

ADDENDUM TO REPORT – LJ641G

Additional comments were provided by landowner B.

Email to: Laura James, Legal Officer

Date: 06/06/2023

S53 Application for the addition of Public Footpath from old A519 to Wadden Lane

Dear Laura

Your email of 11th May regarding the above matter is in conflict with the letter dated 10th March when the recommendation was to refuse the application. We have looked at the new documents supplied and can only see that document H2 refers to a footpath or right of way crossing the Waddens Farm. We are of the opinion that this refers to the Weston to Gayton Footpath to the west of the current proposal which is clearly visible on your plan B2. Can you please explain to us what other evidence has been uncovered since the letter of 10th March which made you consider changing the original recommendation.

Whilst we acknowledge that section 53 of The Wildlife and Countryside Act 1981 limits the evidence that is permitted to be considered when determining an application to open an alleged footpath, the Council should have regard to other existing legislation. For example, the Protection of Badgers Act 1992 prohibits badger setts being disturbed. For your information there is a large badger sett along the top of the escarpment which forms part of the alleged route.

Health and safety considerations should also be taken into account. Not only are the badger setts unsafe but the route through the woodland would require walkers to ascend and descend sheer escarpments which are currently heavily overgrown. At the northern end of the alleged route is a 90degree bend in Vicarage Bank at its junction with Wadden Lane. There are NO footpaths in this area making it exceptionally hazardous for any walkers. At the southern end, the alleged footpath exits onto the former A518 which is now a gated layby which is used regularly by Staffordshire County Council Highways department as a storage area for road surface chippings, waste material and site huts, again making it a hazardous area for pedestrians.

Before making a decision on this route we would strongly recommend a site visit by The Council so that they are aware of the hazards they would be inviting pedestrians to negotiate. If you act upon our recommendation, would you please contact us so that we can show you the route and point out the hazards to you.

In the event that you determine that the footpath should be recognised, could we suggest that it is diverted along the redline which we have marked on the attached plan, which is a copy of your plan B2, the benefits of this route would be that it would avoid the woodland area with the hazards that we have pointed out above making it safer for walkers. We would emphasise that our preference would be for you to revert back to the 10th March letter when the route was recommended for refusal.

Yours sincerely,



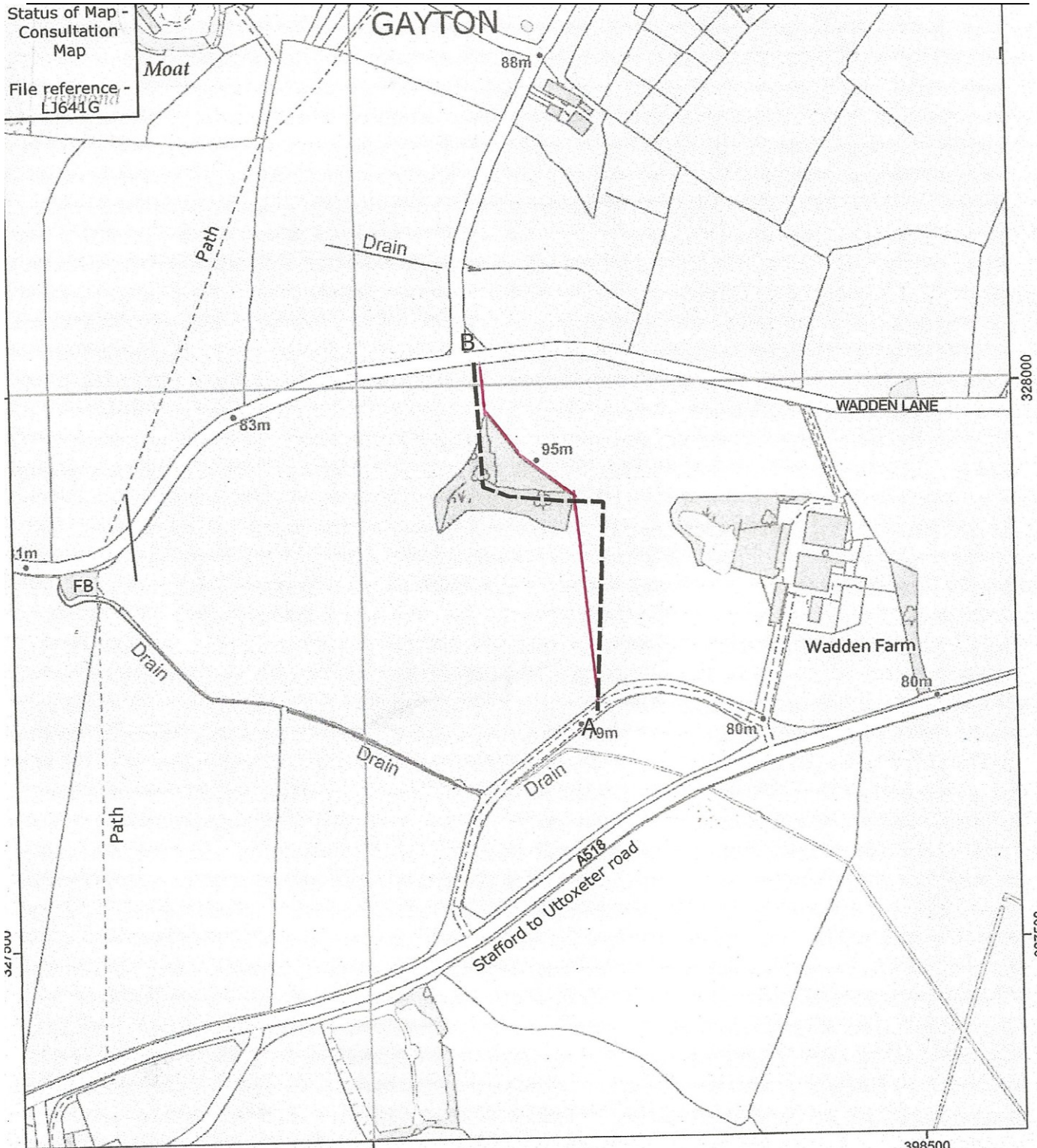
Wildlife and Countryside Act 1981, Section 53A(2)(b)

Proposed addition of public footpath west of Wadden Farm near Gayton

Staffordshire County Council

398000

398500



Map created at the scale of 1:5,000
(facsimiles may vary)

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----- Route of alleged footpath

Response to the Landowner comments were provided by the Legal Officer.

Email to: Landowner B – Wadden Farm

Date: 12/06/2023

S53 Application for the addition of Public Footpath from old A519 to Wadden Lane

Dear [REDACTED]

Thank you for your email dated 6th June and the contents therein.

Your comments are noted and will be included as an addendum to the report for panel committee members ahead of the meeting.

In connection with the change of recommendation, in light of the comments received and on reviewing the evidence, the report was redrafted with a revised recommendation. This was to accept the application based on reasonable allegation, that is whether a reasonable person could reasonably allege a right of way subsisted.

With regards to health and safety and wildlife concerns raised, we acknowledge your concerns and whilst it is not our intention to belittle any legitimate concerns, the issues raised relating wildlife and health and safety, have to be disregarded under the law as it currently stands. These concerns are not a matter for this existing section 53 application.

Should the application be successful, and the Countryside Rights of Way panel members are minded to make an Order, then a future diversion could be discussed with the Rights of Way team and a site visit could be arranged at that time.

Yours sincerely,

Laura James

Legal Officer

Conclusion

As per the officers email to the landowner, the landowner comments are acknowledged, however, issues regarding concerns for health and safety and wildlife cannot be considered in law in connection with this S53 application and therefore officers recommendation remains unchanged.