

Schedule 14 application Parish of Chardstock

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

Recommendation: It is recommended that a Modification Order be made in respect of the proposal to add a footpath along Stockstyle Lane between points A and B as shown on drawing No CCET/PROW/24/7.

2) Introduction

This report examines one proposal arising from a Schedule 14 application in the parish of Chardstock in East Devon district.

3) Background

A Definitive Map Review of the parish of Chardstock was conducted between 1987-1991. This proposal was not put forward during the review and had not appeared in any previous reviews. A Schedule 14 Application was submitted by Mr Mark Richards in December 2022, and as per Devon County Council policy was added to the register for determination once the parish-by-parish review had been completed. However, in January 2024 Mr Richards indicated his intention to appeal the non-determination of his application to the Secretary of State. As a result of this, and considering the fact that public access along the route has been blocked, it was decided to take the application out of turn.

4) Proposals

Please refer to the Appendix to this report.

5) Consultations

General consultations on the application were carried out in February to May 2024 with the following results:

County Cllr Iain Chubb	- no comment;
East Devon District Council/AONB	- no comment;
Chardstock Parish Council	- comments included in background papers and summarised in report;
Country Land and Business Association	- no comment;

National Farmers' Union	- no comment;
Trail Riders' Fellowship/ACU	- no comment;
British Horse Society	- no comment;
Cycling UK	- no comment;
Ramblers	- comments included in background papers and summarised in report;
Byways & Bridleways Trust	- no comment;
4 Wheel vehicle Users	- no comment;

Specific responses are detailed in the Appendix to this report and included in the background papers.

6) Strategic Plan

The Council's Plan 2021 – 2025, <https://www.devon.gov.uk/strategic-plan/>, has, where appropriate under the provisions of the relevant legislation, been taken into account in the preparation of the report.

7) 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.

8) Legal Considerations

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

9) Risk Management Considerations

No risks have been identified.

10) Equality, Environmental Impact (including climate change) and Public Health Considerations

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

11) Conclusion

It is recommended that a Modification Order be made in respect of Proposal 1 as evidence is considered sufficient to meet the requirements of the legislation. Details concerning the recommendation are discussed in the Appendix to this report.

12) 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 in the East Devon district area, as directed by the Secretary of State.

Meg Booth

Director of Climate Change, Environment and Transport

Electoral Division: Whimble & Blackdown

Local Government Act 1972: List of background papers

Background Paper Correspondence File

Date 2000 to date

File Reference 2000 to date

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Appendix 1 to CET/24/52

A. Basis of Claims

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.

Section 69 of the Natural Environment and Rural Communities Act 2006 (NERC) amended the Highways Act 1980, to clarify that a Schedule 14 application for a Definitive Map Modification Order is, of itself, sufficient to bring a right of way into

question for the purposes of Section 31(2) of the Highways Act 1980, from the date that it was made.

Section 67 of the Natural Environment and Rural Communities Act 2006 (NERC) extinguishes certain rights of way for mechanically propelled vehicles except for the circumstances set out in sub-sections 2 to 8. The main exceptions are that:

- (a) it is a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles;
- (b) it was shown on the List of Streets;
- (c) it was expressly created for mechanically propelled vehicles;
- (d) it was created by the construction of a road intended to be used by such vehicles;
- (e) it was created by virtue of use by such vehicles before 1 December 1930.

Proposal 1: Claimed footpath along Stockstyle Lane, between Chardstock Footpath No. 24 and the Unclassified County Road, points A-B on the proposal map CCET/PROW/24/7.

Recommendation: It is recommended that a Modification Order be made in respect of Proposal 1.

