Devon.

2. Background

The original parish survey under s. 27 of the National Parks and Access to the Countryside Act, 1949 completed in September 1950, initially proposed 9 footpaths for consideration as public rights of way. After review by Tiverton Rural District Council and Devon County Council, 6 of the footpaths were withdrawn as they were considered to be private footpaths. Following publication of the draft and provisional Definitive Maps, the 3 remaining footpaths were recorded on the conclusive Definitive Map for Tiverton District Council published in June 1964.

In a Devon County Council review which commenced in 1968 but was not completed, the parish made proposals for the addition of three bridleways, three footpaths and upgrading of Footpath No. 2, Templeton to a bridleway. No evidence was submitted in support of these proposals, and two of the routes had been initially included in the 1950 parish survey but considered private paths and withdrawn. No other routes apart from the proposal considered in this report have been raised during the current review.

At the time of a 1977 Devon County Council review (also uncompleted) there was no active parish council in Templeton, and so there was no parish meeting held to discuss proposals.

The following Order affecting the Definitive Map for Templeton has been made and confirmed since 1964:

Devon County Council Footpath No. 2, Templeton and Footpath No. 2, Cruwys Morchard Public Path Diversion Order 2007.

A Legal Event Modification Order will be made for this change under delegated powers in due course.

Due to the Covid-19 pandemic the usual public parish meeting could not take place to open the review and the parish council confirmed that they were happy to open the review by way of a SWAY online presentation. This was circulated to the parish council in November 2020 and subsequently made available on the Devon County Council's 'Have Your Say' website for the public to view. Any proposals for change were to be received by 30 April 2021.

This review has produced one proposal for which a Definitive Map Review Consultation map was published in September 2021. This is for the addition of a public footpath along Pidland Lane from Templeton Bridge to Footpath No. 2, Templeton, north of Northcote Wood.

3. Proposal

Please refer to the appendix to this report.

4. Consultations

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

County Councillor Chesterton	-	no response
Mid Devon District Council	-	no response
Templeton Parish Council	-	response received
Country Landowners' Association	-	no response
National Farmers' Union	-	no response
British Horse Society (Devon)	-	no response
Ramblers' Association (Tiverton)	-	response received
Trail Riders' Fellowship	-	no response
Cycling UK Devon	-	no response

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 a Modification Order be made in respect of 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 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.

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Electoral Division: Tiverton West

Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Ref.
DMR/Correspondence File	2020 to date	DMR/Templeton

tw090222pra
sc/cr/DMR Parish of Templeton
03 010322

A. Basis of Claim

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.

Common Law presumes that 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.

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.

The Wildlife and Countryside Act 1981, Section 53(3)(c) enables the Definitive Map 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.
- (ii) 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.
- (iii) 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.

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(5) enables any person to apply to the surveying authority for an order to modify the Definitive Map. The procedure is set out under WCA 1981 Schedule 14.

Proposal 1 – Addition of a Public Footpath from along Pidland Lane

The footpath proposal runs from the county road south of Templeton Bridge (point A) generally south south westwards for approximately 455 metres along the defined lane known as Pidland Lane to connect to Footpath No. 2, Templeton, north of Northcote Wood and the parish boundary with Cruwys Morchard (point C) (GR SS 8778 1441 to SS 8760 1401).

Recommendation: It is recommended that an Order be made to modify the Definitive Map and Statement with the addition of a public footpath along Pidland Lane A - B - C as shown on drawing number HIW/PROW/21/36a (Proposal 1).

1.1. Background

- 1.1.1 In 2008, following the Definitive Map Review in another Mid Devon neighbouring parish, a number of user evidence forms were received where the route used included Pidland Lane in Templeton parish. Most of these users were horse riders who then continued their ride by a number of different routes including continuing eastwards on Footpath No. 2, Templeton to Templeton village. As Pidland Lane had no recorded legal status, a note was made to review the lane when the Definitive Map Review reached Templeton.
- 1.1.2 In October 2020 a local resident contacted the Public Rights of Way Warden for Templeton to ask about a gate and sign that had been erected across the end of Pidland Lane. The sign said 'Private Property – No Access'. The next month a number of user evidence forms from walkers using Pidland Lane were received and these, together with the previous user forms received, were sufficient for the addition of a public footpath along Pidland Lane to be included as a proposal for consideration.

1.2. Description of the Route

- 1.2.1 The route runs along the defined lane known as Pidland Lane, which starts at the county road south of Templeton Bridge at point A (GR SS 8778 1441) and proceeds generally south south westwards along the lane to point B (SS 8760 1413), at the end of Cleave Wood and where there are gate hanging and shutting posts. The route continues southwards to point C (SS 8760 1401) where it meets Footpath No. 2, Templeton.
- 1.2.2 The total length of the proposed footpath is approximately 455 metres with an improved stoned surface either side with some earth/grass in the centre section along most of the lane. There are photographs of the route in the backing papers.

1.3 Consultations

- 1.3.1 Templeton Parish Council advised that they were unable to comment as two of the adjacent landowners/private right holders are also parish councillors.

- 1.3.2 The representative of the Tiverton Ramblers Association advised that he could see no reason for an objection to the proposed new footpath. No other responses were received apart from those as mentioned below.

4 Documentary Evidence

4.1 Ordnance Survey and Other Maps

- 4.1.1 The Ordnance Survey and other mapping do not provide evidence of the status of a route but can be evidence of its physical existence over a number of years.

4.1.2 OS 1 inch to a mile Sheet 21 1809

On the first edition of the OS one inch to a mile series maps Pidland Lane is shown as a defined double sided lane between Templeton Bridge and the stream south of point C in a similar manner to other lanes in the vicinity that are now county roads. A small building is shown east of point C. From point C a double pecked line (indicating unfenced track/lane) is shown going westwards which appears to be the main access to Cleave Farm at that time.

4.1.3 Greenwood's Map of Roads 1825

These well-made maps were produced using surveyors and a triangulation system and are considered to be reasonably accurate. They were published in 1825 at a scale of one inch to the mile and date between the 1st edition OS maps and Tithe Maps published in the mid 19th century. Roads were shown as either turn pike roads with a bold line on one side of the road or as cross roads. Pidland Lane is shown as a cross road, a defined lane with solid sides that follows the current route. At the southern end the lane then bears north westwards continuing as a lane, unfenced on one side and appears to be the vehicular access to Cleave Farm at that time.

4.1.4 OS 1st & 2nd Edition 25" to a mile 1880-1890 & 1904

Pidland Lane is shown as a named defined lane with its own compartment number of 189 and area of 0.648 acres. The pecked line across the end of the lane at point A could indicate a change in surface between the lane and the county road. A pecked line also runs along the lane. The southern end of the lane runs within the woodland compartment number 168a. From point C a defined lane continues eastwards past a building called Lagg Cottage and onto the stream and parish boundary. From there, two pecked lines continue southwards into Northcote wood and south eastwards back across the stream with foot bridge and the parish boundary to Lenridgemoor Cottage. From point C a double pecked line annotated 'F.P.' continues westwards along the route of Footpath No. 2, Templeton towards Cleave Farm. Two buildings are shown in the compartment numbered 168 south of point C.

