

AGENDA SUPPLEMENT (1)

Meeting: Eastern Area Planning Committee
Place: Wessex Room - The Corn Exchange, Market Place, Devizes,
SN10 1HS
Date: Thursday 3 April 2014
Time: 6.00 pm

The Agenda for the above meeting was published on 26 March 2014 and indicated that the report detailed below would be to follow. This is now available and is attached to this Agenda Supplement.

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This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

7 **Rights of Way Items**_(Pages 1 - 114)

DATE OF PUBLICATION: 26 March 2014

WILTSHIRE COUNCIL

EASTERN AREA PLANNING COMMITTEE

3 APRIL 2014

TOWN AND COUNTRY PLANNING ACT 1990

WILTSHIRE COUNCIL PARISH OF BAYDON PATH 2 (PART) AND PATH 11 (PART) DIVERSION ORDER AND DEFINITIVE MAP MODIFICATION ORDER 2013

Purpose of Report

1. To:
 - (i) Consider an Order diverting parts of two public rights of way at Baydon House Farm, Baydon and the 20 objections and 17 representations duly made to it.
 - (ii) Recommend that the Order be submitted to the Secretary of State for Environment, Food and Rural Affairs for determination and that Wiltshire Council maintains a neutral stance in the matter.

Description of the Routes

2. The Order is attached to this report at **Appendix 1** and contains a map showing the routes to be extinguished and the routes to be created.
3. One of the routes, Baydon Path No. 2, is called Payne's Lane and is a long route linking the C.189 Aldbourne to Baydon Road with an unclassified road (the u/c 5018) in the east. It has the appearance of an old carriage road except for the western section where Payne's Farm (now Baydon House Farm) has developed on either side of it. Although currently recorded as a bridleway, it is considered by officers that on the balance of probabilities, higher rights subsist over it.
4. The other route is Baydon Path No.11 which is a north-south route linking the village of Baydon with the settlement of Preston in the south via Baydon House Farm and Baydon Path No. 8, Green Hill or Green Lane, sometimes known as the Preston Track. Baydon Path No. 11 is currently recorded in part as a restricted byway and in part as a bridleway and there is some evidence that some of this section may carry higher rights.

Background

5. A full report relating to this Order is appended at **Appendix 2**. Release of this decision gave rise to representations from the landowner and the decision was subsequently amended. The Council's amended decision to make the Order is appended at **Appendix 3**.

6. The Order is made as a result of an application (2013/15) to divert parts of Baydon Path Nos. 2 and 11 arising out of planning permission which was granted to the owners of Baydon House Farm to build two agricultural storage buildings across the rights of way in the farmyard area (E/2013/0170/FUL).
7. Nothing in the planning permission permits the development to proceed unless the rights of way are diverted.
8. A further application (2013/16) was made to divert part of Baydon 11 south-west of the proposed development but this is not subject to any planning consent and must be considered under wholly separate legislation.
9. Owing to the different legal tests to be applied to the two applications officers have not progressed application number 2013/16 beyond the initial consultation stage at this time.
10. Although it is clear that some respondents to the Order refer to the path affected by application 2013/16 this report relates wholly to those lengths of path affected by the planning consent granted on 19 March 2013.
11. Officers are aware that the historic nature of rights of way in the Baydon area is greatly valued by a number of people and that consultations regarding alterations to this network, in the past have received a significant level of responses in support of its retention. The network of ways south of the village are well used and popular and initial consultations into application number 2013/15 (and 2013/16) raised high levels of responses both in support of, and in opposition to, the proposals.
12. Wiltshire Council, as surveying authority, does not have a statutory duty to make Orders altering the network (for example diversions or extinguishments) and will generally not make them where there is a high level of relevant local dissent to the proposal. However, the granting of planning permission that requires the diversion of rights of way to proceed, places an additional responsibility on the surveying authority where that authority is a unitary authority.
13. The Department for Environment Food and Rural Affairs Guidance for Local Authorities, Rights of Way Circular 1/09 Version 2 at 7.15 states:

“The local planning authority should not question the merits of planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted permission for a development affecting a right of way, however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages of loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to person whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.”
14. In responding to planning application E/2013/0170/FUL the rights of way team submitted a full response detailing what would be required to effect a satisfactory diversion (see **Appendix C to Appendix 2**).

15. It is noted that no users of the paths responded to the application to develop at this time, either in support or opposition. This is surprising, as the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) provides that development affecting a public right of way must be advertised in a local newspaper and by posting a notice on the site (this is entirely separate from any notices and advertisements required when making and confirming a subsequent extinguishment or diversion order).
16. The Order diverting the paths attracted 21 objections and 17 representations within the statutory advertisement period.
17. Details of the objections and representations are at **Appendix 4**.
18. The Defra guidance referenced at paragraph 13 above states at 7.11:

“The grant of planning permission does not entitle developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect. The requirement to keep a public right of way open for public use will preclude the developer from using the existing footpath, bridleway or restricted byway as a vehicular access to the site unless there are existing additional private rights.”
19. It is therefore clear that until such time as an Order diverting or extinguishing the affected rights of way is made and confirmed, the development can not proceed.

Main Considerations for the Council

The statutory requirements

20. Section 257(1) of the Town and Country Planning Act 1990 states the following:

*“(1) Subject to Section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out –

(a) in accordance with planning permission granted under part III or
(b) by a government department”*
21. It is considered that this is met. The storage barns, if built as permitted, would obstruct the rights of way.

Effect of the proposal on other parties

22. Paragraph 7.15 of Defra Circular 1/09 advises that in considering whether or not to confirm the Order, the disadvantages or loss likely to arise as a result of the diversion, either to members of the public generally, or to persons whose properties adjoin or are near the existing public right of way, should be weighed against the advantages of the proposed Order.

23. In response to the application to develop at this site (E/2013/0170/FUL) Wiltshire Council's rights of way team made the following comment:

"The specification for the diverted routes will need to be agreed between the Council and the landowners prior to the making of any diversion orders. As an indication of the Council's requirements, the replacement routes will need to be of a minimum of 5.0 metres in width, surfaced with good quality stone and with the minimum possible number of gates or barriers only for the purpose of controlling the ingress and egress of animals."

24. Wiltshire Council's Rights of Way Improvement Plan (page 53) gives that the minimum standards acceptable for the width of a new bridleway (in the case of a creation or diversion) is a minimum of 4 metres. It does not specify a minimum for a restricted byway as historically carriage roads in Wiltshire have ranged from 20 feet to 110 feet wide and were clearly dependent on a combination of legislation and local conditions.
25. The Council is also committed to allowing least restrictive access in line with its duties under The Equality Act 2010.
26. In recommending the width of 5 metres and the provision of a good quality stone surface officers sought to mitigate any loss to the public that the diversion of Paths 2 and 11 would cause.

The disadvantages or loss likely to arise as a result of the diversion to persons whose properties adjoin or are near the existing right of way

27. If the Order is confirmed there is a clear benefit to the owners of Baydon House Farm who will be able to proceed with their development and who will also not have a public right of way leading through their farm yard area.
28. The land adjoining the proposed diversion belongs to Mr M Lloyd of Baydon House. The land is used for grazing alpacas and Mr Lloyd has no objection to the diversion.

The disadvantage or loss likely to arise to members of the public as a result of the diversion

29. 13 of the 21 objectors identified a loss to their enjoyment of the way as a result of the loss of the historic route.

Five of the 21 objectors identified that the loss of width was grounds for objection.

Four people identified concerns about the surface of the new way.

30. Other losses identified included the loss of a direct route, problems that would arise when users tried to pass each other and potential problems with signage.

31. 17 people made representations relating to the Order; one of which did not object to the route but objected to anything other than a 'like for like' accessible surface. The majority of these responding in support considered the new route to be safer, easy to use and with better views than the existing route.
32. Objectors, and those making representations, agree that the paths are well used with representation number 17 stating that the ways are in frequent use, not only by the runners, but also by dog walkers, walkers and horse riders. Representation number 5 states that the routes are used by riders and grooms from a large equestrian property, often on a daily basis on both experienced and inexperienced horses. Other people describe using the route with a pushchair and young children and the author of representation number 9 has a horse who stops to take in the view.

Safeguarding Considerations

33. Considerations relating to safeguarding anyone affected by the making and confirmation of an Order made under Section 257 of the Town and Country Planning Act are not relevant considerations for this Order.

Public Health Implications

34. Considerations relating to any public health implications of the making and confirmation of an Order made under Section 257 of the Town and Country Planning Act are not relevant considerations for this Order.

Environmental Impact of the Recommendation

35. No environmental impact has been identified.

Risk Assessment

36. This application has attracted an unusually high amount of correspondence and input from local people. It is clear that there are conflicting opinions on the new paths and officers consider that even if this Order were abandoned and another made, there would still be objections and representations that would prevent Wiltshire Council being able to confirm the Order. There is therefore a risk to the Council that abandonment and re-making would not advance the case.
37. Wiltshire Council has a duty to enable better access and to follow the least restrictive option in all cases. As a result of this there is a risk of judicial review attached to any decision of the Council that conflicts with this.
38. Although several respondents refer to the new route being safer than the old, the Council has no records of reports of accidents or incidents at this location. It is likely that where public use is as heavy as it is stated to be here, anyone using the farm yard area would be very aware of the public around them (in the same way the public may be expected to be on a village street) and would take appropriate care.

Financial Implications

39. The applicant has agreed to pay all costs relating to this Order but they may not be charged for any costs related to sending the matter to the Planning Inspectorate for determination. If the Council agrees to support the Order, costs could be in the region of £6,000 to £10,000 and would be payable by the Council.
40. The Planning Inspectorate in Advice Note No. 1 (as revised May 2013) advises that sometimes an Order Making Authority (OMA) is content to make the requested Order but is not prepared to support it at an inquiry. It continues to say that this often occurs when an Order is made under the Town and Country Planning Act 1990 to enable development to proceed and that the OMA may choose to remain neutral as regards confirmation of the Order. There is no cost associated with this.

Options Considered

41. To:
 - (i) Forward the Order to the Secretary of State with the recommendation that it is not confirmed.
 - (ii) Forward the Order to the Secretary of State with the recommendation that it be confirmed with modifications.
 - (iii) Forward the Order to the Secretary of State with the recommendation that it be confirmed as made.
 - (iv) Forward the Order to the Secretary of State and maintain a neutral stance.
 - (v) Abandon the Order.

Reasons for Recommendation

42. Objections have made it clear that the width of the new route is unacceptably narrow and will not permit traffic to safely pass at the pinch points. This agrees with officers' original stance on this, both in the advice originally offered at the planning application stage, and the initial decision stage. The applicant has made it clear that they cannot create a wider route without demolishing buildings. It is therefore not possible to abandon and re-make an Order with a greater width, though it is noted that an Inspector appointed by the Planning Inspectorate does have the power to modify the Order if they see fit.
43. A large number of people claim that there is a disadvantage and loss to them if they cannot use the direct historic route and that it should remain.
44. This is counteracted by letters of support for the new route and there is clearly a conflict here that cannot be resolved by the making of a different Order. As a result of this, officers consider it better if the conflicting views could be given in a hearing or inquiry setting.

45. Wiltshire Council, in taking a neutral stance, can facilitate this process.

Recommendation

46. That the Wiltshire Council Parish of Baydon Path 2 (part) and Path 11 (part) Diversion Order and Definitive Map Modification Order 2013 is sent to the Secretary of State for Environment, Food and Rural Affairs and that Wiltshire Council takes a neutral stance in the proceedings.

Tracy Carter

Associate Director of Environment and Leisure

Report Author

Sally Madgwick

Rights of Way Officer

The following unpublished documents have been relied on in the preparation of this Report:

Correspondence with Parish Councils, user groups, other interested bodies and members of the public

Appendices:

Appendix 1 - Order

Appendix 2 - Decision Report and Appendices (2.A, 2.B and 2.C)

Appendix 3 - Amended Decision Report and Appendices (3.A and 3.B)

Appendix 4 - Objections and Representations

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PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53(A)(2)

**WILTSHIRE COUNCIL PARISH OF BAYDON PATH 2 (PART) and PATH 11 (PART)
DIVERSION ORDER AND DEFINITIVE MAP MODIFICATION ORDER 2013**

This order is made by Wiltshire Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the restricted byways to which this order relates in order to enable development to be carried out in accordance with planning permission granted under part III of the Town and Country Planning Act 1990 namely the erection of extensions to agricultural buildings.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the Marlborough and Ramsbury Rural District Council Area Definitive Map and Statement dated 1952 as modified under the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of a highway hitherto shown or required to be shown in the map and statement.

BY THIS ORDER:

1. The restricted byway over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this order ("the schedule") shall be diverted and the Marlborough and Ramsbury Rural District Council Area Definitive Map and Statement dated 1952 and as modified by the Wildlife and Countryside Act 1981 shall be modified as provided below.
2. There shall be created to the reasonable satisfaction of Wiltshire Council an alternative highway for use as a replacement for the said restricted byway as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the restricted byway shall have effect on the date on which Wiltshire Council certify that the terms of Article 2 have been complied with and upon the occurrence of that diversion the Marlborough and Ramsbury Rural District Council Area Definitive Map and Statement dated 1953 as modified under the Wildlife and Countryside Act 1981 shall be modified by deleting from it the path or way referred to in paragraph 1 of this order and the path or way referred to in paragraph 2 of this order shall be added to it, and the definitive statement shall be modified as described in part 3 of the Schedule.
4. Where immediately before the date on which the restricted byway is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

PART 1

Description of site of existing paths or ways

That length of path Baydon no. 11 leading from point E to point C as shown on the attached map by a solid black line. Approximate length 55 metres.

That length of path Baydon no. 2 leading from point B through point C to point D as shown on the attached map by a solid black line. Approximate length 175 metres.

PART 2

Description of site of alternative highway

That length of restricted byway as shown on the attached map by a broken black line leading from point A to point X through point E. Width 4.1 metres. Approx. length 210 metres

That length of restricted byway as shown on the attached map by a broken black line leading from point X to point Y. Width 2.6 metres. Approx. length 30 metres

That length of restricted byway as shown on the attached map by a broken black line leading from point Y to point D. Width 4.1 metres. Approx. length 180 metres

PART 3

Modification of Definitive Statement

Variation of particulars of path or way

Parish	Path No	Description	Modified under WCA 81 Section
Baydon	2	<p><u>BRIDLEWAY</u> Paynes Lane. From the Aldbourne road C.189, at its junction with path No. 8, leading east for approximately 180 metres to its junction with Baydon path no. 11.</p> <p><u>RESTRICTED BYWAY</u> from OS grid reference SU2781 7741 leading north and east, east north east, east, south south east, south east and south south west where at OS grid reference SU 2804 7730</p> <p><u>BRIDLEWAY</u> leading south east to road U/C 5018 north of Gore's Copse.</p> <p><u>WIDTH</u> Restricted byway section OS grid reference SU2781 7741 to SU2797 7745 4.1 metres and from SU2797 7745</p>	53(3)(a)(i)

to SU2800 7744 2.6 metres and from SU2800 7744 to SU 2804 7730
4.1 metres

Approximate length 1.45 kms

PART 3 Continued

Modification of Definitive Statement

Variation of particulars of path or way

Parish	Path No	Description	Modified under WCA 81 Section
Baydon	11	<u>RESTRICTED BYWAY</u> from the u/c 5013 at OS Grid Ref SU2787 7773 leading south south west, south and south east to OS Grid Ref SU2794 7751 at its junction with Baydon 30 where <u>BRIDLEWAY</u> leading south for approximately 60 metres to its junction with Baydon path no. 2. Continuing as <u>BRIDLEWAY</u> from its junction with Baydon path no 2 at Keepers Cottage leading south for approximately 270 m then in a westerly direction to path No. 8.	53(3)(a)(i)

Width 4 metres OS Grid Ref SU 2787 7773 to OS Grid Ref SU 2794 7751

Approximate length 450 metres

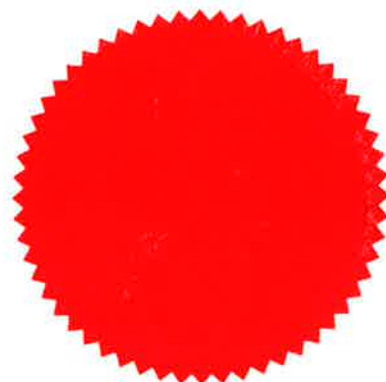
THE COMMON SEAL OF }

THE WILTSHIRE COUNCIL }

Was hereunto affixed this }

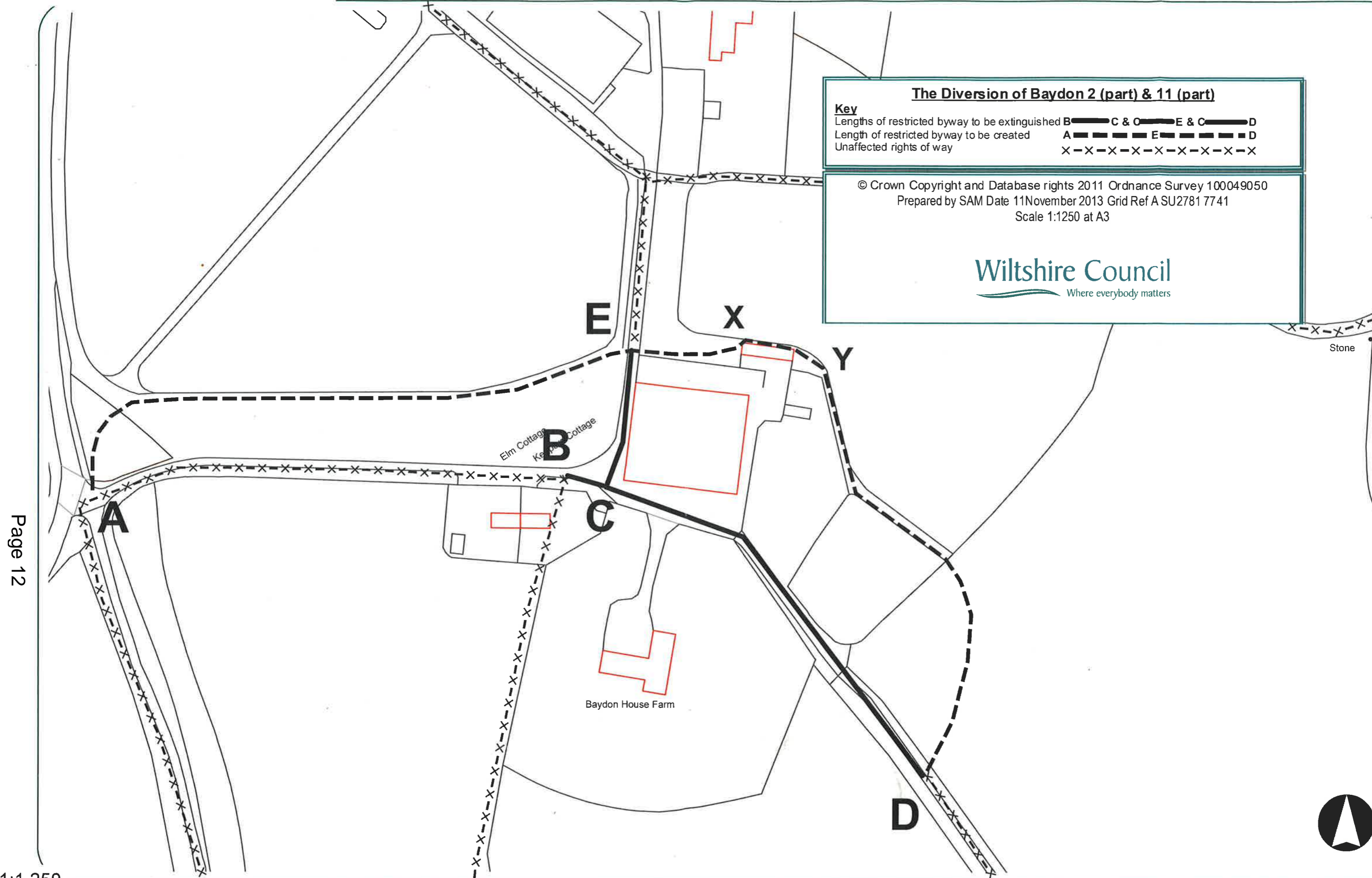
3RD day of DECEMBER 2013 }

In the presence of: -



78607

**Diversion of Baydon 2 and 11 (part)
at Baydon House Farm**



The Diversion of Baydon 2 (part) & 11 (part)

Key
 Lengths of restricted byway to be extinguished **B** **C & C** **E & C** **D**
 Length of restricted byway to be created **A** **E** **D**
 Unaffected rights of way **x-x-x-x-x-x-x-x-x-x**

© Crown Copyright and Database rights 2011 Ordnance Survey 100049050
 Prepared by SAM Date 11 November 2013 Grid Ref A SU2781 7741
 Scale 1:1250 at A3



WILTSHIRE COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

PROPOSED DIVERSION OF BAYDON 2 (part) & 11 (part)

1 Purpose of Report

1 To:

- (i) Consider and comment on an application to divert part of Baydon path number 2 and part of path number 11 to enable a permitted development to take place.
- (ii) Recommend that an Order be made under s.257 of the Town and Country Planning Act 1990 to divert only that part of the path affected by the permitted development .

2 Background

2 On 12 June 2013 Wiltshire Council received two applications to divert public rights of way at Baydon House Farm. The applications affect parts of paths 2 and 11 and were submitted by Mrs Sally Johnson of Baydon House Farm.

3 One application is made under Town and Country Planning Act 1990 legislation (since it is clear that diversion or extinguishment is necessary to allow permitted development E/2013/0170/FUL to proceed) and the other is made under Highways Act 1980 legislation as the line of the path is not affected by a permitted development (permitted development E/2013/0138/FUL is close to the line of the path but not coincident).

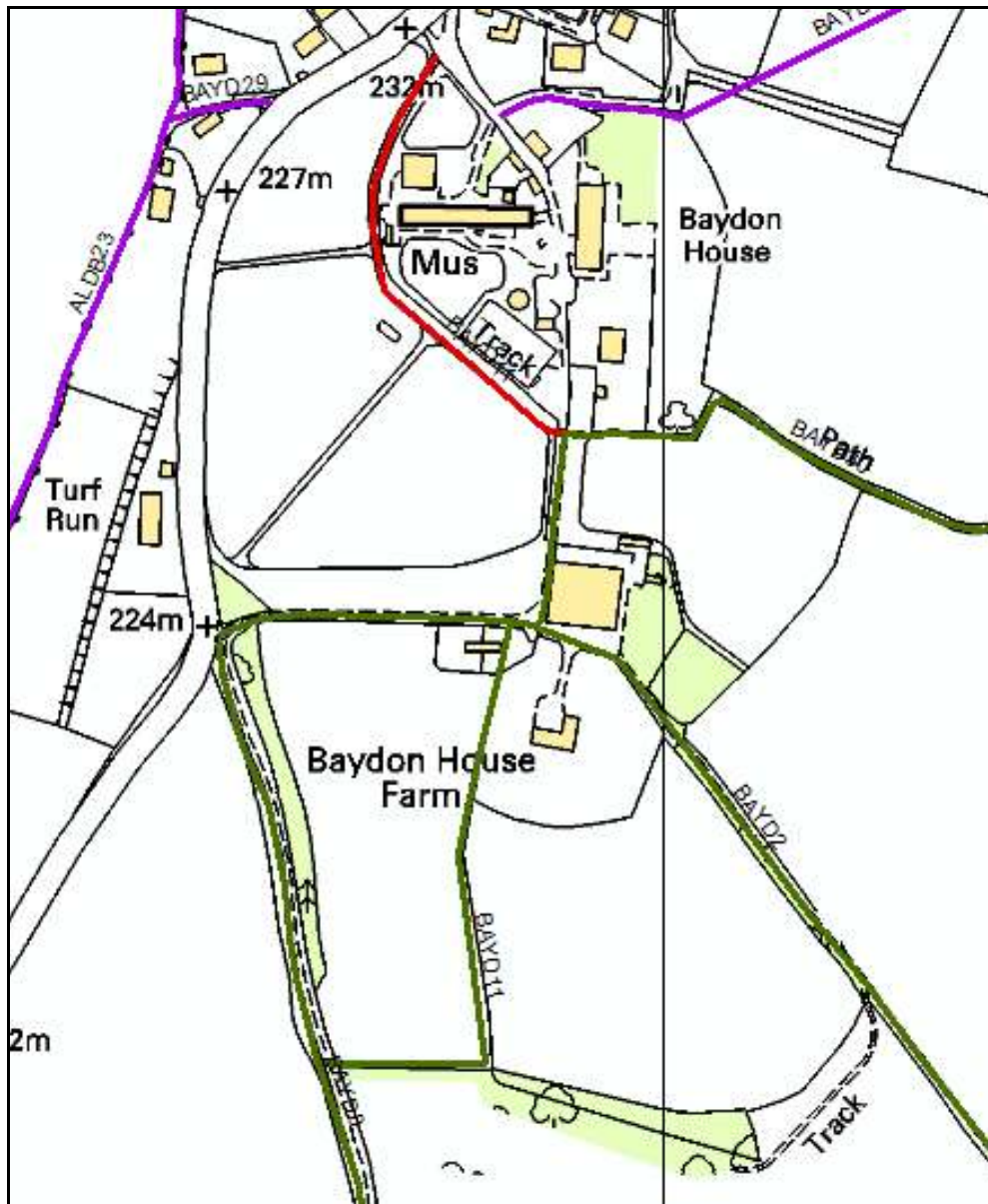
4 Baydon path no. 2 is called Paynes Lane and links road u/c 5018 in the east with road C.189 in the west. At Paynes Farm (now known as Baydon House Farm) the farm developed over time on either side of Paynes Lane and the current owners of Baydon House Farm wish to further develop the yard area and have been granted planning permission for buildings that would obstruct part of Baydon 2. Application Reference Number E/2013/0170/FUL.

5 Further to an earlier and unrelated query at this location officers investigated some historical evidence relating to paths 2 and 11. This report is appended here at APPENDIX A. It is noted that there is a considerable amount of evidence that supports that on the balance of probability higher rights than bridleway subsist on path no 2 and that in all likelihood the way should be recorded as a restricted byway. It would therefore be appropriate for any new part of path no. 2 to be created as a restricted byway and not a bridleway to expedite the diversion process. It will also be necessary to extinguish restricted byway rights over the existing route of path no.

2. The Council is not aware of any evidence that supports the retention of public vehicular rights post 2nd May 2006.

6 The permitted development also obstructs part of Baydon 11 north of the yard area. Baydon 11 is currently recorded as a bridleway but again some evidence exists that support that the section north of Baydon 2 has higher rights. The diversion of another part of this at Baydon House in 2010 was resolved with the creation of a section of restricted byway and it is proposed that this could happen here, though since the diversion of this section would be coincident with path no 2 (which has much stronger evidence of higher rights over it) at this point, this is less relevant. However, again it would be necessary to extinguish restricted byway rights over the length affected.

7 The Council's working copy of the definitive map represents the ways as below:



Footpaths = purple

bridleways = green

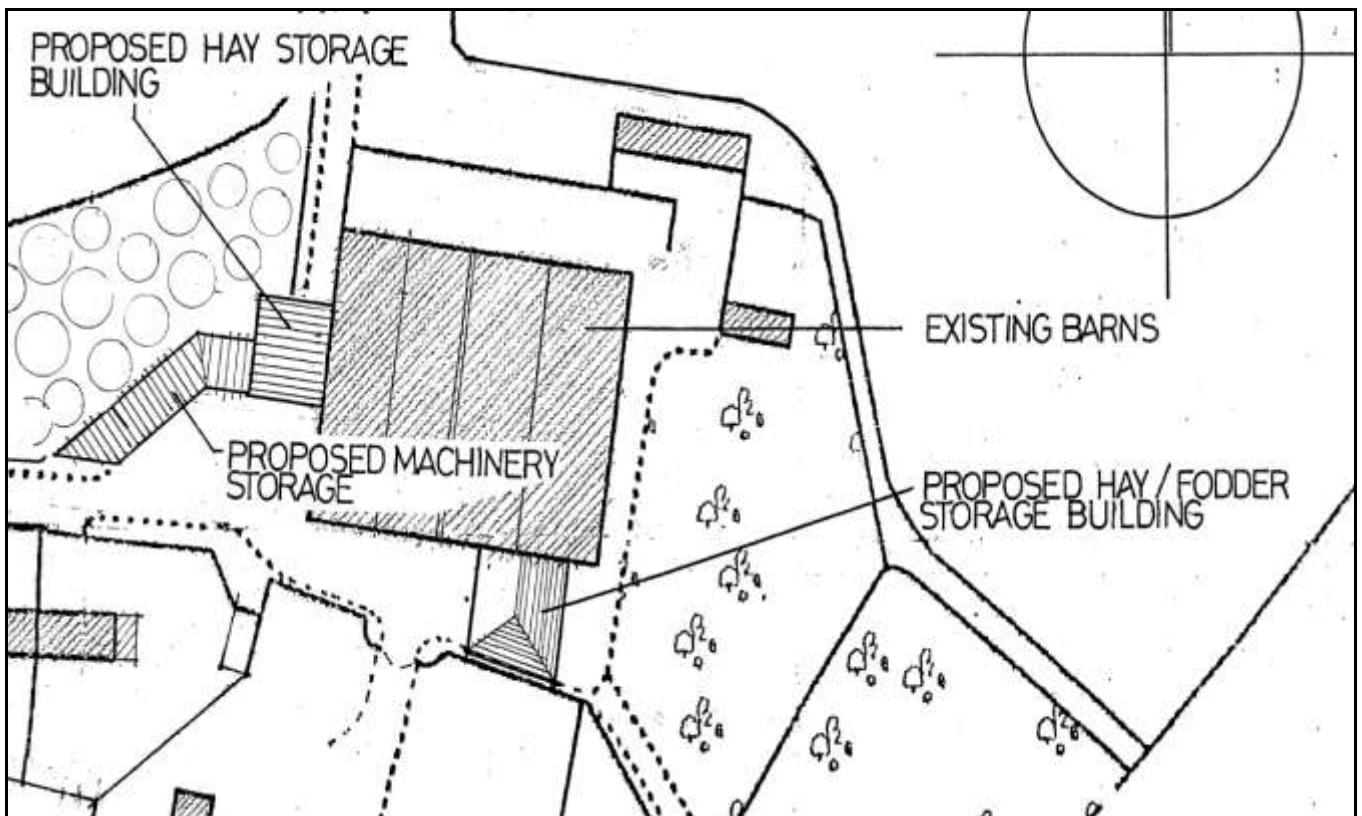
restricted byways = red

8 The definitive statement records:

Baydon 2 BRIDLEWAY Paynes Lane. From the Aldbourne road C.189, at its junction with path no. 8, leading east to Paine's Farm, then south-east to road U/C 5018 north of Gore's Copse. Approximate length 1.2 km.

