

APPENDIX D – CORRESPONDENCE RECEIVED IN THE FORMAL OBJECTION PERIOD:

(i) REPRESENTATIONS OF OBJECTION

- (1) Mr Steve Ayling – Correspondence dated 16th January 2017
- (2) Mrs Sue Ayling - Correspondence dated 16th January 2017
- (3) Mr and Mrs W Baker – Correspondence dated 29th December 2016
- (4) Mr Paul Chivers – E-mail correspondence dated 12th January 2017
- (5) Gess Cuthbert – E-mail correspondence dated 17th January 2017
- (6) Mr M Dawson – E-mail correspondence dated 7th January 2017
- (7) Mr Steven Duffin – E-mail correspondence dated 23rd January 2017
- (8) Mr R Gould – E-mail correspondence dated 22nd January 2017
- (9) Mr Richard Green and Mrs Gillian Green – E-mail correspondence dated 7th January 2017
- (10) Mr Roly Grimshaw – Correspondence dated 16th January 2017
- (11) Mr Owen Harry – E-mail correspondence dated 16th January 2017
- (12) Sally Harry – E-mail correspondence dated 17th January 2017
- (13) Mr Dudley Humphreys – E-mail correspondence dated 16th January 2017
- (14) Idmiston Parish Council – E-mail correspondence dated 17th December 2016
- (15) Mr Mark Jones – Correspondence dated 23rd January 2017
- (16) Mr C Joy – Correspondence dated 15th January 2017
- (17) Mr and Mrs Maher – Correspondence dated 13th January 2017
- (18) Mrs Pope – E-mail correspondence dated 12th December 2016
- (19) Mrs Janet Slater – E-mail correspondence dated 20th January 2017
- (20) Mr G Thomas – E-mail correspondence dated 12th January 2017
- (21) Mr Andrew Tidd – Correspondence dated 23rd January 2017
- (22) Mrs Jan Tidd – Correspondence dated 23rd January 2017
- (23) Mrs B Tooze – E-mail correspondence dated 15th January 2017

Green, Janice

From: Sue Ayling
Sent: 20 January 2017 09:58
To: Green, Janice
Subject: Porton footpath letter of opposition
Attachments: Porton footpath letter of opposition ref Jones.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms Green

Please see the attached letter regarding the proposed footpath at Bourne Close, Porton.

Regards

Steve Ayling

157 East Gomeldon Rd
Gomeldon
Salisbury
SP4 6NB

16/01/20

Ms J Green
Rights of Way and Countryside team
County Hall
Trowbridge BA14 8JN

janice.green@wiltshire.gov.uk

Dear Ms Green

A letter of opposition to the application for a footpath between Porton High Street and the Recreation Ground.

I am a resident of the Idmiston, Porton, Gomeldon parish and would like to make certain observations regarding the footpath application at Bourne Close, Porton, a proposal to which I am opposed.

To my knowledge, in the 22 years that I have lived in the parish, the land in Bourne Close belonging to Mr Jones has never had evidence of use as a footpath. Until last year it has never been fenced and so people could have walked over it but only a few would, on a dry day.

Had Mr Jones erected a smart fence around his land, when he purchased it, the situation of imposing a public right of way across it would never have arisen. He didn't erect a fence and he didn't complain when people occasionally walked across the land, or more frequently allowed their dogs to defecate on it. There is a world of difference between a landowner not complaining if the occasional person wanders across his grass, to having it dedicated as a footpath.

To invent a footpath to block the outcome of a planning application which was all but granted flies in the eye of part of our democratic process.

When residing in my previous residence, protected land to the rear of our property had consistently been refused planning permission. Government policy then changed and the Council approached the landowner and encouraged him to submit plans. I visited Salisbury District Council offices to find out how to object. I was told by Stephen Thorne (then head of planning) that as my only grounds for objection was that I would lose my view, if I wanted to protect my view I must buy it. So, we moved house. My point is that if the residents in the immediate vicinity of Mr Jones's land do not want the land to be developed, according to Mr Thorne they should club together and buy the land. With their benefit of hindsight I am sure we would very soon see a sign similar to:

This is Private Land
The owners give permission for occasional use by the public for recreational purposes
No Public Right of Way
No dog fouling

The route from A to C along the road, without crossing Mr Jones's ground, is the obvious route to walk from Porton High Street to the recreation ground. My issue is not with the residents trying to stop the development, as anyone would do 'in their back yard', but with the Council for allowing this absurd footpath application to get this far and at such tax payers' expense.