- 4.1.5 On the 2nd Edition, Pidland Lane continues to be shown as a named double solid sided lane with compartment number 189 and size 0.648 acres. The southern end of the lane remains unfenced on the west side through the woodland compartment 168a. There is no trace of any building at Lagg Cottage and only one building is shown in compartment 168 south of point C. From point C the lane continues south eastwards to the stream and parish boundary now with a foot bridge and a double pecked line continues back across the parish boundary

with a ford and footbridge to Lenridgemoor Cottage. A double pecked line annotated 'F.P.' continues westwards along the route of Footpath No. 2, Templeton.

4.1.6 OS 1 inch to a mile maps of 1946, 1960 & 1965

On the 1946 edition, the route is shown as an uncoloured defined double-sided lane that opens out into a small enclosed area just north of point C. From the key a narrow white lane corresponds to 'Minor Roads in towns, Drives and Unmetalled Roads'. The preparation of the Definitive Map had not been started when the 1946 OS edition was published but the key shows a pecked line on the map referring to 'Footpaths & Bridle Paths'. A pecked single line is shown going north west to Cleave Farm. This is on the alignment of the current Footpath No. 2, Templeton but is not shown as continuing westwards to Colston Barton.

4.1.7 On the 1960 edition, the route is again shown as a distinct double-sided white lane (Unmetalled Roads) throughout the length of the route to point C. The pecked line to Cleave is again shown with a second line also shown going eastwards towards Templeton. The key refers to the pecked line as 'Footpaths and Tracks'.

4.1.8 In 1967, Pidland Lane is shown as a defined double solid sided lane between points A and C. Public Rights of Way are now recorded on this edition and a red pecked line shows the route of Footpath No. 2, Templeton.

4.1.9 OS 1:25,000 maps of Great Britain – Sheet 21/81 SS92 ca.1950

The 1:25,000 'Provisional edition' or 'First Series', was Ordnance Survey's first civilian map series at this medium scale, the forerunner of the modern *Explorer* and *Outdoor Leisure* maps and published in limited colour between 1937-1961. By 1956 it covered 80% of Great Britain, apart from the Scottish Highlands and Islands. The series is useful for showing rural and urban areas in much greater detail than the standard one-inch to the mile (1:63,360) maps.

4.1.10 Minor roads, lanes and private drives/access lanes are all shown as white uncoloured roads/lanes described as 'Other Roads, Poor, or unmetalled'. The conclusive Definitive Map had not been published when this map was published. Some routes are shown as pecked and dashed lines labelled F.P. and B.R. and some as two narrow solid lines. The map contains the standard OS disclaimer 'The representation of any other roads, tracks or paths is no evidence of the existence of a right of way'.

4.1.11 This sheet published in about 1950 shows the route as a defined uncoloured lane throughout its entire length and described as 'Poor, or unmetalled Other Roads'. A continuation of Pidland Lane is shown southwards into Cruwys Morchard as a double dashed line with a 'F.B.' shown on the parish boundary. There is not a track shown from Pidland Lane to 'Lenridgemoor Cottage' and a double lined track is shown from Templeton Village to Lenridgemoor Cottage along the route of Footpath No. 2. From point C there is a pecked line labelled 'F.P.' proceeding westwards which follows the route of Footpath No. 2, Templeton.

4.1.12 OS Post War Mapping A Edition 2500 1971

The route is shown as a named defined lane along its entire length with compartment number 6525 and size 0.291 ha and 0.72 acres. A pecked line is shown across the lane at point A and a solid line across the lane at point B which may indicate a gate. The lane continues as a defined lane to point C with the lane being unfenced along the west side of the southern section. The woodland compartment 168a has been incorporated into the adjoining field together with two further fields to form a 15.89 acre size field. From point C the lane continues eastwards as a defined lane for a short distance to a solid line from where a double pecked line labelled 'track' continues with a foot bridge to a building now called Linneridge Moor Farm.

4.2 Templeton Manor Plan 1781 (Devon Heritage Centre Ref 7644M/E/6/1)

4.2.1 Estate maps/plans were normally completed by professional surveyors and on the instructions of the estate owner and therefore likely to be reasonably accurate. A plan of the manor of Templeton, the property of Sir John Pole Baronet, was surveyed and drawn by J Folter in 1781. The plan has the land within the manor colour washed in different colours and annotated with a different letter for each holding with that holding's name listed in the key. The plan is drawn with southwest at the top of the plan. Pidland Lane is included within the plan with a solid line on the east side and a solid and pecked line on the west side and is colour washed beige in the same manner as routes that are now county roads. The key describes roads as 'Roads with a hedge each side, Roads with a hedge on one side and Roads without hedges'. The southern end of Pidland Lane as shown on the plan ends on the northern boundary of field 'r15' and a narrow double pecked line, also colour washed beige and described as 'Footpaths' in the plan key, continues southwards. This short section of pecked line then joins a beige narrow double pecked line running from east to west along the route of Footpath No. 2, Templeton as currently recorded on the Definitive Map since 1964.

4.2.2 Pidland Lane is shown as having a hedge only on part of the west side adjacent to a plot of land called Pitland, included with the holding Combe Mill (land with letter e and coloured yellow) and on the same western side, adjacent to Cleave Coppice included with the holding Cleave Farm (letter r and coloured green). Two buildings are shown at the southern end of Pidland Lane, with the annotation 'Mr Maunders Cot'. A building is also shown on the east side of the stream in the area of the current buildings at Linneridge Moor Farm, annotated Mr Hanley's House. At the date the plan was prepared, some 75% of the land adjoining the lane on the west side was part of Templeton Manor and 100% of the land adjoining the east side. The land in the vicinity of Pidland Lane that belonged to Templeton Manor subsequently passed to the Chichester family by 1842 (date of Tithe Map).

4.3 Plan and Agreement for the Rebuilding of Templeton Bridge 1835 (Devon Heritage Centre Ref QS/88/68)

4.3.1 An agreement was signed between Edward Chapple builder of Exeter and others with Richard Eales clerk of the peace for the county of Devon for the

rebuilding of Templeton Bridge over the river Dart in 1835. The plan included with the agreement shows the location of the bridge over the river and four roads that form a crossroads at the bridge. The road heading south west of the cross roads is Pidland Lane and this is shown colour washed in the same style as the other three roads connecting with the cross roads which are all county roads today.

4.4 Tithe Maps and Apportionments

4.4.1 Tithe maps were drawn up under statutory procedures laid down by the Tithe Commutation Act 1836 and subject to local publicity, which would be likely to have limited the possibility of errors. Roads were sometimes coloured, and colouring can indicate carriageways or driftways. Public roads were not tithable. Tithe maps do not offer confirmation of the precise nature of the public and/or private rights that existed over the routes shown. Public footpaths and bridleways are rarely shown as their effect on the tithe payable was likely to be negligible. Routes which are not included within an individual apportionment are usually included under the general heading of '*public roads and waste*'.

