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Land Management Services

Land Agents Office

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Mr. R D Watts, Senior Land Agent BSc Hons FRICS

Mrs Barbara Burke
Environmental Services Department
Wiltshire County Council
Trowbridge
Wilts
BA 14 8JD

Your Ref

Our Ref
RDW/ 101

Date
14 September 2006

Dear Mrs Burke

MODIFICATION ORDER 11 2006 – BRIGMERSTON

Mr Smith has sent me a copy of his letter to you concerning the “diversion” of the right of way in front of his house. I have the following comments to make:-

I would make the point that the Byway has never run through our land and when I used to work at our Durrington office, on almost a daily basis for approximately 8 years, I would walk the route in front of what is now Mr Smiths house along the correct route. There had not been any problems with this route until the ownership of The Barn House changed hands. It was at this time that difficulties began to arise over access along the byway as it was obvious that the new owner wished to prevent access in front of their property and it was at this time that the local inhabitants began to go through the MOD land, hence the reason why we put the signs up.

As access along the byway has been restricted by the erection of gates, I assume you will be taking enforcement action against Mr Smith.

Concerning the condition of the paddock along which the right of way runs, the tenant has strimmed the nettles, which I understand is your responsibility, which now allows unimpeded access along the correct route.

I really fail to see how Mr Smith can object, indeed I am somewhat confused as to how it is on the definitive map because the byway has never taken this route.

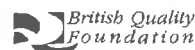
Yours sincerely

R D WATTS
Senior Land Agent SPTA

Environmental Services Dept.			
18 SEP 2006 Ack.			
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5	6	7	8



INVESTOR IN PEOPLE



PROMOTING BUSINESS EXCELLENCE



Bill Riley 141 Bath Road, Bradford on Avon,
Wiltshire, BA15 1SS. Tel/Fax: (01225) 863811

Barbara Burke
Rights of Way Section
Environmental Services Department
Wiltshire County Council
County Hall
Trowbridge BA14 8JD

Your Ref: KF/PC/163



25th August 2006

Dear Mrs. Burke,

Restricted Byway Milston 16

Thank you for the letter of 16th August 2006, together with a copy of an Order correcting a drawing error on the Definitive Map.

The previous correspondence referred to is presumably the letter dated 28 November 2001 together with plans referring to a proposal to make a Modification Order showing the same length of road as a byway open to all traffic, which I supported. I am not aware of any subsequent consultation on the amended proposal for a restricted byway. Had there been, I would have drawn the Council's attention to evidence showing that it is more likely than not that a public right of way for mechanically propelled vehicles (MPVs) was created over the road by virtue of use during a period ending before 1st December 1930.

The third paragraph of the Council's letter states: "*It means that members of the public wishing to use the highway with a motorised vehicle will not be able to do so.*" With respect, I believe the advice is wrong in respect of this, and other unclaimed carriageways, unless thorough investigations have ruled out the exceptions referred to in section 67 of the Act. In all probability, many (perhaps most) former RUPPs will have been used by MPVs (including tractors and traction engines) before 1st December 1930, and in some cases mainly by MPVs in the five years before 2nd May 2006.

The principal evidence implying MPV use of Milston 16 before 1st December 1930 (a tree-lined lane until at least 1954) consists of its classification on four Bartholomew's half-inch maps, which are available for inspection.

- | | |
|--|-----------------------------------|
| 1. Survey Atlas of England & Wales, Plate 64, 1904: | "Other Driving Roads" |
| 2. Reduced Survey for Tourists & Cyclists, Sheet 29, 1911 | "Secondary Roads (Good)" |
| 3. Reduced Survey for Tourists & Cyclists, Sheet 29, 1920: | "Motoring Roads: Secondary Roads" |
| 4. Revised Contoured Map, Sheet 29, 1929: | "Motoring Roads: Secondary Roads" |

Other evidence confirms the existence of the road during the relevant period.

Because the proposed status of restricted byway appears to be wrong, I must object on the ground that, on the balance of probability, the correct status is a byway open to all traffic. I regret having to do this because I know that it will cause extra work for the hard-pressed Rights of Way staff.

Yours sincerely,

Bill Riley

**The Barn House
Brigmerston
Durrington
Salisbury SP4 8HX
Wiltshire**

**Tel 01980 652540
Fax 01980 654954**

Environmental Services Dept.			
25 AUG 2006 Ack.			
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23rd August 2006

Barbara Burke
Environmental Services Department,
Wiltshire County Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JD

Dear Ms Burke,

Rights of Way Modification Order No 11 2006

I refer to the above order, a description of which was placed on an electricity pole near to the above Property which is my Residence.

My Family and I object, most forcefully, to the proposed re-routing of the Restricted Byway. The occupants of the land, through which the Byway presently runs, locked and fenced the access and route some months ago and signs were erected forcing the walking public to make their way via an overgrown and often muddy track adjacent to our Property.

Numerous members of the public have made comments about the restriction of access and have expressed concern since the only access to the Byway is now via our Property, which the public consider to be an intrusion. The erection of the sign appears to be a unilateral decision and against the correct Byway route as depicted on your map. The sign, it would appear, photo attached, to be questionable in nature and legality and I can only assume the council will make the necessary representations to have it removed from the gate and permit the public, once again, access to the Byway.

In general terms the property through which the Byway runs was used continuously by the public from the moment we moved into our property in October 2001 until four months ago. The sign was erected, the stile removed and the gate chained. These actions appear, on the face of your proposed order, to be contrary to the current depicted right of way. The occupants of the property, who lease it from a tenant of the MOD, fail to keep it in good condition, with the land being overrun with weeds and generally in an unkempt state.