Mr S P Ayling



Green, Janice

From: Sue Ayling
Sent: 15 January 2017 23:32
To: Green, Janice
Subject: Letter of opposition to Porton footpath proposal
Attachments: Porton footpath proposal letter of opposition.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms Green

Please see the attached representation regarding The Wiltshire Council Path No. 9 Definitive Map and Statement Modification Order 2016.

Regards

Sue Ayling

157 East Gomeldon Rd
Gomeldon
Salisbury
SP4 6NB

16/01/2017

Janice Green
Rights of Way and Countryside team
County Hall
Trowbridge BA14 8JN

janice.green@wiltshire.gov.uk

Dear Ms Green

Letter of opposition to the application for a footpath between Porton High Street and the Recreation Ground via Bourne Close.

Whilst I have no personal interest in the footpath proposal or the land in question, as a resident of the IPG parish and a believer in 'fair play' in all walks of life, I feel compelled to comment on this case. Being a neighbour in Gomeldon, Mr Jones brought the situation to my attention and as I am interested in the parish in which I live I went to look at the site.

My initial thought was why would anyone want to walk that very short distance across Mr Jones's private land, on wet grass, when they could walk a few more metres on dry tarmac (unless it is so their dog can deposit its waste on Mr Jones's land – which seems to be OK on private land but carries a severe fine if on Council land). It is a very quiet cul-de-sac, not a dangerous road and it seems unlikely that parents are wishing to drag pushchairs across that piece of rough ground to get to the playground. Just beyond Mr Jones's ground they would be walking on the road, in fact 30m of the proposed path is on grass and 46m is on the road in Bourne Close.

It seemed to me like a perfectly reasonable site for a small affordable bungalow, ideal as a starter home or for elderly people, being so close to the amenities and shops in Porton. So I enquired further and found that planning permission had been agreed in principal in 2015, but was then stopped by members of the Porton Neighbourhood Plan Group (presumably a sub group of the parish council) raising the footpath proposal. It seems extremely likely that this has been done to prevent the development - Mr Jones has owned the land for 12 years and during that time nobody has previously applied for a footpath across it.

I have since learnt that a 60 page report has been written by the Rights of Way Officer, Wiltshire Council, regarding this 114m footpath. There is no question about 84m of the footpath which follows Bourne Close and the made-up path to the recreation ground. The issue is simply the 30m across the grass. I think anyone with common sense, looking at the proposed route of this section of the footpath, would see the futility of this situation and quite frankly be enraged at the waste of tax-payers money in producing this report and all the associated work.

A large part of the report refers to the witness statements, and the witnesses all seem to have surprisingly similar recollections of long term heavy use of the ground as a footpath. This is followed by the sections referring to photographic evidence of the site and Council officers conclude that the photographs do not show a well trodden path (which would be the case if the witness statements were to be believed). It is telling that paragraph 10.37 states that

evidence of the path is 'inconclusive', when actually evidence of a path is 'non-existent'. A footpath can't be 'reasonably assumed to subsist' when there is no evidence of it.

As for the statement 'there is insufficient evidence of the land-owners non-intention to dedicate the land as a public right-of-way' – equally there is insufficient evidence that the landowner did intend to dedicate it!

There is a perfectly adequate route from A to C already in existence along Bourne Close, without encroaching on an individual's private grassland. To do so should only be considered in exceptional circumstances when there is no reasonable alternative, which is clearly not the case here.

Based on my observations above and my belief that a person has a right to protect and enclose their own property, I oppose the order. My objection isn't with the residents of Porton trying to stop the development, which anyone within the vicinity of a proposed development will try to do; it is with the Council supporting their farcical case.