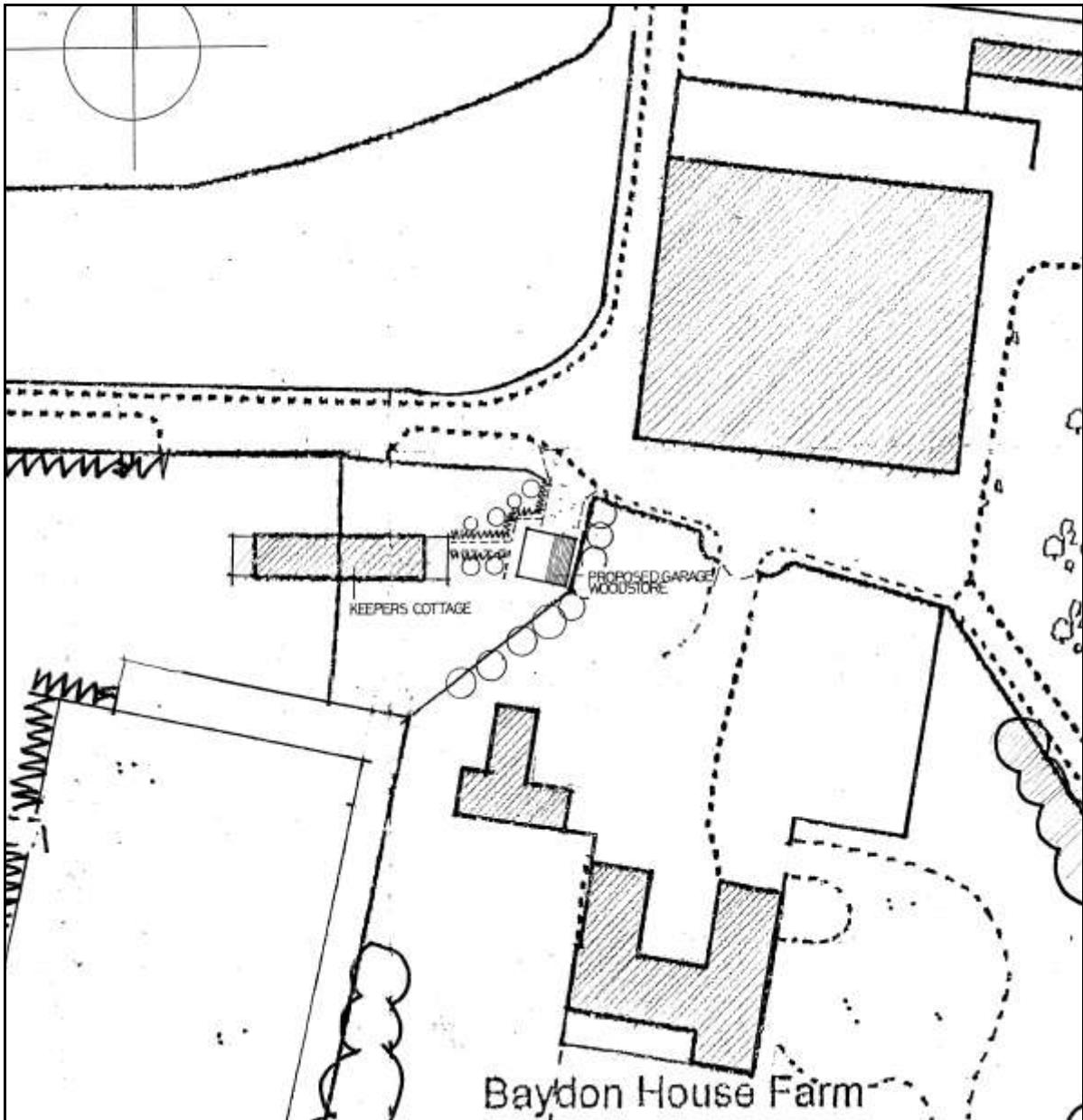
Baydon 11 RESTRICTED BYWAY from the u/c 5013 at OS Grid Ref SU 2787 7773 leading south south west, south and south east to OS Grid Ref SU 2794 7751 at its junction with Baydon 30 where **BRIDLEWAY**. South past Paine's Farm, across path No.2 continuing south for approximately 270 m then in a westerly direction to path No.8. Approximate length 513 m. Width 4 metres OS Grid Ref SU 2787 7773 to OS Grid Ref SU 2794 7751

9 Planning Application E/2013/0170/FUL is for the extension of agricultural buildings and was granted on 19 March 2013. The approved development is as below:



10 Baydon 2 will be obstructed by the proposed hay/fodder storage building and Baydon 11 will be obstructed by the proposed hay storage building.

- 11 Planning Application E/2013/0138/FUL is for the erection of a garage with log store and was granted on 27 March 2013. The approved development is as below:

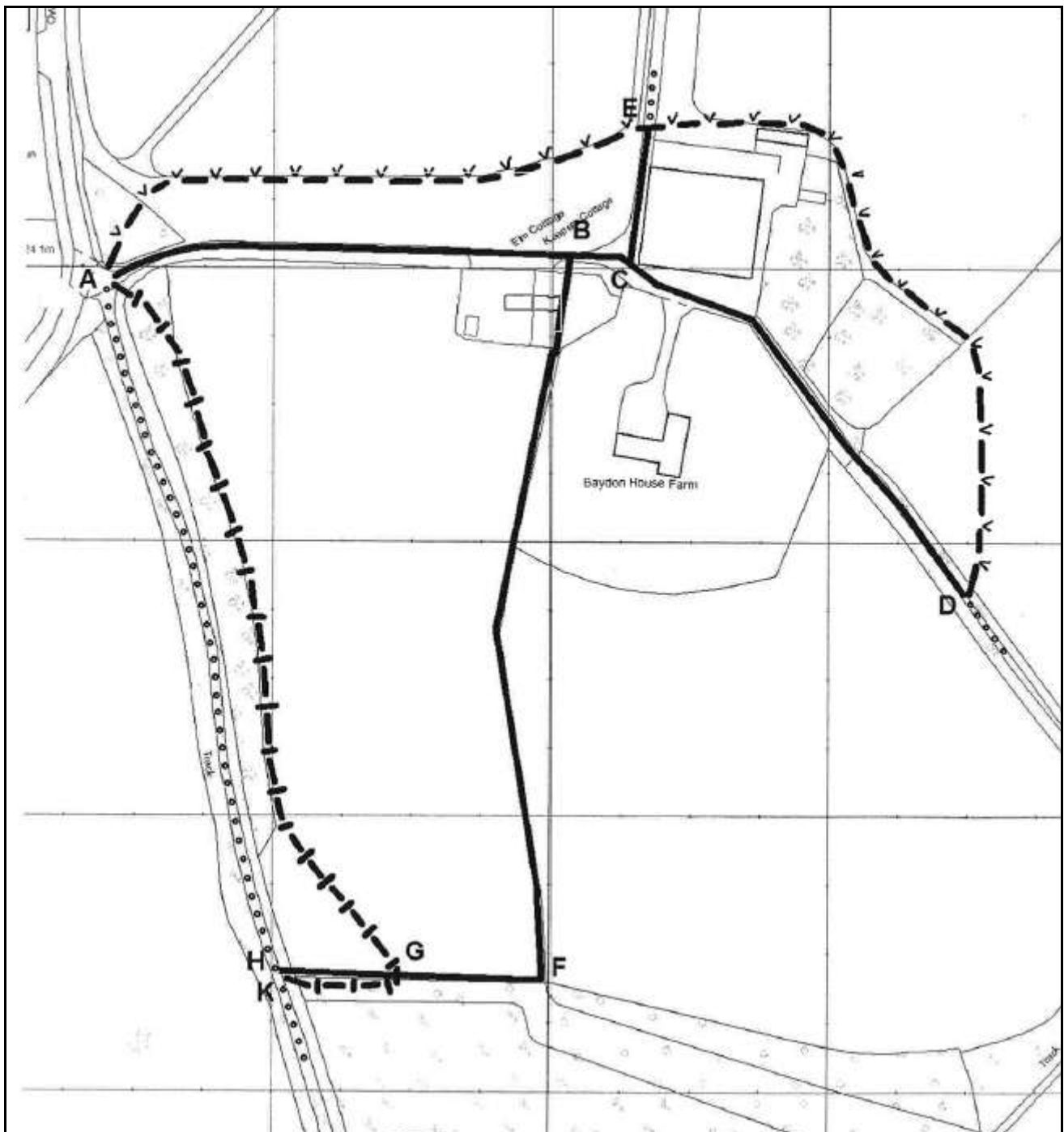


- 12 The southern section of Baydon 11 at Keepers Cottage has been unavailable for some time. The definitive map shows a staggering of Baydon 11 where it meets Baydon 2 at this location and is not affected by the permitted development which lies to the east of the line of the path. The line of the path is closer to Keepers Cottage, see working copy of the definitive map at paragraph 7.
- 13 An application to extinguish this part of Baydon 11 was turned down by Wiltshire Council in late 2012 (APPENDIX B – DECISION REPORT) and although the Council has a duty to make the path available, and notice to make it do so was served under s.130A of the Highways Act 1980, the submission of the application to divert the

way has meant that it is believed to be a better use of resources to consider the application to divert in the first instance.

14 Although it is clear that both applications rely on different legislation and legal tests officers took the view that it would help the public better understand the landowners' aspirations if they were able to view the proposed diversions as a whole rather than in two distinct parts. This approach seems to have been successful in that people largely seem to have been able to differentiate between the matters before them.

15 The application proposals are summarised on the applicant's own map below:



- 15 However, the diversion of paths 2 and 11 to permit the development to proceed must be capable of standing independent of the diversion of 11 near Keepers Cottage and as a result this report will only consider the diversion relevant to the planning consent which is time limited.
- 16 The existing route of Baydon 2 is a mixture of traditional laid flint highway, concrete through the yard area and tarmac with grassed verges beyond.



- 17 The landowner has constructed a diversion of this route and this is available to the public as a permissive path. The way is currently mown grass and has a variable width of around 2 metres up to 4 metres.



- 18 The newly created section of restricted byway for Baydon 11 at Baydon House Farm referred to at para. 6 is as below:



3 Consultation

19 The following letter was distributed on 20 June 2013.

***Town and Country Planning Act 1990 s.257 & Highways Act 1980 s.119
The diversion of parts of Baydon paths 2 and 11***

Wiltshire Council has recently granted planning permission for a development at Baydon House Farm (E/2013/0170/FUL). The permitted development requires the diversion of parts of Baydon paths no. 2 and 11 to be able to proceed and an application to divert the ways has been received. Additional to this an application to divert part of path no 11 has been received. Although the application to divert to enable the development to proceed must be considered in isolation from the other alterations (owing to the need to use different legislation) it is useful to consult on the proposals at the same time as it is helpful to see the overall effect on the network of the applications. These alterations were given at the planning stage and attracted no detrimental comment.

Please find enclosed a location plan, a site plan showing the permitted development and a plan showing the proposed changes to the definitive map and statement.

Route E – C (Baydon 11 part) and C – D (Baydon 2 part) need to be diverted to enable the development to proceed and it is proposed that route A – E – D is created as a restricted byway, 5 metres wide with a hard, well drained surface. There are no gates on this route and your comments relating to width and surface are especially invited.

Route A – B – C (Baydon 2 part) and Route B – F – H (Baydon 11 part) are subject to the application to divert under Highways Act 1980 legislation and it is proposed to create a new bridleway A – G – K with a width of 4 metres, a natural (grass) surface and having no gates. Your comments are invited on this.

The applicant has taken account of requests from local walkers and riders for a short circular walk with a different character to others in the area and it is hoped that this will meet expectations. Both proposed new routes have been partially constructed and may be readily viewed from the existing rights of way. Your comments are invited by August 16 2013.

20 The plan at paragraph 15 was also circulated.

21 This initial consultation was sent to the following:

The Auto Cycle Union
Commons Open Spaces and Footpaths Society
Wiltshire Bridleways Association
Cycling Touring Club
British Horse Society
Baydon Parish Council
Byways and Bridleways Trust
Wiltshire Councillor
Wiltshire Council Senior Rights of Way Warden
Mr B Riley
British Driving Society
Wiltshire Ramblers Representative
Wiltshire British Horse Society Representative

Mr and Mrs M Lloyd, Baydon House Farm
Mr M Wood, ET Landnet Ltd
Scottish and Southern Electric
Openreach BT
Thames Water
Wessex Water
Virgin Media
National Grid (gas and electric)
Linesearch and Digdat (multiple cable search facilities)
Mr B Gribble
Mr C Philips
Mr B Potter
Ms M Furber
Ms P Bishop
Mrs J Rees
Mrs A Smith
A and P Dobson
Mrs E Johnson
Mr W N McCleery
Mrs A Newman
Mrs D Newman
Mr K Smith
Ms N Archer
Mr M Rowse

4 Consultation responses

22 Prior to the consultation conducted by the rights of way team the proposed diversions were in the public domain as part of the planning application consultation process. During this stage Baydon Parish Council supported the application E/2013/0170 (the extension to the farm buildings) and commented under Suggested special conditions:

“Conditions: Proposed diverted footpaths are suitable for all user types and in place before buildings.”

23 Responding to the same consultation Wiltshire Council’s rights of way officers submitted the response appended at APPENDIX C.

24 Further to the consultation conducted by the rights of way team the following were received:

25 **Mrs Anne Smith, Aldbourne Road, Baydon 25 June 2013**

“Further to your letter dated 20th June 2013, I write to protest strongly at this application to divert footpaths from their original routes.

I am quite concerned that following the previous unsuccessful application to close one of these paths the landowner has made no attempt to re-instate it and I believe that this further application is another attempt to in essence close public rights of way.

As background to my comments, it should be noted that when land is bought or sold, it is done so with the full knowledge of the existence of public rights of way. I can see that it is nice to have one's property remaining more private than maybe the case if a right of way is within close proximity; but from the other viewpoint, when walking in the countryside, passing buildings of architectural interest, substantially increases the enjoyment of the walk and it is precisely this enjoyment which encourages many people to increase the amount of walking they do- something to be encouraged by all, including the planning authorities.

Having considered the plans you kindly provided, I am puzzled to understand how planning permission can have been granted without permission having already been obtained to move the rights of way. However, I have no great objection to moving the bridleway (Baydon 11 – Part) from the route DCE to the direct route DE around the outside of the buildings . I would however, request that the path surface should be appropriate to the area- a properly constructed stone path and not inappropriate tarmac which was laid on the previous public right of way in this area.

The addition of AE is only necessary if ABE is removed from public use – As this is currently a tarmac roadway, I can see no need to do this but again have no great objection.

I am a little confused by the term restricted byway and would like to confirm that the proposed restriction is in effect keeping it to a bridleway rather than restricting the terms of the right of way (like a permissive path?).

I am saddened that the land owner in this area currently feels that these paths should be fenced either side by high deer proof type fencing which reduces the enjoyment of walks like this but I suspect it is not possible to legislate against this!

Of much greater concern is the proposed route for the Bridleway ABCD (Baydon2 – part) and BFH (Baydon 11 –Part). The proposed route of AGK is a ridiculous alternative as there is in effect already a path taking almost the same route (AH) and I suspect the thought of the landowner is to put in situ as route which with time will become dis-used and they can then apply for its abandonment. Should it be seen as appropriate to move the right of way from its current position, (which they have not instated despite the previous application to close it being rejected), I would like to suggest a much more suitable route would be for it to follow the field boundary to the south of Baydon House and join the existing track at point D. Thus creating a useful short circular route and linking in well to the existing network of tracks. If the landowner prefers to keep the new route away from the close vicinity of the house then I would suggest they might create a track across the middle of the field in a direct line between points F and D.

Finally, I would like to make sure that proper note is taken of the fact that public rights of way are exactly that; for public use and public enjoyment not to serve the landowner, so that in this case if they are to improve their privacy (presumably what they want in this case) then they should be prepared to give something back to the community, I believe when a builder applies for a change of land use there is a payment made to the community for their use and I would suggest that this may be appropriate in this case.”

26 **Mr D Tilbury, Eastleigh 25 June 2013** All of the below paragraph is a quotation.

I write, as a user of the paths in question and as someone who has made complaint about the obstruction of these two paths. One can only speculate as to why complainants were not deemed suitable consultees.

It has long been my understanding that a citizen should not profit from a criminal act yet in this matter we see a landowner illegally obstructing rights of way, not being prosecuted and the matter being resolved by the rights of way in question be diverted for the landowner's convenience. We have seen this in other parts of Wiltshire where the RoW Warden turns a blind eye, dismissing the obstruction glibly with phrases such as 'I don't have time to deal with every obstruction'. In every case it is the public that lose out.

Looking at the area it is apparent that Wiltshire Council have abjectly failed to deliver under the statutory **duty** to create an accurate definitive map. At a glance one can see two cul-de-sac BOATs, a cul-de-sac bridleway and an unclassified road that is metalled at both ends but recorded as bridleway in the middle. And there there are routes, like Baydon 2 and 8 that have the appearance of roads but are recorded as bridleways. In every instance the public are the losers.

Baydon 2 is a smashing lane. Most people would respect the public rights of way and develop around that that exists. The proposed development places a small hay storage building across Baydon 11 & Baydon 2. A more obviously artificial design could not conceived. Why two stores when one would be cheaper to build and easier to use? Oh! Silly me....

The proposal for Baydon 11 is ludicrous. What point is there in creating a bridleway that runs parallel to an existing bridleway?

It is a great shame that Wiltshire Council didn't spend as much time creating an accurate definitive map or abating obstructions as they do in assisting landowners to convert public roads into private access drives. In this case there is a history of piecemeal diversion, obstruction and further diversion that has been conceived to move the public away from traditional routes thus enhancing privacy and property values. Should this proposed DMMO go ahead it will mark a new low in Wiltshire's record of protecting and asserting the rights of the public, as per s.130 HA80.

27 **Mr B Riley, Bradford on Avon 02 July 2013**

"Taking Baydon 2 first; the diversion of an ancient route for the sole benefit of a landowner is regrettable - although I appreciate he has every right to request it. It is a pity that so few landowners have any appreciation of history. There is nothing in this proposal of benefit to the public, who would be far better off retaining the existing route.

Examination of the County Series 25-inch OS maps shows that the width of the existing affected length is mainly 9 metres, narrowing to 5.5 metres between the buildings, so an average width of at least 6 metres ought to be provided for any substitute. A hard well drained surface is appropriate for a carriageway as long as the material is suitable for ridden and driven horses.

In respect of Baydon 11, the original route was diverted many years ago, so its value is recreational rather than historical. The proposed alternative A-G-K duplicates Baydon 8 too closely to be of much utility. A route further east, perhaps utilising part of the avenue shown on the planning drawing would be more acceptable.”

28 Mr M Lloyd, Baydon House, Baydon 09 July 2013

“We have received your letter regarding the diversions Johnsons are wishing to have passed of which we have no objections.

As I am sure you are aware a portion of the diversion land is owned by Basella Ltd for which I act as an agent for the trustees.

Johnsons are currently undertaking a land purchase of the land in question however the trustees have asked me to find out the process given you require feedback by the 16th and yet there is a possibility that the sale may not have proceeded by that date.

Could you please email the process so I can clarify with the trustees the timings.”

29 Mr A Kind, Newcastle upon Tyne 03 July 2013

“My comment on the proposal is that I am not opposed to diversion if such is genuinely necessary for development purposes, but it looks to me as though the diversions are considerably more extensive than is necessary.”

30 Mr K Smith, Aldbourne Road, Baydon 08 July 2013

“Thank you for the letter dated 20th June concerning the diversion of Baydon paths 2 & 11. This seems a complete U turn from the previous letter dated 4th Jan re SM/PC13 and I note that the plan was printed by Jan 29th OBVIOUSLY Plan B.

That it is VITAL to site those BARNS across rights of way leads me to think of an element of contempt or even taking the proverbial (P). The fact that no detrimental comments were offered at the planning stage is no surprise (I was at a meeting in Devizes once and this is the same behaviour as our MEPs).

As for the route E to C I would suggest it is 5 metres wide for the tractors etc.

Overall every aspect of the letter is for the benefit of BAYDON FARM who knew of these rights of way when obtaining the property, but actually denied the existence of part of path 11 although it is on the map (not to me personally). Anyway as there has been no action so far to make path 11 available to the public and the feeling I am as welcome as the taxman when I walk the dog past the house, I have to wonder how long the public would be allowed to enjoy any alternative paths.

I don't begrudge the privacy which is the reason for all this but I do worry about any safeguards for any new paths. Will they be signposted and what rights the public have.

(MAYBE BAYDON FARM WILL WANT A BIKE SHED or HELIPAD BLOCKING ANY NEW PATHS IN 6 MONTHS TIME).

That is the end of my rant. Hope to hear from you soon as I no longer know where I can or can't walk.”

31 Mrs J Rees, Baydon 23 June 2013

"With regard to your letter of 20th June I have no objection to the new route A- E- D but would add that it is only 5 metres wide from A to E. There is no legitimate reason for the proposed new route A – G – K. The landowners have already erected a hunting gate on it. I can only think that if granted permission they would then want to place a gate on bridleway 8 where it leaves u/c 189 and close it off for public use. This right of way has been in use since 1773 and should remain so."

32 Mr A Kind, Newcastle upon Tyne 22 July 2013

"Thank you for your letter of 18 July. My main concern is the proposed diversion that results in the alignment A – G. This brings two paths so close together as to detract from the integrity of the network and the enjoyment of the public. The route F – B can be varied westwards just enough towards the B end so as to allow a straight link up to the new A – E."

33 Mrs A Smith, Aldbourne Road, Baydon 26 July 2013

"Further to my letter dated 25th June 2013, I write further to express my considerable alarm and concern over these proposed by way amendments.

The reason for my alarm is that I have noticed that the proposed footpaths have indeed been marked as in the application and indeed they have been sign posted too but they are marked as 'permissive paths'. My alarm is that we appear to be losing permanent rights of way but instead being 'given' only permissive routes. These do not hold the same status in law and should the landowner want to in time may no longer exist. It is imperative that if these routes are to be amended we as the general public retain the right of way.

My second point is that I understand that these routes were in fact roads used as public paths (although it appears they may have been incorrectly designated at some point in time) and the proposed route certainly would not allow any vehicular traffic to travel along it as the corners are too sharp to get round."

34 Mrs A Smith, Aldbourne Road, Baydon 26 July 2013

"Further to my letter/ e-mail of 25th June I am writing again as I have visited the site (I run that way most mornings but only this week took the proposed route!). I have some considerable reservations about what is being done- most particularly regarding the change from actual 'right of way' to 'permissive path' status. This is an alarming reduction of public rights and should be defended very strongly. If it is allowed, then I will consider taking legal action to appeal against the decision."

35 Mr C Phillips, Ermin Street, Baydon 26 July 2013

"Thank you for your letter Baydon paths 2 & 11. The feelings of the villagers are well documented with the Council but alas they still let the village be raped and pillaged of its HISTORY.

It is a sad day for the countryside when money can dictate our heritage.

The alternative paths have been in place for months.

As for the circular walk, it is only on the other side of our hedge where the bridleway runs so it will only be walking down one side and back along the other side.

As planning has been given for the building work it seems that your department of Rights of Way are meaningless. Once again the heritage is lost."

36 Mr A Knowles, Baydon PC Chair, 28 July 2013

A response from the parish council to Mrs Smith and copied to Wiltshire Council:

"In response to your concerns regarding 2+11, I feel that the landowners have addressed the concerns raised at the PC meeting previously.

In reality the part of Baydon 11 in question would not be made available due to its location to property and business needs, plus it has not been used for decades.

The new proposed route gives the village in effect another available path and serves the raised question of having a loop.

With regards to 2, the new route is safer for all users and has much better views across the countryside, so once again I see this as a positive?

Any change will generate differing views, however these are ones we consider positive rather than negative or detrimental to villagers."

37 Wiltshire Councillor Mr J Sheppard 29 July 2013

"I have no objections to the planned alterations to the rights of way at Baydon House Farm. The planned new route A-E-D is 5m wide, is this greater than the route it replaced? I would like to reinforce Baydon Parish Councils request that the new routes are in place before the new building work starts. Will the future upkeep of the new paths be the responsibility of the owners of Baydon House Farm?"

38 Mr B Gribble, Ermin Close, Baydon 01 August 2013

"I refer to your above letter and initially I would like to make the following comment on the development proposal as a whole.

It is clear from your drawing and to anyone walking around Baydon House Farm that there is ample room within the landowner's property for the three hay, fodder and machinery storage buildings to be positioned so that they do not impact on any of the existing rights of way which could then be left intact. Why these buildings had to be placed so brazenly across existing paths when there is so much open space both east and west of the main barn is unclear. Did anyone in the planning department ask the same question before approving it?

However the main point that I take issue with in your letter is the relocation of route B – F – H. As you are aware the landowner recently made an application to extinguish this path which resulted in over ninety residents from our area, including the Rambling Club, writing to the Council objecting against the proposal. Although this application was, quite rightly rejected, it now appears that the landowner has requested the path should instead be moved westwards to a new position A – G – K on your drawing which is no more than a few metres away from the bridleway BAYD8. This is plainly absurd as nobody will bother using the path as it is so close to Baydon 8. The landowner will find it easy to achieve extinguishment after a few years if the path ends up in this position.

If route B – F – H must be moved (and I still do not understand why) then the only sensible move is eastwards to join points D and F (see attached drawing). This new route has several merits:

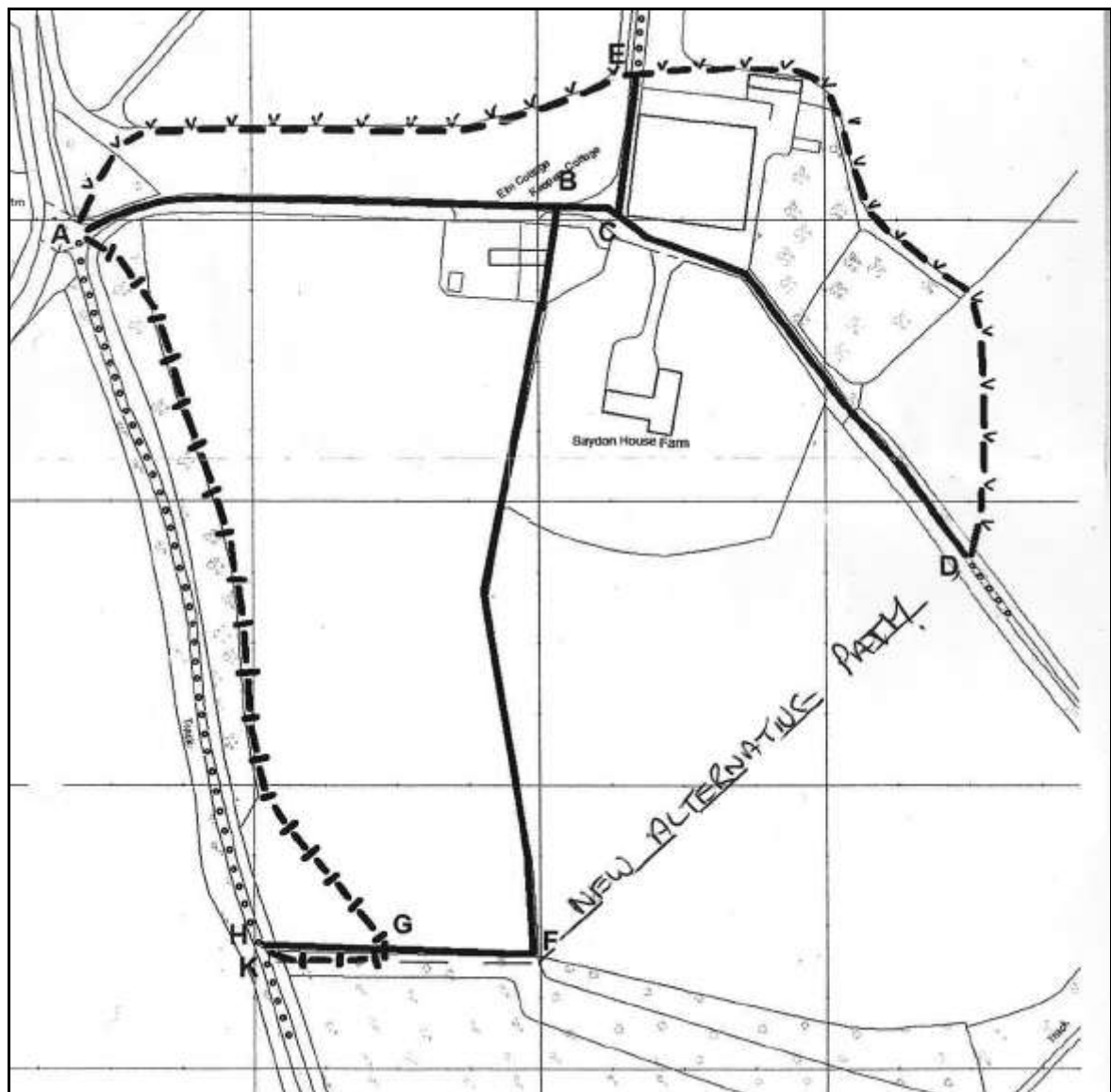
It moves the most contentious bridleway away from the landowners house.

The new bridleway will be of similar length.

It retains a circular route which is highly desirable to most walkers and riders.

I therefore ask that your department should strongly oppose the new route A – G – K. the path should either stay where it is, to the landowner must offer a route between points D – F – H of similar length to B – F – H.

Finally I would like to emphasise not to underestimate the importance of this path. It is so close to our village centre that it is easily accessible to all residents. This was clearly illustrated by the recent application to extinguish this path when over ninety people (almost one person from ninety houses) wrote to the Council objecting. Please do not lose sight of this because I doubt whether these people will want to write again when most of them believed that the path is now safe as the extinguishment was rejected. There is a frustrating imbalance in this development application. Everything seems to be in favour of the landowner and his family whereas everybody else in the village and further afield are losing out because they will no longer have the freedom to walk or ride where they could before."



39 Mrs A Smith, Aldbourne Road, Baydon 03 August 2013 in response to Parish Council e.mail dated 28 July 2013 and here at paragraph 36.