4.4.2. Templeton Tithe Map 1842 & Apportionment

On the Templeton Tithe Map the roads that are now publicly maintained are colour washed yellow as are a number of lanes giving access to farms and properties including Pidland Lane. These roads/lanes are not numbered. At the end of Pidland Lane the lane continues westwards to a field gate and also eastwards and then south eastwards across the stream into Northcote Wood. The stream is the parish boundary with Cruwys Morchard parish and on the map, a double pecked line continues southwards into the wood and is annotated 'From Morchard'. An access is now shown from Cleave Farm northwards to the county road Coombe Hill, west of Templeton Bridge. The word 'footpath' is written adjacent to a bridge over the stream south west of Linneridge and a pecked line also colour washed yellow follows the existing route of Footpath No. 2 east of Linneridge Moor to Templeton village.

4.4.3 The Tithe map shows that a property at Linneridge Moor, owned by Thomas Payne and occupied by Charles Collard. There are four buildings shown south of point C with plot numbers 424 – 426, 429 and 430. The apportionment confirms that plot numbers 424 - 426 and 429 are all described as 'cottage and garden' and number 430 is described as a 'cottage'. Nos 427 and 428 are 'gardens'. The cottages and gardens were all owned by Joseph Maslin and occupied by Joseph Maslin, Matthew Maslin, Thomas Hagley & William Pearse. At this date it appears that Pidland Lane was providing access to the four cottages. All the land either side of Pidland Lane, except for plot number 444 at the top northwest side of the lane by Templeton Bridge, was owned by the Chichester family.

4.5 OS Name Books early 20th Century (PRO ref OS35/1714 of 1903)

4.5.1 The OS name books checked the names and definitions of features, houses, rivers, places, lanes printed on the large scale (6" and 25") second edition OS maps that were first published in the late 19th century. The definitions were typically authorised by the owner where an object (say a farmhouse or

gentleman's residence) was privately owned and by the district overseer/surveyor or someone in a public position where they were in public ownership.

4.5.2 In the OS name book, Pidland Lane is described as 'a lane leading from Templeton Bridge to Northcote Wood' and was signed for by the local surveyor of highways Mr W Mildon, District Surveyor, Ash Thomas. At the end of the name book Pidland Lane is listed with a number of other names such as Templeton Bridge and Coombe Hill (a county road) and again signed for by Mr Mildon.

4.6 Finance Act Plans and Field Books 1910

4.6.1 The Finance Act imposed a tax on the incremental value of land which was payable each time it changed hands. In order to levy the tax a comprehensive survey of all land in the UK was undertaken between 1910 and 1920. It was a criminal offence for any false statement to be knowingly made for the purpose of reducing tax liability. If a defined lane/road is not included within any hereditament, there is a possibility that it was considered a public highway, as it had not been claimed as belonging to an adjoining landowners' holding, but there may be other reasons for its exclusion. If public rights of way were believed to cross their land, landowners could bring this to the attention of the valuers/surveyors and the hereditament (holding) could be given an allowance for the public right of way, which would then be deducted from the total value of the hereditament.

4.6.2 The allowance given was often on the basis of a figure such as a £1 times 25 yp. The yp refers to years purchase, a method of valuation used to convert a property's income flow (rent) into an appropriate capital sum on the basis that the capital value of a property is directly related to its income producing power. This method of valuation was often used in Finance Act valuations.

4.6.3. Pidland Lane is excluded from the adjacent hereditaments. The lane adjoins three hereditaments. Number 51 to the west of the lane and close to Templeton Bridge (point A), number 13 which runs along the majority of east side of the lane and number 42 which runs along the west side of the lane and also includes the southern field on the east of the lane. The colouring of the land belonging to Cleave Farm (number 42) that extends on both sides of the lane breaks where the colour crosses Pidland Lane. Hereditaments number 13, Combe Grist Mills and number 42, Cleave were both owned by Col H Chichester. An allowance of £45 was made for Cleave farm in respect of footpaths, which could correspond to the recorded Footpath No. 2, Templeton which crosses several fields of the holding. The amount of the allowance considered due to the number of fields crossed by the footpath on that holding.

4.7 Vestry Minutes and Parish Council Meeting Minutes

4.7.1 No vestry minutes for Templeton parish were found. The minutes for Templeton Parish Council from 1894 to 2000 were also not traced and unavailable to view as they were not in the South West Heritage Centre or traced within the parish. The current clerk had electronic minutes from 2000.

4.8 British Newspaper Archive (online)

4.8.1 No references to Pidland Lane were found within the British Newspaper Archive.

4.9 Parish Survey under National Parks & Access to the Countryside Act 1949

4.9.1 Pidland Lane was not proposed for inclusion as a public right of way in the 1950 parish survey. Footpath No. 2, Templeton which the proposal route joins at its southern end at point C was proposed for addition to the Definitive Map by the Parish Council in the 1950 parish survey. The path was surveyed by Messrs Ayre and Drake. The grounds for believing path to be public were 'Undisputed use by the general public over 35 years'. Footpath No. 2, Templeton was subsequently included on the Definitive Map with the conclusive map for the Tiverton Rural District Council published on 9th June 1964.

4.10 Devon County Council Reviews of 1968, 1971 & 1977

4.10.1 The addition of Pidland Lane as a public right of way was not made by Templeton Parish Council in the 1968 review. No response was received to the 1977 review as the parish did not seem to have an active parish council at that time.

4.11 Aerial Photography RAF 1946-1949, 1999-2000, 2006-2007 & 2015-2017

4.11.1 On the 1946-1949 aerial photography, Pidland lane can be seen as a defined lane with the lane surface viewable along some of the route. Compartment 168a on the OS 25" maps is shown as a pasture field incorporated within the adjoining field with some larger trees along the lane's west boundary between points B and C. A continuation of the lane/track can be seen continuing eastwards to buildings at Linneridge Moor Farm. A line across the field westwards from point C corresponds to the route of Footpath No. 2, Templeton towards Cleave Farm.

4.11.2 In the 1999-2000 and 2006-2007 photographs the surface of the lane cannot be seen between points A and B as it is obscured by the trees growing on both sides of the lane. Between points A and B Pidland Lane is shown as a defined lane with trimmed hedges on both sides. From point C a track can be seen continuing to Linneridge Moor Farm although only the first section is visible in the later photograph. Just south of the track going eastwards from point C a building can be seen south of the track. In the 2006 - 2007 photograph a building is also seen in the adjoining field east of point C.

4.11.3 On the most recent photograph, the lane is still obscured between points A and B but visible between points B and C with the hedges either side not as well trimmed as in the earlier years. The track from point C is visible going south eastwards from point C rather than eastwards on the earlier photographs with the larger building now on the north side of the new track and the smaller building not visible.

4.12 Google Street View 2009

4.12.1 Google street view cameras drove past point A on the county road at Templeton Bridge in 2009. The recorded footage shows that there is no gate across Pidland Lane at point A but there are two wooden signs, one on either side of the lane just south of point A. The sign on the west side said 'Linneridge Moor Farm' and the sign on the east side said 'No Horses Not a Bridal Path'. These signs were erected by Mr Layton who resided at Linneridge Moor Farm between 1968 and 2011.

