

AGENDA

Meeting: Eastern Area Planning Committee

Place: Wessex Room - The Corn Exchange, Market Place, Devizes, SN10 1HS

Date: Thursday 20 April 2023

Time: 3.00 pm

Please direct any enquiries on this Agenda to Matt Hitch of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718059 or email matthew.hitch@wiltshire.gov.uk

Press enquiries to Communications on direct lines 01225 713114/713115.

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Membership:

Cllr Philip Whitehead (Chairman)
Cllr Paul Oatway QPM (Vice-Chairman)
Cllr Dr Brian Mathew
Cllr Kelvin Nash

Cllr Sam Pearce-Kearney
Cllr Tony Pickernell
Cllr Iain Wallis
Cllr Stuart Wheeler

Substitutes:

Cllr Mel Jacob
Cllr Jerry Kunkler

Cllr James Sheppard
Cllr Caroline Thomas

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Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

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For assistance on these and other matters please contact the officer named above for details

AGENDA

Part I

Items to be considered when the meeting is open to the public

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 12*)

To approve and sign as a correct record the minutes of the meeting held on 23 February 2023.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chairman.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register **no later than 10 minutes before the start of the meeting**. If it is on the day of the meeting registration should be done in person.

The rules on public participation in respect of planning applications are linked to in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application, and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered.

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular,

questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on Thursday 13 April in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on Monday 17 April Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Planning Appeals and Updates** *(Pages 13 - 14)*

To receive details of the completed and pending appeals, and any other updates as appropriate.

Rights of Way

7 **Ramsbury 9B, 44, 71 and 72 and Mildenhall 16** *(Pages 15 - 210)*

To consider two objections and three representations relating to an Order to add two lengths of restricted byway and upgrade to restricted byway lengths of footpaths Ramsbury 9B and 44 and Mildenhall 16 to the definitive map and statement for the area.

Planning Applications

To consider and determine the following planning applications.

8 **PL/2022/00977 - Land at Horton Road, Devizes** *(Pages 211 - 246)*

Outline planning application with all matters reserved except access for up to 25,000 sqm of use class B2 (General Industrial), B8 (Storage and Distribution) and E (Commercial, Business and Service) (g) (i-iii), with landscaping and associated infrastructure.

9 **Urgent items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency

Part II

Items during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

Eastern Area Planning Committee

MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 23 FEBRUARY 2023 AT WESSEX ROOM - THE CORN EXCHANGE, MARKET PLACE, DEVIZES, SN10 1HS.

Present:

Cllr Philip Whitehead (Chairman), Cllr Dr Brian Mathew, Cllr Kelvin Nash, Cllr Tony Pickernell and Cllr Iain Wallis

Also Present:

Cllr Jane Davies and Cllr Tamara Reay

1. **Apologies**

Apologies were received from:

- Cllr Sam Pearce-Kearney
- Cllr Stuart Wheeler
- Cllr Paul Oatway QPM

2. **Minutes of the Previous Meeting**

On the proposal of the Chairman, seconded by Cllr Nash, it was:

Resolved

To approve the minutes of the previous meeting, on 1 December 2022, as a true and correct record.

3. **Declarations of Interest**

There were no declarations of interest.

4. **Chairman's Announcements**

There were no Chairman's announcements.

5. **Public Participation**

The Chairman detailed the procedure for the meeting and the procedures for public participation which were set out at item 5 of the agenda.

6. **Planning Appeals and Updates**

On the proposal of the Chairman, seconded by Cllr Wallis, it was:

Resolved

To note the report on completed and pending appeals.

7. Planning Applications

The following applications were considered:

8. PL/2022/09068 - Woodpeckers, Berhills Lane, Seend, Melksham, SN12 6RR

Public participation:

- John Armstrong (Armstrong Architecture) – spoke in favour of the application
- Chris Sleightholme – spoke in favour of the application

Meredith Baker, Senior Planning Officer, introduced the report which recommended that planning permission be refused, for reasons detailed in the report, for the erection of two new three bedroomed dwellings with associated vehicular access.

The officer advised that the site was located at the edge of the hamlet of Sells Green within the Melksham Community Area. The land was stated to be used for residential purposes but was considered by the local planning authority to be agricultural land. The site was bounded by trees to the north and south, with a small woodland area to the east. She explained that the settlement area was not identified for any type of growth by the settlement strategy and therefore, for the purposes of assessing the planning merits of the proposal, the site would fall within the open countryside. The site bordered open countryside and was outside of the defined limits of development.

She explained that, as the site was not deemed to be brownfield land, the application conflicted with Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy as well as SP11 of the Seend Parish Neighbourhood Plan. By reason of its siting, design and layout of the dwellings, together with the associated residential paraphernalia within the open countryside, the proposal would be harmful to the visual amenities of the area and to landscape character. Furthermore, due to its distance from local services and amenities the proposal would result in a heavy reliance of use of the private motor transport in conflict with the principles of sustainable development and contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy.

In response to technical questions to the Committee the Legal Representative Ros Trotman (Thrings Solicitors) explained that in the National Planning Policy Framework (NPPF) land in built up areas, such as residential gardens, are excluded from the brownfield definition and the application site had been deemed by the Senior Planning Officer to be in a built-up area. The Committee

were informed that there was insufficient evidence on the balance of probability to say that the land had been in continuous residential use as a garden for 10 years. It was also confirmed that the site had no known archaeological significance.

Members of the public then had the opportunity to present their views, as detailed above.

In response to the issues raised during the public participation about the impact of the development on its surroundings, the planning officer explained that the layout and siting would be harmful to visual amenities and landscape character contrary to Core Policy 51 of the Wiltshire Core Strategy.

So the Committee had something to debate, the Chairman, seconded by Cllr Dr Mathew, proposed the application was refused for the reasons outlined in the officer recommendations.

A debate followed where some Members commented that they felt the plot to be nicely situated and that it was well supported by the local community. One Member did raise concerns that the development site could have a negative visual impact as it could be seen a long distance along the adjoining road.

The proposal was then put to a vote but was defeated with the majority of Members voting against the recommendation to refuse the application.

Cllr Dr Mathew then proposed that the application be approved, contrary to officer recommendation, in line with Core Policy 57 of the Wiltshire Core Strategy.

The Development Management Team Leader clarified that the application was not policy compliant but could be approved if Members so wished if they considered that other material considerations would outweigh this.

Cllr Dr Mathew then proposed that the application be approved, following the above advice from the planning officer with suggested conditions and the informative having been outlined. Cllr Dr Mathew's proposal was seconded by Cllr Wallis.

Resolved

To APPROVE the application subject to 15 conditions and an informative.

9. **PL/2022/09381 - Newlands, Hyde Lane, Marlborough, SN8 1JN**

Public participation:

- Oliver Kirby-Johnson – spoke in objection to the application
- David Ripley – spoke in objection to the application

Meredith Baker, Senior Planning Officer, confirmed that there was an error in the pack and the red line on pages 49 and 51 had been superseded. The correct boundary line was shown on page 38.

The officer then introduced the report which recommended that planning permission be granted, for reasons detailed in the report, to change the use of an existing building from (Class C3) residential to (Class C2) student accommodation, in association with Marlborough College.

The officer advised that the change of use to student accommodation was considered to comprise sustainable development with no unacceptable planning implications such as highways or safety impacts. The development was considered to accord with the Development Plan and therefore was being recommended for approval subject to conditions.

There were no technical questions asked by the Committee.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division Member, Cllr Jane Davies, spoke in opposition to the application. Cllr Davies explained that, although not in a conservation area, the property was in an area designated as being an area of special quality within the neighbourhood plan. She noted that being located in the area of special quality was referenced in the reasons for the refusal of a nearby application. She also highlighted that Marlborough held a dark skies festival and was part of an area of outstanding natural beauty, so raised concerns about external lighting at the property. Furthermore, she reported privacy concerns from neighbours being overlooked by the proposed external fire escape and asked that if planning grounds were insufficient to refuse the application, conditions could be imposed to restrict its usage.

In response to issues raised during public participation and the unitary Member statement, the planning officer reassured the Committee that external lighting would be controlled through the third condition included within the recommendation, which stated no external lighting could be installed on site unless details had first been submitted and approved by the local planning authority and unless it met the appropriate environmental zone standards. She highlighted that the 'area of special quality' was referenced in the report in the context of the designated conservation area not the neighbourhood plan as that is how it had been referred to by a member of the public in their representation on the application. In any event, the officer advised that the proposed change of use was not considered to cause harm to the character and appearance of the area. She also noted that the external staircase was situated approximately 27 metres from the property boundary, so was deemed to be acceptable.

So that the Committee had something to debate the Chairman proposed a motion to approve the application in line with the officer recommendation, which was seconded by Cllr Dr Mathew.

A debate followed where Members discussed whether screening could be controlled by way of condition to address privacy concerns raised by neighbours. They also discussed the potential privacy and health and safety issues in the event that the platform at the top of the external fire escape were to be used as an area for socialising.

At the conclusion of the debate, it was:

Resolved

That planning permission be GRANTED subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**

Location Plan - Drawing No. MC/NL/LP2 dated 29/09/2022 and received 25/01/2023

Site Plan - Drawing No. MC/NL/SP3 dated 20/10/22 and received 25/01/2023

Proposed Plan + Section Through - Drawing No. MC/NL/002 dated 28/09/22

Elevations - Drawing No. MC/NL/001 dated 14/10/22

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. No external lighting shall be installed on-site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication "The Reduction of Obtrusive Light" Guidance Note 01/21 (reference GN01/21), have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed**

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

- 4. The external staircase hereby permitted shall be used solely for access purposes and not as a balcony or similar amenity area.**

REASON: In the interests of residential amenity.

5. The change of use hereby permitted shall not be implemented until a scheme of hard and soft landscaping, to provide additional screening along the boundaries with neighbouring properties, has been submitted to and approved in writing by the Local Planning Authority. The submitted hard landscaping details shall include the height, positioning and design of any new screening. The soft landscaping details shall include species, height at planting, positioning and planting densities. All landscaping works shall be carried out in accordance with the approved details prior to the first occupation of the building in connection with the use hereby permitted or in accordance with a programme to be agreed in writing by the Local Planning Authority. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any tree or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing with the Local Planning Authority.

REASON: Insufficient details have been provided and are required in the interests of residential amenity.

Informative:

1. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

10. Urgent items

There were no urgent items.

(Duration of meeting: 3.00 - 4.00 pm)

The Officer who has produced these minutes is Matt Hitch of Democratic Services, direct line 01225 718059, e-mail matthew.hitch@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email communications@wiltshire.gov.uk

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Wiltshire Council
Eastern Area Planning Committee
20th April 2023

Planning Appeals Received between 10/02/2023 and 06/04/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
PL/2021/11334	7 Old School Close, Bromham, Chippenham, SN15 2ES	Bromham	Single storey rear extension, plus second storey side extension.	DEL	Written Representations	Refuse	03/03/2023	No
PL/2021/11543	Mill Lane, West Lavington, SN10 4HS	West Lavington	Demolition of the existing buildings and construction of 19 affordable homes together with associated parking, access and landscaping.	EAPC	Written Representations	Approve with Conditions	21/02/2023	Yes
PL/2022/02001	5 Bell Place, The Butts, Potterne, Wiltshire, SN10 5LY	Potterne	Creation of access and hardstanding.	DEL	Householder Appeal	Refuse	09/03/2023	No
PL/2022/04854	Land Adjacent to 35 High Street, Winterbourne Bassett, SN4 9QD	Winterbourne Bassett	Erection of a dwelling house and associated works.	DEL	Hearing	Refuse	01/03/2023	No
PL/2022/05545	16 Loophill, Bromham, Chippenham, SN15 2JH	Bromham	Separation of land and erection of detached dwelling, garage and parking (outline planning application with all matters reserved).	DEL	Written Representations	Refuse	21/02/2023	No

Page

Planning Appeals Decided between 10/02/2023 and 06/04/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
21/02477/OUT	Land North of Quakers Road and South of Parkfields, Devizes, Wilts	Devizes	Residential development of up to 57 dwellings together with new vehicular accesses onto Parkfields and Quakers Road, parking, pedestrian links, areas of public open space and landscaping (Outline application relating to access)	EAPC	Written Reps	Approve with Conditions	Allowed with Conditions	13/02/2023	None
PL/2021/09801	High Street, Winterbourne Bassett, Swindon, SN4 9QB	Winterbourne Bassett	Change of use of land and erection of a detached dwelling with associated access & landscaping	DEL	Written Reps	Refuse	Allowed with Conditions	08/03/2023	None
PL/2021/10554	1 Church Street, Little Bedwyn, Marlborough, SN8 3JQ	Little Bedwyn	Change of use of garage into 1 no. residential dwelling with associated access, parking, landscaping and private amenity space	DEL	Written Reps	Refuse	Allowed with Conditions	31/03/2023	None

Agenda Item 6

PL/2021/07810	1 Bedwyn Common Marlborough, SN8 3HZ	Great Bedwyn	Change of use of existing residential annexe to self-contained dwelling including the provision of 2 car parking spaces. No change proposed to plan and elevations of the building.	DEL	Written Reps	Refuse	Allowed with Conditions	07/10/2022	None
PL/2021/10698	Land adjacent Whitton Lodge, Ramsbury, Marlborough, Wiltshire, SN8 2PX	Ramsbury	Erection of new dwelling, car parking, access, landscaping and associated works.	DEL	Written Reps	Refuse	Dismissed	15/12/2022	None
PL/2022/00208	32 Devizes Road, Potterne, SN10 5LN	Potterne	Creation of a new access to serve the dwelling at Hillcrest, 32 Devizes Road, Potterne	DEL	Householder Appeal	Refuse	Dismissed	12/12/2022	None
PL/2022/00359	Land at The Old School, Fittleton, SP4 9QA	Fittleton cum Haxton	Erection of a new dwelling with associated access and parking (Revised Scheme)	DEL	Written Reps	Refuse	Dismissed	10/11/2022	None

WILTSHIRE COUNCIL

AGENDA ITEM NO. 7

EASTERN AREA PLANNING COMMITTEE

20 April 2023

WILDLIFE AND COUNTRYSIDE ACT 1981 s.53 (“the 1981 Act”)

**THE WILTSHIRE COUNCIL RAMSBURY 9B, 44, 71 & 72 AND MILDENHALL 16
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2022**

Purpose of Report

1. To:
 - (i) Consider the two objections and three representations received relating to the above Order to add two lengths of restricted byway and upgrade to restricted byway lengths of footpaths Ramsbury 9B and 44 and Mildenhall 16 to the definitive map and statement for the area.
 - (ii) Recommend that Wiltshire Council supports the confirmation of the Order with a modification to correct the recording of the width of part of the Order route affecting Mildenhall path no. 16 (points F to G on the Order plan).

A copy of the Order and Order plan is appended at **Appendix A**.

Relevance to the Council’s Business Plan

2. Working with the local community to provide a rights of way network which is fit for purpose, making Wiltshire an even better place to live, work and visit.

Background

3. Wiltshire Council has statutory duties to maintain the legal record of public rights of way in Wiltshire (excluding the Borough of Swindon), to maintain the rights of way shown therein, and to assert and protect them for the use and enjoyment of the public. These duties are not discretionary.
4. The definitive map and statement is the legal record of public rights of way and is conclusive in law as to what it shows, but this is without prejudice to the existence of a more extensive public right (s.56 of the 1981 Act). The Council has a duty to keep it under continual review and make legal orders to modify it when evidence shows it is in error.
5. Members of the public may apply to the Council for an order to modify the definitive map and statement and they do so under the provisions of Schedule 14 to the 1981 Act. The Council must determine these applications by investigating all available relevant evidence and by making a modification order where it is considered it is shown on the balance of probability (i.e., it is more

likely than not) and, in this case, that there has been a reasonable allegation over parts of the route, that a change in the map and statement is required.

6. In October 2018 Wiltshire Council received such an application to add lengths of restricted byway and to upgrade lengths of footpaths to form a continuous restricted byway leading from Axford, Ramsbury south to join the A4 at the Ramsbury and Mildenhall parish boundary. The application adduced historical evidence that the route was a historic vehicular highway but owing to the effect of s.67 of the Natural Environment and Rural Communities Act 2006 (NERCA 2006), the correct status to record it as was as a restricted byway. A restricted byway carries a right for the public to pass and re-pass on foot, riding or leading a horse, cycling or driving a horse drawn vehicle. Public use with a mechanically propelled vehicle is unlawful.
7. Although the Council has a duty to determine these applications within twelve months, owing to a backlog of over 300 applications it is not possible to do so and accordingly, within the provisions of Schedule 14 to the 1981 Act, the applicant made an appeal to the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA). In February 2020 the SoSEFRA directed Wiltshire Council to determine the application within six months. Processes were delayed by matters relating to Covid-19 and the application was not determined until April 2022. In line with the established legal principle 'once a highway, always a highway' and guidance issued by The Planning Inspectorate (PINS) acting for the SoSEFRA, a decision was made to make a definitive map modification order (see **Appendix A**) to record the claimed route as a restricted byway.
8. In coming to that decision officers investigated a large range of historical documents dating from 1727 when an inclosure agreement detailed the through route. In 1717 a detailed estate survey map confirmed that the route was pre-existing and was called "Axford Lane" at the Mildenhall end, it was also described as Axford Lane in defining the parish boundary. Later surveys for various purposes confirm its existence and appearance as part of the local road network (for example the 1793 canal survey of John Rennie and the 1773 survey by Andrews and Dury). In 1842 the Inland Revenue's tithe survey records the route as being part of a route to and from Bedwyn and Highway Board and Rural District Council (the highway authorities of the time) records of 1865, 1905 and 1906 show parts of the route as a road. Highway authority records of 1929 record the whole of the order route as a highway maintainable at public expense in the highway record it being handed over from the Rural District Council during the process of the Wiltshire County Council takeover of responsibilities relating to rural roads under the Local Government Act 1929.
9. Additional to this body of evidence, the deposited plans for public undertakings relating to railways in this area have been inspected and the two recorded at the Parliamentary Archive (dated 1844 and 1845) both record the order route as a public road in the control of the surveyor. Considerable weight can be given to this evidence as the building of railways was a public facing process requiring the identification of land ownership and in the case of highways, use. The process culminated in an Act of Parliament which enabled the railway company to proceed with the scheme. Even if schemes were not built, the procedure to enable the build was the same as for the completed schemes.

10. Additionally, the route was shown on a large number of maps and plans since 1773 and many of these would have been aimed at the travelling public. In all examples the route is shown in the manner of a road and in many instances is given in the key as such (i.e., "Cross Road", "Parochial Road"). It has also been named "Axford Lane" by the Ordnance Survey since at least 1886 and confirmed as an "unmetalled road" in the Object Names Book by the agent acting for the adjoining Savernake Estate in 1899.
11. Officers have found a great synergy in the range of high weight and lower weight evidence depicting an ancient vehicular highway that had fallen into disuse as a whole by 1950 and in parts, a period beyond living memory.
12. A full report and investigation of the evidence and law relating to it can be found at **Appendix B (and Appendices B.A and B.B)**.
13. The Order was made and duly advertised in accordance with Schedule 15 to the 1981 Act. It attracted two duly made objections and three representations and must now be forwarded to the SoSEFRA for determination as Wiltshire Council may not confirm an Order where there are outstanding objections or representations.
14. This committee is asked to consider the evidence relating to this case and any adduced by duly made objections and representations and recommend what stance Wiltshire Council should take when the matter is sent to SoSEFRA.
15. Any decision regarding this Order must be related to the evidence relating to the highway and cannot take into account matters such as desirability, safety, need or matters relating to the environment. In some cases, these are matters related to the management of the right of way once recorded but they are not matters related to the recording of the right of way itself.
16. The error in the Order relating to the width of section F – G (Mildenhall 16) may be resolved by modification of the Order by the SoSEFRA but not Wiltshire Council.

Main Considerations for the Council

17. Although the legal test contained in s.53(3)(c)(i) Wildlife and Countryside Act 1981 allows for an Order to be made where the evidence adduced only forms a reasonable allegation that a public right subsists (and there is no incontrovertible evidence to the contrary), the legal test to be applied to confirm an Order is that it is shown on the balance of probability (i.e. it is more likely than not) that a public right subsists. In other words, it is a stronger test to be applied to confirm an Order. This approach was confirmed in *Todd and Bradley v SoSEFRA [2004] EWHC 1450* and upheld in *R(on the application of Roxlena Ltd) v Cumbria CC [2019] EWCA Civ 1639*.
18. In addition to the evidence adduced and investigated as part of the original application, the Council must now also consider the objections and representation to the Order.

Consideration of the Objections and Representations (see Appendix C)

19. Full copies of the objections and representations are attached at **Appendix C**, and they are discussed in the following paragraphs.
20. **Objection number 1 – Vicky Henderson and Charlie**

The initial objection challenges the historical evidence and states that they have not dedicated any part of the route as a restricted byway in the past and have no intention of doing so in the future. Further matters raised in correspondence have related to the recorded width for section F to G. Bulleted points are:

 - 1) Ordnance Survey maps show physical features and cannot be used as evidence for public and private rights. Additionally, they have disclaimers on them to this effect.
 - 2) Other maps do not sufficiently differentiate between public and private routes.
 - 3) The width of the order route is totally overgrown and has received no maintenance work over many decades suggesting it is not a highway.
21. Officer's comments:
 - 1) It is agreed that Ordnance Survey maps are a record of great topographical accuracy but carry a disclaimer to the effect that the representation of any road or track is not evidence of a public right of way. They are accordingly given low evidential weight in determining an application such as this. However, they can provide some evidence of the status or use of a path or road, for example, the Order route is recorded as "Axford Lane" suggesting that Axford was the destination of the route rather than adjacent fields and private land. Other Ordnance Survey records arising from the initial survey can also provide some evidence, for example Boundary Remark Books or Object Name Books. In this case, 'Axford Lane' was described as an unmetalled road, a description endorsed by a representative of the Savernake Estate in 1899.
 - 2) On the contrary to the objector's remark, the deposited plans of railway schemes differentiate very clearly in their Books of Reference where a road is private or public (and in the control of the highway authority of the time). Evidence relating to railway schemes is given high evidential weight as a result of the rigorous public facing process they underwent to become part of an Act of Parliament.
 - 3) It is agreed that parts of the route are overgrown and that a clear width is not fully available. However, in nearly all places the historical width of the highway has been preserved between fixed boundaries (i.e., hedge or fence lines). In all places a clear route of passage is available but there is growth at the sides. There are some records relating to inspection and maintenance of parts of the route and in more recent times (post 1952) parts of the route have been maintained but only to a standard suitable for a footpath.
22. Officers have met this objector and their agent on site to discuss how the Council would manage the right of way and to discuss the width of the right of way,

especially with regard to the section F to G (Mildenhall 16). Evidence suggests that this route has been narrower than the majority of the order route and it is accepted that an error in the Order has occurred and the section F to G should not be recorded at 10 metres in the definitive statement. This section is a sunken road (a characteristic typical of ancient highways that have not had significant surface improvements) with a narrow pathway surviving surrounded by banks.

23. Although the objector's agent would like to see only the central walked section recorded as the right of way it is clear from the map evidence that this part of the route was once wider than this. Indeed, although the land on either side of the old lane has been ploughed and cultivated, the general width of the lane has survived, albeit as a deep 'V' shape.
24. Officers therefore propose to use the physical width of the lane F to G where shown bounded by solid lines on both sides as observed and recorded by the Ordnance Survey in the late 19th and early 20th century as being the width of the historic highway in these places. This being the earliest source of reliable accuracy. Where F to G is not defined by solid lines on both sides, the width of highway maintainable at public expense as shown coloured brown in Wiltshire Council's Highway Record shall apply. See **Appendix D** for an extract from the Highway Record and **Appendix E** for an extract from the 1:2500 Ordnance Survey sheet 29.15 printed in 1886.
25. It is not unusual for a highway to have relatively inaccessible verges and their recording as part of the highway does not mean that as matter of routine practice they will necessarily be returned to being part of the accessible highway they may once have been 250 years ago. It is appreciated that this objector has concerns relating to the environment and in managing this highway Wiltshire Council has a duty to consider biodiversity, fauna and flora and would maintain the highway in a sympathetic and lawful manner appropriate for the use the highway has.
26. **Objection number 2 – Kevin Light**
Mr Light highlights the following concerns:
 - 1) There could be unintended consequences of opening the route as a restricted byway as it could also be open for motorcycles and 4 wheeled vehicles. It will create a 'rat run'. It will become rutted and unpleasant to walk.
 - 2) There is a major sight line issue where the route meets the A4.
 - 3) The route bisects a considerable area of quiet countryside with a range of habitats for the indigenous wildlife. It will need considerable widening which will damage trees, shrubs and areas of bluebells and Solomon's Seal.
 - 4) A compromise position could be the downgrading of the route to a bridleway.

27. Officer's Comments:

- 1) Parts of the route are already open to unlawful public vehicular use (especially at the A4 end) but the Council has no evidence of complaint relating to that use of the highway. It is understood that unfenced adjoining land suffers incursions from hare coursers and poachers though it is also understood that action is being planned by the landowner to securely fence that land to prevent incursion. Wiltshire Council has many miles of restricted byways and generally unlawful use is not a problem. Wiltshire Council's provision of byways open to all traffic is high and this may account for the low number of problems encountered with managing restricted byways. Where excessive unlawful vehicular use compromises the safety of lawful users of the highway Wiltshire Council does have powers to erect restrictive barriers (s.66 Highways Act 1980), but they must also be in line with Equality Act 2010 duties relating to least restrictive access.
- 2) It is agreed that the junction of the order route with the A4 is not ideal for recreational use as the road has a 60-mph speed limit at this point and the verges are not especially generous. It is certainly possible that this will deter many equestrians from using this end of the route. However, the Council has no record of complaints from existing users (walkers). If visibility is needed to be improved, hedge cutting practices could be altered slightly to improve matters. However, matters such as this are not relevant considerations for the recording of the route, though they may be for the management of it. Further note is made of other applications for definitive map modification orders in this area which may, when determined, give rise to greater access opportunities that could cause use of only part of this order route. However, again, this is not a consideration for the determination of this order.
- 3) As with the response to Objector number 1, Wiltshire Council has a duty under the 1981 Act to have regard to biodiversity of flora and fauna when managing land. Additionally, at common law, it only has a maintenance duty for the highway that is appropriate for the local traffic of the area. For example, it would be inappropriate to clear and surface the full 33 feet for a low level of use by walkers, equestrians and cyclists although the law is clear that the public right exists across the whole of the highway.
- 4) It is not within the powers of the 1981 Act to downgrade this route to a bridleway and the Council in this case must make its decision based on the historical evidence alone. The Council does not have the power to downgrade the route to a bridleway, but it could make application to the magistrates court if it had reason to do so (for example if a higher right was unnecessary). This is an uncommon and costly event and highly unlikely to be pursued. The highway network for driving horses in the absence of mechanically propelled vehicles is not vast and it is considered unlikely that a link such as this would be deemed to be unnecessary.

28. **Representation number 1 – Byways and Bridleways Trust**

“The Byways and Bridleways Trust fully support the orders to record restricted byways in the parishes of Ramsbury and Mildenhall.

And we thank the council for doing this work to improve the network for higher rights users.”

29. **Representation number 2 – Mildenhall Parish Council**

“I confirm that Mildenhall Parish Council have no objection to this order.”

30. **Representation number 3 – Ramsbury & Axford Parish Council**

“I’m writing on behalf of Ramsbury & Axford Parish Council to raise a concern with the Wildlife and Countryside Act 1981 Making of Order for a path running from the A4 to Axford submitted by Alan Woodford. The order states that the path to be amended to become a restricted byway. Our request during your decision making, is that any widening is not enforced unnecessarily as currently the path is accessible for walking, riding a horse, and cycling. Our concerns regarding the widening are the potential illegal use by mechanical vehicles as a cut through to Axford or the A4.

We support that parts of the path which are not currently marked on the definitive map are reinstated.”

31. Officer’s Comments:

The concerns raised by Ramsbury & Axford Parish Council are mirrored by both objectors and are noted. However, these concerns are irrelevant to the Council’s decision to make and recommend (or object to) the confirmation of the Order before it. They are management issues not recording issues.

Overview and Scrutiny Engagement

32. Overview and scrutiny engagement is not required in this case.

Safeguarding Considerations

33. There are no relevant safeguarding considerations associated with the confirmation of this Order. These considerations are not relevant considerations for the purposes of s.53 of the 1981 Act.

Public Health Implications

34. There are no identified public health implications which arise from the confirmation of this Order. These considerations are not relevant considerations for the purposes of s.53 of the 1981 Act.

Corporate Procurement Implications

35. There are no additional procurement implications associated with this recommendation. These considerations are not relevant considerations for the purposes of s.53 of the 1981 Act.

Environmental and Climate Change Impact of the Proposal

36. There are no environmental or climate change considerations associated with the confirmation of this Order. These considerations are not relevant considerations for the purposes of s.53 of the 1981 Act.

Equalities Impact of the Proposal

37. These considerations are not relevant considerations for the purposes of s.53 of the 1981 Act.

Risk Assessment

38. Wiltshire Council is acting within its statutory duty and there is no risk associated with the pursuit of this duty.

Financial Implications

39. Wiltshire Council has made financial provision for the pursuit of its statutory duty under s.53 of the 1981 Act.
40. The Order must be sent to the SoSEFRA for determination, and this may incur costs for the Council. The Order may be determined by written representations, at a public local hearing or a public inquiry.
41. In the event that the SoSEFRA decides to determine the Order by written representations there is a minimal cost to the Council in officer time. Where a hearing is held there are costs associated with hiring a venue, these will be in the region of £200. Where a public inquiry is held, and the Council takes a neutral stance, the costs will be related only to venue hire. If the Council objects to or supports the Order the costs are likely to be in the region of £6,000 (for a 2-day inquiry).
42. Costs may be claimed against the Council if it is found by SoSEFRA to act unreasonably at an inquiry. The Council may seek costs against the objectors if they are found by SoSEFRA to act unreasonably at an inquiry.

Legal Implications

43. Any decision of the Council is open to an application for judicial review in the high court. An appeal may be made by any aggrieved party and may be the result of a decision to either support or not support the confirmation of the Order.
44. If the appeal is allowed to be heard in the high court and the Council loses its case, all costs would be paid by the Council. If the Council wins its case, all costs would be paid by the opposing party. Further appeal may be made by either party. If the court finds against the Council in judicial review proceedings, the potential costs to the Council would potentially be in the region of £50,000.
45. Where an Order passes to SoSEFRA and is either confirmed or not confirmed any challenge in the high court to the decision would be directed at SoSEFRA and not Wiltshire Council.

Options Considered

46. That:

- (i) Wiltshire Council supports the confirmation of the above Order by SoSEFRA.
- (ii) Wiltshire Council objects to the confirmation of the above Order by SoSEFRA.
- (iii) Wiltshire Council supports the confirmation of the above order with a correction to the recorded width of section F to G (Mildenhall 16).

Reason for Proposal

- 47. It is clear the major concerns of the objectors and of Ramsbury & Axford Parish Council relate to potential unlawful use of the restricted byway and possible environmental harm arising from the management of the restricted byway. It is agreed that the route follows a well-preserved historical landscape and that encroachment from vegetation has occurred over a considerable time. Evidence suggests that the route had largely fallen out of regular vehicular use by the mid-1900s and it is likely that once surrounding roads were improved and surfaced in the early to mid-1900s they became the preferred routes.
- 48. In pursuing its highway duties Wiltshire Council has regard to environmental law and considers the impacts of its actions on the environment. Its duty to maintain only extends to the use given by the local traffic of the area and hence management is unlikely to lead to significant changes to the route.
- 49. However, the Council's duty to record the route in the definitive map and statement is being considered here and matters relating to the environment, or unlawful use, are irrelevant to the confirmation of the Order.
- 50. There is a substantial amount of historical evidence supporting this route being a public vehicular highway, albeit with a right for mechanically propelled vehicles being extinguished by s.67 of the Natural Environment and Rights of Way Act 2006.
- 51. It is correct to record the historical width of the route and an error exists in the Order relating to the affected length of Mildenhall 16 (length F to G) "Axford Lane". Wiltshire Council cannot alter the Order and accordingly a recommendation has to be made to the SoSEFRA to modify the Order.
- 52. The most accurate early survey of Axford Lane is likely to be the Ordnance Survey County Series 1:2500 Sheet 29.15 survey of 1879 and 1885 (printed in 1886) and accordingly the width of the section F to G bounded by solid lines should be recorded as that delineated by the solid lines indicating the hedge or fence line defining the highway. This is an approach accepted by SoSEFRA to record a section of highway where the width alters (in this case between approximately 4.7 metres and 6.0 metres). For that section F to G where it was not recorded between two solid lines in the 1886 Edition the width of highway maintainable at public expense is as shown in Wiltshire Council's highway record coloured brown shall apply. Please refer to **Appendices D and E** for these documents.

Proposal

53. That THE WILTSHIRE COUNCIL RAMSBURY 9B, 44, 71 & 72 AND MILDENHALL 16 DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2023 is confirmed with the Order modified as follows with regards to widths:

Part 1 of Schedule:

Mildenhall 16 (part) "Width from F to G where bounded by two solid lines and ranging from 4.7 metres to 6.0 metres on the Ordnance Survey County Series 1:2500 map Sheet 29.15 printed in 1886 additionally where not bounded by solid lines on both sides width to be defined by the brown track colouring in Wiltshire Council's highway record.

Part 2 of Schedule:

Mildenhall 16 Width modified to "Width 0.3 to 2.4 metres except for Restricted Byway Section where ranging from 4.7 metres to 6.0 metres as delineated by two solid lines on the Ordnance Survey County Series 1:2500 map Sheet 29.15 printed in 1886 and where not bounded by two solid lines as defined by the brown track colouring in Wiltshire Council's highway record".

Samantha Howell
Director of Highways and Transport - Place

Report Author:

Sally Madgwick

Definitive Map and Highway Records Manager, Rights of Way and Countryside

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

None

Appendices:

Appendix A	Order
Appendix B	Decision Report and Appendices B.A and B.B
Appendix C	Objections and representation to the Order
Appendix D	Extract from Wiltshire Council highway record showing brown track colouring
Appendix E	Extract from Ordnance Survey 1:2500 Sheet 29.15 Printing of 1886

WILDLIFE AND COUNTRYSIDE ACT 1981**WILTSHIRE COUNCIL****THE DEFINITIVE MAP AND STATEMENT FOR THE MARLBOROUGH AND RAMSBURY RURAL DISTRICT COUNCIL AREA DATED 1952 AS MODIFIED UNDER THE PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981****THE WILTSHIRE COUNCIL RAMSBURY 9B, 44, 71 & 72 AND MILDENHALL 16 DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2022**

This order is made by Wiltshire Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Definitive Map and Statement for the Marlborough and Ramsbury Rural District Council area dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of events specified in section 53(3)(c)(i), (ii) & (iii) of the Act, namely the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

- (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;
- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;
- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

The Authority have consulted with every local authority whose area includes the land to which this order relates.

The Wiltshire Council hereby order that:

1. For the purposes of this Order the relevant date is the 6th April 2022
2. The Definitive Map and Statement for the Marlborough and Ramsbury Rural District Council area dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 shall be modified as described in Parts I and II of the Schedule and shown on the plan attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as the Wiltshire Council Ramsbury 9B, 44, 71 & 72 and Mildenhall 16 Definitive Map and Statement Modification Order 2022.

THE COMMON SEAL of
WILTSHIRE COUNCIL was
hereunto affixed this 27th day of April 2022

}
}
}
}



11632

in the presence of:

E. Currely
Senior Solicitor

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**SCHEDULE
PART I
MODIFICATION OF DEFINITIVE MAP**

Parish	Path No	Description of path or way to be upgraded from footpath	Modified under Section 53(3) as specified
Ramsbury	9B part	Length of restricted byway shown by a broken line and small arrowheads leading between points B and C on the plan attached hereto. Width from B to C = 10.1 metres (33 feet) Approximate length 45 metres	53(3)(c)(ii) & (iii)
Ramsbury	44 (part)	Length of restricted byway shown by a broken line and small arrowheads leading between points D and E and on to F on the plan attached hereto. Width from D to E to F = 10.1 metres (33 feet) Approximate length 450 metres	53(3)(c)(ii) & (iii)
Mildenhall	16 (part)	Length of restricted byway shown by a broken line and small arrowheads leading between points F and G on the plan attached hereto. Width from F to G = 3.5 metres Approximate length 600 metres	53(3)(c)(ii) & (iii)
Parish	Path No	Description of path or way to be added	Modified under Section 53(3) as specified
Ramsbury	71	Length of restricted byway shown by a broken line and small arrowheads leading from point A to point B on the plan attached hereto. Width from A to B = 4.9 metres (16 feet) Approximate length 730 metres	53(3)(c)(i) & (iii)
Ramsbury	72	Length of restricted byway shown by a broken line and small arrowheads leading from point C to point D on the plan attached hereto. Width C to D = 10.1 metres (33 feet) Approximate length 450 metres	53(3)(c)(i) & (iii)

SCHEDULE

PART II

MODIFICATION OF DEFINITIVE STATEMENT







Parish	Path No	Description of path	Modified under Section 53(3) as specified
Ramsbury	9B	<p><u>Footpath</u> Knaxton Way. From the southern end of path no. 9A at its junction with path no. 52, about 91 metres north of the north west tip of Briary Wood, leading south to the north west corner of Hens Wood where west south west to its junction with path no. 71 continuing as <u>Restricted Byway</u> for approximately 45 metres to its junction with path no. 72 (Axford Lane) and continuing as <u>Footpath</u> in a west south west and south west direction to Mildenhall path no. 15 at Oxleaze Copse.</p> <p>Width 1.2 to 2.4 metres except for Restricted Byway Section where 10.1 metres (33 feet)</p> <p>Approximate length 1450 metres</p>	53(3)(c)(ii) & (iii)
Ramsbury	44	<p><u>Restricted Byway</u> from Mildenhall path no. 16 at The north west corner of Puthall Park leading north and east north east to Hens Wood. At its junction with Ramsbury path no. 72 (Axford Lane) continuing as <u>Footpath</u> leading east north east and north along the edge of Hens Wood to path no. 9B.</p> <p>Width of restricted byway section 10.1 metres (33 feet)</p> <p>Approximate length 1300 metres</p>	53(3)(c)(ii) & (iii)
Ramsbury	71	<p>Restricted Byway from the junction of Stone Lane and Ramsbury path no. 43 leading in a broadly southerly and south south easterly direction past the chalk pit and up Brick Hill to its junction with path no. 9B.</p> <p>Width 4.9 metres (16 feet)</p> <p>Approximate length 730 metres</p>	53(3)(c)(i) & (iii)

SCHEDULE Continued

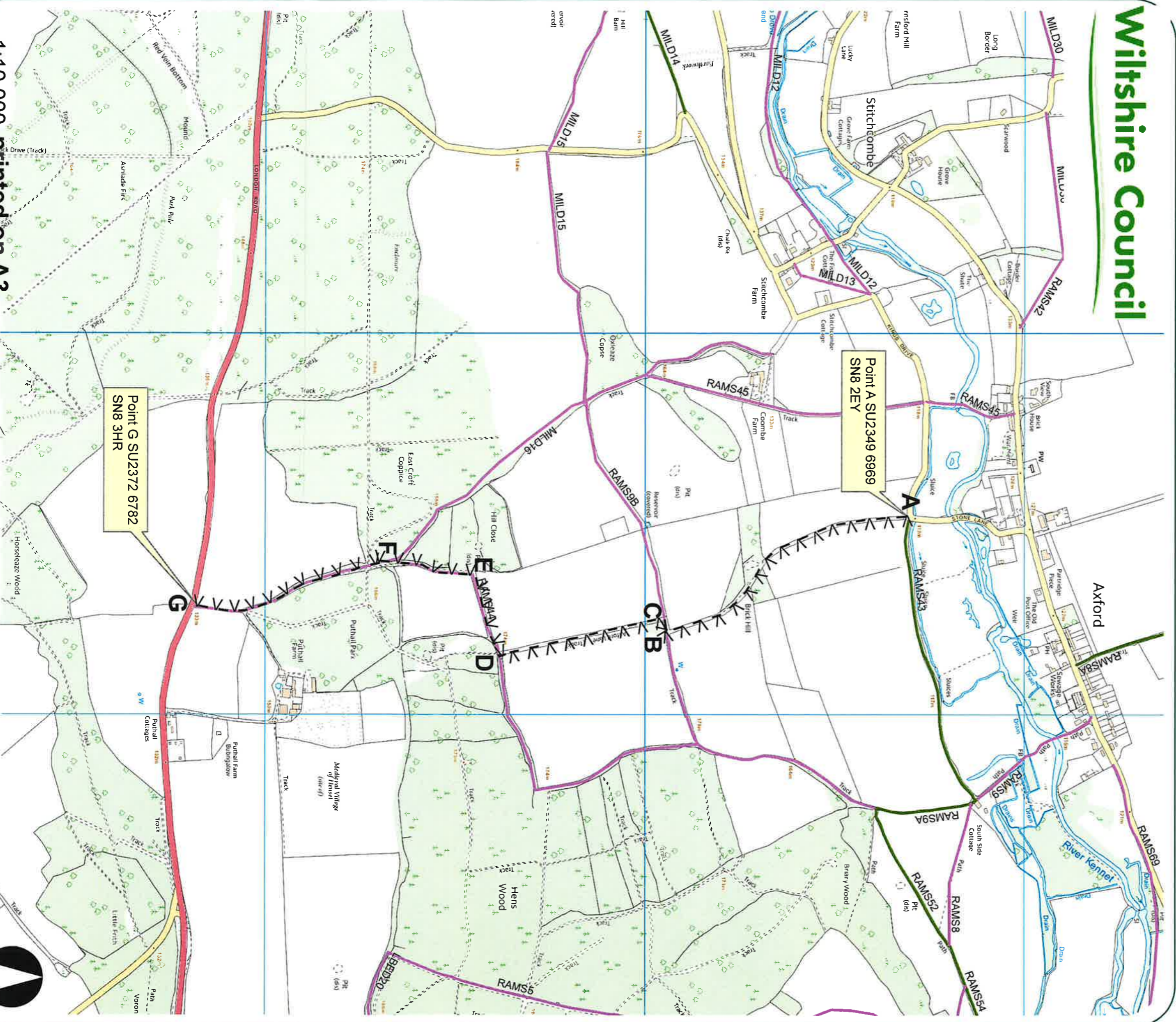
PART II

MODIFICATION OF DEFINITIVE STATEMENT

Parish	Path No	Description of path	Modified under Section 53(3) as specified
Ramsbury	72	<u>Restricted Byway</u> Axford Lane. From Ramsbury Path no. 9B leading south south east to its junction with Ramsbury path no. 44 at Hens Wood. Width 10.1 metres (33 feet) Approximate length 450 metres	53(3)(c)(i) & (iii)
Mildenhall	16	<u>Footpath</u> Axford Lane. From the southern end of Spur road u/c 5085 at the entrance to Coombe Farm leading south east along the Ramsbury Parish Boundary, through East Croft Coppice to its junction with Ramsbury path no. 44 where <u>Restricted Byway</u> leading south south east along the edge of Puthall Park to the London – Bath Trunk road A.4, on the Little Bedwyn Parish Boundary. Width 0.3 to 2.4 metres except for Restricted Byway Section where 10.1 metres (33 feet). Approximate length 1700 metres	53(3)(c)(ii) & (iii)

Order Plan Ramsbury 9B, 44, 71 & 72 and Mildenhall 16
 Ramsbury 71 restricted byway to add A  B
 Ramsbury 9B upgrade to restricted byway B  C
 Ramsbury 72 restricted byway to add C  D
 Ramsbury 44 upgrade to restricted byway D  E
 Mildenhall 16 upgrade to restricted byway F  G
 Unaffected rights of way Footpaths = purple lines
 Unaffected rights of way Bridleways = green lines 

Wiltshire Council



WILDLIFE AND COUNTRYSIDE ACT 1981 S.53

DECISION REPORT

**APPLICATION TO RECORD PARTS OF FOOTPATHS
RAMSBURY 9B AND 44, MILDENHALL 16 AND AN ADDITIONAL
LENGTH OF TRACK AS RESTRICTED BYWAYS IN THE
DEFINITIVE MAP AND STATEMENT**

NB All documents (including user evidence forms where applicable, responses to consultations and correspondence) are available to be viewed at the Council's offices at Rights of Way and Countryside, County Hall, Bythesea Road, Trowbridge, BA14 8JN; please contact Sally Madgwick on 01225 713392.

1.0 APPLICATION

Application number: 2018/07

Date of application: 10 October 2018

Applicant: Mr A Woodford
7 Vicarage Close
Marlborough
Wiltshire
SN8 1AY

Application for: Adding the restricted byway leading southwards from the junction of bridleway Ramsbury 43 and road u/c 5085 at Crosslanes, south of Church Farm, Axford (grid ref. SU23486969 approx.) to its junction with footpath Ramsbury 9B at grid ref. SU23786906 approx. with a width of 16 feet and shown on the application map A ----- B.

Upgrading to a restricted byway part of footpath Ramsbury 9B from grid ref. SU23786906 approx. leading westwards to its junction with a track leading southward and labelled on the application map as "Axford Lane (Track)" at grid ref. SU23756905 approx. with a width of 33 feet (10.06 metres) and shown on the application map B ----- C.

Adding the restricted byway leading southwards from footpath 9B at grid ref. SU23756905 and marked on the application map as "Axford Lane (Track)" to its junction with footpath Ramsbury 44 at grid ref. SU23836862 approx. with a width of 33 feet (10.06 metres) and shown on the application map C ----- D.

Upgrading to a restricted byway footpath Ramsbury 44 from grid ref. SU23836862 approx. to its junction with footpath Mildenhall 16 with a width of 33 feet (10.06 metres) and shown on the application map D ----- E ----- F.

Upgrading to a restricted byway footpath Mildenhall 16 from its junction with footpath Ramsbury 44 leading southwards to its junction with main road A4 at grid ref. SU23716781 approx. with a width of 2.7 metres and shown on the application map F ---- G.

Application comprises: Schedule 7 Form of application for a modification order 10 October 2018

Schedule 8 Form of notice of application for a modification order 10 October 2018: copies of notices served on:

On Site : addressed to The Owners and Occupiers.
Mr J S Burrows, Coombe Farm, Stitchcombe, SN8 2EU.
Ramsbury (S.A.R.L.), Bignalls Solicitors, Coombe Farm, Coombe Lane, Naphill, High Wycombe, HP14 4QR.
Penitrust Ltd, Da Vinci House, Basing View, Basingstoke, RG21 4EQ.

Simon G Nutall, c/o McGills Ltd, Oakley House, Tetbury Road, Cirencester, GL7 1US.

Ramsbury (S.A.R.L.), Priory Farm, Axford, SN8 2HA.

The Occupier, Coombe Farm, Stitchcombe, SN8 2EU.

The Occupier, Putall Farm, Marlborough, SN8 3HR.

The Forestry Commission South West England, Bullers Hill, Kennford, Exeter, EX6 7XR.

Certificate of service of notice of application 12 October 2018
Site notices permitted, erected and monitored.

Plus additional notices served on 15 January 2019:

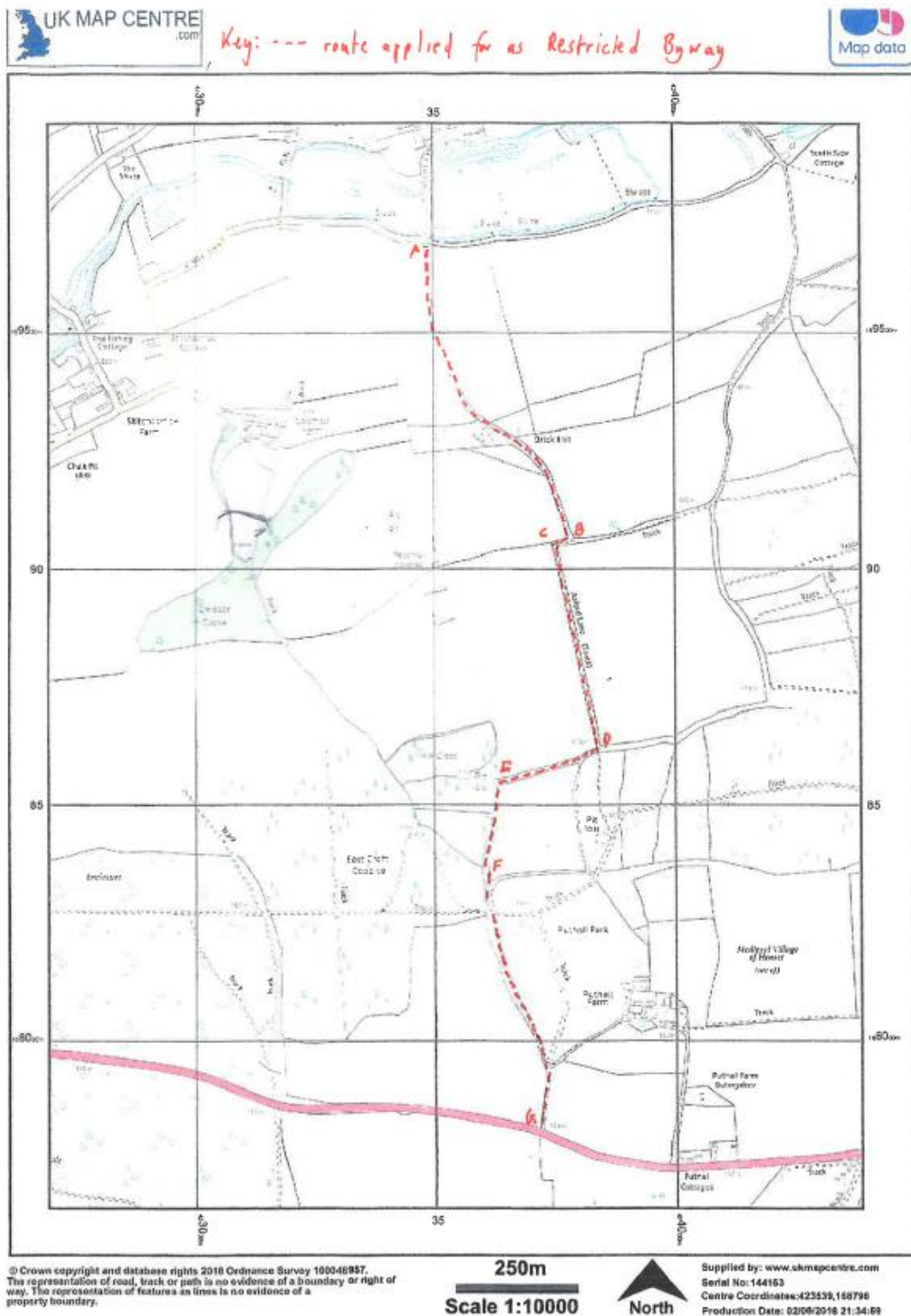
The Occupiers, Land at Savernake Estates, Marlborough (sent via Penitrust Ltd and McGills Ltd.

The Occupiers, Land at Ramsbury Estate, Axford (sent vi Ramsbury (S.A.R.L.), Priory Farm, Axford.

Photographs of site notices and record of maintenance

Map to the scale of 1:10000 showing the route pecked in red leading A ---- B ---- C ---- D ---- E ---- F ---- G.

Application map (here reduced from 1:10000 original)



Evidence

Summary of Evidence

Applicant's Statement AW001

Short Story

Copies of all evidence adduced and list of same

NB The applicant updated documents and now relies on version 3 of AW001 (applicant's statement) and Summary of Evidence Stone Lane to A4 V3.doc also 1727 Axford IA Transcript replaces Axford IA Transcript .doc

APPENDIX A – Applicant's Summary and Statement

2.0 Enabling Legislation

2.1 Wiltshire Council is the surveying authority for the County of Wiltshire, excluding the Borough of Swindon. A surveying authority is the body responsible for the preparation and upkeep of the definitive map of public rights of way.

2.2 The Wildlife and Countryside Act 1981 (WCA 1981)(c.69) section 53(2)(b) applies:

As regards every definitive map and statement the Surveying Authority shall-

- (a) *as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and*
- (b) ***as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of these events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of that event.***

2.3 The events referred to in subsection 2 above relevant to this case are:

(3)(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;

(ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;

(iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

- 2.4 The council must consider all available evidence and this may relate to a dedication at common law or by statute law. Historical evidence may be considered under Section 32 of The Highways Act 1980 (below):

A court or tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

- 2.5 Section 53(5) WCA 1981 allows for any person to apply for an order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.

- 2.6 Schedule 14 to this Act states:

Form of applications

1. *An application shall be made in the prescribed form and shall be accompanied by –*
 - (a) *a map drawn to the prescribed scale and showing the way or ways to which the application relates and*
 - (b) *copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application.*

Notice of applications

2. (1) *Subject to sub-paragraph (2), the applicant shall serve a notice stating that the application has been made on every owner and occupier of any land to which the application relates*
- (2) *If, after reasonable inquiry has been made, the authority are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates, the authority may direct that the notice required to be served on him by sub-paragraph (1) may be served by addressing it to him by the description “owner” or “occupier” of the land (describing it) and by affixing it to some conspicuous object or objects on the land.*

(3) When the requirements of this paragraph have been complied with, the applicant shall certify that fact to the authority.

(4) Every notice or certificate under this paragraph shall be in the prescribed form.

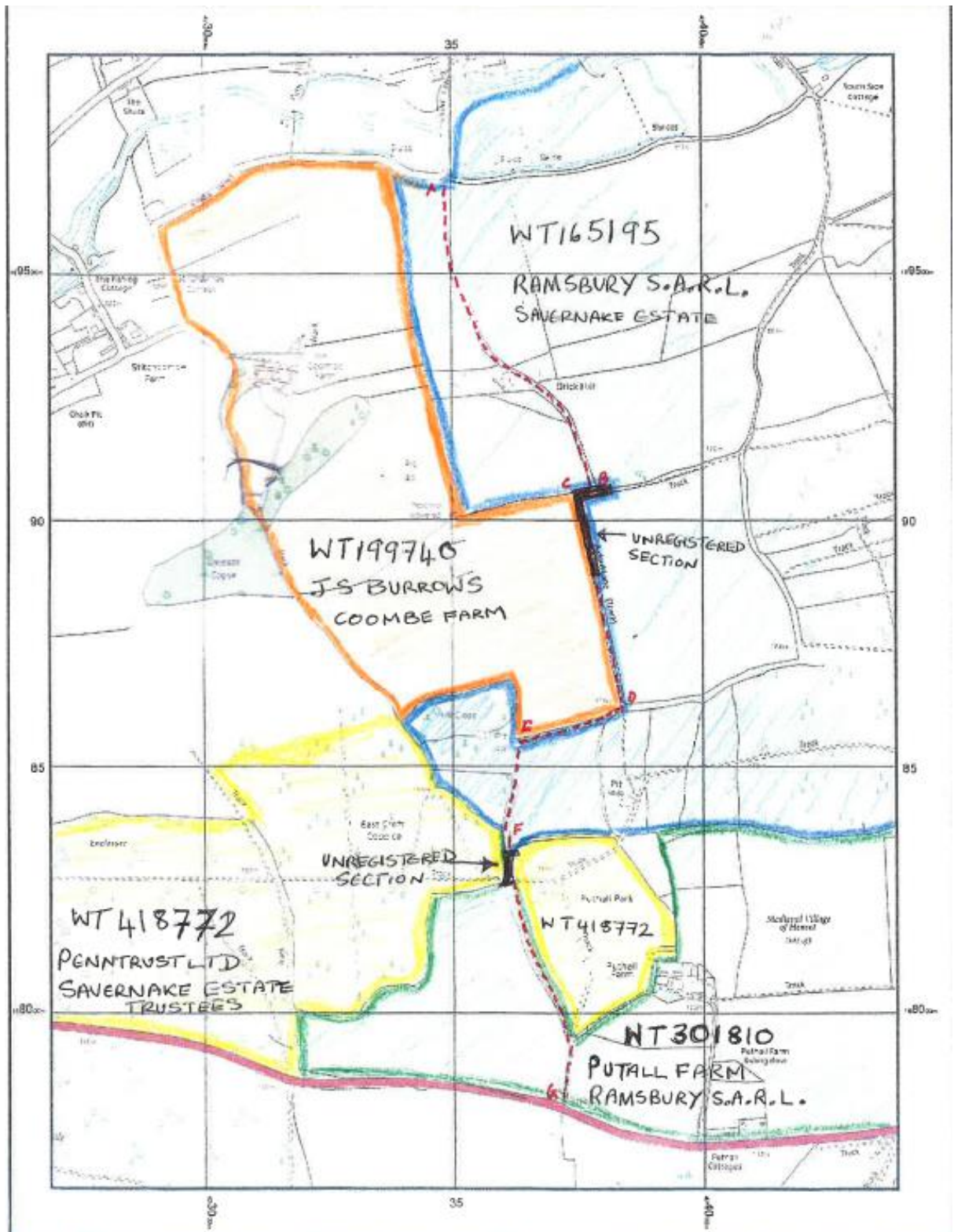
- 2.7 A surveying authority has discretionary power to waive strict compliance to Schedule 14 when determining an application or may consider the application to be improperly made whereby the surveying authority may use the evidence brought to its attention as a trigger to make its own decision under Section 53(2) of the 1981 Act.
- 2.8 This application is considered to be compliant with the provisions of Schedule 14 (1) and (2).
- 2.9 It is noted that the application adduces evidence to support that the route should be recorded as a restricted byway. The basis for this is that the route was a former public vehicular highway but that the provisions of Section 67 of the Natural Environment and Rural Communities Act 2006 (NERCA 2006) apply and that any public rights to use the route with a mechanically propelled vehicle (MPV) were extinguished on the 2nd May 2006 when that part of the Act was enacted.
- 2.10 Where the evidence supports this it is necessary for the Council to consider whether any savings to the extinguishment of the public MPV right apply, regardless of what the application was originally for. This will be considered later in the report at section 17.

3.0 Land Ownership

3.1 The route leads through land registered as follows:

Section A to B	WT164195 Ramsbury Estate, Ramsbury S.A.R.L., Bignalls Solicitors, Coombe Farm, Coombe Lane, Naphill, High Wycombe, HP14 4QR
Section B – C	Unregistered
Short length Section C – D	Unregistered
Remainder C – D	WT 164195 Ramsbury Estate, Ramsbury S.A.R.L.
Section D – E – F	WT164195 Ramsbury Estate, Ramsbury S.A.R.L.
Short length south of F	Unregistered
Remainder F – G	WT301810 Puthall Farm, Ramsbury S.A.R.L.

See depiction on following map:



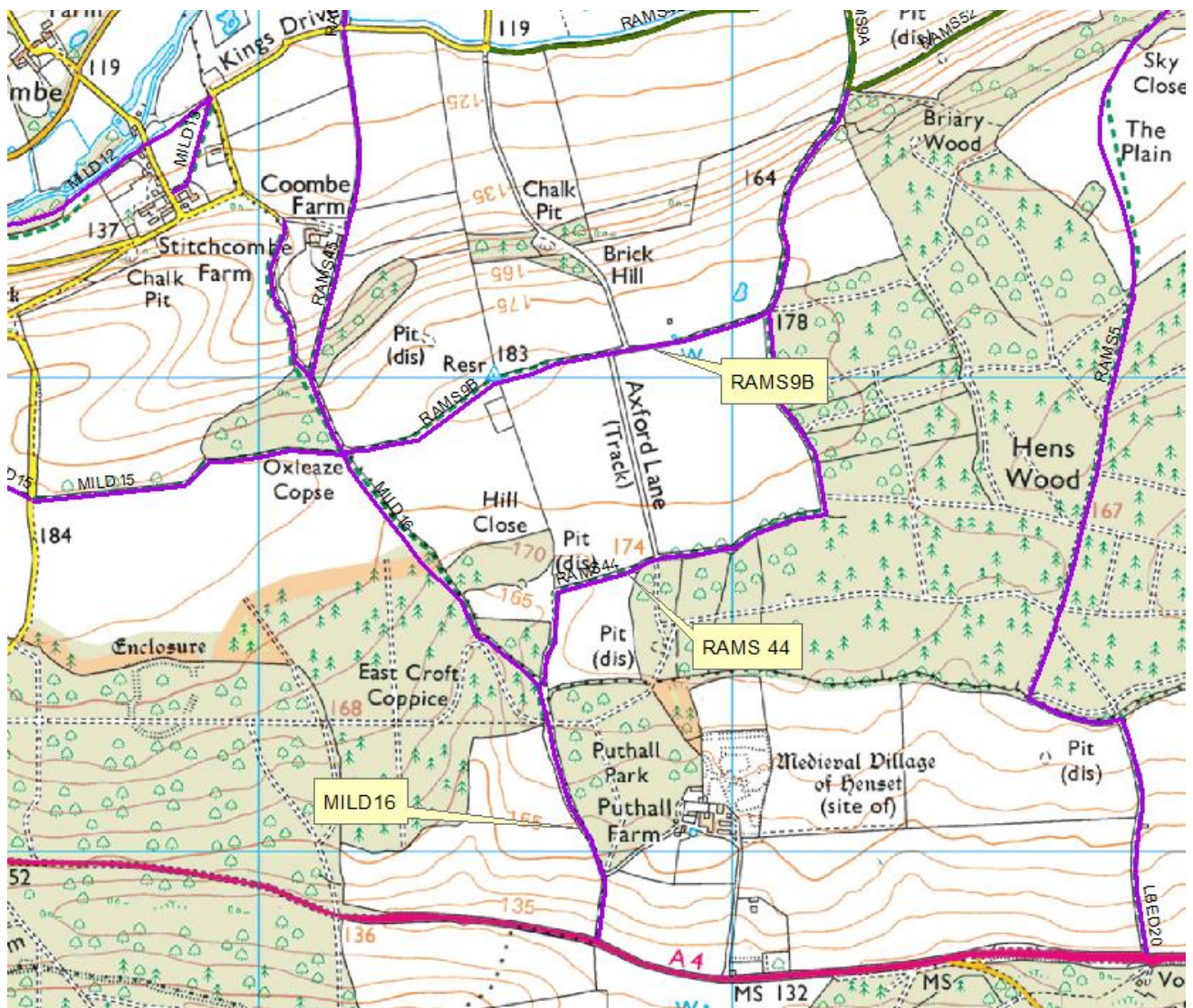
4.0 Current Records

4.1 Approximately 50% of the route is unrecorded in the definitive map and statement with other parts of the claimed route currently recorded as public footpaths.

A to B	Unrecorded
B to C	Footpath Ramsbury 9B
C to D	Unrecorded
D to E	Footpath Ramsbury 44
F to G	Footpath Mildenhall 16

4.2 Extract from working copy of the definitive map:

Footpaths = purple
Bridleways = green



4.3 The definitive statement describes the routes as follows:

Ramsbury 9B FOOTPATH. Knaxton Way. From the southern end of path No.9A at its junction with path No.52, about 91 m north of the north-west tip of Briary Wood, leading south to the north-west corner of Hens Wood then west-south-west to Mildenhall path No.15 at Oxleaze Copse.
Approximate length 1450 m.
Width 1.2 - 2.4 m.

Ramsbury 44 FOOTPATH. From Mildenhall path No.16 at the north-west corner of Puthall Park leading north, east-north-east and north along the edge of Hens Wood to path No.9B.

Approximate length 1300 m.

Mildenhall 16 FOOTPATH. Axford Lane. From the southern end of spur road U/C 5085 at the entrance to Coombe Farm leading south-east along the Ramsbury Parish boundary, through East Croft Coppice and south-south-east along the edge of Puthall Park to the London – Bath road, Trunk Road A.4, on the Little Bedwyn Parish boundary.

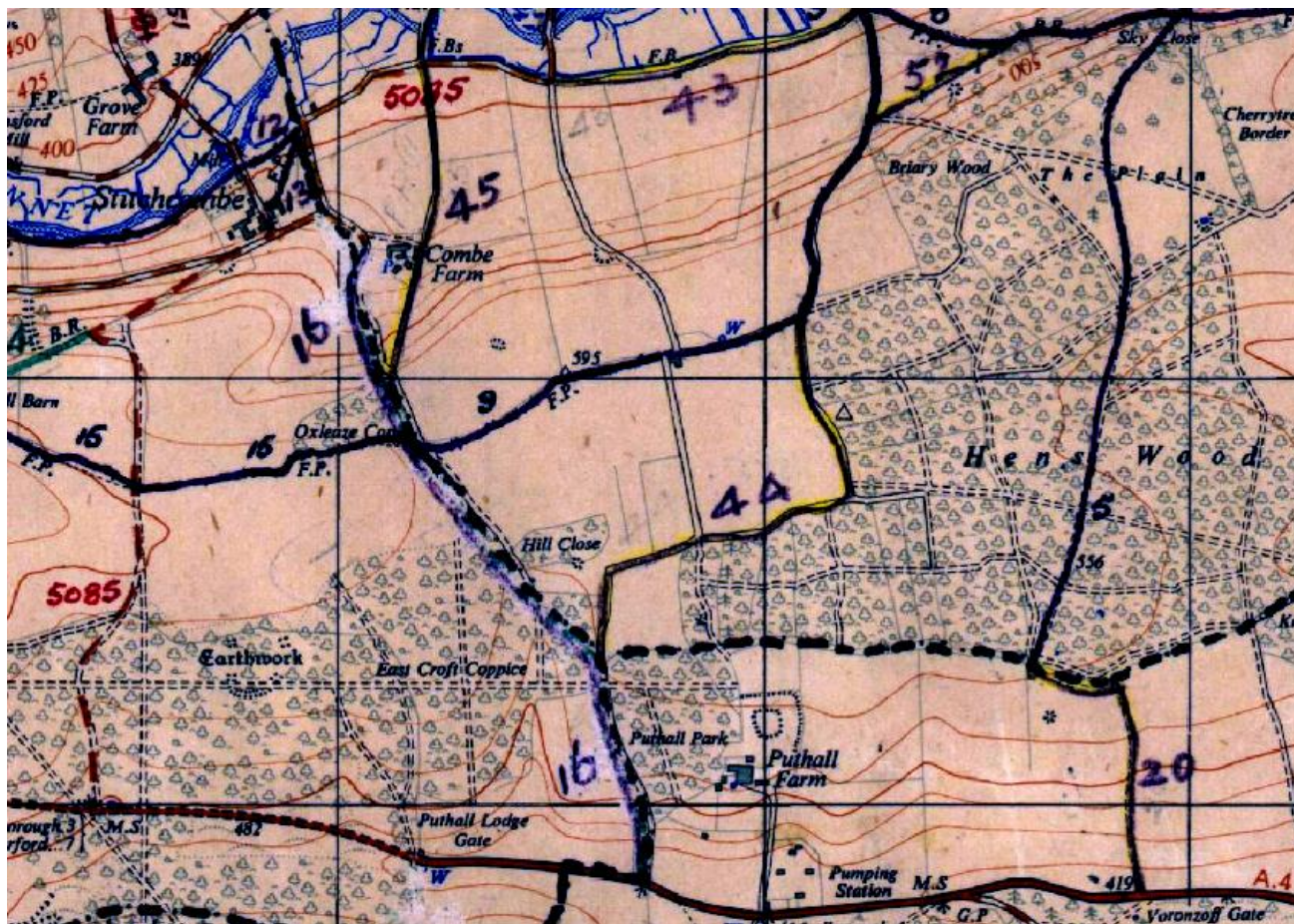
Approximate length 1700 m

Width 0.3 – 2.4 m

4.4 RAMS 9B, RAMS 44 and MILD 16 were all added to the Marlborough and Ramsbury Rural District Council Definitive Map and Statement dated 1952 and have been unaltered with respect to the area affected by this application, since that time.

Extract from Marlborough and Ramsbury Rural District Council definitive map (original scale 1:25000): Footpaths = purple Bridleways = green

NB Routes coloured over yellow or white marks are routes (or omissions) that attracted objections at the Draft map stage but were subsequently resolved.



5.0 Photographs of the Route – site visit 09 March 2020



Point A at junction with RAMS 48 and Kings Drive



Between points A and B ('Brick Hill' on application map OS base map)



Point B (junction with RAMS 9B)



RAMS 9B between points B and C



Point C heading north towards point D (Axford Lane)



Axford Lane



Between points D and E RAMS 44



Between points E and F





Heading for point F



Points F to G



From A4 point G looking north along MILD16

6.0 Consultation

The following letter of consultation was sent on 14 February 2020:

Wildlife and Countryside Act 1981 s.53

Application to record a restricted byway at Ramsbury (Axford) and Mildenhall – Axford Lane

In October 2018 Wiltshire Council received an application to modify the definitive map and statement by upgrading parts of footpath Ramsbury 9B and 44 and Mildenhall 16 to a restricted byway and by adding connecting lengths of restricted byway. Please see enclosed map showing the application route. The approximate grid reference of Point A is SU23486969 and Point g is SU23716781.

Further to an appeal against the non-determination of the application the Secretary of State for Environment, Food and Rural Affairs has now directed Wiltshire Council to determine the application. The application is based on historical evidence which, it is alleged, shows that on the balance of probability the route was historically a public road. Although it is likely that any public right to use a mechanically propelled vehicle on the route has been extinguished, if the application is successful the route would be recorded as a restricted byway which carries a right for the public on foot, on a cycle, on or leading a horse or with a horse drawn carriage to pass and re-pass.

Wiltshire Council will now proceed with investigating the evidence but invites any additional evidence that may support or rebut the application. Where the common law principle of ‘once a highway, always a highway’ applies evidence of any legal event extinguishing the public right would be needed to rebut it. I have enclosed a summary of the evidence adduced by the applicant.

Please note that matters related to desirability, need, the environment or suitability of the route are not relevant considerations for the application of s.53 of the Wildlife and Countryside act 1981.

I would be grateful to receive any responses you wish to make by 1700 03 April 2020. If you have any queries, please do not hesitate to contact me.

A copy of the application map, applicant’s ‘short story’ and Summary of Evidence were also circulated.

