

Section 53 of the Wildlife and Countryside Act 1981
The County of Somerset Definitive Map and Statement
Axbridge Rural District

North Somerset District Council
(Addition of Footpath AX 31/105 Hawthorn Gardens, Weston-Super-Mare)
Definitive Map and Statement Modification Order No 2 2022

The above Order made on 28th May 2022 if confirmed as made, will modify the definitive map and statement for the area by adding an unrecorded route onto the Definitive Map for the area as Footpath AX 31/105.

Footpath AX31/105 will commence from the end of the adopted highway known as Hawthorn Gardens, Point A (Grid Ref: ST 34829 62972) and proceeds in a west, north-westerly direction for approximately 149 metres to Point B (Grid Ref: ST 34700 62987) where it joins Footpath AX 31/33. This Footpath as depicted by the use on the ground is 1.5 metres in width.

A copy of the Order and the Order map together with the explanatory statement can be viewed on the Council's website www.n-somerset.gov.uk/notices. A copy can also be viewed at Weston super Mare Library during normal opening hours and a copy can be requested by emailing elaine.bowman@n-somerset.gov.uk.

Any representation or objection relating to the Order must be sent in writing to Director of Place, North Somerset Council, Open Spaces, Natural Environment and Leisure, Town Hall, Walliscote Grove Road, Weston Super Mare, BS23 1UJ not later than **22nd July 2022** 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If no representations or objections are duly made to the Order, or to any part of it, or if any so made are withdrawn, North Somerset Council, instead of submitting the Order to the Secretary of State (or part of it if the authority has by notice to the Secretary of State so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of State for the Environment, in whole or in part, any representations or objections which have been duly made and not withdrawn will be sent with it.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 9th June 2022

John Flannigan
Head of Open Space, Natural Environment and Leisure
Place Directorate
North Somerset Council
Town Hall
Walliscote Grove Road
Weston-super-Mare
BS23 1UJ

WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53

NORTH SOMERSET DISTRICT COUNCIL
(ADDITION OF FOOTPATH AX 31/105 HAWTHORN GARDENS, WESTON-SUPER-
MARE)
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER NO 2 2022

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 Footpath

A highway over which the public have a right of way on foot only.

The claimed route has been the subject of an investigation following the submission of an application dated 20th April 2000. That application requested that a route, in the ward of Weston-Super-Mare, which ran between Hawthorn Gardens and Footpath AX31/33 should be recorded as a Footpath. The original application was submitted supported by 12 user evidence forms and supporting letters, however, following pre-order consultation further user evidence forms have been received. Such application for a Definitive Map Modification Order is submitted under Section 53(5) of the Wildlife and Countryside Act 1981. The effect of this request, should an Order be made and confirmed, would be to amend the Definitive Map and Statement for the area.

The route A-B commences at its junction with the adopted highway known as Hawthorn Gardens and proceeds in a west, north-westerly direction for distance of approximately 149 metres terminating at an existing Footpath AX 31/11, Point B. This route will be known as Footpath AX 31/105.

North Somerset Council's Rights of Way Sub Committee considered this application on the 29th March 2022 and formally resolved "(i) that the Public Rights of Way Sub Committee authorised the making of a Definitive Map Modification Order adding the route A-B as shown on the attached Location Plan as a Footpath to the Definitive Map on the grounds that there is sufficient evidence to show that a public Footpath has been established under Section 53(3)(b) and (c) of the Wildlife and Countryside Act 1981.

(ii) that consideration of Recommendations (ii) and (iii) in the Report be deferred until the outcome of the making of the Definitive Map Modification Order was known.

The report that was considered by the Committee is available on the Council's website.

