

Strategic Planning Committee - Thursday 22nd February 2024 1.00 pm

For Update to be published Wednesday 21 February

Item 10.

Applications for Definitive Map Modification Orders (DMMOs) to (1) upgrade the recorded status of FPs MEL/70 and MEL/38 to bridleway and (2) vary the particulars of FP MEL/70 to record limitations of a locked gate and squeeze stile

There are three matters arising:

1. Officers have identified an error in the plan of the routes at item 1 in appendix B. The label 'Route 3' on the plan, shown between points A2 and A3 should be 'Route 1'. A corrected version of this plan is provided. 'Route 1' is the main route from point A at Wilshaw Road to point D at Wood Nook Lane.

A replacement plan has been produced which correctly and more clearly identifies Route 1 and other routes.

2. PROW Officers were contacted by a representative of Experience Community, an organisation that helps disabled people access the outdoors. Concern was expressed regarding Application 2 (to vary the recorded particulars for Meltham 70 to include limitations). It was suggested that the installation of a locked gate and a 45cm wide squeeze stile would be in contravention of the Equality Act 2010 and would be discriminatory against disabled people.

The application to be determined is to record structures as limitations on the basis that they existed historically and that the public right of way was dedicated subject to these limitations. The matter before the committee is NOT whether new structures would be authorised today, such as for the control of livestock.

If considering the authorisation of new structures, we would act in accordance with the Public Sector Equality Duty and the principle of 'least restrictive option'. We would normally only authorise new structures that comply with the current version of BS5709. However, when determining the application to vary the recorded particulars for Meltham 70, members must consider the evidence and take no account of the future impact the installation or retention of such structures might have on people with disabilities or reduced mobility.

3. An email was received from the agent acting for the applicant for Application 2 / objector to Application 1.

The agent advised that he wishes

“...to address the Committee on their behalf on each matter in order to raise concerns about the joint report and suggest an alternative, cost saving, solution for consideration.

The timeframes available due to the report only becoming available with 7 days notice, the omission of key documents and limitations on speaking time suggest a need for adjournment so that a full response report can be compiled.”