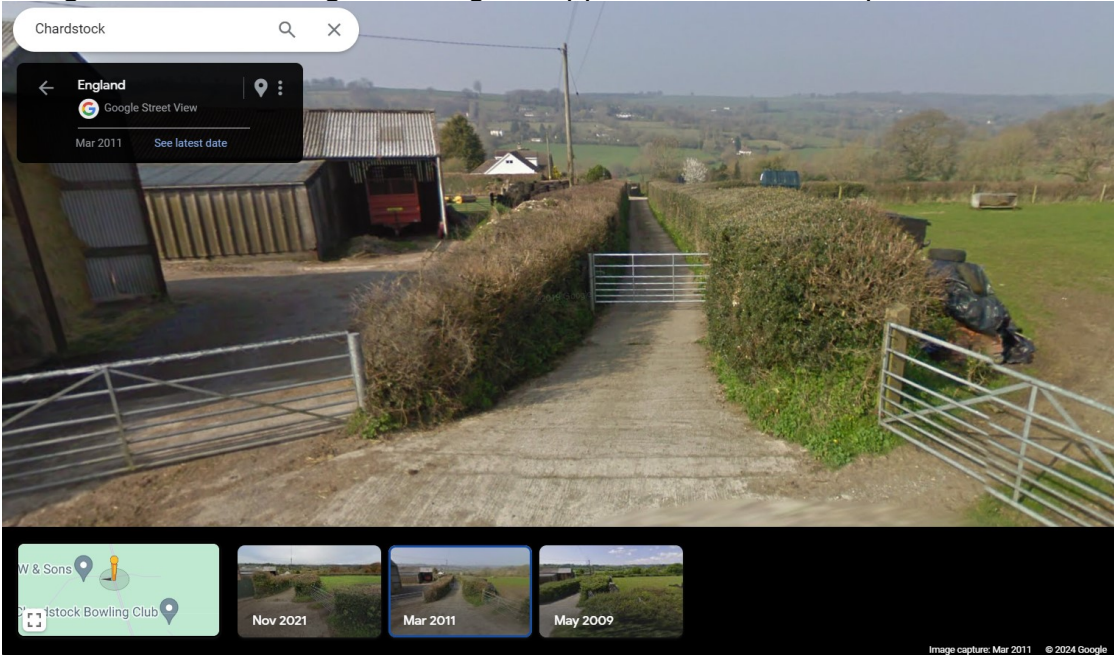
1.1 Background

1.1.1 Mr Richards submitted a Schedule 14 application in December 2022. This appears to have been triggered by longstanding challenges to public use of the application route made by the owner of Hillview. The application included 21 user evidence forms. As the parish review had been completed in Chardstock between 1990-1999 the application was added to the public register for determination following completion of the countywide review. In January 2024 Mr Richards contacted Devon County Council to indicate that he was intending to apply to the Secretary of State to request DCC be directed to determine the application. It was therefore decided to take the application out of turn.

1.2 Description

1.2.1 The application route starts at point A, at the junction of Chardstock Footpath 24 and Stockstyle Lane. It proceeds in an easterly direction along the enclosed lane to meet the unclassified county road at point B. From Hillview to the county road the route is surfaced with concrete. A field gate is situated at the eastern end of the route near point B.

1.2.2 Google Streetview image showing the application route from point B.



1.3 Comments

- 1.3.1 Several comments have been received during informal consultation. Chardstock Parish Council have not formally responded, though Cllr Wilson did so on her own account and supports the claim. She comments that the application route forms a very convenient link to enable a shorter circular walk from the village, one she has often done in the past. Several members of the public emailed with similar comments that the application route creates a very useful link in the PROW network, with one indicating that the route is particularly useful for less mobile people who cannot walk the full length of Footpath 24.
- 1.3.2 The Ramblers responded to consultation but do not support or oppose the claim. They merely confirmed that they have no GPS records of any members using the route for group walks.

1.4 The Definitive Map Process and subsequent reviews

- 1.4.1 The application route was not included in the survey of paths on behalf of Chardstock Parish Council in 1950 and was not put forward for recording as a public right of way on the Definitive Map.
- 1.4.2 The application route was not put forward for inclusion during subsequent uncompleted reviews in the 1960s and 1970s.
- 1.4.3 The application route was not put forward for inclusion during the modern Definitive Map parish review in 1987.

1.5 Documentary Evidence

- 1.5.1 Map and survey of Manor of Chardstock by Samuel Donne, 1781
The application route is shown on a map produced by Samuel Donne in 1781 as part of a survey of the lands of the Manor of Chardstock. Rather than one large map, the survey consists of numerous small maps of disparate land holdings. The application route is shown on one such map, called 'Stock Stile Lane' and shown from Hook Cross (point B) to a point that appears to be approximately 200m southeast of point A based on field boundaries. Stock Stile Lane is not numbered in the same way as the adjacent plots that are shown on the map and included in the inventory.
- 1.5.2 Chardstock Tithe map and Apportionment, 1842
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 titheable. 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 'roads and waste'.

