

WILDLIFE AND COUNTRYSIDE ACT 1981

**THE BRISTOL CITY COUNCIL DEFINITIVE MAP & STATEMENT
MODIFICATION ORDER NO.7 2024**

PINS REF ROW/3363939

REBUTTAL PROOF OF EVIDENCE OF JOANNE BUTLER
(on behalf of Cotham School)

25 September 2026

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1. **WITNESS NAME**

1.1 My name is **Joanne Butler**, Headteacher of Cotham School, Cotham Lawn Rd, Cotham, Bristol BS6 6DT.

1.2 This rebuttal proof of evidence has been prepared on behalf of the School. The evidence which I have prepared and provided for in this proof of evidence is true. I confirm that the opinions expressed are my true and professional opinions expressed in my capacity as the Headteacher of the School. I have no other interest in the outcome of the DMMO.

2. **PURPOSE OF PROOF**

2.1 The purpose of this proof is to set out a rebuttal in writing to the examples of other schools with rights of way over their site referred to in section 3 and appendix 4 of the proof of evidence dated 8 September 2026 of Helen Powell.

2.2 The Inspector agreed to my providing this rebuttal at the Case Management Conference ("CMC") that took place on 15 September 2026 as recorded in the Inspector's Note of the CMC at para 9.

2.3 I also provide at Annex B 3) the Statement of Joshua Moody, PE Faculty Leader of Cotham School to address the impact of the proposed public rights of way at Stoke Lodge Playing Fields on Cotham's School PE provision.

3. **RESPONSE TO EXAMPLES OF OTHER SCHOOLS**

3.1 Helen Powell refers to the following schools in her proof of evidence:

1) Ashton Park School, Bristol [3.4, 3.5 and appendix 4]

2) Cotswold Academy [3.4, 3.6 and appendix 4]

3) Collegiate School [3.4 and appendix 4]

4) Queen Elizabeth Hospital School at Failand [3.4 and appendix 4]

5) Harrow School [3.4 and appendix 4]

3.2 I refer at Appendix B (pages B11-16) to a Note prepared by a rights of way expert, Michael Wood LLB AIPROW and dated 23 September 2026 showing that in relation to 1-5 above, all appear to be longstanding features predating the use of the land for sport.

4. **Ashton Park School, Ashton Court, Bristol**

- 4.1 This is a comprehensive secondary state school that became an academy on 1 September 2011.
- 4.2 My understanding is that Ashton Park School was built in the grounds of Ashton Court in the 1950s.
- 4.3 Visit Bristol's website (visitbristol.co.uk) describes the Ashton Court Estate as 'once the gracious home of the Smyth family, and is now a historic park just 10 minutes from the centre of Bristol. It covers 850 acres of woods and grasslands in total, designed by Humphry Repton.'
- 4.4 The Ashton Court Estate country park and mansion is now owned by Bristol City Council and I understand that it was purchased in the 1950s when the last of the Smyth family died and the house and grounds fell into disrepair.
- 4.5 It is not surprising then that a common law ancient right of way existed on the land upon which the School was erected in the 1950s, that right of way then being recorded on the definitive map pursuant to the various Countryside Acts since 1949. Bristol City Council PROW officers have now confirmed that this path was on the 1954 definitive map.
- 4.6 The Note prepared by Michael Wood at Appendix B (1) shows that the footpath is mapped (with others) on the 1887 6 inch OS map and there is no evidence of the land being set out as sports pitches at that time. It also appears as a feature on the 1842 Tithe Map crossing Apportionment No 1135, which is pasture land owned by Sir John Smyth Baronet. The conclusion is that this is an ancient path predating the laying out of sports pitches by Ashton Park School.
- 4.7 Ms Powell's photographs appear to show a footpath running alongside the playing fields with no fence separating the playing fields from the footpath. One of the Governors of Cotham School, Sandra Fryer, visited the playing fields on 11 September 2026 and I refer at Appendix B (2) (pages B17-18) to photographs taken by her on that occasion. One of the photographs shows a green metal palisaded fence (B17). Ms Fryer informs me that there are extensive school playing fields, a multi-use games area and a red grass athletics track fenced in by the green fence. In addition, there are about six red signs on the green fence – I refer to the photograph of one of these signs, which states, "PRIVATE School Grounds Trespassing or causing a nuisance on this site will lead to prosecution under The Education Act 1996" [B18].
- 4.8 Ms Fryer informs me that the public right of way is not visible on the ground at Ashton Park but from the map it appears to go along the edge of some fields with rugby goal posts that are outside of the fenced area. The Head Teacher of the School has advised that the School does use these rugby pitches but always staffed and I note these pitches are adjacent to

the fenced playing fields area. These pitches are of course close to the main school premises unlike the Stoke Lodge Playing Fields.