"I am very saddened by your response to my two e-mails regarding the proposed footpath changes, bearing in mind that I wrote at the end of June and made you aware that I was not available to attend

the meeting due to being away camping with Guides, you waiting to respond to my e-mail until I am already away, seems obtuse to say the least. It also suggests to me that you might have presented to the council the fact that you had written to me in response and had no reply- implying that I had no further objections.

I have acknowledged that the proposed new route of Baydon 2 whilst irritating, in that there is no reason for the change, other than to allow Baydon House Farm to exclude public access through their yard, as they have plenty of space to build their additional buildings without diverting the paths, is agreeable. I do not hold with your view that it opens up new/ better views across the countryside and would suggest that by walking it you would see the views are already available from Baydon 2 and Baydon 30.

You state that Baydon11 could not be re-instated due to its location to property and business needs, I would dispute that this could not be re-instated, but acknowledge that it is unlikely. The fact that it hasn't been used in recent years is entirely because it was not kept in passable condition by this or the previous landowners- a breach of their duties and therefore should not be seen as a mitigating factor as to the death of a footpath.

You suggest that creating a circular route has been achieved by the proposed move of Baydon 11 to a parallel path to Baydon 8. In reality, this is simply walking in one direction and straight back in the same direction- this does not represent a circular route. It seems that a better compromise, to give the landowners, the privacy they desire and the public a reasonable access to the countryside, a completely new route should be proposed. One which does create a proper circular route. Your comments about everyone having different opinions about possible routes is of course true but I feel that your comments suggest that any debate on an acceptable alternative will not be debated, is unacceptable in the circumstances. The suggestion was made not to determine the absolute route but to point out the principle that if modifications are being made which benefit the landowner, then those modifications should also benefit the public. This principle is noted through developers having to pay to the community when they build new homes and I see no reason why it shouldn't be part of this debate. I strongly disagree with your comment that the proposed route does create a proper circular route through giving an additional path.

Please forward to me minutes of the council meeting, so that I can see how this was presented and what comments were raised for discussion. I am really sorry I was not able to be present."

40 Mr P Gallagher, Ramblers, NE Wiltshire and Swindon Area, 06 August 2013

"I am responding to your letter dated 20 June, to Richard Harpin.

Baydon 2

We consider the proposed diversion route A-E-D to be acceptable. However, we do not support the proposed surface treatment of this path. A hard surface would be out of keeping with its surroundings and not in the interest of most users of the existing bridleway. The landowner's existing permissive path along this route has a grass surface and this should be retained.

Baydon 11

We accept that the planning permission which has been granted makes some diversion from the existing route necessary but the proposed route A-G-K is not a satisfactory solution. Its proximity to the existing Baydon 8 means that it is likely to be little used.

A more acceptable option would be to retain the existing section H-F (which needs to be cleared so that it can be used) and then divert the path from point F in a north-easterly direction to join Baydon 2 at or close to Point D. This would link the paths together in a much more useful way and would provide the facility of a short circular walk close to the village, the importance of which was mentioned by many of the local residents who objected to the previous proposal to extinguish this part of Baydon 11 (please refer to your Decision Report dated 15 November 2012)."

41 **Mr and Mrs D Jukes, Ermin Street, Baydon, 11 August 2013**

"Re: Recently granted planning permission E/2013/0170/FUL

Having already contacted you about this at the beginning of July I was advised that I would be notified when a rights of way officer was appointed to this case, but I am concerned that I have heard nothing since then so am writing to voice my concerns and to point out that other residents of Baydon will not have the opportunity to voice their concerns before the time to raise objections has expired which I understand to be August 16th 2013.

Before it is too late I would like to object strongly to the proposed diversion of parts of Baydon paths 2 and 11.

I have been provided with a letter sent to one of my neighbours by yourselves with a reference of SM/2013/15 & 16 BAYD2/11 along with location plans which my comments below refer to:

Firstly I refer to the proposed changes to Route E – C (Baydon 11 part) and C – D (Baydon 2 part) being replaced with Route A – E – D

The proposed replacement Route A – E – D has already been created and it is plainly obvious it is neither the same width nor surface as the current right of way or as specified in the letter as being 5 metres wide and a hard well drained surface.

The current right of way has a hard well drained surface and is wide enough to allow large agricultural vehicles to gain access to the various farm lands surrounding Baydon village.

The effects of the loss of this access was plainly felt when the current right of way was blocked for some time and large agricultural vehicles were forced through the village and down unsuitable alternative routes to gain access to the farm lands that have been accessed for many years via the current right of way.

Secondly I refer to the proposed changes to Route A – B – C (Baydon 2 part) and Route B – F – H (Baydon 11 part).

At best the existing route which is currently blocked illegally should be reopened but at worst the alternative path, if one has to be provided, should follow the route of the existing path as far as possible. This could be achieved by way of a small diversion around the site of the blockage allowing the walk from B to H via F to still be enjoyed.

The replacement so called circular walk is not circular it is simply a straight walk along one side of a hedge/tree row and the same straight walk back along the other side of the same hedgerow and would be a very poor alternative.

The letter I have been passed a copy of states that comments are invited by August 16th 2013 and I am concerned that the proposed changes will be pushed through without allowing enough time for the residents of Baydon to be properly informed about the proposed changes and then to consider and raise any objections they may have.

These rights of way have been in place for centuries and the removal of them should not be carried out lightly or without proper due consideration if at all."

42 Rodney Powell and Alex Franklin, Bishopstone, Wiltshire 13 August 2013

"Dear to whom it may concern, we totally support all the bridle path diversions around Baydon House Farm as with horses it is safer hacking away from tractors and farm machinery and through a busy yard"

43 Ms G Taylor, Baydon 13 August 2013

"I am a regular user of the footpath that dissects the above property. I am in full support of the diversion of this footpath. I have a small child and both myself and my partner feel it would be much safe if the footpath did not go through a busy working yard, with all the associated machinery, traffic and risks of loose horses running into a pram. I also feel the views will be far more enjoyable from the proposed new footpath. Please do not hesitate to contact me if you would like any further elaboration on my thoughts."

44 Ms A Windsor-Clive, Marridge Hill 13 August 2013

"I have walked and ridden past Baydon House Farm for nearly 25 years. Only a couple of days I walked past on the new Permissable Path. What an improvement, no more embarrassment of interrupting a working yard, no more slippery concrete. A new beautifully planned peaceful path. I sincerely hope that this path gets the go-ahead."

45 Mr W Blackiston, Baydon, 13 August 2013

"I write in support of the above mentioned planning application in reference to Baydon House Farm, SN8 2HX.

I live at 2 Paynes Cottage in Baydon and work at Baydon House Farm.

The nature of my role involves working large pieces of farm machinery including hedge cutters, hay bale spikes and tractors, all of which are operational whilst the current route goes directly through the working yard.

Consequently I've experienced added stress amid safety concerns for walkers, cyclists and riders (some of which are children). Even with the greatest of care taken, I believe this stress would have been avoided and safety increased with the diversionary routes in place.

The new barns will be a positive and efficient development for the storage of haylage (which requires dry storage for longevity) and for the storage of farm machinery (which is currently and rapidly degenerating and rusting due to it being kept outside). The day-to-day running of the farm would be a lot easier and safer.

The second diversionary 'Baydon 11' new route is also better, as on a number of occasions I have found members of public with their faces pressed to the windows of my home and also trespassing in my garden, therefore walking a route that does not even encompass 2 Paynes Cottage (it goes through the cottage next door).

More recently, I have met a number of ramblers who have tried the new paths and returned to ramble as a result of their support.

Thank you in advance for your consideration of this support letter."

46 **Ms S Faber for and on behalf of Ms Dionicia Caparas, Paynes Cottages, Baydon House Farm, 10 August 2013**

"I am writing in support of the diversion around Baydon house farm. It makes a lot of sense avoiding both the farm and house traffic and the working yard. The path that has been put in is much more suitable than the existing route. I would object to it being surfaced with Tarmac or stone as the route is in the countryside and is not a pavement through a village or town. The grass surface is much better for walkers and horses and more attractive to look at. It is safer in the winter when the ground freezes as it often does in this area of Wiltshire."

47 **Ms J Preston, no address given 13 August 2013**

"I have heard about the relocations of walk ways around Baydon and whilst normally I would suggest that they stay .. I think in this case .. It should be relocated as the farm machinery and the horses can be hazardous when we are walking the dogs, especially when you are with children ... I think it would be much better to walk a slightly longer distance and be safer."

48 **Mr J Grove, Downsmead, Baydon, 11 August 2013**

"As a resident and a fairly regular footpath walker I would like to support the moving of the footpath that runs through the middle of Baydon House Farm yard to around the back of the buildings. Several years ago when the buildings were used as sheep sheds and I was working on the farm I nearly ran over a small child who ran around the corner as I was reversing out and I only saw him at the last moment. I believe that footpaths should be kept out of dangerous places such as farmyards, industrial units etc.

My wife and I actually walked up the newly established footpath from Aldbourne road yesterday and we both agreed it is far more scenic and safer."

49 **Miss S Bristow, Russley Green, Baydon 11 August 2013**

"I understand you are the lady dealing with the proposed bridleway diversion sited at Baydon House, Baydon Wiltshire. I am totally in support of this diversion - as having lived in the villager for over 15 years and also being a horse owner/rider I can confirm that repositioning of this path does make sense. It will thus avoid going through another stable yard with other horses/dogs/machinery/distractions and provide a safe alternative route to rejoin the existing Preston track/Aldbourn Road. I cannot foresee any disadvantages to the new layout and hope that Wiltshire Council will strongly consider in favour this new proposed path for all riders/walkers to enjoy."

50 **Mr B Kingham, Snap Farm, Aldbourne 11 August 2013**

"I write in support of the application to relocate a foot path at Baydon house farm.

Some years ago I found it necessary to make a similar application to the Council to move a right of way which went through our, now much busier, farm yard and I therefore know from experience the serious danger such a right of way can be. Recent farm accidents serve to emphasise the point."

51 **Mr and Mrs S Arnott, Hellscombe, Aldbourne, 12 August 2013**

"We are writing to inform you that we are in total support of the proposed bridle path diversions around Baydon House Farm, in particular the ones avoiding the working barn area as these are unsafe. We have always been uneasy using the bridleway through a busy working farm and private

home and the suggested diversion will be infinitely more picturesque looking down the valley. We are therefore strongly in favour of it being carried out.

We are also in favour of the other diversion away from the farm workers cottages, however we would prefer not to use the path and question whether it is really needed. Perhaps an extinguishment would be a more obvious solution to a path issue that we have been aware of for a while?"

52 Mr A Knowles, Baydon Parish Council, 12 August 2013

"I thought it would be worth giving an update on behalf of the PC regarding the new diversions in place on Baydon 11 and 2.

Having discussed this in our recent meeting, we feel that Baydon 11 serves the purpose of the objections, such as the loop being created and the fact that the village is getting a path back.

Baydon 2 becomes safer for all users and the path has better views for people to enjoy.

The only question raised was to ensure the paths are suitable to most user types.

Though overwhelmingly we support the changes made."

53 Mr A Prior, Ermin Street, Baydon, 12 August 2013

"I am writing in support of the diversion of the existing route of BAYD2 through Baydon House Farm proposed by Mr and Mrs Brook Johnson. Since their purchase of the property horse activities have become a core part of the business, particularly active in the area between the house and the barns. There is also a need for a horsebox and agricultural vehicles to operate in the area. This all leads to the potential for problems, even accidents, for walkers and horse riders along the current route of the bridleway. It seem logical and reasonable, therefore, to consider an alternative route. The section from Aldbourne Road to the barns, off tarmac, and the section north of the barns connecting with the existing track below the active area add to form a superior route for users as regards, safety, ground conditions and views. It does not add any significant distance. Of equal importance is the opportunity for Mr & Mrs Johnson to improve their security against thefts from the area around the barns.

It also has similarities to the approved BAYD 11 diversion around Baydon House.

I am also aware of the BAYD11 situation in the field south of the two cottages. I support the proposed diversion to a position more westerly in the field because it connects quite nicely with the above diversion and again is a reasonable solution to the ongoing problem."

54 Mr N Bailey, Aldbourne, 13 August 2013

"I would be grateful if you would add me to the list of supporters of the application for the diversions of foot and bridle paths around Baydon House Farm.

The topic is certainly on the minds of many of the local community and a number of my clients, including horse owners, are all agreed that the proposed route would be safer for all and nicer without a doubt."

55 Ms A Franklin and Mr R Powell, 13 August 2013

"Dear to whom it may concern, we totally support all the bridle path diversions around Baydon house Farm as with horses it is safer hacking away from tractors and farm machinery and through a busy yard"

56 **Mr E Duvander, Reading, 14 August 2013**

"To whom it may concerns:

The New Zealand 3-day eventing team uses Baydon House Farm SN82HX regularly for training days. I believe that the diversion are in the best interest of the general public as cyclists and horses in training don't mix.

The paths have been a worry for both horses and riders with regard to safety and security during these training days."

57 **Mr S Moxon, Baydon, 14 August 2013**

"As a resident of Baydon I support the new diversions at Baydon house farm."

58 **Mr and Mrs J Harber, Aldbourne Road, Baydon, 14 August 2013**

Contains e.mail string as below:

"My wife and I write to you in support of the proposed changes to certain footpaths in and around Baydon House Farm. The changes we believe would not only compliment the current footpaths in and around Baydon but would also make good practical sense for a working facility especially from a safety perspective." "Bryan and Jacqueline Harber"

"Bryan, hello . Hope this email finds you well. Its been a while, we need to get together again in the near future. Could you please send an email tosallymadgwick@wiltshire.gov.uk..... supporting what Sally and I are trying to accomplish by diverting these footpaths. The summary attached on Sally's email . I believe we have good local support and please walk the new footpaths and see what you think. The usual critics are never happy with what people try to do, but hopefully the good people of Baydon will take advantage of this new system. The response has to be in by this Friday. All the best, Brook"

"We are writing in support of the application for the diversions of foot and bridle paths around Baydon House Farm, without which it makes it difficult and often unsafe to operate normal farm machinery around our barns. We have had a number of worrying incidents with young children running around the barns in our working farmyard and into the direct path of operating machinery including jcb and hay moving spikes. These were, luckily, close shaves but the result each time could have been of a considerably more deadly nature. With the paths diverted, the general public will be much safer and the route we have suggested takes in a fantastic view down the valley which you would otherwise not get.

Likewise the path from the back of the barns off the 'yard drive' in the direction of Aldbourne provide a much better route with no gates to open and shut and no traffic to avoid. The surface is grass and is therefore much safer for horse riders as we have had a number of path users on horseback and on feet slipping on the concrete during icy periods. Grass solves this issue and is certainly more in keeping (as noted and remarked on by some ramblers last week).

A number of local riders have asked in the past if we could consider an alternative route allowing them to avoid the barn and concrete areas as horses often 'spook' (which is particularly dangerous with metal shoes on concrete) and a few riders regularly have had to dismount to pass through our working areas.

The other diversion, in lieu of the previous applied for extinguishment, which involves the existing unusable route through our cottages should hopefully provide a happier solution for the problem we

inherited (not caused) as new owners nearly 4 years ago. It opens a path which has technically and literally been unusable for some 25 yrs plus by providing a usable and safe alternative

around the same field and of a similar length. All the above aside, for us to continue to work as a farm and to enable us to store equipment, hay and Haylage, we urgently need to build barns which for obvious reasons need to be located next to existing farm buildings and on level ground. To achieve this, we need to obtain permission to divert the existing paths allowing us to then erect the farm buildings.

We would very much appreciate both village and council support. In the meantime, we have worked hard to clear the proposed routes and make them suitable to use whether on foot or horseback. Any constructive suggestions you have on what we have tried to provide will be gratefully received.

Yours sincerely

Brook and Sally Johnson"

59 Mr M Lloyd, Baydon House, 14 August 2013

"I know we have spoken over this issue regarding the land sales that are going through to facilitate the diversion between S Johnson and Basella Ltd a few weeks ago.

However thought i would just reiterate that we are fully supportive of the proposed diversion and extinguishment that we have received correspondence on from the Wilts council.

The new route provides a much more safe as well as pleasant walk for our family when we walk down to Aldbourne."

60 Mr C McEwan, Lambourn, 14 August 2013

"To whom it may concern. My name is Christopher Roger McEwen M.R.C.V.S. working from the Valley Equine Hospital, Lambourn. I am the vet attending the horse yard at Baydon House Farm belonging to Mr and Mrs B Johnstone. They have extremely valuable eventers housed there. It would be much safer for the footpath routed at the moment in front of the yard to be re-routed as over the years there have been many occasions when riders and especially bikers come past the yard where veterinary procedures were being undertaken causing chaos. I am sure they do not do this on purpose however it is quite blind around the barn and suddenly come across us, causing the treated horses to erupt. If it was possible to re-route this path in my opinion it would be a much safer option."

61 Sir M Todd, Swindon, 15 August 2013

"Baydon House Farm

I often use the excellent facilities at Baydon House Farm for training purposes for my Olympic level three day eventing horses.

I truly believe that the diversions of the bridle paths are in the best interest of the general public as cyclists and fit horses in training don't mix.

I have been worried about the safety of both horse and riders on my visits to Baydon House Farm. Likewise, the safety of path users with fit competition horses in the yard being loaded and unloaded out of and into lorries on the concrete apron (over which the path runs) . Horses are predictably unpredictable at the best of times.

There is also a security concern in both the working yard and lorries

I totally support all the diversions at Baydon House Farm.

I hope this is all the information that you require but please do not hesitate to contact me if not."

62 Ms A Dobson, Baydon, 16 August 2013

"I refer to our telephone conversation and your letter of 20 June 2013 concerning the diversion of paths as above.

We are delighted to note that route A-E-D on your drawing is to be a hard well drained surface and 5m wide. The gradient from point A to the fence line of the paddock is at present very steep and will not be usable by wheelchairs. Can you please ensure that the applicant does his very best to reduce this gradient so all of our village, elderly, mums with prams and the disabled, can make use of the footpath.

The new route A-G-K, which is not going to have a hard surface presently appears to have no direction marks and it will be best for all concerned if users are encouraged to keep to the pathway rather than straying off."

63 Mr and Mrs C Whale, Walronds Close, Baydon, 19 August 2013

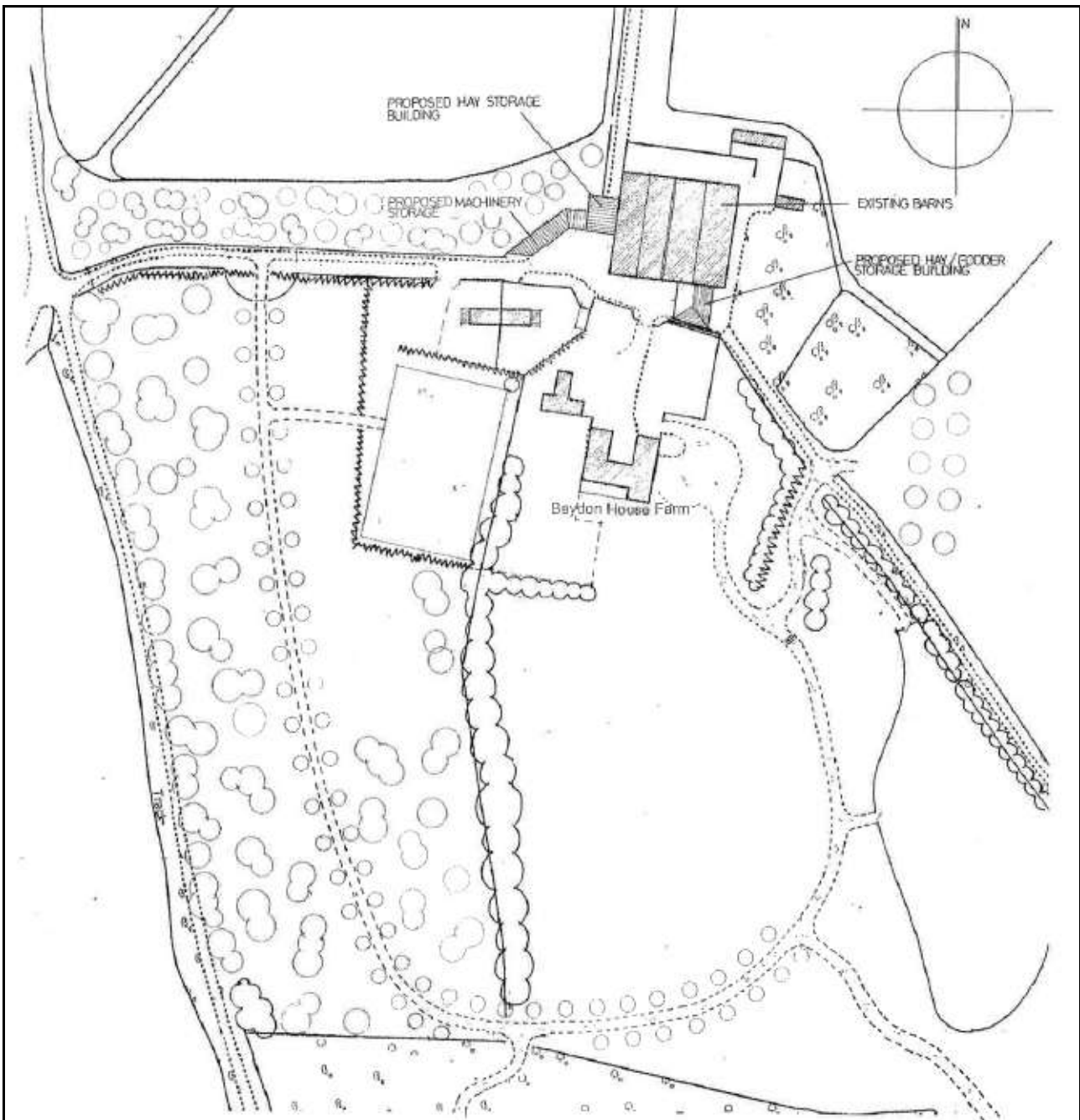
" We are writing in full support of Mr & Mrs B Johnsons request to move the bridleway at Baydon House Farm to a new route on the boundary of the property. I have ridden the diversion today and have found it to be a suitable alternative as it means that the horses do not have to pass through a busy spooky stable yard and we as riders do not have to open and close gates which can be quite dangerous from the back of a horse.

My only concern is that during the winter months it may become muddy and therefore impassable."

5 Further Consultation

64 An enquiry was sent to the applicant (Mrs S Johnson), the agent (Mr M Wood) and Mr Blackiston who works on the farm using heavy machinery to enquire about the plans for farm management movements once the planned buildings are erected (as the yard becomes a cul-de-sac once the buildings are erected) and whether the proposed diversion routes will be used by these vehicles (especially as an east to west link).

65 Plan showing permitted development:



66 **Mr M Wood on behalf of the applicant and Mr W Blackiston 30 August 2013**

Thank you for your letter dated 25 August. I am responding on behalf of the Applicant and William Blackiston to whom you have also written as he is responsible for the movement of agricultural vehicles on the farm.

I can confirm that no other land or person enjoys a private right of way over the driveway to Baydon House Farm or through the farmyard, so that Baydon House Farm has total control over the manner in which farm vehicles pass and repass.

The track to the south of Baydon 2 that was constructed recently to provide a vehicular access to the house and to the farm's other land was designed and built to the specification to accommodate the vehicles and machinery that are used on the farm. On completion of the development that is the route that will be taken for all east/west farm movements – see the red dashed line showing access ways on the attached plan.

The diversion route is not suitable for agricultural traffic or machinery and has not been designed for that purpose. Access would only be required by the Farm for any maintenance works to the boundaries or adjacent vegetation and this would only be with lightweight machinery. The diversion route is also free of any private rights of access in favour of any third party.



6 Considerations for the Council – Legal Empowerment

67 The Town and Country Planning Act of 1990 states, in sections 257 and 259:

257 Footpaths and bridleways affected by development: orders by other authorities.

(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III, or

(b) by a government department.

(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—

(a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;

(b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order;

(c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;

(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

(4) In this section “competent authority” means—

(a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it; and

(b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

259 Confirmation of orders made by other authorities.

(1) An order made under section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.

(2) The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.

(3) The time specified—

(a) in an order under section 257 as the time from which a footpath or bridleway is to be stopped up or diverted; or

(b) in an order under section 258 as the time from which a right of way is to be extinguished,

shall not be earlier than confirmation of the order.

(4) Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.

68 Section 257 of the Town and Country Planning Act requires that before the order may be confirmed either Wiltshire Council (in the case of an order that has not attracted objections) or the Secretary of State must be satisfied that it is necessary to divert the path in question in order to enable development to be carried out in accordance with planning permission granted.

69 Paragraph 7.15 of Circular 1/09 (Rights of Way Circular – Guidance for Local Authorities – Defra) advises that the disadvantages or loss likely to arise as a result of the diversion, either to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the Order.

70 7.15 states:

“...Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to person whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.”

7 **Comments on Considerations**

i) **Whether it is necessary to divert the path in order to enable development to be carried out.**

71 The development affects the line of paths 2 and 11 which must be diverted or extinguished in this place to permit the development to proceed.

72 The application proposes a diversion that extends for 150 metres west of the permitted development joining Baydon path no 8 and a proposed diverted section of Baydon path 11.

73 Although this diversion has the advantage of not having any gates along it, it is subject to a difficult gradient at its western end and given the comments made at the initial consultation stage relating to the proposed diversion of part of Baydon 11 west of Baydon House Farm (under different legislation), it is by no means certain that the junction of Baydon 11 would be at this point in the future.

74 Additionally, it is noted that in considering a diversion under Highways Act legislation (as would be the case for Baydon 11 west of Baydon House Farm) the Council is bound to consider all routes to be without obstruction and available.

Defra's Rights of Way Circular 1/09 states at 5.25:

Section 119 of the 1980 Act does not specifically entitle an authority to disregard temporary circumstances, including any buildings or structures preventing or diminishing the use of the existing way in considering whether or not to make an order and the consideration is equally not available to the body confirming the order. The Planning Inspectorate Advice Note 9 22 (s28) indicates that in forming an opinion on whether the replacement route is not substantially less convenient to the public, a fair determination can only be made on the assumption that the existing route is available to the public to its full legal extent.

75 Given that it is necessary to consider Baydon 11 unobstructed for the purposes of its own diversion it is logical to also consider it unobstructed for the purposes of diverting Baydon 2 and the northern section of Baydon 11 under different legislation.

76 Accordingly locating the end of the proposed diversion of Baydon 2 so far to the west is not necessary to enable the development to proceed and creates an unnecessarily sloping section of new path. Whilst it is understood that the landowners have a desire to route all rights of way from the access road and yard areas it is considered more appropriate to achieve this under different legislation and at the same time as any proposals to divert Baydon 11 south of Baydon 2 are considered.

ii) The disadvantages or loss likely to arise as a result of the diversion

77 Although some respondents have made it clear that there is value in retaining historic routes, the granting of planning permission dictates that the right of way must move from the yard area.

78 A variety of respondents have expressed a view that it would be advantageous to move the right of way from the busy yard area and whilst it is clearly in the landowner's interests to do so there is also public benefit in taking the right of way away from the yard area which is likely to be busy with farm related activities.

79 The route of Baydon 2 undoubtedly has a sense of direction and purpose that the proposed diversion does not have. However although the route itself is historic in nature none of the farm buildings or dwellings that it passes by are sufficiently attractive or interesting to represent a loss of enjoyment.

iii) Alternative Routes

80 The proposed diversion is the most convenient alternative east of the yard. An alternative route minimising the steep gradient at the western end is recommended to comply with the legislation and to offer more accessible routes. Gradient and slope are significant barriers to users who are mobility impaired, very young, walking with a pram or pushchair or cycling and the Council has a duty to enable least restrictive access wherever possible.

iv) Environmental Impact of the Recommendation

81 Planning Consent was granted with full consideration of the environmental impacts of the proposal.

v) Risk Assessment

82 There are significant risks associated with the new route as presented and the Council will require the way to have considerable width and surface improvements before it is certified and acceptable and any order comes into force. The new route must have an all weather surface at least in part to ensure that all users may use the way comfortably throughout the year.

83 There would be no risks to users of the path associated with the proposed new route which must be at least 5 metres wide having a compacted stone surface for 2 metres of its width.

84 The proposed new route would become a highway maintainable at public expense and it will be necessary to minimise the Council's maintenance liability by ensuring that trees are cut back well back from the route allowing sun and air and reducing the impact of any seasonal growth.

vi) Legal Considerations and Financial Implications

85 The applicant must meet all costs related to the formation of the new path to a standard that is acceptable to the council. The applicant will meet all costs related to the confirmation of the order excluding any costs associated with sending the Order to the Secretary of State (SoS) for determination. This occurs if objections are received. The SoS may choose to determine the order by written representations (no additional cost to the Council), a local hearing (approximate cost £200) or a public inquiry (approximate cost £3500).

86 Although the making of public path orders is a power that Wiltshire Council has and is not a duty, where the planning authority and the highway authority are the same authority, a duty is implied. If Wiltshire Council fails to make an order following the granting of planning permission it is liable to application for judicial review from the developer. This has a potential cost to the Council of up to £50000.

vii) Equality Impact

87 The Council must have regard to The Equality Act 2010. This act requires (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to ensure that a disabled person is not put at a substantial disadvantage in comparison with a person who is not disabled. The Equality Act goes further than just requiring a public authority does not discriminate against a disabled person. Section 149 imposes a duty, known as the “public sector equality duty”, on the public bodies listed in sch. 19 to the Act, to have due regard to three specified matters when exercising their functions.

88 These three matters are:

- Eliminating conduct that is prohibited by the Act
- Advancing equality of opportunity between people who have a disability and people who do not; and
- Fostering good relations between people who have a disability and people who do not.

89 The Equality Act applies to a highway authority’s provision of public rights of way services. (DEFRA Guidance *Authorising structures (gaps, gates and stiles) on rights of way* Oct 2010)

90 The Council must also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP). The ROWIP recognises the Council’s duty to have regard to DDA95 (replaced by the Equalities Act 2010) and to consider the least restrictive option.

91 The diversion route offered by this proposal must be at least as accessible as the old route at all times of the year.

8 Options to Consider

- 92 i) To make an order to divert Baydon 2 and 11 as applied for.
- ii) To make an order to divert Baydon 2 and 11 with modifications to the application route.
- iii) To refuse to make an order to divert Baydon 2 and 11.

