

NORTH SOMERSET COUNCIL
WILDLIFE & COUNTRYSIDE ACT 1981

PUBLIC RIGHTS OF WAY USER EVIDENCE FORM

NB: The object of this enquiry is to reach the truth of the matter, whatever it may be. You are, therefore, asked to answer the questions as fully as possible and not keep back any information, whether for or against the public claim. This is important if this information is to be of real value in establishing the status of the way. The information you give will eventually become public and may be used as evidence at a public inquiry.

FULL NAME: AGE:

ADDRESS:
.....

TEL (day): TEL (eve):

OCCUPATION:

PATH LOCATION DETAILS:-

DISTRICT: PARISH:

CLAIMED STATUS OF WAY: Footpath / Bridleway / Byway Open to All Traffic (*delete as appropriate*)

DESCRIPTION OF PATH (*including sketch map if possible*) :

FROM :-

.....

TO :-

.....

1. Do you believe the above way to be public? If yes:-

a. Upon what information do you base your belief?

.....

b. For how many years have you believed the way to be public?

2. Have you used the above way? If yes:-

a. During which years?

b. How many times a year?

c. Where were you going to and from?

.....

d. For what purpose? (*eg. pleasure, work, shopping, visiting*)

e. By what means? (*eg. on foot, on horseback, bicycle, in a cart or vehicle*)

3. To your knowledge, have there ever been on the way any of the following:-

- a. Stiles? (*state location*)
- b. Gates? (*state location and whether locked*)
- c. Notices? (*state location and what did they say*)
.....
- d. Other obstructions? (*state location and type*)
.....

4. Were you working for any owner or occupier of land crossed by the way at the time you were using it? If yes:-

- a. Give particulars of dates:
- b. Say whether the owner or occupier ever gave you instructions as to the use of the way by the public and, if so, what the instructions were:

5. Have you ever been a tenant of the owner of any of the land crossed by the way? If yes:-

- a. Give particulars of dates:
- b. Say whether the owner ever gave you instructions as to the use of the way by the public and, if so, say what the instructions were:

6. Are you, or were you related to the owner of any of the land crossed by the way? If yes:-

- a. Give details and dates:

7. Have you ever obtained permission to use the route? If yes:-

- a. From whom: When:

8. Have you ever been stopped or turned back when using the way, or do you know of anyone else having been prevented from using it? If yes:-

- a. Give dates and particulars:
- b. Has anyone ever told you the route was not public? If yes, please give dates and particulars:-
.....
.....
- c. Were you ever told by an owner or tenant of the land crossed by the way, or by anyone in their employment, that it was not public? If yes, please give dates and particulars:-
.....
.....
- d. Do you believe the owner or occupier was aware of the public using the way? If yes, why ?
.....
- e. Have you ever seen such notices as "Private", "No road", "No Thoroughfare", "Trespassers will be prosecuted" or "This is not a Right of Way". If yes, state when and give particulars:-
.....
.....

9. Have you ever enjoyed a private right along the route in question?

10. Has the way always run over the same route or has it been diverted at any time?

If it has been diverted, give the details and dates:-

11. Please give any additional information you may have:

.....
.....
.....

DECLARATION

I am / am not willing to attend a hearing, public inquiry or court to give evidence on this matter, should this prove to be necessary.