6.1 The following were consulted:

The applicant
Mr J S Burrows, Coombe Farm
Ramsbury (S.A.R.L.) c/o Bignalls Solicitors
Penitrust Ltd
S G Nutall, McGills Ltd
Ramsbury (S.A.R.L.) Priory Farm
The occupier of Coombe Farm
The occupier of Putall Farm
The Forestry Commission SW England
Thomas Gurney, Strutt and Parker
The Auto Cycle Union
Open Spaces Society
British Driving Society
British Horse Society (national and local)
Byways and Bridleways Trust

Green Lane Association (GLASS)
Cyclists Touring Club
Trail Riders Fellowship
Wiltshire Council Countryside Access Officers
Mildenhall Parish Council
Ramsbury and Axford Parish Council
Wiltshire Councillor James Sheppard
Wiltshire Bridleways Association
The Ramblers

7.0 Consultation responses

Trail Riders Fellowship 16 February 2020

“Thank you for sending me details of the application to record a restricted byway at Ramsbury (Axford) and Mildenhall. As you will be aware, the route has been recorded as a status anomaly by myself for many years, so I support the application, which has been so thoroughly researched that in my opinion any additional evidence of consequence is unlikely to be found.”

The Ramblers 29 February 2020

“Thank you for your letter dated 14 February regarding this DMMO application.

One of our members has checked the route and reports that there is currently a padlocked field gate at point A but there are no other obstacles, nor is there any signage, to indicate that the unrecorded sections A – B and C – D are not already available for public use. It is therefore possible that some use by the public which would meet the conditions to be “as of right”, particularly of section C – D, has taken place. However, we cannot provide any evidence of this and, since the historical evidence appears to be very strong, we do not propose to explore this any further.”

Mildenhall Parish Council 30 March 2020

“Thank you for your letter of 14 February 2020 advising us of this application. The Parish Councillors discussed this at their meeting on 9 March and we believe we know the applicant. As Clerk I have walked the route and sent photos to the Councillors. I found it to be in mainly good condition, some hardcore but other areas a little muddy. It would be suitable for horse riding although the end point on the A4 has no path opposite. The main issue appears to be the gate at the Axford end is locked and there is a stile for walkers only.

Councillors believe the path to be little used although in good condition. The paths at the top where it connects to Ramsbury 44 are in poor condition with many trees down. Overall Councillors feel that the path is not at all suitable for any kind of motorised vehicle. We are unable to provide any further evidence.”

British Horse Society 02 April 2020

I note that in the case of a section 53 application matters of desirability, need, the environment or suitability of the route are not relevant considerations in determining an application.

Leaving section 53 requirements aside, but considering the national and local need for safe off-road provision for vulnerable road users, the route applied for offers good off-road connectivity from the A4 to the Marlborough–Ramsbury road. In conjunction with other DMMOs submitted in the area, this route will be a welcome addition to safe off-road access for horse riders, cyclists, carriage drivers and walkers both in and around Axford and from further afield.

Therefore the British Horse Society (Wiltshire) supports this application.”

8.0 General Context *Some notes taken from Victoria County History Volume XII pages 12 to 52*

- 8.1 **Ramsbury** is 9 km east of Marlborough and before the Norman conquest was the second largest non-royal estate in Wiltshire. It included the modern parishes of Baydon and Bishopstone and also the village of Axford which remains in Ramsbury Parish today. Ramsbury lies in the Kennet Valley (the River Kennet runs through it) and is on chalk.
- 8.2 The village of Axford, at the western extremity of Ramsbury parish, lies north of the River Kennet but extends south of the river and it is through this area that the claimed route leads. The area was historically wooded with Hens Wood an existing feature today dating from at least the 16th century and possibly back to the 11th century. Hens Wood lies to the north of Puthall Farm and borders part of the claimed route.
- 8.3 The north part of the parish of Ramsbury is crossed by ancient and modern downland roads. The Roman road, Ermine Street, from Speen in Berkshire to Gloucester follows the Ridge Way between the Kennet and its tributary, the Lambourn. The London and South Wales motorway (the M4) opened across the parish in 1971 and follows a parallel course. The other main roads have followed the valleys and are presumably as old as the settlements in them. That linking the villages beside the Kennet between Hungerford and Marlborough may long have rivalled the London – Bath road over the downs between these places. Between Ramsbury and Axford the road presumably followed the river, as it did elsewhere, with Ramsbury Manor and Axford Farm near its course. East of Ramsbury Manor a road diverged from it and led through Sound Bottom across the downs to Ogbourne St Andrew. That road may have been diverted northwards when the north park of Ramsbury Manor was enlarged in the 15th century and the riverside road between Ramsbury and Axford was stopped, possibly at the same time. In the late 17th

century and early 18th, when it was called the Marlborough Road and the London Road, the road through Sound Bottom may have been the main Hungerford – Marlborough road through Ramsbury. Its course round the park was diverted eastwards and northwards when the park was further enlarged c.1775.

- 8.4 After this time the circuitous route between Ramsbury and Axford was made easier by a cutting at White's Hill and shorter by a new north-south road north west of Axford Farm, and the road through Axford became the main Ramsbury-Marlborough route. The road through Sound Bottom was never made up.
- 8.5 **Axford** was the westernmost tithing of Ramsbury parish and its north, south and west boundaries were those of Ramsbury parish. Its east boundary with Park Town tithing cannot now be precisely determined but it passed a short distance east of Axford, or Priory Farm, and thence ran south west through Hens Wood and north north west perhaps near the western edge of Blake's Copse.
- 8.6 Axford was first mentioned in 1163 and in the later Middle Ages and 16th century was a village of medium sized farmsteads. Axford Street was so called in 1727 when the road south of the River Kennet and parallel to it was called Mead Lane. The lane linking Axford Street and Mead Lane near Church Farm crosses the Kennet on an early 19th century brick bridge of five arches. Mead Lane is currently recorded as Ramsbury Bridleway no 43 and is at the northern end of the claimed route (point A).

9.0 Historical Records

- 9.1 Although it can be helpful to present these in chronological order to show the consistency of recording of a way over time it does not allow for the need to apply evidential weight to documents. For example, although a way may appear on twenty commercial maps it does not necessarily carry as much evidential weight as if the way is shown in perhaps two publicly consulted documents or created, say, as the result of an Act of Parliament.
- 9.2 The value of relatively low evidential weight documents should not be underestimated though where it is considered that they add synergy to the evidence as a whole. The Planning Inspectorate's *Definitive Map Modification Orders: Consistency Guidelines* state:

“There is a distinct and important difference between the ‘cumulative’ and ‘synergistic’ approach to the weighing of evidence. Under the cumulative approach a number of relatively lightweight pieces of evidence (e.g., three commercial maps by different cartographers all produced within the same decade or so) could be regarded as mere repetition. Thus their cumulative weight may not be significantly more than that accorded to a single map. If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g., an OS map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly increase the collective impact of those documents.”

- 9.3 The court of appeal gave guidance on how evidence should be considered in ‘the Fortune’ case (*Fortune & Ors v Wiltshire Council & Anr [2012] EWCA Civ 334*). Lewison LJ at paragraphs 22 and 23:

22. *“In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in R v Exall (1866) 4 F & F 922:*

“It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fail. It is more like the case of a rope composed of several cords. One strand of the cord may be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength.”

23. *In addition section 32 of the 1980 Act provides:*

“A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such a dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose form which it was made or compiled, and the custody in which it has been kept and from which it is produced.” “

- 9.4 That said, in evaluating historical evidence it is necessary to recognise that differing weight must be given to different evidence. The following categorisation has been used;

Category A carries the highest weight and category F the lowest. This system of categorisation has been devised by officers with regard to The Planning Inspectorate’s Consistency Guidelines:

<http://www.planningportal.gov.uk/planning/countryside/rightsofway/guidance> (as revised to date of report) and Chapter 6 of the book ‘Rights of Way A Guide to Law and Practice – Fourth Edition’ by John Riddall and John Trevelyan.

Abbreviations: Wiltshire and Swindon History Centre, Chippenham (WSHC), The National Archive, Kew (TNA), House of Lords Record Office (HoL)

The evidence investigated in this report will be presented in order of weight (i.e. Category A being the most significant). Although officers have endeavoured to view original documents where it has not been possible to view originals (e.g., those held at The National Archive at Kew) officers have relied upon the copies adduced by the

applicant. Additionally, owing to the restrictions imposed on working by the global Covid-19 pandemic, officers have not investigated original copies of some commercial maps.

Category	May provide evidence for	Examples
A	Legal creation of a highway Reputation of a way as a highway Physical existence of a way Conclusive evidence of public rights	Inclosure Acts, awards and plans Orders creating, diverting or extinguishing highways Railway and canal acts and plans Definitive map and statement
B	Reputation of a way as a highway Physical existence of a way	Documents, maps plans drawn up as a result of legislation, consulted upon, but whose primary purpose was not to record public rights. i.e., Tithe Commission, Inland Revenue Finance Act
C	Reputation of a way as a highway Physical existence of a way	Includes local government records (highway board, county council, parish council)
D	Reputation of a way as a highway Physical existence of way	Other maps and documents showing highways additional to or as a part of their purpose. Includes parish maps, estate plans, conveyances
E	Reputation of a way as a highway Physical existence of a way	Commercial maps, some Ordnance Survey records
F	Reputation of a way as a highway Physical evidence of a way	Local repute, consultation responses

10.0 Category A Evidence

10.1 Evidence within this category is potentially of the highest weight and includes conclusive evidence (i.e., the definitive map and statement), inclosure acts, awards and plans, legal orders or events and deposited plans for public undertakings (i.e. arising from an Act of Parliament which specifically required the identification and verification of public rights of way).

10.2 Inclosure

Between 1545 and 1880 the old system of farming scattered arable strips of land and grazing animals on common pasture was gradually replaced as landowners sought to improve the productivity of their land. The process of inclosure began by agreement between the parties concerned, although locally powerful landowners may have had significant influence on the outcome. By the early eighteenth century, a process developed by which a Private Act of Parliament could be promoted to authorise inclosure where the consent of all those with an interest was not forthcoming. The process was further refined at the beginning of the nineteenth century with the passing of two main general acts, bringing together the most commonly used clauses and applying these to each local act unless otherwise stated.

10.3 **Inclosure agreement for North and South Fields, Cow Down and Axford Marsh in Axford in Ramsbury 1727 WSHC 1883/217** File also contains a copy of a transcript of enclosures and highways.

The Planning Inspectorate's Consistency Guidelines advise that Inclosure Agreements although having the power to divide and allot land lacked the power to alter existing rights of way. Additionally, although the creation of new highways (usually to facilitate the new allotments in the agreement) may be taken as evidence of dedication by the landowner, there would need to be additional evidence of public acceptance, usually by use or reputation.

"7.13 Agreements to enclose land could be informal or formal, the latter often being confirmed by a legal court and the former, by their very nature, being unlikely to be evidenced by records still existing today.

7.14 Formal inclosure agreements were usually made between the lord of the manor and the principal farmers and landowners, and were normally drawn up by a local solicitor. Without the powers to do so under an Act of Parliament, the parties concerned would have had no authority to alter existing public rights of way. However agreements may provide evidence of pre-existing highways or of dedication by the landowner (if there is corresponding evidence to show acceptance by the public).

10.4 The original parchment copy of the Agreement and Articles of Agreement forms part of WSHC catalogue entry 1883/217 and is dated 17th April 1727. It has been signed and sealed by the following:

Daniel Appleford
Simon Appleford
S A Appleford Snr
Thomas Appleford
Thomas Appleford Jnr/Snr (?)
Anthony Appleford
George Moore
Robert Visey
Jonathan Knckston (?)
Thomas Barre (?)
John Newson

10.5 The file also contains a copy of the agreement though not written in the same hand as the Articles of Agreement. This could be a later (Victorian?) transcript.

The partial transcript reads as follows:

"To all ??? People To whom this present writing of award ...Edward Hanson of Chisbury in the county of Wilts Yeoman ????? of Manton in the said County Yeoman and Roger Gator of Flintbury in the county of Berks Yeoman send greetings

Whereas by Certain articles or Deeds of agreement bearing date the Seventeenth day of April in the Thirteenth Year of the Reign of our Sovereign Lord King George the First Anno Domini 1727 made and executed by Richard Jones of Ramsbury in the County of Wilts Esq. Lord of the Mannor of Ramsbury aforesd. of the one part AND Daniel Appleford Sen. of Rockley in the sd county Yeoman Daniel Appleford Junior of Axford in the Parrish of Ramsbury in the said county Yeoman Symon Appleford Jun of Axford aforesaid Yeoman Thos. Appleford Senior of Axford aforesaid Yeoman Thomas Appleford Junior of Axford aforesaid Yeoman Edward Appleford of Axford aforesaid ????? Anthony Appleford of Axford aforesaid Yeoman George Moor of Littlecot in the said county Yeoman Robb. Veysey of Axford aforesaid Yeoman Jonathon Knackston of Axford aforesaid Yeoman Thomas Pearce of Savernake Park in the said county Yeoman and Jn. New of Stourington in the county of Berks ...the Advantage of Tyllage and good husbandry those fields called the North Fiield & South Field with a down called the Cow Down & the Common Marsh all belonging to the tything or hamlet of Axford aforesaid should be enclosed and divided proportionlaby (?) to the severall subscribers whose names were herein beforementioned according to these several estates and interests herein AND that it should be lawful for Edward Hanson Jn. Brown & Roger Gate aforesaid by any writing under our hands and seals to allot divide and layout the sd. Common Field Down and Marsh unto the several persons herein beforementioned according to the ex??? proportions or interest of each proprietor or subscriber aforesaid AND also to limit and appoint the places where each and every of their (?) lotts ??? be allotted to them AND also to lay out all Common Roads, Ways Byways and private ways as might be necessary and convenient leading to every particular enclosure AND to appoint to all and every of them"

Allotments of land are not transcribed here (though transcription is preserved at WSHC) though do refer to their positions by reference to the below routes where they form a border

to that allotment. The extract below relates only to the allotments in the Mead and in South Field. The full transcript relating to North Field (i.e. north of the main road) has been supplied by the applicant.

“AND as Touching and Concerning Ways, Drove Ways, Lanes , Private Ways , Highways to be laid out for the conveniency of the Proprietors of the Enclosure we the said Edward Hanson Jno Brown and Roger Gate do order and appoint as follows (vis)....

*ITEM in the marsh shall be left another Lane or Way beginning at Stone Lane and shall pass over the River Kennett to South Field which way shall be everywhere thirty feet wide & which Way has been all along in the Foregoing Descriptions called **Stone Lane Causey***

*ITEM in the marsh shall be left **another Lane or Cartway** which beginning at the south end of Saunders lane shall pass thence over the River Kennet to the gate at the north end of Coomb Way which lane or cartway shall be everywhere thirty feet wide*

*ITEM in the marsh shall be left **another Lane** or way beginning in Ann Harts way and shall pass over the River Kennet to Coomb lane which lane of Way shall be everywhere thirty feet wide*

*IN SOUTH FIELD shall be left a Lane that beginning at Holly Lane Causey shall pass westwards till it comes into Combe Lane having adjacent on its South side divided into Lotts as herein before described and on the north side diverse meads belonging to proprietors herein before mentioned which shall be everywhere twenty four feet wide and which lane has been all along in its foregoing description called by the name of **Mead lane***

*ITEM in South Field shall be left another lane which beginning at Mead lane shall pass southwards until it comes into the Down having the (?) lotts of Thos Pearce & George Moor adjacent on (???) East & Lotts of Edward Appleford George Moor adjacent on ??? west which lane shall be everywhere sixteen feet wide and which lane has been all along in the foregoing descriptions called by the name of **Stone Lane Way***

*ITEM in South Field shall be left another Lane or way beginning at Mead lane shall pass southwards until it comes to Combe Lane having adjacent on its west a lott of Daniel Appleford (Snr?) and of a lott of Thomas Appleford (???) and on its east ... part of a lott ??? Thomas Appleford Jnr which lane or way shall be every where sixteen feet wide and which lane of way has been all along in the foregoing descriptions called by the name of **Coomb Way***

*IN THE DOWN shall be left a lane which beginning at the south end of Holly Lane shall pass on southwards till it comes to Saunders Gate having adjacent on the east ??? coppices of the proprietors herein before mentioned and adjacent on ??? west four lotts of Daniel Appleford Senior herein before described which lane shall be every where thirty three feet wide and which lane has been all along in the foregoing descriptions called by the name of **East Lane***

*ITEM in the Down shall be left another Lane which lane beginning at Saunder's Gates shall pass on westwards as far as a ground called Hill Close having adjacent on the south divers coppices belonging to the proprietors herein before mentioned and ??? lotts of Danl Appleford Senior and adjacent on the north lotts of Danl Appleford Sennr George Moor Edward Appleford Jonathon Knaxton & Thos Appleford Junr which lane shall be every where thirty three feet wide and which lane has all along in the foregoing descriptions called by the name of **South Lane***

*ITEM in the Downs shall be left another lane which beginning at the west end of South Lane shall pass southwards as farr as Putall Gate having adjacent on the east side a lot of Daniel Appleford Senior and having adjacent on its west a ??? called Hill Close and a Coppice called Oaken Coppice which lane shall be every where thirty three feet wide and which lane has been in the foregoing descriptions called by ??? name of **Hill Close Lane***

ITEM in the Downs shall be left another lane or way which beginning at the west end of south lane shall pass on first northwards and then westwards on the west side of the downs as farr as Coomb lane having on the east side a lott of Thos Appleford and on ??? west side a coppice of George Moor which lane or way shall be every where sixteen feet and a half wide and the herbage of which shall belong to Thos Appleford junr

*ITEM in the Down shall be another way which beginning at south end of Holly Lane shall pass westwards until it comes to a lott of Simon Appleford herein before described having adjacent on the south side lotts of Daniel Appleford Senr and George Moore and adjacent on the North Side South Field which lane shall be everywhere thirty three feet wide and and has been all along in the foregoing descriptions called by the name of **North Lane***

*ITEM in the down shall be left another lane beginning at the west end of North lane shall pass on westwards as farr as a lott of Jonathon Knaxton having adjacent on the south a lott of Simon Applefords and adjacent on the north all of south field which way shall be everywhere sixteen feet and a half wide and the herbage of the said way shall belong to Simon appleford and which way has been in the foregoing description called **Knaxtons Way***

*ITEM in the down which beginning at the west end of North Lane shall pass on southwards as farr as South Lane having on the west the the lots of Symon Appleford Thos Pearce and Edward Appleford and having adjacent on the east the lots of George Moor which Lane shall be every where Thirty three feet wide and has been all along in the foregoing descriptions called by the name of **Cross Lane***

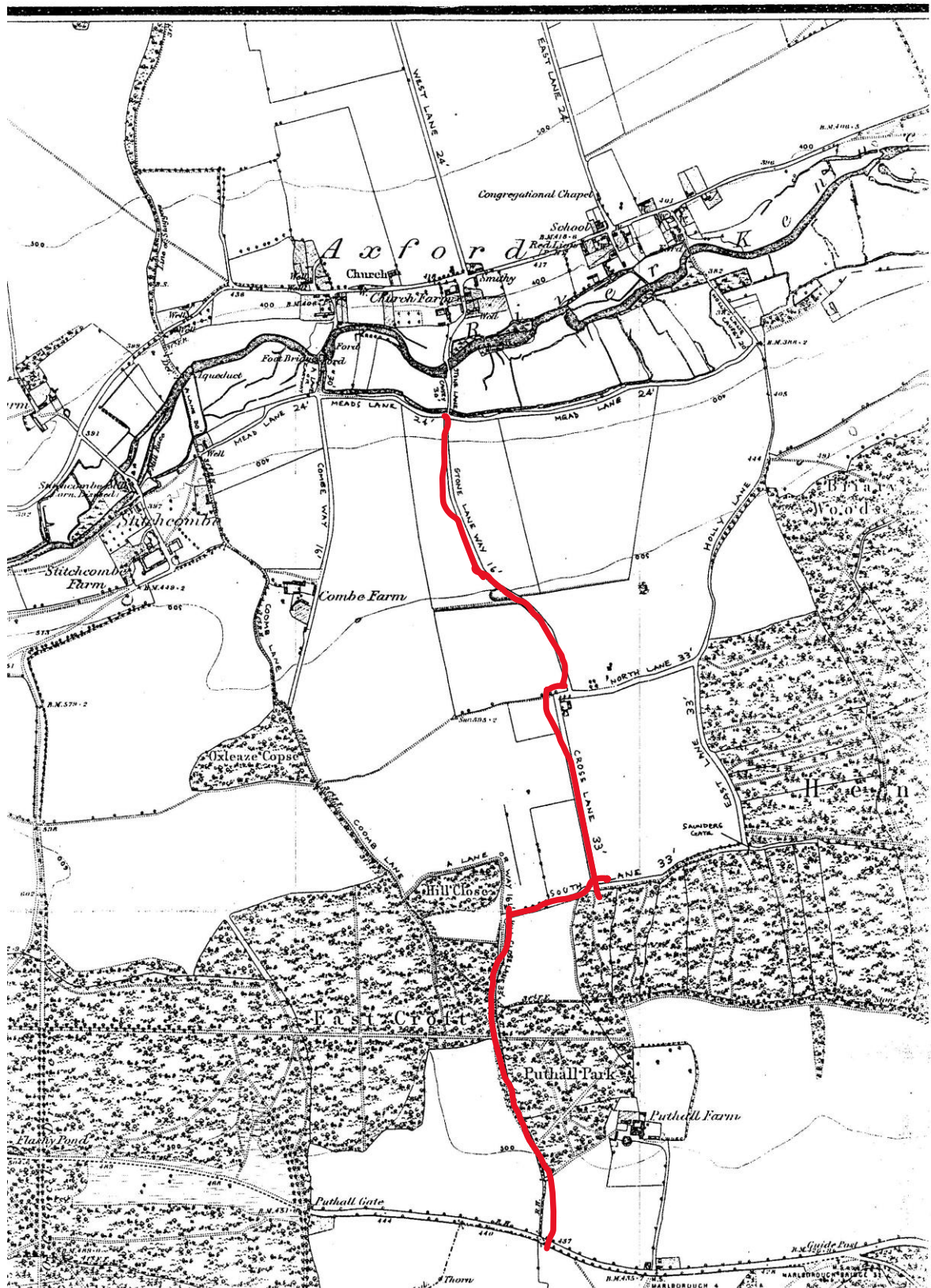
ITEM in the marsh shall be left a footway which beginning at the south side of Saunders's Lane shall pass along ??? ?? Causey through the whole length of that lott of Jonathon Knaxtonss (herein before said to contain Two roods and thirty seven poles) till it reaches the bridge that passes over the river Kennet at the south end of the said lott and from this bridge the said footway shall pass to the gates at the north end of Coomb Way “

- 10.6 The agreement is not accompanied by a map. However, given the clear descriptions of the position of the lanes and ways detailed in the agreement, the description of the position of the allotments in relation to them, the survival and current use of some names and descriptions, including the original parish claim dated 1950, the Marlborough and Ramsbury Rural District Council definitive map and statement dated 1952, the research notes of historian Barbara Croucher and extracts from the Victoria County History, it is possible to identify the majority of the routes referred to and to plot them onto a map.
- 10.7 The applicant has submitted his interpretation of the position of these routes overlaid onto an Ordnance Survey County Series map of the scale 1:10560 (First Edition c.1870) and officers concur with this interpretation.
- 10.8 The following table identifies the routes in the mead and the south field and their current recorded status:

No	Agreement description	Width in agreement	Current recording
1	Stone Lane Causey <i>River Kennet to South Field</i>	30 feet	Stone Lane unclassified road u/c 5085
2	Another lane or cartway <i>River Kennet to gate at north end of Coomb Way</i>	30 feet	Footpath Ramsbury 45 Hoppers Lane
3	Another lane or way <i>Ann Harts Way over River Kennet to Coomb Lane</i>	30 feet	Not identified but possibly near the Mildenhall parish boundary (u/c 5085 does have 90-degree bend here avoiding river crossing)
4	Mead Lane <i>Holley Lane Causey west into Coomb Lane</i>	24 feet	Bridleway Ramsbury 43 AND u/c5085 Mead Lane and Kings Drive. Subject to DMMO application 2019/02
5	Stone Lane Way <i>Mead Lane south to the down</i>	16 feet	Claimed route subject to application 2018/07
6	Coomb Way <i>Mead Lane south to Combe Lane</i>	16 feet	Footpath Ramsbury 45 Hoppers Lane
7	East Lane <i>South end Holly Lane South to Saunders Gate</i>	33 feet	Part of footpath Ramsbury 9B Knaxton Way. Subject to DMMO application 2019/01
8	South Lane <i>Saunders Gate west to Hill Close (coppices to the south, lots to the north)</i>	33 feet	Footpath Ramsbury 44. Claimed route Subject to DMMO application 2018/07
9	Hill Close Lane <i>west end of South Lane to Putall Gate (west of Hill Close)</i>	33 feet	Part footpath Ramsbury 44. Claimed route. Subject to DMMO application 2018/07
10	Another lane or way <i>west end of South Lane north and west to Coombe Lane</i>	16.5 feet	Unrecorded route north of Hill Close
11	North Lane <i>south end of holly Lane westwards</i>	33 feet	Footpath Ramsbury 9B Knaxton Way. Subject to DMMO application 2019/01
12	Knaxtons Way <i>west end of North Lane westwards</i>	16.5 feet	Footpath 9B Knaxton Way. Subject DMMO application 2019/01
13	Cross Lane <i>west end of North Lane south to South Lane</i>	33 feet	Claimed route "Axford Lane"
14	Footway <i>south end of Saunders Lane over bridge over River Kennet to gates at north end of Combe Way</i>	No width given	Unrecorded footway north to south somewhere between Combe Way and Combe Lane

10.9 Represented on a map, the routes identified in the agreement appear as below, approx. claimed route in red:

LANES NAMED FROM THE AXFORD INCLOSURE AWARD 1727 (WRO 154/2)



10.10 Other Category A Evidence – Railway and Canal Plans

Individual railway and canal schemes were promoted by Special Acts. The process for canal schemes was codified in 1792 by a Parliamentary Standing Order and these arrangements were extended to cover railway schemes in 1810. The requirements for railways were expanded in the 1845 Act, which requires public rights of way which cross the route of a railway to be retained unless their closure has been duly authorised. Therefore, although it was not the primary purpose of the deposited plans to record rights of way, these plans provide good evidence in this context as the law required provision to be made for existing routes crossing the line.

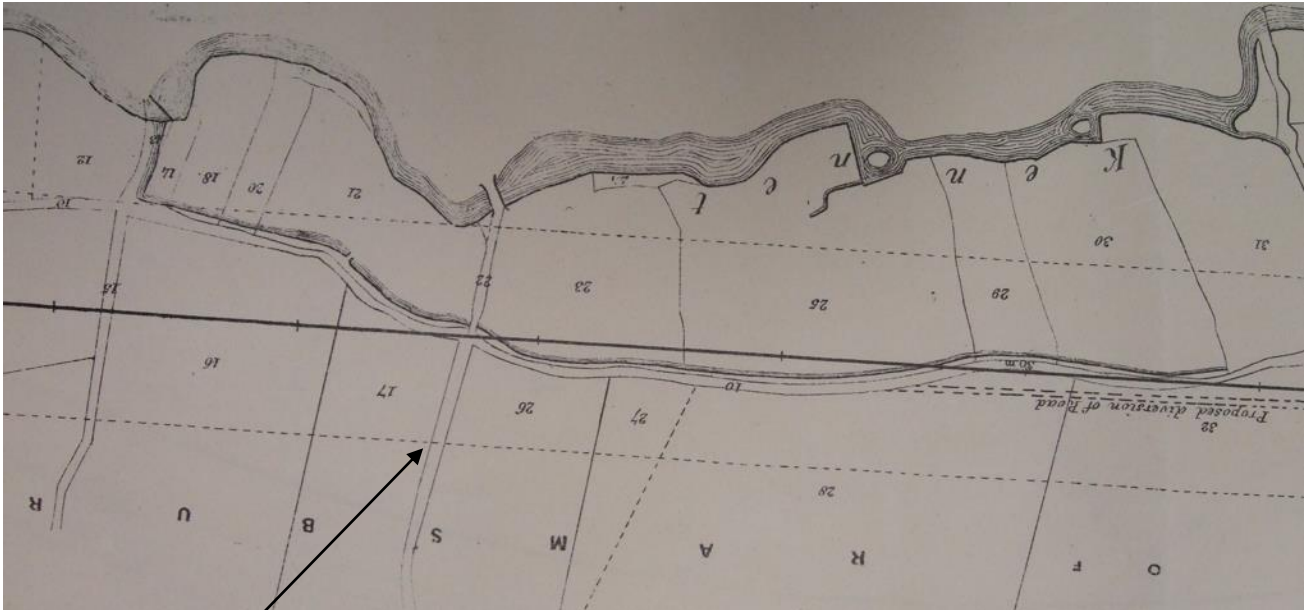
- 10.11 Clause 10 of the 1845 Act requires that true copies of such plans and books of reference ... certified by any such clerk of the peace shall be received by the courts of justice or elsewhere as evidence of the contents thereof. The Act also includes provisions for the crossing of the line by any highway and specifies (Clauses 46 to 51) the minimum bridge dimensions for public and private roads and the requirements for the gating of crossings on the level.
- 10.12 Railway deposited documents were in the public domain. The statutory process required for the authorisation of railway schemes was exacting and the Book of Reference and Deposited Plans made in the course of the process needed to be of a high standard. In particular, railway plans, which were normally specifically surveyed for the scheme, usually record topographical detail faithfully. They have been admitted by the courts as evidence of public rights of way.
- 10.13 The process for the authorisation of railway schemes provided for scrutiny of the plans by involved parties. Landowners would not have wished unnecessarily to cede ownership, Highway Authorities would not have wanted to take on unwarranted maintenance responsibilities, and Parish Councils would not have wished their parishioners to lose rights. Therefore, an entry in the book of reference that a way was in the ownership of the 'Surveyor of Highways' may be persuasive evidence of a public right of some description.
- 10.14 Where schemes were not completed, the plans were still produced to form the basis for legislation and were still in the public domain.
- 10.15 Railway plan sections and cross-sections usually differentiate between public and private roads. Where this is not the case and the route is described as 'road' in the book of reference, it is sometimes possible to establish the nature of the way by reference to the description of other roads. Unless the existing roadway was less than 25 feet (in which case section 51 of the 1845 Act set the minimum by reference to the average available width for the passage of carriages within 50 yards of the point of crossing), the minimum width for bridges laid down in the 1845 Act is 25 feet (7.62 metres) for public roads and 12 feet (3.66 metres) for private roads. However,

caution needs to be exercised regarding the latter as some high-status estate roads had wider bridges. There were no specified widths for bridleways or footpaths.

- 10.16 The status of a way had an impact on the cost of the scheme and it is unlikely that railway plans would show a route at a higher status than was actually the case. There was no obligation to bridge footpaths under the 1845 Act and, as a general rule, unless there is specific provision in the Special Act, any public route requiring a bridge is of at least bridleway status. Bridleways and footpaths which are not shown on the plan are sometimes described in the associated Book of Reference.
- 10.17 It must be borne in mind that the procedure to be followed for deposited plans of public undertakings was strictly regulated by Standing Orders of the House of Lords. For example there was a requirement that plans, sections and books of reference, in duplicate, were deposited with Clerks of the Peace and Principal Sheriff Clerks; that Clerks of the Peace were to endorse them on receipt; that plans, sections and Books of Reference were to be deposited with clerks of the parishes through which the works were to be carried; that any plans showing variations had to also be deposited with the Clerks of the Peace and that copies of standing orders relating to the deposits were also to be delivered.
- 10.18 Parts of the claimed route are affected by three different railway schemes and accordingly three sets of deposited plans and books of reference have been viewed. Not all schemes were promoted by the same companies and accordingly the evidence can have greater synergy as a result.
- 10.19 **Basingstoke and Didcot Junction Railway with a branch through Newbury to Swindon 1844 WSHC reference A1/371/29MS**

The plans, sections and book of reference were deposited with the Clerk of the Peace of the County of Wilts on November 30th 1844. The proposed line of the railway is shown as a solid black line and the limits of deviation are shown by a pecked black line.

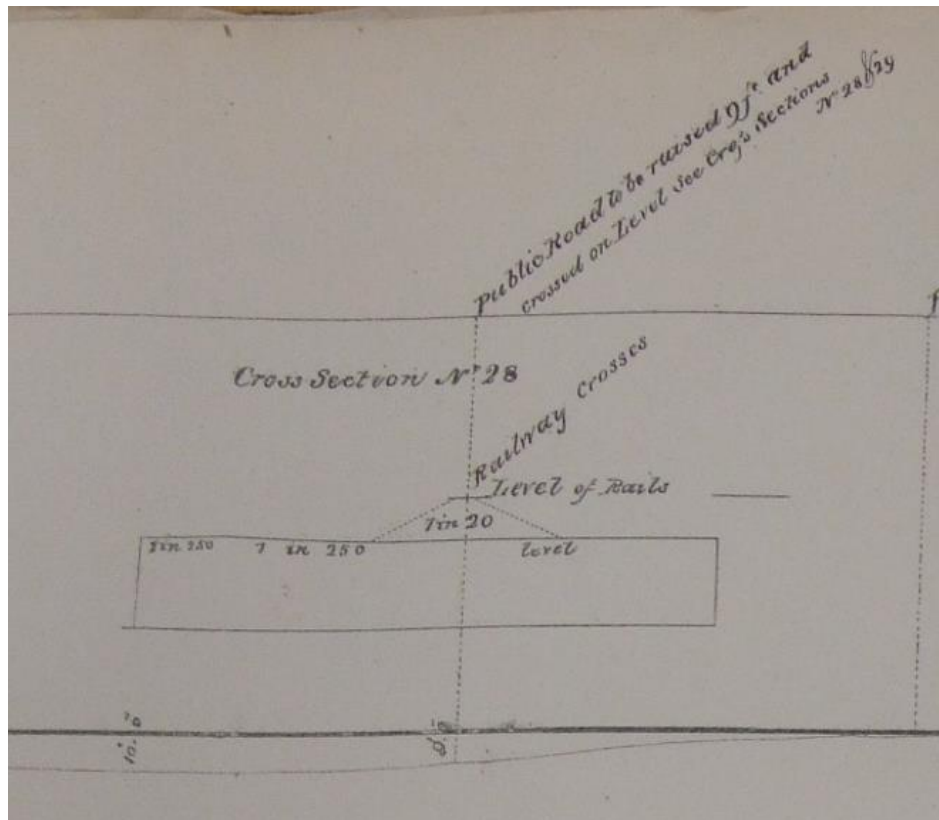
- 10.20 The claimed route from Point A south to the edge of the map is shown within the limits of deviation and numbered "22". The plan is orientated with north at the bottom of the sheet but has been inverted in the image below for ease of interpretation (i.e., the River Kennet is now at the top or in the north). It is crossed by a route shown and numbered as "10" (now recorded as unclassified road and bridleway RAMS45). Page 7a.



Claimed route no. 22

10.21 The route crosses the line at approx 30 miles and 2.4 furlongs (from Newbury start point).

10.22 The sectional plan at sheet 19 at approx 30 miles and 2.4 furlongs records at Cross Section 28 a Public Road to be raised and crossed on the level.



10.23 The Book of Reference records that route "22" is owned or reputed to be owned by "Surveyor of Highways for Axford Tithing John Rowland" has no lessees or reputed lessees, is occupied by "The public" and is described as a "Parish Road".

Numbers referring to the plan.	NAMES of OWNERS or REPUTED OWNERS.	NAMES of LESSEES or REPUTED LESSEES
21	Sir Robert Burdett	William George
22	Surveyor of Highways for (Axford Tithing) John Rowland	
23	Robert Waisey	
24	Sir Robert Burdett	William George
25	Sir Robert Burdett	William George
26	Robert Waisey	
27	Sir Robert Burdett	William George

in the COUNTY of *Melts*

ED LESSEES.	GENERAL OCCUPIERS' NAMES.	DESCRIPTION OF PROPERTY.
	William George	Meadow and River
	The Public	Parish Road
	Robert Waisey	Meadow and River
	William George	Meadow and River
	William George	Meadow & River and Island
	Robert Waisey	Arable
	William George	Arable
	William George	Arable

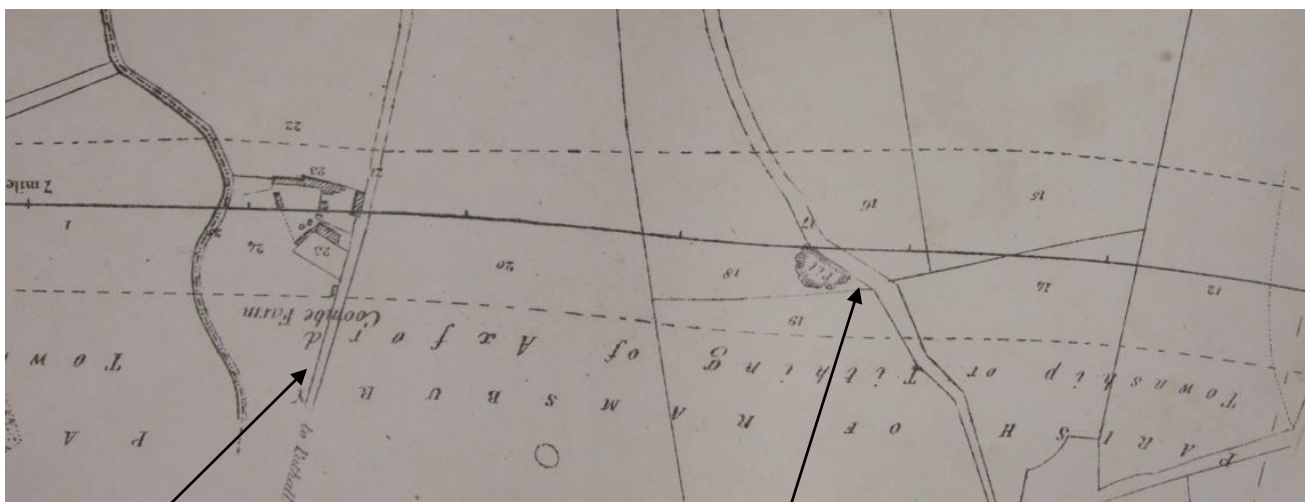
PARISH of Ramsbury		in the COUNTY of Wilts.		
Number relating to the plan.	NAMES of OWNERS or REPUTED OWNERS.	NAMES of LESSEES or REPUTED LESSEES.	OCCUPIERS' NAMES.	DESCRIPTION OF PROPERTY.
21	Sir Robert Burdett	William George	William George	Meadow and River
22	Surveyor of Highways for John Rowland (Aspet Ashane)		The Public	Parish Road
23	Robert Vaisey	William George	Robert Vaisey	Meadow and River
24	Sir Robert Burdett	William George	William George	Meadow and River
25	Sir Robert Burdett	William George	William George	Meadow and River
51	Robert Vaisey		Robert Vaisey	Meadow, River and Island (Arable)

10.24 The surveyor was able to differentiate between routes as can be seen at number 13 (Parish Lane and Ford and River), number 15 (Private Road) and number 51 (Public Footpath).

10.25 London, Bristol and South Wales Direct Railway With Branch To Devizes 1845 WSHC ref. A1/371/45MS

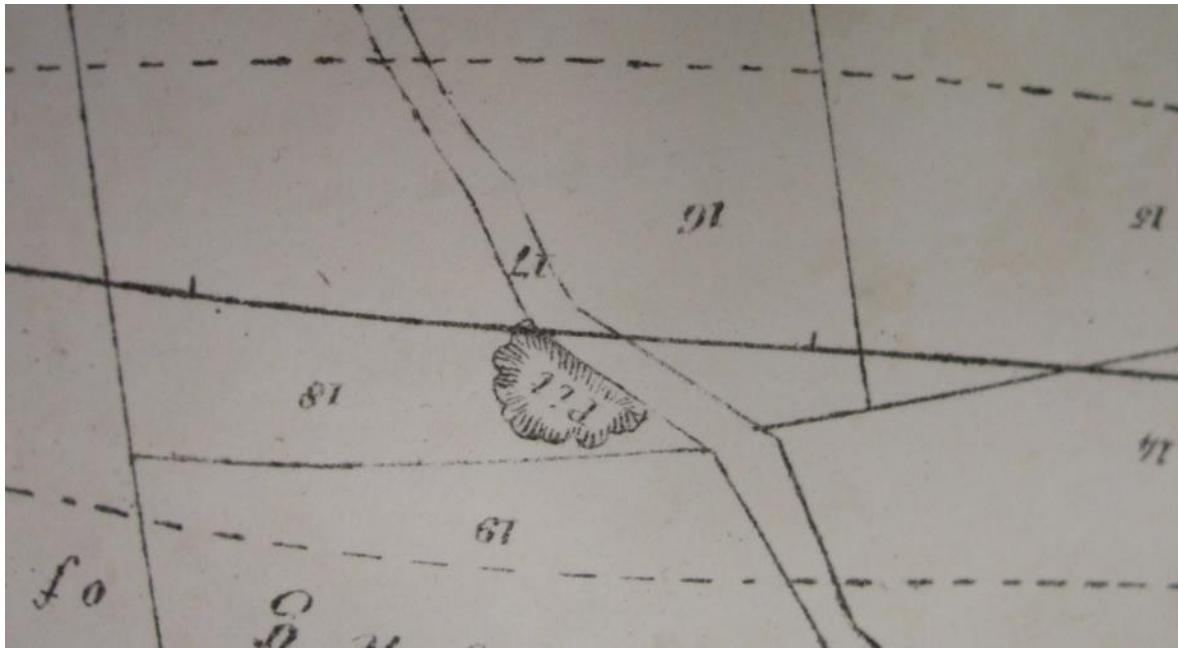
The plans, sections and Book of Reference were deposited with the Clerk of the Peace for the County of Wilts at 1730 on the 30th November 1845. The proposed line of the railway is shown as a solid black line and the limit of deviation from the line is shown as a black pecked line. Like the 1844 scheme considered above, north is at the bottom of the plan sheets but the images have been reversed here for ease of interpretation.

10.26 The line passes over the claimed route at just over 6 miles and 4 furlongs (from the start of this section in Hungerford) at a point just south of the pit (between A and B). The route lies wholly within the limits of deviation and is numbered "17".



No. 21

Claimed route No. 17



10.27 The Book of Reference records that number 17 is a “Public Highway” owned by “Thomas Osmond Surveyor of the Highways for the township of Axford” and has no lessees or occupiers.

COUNTY OF WILT
PARISH OF RAMSBURY
Township or Tithing of Axford

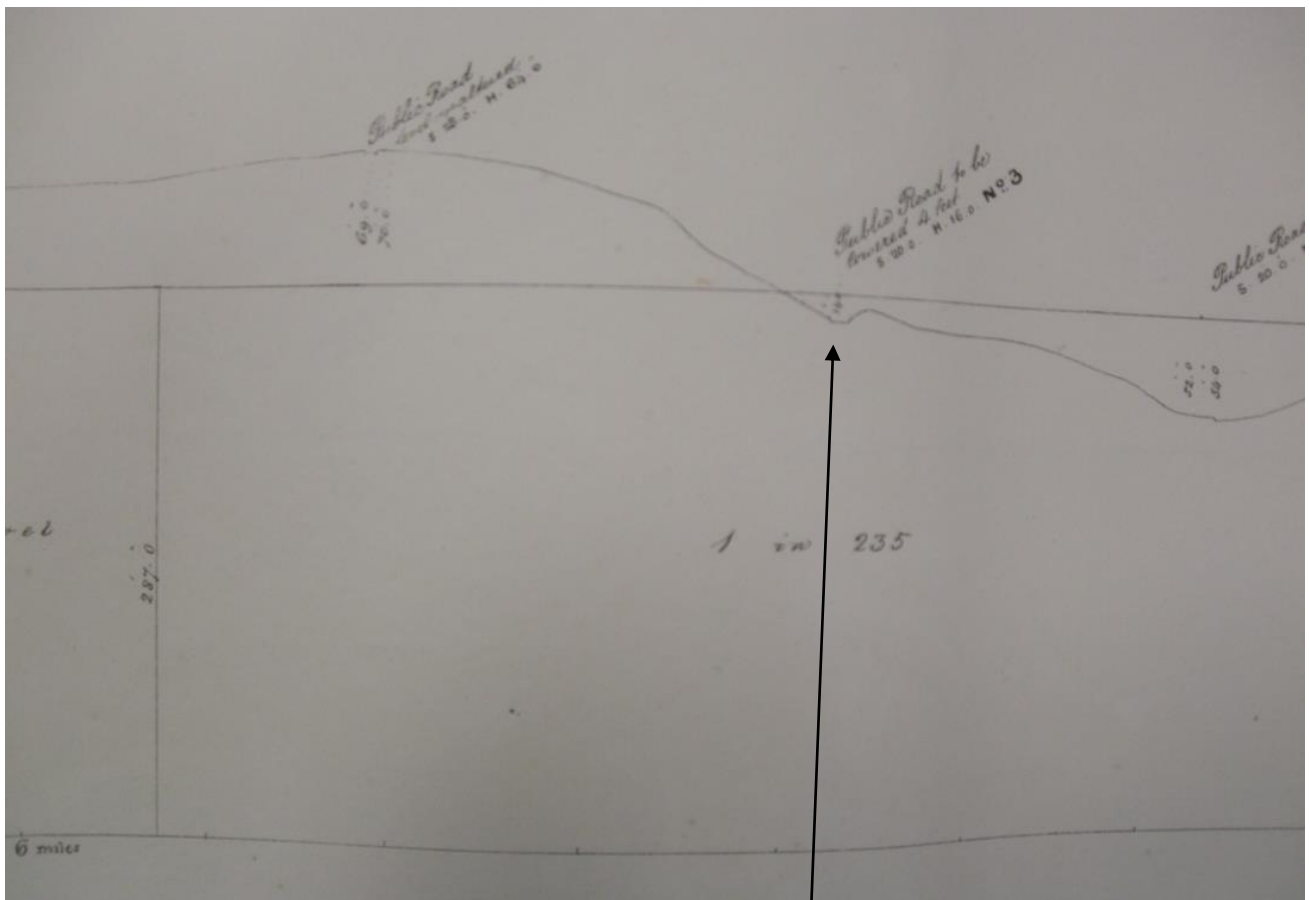
NUMBER ON PLAN.	DESCRIPTION OF PROPERTY.	OWNERS OR REPUTED OWNERS.	LESSEES OR REPUTED LESSEES.	OCCUPIERS.
11	Public Highway	Thomas Osmond Surveyor of the Highways for the Township or Tithing of Axford		
12	Field and Footpath	Sir Robert Burdett	Henry Woodman	Henry Woodman
13	Footpath	Thomas Osmond Surveyor of the Highways for the Township or Tithing of Axford		
14	Field	Sir Robert Burdett	Henry Woodman	Henry Woodman
15	Field	George Moore	William Watts	William Watts
16	Field	Elizabeth Naisay		Elizabeth Naisay
17	Public Highway	Thomas Osmond Surveyor of the Highways for the Township or Tithing of Axford		
18	Field and Chalk pit	Sir Robert Burdett	Henry Woodman	Henry Woodman
19	Field	Sir Robert Burdett	Henry Woodman	Henry Woodman
20	Field	Elizabeth Naisay		Elizabeth Naisay

No. 17

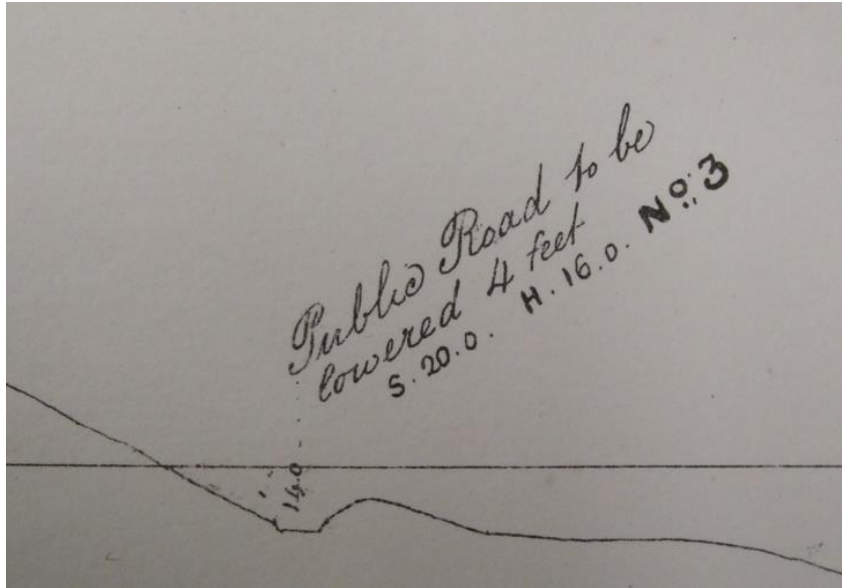
10.28 As with the 1844 plans the surveyor recorded the route of nearby number 21 (the route through Coombe Farm) as a "Private Road".

COUNTY OF MIDD		PARISH OF Ramsbury		
Township or Tithing of Axford				
NUMBER ON PLAN.	DESCRIPTION OF PROPERTY.	OWNERS OR REPUTED OWNERS.	LESSEES OR REPUTED LESSEES.	OCCUPIERS.
21	Private Road	Elizabeth Vaisey		Elizabeth Vaisey
22	Field	Elizabeth Vaisey		Elizabeth Vaisey
23	House Yard Garden Out buildings and premises	Elizabeth Vaisey		Elizabeth Vaisey
24	Field and Outbuildings	Elizabeth Vaisey		Elizabeth Vaisey
25	Public Highway	Thomas Bond surveyor of the Highway for the Township or Tithing of Axford		
Sir Robert Burdett Bart Lord of the Manor of Ramsbury				

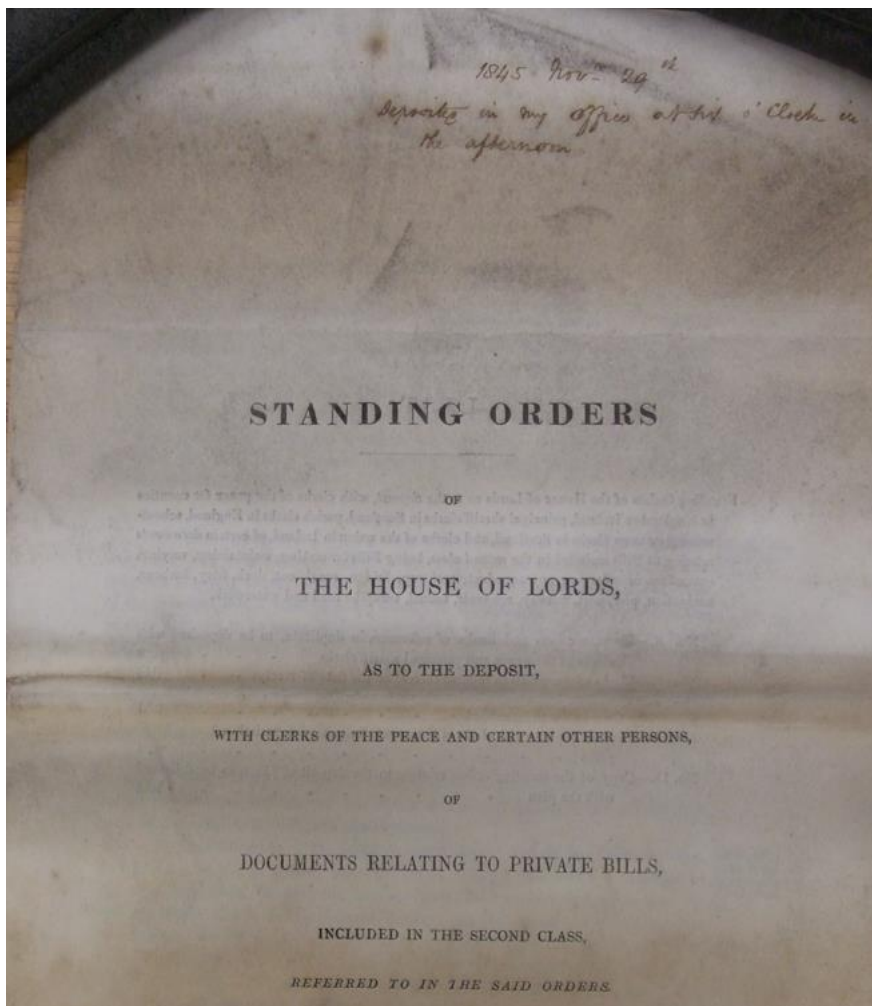
10.29 The sections show a "Public Road" crossing the line at 6 miles and just over 4 furlongs corresponding to number 17 (the claimed route).



No. 17



10.30 Also deposited at the offices of the Clerk of the Peace along with the plans, section and book of reference was a copy of the Standing orders of The House of Lords as to the Deposit with Clerks of the Peace and Certain Other Persons of Documents Relating to Private Bills.



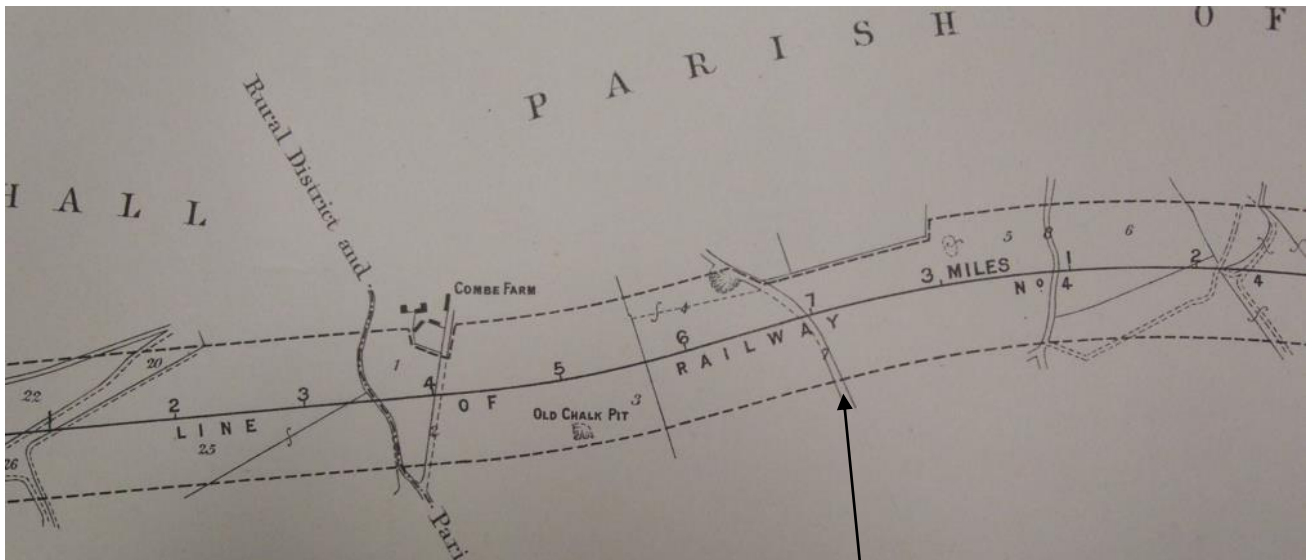
10.31 **Deposited Plans of the Central Wilts Light Railway 1903 WSHC ref. no A1/371/165BMS**

The plans and book of reference were deposited at the office of the Clerk of the County Council on 30th May 1903. Also filed is an overview plan showing the route superimposed on a 1" to the mile Ordnance Survey plan. The proposed railway crosses part of the claimed route at around 2 miles and 7 furlongs.



Claimed route

10.32 Sheet number 4 shows the railway crossing the claimed route south of the pit between A and B and labelled "7" at 2 miles and 7 furlongs.



No. 7

10.33 The sectional drawings do not depict and crossings of the line at any point. The Book of Reference records number "7" as an "Occupation Road, Chalk Pit and Land" owned by "Sir Francis Burdett, Bart." with no lessee or occupier.

10.34 The Book of Reference does not describe any roads crossed in either the parish of Mildenhall or Ramsbury as public highways, only accommodation or occupation roads. Whilst this may be taken to have been the view of the day, it is noted that roads 2 and 8 are today recorded as public highways. Additionally, the applicant has adduced evidence from Mildenhall Parish Council minutes that in 1903 further to the public consultation (the purpose of the public deposit) the Parish Council resolved to raise a number of inaccuracies in the deposit in their own parish:

10.35 Mildenhall Parish Council Minutes 1903 WSHC 2902/1

19th June 1903 (page 55):

“A letter was read from the Clerk to the Rural District Council with referenceto the plans of the proposed Central Wilts Light Railway which will run through the parish and asking for the observations which the parish council may think necessary to make in the interests of the safety and convenience of the public and the Clerk was directed to call the attention of the District Council to the following numbers in the Schedule which are inaccurately described viz:

No. 6 should be accommodation road

9 should be Parish Road (Cock a Troop)

21 should be Parish Road

26 should be Parish Road (Forest to Stitchcombe)

And also to the fact that no mention is made of an accommodation Road in Plot 22.”

It is suggested that if that many errors existed in Mildehall then the likelihood is that there were errors in other parishes too.

10.36 Other category A evidence – Turnpike Trusts

Turnpike Trusts became commonplace in the 18th and 19th centuries as the need for a well maintained road network became increasingly apparent. Turnpike Trusts were bodies set up by individual Acts of Parliament which enabled them to collect tolls from road users to pay for the maintenance of the roads. Accordingly the schemes and plans provided for them underwent public scrutiny and publication.

10.37 The evidence considered here relates to the statutory deposit of plans affecting the the London and Bath Turnpike route via Hungerford. In each case the promoted route crosses the claimed route Stone Lane Way (route A to B on application plan) which is shown on the deposited plans. There is no suggestion in this evidence that the claimed route was affected by the scheme (other than to be crossed) applied for in the Act but the recording of the claimed route on the deposited plans has been relied upon by the applicant and is therefore included here under Category A reflecting the rigour and scrutiny of the process.

10.38 London and Bath Turnpike Trust via Hungerford 1832 WSHC A1/370/20

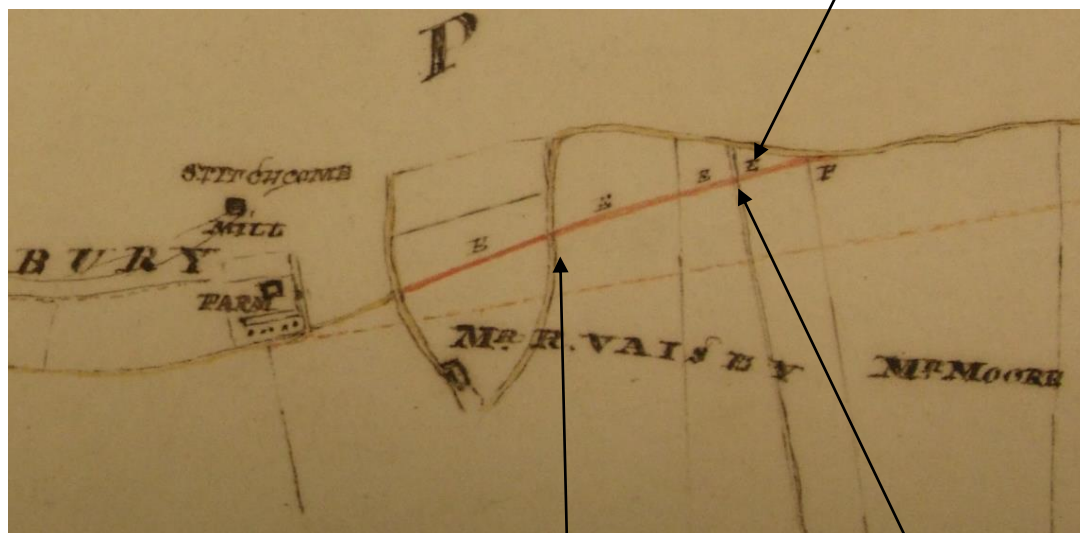
The London and Bath Turnpike Trust was originally set up by Act of Parliament in the early 1700s and extended several times as the extent of the turnpike increased. The Act providing the Trust with powers covering the date of this plan was 7 -8 Geo IV c52 (1826/1827) and this deposit covered the area between Marlborough and Hungerford. The section of the proposed route that is of interest here leads east – west through the Axford area crossing the claimed route at its northern end between A and B.

10.39 The Book of Reference was deposited with the Clerk of the Peace of the County of Wilts on November 30th 1832 and is entitled:

Book of reference to the map of the proposed new Turnpike Road from Charnham Street in the Parish of Hungerford through the parishes of Chilton Foliot, Ramsbury and Mildenhall to Saint Margarets in the Parish of Preshute all in the County of Wilts containing a list of the owners and occupiers of land to be passed through.”

10.40 The book of Reference lists landowners as numbered on the map from a to m, all of the land is described as arable and there is no inclusion of any of the roads or tracks crossed by the line of the proposed new road.

10.41 The plan of “a proposed road from Marlborough to Hungerford in the County of Wilts” is also inscribed to the effect that it was deposited with the Clerk of the Peace on November 30th 1832. The claimed route (A to B) is shown passing through the land letter E (divided by the road) belonging to Robert Vaisey. Tracks are shown coloured sienna, a common convention for a road.



Coombe Way (RAMS45)

Stone Lane Way

10.42 The road does not appear to have been built on this route but would have connected Stitchcombe Farm with Mead Lane (RAMS43) in a direct north easterly direction crossing Combe Way and Stone Lane Way.

10.43 **London and Bath Trust via Hungerford Deviation 1835 WSHC A1/370/21HC**

The Book of Reference and Plan were deposited with the Clerk of the Peace of the County of Wiltshire on November 30th 1835 and proposes a deviation from the Bath and London Road near Hungerford to Marlborough.

10.44 The Book of Reference identifies the owners and occupiers of land crossed by the proposed road denoted by the letters shown on the plan. The claimed route is shown passing over land belonging to Mr Vaisey and on the eastern side, Sir Fras. Burdett before coming to the land owned by Mr Moore. This reflects an additional owner to those shown on the 1832 plan with Stone Lane Way forming a division between the two owners.

10.45 Combe Lane, Combe Way, Stone Lane Way (northern end of application route A – B) and Holly Lane are shown with the northern end of Stone Lane Way being inscribed “To Axford”.

10.46 It is noted that the Books of Reference (both 1832 and 1835) make no reference to highways that the proposed route crosses.

10.47 **National Parks and Access to the Countryside Act 1949**

This Act of Parliament required Wiltshire County Council (WCC) to prepare a definitive map and statement of public rights of way. The means by which it should do this were strictly prescribed and the process started with WCC requiring Parish Councils to complete a survey of public rights of way in their area and to complete details relating to them on a map and parish claim card. This happened in the period 1950 – 1952.

10.48 Despite definitive maps only recording footpaths, bridleways and roads used as public paths (RUPPs) the memorandum distributed to parish councils instructed how public paths should be distinguished during this survey and detailed that a public carriage road or cart road (or green unmetalled lane) used mainly as a bridleway should be recorded as a Carriage Road Bridleway – a CRB.

10.49 **Mildenhall Parish Council Parish Claim**

The southern end of the claimed route (F to G) is currently recorded in the definitive map and statement as footpath Mildenhall 16 (part of a longer path linking the A4 with Coombe Farm and Combe Way in the north). This right of way was identified by Mildenhall Parish Council as a Carriage Road Bridleway (C.R.B.) in the parish survey and described as:

“From London Road via Puthall Park to Stitchcombe following parish boundary through Hill Copse and corner of East Croft Coppice.”

The letters CRB have been added above this text and the proposed statement on the card reads:

“Axford Lane. C.R.B. from the southern end of spur road u/c 5085 at entrance to Combe Farm leading SE along the Ramsbury Parish boundary through East Croft Coppice and Putall Park to A4.”

10.50 Under the heading “Nature of Surface” the following description is given:

“Tarred with loose gravel for light traffic, deteriorates into narrow footpath just beyond Combe Farm, develops into a grass track (muddy in wet weather) near Oxleaze Copse, then into a narrow footpath at Hill Close and finally broadens into a track suitable for cars.”

Under the heading “Observations” the following is given:

“By taking short cuts it becomes a narrow footpath but in several places there is a better road which goes further around.”

10.51 It is therefore clear that the route of MILD16 was originally claimed as a road used as a public path and that the parish council considered the section south of Hill Close (parts F to G of the application route) to be a track “suitable for cars”. Evidence supports that WCC supported this as the draft map and statement both showed the route as a RUPP and CRB respectively.

**10.52 Marlborough and Ramsbury Rural District Rights of Way Survey 1951
Statement required under Section 32 WSHC G8/250/3**

This type written draft statement gives (page 77):

“16 C.R.B. Axford Lane. From the southern end of spur road u/c 5085 at the entrance to Combe Farm leading south-east along the Ramsbury Parish Boundary, through East Croft Coppice and Puthall Park to the London – Bath road, Trunk Road A.4, on the Little Bedwyn Parish Boundary”.

However, the statement was altered by hand to strike through C.R.B. and insert F.P. and to add the words “...and south south east along the edge of...” Puthall Park.

10.53 Following the publication of the draft definitive map and statement objections to it were received by WCC. In many cases the council sought to resolve objections by agreement though in many cases the matter was decided at an inquiry into objections to the draft map and statement. In this instance it is known that an objection to a number of paths, including this one, was raised by the Forestry Commission and that the one relating to this path was upheld, leading to the status being recorded as footpath in the provisional and final definitive map and statement.

10.54 Draft Map Inquiry Decision WSHC F2/271/8

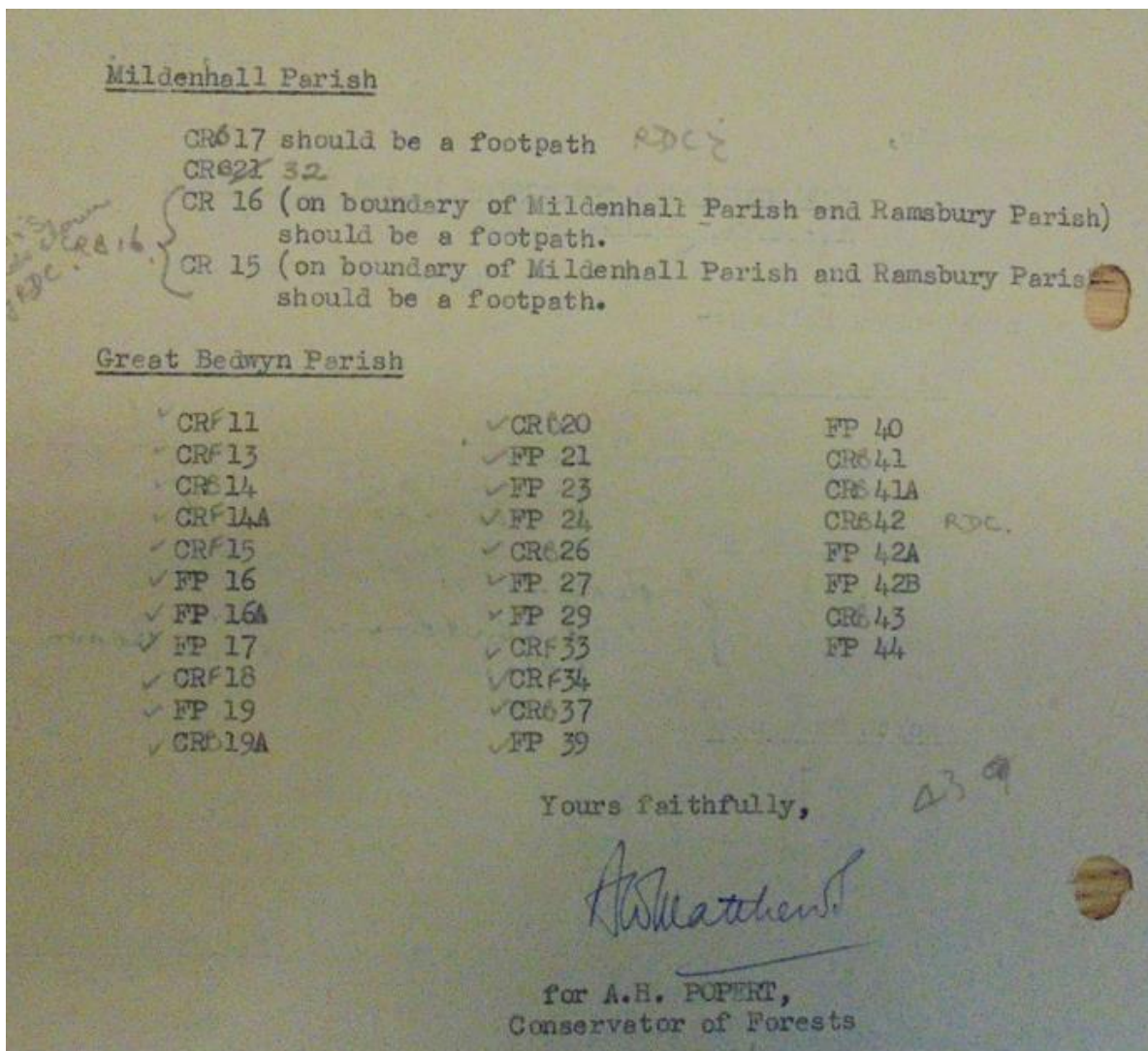
This document confirms that the modification to footpath status was the result of the Savernake Estate raising this and the Parish Council agreeing.

10.55 **Letter from Forestry Commission WSHC F2/271/8**

The alteration of the status of the recording of the path as a footpath despite the parish council's original claim relating to the path as a public road warrants the re-investigation of the Forestry Commission's original objection.

10.56 In this letter the Forestry Commission objected to 43 paths shown on the draft map. The affected parishes were: Great Bedwyn, Mildenhall, Little Bedwyn, Ramsbury and North Savernake. No detail is given of the nature of the objection in all but 4 instances and it is considered that the inclusion of detail in those 4 objections is important and does appear to have been ignored by those ultimately making the decision to amend the recording of the status of the route of MILD16 to footpath.