Mrs S Ayling,

157 East Gomeldon Rd, Gomeldon SP4 6NB



Mr & Mrs W Baker
Fairview
Gomeldon Road
SP4 6JZ

29th December 2016

Reference JG/PC/272015/11

Dear Ms Green

We would like to object to a footpath going across the grass at Bourne Close, Porton. While out walking our dogs, we would always use the roadway of Bourne Close to go to the park, as many other people do including Mum's with pushchairs and young children on bikes which we often see. Why would anyone want to struggle trying to push bikes or pushchairs across grass when they can use the Bourne Close road. We see no point in wasting time or money on a footpath that is not needed.

Yours sincerely

Mr & Mrs W Baker



Green, Janice

From: Paul Chivers
Sent: 17 January 2017 19:14
To: Green, Janice
Subject: Ref JG/PC/27 2015/11
Attachments: Dear Ms Green.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms Green
Please find attached my letter of concern in reference to you proposed pathway JG/PC/27 2015/11.

Paul Chivers
Group Manager
Reading Group



City Electrical Factors Limited



City Electrical Factors Limited are registered in England, no. 336408
Registered office: 141 Farmer Ward Road, Kenilworth, Warwickshire, CV8 2SU

12th January 2017

Mr P. Chivers
97 East Gomeldon Road
Gomeldon
Salisbury
Wiltshire
SP4 6LZ

Dear Ms Green,

I am writing to you regarding my concerns in reference to a proposed public footpath on the piece of land on Bourne Close, Porton job ref; JG/PC/27 2015/11.

My family and I often walk and ride around the surrounding area and we have never experienced any issues with either access or traffic, I simply cannot understand the reasoning for the proposed pathway.

As I understand it, once installed, only a few local houses opposite stand to benefit , why would you even consider the expense of installing a foot path for the possible benefit of a few chosen households ,from my point of view this is total waste of time and even more a complete waste of money , as a tax payer I must admit I am greatly concerned that the local authority would come to such a conclusion or forward such a proposal, the fact is there is no need for the proposed path as people naturally walk along the roadside.

As it is such a small patch of land there is absolutely no need for a 'short cut'.

Once again I must express my concern of the cost of a pointless installation when there are far more pressing issues like pot holes in the roads.

I do hope you take note of my comments and reconsider this ridiculous proposal.

Yours Sincerley

Paul Chivers

Green, Janice

From: Gess Cuthbert
Sent: 17 January 2017 16:21
To: Green, Janice
Cc: [Redacted]
Subject: Public footpath Porton

Follow Up Flag: Follow up
Flag Status: Flagged

Sorry sent before I checked it, I apologise for the spelling errors, the email was sent with emotion.

Green, Janice

From: Gess Cuthbert
Sent: 17 January 2017 16:11
To: Green, Janice
Cc:
Subject: Public footpath Porton

Follow Up Flag: Follow up
Flag Status: Completed

Dear Ms. Green, I understand that it is the intention of Wiltshire Council to designate a footpath between Porton High Street through Bourne Close to the playing fields, I have lived in the village for over thirty-four years in that time have walked my daughters and laterly my grandchildred from the high street to the playing fields using the road through Bourne Close,especially pushing a pushchair never using the grassed area, in fact , I cannot recall seeing anybody else using it.

In my time in Porton I have had two seperately spells on the Parish Council, (although would point out at this moment in time I am not a councillor sending this email as a concerned parishioner), both times I was involved with the amenities committee which dealt with footpaths in the parish, rthe footpaiths would be walked once a year by members of the committee and I have no recollection of the area in question being used as a footpath.

I cannot understand why time and money has been spent on this, surely it could be spent better, elsewhere, there is absolutely no need for this footpath, I also cannot understand how, or why a request for a footpath was made.

