

AGENDA SUPPLEMENT (1)

Meeting: Northern Area Planning Committee

Place: Online Meeting

Date: Wednesday 11 November 2020

Time: 3.00 pm

The Agenda for the above meeting was published on 03 November 2020. Additional documents are now available and are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Ellen Ghey, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718259 or email ellen.ghey@wiltshire.gov.uk

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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

Part I (Pages 3 - 10)

DATE OF PUBLICATION: 06 November 2020

Presentation Slides

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HIGHWAYS ACT 1980 S.119

**The Wiltshire Council Parish of Calne Without
Bridleway 89 (part), 89A and 89B Diversion
Order and Definitive Map and Statement
Modification Order 2019**

11 November 2020

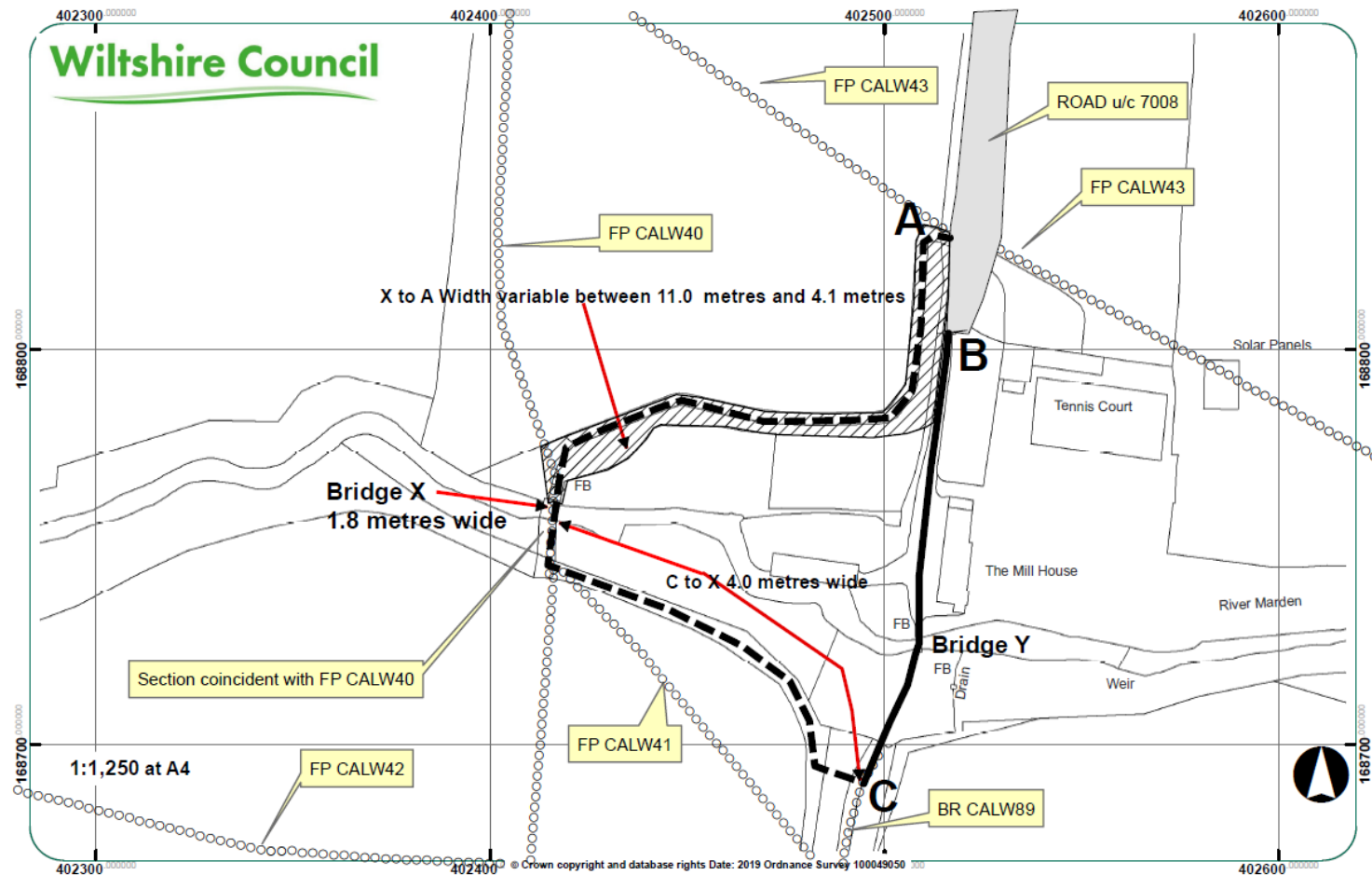
Order Plan

CALW 89, 89A and 89B Order Plan

bridleway to be extinguished B — Y — C
bridleway to be created A - - - X - - - C

Unaffected rights of way shown by continuous circles

Date: 13/12/2019



S.119 Highways Act 1980 – The tests to make an order to divert

- S.119 (1) - Is it expedient that the line of the path should be diverted in the interests of the landowner (or occupier or lessee)? OR
Is it expedient that the line of the path should be diverted in the interests of the public?
- S.119 (2) - Where termination points are altered, are the new termination points
 - i) connected to another highway
 - ii) substantially as convenient to the public

S.119 Highways Act 1980 – The tests to confirm an order to divert

- S.119(6) - an order cannot be confirmed unless it is satisfied that it is expedient to do so and:
 - (i) The new path will not be substantially less convenient to the public
 - (ii) Regard must be had to the effect of the new path on the use and enjoyment of the path as a whole
 - (iii) Regard must be had to the effect on other land served by the existing path
 - (iv) Regard must be had to the effect on land where the new right of way is to be created.

S.119 Highways Act 1980 – Other considerations

The Council should also have regard to the provisions of The Equality Act 2010 and Wiltshire County Council's Rights of Way Improvement Plan.

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It is important to note that when comparing the proposed new route with the existing consideration must be given as if the existing route is unobstructed and maintained to a standard suitable for those users who have a right to use it.

Source of advice: The Planning Inspectorate's Advice note no. 9 11th revision 2019

Matters on the ground that must be disregarded on existing route for comparison purposes

Clockwise from LHS – Seasonal growth, misleading signage, unauthorised gate, narrow bridge, overgrowth and parked vehicles



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Matters on new route to consider for comparison purposes

Convenience, views, enjoyment, accessibility, effect on land



Procedure

- The Order has attracted 5 objections which have not been withdrawn. Accordingly Wiltshire Council may not confirm the Order and bring it into effect.
- Members of this committee may decide that the objections raise matters that they agree are valid and may decide that the order should be abandoned and revoked.
- Members of this committee may decide that the facts and the objections fail to demonstrate that the proposed new route is substantially less convenient, has an overtly detrimental effect on the use and enjoyment of the route as a whole, has an adverse effect on land over which the proposed or existing route leads or that the order is incorrectly drafted. The committee may consider the benefits to the landowner in considering the expediency of confirming the order.
- If this is decided then the decision would be to support the order and to forward it to the Secretary of State for Environment, Food and Rural Affairs for determination. Costs associated with this stage of the process can not be reclaimed from the applicant and must be borne by Wiltshire Council.