

This is a copy of the Order

Wildlife and Countryside Act 1981 Section 53

The County of Somerset Definitive Map and Statement

Axbridge Rural District

North Somerset District Council

(Upgrading Footpath AX 29/76 to Restricted Byway AX 29/76) Sandmead Drove Sandford

Definitive Map and Statement Modification Order No 2 2020

This Order is made by North Somerset District Council ('the council') under Section 53(2) of the Wildlife and Countryside Act 1981 ('the Act') because the Secretary of State has directed under paragraph 4(2) of Schedule 14 of the Act that an order be made. It appears to the Secretary of State that the County of Somerset Definitive Map and Statement Axbridge Rural District requires modification in consequence of an event specified in section 53(3)(c)(ii) that 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.

The council have consulted with every local authority whose area includes the land to which the Order relates. The council hereby orders that:

1. For the purpose of this Order the relevant date is 1 February 2020
2. The County of Somerset Definitive Map and Statement Axbridge Rural District shall be modified as described in Part I and Part II of the Schedule and shown on the map attached to this Order.
3. This Order shall take effect on the date it is confirmed and may be cited as the North Somerset District Council (Upgrading Footpath AX 29/76 to Restricted Byway AX 29/76) Sandmead Drove Sandford Definitive Map and Statement Modification Order No 2 2020.

Given under the Common Seal of North Somerset District Council on 20 February 2020. The Common Seal of North Somerset District Council was hereunto affixed in the presence of:
North Somerset District Council Seal No.19/20-212 was affixed here on

N P Brain, Head of Legal and Democratic Services, North Somerset Council, Town Hall,
Walliscote Grove Road, Weston-super-Mare BS23 1UJ

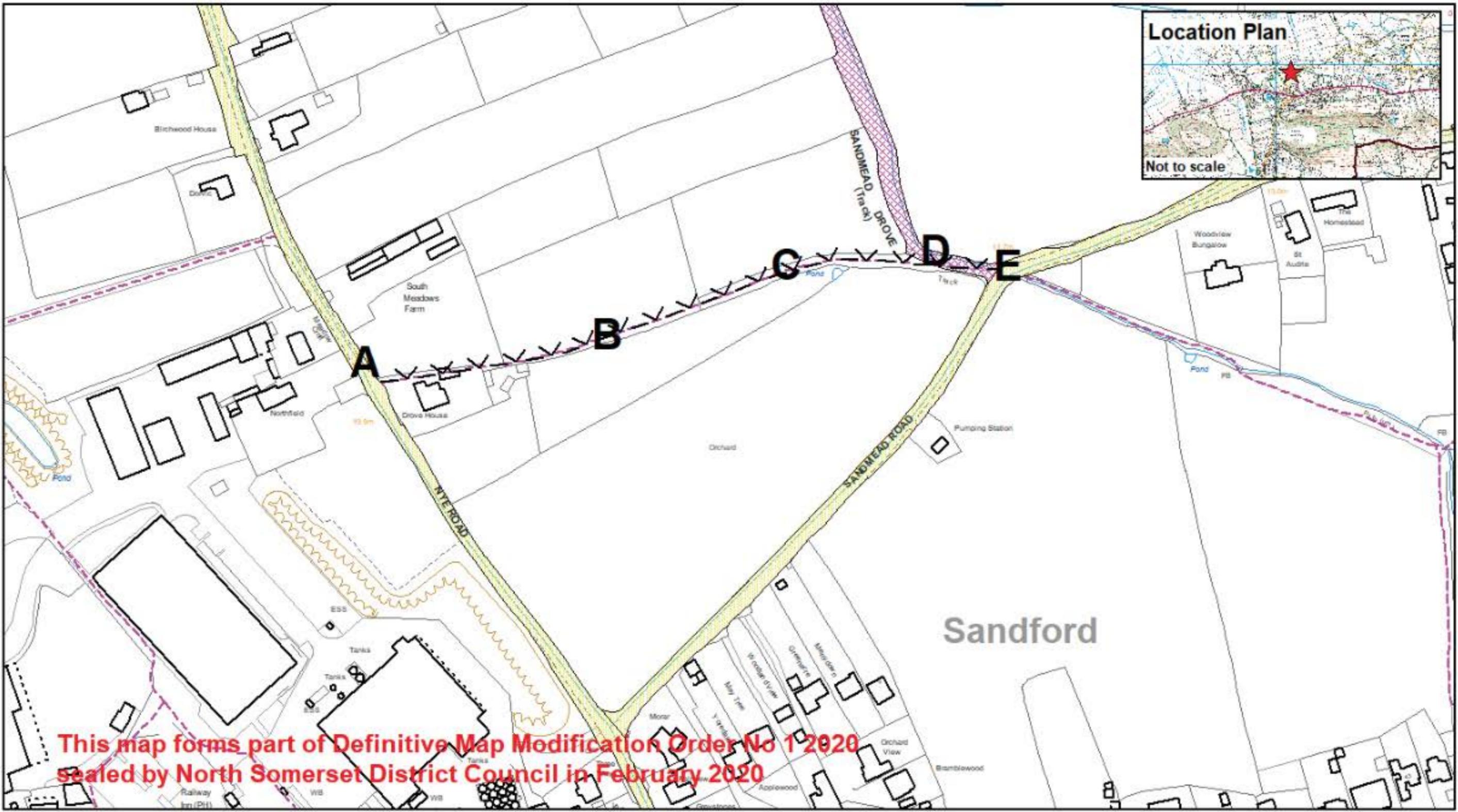
Schedule 1 – Part 1 – Modification of Definitive Map.