4.13 Land Registry

4.13.1 The records at HM Land Registry show that all the land on either side of the lane is registered but the lane itself is unregistered between points A and C and for the short section of the old track that extends eastwards from point C. The new track to Linneridge Moor Farm south of the old track being created after 2011. The west side of the lane is registered under title numbers DN417464, Bridge Cottage, at the north end and to DN529810, Cleave Farm, for the rest of the lane and this title also includes the land on the east side of Pidland Lane between points B and C. The remainder of the east side of the lane is registered under DN480846, Coombe Mill. Cleave Farm and Coombe Mill were part of Templeton Manor in 1781 and owned by the Chichester family in 1842 and 1910. None of the adjoining titles' register make any reference to a right of access along Pidland Lane.

4.13.2 The land recorded within title number DN 412050 for Linneridge Moor Farm includes land to the south of point C but does not include any of route included in the proposal. The register includes with part A: Property Register at paragraph 3 dated 25.09.2007 'The registered proprietor claims that the land has the benefit of a right of way over the land known as Pidland Lane. The right claimed is not included in this registration. The claim is supported by statutory declaration(s) by Edward Layton'. Mr Layton owned Linneridge Moor Farm between September 1968 and January 2011 and completed statutory declarations asserting his use of Pidland Lane as access to Linneridge Moor Farm in January 1989, July 2007, 2011 and 2021.

4.13.3 In July 2007 solicitors acting for Mr & Mrs Layton submitted an application to Land Registry to register a possessory title along Pidland Lane for the benefit of their clients. The owners at Cleave Farm had agreed to this subject to them being granted a right of way over Pidland Lane. The application for a possessory title was rejected by the Land Registry and the solicitors then applied to register a right of way over Pidland Lane for the benefit of Linneridge Moor Farm.

4.13.4 A copy email dated November 2010 forwarded by Ms Webb and Mr Leeming from the person dealing with the conveyance of Linneridge Moor Farm to themselves advised that 'Please note that the Title plan does not include the access lane (Pidland Lane). We shall have to accept that the property has a full right of way over Pidland Lane rather than owing it. I am not sure this in fact would make much difference in practical terms'.

4.13.5 Where a lane is unregistered and an owner is unknown, the owners of the land adjoining the lane are deemed to have some 'ownership' rights to the lane under the latin phrase 'usque ad medium filum viae', to the middle line of the way. In practice this means that the adjacent landowners would be considered as having some responsibilities to maintain the hedges/boundary of the lane but does not mean that they could take half the lane into their land or restrict/obstruct the access of anyone holding private rights of way over the lane.

5 User Evidence

5.1 Following the definitive map review conducted in another mid Devon parish, a number of user evidence forms were collected in 2008 from several users, predominately local riders, for routes/lanes that they used which were not recorded as public rights of way or county roads. The forms included routes in a number of Mid Devon and adjacent North Devon parishes. This user evidence was kept on file in the relevant parish, to then be reviewed when the definitive map review opened in that parish, or when the definitive map review was completed across Devon for those parishes where the review had already been completed.

5.2 Eleven of the user evidence forms collected in 2008 are considered to refer to use of Pidland Lane in connection with Footpath No. 2, Templeton or other routes southwards into Northcote Wood. Although it is possible that some of these users were members of the local hunts, none of their forms refer to use when hunting. Use of routes with a hunt would be with the permission of the landowner and is not considered to be use as of right – use without permission, without force and without secrecy. The user forms were collected by people who are aware that it is only the use of routes in a personal capacity for pleasure purposes that should be entered onto the user forms.

5.3 Mrs Bidmead describes the use of a route from Templeton Bridge to Templeton Village, with her map showing use of Pidland Lane and the eastern section of Footpath No. 2, on horseback and on foot many times a year from 2000 onwards. She refers to the route being blocked for horses in 2007 with 'anti' horse signs and notices at Templeton Bridge/at end of Linneridge Moor Farm. She refers to stiles at Linneridge Moor Farm. (Footpath No. 2, Templeton was diverted in the vicinity of Linneridge Moor Farm in 2007). In response to the question 'Do you believe the owner or occupier was aware the public was using the path?' Mrs Bidmead commented 'They had no problem with me walking'.

5.4 Mr Blackford refers to the use of a route from Templeton Bridge to Wood Farm, Pages Cross, Bradley (these are to the south in Cruwys Morchard and Tiverton parishes). Mr Blackford has signed a map high lightening Pidland Lane and the east section of Footpath No. 2, Templeton. Mr Blackford refers to his use on horseback 2 to 3 times a year between 1981 and 1999. He does not refer to any gates, stiles or notices. He had not obtained permission, been stopped or turned back.

5.5 Mr Burrow refers to use of a route from Templeton bridge to Tithe Wood, Fords and Bradleys wood, all south of Templeton Bridge. He has signed a map

- showing Pidland Lane and the east section of Footpath No. 2 highlighted. He refers to use on horse between 1970 and 2002 for pleasure but has not confirmed frequency. He refers to not many gates and no notices and had not obtained permission, been stopped or turned back.
- 5.6 Mr Cheffings refers to a route from Tithe Wood (to the south of point C in Cruwys Morchard parish) to Templeton Bridge via Linneridge Moor. No map was attached. He refers to varied use during the year on horse for pleasure and work between 1980 and 2000. He refers to gates but no notices and had not obtained permission, been stopped or turned back.
- 5.7 Mrs Conebeare had completed a user evidence form for a route in Cruwys Morchard used between 1997 to 1999 but on her signed map and also highlighted the route from Templeton Bridge to point C and a continuation to Templeton Village and into Cruwys Morchard parish. In an attached letter she had written 'I've never been able to ride from Templeton Bridge to Templeton because it was blocked at the bridge end, only ever walked it'. There is no information regarding how it was blocked, whether by something physical or a sign.
- 5.8 Mr Cox described a route from Templeton Bridge to Templeton (and had signed the map which highlighted Pidland Lane and the east section of Footpath No. 2). He had used the route in the 1960s, 1970s and 1980s a few times a year walking on foot with his father who was on horseback. He had not obtained permission, been stopped or turned back.
- 5.9 Mr Davies described a route starting top of Templeton no 2 down to Linneridge then Templeton Bridge with the route of Pidland Lane and east end of Footpath No. 2 shown on his map. The route was used 50 years ago on a regular basis through the winter for about 10 years (estimated years being mid 1950s to mid-1960s) for pleasure on horseback. He had not obtained permission, been stopped or turned back. Mr Davies mentions in his form that there was at the moment (July 2008) a notice at the end of Linneridge Lane (believe referring to Pidland Lane) saying no horses. As far as he knew there's always been a right of way. Under additional information he commented 'this route was used for years, certainly up to 20 years ago'.
- 5.10 Mrs Deakin described a route from Kelly Lane (in Cruwys Morchard parish) to Linneridge and Templeton Bridge. Her map shows a route along Pidland Lane to Linneridge and then westwards into Northcote Wood to Kelly Farm and the county road. She had used the route quite often between 1968 and 2005 riding for pleasure. Mrs Deakin refers to gates unlocked and she had not obtained permission, been stopped or turned back. Under additional information she commented 'This was a good way to go to avoid the main road when riding'.
- 5.11 Mrs Martin describes a route from Templeton Bridge to Templeton village but no map was attached. She had used the route off and on between 1961 to 1992 riding for pleasure. She refers to gates unlocked and she had not obtained permission, been stopped or turned back.