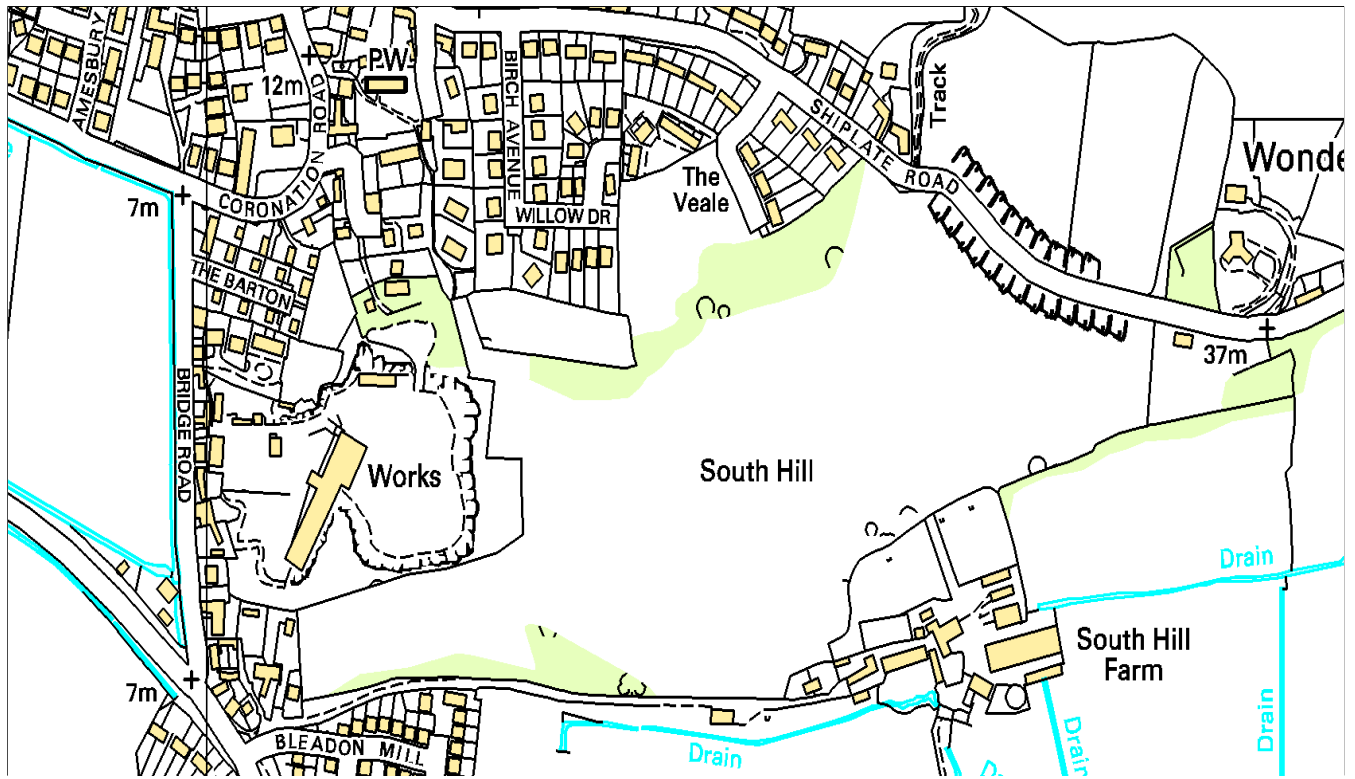
I hereby certify that, to the best of my knowledge and belief, the facts that I have stated are true.

Signed:- Date:-

Plan of Route Used. (Please mark the route you have used and sign the map)

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**PUBLIC RIGHTS OF WAY USER EVIDENCE FORM
(NOTES)**

1. **FORM 3** should be personally completed by the witness.
2. All questions must be answered.
3. The usual method of providing evidence for the addition or upgrading of a claimed way, is for witnesses to testify their use to help comprise 20 or more years of uninterrupted use of the way prior to the date that public right were brought into question, believing that they had the right to do so, pursuant to Section 31 of the Highways Act 1980, which states:-
 - (1) *“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 been actually enjoyed by the public as a right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.*
 - (2) *The period of 20 years referred to in sub-section (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by notice or otherwise.”*
4. It is important that the way is shown to follow a defined route and not be an area over which the public have wandered at large.
5. The witness may be personally interviewed in connection with the information given in **FORM 3**.
6. The details contained in **FORM 3** may be used as evidence in future proceedings, and the witness should be prepared to support the information by being willing to attend to give verbal evidence read from a prepared statement, at a later date, at any local Public Inquiry which may be arranged.
7. A landowner can successfully refute a claim for the addition of a way if he/she can prove that either the way was used with his/her express permission only, or that he/she has prevented access to the way, or that he/she has erected notices to counter any suggestion that there had been any intention to dedicate the way as a public right of way.
8. A map clearly showing the route of the alleged way must be attached to **FORM 3**. The map must be signed by the witness to confirm that it has been seen and understood.

PLEASE ATTACH A SEPARATE SHEET WITH ANY OTHER INFORMATION WHICH YOU CONSIDER WOULD BE HELPFUL IN REACHING A DECISION AS TO WHETHER OR NOT A MODIFICATION ORDER SHOULD BE MADE.