Description of Footpath AX 29/76 to be upgraded to Restricted Byway AX 29/76.

The route commences from its junction with the adopted highway known as Nye Road, Point A (Grid Ref: ST42043 59885) and proceeds in an easterly direction along Footpath AX 29/76 for a distance of approximately 311 metres to Point E (Grid Ref: ST42345 59941) its junction with the adopted highway known as Sandmead Road as shown on the attached plan EB/Mod 56.

The width of this route has been defined by reference to County Series OS map of 1903.

That map shows the minimum width varying along its length. Points A to B being 5 metres, B to C being 6 metres, C to D being 5 metres, and D to E being 6 metres as shown on the attached Order Plan EB/Mod 56



This map forms part of Definitive Map Modification Order No 1 2020 sealed by North Somerset District Council in February 2020

Wildlife & Countryside Act 1981 - Sec 53 North Somerset District Council
Restricted Byway AX29/76 Sandmead Drove Sandford
Definitive Map Modification Order No 2 2020



Development & Environment
 Public Rights of Way
 Streets and Open Spaces
 North Somerset Council
 Town Hall
 Walliscote Grove Road
 Weston-super-Mare
 BS23 1UJ
 Tel: 01934 888 802

Map No. EB/Mod 56
 Grid Reference ST4259
 Scale 1:2500
 Date 19 February 2020

Restricted Byway AX29/76
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Part 2 Modification of Definitive Map and Statement. Map no. EB/Mod56. Class and right of way – restricted byway AX29/76. Description of route - From: County Road or Right of Way - Nye Road USRN 47819816. From: Location (with bounding property Nos) - ST42043 59885. General Direction – East. To: County Road or Right of Way - Sandmead Road USRN 47817603. To: Location (with bounding property Nos.) - ST42345 59941. Particulars as to position, width, limitations or conditions as in the opinion of the Authority it is expedient to record. General Description of Route - The route commences from its junction with the adopted highway known as Nye Road, Point A and proceeds in an easterly direction along Footpath AX 29/76 for a distance of approximately 311 metres to Point E its junction with the adopted highway known as Sandmead Road. The width of this route has been defined by reference to County Series OS map of 1903. That map shows the varying along its length. Points A to B being 5 metres, B to C being 6 metres, C to D being 5 metres and D to E being 6 metres as shown on the attached Order Plan EB/Mod 56. Reason for inclusion - Wildlife and Countryside Act 1981. Modification of Definitive Map Upgrading Footpath AX 29/76 to Restricted Byway AX 29/76.

Section 53 of the Wildlife and Countryside Act 1981
The County of Somerset Definitive Map and Statement
Axbridge Rural District
North Somerset District Council
(Upgrading Footpath AX 29/76 to Restricted Byway AX29/76)
Sandmead Drove, Sandford
Definitive Map and Statement Modification Order No 2 2020

The above Order made on 20 February 2020, if confirmed as made, will modify the definitive map and statement for the area by upgrading Footpath AX 29/76 onto the Definitive Map for the area as Restricted Byway AX 29/76.

Footpath AX 29/76 Point A (Grid Ref: ST42043 59885) commences from its junction with the adopted highway known as Nye Road and proceeds in an easterly direction for a distance of approximately 311 metres until it reaches the junction of adopted highway known as Sandmead Road, Point E (Grid Ref: ST42345 59941). This route will be known as Restricted Byway AX 29/76.

A copy of the Order and the Order map together with the explanatory statement may be seen free of charge at the reception of North Somerset Council Offices, Castlewood, Tickenham Road, Clevedon (opposite Clevedon Garages) from 9am to 4.30pm, Monday to Thursday (4.00pm Friday) or may be viewed on the Council's website www.n-somerset.gov.uk/notices. A copy is also available for inspection at Winscombe and Sandford Parish Council Offices, The Parish Office, 11 Sandford Road, Winscombe, North Somerset, BS25 1JA during their normal opening hours.