- 4.9 In any event, the School's main playing fields are fenced off so that the public does not have access to them.

5. Cotswolds School, Bourton-on-the-Water

- 5.1 This is a comprehensive academy secondary state school.
- 5.2 I understand that Cotswold School was formed by the merger of two schools , Bourton Vale Secondary Modern and Westwoods Grammar School in 1988. Bourton Vale school was opened in the 1960s.
- 5.3 The Note at Appendix B 1) demonstrates that the footpath is shown to have existed on the 1884 OS Map crossing a field with no evidence of Cotswolds School at that date. The conclusion is that this is an ancient path predating the laying out of sports pitches by Cotswolds School.
- 5.4 The Head Teacher of the School advises the footpath in question is accessed from an embankment that used to be the railway line, with a clear and visible footfall from the embankment across the bottom end of their rear field to a gated entrance/exit onto the Fosse Way (footpath signage at both ends); apparently very few people use it.
- 5.5 The Head Teacher says that the perimeter of the school site is predominantly fenced off or has woodland coverage. The footpath does not impact on their sports provision as their football pitches do not extend this far down and it is very much to the side of the fields in an area they don't really use. Students are only allowed access to the rear of school for sporting fixtures, supervised breaks etc when students are accompanied by members of staff given the safeguarding risk of a public right of way going across the school land.
- 5.6 The School's website states that 'Facilities at the school are excellent; including extensive playing fields, 4 tennis/netball courts, full size floodlit astro, indoor 25m heated swimming pool, fitness suite, dance studio, and a four badminton court sports hall.'

6. The Collegiate School, Stapleton, Bristol

- 6.1 This is an independent fee-paying school.
- 6.2 I understand from its website that the Collegiate School moved to its site in 1861.

- 6.3 The Note at Appendix B 1) demonstrates that a route matching the footpath appears on the 1830 1 inch OS Map (running through the word 'Stapleton'). The footpath also appears on the 1887 6 inch OS Map, which does not show any sports pitches.
- 6.4 The conclusion is that this is an ancient path predating the laying out of sports pitches by the Collegiate School.
- 6.5 Bristol City Council PROW officers have confirmed that this path was on the 1954 definitive map.
- 6.6 The School's website states in relation to its sports facilities:
- 'Collegiate has an impressive sporting legacy, perhaps unsurprising given our impressive on-site sports facilities that are unique in Bristol. Inside our 30 acres of grounds we have: 6 rugby pitches, 2 cricket squares, a floodlit all-weather hockey AstroTurf pitch, 6 floodlit tennis courts and 4 floodlit netball courts, a fully-equipped fitness suite, 4 squash courts, table tennis facilities and a superb sports hall with 4 badminton courts, a basketball court and indoor cricket nets.'
- 6.7 The School's Head Teacher advises that its main playing fields are on the upper playing fields next to school.
- 6.8 The Head Teacher has provided a plan (Appendix B 4 – page B21) showing the extent of the village green on the School's lower playing fields and the extent of the neighbourhood that is allowed to access that village green. The more extensive village green area at the west is sloping. He advises the whole of the village green area is fenced with just once access point and there is no access whatsoever across the pitches on the lower playing fields.

7. Queen Elizabeth Hospital School, Clevedon Road, Failand, Bristol

- 7.1 This is an independent fee-paying school.
- 7.2 The School's website states:

'For those who are involved in team activities QEH has extensive sports facilities at nearby Failand. We have over 20 acres of fields at Failand. We have recently invested a further £2.7million in a project to redevelop our facilities to include a 3G artificial surface for rugby and football, sand dressed artificial surface for hockey and tennis as well as tarmac surfaces for netball and tennis.'

- 7.3 The Head Teacher of the School advises that they have a footpath at Failand but it runs round the edge of the fields and is separated from the pitches by a fence.

7.4 The Note at Appendix B 1) demonstrates that a footpath on a diagonal alignment is shown on the 1932 6 inch OS map. There is no evidence of any sports pitches shown on that plan. Michael Wood's view is that the current alignment following the historic field boundaries suggests that the path has been diverted to accommodate the use of the land for sporting activities; his conclusion is that the original path pre-existed the use of the land for sports pitches by the School and was diverted to accommodate that use.

7.5 This has been confirmed by the Principal Access Officer of North Somerset Council, who has advised that an order dated 18th January 1974 diverts the footpath from across the field to the field edge.