9 Reasons for Recommendation

- 93 A considerable number of responses were received during the initial consultation period. Some people gave detailed responses and referred specifically to the consultation plan and had clearly tried the newly created route, others expressed more general exasperation and others though generally in support of removing the right of way from the yard, did not appear to have seen a plan detailing the alternatives.
- 94 Generally, it seems to be accepted by respondents that the rights of way will be affected by the permitted development at the yard and must be diverted. Additionally, there does not appear to be disapproval of the new route leading from the east around the north side of the yard buildings and then westwards above the main drive though there are concerns about gradient and surface.
- 95 There is little disagreement with the new route being 5 metres wide though Mr Riley points out that the historic route is on average much wider than this. Officers consider a minimum width of 5 metres to be adequate though it is noted from comments that this route is well used by a variety of users. The current permissive route which narrows to 2 and 3 metres in places and is barely 5 metres even at its widest point (where defined by fencing) is unacceptable.
- 96 **Any new route will only be certified by the Council if it is at least 5 metres wide**
- 97 Officers also consider that the gradient at the western end is unacceptable. This was also highlighted by Ms A Dobson in her response and Baydon Parish Council also make it clear that the new route must be suitable for all users.
- 98 The land only slopes steeply at the western end and this gradient is un-noticeable on the land further east (in the direction of the yard). It would be possible to re-site this part of the path removing the excessive gradient while still avoiding the service vehicles (tractors etc) increased use of the main drive caused by the development (see para. 66).
- 99 The longer diversion also exceeds that which is necessary to divert under s.257 of the Town and Country Planning Act 1990.

- 100 **As a result the Council will only make an order that reflects a change in this end of the path to make it more accessible. See Appendix D**
- 101 Baydon Parish Council made it clear in their response (which was supported by some others) that the new routes must be in place before the building works start.
- 102 Any works on the existing lines of Baydon 2 and 11 prior to order confirmation and route certification would represent an obstruction, an interference or nuisance.
- 103 Any confirmed order diverting these routes will only come into effect when the new routes have been certified as acceptable by the Council.
- 104 **Adherence to the correct procedure should ensure that the public rights of way remain open and usable throughout this procedure without the need for the Council to pursue any enforcement measures.**
- 105 Twelve respondents referred to the surface of the new route and this is clearly an area of concern. The existing route leads over a tarmac, concrete and laid stone track with grass verges and banks to the side in some places. Although some users have commented that the surface can be slippery the Council has no record of complaints relating to the surface. It is further noted that world class equestrians train at this yard suggesting that ground conditions in the yard area do not present a significant problem to horses.
- 106 The existing hard surfaces of this route undoubtedly make the track more accessible to cyclists, the mobility impaired or people with prams and buggies and mean that the route remains easily usable in wet periods.
- 107 The following comments relating to the surface were received:

Baydon Parish Council “suitable for all user types and in place before buildings”

Mrs Anne Smith “the path surface should be appropriate for the area a properly constructed stone path and not inappropriate tarmac”

Mr B Riley “A hard well drained surface is appropriate for a carriage way as long as the material is suitable for ridden and driven horses.” “An average width of at least 6 metres ought to be provided.”

Mr K Smith “Route E to C I would suggest is 5 m wide for the tractors etc”

Wiltshire Cllr J Sheppard “would like to reinforce Baydon PC’s request that the new routes are in place before the building work starts.”

Mr B Gribble “I would like to emphasise not to underestimate the importance of this path. It is so close to our village centre that it is easily accessible to all residents.”

Ramblers “We do not support the proposed surface treatment of this path. A hard surface would be out of keeping with its surroundings and not in the interest of most of the users of the existing bridleway.”

Ms G Taylor is a regular user with small children and a pram.

Ms Windsor Clive welcomes “no more slippery concrete”.

Ms S Faber (the applicant) on behalf of Ms Dionicai Caparas “I would object to it being surfaced with tarmac or stone as the route is in the countryside and not a pavement through a village or town. The grass surface is much better for walkers and horses and more attractive to look at. It is safer in the winter when the ground freezes.”

Baydon Parish Council (after a meeting) “The only question raised was to ensure the paths are suitable to most user types.”

Ms A Dobson “We are delighted to note that route A-E-D on your drawing is to be a hard well drained surface and 5 metres wide. The gradient from point A to the fence line of the paddock is at present very steep and will not be usable by wheelchairs. Can you please ensure that the applicant does his very best to reduce this gradient so all of our village, the elderly, mums with prams and the disabled can make use of the footpath.”

Mr and Mrs Whale “My only concern is that during the winter months it may become muddy and therefore impassable.”

- 108 Responses show that the existing routes are readily accessible and well used by walkers, horse riders and cyclists. No part of the existing route of Baydon 2 is exclusively over grass and given the poaching of surfaces caused by horses in wet conditions it is considered highly likely that this route as built would become wet and difficult to use in winter months. Additionally without cutting and rolling maintenance the path could rapidly become uneven and difficult to use in dry periods. The proximity of fencing preventing deviation and trees and hedgerows to the side preventing sun and light drying the surface all contribute to the unsuitability of a grass surface at this location.
- 109 Although the applicant and owners of the land are likely to mow and maintain the route at this time (as it forms an integral part of their estate) the maintenance liability would rest with Wiltshire Council for all time and the Council will not certify a route that is difficult and expensive to maintain.
- 110 Although the nearby diverted section of Baydon 11 at Baydon House has a central tarmac strip between verges (providing a highly accessible route)(see para. 18) it is considered acceptable to construct the diversion at Baydon House Farm as a 2 metre wide compacted stone surface lying within grass verges within the 5 metre width.
- 111 Additionally some trees are very close to the proposed diversion and these would need to be removed to avoid future issues with overhanging trees and root disturbance of the surface.
- 112 **Wiltshire Council will only certify a route (and hence bring any order into effect) that has a 2 metre wide compacted stone section for its entire length and is of a minimum width of 5 metres at all points.**
- 113 The construction of the new route should only be done after consultation and a site visit with the rights of way warden for the area.

10 Recommendation

- 114 **That Wiltshire Council makes the order appended at D under s.257 of the Town and Country Planning Act 1990 to divert parts of Baydon 2 and 11 to enable a permitted development to proceed at Baydon House Farm.**
- 115 **That if no representations or objections are received that the order be confirmed but that confirmation and certification of the route are only carried out after the construction of an acceptable route of a minimum of 5 metres in width with a compacted stone surface over 2 metres of the width.**

Sally Madgwick
Rights of Way Officer

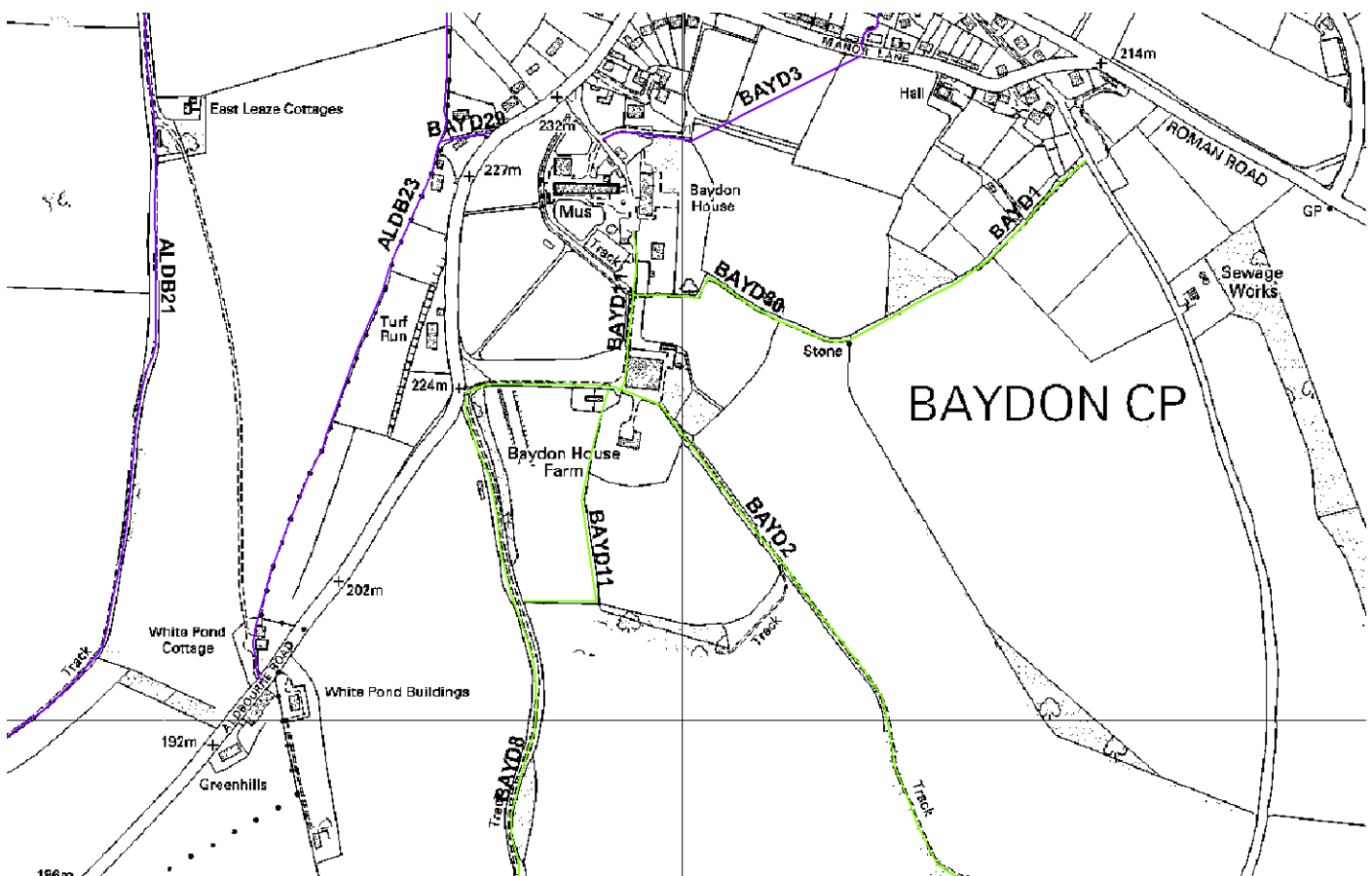
05 September 2013

Review of widths and limitations

1 Overview

The farm now called Baydon House Farm but formerly known as Payne’s Farm has its buildings at the cross roads of public rights of way Baydon 2 and Baydon 11. Both routes are currently recorded in the definitive map and statement as bridleways though it is noted that this is without prejudice to the existence of any higher rights (s.56 Wildlife and Countryside Act 1981). Baydon 2 was claimed by Baydon Parish Council in 1950 as a Bridle Road (Payne’s Lane) and Baydon 11 was claimed by the parish council in 1950 as a Road Used as a Public Path (RUPP). The Countryside Act 1968 required the reclassification of RUPPs and Baydon 11 was reclassified as a bridleway without objection. It is noted that this reclassification is also without prejudice to the existence of higher rights (R v Secretary of State for Environment ex parte Riley (1989) 59 P & CR 1).

The working copy of the definitive map shows the rights of way as below:



And the statement records:

- | | | |
|-----------|---|--|
| Baydon 2 | <u>BRIDLEWAY</u> . Paynes Lane. From the Aldbourne road C.189, at its junction with path No.8, leading east to Paine's Farm, then south-east to road U/C 5018 north of Gore's Copse. Approximate length 1.2 k.m. | Relevant date
1 st January
1985 |
| Baydon 11 | <u>BRIDLEWAY</u> . From the southern end of road U/C 5013 at Baydon House Farm leading in a southerly direction past Paine's Farm, across path No.2 continuing south for approximately 270 m then in a westerly direction to path No.8. Approximate length 303 m. | Relevant date
1st January
1985 |

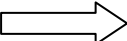
It is noted that no width is recorded for either route. It is therefore necessary to consider what width, on the balance of probabilities, would public rights have extended to. An application has been made for the erections of gates on Baydon 2 and 11 and this has raised the question of both the width of the right of way and the status that should be recorded in the definitive map and statement.

2 Historical Context

Although currently a network of bridleways exist in the area south of Baydon, a considerable amount of historical mapping exists that depict the routes as being of greater local importance in the past. Until the 1790s Baydon was a tithing in the parish of Ramsbury and although modern routes predominantly link Baydon with neighbouring Aldbourne, at the end of the 18th century the village of Ramsbury and the settlements at Mariage Hill were clearly more prominent and important destinations than they are today. Marring Hill is shown on modern OS maps and lays at the southern end of Baydon 7.

Andrew's and Dury's Map of Wiltshire (1773) drawn at a scale of 2 inches to one mile is an important early county map and shows fenced and unfenced roads, buildings, gardens, relief (by shading or hatching), farms and churches. The map represents the route of bridleway Baydon 8 as being the most direct north south road from Baydon and depicts bridleway Baydon 2 and 7 as being roads leading to Mariage Hill. The C.189 which leaves Baydon from the south towards Aldbourne is shown as a road but not as the major route out of the village.

See excerpt from map on page 3.

The white arrow  indicates Baydon path 8.

The yellow arrow  indicates Baydon path 2.

The red arrow  indicates the C.189 road to Aldbourne.

Baydon 11 is not wholly apparent on this map though routes are shown that would link Baydon House and the village with the farm, they are however not on the straight line route that exists today.

Although the map of Wiltshire does not have a key, Andrews' and Dury's map of Hertfordshire does and the symbology would appear to similar. Hence it is noted that Baydon 2 from the C.189 to a point south east of the farm was a road fenced on both sides but continuing on as an unfenced road to meet the unclassified road u/c5018 and Baydon path 7 south the Mariage Hill.

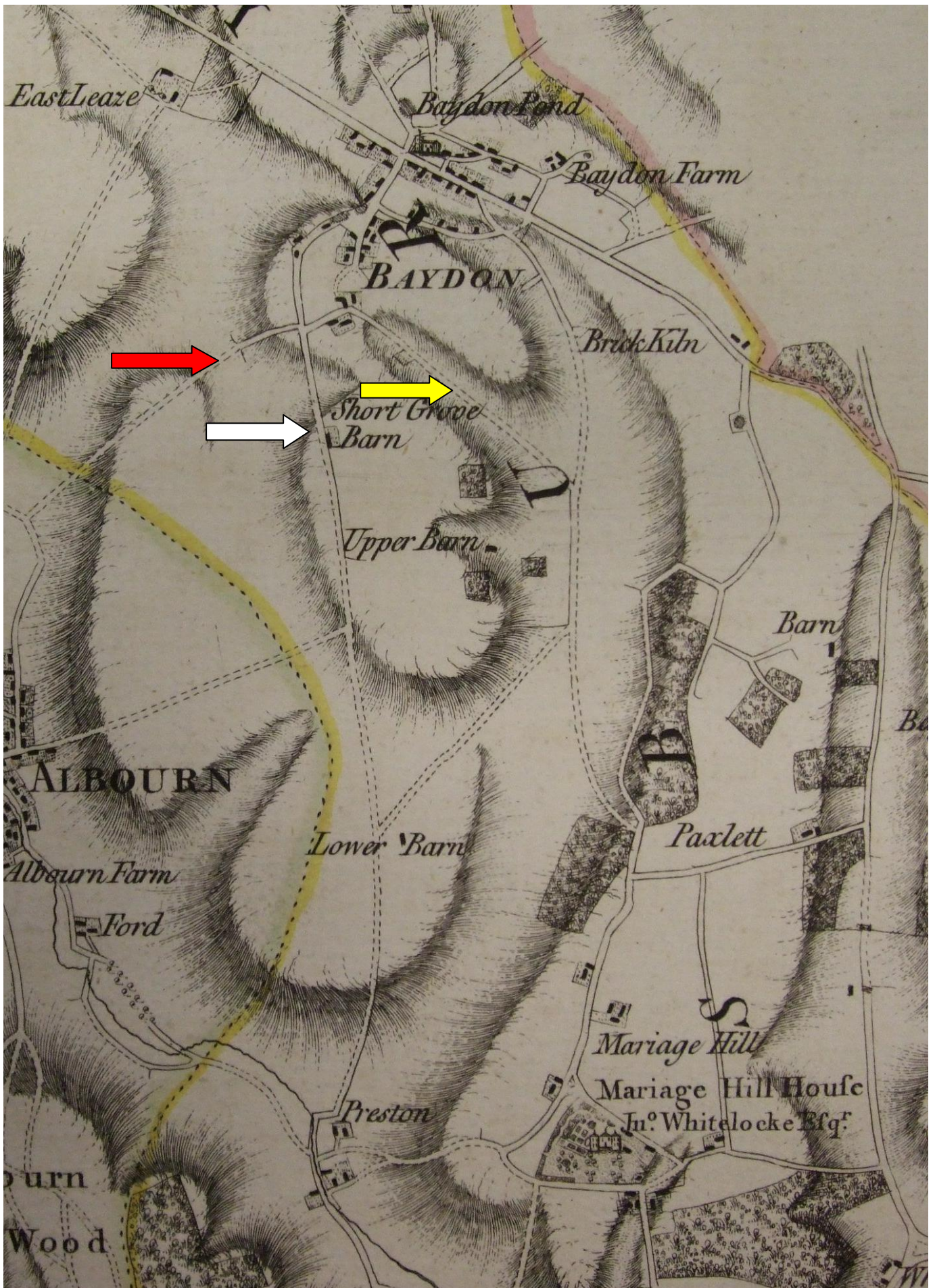
This would suggest that some enclosure of land close to the farm and buildings had occurred by 1773. The surveyor was careful with this notation as can be seen at Preston where the road (the continuation of Baydon 8 into Ramsbury) is shown fenced on one side and unfenced on the other.

The process of enclosure happened by two awards in Ramsbury and the tithing of Baydon in 1722 and in 1777/1778.

Although a map accompanies the 1778 award it is predominantly of the centre of Ramsbury and does not extend to show the lands enclosed in Baydon.

The 1727 award sets out a number of roads and one footway. Without a plan showing the enclosures it is difficult to ascertain where the roads lead, however all the roads have an awarded width given in the table at page 4.

The 1777/1778 award sets out 16 public roads or highways and some footways. All of the public roads or highways have a breadth of forty feet. 7 of these are in the tithing of Baydon. As with the 1727 award it is difficult to determine exactly where these awarded routes lead without a plan showing the Baydon tithing allotments, however in 1982 the parish council considered that one of them was Baydon 7. It is clear that further work needs to be done on this to determine exactly where the awarded routes are.



Excerpt from Andrews' and Dury's Map of Wiltshire 1773
Page 49

Table showing widths of roads awarded in 1727

No	Name	Width
1	Caresdon Lane	24 feet
2	Hare Lane	24 feet
3	London Road	42 feet
4	West Lane	24 feet
5	East Lane	24 feet
6	Parsons Lane	24 feet
7	A Way	12 feet
8	A Way	20 feet
9	Stone Lane Causey	30 feet
10	A Lane or Cartway	30 feet
11	A Lane	30 feet
12	Mead Lane	24 feet
13	Stone Lane Way	16 feet
14	Coomb Way	16 feet
15	South Lane	33 feet
16	Hill Close Lane	33 feet
17	A Lane or Way	16.5 feet
18	Cross Lane	33 feet

3 Evidence

3.1 Parish Map 1845 (WSHC 2627/2H)

This map is a plan of the Parish of Baydon, surveyed by A M May, Marlborough and drawn at a scale of 6 chains to one inch. The whole parish is surveyed including the six titheable fields covered by the tithe apportionment of 1848. The plan bears the stamp of the tithe commissioners and may have been forwarded to their office as evidence of the limited amount of titheable land in the parish. It is considered that it was probably drawn up for parochial purposes.

Land parcels and roads are numbered but no book of reference appears to have survived.

Roads are shown coloured sienna and a considerable amount of the symbology used is that recommended in the British Parliamentary Paper XLIV 405 1837 suggesting a relationship with the tithe apportionment process. Roads have destinations written on them (i.e. "to Lambourne" "From Aldbourne"). The surveyor also appears to record where a road is fenced or unfenced – unfenced roads being shown by pecked lines along that boundary. An example of this is Baydon 1 south of Walrond's Farm.

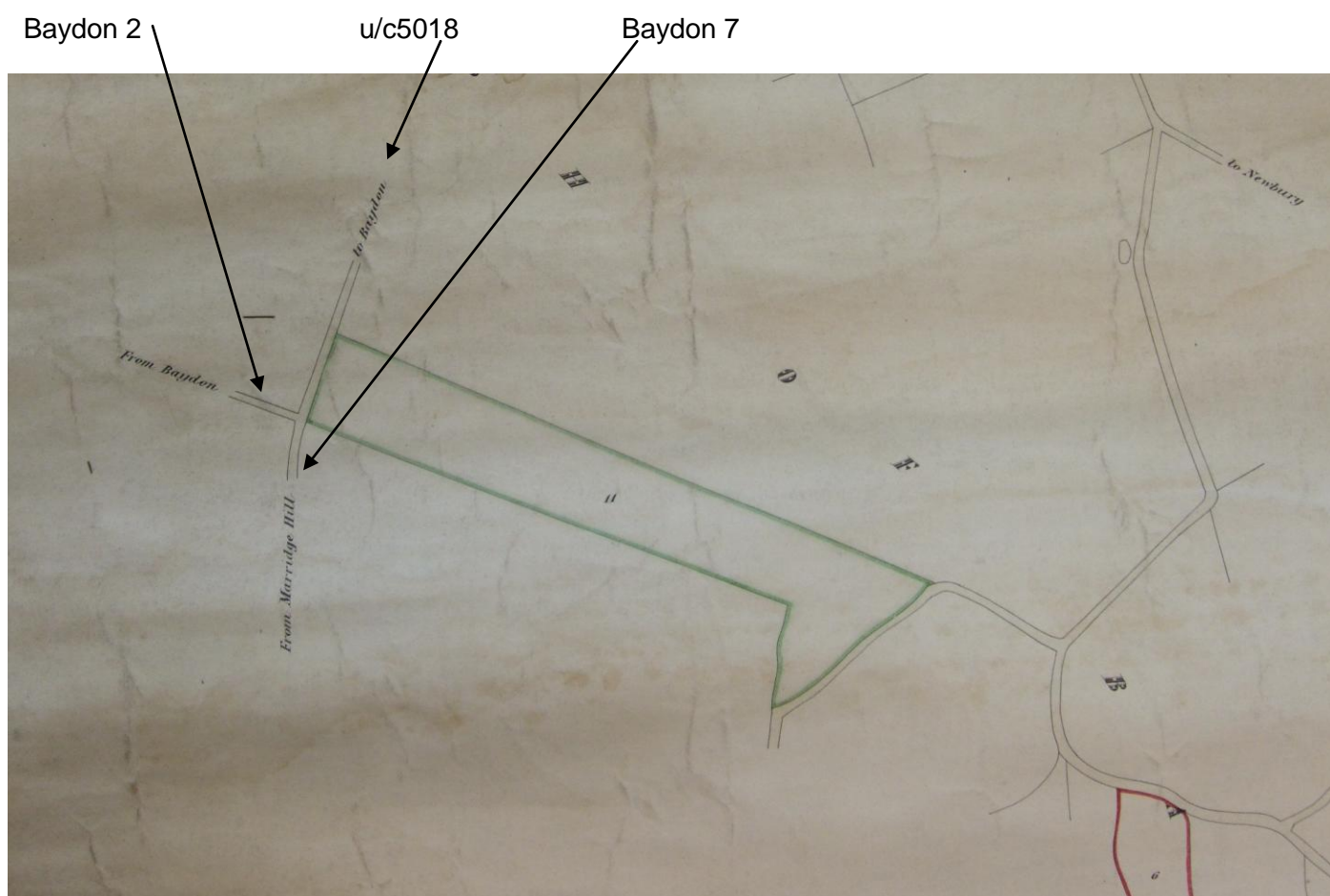
Baydon 2 and Baydon 11 to the farm that is now Baydon house Farm are shown coloured sienna and numbered 305. Baydon 2 is fenced for the majority of its route (being unfenced near to its junction with Baydon 7). Baydon 11 between the farm buildings is shown unfenced to the east side and leading through enclosure 218. No gates are shown here or on any other part of the map. It is therefore considered that the map did not show gates, even though they may have been present. For example, where a road crossed an enclosure it would be logical that it would have been gated.



Although an accurate width measurement has not been taken from this map it is reasonable to deduce that in 1845 Baydon 2 included the whole width between hedge or fence boundaries and that these boundaries were of a similar spacing to other local minor roads.

3.2 Tithe Map Baydon 1848 (WSHC T/A Baydon)

This map and apportionment only covers 6 titheable enclosures, none of which are in the area under investigation near the farm. Roads are shown in sienna with destinations (“from Marridge Hill”, “to Baydon” and “from Baydon”) and it is considered that the plan showing the enclosure numbered 11 shows the junction of Baydon 2 (“from Baydon”) with Baydon 7 (“From Marridge Hill”) and the u/c 5018 (“to Baydon”) – a route awarded in 1778.



3.3 Sales Plan 1890 (WSHC 1225/8)

Document 1225/8 is a bundle of documents appertaining to the sale of lands in Baydon. It contains a plan entitled:

Plan of the Freehold Property in the Parish of Baydon Wilts to be sold by Auction by Mr Mark Jeans at the Goddard Arms Hotel Swindon on Monday June 23rd 1890 at 2.30 pm in 8 lots.

The plan is drawn at 6 chains to one inch and was surveyed by Mark Jeans FSI, Surveyor, Marlborough. The plan shows roads coloured sienna (“To Aldbourne”, “To Lambourne”) and shows Baydon 11 to its junction with Baydon 2 and Baydon 2 as sienna coloured roads leading between enclosures. It is noted that the land surrounding these routes is in different ownership, some belonging to T.P. Brown Esq and Lots 2 and 3 being offered for sale. The farm that was subsequently Payne’s Farm and latterly Baydon House Farm was included in the sale of Lot 2.

The plan has not been measured but represents the routes being investigated as being fenced and of similar width to the surrounding road network (except the London Road – Ermin Street). It is also noted that by 1890 Baydon 11 where it passed through enclosure 6 was fenced.



Baydon 11

Baydon 2

3.4 Inland Revenue Finance Act 1909/1910 (WSHC L8/10/24 and L8/1/44)

The Finance Act of 1909/1910 required the Inland Revenue to conduct a nationwide valuation of property. The purpose of the survey was to value all property with the aim of raising revenue based on increases in property values when sold. A number of deductions were permitted and tax was not payable on these items. An example of an exemption is a road or public right of way, however there are other reasons for deductions which may include rights of common or other easements. Surveyors initially acted on information given by landowners but also conducted a full survey of all properties. Land and property holdings were divided into 'hereditaments' and maps were produced that showed coloured hereditaments. The base map for this was the 1:2500 Ordnance Survey Second Edition map (1901).

Section 35(1) of the Act says that "No duty under this part of the Act shall be charged in respect of any land or interest held by or on behalf of a rating authority". This land was represented by the valuer leaving it uncoloured and excluded from the surrounding hereditaments, often by 'broken braces'.

The survey in Baydon was conducted by a local valuer, Charles Smith of Westfield Farm, Aldbourne, who completed his surveying on Nov 28 1910.

In 1910 it was recorded that two landowners owned land abutting Baydon 2 which was bordered by hereditaments 423 and 469 and 467. The whole of Baydon 2 is excluded from the valuation and is left uncoloured and depicted by 'broken braces'. This is in common with the surrounding local road network.

Baydon 11 is not shown excluded from the valuation in this way and is shown as a track through fields, unfenced on the underlying map (1899 revision). Hereditament 423 is Browns Farm and was owned by Reginald Brown of Brodsworth, Doncaster and occupied by Chas Herbert Hussy. It was a large land

holding (264 acres and 3 roods) and the valuer did not record any deductions for public rights of way or user over it, though he did, it is noted, make this deduction for other hereditaments.

The Finance Act plan provides good evidence, that on the balance of probabilities, that the whole of Baydon 2 was regarded as a road and not as part of any of the three surrounding landowner's holdings.



3.5 Ordnance Survey 1:2500 County Series

Baydon 11 and part of Baydon 2 are shown on Wiltshire Sheet XXIV.5. This series of maps provides the most accurate source of mapping information available for the whole of the country dating from the late 19th century to the middle of the 20th century. The scale of the maps is 1:2500 and although care must be taken in taking measurements from them, they are likely to provide the best source of accurate measurements available.

The extract below is taken from a recent court case (Fortune and others v Wiltshire Council and Taylor Wimpey 2010) where McCahill J found for the following evidence from Mr Vaughan, a surveyor. In his evidence Mr Vaughan compares modern surveying methods with the 1:2500 County Series maps of the Ordnance Survey:

57. On 9 November 2006, Mr Vaughan returned to Rowden Lane to undertake a detailed measured survey. He used very modern and sophisticated equipment which produced a map of great accuracy. Distances were measured to plus or minus 1mm and the collected data was transferred electronically to a computer which produced a digital survey drawing. The accuracy of the survey drawing prepared by Mr Vaughan was orders of magnitude greater than any other form of mapping already available.
58. The next most accurate form of mapping is that produced by the current Ordnance Survey ("OS") map, at accuracies of around 1m (urban), 2.3m (rural). The accuracy of the detail surveyed by him was better than 50mm (2 inches).
59. Having prepared his own digital survey drawing (4077), he then mapped on to it a series of OS maps, starting with the most recent OS map currently available followed by the 1924, 1900 and 1886 editions. As a result, he produced a number of survey drawings, each combining his own survey drawing with each of those four OS maps, attempting to obtain a best fit. They form Appendices E1, E2, E3 and E4 to his report.
60. The correlation of data between his map and the most recent OS map is excellent, as illustrated by the correlation of hard features at either end of the disputed length of the track.
61. Comparing his digital survey drawing with the most recent digital OS map, he concluded that Rowden Lane had changed very little over the last 10 years. He then looked back at the earlier maps, starting with 1924, through 1900 and ending with the 1886 map. He found excellent correlation between his own digital survey and the 1924, 1900 and 1886 OS maps too.
62. His conclusion, therefore, was that with respect to the agricultural features, there was a high probability of continuity, suggesting that the current configuration of Rowden Lane has broadly remained the same over the last 120 years.