This is the second time of making this Order. It was brought to our attention that relevant information had been omitted from the first Order that could have been considered fatal to the legality of the Order. Therefore, if commented to previously, it is necessary for that representation or objection to be submitted again.

Any representation or objection relating to the Order must be sent in writing to Director of Development & Environment, North Somerset Council, Streets and Open Spaces, Town Hall, Walliscote Grove Road, Weston Super Mare BS23 1UJ not later than Friday 10 April 2020, objectors are requested to state the grounds on which it is made.

If no representations or objections are duly made to the Order, or to any part of it, or if any so made are withdrawn, North Somerset Council, instead of submitting the Order to the Secretary of State (or part of it if the authority has by notice to the Secretary of State so elected under paragraph 5 of Schedule 15 to the Wildlife and Countryside Act 1981) may itself confirm the Order (or that part of the Order). If the Order is submitted to the Secretary of State for the Environment, in whole or in part, any representations or objections which have been duly made and not withdrawn will be sent with it.

Dated: 27 February 2020

John Flannigan, Community and Environment Service Manager
North Somerset Council, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Wildlife and Countryside Act 1981 – Section 53

North Somerset District Council

(Upgrading Footpath AX 29/76 to Restricted Byway AX 29/76) Sandmead Drove Sandford
Definitive Map and Statement Modification Order No 2 2020

Explanatory Statement

This statement does not form part of the Order

Public footpaths, bridleways and byways open to all traffic are recorded on Definitive Maps and Statements. These maps and statements provide conclusive legal evidence of the existence of public rights. North Somerset District Council is responsible for the Definitive Map and Statement and has a duty to amend them when evidence suggests that they are inaccurate or incomplete. Such amendments are made by means of modification orders made under Section 53 of the Wildlife and Countryside Act 1981. These orders do not come into effect until confirmed; if there are any objections the Council must refer the order and objections to the Secretary of State for the Environment, Food and Rural Affairs, who will decide whether or not to confirm the order.

Definition of a Restricted Byway

A highway over which the public have a right of way on foot, on cycle and on horseback or leading a horse, and for any vehicles other than mechanically propelled vehicles.

The claimed route was the subject of an investigation between Sandmead Road and Nye Road following the submission of an application dated 27 July 2004. That application claimed that the route should be recorded as a Byway Open to All Traffic.

The route A-E commences at the junction of the adopted highway Nye Road and proceeds in an easterly direction along Footpath AX 29/76 for a distance of approximately 311 metres until it reaches the junction of adopted highway known as Sandmead Road. This section of the route will be known as Restricted Byway AX 29/76. This route is shown on the attached Order map EB/Mod56.

Following the normal statutory procedure it was determined that the applicant's evidence did not support the routes being a byway open to all traffic.

North Somerset Council's Rights of Way Sub Committee considered this application on 26 September 2018 and formally resolved that the claim for a Byway Open to all Traffic be declined. The report that was considered by the Committee is available on the Council's website, please note that these have been broken down due to the size of the report and therefore consists of Report 7.

<http://apps.n-somerset.gov.uk/cairo/committees/comidx204-2018.asp>

Following an appeal submitted by the Applicant on 4 January 2019 based on the Rights of Way Sub Committee decision, it was decided by the Planning Inspectorate that an Order should be made to modify the Definitive Map and Statement for the area to show the route A-B as a Restricted Byway. This decision was made on 28 May 2019.

An Order was made on 7 February 2020. It has been brought to our attention that relevant information had been omitted from the Order, that could have been considered fatal to the legality of the Order. It has therefore been necessary to remake that Order, advertise it and invite objections or representations to be resubmitted.

Should you wish your previous objection to be taken into consideration, a letter stating your requirement (which will be attached to the earlier correspondence) should be submitted?

To be relevant, objections or representations should relate to the question as to whether this is a historically used route; other objections or representations (e.g. relating to privacy, security, suitability, desirability or amenity) may be held to be irrelevant.

The right of objection to an order is a statutory right, but it should be exercised in a reasonable manner. It should be noted that all comments received will form part of the case for this Order and if necessary will be forwarded to the Planning Inspectorate and interested parties.

If there are no objections to the order, or if any made are duly withdrawn, the authority may confirm the order, and the Definitive Map and Statement will then be modified. If there are any objections which are not withdrawn, then North Somerset District Council must refer the order and objections to the Planning Inspectorate acting for the Secretary of State for the Environment, Food and Rural Affairs. The Department will appoint an independent Inspector to consider the order and hear the objections, normally by holding a local Public Inquiry. The Inspector may confirm the order, with or without modifications, or may decide that the order should not be confirmed.

North Somerset Council, Development and Environment, Streets and Open Spaces, Natural Environment Team, Town Hall, Walliscote Grove Road, Weston super Mare, BS23 1UJ. Tel: 01934 427406