- 1.5.3 The Chardstock Tithe map, produced in 1842, shows the application route, which is coloured yellow in the same manner as other roads which are now public. There is a line across the route approximately at point B, which may indicate a gate. The lane is shown continuing to the west down to a plot beside the river Kit numbered 1184. It is coloured yellow up until this plot. Plot 1184 is named Common Piece in the apportionment and is listed as being owned by the 'Lord of the Manor and Owners of Land entitled to right of Common'. The occupier is listed as 'Occupiers of land entitled to right of common'. Cultivation use is stated to be 'common pasture'.
- 1.5.4 Early historical mapping – early 19th century: Ordnance Survey, Surveyors' Drawings 1806-7 and Cassini 1st edition 1"/mile map 1809 and later (Old Series)
The Ordnance Survey Drawings produced in 1806-7 show some sections of the claimed route. The section between A-B is shown as an unenclosed road, with a building depicted in roughly the same location as Hillview is today. The route is shown continuing westwards beyond point A, reaching the River Kit and another building.
- 1.5.5 The 1" Old Series map of 1809 shows the claimed route in a similar manner to the Surveyor's Drawings. Both of these early OS maps were produced well before the disclaimer concerning public rights of way was introduced in 1889. It can therefore be argued that routes shown on them may have held some sort of public status or reputation at the time they were produced.
- 1.5.6 Later historical mapping at smaller scales: OS 1" editions 1892-1970
OS 1" maps from the late-19th century onwards continue to show the application route. A-B is shown as an enclosed road or track. The route continues to the west on these editions, terminating near the River Kit.
- 1.5.7 Sale catalogue of Henley Estate, Chardstock, 1915
The plan included in this sale catalogue appears to be derived from Ordnance Survey mapping. The application route is shown and named as Stockstyle Lane. It is coloured brown in the same manner as other roads which are now part of the public road network.
- 1.5.8 Highway Maintenance records/Handover maps/List of Streets
Highway maintenance records from the 1920s and used through to the 1970s, often called handover maps, show that the vast majority of the claimed route was not at that time considered to be maintainable at public expense. The application route is left uncoloured and there are no notes or annotations relating to it. These maps did not show footpaths and bridleways, only public roads.
- 1.5.9 The application route is not recorded on the List of Streets, which is the current record of highways maintainable at public expense kept by Devon County Council under the Highways Act 1980.

1.5.10 Aerial photography 1946, 1999-2000, 2006-7, 2010 and 2015

Aerial photography from 1946 shows the application route in much the same manner as it exists today. The route appears to be surfaced from the county road down to Hillview, but beyond that it is obscured by trees.

1.5.11 Aerial photography from 1999-2015 continues to show the application route in the same manner. Trees no longer obscure the western end, which appears to be unsurfaced. The route is enclosed by hedges throughout and a gate is visible near point B from 2010 onwards.