10.57 A pencil note of unknown origin (but likely to be contemporary) on the letter confirms that the objection may only have related to part of the track and not to the north and south ends, which were surfaced and suitable for cars or light traffic (parish claim) and were recorded in the Council's Highway Record as a highway maintainable at public expense.



10.58 The objection clearly only relates to that section of MILD16 on the boundary of Mildenhall Parish and Ramsbury Parish, there being a deliberate exclusion of that part bordering Little Bedwyn Parish. However, the whole of MILD16 was altered to FP.



11 Category B Evidence

Category B evidence may be documents or plans drawn up as a result of legislation and consulted upon but where the primary purpose was not to record public rights. Examples of this includes records from the Tithe Commissioners and the Inland Revenue.

11.1 **The Tithe Commutation Act of 1836** A system of taxation existed in Britain whereby farmers and people who worked the land were bound to pay tithes to the church. These payments were in kind and generally represented one tenth of production. The system was both unpopular, cumbersome and increasingly unjust as the industrial revolution gathered pace. The Tithe Commutation Act of 1836

sought to commute these tithe payments in kind to annual rent-charges. Parliament appointed a three man commission to direct a staff of assistant commissioners, valuers and surveyors who mapped, valued and apportioned rent charges among thousands of separate parcels of the titheable land in different states of cultivation.

- 11.2 Tithe surveys required careful mapping and examination of the landscape and land use and the maps and apportionments documents that resulted can offer valuable evidence of how the parish was at that time.
- 11.3 The Tithe Commissioners seconded Robert K Dawson from the Royal Engineers to organise and superintend the land surveys. Dawson had a background in surveying and produced a paper, the details of which it was considered all tithe maps should be drawn to. This paper (British Parliamentary Paper XLIV 405 1837) only ever served in an advisory capacity as the Tithe Act itself contained contradictory clauses on the nature of maps (*Tithe Surveys for Historians by Roger J P Kain and Hugh C. Prince*) and was amended in 1837 allowing commissioners to accept maps of a variety of scales and dates.
- 11.4 Roger J P Kain and Richard Oliver in *The Tithe Maps of England and Wales* at page 23 note that the portrayal of features on tithe maps is very variable across parishes and that advice to the privately commissioned surveyors was itself imprecise and that although the official instructions required that surveyors should include such detail on their maps as it is usual to find on estate maps, there was no statutory requirement to do this.
- 11.5 There are however general conventions that are observed and at page 24 Kain and Oliver observe that:

“Roads are usually shown on tithe maps as they normally bounded individual tithe areas. Only very rarely is their status as public or private indicated with any certainty, though the general convention of colour filling public roads in sienna is often followed.”

“Foot and Bridleways ...are sometimes explicitly annotated as such, but more usually they are indicated by single or double pecked lines.”

11.6 **Ramsbury Tithe Award 1842 WSHC T/A Ramsbury (also D/1/25/T/A Ramsbury)**

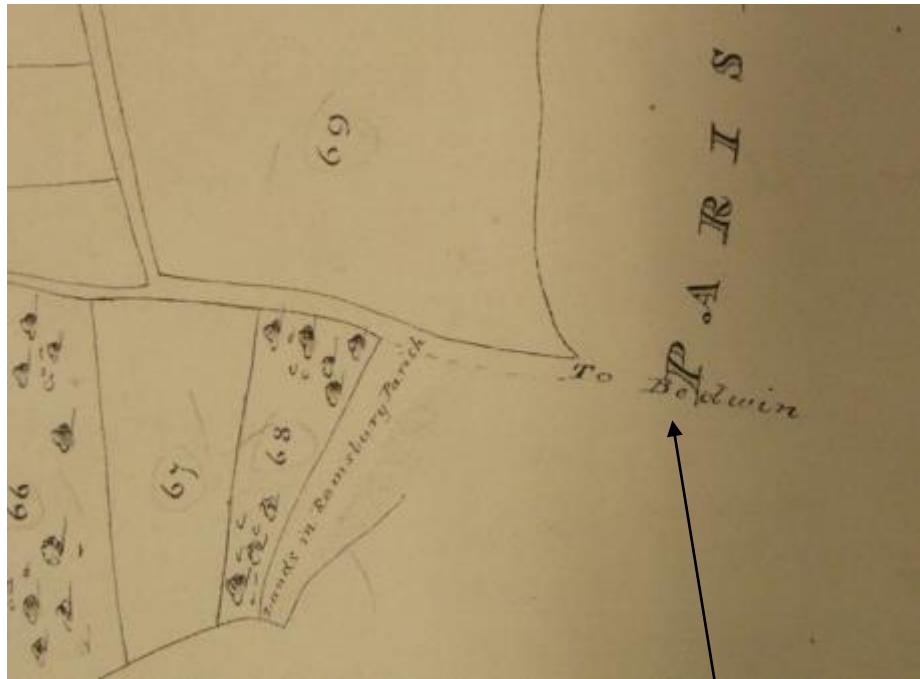
Officers have viewed the copy held by the Wiltshire and Swindon History Centre and the applicant has also adduced the copy held at The National Archive act ref. IR30/38/224. This section refers to the WSHC copy. The apportionment is accompanied by two maps entitled “Map of the Titheable lands in the Parish of Ramsbury Wilts in Two Parts”. The maps are drawn at the scale of 6 chains to one inch and stamped by the Tithe Commission Dec 20 1842 and certified by Wm Blamire and Rd Jones that the two part map is the one referred to in the apportionment. The map is further signed by Anneurin Owen Assistant tithe commissioner and later signed and dated June 5 1843 and 01/4/44. The second

map is entitled “*Skeleton map of the Parish of Ramsbury in the County of Wilts on a reduced scale showing the situation of the Titheable Lands in 2 parts. Part 2*”

11.7 The claimed route is clearly shown on both plans as an un-numbered route, excluded from the apportionment of tithes and marked “to Bedwyn” at its southern end on the map marked Part 1 and “from Bedwyn” at the southern end on Part 2.

11.8 Part 1

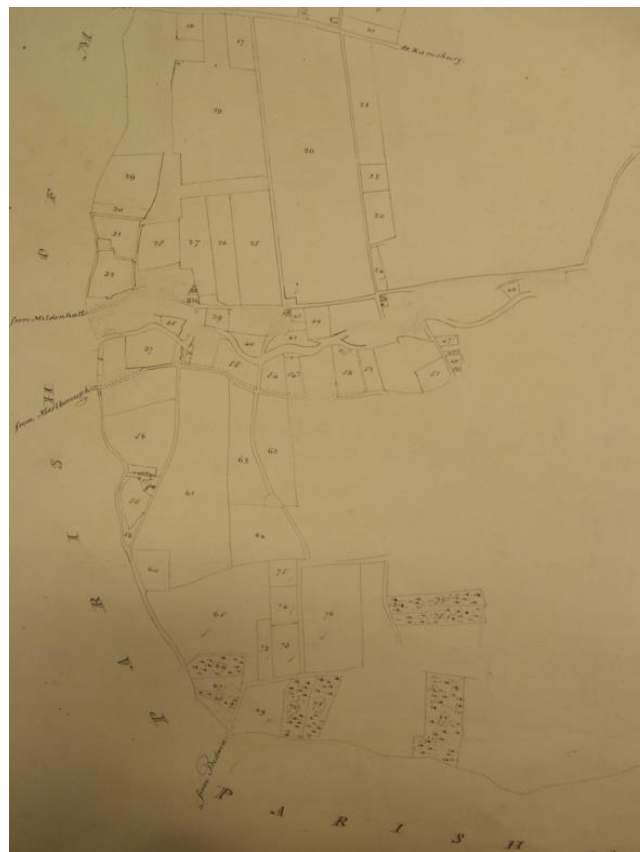


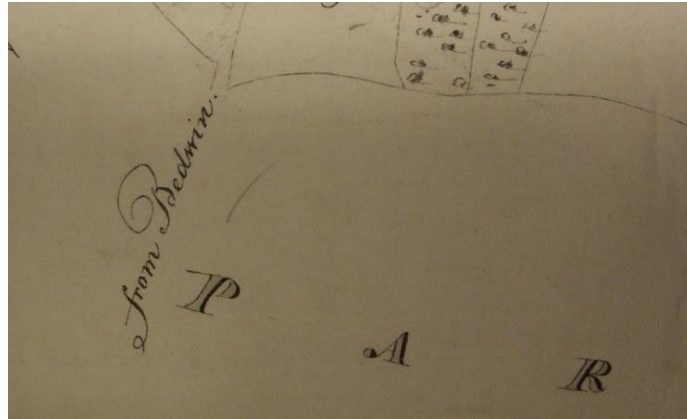


Detail of southern end Part 1 map

11.9 Part 2 (skeleton map)

The claimed route is shown as in Part1 except for the inscription at the southern end reads "From Bedwin" on the Bedwyn side of the parish boundary.





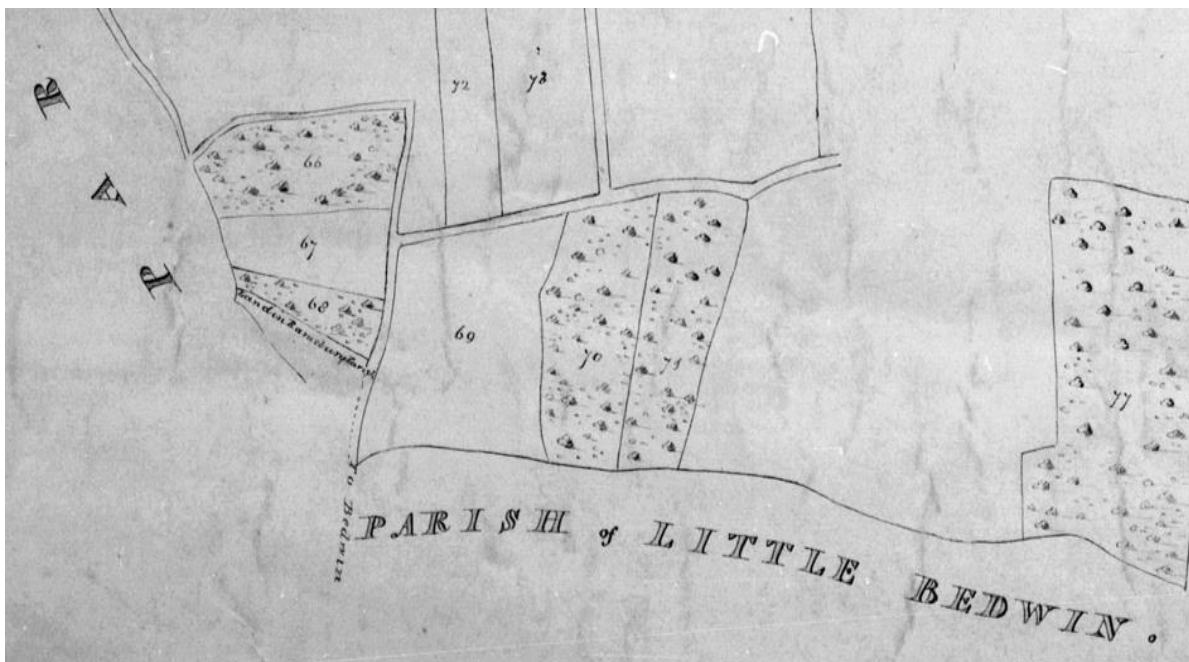
Detail of southern end of Part 2 map

11.10 It is the style of the map to show destinations or directions where roads leave the parish (e.g. "From Marlborough" "From Mildenhall" "To Ramsbury").

11.11 Note on the Kew copy of the tithe apportionment and map IR30/38/224

The applicant adduces this copy of the tithe map. Roger J P Kain and Richard R Oliver in the book "The Tithe Maps of England and Wales" list this as having an apportionment dated 03.12.1841 covering 2051 acres of the parish. The map is quoted as "1842?" at the scale of 6 chains and in 7 parts and on a reduced scale.

11.12 The claimed route is shown unnumbered and hence not included specifically in the apportionment document though likely to be part of the "Roads, Water and Waste 53 acres – 7" calculation of land on which no tithe is payable. The southern end of the claimed route is marked "To Bedwyn" in the same manner as the copy held at WSHC.



Detail of southern section "To Bedwin"

11.13 Other Category B Evidence

Inland Revenue Finance Act 1909/1910 Records

In 1910 The Inland Revenue provided for the levying of tax (Increment Value Duty) on the increase in site value of land between its valuation on 30 April 1909 and, broadly speaking, its subsequent sale or other transfer. The survey was usually carried out by Inland Revenue Inspectors working in an area of the county of which they were knowledgeable. Every individual piece of land in private ownership was recorded and mapped and, because tax was to be levied based on area, highways and common land were generally identified and included in the documentation.

- 11.14 The working copy of the Finance Act plans held at Wiltshire and Swindon History centre (WSHC) have been viewed. The base maps for these records were the Second Edition of the Ordnance Survey's County Series maps at a scale of 1:2500. These maps had been revised in 1899 by the OS and provide the most accurate record of the landscape that we have for this area at that time.
- 11.15 Land that was valued for taxation purposes was shown coloured and given a hereditament number. This number allows reference to a valuation book where deductions are listed. Deductions were permitted where the value of a property was diminished, for example if a public right of way, an easement or a right of common existed. It was common practice for valuers to exclude public roads by leaving them uncoloured and in some instances by re-inforcing their separation from the surrounding hereditaments by drawing on 'broken braces'. Braces were a symbol used by the OS to link or join features and by breaking them the surveyor could show that something was un-connected with an adjoining feature.
- 11.16 The Finance Act is not specific about the exclusion of roads though they may be excluded under s.25 or Section 35(1) of the Act which 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*". Section 25 states that "*the total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land, and...[other exclusions]*". Details relating to s.25 reductions are found in the Valuation Books, records of any exclusions resulting from s.35 can be seen on the plans where the routes are shown excluded from hereditaments.

11.17 Finance Act 1909/1910 Records for the Claimed Route

Map Sheets: 29.11 (XXIX.11) and 29.15 (XXXIX.15)

TNA Kew ref: Record copies IR 125/11/352

WSHC ref: working copies L8/10/29

Both the record and working copy plans show that the claimed route between points A and B (Stone Lane Way) has been excluded from the survey by leaving it

uncoloured. Additionally, 'broken braces' have been drawn on the map confirming its exclusion from the surrounding hereditament no. 484.



Uncoloured route and broken braces

11.18 After point B the route is no longer excluded from the hereditaments and shown coloured in the same manner as no. 184. Sheet 29:15 was missing from the WSHC records so it has not been possible to see how the southern end of the route was portrayed.

12.0 Category C Evidence

Evidence in this category includes local government records (i.e., parish council, rural district council, highway board and county council), that is records whose purpose is connected with the administration of public assets, has legal responsibility for the

protection of public rights and assets and is subject to public scrutiny. Includes bodies whose function is the highway authority. These can be important records as they relate to maintenance liability and can be a clear indication of public acceptance of same.

12.1 Records in this category can be difficult to identify as they are often contained within minute books or written records rather than depicted on maps or plans.

12.2 **National Parks and Access to the Countryside Act 1949**

NB part of this evidence is also included at paragraphs 10.47 to 10.58 including further details which led to the finalised definitive map and statement in 1952

Section 27 of the National Parks and Access to the Countryside Act 1949 required Wiltshire County Council (WCC) to carry out a survey of all lands in their area (with some exceptions) over which a right of way is alleged to exist. Section 28 required the authority to consult with parish and district councils and ultimately to compile a draft definitive map showing the public rights of way that existed or were reasonably alleged to exist.

12.3 WCC required parish councils to conduct their surveys in the period 1950 to 1952 and records relating to these parish surveys have survived and are held by the Rights of Way team at County Hall.

12.4 Parish Councils were sent OS 1:10560 sheets and a number of blank parish claim survey sheets to complete.

12.5 **Ramsbury Parish Council**

The only Right of Way (RoW) in the area of the claimed route is shown by a thin pencil line coincident with the RoW that is now recorded as RAMS9B (including section of claimed route D to E). The parish council do not appear to have used symbology to depict claimed RoWs and in many cases on their parish claim cards fail to give an answer when asked to describe the way ("Footway, Bridleway etc"). In the example of no. 9, no status is given. No other part of the route A -B-C – D and E-F is claimed by the parish council. The date of the survey of path no. 9 is given as February 1951.

12.6 **Mildenhall Parish Council**

Where the claimed route passes through Mildenhall Parish (i.e.between points F and G on the application map) Mildenhall Parish Council have shown it as a solid red line labelled "16". The parish claim card (survey date 19 January 1952) records it as a CRB (Carriage Road Bridleway) leading "*from London Road via Puthall Park to Stitchcombe following Parish Boundary through Hill Copse and corner of East Croft*

Coppice". It is described as having a surface "Tarred with loose gravel suitable for light traffic, deteriorates into narrow footpath just before Coombe Farm, develops into grass track (muddy in wet weather) near Oxleaze Copse, then into a narrow footpath again at Hill Close and finally broadens into a track suitable for cars." "No gates etc". The surveyor observed that "By taking short cuts it becomes a narrow footpath but in several cases there is a better road which goes further round."

12.7 Marlborough Highway Board Survey of Roads 1865 WSHC G8/1/28

Arising out of the Highways Act 1862, highway boards were the highway authority for the area and took over the duties of the parish imposed by the 1835 Highways Act. The power to form a highway board was executed by the Justices of the Peace at Quarter Sessions. In most cases the duty for rural roads remained with the highway board until the creation of Rural District Councils as a result of the Local Government Act 1894.

12.8 The Marlborough Highway Board survey of roads in the area is dated 1865 and is a detailed hand written survey with the following headings:

Parish

Tything

Roads

Remarks on present condition of Roads

Estimated mileage

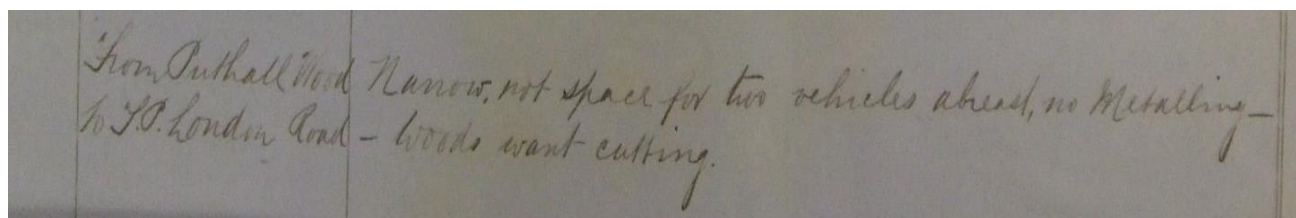
Incidental (?) and contingencies

Estimated cost per tything

Estimated cost per parish

12.9 The original document is supplemented at WSHC G8/1/28 by a typed transcript of the entries.

12.10 Under the Parish of Mildenhall the southern section of the claimed route (F to G MILD16) is recorded as being " From Putall Wood to TP London Road" "*narrow, not space for two vehicles abreast, no metalling. Woods want cutting.*"



12.11 Under the Parish of Ramsbury, Axford Tything, a road is surveyed described as "Putall Road to Holly Corner" "*Green Drove, ruts filled with unbroken flints*". It is not clear where Putall Road is though it is likely that Holly Corner is the corner where Holly Lane meets a road that links it to Putall Road. If this is the case, then the road referred to is North Lane (a section of RAMS9B) and the road it links to at the

western end is either the claimed route (which links Axford with Putall) or the Putall Wood road referred to at 12.10 (and now recorded as MILD16). In either case the evidence suggests that the section of the claimed route C to B was a road or, at its highest, the claimed route from A to G was a road.

12.12 Additionally, a third road in this area was surveyed by the Highway Board. Again in the parish of Ramsbury and in the tything of Axford, the road described as “*Stone Lane from Stitchcombe Corner to Holly Lane*” is described as “*very rough*”. The only route linking Stitchcombe with Holly Lane (today part of RAMS44) is the east west route Mead Lane (as awarded), strongly suggesting that in 1865 Stone Lane referred to Mead Lane. In any event, this entry does not appear to offer evidence for the claimed route but as it was adduced by the applicant it has been considered here.

**12.13 Marlborough Rural District Council Rights of Way Map 1905 WSHC G8/250/1
Marlborough Rural District Council Rights of Way Report 1905 WSHC G8/250/2
Marlborough Rural District Council Minutes 1906 WSHC G8/100/2**

Rural District Councils were formed as a result of the Local Government Act 1894 and had duties related to the maintenance of rural roads. At the time these records were produced, they were the highway authority. The map associated with this survey is a large scale leather bound map engraved on the cover with the name of the surveyor J W Brooke. The map carries the following inscription:

“This map was prepared during the months of August and September from information collected at Parish Meetings and from references to old maps by the District Road Surveyor. Joshua W Brooke M.S.I. Rosslyn, Marlborough, Wilts. 30/09/1905.”

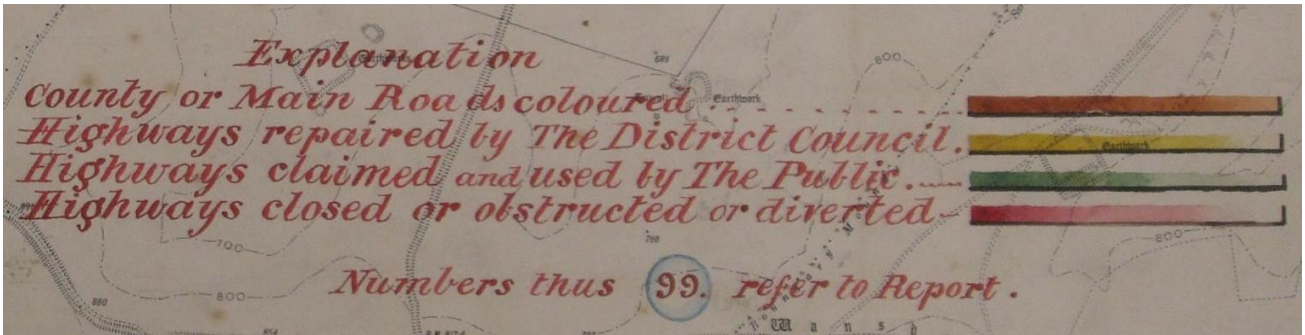
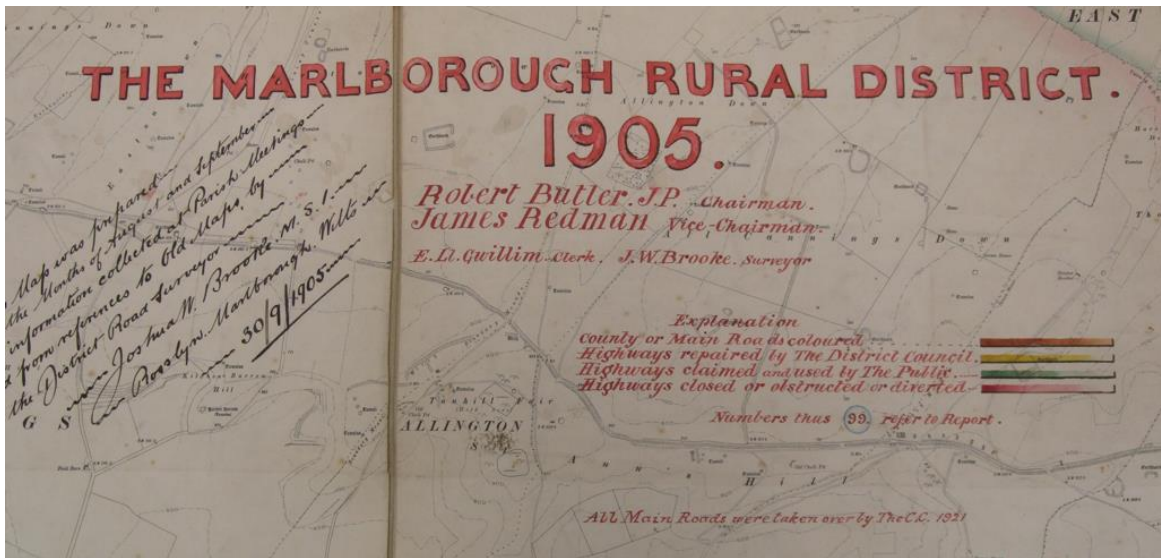
It is further inscribed with the names of the Chairman, Vice Chairman, Clerk and Surveyor and carries a key (“*explanation*”) recording County or Main roads, highways repaired by the district council and highways closed or obstructed or diverted. It has been updated by an inscription reading:

“All Main Roads were taken over by The C.C. 1921”.

12.14 The map does not cover the parish of Ramsbury and has at its eastern extent the parish of Mildenhall so the evidence relates only to that part of the claimed route coincident with MILD16 (i.e. F to G).

12.15 The section F – G (“Axford Lane”) “*no 34*” is shown coloured yellow as a “*Highway repaired by the District Council*” with the preceding section through the wood coloured red as a “*Highway closed or obstructed or diverted*” before continuing as a yellow highway north.

12.16 It is noted that highways coloured green are generally footpaths and bridleways making it clear that in 1905 section F to G was considered to be a road.





12.17 The route is numbered “34” on the map and the key to the map advises that numbers’ refer to report’.

12.18 Marlborough RDC Rights of Way Report (1905)

This is the report referred to in the map above. The report was produced by J W Brooke, Marlborough RDC Surveyor and has the following as an introduction:

“To THE MARLBOROUGH RURAL DISTRICT COUNCIL

Chairman and Gentlemen,

Having on the 6th May called your attention to the fact that several rights of way in your District had been disturbed and others obliterated, I was deputed to prepare a

Map of the District in relation to the matter. I now beg to submit the results of my efforts, hoping that I may not only give you satisfaction but that the Public may derive some advantage and information from the particulars I have collected.

I trust Gentlemen you will remember that I am paid by the Public to consider their interests and to endeavour to preserve their rights; therefore it follows that I view the matter in hand from their standpoint, but I hope that those who come within the scope of my investigations will not take umbrage at that which I write, because I am doing as I am told.

The information I beg to submit I have collected with care from the following sources:

1. Award Maps: - Avebury
Fyfield
Lockeridge
Manton
Ogbourne St George
The Overtons
2. The Awards of the above and
Ogbourne St Andrew
3. Tithe Maps: Broad Hinton
Fyfield
Lockeridge
Manton
Mildenhall
Ogbourne St Andrew
The Overtons
Savernake N
Savernake S
4. Parish Maps Broad Hinton
Mildenhall
5. Railway Maps Manchester & Southampton 1845 -6
do. Do. 1846-7
Berks and Hants Extension
The Marlborough Railway
The Swindon Marlborough & Andover 1872
6. Estate Maps Manton
Mildenhall
Savernake N
Savernake S

7. Parish Meetings: Avebury
Broad Hinton
Lockeridge
Manton
Ogbourne St George

8. Various sources: Old Inhabitants
Old Schedule of divers Roads
Local knowledge

In these days of keen competition and rapid locomotion, it is a growing necessity to keep all tracks open, for, indeed if a single track is lost in each decade the Ruralness of the District will soon be gone, and our descendants will have only dusty Roads to travel over and greater distances to cover from point to point. The necessity, too, of keeping open all Sheep Drovers is of very great importance, for a flock of sheep on a road is a source of danger to motorists. I would ass that motor Traffic is increasing at an alarming extent; on the Bath Road we counted during the Day (Monday September 18th) 110 cars not counting motor cycles; and when cars are cheaper and motor traction more general you can, perhaps, better imagine the state of the roads that I can describe.

It is most necessary that the Parish Council acquaint you immediately of any Interference with their accustomed or acquired rights of way, and be it rememebred That any act or obstruction, without lawful authoirty, upon any highway which Renders the same less commodious is a public nuisance at "common law", and it Is no defence that the obstruction is only on part of the highway and that sufficient Space is left for public traffic.

To raise a stile, to erect a gate, even if the gate be not locked, is a "nuisance", for the public right exists, and either erection is an injury to that right.

I do not for one moment think that you can order the removal of all gates across the highways, and I think each case must be decided upon its own merits when time and circumstances must be considered. If through insufficient reason and evidence you cannot, order the removal of an old gate, you can always prevent the erection of new ones. You cannot sanction a nuisance, i.e. obstruction. The law is very clear, and it is your duty to protect all public rights-of-way, not only in your own District, but those that adjoining; if you fail in this duty your Parish Councils can petition the County Council, who legally can incur any expense (the same as you may) even on a most

Doubtful case. Before a right-of-way can be stopped up, in full, in part, or diverted, You must obtain the Parish Council's consent, then give your own, and go through All the formalities prescribed by the Act.

Rights-of-way which were obstructed before the passing of the Local Government Act, as well as those that have been obstructed since, can be opened up, even Though the same may be destroyed; and the rights-of-way closed legally by order Of Quarter Sessions can be opened up again upon proper representation that the Same are now necessary.

Before ordering the removal of an old gate, it is necessary to know how the Highway Was dedicated, for an Owner can dedicate a Highway to the Public and reserve Certain rights as to the erection of gates, as to ploughing it up, or to restrictions as to Class of traffic.

Roads laid out through an Estate for the use and convenience of the inhabitants and Tenants on the Estate are not thereby dedicated to the Public, but the presumption Arising from long uninterrupted user of a way by the general Public is so strong as to Dispense with inquiry as to whom the soil was vested in as the Owner.

The length of time to acquire the right of user varies from four years upwards, and I Consider the Ordnance Map 1883-5, although each sheet carries the marginal note "The representation on this map of a Road, Track or Footpath is no evidence of a Right-of-way", yet it carries enormous conviction, for the tree classes of Highway Mentioned, if shown on the Maps as in use to-day, a period of some twelve years User is fully established. The Highways shown on the Inclosure Awards are the Strongest evidences of reputation and direction, but not necessarily their widths; but If a width is awarded the Public can claim the whole width free of all obstructions.

Tracks running along Parish Boundaries I consider are indisputable – the tracks Following the boundaries or vice versa; but the tracks worn by labourers to and from Their work, or by the Doctor, Parson, Baker, Farmer, or Surveyor may reasonably be Disputed.

I would advise that all the tracks you open up have guide posts at each end, others if Not of their awarded widths have some indication of the same, and the gates that You cannot remove have a metal plate on the top bar indicative of a Public Highway.

Your District being extensive it would be wise to work in conjunction with the Parish Councils you represent in your administration of the District, for it would mean much Work for a single individual to carry this matter to a successful issue.

The map I now have the pleasure fo submitting to you shows some 1600 miles of Paths, tracks and roads, and to each class of Highway I have given a distinctive

Colour, viz. - all Main or County Roads brown, all District Roads and Paths repaired under the District Rate yellow, all tracks in use green, and all tracks distrubed, obstructed or destroyed red. All parishes are coloured, and all bridges, drocks, stiles fences upon which public monies have been spent are shown, the extended Borough area is also shown."

Document then lists parishes surveyed with details of routes numbered on the map. Avebury, Berwick Bassett, Broad Hinton, Fyfield, East Kennett, Mildenhall, Ogbourne St Andrew, Ogbourne St George, East and West Overton and Lockeridge, Preshute, Savernake North and South, Winterbourne Bassett and Winterbourne Monkton. The Report ends:

"Having brought a somewhat lengthy Report to an end, I have to thank you for your great consideration in allowing me the time in which to prepare t, and I honestly hope that this time I have given to the work will be of some advantage to the Public.

Gentleman, I remain Your obedient Servant, Joshua W Brooke, M.S.T. District Surveyor.

*October 5 1905
Rosslyn
Marlborough"*

"Mildenhall

31. A Footpath from Sound Bottom to Mildenhall Warren is fenced across, and its Latter part towards Hill barn to the border of the Parish is disturbed.

32. The grass track on the top of Sound Hill, which leads down the same towards White Hill, is claimed as Public, but the Estate considers it Private. Mr W. E. Piper Rceently erected a gate across this track, but he has since moved the same at my advice.

33. An old footpath is claimed from Axford Shoot to Thicket Copse; the same is now Ploughed up. This path is of no Public utility.

34. The Road leading from Stitchcombe, via Puthall Park, to the London Road, has Been disturbed; this road should follow the Parish Boundary through Hill Copse and A corner of East Croft Coppice. Part now MILD16.

35. The road known as Parson's Pit Road is considered by the present Rector, and Was also by his late Father, as being a Public Bridle Track. It has two gates across it.

36. A Road, little known by the Public, commences closs to Poulton Farm, and terminates at Ray Bridge, Ogbourne St Andrew. It has five gates across it, three of which are on lands in the occupation of Mr T Lavington and two on lands belonging to Major Edwards.

37. The footpath from Poulton Bridge towards Mildenhall Church is shown on the old Maps, and the Swindon, Marlborough and Andover Deviation Plans 1878, give it as A Public Footway, yet no provision has been made to enable the Public to get up And down the dangerously steep embankment; to add to this obstruction there are Two railway fences also.

The Company should be required to find suitable stiles, steps and rails.”

12.19 Marlborough Rural District Council Minutes 1906 WSHC G8/100/2

At a meeting held on 22nd September 1906 the Report of Mr J. W. Brooke, District Surveyor, presented to the Rural District Council, 7th October 1905 was considered, parish by parish. Extracts from the printed report have been pasted into the minute book with the decision written alongside.

“Upon the motion of the Chairman it was Resolved that the Council confirm the decisions arrived at by the Council in committee upon the subject of Roads and Footpaths within the District as follows: -

Parish of Avebury.....Decisions by the Rural District Council with reference thereto Mildenhall

31. No action required

32. No action required

33. No action

34. No action required

35. No action required

36. Notices to be erected on gates showing public right

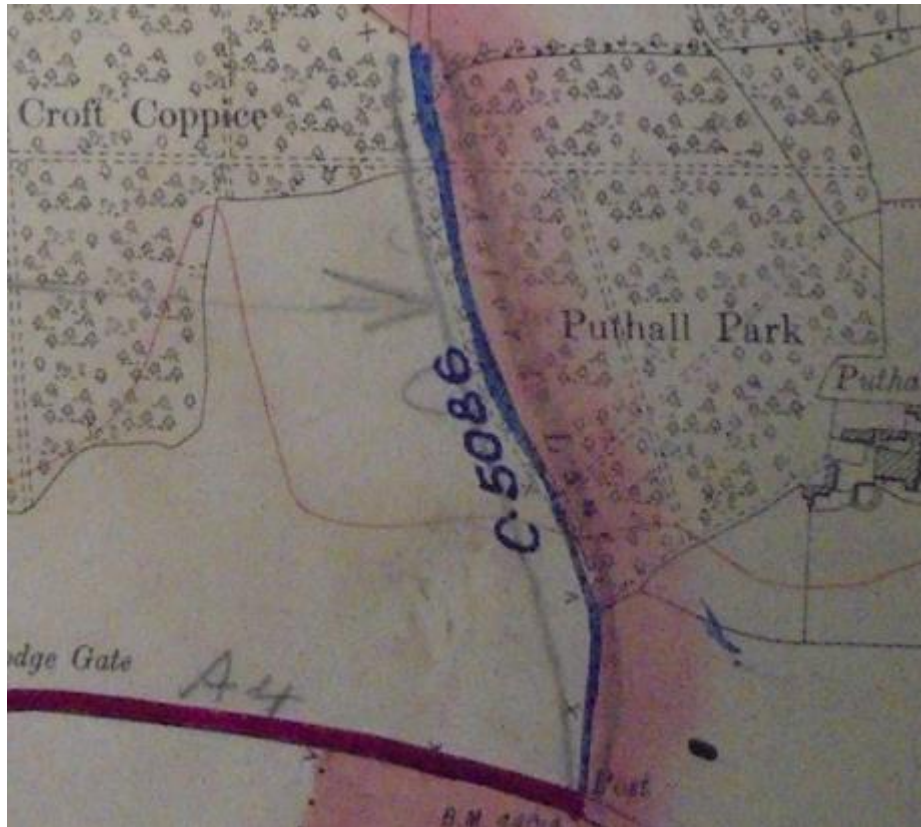
37. Referred to Parish Council to take action”

12.20 Marlborough Rural District Council Takeover Map 1929 Held by Rights of Way, County Hall, Trowbridge

The Local Government Act 1929 required the maintenance liability of rural roads to be taken over by the County Councils. In Wiltshire District Surveyors came into the offices of the County Council and copied details of the roads that they maintained and were handing over onto Ordnance Survey 1:10560 maps. These maps recorded roads in red, yellow, blue and brown inks. The maps have been subsequently copied and amended over time and form the basis for the Council's Highway Record and List of Streets.

12.21 MILD16 is shown coloured blue as an unclassified road (c.5085) ending at the parish boundary with Ramsbury. The continuation of the route is in another Rural District Council area. After a short gap, the road (c.5086) continues north to Stitchcombe and beyond as both a brown and a blue road.





**12.22 Ramsbury Rural District Council Takeover Map 1929
Held by Rights of Way, County Hall, Trowbridge**

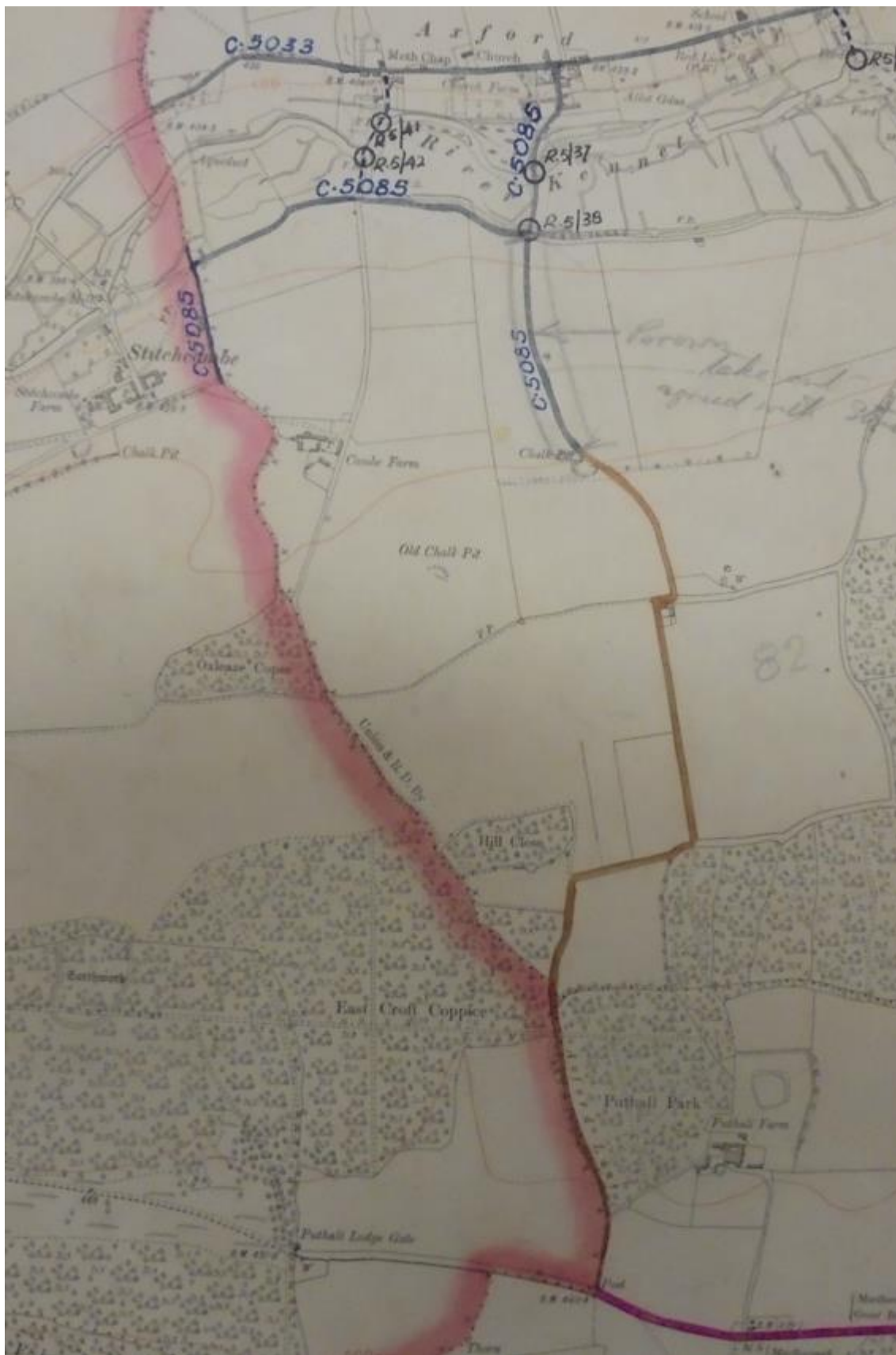
This record has the same provenance as the previous one but covers the neighbouring Rural District Council area of Ramsbury. In Ramsbury the remainder of the claimed route is shown as part blue road (C.5085) and in part coloured brown. It is noted that the Ramsbury Rural District surveyor coloured the section now recorded as MILD16 in the neighbouring RDC area as brown also.

12.23 Beside the blue section of the route (c.5085) (between points A and B on the Application plan) there is a pencilled note saying "*Brown take out*" and "*agreed with Strickland*". William Strickland was the Highway Surveyor, Sanitary Inspector and Surveyor of New Buildings at Ramsbury Rural District Council in 1915.

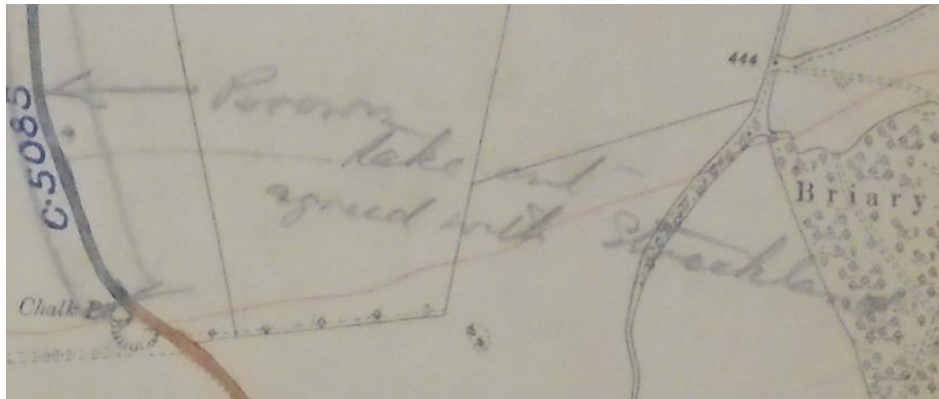
12.24 It is noted that this action was taken as subsequent records including Wiltshire Council's current Highway Record (record of highways maintainable at public expense) record the whole of the application route coloured brown.

12.25 A highway coloured brown in this record is considered by Wiltshire Council to be the lowest category of highway handed over as a result of the Local Government Act 1929 and on the balance of probability to be a public highway with no maintenance budget allocated.

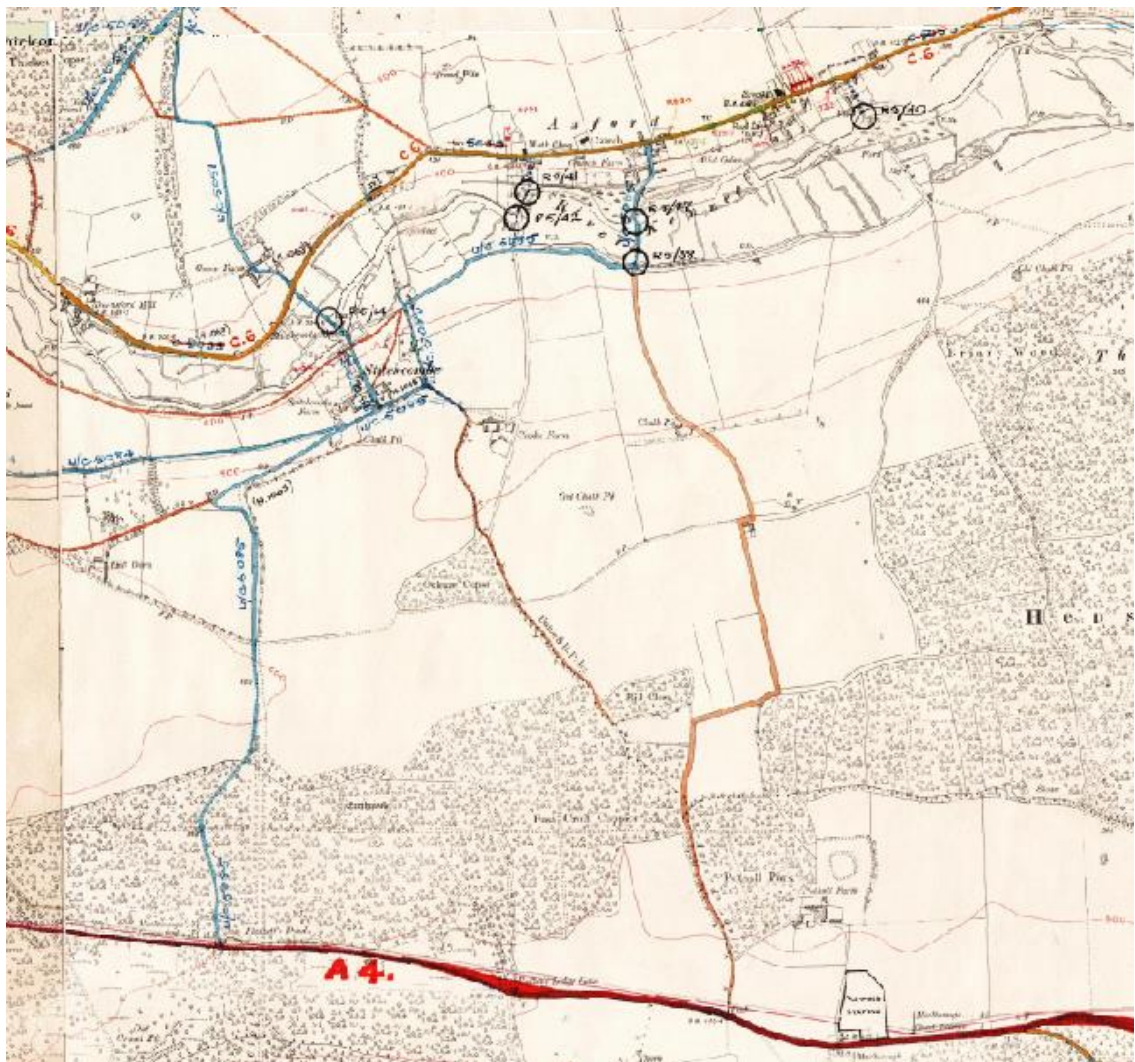
12.26 Extract from Ramsbury Rural District Council Highway Takeover Map 1929



12.27



**12.28 Wiltshire Council Highway Record – Current
Held by Rights of Way, County Hall, Trowbridge**



12.29 Ministry of Food National Farm Survey 1941 – 1942
The National Archive, Kew MAF 73/45/29

The National Farm Survey was carried out by the Ministry of Food and provides a detailed record related to farming at that time. A number of records relating to it have been preserved at The National Archive including:

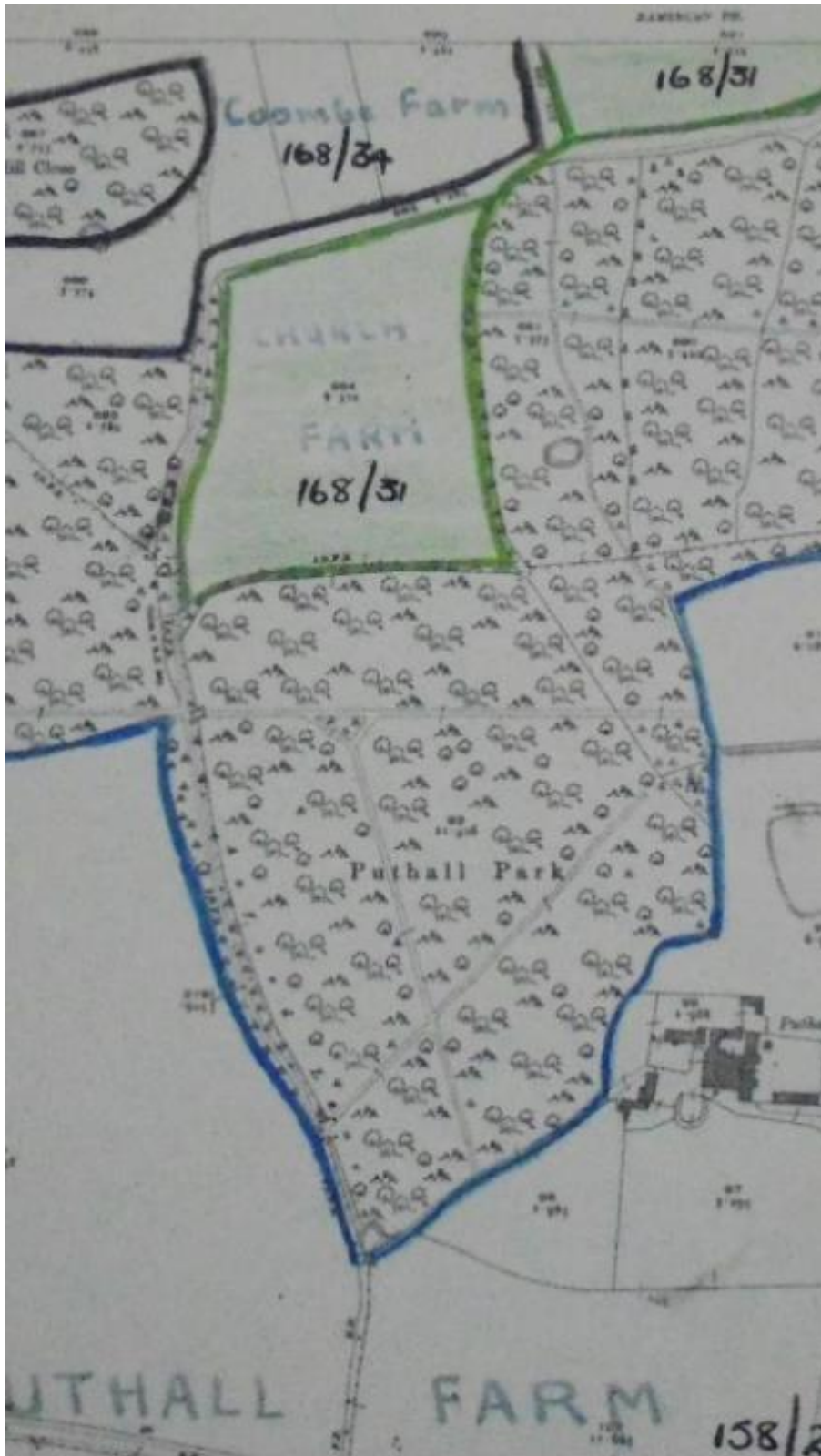
- i) A Farm Record detailing tenure and occupation and state of the farm and facilities.
- ii) A census return for 04 June 1941 detailing crop acreages, livestock numbers and information on rent and tenancy.
- iii) A map based on the Ordnance Survey 1:2500 County Series maps showing the extent of farms.

12.30 Rights of way were not depicted on the map or featured in the records and roads through farms/holdings are not excluded from the farm area even when they are clearly not a part of it (for example the A4 is shown as part of Puthall Farm). Where a farm is separated from another by a road the road is shown dividing the farms and not a part of one or the other.

12.31 In the case of the application route, parts of the route (C to E) are shown to lead between Church Farm and Coombe farm and not to be a part of them.



Sheet 29.11



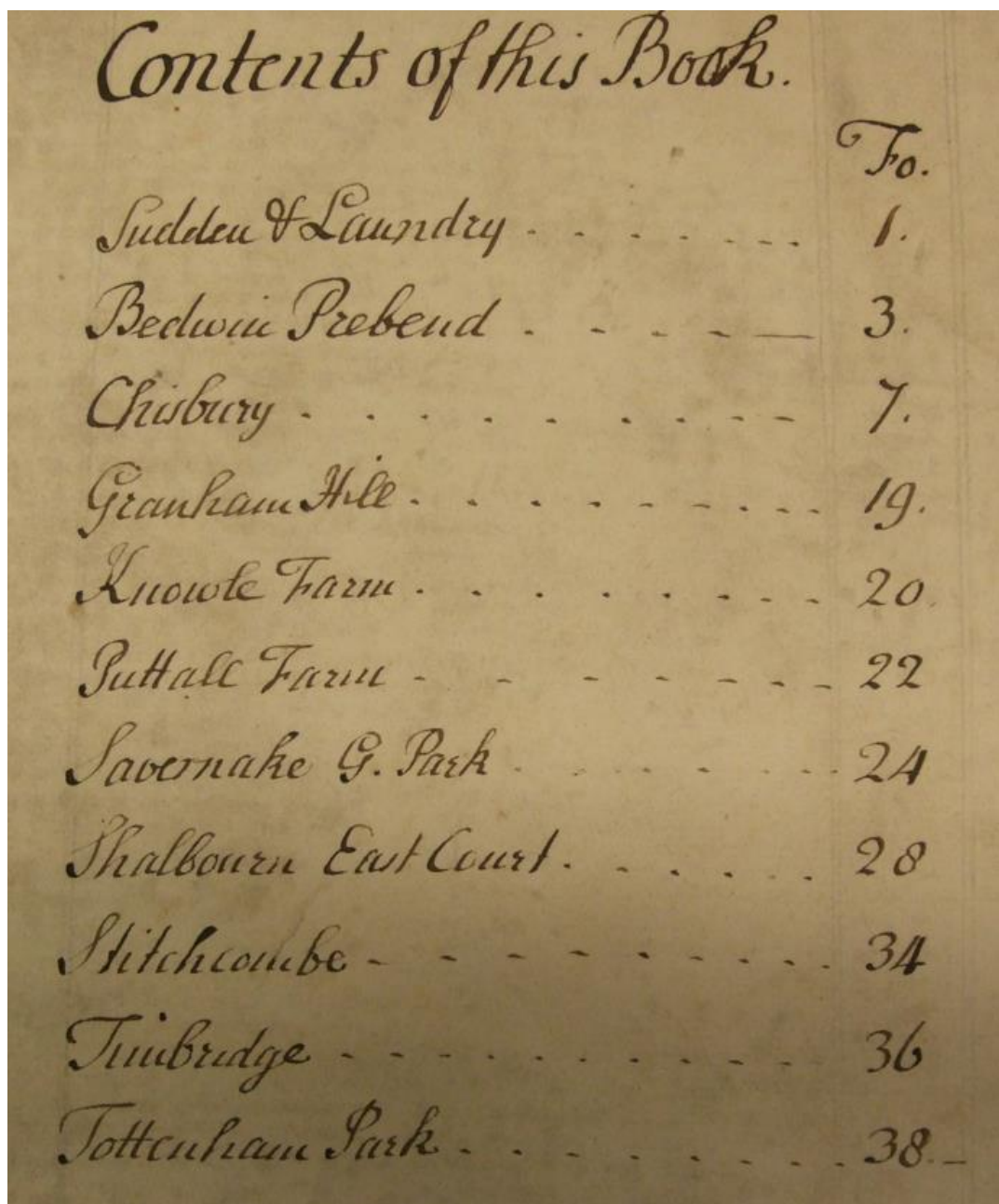
Sheet 29.15

13.0 Category D Evidence

Evidence in this category includes other maps, plans or documents which show highways additional to or as a part of their purpose but which were not produced as a result of legislation or subject to consultation. Examples are parish maps, estate plans, conveyances or sales particulars.

13.1 Survey of Putell Farm 1737 WSHC 1300-372MS

This document is an extensive survey of lands in the form of a leather bound book containing detailed coloured maps. Puttall Farm is detailed at sheet 22.



Contents of this Book.

	<i>To.</i>
<i>Sudden & Laundry</i>	<i>1.</i>
<i>Bedwin Prebend</i>	<i>3.</i>
<i>Chisbury</i>	<i>7.</i>
<i>Gransham Hill</i>	<i>19.</i>
<i>Knowle Farm</i>	<i>20.</i>
<i>Puttall Farm</i>	<i>22</i>
<i>Savernake G. Park</i>	<i>24</i>
<i>Shalbourne East Court</i>	<i>28</i>
<i>Stitchcombe</i>	<i>34</i>
<i>Timbudge</i>	<i>36</i>
<i>Tottenham Park</i>	<i>38.</i>

13.2 The Puttel Farm map is titled as “an Accurate Survey of Puttel Farm for the Rt Honorable Charles Ld Bruce by C Price 1737”. It is drawn at the scale of 11 poles to one inch.

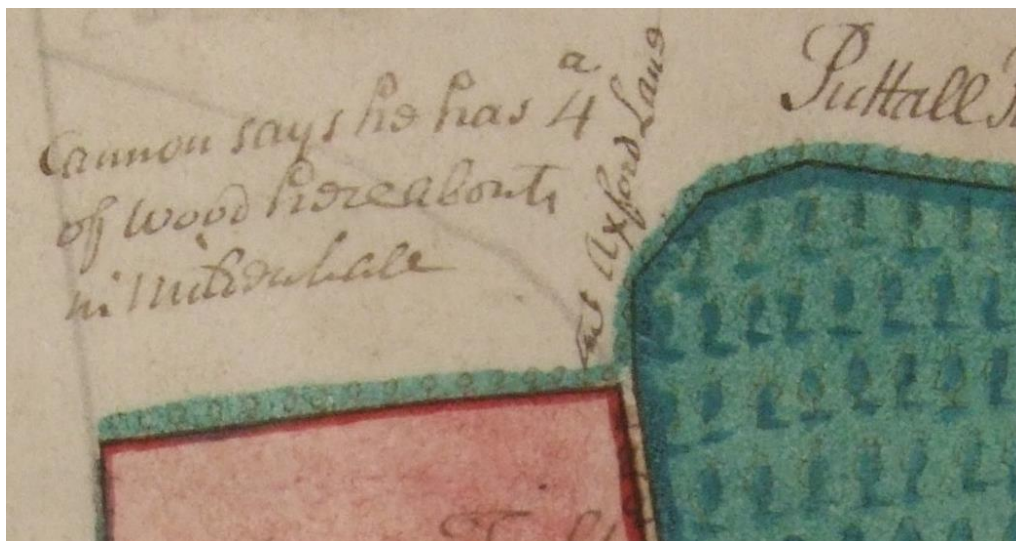


13.2 The map is annotated with detail related to land use, size of enclosures, some details of tenure. The road that is now the A4 is annotated “London Road” and shown gated at Puttall Gate. The only other road shown on the map is the section of the application route F-G (MILD16), annotated “Axford Lane” and coloured as the London Road is.

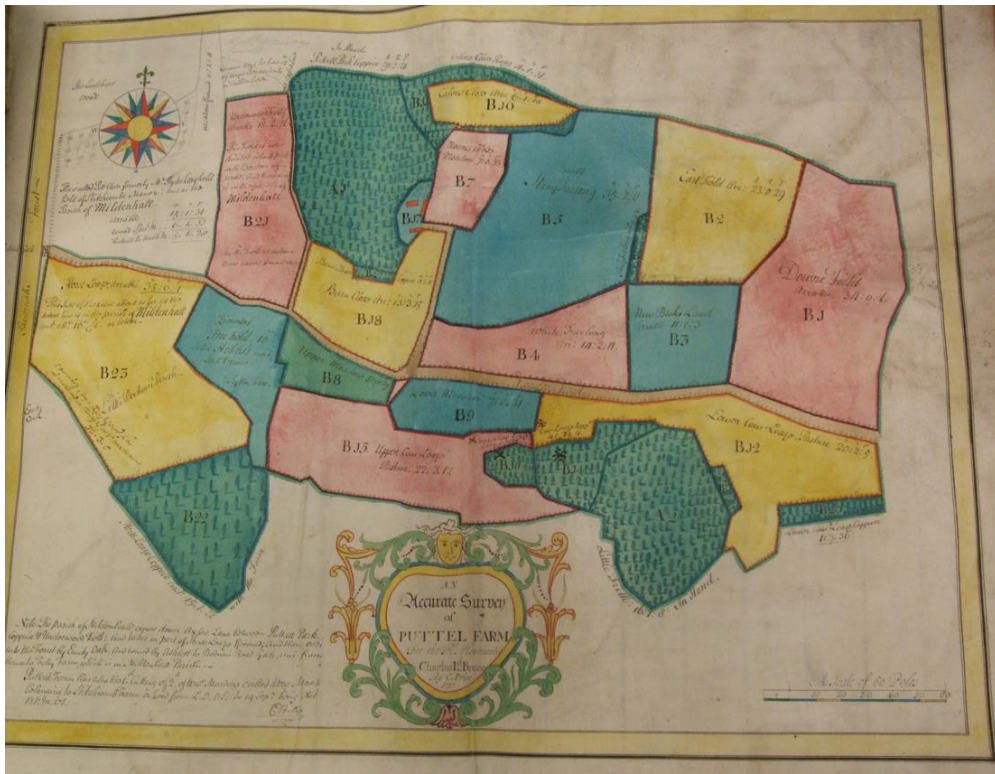
13.3 Additionally the map is inscribed as follows:

“Note. The Parish of Mildenhall comes down Axford Lane between Puttall Park Coppice and Underwood Field; And later in part of Horse Leaze Ground; and then over into the Forest by Emity Oak and round by Ashlett to Bod?? Road Gate, and from thence to Holly Farm which is in Mildenhall Parish.”

Underlining emphasis added.



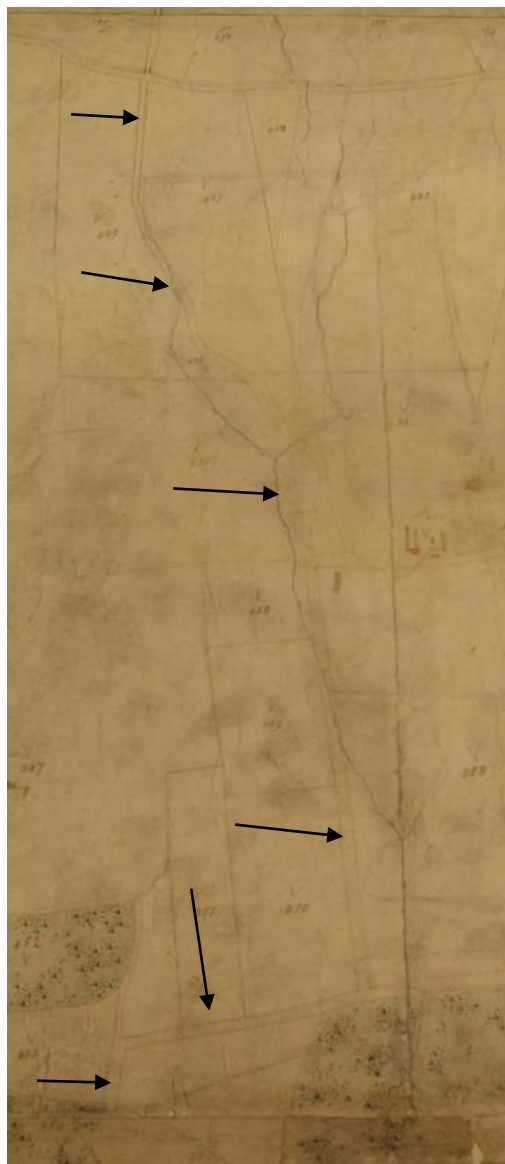
13.4 Extracts:



13.5 Vestry Map of Ramsbury 1839 WSHC 1792/38L and Book of Ref 1792/39

These documents are held with Ramsbury Parish Council records at WSHC in recognition of the role of the Vestry in parish matters before the advent of parish councils. It appears to be a valuation survey of the parish including a large scale map drawn at the scale of 3 chains to 1 inch. Roads are shown coloured sienna. There are two rolls entitled Eastern Division and Western Division.

13.6 The map is physically very large and has suffered considerable fading, however, the applicant route can be clearly seen as a road coloured sienna leading out of the parish in the south (i.e., entering Mildenhall Parish). Extending north to point A (in other words, the route A to F is shown in the same manner as other public roads (for example those labelled with destinations “to Marlborough”). The route is not numbered or included in the Book of Reference in common with other roads.



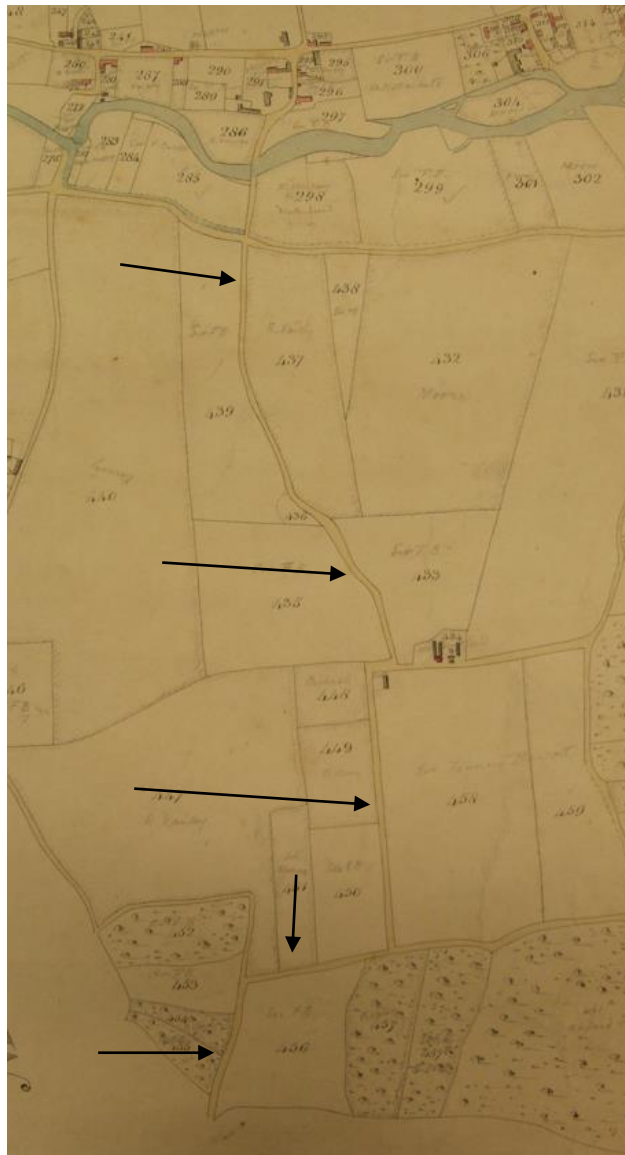
13.7 The map does not photograph well but the colour and direction are clear in the original.

13.8 Map of Ramsbury 1841 WSHC 2365L

This is a copy of the 1839 Vestry map (1792/38L) produced at a reduced scale. The whole of the application route from A to F is shown as a fenced road coloured sienna. It is unnumbered and is shown in the same manner as the local road network.

13.9 The map is a better state of preservation than the 1839 one and is inscribed “*Map of the Parish of Ramsbury in the County of Wilts made by H B Vines 1841*”. The map is further inscribed:

“Note The red line extending from south to north through this map from A to B represents the Boundary between the Eastern and Western Division of the Parish as contained in the two maps lately made for the use of the Parish of Ramsbury. The reference numbers on this map are the same as those on the larger maps from which this map has been copied on a reduced scale.”



14.0 Category E Evidence

Evidence in this category includes commercial maps and Ordnance Survey maps, plans and documents. It is usual for there to be a significant quantity of evidence in this category and it is important to bear in mind the originality and purpose of the documents. The value of this group of evidence lies in the continuity of records over a long period of time and any differing origin. It must be borne in mind that this group of documents would have had the largest public circulation outside of the parish.