8. **Harrow School**

8.1 This is of course one of the most well-resourced and famous public schools in the world.

8.2 The School's website notes its sports facilities as follows:

'Surrounded by acres of sports fields, astroturf pitches, a golf course, a swimming pool, a sports centre, and numerous tennis, rackets and fives courts, we offer a breadth of sporting opportunities to match every interest and ability.'

8.3 The Note at Appendix B refers to the 1868 6 inch OS Map showing that these footpaths existed before the laying out of any sporting pitches. Mr Wood notes that these paths have been in issue for many years. Attempts by Harrow School to divert these footpaths and provide alternatives that do not cross sports pitches have failed. In 2017, the Inspector appointed to determine diversion and creation orders agreed that it was in the interests of Harrow school for the paths to be realigned. Although no evidence was called to show the footpaths are historic, the Inspector noted that one at least was recorded as a feature in 1868 and diversion would result in a loss of historic continuity. The Inspector regarded this loss as significant and did not confirm the orders for diversion.

8.4 I understand from discussing with our Rights of Way expert that this decision illustrates that even if diverting a path is possible under the Highways Act 1980, it does not follow that the diversion will succeed, even if it is in the interests of a school.

9. **Impact of the proposed public rights of way at Stoke Lodge Playing Fields on Cotham's School PE provision**

9.1 I refer to Annex B 3) (pages B19-20) being the Statement of Joshua Moody, PE Faculty Leader of Cotham School to address the impact of the proposed public rights of way at Stoke Lodge Playing Fields on Cotham's School PE provision. Put simply, Mr Moody confirms that if the proposed public rights of way were to be confirmed and entered onto the definitive

map and statement, the six fragmented triangular areas that would remain following fencing would not allow sufficient suitable or usable space for the effective teaching of PE to our students.

9.2 That is a very different factual scenario to that of the schools cited by Ms Powell.

10. **Other points**

11. At para 2.3 of her proof, Ms Powell refers to the School hiring pitches at the University of Bristol's Coombe Dingle Sports Complex from 1999 to 2019, which she says were then unfenced and had a public right of way passing through it.

12. This issue was ventilated in the section 14 proceedings. Ms Powell raised this in her witness statement in those proceedings and I responded in my 2nd witness statement of 19 July 2024.

'I understand from my colleagues that at the sports facilities at Coombe Dingle at that time there were areas of enclosure and fencing; the PROW was closeable in the event of an emergency; dogs were not allowed on site; there was a different staff ratio; there was a reception area. That is a very different scenario to the Land [the Stoke Lodge Playing Fields] at that time.'

13. The School hasn't used Coombe Dingle for a number of years now.

14. At para 2.5, Ms Powell refers to the Golden Hill venue. This is owned by the Shine Group. The School does use this venue. It is a fully fenced private property and has no rights of way or public access.

15. **Summary**

15.1 This is a rebuttal by Joanne Butler, Headteacher of Cotham School, to points made by Helen Powell in her proof of evidence about various matters.

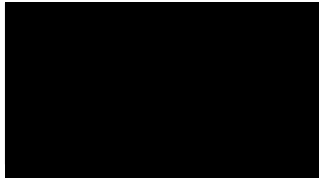
15.2 The rebuttal counters claims about public rights of way over other schools, namely Ashton Park School, Cotswold Academy, Collegiate School, Queen Elizabeth Hospital School and Harrow School ("the Schools").

15.3 All the rights of way over the Schools' land cited by Ms Powell pre-dated the laying out of school fields as demonstrated by the Note prepared by a rights of way expert, Michael Wood LLB AIPROW and dated 23 September 2026 (Appendix B 1)).

15.4 None of the rights of way criss cross the Schools' playing pitches.

15.5 The factual context of the Schools is very different to that of Cotham School and its playing fields.

15.6 The PE Faculty Leader at Cotham School confirms at Appendix B 3) that if the public rights of way were to be confirmed, the six fragmented triangular areas that would remain following fencing would not allow sufficient suitable or usable space for the effective teaching of PE to our students.



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JOANNE BUTLER

25 September 2026

Appendix B

Page Number	Appendix B – Documents relevant to the rebuttal of Jo Butler
B11-16	B 1) Note by Michael Wood to address 'Examples of PROW across other Schools'
B17-18	B 2) Photographs of Ashton Park School taken by Governor Sandra Fryer
B19-20	B 3) Statement of Joshua Moody, PE Faculty Leader, Cotham School
B21	B 4) Village green at Collegiate School and extent of Neighbourhood