The use of the Byway has been considerable by the rambling public over the years and the route has not been detrimental to either the owners of the land or the occupiers since it has not had any livestock on it, in fact the Byway is routed over a part metalled track through the old Farm Yard, thus making it an all weather route.

It is most surprising that an order has been made to direct the Byway immediately adjacent to a dwelling from a well depicted route which has for years been used by the public without causing any inconvenience.

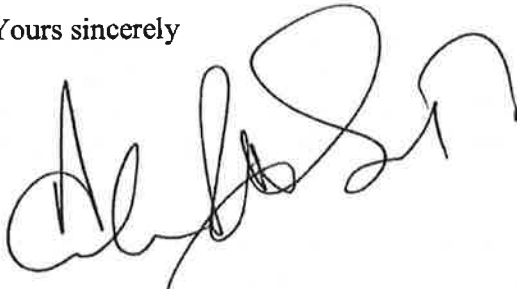
No consultation about the proposed change has taken place with either me or my Wife, who are the most affected, nor with our neighbours - the owners of Brigmerston Farm House. It should also be appreciated that the proposed re-routing is directly along a path which becomes waterlogged during the winter months and overgrown during the summer.

Given that the Byway is presently routed mostly along a made up track, the re-routing would in fact be over a less direct and more inconvenient route and therefore the reason for the re-route is unclear and questionable.

The obvious cost of upkeep of the track will be an added burden on the council which hitherto has not been the case.

We register our objection to such a re-route and in any case believe consultation should have taken place prior to such an order being made.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew R H Smith', written in a cursive style.

Andrew R H Smith

Cc Milston Parish Council
Maj. Gen. W Courage-Brigmerston Farm House
Defence Estates-Westdown Camp

Notice of Modification Order
Section 53 of the Wildlife and Countryside Act 1981
The Definitive Map and Statement for the Amesbury Rural District Council Area 1952
The County of Wiltshire (Sheet SU 14 NE) (Milton No. 16)
Rights of Way Modification Order No. 11 2006

The above order made on the 7th August 2006, if confirmed as made, will modify the Definitive Map and Statement for the area by deleting that part of Restricted Byway Milton 16 currently leading north east through Brigmerston Farm House from OS Grid Reference SU160455, and then adding that part of Restricted Byway Milton 16 from OS Grid Reference SU 155450, leading north-east along the cart track past Barn House to Church Road, OS Grid Reference SU160455.

A copy of the Order and the Order Map may be seen free of charge at the Rights of Way Section, Wiltshire County Council, County Hall, Bythesea Road, Trowbridge, during normal office hours. Copies of the Order and Map may be bought there at a price of £5.00.

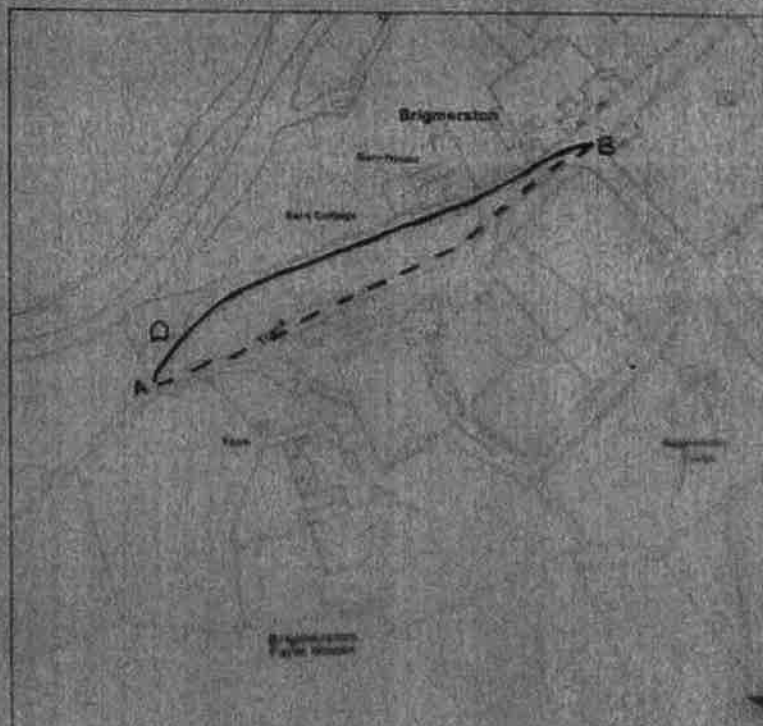
Any representation or objection relating to the Order may be sent in writing, to be received at County Hall, addressed to Barbara Burke, Environmental Services Department, Wiltshire County Council, Bythesea Road, Trowbridge, BA14 8JD not later than 5.00 on the 23rd September 2006 and applications are requested to state the grounds on which it is made.

If no representations or objections are duly made to the Order, [or any part of it], or if any so made are withdrawn, the Wiltshire County 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], any representations or objections which have been duly made and not withdrawn will be sent with it.

Dated this 17th day of August 2006

G. Batten

G. Batten
 Director Environmental Services



WILTSHIRE COUNTY COUNCIL No. 11	
Route	
Current restricted byway to be deleted	— A — B
Current restricted byway to be retained	- - - A - - - B

Approved by the Council on 7th August 2006. The Council has considered the representations made and has decided to confirm the Order as made. The Council has also considered the representations made and has decided to confirm the Order as made. The Council has also considered the representations made and has decided to confirm the Order as made.


Wiltshire



MOD PROPERTY
AUTHORIZED ACCESS
ONLY
NO PUBLIC RIGHT OF WAY