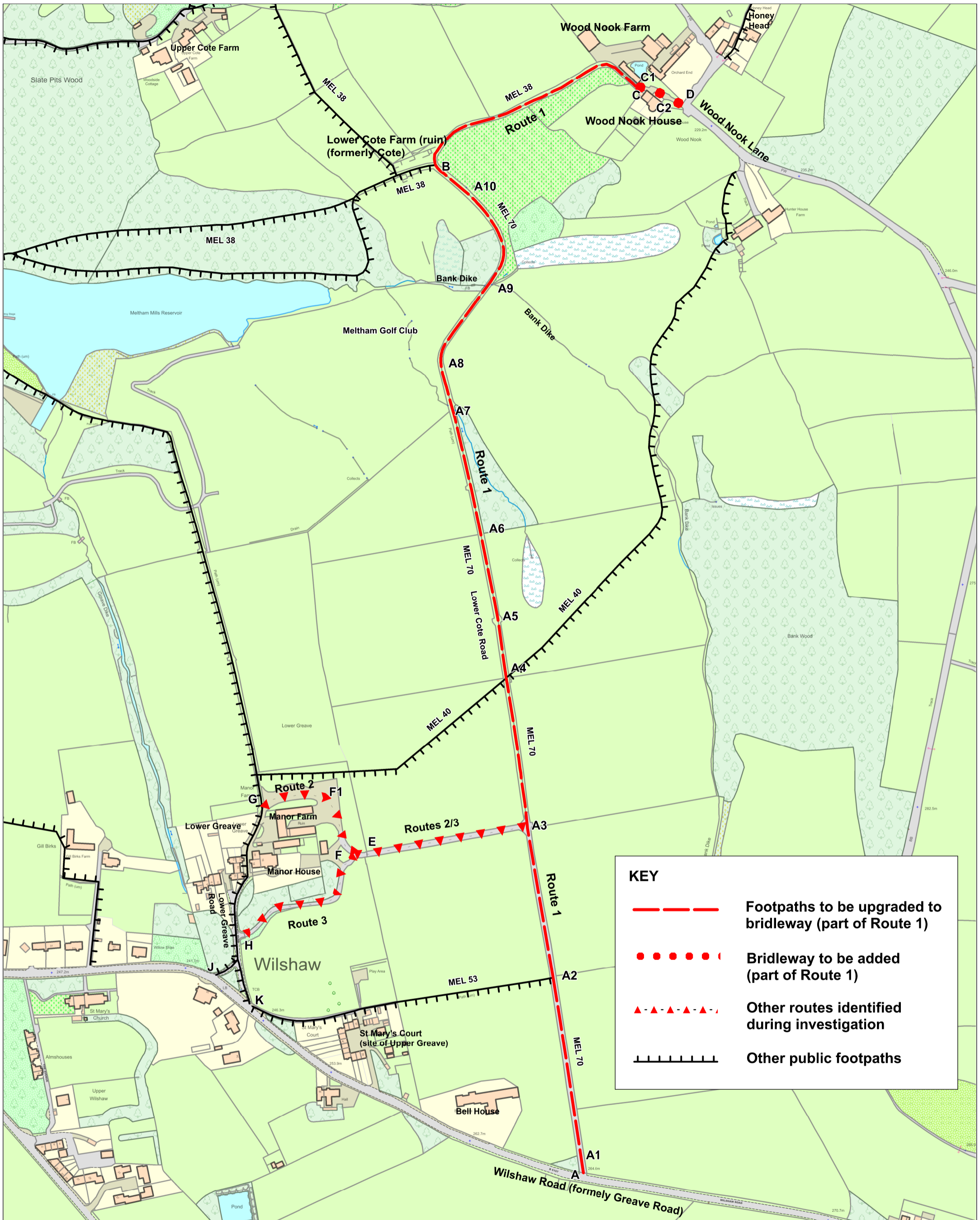
The agent was advised that it will be a matter for the Committee on the day to make a decision if they consider that there is a need to adjourn the item. It was confirmed that the agenda and report has been published in accordance with the timescales required by the relevant legislation. However, the Chair has agreed that speakers will be allowed to speak for 3 minutes on each application (maximum of 6 minutes in total).

The ‘key documents’ that the agent referred to as being omitted are the ‘user evidence forms’ (UEFs) submitted in support of Application 1.

The agent was also advised that it is not current practice in Kirklees to append the UEFs to the report itself. This is due to the evidence forms containing personal data. This is consistent with a First Tier Tribunal Decision in *Dainton v Information Commissioner & Lincolnshire CC* (EA/2007/0020).

If an Order is made and advertised (as is recommended by officers) there will be an opportunity, in the following six weeks, to request to inspect any documents taken into account when making the Order. This is as per paragraph 8 of Schedule 15 to the Wildlife and Countryside Act 1981. Documents which may be inspected would include any user evidence forms submitted. It is expected that we would discharge this duty in respect of user evidence by providing, on request, digital or paper copies of the user evidence forms and any related documents. We would redact names, full addresses, personal contact details and signatures etc. at that stage.

It is considered by officers that the summaries of various elements of the user evidence contained in and appended to the report, and the analysis provided of the evidence and the required legal tests, should be sufficient for members to determine the applications without a need to consider in detail all the user evidence and other witness evidence.



Public Rights of Way

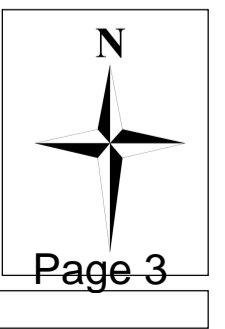
DMMO applications - Wilshaw Road to Wood Nook Lane

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