- 14.1 Not all commercial maps are derived from the same surveys and although there is some duplication of Ordnance Survey derived material, a number of surveyors of early maps produced independent surveys. Hence it is useful to compare the early county maps produced by Andrews and Dury John Cary and C & I Greenwood and also those of the Ordnance Survey as all were independent surveyors.
- 14.2 It must also be considered that even when surveys produced by the Ordnance Survey were used by other map makers there was considerable scope for revision and updating specific to the individual purpose. For example, maps produced by Bartholomew were continually revised and early versions were verified by the Cyclists Touring Club and Popular Series maps produced by the Ordnance Survey were revised with reference to highway surveyors. The applicant has adduced a list of a considerable number of these maps and only some of them have been viewed, however, a full list of those adduced follows:

WSHC – Wiltshire and Swindon History Centre TNA – The National Archive, Kew

Year	Document	Source	Depiction of claimed route
1773	Andrews and Dury's half inch to one mile Index Map of Wiltshire	WSHC 1300/48/A-S	As minor road
1773	Andrews and Dury's 2" to one mile Map of Wiltshire	WSHC 13000/48/A-S	As minor road
1792	Robertson's 1" Survey of the Bath Road Map No. 8	WSHC AAA/912	As minor road
1793	Rennie's Survey for the Kennet and Avon Canal	ESHG 1644/34	As minor road
1801	Cary's Map of Wiltshire	WSHC Printed maps 3.2	A to F as minor road and also F to G as minor road. No connection shown.
1801	Smith's Map of Wiltshire	WSHC Printed maps 2.2	As a "Cross-road"

Year	Document	Source	Depiction of claimed route
1810	Andrews and Dury's Half inch index Map of Wiltshire Revised and Corrected	WSHC A1/524/2MS	"Cross Road"
1810	Andrews and Dury's 2" Map of Wiltshire Revised and Corrected Sheet 9	WSHCA1/524/2MS	"Cross Road"
1816	Mogg's 1" Survey of the High Roads of England and Wales Plate 182	WSHC	Section G – F as a minor road
1817	Ordnance Survey 1" Old Series Sheet 14	WSHC Printed maps 3.7	A-B, B-C, C-D, D-E, E-F as "fenced minor roads". The map has no key but see "The Old Series Ordnance Survey Maps of England and Wales, Volume III, South-central England, published by Harry Margary, Lympne Castle, Kent, 1981" Fig 6 pp xviii – xix, illustrates "Topographical conventions, not to true size, used in engraving the maps of south-central England".
1820	C & I Greenwood's Map of Wiltshire	WSHC 2667/21/16	A to south of F as "Cross Road". F to Bath Road (A4) as "Cross Road" but slightly offset from claimed route
1828	Ordnance Survey 1" Old Series Sheet 34	WSHC printed maps 3.8	A-B (section not shown on Sheet 14) as "Fenced Minor Road" – no key but reference Margery book as above.
1829	C & I Greenwood's Map of Wiltshire Reduced and Corrected	WSHC printed maps 3.8	A to F as "Cross Road". F to G may be obscured by parish boundary.
1832	Cary's half inch Map of England and Wales Sheet 18	WSHC Printed maps 3.4	A to F "Carriage Roads or Parochial roads". G to Bath Road (A4 offset – as Greenwood above).
1836	Walker's Map of Wiltshire	WSHC Printed maps 1.22	As minor road
1862	Weller's Map of Wiltshire	WSHC Printed maps 1.29	A to F as "Road", south of F "Road" is shown turning into Puttall's Farm and on to join Bath Road (A4)

Year	Document	Source	Depiction of claimed route
1874	Ordnance Survey Boundary Remark Book 5501A Little Bedwyn	TNA OS 26/11336	G to F shown as wide unnamed track (in position of Axford Lane)
1874	Ordnance Survey Boundary Remark Book 5638 Ramsbury	TNA OS 26/11126	G to F shown as wide unnamed track (in position of Axford Lane)
1876	Bacon's Map of Wiltshire c.1876	WSHC Printed maps 2.10	A to F as "Road", south of F "Road" is shown turning into Puttall's Farm and on to join Bath Road (A4)
1876	Ordnance Survey Boundary Sketch map Froxfield and Little Bedwyn	TNA OS27/5731	Shows track leading from G (A4) north to F. The track is Axford Lane.
1876	Ordnance Survey Boundary Sketch map covering Mildenhall	TNA OS 27/5756	Shows track from G north to F continuing as per claimed route away from boundary
1876	Ordnance Survey Boundary Sketch map covering Ramsbury	TNA OS 27/5767	Shows track from G north to F as claimed route
1885	Ordnance Survey 25" 1 st Edition Sheet 29/11	WSHC	A to B shown coloured with sienna carriageway. Fenced except at pit. Not shown as FP or BR. Width c.26 feet. Separately numbered and measured. B – C uncoloured partially fenced. Not FP or BR width c.40 feet. Numbered and measured separately (but with Holly Lane and Cross Lane). C-D is shown uncoloured and fenced. Not FP or BR. Width c.40 feet. Numbered and measured separately (with Holly Lane and North Lane)
1885	Ordnance Survey 25" 1 st Edition Sheet 29/15	WSHC	C-D-E-F-G (F-G named "Axford Lane") uncoloured, fenced, not FP or BR, no gates, widths vary 26 to 50 feet. All separately numbered and measured.
1889	OS 1" New Series Sheet 267 Hungerford (coloured)	WSHC Printed maps 4.40	Southern section A-B, B-C, nearly all D-E and southern F – G all shown as "Minor Roads"

Year	Document	Source	Depiction of claimed route
1890	Philips' Cyclists Map of Wiltshire	WSHC Printed maps 2.14	A to F shown as Weller's map of 1862 but described as "Cross Road"
1892 (survey 1878-86)	OS 1" New Series Sheet 266 Marlborough (Coloured)	WSHC Printed maps 4.38	A-B (part), west end D – E, E – F and north F-G all depicted as "Minor Roads"
1899 – 1922	Ordnance Survey Object Name Book – Wiltshire Sheet XXIX SE	TNA OS 35/7496	F – G "Axford Lane" verified by Col. Merriman Agent to the Most Hon Marquis of Ailesbury (occupier) as "unmetalled road...". Nearby Sawpit Drive described as "private road".
1900	Ordnance Survey 25" 2 nd Edition Sheet 29/11	WSHC	A – B – C – D all shown sep. numbered and measured (but included with Holly, Cross and North Lanes). None marked FP or BR Widths variable 26 – 40 feet.
1900	Ordnance Survey 25" 2 nd Edition Sheet 29/15	WSHC	C-D – E – F -G all shown separately numbered and measured, not FP or BR. Width 26 to 50 feet variable. F- G named "Axford Lane"
1900	Ordnance Survey 6" 2 nd Edition Sheet 29 SE and OS 6 inch Conventional Signs (1) and (2)	WSHC	All sections of application route shown as "Fenced Minor Roads". Nearly all fenced on both sides.
1903	Ordnance Survey 1" New Series 3 rd Edition Sheet 267 (Hungerford) surveyed 1872 – 1883, revised 1901 – 02	Not given	Southern part A – B, B- C, C – D, D – E (almost all) and southern part F – G shown as "Third Class Metalled Roads" or "Unmetalled Roads" – difficult in interpreting line thickness.
1904	Ordnance Survey 1" New Series 3 rd Edition Sheet 266 (Marlborough) Surveyed 1878 – 1883 Revised 1902	Not given	A – B (north), D – E (west), E – F and F – G (north) all "Third Class Metalled Roads" or "Unmetalled Roads" – difficulty in interpreting line thickness.

Year	Document	Source	Depiction of claimed route
1908	Ordnance Survey 1" 3 rd Edition Sheet 113 revised 1901-02 published 1908 railways to 1912	WSHC printed maps 4.18	Section A to B shown as 1 st or 2 nd class Fenced Metalled Road. B to G fenced 3 rd class metalled or unmetalled road.
1924	Ordnance Survey 25" 3 rd Edition Sheet 29/11 revised 1922	WSHC	All sections A-B-C-part way to D shown separately numbered and measured (though included as parts of other routes in some instances). Not marked FP or BR. Widths varying between approx..26 feet and 40 feet
1924	Ordnance Survey 25" 3 rd edition Sheet 29/15 revised 1922	WSHC	Sections from between C and D E-F-G shown separately numbered and measured. Not shown FP or BR. Width varies between c 26 feet and 50 feet. Section F – G labelled "Axford Lane".
1925	Ordnance Survey 6" 3 rd Edition Sheet 29SE 1925 and OS 6 inch Conventional Signs (1) and (2)	WSHC	All sections of the route are depicted as "Fenced or Unfenced Minor Roads".
1938	Ordnance Survey 1" 5 th Edition Sheet 112 Marlborough	WSHC Printed maps 4.17	A to beyond F shown as unmetalled road. From there to A4 unclear owing to parish boundary markings.
1940	Ordnance Survey 1" Popular Edition Series Sheet 112 War Revision	WSHC Printed maps 4.18	A to B (i.e. Stone Lane Way) shown as "Bad Road". B to G composed of "Minor Roads"
1947	Ordnance Survey Conventional signs 1947 and 2.5 " map edition 1 Sheet SU26 1949	WSHC	All of application route shown as "Other Roads (not classified by the Ministry of Transport)"
1961	Ordnance Survey 2.5" Sheet SU26 Revised 1961	WSHC	All of application route shown as "Other Roads (not classified by the Ministry of Transport)"

14.3 Andrews' and Dury's Map of Wiltshire 1773

This map was produced at the scale of 2 inches to one mile over 18 sheets. It also has an Index map produced at the scale of half an inch to one mile. The claimed route is shown on both the smaller scale Index Map and on the larger scale Sheet 12.

14.4 Andrews' and Dury's county map of Wiltshire does not have a key but their map of the county of Hertfordshire does and significant similarities exist that suggest that on the balance of probabilities, that key could apply to the Wiltshire county map as well. This map is the earliest commercial map viewed for this area and was derived from an original survey.

14.5 The entire route is shown as a minor road on the Index Map:



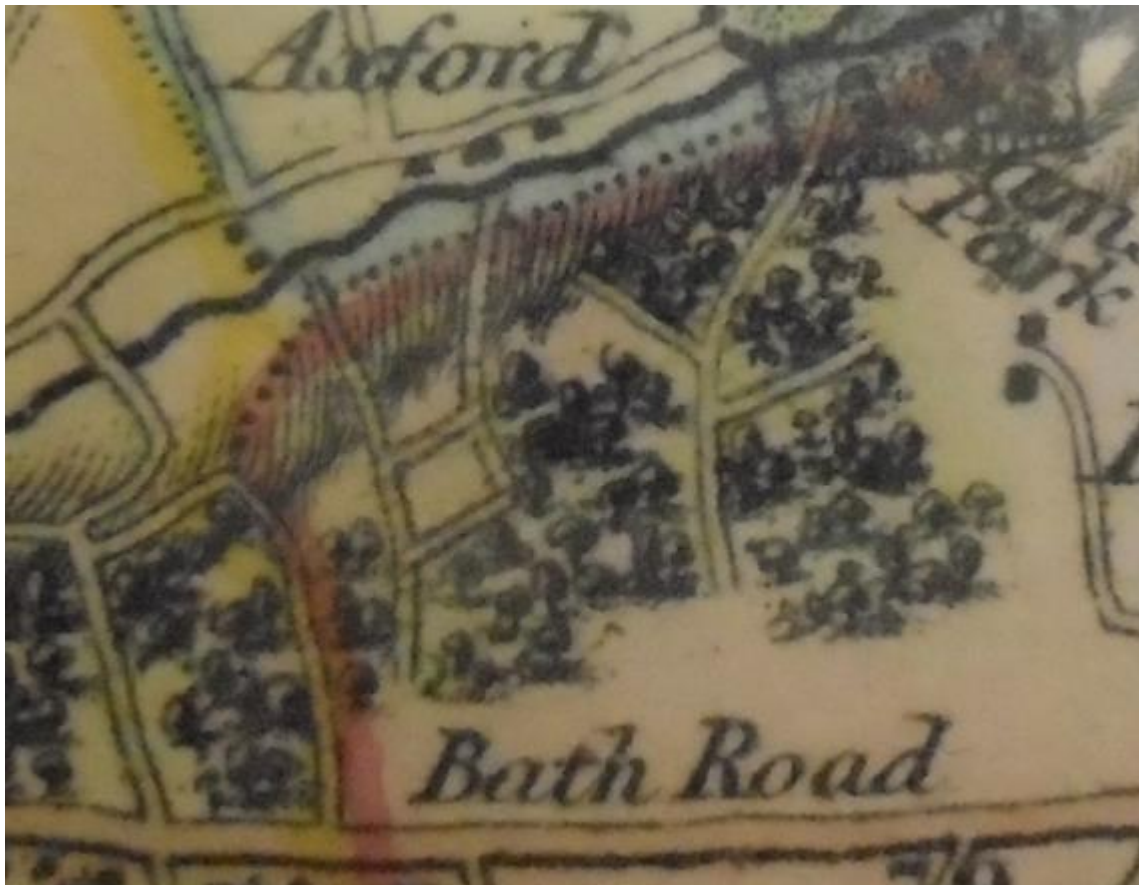
14.6 The entire route is shown on Sheet 12 of the map itself:



14.7 Cary's Map of Wiltshire 1801

The Wiltshire record Society in their book entitled "The Printed Maps of Wiltshire" describe John Cary as "one of the most important of the pre-Ordnance Survey English cartographers". This map is entitled "A New map of Wiltshire Divided into Hundreds exhibiting Its Roads, Rivers, Parks &c by John Cary Engraver 1801" and is printed at the scale of 8 miles to one inch.

- 14.8 The claimed route is unclear on the map below but from the position of the routes leading north of Axford (West Lane and East Lane), the suggestion is that the claimed route leads south from the most westerly one. That being the case, its junction with the A4 to the south is not mapped. The applicant contends that the claimed route is shown in part, with the A4 junction west of the title "Bath Road" on the excerpt below. Insufficient clarity is given here to place reliance on this map in this instance.



14.9 Ordnance Survey – Surveyor's Drawing 166 - Ramsbury – British Library c.1908

In preparation for the production of the first countrywide 1 inch to 1 mile maps (now known as 'the old series') the Ordnance Survey surveyed the country at the scale of 2 inches to 1 mile. The drawing clearly shows the claimed route as a prominent route linking Axford with the A4 road to the south.



14.10 Ordnance Survey 1 inch to 1 mile map ('Old Series') 1817 and 1828

The Ordnance Survey produced the first maps of the long running 1" to the mile maps around 1820 (1817 for Sheet 14 and 1828 for Sheet 34). The maps did not have a key but depicted the landscape in detail including minor and major roads, routes and tracks. The scale of the map dictated that these routes were significant landscape features and likely to have been vehicular, the map however not differentiating between public and private rights.

14.11 Sheet 14 depicts the claimed route leading from a point north of B south to the A4 likely as a fenced minor road. Sheet 34 (dated 1828) shows the northern section of the claimed route from a point north of B to A as a fenced minor road. The route would join the southern section shown on Sheet 14 making a continuous route between Axford and the A4.



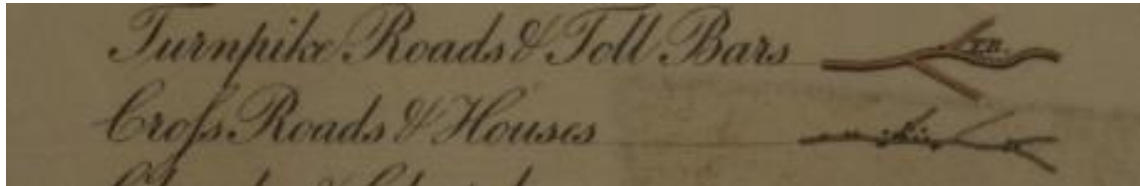
Sheet 14 1817



Sheet 34 1828

14.12 C and I Greenwood's Map of Wiltshire 1820 and 1829 WSHC Ref. no 3.3

This county map, again from an independent survey was produced at the scale of one inch to the mile in 1820 and then produced in 1829 as a revised and reduced version. The map has a scale and shows, amongst other things, Turnpike Roads and Cross Roads, Rivers and Brooks. The map does not show footpaths and bridleways.



14.13 The entire claimed route is shown as a "Cross Road".



14.14 The term 'cross road' is a historic term used to describe routes that were not primary or turnpike roads. Susan Taylor in her book entitled "What is a Cross Road?" ISBN 0 9530573 0 5 records:

"The earliest mention of a 'cross road' so far discovered is found in John Ogilby's famous road book Britannia, published in 1675. Ogilby chose this term to distinguish

secondary roads, which ran across country from one provincial settlement to another, from primary roads (which he called 'direct roads') which began in London and led to a provincial town or city..."

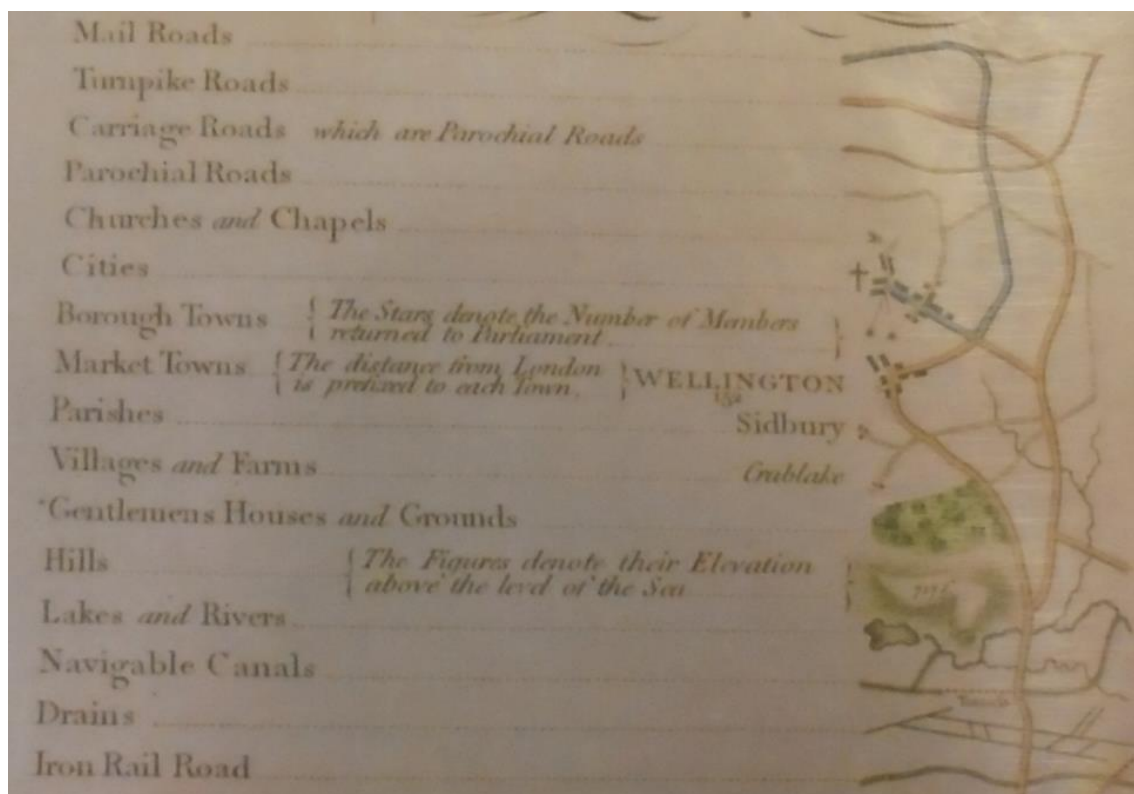
14.15 The Planning Inspectorate's Consistency Guidelines records at section 12:

"Hollins v Oldham 1995 C94/0206, unreported. Judicial view on cross roads: 'Burdett's map of 1777 identifies two types of roads on its key: firstly turnpike roads, that is to say roads which could only be used on payment of a toll and, secondly, other types of roads which are called cross roads... This latter category, it seems to me, must mean a public road in respect of which no toll was payable."

14.16 Greenwoods Map of Wiltshire has an extensive key featuring 19 items. Like Burdett's map described in the case of Hollins v Oldham, there are 2 categories of road: "Turnpike Roads" and "Cross Roads".

14.17 John Cary's Half Inch Map Sheet 18 1832 (WSHC Ref. no 3.4)

Cary's half inch map has a key which differentiates Mail Roads, Turnpike Roads, Carriage Roads which are Parochial Roads and Parochial Roads. It is certainly not an unreasonable suggestion to say that this was a commercial map aimed at the travelling public. The claimed route is shown as a Parochial Road linking Axford with the A4.





14.18 It is noted that the southern end of the route is portrayed as being west of the parish boundary rather than along it. It is considered that this is more likely to be the result of an error associated with the scale of the map or perhaps an issue arising from copying than it is to be a representation of an actual movement of this part of the route as other evidence is strong that it follows the parish boundary here.

14.19 Ordnance Survey Mapping – The County Series 1:2500 1878 - 1924

The 1:2500 scale was introduced in 1853-4 and by 1896 it covered the whole of what were considered the cultivated parts of Britain. Sheets 29.11 and 29.15 cover the claimed route. J B Harley, historian of the Ordnance Survey, records that “the maps delineate the landscape with great detail and accuracy. In fact, practically all the significant man made features to be found on the ground are depicted. Many phenomena make their debut on the printed map and as a topographical record the series transcends all previous maps. Every road...., field...., stream and building are shown; non-agricultural land is distinguished...quarries, sand, gravel and clay pits are depicted separately; all administrative boundaries...are shown;...hundreds of minor place names...appear on the map for the first time. Where appropriate, all topographical features are shown to scale. The series is thus a standard topographical authority”.

14.20 Richard Oliver in his book “Ordnance Survey Maps a complete guide for historians” recognises that surveying errors (and paper distortion during printing) cannot be ruled out, particularly where detail is sparse, but in practice such errors are likely to

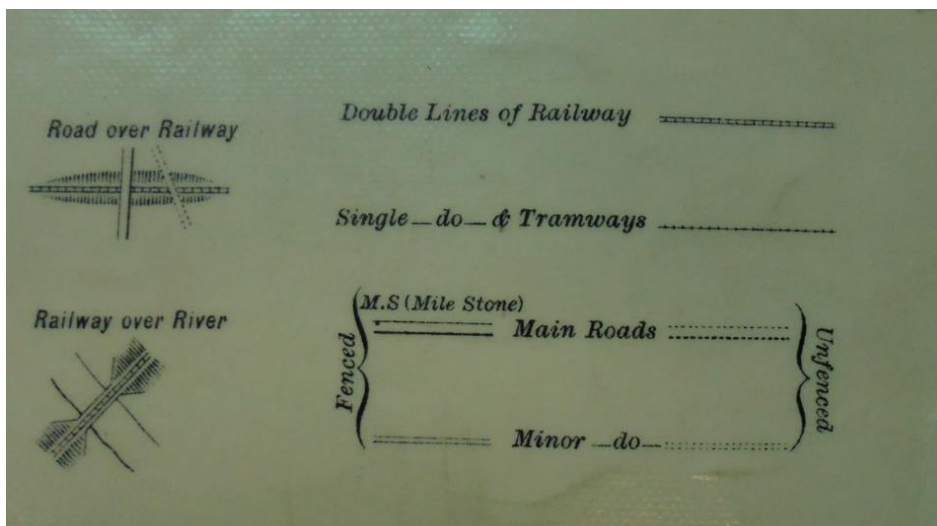
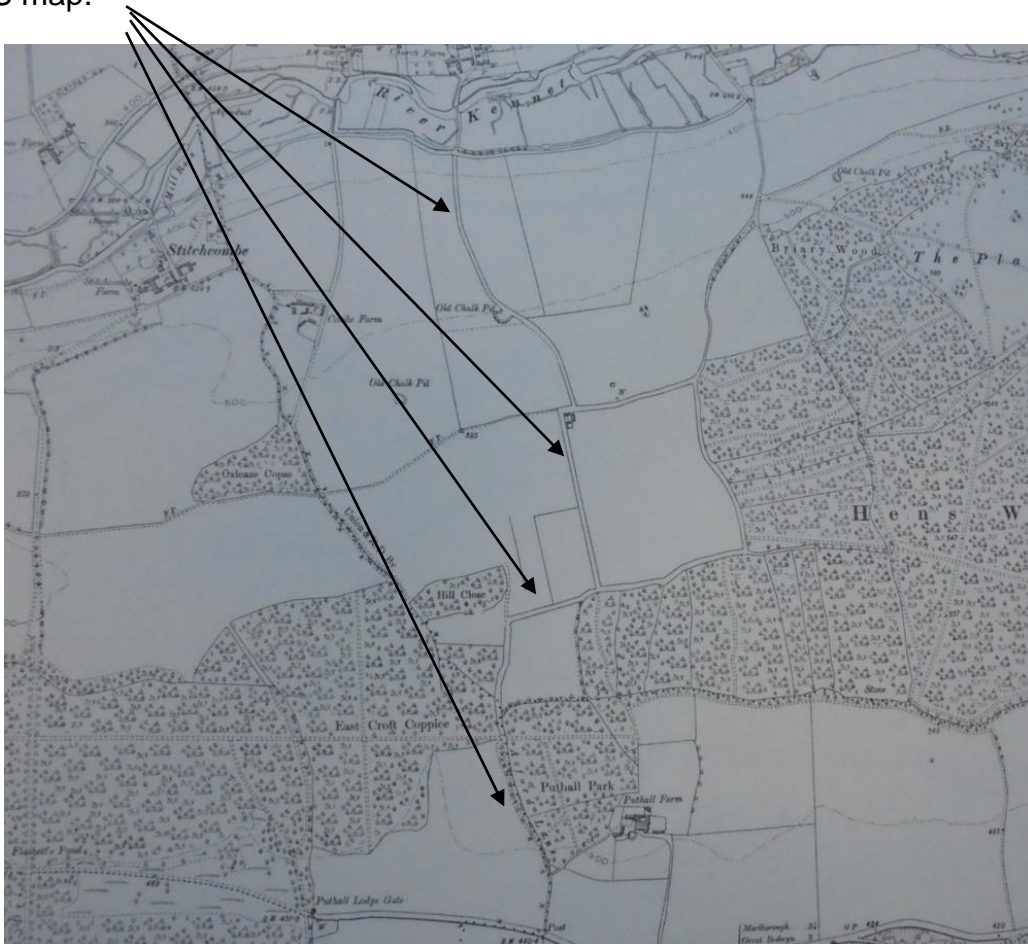
be very hard to demonstrate, because of a general paucity of suitable sources rivalling or bettering the OS in planimetric accuracy and completeness of depiction.”

- 14.21 Ordnance Survey maps from 1888, although presenting an accurate representation of the landscape and its features do carry a disclaimer to the effect that the representation of any road or track is no evidence of a public right of way.
- 14.22 It was the practice of the OS to allocate parcel numbers to distinct pieces of land and measure them. These are numbered and recorded on the map as acreages. Where applicable parcels were ‘braced’ with adjoining parcels – for example a pond in a field may be braced with the adjoining land or a track across a field may be braced in with the surrounding land and measured with that. However, some features “*are always separately numbered and measured irrespective of their size. They include railways in rural areas (in built up areas they may form part of ‘Town area’), all public roads, whether fenced or unfenced and foreshore and tidal water...*” (From Ordnance Survey Maps a descriptive manual by J B Harley published by the Ordnance Survey 1975). For the earlier (to 1879) First Edition maps the OS produced a Book of Reference (or Acreage Book) in which parcel numbers were listed against acreages and land use. The book was not produced for the Second Edition maps (1900/1901) and for these (and subsequent editions) the parcel number and acreage was printed on the sheet. Land use information was dropped. Unfortunately the First Edition maps in this area do not have land use information available for them at the Wiltshire and Swindon History Centre.
- 14.23 Officers have viewed three editions of the 1:2500 County Series maps of sheets 29/11 and 29/15. The editions are dated 1885, 1900 and 1924 and depict a consistent route on the claimed route, separately numbered and measured in the manner of a public road. The First Edition (1885) (sheet 29/11) shows the route coloured sienna between points A and B on the application map depicting, in all likelihood, a road metalled or in in good order.



14.24 Ordnance Survey 1:10560 maps (WSHC)

Also known as the “6 inch maps” these were a series of maps derived from a reduction of the 1:2500 (“25 inch maps”). Unlike the 25 “ inch maps they have a key detailing the features depicted. Accordingly it is clear that the depiction of the application route is as a “fenced minor road”. The route is clearly continuous and corresponds with the route coloured brown in Wiltshire County Council’s Highway Record dating from 1929. Below is an extract from the 1900 Edition of the 1:10560 OS map.



- 14.25 **Ordnance Survey Boundary Remarks Books and Boundary Sketches**
OS Boundary Remark Book 5501A Little Bedwyn 1874 OS 26/11336 TNA
OS Boundary Remark Book 5638 Ramsbury 1874 OS 26/11126 TNA
OS Boundary Sketch Map Ramsbury 1876 OS 27/5767 TNA
OS Boundary Sketch Map Mildenhall 1876 OS 27/5756 TNA
OS Boundary Sketch Map Little Bedwyn and Froxfield 1876 OS 27/5731

The Ordnance Survey Act 1841 gave the Ordnance Survey the duty of ascertaining and recording all public boundaries. Meresmen (surveyors) from the OS kept detailed records of these including maps and sketches arising from surveys detailing features of the immediate area to the boundary and accordingly they can provide useful information for the position of roads and tracks.

- 14.26 The surveyor was empowered to summon the Clerk of the Peace who would have been committing an offence for obstruction of hinderance if he had not surrendered documents to the surveyor. Boudnary sketch maps were advertised for public inspection and were passed from the Ordnance Survey to TNA.
- 14.27 The provenance of these documents is undoubteldy high but it was not the purpose of the documents to identify public rights, merely tor ecord accurately where features were. In this respect the records are useful in identifying a significnat track or road at places where the claimed route is coincident with the parish boundaries.
- 14.28 **Ordnance Survey Object Names Books XXIXSE page 11 1899 OS 35/7496 TNA**

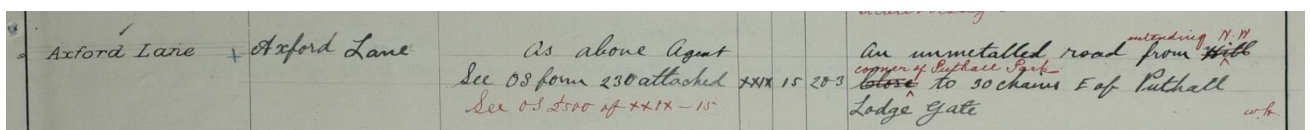
In order to achieve accuracy on its maps the OS sought authority for the spelling of named features on its maps. On the page detailing Axford Lane (the section shown as Axford Lane by the Ordnance Survey being section F to G on the claimed route) it is discribed as:

“An unmetalled road extending from NW corner of Puthall Park to 30 chains east of Puthall Lodge Gate”.

Above it, Sawpit Lane is recorded as:

“Applies to a private road extending from Amity Oak through the Eight Walks”.

Both Sawpit Lane and Axford Lane were given authority for the spelling by Colonel E B Merriman, Savernake Estate Office. He was the agent to the Rt Hon. Marquis of Ailesbury.



Names collected & entered by J. Bignall in March 1897

March 1897

Names &c. as altered & initialled in red by W. Haynes Serjt. R.E. in April 1897

Wiltshire Little Bedwyn, The South-Lavernake Park Sheet XXIX SE

List of Names as written on the Plan	Various modes of Spelling the same Names	Authority for those modes of Spelling	Situation			Descriptive Remarks, or other General Observations which may be considered of Interest
			Sheet	Plan	Trace	
Littleworth	Littleworth	Col. E. B. Derriman (agent) Lavernake Estate Office See OS form 250 attached <i>See OS form of XXIX-15</i>	XXIX	15	6	Applies to two cottages situated ½ mile south of Puthall Farm the property of The Marquis of Salisbury Lottenham House Lavernake Lavernake or ^{possibly} burnt down; probably will be rebuilt
Scarpit Drive	Scarpit Drive <i>Scarpit Drive</i> <i>W.F.</i>	As above (Agent) See OS form 280 attached <i>See OS form of XXIX-15</i>	XXIX	15	47.5	Applies to a private grass road extending from Emily Oak through the Eight Walks to main road to Leilbury near the 3 mile stone from Mareton
Axford Lane	Axford Lane	As above Agent See OS form 230 attached <i>See OS form of XXIX-15</i>	XXIX	15	28.3	An unmetalled road from ^{intercepting N. H.} Hill to ^{corner of Puthall Park} Lodge Gate to 30 chains E of Puthall Lodge Gate
Roman Road (Track of)	Roman Road (Track of)	J. W. Brooke Esq Local Soc. Sec. Mts. Arch. Society The Green, Mareton See fm 230 attached <i>See OS form of XXIX-15</i>	XXIX	15	44	A portion of the Roman road from Cyneth's to Andover, Winchester &c extending through Lavernake Forest from the parish boundary to Lavernake House &c

14.29 The Planning Inspectorate's Consistency Guidelines refer to the value of evidence relating to named highways at section 2.4.8 to 2.4.10. The guidance recognises that there is some force in the assumption that a named highway is a public highway, however it recognises that 'supporting evidence would be required). The naming of Axford Lane has synergy with other evidence ("Axford Lane" in the 1737 Survey of Putell Farm for instance) and may have greater weight as a result.

14.30 Plan of the proposed Navigable Canal surveyed 1793 printed after 1810 1644/34 WSHC

This plan does not form a part of the deposited plans for the Kennet and Avon Canal (WSHC A1/372/1) but was clearly created as a part of the scheme in some way. In 1793 the civil engineer John Rennie was appointed as Chief Surveyor and Engineer for the Kennet and Avon canal which leads over lands in parishes south of Ramsbury. It is considered that his original survey of the route occurred in 1793 and it is reasonable to assume that this plan is derived from the original survey. This documents is entitled:

"PLAN of the proposed NAVIGABLE CANAL between the RIVER KENNETT at NEWBURY in the COUNTY of BERKS; and the RIVER AVON at BATH, in the County of SOMERSET: whereby a navigable Communication will be opened between the CITIES of LONDON and BRISTOL. Likewise of part of the WILTS & BERKS CANAL, from SEMINGTON to the towns of CALNE & CHIPPENHAM; to

which is added a PLAN of the proposed SOMERSETSHIRE COAL CANAL. Surveyed 1793, by John Rennie Civil Engineer: COMPLETED IN 1810.

Engraved by W. Faden, Geogr. To His Majesty & to His R.H. the Prince of Wales."

14.31 The map does not have a key but shows the route of the canal in red with the local network of roads or tracks shown by solid or broken lines. The claimed route is shown in its entirety linking Axford with the A4. The purpose of the plan appears to be to demonstrate the position of the canal in relation to villages and settlements nearby.



15.0 Category F Evidence – Evidence of Repute or Physical Evidence

No relevant consultation responses were received that adduced any additional evidence. The route exists very clearly on the ground with an abundance of physical features indicating a wide route, well defined. The southern end of the route leading past Puttalls Farm to the A4 has the character of a sunken road between banks and hedges.

15.1 The applicant adduces the following additional evidence:

“The Village in the Valley: A History of Ramsbury” by Barbara Croucher: Research note WSHC Ref. 3397/15

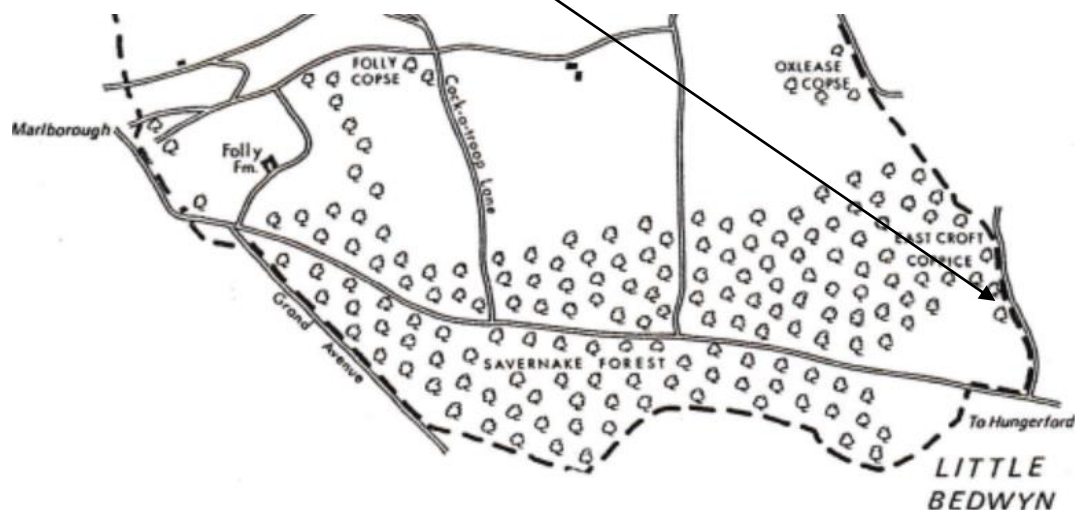
Victoria County History of Wiltshire Vol. 12 1983 Map of Mildenhall c.1842

Victoria County History of Wiltshire: vol 12 1983 page 51 (*reference to the area affected by inclosure*)

“The Village in the Valley: A History of Ramsbury” by Barbara Croucher published 1986

15.2 Victoria County History Vol.12 1983 Map of Mildenhall c.1842

The map was produced by the Victoria County History authors to illustrate how the area appeared around 1842, it is not an original document. However, it is clear that the research of the team identified a route leading north from the A4 along the Mildenhall – Little Bedwyn parish boundary veering away from East Croft Coppice in similar manner to the claimed route.

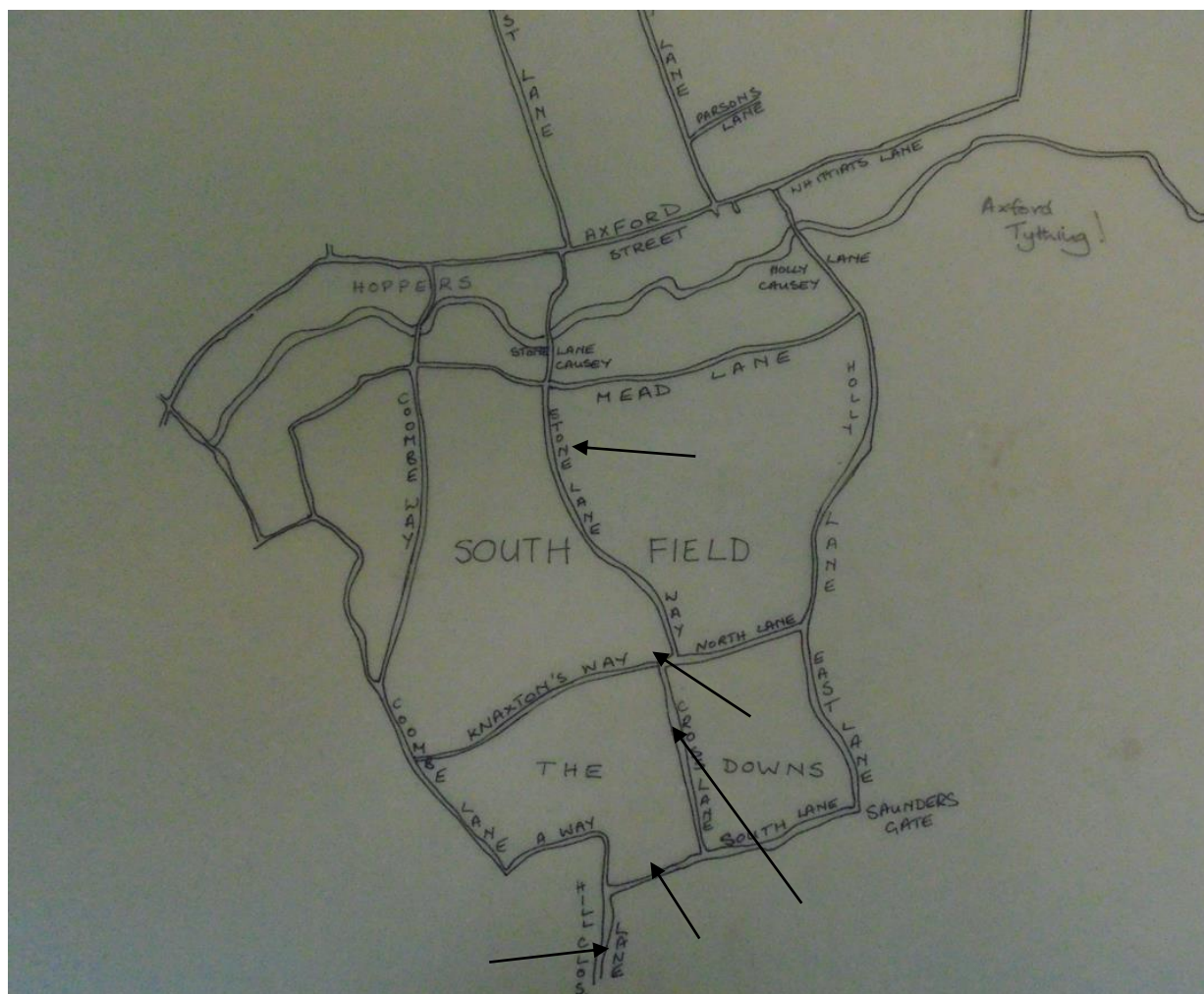


15.3 The Village in the Valley: a History of Ramsbury by Barbara Croucher

The research notes date from the 1970s and 1980s and are the work of Barbara Croucher who published the book “The Village in the Valley: a History of Ramsbury” in 1986. The research notes contain diagrams and a map that she produced from

the 1727 Enclosure Award and transcripts supplied by the University of Bristol in 1981.

- 15.4 The map shows the tracks set out in the 1727 Inclosure Agreement as deduced by her. These agree with the interpretation by the applicant and by the case officer, the claimed route comprising Stone Land Way, part of North Lane, Cross Lane, part of South Lane and Hill Close Lane.



- 15.5 Page 127 of the book contains a plan showing “Axford’s Southfield after enclosure in 1727” and is similar to map from the research notes above.

16.0 Natural Environment and Rural Communities Act 2006

- 16.1 On the 2nd May 2006 the **NERC Act 2006** commenced and section 67(1) of this Act had the effect of extinguishing the right to drive any mechanically propelled vehicle on any route that, immediately before commencement:

- (1) (a) *was not shown in a definitive map and statement, or*

(b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.

But this is subject to subsections (2) to (8)

Subsections 2 to 8 are parts of the Act that detail exemptions to the extinguishment of vehicular rights.

(2) Subsection (1) does not apply to an existing public right of way if –

(a) it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles

(b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c.66)(List of highways maintainable at public expense),

(c) it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles

(d) it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or

(e) it was created by virtue of use by such vehicles during a period ending before 1st December 1930.

(3) Subsection (1) does not apply to an existing public right of way if –

(a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c.69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,

(b) before commencement the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or

(c) before commencement a person with an interest in land has made such an application immediately before commencement, use of the way for mechanically propelled vehicles –

(i) was reasonably necessary to enable that person to obtain access to the land or

(ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had an interest in that part only.

(4) “The relevant date” means –

(a) in relation to England, 20th January 2005;

(b) in relation to Wales, 19th May 2005.

- (5) *Where, immediately before commencement, the exercise of an existing public right of way to which subsection (1) applies –*
- (a) *was reasonably necessary to enable a person with an interest in land to obtain access to the land, or*
- (b) *would have been reasonably necessary to enable that person to obtain access to a part of that land if he had an interest in that part only, the right becomes a private right of way for mechanically propelled vehicles for the benefit of the land or (as the case may be) the part of the land.*
- (6) *For the purposes of subsection (3) an application under section 53(5) of the 1981 Act is made when it is made in accordance with paragraph 1 of Schedule 14 to that Act*
- (7) *For the purposes of subsections 3(c)(i) and (5)(a), it is irrelevant whether the person was, immediately before commencement, in fact –*
- (a) *exercising the existing public right of way, or*
- (b) *able to exercise it.*
- (8) *Nothing in this section applies in relation to an area in London to which Part 3 of the Wildlife and Countryside Act 1981 (c.69) does not apply.*
- (9) *Any provision made by virtue of section 48(9) of the Countryside and Rights of Way Act 2000 (c.37) has effect to this section.*

16.2 It is therefore necessary for the Council to consider the effect of the NERC Act 2006 if it is considered that on the balance of probability the application route was, before the 2nd May 2006, a road or public carriageway.

17.0 Interim Decision regarding public rights over the applicant route prior to the 2nd May 2006 – was it, on the balance of probability, a public road or carriageway before that date?

17.1 In considering the evidence adduced with this application it is important to understand the ‘weight’ to put on the documents which involves an evaluation of their purpose and provenance as well as what they actually depict (s.32 Highways Act 1980). There must be a synergy in existence between the evidence and it must be appreciated that in order to confirm any order made, it must be shown on the balance of probabilities, that the public right subsists. Where the path would be an addition to the definitive map and statement, the legal test to make the order is weaker (it must be ‘reasonably alleged’) as given in s.53(3)(c)(i) Wildlife and

Countryside Act 1981 but the stronger balance of probability test must be met to confirm that order. Where the applicant route upgrades rights of way already shown in the definitive map and statement, section 53(3)(c)(ii) is used which requires the stronger balance of probabilities test to be applied just to make the order.

17.2 Wiltshire Council is guided by the Planning Inspectorate’s Consistency Guidelines for Inspectors along with case law and other sources for evaluation of the evidence.

17.3 The table below lays out the documents considered in categories of evidential weight:

Cat.	Date	Document	Applicant route represented and width
A	1727	Inclosure Agreement Ramsbury Axford “Ways, Drove Ways, lanes, Private Ways, Highways to be laid out for the conveniency of the Proprietors of the Enclosure...”	A to B Stone Lane Way (16 feet) B to C as part North Lane (33 feet) C to D as Cross Lane (33 feet) D to E as part of South Lane (33 feet) E to F Hill Close Lane
A	1844	Basingstoke and Didcot Junction Railway (also held at House of Lords record office)	Route A to B “Public Road” owned by Surveyor of Highways for Axford Tithing John Rowland. Occupied by “The Public” “Parish Road”
A	1845	London, Bristol and South Wales Direct Railway (also held at House of Lords record office)	Route A to B “Public Highway” owned by Thomas Osmond Surveyor of the Highways for the township of Axford. “Public Road”
A	1903	Central Wilts Light Railway (Not found at House of Lords record office).	Route A to B as “Occupation Road, chalk pit and Land” but see Parish Council minutes
A	1832	London and Bath Turnpike Trust	Route A to B coloured sienna as road crossed by turnpike
A	1835	London and Bath Tunrpike Trust	Route A to B shown as road with northern end inscribed “To Axford”
A	1950	National Parks and Access to the Countryside Act 1949	Route F to G claimed as Carriage Road Bridleway in Mildenhall described as “track suitable for cars in area F to G.
B	1842	Ramsbury Tithe Award	Claimed route as un-numbered route linking Axford with the Parish boundary of Mildenhall and Little Bedwyn labelled “from Bedwyn” and “To Bedwin” on two maps.
B	1909/1910	Finance Act	Route A to B uncoloured and excluded from hereditaments by red broken braces. Other sheet missing from archive.
C	1865	Marlborough Highway Board Survey of Roads	Route F to G “narrow, not space for two vehicles abreast, no metalling”
C	1905	Marlborough Rural District Council	Route F to G “Highway repaired by the District

		Rights of Way Map	Council"
C	1929	Marlborough Rural District Council Takeover Map	Route F to G coloured blue as road C.5086
C	1929	Ramsbury Rural District Council Takeover Map	Route A to B blue as road C.5085 remainder of claimed route coloured brown as lowest maintenance responsibility
C	Current	Wiltshire Council Highway Record	Claimed route coloured brown as lowest maintenance responsibility
C	1941-1942	Ministry of Food National Farm Survey	Route excluded from lands surveyed between C and E
Cat.	Date	Document	Applicant route represented and width
D	1737	Survey of Putell farm	Route F to G shown as sienna coloured road and labelled "To Axford" at norther end
D	1839	Vestry Map of Ramsbury	Route A to F shown in same manner as other public roads
D	1841	Map of Ramsbury	Route A to F shown as a fenced route coloured sienna
E	1773 to 1961	Various commercial and OS maps, some result of independent survey	Claimed route shown variously as minor road, "cross road", "fenced minor road", "carriage road or parochial road", "road", "Axford Lane", "minor road", "third class metalled road" "unmetalled road", "fenced or unfenced minor road", "other road not classified by the Ministry of Transport".
E	1793/1810	Rennie's Canal Plan from 1793 survey as completed in 1810	Plan produced by the Chief Surveyor and Engineer of the Kennet and Avon Canal after the deposited plans (1793) and after completion in 1810. Shows route in same manner as local road network.
E	1899	Ordnance Survey Object Names Book	"Axford Lane" "Unmetalled road" (route F to G).

17.4 Independent considerations of the Inclosure agreement 1727 undertaken by the applicant, the author Barbara Croucher in her research notes and Council officers support that on the balance of probabilities, a continuous route linking Axford with the A4 existed along the claimed route, it being a way laid out in the Inclosure Agreement of 1727 for the use of the proprietors of the agreement. Those proprietors are taken to be the residents of the parish affected by the award. See paragraphs 5.2.12 to 5.2.14 Planning Inspectorate's Consistency Guidelines:

"5.2.12....However, Coleridge LJ (as he was then) in R v Southampton (Inhabitants) 1887 said that "user by the public must not be taken in its wider sense...for it is

common knowledge that in many cases only the local residents ever use a particular road or bridge.”

The establishment of this route as a road linking the A4 with Axford is confirmed by the farm estate plan of 1737 (the south end of the route near Puttall's Farm is annotated "To Axford"). Whilst an inclosure agreement may not have held certain powers for commissioners that an Act did, the agreement was clearly satisfactorily enacted as evidenced by the division of land and titles that we see today and the lack of any evidence supporting a later inclosure of the area either by agreement or Act of Parliament.

- 17.5 A variety of later maps and plans support the existence of this continuous route being represented in the same manner as other roads in the area with the Tithe Award maps marking the route "to Bedwin" and "from Bedwyn" as appropriate. It is accepted that it was not the role of the Tithe Commissioners to record whether a highway was private or public. However, The Planning Inspectorate's guidance entitled Definitive Map Orders: Consistency Guidelines (updated 27 January 2022, reviewed 2016) at 8.2.13 state:

"8.2.13 Both public and private roads had the capacity to diminish the productiveness of land for the assessment of tithe. It follows therefore that the inclusion of a road under the heading 'roads and waste' is not, in itself, good evidence that it was public. However, the annotation of a road 'to' or 'from' a named settlement is suggestible of public rights....."

- 17.6 By 1844 and 1845 the route had been recorded as a Public Road in two sets of railway plans deposited with Parliament by different railway companies and in each instance the owner of the route was given as the Surveyor of Highways. The Planning Inspectorate's guidance entitled Definitive Map Orders: Consistency Guidelines (updated 27 January 2022, reviewed 2016) considers the relevance of deposited railway documents at part 10.

"10.2.2. Both canal and railway deposited documents were in the public domain. The statutory process required for the authorisation of railway schemes, and to a lesser extent, canal schemes, was exacting and the Book of Reference and deposited plans made in the course of the process needed to of a high standard. In particular, railway plans, which were normally specifically surveyed for the scheme, usually record topographical detail faithfully. They have been admitted by the courts as evidence of public rights of way...."

"10.2.3. The process for the authorisation of railway schemes provided for scrutiny of the plans by involved parties. Landowners would not have wished unnecessarily to cede ownership. Highway authorities would not have wanted to take on unwarranted maintenance responsibilities, and parish councils would not have wished their parishioners to lose rights. Therefore an entry in the Book of Reference that a way was in the ownership of the 'Surveyor of Highways' may be persuasive evidence of a

public right of some description. However, the weight to be given to this can only be determined when it is considered alongside all other evidence. There may be reputable evidence to rebut it such as a deed, conveyance or local map....”

“10.2.4. Where schemes were not completed, the plans were still produced to form the basis for legislation and were still in the public domain. Whilst they are likely to provide useful topographical details, they may not be as reliable as those that have passed through the whole parliamentary process. As above, the weight to be attached will need to be determined alongside all the other available evidence.”

“10.2.5. Railway plans and cross-sections usually differentiate between public and private roads....”

“10.2.6. The status of a way had an impact on the cost of the scheme and it is unlikely that railway plans would show a route at a higher status than was actually the case....”

“10.2.7. For the above reasons deposited plans can be good evidence to support a claim that highway existed at the time they were made...”

- 17.7 The maintenance liability for the claimed route was recorded as being with the Rural District Councils and that responsibility was handed over to Wiltshire County Council as a result of the Local Government Act 1929. The entire route remains recorded as the lowest category of maintenance liability in the Council’s highway record even though parts of the claimed route have no rights recorded in the definitive map and statement.
- 17.8 The Ordnance Survey (a government body) confirmed that Axford Lane was a ‘road’ when verifying the spelling of names in 1899 with another lane in the same parish being described as a ‘private road demonstrating the distinction being made by the Ordnance Survey at that time.
- 17.9 Very little evidence has been found to contradict the findings above. The railway plan deposited in 1903 describes the route A to B as an Occupation Road (the inference being it is not public) but this must be considered against the evidence of two other railway plans describing the route as public and the evidence of Mildenhall Parish Council identifying a significant number of errors in the 1903 plan where the scheme passed through Mildenhall parish.
- 17.10 Officers consider that while the evidence arising from the 1727 inclosure agreement confirms that the route existed at that time and was laid out for the use of the people within that parish (a parochial road) it is clear that by at least (possibly earlier) the mid-1800s it was viewed as a public road and maintained as such. Indeed, any traveller looking at a commercial map dating from 1773 onwards would have identified the route as a link between the then turnpike (now the A4) and Axford, Ramsbury and beyond. Likewise, anyone interested in utilising the new Kennet and Avon canal would have identified the claimed route as a means of getting to Axford

or beyond. The subsequent records of maintenance liability held by the Rural District Council confirm that the route was viewed as a public route and officers have found no evidence to suggest that the route was not historically a road. Its size and form are that of a road and its continual representation throughout the 18th, 19th and 20th century as such in a range of documents supports that on the balance of probability, the claimed route carried a public vehicular right before the effects of the enactment of s.67 of the Natural Environment and Rural Communities Act 2006.

17.11 It being considered that the claimed route was, on the balance of probability a public road before 2006, It is therefore necessary to consider the effects of that Act on the historic public right.

18.0 Consideration of the Effect of NERCA 2006

It is appropriate to consider each exemption in turn:

18.1 **(2)(a)** *it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles.*

No evidence has been adduced for the use of the route with MPVs in the period 2001 to 2006.

I conclude that the requirements of Section (2)(a) NERCA 2006 are not met and public vehicular rights are not preserved by this section.

18.2 **(2)(b)** *immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c.66)(list of highways maintainable at public expense).*

Parts of the claimed route are recorded in the definitive map and statement as footpaths so this saving cannot apply to those parts. Other parts are recorded in the Council's highway as 'brown tracks' and it is the Council's position that a brown track is a publicly maintainable highway but of the lowest category and for which no grant was available. The level of public rights over these routes must be tested on an individual basis and accordingly the council does not declare that a public vehicular right necessarily exists over those routes and does not record them in the List of Streets.

I conclude that the requirements of Section (2)(b) NERCA 2006 are not met on the claimed route as a whole and public vehicular rights are not preserved by this section.

18.3 **(2)(c)** *it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles.*

It is known that this road was awarded as a lane in 1727, a time before mechanically propelled vehicles were provided for.

I conclude that the requirements of Section (2)(c) NERC Act 2006 are not met.

- 18.4 **(2)(d)** *it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.*

Public MPV rights have not been preserved by this section.

- 18.5 **(2)(e)** *it was created by virtue of use by such vehicles during a period ending before 1930*

No evidence of this has been adduced and accordingly Public MPV rights have not been preserved by this section.

- 18.6 **(3)(a)** *(3) Subsection (1) does not apply to an existing public right of way over a way if –*

(a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c.69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic.

This application does not pre-date the relevant date.

- 18.7 It is concluded that the public's right to drive a motor vehicle over the route was extinguished on the 2nd May 2006. However, as the route was a public vehicular highway prior to this date, section 67(5) of the NERC Act 2006 applies with respect to private access rights to property:

(5) Where immediately before commencement, the exercise of an existing public right of way to which subsection (1) applies –

(a) was reasonably necessary to enable a person with an interest in land to obtain access to the land, or

(b) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had an interest in that part only, the right becomes a private right of way for mechanically propelled vehicles for the benefit of the land or (as the case may be) the part of the land.

This is in addition to any granted easements or consents that the Council is unaware of.

19.0 Legal and Financial Considerations

- 19.1 The determination of Definitive Map Modification Orders (DMMOs) and the continual review of the definitive map are statutory processes for which financial provision has been made. In determining applications for DMMOs the Council is acting in pursuit

of its statutory duty and cannot be challenged in so doing (subject to due process being followed).

- 19.2 If an order is made and advertised and no objections are forthcoming the Council will not incur any further costs beyond advertising the confirmation of the order. If the order attracts objections that are not withdrawn it must be forwarded to the Secretary of State for determination. It may be determined by written representations (no additional cost to the Council), a local hearing (additional costs to the Council in the region of £300) or a public inquiry (additional costs to the Council in the region of £4000).
- 19.3 If the route is upgraded to restricted byway the highway authority is not placed under a specific duty to produce a suitable surface for use on horseback or for non-mechanically propelled vehicles. However, the authority is placed under a duty to ensure that the route is safe for use by the general public traffic of the area and has a duty to maintain the surface of the highway to that extent. No works to the route are currently identified beyond the removal of a gate, signage and trimming growth.

20.0 Risk Assessment

- 20.1 Section 53 of the Wildlife and Countryside Act 1981 (WCA 81) does not provide for consideration of issues relating to health and safety
- 20.2 The Council is the surveying authority for the County of Wiltshire (excluding the Borough of Swindon) and has a duty to keep the definitive map and statement under continual review (s.53(2)(b) WCA 81). There is therefore no risk associated with the Council pursuing this duty correctly.
- 20.3 If the Council fails to pursue this duty in this case it is liable to complaints being submitted through the Council's internal procedure leading to the Ombudsman. Ultimately a request for judicial review could be made.
- 20.4 This application is subject to a direction from the Planning Inspectorate to determine the application within 6 months of 05 February 2020 (Direction Decision FPS/Y3940/14D/3). Clearly this direction has not been met and it is therefore a considerable risk to delay a decision any longer. To delay longer would increase the present risk of a further legal challenge on this failure.

21.0 Environmental Impact of the Recommendation

- 21.1 Section 53 of the Wildlife and Countryside Act 1981 does not provide for consideration of issues relating to the environment.

22.0 Equality Impact

- 22.1 Section 53 of the Wildlife and Countryside Act 1981 does not provide for consideration of issues relating to equality. While these considerations will not affect the council's decision the following observations have been made.

22.2 The character of the route will not alter with the making of an order to record the way as restricted byway. The legal right to pass and repass over the entire width will be protected which will ensure that obstructions and encroachments may be removed by Order of the Council. This could lead to greater accessibility. It is a requirement that a width must be recorded in the order and accordingly the widths awarded in the agreement of 1727 will be used with Ordnance Survey 1:2500 measured widths used if any part of the route is not so mentioned.

22.3 A restricted byway may be used by a horse and cart. Many people who cannot ride a horse for reasons of a disability drive horses and the recording of this long route as a restricted byway will increase the available network for them. This will lead to greater accessibility. This would offer a significant improvement to the network for carriage drivers.

22.4 The recording of the full width as a restricted byway is in line with the Council's duty under The Equality Act 2010. Equality is however not a material consideration contained within the Wildlife and Countryside Act 1981.

23.0 Safeguarding Considerations

23.0 Section 53 of the Wildlife and Countryside Act 1981 does not provide for consideration of issues relating to safeguarding.

23.1 It is however noted that there are no considerations arising.

24.0 Public Health Considerations

24.1 Section 53 of the Wildlife and Countryside Act 1981 does not provide for consideration of issues relating to public health.

25.0 Relationship to the Council's Business Plan

25.1 Consideration of the Council's Business Plan is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981 which is a duty for the council. However, Wiltshire Council is committed to working with the local community to provide a rights of way network fit for purpose, making Wiltshire an even better place to live, work and visit.

26.0 Options to Consider

- 26.1
- i) Make a definitive map modification order under s.53(3)(c)(i) & (ii) WCA81 to record the applicant route as a restricted byway
 - ii) To refuse to make a definitive map modification under WCA81.

27.0 Reason for Recommendation

This report presents and considers the evidence adduced by the applicant and gives weight to that evidence at section 17. It is clear to officers that a considerable body

of evidence exists to demonstrate that on the balance of probability the applicant route was a public vehicular highway from at least 1727 and that there is great synergy in the evidence, especially from the mid 18th and 19th centuries. No evidence has been found that a public right has been stopped up or extinguished and it is considered that the legal maxim 'once a highway, always a highway' must apply.

27.1 As a result of that decision it has been necessary to consider the effect of s.67 of the Natural Environment and Rural Communities Act 2006 on those rights and no evidence has been found that supports the saving of the right for the public to use the route with a mechanically propelled vehicle. Accordingly it is considered that the highest status that the applicant route can be recorded as is as a restricted byway, a right of way for the public to use on foot, on a bicycle, on or leading a horse or with a horse drawn carriage.

27.2 Where sections of the applicant route are currently unrecorded in the definitive map and statement the council is required only to consider whether the application forms a reasonable allegation of the rights claimed to make an order (s.53(3)(c)(i)). It must consider the stronger balance of probabilities test at the confirmation stage. However, owing to the strength of the evidence and the need to consider those parts of the application route that are currently recorded as footpaths under the balance of probability test at the order making stage (s.53(3)(c)(ii)), it is considered that the evidence for the whole route meets the stronger test at this stage..

28.0 Recommendation

That a definitive map modification order is made under s.53(3)(c)(i) & (ii) of the Wildlife and Countryside Act 1981 to record the route subject to application 2018/07 as a restricted byway and to confirm the order if no objections or representations to it are duly made.

Sally Madgwick

Definitive Map and Highway Records Manager
Wiltshire Council

25 March 2022

Appendix A – Applicant's Summary and Statement

Appendix B – Draft order plan

Stone Lane, Axford to the A4 at Putall – Summary of Evidence

The application route runs from the junction of U/C5085 and Ramsbury 43 BR at Crosslanes, just south of Church Farm Axford, generally southwards to the A4. On the Application map it is shown from point A (RAMS43) to point B (junction with RAMS9B FP) to C (junction with Cross Lane) to D (junction with RAMS 44 FP) via point E to F (junction with MILD16 FP) to point G at the A4.

Approximate grid references are Point A: SU23486969, Point G: SU23716781.

WSHC means Wiltshire & Swindon History Centre, Chippenham; TNA means The National Archives, Kew

Inclosure agreement for North and South fields, Cow Down and Axford Marsh in Axford in Ramsbury, 1727 (WSHC Ref. 1883/217)

The agreement sets out “Ways, Drove Ways, Lanes, Private Ways, Highways”, including Stone Lane Way, North Lane, Cross Lane, South Lane, and Hill Close Lane. The agreement did not include a map but it is possible to deduce which of the present lanes and other tracks in Axford are those named in the agreement. Section A-B of the application route is Stone Lane Way, section B-C is part of North Lane, section C-D is Cross Lane, section D-E is the western end of South Lane and section E-F is Hill Close Lane. Section F-G is not in Axford and hence not mentioned in the Inclosure Agreement.

Stone Lane Way was set out with a width of 16ft, North Lane 33ft, Cross Lane 33 ft, South Lane 33 ft and Hill Close Lane 33 ft.

The roads laid out, although allowing access to private land, as a network allow movement north and south between the existing highways of Axford Street and The Bath Road. It is likely that all were cart or carriage roads, which could also be used as droves. Those “roads” specified with widths of 16 feet or more must certainly have been more than footpaths.

Appendix A: the clauses in the Inclosure Agreement that set out the roads in South Field and The Down.

The roads set out are described with reference to the lots allocated to individuals on either side of them; nothing in their description suggests ownership by any such individual, although in one case “the herbages” are said to belong to Thomas Appleford junior.

Many of the lotts are described at least in part by referring to one or more of the roads by which they are bounded, the implication being that the roads were distinct from the lotts they bound. For example,

“A lot in South Field bounded on the east by Holly Lane and the north by Mead Lane”

“A lot in the Down bounded north by North Lane and east by East lane”

“A lot in the Down bounded east by East Lane and south by South Lane”

Many further examples can be viewed in the typewritten synopsis of the Inclosure Agreement held with it (WSHC Ref 1883/27) and also among Barbara Croucher's Research Papers (WSHC 3397/15).

If a road was for the sole or shared use of a landowner or landowners, one would have expected the commissioners to have said so and they did not. None of the roads are described as “private” as mentioned in the preamble to the agreement (see Appendix A). The phrase “for the conveniency of the Proprietors” is used but it is not qualified by any term such as “sole”, does not mention private or exclusive use by the proprietors and need have no such connotation. It is perfectly reasonable to suppose that as the landowners had come to an agreement as to how the land would be allotted, they also agreed the most convenient routes for the ways to follow.

Appendix B: the logic by which the applicant has correlated the roads named in the Inclosure Agreement with the present day network of lanes, reaching the same conclusions as others previously (e.g. Barbara Croucher, author of “The Village in the Valley: A History of Ramsbury”)

Axford Inclosure Award 1727.jpg: a map illustrating the position of the “Ways, Drove Ways, Lanes, Private Ways, Highways” set out by the Inclosure Agreement

Survey of Putell Farm 1737 (WSHC, Ref. 1300-372MS)

The southernmost section of the application route, northwards from point G, is shown as a fenced road coloured sienna, running northwards on the eastern edge of Underwood Field (labelled B2J) and annotated at its northern end “Axford Lane”. Part of the local road network that lead to Axford.

Andrews & Dury's ½” Index Map of Wiltshire 1773 (WSHC, Ref. 1300/48/A-S)

The entire application route is shown as a minor road.

Andrews & Dury's 2” Map of Wiltshire 1773 (WSHC, Ref. 1300/48/A-S) Sheet 12

The entire application route is shown clearly as a minor road.

Robertson's 1” Survey of the Bath Road 1792 Map No. 8 (WSHC, Ref. AAA/912)

The entire application route is shown as a minor road.

Rennie's Survey for the Kennet and Avon Canal 1793 (WSHC, Ref. 1644/34)

The entire application route is shown as a minor road

Cary's Map of Wiltshire, 1801 (WSHC, Ref. Printed Maps 3.2)

The application route from point A to point F is shown as a minor road. Axford Lane running north from The Bath Road (including section F-G of the application route) is also shown as a minor road but the map does not show their connection.

Smith's Map of Wiltshire, 1801 (WSHC, Ref. Printed Maps 2.2)

The entire length of the application route is shown as a "Cross-road"

Andrews & Dury's ½" Index Map of Wiltshire, 2nd Edition, Revised and Corrected 1810 (WSHC, Ref. A1/524/2MS)

The whole of the application route is shown as a "Cross Road"

Andrews & Dury's 2" Map of Wiltshire 1773 Revised and Corrected 1810 (WSHC, Ref. A1/524/2MS) Sheet 9

The whole of the application route is shown as a "Cross Road"

Mogg's 1" Survey of the High Roads of England and Wales ... Plate 182, 1816 (London to Bath)

Section G-F of the application route is shown as a minor road running north from the Bath Road about 300 yards west of the 71 mile milestone (i.e. from point G).

Ordnance Survey 1" Old Series 1817 Sheet 14 (WSHC, Ref. Printed Maps 3.7) & OS 1in Old Series conventions

This map shows the southern end of section A-B of the application route (i.e. Stone Lane Way), section B-C (North Lane, which it shows running eastwards from Stone Lane Way), section C-D (Cross Lane), section D-E (South Lane), section E-F (Hill Close Lane) and section F-G (Axford Lane) as "fenced Minor Roads". There is no key. However, "The Old Series Ordnance Survey Maps of England and Wales, Volume III, South-central England", published by "Harry Margary, Lympne Castle, Kent, 1981", Figure 6, pp xviii – xix, illustrates "Topographical conventions, not to true size, used in engraving the maps of south-central England".

C&I Greenwood's Map of Wiltshire 1820 (WSHC, Ref. 2667/21/16)

From point A to just south of point F the application route is shown as a "Cross Road". The last leg, also shown as a "Cross Road", from just south of point F to the Bath Road is slightly offset reaching the Bath Road further west.

Ordnance Survey 1" Old Series 1828 Sheet 34 (WSHC, Ref. Printed Maps 3.8) & OS 1in Old Series Conventions

This shows the northern end of section A-B of the application route (i.e. Stone Lane Way), the section not shown on 1817 Sheet 14, as a "Fenced Minor Road". There is no key. However, "The Old Series Ordnance Survey Maps of England and Wales, Volume III, South-central England", published by "Harry Margary, Lympne Castle, Kent, 1981", Figure 6, pp xviii – xix, illustrates "Topographical conventions, not to true size, used in engraving the maps of south-central England".

C&I Greenwood's Map of Wiltshire, Reduced and Corrected 1829 (WSHC, Ref. Printed maps 3.3)

Shows the route from A-F as a "Cross Road"; the last leg, if shown, is obscured by the depiction of the parish boundary

London and Bath Trust via Hungerford 1832 (WSHC, Ref. A1/370/20HC)

Wiltshire Quarter Sessions, Road from Marlborough to Hungerford. This plan shows the northern part of section A to B of the application route, Stone Lane Way. East of Stitchcombe Farm, in Axford, are shown from west to east Coomb Lane, Coomb Way, Stone Lane Way (beneath the "Y" in "VAISEY") and Holly Lane. The one page Book of Reference lists owners, occupiers, state of land (e.g. "Arable"), length and parish for each land holding along the route but does not mention roads.

Cary's 1/2" Map of England and Wales 1832, Sheet 18 (WSHC, Ref. Printed Maps 3.4)

All parts of the application route from point A until the east-west track between points F and G are shown as *Carriage Roads* or *Parochial roads*. Similar to Greenwood (1820), Cary shows the last leg to point G on the Bath Road offset a short distance to the west.

London and Bath Turnpike Trust deviation 1835 (WSHC, Ref. A1/370/21HC)

Wiltshire Quarter Sessions, Deviation of the Bath-London road between Hungerford and Marlborough. This plan shows the northern part of section A to B of the application route, Stone Lane Way. Its continuation northwards is labelled "To Axford"; further east Holly Lane is also labelled "To Axford". The one page Book of Reference lists owners, occupiers, state of land (e.g. "Arable"), length and parish for each land holding along the route but does not mention roads.

Walker's Map of Wiltshire 1836 (WSHC, Ref. Printed Maps 1.22)

This shows the entire application route as a minor road

Vestry Map of Ramsbury 1839 (WSHC, Ref. 1792/38L, Roll 1 (Western Division) of 2)

This map was probably prepared for valuation purposes, The application route from A to F is shown as a fenced road coloured sienna, no apportionment number. Adjacent lands are numbered and described in the associated **Book of Reference (WSHC 1792/39)**. No sienna roads are numbered. From F-G the route was not in Ramsbury.

Map of Ramsbury 1841 (WSHC, Ref. 2365L; Book of Reference 1792/39)

Copy on a reduced scale of the 1839 Vestry Map. The whole of the application route from point A to the Little Bedwyn parish boundary (around point F) is shown as a fenced road coloured sienna. The fields and lands adjacent to the application route are numbered. The application route is unnumbered. The route is shown the same as known highways leading out of the parish to labelled destinations e.g. "From Mildenhall", "From Marlborough".

Ramsbury Tithe Map 1842 (TNA, Ref: IR 30/38/224)

The application route is shown, unnumbered and uncoloured, from its northernmost point (point A) as far as the Little Bedwyn parish boundary (point F). Apportionments on both sides of the route are numbered where fields are shown. In Little Bedwyn the application route is annotated "To Bedwyn". In the Apportionment Roll there is an entry "Roads, Water and Waste 53a – 7"

As the application route is unnumbered and hence not described specifically in the Apportionment Roll the applicant concludes it was considered to be a public road and that the area occupied by the route is included as part of "Roads, Water and Waste". The narrative "To Bedwyn" reinforces the idea that the route was public as it seems unlikely that would appear if the route was viewed as purely private.

Deposited plans of the Basingstoke and Didcot Junction Railway with a branch through Newbury to Swindon 1844 (WSHC, Ref. A1/371/29MS)

Sheet 7A: A length of the road is shown within the limit of deviation and numbered "22". The projected line crosses the application route at just over 30 miles 2 furlongs at point A. (Note: the plan is oriented with North at the bottom).