Green, Janice

From: Vanessa Dawson
Sent: 09 January 2017 08:58
To: Green, Janice
Subject: Fwd: Re footpath

Follow Up Flag: Follow up
Flag Status: Completed

Sent from my iPhone

Begin forwarded message:

From: DEBBIE JONES
Date: 7 January 2017 at 21:20:14 GMT
To:
Subject: FW: Re footpath

Sent from my Windows Phone

From: Vanessa Dawson
Sent: 07/01/2017 20:30
To:
Subject: Re footpath

Janice green
Rights of way officer
Rights of way & countryside team
Wiltshire council
County hall
By the sea road
Trowbridge
BA 14 8 JN

7.1.2017

Ref JG/ PC/272015/11

Mr m dawson
7 mude gardens
Mundeford
Christchurch
Dorset
Bh234ar 4 at

To who this may concern

I have lived in gomeldon / Porton are for twenty plus years and have known of the parcel of land at Porton referred to as (land at bourne close) this has always been private land and has never had a footpath on it for its entire existence ,so it perplexes me to why you are seeking to put a footpath there now it would seem that rights of way officers are working with the neighbourhood planning group and feel they are trying to use their powers incorrectly as this proposed path that you are seeking to impose upon the owner of the land is to stop a planning application

For a much needed affordable house in the area points to be considered are as follows

- 1 is this proposed footpath just a means to try and stop a planning application for a much needed property
- 2 is the Porton neighbourhood planning group (previous opposers of a property planning application along with rights of way officers working outside their remit
- 3 it has already been established that there never has been a footpath on the land

4 the parish council do not think it is necessary and have rejected it

5 there is already a existing route that has been used for a long time which is bourne close road which is quite acceptable

6 all surrounding roads do not have pavements

7 it would only save maybe 10 metres max in walking distance it obviously is not needed

8 we as rate payers are paying for this proposal and I am sure if I was the owner of this land I would fight this to the highest level and the rate payer will be paying the bill

9 in the very unlikely event after a long battle of appeals etc which is very unlikely that the footpath had to be installed naturally the land would be fenced off and a fenced walkway for the footpath created with a stile at either end who is ever going to use it nobody

10 the landowner could easily re design any property development on this land to take the path into account

When all of these points are considered it is obvious it is a complete waste of money and time that we as rate payers pay for it it is a disgrace that this proposal has come this far

Sent from my iPhone

Green, Janice

From: steven duffin new
Sent: 23 January 2017 21:20
To: Green, Janice
Subject: Wildlife and Countryside Act 1981 - Section 53 Application to add a footpath to the definitive map and statement of public rights of way in the Parish of Idmiston (Porton)

Follow Up Flag: Follow up
Flag Status: Flagged

23 January 2017

Janice Green
Rights of Way Officer
Rights of Way & Countryside Team
Waste and Environment
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Ref: JG/PC/27 2015/11

Dear Ms Green

I strongly object to this said footpath A and B at Bourne Close, Porton. I often visit the play park with my son and until now have always used the tarmac road on Bourne Close to gain access to the park, which quite clearly is a better option than walking across wet grass. It is also obvious to me that I am not the only local resident with this view as I can't remember ever seeing anyone else not using the tarmac road for access.

I think this footpath A to B is a waste of time, money and effort which could be used on other parts of Porton Village where needed.

Many thanks

Steven Duffin
Ashlea
Horefield
Porton
SP4 0LE

Green, Janice

From: ROY GOULD |
Sent: 22 January 2017 18:00
To: Green, Janice
Subject: Footpath Objection: Porton Village
Attachments: Footpath Objection.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms Green,
Please find attached my objection to the proposed footpath in the village of Porton, for your perusal and consideration.

Yours Faithfully
Roy Gould

Footpath Objection

Ref: JG/PC/27 2015/11

Roy Gould
5 Church Road
Idmiston
Salisbury
Wiltshire
SP4 0AZ

21st January 2107

Ms Janice Green
Rights of Way Officer
Wiltshire Council
County Hall
Trowbrige
BA14 8JN

Dear Ms Green

Application to add a footpath to the definitive map and statement of public rights of way in the parish of Idmiston (Porton) - OBJECTION

I wish to object most strongly to this application which is nothing more than a circuitous attempt orchestrated by small group of relatively new incoming NIMBY (Not In My Back Yard) residents to block the construction of a desperately needed affordable dwelling within Porton Village; thus providing an opportunity for a small sized family to remain in the village where their roots are firmly established.