Three editions of the 1:2500 were viewed and measured:

Second Edition 1899 Surveyed 1883 Revised 1893

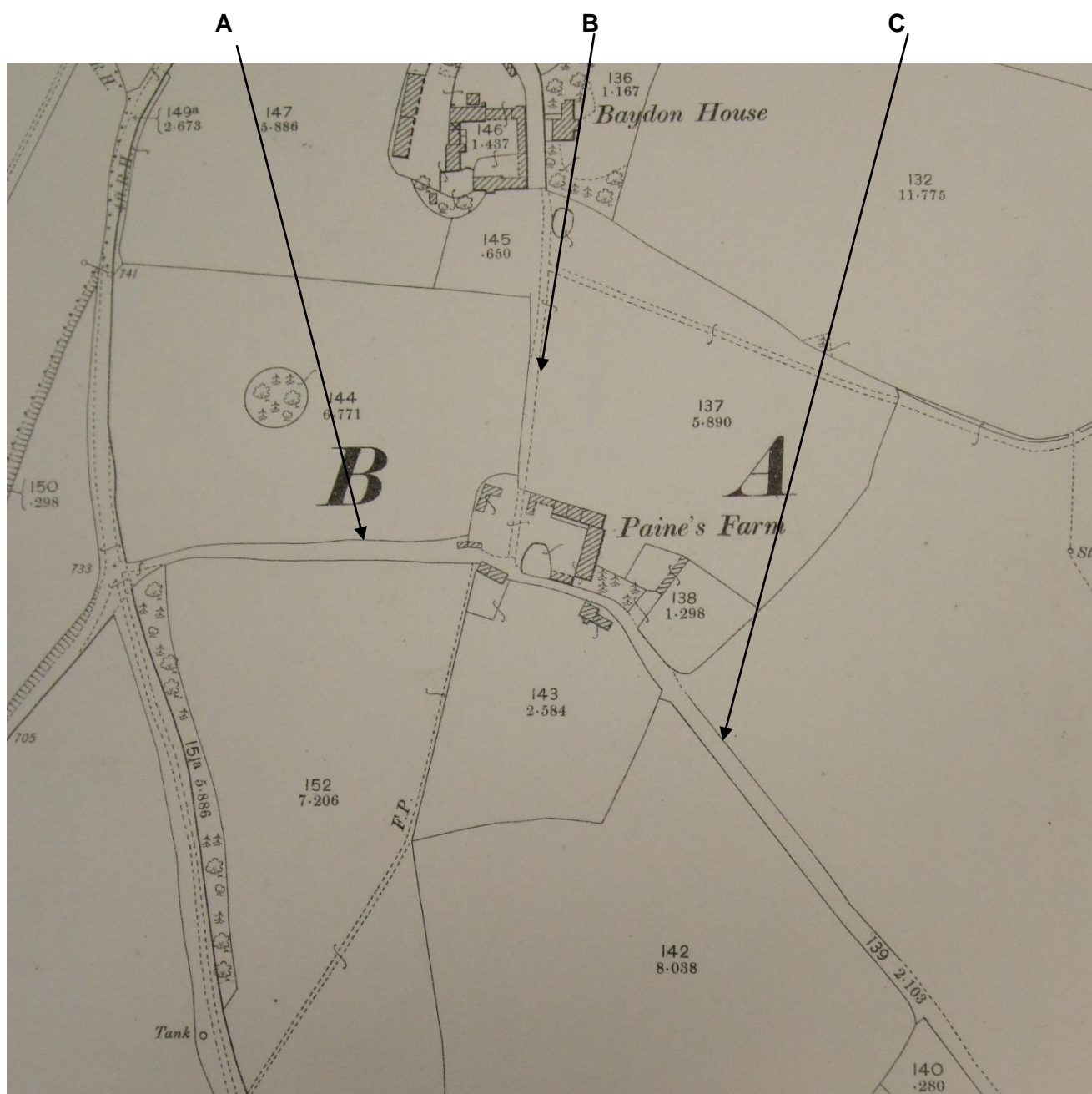
Edition of 1912 Surveyed 1883 Revised 1898 (and Berks section 1910)

Edition of 1924 Surveyed 1883 Revised 1910

All maps were measured using a steel ruler and all maps scale bars were also measured. The scale bars on all maps gave that **61mm = 500 feet**

None of the maps record any gates on Baydon 2 which is represented as a public road in that it was separately measured and numbered. Baydon 11 is shown having a gate at the point where it leaves parcel number 137 and joins parcel 139 (Baydon 2). It is also shown gated near Baydon House (at the end of the u/c road). None of the maps record a change in this condition. **APPENDIX 1**

Measurements were made of the width at the following points:



Map Edition	Point A mm	Point A feet	Point B mm	Point B feet	Point C mm	Point C feet
1899	4.5	36.9	2.5	20.5	4.0	32.8
1912	4.5	36.9	2.5	20.5	4.0	32.8
1924	4.5	36.9	2.5	20.5	4.0	32.8

3.6 Parish Claim

As a result of the National Parks and Access to the Countryside Act 1949 Parish Councils were required to identify what rights of way existed within their parish to the County Council. These surveyed formed the basis for the definitive map of public rights of way. Baydon Parish Council formed a special committee to deal with this task and the returns are reasonably well detailed and researched. Claim forms invited the council to give additional information but no question relating to width was asked. Details from the forms for Baydon 2,7,8 and 11 are as follows:

Baydon 2 – Paynes Lane – Bridle Road of flint and cobbles from White Pond Hill to Paynes Cottage then grassy surface. No stiles, gates, footbridges or stepping stones, no direction posts and in a good state. Not subject to ploughing.

Baydon 7 – Field Barn Lane – Bridle Road. Grassy. No stiles, gates, footbridges or stepping stones and no direction posts. Uninterrupted for its whole length.

Baydon 8 – Green Hill or Green lane – Bridle Road of part flint and part grass. No stiles, gates, footbridges or stepping stones and no direction posts. White Pond Hill to parish boundary known as Green Hill to Fords Farm and is open.

Baydon 11 – From Baydon House Farm to Green Hill Lane – Carriage Road Bridleway. Part flint and part grassy. Four gates, first at Baydon House, second at Payne’s Farm. Third at Payne’s Cottage and Fourth at Green Hill Lane.

3.7 Land Ownership

Baydon 11 from Payne’s Farm Gate north to Baydon House gate is part of title number WT166023 and in 2008 was in the ownership of Basella Ltd, though now thought to be in the ownership of Mr and Mrs M Lloyd. The route of Baydon 2, was not included in the 1890 sale and was at the time of the Finance Act 1910 not recorded as being in any person’s ownership and bounded by three different landowners. It would be worth further investigating the current land ownership in this area and requesting details of the conveyance that would have affected Baydon 2.

4.0 Recommendations

That the width of **Baydon 2** is between the field boundaries of the land adjoining which appears to have been enclosed in part by 1773. These widths have been measured from historical maps and appear to be between 33 and 37 feet. The public would be entitled to the use and enjoyment of the full width. This is greatly supported by the Inland Revenue Finance Act evidence and it is noted that 33 feet was a width measurement awarded and set out in 1722.

No gates have ever been recorded along this route. This is not surprising as it is depicted consistently as a through route leading from the upper part of the village to Marridge Hill and Ramsbury and has, on the

balance of probability, got higher rights along it. This being the case any gating of the way would, in all likelihood, have constituted an obstruction to the highway.

That the width of **Baydon 11** is more difficult to ascertain as it ran through an enclosure and was not fenced on one side for much of its existence. This width is likely to have been similar to the width of lanes in the local area and it appears to have been dedicated to the public by such use since 1773. The measured width of 20.5 feet is likely to be a minimum.

As this route is subject to a later dedication and because it led through an enclosure it is considered that the gate at Payne's Farm buildings is a feature of the route. It also separates different land holdings.

The continuation of Baydon 11 past Payne's Cottage is also a later dedication and it is likely that the gates claimed by the parish on this route are features of the route.

Sally Madgwick

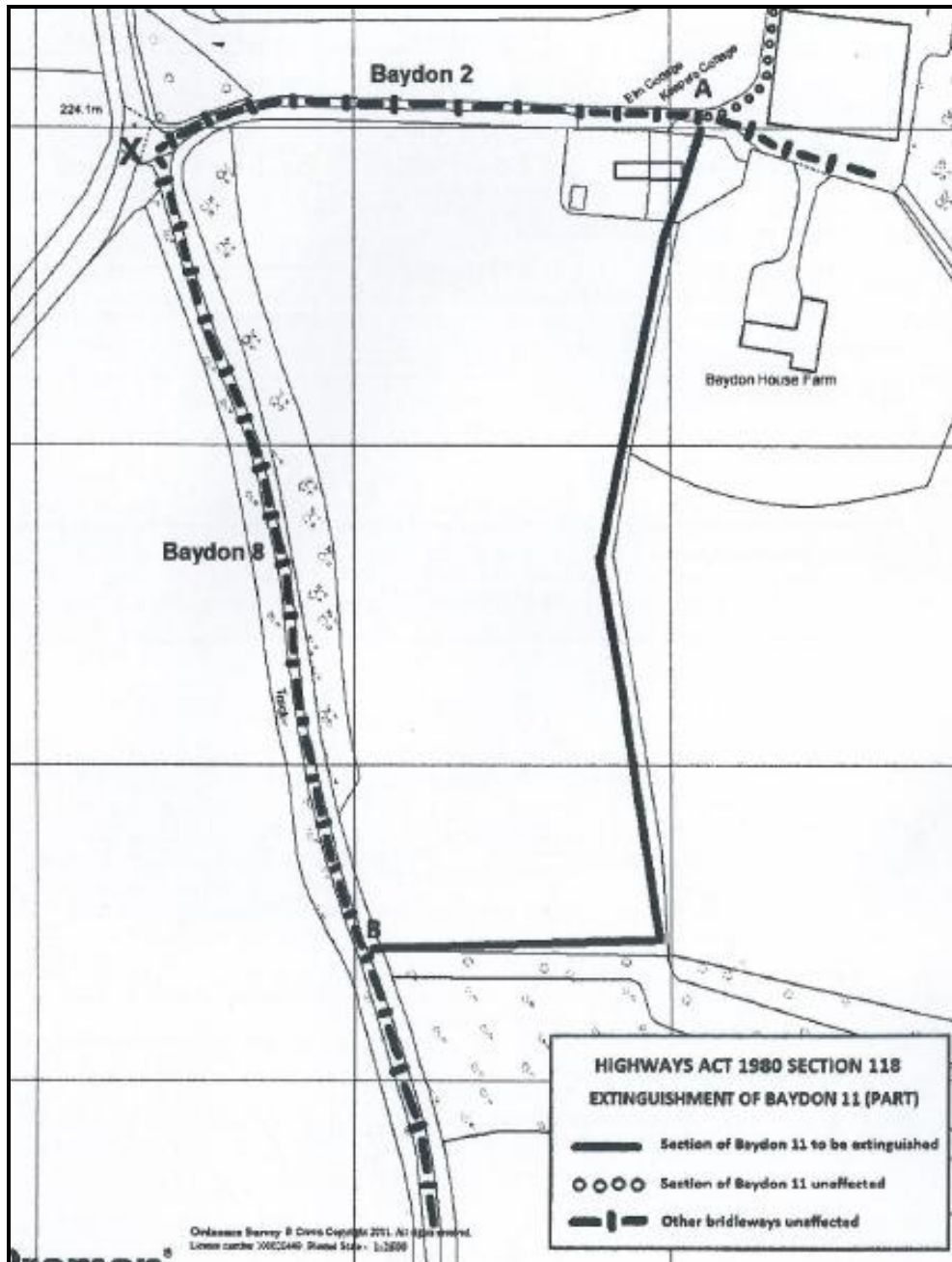
31st January 2010

Highways Act 1980 s.118

Application to Extinguish Part of Baydon Path No. 11 at Baydon House Farm

1.0 Background

- 1 In November 2011 Wiltshire Council received an application from Mr Brook Johnson and Mrs Sally Johnson of Baydon House Farm, Baydon, Marlborough, SN8 2HX to extinguish part of bridleway Baydon 11 where it crosses their land. The section that is subject to the application leads from its junction with Baydon 2 to its junction with Baydon 8.
- 2 The plan submitted with the application shows the route that is subject to the application as a bold black line leading between points A and B.



2 The reasons given for the extinguishment of this part of the path are :

“Application for extinguishment of part of Baydon 11 shown from A to B on the application plan is made on the grounds that the path is not needed by the public.

The route has not been used by the public for many years. The route was inspected by the Council in August 1999 when no way through could be found. A further inspection in June 2002 found that the route came to a dead end.

Evidence has been submitted to the Council from Mr and Mrs Buse as to their knowledge of the path and that the same was not used by the public.

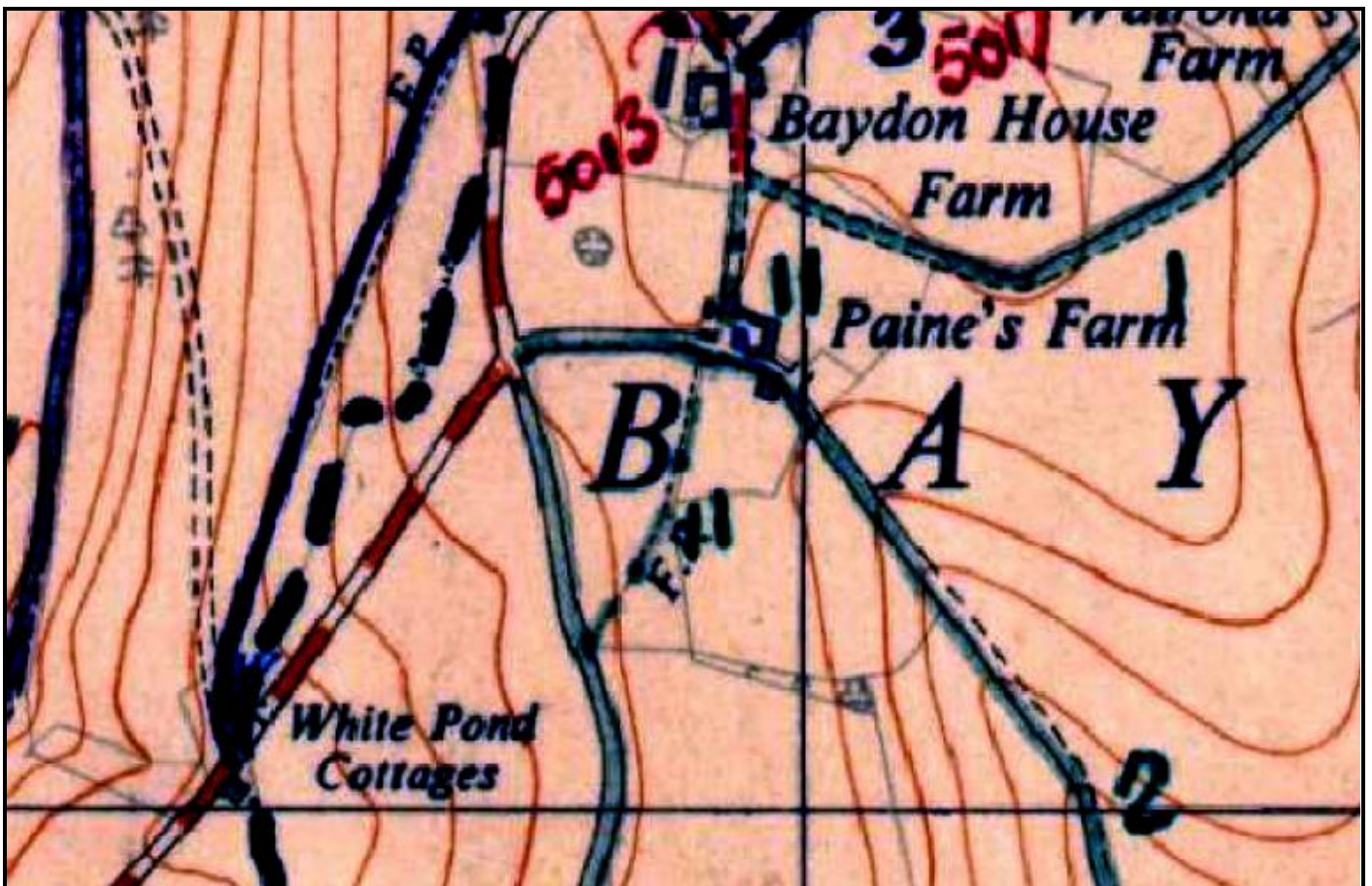
In 2003 the Parish Council raised the issue with the Council and an extinguishment was proposed. No further action was taken at that time. The path remained unused by the public.

Bridleways 2 and 8 form an alternative route to this section of Bridleway 11 and are used by the public.

The applicants have discussed the matter with representatives of the Parish Council and believe that they will accept that there is no public need for the section of path in respect of which the extinguishment is sought.

It is not considered that the path would be used in the future.”

3 Baydon Path number 11 was originally recorded in the Marlborough and Ramsbury Rural District Council Area Definitive Map and Statement dated 1952 as a Road Used as a Public Path (RUPP). The statement records it as a Carriage Road Bridleway (C.R.B.).

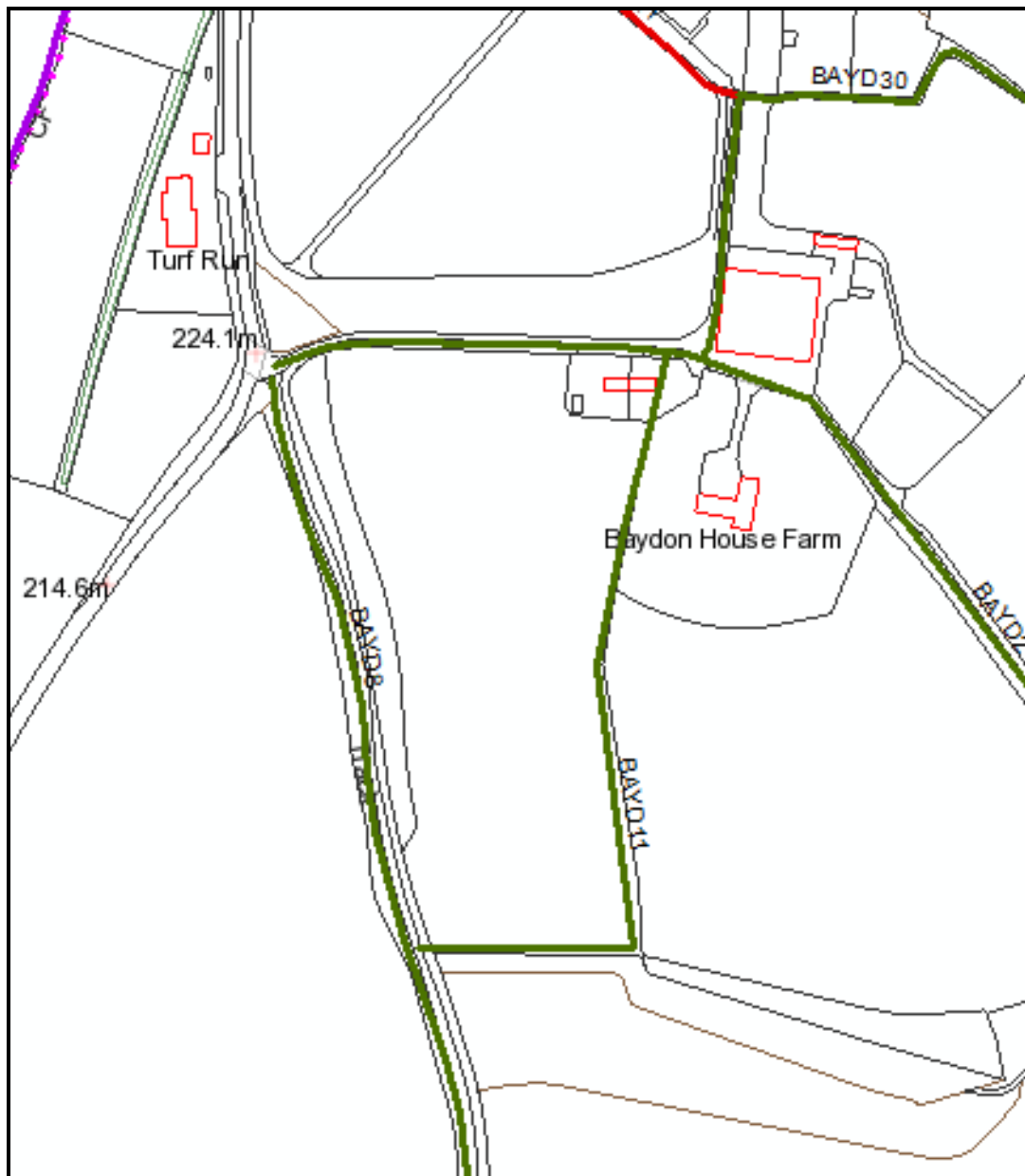


4 The 1952 statement reads:

11 C.R.B. From the southern end of road u/c 5013 at Baydon House Farm leading south south west past Paine's Farm, across path No. 2 to path No. 8, Green Lane. 550 yards.

5 Pursuant to the 1968 Countryside Act all RUPPs were reviewed by Wiltshire County Council at the Second and Special Review in the early 1970s. Baydon 11 was reclassified as a bridleway at this time.

6 The line of the bridleway near its junction with path no. 8 was diverted under Section 108 of the Highways Act 1959 by Magistrate's Court Order dated 15th August 1976 and the change in line is reflected in the working copy of the definitive map that the Council uses today.



7 The definitive statement for the bridleway section reads:

BRIDLEWAY South past Paine's Farm, across path No. 2 continuing south for approximately 270 m then in a westerly direction to path No 8.

2.0 Consultation

8 On 07 September 2012 a letter was circulated inviting comments on the application. The application map was circulated and the covering letter stated:

“Highways Act 1980 S.118

Proposed extinguishment of Baydon 11 (part) at Baydon House Farm

Wiltshire Council has received an application to extinguish part of bridleway Baydon 11 at Baydon House Farm as shown on the attached plan. The reasons given for the application are that the path is not needed by the public and has not been used for many years; at least since 1999. It is also stated that bridleways 2 and 8 form an alternative route to this section of bridleway and are used by the public.

I would be pleased to receive any comments you have on whether this path is needed for public use, or is likely to be, by 19 October 2012. Your comments will be considered by the Council in deciding whether or not to make an order to extinguish this section of path.”

9 The letter was accompanied by the application map shown at paragraph 2.

10 The following were consulted:

The Auto Cycle Union
Commons, Open Spaces & Footpaths
Wiltshire Bridleways Association
Cycling Touring Club
British Horse Society
Baydon Parish Council
Byways and Bridleways Trust
Wiltshire Councillor Chris Humphries
Wiltshire Council Senior Rights of Way Warden Esther Daly
Mr B Riley
British Driving Society
Wiltshire Ramblers Association M Chandler
Wiltshire British Horse Society representative D Plummer
Mr and Mrs Lloyd, Baydon House
Mr and Mrs Johnson, Baydon House Farm
Mr M Wood, ET Landnet Ltd
Scottish and Southern Electric plc
Mr B Gribble
Linesearch (Utility Companies and other undertakers inc. National Grid gas and electricity)
Thames Water
Openreach BT
Virgin Media
Swindon Bridle Paths Group
Mr C Philips
Wiltshire Council Countryside and Access Development Officer Mike Crook

11 **Response number 1** : Sally Faber 13.09.12 No address supplied

“We believe that the footpath has not been in use for longer than you suggest. Indeed we are under the impression that it ceased to be used around 1985 when it was diverted

around the field rather than going across it, so a long time previous to the date 1999 that you suggest. This was confirmed by both the previous occupiers and the farm manager/worker before that. It is also a long time since the footpath was actually used as a dangerous partially open cesspit for the cottages has always been sited there. It is also possible that the actual line of the footpath goes through the cottages. This matter is unclear.

There appears to be no need for it as any walkers go along the drive and then turn left down the wooded bridlepath in the direction of Aldbourne. And even then, most walkers using the Aldbourne wooded track come from the direction of the village via the main road, not along the driveway.

In two and a half years, nobody has stopped at the yard to ask for directions down that footpath and in the opinion of the Parish Council (and its chairman, a regular 'walker') Baydon 11 is surplus to requirements in all respects."

12 Response number 2 : Tony Prior 16 October Baydon resident (and see 09 October 2012)

"I have been asked to write to you by Mr Brook Johnson describing the Baydon Parish Council decision not to object to his application to extinguish the section of BAYD 11 running from east of Paines Cottages (on BAYD2) around the field to the so called Green Hill lane which goes down to Aldbourne – BAYD8. I assume that the subject is "live" again. I am no longer on the Council but was chairman when the subject was debated 17 Oct 2011. Minute 5.2 records "The chairman commented that there was no change in the distance of the alternative route and that to his knowledge the footpath had not been available for at least 4 years. The councillors agreed in principle that they had no objection to the proposed extinguishment and asked the Clerk to respond to Mr Wood."

The detail discussion revolved around the fact that the existing footpath, blocked by the side of Paines Cottages, traverses two sides on the inside of the rectangular field and that the proposed diversion would follow the other two sides of the field on existing rights of way i.e. the joining point is en route down BAYD8, is the same distance and not requiring the establishment of new paths. There would be no significant loss of view of a particular rural setting or architectural feature. Also the north to south leg of the existing footpath runs alongside Mr Johnson's garden and privacy was/is an issue. In my time as councillor or chairman there had not been public comment at meetings about the footpath blockage. On a broader point I was aware that an owner can develop his land for business purposes using the usual planning procedures.

I also recollect that several years ago, before my Council membership, the blockage was discussed leading to a conclusion that a diversion/extinguishment should be investigated. It was minuted but would require some "trawling" to find the references."

13 Response number 3 : Chris Humphries 17 September 2012 Wiltshire Councillor and local resident

"Thank you for your letter to me dated 7 September re Baydon 11 (part). This one has been going on for years, I believe since Mr Ian Lomax who owned Baydon Manor and all this land. There is better access along the unaffected bridleway joining Baydon 11 at a natural junction, hence I certainly do not raise any objection and wish you well in your obvious recommendation."

14 Response number 4 : Alan Brown 24 September 2012 Baydon resident

"I object to moves to extinguish in part or in whole the Right of Way referred to under the above notification. I walk my dog on a regular basis on this track as is my right. I am appalled that our local Parish Council has not consulted thoroughly with the Residents before replying as everyone I have spoken to who are dog walkers and country folk have used or are using this Right of Way. I accept that there are alternative routes but why should we have to change our ways handed down to us over centuries to satisfy land owners who have only had relatively recent occupation."

15 **Response number 5** : Colin Phillips 25 September 2012 Baydon resident

" I have no objection to planning for homes, but I do object to our historic rights of way being taken away from a village way of life.

These paths have been here before the village as they are part of the drovers highways that cross this county. I fail to see how no one has walked the path since 1999 as I walk all the rights of way in the parish of Baydon every year.

Mr Johnson has only been in the village about 4 years, and is trying to take our heritage away. He does not know where villagers have walked since 1999.

I took our then village parish chairman along the path last year to show him the fallen tree that is blocking this path, we also had many obstacles to overcome, e.g. shrubs, brambles, nettles etc and the fence line has been moved in toward the hedge line.

When we were children we watched the Vine and Craven Hunt train packs of hounds in the field, also it was a lovely short round walk for the elderly to walk."

16 **Response number 6** : Terence Ralph 27 September 2012 Baydon resident

"I would like to object to this proposal on the following grounds:

1. The existing right of way allows a short circular walk from Baydon.

2. The existing right of way also gives a direct route to the byway towards Aldbourne and Preston for longer walks.

3. The byway is suffering from heavy farm and 4X4 traffic which creates deep puddles rendering walking unpleasant; this is exacerbated by the poor maintenance of the bordering vegetation which forces walkers onto the deeply rutted, muddy central roadway. A cynic might suggest that this is part of a policy to render the rights of way so impassable that they may later be extinguished on grounds of low usage. Were the existing right of way now under consideration to have been properly maintained and signposted, it would be used much more frequently to avoid the badly maintained byway.

4. A previous extinction of the right of way across the face of Baydon House Farm has already made unnecessarily tortuous the route from the village centre to the head of the byway to Aldbourne: this further diversion from a straight line is most unwelcome. The alternative of walking along Aldbourne Road is hazardous since the road at that point not only lacks a footpath but is narrowed by steep banks. If you are minded to agree to this proposed extinction I suggest that you demand a compensating right of way be built from the centre of the village to the head of the Aldbourne byway on the land behind the hedge on the east side of Aldbourne Road. This would have the added benefit of creating

compensating circular routes for short walks from the village around the paddocks in front of Baydon House farm or down to Manor House Lane.”

17 **Response number 7** : Helen Knox 27 September 2012 Grew up in Baydon

“It has been brought to my attention that you have received an application to extinguish part of bridleway Baydon 11 at Baydon House Farm.

I would like to make clear that as a child growing up in Baydon & when playing with friends we use to walk this path on a very regular basis, & would frequently go & watch the hunters work the hounds. And when much older we continued to walk this path with friends & family.

The reason we are unable to walk this way now, & have not been able to walk it for many years is, because the actual fence has been moved making the bridleway much smaller (in width) that for a long time you had to walk one behind the other, & has for many years now become so overgrown & this being the reason why it has become impossible for anyone to walk this route at all.”

18 **Response number 8** : Kathryn Parkinson 03 October 2012 Aldbourne resident

“I have my reservations regarding this proposed change and I am sure other Aldbourne walkers and riders would feel the same. If the bridleway is not currently frequently used, why is it a burden or nuisance for the current occupier?

The current occupiers have gone out of their way since their arrival to make it abundantly clear that they do not wish anyone to walk or ride on their property. They have tried to lock a gate across the bridleway at right angles to the one in question and placed a large tree trunk across another. I have walked this area a few times as I am a keen dog walker as well as a rider. The general consensus among fellow walkers is that it is too unpleasant to undertake this walk often for fear of being ‘questioned’ as to what you are doing etc. I don’t think that because of its lack of use it should be closed – there is probably a reason for its lack of use.

Once these rights of way are closed – are they lost forever?”

19 **Response number 9** : Ben Potter 01 October 2012 Baydon resident

“I note with some concern the proposal to extinguish this right of way. Paths have formed part of our heritage for many hundreds of years, being formed by our ways of life and, in turn, forming and informing them. It would, I submit, take a brave soul to predict what future part they have yet to play, as well.

Further, local walkers prefer figure-of-eight walks where available. Were this section of bridleway to be cleared of obstructions, including one which spuriously declares it to be private, then another such walking route would be opened up.

I respectfully suggest that you strongly consider against agreement to extinguish this bridleway.”

20 **Response number 10** : Ali Keen 04 October 2012 Lifetime Baydon and Aldbourne resident

“In general I am very concerned that this (or any other) landowner be allowed to apply for an enforcement to close any route. He has already been permitted to re-route a bridleway. It is very clear from the barriers that have been put across his land that he is doing his best to deter walkers and riders from going across his land. These rights of way have been in existence for many, many years and the landowner would have been aware of them when he purchased his property.