Book of Reference: "PARISH of Ramsbury in the COUNTY of Wilts" "Numbers referring to the plan: 22" "NAMES of OWNERS or REPUTED OWNERS: Surveyor of Highways for Axford Tithing John Rowland" "NAMES of LESSEES or REPUTED LESSEES: (left blank)" "OCCUPIER'S NAMES: The Public" "DESCRIPTION OF PROPERTY: Parish Road" Part of the local public road network.

Book of Reference: "PARISH of Ramsbury in the COUNTY of Wilts" "Numbers referring to the plan: 51" "NAMES of OWNERS or REPUTED OWNERS: Surveyor of Highways for Axford Tithing John Rowland" "NAMES of LESSEES or REPUTED LESSEES: (left blank)" "OCCUPIER'S NAMES: The Public" "DESCRIPTION OF PROPERTY: Public foot path" Another entry that shows that footpaths were recorded differently from Parish Roads

Ramsbury Tithe Award 1844 (WSHC, Ref. D/1/25/T/A/Ramsbury)

In two parts, shows the outlying fields in the Axford area. Part 1 shows the application route from point A to the Little Bedwyn Parish boundary, the limit of the map's coverage. There is no apportionment number on any section of this route indicating that no tithe was assessable and that it was acknowledged to be public. At the southern end of the route, at the border with Little Bedwyn parish, the map is marked "to Bedwyn". It seems unlikely it would be so marked if the route was regarded as private. Part 2 shows the entire application route from point A to the Little Bedwyn Parish boundary, the limit of the map's coverage. There is no apportionment number on any section of this route indicating no tithe was assessable and that the route was not claimed to be private. At the southern end of the route, at the border with Little Bedwyn parish, the map is marked "from Bedwyn". It would be unlikely to be so marked if the route was regarded as private.

Deposited plans of the London, Bristol and South Wales Direct Railway with a branch to Devizes 1845 (WSHC, Ref. A1/371/45MS)

This relates to the Hungerford to Chepstow section of this railway. A length of the road is shown within the limit of deviation and numbered "17". The projected line crosses the application route at just under 6 miles 4 furlongs between points A & B (Stone Lane Way) just south of the Pit. (Note: the plan is oriented with North at the bottom).

Book of Reference: "Parish of Ramsbury" "Township or Tything of Axford" "No. on Plan: 17" "Description of Property: Public Highway" "Owners or Reputed Owners: Thomas Osmond Surveyor of Highways for the Township or Tything of Axford". Part of the local public road network.

The same page in the book of reference shows how a footpath has been recorded differently from the application route

Book of Reference: "Parish of Ramsbury" "Township or Tything of Axford" "No. on Plan: 12" "Description of Property: Field and Footpath" "Owners or Reputed Owners: Sir Robert Burdett" "Lessees or Reputed Lessees: Henry Woodman" "Occupier: Henry Woodman"

An earlier page describes a parcel of land in Park Town as "field and occupation road and. public bridle road"

Book of Reference: "Parish of Ramsbury" "Township or Tything of Park Town" "No. on Plan: 1" "Description of Property: field and occupation road and. public bridle road" "Owners or Reputed Owners: Sir Robert Burdett Bart" "Lessees or Reputed Lessees: Robert Canning" "Occupier: Robert Canning"

Weller's Map of Wiltshire 1862 (WSHC, Ref. Printed Maps 1.29)

From point A to south of point F the application route is shown as a "Road". South of that it Weller shows that "Road" turning south-eastwards into Putall Farm and from there south to The Bath Road.

Marlborough Highways Board: Survey of Roads 1865 (WSHC, Ref. G8/1/28)

"Parishes", "Mildenhall", "Roads", "From Putall Wood to TP London Road" "Remarks on present state of same", Narrow, not

space for two vehicles abreast , no metalling. Woods need cutting”.

This must refer to the present MILD16 FP (the Axford Lane section), including section F-G of the application route. Axford Lane was considered to be a vehicular route, the responsibility of the Marlborough Highways Board.

Another entry refers to a road from Putall Road to Holly Corner.

“Parishes”, “Ramsbury”, “Tithing”, “Axford”, “Roads”, “Putall Road to Holly Corner” “Remarks on present state of same”, Green Drove, ruts filled in with unbroken flints

A third refers to Stone Lane, from Stichcombe Corner to Holly Lane.

“Parishes”, “Ramsbury”, “Tithing”, “Axford”, “Roads”, “Stone Lane, from Stichcombe Corner to Holly Lane” “Remarks on present state of same”, “Very rough”

It seems reasonable that Holly Corner was the junction between Holly Lane and North Lane (i.e. where the present RAMS9B turns westwards) and the green drove mentioned was North Lane, of which section B-C of the application route is the western end. Holly Corner cannot be at the northern end of Holly Lane because the report itself names the road at that northern end as Stone Lane. The only remaining possibility in Axford for the Putall Road mentioned is the application route. Putall Road cannot be another name for Coomb Lane because that is and was in Mildenhall. This suggests North Lane (including section B-C of the application route) was considered a *road* which was the responsibility of the Marlborough Highways Board.

Ordnance Survey Boundary Remark Book 5501A Little Bedwyn 1874 (TNA, Ref. OS 26/11336)

Page 9 shows a wide unnamed track, part of the application route, running in Mildenhall along the border with Little Bedwyn and then continuing into Ramsbury. This section is from just north of point G to just south of point F. The track is Axford Lane.

Ordnance Survey Boundary Remark Book 5638 Ramsbury 1874 (TNA, Ref. OS 26/11126)

Page 4 shows a wide unnamed track, part of the application route, at the junction of Ramsbury and Little Bedwyn. Shown is part of the section between point G (off the sketch top left) and point F (off the sketch bottom right). The track is Axford Lane.

Bacon's Map of Wiltshire, circa 1876 (WSHC, Ref. Printed Maps 2.10)

This map shows the area the same as in Weller's map of 1862.

Ordnance Survey Boundary Sketch Map covering Froxfield and Little Bedwyn, 1876 (TNA, Ref. OS 27/5731)

This shows as a track the southernmost part of the application route (from point G on the Bath Road northwards beyond point F) running along the Little Bedwyn – Mildenhall border, and extending north of Little Bedwyn parish (marked P.9.). The track is Axford Lane.

Ordnance Survey Boundary Sketch Map covering Mildenhall, 1876 (TNA, Ref OS 27/5756)

In the south eastern area of this map at a point labelled B is shown the southernmost part of the application route (Axford Lane, from point G northwards beyond point F) running from the London-Bath road along the Mildenhall – Little Bedwyn parish boundary, and then into the parish of Ramsbury, no longer following the boundary

Ordnance Survey Boundary Sketch Map covering Ramsbury, 1876 (TNA, Ref OS 27/5767)

In the south-west corner of the map is shown part of the southernmost leg of the application route (Axford Lane, between points G and F) running northwards into Ramsbury and southward in Mildenhall from the point at which the parishes of Ramsbury, Mildenhall and Little Bedwyn meet (labelled “A” here).

Ordnance Survey 25”, 1st Edition, Wiltshire Sheet 29/11 (1885) (WSHC)

Section A-B of the application route (Stone Lane Way) is shown with a sienna (metalled) central portion with wastage either side. It is fenced except at the Pit. It is not marked FP nor BR. Its width excluding wastage is about 26ft. It is separately numbered and measured.

Section B-C is a short section at the western end of North Lane. North Lane is uncoloured, at its eastern end fenced on both sides, towards its western end it is unfenced on its northern side. No gates. Not marked FP or BR. Width is about 40ft, no wastage. It is numbered and measured separately from the land on either side (but included with Holly Lane and Cross Lane).

The northern part of section C-D (Cross Lane) is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40ft with no wastage. It is numbered and measured separately from the land on either side (but included with Holly Lane and North Lane)

Ordnance Survey 25”, 1st Edition, Wiltshire Sheet 29/15 (1886) (WSHC)

The southern part of section C-D of the application route (Cross Lane) is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. It is numbered and measured separately from the land on each side.

Section D-E is shown. This is South Lane from its junction with Cross Lane west to Hill Close Lane. It is uncoloured with no gates. It is not marked FP or BR. Width excluding wastage varies between 26 and 40 ft. It separately numbered (936) and measured (2.285). At its eastern end South Lane is shown running amongst the trees; section D-E is no longer amongst the trees.

Section E-F (Hill Close Lane) is shown from South Lane south to Puthall Wood. It is uncoloured and amongst the trees. Fenced, no gates, not marked FP or BR. Width including wastage about 50ft. Dotted central portion is much narrower.

Section F-G (Axford Lane) runs south amongst the trees with Putall Park on its eastern side and then before reaching the London Road is fenced but no longer amongst trees, Uncoloured, no gates, not marked FP or BR. Separately numbered and measured. Named

“Axford Lane”.

OS1in New Series Sheet 267 Hungerford (coloured), Published 1889 (WSHC, Ref. Printed Maps 4.40)

The southern portion of section A-B of the application route, section B-C, section C-D, all but the very westernmost part of section D-E and the southern most portion of section F-G are all shown and as “Minor Roads”

Phillips' Cyclists map of Wiltshire 1890 (WSHC, Ref. Printed Maps 2.14)

The application route from point A to south of point F is shown as per Weller's map of 1862 but described as a “Cross Road”

OS1in New Series Sheet 266 Marlborough (coloured) Surveyed 1878-86, Published 1892 (WSHC, Ref. Printed Maps 4.38)

The northern portion of section A-B of the application route, the extreme western end of section D-E, all of section E-F and the northern portion of section F-G are all depicted and as “Minor Roads”.

Ordnance Survey Object Name Book – Wiltshire Sheet XXIX SE 1899 – 1922 (TNA, Ref. OS 35/7496)

These three descriptions are on page 11.

“List of names... Littleworth”... “Authority for these modes of spelling Col. E.B. Merriman (agent) Savernake Estate Office See OS Form 230 attached, See OS 1/2500 of XXIX 15”,... “Descriptive remarks ...Applies to two cottages etc...”

“List of names... Sawpit Drive”... “Authority for these modes of spelling As above agent See OS Form 230 attached, See OS 1/2500 of XXIX 15”, “Descriptive remarks ...Applies to a private road extending from Amity Oak etc...”

“List of names... Axford Lane”... “Authority for these modes of spelling As above agent See OS Form 230 attached, See OS 1/2500 of XXIX 15”, “Descriptive remarks ...An unmetalled road extending from NW corner of Putall Park to 30 chains east of Putall Lodge Gate”

Axford Lane as described above is section F-G of the application route. Note that Sawpit Drive is described as “private” and the next entry, Axford Lane, is not.

Col. Merriman signed the OS. 230 form as “Agent to the Most Hon Marquis of Ailesbury (occupier)” and must surely have been happy with the Descriptive Remarks.

Ordnance Survey 25” , 2nd Edition, Wiltshire Sheet 29/11 (1900) (WSHC)

Section A-B of the application route (Stone Lane Way) is shown with an uncoloured central portion with wastage either side. It is fenced except at the Pit. It is not marked FP nor BR. Its width excluding wastage is about 26ft. It is separately numbered and measured.

Section B-C is a short section at the western end of North Lane. North Lane is uncoloured, at its eastern end fenced on both sides, towards its western end it is unfenced on its northern side. No gates. Not marked FP or BR. Width is about 40ft, no wastage. It is numbered and measured separately from the land on either side (but included with Holly Lane and Cross Lane)

The northern part of section C-D (Cross Lane) is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40ft with no wastage. It is numbered and measured separately from the land on each side (but it is included with Holly Lane and North Lane).

Ordnance Survey 25” , 2nd Edition, Wiltshire Sheet 29/15 (1900) (WSHC)

This example held at the WSHC is the Finance Act Working Plan and has consequently been coloured to show the various apportionments. It is therefore not possible to say the application route was either coloured or uncoloured prior to being used as the Working Plan.

The southern part of section C-D of the application route (Cross Lane) is shown. It is fenced on both east and west; no gates. It is not marked FP or BR. It is separately numbered and measured.

Section D-E is shown. This is South Lane from its junction with Cross Lane west to Hill Close Lane. There are no gates. It is not marked FP or BR. Width excluding wastage varies between 26 and 40 ft. It separately numbered and measured. At its eastern end South Lane is shown running amongst the trees; section D-E is no longer amongst the trees.

Section E-F (Hill Close Lane) is shown from South Lane south to Puthall Wood. It is amongst the trees. Fenced, no gates, not marked FP or BR. Width including wastage about 50ft. Dotted central portion is much narrower.

Section F-G (Axford Lane) runs south amongst the trees with Putall Park on its eastern side and then before reaching the London Road is fenced but no longer amongst trees, No gates, not marked FP or BR. Separately numbered and measured. Named “Axford Lane”.

Ordnance Survey 6” , 2nd Edition, Wiltshire Sheet 29 SE (1900) & OS 6in Conventional Signs(1)&(2) (WSHC)

All sections of the application route; namely A-B (Stone Lane Way), B-C (part of North Lane), C-D (Cross Lane), D-E (part of South Lane), E-F (Hill Close Lane) and F-G (Axford Lane to the A4) are depicted as “Fenced Minor Roads” except the southern part of section A-B, unfenced on its western side but fenced on its eastern.

Deposited plans of the Central Wilts Light Railway, Railway No 4, 1903 (WSHC, Ref. A1/371/169BMS)

A length of the road is shown within the limit of deviation and numbered “7”. The projected line crosses the application route at just under 2 miles 7 furlongs between points A and B (Stone Lane Way) just south of the pit (the plan is oriented with north at the top).

Book of Reference: “Parish of Ramsbury (Rural District of Ramsbury), in the County of Wilts” “No. on Plan: 7” “Description of Property: Occupation Road, Chalk Pit and Land” “Owners, or Reputed Owners: Sir Francis Burdett, Bart”, “Lessees, or reputed

lessees: (blank)" Occupiers: Sir Francis Burdett, Bart"

It may have been that by 1903 Stone Lane Way was regarded as an Occupation Road but, as the legal maxim "*once a highway always a highway.*" indicates, that in itself would not serve to negate earlier rights.

Mildenhall Parish Council drew attention to a number of inaccuracies in the plans (see below, WSHC Ref. 2902/1) and this Book of Reference categorizes many routes differently to previous railway plans. It may be that the railway's research was poor.

Mildenhall Parish Council Minutes, 19th June 1903 (WSHC, Ref. 2902/1)

Page 55. The parish council called the attention of the Rural District Council to inaccurate descriptions in the Schedule to the Central Wilts Light Railway (five inaccuracies in Mildenhall alone)

The minutes for Mildenhall Parish Council dated 19th June 1903 resolved

"to call the attention of the District Council to the following numbers in the Schedule which are inaccurately described viz.;

"No.6 should be an Accommodation Road

9 should be Parish Road (Cock-a-troop)

21 should be Parish Road

26 should be Parish Road (Forest to Stitchcombe)

and also to the fact that no mention is made of an accommodation road in Plot 22"

Ordnance Survey 1st New Series, 3rd Edition 1903, Sheet 267 (Hungerford), Surveyed 1872-1883, Revised 1901-02

The southern portion of section A-B of the application route, section B-C, section C-D, all but the very westernmost part of section D-E and the southern most portion of section F-G are all shown as either third class metalled roads or unmetalled roads.

Differentiating between the two types is not easy as that is indicated by the thickness and closeness of the lines representing the road, and that is not very clear on the map.

Ordnance Survey 1st New Series, 3rd Edition 1904, Sheet 266 (Marlborough), Surveyed 1878-1883, Revised 1902.

The northern portion of section A-B of the application route, the extreme western end of section D-E, all of section E-F and the northern portion of section F-G are all depicted as either third class metalled roads or unmetalled roads. Differentiating between the two types is not easy as that is indicated by the thickness and closeness of the lines representing the road, and that is not very clear on the map.

Marlborough RDC Rights of Way Map 1905 (WSHC, Ref. G8/250/1)

A route from Stitchcombe to the London Road at Putall (labelled 34) included section F-G of the application route coloured yellow with the classification - "*Highways repaired by the District Council*". Part of the local maintained public road network.

Marlborough RDC Rights of Way Report 1905 (WSHC, Ref. G8/250/2)

"33 An old footpath is claimed....."

"34 The road leading from Stitchcombe, via Putall Park, to the London Road has been disturbed: the road should follow the Parish Boundary through Hill Copse and a corner of East Croft Coppice"

Refers to as a "*road*", rather than for example a "*footpath*" the route labelled "*34*" on the accompanying map, (G8/250/1) from Stitchcombe to the London Road at Putall which includes section F-G of the application route.

Rural District Council Minutes 1906 (WSHC, Ref. G8/100/2)

Page 372: "*Upon the motion of the Chairman it was resolved that the Council confirm the decisions arrived at by the council in committee upon the subject of Roads and Footpaths in the District as follows:*"

"32 The grass track"

"33 An old footpath....."

"34 The road leading from Stitchcombe, via Putall Park, to the London Road has been disturbed: the road should follow the Parish Boundary through Hill Copse and a corner of East Croft Coppice"

Continues to refer to the route from Stitchcombe to the London Road at Putall (34 above) which includes section F-G of the application route as a "*road*" rather than, for example, "*footpath*" or "*grass track*"

Ordnance Survey 1st, 3rd Edition, Sheet 113 Revised 1901-02, published 1908, Railways to 1912 (WSHC, Ref. Printed Maps 4.18)

Section A-B of the application route is shown as a 1st or 2nd Class Fenced Metalled Road. From point B south to the A4 at point G the application route is shown as either fenced 3rd Class metalled or unmetalled roads (can't tell which).

1910 Finance Act Record Plan Sheet XXIX.X1 (TNA, Ref. IR 125/11/352)

Section A-B of the application route is uncoloured i.e. it is not included in the apportionment on either side of it. Broken green braces are drawn either side of section A-B but do not extend across it. As the land constituting section A-B of the application route in unvalued, this suggests it belongs to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority. Had it only been a bridleway, the Inland Revenue would have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy.

1910 Finance Act Working Plan Sheet XXIX.X1 (WSHC, Ref. L8/10/29 Sheet 29.11)

Section A-B of the application route is uncoloured i.e. it is not included in the apportionment on either side of it. Broken green braces are drawn either side of section A-B but do not extend across it. The eastern end of South Lane is uncoloured i.e. it is not included in the apportionment on either side of it but there are no broken green braces shown. As the land constituting section A-B of the application route is unvalued, this suggests it belongs to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority. Had it only been a bridleway, the Inland Revenue would have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy.

Ordnance Survey 25" , 3rd Edition, Wiltshire Sheet 29/11 (1924, Revised 1922) (WSHC)

Section A-B of the application route is shown with an uncoloured central portion with wastage either side. It is fenced except at the Pit. It is not marked FP nor BR. Its width excluding wastage is about 26ft. It is separately numbered and measured.

Section B-C is a short section at the western end of North Lane. It is uncoloured, at its eastern end fenced on both sides, towards its western end it is unfenced on its northern side. No gates. Not marked FP or BR. Width is about 40ft , no wastage. It is numbered and measured separately (but included with Holly Lane and Cross Lane) from the land on either side.

The northern part of section C-D is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40ft with no wastage. It is numbered and measured separately (but included with Holly Lane and North Lane) from then land on either side.

Ordnance Survey 25" , 3rd Edition, Wiltshire Sheet 29/15(1924, Revised 1922) (WSHC)

The southern part of section C-D of the application route is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. It is separately numbered and measured.

Section D-E is shown. This is South Lane from its junction with Cross Lane west to Hill Close Lane. It is uncoloured with no gates. It is not marked FP or BR. Width excluding wastage varies between 26 and 40 ft. It separately numbered (936) and measured (2.285). At its eastern end South Lane is shown running amongst the trees; section D-E is no longer amongst the trees.

Section E-F (Hill Close Lane) is shown from South Lane south to Puthall Wood. It is uncoloured and amongst the trees. Fenced, no gates, not marked FP or BR. Width including wastage about 50ft. Dotted central portion is much narrower.

Section F-G (Axford Lane) runs south amongst the trees with Putall Park on its eastern side and then before reaching the London Road is fenced but no longer amongst trees, Uncoloured, no gates, not marked FP or BR. Separately numbered and measured. Named "Axford Lane".

Ordnance Survey 6" , 3rd Edition, Sheet 29 SE, 1925 & OS 6in Conventional Signs (1) (&2)(WSHC)

All sections of the application route; namely A-B (Stone Lane Way), B-C (part of North Lane), C-D (Cross Lane), D-E (part of South Lane), E-F(Hill Close Lane) and F-G (Axford Lane to the A4) are depicted as "Fenced or Unfenced Minor Roads".

Local Government Act 1929, Marlborough RDC Take Over Map (WCC ROW dept., Trowbridge)

Section F-G of the application route is shown in blue as a county unclassified road, U/C 5086. Coomb Lane, running south from Stitchcombe is also coloured blue, labelled U/C 5085, but a pencilled arrow and the word "Brown" point at that section.

Local Government Act 1929, Ramsbury RDC Take Over Map (WCC ROW dept., Trowbridge) & 1915 Ramsbury – Kellys.pdf

The application route is coloured blue from point A to the pit as a county unclassified road, U/C5085, then brown to its end at point G on the A4 as a non-maintainable public road. A pencilled note pointing at the blue section says "*Brown Take out* (pointing at the words 'U/C5085') *Agreed with Strickland*" According to a Kellys Directory Extract 1915 Ramsbury (© Wiltshire OPC project/2013/Eileen Barnett) in 1915 "*Ramsbury Rural District Council*", "*Officers*", "*Highway Surveyor, Sanitary Inspector and Surveyor of New Buildings : William Strickland, Charnham Street, Hungerford*".

Ordnance Survey 1" 5th Edition 1938 Sheet 112 Marlborough (WSHC, Ref. Printed Maps 4.17)

The entire route from point A to beyond point F is shown as an unmetalled road. The southernmost part of Axford Lane (that runs north from the A4) is shown similarly as far as a road which leads north-eastwards into Putall. It is not clear how much of the remainder of Axford Lane to point F is shown as the markings of the parish boundary obscure what might lie beneath them.

Ordnance Survey 1" Popular Series Sheet 112 War Revision 1940 (WSHC, Ref. Printed Maps 4.19)

From point A to B the application route (i.e. Stone Lane Way) is shown as a "*Bad Road*".

From point B to point G the application route (i.e. North Lane(part), Cross Lane, South Lane, Hill Close Lane and Axford Lane) is composed of "*Minor Roads*".

Ministry of Food National Farm Survey 1941-42 (TNA, Ref. MAF 73/45/29)

Wiltshire sheets 29.11 and 29.15 show the application route from point C to point E excluded from the property on either side, showing it was not privately owned. The valuer considered the route to be excluded from the agricultural holdings, and this only occurred where unproductive land fell between holdings. Carriageways are unproductive land. Inspection of the route shows it is not unproductive land of another sort (like a river)

Ordnance Survey Conventional Signs 1947 and 2½" Map, Edition 1, Sheet SU26, 1949 (WSHC)

All of the application route;, namely A-B (Stone Lane Way), B-C (North Lane), C-D (Cross Lane), D-E (South Lane), E-F(Hill Close Lane) and F-G (Axford Lane to the A4) are depicted as fenced "Other Roads (not classified by the Ministry of Transport)".

NP&ACA1949, Original Parish Survey Form and Map – Mildenhall (1951) (WCC ROW Dept., Trowbridge)

"Parish of Mildenhall" "Path No. 16" "CRB From London Road via Putall Park to Stitchcombe following Parish Boundary through

Hill Copse and corner of East Croft Coppice . Nature of surface: “Tarred with loose gravel for light traffic, deteriorates into narrow footpath just beyond Combe Farm, develops into a grass track (muddy in wet weather) near Oxleaze Copse, then into a narrow footpath at Hill Close and finally broadens into a track suitable for cars” (handwritten); Observations: “By taking short cuts it becomes a narrow footpath but in several places there is a better road which goes further round” (handwritten); “CART TRACK”

Marlborough and Ramsbury RD Rights of Way Survey 1951, Statement required under Section 32. (WSHC, Ref. G8/250/3)

Page 77: Parish Mildenhall, Path No. 16 “C.R.B. - Axford Lane. From the southern end of spur road U/C5085 at the entrance to Combe Farm leading south-east along the Ramsbury boundary through East Croft Coppice and south-south-east along the edge of Putall to the London-Bath road, Trunk Road A.4, on the Little Bedwyn Parish Boundary”

“C.R.B.” has been struck through in pencil and changed to “F.P.”. “south-south-east along the edge of” has been inserted in pencil. Section G-F of the application route is Axford Lane running northwards from A.4.

Letter from The Forestry Commission dated 13th June 1953 (WSHC, Ref. F2/271/8)

In this letter The Forestry Commission objected to 43 routes. In only two cases did they qualify the name of the route to which they objected by adding further information: CR16 and CR15. “CR16 (on boundary of Mildenhall Parish and Ramsbury Parish). Should be a footpath”. They therefore specifically did not object to the existing status of CR16 on the boundary between Mildenhall Parish and Little Bedwyn Parish (i.e. the application route between points F and G). On the ground it is clear that the section to which they objected (Coomb Lane) is an offshoot from the major route, Axford Lane, that follows the application route.

Draft Map Inquiry Decision 1955 (WSHC)

“C.R.B. No 16 Modification of status. To be F.P. Only” “Admitted by Savernake Estate as F.P. Parish Council agree”.

The whole of C.R.B. (including section F-G of the application route) was downgraded, not just the length objected to.

Ordnance Survey 2½”, Sheet SU26, Revised 1961

All sections of the application route, namely A-B (Stone Lane Way), B-C (part of North Lane), C-D (Cross Lane), D-E (part of South Lane), E-F (Hill Close Lane) and F-G (Axford Lane to the A4) are shown as fenced “Other Roads (not classified by the Ministry of Transport)”.

“The Village in the Valley: A History of Ramsbury”, by Barbara Croucher: Research Notes (WSHC, Ref. 3397/15)

Amongst the papers are included

- a diagram showing South Field entitled “The Axford Common Field called Southfield, showing “Strips” and later Enclosure.” and further labelled “Deduced from the Axford Enclosure Award by agreement 1727” It illustrates to whom the land was awarded by the enclosure agreement. The layout depicted shows the same interpretation of the Inclosure Agreement as that of the applicant.

- a map depicting the roads set out by the Inclosure Agreement, similarly deduced by Barbara Croucher, and agreeing with the deductions made by the applicant.

- a typewritten summary of the provisions of the Inclosure Agreement, supplied to her by the University of Bristol in 1981.

Victoria County History of Wiltshire, Vol. 12, 1983, Map of Mildenhall c1842:

A Map of Mildenhall c1842 shows section G-F of the application route running northwards along the Mildenhall/Little Bedwyn boundary and then into Ramsbury.

Victoria County History of Wiltshire, Vol. 12, 1983, page 51

Provides context for the location in Axford of South Field and The Down

“The customary tenants of Ramsbury manor in Axford held the strip of land, possibly 750a., at the west end of the parish. They cultivated it in common until it was enclosed by private agreement in 1727. The arable land was in two fields. North Field, 280a. between the Kennet and road through Sound Bottom, included 8 a. between Axford Street and the river. South Field contained 194 a. south of Mead Lane...South of South field, adjoining Hens Wood and Putall Farm, was a down, c. 74 a., apparently for cattle. Between the fields a marsh and several islands in the Kennet, c.32 a., were commonable.”

“The Village in the Valley: A History of Ramsbury”, by Barbara Croucher, published 1986

The Axford enclosure agreement 1727 is covered on pages 126 and 127. Figure 14.8 on page 127 illustrates “Axford's Southfield after enclosure in 1727”. It is similar to the diagram in the author's research notes, but does not show the strips, just the areas of land allocated to each recipient. The diagram supports the applicant's conclusions around the naming of the roads set out by the commissioners in the Inclosure Agreement.

Wiltshire Highways Records map (as at 24th July 2017) (WCC ROW dept., Trowbridge)

The application route is shown coloured brown as a public road taken over from the RDC under the provisions of the Local Government Act 1929.

1727 Axford IA Transcript

A transcript by the applicant of the 1727 Axford Inclosure Agreement where it relates to the setting out of roads

Appendix A– Extracts from the 1727 Axford Inclosure Agreement

“...AND that it should be lawful for Edward Hanson, Jn. Brown and Roger Gate aforesaid by any writing under our hands and seals to allot divide and layout the sd. Common Field Down and marsh unto the several persons herein beforementioned according to the ex??? proportions or interest of each proprietor or subscriber aforesaid AND also to limit and appoint the places where each and every of their respective lotts ??? be allotted to them AND also to lay out Common Roads Ways Byways and private ways as might be necessary and convenient leading to every particular enclosure.....”

Extract from the agreement describing roads and ways created in the Marsh, South Field and The Down (numbering and yellow highlighting is by the applicant)

AND as Touching and Concerning Ways, Drove Ways, Lanes , Private Ways , Highways to be laid out for the conveniency of the Proprietors of the Enclosure we the said Edward Hanson Jon Brown and Roger Gate Do order and Appoint as follows (vis).....

1. **Item** in the marsh shall be left another Lane or Way beginning at Stone Lane and shall pass over the River Kennet to South Field which Way shall be everywhere Thirty Feet wide & which Way has been all Along in the Foregoing descriptions called Stone Lane Causey
2. **Item** in the marsh shall be left another Lane or Cartway which beginning at the south end of Saunders Lane shall pass thence over the River Kennet to the Gate at the North end of Coomb Way which Lane or Cartway shall be everywhere thirty Feet wide
3. **Item** in the marsh shall be left another Lane or Way beginning at Ann Harts way and shall pass over the River Kennet to Coomb Lane which Lane or Way shall be everywhere thirty feet wide
4. **In South Field** shall be left a Lane that beginning at Holly Lane Causey shall pass westwards till it comes into Coomb Lane having adjacent on its South side divided into Lotts as herein before described and on the north side divers meads belonging to proprietors herein before mentioned which Lane shall be everywhere twenty four feet wide and which lane has been all along in ye foregoing description called by ye name of Mead lane
5. **Item** in South Field shall be left another lane which beginning at Mead lane shall pass southwards until it comes into the Down having ye lotts of Thos Pearce & George Moor adjacent on ye East & Lotts of Edward Appleford George Moor adjacent on ye west which lane shall be everywhere sixteen feet wide and which lane has been all along in the foregoing descriptions called by the name of Stone Lane Way
6. **Item** in South Field shall be left another Lane or way which beginning at Mead lane shall pass southwards until it comes to Coomb Lane having adjacent on ye west a lott of Daniel Applefords ????? lott of Thos. Appleford Junr.(?) and on ye east ... part of a lott ??? Thomas Appleford Junr which lane or way shall be every where sixteen feet wide and which Lane or Way has been all along in the Foregoing descriptions called by the name of Coomb Way
7. **In the Down** shall be left a lane which beginning at the south end of Holly Lane shall pass on southwards till it comes to Saunders's Gate having adjacent on ye east divers(?) coppices of the proprietors herein before mentioned and adjacent on ye west four lotts of Danl. Appleford Senior herein before described which lane shall be every where thirty three feet wide and which lane has been all along in the foregoing descriptions called by the name of East Lane
8. **Item** in the Down shall be left another Lane which lane beginning at Saunder's Gates shall pass on westwards as far as a ground called Hill Close having adjacent on ye south divers coppices belonging to the proprietors herein before mentioned and Four lotts of Danl Appleford Senr. and adjacent on the north lotts of Danl Appleford Senr George Moor, Edward Appleford, Jonathon Knaxton & Thos Appleford Junr which lane shall be every where thirty three feet wide and which lane has all along in the foregoing descriptions called by ye name of South Lane
9. **Item** in the Downs shall be left another lane which beginning at the west end of South Lane shall pass southwards as farr as Putall Gate having adjacent on the east side a lot of Daniel Appleford Senior and having adjacent on its west a ??? called Hill Close and a Coppice called Oaken Coppice which lane shall be every where thirty three feet wide and which lane has been in the foregoing descriptions called by ??? name of Hill Close Lane
10. **Item** in the Downs shall be left another Lane or Way which beginning at the West end of South lane shall pass on first Northwards and then Westwards on ye West side of the downs as farr as Coomb lane haveing on the East side a lott of Thos. Appleford s and on ye West side a Coppice of George Moor which Lane or Way shall be every where Sixteen feet & an half wide and the herbage of which shall belong to Thos Appleford Junr
11. **Item** in the Down shall be another Way which beginning at the South end of Holly Lane shall pass westwards until it comes to a lott of Simon Applefords herein before described having adjacent on the South side lotts of Danl. Applefords Senr. and George Moors and adjacent on the North Side South Field which lane shall be everywhere Thirty three Feet wide and and has been all along in the Foregoing descriptions called by the name of North Lane
12. **Item** in the Down shall be left another Lane beginning at the West end of North lane shall pass on Westwards as farr as a Lott of Jonathon Knaxton having adjacent on the south a Lott of Simon Applefords and adjacent on the North all of South Field which way shall be everywhere Sixteen Foot and a half wide and the Herbage of the sd. way shall belong to Simon Appleford and which Way has been in the Foregoing description called Knaxtons Way
13. **Item** in the Down Shall be left another Lane which beginning at the West end of North Lane shall pass on Southwards as farr as South Lane having on the West the lotts of Symon Appleford Thos Pearse and Edward Appleford and having adjacent on ye East the lotts of George Moor which Lane shall be every where Thirty three feet wide and has been all along in the foregoing descriptions called by the name of Cross Lane
14. **Item** in the marsh shall be left a Footway which beginning at the south side of Saunders's Lane shall pass along ??? ?? Causey through the whole length of that lott of Jonathon Knaxtonss (herein before said to contain Two Roods and Thirty Seven Poles) till it reach the Bridge that passes over the River Kennett at the South end of the sd. lott and from this Bridge the said footway shall pass to the Gates att the North end of Coomb Lane

Appendix B: Rationale for the identification of roads set out in the 1727 Inclosure Agreement

The grid-like network of routes in Axford south of the River Kennet is little changed since the Andrews and Dury map of 1773. That map, the first Wiltshire county map to be based on an original survey since Saxton (1576), was produced forty-six years after the Axford Inclosure Agreement.

Roads of significance to this application are described in the agreement as in the Marsh, In South Field or In The Down

From Victoria County History of Wiltshire, Vol. 12, 1983, page 47-52

“The customary tenants of Ramsbury manor in Axford held the strip of land, possibly 750a., at the west end of the parish. They cultivated it in common until it was enclosed by private agreement in 1727. The arable land was in two fields. North Field, 280a. between the Kennet and road through Sound Bottom, included 8 a. between Axford Street and the river. South Field contained 194 a. south of Mead Lane...South of South field, adjoining Hens Wood and Putall Farm, was a down, c. 74 a., apparently for cattle. Between the fields a marsh and several islands in the Kennet, c.32 a., were commonable.” [PDF: VCH Vol. XII p51]

Also:

“Axford Street was so called in 1727 when the road south of the Kennet and parallel to it was called Mead Lane”

North Field lay north of the River Kennet, bounded on its northern edge by Sound Bottom and its southern by the River Kennet.

In the Definitive Statement for Ramsbury RAMS43 is named “Mead Lane” and RAMS9A is named “Holly Lane”

RAMS43 runs eastwards south of the River Kennet from U/C5085 south of Church Farm to the junction of RAMS9 FP and RAMS9A BR.

South Field lay south of Mead Lane, i.e. south of the present RAMS43.

Hens Wood, Hill Close and Putall Farm are today (2018) still known as such.

Adjoining South Field to its south, bordered to its east by Hens Wood and to its south by Putall Farm was a down.

The following logic uses the description of the roads set out by the commissioners to identify the probable current day equivalent. It needs to be read in conjunction with Appendix A and Axford Inclosure Award 1727.jpg. The resultant naming of the tracks is entirely consistent with the evidence of the Inclosure Agreement and current place names.

ITEM 4 (*that is, the Inclosure Agreement description numbered 4 in Appendix A*)

Causey is an archaic or dialect term for causeway, which suggest that Holly Lane Causey was the northern continuation across the Marsh and the Kennet of Holly Lane, and is today footpath RAMS9.

Mead Lane therefore ran westwards along the present line of bridleway RAMS43 but as far west as Coomb Lane.

ITEM 8: Only one route in the area runs along the southern edge of The Down westwards to Hill Close, i.e. with coppices on its south and lotts on its north. That route is South Lane and Saunder's Gate is therefore at its eastern end, at the south-eastern corner of The Down where a track is shown continuing into Hens Wood.

ITEM 7: From that and the present day location of Holly Lane it follows that the route down the eastern side of The Down, adjacent to Hen's Wood, was East Lane.

ITEM 9: It also follows that Hill Close Lane is the leg of the present footpath RAMS44 that runs approximately southwards from the western end of South Lane as far as Putall (Putall Gate).

ITEM 10: It also follows that the “another lane or way” that runs northwards and westwards from South Lane “on the west side of the downs” is the lane that is shown on the Ordnance Survey 25” editions of 1886, 1900 and 1924 running around the edge of Hill Close. That means that Coomb Lane followed the line of the present day MILD16 FP as it ran from Stitchcombe.

As MILD16 is Coomb Lane then that means that Mead Lane continued westwards past the present junction with Stone Lane, along the present Kings Drive.

ITEM 1: Stone Lane Causey therefore ran from Stone Lane on the north side of the Kennet to a junction with Mead Lane at the northern edge of South Field. Today the whole distance from Axford Street (the C.6) to Mead Lane is named Stone Lane.

ITEM 5: Stone Lane Way was and is the continuation southwards and then south-eastwards of Stone Lane Causey past the Chalk Pit to what is now footpath RAMS9B.

ITEM 6: Coomb Way ran from Mead Way to Coomb Lane according to its description; today part of footpath RAMS45 runs from Kings Drive to MILD16. Coomb Way is therefore RAMS45 from Kings Drive southwards.

ITEM 2: As RAMS45 south of Kings Drive is Coomb Way, then RAMS45 north of Kings Drive is “another Lane or Cartway beginning at the south end of Saunders Lane ... over the River Kennet to the gate at the north end of Coomb Way”. Today the lane starts at the C.6 and is called Hoppers, rather than Saunders, Lane. RAMS45 in the Definitive Statement for Ramsbury is called “Hoppers”.

ITEM 11: Footpath RAMS9A is Holly Lane and, although the lane becomes RAMS9B as the bridleway turns east towards Park Town as RAMS52, Holly Lane physically runs as far south as the junction with footpath RAMS44. North Lane was what is now the continuation westwards of RAMS9B from Hens Wood at the southern end of Holly Lane .

ITEM 13: Cross Lane runs southwards from the west end of North Lane and is therefore the track marked “Axford Lane” that runs south through the Down from just west of where Stone Lane Way meets North Lane.

ITEM 12: Therefore Knaxton's Way was what is now RAMS9B from its junction with Cross Lane west to Coomb Lane at Oxleaze Copse.

ITEM 3: The applicant has been unable to identify Ann Hart's Way and hence the location of this “another lane or way” .

To all ??? People To whom this present writing of award ...Edward Hanson of Chisbury in the county of Wilts Yeoman Jn Brown of Manton in the sd. County Yeoman and Roger Gate of Flintbury in the county of Berks Yeoman send greetings

Whereas by Certain Articles or Deeds of agreement bearing date the Seventeenth day of April in the Thirteenth Year of the Reign of our Sovereign Lord King George the First Anno Domini 1727 made and executed by Richard Jones of Ramsbury in the County of Wilts Esq. Lord of the Mannor of Ramsbury aforesd. of the one part AND Daniel Appleford Sen. of Rockley in the sd county Yeoman Daniel Appleford Junior of Axford in the Parrish of Ramsbury in the said county Yeoman Symon Appleford Jun of Axford aforesd Yeoman Thos. Appleford Senior of Axford aforesd Yeoman Thomas Appleford Junior of Axford aforesd Yeoman Edward Appleford of Axford aforesaid ????? Anthony Appleford of Axford aforesd Yeoman George Moor of Littlecott in the said county Yeoman Robbt. Veysey of Axford aforesd Yeoman Jonathon Knackston of Axford Aforesd Yeoman Thomas Pearse of Savernake Park in the sd county Yeoman and Jn. New of Stourington in the county of Berksthe Advantage of Tyllage and good husbandry those fields called the North Field & South Field with a down called the Cow Down & the Common Marsh all belonging to the tything or hamlet of Axford aforesaid should be enclosed and divided proportionally (?) to the severall subscribers whose names were herein beforementioned according to these several estates and interests herein AND that it should be lawful for Edward Hanson Jn. Brown & Roger Gates aforesaid by any writing under our hands and seals to allot divide and layout the sd. Common Field Down and Marsh unto the several persons herein beforementioned according to the ex??? proportions or interest of each proprietor or subscriber aforesaid AND also to limit and appoint the places where each and every of their respective lotts ??? be allotted to them AND also to lay out all Common Roads, Ways Byways and private ways as might be necessary and convenient leading to every particular enclosure AND to appoint to all and every of them

(HERE are the allocations of land – not transcribed)

.....**MORE** To ye sd George Moor in lieu of his (nine?) commons belonging to his Whittiats Freehold Land , all the Feed and Herbages in the River Kennett between the aforesd East end of ??? Street Pond and Raggs Rayles containing Eight Acres one Rood and Twenty Three Poles

And as Touching and Concerning Ways, Drove Ways, Lanes , Private Ways and Highways to be laid out for the conveniency of the Proprietors of the Enclosure we the said Edward Hanson Jno Brown and Roger Gater Do order and Appoint as Follows (vis)....

In that part of North Field called the Heaths shall be left a Lane or Drove way which beginning at London Road shall pass northwards as farr as that lott of Danl. Appleford Senr. which joyns to the Lady Winchelseas lands having on the West side Caresden Grounds and one lott of George Moors aforesd. and on the east side all the lotts herein before described to lay in that part of North Field called the Heaths and which lane shall be every where twenty four feet wide as it is now marked out and which has been all along by ye foregoing descriptions called by the name of Caresden Lane.

Item in the sd. Heaths shall be another Lane left which shall pass out of Caresden Lane eastwards as farr as into the lott of Edward Appleford having adjacent on the south side a lott of George Moors and on (ye?) north side a lott of Thos Pearses and which lane shall be everywhere Twenty Four Feet wide as it is now marked and which Lane in ye Foregoing description has been all along called by ye name of Hares Lane

In Sound Bottom shall be left a Lane or Road Way which beginning at the West end of a Ground called Bacons belonging to Axford Farm shall pass Westwards till it comes to an old Enclosure of the Lady Winchelseas called Grove grounds having on ye South side all the North Field, and on the north side in that part of North Field called the Heaths three Lotts of Danl. Appleford Senr. and a Lott of Jonathon Knaxton and Caresden Grounds which Lane or Road Way shall be every Where Fourty two Foot wide as it is now marked out and which Road Way has been all along in the forgoing descriptions called by ye name of London Road

In North Field shall be left a Lane which beginning at Axford Street shall pass northwards till it comes into the before-mentiond London Road haveing adjacent on the West side thereof the Lotts of Edwd. Appleford Richd. Jones's Esq. and Thos. Appleford Junr. and adjacent on ye East side thereof four Lotts of George Moors which lane shall be every where twenty Four Feet wide as it is now marked out and which lane has been all along in the Foregoing descriptions called by ye name of West Lane

Item In North Field shall be left another lane which beginning at Axford Street shall pass northward till it reach the before mentioned London Road haveing adjacent on the West side thereof four Lotts of George Moors and adjacent on ye East side thereof a Lott of Thos. Pearses, a Lott of Symon Applefords a lott of Anthony Appleford and an old Enclosure called Tuckers which lane shall be everywhere Twenty Four Feet wide as it is now marked out and which Lane has been all along in the Foregoing descriptions called by ye name of East Lane

Item in North Field shall be left another Lane which beginning in the last mentioned East Lane shall pass Eastwards till it comes into a Lott of Danl. Applefords Senr. haveing adjacent on ye North a Lott of Anthony Applefords and on ye South an Old Enclosure called Tuckers which Lane shall be everywhere Twenty Four Feet wide and has been all along

in the foregoing descriptions called by ye name of ye Parsons Lane. The Feed or Pasture of the said Lane shall always belong to the (Possessors?) for the time being of that piece of Land that the East end of the sd. Lane goes into which is the same Lott that was lay'd out for Danl. Appleford Senr. in lieu of his Pitthouses Copyhold land

Item from ye East end of the Parsons Lane shall be left another Lane or Way to Pass thence Northwards till it comes to piece of Ground layd out in North Field for Danl. Appleford Senr. in lieu of his Pearses Leasehold Land and From thence it Shall go Eastward till it reach into the Lott lay'd out for Danl. Appleford Senr. in lieu of his (Stranges?) Leasehold Land, which Lane or Way Shall be at all times for the Use of the (Possessors?) for the time being of the Lotts laid out for the sd. Danl. Appleford Senr. in the East side of the North Field aforstd. and which way shall be everywhere twelve feet wide

Item in the Marsh shall be left a Lane or Way which beginning at Whittiats Lane end shall pass over the River Kennett thro. two Lotts of Danl. Appleford Senr. In the same place where it now goes to the North end of the Bridge that goes over the (b???lett?) called Black Well along Holly Lane Causey to Holly Lane Gate which Way shall be every-where Twenty Feet wide

Item in the marsh shall be left another Lane of Way beginning at Stone Lane and shall pass over the River Kennett to South Field which Way Shall be everywhere Thirty Feet wide & which Way has been all Along in the Foregoing descriptions called Stone Lane Causey

Item in the marsh shall be left another Lane or Cartway which beginning at the South end of Saunders's Lane shall pass thence over the River Kennett to the Gate at the North end of Comb Way which Lane or Cartway Shall be everywhere thirty Feet wide

Item in the marsh shall be left another Lane or Way beginning at Ann Harts Lane and shall pass over the River Kennett to Coomb Lane which Lane of Way shall be every where Thirty Foot Wide

In South Field shall be left a Lane that beginning att Holly Lane Causey shall pass westwards till it comes into Coomb Lane having adjacent on its South side divided into Lotts as herein before described and on the north side divers meads belonging to the proprietors herein before mentioned which Lane shall be everywhere twenty four feet wide and which lane has been all along in ??? foregoing description called by ye name of Mead lane

Item in South Field shall be left another lane which beginning at Mead lane shall pass southwards until it comes into the Down having the ye lotts of Thos Pearse & George Moor adjacent on ye East & Lotts of Edward Appleford & George Moor adjacent on ye west which lane shall be everywhere sixteen feet wide and which lane has been all along in the Foregoing descriptions called by the name of Stone Lane Way

Item in South Field shall be left another Lane or way which beginning at Mead lane shall pass southwards until it comes to Coomb Lane having adjacent on ye west a lott of Danl. Applefords ????? lott of Thos. Appleford Junr.(?) and on ye east ... part of a lott ??? Thomas Appleford Junr which lane or way shall be every where sixteen feet wide and which Lane or Way has been all along in the foregoing descriptions called by ye name of Coomb Way

In the Down shall be left a lane which beginning at the south end of Holly Lane shall pass on southwards till it comes to Saunders's Gate having adjacent on ye east divers(?) coppices of the proprietors herein before mentioned and adjacent on ye west four lotts of Danl. Appleford Senior herein before described which lane shall be every where thirty three feet wide and which lane has been all along in the foregoing descriptions called by the name of East Lane

Item in the Down shall be left another Lane which lane beginning at Saunders's Gates shall pass on westwards as farr as a ground called Hill Close having adjacent on ye south divers coppices belonging to ye proprietors herein before mentioned and Four lotts of Danl Appleford Senr. and adjacent on the north lotts of Danl. Appleford Senr George Moor, Edward Appleford, Jonathon Knaxton & Thos Appleford Junr which lane shall be every where thirty three feet wide and which lane has all along in the foregoing descriptions called by ye name of South Lane

Item in the Down shall be left another lane which beginning at ye West end of South Lane shall pass Southwards as farr as Putall Gate haveing adjacent on ye East side a Lott of Danl. Applefords Senr. and adjacent on ye West a ??? called Hill Close and a Coppice called Oaken Coppice which Lane shall be every where Thirty Three Feet wide and which Lane has been in the foregoing descriptions called by ye name of Hill Close Lane

Item in the Downs shall be left another Lane or Way which beginning at the West end of South Lane shall pass on first Northwards and then Westwards on ye West side of the downs as farr as Coomb Lane haveing on the East side a lott of Thos. Applefords and on ye West side a Coppice of George Moor which Lane or Way shall be every-where Sixteen feet & an half wide and the Herbage of it shall belong to Thos Appleford Junr

Item in the Down shall be left another Way which beginning at the South end of Holly Lane shall pass Westwards till it comes to a Lott of Simon Applefords herein before described having adjacent on the South side Lotts of Danl. Appleford Senr .and George Moors and adjacent on the North Side South Field which lane shall be every where Thirty three Feet wide and and has been all along in the Foregoing descriptions called by the name of North Lane

Item in the Down shall be left another Lane beginning at the West end of North Lane shall pass on Westwards as farr as a Lott of Jonathon Knaxton having adjacent on the south a Lott of Simon Applefords and adjacent on the North all of South Field which way shall be every where Sixteen Foot and a half wide and the Herbage of the sd. way shall belong to Symon Appleford and which Way has been in the Foregoing descriptions called Knaxtons Way

Item in the Down Shall be left another Lane which beginning at the West end of North Lane shall pass on Southwards as farr as South Lane having adjacent on the West the the Lotts of Symon Applefords Thos Pearse and Edward

Applefords and having adjacent on ye East the lotts of George Moor which Lane shall be every where Thirty three feet wide and has been all along in the foregoing descriptions called by the name of Cross Lane

*Item in the Marsh shall be left a Footway which beginning at the South end of Saunders's Lane shall pass along ???
?? Causey through the whole length of that Lott of Jonathon Knaxtonss (herein before said to Contain Two Roods and Thirty Seven Poles) till it reach the Bridge that passes over the River Kennett att the South end of the sd. Lott and from this Bridge the sd. footway shall pass to the Gates att the North end of Coomb Way*

Item att the South end of Whittiats Lane before mentioned shall be set up Rayles or other sufficient Fence and a Gate in the sd. Fence as to allow sufficient Watering place(?) for Puttle

WILDLIFE AND COUNTRYSIDE ACT 1981**Definitive Map Modification Order Application**

For a route leading from Stone Lane in Axford in the Parish of Ramsbury to the A4 on the Mildenhall / Little Bedwyn boundary to be shown as a Restricted Byway

Applicant's Reference: AW001**9 February 2020**

Version	Date
3	9 Feb 2020
2	29 June 2019
1	27 Jan 2019

Quick reference path facts to assist the surveying authority in its investigation	
OS County Series map	Wiltshire 29.11 and 29.15
Modern Definitive Map sheet(s)	
Modern Explorer map	157 Marlborough & Savernake Forest
Grid References	SU 23486969 to SU23716781
Land Registry	<p>Inspire Id: 54619361 Title No: WT164195 The Ramsbury Estate Inspire Id: 25811261 Title No: WT199740 Coombe Farm, Axford Inspire Id: 57547334 Title No: WT418772 Land at Savernake Estate Inspire Id: 57547806 Title No: WT418772 Land at Savernake Estate Inspire Id: 54014907 Title No: WT301810 Puthall Farm, Marlborough</p> <p>There are also two small unregistered piece of land on or adjacent to the application route.</p>

1. My name is Alan Woodford. I am the applicant for the order. My rights of way experience stems from having been a volunteer access and bridleways officer for the British Horse Society in Wiltshire since 2015, and from having ridden the bridleways and byways in the Marlborough area since about 2000.
2. This section is intentionally blank
3. I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981 because:
 - a. This application statement includes explanations as to how the evidence applies to the application route, and
 - b. The application contains one or more of the following forms of supporting evidence:
 1. Legal document(s) relating specifically to the right of way that is the subject of the application (such as Railway Act, Enclosure Act and Award, Finance Act, Court Order or Main Roads Order evidence).
 2. Evidence of reputation in legal document(s), even though not written specifically about the right of way that is the subject of the application (such as Tithe Awards and Maps).
 3. Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.
 4. Maps and other documents which, over a period of time, and taken together, provide evidence of reputation that the order route is part of the public road network.

THE APPLICATION ROUTE

4. The application route is shown on the application map from
 - a. Point A (The junction of U/C 5085 and RAMS43 BR) to Point G (the A4).
5. Parts of the application route are currently shown on the definitive map of rights of way for Wiltshire:
 - a. Point B to Point C is shown as Ramsbury 9B FP.
 - b. Point D to Point F is shown as Ramsbury 44 FP.
 - c. Point F to Point G is shown as Mildenhall 16 FP.
6. The application route was not found on the List of Streets as at April 2018.
7. The application route's width is as follows: Section A-B:- 16 feet, B-C:- 33 feet, C-D:- 33 feet, D-E:- 33 feet, E-F :- 33 feet and F-G:- 2.7metres
8. The photographs listed below show the route from the positions stated. They were taken on June 14th 2018.
 - (1) 2018 AW001 A towards B: From Point A looking southwards towards Point B
 - (2) 2018 AW001 B towards C: From Point B looking west towards Point C
 - (3) 2018 AW001 C towards D: From Point C looking south towards Point D
 - (4) 2018 AW001 D towards E: From Point D looking west towards Point E
 - (5) 2018 AW001 E towards F: From Point E looking south westwards towards Point F
 - (6) 2018 AW001 F towards G: From Point F looking south towards Point G
 - (7) 2018 AW001 G towards F: From Point G looking north towards Point F
 - (8) 2018 AW001 MILD16 north from F: From Point F looking north-westwards along MILD16 FP

Photos (7) & (8) illustrate the very different nature of the southernmost part of MILD16 – wide and hedge lined – and MILD16 at its junction with RAMS44 (at point F) where a narrow track is barely discernible leading north westwards through the trees.

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

9. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence that highway rights exist. The use of the “balance of probabilities” test rather than “beyond reasonable doubt” was confirmed by the High Court in *Todd, Bradley v SOS for EFRA* [2004] 4 All ER 497.

10. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another* [2012] EWCA Civ 334, Lewison LJ said, at paragraph 22,

‘In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in *R v Exall* (1866) 4 F & F 922:

“It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength.”

11. While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006, there were full vehicular rights.

Documents referred to in evidence are in general held at either The Wiltshire and Swindon History Centre, Chippenham (WSHC) or The National Archives, Kew (TNA).

12 Inclosure agreement for North and South fields, Cow Down and Axford Marsh in Axford in Ramsbury, 1727

a. Relevance.

Between 1545 and 1880 the old system of farming scattered arable strips of land and grazing animals on common pasture was gradually replaced as landowners sought to improve the productivity of their land. The process of enclosure began by agreement between the parties concerned, although local powerful landowners may have had significant influence on the outcome. By the early eighteenth century a process developed by which a Private Act of Parliament could be promoted to authorise enclosure where the consent of all those with an interest was not forthcoming. The process was further refined at the beginning of the nineteenth century with the passing of two main general acts, bringing together the two most commonly used clauses and applying these to each local act unless otherwise stated.

After the landowners applied to Parliament for an Enclosure Act to be passed, commissioners were appointed to carry out their survey, prepare the map(s), set out the new road network, and make the distribution/award and land ownership allocations.

The Planning Inspectorate's Consistency Guidelines concerning Inclosure by agreement (paras 7.13 and 7.14) state:

“Agreements to enclose land could be informal or formal, the latter often being confirmed by a legal court and the former, by their very nature, being unlikely to be evidenced by records still existing today

Formal inclosure agreements were usually made between the lord of the manor and the principal farmers and landowners, and were normally drawn up by a local solicitor. Without the powers to do under an Act of Parliament, the parties concerned would have had no authority to alter existing rights of way. However agreements may provide evidence of pre-existing highways or of dedication by the landowner (if there is corresponding evidence to show acceptance by the public). “

b. Archive.

An original of this Inclosure Agreement (“IA”) is held by WSHC, reference 1883/217. The agreement consists solely of written text; there is no associated map.

c. Meaning.

The agreement lists, for each person allocated land under the agreement, the different lots of land allocated to them. It

describes the lots in terms of their location (e.g. in North field, in the Down etc.) and by what they are bounded (e.g. in the west by Thos. Appleford, in the north by North Lane etc.).

The Inclosure agreement also lists roads set out by the commissioners, each of which it then describes in terms of its location (In the Down, In the Marsh, In South Field etc.) and by what it is bounded (e.g. Daniel Appleford on its west) and the direction in which it runs. It also specifies the width of the road.

Document: 1727 Axford IA Transcript is a partial transcript by the applicant of the Inclosure Agreement

Six Photos: 1727 Axford EA(1) (1883_217).....1727 Axford EA(6) (1883_217)

At WSHC along with the IA is held a typewritten summary of the provisions of the agreement as they relate to the allocation of lots and the creation of roads etc. An eight page copy is also held amongst Barbara Croucher's research papers: **(photocopy supplied)**

Extract from the agreement (Edward Hanson, John Brown and Roger Gates were the appointed Commissioners)

"..AND that it should be lawful for Edward Hanson, Jon. Brown and Roger Gates aforesaid by any writing under our hands and seals to allot divide and layout the said Common Field Down and marsh unto the several persons herein beforementioned according to the ex??? proportions or interest of each proprietor or subscriber aforesaid AND also to limit und appoint the places where each and every of their (?) lotts ??? be allotted to them AND also to lay out Common Roads Ways Byways and private ways as might be necessary and convenient leading to every particular enclosure....."

Extract from the agreement describing roads and ways created in the Marsh, South Field and The Down (numbering is by the applicant)

AND as Touching and Concerning Ways, Drove Ways, Lanes , Private Ways , Highways to be laid out for the conveniency of the Proprietors of the Enclosure we the said Edward Hanson Jon. Brown and Roger Gates do order and appoint as follows (vis).....

1. **Item** in the marsh shall be left another Lane or Way beginning at Stone Lane and shall pass over the River Kennett to South Field which Way shall be everywhere Thirty Feet wide & which Way has been all Along in the Foregoing descriptions called Stone Lane Causey
2. **Item** in the marsh shall be left another Lane or Cartway which beginning at the South end of Saunders's Lane shall pass thence over the River Kennett to the Gate at the North end of Comb Way which Lane or Cartway shall be everywhere thirty Feet wide
3. **Item** in the marsh shall be left another Lane or Way beginning at Ann Harts Lane and shall pass over the River Kennet to Coomb Lane which Lane or Way shall be every where Thirty Foot Wide
4. **In South Field** shall be left a Lane that beginning att Holly Lane Causey shall pass westwards till it comes into Coomb Lane having adjacent on its South side divided into Lotts as herein before described and on the north side divers meads belonging to the proprietors herein before mentioned which Lane shall be everywhere twenty four feet wide and which lane has been all along in ye foregoing description called by ye name of Mead lane
5. **Item** in South Field shall be left another lane which beginning at Mead lane shall pass southwards until it comes into the Down having ye lotts of Thos Pearse & George Moor adjacent on ye East & Lotts of Edward Appleford & George Moor adjacent on ye west which lane shall be everywhere sixteen feet wide and which lane has been all along in the Foregoing descriptions called by the name of Stone Lane Way
6. **Item** in South Field shall be left another Lane or way which beginning at Mead lane shall pass southwards until it comes to Coomb Lane having adjacent on ye west a lott of Danl. Applefords ????? lott of Thos. Appleford Junr.(?) and on ye east ... part of a lott ??? Thomas Appleford Junr which lane or way shall be every where sixteen feet wide and which Lane or Way has been all along in the foregoing descriptions called by ye name of Coomb Way
7. **In the Down** shall be left a lane which beginning at the south end of Holly Lane shall pass on southwards till it comes to Saunders's Gate having adjacent on ye east divers(?) coppices of the proprietors herein before mentioned and adjacent on ye west four lotts of Danl. Appleford Senior herein before described which lane shall be every where thirty three feet wide and which lane has been all along in the foregoing descriptions called by the name of East Lane
8. **Item** in the Down shall be left another Lane which lane beginning at Saunders's Gates shall pass on westwards as farr as a ground called Hill Close having adjacent on ye south divers coppices belonging to ye proprietors herein before mentioned and Four lotts of Danl Appleford Senr. and adjacent on the north lotts of Danl. Appleford Senr George Moor, Edward Appleford, Jonathon Knaxton & Thos Appleford Junr which lane shall be every where thirty three feet wide and which lane has all along in the foregoing descriptions called by ye name of South Lane
9. **Item** in the Down shall be left another lane which beginning at ye West end of South Lane shall pass

Southwards as farr as Putall Gate haveing adjacent on ye East side a Lott of Danl. Applefords Senr. and adjacent on ye West a ??? called Hill Close and a Coppice called Oaken Coppice which Lane shall be every where Thirty Three Feet wide and which Lane has been in the foregoing descriptions called by ye name of Hill Close Lane

10. Item in the Downs shall be left another Lane or Way which beginning at the West end of South Lane shall pass on first Northwards and then Westwards on ye West side of the downs as farr as Coomb Lane haveing on the East side a lott of Thos. Applefords and on ye West side a Coppice of George Moor which Lane or Way shall be every-where Sixteen feet & an half wide and the Herbage of it shall belong to Thos Appleford Junr

11. Item in the Down shall be left another Way which beginning at the South end of Holly Lane shall pass Westwards till it comes to a Lott of Simon Applefords herein before described having adjacent on the South side Lotts of Danl. Appleford Senr. and George Moors and adjacent on the North Side South Field which lane shall be every where Thirty three Feet wide and and has been all along in the Foregoing descriptions called by the name of North Lane

12. Item in the Down shall be left another Lane beginning at the West end of North Lane shall pass on Westwards as farr as a Lott of Jonathon Knaxton having adjacent on the south a Lott of Simon Applefords and adjacent on the North all of South Field which way shall be every where Sixteen Foot and a half wide and the Herbage of the sd. way shall belong to Symon Appleford and which Way has been in the Foregoing descriptions called Knaxtons Way

13. Item in the Down Shall be left another Lane which beginning at the West end of North Lane shall pass on Southwards as farr as South Lane having adjacent on the West the Lotts of Symon Applefords Thos Pearse and Edward Applefords and having adjacent on ye East the lotts of George Moor which Lane shall be every where Thirty three feet wide and has been all along in the foregoing descriptions called by the name of Cross Lane

14. Item in the Marsh shall be left a Footway which beginning at the South end of Saunders's Lane shall pass along ??? ?? Causey through the whole length of that Lott of Jonathon Knaxtonss (herein before said to Contain Two Roods and Thirty Seven Poles) till it reach the Bridge that passes over the River Kennett att the South end of the sd. Lott and from this Bridge the sd. footway shall pass to the Gates att the North end of Coomb Way

Taking the descriptions in the Inclosure Agreement in conjunction with present day locations it is possible to map the roads created by the commissioners onto the present day system of lanes and other routes in Axford.

Appendix A describes the logic which leads to that mapping.

Those conclusions are supported by “*The Village in the Valley*” by Barbara Croucher, published in the 1980s. Fig 14.8 in that book (**The Village in the Valley p127.pdf**) shows the author's understanding of the location of land in South Field after enclosure in 1727 and amongst her research notes held at the WSHC is a map of the network of roads and tracks in the Axford area, annotated with the names of the roads laid out in the Inclosure agreement (**Photo: 1970s B Croucher Research Notes Roads 2 (3397_15)**).

Axford Inclosure Award 1727.jpg: a map illustrating the position of the “*Ways, Drove Ways, Lanes, Private Ways, Highways*” set out by the Inclosure Agreement.

e. Assessment.

The application route from A to B was set out by the IA as Stone Lane Way (width of 16 feet).

The application route from B to C is part of what was set out by the IA as North Lane (width 33 feet).

The application route from C to D was set out by the IA as Cross Lane (width of 33 feet).

The application route from D to E is part of what was set out by the IA as South Lane (width 33 feet).

The application route from E to F was set out by the IA as Hill Close Lane (width 33 feet).

The roads laid out, although allowing access to private land, as a network allow movement north and south between the existing highways of Axford Street and The Bath Road. It is likely that all were cart or carriage roads, which could also be used as droves. Those “roads” specified with widths of 16 feet or more must certainly have been more than footpaths.

The frequent description of the lots allocated to individuals as being bounded by one or other of the roads set out by the commissioners suggests that the roads were not part of the lots they bound.

The roads set out are described with reference to the lots allocated to individuals on either side of them; nothing in their description suggests ownership by any such individual, although in one case “the herbage” are said to belong to Thomas Appleford junior.

If a road was for the sole or shared use of a landowner or landowners, one would have expected the commissioners to have said so and they did not. None of the roads are described as “private” as mentioned in the preamble to the

agreement. The term “conveniency” is used but it does not mention private or exclusive use by the proprietors and need have no such connotation. It is perfectly reasonable to suppose that as the landowners had come to an agreement as to how the land would be allotted, they also agreed the most convenient routes for the ways to follow.

The applicant concludes that the terms of the agreement constituted dedication of the roads and ways laid out by the commissioners, and that Stone Lane Way, North Lane, Cross Lane, South Lane and Hill Close Lane (the application route from point A to point F) are most likely public roads with vehicular rights.

Evidence of acceptance by the public is provided by the large body of maps and other documents (cited below) that over the subsequent centuries suggest public vehicular rights along the roads laid out by the Inclosure Agreement that from the application route.

13. Survey of Putell Farm (1737)

- a. Relevance: The survey is entitled “An Accurate Survey of Putell Farm for the Rt. Honourable Charles Ld. Bruce by C. Price . 1737”. As it was made for the landowner it is unlikely to show features with which he did not agree.
- b. Archive: This document is held at the WSHC, reference 1300-372MS
- c. Meaning:

Running northwards from the Bath Road, coloured sienna, initially between Underwood Field (B2J) on its western side and Barn Close (BJ8) to its east, is a road shown extending as far as the northern end of Putall Park Coppice where it is annotated “*Axford Lane*”. The map is annotated “Note The parish of Mildenhall comes down Axford Lane between Puthall Park Coppice and Underwood Field”.

Photos: 1737 1300-372MS Puttel Farm & 1737 1300-372MS Puttel Farm Detail

- d. Assessment:

The road portrayed corresponds to the position of the southernmost section of current footpath MILD16 and is the southernmost section of the application route (from point G on the Bath Road northwards towards point F).

Its width varies between 1-2.5 poles (16.5 –41.25 feet). The road's width suggests Axford Lane was more than a footpath, and its naming as “Axford Lane” suggests the route lead to Axford. For a route to be shown continuing as a through route to a labelled destination adds to the likelihood that the route was for the use of the public.

At present MILD16 runs northwards from the A4 and then north-westwards to Stitchcombe. The naming of this section as Axford Lane suggests that the part of MILD16 that turns towards Stitchcombe was a branch from the primary route towards Axford.

The applicant concludes that the road shown was at the time a public road that primarily lead from the Bath Road to Axford and as such should today have vehicular rights.

14. Andrews and Dury's ½" Index Map of Wiltshire (1773)

- a. Relevance.

This was made for sale to the travelling public and so would aim to show routes that the public could use. It was produced as a result of an independent survey. It does not have a key.

- b. Archives. A copy is held by the WSHC under reference 1300/48/A-S

- c. Meaning.

The general line of the entire application route is shown clearly as a minor road. It is shown in the same way as the public vehicular road through Axford to which it connects.

Photos: 1773 Andrews & Dury Half Inch Index (1)

d. Assessment.

It seems improbable that a map at this scale would show footpaths, suggesting that all the routes on were bridleways or vehicular routes.

This map was not subject to public scrutiny so it is quite possible that some private roads are represented.

However, the map was made for sale to the public and therefore there must have been a strong incentive to ensure as far as possible that the routes shown could be used by them.

The people in the eighteenth century who could afford to spend money on these maps would have wanted at least to ride the routes shown, and more probably to travel along them by some form of carriage. That suggests vehicular rights.

The applicant concludes that the map provides evidence of a public road with vehicular rights running generally along the line of the application southwards from Axford to The Bath Road.

15. Andrews and Dury's 2" Map of Wiltshire (1773) Sheet 12a. Relevance.

This was made for sale to the travelling public and so would aim to show routes that the public could use. It was produced as a result of an independent survey. It does not have a key.

b. Archives. A copy is held by the WSHC under reference 1300/48/A-Sc. Meaning.

The entire application route is shown clearly as a minor road. It is shown in the same way as the public vehicular roads to which it connects e.g. The London – Bath Road.

Photos: 1773 Andrews & Dury 2in Sheet 12d. Assessment.

This map was not subject to public scrutiny so it is possible that some private roads are represented. However, the map was made for sale to the public and therefore there must have been a strong incentive to ensure as far as possible that the routes shown could be used by them.

The people in the eighteenth century who could afford to spend money on these maps would have wanted at least to ride the routes shown, and more probably to travel along them by some form of carriage. That suggests vehicular rights.

The applicant concludes that the map provides evidence of a public road with vehicular rights running generally along the line of the application southwards from Axford to The Bath Road.

16. Robertson's 1" Survey of the Bath Road 1792: Map No: 8a. Relevance.

According to *Printed Maps of Wiltshire (Ed. John Chandler)* Archibald Robertson was a landscape painter and aquatint engraver and his publication, dedicated to The Prince of Wales, "was primarily a vehicle for his engravings of buildings and views adjacent to the Bath Road". The Wiltshire portion of the map appears to lean heavily upon the 1773 printed map of Andrews and Dury.

b. Archive. A facsimile of this publication is held at the WSHC under reference AAA/912**Photo: 1792 Robertson's Bath Road 1-inch (AAA_912)**c. Meaning.

It describes itself as “A topographical survey of the great road from London to Bath and Bristol With historical and descriptive accounts of the country, towns, villages, and gentlemen's seats on and adjacent to it; illustrated by perspective views ... To which is added a correct map of the country ... By Archibald Robertson.”

Map No 8 shows the entire application route from A-G as a minor road.

d. Assessment.

This publication provides supporting evidence of the physical existence of the routes portrayed, including the entire length of the application route and with its apparent reliance on the Andrews and Dury map serves to give further credence to that map.