- 5.12 Mr Isaac describes a route from Templeton Bridge to Linneridge Moor Farm, Templeton Village with no map attached. He used the route, not often, between 1957 to 2008 on foot for work. He refers to gates and he had not obtained permission, been stopped or turned back.
- 5.13 Mrs Luxton described a route from Templeton Bridge to Templeton Village with no map attached. She had used the route from the 1960s 50 plus times a year for pleasure on foot and horse. She refers to gates, not locked and she had not obtained permission, been stopped or turned back.
- 5.14 A further nine user evidence forms were received having been completed in 2020 and 2022 following erection of the field gate at Templeton Bridge and the sign saying 'Private Property – No Access', which caused the users to question their right to walk Pidland Lane.
- 5.15 Mr & Mrs Dinneen of Templeton parish completed separate forms but provided similar information. They had used Pidland Lane between 2000 and 2020. Their use on foot varied between daily and monthly depending on whether their property in Templeton was their main home or a second home during those years. When used as a second home they were rarely absent for more than a week. Their average frequency of use would be 10 to 20 twenty times a year. They refer to the sign at Templeton Bridge. They had not sought or ever been given permission to use the lane, had not been told the route was not public or ever been stopped or turned back when using the route. Under further information, Mrs Dinneen has advised that they would use Pidland Lane to access the footpath to Templeton village, visit the previous owners of Linneridge Moor Farm or exercise and play in the fields adjoining the lane and stream.
- 5.16 Mrs Greenfield of Templeton parish had used Pidland Lane on foot 2 to 3 times a year from 1986 to 2019 to access the footpath at point C. She did not use the route after the gate was erected in 2019. She had not sought or ever been given permission to use the lane, had not been told the route was not public or ever been stopped or turned back when using the route. Under further information Mrs Greenfield commented 'There was never a problem walking along Pidland Lane to access the footpath at point C. I think most people assumed it was a PROW/footpath as the previous owners of Linneridge Moor Farm weren't concerned and neither were the two farmers who own the land on either side of Pidland Lane. Since I've lived in Templeton the status of Pidland Lane as a Public Right of Way/footpath has never been questioned or challenged before'.
- 5.17 Mr Hunt of Templeton parish had used Pidland Lane daily from 2006 until the present time. He refers to the sign at Templeton Bridge. He had not sought or ever been given permission to use the lane and was not sure of any ownership, had not been told the route was not public or ever been stopped or turned back when using the route.
- 5.18 Ms Kennedy of Templeton Parish had used Pidland Lane daily from 2006 to the present time. He has referred to the sign at point A. She had not sought or been given permission to use the lane, had not been told the route was not public or ever been stopped or turned back when using the route.

- 5.19 Mrs B Linden of Templeton has used Pidland Lane weekly on foot from 2010 to the present time. Mrs Linden refers to the gate and sign been erected at point A. She had not sought or ever received permission to use the route. She had not been told the route was not public but is aware of other people been told it was not public who do not live locally and by inference with the gate sign. She has never been stopped or turned back when using the route. Under further information, Mrs Linden commented that 'Pidland Lane is an ideal access point to reach public footpath (2) and much more accessible for households who live near the Templeton Bridge'.
- 5.20 Mr R Linden of Templeton has used Pidland Lane on foot daily from 2010 to the present time. Mr Linden refers to the gate and sign at point A. He had not sought or ever received permission to use the route. The gate and sign at Templeton Bridge indicated to him that the route was not public. He has never been stopped or turned back when using the route but in further information advised that some of their guests staying have been informed that they should not use Pidland Lane when walking public footpath 2 by the owner of Linneridge Moor Farm.
- 5.21 Ms Richards of Brixham had used Pidland Lane on foot monthly from 2010 to 2020 (present). Ms Richards mentioned the gate and sign at Templeton Bridge. She had not sought or ever been given permission to use the lane, had not been told the route was not public or ever been stopped or turned back when using the route. Under further information, Ms Richards advised that she would use Pidland Lane to access public footpath 2 to Templeton village and then to join footpath 1 and back down to Templeton Bridge.
- 5.22 Ms Walker of Templeton had used Pidland Lane on foot weekly from 2019 to 2020 (present). Ms Walker refers to the gate and sign that has been present since her move to Templeton. She had not sought or ever been given permission to use the lane, had not been told the route was not public or ever been stopped or turned back when using the route. Under further information she comments 'this route is important to access the public footpath of which there are very few in this locality'.
- 5.23 A tracking application called Strava (app) is used by runners, cyclists and walkers to log their routes taken and their distance and speed when walking, running or cycling. Using information uploaded by users, Strava publishes 'heat maps' of the routes used by their subscribers. A copy of the heat map for walkers only in the Templeton Bridge area viewed in July 2021 showed use of Footpath No. 2, Templeton by Strava users. The heat map also shows use of Pidland Lane by walkers at a similar or darker density of colour than the recorded public footpath and therefore shows use by Strava users on foot. Although the identity and number of these users is not known, it is considered more likely that people operating Strava would have been doing so whilst undertaking leisure activities as opposed to using the routes in the course of their work or other business activities.

6 Landowner Evidence

- 6.1 The landowners/occupiers who owned land adjacent to the proposal or used the route to access their land/property were contacted individually and advised of the proposal. They were invited to submit their comments and information by way of a completed landowner evidence form or otherwise.
- 6.2 Mr Davies of Coombe Farm has owned the majority of the land adjoining the east side of Pidland Lane except for the one field at the southern end since December 2006. He is aware that neighbours adjacent to the lane, Linneridge Farm and Cruwys Estate have rights of access to land. He has seen people on foot, horseback and motor vehicles regularly on the route. He has given permission verbally when asked to holiday makers, locals, Cruwys estate workers & river authority for leisure or work and estimates this to be about fifty people over the last 10 years. Mr Davies had also completed a user evidence form in 2020 prior to the review consultation and advised that he had used Pidland Lane weekly on foot as a user from 1970 to present, although use was only for hunting and fishing between 1983 to 2005 when residing out of the parish. He refers to the gate been fitted at Templeton Bridge in August 2019 with 'No Access' sign.
- 6.3 Mr Reed and family have occupied Cleave Farm since 1941 and purchased the farm in 1958. They own all the land on the west side of Pidland Lane, south of Bridge Cottage and the field at the southern end on the east side.
- 6.4 Mr Reed had completed a user evidence form in 2020 and again early in 2022. He thought the route to have the status of a bridleway and had used the route on foot and with a tractor and trailer from 1958. He thought the route to be public because since 1958 it has always been used by the public to access the footpath at point C. Since the gate was erected at point A he is unable to access Pidland Lane with his quadbike because as an amputee he cannot get off and on his quadbike to open the gate. They were aware of the public using the lane because it has always been a public right of way to the best of his knowledge. He understands that as they own land on both sides of the lane they would have a private right of access.
- 6.5 Under further information on the 2022 form Mr Reed commented "I have lived in Templeton for 82 years. I can remember members of the public walking along Pidland Lane since I was 7 years old. The lane has always been open to members of the public until the current owners at Linneridge erected a gate at point A. I have always thought it was a public right of way as even in 1963 when we were clearing and replanting Cleave Wood for example, members of the public were walking from Cruwys Wood to Templeton Bridge, also through Cleave and Colston Barton and the other way. It is only recently that the lane has been blocked by a gate at A and a prohibitive 'Private' sign".
- 6.6 Mr Seers and Ms Wilson have resided at Bridge Cottage at the north end and west side of Pidland Lane near Templeton Bridge since October 2017. He has seen people using the route and motor vehicles for access to property southwards. The lane is used by him for garden maintenance. He is

inadvertently aware that some non-local vehicles have used the lane because of no sign at Templeton Bridge to state it is a “No Through Road” or similar. Clearly private properties further down the lane need access. He has no particular views regarding the lane being designated a footpath only.