One bridleway currently has a very large log across it which has very clearly deliberately been put there. We continue to ride this track and have made a path round the edge but his behaviour should not be tolerated. Is there anything the council can do to enforce clearing of the bridleway? My fear is that, if successful in his current application, the landowner will then be encouraged to apply for further closures due to “lack of use”.

Although I can understand that the Rights of Way warden did not see it as a priority to deal with the blocking of the bridleway in question as there is an alternative, to allow the landowner to close the right of way seems to be encouraging and rewarding his behaviour.

I regularly ride and walk my dogs on the bridle paths on this landowner’s property and have never seen anyone. I therefore find it difficult for him to state “lack of use”. If we don’t see him, he hasn’t seen us, so how does he know if it is used or not?

I have lived in Baydon and Aldbourne all my life and feel very strongly that the local people and visitors to the area should continue to be allowed to enjoy the beautiful countryside that we live in. This should not be restricted or spoilt by the selfish behaviour of a local landowner.”

21 **Response number 11** : Barbara Furber 04 October Baydon resident (and see 13 October)

“Although I have no objections in principal to this proposal, as the track has not been passable for years, I am however concerned on several accounts.

a. The landowner has put a wrought iron gate (without planning permission) across Baydon 2 – the alternative route to Baydon 8, and the gate is not accessible from a horse.

b. In the other direction (Paines Lane) Baydon 2 is blocked by two very large tree trunks – again by the landowner.

*c. A gate has been erected across the other part of Baydon 11 (between Baydon House and Baydon House Farm). It is very off putting as it bears the sign “keep this gate closed”. It bears **NO** way marker signs and the bridleway sign has “disappeared”.*

I have telephone and e.mailed Esther Daly on these matters several times, but nothing has been done. Therefore I am in favour of the proposal with conditions that the alternative route is truly accessible, maintained and with the appropriate signage.”

22 **Response number 12** : Phyllis Bishop 04 October 2012 Baydon resident

“I was born in Baydon and have lived here all my life, and recall clearly walking this bridleway many times over the years. I have since tried several times to walk this way again all to no avail, due to it being so overgrown and making this bridle path impossible for me, or for anyone else to walk this route.”

23 **Response number 13** : Mrs J Rees 04 October 2012 Baydon resident

"I wrote to you in July with regard to bridleway 2 in the above named parish, as yet I have had no reply. The Local Government Act 1972 provides that County Councils shall be the highway authorities and have primary responsibility for paths. If you do not request removal of the obstruction you are guilty of dereliction of duty. The owners of Baydon House Farm have erected gates on bridleway 2 and 11 without planning permission and the iron gate on bridleway 2 is impossible to open from horseback.

I also mentioned in my previous letter the need for a three way bridleway sign at the junction of bridleway 1 and 2. The sign for bridleway 2 as it leaves the Aldbourne Road is misleading and should read ?? 1.2 km as I stated before the previous owner of Baydon House Farm changed some signs around. As a matter of interest to you I have no objection to the part closure of Baydon 11 ??? its field. Could you please have the courtesy to acknowledge my letter."

24 **Response number 14** : Tony Prior 09 October 2012 Baydon resident

"Regarding the consideration of the Extinguishment application I would like to offer my opinions as a Baydon resident i.e. no connection with the Parish Council.

As I understand it there is no right of permanent existence for a ROW without legal challenge being possible.

I have been walking/rambling for 35 years in Yorkshire/Wiltshire. representing well more than 10000 miles, so have a significant experience of blockages, diversions, extinguishments etc, both reasonable and unreasonable.

The following is extracted from BPC footpath records and minutes.

1. 1976. BAYD11 was diverted in field 152 from a diagonal to along the east and south boundaries.

2. 1999. WCC (P Francis) found the ROW blocked at Paines Cottages 279 774

3. 2002. Baydon PC (BPC) found it still blocked.

4. 2003. BPC cllr responsible for footpaths of the opinion that the ROW section had not been used for years.

Esther Daly involved. Observations - WCC usually would request removal of obstruction but not practical in this case. (Reason not stated) Public consultation necessary.

5. 2004. Mr C Nelson (Baydon House Farm owner) confirmed to BPC he would apply for stopping-up order. Nothing happened.

6. 2011 Mr B Johnson (new owner) started application process.

BPC offered no objection to extinguishment proposal. No member of the public/walker attended the meeting to make a case i.e. little interest.

Comments:-

By my measurement there are about 23kms of ROWs in the Parish. The extinguishment will reduce part of BAYD 11 by about 400m.

1. The footpath has been blocked for at least 13 years. It has been raised only once since 1999 by BPC in 2003/4. No outcome i.e. little public interest and not pursued by walkers.
2. Field 152 is essentially rectangular with BAYD 8 forming the west boundary, BAYD 2 the north boundary. Thus using that route to reach the exit point of BAYD 11 in the south west corner onto BAYD 8 is virtually the same distance.
3. There is no significant rural view to be seen on the current ROW route. There is 6ft wattle fencing along the west boundary of Mr B Johnson's garden for privacy. A copse exists next to the south boundary.
4. I would dispute claims that there are many recreational walkers in the village (more dog walkers probably) or walkers, who want to use that specific section, visiting the village.
5. Apart from the legal closure costs (landowner charge) there are no costs necessary to provide the diversion. It is on existing bridleways.
6. I think it is a marginal claim to say the field forms part of a circular route. One either has to walk on the road (not particularly attractive or safe) from the village centre or loop around BAYD 11/8/2 and return to the same point at Paines cottages.
6. The field has been developed for horse training which is part of Mr Johnson's business. Also a new house access drive runs through it. I understand planning applications have been submitted.

For the above reasons I believe extinguishment is a reasonable request and therefore support it.”

25 **Response number 15** : Mr Johnson 12 October 2012 Baydon resident and applicant

“I do not believe we have met as yet or I apologise if we have and I have forgotten. I am Brook Johnson and live at Baydon House farm in Baydon. I am sure you know the location by now, with all the correspondence moving around about our footpath , Baydon 11. I will not bore you further with the facts as already submitted concerning Baydon 11 that we have applied to have extinguished. You have all of the history, I believe, from many independent sources. You have the recommendation for extinguishment from the Baydon Parish Council and I can confirm that we have an affidavit from the past owner of Baydon House farm, Mr. Charlie Nelson, that the pathway in question was not used in the 12 years he owned BHF prior to us. We can attest to the same fact for the 3 years we have been here.

I met with Tony Prior yesterday and we had a discussion where he brought up questions about the log on Baydon 2 and the gate on our driveway. First, I have not had any complaints on either to date and the fact is the gate on the driveway has been sanctioned by your ROW people. The handle in question to assist horse back riders is being installed, although I have checked with the few people who do ride on his driveway and , like me, find the present gate easy to operate from the back of a horse. As far as the log goes, we put that across the path with the advice of the Wilshire police after suffering our 4th break in in a year. BAYDON 2 has a direct connection to the Baydon road and is easily reached from Membury services off the M4. We have a terrible security problem and I must admit

since I travel a lot , I fear for the safety of my wife and young children at home. The police suggested that if the criminals cannot drive up to our house and barn to load the things they want to steal, then they will not do it. We have had no incidences since putting the log in place. We have left space for walkers and riders to go around the log and can make this better to hopefully appease all concerned. I am sure if anyone complaining had the same history of break-ins as us, they would be more understanding.

Sally and I have been in the community for 3 years, we have made major contributions to the local school even though our children do not attend there. We have tried to work with the community on all aspects of making life happy for all and have many local friends. We have many footpaths and bridleways on our land that we take care of and welcome those in the community who use them. I hope this email gives you a better feel for the type of citizens we are and helps explain the situation from our perspective. Andy Knowles will be with me at 1pm tomorrow to discuss what we are doing, you are certainly welcomed to join us.

Sally , I look forward to meeting you and thanks for all the work supporting our community.”

26 Response number 16 : Carole Oram 12 October 2012 Baydon resident

“It has been my intention to write to you for some time regarding the state of some of the bridleways around Baydon but firstly I wish to address the subject of the extinguishment of part of Baydon 11. I have lived in Baydon for 30 years and enjoy walking this area. Since retiring three years ago I have taken walking quite seriously and try to walk on a daily basis the bridleways which criss-cross this beautiful part of Wiltshire. It is free and very beneficial health wise and I feel strongly the right should not be removed from villagers. However, until recently I honestly did not realise the part of Baydon 11 which is being considered for extinguishment even existed, I recently approached an employee at Baydon Manor Farm House to show me where this bridleway was only to be told that they did not even know!!

Obviously if the path is overgrown and unmarked people cannot use it if they cannot find it. I am not one of those walkers who feel entitled to roam across other's land if it impinges on their privacy, however, in the last few years I have seen more and more land being fenced off depriving those of us who love the outdoors, are responsible people and who care deeply about the countryside from being able to enjoy it.

I do feel that this could be the thin end of the wedge and gradually we will lose our rights and the rights of our children and grandchildren to experience the pleasure of the countryside which surround our own village. I therefore would like to express my objection, at this point, to the extinguishment of Baydon 11 (part) and even request that it be opened up. I for one would use it.

Turning to other bridleways - Baydon 2 has had a massive tree trunk laid across it to restrict access and although one can get around it, once again I strongly feel villagers rights to walk the countryside surrounding their own homes is being eroded. I cannot see how this cannot be regarded as anything but an obstruction of a right of way and the responsibility of Wiltshire CC to have it removed. With the terrible weather we have had this summer, this path is also becoming very overgrown and much more difficult to walk even though I know for a fact that it is used by many villagers.

Further down a part of Baydon 7 (I think) going towards Pig's Hill is impassable where the quad bikes used to take feed to the alpacas have so eroded the path that it is totally flooded. I used to be able to squeeze passed on the narrow left hand bank but this is no longer possible as the bank is totally overgrown with nettles and itself being narrowed by erosion as the extent of the flooding is getting much worse. Surely this must be regarded as an obstruction to a right of way and therefore incumbent upon Wiltshire CC to do something to get it reopened?

I realise that times are hard for councils and perhaps the money to deal with such things as right of way obstructions may not be top of the list. However, landowners who buy properties fully aware of the right of ways which cross their land, and the responsibilities that go with them, should surely be made to honour these responsibilities.

I would welcome an acknowledgement of receipt of this email as I know a few villagers have contacted the council regarding these issues but to date have received no reply. Any comments or advice you can offer would also be gratefully received. Residents of Baydon who walk and ride these paths are beginning to feel the need to band together to protect ourselves but obviously it is in everyone's interest to get the matters sorted as easily as possible."

27 Response number 17 : Barbara Furber 13 October 2012 Baydon resident

"I have telephone, e.mailed and written frequently to Esther Daly without any joy, as have other people in our village. I have been thinking that maybe your department could add some more weight to our concerns.

How long will it be before the landowner applies for a further extinguishment, namely Baydon 2 (Paines Lane), simply because he has made it impassable?! The bridleway is very overgrown and, as I have previously reported, has two large tree trunks across it."

28 Response number 18 : Anne Smith 15 October 2012 Baydon resident

"I write regarding the above proposal to extinguish part of bridleway 11 at Baydon House Farm.

I strongly object to this proposal on several accounts; first of all this path is used by some villagers and the only reason it has not been in more general use is because the landowner maintained it properly, probably to allow him to apply for it to be extinguished, an unforgiveable situation.

Footpaths not only create good routes for access, they also provide excellent recreation facilities in an environment where there is much less provided by local authorities. It is these short paths which link together and make for circular routes which are much more enjoyable than reaching a full stop and having to turn around and return by the same route. By being close to the village centre, were it properly maintained, it would make a good contribution to encouraging a healthy lifestyle for the increasing population of Baydon.

Footpaths not only provide for access and recreation but also provide an excellent insight into the history of the village- how people once got around and which bits were important in days gone by and what is more they encourage people to look into the local history by taking you past interesting features within the local environment. Increasingly, it seems

these paths are being allowed to be diverted as if they were simply access ways but they are important in their own right as having been established long ago.

In this era of increasing and encouraging, access to the countryside, I feel very strongly that this extinguishing of rights of way goes against what is and should be being promoted.”

29 **Response number 19** : Esther Daly 15 October 2012 Wiltshire Council Rights of Way Senior Warden

“Warden’s comments are as follows: There have been a number of complaints about the lack of availability of this section of Baydon 11 over the years, and in particular in the last few years whilst the Johnsons have lived at the house. I have also had a few complaints which indicated that the Johnsons have actively discouraged use of this path and there is now no possibility of the public trying the route as it is at present deliberately obstructed with a locked gate. It is difficult to gauge whether a path is actually needed or not, at a time when most paths are required for leisure purposes rather than a specific necessity in the past for people to get to work, etc, but based on the amount of inquiries and complaints I have received, I have decided that, in my opinion, because people clearly do want to use it, then it is necessary for use by the public.

On balance, I do not believe that removing a path from the definitive map which some people have expressed a desire to use, is acting in the public interest. We have tried to discuss the possibility of a diversion rather than an extinguishment with the Johnsons, but a suitable route could not be found. As to future need, in general terms, rights of way and outdoor activities are becoming more popular rather than less so, especially with ever increasing encouragement to take healthy exercise, so the need for every public right of way could be justified on this basis alone.

I hope these comments are helpful.”

30 **Response number 20** : Paul Dobson 17 October 2012 Baydon resident

*“It has come to my attention that the land owner has applied to extinguish Baydon11.
I OBJECT MOST STRONGLY.*

The new land owner is making it difficult for local residents to use the various footpaths and byways that cross his land. He has already effectively blocked the entrance to Baydon 11 and also Baydon 2. A very large tree has been thrown across this byway – he says to inhibit burglars – but this is not so.

As a local dog walker and horse rider we would like to make more use of these facilities but the land owner uses intimidating tactics to put off dog walkers and riders. In particular he insists that we keep our dogs on leads – whilst his run free- his terriers try to nip at our ankles and bark constantly.

I have no objection to his gentrification and improvement of his estate, but he is clearly trying to exclude locals from all of his land including all of the footpaths and by ways, we have used for many years.

Please save our footpaths for future generations to enjoy.”

31 **Response number 21** : Allison Dobson 12 October 2012 Baydon resident

“I write with reference to the above and wish to voice my strong objection.

Having lived in Baydon for the past 20 years I categorically refute the fact that this bridleway is not used. As a dog walker I use it on a regular basis, albeit with since the current owner of Baydon house Farm as lived in his house and undertaken major landscaping works, the route of the start of the path had become less defined from Point A of the attached map with large planters used as obstacles, hedges, unkempt and overgrown, and from Point B, a ‘Private’ notice has been placed on the gate to deter walkers.

It is not reasonable for bridleways to be subject to closure because the new custodian of this particular path wishes to enclose and make private what has always been a valued and important part of the local, and indeed, wider communities ability to walk in the countryside. It is exceptionally important for villagers with disability/impairment, and there are quite a few from blind to mobile chair users, to be able to enjoy a shorter circular walk rather than the longer ones which are the alternatives. I also enjoy this bridleway with my own family.

I would kindly request that the council takes into consideration my views and ensures this bridleway remains in place for our future generations to use and enjoy.”

32 Response number 22 : Enid Johnson 16 October 2012 Baydon resident

“I refer to the application to extinguish part of bridleway Baydon 11.

We are encouraged to be health conscious, to be active and walk more. In Baydon notice is effectively taken of this central government as well as medical initiative. I see families walking together as well as single folk of all ages.

As a previous parish councilor and chairman for many years I do know of several rights of way lost or diverted and the parish council has always given due consideration to closure and diversion applications. With regard to this particular application I would like to stress that the older folk welcome the walks near to the village centre and do appreciate circular routes. All rights of way have become established over many years and the section applied for does require clearance to make it accessible again.

Does the applicant realise that there are good numbers of walkers/riders of accessible paths? As far as I am aware, landowners in the area of Baydon House Farm are not resident in the village full time. Rights of way in this area have often been subjected to considered amendment by successive landowners.

I object to the application to extinguish part of bridleway Baydon 11.”

33 Response number 23 : Bernie Gribble 13 October 2012 Baydon resident

Mr Gribble’s response comprised a letter of representation, a petition containing 61 names and a letter from Baydon resident Mr W N C McCleery.

Mr Gribble’s letter stated:

In response to your letter of 07 September 2012 concerning the above I would like to submit the following representation.

It is understood that the application is based on the premise that the path is not needed by the public and has been used for many years – at least since 1999.

I like most other walkers today use our footpaths for recreational purposes to gain all the many benefits associated with walking or riding in the countryside. We are not interested in going from A to B by the shortest or most convenient route, but, we are, however interested in two other things. Firstly many of us, like dog walkers, use our paths several times per day and to have a wider choice of different paths is very important. Secondly many of us will always choose a circular route in preference to one where you do not have to retrace your footsteps to return home. If this path is extinguished we reduce our choice of available routes and lose the circular route comprising parts of Baydon 11, 2 and 8. In addition we would lose the circular route used by most residents of Baydon because of its close proximity to their homes. So in summary I say that this path is needed and its closure would constitute a serious loss of amenity to Baydon.

It is not true that the path has not been used for many years at least since 1999. Some residents have managed to walk it in the last few years, the last one I heard about was when a couple walked it a couple of weeks ago. Even the chairman of our parish council walked it last year. It should be pointed out that the current landowner has only been resident in Baydon for less than five years and yet he is prepared to state that the path has not been used since 1999. However the truth is that the path is so overgrown and blocked with various obstructions that it is very difficult to walk, so the number of people actually using it is very low. The fact that the landowner has illegally put up a notice at one end of the path saying “Private Land – No Access to the Public” also helps to reduce the number of people using the route. This illustrates the tactics that have been employed to deter people using this part of Baydon 11.

It is appropriate to state that when I first came to Baydon thirty five years ago, Baydon House Farm had not been built and this section of Baydon 11 passed through agricultural land which I frequently walked with my family. The land remained in agricultural use for some time after the building of Baydon House Farm and it was with the recent change in ownership that the path became difficult to use because the field use changed from agricultural to equestrian activities. The current landowner made no provision for the path when he installed the equestrian facilities in the field and has placed many obstructions where the path should run.

It is also appropriate not to forget the heritage attached to our footpaths. We have a superb rights of way network in this country which we should all be proud of. Many of these routes extend back more than a thousand years or more and we should strive to ensure that they remain in place for the next millennium. This small part of Baydon 11 in question here is part of this network and who knows how many hundreds of years it may have existed? I cannot think of any reason why our community would benefit from the extinguishment of this path. We live in times when our villages and towns are seeing a rapid expansion to house our ever increasing population and Baydon is no exception to this. It is not illogical to argue that we should be increasing the number of our footpaths and definitely not extinguishing any of them.

I hope this letter will assist the Council on whether to oppose or support the application to close part of Baydon 11.”

34 **The petition** contains names, addresses, signatures and dates. All give addresses in Baydon. Each sheet was prefaced by the following:

"I the undersigned wish to object to the above extinguishment for reasons that include the following:

- 1. The bridleway is very close to Baydon village centre and is ideal for short walks.*
- 2. Paths close to a village centre are more frequently used than those further out and therefore should not be closed.*
- 3. Baydon 11, in conjunction with Baydon 2 & 8, forms a circular route which is very popular with recreational walkers. If extinguished this circular route would not exist.*
- 4. This bridleway like all our other rights of way are part of our national heritage that goes back hundreds of years. I do not want to see it disappear."*

35 **Mr McCleery's letter** stated:

"I remember some years ago trying to walk a path off bridleway 8 in an easterly direction (Bridleway 11), however when progress became impossible I turned about and never tried again.

If this section of bridleway 11 was made negotiable it would not only be used by riders but would also be a great asset to the citizens of Baydon providing a pleasant short walk in beautiful open country. Round walks are – I find – so much more interesting than walks where one has at some stage to turn back retracing ones steps.

It is for these reasons that I strongly object to the proposed extinguishment of any part of bridleway 11 Baydon."

36 **Response number 24** : Andy Knowles 17 October 2012 Baydon Parish Council Chair

"Following our telephone conversation earlier, please find below the feedback that represents the views of Baydon Parish Council following our meeting held on the 15th October 2012.

A letter was received for the councillors to review prior to the meeting so that it could be added as an agenda item - this was acknowledged during the meeting. The letter requested that the councillors review the decision made in 2011, whereby we voted a "No Objection" to the extinguishment to part of Baydon 11.

A thorough examination of the evidence was detailed out and the following out-turn happened as a result:

The councillors voted to uphold the decision made in 2011 and therefore voted to "No Objection" to the finalisation to extinguish the relevant part of Baydon 11 based on the following:

- Very few concerns over the footpath have been raised dating back further than 1980.*
- The general public do not gain or lose anything with this footpath, due to the 2 other paths serving the same purpose and bring you to the exit point of baydon11.*

- At a point of Baydon 11 there is a concern over an individual's privacy at Paines Cottages and Baydon House Farm.

- Where the ongoing business concerns of Baydon House Farm, with regards to horses - will be a safety conflict with dogs not ideally suited in and around horses and impact the owners business.

- The surrounding views are significantly improved by using the other 2 paths, the referenced part of Baydon 11 has no views to enjoy, just an opportunity to look into someone's own private garden.

- With 23km of footpaths in the Parish, we are only discussing 400m - therefore it is of little impact to the village."

37 **Response number 25** : Maurice Chandler 17 October 2012 Ramblers Association rep.

"The N E Wiltshire Branch of The Ramblers objects to the proposal to extinguish part of Baydon bridleway 11 at Baydon House Farm.

It is our understanding that the path is needed by the public, particularly the people of Baydon village and that it certainly has been used within the last two or three years. Furthermore, our information is that the landowner across whose land this path runs has made very strenuous efforts to stop people using the bridleway by barriers (fencing etc) and by intimidating and threatening people trying to use it.

We feel that there is a considerable value in keeping this path open and are very unhappy with the use of intimidation to try to have it closed."

38 **Response number 26** : Ann Newman 15 October 2012 Baydon resident

"I am writing to you in connection with the proposed extinguishment of Baydon 11 (part) at Baydon House Farm.

I have lived in Baydon all my life 60 plus years and recently all I seem to hear is yet another public right of way under threat. I am appalled with this. These public rights of way are part and parcel of Baydon and this one needs to be left as it is, for people to use. The reason it has not been used for so long is because it is overgrown, this is a deliberate act to prevent its use, if this right of way is left open then it will need to be cleared also it is part of a circular route (as a young child I walked it many times). It is a bridleway/public right of way and it must stay this way. I can see what it is in Mr brook Johnson's mind as do many in this village; looking at the Ordnance Survey if this part is closed there is another section that he will then want to try and close. This must not happen. I can respect his privacy but not to change too much of this lovely village of Baydon. This public right of way will be used if accessible and must not be closed."

39 **Response number 27** : Dorothy Newman 15 October 2012 Baydon resident

"I strongly object to the extinguishment of part of bridleway 11 in Baydon. I was born in Baydon many years ago and have lived here all my life and walked the bridleways and footpaths many times with my parents and then my late husband until old age and disability prevented us.

These ancient footpaths and bridleways must be kept open and clear so that as well as now future generations can enjoy our beautiful countryside. If house or land owners object to the public using rights of way on or near their property they should not have bought it in the first place.

The bridleway must be kept open and clear."

40 Response number 28 : Mr K Smith undated Baydon resident

"Regarding the proposed extinguishment of Baydon 11 (part) at Baydon House Farm I would like to object to any closure.

The present owner has only been there for five years while the path has been used for hundreds of years. The current lack of usage is probably due to the fact it is so overgrown and hidden at one end and there is a no entry sign at the other end put up by the present owner.

To say paths no 8 and 2 form alternative routes is misleading as no 8 is muddy all the year round due to the tractors zig sagging along it causing the sides to collapse in making it almost impossible to get past without a TANK. As no-one to my knowledge owns a tank in Baydon, the lack of usage of No 8 could be the next excuse for closing this path.

Also it doesn't take Mystic Meg to see that Path 2 is next in line. Everything is gated just waiting for a padlock and chain. While the present owner might be temporary the closure of the path would be forever."

42 Response number 29 : Nicola Archer 25 October 2012 Baydon resident

"I have just found out that part of the bridleway Baydon 11 could be closed in the near future. As a horse rider who rides the tracks in and around Baydon I am very much against this closure even though it is blocked at the present time. I do not like riding on tarmaced roads and feel that there are already too few bridleways in our village where I can escape road traffic. Please do not allow this number to be reduced even further and I would be delighted if you could arrange for this bridleway to be re-opened."

43 Response number 30 : Marcus Rowe 27 October 2012 Aldbourne resident

"May I please request that public access is retained for the above bridleway for horses, walking and research purposes. Centred on Four Barrows this whole area including Baydon House Farm is a prehistoric observatory. The enclosed maps show the navigation lines only but footpaths enable in the field dowsing of the streams of associated earth energy (both beneficial and detrimental) referred to all but briefly or geopathic stress zones (these cannot be dismissed as irrelevant because of their proven connection with illness in 'sick houses' where occupants suffer illness for no apparent cause). Ongoing research also puts the Battle of Baydon on this site (the footpath in question and to the South East).

All footpaths are a wonderful heritage for today and should be kept for tomorrow too".

Mr Rowe also enclosed articles relating archaeological dowsing.

“As part of the revised Rights of Way Improvement Plan I’ve been looking at a variety of research. An on-going study by Natural England (Monitor of Engagement with the Natural Environment) has shown that around 1/3 of walks are within 1 mile of where people start (usually their home) and around 2/3 are within 2 miles. This is showing us that it is very important to provide good rights of way options right where people live. People particularly like short circular route options, of which this is only one of a few at Baydon. The study also shows how vital access to the countryside is in providing people with their opportunities to exercise. Accessing the countryside access for many people is the main form of exercise they get. Central government advice is clear that people must be encouraged to exercise more for their mental and physical wellbeing.

I therefore feel it is important to retain this link so we don’t reduce the (already fairly limited) variety of short walks available for Baydon residents. I can see why the applicant is keen to take the route away from their house. Perhaps a compromise here would be that, as long as the warden felt there were no issues on the ground, the north-south part of the route could be diverted east along the tree line to meet Bayd2.”

3.0 Legal Empowerment

45 **Highways Act 1980 Section 118** may be used to extinguish public rights on public paths.

- (1) *Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or a special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path or way. An order under this section is referred to in this Act as a ‘public path extinguishment order’.*
- (2) *The Secretary of State shall not confirm a public path extinguishment order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to him or, as the case may be, them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way, account being taken of the provisions as to compensation contained in section 28 above as applied by section 121(2) below.*
- (3) *A public path extinguishment order shall be in such form as may be prescribed by regulations made by the Secretary of State and shall contain a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.*
- (4) *Schedule 6 to this Act has effect as to the making, confirmation, validity and date of operation of public path extinguishment orders.*
- (5) *When in accordance with the regulations made under paragraph 3 of the said Schedule 6, proceedings preliminary to the confirmation of the public path extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path creation order, public path diversion order or rail crossing diversion order then, in connection with the proceedings preliminary to the confirmation of the public path extinguishment order, the council shall also make arrangements for the provision of a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.*

(a) under subsection (1) above whether the path or way to which the public path extinguishment order relates is needed for public use; or

(b) under subsection (2) above to what extent (if any) that path or way would apart from the order be likely to be used by the public; the council or the Secretary of State, as the case may be, may have regard to the extent to which the public path creation order, public path diversion order or rail crossing diversion order would provide an alternative path or way.

(6) *For the purposes of subsections (1) and (2) above, any temporary circumstances preventing the use of a path or way by the public shall be disregarded.*

(6A) *The consideration to which –*

(a) the Secretary of State is to have regard in determining whether or not to confirm a public path extinguishment order, and

(b) a council are to have regard in determining whether or not to confirm such an order as an unopposed order,

include any material provision of a rights of way improvement plan prepared by any local authority whose area includes land over which the order would extinguish a public right of way.

46 The Council must also have regard to The Equality Act 2010. This act requires (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to ensure that a disabled person is not put at a substantial disadvantage in comparison with a person who is not disabled. The Equality Act goes further than just requiring a public authority does not discriminate against a disabled person. Section 149 imposes a duty, known as the “public sector equality duty”, on the public bodies listed in sch. 19 to the Act, to have due regard to three specified matters when exercising their functions.

47 These three matters are:

- Eliminating conduct that is prohibited by the Act
- Advancing equality of opportunity between people who have a disability and people who do not; and
- Fostering good relations between people who have a disability and people who do not.

48 The Equality Act applies to a highway authority’s provision of public rights of way services. (DEFRA Guidance *Authorising structures (gaps, gates and stiles) on rights of way* Oct 2010)

49 The Council must also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP). The ROWIP recognises the Council’s duty to have regard to DDA95 (replaced by the Equalities Act 2010) and to consider the least restrictive option.

50 The ROWIP also has as its aims:

- *The promotion and development of the public rights of way network, enabling pedestrians, cyclists and horse riders to avoid heavy or intrusive traffic. (p.46.3)*
- *To provide a more usable public rights of way network, suitable for changing user demands. (p.46.1)*

- 51 The Council must also have regard to the needs of agriculture and forestry.
- 52 The Council also has a duty to have regard for biodiversity in undertaking its functions (Habitat Regulations 2010).

4.0 Decision

- 53 The Council may make an order extinguishing public rights where it is expedient that it should do because the path is not needed for public use – s.118(1).
- 54 The Council may not confirm such an order unless it is expedient to do so having considered whether the path or way is likely to be used by the public and it must also consider the effects of the extinguishment on any land served by the path.
- 55 The extinguishment of public rights of way is often difficult to achieve as the value and potential value of them is keenly appreciated by users groups and local people. Officers note that although in some cases there is little or no response to the initial consultation, in this case there has been a significant response to this consultation. The council has received a large number of individually written representations the majority of whom are opposed to the application to extinguish.
- 56 Of the responses received 23 object to the extinguishment, 5 support it and 2 have provided a neutral response. However, it is necessary to look at the content of each response to determine the public need for the path, and if an order were made, whether the path is likely to be used and the effects on any land served by the path.
- 57 Of these representations 9 people claimed to have actually used the application route themselves and 9 indicated that they were likely to use it in the future. Many respondents stated that the route was difficult to find and use and that this has deterred use in more recent times.
- 58 1 of the representations suggested that a diversion of the route may be achieved with mutual benefit and another suggested provision of a replacement route to the north.
- 59 In summary:

Specified in correspondence	Response number
Have used the route	4, 5, 7, 8, 12, 21, 23, 26, 27
Likely to use	4, 5, 6, 9, 12, 16, 21, 26, 29
Possible alternative suggested	6, 31

- 60 It is acknowledged that the current route is not available to the public. The route is obstructed at Point A by a garden hedge and at Point B by a fence. The route is also overgrown. It is possible for the public to pass between points A and B but only by climbing fences and taking a detour into the field. Wiltshire Council has been aware of these obstructions for a considerable period of time (at least since 1999).