<https://n-somerset.moderngov.co.uk/documents/g792/Public%20reports%20pack%2029th-Mar-2022%2015.00%20Public%20Rights%20of%20Way%20Sub-Committee.pdf?T=10>

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,
BS22 1UJ

Tel: 01934 427406



**Wildlife and Countryside Act 1981
Section 53**

North Somerset District Council

**(Addition of Footpath AX 31/105 Hawthorn Gardens,
Weston-Super-Mare)
Definitive Map and Statement Modification Order No 2 2022**

**N P Brain
Assistant Director Legal & Governance
Town Hall
Walliscote Grove Road
Weston-super-Mare
BS23 1UJ**

File ref: Mod 41

WILDLIFE AND COUNTRYSIDE ACT 1981

THE COUNTY OF SOMERSET DEFINITIVE MAP AND STATEMENT AXBRIDGE RURAL DISTRICT

**NORTH SOMERSET DISTRICT COUNCIL
(ADDITION OF FOOTPATH AX 31/105 HAWTHORN GARDENS,
WESTON-SUPER-MARE)
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER NO 2 2022**

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 it appears to North Somerset District Council 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)(i) of the Act; namely that a right of way which is not shown in the map and statement subsist or is reasonable alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic.

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 1st April 2022.
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 (Addition of Footpath AX 31/105 Hawthorn Gardens, Weston-Super-Mare) Definitive Map and Statement Modification Order No 2 2022

Given under the Common Seal of North Somerset District Council on the 28th day of *May* 2022

The COMMON SEAL of)
NORTH SOMERSET)
DISTRICT COUNCIL)
was hereunto affixed in)
the presence of :-)