- 6.7 Mr & Mrs Layton owned and lived at Linneridge Moor Farm from September 1968 until April 2011. To his knowledge there was never a right of way. He had seen people using the route on foot who were friends and neighbours plus Mr Reed bringing cattle to graze. He had stopped the two local hunts, although they were not happy, they accepted that it was not a bridle path. Mr Layton had given verbal permission for friends and neighbours from 1970 onwards who asked if it was in order to walk the lane. Permission was only refused to the hunt. The two wooden signs by Templeton Bridge (point A) were erected around 1970, but probably repaired over the years. He had mentioned to Councillors that the route was not a highway.
- 6.8 In a covering letter Mr Layton said that they had used Pidland Lane as their right of way. The lane was used by neighbours for passing through or visiting. He always maintained the lane at his own expense. The old correspondence/papers he had sent to the County Council show that the lane is not a footpath or bridleway but he has no idea what it is now.
- 6.9 In 2011 Mr Layton completed a third statutory declaration to confirm the contents of his previous declarations regarding the use of Pidland Lane as access to the property as referred to in the land registry title. Papers relating to their time at Linneridge Moor Farm were sent to the County Council by Mr Layton. These included a copy of the solicitors’ correspondence relating to the unsuccessful application to register a possessory title on Pidland Lane. A handwritten note on a letter to Mr Layton, understood to be by Mr Layton, says ‘The Land Registry stated that as Mr K Reed has a small field adjoining the lane we were unable to do so’.
- 6.10 Other letters included are one from Devon County Council’s Divisional Surveyor for Tiverton dated 12th August 1986 which thanked Mr Layton for his enquiry and confirmed that Pidland Lane is not maintained as a public highway or shown on the Definitive Rights of Way map.
- 6.11 Ms A Webb and Mr D Leeming purchased Linneridge Moor Farm from Mr Layton in January 2011. They do not own any land adjoining Pidland Lane between points A and C but they do use Pidland Lane as the only vehicular access to their property and have maintained the lane at their own expense. They have submitted a landowner evidence form together with a large number of other documents and comments made on the user and landowner evidence forms received by the Council. These are included in the backing papers and with relevant points summarised below. They and Mr Layton also completed further statutory declarations in December 2021 confirming their use of Pidland lane as access to Linneridge Moor Farm during their ownership of the property and that they did not consider the lane to be a public right of way.
- 6.12 On their landowner form, and additional comments relating to those questions, they advise that they consider Pidland Lane to be an unadopted lane and have

an interest in the lane as the only access to their property and that this has been used as such since at least 1960 and maintained by the owners of Linneridge Moor Farm. Pidland Lane is not shown as being a public right of way on any maps and they do not believe it to be an unrecorded right of way. In response to the question Have you ever seen people using the route? they advised that some people walk it because they know it is an un-adopted lane. During their time at Linneridge they have seen people using the lane on foot, on horseback and in vehicles. In 2012/2013 a number of riders with a hunt exited through the wooden footpath gate from Cleave Farm land (west of point C) and were attempting to ride up Pidland Lane. They were told Pidland Lane was not a bridlepath and they turned back into Cleave Farm.

- 6.13 They have not stopped or turned back anyone using the route or made it known to them that it was not public as Pidland Lane is an-unadopted track which people can use. They have informed people and turned them back if they have driven down (or rode down) and are on their owned private land. People have asked for and been given on-going permission to use the route. A list of names of 38 plus people, given verbal permission throughout their time at Linneridge, has been provided. No one has been refused permission. A galvanised farm gate was installed at Templeton Bridge in August 2019, not locked, to deter vehicles, horse riders, fly-tipping and the local hunts who had been asked not to come onto their land. A 'Private Property No Access' sign was affixed to the wall in December 2018 and moved to the gate in 2019.
- 6.14 Under further comments they advised that they have tried to reduce the nuisance of people driving down the lane or coming down on horseback due to damage to the surface of the lane. Pidland Lane is no different to other access lanes to rural property in Templeton other than it is an unadopted road leading to a footpath. The only reason Pidland Lane is being considered is because it joins Footpath 2 and that it is an unadopted lane and considered 'fair game' by those who walk it 'with permission'; the majority living at Templeton Bridge. In summary they do not believe that Pidland Lane has in some way, over time, become an unrecorded public right of way or that there is enough evidence of uninterrupted usage over twenty years to support the proposal.
- 6.15 The Cruwys estate owns land on the Cruwys Morchard side of the stream (and also the parish boundary) south of point C but does not adjoin the proposal. A previous landowner at Linneridge Moor Farm advised that the estate could use Pidland Lane to access Northcote Wood. Mr Cruwys does not think the route is a public right of way as he does not believe there has been regular public access along Pidland Lane. He has never stopped or turned back anyone or being asked for or given permission to use the route.

7 Rebuttal Evidence

- 7.1 During the consultation period a number of responses were received from people living in Templeton or having connections with the parish.
- 7.2 Mr & Mrs Coffin of Colston Barton, whose land is crossed by the west end Footpath No. 2, Templeton, responded to the consultation. They advised that their family have lived and farmed at Colston Barton for 52 years and in all that

time Pidland Lane has never been a right of way and they had always understood it to be a private lane for the farm.