17. **Rennie's Plan of proposed the Kennet and Avon Canal (Surveyed 1793, Completed 1810)**

a. Relevance.

In 1793, after appointment as Chief Surveyor and Engineer of the Kennet and Avon Canal, John Rennie was asked to make a further survey of the route

Canal construction required a private act of Parliament and from 1794 any scheme which involved compulsory purchase had to submit a detailed plan with book of reference of the parcels of land proposed for acquisition. Such a plan exists in the WSHC under reference A1/372/1.

This plan however is quite different from the deposited plans. It depicts settlements and topography up to as much as five miles on each side of the proposed canal. Its purpose was clearly to describe the course of the canal in relation to nearby towns and villages.

b. Archive. This document is held at the WSHC under reference 1644/34

c. Meaning.

Photo: 1793 Rennie Survey Kennet & Avon Canal (1644_34)

The plan shows routes delineated by two parallel lines, each of which may be solid or pecked. Although there is no key presumably, as is customary, solid lines indicate fencing or hedging and pecked means unfenced.

The entire application route from A-G is shown, bounded by solid lines.

d. Assessment.

This document provides supporting evidence for the existence of the route. It seems unlikely that Rennie would show footpaths, suggesting the route would have been either a bridle path or a minor road.

18. **Cary's Map of Wiltshire (1801)**

John Cary's first map of Wiltshire, published in 1787, incorporated the information on more recently published large-scale maps like Andrews and Dury. It formed part of *Cary's New and Correct English Atlas*, completed in 1789.

Cary's New English Atlas was not completed until 1809, but the Wiltshire map within it first appeared in 1801.

a. Relevance.

This map was made for sale to the travelling public. The purchasers, who would have been relatively wealthy in order to be able to afford to buy the map, would want to see routes which they could use – public routes along which they could travel on horseback or more probably by carriage.

The map would not have been subject to public scrutiny prior to publication so it is possible that some of the routes illustrated would not have met those criteria.

However, the publishers must surely have made every effort to avoid such instances for fear of the damage they might do to the map's reputation for usefulness.

b. Archive. A copy of this map is held at the WSHC, reference "Printed Maps 3.2"

c. Meaning.

Photos: 1801 Cary Title (PM3.2); 1801 Cary Detail (PM3.2).

Two roads are shown running southwards from the river Kennet just south of Axford.

The western of the two peters out not far north of the Bath Road. The other runs roughly southwards until it turns 90 degrees to run westwards to join the other.

A second east-west road further to the north connects the two north-south roads.

Further west a road is shown running northwards from the Bath Road just west of milestone 71.

Two roads run northwards from Axford towards Sound Bottom.

There is no key held with this map but all routes are represented similarly, albeit as fenced or unfenced, other than the main roads like the Bath Road.

d. Assessment.

The relative positions of the roads south of Axford and the two roads that run north from Axford leads the applicant to conclude that the westerly of those south of the river is the application route from point A to point F and the easterly is Holly Lane / East Lane. North of Axford the westerly of those running to Sound Bottom is West Lane and the easterly is East Lane (present day RAMS8A FP). N.B. The 1727 Inclosure Agreement sets out two roads called East Lane, one in North Field (north of Axford) and this one in the Down.

Axford Lane (MILD16 FP) today meets the A4 just west of milestone 71. The applicant therefore concludes that the road shown running northwards from the Bath Road is Axford Lane, section F-G of the application route. On this map Axford Lane then further north becomes Coomb Lane.

The applicant concludes that the parts of the application route are fully represented on this map, but the map fails to join them up correctly.

The absence of a key means it is not possible to be certain about the status of the application route, although it seems unlikely that an atlas would represent footpaths. It is more probable that it would show routes which the travelling public would be able to use – at least, public bridleways and more likely, public carriage roads.

Although the map must have featured, by accident or design, some private routes and some footpaths it is suggestive of the application route being a road with public vehicular rights.

19. Smith's Map of Wiltshire (1801)

a. Relevance.

This map was originally published as part of Smith's New English Atlas: "A new map of the County of Wilts divided into hundreds". Printed for C. Smith, No 177 Strand, January 6th 1801". It has a key.

This map was made for sale to the travelling public. The purchasers, who would have been relatively wealthy in order to be able to afford to buy the map, would want to see routes which they could use – public routes along which they could travel on horseback or more probably by carriage.

The map would not have been subject to public scrutiny prior to publication so it would seem possible that some of the routes illustrated would not have met those criteria.

However, the publishers must surely have made every effort to avoid such instances for fear of the damage they might do to the map's reputation for usefulness.

b. Archive. This document is held at the WSHC, reference "Printed Maps 2.2"

c. Meaning.

Photo: 1801 CSmith Detail (PM2.2); 1801 CSmith Key (PM2.2).

The map shows two Cross Roads running southwards from Axford. The western of these continues northwards beyond the village of Axford to join the east-west road along Sound Bottom. The eastern of these turns westwards in The Down and joins the western, and a single Cross Road then runs south to the Bath Road.

The map shows many other cross roads, including the one from Mildenhall through Axford to Ramsbury.

d. Assessment.

Most other maps, before and after Smith's, show three routes running southwards. Although the picture of the routes in the area is a bit confused, its continuation northwards to Sound Bottom suggests the western of the two shown here is the application route and thus the eastern of the two is Holly Lane Causey / Holly Lane / East Lane.

The northern of the two east-west Cross Roads must be North Lane (the present RAMS9B) and the one further south, South Lane (the present RAMS44).

The Planning Inspectorate's Consistency Guidelines (para 2.24 to 2.30) for the definition of a cross road state:

"In modern usage the term cross road/crossroads is generally taken to mean where two roads cross. However old maps and documents may attach a different meaning to the term. These include a highway running between, and joining, other highways, a byway and a road that joined regional centres."

Howarth J's comments in the case of Hollins-v-Oldham 1995 concluded that the category known as "cross road" must mean a public road in respect of which no toll was payable. The judge gave his reason for this view, stating:

"This latter category, it seems to me, must mean a public road in respect of which no toll is payable. This map was probably produced for the benefit of wealthy people who wished to travel either on horseback or by means of horse and carriage. The cost of such plans when they were produced would have been so expensive that no other kind of purchaser could be envisaged. There is no point, it seems to me, in showing a road to such a purchaser which he did not have the right to use."

Although the map may have featured, by accident or design, some private routes and some footpaths, its depiction as a Cross Road, connecting with the Cross Road running east-west through Axford, supports the other stronger evidence in favour of the application route being, in 1801, a road with public vehicular rights.

20. Andrews and Dury's ½" Map of Wiltshire (1773, 2nd Edition, Revised and Corrected 1810)

a. Relevance.

This map was made for sale to the travelling public. The purchasers, who would have been relatively wealthy in order to be able to afford to buy the map, would want to see routes which they could use – public routes along which they could travel on horseback or more probably by carriage.

The map would not have been subject to public scrutiny prior to publication so it would seem possible that some of the routes illustrated would not have met those criteria.

However, the publishers must surely have made every effort to avoid such instances for fear of the damage they might do to the map's reputation for usefulness.

The Wiltshire Map of 1773 was originally produced as a result of an independent survey and was revised in 1810 and re-titled to make it clear it showed Cross Roads. It does not have a key.

- b. Archive. A copy is held by the WSHC under reference A1/524/2MS.
- c. Meaning.

Photos: 1810 Andrews & Dury Half In. 2nd Ed. Index Map (A1_524_MS)

The map is entitled “A Topographical Map of the County of Wilts describing the seats of Nobility and Gentry, Turnpike and Cross Roads, Canals and c. Surveyed in 1773 2nd Edition Revised and Corrected”

The application route is shown as a “Cross Road” and is shown similarly to the east -west road through Axford and the former London Road along Sound Bottom.

- d. Assessment.

It seems unlikely that a map at this scale would show footpaths

Although the map must have featured , by accident or design , some private routes the balance of probabilities must be greatly in favour of the application route being a public road.

This, along with its depiction identically to routes which now have vehicular rights suggest the route was considered to have public vehicular rights in 1810 .

21. Andrews and Dury's 2nd Map of Wiltshire (1773, 2nd Edition, Revised and Corrected 1810) Sheet 9

- a. Relevance.

This map was made for sale to the travelling public. The purchasers, who would have been relatively wealthy in order to be able to afford to buy the map, would want to see routes which they could use – public routes along which they could travel on horseback or more probably by carriage.

The map would not have been subject to public scrutiny prior to publication so it would seem possible that some of the routes illustrated would not have met those criteria.

However, the publishers must surely have made every effort to avoid such instances for fear of the damage they might do to the map's reputation for usefulness.

The Wiltshire Map of 1773 was originally produced as a result of an independent survey and was revised in 1810 and re-titled to make it clear it showed Cross Roads. It does not have a key.

- b. Archive. A copy is held by the WSHC under reference A1/524/2MS.
- c. Meaning.

Photos: 1810 Andrews & Dury 2in 2nd Ed. Sheet 9 Title (A1_524_MS), 1810 Andrews & Dury 2in 2nd Ed. Sheet 9 (A1_524_MS),

The map is entitled “A Topographical Map of the County of Wilts describing the seats of Nobility and Gentry, Turnpike and Cross Roads, Canals and c. Surveyed in 1773 2nd Edition Revised and Corrected

Sheet 9 of the map shows clearly the entire length of the application route i.e. from point A in Axford to point G on the Bath Road (the present A4) as “Cross Roads”.

It is shown the same as, for example, Chopping Knife Lane, the London Road through Sound Bottom and the Marlborough to Ramsbury road, all of which today have public vehicular rights.

- d. Assessment.

Although the map must have featured , by accident or design , some private routes and some footpaths, the balance of probabilities must be in favour of the application route being a public road with vehicular rights.

This, along with its depiction identically to routes which now have vehicular rights suggest the route was

considered to have public vehicular rights in 1810.

22. **Mogg's 1" Survey of the High Roads of England and WalesVol. 1 Plate 182, 1817 (London to Bath)**

"A Survey of The High Roads of England and Wales Planned on a Scale of one Inch to a Mile Including the Seats of the Nobility and Gentry and every object worthy of remark whether situated on or contiguous to the Road"

a. **Relevance.**

According to the book's advertisement (i.e. introduction) in presenting this work Mogg hoped, "while conveying information, in some degree to have contributed to the amusement of the traveller.". It was aimed at the travelling public.

b. **Archive.**

Copies of this document are scarce and the location of the document that was photographed is not known. However, the work has been published by Palala Press, United States, and is printed on demand by Lightning Source UK Ltd, Milton Keynes ISBN 13: 9711354 027651. A copy is owned by the applicant. Although the reprint is only in black and white the applicant has a photograph of the original coloured plate, taken some years ago by Dill Riley.

Photos: 1817 Mogg 1-inch Survey Plate 182; 1817 Mogg 1-inch Survey Plate 182 (2)

c. **Meaning.**

The book consists of 223 plates showing, as linear plans, major roads in southern England. Each plan shows towns through which they pass as well as heaths, woods and places of interest. They also shows routes leading off the main road, some indicating to where they lead (e.g. To Fulham). Many such routes are not so labelled.

Plate 182 shows the section of the London to Bath Road from just east of milestone 66 (measured from Hyde Park Corner) to just west of milestone 73.

Plate 182 shows, at the 71 mile mark a minor road running northwards, next to the legend "Putall F". Hens Wood is marked. A short distance west of this is another minor road leading northwards.

d. **Assessment.**

It seems improbable that the unlabelled routes illustrated by Mogg would have been footpaths. It seems unlikely that the purchasers of this volume would have been going to use them.

The applicant concludes that the minor road at the 71 mile mark is the one that today provides access to Putall Farm, the minor road slightly to its west is the southernmost section of the application route (i.e. of MILD16 from point G northwards) and hence that the application route was in 1817 regarded as a route of sufficient significance, as a public road rather than a footpath, to be shown on this survey.

23. **Ordnance Survey 1" Old Series 1817 Sheet 14**

a. **Relevance.** This map was made from an original survey.

A principal purpose of the one-inch (1:63360) map, which was published between 1801 and 1876 was to provide military and civilian users with a reliable travelling map. It was marketed as the primary tourist map for motorists and cyclists. The utility of this map scale was reiterated, not only in Parliamentary publications¹, but also in the advertising material issued by the Ordnance Survey². There is no doubt, therefore, that in terms

1 Report from the Select Committee on Ordnance Survey of Scotland. Ordered by The House of Commons to be printed 6 May 1856. In discussing the merits of various scales, it was asserted that the one-inch scale was "only of use for travelling purposes" (para. 53).

2 Examples of advertising matter are illustrated are described in Nicholson, T. (1991). "Ordnance Survey ephemera to 1939", The Map collector, 54, 2-7.

of Highways Act 1980 s.32, a main purpose of the one-inch map can be stated to have been to serve as travelling map for the public

b. Archives. This plan is held by the WSHC under reference number "Printed Maps 3.7"

c. Meaning.

Sheet 14 covers much of Wiltshire including the Axford area south of the village and north of Putall.

It shows the southern end of section A-B (i.e. Stone Lane Way), section B-C (North Lane, which it shows running eastwards from Stone Lane Way), section C-D (Cross Lane), section D-E (South Lane), section E-F (Hill Close Lane) and section F-G (Axford Lane).

Photo: 1817 OS 1in Old Series Sheet 14 (PM3.17)

(The northern end of section A-B is shown on 1828 OS 1in Old Series Sheet 34.)

It also shows the lane which in the Inclosure Agreement was laid out to run along the eastern and then northern edges of Hill Close (here labelled "Eastcot Copse"), as well as the road running northwards from the London-Bath Road (the present A4) to Putall Farm.

There is no key. However, "*The Old Series Ordnance Survey Maps of England and Wales, Volume III, South-central England*", published by "Harry Margary, Lympne Castle, Kent, 1981", Figure 6, pp xviii – xix, illustrates "Topographical conventions, not to true size, used in engraving the maps of south-central England". All parts of the application route shown on this map are represented in the same way, as "fenced Minor Roads"

Photo: OS 1in Old Series conventions

There is no disclaimer stating that the illustration of a road does not necessarily indicate a right of way.

d. Assessment.

This shows the physical existence in 1817 of a "Minor Road" running along the line of the application route from just north of point B to The Bath Road at Putall.

It is indistinguishable in depiction from nearby and adjoining routes, such as the Bath Road to which it connects, suggesting similar status to those routes.

As a main purpose of the one-inch map can be stated to have been to serve as a travelling map for the public, the likelihood must be that a route shown as a Minor Road on such a map must have had public vehicular rights unless the route clearly lead only to, say, a farmstead or private house. In this case, taking this map in conjunction with the 1828 sheet (34) covering the area north of this one (see Section 25) it is clear the application route ran from Axford to the Bath Road.

24. C & I Greenwood's Map of Wiltshire (1820)

a. Relevance.

This map was made for sale to the travelling public. The purchasers, who would have been relatively wealthy in order to be able to afford to buy the map, would want to see routes which they could use – public routes along which they could travel on horseback or more probably by carriage.

The map would not have been subject to public scrutiny prior to publication so it would seem possible that some of the routes illustrated would not have met those criteria.

However, the publishers must surely have made every effort to avoid such instances for fear of the damage they might do to the map's reputation for usefulness.

It relied on a survey independent of Andrews and Dury. The map has a key.

b. Archive. WSHC, reference 2667/21/16.

c. Meaning.

The entire length of the application route is shown as a Cross Road – a public road for which no toll was payable.

Photos: 1820 Greenwood 1in Det (2667_21_16) & 1820 Greenwood Key (2667_21_16)

e. Assessment.

Its representation as a Cross Road, along with its depiction identically to routes which now have vehicular rights suggest the route was considered to have vehicular rights in 1820.

Although derived from independent surveys Andrews and Dury and Greenwood's representations of the application route are almost identical. They differ only at the southern end, the leg from just south of point F to the Bath Road. Greenwood shows the last leg positioned very slightly to the west of the application route whereas Andrews and Dury (and the Ordnance Survey) consistently and repeatedly show the route continuing south until it reaches point G.

This is not conclusive but in conjunction with the rest of the evidence helps build a picture of the application route being a public vehicular route between the Bath road at Putall and Axford.

25 Ordnance Survey 1" Old Series 1828 Sheet 34a. Relevance. This map was made from an original survey.

See Section 23, "Ordnance Survey 1" Old Series 1817 Sheet 14".

b. Archives. WSHC, reference "Printed Maps 3.8"c. Meaning.

Sheet 34 covers much of northern Wiltshire including Axford village and the area immediately to its south.

It shows the northern end of section A-B of the application route (i.e. of Stone Lane Way).

Photo: 1828 OS 1in Old Series Sheet 34 (PM3.8)

(The remainder of the application route is shown on Ordnance Survey 1" Old Series 1817 Sheet 14)

There is no key. However, "*The Old Series Ordnance Survey Maps of England and Wales, Volume III, South-central England*", published by "Harry Margary, Lympne Castle, Kent, 1981", Figure 6, pp xviii – xix, illustrates "Topographical conventions, not to true size, used in engraving the maps of south-central England". Those conventions applied to this map. The section of the application route on this map is shown as a "*Fenced Minor Road*".

Photo: OS 1in Old Series conventions

There is no disclaimer stating that the illustration of a road does not necessarily indicate a right of way.

d. Assessment.

This shows the physical existence in 1828 of a "Minor Road" running along the line of the application route from point A to just north of point B.

It is indistinguishable in depiction from nearby and adjoining routes, such as the east-west road through Axford village to which it connects, suggesting similar status to those routes.

As a main purpose of the one-inch map can be stated to have been to serve as a travelling map for the public, the likelihood must be that a route shown as a Minor Road on such a map must have had public vehicular rights unless the route clearly lead only to, say, a farmstead or private house. In this case, taking this map in

conjunction with the 1817 sheet (14) covering the area south of this one (see Section 23) it is clear the application route ran from Axford to the Bath Road.

26 **Greenwood's Map of Wiltshire, Reduced and Corrected to 1829**

a. Relevance.

This map was made for sale to the travelling public. The purchasers, who would have been relatively wealthy in order to be able to afford to buy the map, would want to see routes which they could use – public routes along which they could travel on horseback or more probably by carriage.

The map would not have been subject to public scrutiny prior to publication so it would seem possible that some of the routes illustrated would not have met those criteria.

The publishers must surely have made every effort to avoid such instances for fear of the damage they might do to the map's reputation for usefulness.

The 1820 edition relied on a survey independent of Andrews and Dury. The map has a key.

b. Archive. A copy is held at the WSHC under reference “Printed Maps 3.3”

c. Meaning.

Photo: 1829 Greenwood Detail (PM3.3); 1829 Greenwood Explanation (PM 3.3)

The application route from A to just south of point F is shown as a Cross Road – that is, a public road for which no toll was payable.

The representation of the application route is the same as in the 1820 edition except the offset leg that joins the Bath Road (the present A4) at milestone 3 no longer appears on the map.

d. Assessment.

Although the map must have featured, by accident or design, some private routes and some footpaths, it is suggestive of the application route being a public road.

This, along with its depiction identically to routes which now have vehicular rights suggest the route from point A to just south of F was considered to have vehicular rights in 1829.

27 **London and Bath Turnpike Trust via Hungerford (1832)**

a. Relevance.

The London and Bath turnpike trust was set up by Act of Parliament in 1725-6 and extended several times. The Act providing the Trust with powers covering the date of this plan was 7-8 Geo IV, c.52 (Local and Personal Acts) in 1826-27. The trust's main responsibilities were the London to Bath road through Hungerford.

b. Archive. WSHC, reference A1/370/20HC – a map and a reference book.

c. Meaning.

This map was produced by the Turnpike Trust. It sets out a proposed turnpike road between Marlborough and Hungerford, part of the route of which runs roughly east-west through the Axford area'. Scale is 4" to the mile.

Photos: 1832 Bath & Hungerford Turnpike Axford (A1_370_20); 1832 Bath & Hungerford Turnpike Detail (A1_370_20)

The plan shows, south of Stitchcombe Mill and labelled “FARM”, Stitchcombe Farm. East of that a road runs south eastwards to another building. That must be Coombe Farm so the road leading to it is Coomb Lane, and the one running north-eastwards from it is Coomb Way. The next road approximately 0.75" (330 yards) east of Coomb Way is Stone Lane Way (beneath the “Y” in “VAISEY” and approximately 2" (880 yards) further east

is Holly Lane.

The plan shows Stone Lane Way running southwards for 2.5" (approximately 990 yards). Stone Lane Way is section A-B of the application route.

Coomb Lane, Coomb Way and Holly Lane are all coloured sienna. Stone Lane Way is not.

The one page Book of Reference lists owners, occupiers, state of land (e.g. "Arable"), length and parish for each land holding along the route but does not mention roads.

d. Assessment.

This map is evidence of the existence of Stone Lane Way (section A-B of the application route) in 1832.

28 Cary's 1/2" Map of England and Wales 1832, Sheet 18

a. Relevance.

This map was made for sale to the travelling public. The purchasers, who would have been relatively wealthy in order to be able to afford to buy the map, would want to see routes which they could use – public routes along which they could travel on horseback or more probably by carriage.

The map would not have been subject to public scrutiny prior to publication so it would seem possible that some of the routes illustrated would not have met those criteria.

However, the publishers must surely have made every effort to avoid such instances for fear of the damage they might do to the map's reputation for usefulness.

b. Archive. A copy of this map is held at the WSHC, reference "Printed Maps 3.4".

c. Meaning.

All sections of the application route from Point A until the east-west track (represented by pecked lines) lying between points F and G are shown as either as Carriage Roads or Parochial roads. It is not easy to match the depiction on the map with the key.

Photos: 1832 Cary Detail 1 (PM3.4); 1832 Cary Detail 2 (PM 3.4); 1832 Cary Explanation (PM 3.4)

Similarly to Greenwood (1820), Cary shows the last leg of this route from Axford to the Bath Road offset a short distance to the west of the application route. This is also shown as either a Carriage or Parochial road.

d. Assessment.

This map provides supporting evidence for the existence of the application route from point A to just beyond point F. Other maps before and since show the route continuing southwards to the Bath Road and although there is evidence on the ground today of a track slightly further west than the application route the applicant concludes the depiction of the southernmost section on Cary's map is a drafting error.

Although the map must have featured, by accident or design, a few private routes and some footpaths it suggests the application route to be a public road with vehicular rights.

Consequently the applicant concludes the application route was in 1832 regarded as a public vehicular route.

29 London and Bath Trust via Hungerford deviation 1835

Deviation of the Bath – London road via Hungerford and Marlborough

a. Relevance.

The London and Bath turnpike trust was set up by Act of Parliament in 1725-6 and extended several times. The Act providing the Trust with powers covering the date of this plan was 7-8 Geo IV, c.52 (Local and

Personal Acts) in 1826-27. The trust's main responsibilities were the London to Bath road through Hungerford.

b. Archive. WSHC, reference A1/370/21HC – a map and a reference book.

c. Meaning.

This plan was produced by the Turnpike Trust. It sets out a deviation to the proposed turnpike road between Marlborough and Hungerford, part of the route of which runs roughly east-west through the Axford area. Scale is 4" to the mile. Shown in sienna east of Stitchcombe Farm is Coomb Lane, then to the east is Coomb Way (sienna), then Stone Lane Way (i.e. the northern end of the application route) , then Holly Lane (in sienna) at the eastern end of Moore's land.

Photo: 1835 Bath & Hungerford Turnpike Axford (A1_370_21HC)

At its northern end Stone Lane Way is marked *To Axford*

No roads are mentioned or numbered in the Book of Reference

d. Assessment.

This document provides further evidence of the physical existence of the application route from point A almost to point B in 1835. It is not significant that the application route is not mentioned on the Book of Reference, as no roads are mentioned at all.

30 Walker's Map of Wiltshire 1836

a. Relevance.

This map was made by J & C Walker for sale to the travelling public and so would aim to show roads that the public could use.

b. Archive. A copy of this map is held at the WSHC under reference "Printed Maps 1.22"

c. Meaning. It shows the entire application route. There is no key, so it was probably part of an atlas.

Photo: 1836 Walker (PM 1.22)

d. Assessment.

Although the map must have featured , by accident or design , some private routes and some footpaths, the balance of probabilities must favour the application route being a public road with vehicular rights.

31 Vestry Map of Ramsbury 1839

a. Date. 1839, and made by U.B. Vines at a scale of 5/16" to one chain.

b. Relevance.

At the WSHC this map is catalogued under Ramsbury Parish Council, Vestry records. In England, until the 19th century, the parish vestry committee was in effect the parochial church council but was also responsible for secular parish business which is now the responsibility of the parish council.

The catalogue entry adds that it appears to have been prepared for valuation purposes.

c. Archive. WSHC, reference 1792/38L

It consists of two rolls. Roll 1 shows the western part of Ramsbury, Roll 2 the eastern.

There is an associated Book of Reference (WSHC, Ref, 1792/39) containing entries for both Eastern and Western divisions.

d. Meaning.

The map is in a poor state of repair.

It is generally uncoloured. Buildings are in red, woods green, roads sienna but very faded.

Plots of land are numbered in a similar fashion to that on the tithe maps of a few years later (Ramsbury Tithe Map (1842) held at TNA and Ramsbury Tithe Map (1844), held at the WSHC).

Roll 1, the map of the western part of Ramsbury, shows the whole of the application route that is within Ramsbury (i.e. from point A to point F) unnumbered and coloured a faded yellow. Adjacent areas of land are numbered and have associated entries in the Book of Reference.

No entries in then Book of Reference are described as roads. None of the yellow coloured strips of land are numbered.

Photos:

1839 Vestry Map of Ramsbury (1) (1792_38L)... (4) (1792_38L) viewed in sequence show the application route from point A to point B;

1839 Vestry Map of Ramsbury (5) (1792_38L) shows the route from point B west to point C and then southwards in the direction of point D;

1839 Vestry Map of Ramsbury (6) (1792_38L) shows the route continuing southwards towards point D;

1839 Vestry Map of Ramsbury (7) (1792_38L) shows the southernmost part of the route between point C and point D, and then westwards towards point E;

1839 Vestry Map of Ramsbury (8) (1792_38L) shows the route continuing westwards to point E and then southwards towards point F

d. Assessment.

Land that was not subject to tithes was generally accepted to either be public or owned , for example, by the church or the crown estates. Such land would not have an apportionment on it, as in the case on this map which appears to have been prepared for valuation purposes. It seems unlikely that the church or the crown estates would own just the roads and lanes in this area, and the applicant concludes they have no apportionment number because they were deemed by the parish vestry committee to be public roads.

32 Map of Ramsbury 1841

The map is entitled "Map of the Parish Of Ramsbury in the County of Wilts"

a. Date. 1841 , and made by U.B. Vines ta a scale of 6 chains to an inch.

b. Relevance.

This appears to be a copy on a reduced scale of the 1839 Vestry Map of Ramsbury. It would thus appear to have been created for reasons related to the 1836 Tithes Act and the forthcoming Ramsbury Tithe Agreement.

c. Archive. WSHC, reference 2365L

d. Meaning.

All the roads in the map are coloured sienna and are unnumbered.

None of the fields are coloured but all are numbered, and areas of woodland are patterned to indicate trees and all are numbered. The numbers are the same as on the 1839 Vestry Map (See Section 31).

Thus , the whole of the application route from Point A to the Little Bedwyn parish boundary (approximately Point F) is shown as a fenced road coloured sienna

Photos: 1841 Ramsbury Parish Map 1 (2365L); 1841 Ramsbury Parish Map 2 (2365L); 1841 Ramsbury Parish Map 3 (2365L)

Running westwards from Stitchcombe is a sienna road labelled “*from Marlborough*”

Running westwards from Axford is a sienna road labelled “*from Marlborough*”

Screenshot: 1841 Ramsbury Parish Map Labelled Roads (2365L)

e. Assessment.

This map shows the application route from point A to point F coloured sienna and unnumbered. It is shown in the same manner as routes shown continuing to labelled destinations, namely Marlborough and Mildenhall, which must have had public vehicular rights.

It does not show the continuation south to the Bath Road because that continuation was not in Ramsbury.

This is good evidence that the application route from point A to point F had public vehicular rights as had, by extension, its continuation from point F to the Bath Road.

33 Ramsbury Tithe Award

a. Date.

The Ramsbury Tithe agreement dates from 12 July 1841, a supplementary award from 1 Aug. 1843 (Commissioner Aneurin Owen) and it was confirmed 30 April 1844. The Tithe Map is dated 1842.

b. Relevance.

The Tithe Commutation Act 1836 enabled tithes (literally a tenth of the produce of the land) to be converted to a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid. The Act was amended in 1837 to allow maps produced to be either first class or second class.

First class maps are legal evidence of all matters which they portray and were signed and sealed by the commissioners (Tithes Act 1847). They had to be at a scale of at least 3 chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance to tithe commutation, and are often at 6 chains to the inch. There was a proposed convention of signs and symbols to be used, which included Bridle Roads and Footpaths, but this was not strictly adhered to.

The tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. Non-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass drovers' routes could carry a tithe as they were used as pasture. It was in the interest of the landowners for untithed roads to be shown correctly to minimise their payments. Footpaths and bridleways were more likely to be at least partially productive (for example as pasture). Therefore, although the process was not directly concerned with rights of way, inferences can be drawn from tithe documents regarding the existence of public rights, and in particular, public vehicular rights. In some cases highways are coloured yellow or sienna to indicate public status.

Ramsbury Tithe award 1842 (TNA)

c. Archives. The Tithe map and Apportionment Roll are both held at The National Archives.

The Tithe Map (IR 30/38/224) is generally not produced for examination. The National Archives have an arrangement with *The Genealogist* whereby a copy is held online that may be viewed and downloaded for free when accessed by users at TNA and on payment when accessed from elsewhere.

Unfortunately downloads from *The Genealogist* are in black and white.

The apportionment roll (IR 29/38/224) is dated 1841 Dec 3 and again is accessible through *The Genealogist*.

d. Meaning.

Photos:**1842 Ramsbury Tithe Map Axford (1) TNA (IR 30_38_224)****1842 Ramsbury Tithe Map Axford (2) TNA (IR 30_38_224)****1842 Ramsbury Tithe Map Axford (3) TNA (IR 30_38_224)**

The map shows the whole length of the application route that lies within Ramsbury parish, unnumbered and uncoloured. It is bounded by two solid lines along its entire length, apart from a short stretch between point A and point B where it has a pecked line on the west. There is no apportionment number on any section of the route within Ramsbury. This indicates that no tithe is assessable. The route is depicted in the same way as the public metalled routes to which it connects.

The southernmost point of the route shown on the Ramsbury Tithe Map is annotated "To Bedwyn"

e. Assessment.

This is a second class map and so is only conclusive of matters of relevance to the tithe commissioners.

Footpaths or bridleways were likely to be at least partially productive (for example, as pasture) so the absence of an apportionment number is suggestive of vehicular rights.

As the part of application route on this map is unnumbered and hence not described specifically in the Apportionment Roll the applicant concludes it was considered to be a road and that the area occupied by the route is included as part of "Roads, Water and Waste".

The labelling at the southern end "To Bedwyn" is of no concern to the Tithe Commissioners but is highly suggestive of public rights. It would be unlikely to be so marked if the route was solely for the landowner and is additional evidence of the route continuing southwards to the Bath Road (the present A4), and suggestive of the public rights of that southern continuation and that its rights would be the same as that of the northern, Ramsbury, part of the route.

It was not the job of the Tithe Commissioners to indicate rights of way but the applicant contends that the evidence of this tithe map is good, but not conclusive, evidence that the application route in Ramsbury and to a lesser extent its continuation to The Bath Road was in 1842 considered to be a public vehicular highway.

Ramsbury Tithe award 1844 (WSHC)

c. Archives. A copy of this document is held at the WSHC, reference D/1/25/T/A/Ramsbury. The apportionment is dated 3 December 1841 and the maps are dated 1844. The award was made in 1841 and ratified in 1844.

d. Meaning.

The map is in two parts. Both parts are uncoloured.

Part 1 is entitled "*Map of the Titheable land in the Parish of Ramsbury Wilts in Two Parts Part 1*". It shows the application route from point A to the Little Bedwyn Parish Boundary, the limit of the map's coverage.

Photos: 1844 Ramsbury Tithe Map WSHC Pt 1(1), Pt 1(2) & Pt 1(3)

There is no apportionment number on any section of this route. At the southern end of the route, at the border with Little Bedwyn parish, the map is marked "to Bedwyn".

Widths; Stone Lane Way 16.6-33feet; North Lane c33ft; Cross lane c33ft; South Lane 16.5-49.5ft; Hill Close Lane c16.5 ft

Part 2 is entitled "*Skeleton map of the Parish of Ramsbury in the County of Wilts on a reduced scale showing the situation of the titheable lands in 2 parts Part 2*". It is dated 1844. It shows the entire length of the application route from point A to the Little Bedwyn Parish Boundary, the limit of the map's coverage.

Photos: 1844 Ramsbury Tithe Map WSHC Pt 2(1)&Pt 2(2)

There is no apportionment number on any section of this route. At the southern end of the route, at the border

with Little Bedwyn parish, the map is marked "*from Bedwyn*".

Widths; Stone Lane Way 16.5-33feet; North Lane c33ft; Cross Lane c33ft; South Lane 16.5-49.5ft; Hill Close Lane c16.5 ft

e. Assessment.

Part 1

Photo: 1844 Ramsbury Tithe Award WSHC Apportionment Roll

This is a second class map and so is only conclusive of matters of relevance to the tithe commissioners.

Footpaths or bridleways were likely to be at least partially productive (for example, as pasture) so the absence of an apportionment number is suggestive of vehicular rights.

As the part of application route on this map is unnumbered and hence not described specifically in the Apportionment Roll the applicant concludes it was considered to be a road and that the area occupied by the route is included as part of "Roads, Water and Waste".

The labelling at the southern end "*To Bedwyn*" is of no concern to the Tithe Commissioners but is highly suggestive of public rights. It would be unlikely to be so marked if the route was solely for the landowner and is additional evidence of the route continuing southwards to the Bath Road (the present A4), and suggestive of the public rights of that southern continuation and that its rights would be the same as that of the northern, Ramsbury, part of the route.

Part 2

This is a second class map and so is only conclusive of matters of relevance to the tithe commissioners.

Footpaths or bridleways were likely to be at least partially productive (for example, as pasture) so the absence of an apportionment number is suggestive of vehicular rights.

As the part of application route on this map is unnumbered and hence not described specifically in the Apportionment Roll the applicant concludes it was considered to be a road and that the area occupied by the route is included as part of "Roads, Water and Waste".

The labelling at the southern end "*From Bedwyn*" is of no concern to the Tithe Commissioners but is highly suggestive of public rights. It would be unlikely to be so marked if the route was solely for the landowner and is additional evidence of the route continuing southwards to the Bath Road (the present A4), and suggestive of the public rights of that southern continuation and that its rights would be the same as that of the northern, Ramsbury, part of the route.

Overall assessment:

It was not the job of the Tithe Commissioners to indicate rights of way but the applicant contends that the evidence of this tithe map is good, but not conclusive, evidence that the application route in Ramsbury and to a lesser extent its continuation to The Bath Road was in 1842 considered to be a public vehicular highway.

34 **Deposited Plans of the Basingstoke and Didcot Junction Railway with a branch through Newbury to Swindon**

a. Date. This plan is dated 1844

b. Relevance.

Companies wishing to build railways were required to show the owners of all the land within a certain distance of the proposed railway, and to place this information on deposit so that it could be inspected by the public and objections made, before Parliament would give the powers needed for the railway's construction. Railway records were well researched as mistakes would have been costly, with the possibility of the private bill being thrown out and a rival railway company being given permission.

The plans were put on public deposit, and landowners would have wished to ensure that matters were properly recorded so that their means of access across the railway line were constructed and that any sales to the railway company were at appropriate values.

c. Archives. WSHC, reference number A1/371/29MS (Plan and Book of Reference).

d. Meaning.

This record relates to the Newbury to Swindon branch of the Basingstoke and Didcot Junction Railway

The deposited railway plan (Sheet 7A) shows the route of the proposed railway line from left to right as a solid line marked with distances in furlongs. The application route crosses the railway line at just under 30 miles 3 furlongs (from the start of the line at Newbury), as shown in the figures below. This is the northernmost point of the application route, point A. The plan is orientated with north at the bottom of the page.

Photos:

1844 B&Didcot Jn Rwy Plan (A1 371 29)

1844 B&Didcot Jn Rwy Plan(1) (A1_371_29) – shows the 30m mark on the planned line

1844 B&Didcot Jn Rwy Plan(2) (A1_371_29) – slightly further west shows the application route

1844 B&Didcot Jn Rwy Book of Reference (A1_371_29) - second entry in the photo is that for parcel no 22

1844 B&Didcot Jn Rwy Book of Reference (2) (A1_371_29) – clearer photo of entry for parcel no 22

The plan shows the route as plot number 22. Plot number 22 starts north of the railway line and extends south of it, along the section of the application route between point A and B.

Book of Reference: “*PARISH of Ramsbury in the COUNTY of Wilts*” “*Numbers referring to the plan: 22*”
 “*NAMES of OWNERS or REPUTED OWNERS: Surveyor of Highways for Axford Tithing John Rowland*”
 “*NAMES of LESSEES or REPUTED LESSEES: (left blank)*” “*OCCUPIER'S NAMES: The Public*”
 “*DESCRIPTION OF PROPERTY: Parish Road*” Part of the local public road network.

A Parish Road was a road open to and for the use of the public.

Elsewhere in the Book Of Reference parcel No. 51 in The Parish of Ramsbury is described as a “Public Footpath”

Book of Reference: “*PARISH of Ramsbury in the COUNTY of Wilts*” “*Numbers referring to the plan: 51*”
 “*NAMES of OWNERS or REPUTED OWNERS: Surveyor of Highways for Axford Tithing John Rowland*”
 “*NAMES of LESSEES or REPUTED LESSEES: (left blank)*” “*OCCUPIER'S NAMES: The Public*”
 “*DESCRIPTION OF PROPERTY: Public footpath*”

Photos: 1844 B&Didcot Jn Rwy BoR Parcel 51 (A1_371_29) – parcel 51 is midway down the page

e. Assessment.

The drawing and numbering of the route within the limits of deviation of the railway, and the description of ‘Parish Road’ with owner ‘Surveyor of Highways for Axford Tithing John Rowland’ and occupier “The Public” is good evidence that the application route was regarded in 1844 as a public road, part of the local road network. Evidence from the same book of reference shows that footpaths were listed differently. This strengthens the evidence of vehicular status at the time the railway was proposed.

As a public road one would expect that Stone Lane Way would lead somewhere. There is no obvious place of public resort if travelling south other than The Bath Road or Putall Farm, and if travelling north from The Bath Road, only Stitchcombe or the larger village of Axford. That suggests the entire application route would have the same rights as parcel No. 22 on the railway plan.

35 **Deposited Plans of The London, Bristol and South Wales Direct Railway with a branch to Devizes**

a. Date. This plan is dated 1845

b. Relevance.

See: **Deposited Plans of the Basingstoke and Didcot Junction Railway with a branch through Newbury to Swindon (1844)** (Section 34)

c. Archives. WSHC, reference A1/371/45MS (Plan and Book of Reference).

d. Meaning.

This record relates to the Hungerford to Chepstow section of the London, Bristol and South Wales Direct Railway

The deposited railway plan shows the route of the proposed railway line from left to right as a solid line marked with distances in furlongs. The application route crosses the proposed line just south of the pit at just over 6 miles 4 furlongs (i.e. from the start of the section at Hungerford). The plan is orientated with north at the bottom of the page.

The plan shows the route as parcel number 17. The section of the application route shown is part of that between point A and point B.

Photos: 1845 London, B&SW Rwy Plan (1) (A1_371_45); 1845 London, B&SW Rwy Plan (2) (A1_371_45) – illustrates parcel no 17.

Book of Reference: *“Parish of Ramsbury” “Township or Tything of Axford” “No. on Plan: 17” “Description of Property: Public Highway” “Owners or Reputed Owners: Thomas Osmond Surveyor of Highways for the Township or Tything of Axford”*. No occupier is given.

The same page in the book of reference shows how a footpath has been recorded differently from the application route

Book of Reference: *“Parish of Ramsbury” “Township or Tything of Axford” “No. on Plan: 12” “Description of Property: Field and Footpath” “Owners or Reputed Owners: Sir Robert Burdett” “Lessees or Reputed Lessees: Henry Woodman” “Occupier: Henry Woodman”*

**Photo: 1845 London, B&SW Rwy Book of Reference (1) (A1_371_45)
1845 London, B&SW Rwy Book of Reference (2) (A1_371_45)**

An earlier page, also in Park Town, describes a parcel of land as *“field and occupation road and. public bridle road”*

Photo: 1845 London, B&SW Rwy BOR Park Town(A1_371_45)

Book of Reference: *“Parish of Ramsbury” “Township or Tything of Park Town” “No. on Plan: 1” “Description of Property: field and occupation road and. public bridle road” “Owners or Reputed Owners: Sir Robert Burdett Bart” “Lessees or Reputed Lessees: Robert Canning” “Occupier: Robert Canning”*

Parcel 21 is annotated at its southern end *“To Putall”*.

e. Assessment.

The drawing and numbering of the route within the limits of deviation of the railway, and the description of ‘Public Highway’ with owner ‘Thomas Osmond surveyor of the Highways for the township or tithing of Axford’ is good evidence that the route was a public road at the time of the survey and part of the local road network. Evidence from the same book of reference shows that footpaths and bridleways were listed differently. This strengthens the evidence of vehicular status at the time the railway was proposed.

As a Public Highway one would expect that Stone Lane Way would lead somewhere. There is no obvious place of public resort if travelling south other than The Bath Road or Putall Farm, and if travelling north from The Bath Road, only Stitchcombe or the larger Axford. That suggests the entire application route would have the same rights as parcel No. 17 on the railway plan.

Parcel 21 is today Coomb Way.

The applicant concludes that the application route at its northern end was a Public Highway, a road with public vehicular rights, that led to Putall and the Bath Road.

36 Weller's Map of Wiltshire (1862)

a. Relevance.

This map was made for sale to the travelling public.

b. Archive. This document is held at the WSHC, reference "Printed Maps 1.29"

c. Meaning.

The entire length of the application route from point A at the north end of Stone Lane Way to point G at the Bath Road (the present A4) is shown as a "Road"

Photos: 1862 Weller (PM 1.29), 1862 Weller Key (PM 1.29)

South of Hill Close Lane, midway between point F and point G of the application route, rather than continuing southwards to the London Road to point G the road is shown running in a south easterly direction to join the road from the London Road to Putall Farm.

d. Assessment.

In 2018, midway between point F and point G a track runs north-eastwards from the application route to join the northern end of the road from the A4 to Putall Farm

Weller appears to be depicting that track as the continuation of the route from Axford. He did not rely on an actual survey and that may explain the incorrect representation. No-one looking at the route on the ground would agree with his representation.

The applicant concludes that the southernmost part of the application route was misrepresented on Weller's map, and the same error is repeated on subsequent maps printed by George Phillip & Son which appear to be based on Weller's map - for example, Bacon's Map of Wiltshire (c1876), Phillips' Cyclists' map of Wiltshire (1890) and Bacon's Map of Wiltshire (1895).

Although the map must have featured by accident or design some private routes and some footpaths and is in itself inconclusive, the depiction of the application route from A to midway between point F and point G supports the stronger evidence of public vehicular rights from documents such as the Tithe Awards and Railway Plans.

37 Marlborough Highways Board: Survey of Roads (1865)

a. Relevance.

Highway Boards were created by Quarter Sessions following the Highway Act 1862 to discharge highway functions for groups of rural parishes. They were created under statutory authority to execute statutory powers, and so the documents have more evidential weight than purely private documents.

b. Archive. This document is held in the WSHC under reference G8/1/28

c. Meaning.

An entry refers to a road from Putall Wood to TP London Road

Photos: 1865 Survey of Roads Full Page (G8_1_28), 1865 Survey of Roads Putall Wood (G8_1_28)

"Parishes", "Mildenhall", Roads", "From Putall Wood to TP London Road" "Remarks on present state of same", Narrow, not space for two vehicles abreast (ahead?), no metalling. Woods need cutting"

Another entry refers to a road from Putall Road to Holly Corner. **Photos: 1865 Survey of Roads Putall Road (G8_1_28)**

"Parishes", "Ramsbury", "Tithing", "Axford", "Roads", "Putall Road to Holly Corner" "Remarks on present state of same", Green Drove, ruts filled in with unbroken flints

A third refers to Stone Lane, from Stichcombe Corner to Holly Lane. **Photos: 1865 Survey of Roads Stone Lane (G8_1_28)**

"Parishes", "Ramsbury", "Tithing", "Axford", "Roads", "Stone Lane, from Stichcombe Corner to Holly Lane" "Remarks on present state of same", "Very rough"

e. Assessment.

In the first entry the reference to two vehicles implies that vehicles used the road from Putall Wood to TP London Road. As this road is in Mildenhall it must be section F – G of the application route as no other route meets those criteria. And its inclusion in this survey means it was considered a public road.

The applicant concludes that section F-G of the application route was a public vehicular road in 1865

Holly Lane is still known as such today, and so the third entry suggests that in 1865 Stone Lane referred to what was described in the 1727 Inclosure Agreement as Mead Lane.

Regarding the second entry, as Holly Corner is described as being in Axford it seems reasonable to conclude it was the southern end of Holly Lane, the current junction of RAMS9B and RAMS44, and from that it follows that North Lane (today the east-west leg of RAMS9B) was the road described from "Putall Road to Holly Corner", especially as it is described as a Green Drove. North Lane today is a wide hedge lined grassy lane

This leads to two conclusions: firstly, that North Lane was a public road, a drove, in 1865, and secondly that Putall Road was at the opposite end of North Lane to Holly Corner. This must mean that Stone Lane Way and Cross Lane were together termed "Putall Road"

The applicant therefore concludes that section B-C of the application route was regarded in 1865 as a public road, and that as Stone Lane Way and Cross Lane were regarded as Putall Road then the application route as a whole was regarded as the road from Axford to Putall.

38. OS Boundary Remark Book 5501A Little Bedwyn (1874)

a. Relevance.

The Ordnance Survey was given the duty of ascertaining and recording all public boundaries by the Ordnance Survey Act 1841. The Ordnance Survey Boundary Remark Books, held at TNA in series OS 26, are the results of the Ordnance Survey's checking of the boundaries with the meresmen from the parishes on each side.

b. Archive. TNA document OS 26/11336 is the Boundary Remark Book for the parish of Little Bedwyn.

c. Meaning.

Photos: 1874 OS BRB L. Bedwyn (1) & (2) (26_11336)

It contains strip maps showing the boundaries with Little Bedwyn of Mildenhall, Ramsbury, and Savernake Great Park. Page 9 shows a wide unnamed track, part of the application route between points F and G, running in Mildenhall along the border with Little Bedwyn and then continuing into Ramsbury This entry is referred to by three OS Boundary Sketch Maps – those covering Ramsbury (TNA OS 27/5767), Mildenhall (TNA OS 27/5756) and Little Bedwyn (TNA OS 27/5731).

d. Assessment.

The boundary survey, which was approved by representatives from each parish, shows the southernmost part of the application route (F-G) as a physical feature. Those representatives clearly considered the route to be of sufficient importance to be included.

39 **OS Boundary Remark Book 5638 Ramsbury (1874)**

a. Relevance.

See **OS Boundary Remark Book 5501A Little Bedwyn (1874)** (above).

b. Archive. TNA document OS 26/11126 is the Boundary Remark Book for the parish of Ramsbury.

c. Meaning.

It contains strip maps showing the boundaries with Ramsbury of Aldbourne, Baydon, Lambourne, Mildenhall and Ogbourne St. George, Mildenhall, Ramsbury, and Savernake Great Park.

Photos : 1874 OS BRB Ramsbury (1) &(2) (26_11126)

Page 4 shows a wide unnamed track at the junction of Ramsbury and Little Bedwyn, running diagonally to the top left corner of the page. This is part of the section of the application route between points E and G; point G is off the page to the top left and point F is on the track where Mildenhall and Ramsbury meet.

This entry is referred to by two OS Boundary Sketch Maps those covering Ramsbury (TNA OS 27/5767) and Mildenhall (TNA Ref. OS 27/5756).

d. Assessment.

The boundary survey, which was approved by representatives from each parish, shows the southernmost part of the application route (F-G) as a physical feature at that time. Those representatives clearly considered it of sufficient importance that it should be included

40 **Bacon's Map of Wiltshire (circa 1876)**

a. Relevance.

This map was made for sale to the travelling public and appears to be based on Weller's of 1862.

b. Archive. This document is held at the WSHC, reference "Printed Maps 2.10"

c. Meaning.

The entire application route from point A to midway between point F and point G is shown as a "Cross Road"

Photos: 1876 Bacon Axford (PM 2_10)

South of Hill Close Lane, midway between point F and point G of the application route, rather than continuing southwards to the London Road to point G a Cross Road is shown running in a south easterly direction to join the road from the Bath Road to Putall Farm.

d. Assessment.

This map again appears to be based on Weller's of 1862 (itself printed by George Phillip & Son) and repeats its representation of the route southwards from point F.

There is at present a track that runs from the application route to the road into Putall Farm at about the point illustrated on Weller's map (and subsequent maps based on it). On the ground that track runs roughly north-eastwards, not as per Weller.

Weller, unlike Andrews and Dury before him and the Ordnance Survey after him, decided to depict the track into the farm, albeit running in the wrong direction, rather than the route that continued, and still continues, southwards to the Bath Road (A4).

Although the map must have featured, by accident or design, some private routes and some footpaths, the

balance of probabilities must be greatly in favour of the application route being a road with vehicular rights.

As demonstrated earlier the term Cross Road in this context means a public vehicular route, suggesting that the application route was deemed to be such in 1876.

41 **Ordnance Survey Boundary Sketch Map covering Ramsbury (1876)**

a. Relevance.

The Ordnance Survey was given the duty of ascertaining and recording all public boundaries by the Ordnance Survey Act 1841. Of particular value for determining highway status are the Boundary Sketch Maps (OS 27) and Boundary Remark Books (OS 26). These were produced under Parliamentary authority (the 1841 Act), with the power to summon the Clerk of the Peace and any books, maps, papers or other documents he held (s.5 of the 1841 Act) and under provisions that an offence be committed for obstructing or hindering the surveyor appointed under the 1841 Act (s.8 of the 1841 Act). The Boundary Sketch Map was advertised for public inspection. The records have been held in official custody, firstly by the Ordnance Survey, and latterly by The National Archives.

The Ordnance Survey Boundary Sketch Maps in TNA series OS 27 show the whole of a parish (sometimes a group of parishes) and indicate which of the Boundary Remark Books is needed to look at a specific section of the parish boundary.

b. Archive. This document is held at TNA (Ref OS 27/5767)

c. Meaning.

Photos: 1876 OS BSM Ramsbury (2) (27_ 5767)

It shows a short section of a road running northwards into Ramsbury and southward in Mildenhall from the point at which the parishes of Ramsbury, Mildenhall and Little Bedwyn meet. This is marked with an "A" on the map

Photos: 1876 OS BSM Ramsbury (3) (27_5767), 1876 OS BSM Ramsbury (4) (27_5767), 1876 OS BSM Ramsbury (5) (27_5767)

Just east of the Mildenhall – Little Bedwyn – Ramsbury ("A" above") border it is annotated B.R.B. 5501A P.9. This refers to an entry on page 9 of the OS Boundary Remarks Book 5501a (TNA Ref. OS 26/11336)

Just west of the Mildenhall – Little Bedwyn – Ramsbury ("A" above") border it is annotated B.R.B. 5638 P.4. This refers to an entry on page 4 of the OS Boundary Remarks Book 5638 (TNA Ref. OS 26/11126)

Just west of point "A" is inscribed "Hen's Wood". That location would not be regarded today as part of Hen's Wood.

d. Assessment.

This document is significant as it provides physical evidence of Axford Lane in 1876 at the Ramsbury, Mildenhall, Little Bedwyn border. The length of road shown is part of the application route between points F and G.

42 **OS Boundary Sketch Map covering Mildenhall (1876)**

a. Relevance. See **OS Boundary Sketch Map covering Ramsbury (1876)** (above).

b. Archive. This document is held at TNA (Ref OS 27/5756)

c. Meaning.

It shows a road running northwards from the London road (the present A4) along the Mildenhall – Little Bedwyn parish boundary, and then into the parish of Ramsbury, no longer following the boundary

Photos: 1876 OS BSM Mildenhall (1) (27_5756), 1876 OS BSM Mildenhall (2) (27_5756), 1876 OS BSM Mildenhall (3) (27_5756),

Just south of the Ramsbury -Little Bedwyn border it is annotated B.R.B. 5501A P.9. This refers to an entry on page 9 of the OS Boundary Remarks Book 5501a (TNA Ref. OS 26/11336)

The Mildenhall – Ramsbury border just north of that between Mildenhall and Little Bedwyn is annotated B.R.B. 5638 P.4. This refers to an entry on page 4 of the OS Boundary Remarks Book 5638 (TNA Ref. OS 26/11126)

Just west of point “B” is inscribed “Hen's Wood”. Today that would not be regarded as part of Hen's Wood.

d. Assessment.

This document is significant as it provides physical evidence of Axford Lane in 1876 at the Ramsbury, Mildenhall, Little Bedwyn border. The length of road shown is part of the application route between points F and G.

43 OS Boundary Sketch Map covering Froxfield and Little Bedwyn (1876)

a. Relevance. See OS Boundary Sketch Map covering Ramsbury (1876) (above).

b. Archive. This document is held at TNA (Ref OS 27/5731)

c. Meaning.

It shows a road running along the Little Bedwyn – Mildenhall border, and extending north of Little Bedwyn parish.

Photos: 1876 OS BSM L.Bedwyn (2) (27_5731), 1876 OS BSM L.Bedwyn (3) (27_5731), 1876 OS BSM L.Bedwyn 4) (27_5731)

Where the Little Bedwyn northern border turns eastwards is annotated P.9. This refers to an entry on page 9 of the OS Boundary Remarks Book 5501a (TNA Ref. OS 26/11336)

d. Assessment.

This document is significant as it provides physical evidence of Axford Lane in 1876 at the Mildenhall - Little Bedwyn border. The length of road shown is part of the application route between points F and G

44 Ordnance Survey 25” Wiltshire Sheet 29.11 1st Edition (1885, surveyed 1879 and 1883)

a. Relevance.

This map was created from an actual survey.

While most Ordnance survey maps carry a disclaimer that they do not provide evidence for the existence of public rights of way, the first edition maps at 25” scale were accompanied by books of reference, often called “Area Books” which can provide additional evidence of reputation, particularly for routes which ought to be recorded as restricted byways or byways open to all traffic.

Area books are available for many of the maps, and if published before about 1879, contain land use information. Later area books only provide areas for the land parcels.

b. Archive. A copy of Wiltshire 25” Sheet 29.11 (1st Edition) is held at the WSHC.

c. Meaning.

This copy is coloured.

This sheet covers only the northern part of the application route, from point A to midway between points C

and D.

Section A-B of the application route (Stone Lane Way) is shown with a sienna (metalled) central portion with wastage either side. It is fenced except at the Pit. There are no gates. It is not marked FP nor BR. Its width excluding wastage is about 26ft. It is separately numbered (854) and measured (1.829). **Photo: 1885 25in 2911(1)**

Section B-C of the application route is a short section at the western end of North Lane. North Lane is uncoloured, at its eastern end fenced on both sides, towards its western end it is unfenced on its northern side. No gates. Not marked FP or BR. Width is about 40ft, no wastage. It is numbered (850) and measured (3.887) separately from the land on either side (included with Holly Lane and Cross Lane) **Photo: 1885 25in 2911(2)**

The northern part of section C-D of the application route (Cross Lane) is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40ft with no wastage. It is numbered (850) and measured (3.887) separately from the land on either side (included with Holly Lane and North Lane). **Photo: 1885 25in 2911(2)**

d. Assessment.

That the application route on this sheet is separately numbered and measured suggests it was not considered part of the land on either side and suggests it was a public road (for the reason below):

“It was the practice of the OS to allocate parcel numbers to distinct pieces of land and number them. These are numbered and recorded on the maps as acreages. Where applicable parcels were braced with adjoining parcels – for example a track across a field may be braced in with the surrounding land and measured with that. However, some features *'are always separately numbered and measured irrespective of their size. They include railways in rural areas (in built up areas they may form part of the 'Town area'), all public roads, whether fenced or unfenced and foreshore and tidal water.'*” From Ordnance Survey Maps, a descriptive manual by J B Harley (published by the Ordnance Survey in 1975).

It is not conclusive of vehicular rights that the route is neither labelled “F.P” nor “B.R” but suggestive of them.

The applicant considers it significant that this map was created as a result of an original survey. It serves as strong evidence for the existence of a route along the line of the application route on this sheet and evidence, albeit less strong, of the public status of the route and vehicular rights along it.

45 Ordnance Survey 25” Wiltshire Sheet 29.15 1st Edition (1886)

a. Relevance. This map was created from an actual survey.

See Section 44.

b. Archive. A copy of Wiltshire 25” Sheet 29.15 (1st Edition) is held at the WSHC.

c. Meaning.

This sheet is coloured. (Coomb Lane in the north-west corner running down to Hill Close is coloured sienna. A number of fields have their perimeters marked in blue, but that was not original) **Photo: 1886 OS25in 2915(1)**

The southern part of section C-D of the application route (Cross Lane) is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40 feet. It is separately numbered (935) and measured (.210) . **Photo: 1886 OS25in 2915(2)**

Section D-E of the application route is shown. This is South Lane from its junction with Cross Lane west to Hill Close Lane. It is uncoloured with no gates. It is not marked FP or BR. Width excluding wastage varies between 26 and 40 ft. It is separately numbered (936) and measured (2.285). At its eastern end South Lane is shown running amongst the trees; section D-E is no longer amongst the trees. **Photo: 1886 OS25in 2915(2)**

Section E-F of the application route (Hill Close Lane) is shown from South Lane south to Puthall Wood. It is uncoloured and amongst the trees. Fenced, no gates, not marked FP or BR. Numbered and measured with South Lane. Width including wastage about 50ft. Dotted central portion is much narrower. **Photo: 1886**

OS25in 2915(3)

Section F-G of the application route (Axford Lane) runs south amongst the trees with Putall Park on its eastern side and then before reaching the London Road is fenced but no longer amongst trees, Uncoloured, no gates, not marked FP or BR. Separately numbered and measured. Named "Axford Lane". **Photo: 1886 OS25in 2915(4)**

d. Assessment.

The applicant considers it significant that this map was created as a result of an original survey.

That the application route is numbered and measured separately from the land on either side of it suggests it was not considered part of the land on either side and, indeed, was a public road (see Section 44 for the reasoning).

It is not conclusive of vehicular rights that none of the application route is labelled "F.P" or "B.R" but it is suggestive of them.

This sheet provides strong evidence of the existence of the application route and evidence albeit less strong that public vehicular rights existed along it at the time of the survey.

46 **OS1in New Series Sheet 267 Hungerford (coloured), Published 1889**a. Relevance. This map was made from an original survey.

Ordnance Survey maps have nearly always carried the disclaimer "The representation on this map of a Road, Track or Footpath is no evidence of a right of way". Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

See Section 23, "Ordnance Survey 1" Old Series 1817 Sheet 14".

b. Archives. This plan is held by the WSHC under reference number "Printed Maps 4.40"c. Meaning.

Sheet 267 includes much of the Axford area.

It shows the southern end of section A-B of the application route, section B-C, section C-D, all but the very westernmost part of section D-E and the southernmost portion of section F-G as "*Minor Roads*".

Photo: 1889 OS 1in Sheet 267 (PM4.40); 1889 OS 1in Sheet 267 Key (PM4.40)

The remainder of the application route is shown on OS1in New Series Sheet 266 (1892).

d. Assessment.

This shows that the parts of the application route represented on this map existed in 1889 and were regarded as "*Minor Roads*".

This shows that the parts of the application route represented on this map route existed as a physical route in 1892 and were regarded as a "*Minor Roads*".

The map does carry a disclaimer regarding the depiction of rights of way.

However, as a main purpose of the one-inch map can be stated to have been to serve as travelling map for the public, it seems likely that a "*Minor Road*" on such a map would have had public vehicular rights unless the route clearly lead only to, say, a farmstead or private house. That is not the case here.

The applicant concludes that taken together the two sheets, this one and 266 (see Section 48), are suggestive of public vehicular rights along the entire application route.

47 **Phillips' Cyclists Map of Wiltshire (1890)**a. Relevance.

This map was made for sale to the travelling public.

b. Archive. This document is held at the WSHC, reference "Printed Maps 2.14".c. Meaning.

Printed by George Phillip & Son, London & Liverpool

The entire application route from point A to midway between point F and point G is shown as a "Cross Road"

Photo: 1890 Phillips' Cyclists' Map (2.14); 1890 Philips' Cyclists' Key (PM2.14)

Midway between point F and point G of the application route the road continues as a Cross Road in a south easterly direction to join the road from the London Road to Putall Farm.

d. Assessment.

This map again appears to be based on Weller's of 1862 (itself printed by George Phillip & Son) and repeats its representation of the route southwards from point F.

There is a present a track that runs from the application route to the road into Putall Farm at about the point illustrated on Weller's map and subsequent maps based on it). On the ground that track runs roughly north-eastwards, not as per Weller.

Weller, unlike Andrews and Dury before him and the Ordnance Survey after him, depicted the track into the farm, albeit in the wrong direction, rather than the route that continued and still continues southwards to the Bath Road (A4).

The term Cross Road in this context means a public vehicular route.

Although the map must have featured , by accident or design , some private routes and some footpaths, it suggests that the application route was a public road with vehicular rights

48 **OS1in New Series Sheet 266 Marlborough (coloured) Surveyed 1878-86, Published 1892 (WSHC, Ref. Printed Maps 4.38)**a. Relevance. This map was made from an original survey.

See Section 23, "Ordnance Survey 1" Old Series 1817 Sheet 14".

b. Archives. This plan is held by the WSHC under reference number "Printed Maps 4.38"c. Meaning.

Sheet 266 incudes much of the Axford area.

It shows the northern part of section A-B of the application route, he extreme western end of section D-E, all of section E-F and the northern portion of section F-G all depicted as "Minor Roads".

Photo: 1889 OS 1in Sheet 266 (PM4.38); 1889 OS 1in Sheet 266 Key (PM4.38)

The remainder of the application route is shown on OS1in New Series Sheet 267 (1889).

d. Assessment.

This shows that the parts of the application route represented on this map existed as a physical route in 1892 and were regarded as a "Minor Roads".

The map does, however, carry a disclaimer regarding the depiction of rights of way.

However, as a main purpose of the one-inch map can be stated to have been to serve as travelling map for the public, it seems likely that a “*Minor Road*” on such a map would have had public vehicular rights unless the route clearly lead only to, say, a farmstead or private house. That is not the case here.

The applicant concludes that taken together the two sheets, this one and 267 (see Section 46), are suggestive of public vehicular rights along the entire application route.

49 Ordnance Survey Object Name Book – Wiltshire Sheet XXIX SE 1899

- a. Date. The Object Name Book is dated 1899 - 1922
- b. Relevance. The Ordnance Survey needed a reliable way of determining the names put on their maps. They recorded the authority for the names and the modes of spelling. Their record books give other information. The records relate to the names shown on the second edition county series maps
- c. Archives. The Object Name Book for map Wiltshire XXIX SE is held at TNA under reference OS 35/7496.
- d. Meaning.

The Object Name Book records the name of part of the application route as “Axford Lane”. Axford Lane is the section of the application route from point F to point G. The description given is “An unmetalled road extending from NW corner of Puthall Park to 30 chains east of Puthall Lodge Gate”. This entry is on a page dated March 1899.

The extract also shows the entry immediately before Axford Lane in the same Object Name Book; Sawpit Drive. The description given is “Applies to a private road extending from Amity Oak through the Eight Walks”

The same Object Name Book records the authority for the spelling of Axford Lane and Sawpit Drive. The second extract shows that the spelling was confirmed by Colonel E.B, Merriman, Savernake Estate Office, agent to the Rt Hon. Marquis of Ailesbury.

Photo 1899 OS ONB XXIXSE Page 11 (35_7496); Photo 1899 OS ONB XXIXSE OS230 (35_7496)

- e. Assessment.

The fact that the Ordnance Survey drew a distinction between “roads” and “private roads” leads to the conclusion that Axford Lane was not considered to be private at the time of the name determination. In other words, it was considered to be public.

It seems unlikely that a purely private route would be named.

This evidence is significant because it was produced by a public body (the Ordnance Survey), the contents were agreed by notable people in the locality (in this case, the agent to the landowner); a comparison between this route (Axford Lane) and a private route enables this one to be confirmed as public; its description is that of an “unmetalled road” and it can be related to an exact route because the document was compiled to verify the description of the wording/names printed on the Ordnance Survey county series map.

Axford Lane from the “NW corner of Putall Park to 30 chains east of Putall Lodge Gate” is section F-G of the application route.

The applicant concludes that section F-G of the application route was in 1899 a public unmetalled road.

50 Ordnance Survey 25” Wiltshire Sheet 29.11 2nd Edition (1900)

- a. Date. Published 1900 (Surveyed 1883, revised 1899) .
- b. Relevance. This map was produced from an actual survey, with the addition of later revisions.

Ordnance Survey maps have nearly always carried the disclaimer “The representation on this map of a Road, Track or Footpath is no evidence of a right of way”. Maps published since the Definitive Map was available carry the disclaimer “The representation on this map of any other road, track or path is no evidence of the existence of a right of way”. Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

c. Archive. A copy of Wiltshire Sheet 29.11 (2nd Edition) is held in the WSHC

d. Meaning.

This copy is uncoloured. **Photo: 1900 OS25in 2911(1)**

This sheet covers only the northern part of the application route, from point A to midway between points C and D.

Section A-B of the application route (Stone Lane Way) is shown with a central portion with wastage either side. It is fenced except at the Pit. There are no gates. It is not marked FP nor BR. Its width excluding wastage is about 26ft. It is separately numbered (705) and measured. **Photo: 1900 OS25in 2911(2)**

Section B-C of the application route is a short section at the western end of North Lane. North Lane is at its eastern end fenced on both sides, towards its western end it is unfenced on its northern side. No gates. Not marked FP or BR. Width is about 40ft, no wastage. It is numbered and measured separately from the land on either side (but included with Holly Lane and Cross Lane). **Photo: 1900 OS25in 2911(3)**

The northern part of section C-D of the application route (Cross Lane) is shown. It is fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40ft with no wastage. It is numbered and measured separately from the land on either side (but included with Holly Lane and North Lane). **Photo: 1900 OS25in 2911(3)**

e. Assessment.

This map again shows the physical existence of this part of the application route in 1900.

That it was separately numbered and measured suggests an identity distinct from the lands on either side, and as a public road (see Section 44, OS 25” Wiltshire Sheet 29.11 (1885)).

It is not conclusive of vehicular rights that the route is neither labelled “F.P” nor “B.R” but suggestive of them.

The applicant considers it significant that this map was created as a result of an original survey, with later revisions. It serves as strong evidence for the existence of a route along the line of the application route on this sheet, and less strong evidence of the public status of the route and vehicular rights.

51 Ordnance Survey 25” Wiltshire Sheet 29.15 2nd Edition (1900)

a. Date. Published 1900 (Surveyed 1878-83, Revised 1899)

b. Relevance. This map was produced from an original survey, with later revisions.

See Section 50.

c. Archive. A copy of Wiltshire 25in Sheet 29.15 (2nd Edition) is held at the WSHC.

d. Meaning.

The original map was created uncoloured. This copy of the sheet is actually the Sheet 29.15 Working Plan for the Inland Revenue Finance Act 1911, and so the fields and other areas of land have been subsequently coloured to indicate their ownership. **Photo: 1900 OS25in 2915(1)**

The southern part of section C-D of the application route (Cross Lane, parcel 682) is shown. It is fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40 feet. It is separately numbered and

measured. **Photo: 1900 OS25in 2915(2)**

Section D-E of the application route is shown. This is South Lane from its junction with Cross Lane west to Hill Close Lane. It has no gates. It is not marked FP or BR. Width excluding wastage varies between 26 and 40 ft. It is separately numbered (683) and measured (2.285). At its eastern end South Lane is shown running amongst the trees; section D-E is no longer amongst the trees. **Photo: 1900 OS25in 2915(2)**

Section E-F of the application route (Hill Close Lane) is shown from South Lane south to Puthall Wood. It is amongst the trees. Fenced, no gates, not marked FP or BR. Width including wastage about 50ft. Dotted central portion is much narrower. It is numbered and measured separately from the land on either side but included with section D-E (i.e. with South Lane). **Photo: 1900 OS25in 2915(2)**

Section F-G of the application route (Axford Lane) runs south amongst the trees with Putall Park on its eastern side and then before reaching the London Road is fenced but no longer amongst trees, No gates, not marked FP or BR. Separately numbered and measured. Named "Axford Lane". **Photo: 1900 OS25in 2915(3)**

e. Assessment.

The applicant considers it significant that this map was created as a result of an original survey with later revisions.

This map shows the physical existence of the application route at the time of the later revisions.

That none of the route on this sheet is marked FP or BR suggests the route was a road.

That the the application route shown is separately numbered and measured suggests it was not considered part of the land on either side and was a public road (for reasoning see Section 44).

This sheet provides strong evidence of the existence of the application route and evidence, albeit less strong, that public vehicular rights existed along it in 1899.

52 Ordnance Survey 6", 2nd Edition, Wiltshire Sheet 29 SE (1900)

a. Relevance. This map was photo-reduced from the 2nd Edition County Series 25" maps.

See Section 50.

b. Archive. A copy of Wiltshire 6in Sheet 29 SE (2nd Edition) is held at the WSHC, along with a separate sheet containing the key

c. Meaning.

All sections of the application route: namely A-B (Stone Lane Way), B-C (part of North Lane), C-D (Cross Lane), E-F (Hill Close Lane) and F G (Axford Lane to the A4) are depicted as fenced "Minor Roads".