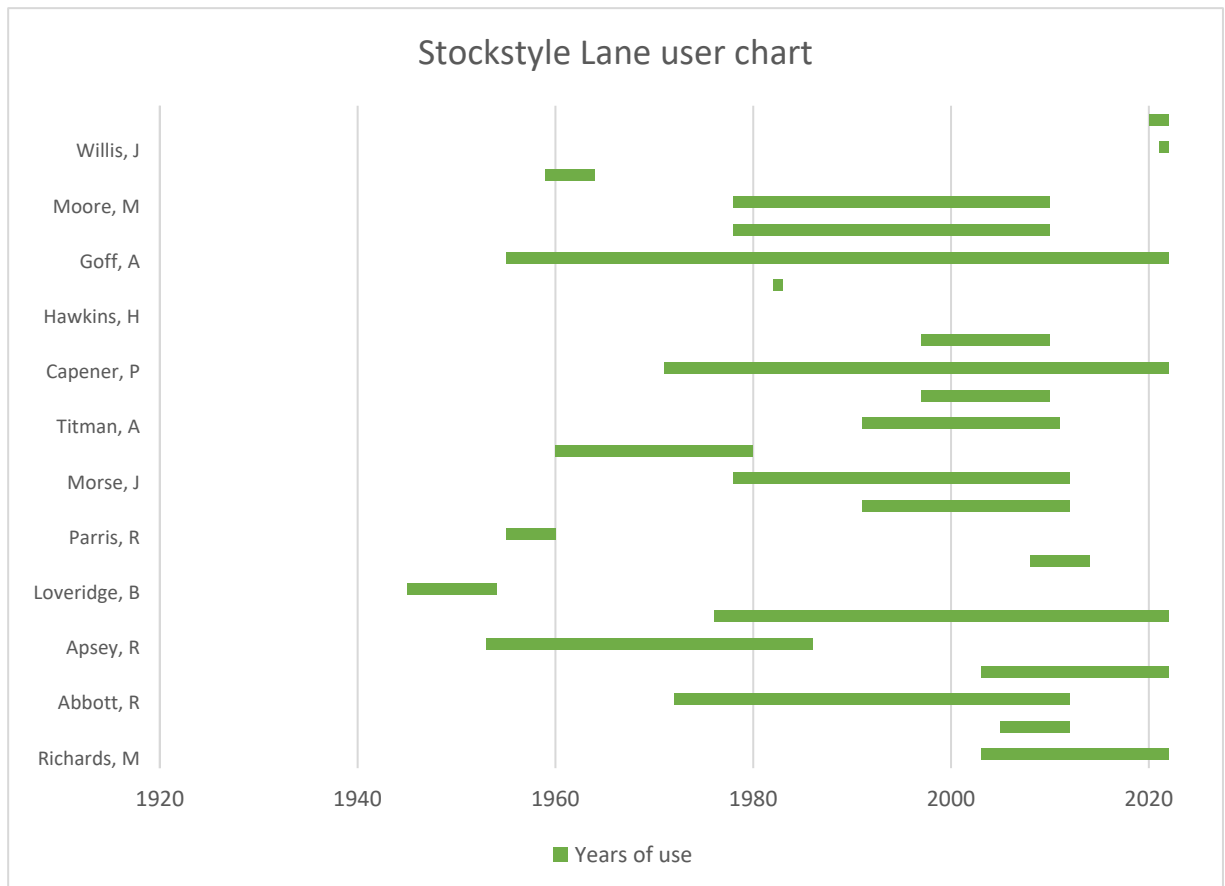
1.5.12 Google Streetview images

Google Streetview images from May 2009 show the application route at point B. There is no gate present at this date. The next available image dates to March 2011 and shows a closed metal field gate across the route, approximately 8-10 metres west of the county road at point B. There is a chain around the gate, though it is not clear whether it is locked shut. The same gate is visible on images from November 2021, though there is no chain or lock visible.

1.5 User Evidence

1.5.1 Twenty four user evidence forms have been submitted; the majority of them accompanied the application, with the remaining few received during informal consultation. All the forms claim use of the route on foot, with the only exceptions being S Lord who also used a bicycle along it in the 1960s and R Loveridge who used a vehicle on the route while undertaking repairs to Footpath 24 on behalf of Chardstock Parish Council as their P3 warden between 2008-2014. It seems appropriate to discount R Loveridge's form due to such use being by right not as of right.

1.5.2 The user evidence forms show a period of use from 1945 until 2024. Several users claim use of the route for many decades: A Goff for 67 years from 1955; R Richards for 46 years from 1976; P Capener for 51 years from 1971. M Moore and F Moore for 32 years from 1978; J Morse for 34 years from 1978; R Apsey for 33 years from 1953. Seven other users claimed use for periods ranging from 13 to 21 years. The remaining users claimed shorter periods of use ranging from 3 to 9 years. Rather unusually, three of these users claimed to have used the route for between 5-9 years during the 1940s and early 1960s, which appears to have been in their childhood, including when walking to the former school in the village.



1.5.3 Frequency of use claimed by the users who returned evidence forms varies, as would be expected. Monthly was the most common frequency indicated, with 15 users doing so. Seven users claimed weekly use, though of these, three of them ticked both the weekly and monthly boxes and one ticked daily, weekly and monthly, presumably to indicate that their use would vary either seasonally or over the years. Six users claimed use every few months, with one user (Parris) simply writing the word *'whenever'* rather than ticking a box.

1.5.4 The overwhelming majority of the users (21) stated that they had used the application route for pleasure as part of recreational walks. One user stated that they used it to walk to the church and village hall and another that they used it to visit friends in the village. Several also refer to using it to access the school, either when they were children or to take their own children to school.