- 7.3 Miss Coffin resided at Colston Barton from 1970 until 2016. Footpath No. 2, Templeton passes through Colston Barton at the west end. For a time she rode with the Tiverton foxhounds and knew that My Layton at Linneridge did not want the hunt on his land and had put up the sign 'No Bridlepath' to stop the hunt followers using Pidland Lane and to stop riders going on to Cruwys land and Kelly farm. During her time as a Parish Councillor between 2007 and 2019 she cannot recall a question about footpaths being raised. She was aware that some people walk Pidland Lane and some people use it to get to the footpath but she does not believe it is a public right of way. It is one of the old green lanes or old postman's walks.
- 7.4 Mrs Faulkner lived in Templeton between 2014 and 2021. She monitored the water quality along the river Dart and to access that part of the river would ask permission from the landowners at Linneridge Farm at the end of the track as the track was not a footpath on maps or on line.
- 7.5 Mr Faulkner advised that in 2014 his sheep grazed fields south of point C. He walked down the lane and always sought the landowner's permission. He does not agree with any definition of definitive maps of old.
- 7.6 Mr Palmer has lived in Templeton since 1986. Mr & Mrs Layton were friends and they sometimes walked Pidland Lane to drop off or collect their children when they had been looked after by Mr & Mrs Layton. Pidland Lane was never a footpath. Mr & Mrs Layton were very active in the village and people often walked down to see them. The end of Pidland Lane has never been signposted and Mr Layton had two wooden signs at the bridge saying No Bridleway and No Footpath.
- 7.7 Mrs Rose had lived in Nomansland near Templeton parish from 2009 until recently. They had a dog and did many walks along the lanes and footpaths. They did not walk along Pidland Lane as they believed it was private. They followed the footpath from Colston Barton to Templeton village.
- 7.6 Ms Woollacott's grandparents moved to Templeton in the early 1950s and her parents and other family members currently live in the village. Her parents were friends with Mr & Mrs Layton and lots of people walked down Pidland Lane to visit Mr & Mrs Layton as they enjoyed having visitors. She currently walks her sister's dogs in Templeton weekly and walks around the fields and woods with the permission of the landowners. Sometimes she walks along Pidland Lane and does this with the permission of the current owners.
- 7.7 Occasionally Ms Woollacott meets people walking Pidland Lane and many have walked it over the years from the previous owners' time. People move to the village, see it being walked and then they walk it. She would not like to think that her use of lane contributes to making it a footpath as she believes it has never been one.

8 Discussion

Statute (Section 31 Highways Act 1980)

- 8.1 Section 31(1) of the Highways Act 1980 states that if a way has actually been enjoyed by the public 'as of right' (without permission, without force, without secrecy) and without interruption for a full period of 20 years, it 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 relevant period of 20 years is counted back from a date on which the public right to use the way has been challenged.
- 8.2 The erection of the notice saying 'Private Property – No Access' is considered to be a sufficient calling into question of the public's use of the route and did in fact cause the status of Pidland Lane to be raised with Devon County Council. The legal cases of Applegarth (Applegarth v Sec of State for Environment, Transport & Regions [2007] EWHC Admin 487) and Godmanchester (R (on the application of Godmanchester Town Council) v Sec of State for the Environment, Food & Rural Affairs [2007] UKHL 28) acknowledged that it does not have to be a landowner who causes a calling into question of the use of the route but that it is only the actions of a landowner 'in fee simple' that can show a negative intention to dedicate.
- 8.3 The twenty year period back from the erection of the sign in 2019 would be to 1999 and during this time there is no evidence of any lack of intention to dedicate as a public footpath by the adjoining landowners or either by the main users of the lane, although they are not landowners. Mr Layton's sign saying 'No Horses – Not a Bridlepath' was present in 2009 and is understood to have been in situ from the 1970s until 2013-2014. This could also be considered a calling into question for horse riders and cyclists but not pedestrians and also during the time from the 1950s there is no sign any lack of intention to dedicate as a public footpath.
- 8.4 The user evidence received in 2020 is however insufficient to show adequate use by the public during the twenty year period as required by the legislation as only one of the user forms refer to use prior to 2000 and with only four uses prior to 2010. Two of the users who completed user evidence forms in 2008 refer to use of foot of Pidland Lane on foot but their period of use is still insufficient to cover the required period.

Common Law

- 8.5 A claim for a right of way or for upgrading an existing public right of way may also be considered under common law. 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 the owner of the land had the capacity to dedicate a public right of way and that the public has accepted the dedication.

- 8.6 The map evidence considered shows that a route has existed between points A and C since 1781 with the plan of the Manor of Templeton. In the Templeton Manor plan, prepared on the instructions of the owner, Pidland Lane is coloured and described in the key as a road. The southern section is shown as a coloured dashed line through the field r14 to point C where it joins another pecked line on the current recorded route of Footpath No. 2. On the plan a coloured pecked line is described as 'footpaths'. The plan is considered to show deemed dedication by the estate owner at that time of Pidland Lane and the extension to point C together with the current Footpath No. 2 as a public right of way. On the 1791 Templeton manor plan the southern section of Pidland Lane was shown as a footpath. The plan for the rebuilding of Templeton Bridge also shows Pidland Lane in the same manner as the other three roads meeting at the crossroads indicating that the lane was considered to be of a similar status.
- 8.7 On the Tithe map, Pidland lane is again showing coloured, with the width of the colouring continuing through the field to point C. The Tithe map annotation 'from Morchard' across the stream and parish boundary would indicate that there was at that time a through route from Northcote Wood in Cruwys Morchard parish across the parish boundary into Templeton parish. The Tithe map does not show any track access continuing to Linneridge from near point C within Templeton parish and shows access to Linneridge via Footpath No. 2. The through route is therefore considered to have been along Pidland Lane to Templeton Bridge. Pidland Lane would also appear to have been the main route to the four cottages south and east of point C at that time.
- 8.8 On the OS 25 inch there appears to be only one or two buildings south of point C with a named cottage to the east. A double pecked line through the wood south of the parish boundary is shown towards Linneridge Moor. In the OS namebook of 1901 Pidland Lane was described as 'a lane' rather than as a parish road but it has been signed for by the district surveyor rather than the Chichester estate or another landowner. On the 1910 Finance Act plan Pidland Lane is excluded from the adjacent hereditaments, which were then part of the Chichester estate. Routes that were considered to be public highways would usually be excluded from hereditaments.
- 8.9 Throughout the 20th century, the maps continue to show Pidland Lane as a named defined lane, although with the southern section remaining an unfenced headland track within the field on the western side belonging to Cleave Farm. The aerial photograph of 2006 shows this section of the lane now separated by a fence/hedge from the field. Pidland Lane remains unregistered at HM Land Registry and a request to register a possessory title along the lane by a previous owner of Linneridge Moor Farm was refused in 2007.
- 8.10 The documentary evidence from the late 18th, 19th and early 20th century support Pidland Lane as having the reputation as a public way and in accordance with the deemed dedication by 1781. At Common Law, all highways existing prior to the Highways Act of 1835 were automatically repairable 'prima facie' by the parish unless the responsibility could be proven as lying elsewhere. This liability remained so long as the highway existed or until the liability was taken away or transferred by statute. There is no evidence that Pidland Lane had ever been repaired by the parish, or was repaired by the parish at the time responsibility