Photos: 1900 OS6in29SE and 1900 OS6in29SE Putall; OS6in Conventional Signs (1) and (2)

d. Assessment.

This map provides further evidence of the existence of the entire route in 1900. The key gives further information on the nature of the route i.e. a "Minor Road"

53 Deposited Plans of the Central Wilts Light Railway

a. Date. May 1903

b. Relevance.

See *Deposited Plans of the Basingstoke and Didcot Junction Railway with a branch through Newbury to Swindon (1844)* (Section 34)

- c. Archives. WSHC, reference A1/371/165BMS (Plan and Book of Reference)
- d. Meaning.

This record relates to the Central Wilts Light Railway, Railway No. 4

The deposited railway plan shows the route of the proposed railway line from left to right as a solid line marked with distances in furlongs. The plan is orientated with north at the top of the page. The railway line crosses the application route at just under 2 miles 7 furlongs measured from west-east (i.e. from Marlborough).

Photo: 1903 Central Wilts Light Rwy Plan (A1_370_165B)& 1903 Central Wilts Light Rwy BOR (A1_370_165B)

The plan shows the route as plot number 7 in "*The Parish of Ramsbury in the County of Wilts*". The associated book of reference gives the description of the parcel as 'Occupation Road, Chalk Pit and Land', the owner as 'Sir Francis Burdett, Bart' and no lessee or occupier is given. Plot number 7 is part of the section of the application route between points A and B and the railway line crosses the application route about two-thirds of the distance from A to B.

The book of reference does not describe any of the roads crossed in either the parish of Mildenhall or of Ramsbury as a public highway; only accommodation roads or occupation roads.

- e. Assessment.

The drawing and numbering of the route within the limits of deviation of the railway, and the description of 'Occupation Road, Chalk Pit and Land' with owner 'Sir Francis Burdett, Bart' is evidence that the application route was regarded in 1903 as an occupation road.

This could be because by 1903 it was genuinely regarded as such. However, as the legal maxim "once a highway always a highway" goes, that in itself would not alter the fact that fifty years earlier it was regarded as a Public or Parish Road and negate those earlier rights.

Or perhaps the railway company may have omitted to make sufficient enquiries as to its history. It is striking that the book of reference identified so few public roads in Mildenhall or Ramsbury. It is worthy of note that roads 2 and 8, near to the application route and described in the 1903 Book Of Reference as Accommodation Roads, now have the status of Public Rights of Way, and that that Mildenhall Parish Council (adjacent to Ramsbury on its western flank) drew the attention of the District Council to four inaccuracies in the descriptions of roads that the line would cross in Mildenhall alone, as well as one omission. An entry to that effect appears in the Mildenhall Parish Council minutes, dated 19th June 1903 (WSHC, Ref. 2902/1)

54 Mildenhall Parish Council minutes, 1903

- a. Date. 19th June 1903
- b. Relevance. These minutes include the response of Mildenhall Parish Council to the Plan and Book of Reference of the Central Wilts. Light Railway, Railway No. 4, Hungerford to Chippenham section concerning the section of the route through the parish of Mildenhall.
- c. Archive. WSHC, reference 2902/1
- d. Meaning.

Photo: 1903 Mildenhall PC Minutes Page 55 (2902_1), 1903 Mildenhall PC Minutes Page 55(2) (2902_1)

The minutes for Mildenhall Parish Council dated 19th June 1903 (on page 55) resolved

....."to call the attention of the District Council to the following numbers in the Schedule which are inaccurately described viz.;

"No.6 should be an Accommodation Road
9 should be Parish Road (Cock-a-troop)

21 should be Parish Road
 26 should be Parish Road (Forest to Stitchcombe)
 and also to the fact that no mention is made of an accommodation road in Plot 22”

e. Assessment.

These minutes indicate that Mildenhall Parish Council was unhappy with the quality of information in the Book of Reference. All Mildenhall roads mention in the Book of Reference are described as Occupation or Accommodation roads, none as public.

No 6 is now a public footpath, MILD20; No 9 is now a public footpath, MILD17 (with a DMMO submitted applying for re-classification as a Restricted Byway); No 21 is Chopping Knife Lane (U/C 5084) and No 26 is U/C 5085. The applicant cannot identify the last named accommodation road. These current day statuses accord with the Parish Council's comments.

55 Ordnance Survey 1” Revised New edition, 3rd Edition 1903, Sheet 267 (Hungerford)

a. Date. Published 1903 (surveyed 1872-83, Revised 1901-02, partially revised to show railways to 1906)

b. Relevance.

This map carries the disclaimer “The representation on this map of a Road, Track or Footpath is no evidence of a right of way”. Accordingly it provides evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

See Section 23, “Ordnance Survey 1” Old Series 1817 Sheet 14”.

c. Archive. Reproductions of this map are available from the Ordnance Survey. One such is owned by the applicant.

d. Meaning.

The southern portion of section A-B of the application route, all of sections B-C, C-D and D-F and the southern most part of section F-G are all shown as either third class metalled roads or unmetalled roads. Differentiating between the two types is not easy as that is indicated by the thickness and closeness of the lines representing the road, and that is not very clear on the map.

The other parts of the route are shown on sheet 266 (see Section 56).

Photo: 1903 OS1in267 Detail, 1903 OS1in267 Key

e. Assessment.

This map provides evidence of the physical existence in 1902 as at least unmetalled or perhaps third class metalled roads of sections A-B (in part), B-C, C-D, D-E (in part) and F-G (in part) of the application route.

However, as a main purpose of the one-inch map can be stated to have been to serve as a travelling map for the public, it seems likely that an unmetalled road on such a map would have had public vehicular rights unless the route led only to say, a farmstead or private house.

Taken in conjunction with sheet 267 (Section 56), in this case therefore the applicant concludes that the route shown, the application route, had public vehicular rights as part of the local road network.

56 Ordnance Survey 1” Revised New Edition, 3rd Edition 1904, Sheet 266 (Marlborough)

a. Date. Published 1904 (Surveyed 1878-83, Revised 1902, railways to 1914)

b. Relevance.

See Section 23, “Ordnance Survey 1” Old Series 1817 Sheet 14”

This map carries the disclaimer “The representation on this map of a Road, Track or Footpath is no evidence of a right of way”. Accordingly it provides evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

c. Archive. Reproductions of this map are available from the Ordnance Survey. The copy cited is owned by the applicant.

d. Meaning.

The northern portion of section A-B of the application route, the extreme western end of section D-E, all of section E-F and the northern portion of section F-G are all depicted as either third class metalled roads or unmetalled roads. Differentiating between the two types is not easy as that is indicated by the thickness and closeness of the lines representing the road, and that is not very clear on the map.

The other parts of the route are shown on sheet 267 (see Section 55).

Photo: 1904 OS1in266 Detail, 1904 OS1in266 Key

e. Assessment.

This map provides evidence of the physical existence in 1904 as at least unmetalled or perhaps third class metalled roads of sections A-B (in part), D-E (in part), E-F and F-G (in part) of the application route.

However, as a main purpose of the one-inch map can be stated to have been to serve as a travelling map for the public, it seems likely that an unmetalled road on such a map would have had public vehicular rights unless the route led only to say, a farmstead or private house.

Taken in conjunction with sheet 267 (Section 55), in this case therefore the applicant concludes that the route shown, the application route, had public vehicular rights and was part of the local road network.

57 Marlborough Rural District Council (RDC) Rights of Way Map (1905)

a. Relevance. The Marlborough Rural District Council was created under powers in the Local Government Act 1894 and took over many of the highways functions of the former Highways Board. It was created under statutory authority to execute statutory powers, and so its records have more evidential weight than completely private documents. It was produced by J.W. Brooke, Marlborough RDC Surveyor. The map contains a key, reproduced below.

b. Archive. This map is held in the WSHC under reference G8/250/1

c. Meaning.

A route is shown running generally southwards from Stitchcombe to “The Bath and London Main Road”, firstly as Coomb Lane and then as Axford Lane. From the route's northern end at Stitchcombe, Coomb Lane runs southwards as far as Hill Close coloured yellow but is then coloured red running roughly south-eastwards through East Croft Coppice until its junction with Axford Lane where it is once more coloured yellow and runs southwards to the London – Bath road. Section F-G of the application route (Axford lane) is coloured yellow.

Photo: 1905 Marlborough RDC ROW Map Detail 1 (G8_250_1); 1905 Marlborough RDC ROW Map Key (G8_250_1)

Those routes shown on the map in green are generally today footpaths and bridleways.

The route is annotated with the number “34”. The key says such numbers “refer to the report”. The Marlborough Rural District Council Rights of Way Report 1905 is held at the WSHC and is discussed below.

d. Assessment.

The applicant concludes that in 1905 the Marlborough RDC Surveyor considered the section of Axford Lane constituting section F-G of the application route to be a Highway repaired by the District Council and, by

virtue of its colouring, the balance of probabilities suggest it to be a road with vehicular rights rather than a footpath or bridleway.

58 Marlborough RDC Rights of Way Report (1905)

a. Relevance. The Marlborough Rural District Council was created under powers in the Local Government Act 1894 and took over many of the highways functions of the former Highways Board. It was created under statutory authority to execute statutory powers, and so its records have more evidential weight than completely private documents. This report was produced by J.W. Brooke, Marlborough RDC Surveyor., to accompany Marlborough RDC Rights of Way Map 1905 (WHC. Ref. G8/250/1).

b. Archive. This report is held at the WSHC under reference G8/250/2

c. Meaning. It includes the following note regarding the route from Stitchcombe to the London Road:

“34. The road leading from Stitchcombe via Puthall Park, to the London Road, has been disturbed; the road should follow the Parish Boundary through Hill Copse and a corner of East Croft Coppice.”

Photo: 1905 Marlborough RDC ROW Report (G8_250_2)

Also

“33 – An old footpath is claimed”

“37 – The Footpath from Poulton Bridge....”

d. Assessment.

This note uses the word “road” twice. Other entries use the word “footpath”.

The applicant concludes that the route numbered “34” of which the length of the application route from point F to point G is a part was regarded in 1905 by the Marlborough RDC surveyor both as public (by virtue of appearing on his map) and as a road (by virtue of him using that word rather than footpath, or bridleway).

59 Marlborough RDC Minutes (1906)

a. Relevance.

The Marlborough Rural District Council was created under powers in the Local Government Act 1894 and took over many of the highways functions of the former Highways Board.

It was created under statutory authority to execute statutory powers, and so its records have more evidential weight than completely private documents.

b. Archive. The Marlborough RDC minutes are held by the WSHC under reference G8/100/2.

c. Meaning.

The minutes from a meeting dated 22nd September 1906 restated the issue with route 34:

Page 372: “Upon the motion of the chairman it was resolved that the Council confirm the decisions arrived at by the Council in Committee upon the subject of roads and footpaths within the district as follows:-

Page 374: Under the heading of “Mildenhall”, Typewritten

[Typewritten]“34: - The Road leading from Stitchcombe, via Puthall Park, to the London Road, has been disturbed.; the road should follow the Parish Boundary through Hill Close and a corner of East Croft Coppice.”

And a corresponding handwritten comment “34. No action required”

Photos: 1906 RDC Minutes (1) (G8_100_2), 1906 RDC Minutes (3) (G8_100_2)

d. Assessment.

The applicant concludes that the words “roads and footpaths” having been used in the preamble on page 372 the use of the term “road” in entry 34 is significant.

These minutes strongly suggest that the route from Stitchcombe via Putall Park to the London Road was in 1905 considered a public road. The southernmost part of that route is the section of the application route from Point F to Point G.

60 Ordnance Survey 1”, 3rd Edition, Large Sheet Series, Sheet 113a. Date. 1908 (Revised 1901-02, Railways to 1912)b. Relevance.

See Section 23, “Ordnance Survey 1” Old Series 1817 Sheet 14”

This map carries the disclaimer “The representation on this map of a Road, Track or Footpath is no evidence of a right of way”. Accordingly it provides evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

c. Archive. A copy is held at the WSHC under reference “Printed Maps 4.18”d. Meaning.

Section A-B of the application route (Stone Lane Way) is shown as a 2nd Class Fenced Metalled Road

From the point B south to the A4 at point G the remainder of the application route is shown as fenced 3rd Class metalled roads

Photos: 1908 OS 1in Sheet 113 (PM4.18); 1908 OS 1in Sheet 113 Key (PM4.18)

e. Assessment. This map provides evidence of the physical existence of the application route in 1908.

However, as a main purpose of the one-inch map can be stated to have been to serve as a travelling map for the public, it seems likely that 2nd and 3rd Class Metalled Roads on such a map would have had public vehicular rights unless the route led only to say, a farmstead or private house.

In this case, therefore, the applicant concludes that the map provides some evidence that the route shown, the application route, had public vehicular rights and was part of the local road network.

61 Inland Revenue Valuation Record Plan Wiltshire 25in Sheet 29.11a. Date. The valuation records were produced in the few years after 1910.b. Relevance. The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The purpose was to charge a tax on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways: public vehicular roads were usually excluded from adjoining landholdings and shown as ‘white roads’, and discounts could be requested for land crossed by footpaths or bridleways. This is known because s.35 of the 1910 Act provided,

“No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority.”

We note that a highway authority was a rating authority. There was no obligation for a land owner to claim any of the other discounts available (applying for discounts was an entirely voluntary act), but Section 25 authorised the discount for footpaths and bridleways if they were claimed:

“The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public

rights of user, and to any right of common and to any easements affecting the land, and ... [other exclusions.]”

All land had to be valued unless it was exempted by the Act. There were harsh penalties for making false declarations, and Section 94 provided:

“If any person for the purpose of obtaining any allowance, reduction, rebate, or repayment in respect of any duty under this Act, either for himself or for any other person, or in any return made with reference to any duty under this Act, knowingly makes any false statement or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding six months with hard labour.”

The Inland Revenue Valuation books - known as Domesday Books but properly entitled Duties on Land Values - were prepared by the Inspector of Taxes and contain details of the valuation of land for the purposes of duty under the Finance Act (1909-10), 1910. They provide basic information relative to the valuation of each property, including the valuation assessment number, map reference, owner, occupier, situation, description and extent, as well as details of deductions (i.e. discounts) for things such as rights of way on the property. Surviving Domesday Books were presented to local record offices under s.3(6) of the Public Records Act, 1958.

Finance Act records were not available at the time of the creation of the Definitive Map and so would not have been considered amongst historical evidence regarding the rights along a route.

- c. Archive. TNA holds two records passed from the IR Valuation Offices that cover the application route.. Reference IR 125/11/352 covers base map Wiltshire 25in Sheet 29.11 (2nd Edition) and IR 125/11/356 covers base map Wiltshire 25in Sheet 29.15 (2nd edition).

The Domesday Book for Ramsbury is held at the WSHC, reference L8/1/53.

- d. Meaning.

In document IR 125/11/352 the section of the application route from A-B (Stone Lane Way) is uncoloured and flanked on both east and west by hereditament 484. Broken braces have been drawn from the parcels of land on both east and west but do not extend across Stone Lane Way. No other sections of the route are uncoloured.

Photos: 1910 29.11 Record Plan Det. 2 (IR 125_11_352) & 1910 29.11 Record Plan Det. 3 (IR 125_11_352)

In document IR 125/11/356 none of the application route is uncoloured.

- e. Assessment.

The land constituting section A-B of the application route is a “white road”.

As the land constituting section A-B of the application route is unvalued, this suggests it belongs to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority. Had it only been a bridleway, the Inland Revenue would have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy. Had it been held by a rating authority for another purpose there would be some evidence of that holding, yet none has been found.

The legislation is sufficiently clear that anyone arguing that white road status means something other than that the route is a public vehicular highway must show under which other exception from valuation section A-B of the application route falls.

Although a white road is positive evidence of a public vehicular highway the fact that the remainder of the route is included in various hereditaments does not mean that vehicular rights did not pertain along it. Landowners were not obliged to claim discounts.

Although there are other possible reasons for the depiction of this part of a route as a white road the applicant concludes that this is strong evidence of a public road with vehicular rights.

62 Inland Revenue Valuation Working Plan Wiltshire 25in Sheet 29.11

a. Date. The valuation records were produced in the few years after 1910.

b. Relevance.

See **Inland Revenue Valuation Record Plan Wiltshire 25in Sheet 29.11** (above).

c. Archive. This document is held at the WSHC, reference L8/10/29 (contains Working Plans for sheets 29.xx).

The Inland Revenue Valuation Book ("Domesday Book" for Ramsbury is held at the WSHC, reference L8/1/53.

d. Meaning.

The section of the application route from A-B (Stone Lane Way) is uncoloured and flanked on both east and west by hereditament 484. Green broken braces have been drawn from the parcels of land on both east and west but do not extend across Stone Lane Way. No other sections of the route are uncoloured

Photos:

1910 29.11 Working Plan (L8_10_29)

1910 29.11 Working Plan (1)-(4) (L8_10_29) – five close-ups of section A-B of the application route from north to south

e. Assessment.

The land constituting section A-B of the application route is a "white road".

As the land constituting section A-B of the application route is unvalued, this suggests it belongs to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority. Had it only been a bridleway, the Inland Revenue would have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy. Had it been held by a rating authority for another purpose there would be some evidence of that holding, yet none has been found.

The legislation is sufficiently clear that anyone arguing that white road status means something other than that the route is a public vehicular highway must show under which other exception from valuation section A-B of the application route falls.

Although a white road is positive evidence of a public vehicular highway the fact that the remainder of the route is included in various hereditaments does not mean that vehicular rights did not pertain along it. Landowners were not obliged to claim deductions for rights of way.

Although there are other possible reasons for the depiction of this part of a route as a white road the applicant concludes that this is strong evidence of a public road with vehicular rights.

63 Ordnance Survey 25" Wiltshire Sheet 29.11 3rd Edition (1924)

a. Relevance.

Ordnance Survey maps have nearly always carried the disclaimer "The representation on this map of a Road, Track or Footpath is no evidence of a right of way". Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

b. Archive. A copy of Sheet 29.11 (3rd Edition) is held in the WSHC

c. Meaning.

Section A-B of the application route (Stone Lane Way) is shown with an uncoloured central portion with wastage either side. It is fenced except at the Pit. There are no gates. It is not marked FP nor BR. Its width excluding wastage is about 26ft. It is separately numbered and measured. **Photo: 1924 OS25in 2911(1)**

Section B-C of the application route is a short section at the western end of North Lane. North Lane is uncoloured, at its eastern end fenced on both sides, towards its western end it is unfenced on its northern side. No gates. Not marked FP or BR. Width is about 40ft, no wastage. It is numbered and measured separately from the land on either side (but included with Holly Lane and Cross Lane) **Photo: 1924 OS25in 2911(5)**

The northern part of section C-D of the application route (Cross Lane) is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40ft with no wastage. It is numbered and measured separately from the land on either side (but included with Holly Lane and North Lane) **Photo: 1924 OS25in 2911(6)**

- d. Assessment. This map provides evidence of the physical existence of sections A-B and B-C and of the northern part of section C-D of the application route in 1924.

In conjunction with Sheet 29.15 (see Section 64) it provides evidence of the physical existence of the whole of the application route at that time as part of the local road network.

That it was separately numbered and measured suggests an identity distinct from the lands on either side, as a public road (see Section 44).

It is not conclusive of vehicular rights that none of the route is labelled "F.P." or "B.R." but suggestive of them.

The applicant considers it significant that this map was created as a result of an original survey, with later revisions. It is strong evidence for the existence of a route along the line of the application route and evidence, less strong, of the public status of the route and of vehicular rights.

64 Ordnance Survey 25" Wiltshire Sheet 29.15 3rd Edition (1924, Revised 1922)

- a. Date. Published 1924, having been revised in 1922

- b. Relevance.

Ordnance Survey maps have nearly always carried the disclaimer "The representation on this map of a Road, Track or Footpath is no evidence of a right of way". Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

- c. Archive. A copy of Sheet 29.15 (3rd Edition) is held at the WSHC

- d. Meaning.

The southern part of section C-D of the application route (Cross Lane) is shown. It is uncoloured and fenced on both east and west; no gates. It is not marked FP or BR. Width is about 40 feet. It is numbered (682) and measured separately from the parcels adjacent to it on its east and on its west. **Photo: 1924 OS25in 2915(1)**

Section D-E of the application route is shown. This is South Lane from its junction with Cross Lane west to Hill Close Lane. It is uncoloured with no gates. It is not marked FP or BR. Width excluding wastage varies between 26 and 40 ft. It is numbered (936) and measured (2.285) separately from the parcels adjacent to it on its north and on its south. At its eastern end South Lane is shown running amongst the trees; section D-E is no longer amongst the trees. **Photo: 1924 OS25in 2915(2)**

Section E-F of the application route (Hill Close Lane) is shown from South Lane south to Puthall Wood. It is uncoloured and amongst the trees. Fenced, no gates, not marked FP or BR. Width including wastage about 50ft. Dotted central portion is much narrower. Section E-F (i.e. Hill Close lane) is numbered and measured along with section D-E (i.e. South Lane). **Photo: 1924 OS25in 2915(2)**

Section F-G of the application route (Axford Lane) runs south amongst the trees with Putall Park on its eastern side and then before reaching the London Road is fenced but no longer amongst trees, Uncoloured, no gates, not marked FP or BR. Numbered (915) and measured separately from the trees to its west and east. Named "Axford Lane". **Photo: 1924 OS25in 2915(2)**

- e. Assessment. This map provides evidence of the physical existence of the southern part of section C-D and the section from D-G of the application route in 1924.

In conjunction with Sheet 29.11 (see Section 63) it provides evidence of the physical existence of the whole of the application route at that time as part of the local road network.

That it was separately numbered and measured suggests an identity distinct from the lands on either side, as a public road (see Section 44).

It is not conclusive of vehicular rights that none of the route is labelled "F.P." or "B.R." but suggestive of them.

The applicant considers it significant that this map was created as a result of an original survey, with later revisions. It is strong evidence for the existence of a route along the line of the application route and evidence, less strong, of the public status of the route and of vehicular rights.

65 **Ordnance Survey 6", 3rd Edition, Wiltshire Sheet 29 SE (1925)**

- a. Relevance. This map was photo-reduced from the 3rd Edition County Series 25" maps.

Ordnance Survey maps have nearly always carried the disclaimer "The representation on this map of a Road, Track or Footpath is no evidence of a right of way". Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

- b. Archive. A copy of Wiltshire 6in Sheet 29 SE (3rd Edition) is held at the WSHC.

- c. Meaning.

All sections of the application route: namely A-B (Stone Lane Way), B-C (part of North Lane), C-D (Cross Lane), E-F (Hill Close Lane) and F-G (Axford Lane to the A4) are depicted as fenced or unfenced "Minor Roads".

Photo: 1925 OS6in29SE and 1925 OS6in29SE Putall; OS6in Conventional Signs(1) and (2)

- d. Assessment.

This map provides further evidence of the existence of the entire route in 1925 as part of the local road network. The key gives further information on the nature of the route i.e. a "Minor Road"

66 **Local Government Act 1929, Marlborough RDC Takeover Map (circa 1930)**

- a. Relevance. Take Over Maps were prepared circa 1930 when the County Council took over responsibility for highways from the District Councils. They comprise a set of Ordnance Survey map sheets covering the county marked up with the highway information. They were produced by district councils to document the highways for which the County Council was to take responsibility.

- b. Archive. The Take Over Maps for Wiltshire are held at the Wiltshire County Council (WCC) Rights of Way Department in Trowbridge

- c. Meaning.

Photo: 1929 Marlborough Takeover Map, 1929 Marlborough Takeover Map (2)

The Marlborough RDC Takeover map shows Axford Lane (part of the present MILD16) northwards from the A4 in blue (indicating a county unclassified road) and labelled C.5086. A pencilled arrow points to it from the left saying something unreadable.

It also shows part of the present MILD16 southwards from Stitchcombe (to the west of Coombe Farm) in blue and labelled C.5085 as far south as Hill Close, where it then becomes brown as far as East Croft Coppice. A pencilled arrow pointing at the blue section says "Brown".

There is a gap between these two ends where the present MILD16 passes through East Croft Coppice. Many old maps and plans show the route skirting around the northern and eastern edges of Hill Croft

e. Assessment.

This indicates that at the time the Marlborough RDC Takeover map was created the southernmost section of what is now MILD16 was regarded as a county unclassified road.

This is important evidence because the map was produced by the district council and accepted by the county council for the statutory transfer of highway responsibility.

It is now clear that some of the blue sections on this map in the Axford area were incorrectly coloured and numbered. The U/C5085 runs from the A4 to Stichcombe and on to the C6, its last section being Stone Lane north from point A of the application route. It appears that C.5086 did not exist.

The current Wiltshire Highway Records map (see Section 80) shows the blue sections of MILD16 in brown. Brown on that map indicates a highway maintainable at public expense.

67 Local Government Act 1929, Ramsbury RDC Take Over Map (circa 1930)

a. Relevance. The Take Over Maps were prepared circa 1930 when the County Council took over responsibility for highways from the District Councils. They comprises a set of Ordnance Survey map sheets covering the county marked up with the highway information. They were produced by district councils to document the highways for which the County Council was to take responsibility.

b. Archive. The Take Over Maps for Wiltshire are held at the WCC Rights of Way Department in Trowbridge

c. Meaning.

Photo: 1929 Ramsbury Takeover Map & 1929 Ramsbury Takeover Map 5

The entire length of the application route is marked on the Ramsbury Take Over map as a route for which the County Council would take responsibility. Most of the route A-G is coloured brown, indicating a non-maintained public road. The northern half of section A - B is marked in blue, and labelled C.5085. Blue indicates a county unclassified road. A pencilled comment pointing at the blue section say, "should be brown, agreed with Strickland" Another comment pointing at the phrase "C.5085" says "Take Out".

According to a Kelly's Directory Extract 1915 Ramsbury (© Wiltshire OPC project/2013/Eileen Barnett) in 1915 "*Ramsbury Rural District Council*", "*Officers*", "*Highway Surveyor, Sanitary Inspector and Surveyor of New Buildings : William Strickland, Charnham Street, Hungerford*".

Extract: 1915 Ramsbury–Kellys.pdf

d. Assessment.

This indicates that at the time the Ramsbury Takeover map was created the entire route A-G was regarded as a non-maintained public road.

The labelling of part of the route in blue and as C.5085 was incorrect, which was presumably why there was the instruction "Take Out". C.5085 was the road leading from the A4 (the current turning signposted Stichcombe), eventually running as far as Point A of the application route where it turned north into Axford.

The Ramsbury RDC Takeover Map is important evidence because it was produced by the district council and accepted by the county council for the statutory transfer of highway responsibility and the route is clearly defined.

68 Ordnance Survey 1" 5th Edition 1938 Sheet 112 Marlborough

a. Date. First published 1938 with parish boundaries to 1939

b. Relevance.

See Section 23, "Ordnance Survey 1" Old Series 1817 Sheet 14"

Ordnance Survey maps have nearly always carried the disclaimer “The representation on this map of a Road, Track or Footpath is no evidence of a right of way”. Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

- c. Archive. A copy is held at the WSHC, reference “Printed Maps 4.17”.
- d. Meaning.

Photo: 1938 OS 1inch 5th Ed Sheet 112 (PM4.17) & 1938 OS 1inch 5th Ed Sheet 112 Key (PM4.17)

The entire route from point A beyond point F is shown as an unmetalled road. The southernmost part of Axford Lane (that runs north from the A4) is shown similarly as far as a road which leads north-eastwards into Putall. It is not clear how much of the remainder of Axford Lane to point F is shown as the markings of the parish boundary obscure anything that might lie beneath them.

- e. Assessment. This map provides evidence of the physical existence of the application route in 1938.

However, as a main purpose of the one-inch map can be stated to have been to serve as a travelling map for the public, it seems likely that an unmetalled road on such a map would have had public vehicular rights unless the route led only to say, a farmstead or private house.

In this case therefore the applicant concludes that the map provides some evidence that the route shown, the application route, had public vehicular rights.

69 Ordnance Survey 1” Popular Series Sheet 112 War Revision 1940

- a. Date. First published 1919 with periodic corrected reprints. This is the 1940 War Revision.
- b. Relevance.

See Section 23, “Ordnance Survey 1” Old Series 1817 Sheet 14”

Ordnance Survey maps have nearly always carried the disclaimer “The representation on this map of a Road, Track or Footpath is no evidence of a right of way”. Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

- c. Archive. A copy is held at the WSHC, reference “Printed Maps 4.19”.
- d. Meaning.

Photos: 1940 OS1in War Revision Sheet 112 (PM4.19) & 1940 OS1in War Revision Sheet 112 Key (PM4.19)

The application route from point A to south of point F is shown as a minor road.

The application route from point G northwards towards point F is shown as a minor road. It is unclear if the route is shown continuing as far as point F.

- e. Assessment. This shows that the application route was defined on the ground in 1940.

However, as a main purpose of the one-inch map can be stated to have been to serve as a travelling map for the public, it seems likely that an unmetalled road on such a map would have had public vehicular rights unless the route led only to say, a farmstead or private house.

As that is not the case here the applicant concludes that the map is evidence that the application route, had public vehicular rights.

70 Ministry of Food National Farm Survey 1941-42 (TNA Ref. MAF 73/45/29)

- a. Date. 1941-42

b. Relevance

In April 1941 MAF authorised a survey of every farm and holding of five acres or more, giving rise to the following documents:

- A Farm Record with information on conditions of tenure and occupation; the natural state of the farm, including fertility; the adequacy of equipment, water and electricity supplies; the degree of infestation with weeds or pests; and the management condition.
- A census return for 4 June 1941 including statistics of crop acreages, livestock numbers and information on rent and length of occupancy
- A map of the farm showing the farm boundaries, on an OS base map.

The maps show the extent of each farm, or other agricultural holding, with its boundaries. The area of each farm is indicated on the map by the use of a colour wash, and its code number is added in black ink. The relevance of these records is that where unproductive land (such as a vehicular highway or river) runs between holdings, it is excluded from the holdings.

These records were not available at the time of the creation of the Definitive Map and so could not have been taken into account when deciding what rights applied along a route.

The primary purpose of these records was unrelated to the depiction of rights of way.

c. Archive

Wiltshire sheets 29.11 and 29.15 are held at The National Archives under reference MAF/73/45/29

d. Meaning

Photos: 1942 MAF 29.11(1) shows the application route on sheet 29.11
1942 MAF 29.15(1) shows the application route on sheet 29.15

Wiltshire sheets 29.11 and 29.15 show the application route from point C to point E excluded from the property on either side.

The application route from Point A to Point C is within a holding and is therefore not excluded.

From point E southwards the application route runs as far as Putall Farm in the the woods and is thus excluded from the property on either side

The application route runs through the Putall Farm holding and hence that section is not excluded.

e. Assessment

Its exclusion from the property in either side shows that the application route from point C to point E was not part of the adjacent holding, i.e. Coombe Farm or Church Farm.

The valuer considered the route to be excluded from the agricultural holdings, and this only occurred where unproductive land fell between holdings. Carriageways are unproductive land. Inspection of the route shows it was not unproductive land of another sort (like a river, or woods)

Although the primary purpose of these records was unrelated to the subject of rights of way the depiction of a large section of the application route as separate from the adjacent landholdings merits explanation. Taken in conjunction with other evidence such as Highway Records, Tithe Maps and Finance Act records the simplest and most convincing explanation is that the application route from point C to point E had the status of a vehicular highway.

71 Ordnance Survey 2½" Map, Edition 1, Sheet SU26 (1949)a. Relevance.

Ordnance Survey maps have nearly always carried the disclaimer "The representation on this map of a Road, Track or Footpath is no evidence of a right of way". Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

- b. Archive. A copy is held in the WSHC amongst the OS 2½" Map collection. That collection also contains a document entitled "Ordnance Survey 1:2500 Conventional Signs", which serves as a key to the OS 2½ maps.

Photo: 1947 OS 1:25,000 Conventional Signs

- c. Meaning. All sections of the application route; namely A-B (Stone Lane Way), B-C (North Lane), C-D (Cross Lane), D-E (South Lane), E-F (Hill Close Lane) and F-G (Axford Lane to the A4) are depicted as fenced or unfenced "Other Roads (not classified by the Ministry of Transport)"

Photo: 1949 OS 2.5in SU26(1)

- d. Assessment. This map provides evidence of the continuing physical existence of the route in 1949.

National Parks and Access to the Countryside Act (NP&ACA) 1949

72 NP&ACA1949, 1951 Original Parish Survey Map (Mildenhall) & Form (Mildenhall Path No. 16):

- a. Date. 14 Jan 1952
- b. Relevance. This map was produced as a result of the original survey, conducted under s.27 National Parks and Countryside Act 1949, for the purpose of creating the definitive map
- c. Archive. These documents are held at the Wiltshire County Council Rights of Way department in Trowbridge.
- d. Meaning.

The map shows the entire length of CR16 (later MILD16) in red and labelled 16 (circled). Bridleways and footpaths on this map are also shown in red **Photos: 1951 Mildenhall Original Parish Survey Map & 1951 Mildenhall Original Parish Survey Map (2)**

The original survey form for Mildenhall Path No. 16 **Photo: 1951 Mildenhall Original Parish Survey Form Path 16** states:

Parish of Mildenhall, Path No. 16, Surveyed 14-1-52

NAME OR SITUATION OR DESCRIPTION

"CRB."

"From London Road to Putall Park to Stitchcombe following Parish Boundary through Hill Copse and corner of East Croft Coppice" (typewritten)

"Axford Lane"

"C.R.B Axford Lane From the southern end of spur road u/c at entrance to Combe Farm leading SE along the Ramsbury parish bdy through East Croft Coppice and Putall Park to A4" (handwritten)

NATURE OF SURFACE "Tarred with loose gravel for light traffic, deteriorates into narrow footpath just beyond Combe Farm, develops into a grass track (muddy in wet weather) near Oxleaze Copse, then into a narrow footpath at Hill Close and finally broadens into a track suitable for cars" (handwritten)

OBSERVATIONS "By taking short cuts it becomes a narrow footpath but in several places there is a better road which goes further round" (handwritten)

- e. Assessment.

The memorandum distributed to Parish Councils along with Circular No. 81 of 1950 (from the Ministry of Town and Country Planning) instructed how public paths should be distinguished on the Parish Survey maps. A Public Carriage Road or Cart Road or Green (unmetalled) Lane mainly used as a Bridleway was a "C.R.B."

This survey form indicates that prior to and at the time of the NP&ACA survey the route from London Road to Putall Park to Stitchcombe (Mildenhall Path No. 16) was regarded as a C.R.B and therefore considered to carry vehicular rights.

The southernmost part of that route is from Point G northwards to Point F of the application route; hence the application route from point G to point F prior to the creation of the definitive map was considered to carry vehicular rights.

73 **Marlborough and Ramsbury RD Rights of Way Survey 1951, Statement Required Under Section 32.**

- a. Relevance. This document summarises the information on each path that was gathered in the course of the NP &ACA surveys, and that was to form the basis for the definitive map.
- b. Archive. This document is held at the WSHC under Reference G8/250/3
- c. Meaning.

Photos: 1951 Marlborough & Ramsbury RD Section 32 Statement (G8_250_3) & 1951 Marlborough & Ramsbury RD Section 32 Statement (1) (G8_250_3)

Page 77, Parish Mildenhall, Path No. 16

The entry is typewritten but with handwritten annotations. It reads

“C.R.B. - Axford Lane. From the southern end of spur road U/C5085 at the entrance to Combe Farm leading south-east along the Ramsbury boundary through East Croft Coppice and south-south-east along the edge of Putall to the London-Bath road, Trunk Road A.4, on the Little Bedwyn Parish Boundary”

“C.R.B” had been struck through and annotated “F.P.”

- d. Assessment.

This clearly indicates that prior to the objection by the Savernake Estate to the draft map the entire length of Mildenhall Path No. 16 was regarded as a C.R.B, that is, a cart track.

The memorandum distributed to Parish Councils along with Circular No. 81 (from the Ministry of Town and Country Planning) instructed how public paths should be distinguished on the Parish Survey maps. A Public Carriage Road or Cart Road or Green (unmetalled) Lane mainly used as a bridleway was a “C.R.B.”.

Axford Lane as described in the OS Object names book was the route from the London Road to Putall Park. The name appears to have been misused for the whole length of CR16 as at its northern end CR16 leads to Stitchcombe, not Axford. Axford is some distance further east.

74 **Letter from the Forestry Commission dated 13th June 1953**

- a. Relevance. The process of creating the initial definitive maps was long and provided many opportunities for public involvement. After the initial surveys, surveying authorities were required to produce draft maps of their area and to make them available for four months for public inspection. Members of the public could make representations or objections to paths shown, or not shown, on the draft map and the council had to consider these.
- b. Archive. This letter is held at the Wiltshire and Swindon History Centre, amongst the papers under reference F2/271/8.
- c. Meaning.

Photos: 1953 Forestry Commission Letter Page 1 (F2_271_8) & 1953 Forestry Commission Letter Page 2 (1953 F2_271_8)

The Forestry Commission objected to “CR16 (on boundary of Mildenhall Parish and Ramsbury Parish).

Should be a footpath”.

They did not explain the grounds for their objection.

Many other rights of way were objected to in this letter. In all cases except one the route was described simply by its number; the exception being CR15, again described as “ (on boundary of Mildenhall Parish and Ramsbury Parish) “

d. Assessment.

According to the NP&ACA survey (see above) Mildenhall Path No. 16 (CR16) ran “From London Road to Putall Park to Stitchcombe following Parish Boundary through Hill Copse and corner of East Croft Coppice” .

The section from London Road to Putall Park runs along the boundary between Mildenhall and Little Bedwyn and the section from Putall Park to Stitchcombe runs along the boundary between Mildenhall and Ramsbury.

The memorandum distributed to Parish Councils along with Circular No. 81 (from the Ministry of Town and Country Planning) instructed how public paths should be distinguished on the Parish Survey maps. A Public Carriage Road or Cart Road or Green (unmetalled) Lane mainly used as a bridleway was a “C.R.B.”.

The applicant concludes that the letter from the Forestry Commission was objecting only to the section from Putall Park to Stitchcombe. That section is much narrower than the rest of the route, and the part that runs through East Croft Coppice (the part owned by the Savernake Estate)is today a winding hard-to-follow track through the trees.

As a result of the objection CR16, previously regarded as a C.R.B, was subsequently categorised as a footpath, and is now named MILD16.

It is clear that no objection was raised to the section of the application route from point F to point G.

The applicant concludes that, in error, the whole of the route was re-classified as a footpath. The southern section on the Mildenhall – Little Bedwyn border should have become a Byway.

75 Draft Map Inquiry decision (1955)

a. Relevance. The process of creating the initial definitive maps was long and provided many opportunities for public involvement. After the initial surveys, surveying authorities were required to produce draft maps of their area and to make them available for four months for public inspection. Members of the public could make representations or objections to paths shown, or not shown, on the draft map and the council had to consider these.

b. Archive. This document is held at the WSHC, amongst the papers under reference F2/271/8

c. Meaning.

Photo: 1955 Draft Map Decision

“C.R.B. No.16 Modification of status. To be F.P. only” “Admitted by Savernake Estate as F.P. Parish Council agree.”

d. Assessment.

It appears from this document that the Parish Council simply agreed with the Savernake Estate's wish for path 16 to be modified to be a footpath.

There is no evidence of the basis on which the Parish Council reached that conclusion.

The decision also fails to reflect that the Forestry Commission objected only to the section along the Mildenhall – Ramsbury parish boundary.

It is hard to see how the decision could have been arrived at if the body of historical evidence had been considered e.g. the 1905 Marlborough RDC Rights of Way Map & Report and the 1929 Marlborough RDC Takeover Map.

Neither The 1910 Finance Act nor the 1941-42 Ministry of Agriculture and Fisheries Farm Survey records were available at the time of creation of the Definitive Map

76 Ordnance Survey 2½", Sheet SU26, Revised 1961

a. Date. 1961

b. Relevance.

Ordnance Survey maps have nearly always carried the disclaimer "The representation on this map of a Road, Track or Footpath is no evidence of a right of way". Maps published since the Definitive Map was available carry the disclaimer "The representation on this map of any other road, track or path is no evidence of the existence of a right of way". Accordingly they provide evidence only of physical existence, unless special circumstances allow other inferences to be drawn.

c. Archive. A copy of this is held in the WSHC amongst the OS 2½" Map collection. That collection also contains a document entitled "Ordnance Survey 1:2500 Conventional Signs", which serves as a key to the OS 2½" maps.

d. Meaning. All sections of the application route; namely A-B (Stone Lane Way), B-C (North Lane), C-D (Cross Lane), D-E (South Lane), E-F (Hill Close Lane) and F-G (Axford Lane to the A4) are depicted as fenced or unfenced "Other Roads (not classified by the Ministry of Transport)". **Photo: 1961 OS2.5in SU26(1)**

e. Assessment. In relation to the application route, this map differs from the 1949 edition only in that a road is shown running north-eastwards from Axford Lane to Putall Farm.

This map provides evidence of the continuing physical existence of the route in 1961.

77 Victoria County History of Wiltshire, Vol. 12, 1983, Map of Mildenhall c1843:

a. Date. Volume XII of the Victoria County History of Wiltshire was published in 1983.

b. Relevance. This is a highly reputable scholarly work.

c. Archive. This volume is held at the WSHC, Chippenham.

d. Meaning.

Photocopy: VCH Vol. X11. P126.pdf

On Page 126 is a map illustrating the authors' view of the parish of Mildenhall c1842. A track is shown running north from the London-Bath road (the present A4) along the Mildenhall – Little Bedwyn parish boundary and then into Ramsbury parish.

The track is not shown running along the Mildenhall-Ramsbury border through East Croft Coppice as does the present MILD16.

e. Assessment.

This suggests that the track north from the Bath Road did not, in 1842, run through East Croft Coppice and that it had rights distinct from those of what is now MILD16.

78 Research Notes for "The Village in the Valley: A History of Ramsbury", by Barbara Croucher

a. Date. 1970s and 1980s

b. Relevance. Barbara Croucher was the author of "the Village in the Valley: A History of Ramsbury", published

in 1986. She researched over a number of years and reached conclusions as a result of that research on points of significance to this application.

c. Archive. Barbara Croucher's research notes are held the WSHC under reference 3397/15

d. Meaning.

Included is a diagram showing South Field. It is entitled "The Axford Common Field called Southfield, showing 'Strips' and later Enclosure." and further labelled "Deduced from the Axford Enclosure Award by agreement 1727" The diagram illustrates to whom the land was awarded by the enclosure agreement.

Photo: 1970s BCroucher Research Notes South Field (3397_15)

These papers include a traced map of the Axford area, labelled with the tracks set out in the 1727 Inclosure Agreement as they had been deduced by her.

Photo: 1970s BCroucher Research Notes Roads 2 (3397_15)

The papers also contain a typewritten summary of the clauses in the Axford Enclosure Award by agreement 1727 that lay out the allocations, by the commissioners, of the land to the different individuals and the roads that they set out. This was supplied to Barbara Croucher by the University of Bristol in 1981. **Photocopy: Ramsbury (sic) Enclosure Award by agreement 1727**

e. Assessment.

The naming of the tracks is entirely consistent with the conclusions reached by the applicant using the information in the Axford Inclosure Award by agreement 1727.

Although neither of the first two documents listed above are original, they are the interpretation placed on original documents during the course of the author's extensive research for her book "The Village in the Valley: A History of Ramsbury". That her conclusions are the same as those of the applicant further supports the application.

79 "The Village in the Valley: A History of Ramsbury", by Barbara Croucher, published 1986

a. Relevance. This book was published as a result of extensive research into all aspects of the history of Ramsbury, including the 1727 Axford Inclosure Agreement.

b. Archive. A copy of this book is held at the Marlborough Public Library

c. Meaning. The Axford enclosure agreement 1727 is covered on pages 126 and 127. Figure 14.8 on page 127 illustrates "Axford's Southfield after enclosure in 1727". It is similar to the diagram in the author's research notes, but does not show the strips, just the areas of land allocated to each recipient. **Photocopies: "The Village in the Valley", Page 126 & page 127**

d. Assessment. The diagram supports the conclusions reached by the applicant around the naming of the roads set out by the commissioners in the Inclosure Agreement.

80 Wiltshire Highway Records map

a. Date. This document was produced after the County took responsibility for highways from the RDCs in 1930, and, as of 24th July 2017, is still in use and maintained by the County Council.

b. Relevance. It shows routes for which Wiltshire Council considers it has maintenance responsibility. It does not indicate what rights are associated with the route.

c. Archives. This document is held at the Wiltshire CC Highways Records Office, Trowbridge.

d. Meaning. The base map for the Axford area is OS 6" 3rd Edition 1925, Wiltshire Sheet XXIX SE. The entire length of the application route is shown coloured brown as a public road taken over from the RDC under the provisions of the Local Government Act 1929.

Brown roads are the lowest category of roads maintainable at the public expense, for which historically there has been no budget.

Photo 2017 Wilts Highway Record Map(1)

- e. Assessment. It is not likely that the surveyor would have added such a route to the Highway Records Map unless he was sure that the county did have maintenance responsibility for the route, so this suggests the council considered and still considers it to be a public route.

Although the representation of the application route is a good indication that it carries public rights, the extent of that right cannot be defined by the council without due investigation. In this case that would no doubt involve, for example, records related to the former CRB status of MILD16, the 1910 Finance Act map, the railway plans from the 1840s and early maps sold to the travelling public, all of which are suggestive of vehicular rights.

CONCLUSIONS

The evidence produced for the application suggests that public vehicular rights existed over at least two hundred years from the early eighteenth century at the times the various pieces of evidence were created. While no single piece is conclusive of highway status, the fact that every standard piece of evidence leans towards vehicular right means that, on the balance of probabilities, such rights existed prior to the commencement of the Natural Environment and Rural Communities Act 2006.

REQUEST

Although the entire application route is one physical entity sections of it are defined differently for administrative purposes. Some of these were already on the definitive map at the time of the commencement of NERC 2006 so the applicant requests the surveying authority add the entire route to the definitive map as a Restricted Byway.

Appendix A: Rationale for the identification of roads set out in the 1727 Inclosure Agreement

The grid-like network of routes in Axford south of the River Kennet is little changed since the Andrews and Dury map of 1773. That map, the first Wiltshire county map to be based on an original survey since Saxton (1576), was produced forty-six years after the Axford Inclosure Agreement.

Roads of significance to this application are described in the agreement as in the Marsh, In South Field or In The Down

The following extract describes the area around Axford in the early eighteenth century:

From Victoria County History of Wiltshire, Vol. 12, 1983, page 47-52

"The customary tenants of Ramsbury manor in Axford held the strip of land, possibly 750a., at the west end of the parish. They cultivated it in common until it was enclosed by private agreement in 1727. The arable land was in two fields. North Field, 280a. between the Kennet and road through Sound Bottom, included 8 a. between Axford Street and the river. South Field contained 194 a. south of Mead Lane...South of South field, adjoining Hens Wood and Putall Farm, was a down, c. 74 a., apparently for cattle. Between the fields a marsh and several islands in the Kennet, c.32 a., were commonable."[PDF: VCH Vol XII p51]

Also:

"Axford Street was so called in 1727 when the road south of the Kennet and parallel to it was called Mead Lane"

North Field lay north of the River Kennet, bounded on its northern edge by Sound Bottom and its southern edge by the River Kennet.

In the Definitive Statement for Ramsbury RAMS43 is named "*Mead Lane*" and RAMS9A is named "*Holly Lane*"

RAMS43 runs eastwards south of the River Kennet from U/C5085 south of Church Farm to the junction of RAMS9 FP and RAMS9A BR.

South Field lay south of Mead Lane, i.e. south of the present RAMS43.

Hens Wood, Hill Close and Putall Farm are today (2018) still known as such.

Adjoining South Field to its south, bordered to its east by Hens Wood and to its south by Putall Farm was a down.

The following logic uses the description of the roads set out by the commissioners to identify the probable current day equivalent. It needs to be read in conjunction with Section 12 of this document and Axford Inclosure Agreement 1727.jpg. The resultant naming of the tracks is entirely consistent with the evidence of the Inclosure Agreement and current place names.

ITEM 4 (*that is, the Inclosure Agreement description numbered 4 in Section 12*)

Causey is an archaic or dialect term for causeway, which suggest that Holly Lane Causey was the northern continuation across the Marsh and the Kennet of Holly Lane, and is today footpath RAMS9.

Mead Lane therefore ran westwards along the present line of bridleway RAMS43 but as far west as Coomb Lane.

ITEM 8: Only one route in the area runs along the southern edge of The Down westwards to Hill Close, i.e. with coppices on its south and lotts on its north. That route is South Lane and Saunder's Gate is therefore at its eastern end, at the south-eastern corner of The Down where a track is shown continuing into Hens Wood.

ITEM 7: From that and the present day location of Holly Lane it follows that the route down the eastern side of The Down, adjacent to Hen's Wood, was East Lane.

ITEM 9: It also follows that Hill Close Lane is the leg of the present footpath RAMS44 that runs approximately southwards from the western end of South Lane as far as Putall (Putall Gate).

ITEM 10: It also follows that the "another lane or way" that runs northwards and westwards from South Lane "on the west side of the downs" is the lane that is shown on the Ordnance Survey 25" editions of 1886, 1900 and 1924 running

around the edge of Hill Close. That means that Coomb Lane followed the line of the present day MILD16 FP as it ran from Stitchcombe.

As MILD16 is Coomb Lane then that means that Mead Lane continued westwards past the present junction with Stone Lane, along the present Kings Drive.

ITEM 1: Stone Lane Causey therefore ran from Stone Lane on the north side of the Kennet to a junction with Mead Lane at the northern edge of South Field. Today the whole distance from Axford Street (the C.6) to Mead Lane is named Stone Lane.

ITEM 5: Stone Lane Way was and is the continuation southwards and then south-eastwards of Stone Lane Causey past the Chalk Pit to what is now footpath RAMS9B.

ITEM 6: Coomb Way ran from Mead Way to Coomb Lane according to its description; today part of footpath RAMS45 runs from Kings Drive to MILD16. Coomb Way is therefore RAMS45 from Kings Drive southwards.

ITEM 2: As RAMS45 south of King Drive is Coomb Way, then RAMS45 north of Kings Drive is "another lane or Cartway beginning at the south end of Saunders Lane ... over the River Kennet to the gate at the north end of Coomb Way". Today the lane starts at the C.6 and is called Hoppers, rather than Saunders, Lane. RAMS45 in the definitive statement for Ramsbury is called "Hoppers".

ITEM 11: Footpath RAMS9A is Holly Lane and, although the lane becomes RAMS9B as the bridleway turns east towards Park Town as RAMS52, Holly Lane physically runs as far south as the junction with footpath RAMS44. North Lane was what is now the continuation westwards of RAMS9B from Hens Wood at the southern end of Holly Lane .

ITEM 13: Cross Lane runs southwards from the west end of North Lane and is therefore the track marked "Axford Lane" that runs south through the Down from just west of where Stone Lane Way meets North Lane.

ITEM 12: Therefore Knaxton's Way was what is now RAMS9B from its junction with Cross Lane west to Coomb Lane at Oxleaze Copse.

ITEM 3: The applicant has been unable to identify Ann Hart's Way nor the location of this "another lane or way" .

RAMS44 today mainly runs through the trees. The description of South Lane and East Lane in the Inclosure Agreement makes it clear they were 33' wide field-edge tracks, wide enough to be droves.

None of the descriptions of the roads set out suggest that any of those roads belonged to any individual, other than in one case to say the herbage from the lane around Hill Close belonged to Simon Appleford. Indeed, except for those in the Marsh, they are always described with reference to the lots adjacent to them on each side.

Many of the lotts are described at least in part by referring to one or more of the roads by which they are bounded, the implication being that the roads were distinct from the lotts they bound. For example,

"A lot in South Field bounded on the east by Holly Lane and the north by Mead Lane"

"A lot in the Down bounded north by North Lane and east by East lane"

"A lot in the Down bounded east by East Lane and south by South Lane"

Many further examples can be viewed in the typewritten synopsis of the Inclosure Agreement held among Barbara Croucher's Research Papers (WSHC 3397/15).

"AND also to lay out Common Roads Ways Byways and private ways as might be necessary and convenient leading to every particular enclosure....."

"AND as Touching and Concerning Ways, Drove Ways, Lanes , Private Ways , Highways to be laid out for the conveniency of the Proprietors of the Enclosure we the said Edward Hanson Jon Brown and Roger Gates do order and appoint as follows (vis)....."

Order Plan Ramsbury 9B, 44, 71 & 72 and Mildenhall 16

Ramsbury 71 restricted byway to add A

Ramsbury 9B upgrade to restricted byway B

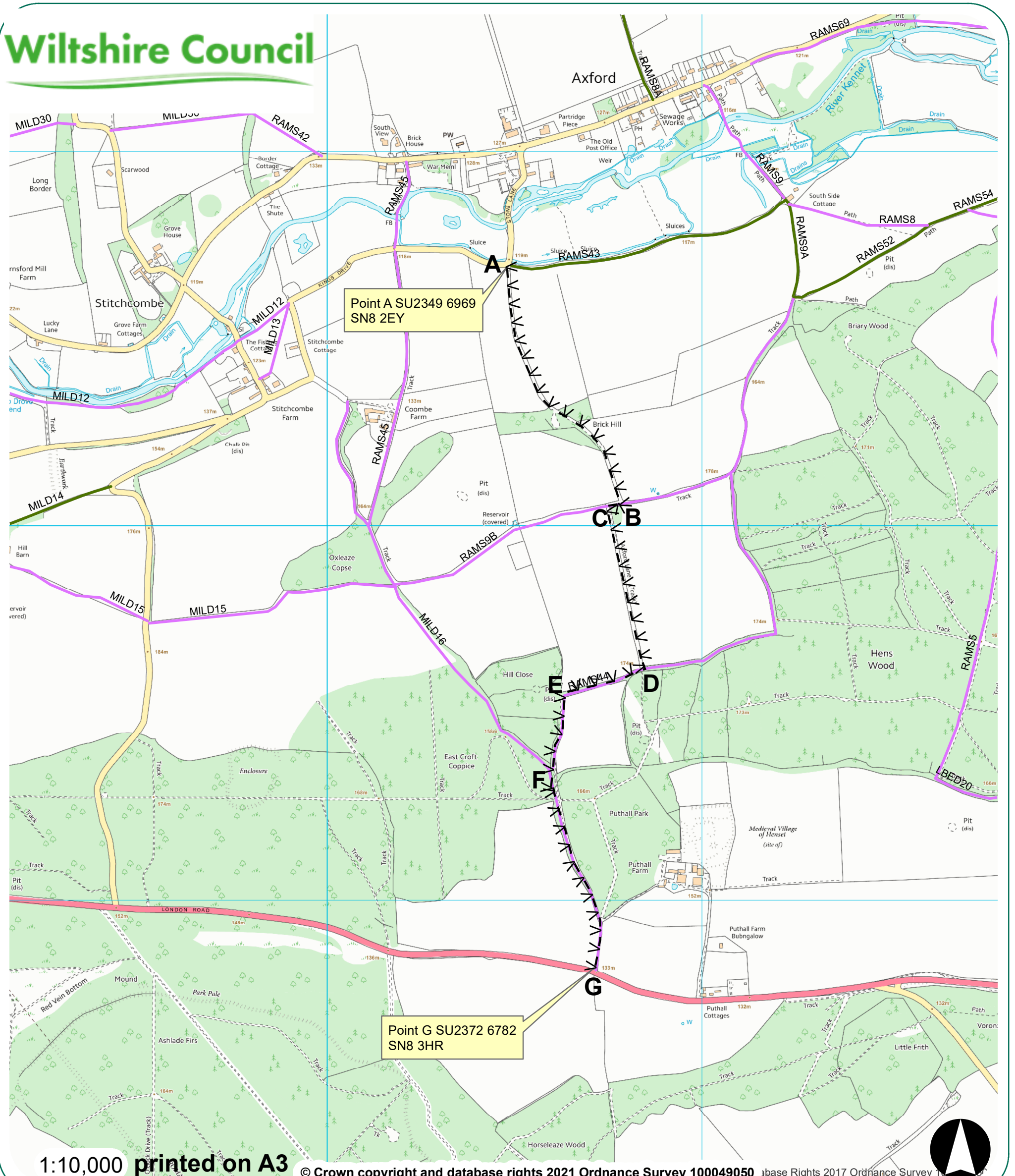
Ramsbury 72 restricted byway to add C

Ramsbury 44 upgrade to restricted byway D

Mildenhall 16 upgrade to restricted byway F

Unaffected rights of way Footpaths = purple lines

Unaffected rights of way Bridleways = green lines



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Madgwick, Sally

From: Vicky Henderson [REDACTED]
Sent: 30 June 2022 12:01
To: Madgwick, Sally
Subject: Objection - The Wiltshire Council Ramsbury 9B, 44, 71 & 72 and Mildenhall Definitive Map and Statement Modification Order 2022

Dear Sally,

"In connection with the Wiltshire Council Ramsbury (9B, 44, 71, 72) and Mildenhall (16) Definitive Map and Statement Modification Order 2022, We are writing to OBJECT to this proposed Order. The grounds for this objection are that there is limited evidence that the Claimed Route from Points A to G is a public Restricted Byway. Furthermore, we have never dedicated the Claimed Route as a Restricted Byway, and have no intention of doing so in the future.

The determination of whether the Order should be confirmed or not should be made on the basis of the balance of probability that a Restricted Byway subsists. We consider that the Council has incorrectly concluded that the evidence it has examined supports a DMMO for Restricted Byway. The evidence presented is conflicting and inconclusive, because:-

- 1) *Ordnance Survey Maps have always been prepared to show physical features which existed/ exist on the ground. They do not provide any evidence of public or private rights and cannot be used as such. Furthermore, since around the 1900s, OS has explicitly stated disclaimers on their maps to the effect that the representation of any road, track or path is no evidence as to the existence of public rights on that way;*

- 2) *With regards to other historical maps, there is considerable evidence that public and private routes were not differentiated;*

- 3) *There is no evidence of any 'physical' maintenance of a Restricted Byway route from Points A to G by the County. Indeed, in the context of the suggested width of the Restricted Byway of c.10m, most of this width is totally overgrown with very well-established woodland, and the absence of any maintenance work for a Restricted Byway over many decades is significant and suggests that the assumption of highway status is false.*

For the above reasons we conclude that the legal test has not been satisfied, and on the balance of probability there is NO evidence that public vehicular rights historically existed along the Claimed Route from Points A to G. We therefore OBJECT to this Order and invite the Council to withdraw the Order, rather than to submit it for consideration by the Secretary of State. We propose to seek further professional advice on this matter, and will provide further supporting evidence for our objection in due course. We therefore reserve the right to add to the grounds set out above when this research has been completed."

Kind regards

Vicky & Charlie

Vicky Henderson
Countryside Contractors & Gardens Ltd



DL: [Redacted]
M: [Redacted]

OBJ (2)

Madgwick, Sally

From: Kevin Light [REDACTED]
Sent: 04 July 2022 10:05
To: Madgwick, Sally
Subject: SAM/2018/07 Ramsbury Axford.....he Wiltshire Council Ramsbury 9B, 44, 71 & 72 and Mildenhall 16 Definitive Map and Statement Modification Order 2022

FAOS Madgwick, Rights of Way and Countryside

Please accept this email as a written objection to the above modification.

I accept that the application is based on old historic evidence to re-establish a restricted byway from Stone Lane up and over to the A4. The application was made by A .Woodford of 7 Vicarage Close, Marlborough, SN8 1AY . The request has come from a single member of the public and does not appear to have wider support either now or previously to the Parish Councils. I am not aware of any local use of horse and carts for leisure or commerce in this and surrounding Parishes in the twenty seven years that I have lived here!

The historic evidence of that route having been used as a route through from Axford to the A4 many years ago is quite considerable and so I understand that the council are following the statutory procedure of reinstating it on the principle that 'once a right of way, always a right of way'.

A restricted byway enables horse drawn vehicles along the route but does not permit motorised vehicles. However, in practice once a route is made wide enough for a horse and cart to pass it is impossible in a practical sense to provide a barrier system to prevent motorbikes and cars. My concern is regard to the unintended consequences of the route being abused by motorised vehicles (including motorbikes). It will create a new rat run which cannot be gated or secured against the poaching and thieving visitors that are unfortunately common in this area, especially at night. In addition, the route will become heavily rutted like so many other RoW throughout the North Wilts Downs AONB, making walking difficult and unpleasant. There is also a major sight-line issue where the route meets the A4.

Further, the route bisects a considerable area of quiet countryside, with a range of habitats high in wildlife and ecological value. Apart from encouraging increased intrusion the damage from the use of a 'cart wide' track will be twofold.

Firstly, it reduces the areas 'off-track' for providing sustainable, quiet refuge for the indigenous wildlife. Secondly, the route will need considerable widening in parts the with subsequent damage to trees, shrubs and the extensive bluebell and Solomon's Seal areas (indicators of Ancient Woodland amongst others).

Whilst I object to the Modification I feel that the minimum compromise position should be that the route is downgraded to a Bridleway which will enables a better degree of control for vehicles.

As part of your processes have the North Wiltshire Downs AONB Office been consulted on this matter and the County Ecologist?

Kind Regards

Kevin Light
Ba Hons DipLA DipTP CMLI FRSA
Mob: [REDACTED]

REP ①

Madgwick, Sally

From: Catriona Cook [REDACTED]
Sent: 27 June 2022 15:29
To: Madgwick, Sally
Subject: 2018/07 RAMS

Dear Ms Madgwick,

The Byways and Bridleways Trust fully support the orders to record the restricted byways in the parishes of Ramsbury and Mildenhall.

And we thank the council for doing this work to improve the network for higher rights users.

Yours sincerely,

Catriona Cook MBE (Mrs)
BBT trustee

Madgwick, Sally

From: Mildenhall Parish Clerk <clerk@mildenhallwiltshire.org.uk>
Sent: 28 June 2022 15:06
To: Madgwick, Sally
Subject: Wildlife and Countryside Act 1981 Making of Order

Dear Sally

I confirm that Mildenhall Parish Council have no objection to this order. Thank you for the paper copy which was very helpful.

Regards

Sue Hine
Clerk to Minal (Mildenhall) Parish Council
[REDACTED]

From: "Madgwick, Sally" <Sally.Madgwick@wiltshire.gov.uk>
Date: 13 May 2022 at 16:25:26 BST
To: "Madgwick, Sally" <Sally.Madgwick@wiltshire.gov.uk>
Cc: "Madgwick, Sally" <Sally.Madgwick@wiltshire.gov.uk>
Subject: **Wildlife and Countryside Act 1981 Making of Order**

Wildlife and Countryside Act 1981 s.53**The Wiltshire Council Ramsbury 9B, 44, 71 & 72 and Mildenhall 16 Definitive Map and Statement Modification Order 2022**

Wiltshire Council has made the above order. Please find attached a copy of the order, order plan and notice of making the order. It will also be advertised on site and in the Wiltshire Gazette and Herald on the 19th May 2022. Paper copies have also been sent to consultees.

A restricted byway is a public right of way that may be used by the public on foot, on or leading a horse, on a bicycle or with a horse drawn vehicle. A restricted byway does not record a right for the public to use the way with a mechanically propelled vehicle.

Best regards

Sally

Sally Madgwick
Definitive Map and Highway Records Manager
Definitive Map and Highway Records
Highways and Transport
Wiltshire Council

Madgwick, Sally

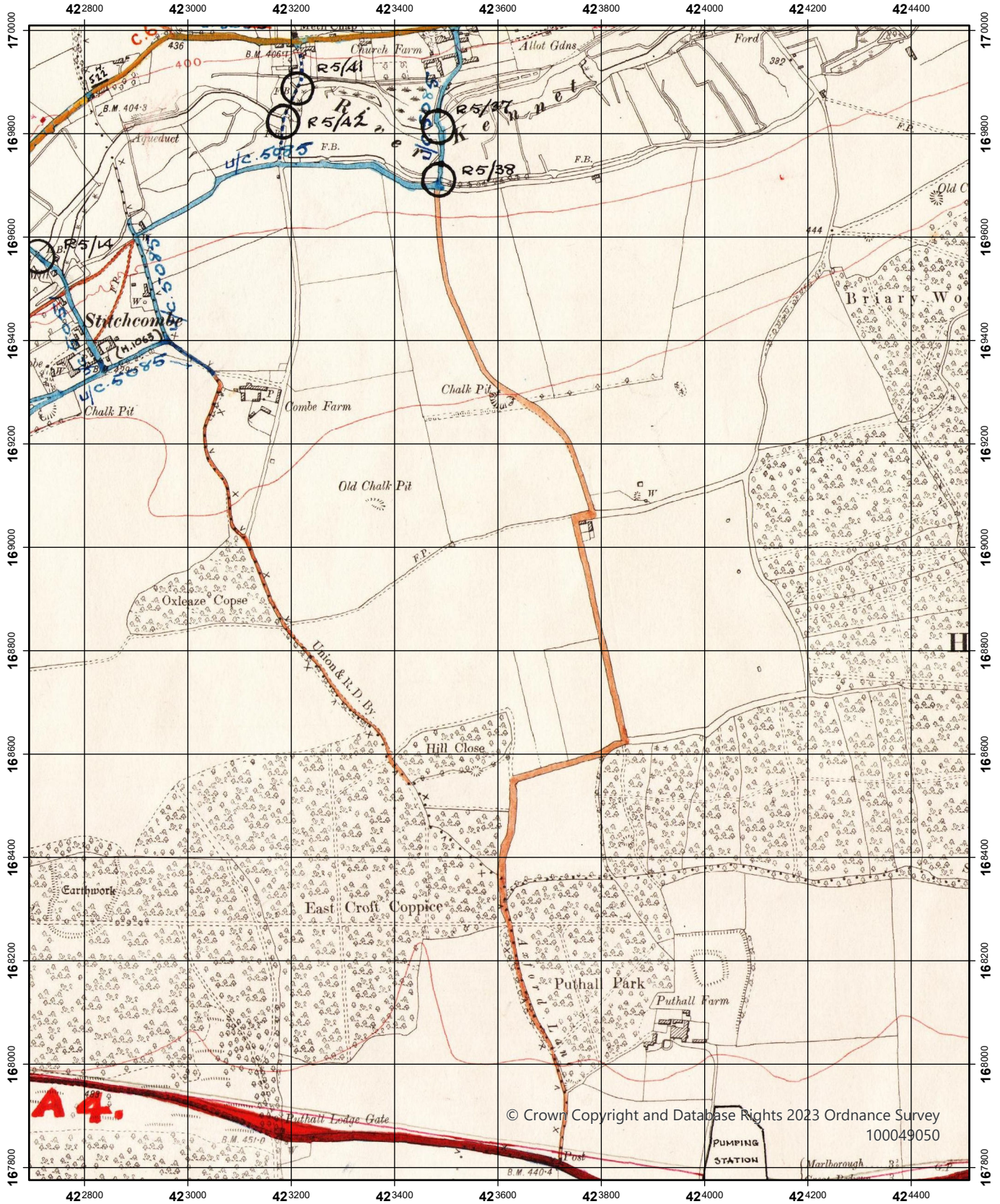
From: Lynn Jauncey [REDACTED]
Sent: 03 July 2022 19:08
To: Madgwick, Sally
Cc: Ramsbury Parish Council
Subject: Restricted byway A4-Axford

Dear Sally,

I'm writing on behalf of Ramsbury & Axford Parish Council to raise a concern with the Wildlife and Countryside Act 1981 Making of Order for a path running from the A4 to Axford submitted by Alan Woodford. The Order states that the path be amended to become a Restricted By-way. Our request during your decision making, is that any widening is not enforced unnecessarily as currently the path is accessible for walking, riding of a horse, and cycling. Our concerns regarding the widening are the potential illegal use by mechanical vehicles as a cut through to Axford or to the A4.

We support that parts of the path which are not currently marked on the definitive map are reinstated.