1.5.5 Under the section of why they think the route is public, the users give several different answers, though all are on a similar theme. A few users refer to the route being shown on old maps and several mention the fact that it forms a natural link between Footpath 24 with Bridleway 25. Two users refer to believing that as no one owns the lane it must be public. However, the most common reason given is that it was well known to be available and used by the public within the local community. Both R Parris and B Loveridge state that in their childhoods many people used the route. R Abbott states that *'in the 70s and 80s it was commonly used.'* Other answers given include: *'It was an established way'*; *'History in village'*; *'Local historical knowledge'*; *'Always has been'*; *'Common knowledge'*. A Titman states that *'the footpath was*

shown to me by long term locals and many villagers have used it. The farmers at Stockstyle Farm say it is a footpath.'

- 1.5.6 The majority of the users state that they never sought or were given permission to use the application route. Four users stated that they had done so but did not elaborate any further. They also stated that they did not have any private rights or licenses relating to their use and it seems likely that they answered yes to this question as they believed they had an implied right to use it as they knew the landowners made no objection. All the users stated that they believed the owner(s) of the route were aware the public were using it.
- 1.5.7 Many of the users refer to the gate and subsequent notices erected at the eastern end of the application route, though most do not specify when it was erected. Four users approximate that it was erected in 2010, one in 2011 and one in 2012. Aerial photography and Google Streetview images support the view that the gate was erected in 2010 but do not help narrow the date down any more accurately. Several users refer to the gate initially being unlocked, but that the owner of the bungalow soon began to padlock it shut. Several users continued to use the application route after the gate was erected, though most stopped doing so. Several users refer to '*private*' signs erected on the gate, but there is no evidence that there were any signs or notices erected prior to this by any landowners.
- 1.5.8 Many of the users claim to have been challenged by the present owner of the bungalow adjacent to the application route, and some refer to knowing other people who had been stopped by her. From the information they have supplied it seems that these challenges occurred after the erection of the gate. None of the users specifically refer to being stopped or turned back prior to the erection of the gate. Many of them comment on the robust nature of the verbal challenge from the owner of the bungalow. A small minority of users appear to have contested such verbal challenges and continued to use the route, including climbing the locked gate and ignoring notices. Titman states that the tenants of the bungalow prior to the current owner never challenged use of the application route.
- 1.5.9 Several other snippets of information are included in the evidence forms and are potentially relevant to the claim. R Loveridge completed a form stating that he used the route while undertaking P3 maintenance work on behalf of Chardstock Parish Council. While this use cannot be used as evidence of public use in itself, he mentions in his additional comments that there was a DCC PROW fingerpost sign located at point A where the application route meets Footpath 24. He notes that fingerpost signs are only installed where a PROW meet a vehicular highway. He also mentions that the application route was marked as a public road on the DCC parish map that he used at the time. However, the yellow line denoting 'maintained highways' on these maps is not conclusive in any way and errors are not uncommon. No other users refer to there being a sign at point A to suggest that the application route was a public footpath.

1.5.10 A Goff, who claims to have used the route since the 1950s, states that he had knowledge of the route from an aunt who used to live in one of the cottages that stood where the current Hillview bungalow is built. The route used to continue west past point A down to the River Kit and lead to a bathing area for the students of Chardstock School.

1.6 Landowner and rebuttal evidence

- 1.6.1 The application route itself is not registered with the Land Registry. Three landowners were identified as owning land adjacent to the application route, and all three have submitted landowner evidence forms. Additionally, a previous resident of Hillside (then called Stockstyle) emailed DCC during consultation with comments, though did not complete a landowner evidence form.
- 1.6.2 Mr J Milford returned a form in his capacity as Director of Chardstock Manor Estates Ltd, which owns the land to the south of the application route (including Stockstyle Farm) as well as a small section to the north at the eastern end. Mr Milford states that the land has been owned by the company since 1970 but was previously owned by his family since 1915. He believes that the application route is a public right of way of Byway status based on the fact it has been used by the public for many years. He states that he has never stopped or turned back anyone using the application route, has never been asked or given permission to anyone to use it, nor obstructed the route in any way or erected any notices.
- 1.6.3 Mr J Long, the tenant of Stockstyle Farm and the land owned by Chardstock Manor Estates Ltd, returned an evidence form. He also owns the freehold of land to the east of point A, which is accessed along the application route. Mr Long states that he has owned/rented the land since the mid-1960s and lived at Stockstyle for 65 years. He believes that the application route is a public Byway due to the fact that it links Footpath 24 with the road between Chardstock and Hook, along with the fact that the public and villagers have used it as such for a '*great many years*'. He states that he has seen occasional walkers and ramblers using the route. He states that he has never stopped or turned back anyone using the application route, has never been asked or given permission to anyone to use it, nor obstructed the route in any way or erected any notices. He writes: '*In all the time I have lived here I have never had any problem with any members of the public using it for recreational walking and never challenged anybody over using it.*'
- 1.6.4 Mrs V Haigh of Hillview returned a form confirming that she owns the bungalow and also the field opposite to the north of the application route. She also submitted some additional information and a copy of a statutory declaration from Mr G Long concerning private access rights to the bungalow and land beyond. Mrs Haigh states that she has owned the bungalow and land since January 7th 2000 when she purchased it from '*Long and Sons*'.
- 1.6.5 Mrs Haigh states that since purchasing the property she has had no intention of dedicating the route as a public right of way. She states that: '*It has been*