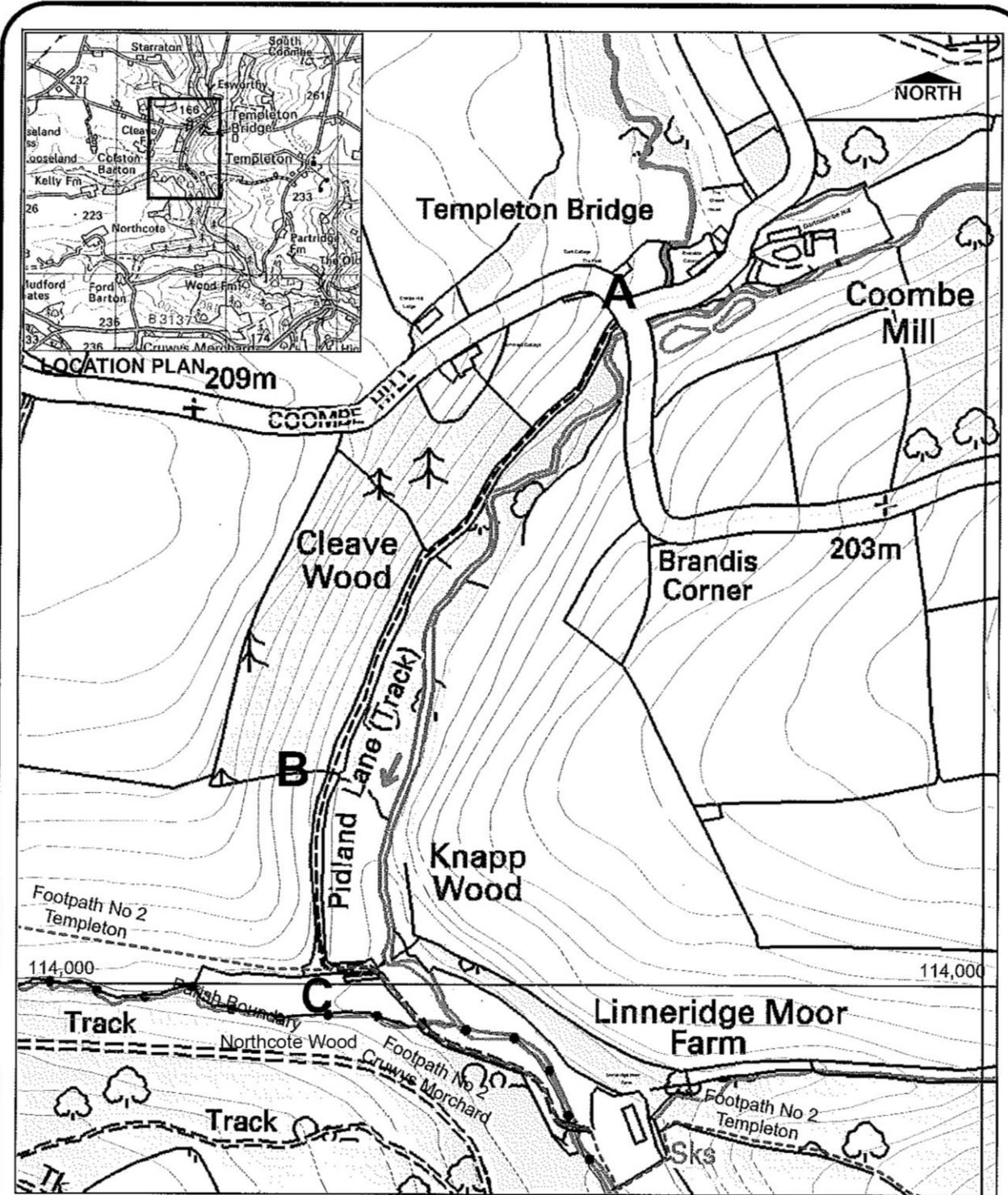
passed to the County Council in 1974, or even to the District Councils in 1894, and remained the responsibility of the adjacent landowners as a 'ratione tenurae' road. Research into Highway Board, Rural District Council and Parish Council minutes in Devon has indicated that 'ratione tenurae' roads were, from the late 19th century types of roads expected to be used by the public, but with the adjacent landowners/occupiers of the road/lane being responsible for the maintenance of the roads.

- 8.11 The user evidence received from both 2008 and 2020 is considered sufficient to show that the common law dedication has been accepted by the public and having allowed for those evidence forms which mentioned use for work purposes. There is insufficient evidence of a continuation of the public right of way beyond use in connection with Footpath No. 2, Templeton.
- 8.12 Several of the users from the 2008 forms had used Pidland Lane in connection with the east section of Footpath No. 2 from point C, through Linneridge Moor Farm to Templeton Village on horseback. After the diversion of Footpath No. 2 at Linneridge Moor Farm in 2006, the diverted route could not have been used by horses and it is also possible that there was no 'footpath' finger post at Templeton village as one was installed by the County Council in 2005. It was also possible for horse riders to enter Northcote Wood from point C by travelling west along Footpath No. 2 and then south across the stream via a field gate. During the current consultation no one has queried whether Pidland Lane and the east section of Footpath No. 2 should be recorded as a public bridleway.
- 8.13 The sign at point A erected by a previous owner of Linneridge Moor Farm saying 'No Horses Not a Bridlepath' would have been a calling into question of use of the lane by horse riders as of right but not pedestrians. The sign is understood to have been in place during Mr Layton's ownership and to 2017 and is mentioned by two of the 2008 users who were using the route at that time. As Mr Layton did not own the lane, this sign and the recent 'Private Property' sign cannot be considered to be evidence of a lack of intention to dedicate, as only a landowner in 'fee simple' and not just the holder of a private right of way can show a negative intention to dedicate. Had Mr Layton owned Pidland Lane, then the sign 'No Horses – Not a Bridle Path', but with no reference to pedestrians or use as a footpath, would be evidence of implied dedication as a public footpath at common law.
- 8.14 The use of Pidland Lane and the east section of Footpath No. 2 from point C to Templeton village by horse riders as per the 2008 user evidence forms has raised the question as to whether a public bridleway may be alleged to subsist along this through route. The use of Pidland Lane by horse riders had been called into question by the sign 'No Horses Not a Bridal Path' that was present in 2008 and maybe from the 1970s. The use of Footpath No. 2 as a bridleway could have been called into question by the public footpath sign been erected at Templeton village in 2005 and/or the diversion of the footpath at Linneridge Moor Farm in 2007. A twenty year period prior to a calling into question on Footpath No. 2 would be from 1985-1987 to 2005-2007. The user evidence received, showing use of Footpath No. 2 by horse riders during this time, is not considered sufficient to show twenty years use as a bridleway by a reasonable number of members of the public to satisfy section 31 of the Highways Act 1980.

There is also insufficient documentary evidence to support the upgrading at common law.

9 Conclusion

- 9.1 It is considered that there is insufficient evidence of twenty years use by the public of Pidland Lane since the erection of the gate and notice at point A in 2019/2020 called into question its use as a footpath. Accordingly, the evidence doesn't fully satisfy the requirements of section 31 of the Highways Act 1980.
- 9.2 Under common law, however, the documentary evidence is considered sufficient to show that a public right of way can be reasonably alleged to subsist over Pidland Lane and that the right of way is that of a public footpath. It is therefore recommended that a Modification Order be made to modify the Definitive Map and Statement in respect of Proposal 1.



Map Ref SS 8714 500m grid

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**DEVON COUNTY COUNCIL
DEFINITIVE MAP REVIEW - TEMPLETON
PROPOSAL NO 1
ADDITION OF A PUBLIC FOOTPATH ALONG
PIDLAND LANE BETWEEN TEMPLETON
BRIDGE AND FP NO. 2, TEMPLETON**

Notation

Addition of public footpath A - B - C (455 metres approx) - - - -

Existing Public Footpath - - - - -

drawing number HIW/PROW/21/36a
date Jul 2021
scale 1:3,500 at A4
drawn by TW

Meg Booth

CHIEF OFFICER HIGHWAYS,
INFRASTRUCTURE DEVELOPMENT AND WASTE

Devon
County Council