61 Point A in 2007



62 Point A in 2012



63 Aerial photograph showing line of path in green



64 Path at Point B in 2012



65 Line of path from point B leading east (line of path shown in white)



66 Although it could be argued that lack of use signifies no need for a path some respondents have made it clear that they have both tried to use the path and raised matters relating to obstructions with Wiltshire Council. The comments of Wiltshire Council’s Rights of Way warden (response number 19) states:

“It is difficult to gauge whether a path is actually needed or not, at a time when most paths are required for leisure purposes rather than a specific necessity in the past for people to get to work, etc, but based on the amount of inquiries and complaints I have received, I have decided that, in my opinion, because people clearly do want to use it, then it is necessary for use by the public.”

67 A number of respondents detail reasons why they consider the path is needed and why it will be used in the future. Examples includes:

“Circular walk”

“Short paths linking together”

“By being close to the village centre, were it properly maintained, it would make a good contribution to encouraging a healthy lifestyle for the increasing population of Baydon.”

“Older folk welcome the walks nearer to the village centre”

“In general terms, rights of way and outdoor activities are becoming more popular rather than less so, especially with ever increasing encouragement to take healthy exercise, so the need for every right of way could be justified on this basis alone.”

“An ongoing study by Natural England...has shown that around one third of walks are within 1 mile of where people start (usually their home) and around two thirds are within 2 miles, this is showing us that it is very important to provide good rights of way options right where people live. People like short circular walk route options, of which this is only one of a few at Baydon....I therefore feel it is important to retain this link so we don't reduce the (already fairly limited) variety of short walks available for Baydon residents...”

- 68 There has been considerable development in recent times around Baydon House and Baydon House Farm (formerly Paines Farm) and the character of the rights of way have changed. The northern end of Baydon 11 is now a metalled path within mowed verges and the connecting bridleway Baydon 2 leading west also lacks rural character (see below).



- 69 The bridleway Baydon 8 has the appearance and character of a rural lane:



- 70 The part of Baydon 11 that is the subject of this application has a different character again and offers users an opportunity to get wider views to one side and hedgerow views to the other. It is therefore a unusual path for the immediate area and offers variety for the user.
- 71 The route is currently recorded as a bridleway and it is noted that no cyclists have responded and few horse riders. The alternative routes of Baydon 2 and 8 are likely to be more attractive to these groups of users, though the value of a 'loop' section for horse riders should not be under valued as 'there and back' routes are not ideal for horses.
- 72 The land on either side of the proposed extinguishment is in the same ownership and access to the land is not dependent on the right of way.
- 73 It is considered that the section of path proposed for extinguishment is needed for recreational walking and has a value for horse riders and cyclists seeking variety. The application therefore fails s.118(1) and (2) of the 1980 Act and an order cannot be made.
- 74 However, it is noted that the current alignment of the path leads very close to Keepers Cottage and the manege and the owners of the land may like to consider whether a diversion of the route, perhaps linking paths 2 and 8 by way of a field edge route leading east from B, would provide an acceptable compromise for them and the public alike. Wiltshire Council accepts applications for diversion orders under s.119 of the 1980 Act and this may be worthwhile for the landowner to consider if use of Baydon 11, once it is made available again, is high.

5.0 Recommendation

It is recommended that the application for an order to extinguish part of Baydon 11 at Baydon House Farm is refused.

Sally Madgwick
Rights of Way Officer

15 November 2012

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Rights of Way response to planning application E/2013/0170/FUL

FW: E/13/0170 is for extensions to Agricultural Buildings at Baydon House Farm, Baydon, Marlborough, SN8 2HX

The Rights of Way Section comments is as follows





- 1) The proposed development will, if it proceeds, obstruct the following public rights of way:
 - Bridleway No. 2, Baydon
 - Bridleway No. 11, Baydon

Applications for Public Path Diversion Orders under Section 257 of the Town and Country Planning Act 1990 for the affected sections of these bridleways will need to be made to Wiltshire Council and any Orders made, confirmed before the development that would prevent access to and along them.
- 2) Section 257 only permits paths to be diverted to the extent that allows the permitted development to proceed. The indicative plan included with the planning application proposes diversions of significant length; Wiltshire Council will need to be satisfied that they are necessary.
- 3) There is considerable evidence that, on the balance of probabilities, higher rights than those recorded in the Definitive Map and Statement exist over Bridleway Baydon No.2 and also over the northern section of Bridleway Baydon No.11 north and south of point A. The evidence for the existence of the higher right has already been provided to the owners of Baydon House Farm by Wiltshire Council's Rights of Way and Countryside service. Any application to divert just the bridleway rights is not only likely to attract objections but would be fundamentally flawed. In order to avoid the risk that higher rights than bridleway would be left undiverted, there are two options:
 - The landowner may agree to dedicate the replacement (diverted) path(s) as restricted byways, to include the higher rights. This process is straightforward and has been successfully employed elsewhere on a number of occasions, or
 - Wiltshire Council could further investigate the routes under Section 53(2) of the Wildlife and Countryside Act 1981, in order to determine their conclusive status prior to diversion, however this is potentially a lengthy process and could significantly delay the development.
- 4) Wiltshire Council does not necessarily agree that the route of Baydon Bridleway 11, south of point B on the indicative plan to its junction with Bridleway Baydon No.8, is correctly shown on either of the red and blue lines. The definitive routes will need to be agreed between the council and the landowners before any diversion order affecting this part of the route is made.
- 5) The specifications for the diverted routes will need to be agreed between the council and the landowners prior to the making of any diversion orders. As an indication of the council's requirements, the replacement routes will need to be of a minimum of 5.0 metres in width, surfaced with good quality stone and with the minimum possible number of gates or barriers only for the purpose of controlling the ingress and egress of animals.

- 6) Wiltshire Council's Rights of Way and Countryside service should be contacted for any additional advice required.

DECISION REPORT AMENDMENT
TOWN AND COUNTRY PLANNING ACT 1990 S.257 AND WILDLIFE AND COUNTRYSIDE
ACT 1981 S.53A(2)

THE DIVERSION OF BAYDON PATHS 2 (part) and 11 (part) PLEASE SIGN NEXT TO YOUR NAME

Name	Signature	Date	Approved Yes/No
Barbara Burke Senior Rights of Way Officer		14 Nov 2013	No the width is inadequate - see ROWIP and width
Sarah Marshall/Paul Taylor Legal Unit		27/11/2013	Noted above but approved on legal grounds (yes)
Richard Broadhead Rights of Way and Countryside Manager		27/11/2013	Yes
Ian Brown Head of Service Environment		27/11/13	Yes.
From:	Sally Madgwick Rights of Way Officer		
Date of Report:	13 November 2013		
Return to:	Sally Madgwick (Ext. 13392)		

SCHIZA HYSAD 1980

SUMMARY:

- 1 In October 2013 Officers considered an application to divert parts of Baydon Paths 2 & 11 to enable a permitted development to proceed.
- 2 The applicant had laid out a permissive route on the line of the proposed diversion route and officers considered that although the new route was broadly reasonable as an alternative, responses from the public reflected the need for a readily accessible route of least equal utility to the old route.
- 3 The Decision to make an order recognised this and recommended that certain requirements relating to width, gradient and surface condition were met.
- 4 After considering the Council's decision the applicant asked officers of the Council and the elected member, Cllr Mr James Sheppard, to attend a site meeting to discuss these requirements.
- 5 A site meeting was held at Baydon House Farm on 08 November 2013 and the new senior rights of way warden for the area, Stephen Leonard, was introduced to the applicant and to the proposed new route.
- 6 Agreement was reached between Stephen Leonard and the applicant as to the surfacing requirement and construction necessary to remove adverse camber and minimise the gradient and this agreed specification is appended here at A.
- 7 In the matter of the width the applicant demonstrated that to make the path wider would require either the removal of a large building or the purchase of additional land from the neighbour (which may not have been possible). There would also be a need to re-site an HV electricity supply pole.
- 8 Failure to progress this application could lead to the permitted development not proceeding.
- 9 It is therefore considered appropriate to make and publish an Order reflecting the applicant's desired width. This has the advantage of progressing the application and allowing Wiltshire

Council's Eastern Area Planning Committee to consider any objections and representations to the Order prior to resolving to either abandon the Order or to forward it to the Secretary of State for determination.

Officer's Recommendation:

That Wiltshire Council makes the order appended at B under s.257 of the Town and Country Planning Act 1990 to divert parts of Baydon 2 and 11 to enable a permitted development to proceed at Baydon House Farm.

That if no representations or objections are received that the order be confirmed but that confirmation and certification of the route are only carried out after the construction of an acceptable route as detailed in the specification attached at A.

Specification as discussed with Stephen Leonard 08.11.13

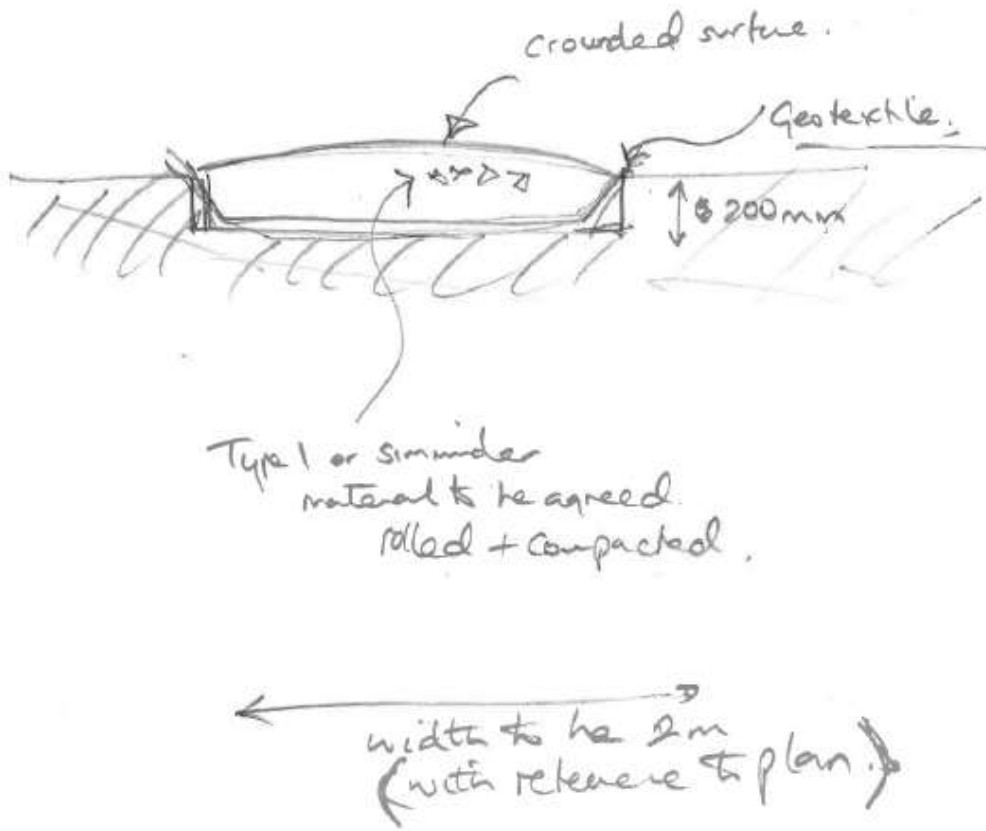
Surface

Entire route to have a well drained surface over at least 2 metres of its width. One section to have full width surface as detailed in plan.

Surface material to be agreed with Stephen Leonard prior to works.

Depth of surface material to be at least 200 mm laid over a geotextile membrane and compacted as necessary.

Surface to be laid level with surrounding grass to promote ease of maintenance and to have a cambered surface to promote good drainage and to prevent pooling of water.

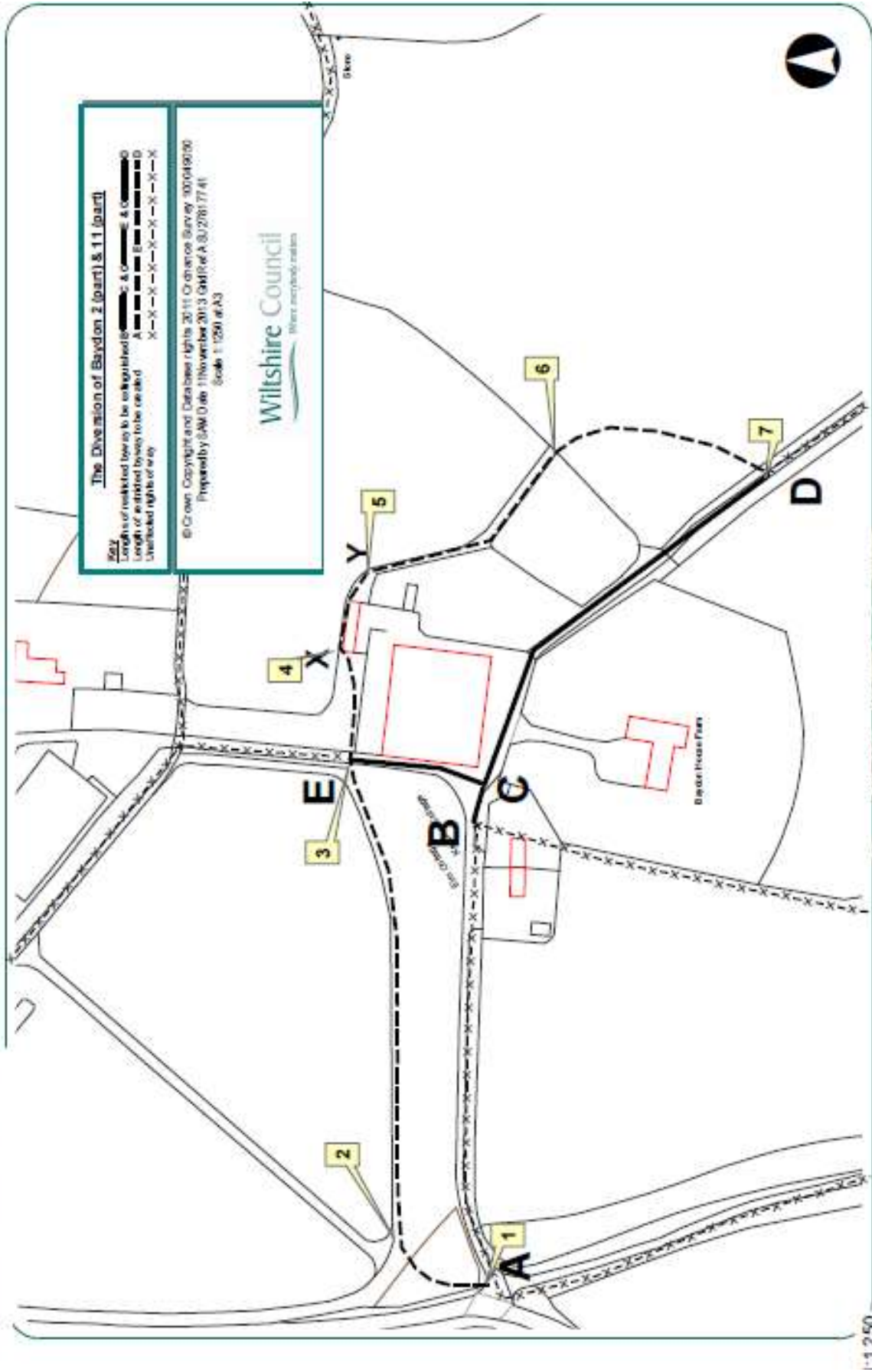


Surface Spec

With reference to numbered plan:

- Point 1 - 2 Width to be at least 4.1 metres.
Route to avoid cross camber fall and to minimise gradient.
Trees to be transplanted from route and low branches removed as appropriate (12 to 15 feet)
Surfaced section to lie within total width and ideally on eastern side of route
Metal fencing to be relocated as appropriate
- Point 2 - 3 Width at least 4.1 metres
Surfaced section to be either central or on southern side of route
- Point 3 - 4 Increase width to at least 4.1 metres
Realign fencing and remove any tree growth
Route between points 3 and 4 not to have right angles or sharp bends
transplant trees as discussed. Large eucalyptus to be retained
- Point 4 - 5 Width at least 2.6 metres to be maximised wherever possible
Surfacing to extend to total width for section between points 4 and 5
Relocate fence lines to maximise width.
Erect fencing around pole stay
- Point 5 - 6 Increase width to at least 4.1 metres
Cut back coniferous tree growth to a height of at least 12 feet
Cut back all other tree growth as appropriate to facilitate use of full width.
Remove self seeded and dying growth
Surfaced section may return to a width of at least 2 metres
- Point 6 – 7 Remove low branches affecting path
Full width of 4.1 metres to be available
2 wide surfaced section not have loose material on (this section susceptible to water run off)
Entrance/egress to/from new section to be wide and inviting from existing path no. 2
Gradient to be minimised where bank removed
Small trees to be removed at point 7 to enable clear wide access that will not be susceptible to becoming 'grown in'
Blend new surface in with existing

Division of Baydon 2 and 11 (part)
at Baydon House Farm



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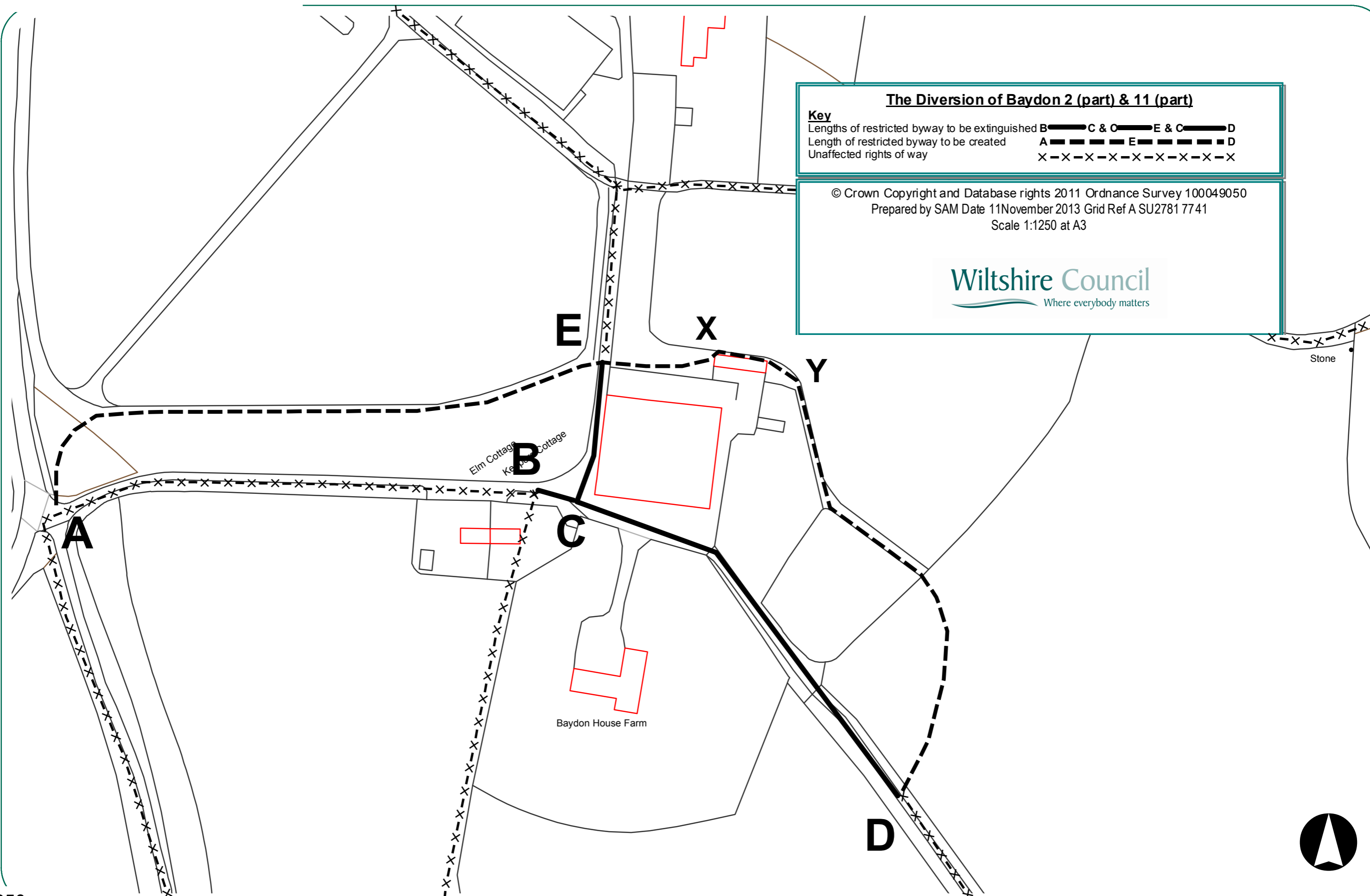
**Diversion of Baydon 2 and 11 (part)
at Baydon House Farm**

The Diversion of Baydon 2 (part) & 11 (part)

Key
 Lengths of restricted byway to be extinguished **B** **C & C** **E & C** **D**
 Length of restricted byway to be created **A** **E** **D**
 Unaffected rights of way

© Crown Copyright and Database rights 2011 Ordnance Survey 100049050
 Prepared by SAM Date 11 November 2013 Grid Ref A SU2781 7741
 Scale 1:1250 at A3

Wiltshire Council
Where everybody matters



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PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257****WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53(A)(2)****WILTSHIRE COUNCIL PARISH OF BAYDON PATH 2 (PART) and PATH 11 (PART)
DIVERSION ORDER AND DEFINITIVE MAP MODIFICATION ORDER 2013**

This order is made by Wiltshire Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the restricted byways to which this order relates in order to enable development to be carried out in accordance with planning permission granted under part III of the Town and Country Planning Act 1990 namely the erection of extensions to agricultural buildings.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 (“the 1981 Act”) because it appears to the authority that the Marlborough and Ramsbury Rural District Council Area Definitive Map and Statement dated 1952 as modified under the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of a highway hitherto shown or required to be shown in the map and statement.

BY THIS ORDER:

1. The restricted byway over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this order (“the schedule”) shall be diverted and the Marlborough and Ramsbury Rural District Council Area Definitive Map and Statement dated 1952 and as modified by the Wildlife and Countryside Act 1981 shall be modified as provided below.
2. There shall be created to the reasonable satisfaction of Wiltshire Council an alternative highway for use as a replacement for the said restricted byway as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the restricted byway shall have effect on the date on which Wiltshire Council certify that the terms of Article 2 have been complied with and upon the occurrence of that diversion the Marlborough and Ramsbury Rural District Council Area Definitive Map and Statement dated 1953 as modified under the Wildlife and Countryside Act 1981 shall be modified by deleting from it the path or way referred to in paragraph 1 of this order and the path or way referred to in paragraph 2 of this order shall be added to it, and the definitive statement shall be modified as described in part 3 of the Schedule.
4. Where immediately before the date on which the restricted byway is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

PART 1

Description of site of existing paths or ways

That length of path Baydon no. 11 leading from point E to point C as shown on the attached map by a solid black line. Approximate length 55 metres.

That length of path Baydon no. 2 leading from point B through point C to point D as shown on the attached map by a solid black line. Approximate length 175 metres.

PART 2

Description of site of alternative highway

That length of restricted byway as shown on the attached map by a broken black line leading from point A to point X through point E. Width 4.1 metres. Approx. length 210 metres

That length of restricted byway as shown on the attached map by a broken black line leading from point X to point Y. Width 2.6 metres. Approx. length 30 metres

That length of restricted byway as shown on the attached map by a broken black line leading from point Y to point D. Width 4.1 metres. Approx. length 180 metres

PART 3

Modification of Definitive Statement

Variation of particulars of path or way

Parish	Path No	Description	Modified under WCA 81 Section
Baydon	2	<u>BRIDLEWAY</u> Paynes Lane. From the Aldbourne road C.189, at its junction with path No. 8, leading east for approximately 180 metres to its junction with Baydon path no. 11. <u>RESTRICTED BYWAY</u> from OS grid reference SU2781 7741 leading north and east, east north east, east, south south east, south east and south south west where at OS grid reference SU 2804 7730 <u>BRIDLEWAY</u> leading south east to road U/C 5018 north of Gore's Copse. <u>WIDTH</u> Restricted byway section OS grid reference SU2781 7741 to SU2797 7745 4.1 metres and from SU2797 7745	53(3)(a)(i)

to SU2800 7744 2.6 metres and from SU2800 7744 to SU 2804 7730
4.1 metres

Approximate length 1.45 kms

PART 3 Continued

Modification of Definitive Statement

Variation of particulars of path or way

Parish	Path No	Description	Modified under WCA 81 Section
Baydon	11	<u>RESTRICTED BYWAY</u> from the u/c 5013 at OS Grid Ref SU2787 7773 leading south south west, south and south east to OS Grid Ref SU2794 7751 at its junction with Baydon 30 where <u>BRIDLEWAY</u> leading south for approximately 60 metres to its junction with Baydon path no. 2. Continuing as <u>BRIDLEWAY</u> from its junction with Baydon path no 2 at Keepers Cottage leading south for approximately 270 m then in a westerly direction to path No. 8.	53(3)(a)(i)

Width 4 metres OS Grid Ref SU 2787 7773 to OS Grid Ref SU 2794 7751

Approximate length 450 metres

THE COMMON SEAL OF }

THE WILTSHIRE COUNCIL }

Was hereunto affixed this }

day of 2013 }

In the presence of: -

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Duly made objections and representations

Objections

No	Content	Width	Surface	Historic value	Officer's comments
1	<p><i>“Extremely disappointed that yet again Wiltshire Council has failed to stick up for public highways, ancient footpaths and traditional rights of way” “I do object to the order, and I’m happy to have that registered. It does seem that Wiltshire Council is particularly comfortable with putting transient landowner wishes above the rights of public rights of way users. The point of footpath/highway law is that it is supposed to act above the interest of a particular landowner, who can of course sell up and move at any time. Public rights of way, particularly those on ancient, traditional paths, should remain in perpetuity. They exist where they are for historic reasons and should not be moved on a whim, especially when so many people have opposed the diversion.</i></p> <p><i>The other issue, when so many rights of way are moved as they are in Wiltshire, is that most people work from OS maps, which get updated on an infrequent basis. It is wholly unreasonable to expect everyone (local or visitor) to consult definitive maps at County Hall. While diversion notices exist for a few months – perhaps, dependent on weather – the confusion exists for many years. I’ve come across umpteen paths in the last few years that have been weather closed , but no signage exists to explain the closure, or diverted, again with no signage. It’s all very poor – and the whole experience of this diversion reinforces the general feeling that Wiltshire Council works harder for rich people than it does for normal council taxpayers.”</i></p>			YES	<p>This objector expresses an appreciation of the historic value of rights of way remaining on their original course and also highlights practical problems that arise with diversions in the short and medium term.</p>
2	<p><i>“I am in receipt of yours of 11 December, concerning the diversion of an ancient highway at Baydon. Whilst it is, in my view, unfortunate that the public are to be turned out of a good part of the ancient track to suit a private whim it is quite unacceptable that the public should be forced to accept an alternative that is narrower than the original. Or, at least that is what appears to be the case, if I am not mistaken.</i></p> <p><i>Now in attending to the landowners desires has the highway authority taken any action to abate the obstruction of the bridleway leading south from point B on the order plan? When I was last in the area this bridleway was inaccessible from either end. One would hope that the diversion of route B-C-D is conditional on the bridleway south of B being returned to public use. I would be most grateful if you could come back to me on this one.”</i></p>	YES		YES	<p>This objector highlights the fact that the proposed new route is narrower than the original.</p> <p>The second route referred to is obstructed but is the subject of an application to divert.</p>

No	Content	Width	Surface	Historic value	Officer's comments
3	<p><i>"You may recall that in response to your consultation dated 20 June 2013, offering a new restricted byway along the route A – E – D with a width of 5 metres, I replied to the effect that the width offered was less than generous, bearing in mind the width of the existing route.</i></p> <p><i>In the days when all vehicles were horse drawn, a width of at least 20 feet (6.1 metres) would have been required for a new road. The proposed reduction from five metres to 4.1 metres and 2.6 metres is unacceptable.</i></p> <p><i>Consequently, I object to the Orders on the grounds that the width proposed for the route A – E – D is inadequate for a restricted byway, and that the alternative route for the length C – E is unreasonably long.</i></p>	YES			<p>The original consultation had suggested 5 metres as a desirable width and this was upheld in the Council's original decision but owing to the constraints of existing buildings and land ownership the applicant was only prepared to offer the widths given in the Order.</p>
4	<p><i>"1. The statutory notice is defective. It says that objections should be sent to a particular address "above", but that address does not give the postcode. It is impossible to send a recorded delivery letter to an address without a postcode and, in any event, an address without a postcode is not a valid and complete postal address. I am sending this objection to you instead.</i></p> <p><i>2. The diversion as drafted results in an unacceptable loss of an ancient and direct through route for the public. Passengers approaching point B from the south, and heading northwards via point E, will be obliged to go via point A: a long and unattractive diversion, essentially duplicating the facility of the route up to point A from the south.</i></p> <p><i>3. The order proposes a new section of restricted byway with a width of 8'6". This is much too narrow to allow horse drawn vehicles to meet and pass in contra-direction.</i></p>	YES		YES	<p>The omission of a postcode for Wiltshire Council is unlikely to have prejudiced anyone and is not considered to be fatal to the order.</p> <p>Anyone approaching point B from the south intending to travel to E would face a more lengthy journey (approx. 110 metres). However, the route merging at A is a more likely route for people to use and here their journey would not be longer.</p> <p>A width restriction of 2.6 metres would make it impossible for horse drawn vehicles to pass and difficult for horses and cyclists to pass.</p>
5	<p><i>"I have only been resident in Baydon for 8 years, but I think this still gives me the right to voice my opinion to the planned changes of the village footpaths and our rights of way. I myself and the rest of my family, as well as many other villagers, enjoy walking around all of the paths, both in and around Baydon. These rights of way have been laid down way before any of the present residents of Baydon House ever lived there, or even in this country. Although they have made a very good contribution to the livelihood of the village, they should respect all aspects of the village and its residents and their rights.</i></p> <p><i>Contd overleaf</i></p>			YES	