21/22 - 700

A Rich

for Assistant Director Legal & Governance

SCHEDULE

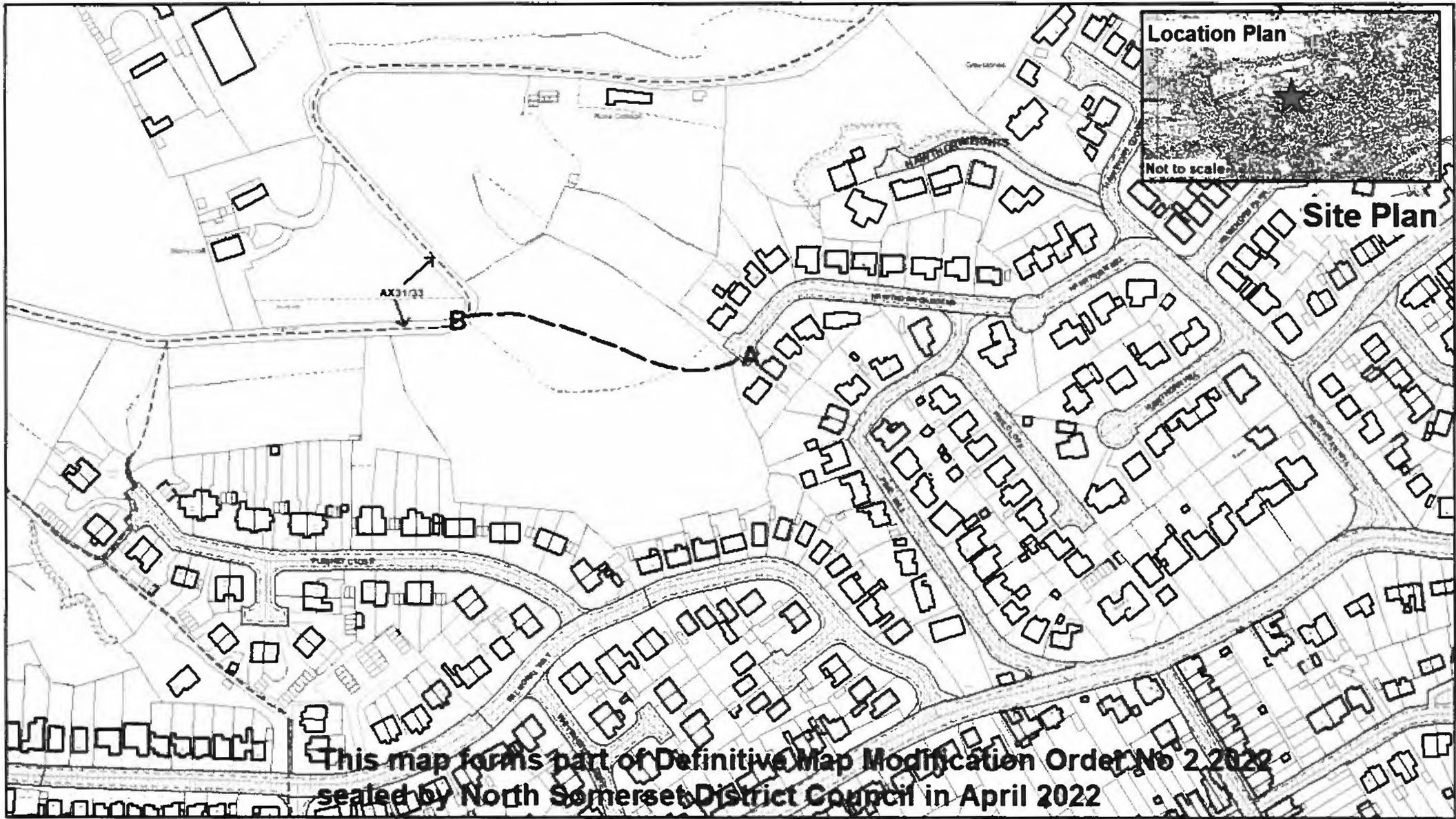
PART I

Modification of Definitive Map

Description of Footpath AX 31/105 to be added

Footpath AX31/105 will commence from the end of the adopted highway known as Hawthorn Gardens, Point A (Grid Ref: ST 34829 62972) and proceeds in a west, north-westerly direction for a distance of approximately 149 metres to Point B (Grid Ref: ST 34700 62987) where it joins Footpath AX 31/33.

This Footpath as depicted by the use on the ground is 1.5 metres in width, is 149 metres in length and is shown on the attached map EB/Mod 41.



This map forms part of Definitive Map Modification Order No 2 2022 sealed by North Somerset District Council in April 2022

Wildlife & Countryside Act 1981 - Sec 53 North Somerset District Council
Footpath AX 31/105 Hawthorn Gardens Weston super Mare
Definitive Map Modification Order No.2 2022



Place Directorate
 Public Rights of Way
 Streets and Open Spaces
 North Somerset Council
 Town Hall
 Walliscote Grove Road
 Weston-super-Mare
 BS23 1UJ
 Tel: 01934 898 802

Map No.
EB/Mod 41
 Grid Reference
ST3462

Scale 1:2500
 Date
26 April 2022

Footpath AX31/105



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PART II
Modification of Definitive Map and Statement

Map No.	Class & Right of Way	Description of Route					Particulars as to position, width, limitations or conditions as in the opinion of the Authority it is expedient to record	
		From		General Direction	To		General Description of Route	Reason for inclusion
		County Road or Right of Way	Location (with bounding property Nos.)		County Road or Right of Way	Location (with bounding property Nos.)		
EB/Mod 41	Footpath AX 31/105	Hawthorn Gardens USRN 47806452	ST 34829 62972	West, North-westerly	AX 31/33	ST 34700 62987	<p>Footpath AX31/105 will commence from the end of the adopted highway known as Hawthorn Gardens, Point A and proceeds in a west, north-westerly direction for a distance of approximately 149 metres to Point B where it joins Footpath AX 31/33.</p> <p>This Footpath as depicted by the use on the ground is 1.5 metres in width, is 149 metres in length and is shown on the attached map EB/Mod 41.</p>	<p>Wildlife and Countryside Act 1981 DMMO No 2 2022</p> <p>Modification of Definitive Map to include the addition of Footpath AX 31/105</p>