Kind regards
Lynn Jauncey
Chairman Rights of Way Committee
Ramsbury & Axford Parish Council
Memorial Hall, High Street
Ramsbury
Wiltshire
SN8 2PB
[REDACTED]



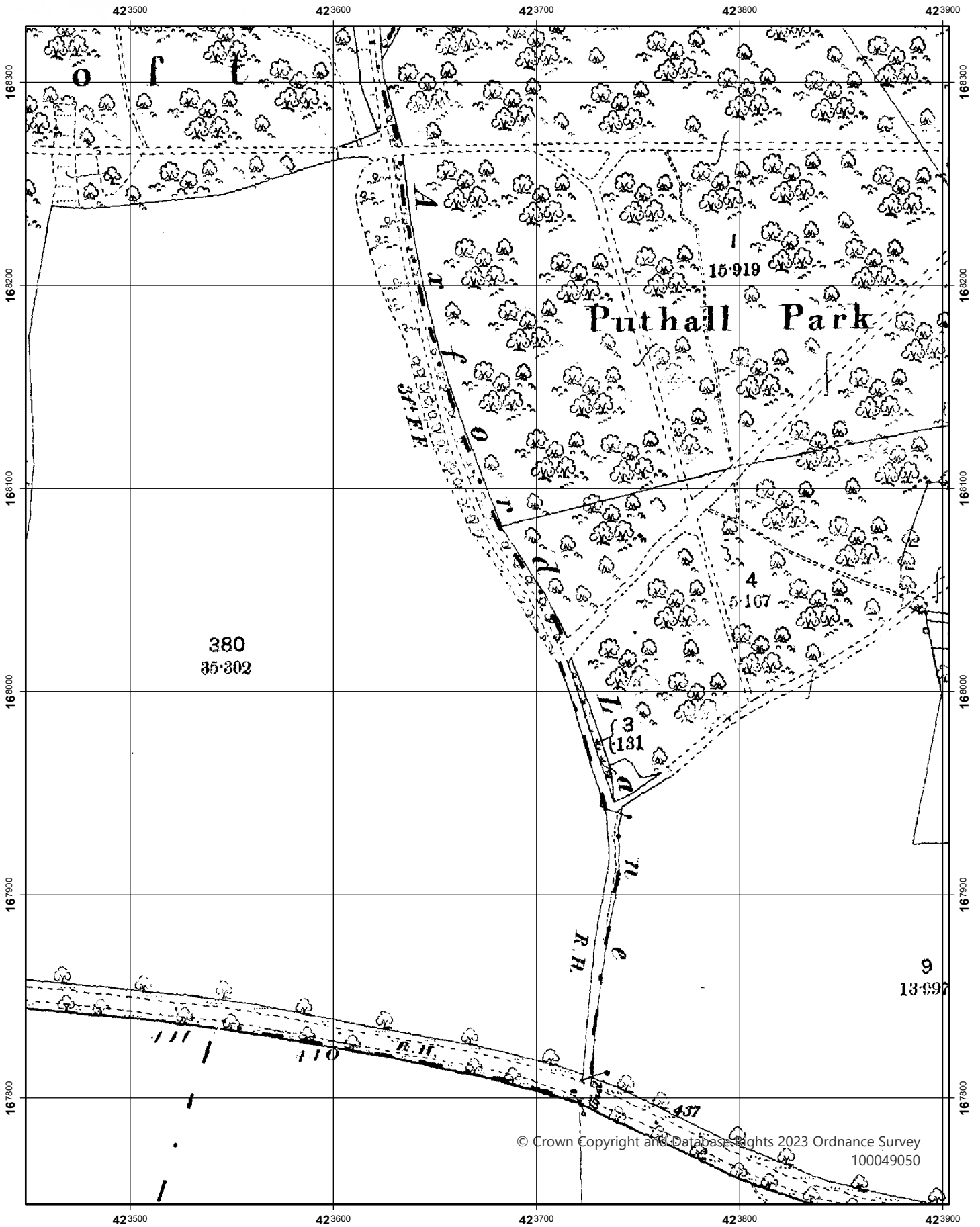
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09/03/2023

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Date of Meeting	20 th April 2023
Application Number	PL/2022/00977
Application type	OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED EXCEPT ACCESS
Site Address	Land to the north of Horton Road, south of London Road and west of Wellington Drive, Devizes.
Proposal	Outline planning application with all matters reserved except access for up to 25,000 sqm of use class B2 (General Industrial), B8 (Storage and Distribution) and E (Commercial, Business and Service) (g) (i-iii), with landscaping and associated infrastructure.
Applicant	Berkeley Strategic Land Ltd
Town/Parish Council	Bishops Cannings
Electoral Division	Urchfont & Bishops Cannings – Cllr Whitehead
Grid Ref	402623, 163168
Case Officer	Nick Clark

Reason for the application being considered by Committee

The application is before the Eastern Area Planning Committee at the request of Councillor Whitehead for the committee to consider the environmental/highway impacts of the proposed development, and specifically the proposed access from Horton Road rather than the A361.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved subject to prior completion of a section 106 agreement.

2. Report Summary

The main issues to be considered are:

- Principle of development
- Economic and employment benefits
- Highway and traffic impacts
- Neighbouring residential amenities
- Impact on air quality
- Drainage
- Biodiversity
- Drainage and flood risk

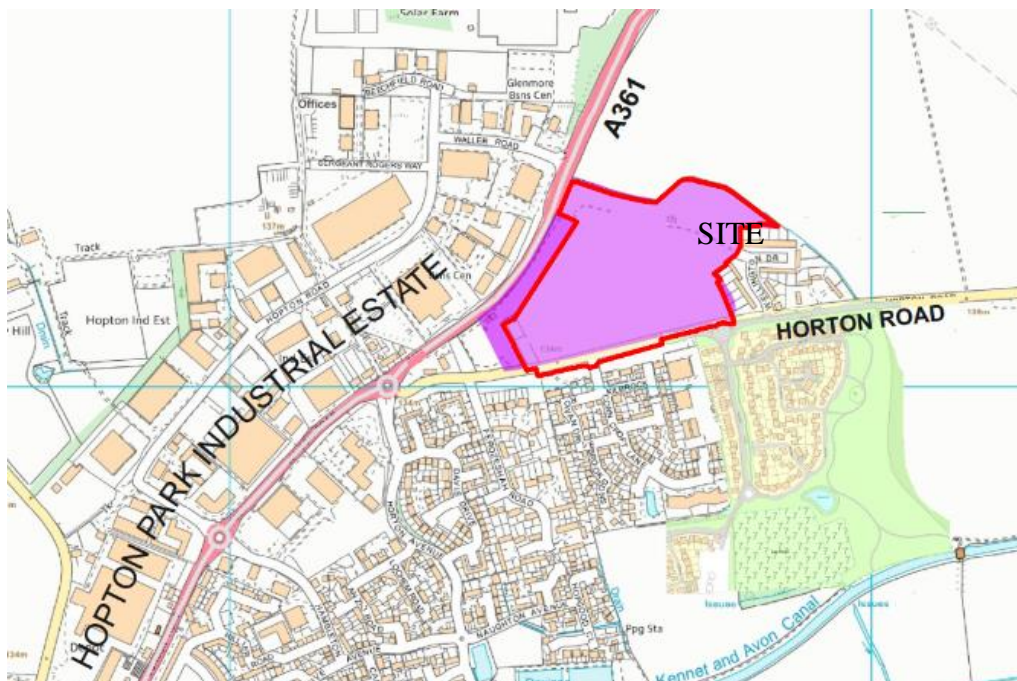
3. Site description

The 7.6 hectare application site is located on the north-east side of Devizes, where it sits between the A361 London Road to the west and the Horton Road to the south.

Hopton Road Industrial Estate lies on the opposite side of the A361. Residential development lies on the opposite side of Horton Road, and along Wellington Drive immediately to the east of the site. Open countryside abuts the site to the north, with the North Wessex Downs AONB nearby to the north and east:



The application site occupies the large part of a wider site allocated as employment land in the Wiltshire Core Strategy as shown here shaded purple:



Application site outlined in red; employment site allocation shaded purple

The former MOD land now comprises an unmanaged grassland field with occasional areas of scrub bordered by hedgerows, scrub, treelines and a woodland copse. The site is bordered to the west by an area of hardstanding associated with a bike training centre; being the land above shaded purple but outside the red line of the application site.

The application site has no formal use at present but is used informally for recreation as a walking/dog walking area. A public footpath crosses the northern tip of the site to connect to the A361. The site has a relatively short frontage onto the A361 of c. 50m length.

4. Planning history

The site has no current recognised use and there is little planning history since use by the MOD ceased other than as listed below.

K/33286	Use of the land to hold Sunday car boot sales	Refused
15/02512/ADV	Display of V board advertising site for sale	Approved
15/06440/ADV	Display of V board advertising site for sale.	Approved
PL/2021/08425	Screening opinion for commercial development (use classes B2, B8, E (G I-III)).	Not EIA development

5. Site Allocation

As noted above, the site is part of a wider 8.4 hectare site allocated in the Wiltshire Core Strategy as ‘new employment land’ under Core Policy 12 (Devizes Community Area Strategy) and Core Policy 2 (Delivery strategy).

Core Policy 2 requires development of the allocation to be in accordance with the development template for the site, which is included as Appendix A to this report. Key requirements of the template are:

- integration with the town
- provision of workspace and ‘incubator’ function
- improvements to utilities
- off-site works to contribute to the Devizes Transport Strategy
- masterplan including assessment of the most appropriate points of access
- an area retained for public recreation
- ecological features
- enhanced ‘gateway’ to the entrance to Devizes
- landscaping to integrate the development within the setting of the AONB and neighbouring residential areas
- respect for neighbouring amenities
- prompt delivery

Core Policy 12 requires proposals within the Community Area to address a number of issues identified at para. 5.68 of the Strategy, and of particular relevance:

- traffic congestion
- air quality
- providing for employment growth
- the rural identity of the parish of Bishops Cannings
- conservation of the setting of the North Wessex Downs AONB

6. The proposal

The application seeks outline consent for commercial development for general industrial use; storage and distribution; and commercial, business and services; with up to 25,000m² floor space (reduced from 30,000m²), with associated landscaping and infrastructure.

At this stage, all matters are reserved save for the access. This is one of the more controversial aspects of the application, with access being proposed from Horton Road rather than the A361.

The application envisages that reserved matters planning applications will be submitted for individual buildings. Illustrative details are nonetheless included to demonstrate how the development could be achieved:



Illustrative Site Masterplan

The details identify a development area of 5.05 hectares as is here shaded orange, with 2.55 hectares around the site perimeter largely reserved for landscaping, public recreation and sustainable drainage features:



Development Framework Plan

Final drawings and details considered:

Application form	
Location Plan	21-056-SGP-SIT-ZZ-DR-A- 131000 / P01
Existing Site Plan	21-056-SGP-SIT-ZZ-DR-A- 130000
Illustrative Comprehensive Masterplan	21-056-SGP-SIT-ZZ-DR-A- 131005 / P08
Illustrative Site Plan	21-056-SGP-SIT-ZZ-DR-A- 131001 / P04
Illustrative Land Use Plan	21-056-SGP-SIT-ZZ-DR-A- 131002 / P05
Illustrative Building Height Plan	21-056-SGP-SIT-ZZ-DR-A- 131003 / P05
Development Framework Plan	21-056-SGP-SIT-ZZ-DR-A- 131004 / P06
Illustrative Site Masterplan	21-056-SGP-SIT-ZZ-DR-A- 131000 / P07
Illustrative Sections	21-056-SGP-SIT-ZZ-DR-A- 131001 / P05
Illustrative Context Sections	21-056-SGP-SIT-ZZ-DR-A- 131004 / P04
Flood Risk Assessment & Drainage Strategy	6639-FRA-001 Rev. 3
Landscape Strategy Plan	7629/ASP3 Rev. D
Design & Access Statement	January 2022
Design & Access Statement Addendum	September 2022
Phase 1 Preliminary Risk Assessment	70086638-REV.03
Archaeological Desk Based Assessment	JAC27433 v.1
Archaeological Evaluation	257850.03 Issue 1
Written Scheme of Investigation for an Archaeological Evaluation	257850.01 Issue 1
Geophysical Survey Report	JAC27433 v0.1
Arboricultural Impact Assessment	11097_AIA.001
Air Quality Assessment	Rev. 02
Noise Impact Assessment	70086639-108-01 Revision 2 (Oct. 2022)
Ecology survey/ species reports (3)	2090.87
Ecological Appraisal	2090.87 October 2021
Ecological Impact Assessment	2090.84 October 2022
Technical Note to Accompany Biodiversity Impact Assessment Calculations - Revision B	22 nd October 2022
BREEAM Pre-Assessment Report	Rev. B
Energy & Sustainability Statement	Rev. 01 January 2022
Landscape and Visual Impact Assessment	7629.LVIA.04
LVIA Addendum	July 2022
Landscape & Visual Response	September 2022
Planning Statement	
Statement of Community Involvement	
Transport Assessment	Rev. 1
Travel Plan	
Highways Technical Note 1	4 th July 2022
Highways Technical Note 1	15 th September 2022
Drainage Technical Note D1	20 th June 2022
Drainage Technical Note D2	13 th September 2022

Utility Statement	Revision 1
Urban Design statement	14 th July 2022

7. Planning Policy

Wiltshire Core Strategy

SPATIAL VISION -

CP1	Settlement strategy
CP2	Delivery strategy
CP3	Infrastructure requirements

AREA STRATEGIES -

CP12	Devizes Area Strategy
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DELIVERING THE SPATIAL OBJECTIVES: CORE POLICIES -

CP34	Additional employment land
CP35	Existing employment sites
CP36	Economic regeneration
CP41	Sustainable construction and low carbon energy
CP50	Biodiversity and geodiversity
CP51	Landscape
CP52	Green infrastructure
CP55	Air quality
CP56	Contaminated land
CP57	Ensuring high quality design and place shaping
CP60	Sustainable transport
CP61	Transport and development
CP62	Development impacts on the transport network
CP63	Transport strategies
CP64	Demand management
CP65	Movement of goods
CP66	Strategic transport network
CP67	Flood risk
CP69	Protection of the River Avon SAC

Wiltshire and Swindon Waste Core Strategy (2009)

WCS6	Waste Reduction and Auditing
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Devizes Area Neighbourhood Plan

H2	Strategic Policy Intent – Built Environment & Sustainability
H3	Strategic Policy Intent - Site Specific Allocations
T1	Strategic Policy Intent - Getting Around
ESD1	Strategic Policy Intent - Environment & Sustainability

8 Consultations

Bishops Cannings Parish Council:	<p>Objection:</p> <ul style="list-style-type: none"> further information needed on proposed uses and concerns regarding the wide range of potential uses and impacts in terms of noise, vibration, smell, pollutants and traffic,
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- Insufficient on-site parking, concerns re parking on neighbouring residential roads,
- Horton Road is not suitable for commercial traffic, and ideally access should be from the A361
- Impact of additional traffic on Cannings Hill roundabout,
- Concerns regarding noise, air pollution and ecology.

Devizes Town Council:	Objection due to concerns about the proposed vehicle access from Horton Road.
WC Highways:	No objections subject to conditions and planning obligations in respect of: <ul style="list-style-type: none"> • Improvement of the Cannings Hill Roundabout • Footway/ cycleway along S side of Horton Road, with • Toucan crossing into the site and bus stop • Construction of the footpath around the site perimeter to adoptable standards. • Contribution of c. £10,00 to wayfinding signage • Contribution of c. £50,00 to cycling infrastructure • Contribution of c. £60,00 to public transport • Contribution of c. £7,500 for Travel Plan monitoring • Council's costs for processes associated with the Toucan crossing and cycleway creation along Horton Road.
WC Urban Design:	Some concern re the piecemeal nature of the application only including part of the allocated site, but no objections.
WC Landscape:	No objection. Suggested planning conditions.
WC Public Protection:	Air quality – no objection: suggested conditions Site contamination - no objection: suggested conditions Noise - no objection: suggested conditions
WC Archaeology:	No objection
WC Public Rights of Way:	No objection
WC Economic Development:	Statement of support provided
WC Drainage:	Support subject to 4 conditions
WC Ecology:	Initial concerns addressed by revised and additional details. No further comments received from the ecologist.
WC Tree Officer:	No comments or objection received
Environment Agency:	No comments received
Wessex Water:	No objections in respect of water supply and foul water disposal

National Grid:	No comment or objection received
SSE Energy:	No comment or objection received
North Wessex Downs AONB Unit:	No comment or objection received
Wiltshire Police Estates Dept:	No response received

9 Representations

The application was subject to consultation by way of site notices, newspaper advertisement and direct consultation with nearby residents in March 2022. Following revisions, the application was subject to full re-consultation in August 2022.

The proposals have been amended since August in terms of:

- Controls on the hours of activity for deliveries
- Further information on highway aspects
- Further information on drainage
- Change to the illustrative details and information in respect of:
 - roofscape design, shape and building materials
 - the impact of the roof shape and glare from within the AONB
- Additional ecology information

The changes do not introduce new or additional impacts or prejudice any third-party interests. They have thus not warranted further re-consultation.

Public comments:	c. 177 objections received broadly on the following matters:
	Roads/ traffic
	Access should be from the A361
	Inadequate parking – impact on neighbouring residential streets.
	Increased air pollution
	Ecology/ wildlife
	Loss of informal green space
	Landscape impact
	No need for the development
	Flood risk
	Impact on neighbouring amenities
	Noise and vibration
	Odours
	Light pollution
	Details needed of the proposed uses

10. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations warrant otherwise.

10.1 The principle of development

The principle of commercial development of the site is accepted through its allocation in the Wiltshire Core Strategy as part of the strategy for the Devizes Community Area. The acceptance is subject to the proposals addressing the requirements of the development template for the site (as appended to the Core Strategy) and other policies of the Core Strategy as considered below.

Whilst the application brings forward only part of the site allocation, there is nothing within the policies of the Core Strategy or the development template for the site that prevents this, which would otherwise make the proposal unacceptable in principle.

Application-specific considerations and development impacts

10.2 Economic/ employment benefits

Economic development is a key priority of the Core Strategy under Strategic Objective 1 which aims to deliver 6,000 new jobs within Wiltshire as well as safeguarding the existing business base. The Horton Road site is identified by Core Policy 2 as a strategically important site for economic/ employment development. A specific issue identified in the Devizes Community Area Strategy (Core Policy 12) is that *'providing for a range of employment growth at Devizes will help to further diversify the existing offer in the town, ensuring that it remains an area of key economic importance in Wiltshire for the future'*.

Given the age of the Core Strategy, the Council's Economic Development team has reviewed the need for the development, and in fully supporting the proposal comments as follows:

- In the 2016 Local Economic Assessment (LEA) forecast that employment in Swindon and Wiltshire would rise by 6-7% by 2030. However, in the most recent report from March 2022 it noted that employment had fallen by 3% compared with a 1% rise nationally and higher rates among near neighbours.
- GVA growth for Swindon and Wiltshire has risen by 32% from 1998 levels, but neighbouring areas have seen significantly higher rates of growth – e.g. West of England 90%, Dorset 105% and Oxfordshire 232%.
- Across comparator Local Enterprise Partnership areas, Swindon and Wiltshire has experienced the lowest overall growth since 1998, and much of the growth that has occurred is thought to have been in Swindon rather than Wiltshire.
- The 2022 LEA notes that whilst there has been some growth in commercial space, the majority of this has been for logistics and service type uses. The vacancy rate at the time of the report was just 2% which indicates extremely strong demand. This is confirmed by the Council's Economic Development team which as a long list of businesses that would either like to expand or locate in the area but are unable to do so due to a lack of suitable units. A local agent is quoted by the team:

"In general there is a lack of stock across the whole county for good quality industrial buildings that have good eaves height and circulations space and are fit for modern day operational purposes. There is good demand for a commercial unit scheme in Devizes. We are regularly contacted by prospective businesses who are desperate for more business units to buy or rent. Larger space is also in demand that has good eaves heights and yard areas. Devizes is losing good businesses to other locations because the town cannot support business growth due to a lack of available business / industrial stock".

- In mid-March the team reported that:
 - in the last 6 weeks it had been contacted by businesses looking for in excess of 400,000ft² of commercial space.
 - These are Wiltshire based businesses except for one located just across our border.
 - The businesses are in sectors we are trying to grow in the county and whilst not all would be prepared to move to Devizes others have said they would consider it.
- The team is also aware of a number of local businesses that have previously expressed interest in the site, and there are regular enquiries from the Department of Business and Trade with overseas companies looking to locate in the area – Devizes already has several such companies.
- Agents promoting the South Point site at Chippenham state they already have enquiries that could more than fill that site.
- The team is aware of a number of businesses that have left the County as they were unable to find suitable premises. An example is Grant Engineering, who had to re-locate to Swindon from Devizes after 30 years in the town when it became clear that the Horton Rd site would not be ready in time to accommodate their needs. One of the Senior Management Team said:

‘We were extremely sad to leave Devizes. Most of our team came from the local area and we felt the company made a contribution to the local economy. Since moving to Swindon we have invested £10m in the site and expanded our workforce by 10%, none of whom come from the Devizes area. These are well paid jobs. Of the original staff, 60% now have to travel further to work with the remaining travelling a similar distance. As a company that is trying to mitigate the effect of climate change – fitting and training people to fit heat pumps which has seen massive growth recently – this feels counter-intuitive.’
- The 2022 LEA notes that there has been an increase in the number of people commuting out of Wiltshire for well paid, higher skilled jobs.
- The team further highlights that the amount the Council has received in business rates has fallen in the majority of years from 2016/17 to 2020/21, and whilst there has been an improvement since 20/21 which was impacted by the pandemic it is still 14% below 2016/17 levels by £12m. The team comments that this is having an impact on the services the Council can provide to residents and invariably has an impact on the amount of Council Tax levied.

10.3 Highways and traffic

Core Policy 62 requires that proposals should provide appropriate mitigating measures to offset any adverse impacts on the transport network at both the construction and operational stages.

Site access –

The development template for the site does not require the whole of the site allocation to be brought forward for development in a single planning application. It does however require master planning for the whole allocation and an assessment of the most appropriate points of access for the allocation as a whole.

The limited frontage of the application site along the A361 would not allow formation of a satisfactory junction. The application thus seeks approval for vehicular access from Horton Road.

The Highway Officer accepts that access from the Horton Road would be satisfactory in highway terms subject to provision of pedestrian routes into and around the site, contributions towards local transport infrastructure and improvements to the Cannings Hill roundabout. These can be secured by way of planning obligations and planning conditions.

A further pedestrian link to Wellington Drive as requested by the Highway Officer is not considered appropriate as the Drive is private. Informal access as at present, however, would not be hindered by the proposals.

The highway improvements –

The Cannings Hill Roundabout is proposed to be modified by realignment of the kerb adjacent to the garage to provide a more sweeping alignment for vehicles entering Horton Road. Vehicle tracking plans have been provided to show that this would provide satisfactory access onto Horton Road for traffic and goods vehicles accessing the site.

Along Horton Road itself, the existing footway would be widened and improved to provide a shared footway/cycleway, with a Toucan crossing of Horton Road near and into the development, with provision of a bus shelter.

As such, it is concluded that the proposal as now presented would not have an adverse impact on the highway network and the application does not conflict with Core Policy 62.

Masterplanning for the whole allocation –

The application illustrates how the development could be integrated with development on the adjoining skid pan site should it come forward for employment development, with the skid pan site being accessible by a combination of access through the current application site and from the A361 as at present.

It may be the case that if both sites were to have come forward together 'as one' (i.e. the whole site allocation), a satisfactory access solely from the A361 could be provided. This, however, is not the application being considered.

The Core Strategy does not require that the site allocation comes forward as a single application/site. The Committee thus needs to consider the acceptability of the access being proposed in the application.

Parking provision –

Core Policy 64 requires adherence to the adopted maximum parking standards.

Many respondents raise concern that insufficient on-site parking for the development would result in neighbouring residential streets being used for parking.

The detailed layout of the site and parking provision would need to be considered at reserved matters stage. At this stage, the Highway Officer accepts the approach to parking provision that has been adopted by the applicant as a basis for the illustrated parking provision. The Officer notes that it is difficult to approve the parking allocation in detail due to the outline nature of the application and the unknown allocation for uses across the site but is nonetheless accepting of the principles outlined in the application.

At this stage, there is thus no identified conflict with Core Policy 64.

Sustainable transport –

The development template for the allocation requires provision of off-site transport infrastructure in line with the Devizes Transport Strategy. As noted above, provision would consist of contributions to improved signage for pedestrians and cyclists, improved cycling infrastructure and public transport within the town. Together with footway/ cycleway improvements along Horton Road these would provide for accessibility of the site for staff using by sustainable modes of transport, whilst also integrating the development of the site with the town.

The Council's transportation team raises no objections to the submitted Framework Travel Plan. Travel Plans specific to the detail of the development will be required at reserved matters stage.

10.4 Landscape impact

Core Policy 51 requires development to protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

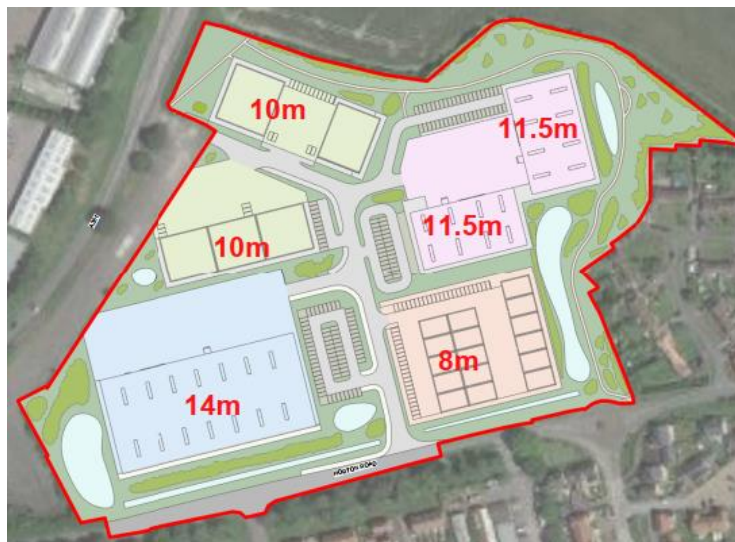
The National Planning Policy Framework advises that development within the setting of the North Wessex Downs AONB should be sensitively located and designed to avoid or minimise adverse impacts. The development template for the allocation states that visually intrusive buildings should be avoided, particularly facing the AONB or entrances to the town, and that integrated landscape infrastructure will be required, particularly to screen views from the AONB.

The application is supported by a Landscape and Visual Impact Assessment with additional information and assessment and requested by the Landscape Officer.

The development would be visible in some views from within the AONB but would be viewed largely in the context of the Hopton Road estate and the backdrop of the town more generally.

Whilst only illustrative, the suggested design of the buildings has also been amended in terms of softer/ curved roof forms and a softer palette and mix of colours using graduated patterns of colouring. Green roofing on the smaller units is indicated to provide the minimum 10% green/brown roof coverage specified in the development template.

The suggested building heights indicate building heights between 8m and 14m, with the taller 14m building being located furthest from the surrounding landscape:



Illustrative Building Heights

The Landscape Officer recommends a number of conditions in respect of landscape matters as included below and in consideration of which it is concluded that the development would be sensitively designed with impacts mitigated so as not to harm the setting of the North Wessex Downs AONB or the local landscape, and to comply with Core Policy 51.

10.5 Urban design / quality of design

Broadly speaking, Core Policy 57 sets a requirement for high quality design that is appropriate to the local context and complementary to the locality.

Detailed building design would follow in reserved matters applications. The Council's Urban Design Officer raises some concern at the piecemeal nature of the application only bringing forward part of the site allocation but is nonetheless satisfied that the illustrative details provide a degree of futureproofing to integrate with the skid pan site.

The Officer suggests that the development should contribute towards a footway alongside the A361 leading into the existing Hopton Road Industrial Estate. Whilst such a path may be desirable for the existing use of the Estate, it is not seen as necessary in respect of the currently proposed development.

Otherwise, the Officer raises no concerns or objections and there is nothing in the illustrative proposals to suggest that compliance with Core Policy 57 could not be secured at reserved matters stage.

Some respondents object to the access along Horton Road in terms of a rural or residential character of the road not being suited to commercial traffic. The road, however, is not a residential street. Housing is well set back from the road with access generally from the side roads rather than directly from Horton Road. The length of road from Cannings Hill Roundabout to the site access is closely associated with the built form of the town and although it is of semi-rural character this character would be diluted by development of the site regardless of the point of access. Works to provide an improved footway and cycleway into the site would also likely be carried out along Horton Road regardless of the point of vehicular access. Thus, whilst the development would inevitably result in some dilution of the semi-rural character of the road, this is not considered to warrant refusal of the application in design terms.

10.6 Neighbouring residential amenities

As part of a high quality of design, Core Policy 57 requires that proposals demonstrate how (amongst other things) they have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter).

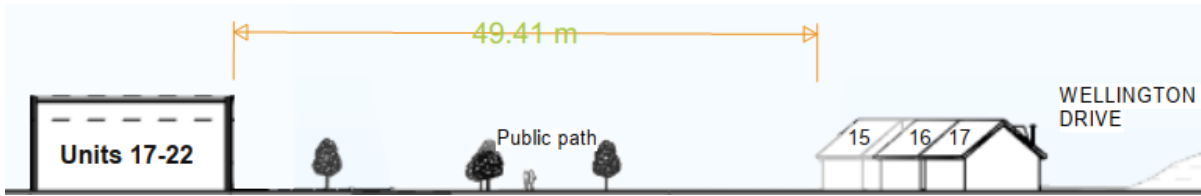
The rear gardens of properties in Wellington Drive back onto the eastern boundary of the site. Residential development also lies on the opposite south side of Horton Road.

The development template for the site requires that the residential amenity of these areas must be respected by the development and that landscaping will be required to screen views from local residences.

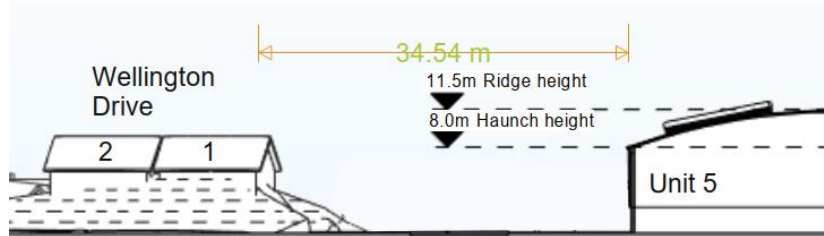
Wellington Drive properties –

These properties would be separated from the commercial units by the area of landscaped recreational space. The units would largely 'turn their backs' on the recreational area so as to direct noise and light etc away from Wellington Drive. The units would be c. 35m from the ends of the gardens of the properties, and generally 50m+ from the rear elevations of the houses themselves.

An exception to this is the property at 1 Wellington Drive where the side of the rear garden would face towards the development, but the separation distance of c.35m from the rear of the illustrated Unit 5, is sufficient to safeguard privacy, with the intervening open space and landscaping .



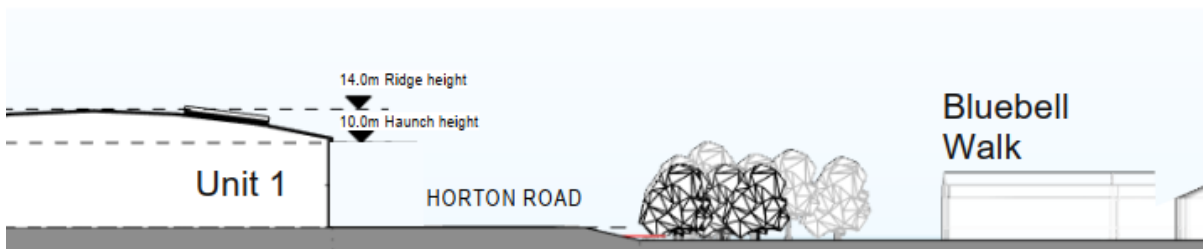
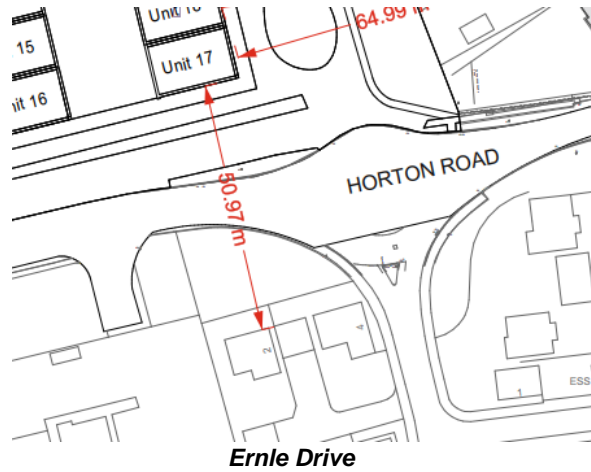
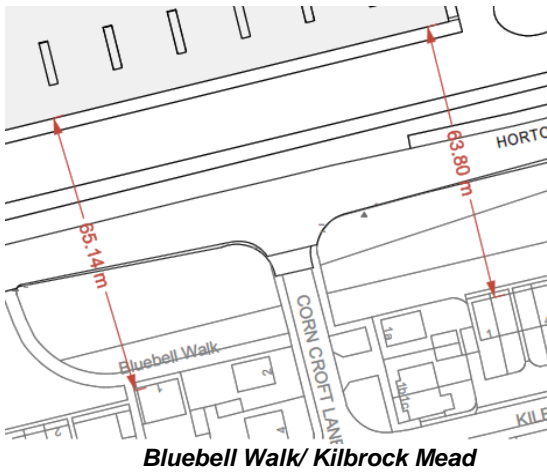
Cross section facing north adjacent to Wellington Drive



Cross section facing south adjacent to 1 Wellington Drive

Properties on the south side of Horton Road –

These properties are generally 50m+ from the proposed development, measured across the Horton Road:



Cross section facing east at Bluebell Walk



Cross section facing west at Ernie Drive

The larger unit illustrated on the site (Unit 1) would again turn its back towards the properties so as to provide shielding from noise and disturbance and there would be a softening of visual impacts by way of planting alongside Horton Road as well as from existing established trees along the south side of Horton Road.

Local residents raise a number of concerns, particularly in respect of noise impacts, but also visual impacts, odours, vibration and light pollution.

Following the consultation, the applicant has agreed to a planning condition as recommended by the Environmental Health Officer that requires:

- no deliveries or collections to be made except between the hours of 07:00hrs and 23:00hrs,
- no operations, including loading and unloading to take place except within buildings between the hours of 23:00hrs and 07:00hrs, and
- externally operated commercial vehicles, including forklift trucks only to be started up, manoeuvred, operated, loaded or unloaded between the hours of 07:00hrs and 23:00hrs.

The 8-hour period from 23:00–07:00 is the generally recognised night period when noise should be controlled to avoid sleep disturbance¹. Such a condition would control both the impact of noise at night within the site and also noise impacts from traffic along Horton Road.

The Officer also recommends conditions to provide for appropriate acoustic insulation and noise control for each commercial unit as well as to control lighting and emissions of dust, odours, fumes, smoke and other particulates.

There would doubtless be some audible noise outside the night-time period, but this would be mitigated by the orientation and separation distance of the commercial buildings, as well as the details for noise control for each building to be considered at reserved matters stage.

The conditions as recommended by the Environmental Health Officer are included in the recommendation below, and on the basis of which it is concluded that whilst the development would doubtless be noticeable to nearby residents, it would not materially impact on residential amenities to such an extent as to warrant refusal of the application.

10.7 Ecology

Core Policy 50 requires that proposals must demonstrate how they protect features of nature conservation value as part of the design rationale and major development such as this must provide for biodiversity net gain. Proposals must also incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development.

Core Policy 69 requires measures to avoid and prevent pollution and mitigate potential disturbance effects upon the River Avon Special Area of Conservation (SAC).

The application site does not include any protected habitats, the greatest habitat value being in the small woodland at the NE corner of the site and which would not be affected by the development. The hedgerows, semi-mature trees and ditches bordering the site are also assessed as being collectively of moderate local value, although of limited ecological value individually.

The rough grassland and scrub that dominate the site are species-poor and of low local value. The submitted assessments nonetheless identify that the site hosts a number of protected species.

Areas of suitable reptile habitat in the form of the unmanaged grassland and scrub would be lost to the development. Measures to capture, relocate and exclude reptiles from the site are thus proposed prior to the commencement of development. Proposals are outlined for undeveloped areas of the site

¹ Eg Night Noise Guidelines for Europe, World Health Organisation, 2009

to provide for enhanced reptile habitats in terms of the enhancement of woodland/hedgerow edge habitats, other high quality reptile habitats within the landscaping such as rough meadow grassland and scrub, drainage waterbodies to be designed to favour reptile use, features for reptile hibernation and long-term management.

Additional surveys have identified that there is no evidence of dormice being present on the site such that no mitigation is required.

Mitigation measures in respect of other protected species and birds etc, are set out in the submitted ecological reports, and its provision can be conditioned.

It is thus concluded that subject to the proposed mitigation measures, the development would not have an adverse impact on protected habitats or species.

Biodiversity net gain –

The development and associated landscaping would result in an increase in linear habitats. In terms of broad habitats however, and particularly the loss of rough scrubby grassland, there would be a loss. The submitted assessment thus identifies that a net gain in habitat units cannot be achieved within the development. The applicant proposes that the loss is addressed by way of a contribution towards off-site improvements elsewhere. This would need to be secured by way of planning obligation.

River Avon Special Area of Conservation –

Whilst the site is within the catchment area for the River Avon Special Area of Conservation, the advice from Natural England regarding nutrient neutrality elsewhere is that employment can be discounted on an assumption there is no net migration into the catchment for employment purposes. As such, there would be no reasonable likelihood of adverse impact upon the Special Area of Conservation in terms of phosphate emissions.

10.8 Archaeology

The application is supported by an archaeological evaluation of the site. Based upon the findings, the Council's archaeologist is satisfied that no further archaeological investigation is required.

10.9 Air quality

The nearby A361 London Road is designated as an Air Quality Management Area. Core Policy 55 requires that proposals of a scale, nature or location that are likely to exacerbate existing areas of poor air quality, will need to demonstrate that measures can be taken to effectively mitigate emission levels.

The issue of air quality was to some extent considered in the allocation of the site and subjected to strategic assessment as part of the Core Strategy adoption. The Sustainability Appraisal Report for the Core Strategy thus sought to balance environmental impacts against local housing and employment needs and highlighted that that pressures on air quality should be addressed in planning applications with particular reference to Core Policies 60, 61 & 62 so as to avoid and reduce impacts. The Core Strategy Inspector reported:

'Furthermore, the evidence provided by the Council indicates that it has considered adequately the infrastructure needs of the area, including transportation issues and the designated Air Quality Management Area. Such evidence identifies that Devizes experiences traffic congestion along certain road corridors and there is no dispute that air quality is a cause for concern and action. Against this context, the Devizes Transport Strategy indicates that the level of growth contained within Core Policy 12 can be accommodated adequately. I am always mindful that the content of the Core Strategy must be considered as a whole and that Core Policy 12 must, for example, operate in tandem with Core Policies 55 and 60-66 which specifically address matters of air quality and transportation. Whilst concerns have been raised as to the suitability of the proposed

development within the locality, the balance of the evidence is sufficient to support the objectives of the Core Strategy and the content of Core Policy 12’.

The application includes an Air Quality Assessment in respect of both the construction and operational phases of the development.

During construction, the main identified risk is in terms of soil dust which is assessed as having a negligible risk with mitigation including a Dust Management Plan and other measures as set out in the Assessment. Details could be secured by way of a Construction Management Plan.

During operation of the site the principal concern is in respect of additional vehicle movements along the A361 corridor. Impacts are to be mitigated by measures to encourage the take up of sustainable means of transport for those accessing the site. Residual impacts are inevitable, but the Assessment concludes that these would meet air quality objectives within the Air Quality Management Area.

The Environmental Health Officer raises no objections in this respect but recommends further conditions to secure details of Electric Vehicle charging facilities, a Construction and Environmental Management Plan, a low emission Travel Plan and a Concentration Assessment and Mitigation Statement. On this basis it is concluded that the development would effectively mitigate against adverse impacts so as to comply with Core Policy 55.

10.10 Renewable energy and sustainable construction

Core Policy 41 requires a Sustainable Energy Strategy outlining the low-carbon strategy for the development. The submitted Energy and Sustainability Statement outlines a combination of demand-reduction measures, energy-efficiency measures and low-carbon energy to minimise CO₂ emissions from the built form of the development. Details for each building would need to be secured at reserved matters stage.

10.11 Flood risk and surface water drainage

Core Policy 67 requires all new development to include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable drainage) unless site or environmental conditions make these measures unsuitable.

The application is supported by a Flood Risk Assessment and Surface Water Drainage Strategy. The site is not in an identified area of flood risk and the development is thus unlikely to be impacted by flooding.

In terms of the potential impact on flood risk elsewhere, the application includes a Surface Water Drainage Strategy. The development would result in an increase in impermeable areas on the site. Ground investigations identify that the land is not suited to providing soakaway drainage due to seasonally high groundwater levels. The increased surface/ roof area run-off is proposed to be collected and managed by way of the on-site retention ponds from where the output to the existing ditch alongside Horton Road would be attenuated to provide 20% betterment on current rates. The Council’s drainage team accordingly raises no objections but recommends conditions to secure details and performance of the final drainage scheme.

10.12 Foul water drainage

Foul water drainage would connect into an existing Wessex Water sewers along Horton Road. Wessex Water raises no concerns on this arrangement.

10.13 Electricity supply

The development template identifies a need for reinforcement of the electricity network and a primary sub-station.

The submitted Utility Statement similarly identifies the need for capacity improvements to the electricity supply network to meet the needs of the development. This is said to have been discussed with SSE, along with options for on-site generation of renewable energy and building efficiency.

It is said that the need for capacity improvements will be addressed on a building-by-building basis as each plot within the site is developed and connections sought. This runs the risk of high costs for upgrading the electricity supply making the development of later phases unviable, thus leaving the site only partly developed. The applicant identifies a need for further analysis to determine the costs/scope of works involved and it is suggested that this will need to be explored at reserved matters stage. Whilst this is not ideal, the shortfall in capacity of the network is perhaps quite small depending on the nature and energy demands of the future users of the site. Accordingly, and in line with the views of the Council's Economic Development team, it is concluded that the element of uncertainty in this respect is not sufficient to warrant further delay in granting permission. Condition 1(k) as recommended below also requires further assessment of energy demands in respect of the phasing of the development.

10.14 Environmental Impact Assessment

Initial proposals for up to 35,000 sq. m of commercial floorspace were the subject of an Environmental Impact Assessment Screening Opinion issued by the Council that concluded in 2021 that an Environmental Impact Assessment would not be required for development of the site.

10.15 S.106 planning obligations

Core Policy 3 advises that 'All new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal', where necessary by way of Section 106 obligations.

Sustainable transport measures –

The development template for the site also requires the development to provide for off-site transport infrastructure in line with the Devises Transport Strategy. In accordance with this the Highway Officer identifies the need for the contributions outlined below; to be calculated more precisely at reserved matters stage according to the level of vehicle movements associated with the detailed proposals. As noted above, reserved matters (and thus contributions) are anticipated on a building-by-building basis. Based upon the illustrated layout the following contributions are anticipated:

- Contribution of c. £10,000 to wayfinding signage
- Contribution of c. £50,000 to cycling infrastructure
- Contribution of c. £60,000 to public transport
- Contribution of c. £7,500 for Travel Plan monitoring

Biodiversity net gain –

Off-site biodiversity improvements materially exceeding '6 biodiversity units' would need to be secured to provide a net gain in biodiversity from the development. At the time of reporting, the proposed off-site provision has yet to be identified. The detail would remain to be agreed as part of the s.106 discussions.

Off-plot maintenance –

Maintenance arrangements and responsibilities for communal and unadopted infrastructure (surface water drainage system, paths, recreation and landscaping areas and ecological features).

Monitoring fee –

A monitoring fee of £1,000 is required.

The contributions above have been assessed as meeting the statutory tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

11. Conclusion

The broader principles of sustainable development that underpin local and national policies require a balancing between economic, social and environmental impacts.

The application site forms the majority of the site allocated in the Core Strategy for development for employment purposes in accordance with the need to meet employment needs as identified in the Devizes Community Area Strategy. The Council's Economic Development team identify a pressing need and demand for additional employment land and premises.

Some concerns and objections raised, for example in relation to biodiversity, flood risk and impacts on views relate to the principle of development, which has already been accepted in the allocation of the site within the Wiltshire Core Strategy. The application shows that such impacts can all be mitigated in the proposals outlined.

The majority of concerns and objections more specifically relate to the detail of the proposal, with access being gained from Horton Road rather than the A361, in terms of highway safety, congestion and the character of Horton Road, as well as impacts on neighbouring amenities from the layout and access as outlined. These issues however give rise to no continuing technical objections from Council officers in terms of highway and transportation impacts or in terms of the impacts on neighbouring amenities, subject to conditions and planning obligations as identified in the report, and particularly in respect of conditions preventing night-time working and control noise and other emissions from the development.

As such, it is concluded that the development would be in accordance with the development plan and the principles of sustainable development.

RECOMMENDATION

Defer and Delegate to the Head of Development Management to GRANT outline planning permission subject to the conditions set out below and to the prior completion of a Section 106 legal agreement to cover the obligations identified in Section 10.15 of this report.

1. i) Prior to the submission of any applications for approval of the matters reserved under this consent there shall have been submitted to and approved in writing by the local planning authority a Phasing Plan for the development that includes:
 - a) An outline layout plan for the development clearly identifying development Zones within the site,
 - b) The maximum building heights to be developed within each Zone,
 - c) The maximum building floorspace within each Zone,
 - d) The uses and floor space of uses within each Zone,
 - e) Outline details of the units to be provided for small and start-up units and 'follow on' space
 - f) Indicative details of areas of landscaping to be provided within, between and outside each Zone,
 - g) Sequencing and timing for the development of each Zone, including provision of the access roads and footways to each Zone,

- h) The sequencing of development for the completion of the footpath around the site and the area of recreation/ amenity land and landscape buffers as shown on the Illustrative Land Use Plan (21-056-SGP-SIT-ZZ-DR-A- 131002 / P05),
 - i) The maximum impermeable areas within each Zone (to inform the site-wide drainage strategy),
 - j) Maximum roof areas within Zach zone and identification of the location for a minimum 10% of the total roofing as green/ brown roofing,
 - k) An assessment of the energy demands of the proposed development and details of a Scheme to ensure that the electricity supply infrastructure will meet the projected demands of the development; such a Scheme to identify the stage at which (if any) upgrading of electricity supply to the site will be required and if so, a timetable for delivery of the necessary increased supply capacity.
- ii) The subsequent reserved matter applications shall be in accordance with the so-approved Phasing Plan.

REASON: To clarify how the site is to be phased to assist with the determination of subsequent reserved matters applications in accordance with the development template for the site and in order to ensure that infrastructure provision and environmental mitigation are provided in accordance with the requirements of the development template for the site and to cater for the needs and impacts arising out of the development.

INFORMATIVE: It is anticipated that the details submitted under this condition will reflect the illustrative details submitted with the outline application.

2. Applications for approval of all reserved matters for all Zones of the development shall be made to the Local Planning Authority no later than three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development on each Zone of development shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved for that Zone of the development, whichever is the later.

REASON: To secure timely delivery of the development and to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. i) No development shall commence on site on any Zone until details for that Zone of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:
- (a) The scale of the development;
 - (b) The layout of the development;
 - (c) The external appearance of the development;
 - (d) The landscaping of the site;
- ii) The development of each Zone shall not be carried out other than in accordance with the so-approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5(1)

of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

5. i) All applications for the approval of the Reserved Matters shall be in broad accordance with the principles described and illustrated in the approved Design and Access Statement Addendum (September 2022), and allowing for future connections into the adjoining 'skid pan' site as shown on the Illustrative Comprehensive Masterplan (21-056-SGP-SIT-ZZ-DR-A-131005 / P08)
- ii) A Design Compliance Statement shall be submitted with each Reserved Matters application which demonstrates this by way of comparison.

REASON: To ensure a high standard of design that is in keeping with the landscape setting, and that the development is comprehensively designed across the site as a whole in accordance with policies of the Core Strategy and, in accordance with the aspirations of NPPF paragraph 130, to ensure that "the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme."

6. All applications for approval of reserved matters for all Zones of the development or individual buildings as the case may be, shall demonstrate compliance with the local planning authority's adopted car parking standards, and shall include full details of:
 - a) land use,
 - b) floor area,
 - c) vehicle trip generation and parking accumulation
 - d) space needed to accommodate stopping, parking, loading/ unloading and manoeuvring of commercial or other vehicles.

REASON: To ensure sufficient on-site car parking in the interests of highway safety and movement, and in the interest of the amenities of the area.

7. The development, hereby permitted, shall be carried out in accordance with the following approved drawings and details unless otherwise agreed in writing by the Local Planning Authority or where a condition of this consent (including its informatives) specifically provides otherwise:

Location Plan 21-056-SGP-SIT-ZZ-DR-A- 131000 / P01
Existing Site Plan 21-056-SGP-SIT-ZZ-DR-A- 130000
Development Framework Plan 21-056-SGP-SIT-ZZ-DR-A- 131004 / P06
Flood Risk Assessment & Drainage Strategy 6639-FRA-001 Rev. 3
Landscape Strategy Plan 7629/ASP3 Rev. D
Arboricultural Impact Assessment 11097_AIA.001
Ecological Impact Assessment & appendices 2090.84 October 2022
Ecological Parameters Plan (Figure 1 to the above)

REASON: To avoid piecemeal development of the site and ensure a comprehensive and coherent approach to the design and impacts across the site as a whole and with reference to the remainder of the site allocation.

8. All applications for the approval of reserved matters will demonstrate compliance with the following submitted documents:

Illustrative Comprehensive Masterplan 21-056-SGP-SIT-ZZ-DR-A- 131005 / P08

Flood Risk Assessment & Drainage Strategy 6639-FRA-001 Rev. 3
Landscape Strategy Plan 7629/ASP3 Rev. D
Design & Access Statement Addendum September 2022
Air Quality Assessment Rev. 02
Noise Impact Assessment 70086639-108-01 Revision 2 (Oct. 2022)
Energy & Sustainability Statement
Ecological Impact Assessment & appendices 2090.84 October 2022
Ecological Parameters Plan (Figure 1 to the above)

REASON: To avoid piecemeal development of the site and ensure a comprehensive and coherent approach to the design and impacts across the site as a whole and with reference to the remainder of the site allocation.

9. i) No development shall commence on site until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development and it shall include details of the following:
- a) an introduction consisting of definitions and abbreviations and project description and location,
 - b) a description of management responsibilities,
 - c) a description of the construction programme,
 - d) construction vehicle routeing,
 - e) construction staff and visitor vehicle parking areas within the site,
 - f) local road cleaning arrangements,
 - g) measures to prevent excessive mud and dust being deposited on the public highway,
 - h) site working hours and a named person for residents to contact,
 - i) site logistics arrangements,
 - j) details regarding deliveries and storage; including delivery hours, and welfare facilities on site,
 - k) details regarding dust and noise mitigation,
 - l) the recycling of waste materials,
 - m) the loading and unloading of equipment, plant and materials,
 - n) the location and use of any generators or other fixed plant,
 - o) where piling is required this must be continuous flight auger piling wherever practicable to minimise impacts,
 - r) the erection and maintenance of security hoarding/ fencing, and
- ii) The construction of the development will be carried out fully in accordance with the so-approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects on nearby neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction period.

10. i) Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall have been submitted to and approved in writing by the local planning authority.

ii) The CEMP shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- b) Working method statements for protected/priority species, such as nesting birds and reptiles.
- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

iii) Development shall be carried out in strict accordance with the approved CEMP.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

11. i) Prior to the commencement of the development, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.

ii) The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

12. i) Prior to commencement of development, full design and construction details of improvements to the Horton Road/ London Road roundabout, in general accordance with drawing HOR-WSP-ZZ-ZZ-SK-C-0001 PO2, shall be submitted to and approved by the Local Planning Authority.

ii) There shall be no occupation of any part of the development until the so-approved improvements have been completed in full accordance with the so-approved details.

REASON: In the interests of the safety and amenity of highway users and traffic management in accordance with the Devizes Transport Strategy and Core Policy 55 and Core Policy 61 and 62 of the Wiltshire Core Strategy.

13. i) Prior to the commencement of development and notwithstanding the submitted details, full design and construction details of LTN 1/20 compliant footway/cycleways alongside Horton Road shall be submitted to and approved by the Local Planning Authority.
- ii) There shall be no occupation of any part of the development until the footway/cycleway has been completed on the north and south sides of Horton Road as illustrated on submitted drawing HOR-WSP-ZZ-ZZ-SK-C-0002 PO4; on the south side commencing at the location of the Toucan Crossing and extending to a point 19m to the west of Bluebell Walk path.

REASON: In the interests of the safety and amenity of highway users and to facilitate sustainable means of travel in the interests of air quality and traffic management in accordance with the Devizes Transport Strategy and Core Policy 55 and Core Policy 61 of the Wiltshire Core Strategy.

INFORMATIVE: The applicant will be required to enter into a Section 278 Agreement and Streetworks Permit with the Local Highway Authority before commencing any work on the highway.

14. i) Prior to the commencement of development, full construction details of the access arrangements, including ghost island turning lane, toucan signal controlled pedestrian crossing and bus shelter, shall be submitted to and approved by the Local Planning Authority.
- ii) There shall be no occupation of any part of the development until the access arrangements, including ghost island turning lane, toucan signal controlled pedestrian crossing and bus shelter have been completed in full accordance with the so- approved details.

REASON: In the interests of the safety and amenity of highway users and to facilitate sustainable means of travel in the interests of air quality and traffic management in accordance with the Devizes Transport Strategy and Core Policy 55 and Core Policy 61 of the Wiltshire Core Strategy.

INFORMATIVE: The applicant will be required to enter into a Section 278 Agreement and Streetworks Permit with the Local Highway Authority before commencing any work on the highway.

15. i) No demolition, site clearance, or preparatory laying of services or formation or alteration of a means of access shall commence on site, until mitigation measures in respect of protected species have been implemented in full accordance with the recommendations of the submitted Ecology Impact Assessment (October 2022) and Appended documents.
- ii) The development shall be carried out in full accordance with the recommendations of the submitted Ecology Impact Assessment (October 2022) and Appended documents.

REASON: In the interests of the biodiversity value of the site.

16. i) No demolition, site clearance, or preparatory laying of services or formation or alteration of a means of access shall commence on site, until tree and hedge protection measures have been put in place in full accordance with the recommendations of the approved Arboricultural Impact Assessment.

ii) The protection measures shall be erected and maintained throughout the construction phase in accordance with the so-approved Assessment, and the works shall be carried out in full accordance with the recommendations of the Assessment.

iii) If any retained tree is removed, uprooted, destroyed or dies within 5 years from the commencement of the development, another tree shall be planted at the same place, at a size and species and planted at such time as must first be agreed in writing with the local planning authority.

REASON: In accordance with the recommendations of the submitted Arboricultural Impact Assessment, in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscape setting for the development within the setting of the North Wessex Downs AONB and in the interests of biodiversity.

INFORMATIVE: In this condition “retained tree” means an existing tree, group of trees or hedges which are to be retained in accordance with the approved plans and particulars.

17. No development shall commence on the site until a scheme of hard and soft landscaping of areas outside the identified development Zones has been submitted to and approved in writing by the local planning authority, the details of which shall include:

- a) location and current canopy spread of all existing trees and hedgerows on the land;
- b) full details of any to be retained, together with measures for their protection in the course of development;
- c) a detailed planting specification and plan/s showing all plant species, supply and planting sizes and planting densities;
- d) details of phasing of landscaping works
- e) finished levels and contours;
- f) means of enclosure;
- g) other pedestrian access and circulation areas;
- h) all hard and soft surfacing materials;
- i) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- j) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- k) retained historic landscape features and proposed restoration, where relevant.

REASON: To ensure a satisfactory landscaped setting for the Zones of development and the protection of existing important landscape features.

18. i) All soft landscaping as approved under the condition above shall be carried out in the first planting and seeding season following the first occupation of any building within the development or the substantial completion of the means of access into the development whichever is the sooner, or otherwise in accordance with such phasing as may be approved the condition above.

ii) All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.

iii) Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

iv) All hard landscaping as approved under the condition above shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

19. i) No development of buildings in any Zone shall take place above ground floor slab level until full details and samples of the materials to be used for the external walls and roofs for that part of the development have been submitted to and approved in writing by the local planning authority.

ii) Development shall not be carried out other than in accordance with the so- approved details.

REASON: In order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area and in order to secure a high quality of design to make a positive contribution to the site and its surroundings and show consideration for its local context.

INFORMATIVE: The details to be submitted under this condition shall include for example, product

literature, photographic examples and rendered building elevation drawings (submitted electronically in pdf format) and shall reflect the principles set out in the approved Design & Access Statement Addendum.

20. i) No development shall commence on site until a Scheme for the discharge of surface water from the site based upon the principles and hierarchy of sustainable drainage has been submitted to and approved in writing by the Local Planning Authority.

ii) No part of the development shall be first occupied until surface water drainage has been constructed and provided in accordance with the so-approved scheme.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that a site-wide drainage scheme is provided to serve the Phased development to ensure that the development can be adequately drained in the interests of controlling flood risk.

INFORMATIVES:

The details to be submitted under part (i) of this condition must include a detailed drainage drawing/s that include the surface water drainage network and a plan showing exceedance routes for overland flooding.

Where the drainage arrangements within a particular Zone of development are unknown, the details to be submitted under part (i) of this condition shall include points of connection for the Zone to the site-wide drainage system.

The Scheme, and details to be submitted, shall demonstrate that there will be no flooding within the site up to and including the 1 in 30-year rainfall event (with allowance for climate change). Calculations must be based upon a MADD factor of 0m³ /ha.

Drainage drawings shall be labelled with pipe numbers used within the model to allow cross-referencing between the model and drawing

The Scheme must also identify clear arrangements in place for ownership and ongoing maintenance of SuDS over the lifetime of the development in the form of a Care Ownership and maintenance schedule.

With regards the control of surface water discharges from greenfield sites, Wiltshire Council as Lead Local Flood Authority requires post development discharges to provide 20% betterment over predevelopment discharges for both peak flow and volume.

21. i) There shall be no occupation of any part of the development until full details of a LTN1/20 compliant cycle and pedestrian path to be provided around the perimeter of the site to be constructed to Wiltshire Highways adoptable standards, have been submitted to and approved in writing by the local planning authority.

The path will include a link to connect directly into the internal site road, Horton Road and Public Footpath BCAN6, in general accordance with drawing 21-056-SGPSITZZ- DR-A-131001 / P04.

- ii) There shall be no occupation of any part of the development until the path has been constructed and made available for public use in accordance with the so- approved details, and it has been offered for adoption as public highway.

- iii) Until adopted, the path shall remain available for use by the public at all times.

REASON: To provide for non-vehicular connectivity to and around the site in the interests of facilitating sustainable means of travel, the amenity of the area and in accordance with the development template for the site

22. No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses (including asbestos) has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) - A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site and any adjacent sites for at least the last 100 years and a description of the current condition of the sites with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site and the potential impact of any adjacent sites.

Step (ii) - If the above report indicates that contamination may be present on, under or potentially affecting the proposed development site from adjacent land, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) - If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details must be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant

shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To reduce the risks associated with land contamination in accordance with Core Policy 56 of the Wiltshire Core Strategy.

23. i) No deliveries shall be made to or collections made from the development hereby permitted except between the hours of 07:00hrs and 23:00hrs.
- ii) No operations, including loading and unloading, shall take place anywhere on the development hereby approved between the hours of 23:00hrs and 07:00hrs except within buildings.
- iii) Commercial vehicles, including forklift trucks, shall only be started up, manoeuvred, operated, loaded or unloaded outside the buildings between the hours of 07:00hrs and 23:00hrs.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

24. i) Before the occupation of each individual building, a Scheme of Acoustic Insulation and Noise Control for that building shall be submitted to and approved in writing by the Local Planning Authority.

The Scheme shall demonstrate the rating level (LArTr) of sound emitted from all fixed machinery, plant and processes associated with the unit shall be no greater than the

noise levels set out in the Noise Limits table included at section 4.3.3 of WSP Noise Impact Assessment Assessment Project No. 70086639-108, October 2022, for properties on the south side of Horton Road and properties along Wellington Drive.

The measurements and calculations shall be made in accordance with the methodology of BS4142:2014 +A1:2019. The assessment position will be at the boundary of the nearest noise sensitive receivers.

ii) The Scheme shall include provision for a post installation noise assessment to be carried out within 3 months of completion of the individual building to confirm compliance with the noise criteria above, and for any additional steps required to achieve compliance with the criteria specified in part (i) of this condition shall be taken as necessary. The Scheme shall provide for full details of any such additional steps and the results of the post-installation noise assessment to be submitted in writing to the local planning authority prior to first use of the building.

iii) The approved Scheme shall be implemented in full before first use of the relevant building and the Scheme shall be so-maintained and operated at all times thereafter so as to comply with the noise criteria specified in part (i) of this condition.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

25. i) No extraction systems that disperse emissions from industrial processes to the atmosphere shall be fitted to any building as hereby permitted until a Scheme of works for the control and dispersal of atmospheric emissions, in particular dust, odours, fumes, smoke and

other particulates, has been submitted to and approved in writing by the Local Planning Authority.

ii) Any so- approved Scheme shall be implemented in full before the unit is first brought into use and shall be maintained in effective working condition at all times thereafter.

REASON: In the interests of the amenities of the area.

26. i) Prior to first occupation of any Zone of development a Lighting Scheme for that Zone of development shall be submitted to and approved in writing by Local Planning Authority in accordance with the Institute of Lighting Professionals Guidance notes for the reduction of obstructive light.

The Scheme must be designed by a suitably qualified person in accordance with the recommendations for environmental zone E3 in the ILP document "Guidance notes for the reduction of obtrusive light" (reference 01/20).

ii) Before first use of a so-approved lighting Scheme, and before first use of the relevant Zone of the development, there shall have been submitted in writing to the local planning authority an assessment report of a suitably qualified member of the Institute of Lighting Professionals conforming that the lighting Scheme as installed conforms to the standard specified in part (i) of this condition.

iii) The Scheme shall thereafter be permanently retained and maintained and operated so as to conform to the standard specified in part (i) of this condition, and no other external lighting shall be installed within that Zone, or in any areas outside the Zones identified pursuant to the conditions above.

REASON: In the interests of the amenities of the area and the setting of the nearby North Wessex Downs AONB to minimise unnecessary light spillage above and outside the development site.

27. i) No part of the any Zone of development shall be brought into use until a Green Travel Plan for the uses within that Zone, in broad accordance with the submitted Framework Travel Plan, has been submitted to and approved in writing by the Local Planning Authority.

ii) The Travel Plan for each respective Zone shall include details of implementation, monitoring and review and shall be implemented in accordance with the so-approved details.

iii) The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

REASON: In the interests of minimising vehicular traffic to the development in the interests of air quality and traffic management in accordance with the Devizes Transport Strategy.

28. i) No development shall commence on site of any identified Zone of development until details of the roadways, footways, footpaths, verges, junctions, street lighting, , visibility splays, including the timetable for the provision and phasing of such works in relation to each Zone have been submitted to and approved in writing by the Local Planning Authority.

ii) The development shall not be occupied until these details have been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

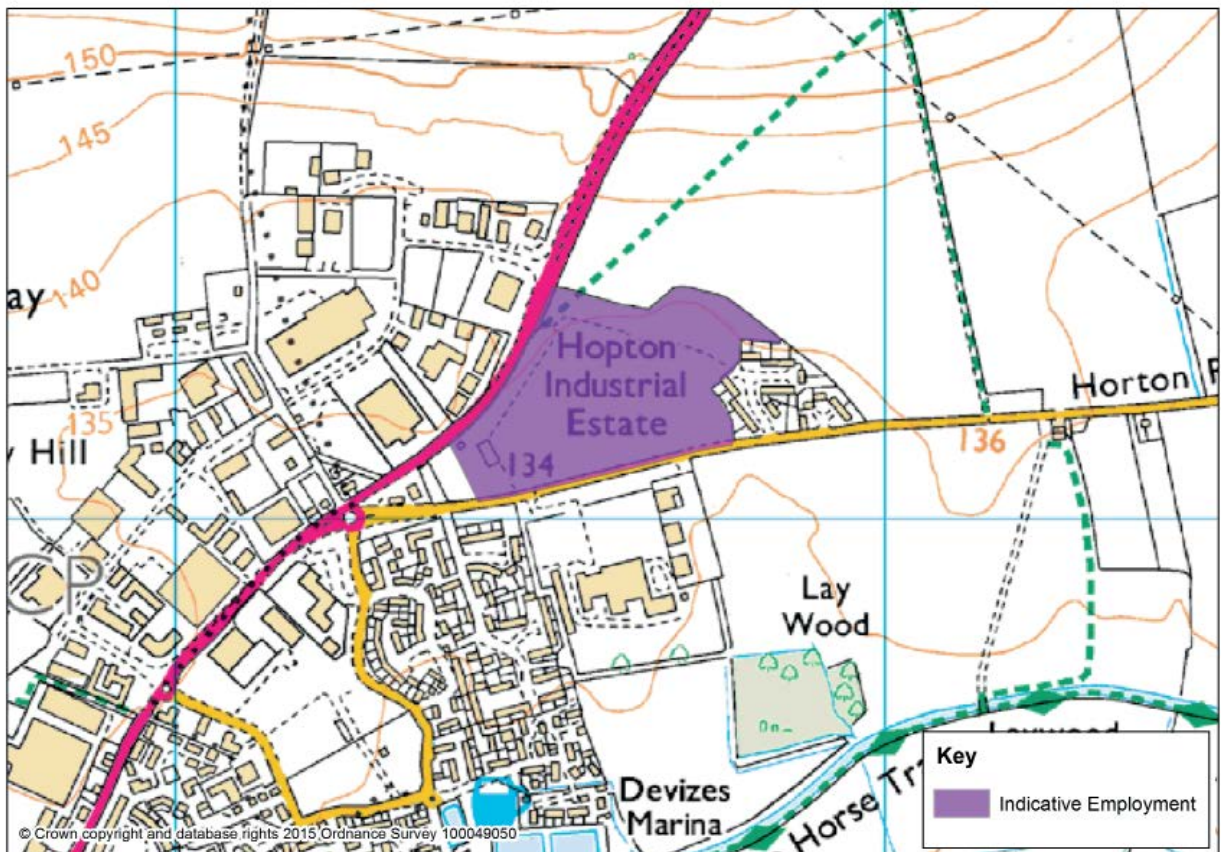
REASON: To ensure that suitable access is provided into and within the site In the interests of highway safety and convenience.

29. i) Notwithstanding the provisions of Section 55(2)(f) of the Town and Country Planning Act 1990, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987, and Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any equivalent provisions in any Act or statutory instrument revoking or re-enacting the Act or Orders with or without modification), the development shall be used solely for purposes of Use Class B2 (General Industrial), Use Class B8 (Storage and Distribution) and Use Class E (Commercial, Business and Service) (g) (i-iii). The development shall not be used at any time for any other purposes (including any other purposes in the above Use Classes).

ii) The level of floorspace provided under this permission for storage or distribution purposes within Use Class B8 (ie when not ancillary to B2 or E uses) shall not exceed 50% of the gross floorspace of the development (as identified pursuant to condition 1 above), or 10,000 square metres, whichever is the larger.

REASON: To allow the local planning authority opportunity to consider the merits of any proposal for use of the site other than as set out in the application and to ensure that employment potential of the site is not adversely affected by a predominance of storage and distribution use.

Land at Horton Road, Devizes



Use

8.4ha employment land for business space and incubator workspace function.

Key Objectives

- To provide 8.4 hectares of new employment land that will contribute to the delivery of flexible and affordable workspace across all the B uses, particularly small and start-up units with some 'follow on' space, on accessible lease terms to provide continuing opportunities for small business, business start-ups and continuation. Start up or incubator units should be supported by shared business infrastructure relevant to the use class. Design and build options should also be considered and all businesses should prepare green travel plans.
- To provide a much needed expansion to the existing employment base in the area.
- Delivery of employment land that is integrated with the existing town.
- Provision of business space and an incubator workspace function.

Infrastructure Requirements

- Development of the site will be required to meet the infrastructure requirements outlined below. Further detail can be found in the Infrastructure Delivery Plan (IDP).

Physical Requirements

- Capacity improvements to public sewer network and pumping stations.
- Reinforcement of the electricity network and primary sub-station.
- A Sustainable Energy Strategy will be required for the site, in accordance with proposed Core Policy 41.

Transport

- Provision of off-site transport infrastructure in line with the Devizes Transport Strategy.
- An assessment of the most appropriate points of access to the site should be included in the masterplan.

Green Infrastructure and Biodiversity

- A safe and quiet area of the site should be retained for public recreation – this should be landscaped naturally and screened from the main development as far as possible. This area should be accessible from Horton Road and London Road.
- Development should not impinge on the function of footpath BCAN6.

Ecology

- Habitat, reptile, invertebrate and badger surveys required with mitigation where necessary.
- The masterplan should include sensitive edge treatment of hedgerows (5m buffer), with native planting used in landscaping outside of formal areas.
- Minimum 10% green/brown roof coverage.
- Use of soft SuDS features including a retention basin on site boundary.

Landscape

- The development should provide an appropriate and enhanced entrance to Devizes in keeping with the local landscape and townscape character. Visually intrusive buildings should be avoided, particularly facing the AONB or entrances to the town.
- Integrated landscape infrastructure will be required, particularly to screen views from the AONB and local residences.
- Avoid the use of highly reflective surface finishes and consider the use of green/brown roof coverage to reduce visual impact on views from higher ground.
- The masterplan should include a landscape and visual assessment of the site to indicate how these issues are being addressed and where the most sensitive locations are within and adjacent to the site to inform any landscaping proposals.

Archaeology and Historical Interest

- Prior to development, an assessment should be carried out to ensure there are no areas of archaeology and historical interest and the masterplan should be in accordance with the specific recommendations for the site in the Historic Landscape Assessment, 2012.

Adjacent Land Uses

- The site is adjacent to existing residential areas to the west on Horton Road and a new residential area to the south of Horton Road. The residential amenity of these areas must be respected by the development.

Delivery Mechanism

This site should be the subject of partnership between private and public sector based on frontloading a masterplan to be approved by the local planning authority as part of the planning application process. Bishops Cannings Parish Council should be involved in this partnership to ensure their knowledge of the local area is taken into consideration. This masterplan will guide the private sector led delivery of the site.

Key Delivery Milestones, Monitoring and Review

In order to expedite the delivery of development the council will work closely with the developers and landowners to facilitate delivery. This work should include masterplanning, community engagement and progress on the necessary assessments. Bishops Cannings and Roundway parishes and Devizes Town Council should be involved in the preparation of the masterplan because of the potential wider impact on the highway network of this development. If the council is concerned that significant progress is not being made on the preparation of a planning application, or that, subsequent to the grant of planning permission, as identified through regular monitoring work, there does not appear to be a reasonable prospect of development commencing in a timely manner, in line with the Core Strategy trajectory, a review into the delivery of the site will be instigated. This review will comprise:

- detailed dialogue with the landowner, developer and their agents to ascertain the cause of delay
- a further independent viability study of the site to assess its delivery
- using the council's influence to try and remove any barriers identified that stand in the way of progress, such as working with statutory consultees and the community
- as a last resort, if the council feels that the new evidence renders the site undeliverable, a new allocation or allocations equivalent to the Strategic Allocation will be considered through the appropriate development plan process.

An independent viability review of the site will be undertaken by Wiltshire Council within two years to review the standards of delivery set in view of the projected recovery from the recession of 2009. This review will not be undertaken where the developer has demonstrated commitment through delivery in the first two years of the strategy.

Land to the north of Horton Road,
south of London Road and west of
Wellington Drive, Devizes.



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Page 245

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