my habit to challenge any persons using my lane, pointing out that it is not a right of way. She refers to there being no signage at the junction of Footpath 24 to suggest that the application route is a public right of way.

- 1.6.6 Mrs Haigh states that she has obstructed the route with a gate and that it has been in place since at least January 2000. She states that she locks the gate whenever she is able to do so, especially at night, though it is not always possible for her to do so as Mr Long has a private right along the application route and uses it for agricultural purposes. She states that she has placed private signs on the gate many times but that they have been removed by persons unknown.
- 1.6.7 Mrs Haigh describes how she contacted DCC in 2010 to query the status of Stockstyle Lane following the village walking group and Mr Richards (the applicant) querying her challenge to their use of the lane. DCC confirmed that the lane had no recorded public status and that maintenance was the responsibility of the landowners. She also points out that a booklet of walks around Chardstock, produced in 2002 through the Parish Paths Partnership Scheme, did not include any walks along the application route.
- 1.6.8 Mrs Haigh also queried the way the determination of the application has been administered. The determination and consultation has been conducted as per DCC policy and the requirements of the relevant legislation. Mrs Haigh contacted DCC during the informal consultation period to request copies of the user evidence forms, of which she was sent redacted copies.
- 1.6.9 Mr R Myall emailed DCC during the informal consultation period to state that he lived at Hillside (then called Stockstyle) in 1994/5 and that during that time the route was not gated and was used by walkers as well as Mr and Mrs Long.

1.7 Discussion

1.7.1 Statute (Section 31 Highways Act 1980)

Section 31(1) of the Highways Act 1980 states that if a way has actually been enjoyed by the public 'as of right' 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. User and landowner evidence forms are somewhat contradictory. Mrs Haigh claims that the gate has been in situ since 2000, though user evidence, aerial photography and Google Streetview confirm that it was installed sometime around 2010. Mrs Haigh claims to have challenged people using the route since moving to Hillview bungalow in 2000, though the user evidence does not suggest any challenge being made before the installation of the gate. Although there is a case for making January 2000 the date of calling into question, the evidence on the whole suggests that 2010 is the more reliable date. Mrs Haigh may have challenged users prior to this but the user evidence does not suggest it was successfully communicated to the public at large, whereas the erection of the gate and padlocking it shut undeniably was. The relevant period for the

purposes of statutory dedication under the Highways Act would therefore be 1990-2010.