No	Content	Width	Surface	Historic value	Officer's comments
5	<p><i>Contd</i></p> <p><i>“These rights of way must have been taken into account by the owners of Baydon House Farm when they bought the property, and therefore accepted the rights of way. It seems that all too often, things have to change for the minority and their needs, instead of respecting the majority and their rights.</i></p> <p><i>I for one can't see how the changes are going to help anyone in or around Baydon. Rather the opposite in fact. Preservation of long standing footpaths are a must, even though it may seem a tiny inconvenience for the residents of Baydon, to the proposer of the change. Change the route of these paths, and what is next?</i></p> <p><i>The owner of Baydon House Farm had intended to close off a right of way by putting a iron gate and fence across the entrance of this track, until it was brought to their attention of the right of way for all members of the public. Was this an oversight of the owners, or maybe ignorance of other people's rights?!</i></p> <p><i>Keep the paths open and exactly the way they have been all this time. Many rights, rules and regulations of this country and its people have been disrespected over the years, so don't let this start to happen in Baydon or any other village and surrounding countryside.”</i></p>				
7	<p><i>“How sad that the village of Baydon and surrounding villages find themselves under siege again from landowners who think when they move to this part of the world they can change these ancient rights of way to suit themselves. These rights of way have been in use since time itself, they need to be preserved for future generations. The public should be able to use them and enjoy the countryside. It should not be the new landowners who think that they can do what they want when they want, aided and abetted by the weak kneed Parish and County Councils.</i></p> <p><i>The planning permission obtained is part of the right of way, so if this portion of it is closed and a 400 metre detour is put into place, it will not be used by the public in general, as it will not be a viable alternative.</i></p> <p><i>How this landowner got planning permission to build on a right of way I do not know. There is something very sinister going on. This will probably make this landowners property even more valuable if he can keep the public out.”</i></p>			YES	Considers that a 400 metre detour is unacceptable and that use will diminish.
7	<p><i>“I oppose and object to this further infringement on our right of way. The proposed change does nothing to enhance the village of Baydon and is yet another encroachment by the land owners to grab what they can. I will be engaging with the Institute of Public Rights of Way to help fight this proposed change. There is extremely strong feeling from some residents and a feeling of inevitability from others who feel that we can do nothing about this proposed change.”</i></p>			YES	

No	Content	Width	Surface	Historic value	Officer's comments
8	<p><i>"I often use this right of way when riding or running out of the village down to Aldbourne. I feel moving this right of way people will use the road to walk on more often. I can see why the owners of Baydon House would want this path moved but they knew about this when they purchased the house."</i></p>				<p>Considers it will discourage use.</p>
9	<p><i>"I strongly object to the changes to the Rights of Way in Baydon around Baydon House Farm. I have used this for over 50 years and now that I am retired I use it every other week. Right (of way) should be protected for us and generations to come. I can see no need whatsoever to change what has been in use since time itself. These new landowners think they can do what they like and it seems to me that get away with an awful lot. They pay no heed to local people and their needs and wishes. Then they sell up and go, leaving the countryside scarred. When Baydon House Farm was purchased these rights of way were there. Why buy it?"</i></p>			<p>YES</p>	
10	<p><i>"I object to this Order. The only part of the Order I object to is the diversion removing rights over E to C. Approx 55 m E to C is being replaced with an approx 300 m loop to get to same point. I would not object to a similar proposal, with direct footpath from E to B, even if this was via gate/style. Or diversion of Right of Way running South from C to the West of Elm Cottage, rather East of Keeper's Cottage.</i></p> <p><i>I have no objection to diversion A – D via E rather than current via B. However I understand there is a footpath running from point B southwards to meet up with 'Preston Bridleway' some quarter mile south of point A. This is not shown on the plan. Have the rights to this path already been extinguished, or does it exist and someone seen fit to exclude it from this plan? If this path does still exist in statute then I object to the PPO as it will cut off 1 end of this path, making it useless.</i></p> <p><i>It currently is an attractive part of a circular route from Baydon, and would be lost if proposal is accepted."</i></p>				
11	<p><i>"I'd like to let you know that I have concerns over the diversions to the footpaths. One of the reasons my wife and I moved to Baydon was the nice country walks. We use these footpaths most weekend, especially in the summer. Please don't re-route them."</i></p>			<p>YES</p>	
12	<p><i>"With reference to proposed footpath changes around Baydon House Farm I would like to object to these changes. Baydon House Farm was built knowing there was an existing right of way past it, I feel there is no advantage to the village to change their route in fact the opposite. Other close public footpaths are almost impassable by foot due to their being used by land owners quad vehicles for farm activities and I feel this would happen here. It isn't in the land owners interest to make a muddy mess as the pathways are now. The only advantage I can see is for the landowner whose property will dramatically increase in value due to there being no public access past its drive way anymore.</i></p> <p><i>Contd overleaf</i></p>		<p>YES</p>	<p>YES</p>	<p>Considers that soft surfaced paths would become difficult to use as a result of other use.</p>

No	Content	Width	Surface	Historic value	Officer's comments
12	<p><i>Contd</i></p> <p><i>Also I'd like to point out damage and missing signage for public rights of way. I've noticed signs have been uprooted at their entrance where gateways have been made. They appear to go missing after a period of time and not replaced,</i></p> <p><i>I have walked many Baydon routes over the last twenty years so I know of their existence however many new villagers would assume they don't exist."</i></p>				
13	<p><i>"The rediversion of the footpath and rights of way are strongly opposed by myself as they are of historic importance to the village, they are old sheep droves between the villages and farms in the area.</i></p> <p><i>If any part becomes closed is this the thin end of the wedge to get it all closed?"</i></p>			YES	
14	<p><i>"I would like to register my objection to the proposals regarding the rights of way 2 & 11 in Baydon.</i></p> <p><i>These right of way have been used by many local residents for many generations. To divert them will benefit no-one (other than the current landowner). Indeed, I would suggest it will lead to less public use of these pleasurable paths due to the convoluted nature of the diversions.</i></p> <p><i>I would also add that the walking/riding surfaces of the diversions are inferior to the current routes particularly with such inclement weather as we've had recently.</i></p> <p><i>Finally I would like to ask how a planning application can be approved if it impacts a public right of way?"</i></p>		YES	YES	<p>Considers use would diminish as the new routes are convoluted.</p>
15	<p><i>"Please record my strong objections to this proposal.</i></p> <p><i>First and foremost paths 2 and 11 are very close to the centre of Baydon and are easily accessible by all villagers. For this reason no diversion or alterations should be made if they detract from the convenience or enjoyment of using them.</i></p> <p><i>This Order includes a proposal to extinguish approximately a 20 metre length from the middle of path 11 and replace it with a 200 metre diversion to the west of Aldbourne road and then return 200 metres east back to path 11. These two diversionary legs are essentially parallel and barely 20 metres apart.</i></p> <p><i>This is an absurd diversion – we will have to walk or ride a further 400 metres to arrive back at essentially the same place. The leg A – B will be so unpopular that it will not be used nor will that part of Path 11 going south from point B. If this happens then the landowner will have little difficulty in securing extinguishment of the southern end of path 11 through lack of use which is clearly what he is trying to achieve."</i></p> <p><i>Contd overleaf</i></p>			YES	<p>Considers diversions are less convenient.</p> <p>Considers that by moving buildings a few metres they could be built without moving the rights of way.</p> <p>Considers that the building plans were diverted deliberately to require the movement of rights of way.</p> <p>Considers that the diminishing of the historical context will have a wide ranging adverse effect.</p>

No	Content	Width	Surface	Historic value	Officer's comments
15	<p><i>Contd</i></p> <p><i>"This Order is being made to meet the requirements of recent planning permission E/2013/0170/FUL for Baydon House Farm which cannot go ahead unless Paths 2 and 11 are diverted. However, what is evident to anybody walking these paths, is that there is ample room elsewhere on the landowner's property for the proposed buildings to be sited so as not to impinge on any of the Rights of Way. Indeed only a 10 metre shift of the proposed building across Path 11 is all that is necessary to ensure that the path need not be re-routed. If it appears that the planning permission is being used as convoluted means of achieving removal of all Rights of way from the vicinity of the landowners house.</i></p> <p><i>In summary I request that you reject this Order because of the unacceptable diversion of Path 11 which would detract from the enjoyment and convenience of what could be a very popular recreation route. This Order is to the benefit of one family only in the village namely the landowner. Every other person in the village or indeed elsewhere will lose out because they will no longer be able to walk where previous generations could hundreds of years before. If this Order is approved it is highly likely that another part of Baydon 11 will be extinguished soon after."</i></p>				
Page 104	<p><i>"As longstanding residents of Baydon who use this path frequently, please note our opinion on the above proposal.</i></p> <ol style="list-style-type: none"> <i>1. We believe that these changes will restrict accessibility due to the surface type. The current path past the houses is hardcore or concrete and the proposed path is grass and mud. As we have used the path for prams, pushchairs, wheelchairs and bicycles over the years we are concerned that this will no longer be possible because of the churned up muddy nature of the new path.</i> <i>2. Making it a restricted byway will add to the compromised surface as we are already seeing with the use of quad bikes and particularly with the recent wet weather.</i> <i>3. This proposal appears to put the needs of the homeowner and landowner above those of the community and restricts accessibility across a range of needs, i.e. disabled, elderly and the young.</i> <p><i>I can confirm that this is an objection. In addition we would like to comment having walked the route today, that the hardcore recently added to a section of the path is now disintegrating and will clearly need frequent maintenance and the area at each end of the proposed path remain impassable due to mud. The area at the Aldbourne Road end is particularly dangerous as it is slippery and includes a steep slope down to the road."</i></p>		YES		Considers surface is inferior and will restrict accessibility.

No	Content	Width	Surface	Historic value	Officer's comments
17	<p><i>"I strongly object to this further change in local pathways around our village it should also not be reviewed in isolation but in conjunction with PPO enquiry 2013/16 relative to path 11. Both applications should be refused.</i></p> <p><i>This application is just another step along the property owners stealth plan to eradicate all of the historical paths around the village that cross their lands, it should not be allowed.</i></p> <p><i>As a resident of 33 years standing I have with many of my neighbours used local paths 2 and 11 over the years. Previous changes have been allowed on path 11 against the wishes of the locals; the parish council being negligent in not fully opposing these changes in the past.</i></p> <p><i>The applicants were aware of these pathways before they purchased their properties and are cynically having them altered and closed for their own financial gain. In fact path 11 by their own admission was subvertly closed by previous owners of the cottages; an alternative around the side of Keepers Cottage garden has also been made almost impossible by the recent building and overgrowing beech hedge.</i></p> <p><i>The owners of Baydon House Farm (the applicants) have a history of flaunting planning regulations by building first and submitting planning applications retrospectively.</i></p> <p><i>I could make multiple other detailed points on the two applications if requested but the issue is clear there is no benefit to the village or residents and historical footpaths and bridleways should be kept.</i></p> <p><i>To repeat I strongly object to this application."</i></p>			YES	
18	<p><i>"Having reviewed the proposed changes by these 2 new ROW PPOs, I wholly object to the planned changes.</i></p> <p><i>A few months ago, my family and I cycled from Baydon centre towards Baydon House Farm and then onwards along bridleway 2 & 11, southbound, towards Aldbourne. At the time, there was already a change to the established bridleway and we all deemed that the diversion that was in place (and will become permanent with this PPO) was inappropriate. It is with this in mind that I oppose the changes and request that the diversion that is currently in place be removed and the original bridleway be reinstated."</i></p>				Considers the diversion is inappropriate.

No	Content	Width	Surface	Historic value	Officer's comments
19	<p><i>"We have already raised objections to the proposed diversion of the paths referred to above in a previous letter dated 11th August which we trust will be presented to the Council and given due consideration. We have also attached a copy of the previous letter to our email.</i></p> <p><i>Firstly we would like to repeat our main objection to the diversion in that the proposed replacement Route A – E – D is neither the same width nor the surface as the current right of way.</i></p> <p><i>The current right of way is 5 meters wide as specified in your original letter dated 20th June 2013 but the alternative is 4.1 metres at the widest point and in some parts only 2.6 metres wide. Part 1 of the schedule attached to the order gives the length of the current right of way but omits to give the width so that a comparison can be made. The current right of way is a hard well drained surface, the alternative is not.</i></p> <p><i>For the reasons given above we believe the proposed alternative right of way does not meet the condition as specified in paragraph 2 of the order.</i></p> <p><i>Our other concern is that, bearing in mind that thee unaffected right of way shown on the map south of the junction at B and C is blocked, the closure of the middle of path 11 from C to D makes the right of way between A and B unusable as it will go nowhere and become unused and eventually will also be closed.</i></p> <p><i>We trust the Council will give serious and due consideration to our objections."</i></p> <p><i>Letter dated 11.08.13 submitted with the above:</i> <i>"Having already contacted you about this at the beginning of July I was advised that I would be notified when a rights of way office was appointed to this case, but I am concerned that I have heard nothing since then so am writing to voice my concerns and to point out that other residents of Baydon will not have the opportunity to voice their concerns before the time to raise objections has expired which I understand to be August 16th 2013.</i></p> <p><i>Before it is too late I would like to object strongly to the proposed diversion of parts of Baydon paths 2 and 11. I have been provided with a letter sent to one of my neighbours by yourselves with a reference SM/2013/15 and 16 BAYD 2/11 along with location plans which my comments below refer to:</i></p> <p><i>Firstly I refer to the proposed changes to route E – C (Baydon 11 part) and C – D (Baydon 2 part) being replaced with route A – E – D. The proposed replacement route A – E – D has already been created and it is plainly obvious it is neither the same width nor surface as the current right of way or as specified in the letter as being 5 metres wide and a hard well drained surface." Contd overleaf</i></p>	YES	YES		Considers the surface and the width to be inferior to the existing.

No	Content	Width	Surface	Historic value	Officer's comments
19	<p><i>Contd</i></p> <p><i>"The current right of way has a hard well drained surface and is wide enough to allow large agricultural vehicles to gain access to the various farm lands surrounding Baydon village.</i></p> <p><i>The effects of the loss of this access as plainly felt when the current right of way was blocked for some time and large agricultural vehicles were forced through the village and down unsuitable alternative routes to gain access to the farm lands that have been accessed for many years via the current right of way.</i></p> <p><i>Secondly I refer to the proposed changes to routes A – B – C (Baydon 2 part) and route B – F – H (Baydon 11 part).</i></p> <p><i>At best the existing route which is currently blocked illegally should be reopened but at worst the alternative path, if one has to be provided, should follow the route of the existing path as far as possible. This could be achieved by way of a small diversion around the site of the blockage allowing the walk from B to H via F to still be enjoyed. The replacement so called circular walk is not circular it is simply a straight walk along one side of a hedge/tree row and would be a very poor alternative.</i></p> <p><i>The letter I have been passed a copy of states that comments are invited by August 16th 2013 and I am concerned that the proposed changes will be pushed through without allowing enough time for the residents of Baydon to be properly informed about the proposed changes and then to consider and raise any objections they may have.</i></p> <p><i>These rights of way have been in place for centuries and the removal of them should not be carried out lightly or without proper consideration is at all"</i></p>				
20	<p><i>"Further to previous correspondence relative to the proposed diversion of Baydon Bridleway 2. I first visited this location on behalf of Wiltshire Bridleways Association on Mon 5 Aug 2013 when I submitted a report to the committee reflecting that the proposed route A – E - D as marked on the map was well fenced and had an even grass surface. The width was a regular 4 metres with the exception of a strip of approximately 45 metres behind the barn where it was reduced to a width of between 2 and 5 metres (GR280775). On the basis of that information, Wiltshire Bridleways Association supported the application. On Sun 19 Jan 2014 I again visited the area and noted that from the narrowed strip behind the barn and continuing south for a total distance of approximately 200 metres to the point where the diversion rejoins the original bridleway 2, the grass surface has been changed to a layer of planings or similar material, of no more than 2 metres wide. Within a reasonable period of time it is expected that this will grass over and develop a good well drained riding surface. However, Wiltshire Bridleways Association believe that having exited from behind the barn, the width should be returned to the full proposed 4 metres. With the exception of the width change WBA remain supportive of the diversion.</i></p>	YES			Although the surface is acceptable the width is insufficient and should be 4 metres.

Representations

No	Content	Width	Surface	Historic value	Officer's comments
1	<p><i>"Ramblers have no objection to the Order diverting sections of these paths along the route A – E – X – Y – D.</i></p> <p><i>We are pleased to note that you have not made an order supporting the landowner's request to divert the remainder of Baydon 11 along the route A – G – K shown on the map attached to your letter dated 20 June. As you know we objected to that proposed diversion and suggested an alternative route. Since the path is currently obstructed to south of point B and also between points F and G, could you please let me know the current state of your negotiations with the landowner to resolve this situation."</i></p>				
2	<p><i>"I have lived in Baydon since August 2000, have used the existing paths on a regular basis, and want to express my support for the changes – the views from the new paths are much improved, safety of the many runners, cyclists and horse riders using this path is much improved (by not rerouting the path through the yard where tractors and machinery have been seen in operation). My only hope is that others within the village realise the benefits that the revised route brings and how it enhances our village."</i></p>				Considers views and safety are improved.
4	<p><i>"I am completely in favour of this diversion. It is safer, almost the same length, offers better views of adjacent farm animals and those across the valley when walking south east.</i></p> <p><i>One question: - why is it being upgraded to a restricted byway whereas the existing route is shown as a bridleway on the OS map? Also it will enable Mr B Johnson to improve the security of his yard following incidents of burglary in the barn area."</i></p>				Considers views and safety are improved.
4	<p><i>"As a villager who has walked and ridden the public paths in Baydon for 35 years I wish to say I love the new alternative footpath behind the stables in Payne's Lane – a real improvement to the walk through the yard! I walk this 2 to 3 times a week.</i></p> <p><i>The new path to the right I walk less frequently because the loop is quite short and I have to retrace my steps (which I don't like doing) but it does avoid some of the mud along Greenhills if I wish to continue along the lane. As the path passing the cottage has been inaccessible for all of my 35 years here I surely won't miss it."</i></p> <p><i>"I wish to say that I am happy with the diverting order for Baydon path 2 (part) and Path 11 (part) as shown on your map. However I am confused as to why you have decided to retain the path passing from the cottage B to F yet not Path 11 from E to C. Your original letter (20 June 2013) had a far better solution showing an alternative path from A to G. A strange little loop but preferable to b to F which has been inaccessible for years."</i></p>				Considers the new route an improvement.

No	Content	Width	Surface	Historic value	Officer's comments
5	<p><i>"I run a large equestrian property in Baydon and have lived in this village for the last 15 years. Our riders and grooms all use the bridleways in the area often on a daily basis and on both experienced and inexperienced competition horses.</i></p> <p><i>We have read the notices placed by the council around Baydon House Farm indicating the diversions and have tried all the pathways including behind the large barns and also west of the cottages. From both a personal and professional perspective, the new diversions are a huge improvement (particularly the areas avoiding tractors and machinery and the length of the driveway) and we support the suggested diversion fully.</i></p> <p><i>With reference to the route behind the cottages, this route has never been available and is not safe or helpful to horse riders. An extinguishment would seem appropriate although I understand the Council was not prepared to do this? The diversion suggested by the sins to the west of the cottage seems a bonus to the village. We therefore support this diversion too."</i></p>				Considers the new route an improvement.
6	<p><i>"I wrote to you last year against the extinguishment of footpaths near Baydon House Farm, and suggesting ways in which the loss of these footpaths could be ameliorated. I have seen recent proposals to divert these footpaths and am very pleased that they address in a satisfactory manner the comments I then made. I have also walked the new paths and have found the quality of the work done to divert the paths of a very high standard, not only in the surface provided but also in the planting which allows wide views across the adjacent farmland as well as being attractive in itself. It seems to me to be a model of balancing the safety and security needs of working farms with the recreational needs of the villagers and visitors. I made similar comments at the recent meeting of the parish council and would like to repeat them formally to you. In particular the proposed diversion footpath paralleling the deeply rutted byway is a vast improvement for the section it covers: I just hope it will one day be extended to Green Hill Trees."</i></p> <p><i>"Having previously objected to proposals to extinguish footpaths in the area of Baydon House Farm I write to you to notify you that I am in agreement with the above diversion order. Having walked the new paths I am happy that the changes improve recreational walking around Baydon while improving the safety of farm workers at Paynes Farm/Baydon House Farm. The new path around the barns to the top of Payne's path has been very well constructed and provides good views across the farm land."</i></p>				Considers this is a good example of balancing farm safety with recreational needs.
7	<p><i>"I'm writing in support of the diverted footpaths at Baydon House Farm. I run round Baydon frequently and find them far safer, better under foot, better views and easier to navigate round."</i></p>				Considers new routes safer, better under foot and easier to navigate round.

No	Content	Width	Surface	Historic value	Officer's comments
8	<p><i>"I write to you to express my support for the path/bridleway applications that have been made at Baydon House Farm. I have lived in the village for over 30 years many of those experienced on horseback when working for two village based race horse trainers. I know all the foot/bridlepaths that surround the village very well and have recently ridden the new alternative path at Baydon House farm I am suitably impressed. The new path not only rides well but also for walkers with or without dogs provides a wide safe firm track which also is more pleasant view wise than the existing one which had gone through the farm yard.</i></p> <p><i>Regarding the alternative route proposed to allow access to the path that currently runs through the farm cottage/garden also I cannot see will cause any unnecessary inconvenience. I hope the council will consider these applications positively as Baydon is a lovely rural village to reside in and these alternative footpaths will only enhance village walks/rides."</i></p>				Considers new track has better views.
9	<p><i>"I write for a second time to show my support to the suggested new foot/bridlepath at/surrounding Baydon House Farm. The new diversion that runs behind Baydon House Barns is a great improvement for riders either accessing the Preston track of heading out towards Baydon Village itself. The new diversion offers a very suitable wide riding/walking track and does lend a great view when accessing it from Baydon Village end heading down the valley, my horse always stops to look and take in the broad view. The track is understandably safer than the previous option as you do not have to ride through a stable/farmyard with working machinery which can cause safety issues.</i></p> <p><i>With regard to the other path in discussion that currently runs through the farm cottage garden again I can see no negative reason why the alternative route offered should not be set in place. I wholly support both applications and encourage the council to look very favourably at these applications made."</i></p>				Considers the new track suitable and safer.
10	<p><i>"We would like to support the planning application in favour of Mr and Mrs. Johnson, we do use the new path on a very regular basis, we feel it is a much more user friendly path than the old one. We would like to give this matter our strongest support."</i></p>				Considers the new path is more user friendly.

No	Content	Width	Surface	Historic value	Officer's comments
11	<p><i>"On behalf of Baydon Parish Council following approved representation of the above order, heard in a public meeting held on Monday 13th January 2014.</i></p> <p><i>Having considered the diversion request in detail and the facility provided to the parish by Baydon House Farm, the Parish Council can see no reason to object to the proposed order.</i></p> <p><i>We, the Parish Council reviewed the order and approved for the following reasons:</i></p> <ul style="list-style-type: none"> <i>• Improved safety for users of the diverted right of way.</i> <i>• Improved and safer surfaces.</i> <i>• Improved viewing for all users across Wiltshire countryside.</i> <i>• Planned new routes fulfilled the original objections due to a lack of loop.</i> <i>• The change of usage of the path from a route to a place of work (historically) to one of recreational use. Therefore there is no longer a need of a right of way through a farm yard.</i> <i>• Positive feedback from Baydon residents.</i> <i>• Positive feedback from some residents that originally objected, once they had seen the new changes.</i> <p><i>Consideration was also taken into account and discussed, which was corrected in the meeting on certain 'negative flyers' that were posted within the village which were factually incorrect and misleading to residence. This was deemed unfair to the current owners of the land where the order has been placed and something that was out of their control."</i></p>				<p>Considers the new path is safer and has better views.</p> <p>Refers only to positive feedback from Baydon residents.</p>
12	<p><i>"I would positively like to support the proposed order for Baydon 1 & 11. The reasons for this are because the improvements made are more suitable for walking with my family and safer all round. Thanks in advance for your consideration."</i></p>				<p>Considers the new route a safer walk.</p>
13	<p><i>"I am just dropping you a line as we went on a family walk around the suggested permissive route this week at the above farm and we fully support the diversions. It makes much more sense and is far safer as I am concerned, as a mother of a fast moving 2 year old girl."</i></p>				<p>Considers the new route a safer walk.</p>
14	<p><i>"Just a quick note to say I fully support the Baydon House Farms' application for the change of footpath, its far better."</i></p>				

No	Content	Width	Surface	Historic value	Officer's comments
15	<p><i>"I am writing to give you my views on the proposed diversion of bridleways 2 and 11 in Baydon (PPO 2013/15).</i></p> <p><i>I am a mother of a baby and I live in Baydon. I very much value, and regularly use, bridleways 2 and 11 as they currently stand. One of the main reasons for this is that the bridleways have surfaces suitable for use with a pushchair (mainly tarmac). There aren't many roads in Baydon with pavements, or other bridleways/ footpaths in Baydon with hard surfaces. I therefore use bridleways 2 and 11 regularly to take walks with my baby.</i></p> <p><i>The proposed diversionary routes are not hard-surfaced. They are just grass. In the winter, the paths are unpassable with a pushchair (even our 'off-road' model), because the ground is wet, very muddy, with long grass, and very churned up by horses. During the summer, I imagine that the paths will still be very difficult to use, because the churned up surface will set hard to become very uneven.</i></p> <p><i>Therefore, while I don't object to the routes being diverted in principle, I feel strongly that they should be replaced like-for-like with hard surfaced paths, so that the village's available off-road paths for mothers and young children are not significantly diminished."</i></p>				<p>Considers that the new routes need to be better (hard) surfaced, like the old route.</p> <p>Considers that unless 'like for like' paths are provided available off road paths for mothers and young children may be significantly diminished.</p>
16	<p><i>"I am writing to say that I do not object to the proposed diversion of the footpaths around Baydon House Farm as I feel the new proposed route works as a better alternative."</i></p>				
17	<p><i>"I am writing to you on behalf of the Baydon Running Group, and would like to take this opportunity to tell you that we fully support the new footpath diversions that Mrs Johnson put on her land, and that we use them regularly on our weekly runs. (Something we would never have done with the original footpaths).</i></p> <p><i>They have been thoughtfully laid out, they do not impact unnecessarily on the local environment, and are in frequent use, not only by the runners, but also by dog walkers, walkers, and horse riders.</i></p> <p><i>We fully support the Johnsons application, and appreciate the hard work they have gone to, to provide practical, usable footpaths for the residents of Baydon.</i></p> <p><i>The Baydon runners (who have all agreed to have their names mentioned in this letter) are:</i></p> <p><i>Heather Birch, Paul Bartlett, Dawn Howell, Marissa Carter, Eric Ritchie Caroline Ritchie"</i></p>				

Objector number	Date received	Name	Address
1	10.12.13	Ffinlo Costain	12 Easterton Lane, Pewsey, SN9 5BP
2	13.12.13	Dave Tilbury	Oakbank Cottage, Oakbank Lane, Eastleigh, SO5 6AP
3	19.12.13	Bill Riley	141 Bath Road, Bradford on Avon, BA15 1SS
4	19.12.13	Alan Kind	45 The Fairway, Gosforth, Newcastle upon Tyne, NE3 5AQ
5	05.01.14	Michael Mears	8 Russley Green, Baydon, Wiltshire
6	05.01.14	Hilary Bradley	15 Kandahar, Aldbourne, Marlborough, SN8 2EE
7	06.01.14	Tony Routledge	18 Downsmead, Baydon, Wiltshire
8	05.01.14	Brian Billington	Finches Cottage, The Green, Baydon, SN8 2JW
9	06.01.14	Ken Bradley	15 Kandahar, Aldbourne, Marlborough, SN8 2EE
10	06.01.14	Steve Sutton	23 Downsmead, Baydon, SN8 2LQ
11	07.01.14	Ben Hughes	navyben@hotmail.com
12	06.01.14	Derrick Ody	Cody1455@btinternet.com
13	08.01.14	Colin Phillips	Swallowfield, Ermin Street, Baydon, SN8 2JF
14	09.01.14	Steve Furber	11 Newtons Walk, Baydon
15	09.01.14	Bernie Gribble	15 Ermin Close, Baydon, SN8 2LQ
16	10.01.14	Bridget Walker	Roman Way, Ermin Street, Baydon, SN8 2JP
17	12.01.14	David Hanley	Redroofs, Baydon, Marlborough, Wiltshire
18	10.01.14	Nick Berry	24 Downsmead, Baydon, SN8 2LQ
19	17.01.14	Mr and Mrs D Jukes	Tucumcari, Ermin Street, Baydon, SN8 2JF
20	20.01.14	Norman Beardsley, Wiltshire Bridleways Association	20 Coombe, Enford, Nr Pewsey, SN9 6DE
21	20.01.14	Allison Dobson	Becketts, Baydon, Marlborough, SN8 2HZ

Representations

Representation number	Date received	Name	Address
1	21.12.14	Peter Gallagher, The Ramblers	10 Folkestone Road, Swindon, SN1 3NH
2	12.01.14	Kevin Howell	Pine Cottage, Aldbourne Road, Baydon, SN8 2HZ
3	13.01.14	Tony Prior	Challans, Ermin Street, Baydon, Marlborough, SN8 2JF
4	14.01.14	Barbara Furber	25 Downsmead, Baydon, SN8 2LQ
5	15.01.14	Alberto Giugni	Downs House, Baydon, SN8 2JS
6	15.01.14	Terry Ralph	46 Downsmead, Baydon, Marlborough, SN8 2LQ
7	15.01.14	Harriet Knowles	5 Fiveways, Baydon, SN8 2LH
8	16.01.14	A D Jenkins	5 Russley Green, Baydon, SN8 2LJ
9	16.01.14	Sue Bristow	5 Russley Green, Baydon, SN8 2LJ
10	15.01.14	Lee and Marie Hogan	Aldbourn Road, Baydon
11	17.01.14	Baydon Parish Council	5 Fiveways, Baydon, SN8 2LJ
12	18.01.14	Andrea Booth	The Cottage, Ermin Street, Baydon
13	18.01.14	Georgina Taylor	Downs House, Baydon, SN8 2JS
14	18.01.14	Matt Robinson	Downs House, Baydon, SN8 2JS
15	19.01.14	Pamela Withers	7 Newtons Walk, Baydon
16	20.01.14	Alie Plumstead	Barley Mead, Baydon, SN8 2HZ
17	21.01.14	Dawn Howell	Pine Cottage, Aldbourne Road, Baydon, SN8 2HZ

Compiled S Madgwick
Rights of Way Officer
13 February 2014