- 1.7.2 Fourteen users claim to have used the application route on foot during the relevant period. Use is uninterrupted and of a frequency that would be expected given the rural location and recreational nature of the use. Landowners were aware of the public using the route during the relevant period. None of the users refer to being challenged or seeing any obstructions or notices challenging use of the route prior to the erection of the gate near point B. There is no evidence that any users directly sought or received permission to use the route during the relevant period; landowners confirm that this is the case.
- 1.7.3 Two landowners were aware of the public using the route during the relevant period and made no objection, both stating that they consider the route to be public. Mrs Haigh has clearly challenged such use very robustly by erecting and locking the gate near point B and subsequently challenging members of the public, though it is not clear that she did so during the relevant period. If she did challenge users verbally during the relevant period, then it does not appear that this was significant enough to class as a calling into question of the route.
- 1.7.4 Although some users and landowners believe the route to be of Byway status, due mostly to the route being an enclosed lane and appearing on old maps as a road/track, all the evidence points to use on foot only during the relevant period. When taken as a whole, the evidence so far available appears to meet the test for statutory dedication under the Highway Act as a Public Footpath.
- 1.7.5 Common Law
The only other basis for its possible consideration as a highway is if there was any other significant supporting evidence from which a dedication of the route can be presumed or inferred under common law. At Common Law, evidence of dedication by the landowner can be express or implied and an implication of dedication may be shown 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.
- 1.7.6 Two landowners, Mr Milford and Mr Long, have owned the land for a considerable period of time (since 1970 and the 1960s respectively, with Mr Milford's family owning it since 1915) during which the public were using the application route. Both have stated that they did not challenge such use and considered the route to be a public right of way. Mrs Haigh has robustly challenged use of the route since 2010 and may have challenged it in a more limited way since 2000. However, this leaves many decades of use by the public prior to 2000 which was not challenged, and the evidence suggests that it was as of right. There is no evidence of the previous owners of Hillside having challenged use by the public. Information from Mr R Myall, a previous resident of the bungalow during 1994/5 (then called Stockstyle), supports this, as does evidence supplied by A Titman who claims that former tenants of the bungalow never challenged her.

- 1.7.7 Historic documentary evidence provides some information about the application route, though does not provide any conclusive evidence of public rights. Stockstyle Lane has undoubtedly existed since at least 1781 when it appears on Donne's Survey of the Manor of Chardstock. While this survey does not concern itself with public rights, only private land, the fact that Stockstyle Lane is not included as a numbered plot as per the adjacent parcels of land does perhaps suggest that it may have held some sort of public reputation at this time. The Ordnance Survey Drawings of 1806-7 and 1" Old Series of 1809 likewise suggest that the route may have held some sort of public status or reputation, though only very tentatively.
- 1.7.8 The Chardstock Tithe Map of 1842 also suggests that the route may possibly been considered public as it was not included within the titheable plots and was coloured in the same way as roads that appear to denote the public road network. However, much like the Survey of 1781 and early OS maps, only limited weight can be attached to it.
- 1.7.9 The Henley Estate sale plan dating to 1915 likewise shows the route coloured in the same manner as public roads, though again only limited weight can be attached to this document. However, although none of these documents are conclusive on their own, when taken together they do cautiously support the view that Stockstyle Lane may have held some sort of public status or reputation from the late eighteenth to early twentieth century.
- 1.7.10 The application route was not put forward during the Definitive Map process. Footpath 24 was recorded on the Definitive Map and the accompanying statement refers to it crossing Stockstyle Lane but does not refer to it being a public highway. It therefore appears that at this time neither the Parish Council, Rural District Council or County Council considered the application route to be a public right of way. The application route was not put forward for consideration during the uncompleted review of the Definitive Map in the 1970s, nor during the modern parish review in 1987.

It is also not recorded as a public vehicular highway on the handover maps or later List of Streets. While these documents suggest that since around 1930 local councils have not considered the application route to hold any public rights, this does not necessarily mean that public rights did not exist. There is no evidence to suggest that the application route has previously been explicitly considered and determined not to hold public rights, creating the possibility that it may have simply been overlooked. Conversely, it may be missing from the Definitive Map process and highway records because it was deemed not to be public, the records of this no longer existing.

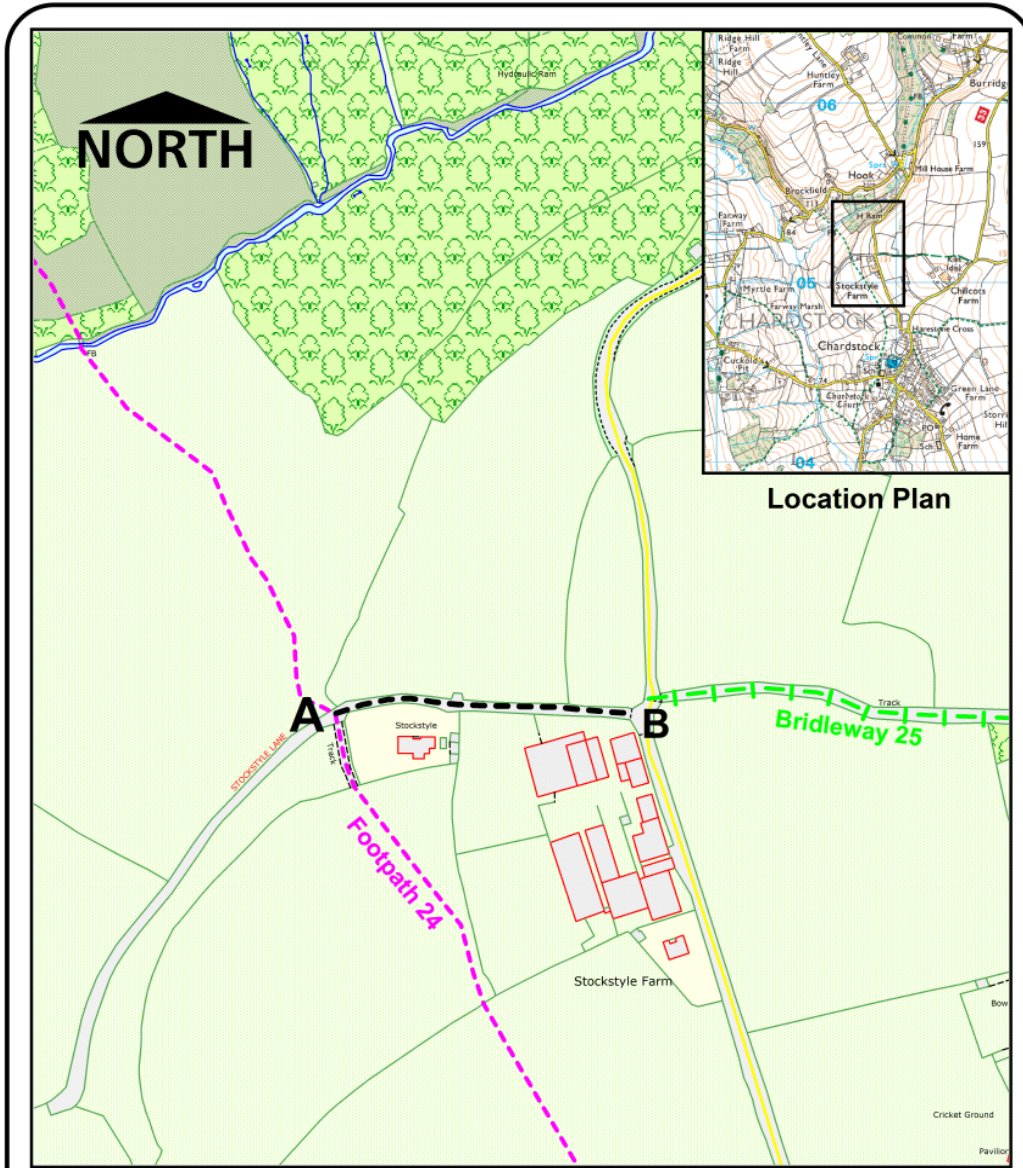
- 1.7.11 The historic documentary evidence suggests that up until the early 20th century the route may have held some sort of public reputation, possibly as a minor public road, though this evidence is only of very limited weight. From the 1940s until the 2000s there has been steady and uninterrupted use of the application route by the public. Use does not appear to have been challenged during this period and appears to have been as of right. Two longstanding

landowners acknowledge that they were aware of this use and confirm they have never objected to it or challenged it in any way. It therefore appears that dedication has been implied and the public has accepted such dedication by using the route.

1.7.12 The evidence when taken as a whole is therefore sufficient to support a claim for dedication under common law.

1.8 Conclusion

1.8.1 From this assessment of the evidence, in conjunction with all evidence available, it is considered sufficient to support the claim that public rights subsist on the balance of probabilities. Accordingly, the recommendation is that a Modification Order be made to record a Footpath in respect of this application.



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DEVON COUNTY COUNCIL
 Chardstock parish
 Informal Consultation:
 Schedule 14 application: claimed footpath at
 Stockstyle Lane, Chardstock

Drawing number: **CCET/PROW/24/7**
 Date: **Feb 2024**
 Scale: **1:2,500 @A4**
 Drawn by: **TCG**

Notation

Claimed Footpath A-B	-----	(130m)
Existing public footpath	- - - - -	
Existing public bridleway	- - -	

Devon County Council 
Meg Booth
 DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT & TRANSPORT