I have been a member of Idmiston Parish Council (IPC) with an unbroken service of 50 years come May 2017. During this period, I have made countless visits to Porton Play Park (PPP) via the Bourne Close entrance in order to carry out hundreds of inspection and maintenance tasks in my role as a parish councillor. Also, accompanying my children and later their children on twice weekly visits to the park. Throughout the 62 years that I have lived in the parish of Idmiston, I have never ever witnessed any trespassers on the land at the junction of High Street and Bourne Close now belonging to Mr Mark Jones.

Footpath Objection

Ref: JG/PC/27 2015/11

Whilst serving on IPC I was the council's elected Chairman of the Amenities Committee for a period of 41 years. A small part of the committee's remit was tree planting within the parish. Occasionally the Council would respond to national tree planting and commemorative schemes such as HM Queen Elizabeth's silver and golden jubilee and VE & VJ celebrations. During approximately thirty years of the foregoing period, Mr Raymond Stockton of Rosemoor High Street Porton was also an elected member of IPC and owner of the area of grass land at the centre of the application and interestingly I do recall distinctly asking if he would grant the council permission to plant some trees on his land. I received a polite but curt NO to my enquiry, followed by an explanation that it was private land and would remain so because he had development plans for the site. Latterly and after two changes of ownership I the put the same question to the present owner, Mr Mark Jones who politely refused and stated it was still private land and he was exploring the construction of a small size dwelling on the site

The road linking PPP with the High Street Porton i.e. Bourne Close, is unrestricted to pedestrians and cyclists. Who would walk or attempt to cycle across an area contaminated with dog excrement, has long grass which is wet and muddy when it rains or snows, when there is a far superior metalled surface only eight to ten paces further away if approached from one direction or no change if joined from the opposite direction?

All in all, this application is totally **unnecessary** and would:

- Be wasteful of council taxpayers funding to Wiltshire Council in implementing this change to the definitive map.
- Create maintenance costs
- Provide **NO** advantages to persons proceeding to or from PPP.
- Disadvantage the land owner.
- Cancel the possibility of providing an affordable home within Porton.

I submit that this application is totally unwarranted, riddled with very questionable information and should be refused forthwith.

Yours Faithfully

Roy Gould

Green, Janice

From: Richard Green
Sent: 11 January 2017 13:21
To: Green, Janice
Subject: Re: Ref JG/PC/27 2015/11

Dear Ms Green,

Thank you for your reply. I believe that the plan for part of the footpath does in fact go along the roadway of Bourne Close as well as the plan to go across a piece of land. There is certainly evidence available that many non residents of Bourne Close(including ourselves) have walked the roadway from the High Street to the recreation ground during the period between when Bourne Close was built and the present day and that this is the usual route taken, not the route across the also privately owned piece of grass.

Our dispute is that the council should not be making the order to place the footpath across the grassland when it would be less costly to use the already made up (and frequently used) road . If this needs to be formalised, the order should provide the whole of the footpath along the roadway.

Richard and Gillian Green

From: Green, Janice
Sent: Wednesday, January 11, 2017 12:51 PM
To: Richard Green
Subject: RE: Ref JG/PC/27 2015/11

Dear Mr and Mrs Green,

Wildlife and Countryside Act 1981 – Section 53
The Wiltshire Council (Parish of Idmiston) Path no.9 Definitive Map and Statement Modification Order 2016

Thank you for your e-mail dated 7th January, I note your objections to the above-mentioned order. I would comment that the roadway of Bourne Close which you refer to as a suitable alternative route between the High Street and the recreation ground, is not an adopted highway, it is a private road and as such it does not carry any recorded public rights. When making its decision on whether or not to add a footpath to the definitive map and statement of public rights of way, Wiltshire Council is only entitled to take into account the “evidence” regarding whether or not the public have acquired a right of way over the land and we are not able to consider other matters such as the requirement for the footpath.

We have now received a number of objections, as well as representations of support, for the making of the order, which will now be fully considered in a report to the Wiltshire Council Southern Area Planning Committee. Where the order is opposed, it falls to be determined by the Secretary of State and I anticipate in this case that the order will be determined by an independent Inspector, appointed by the Secretary of State, holding a local public inquiry at which witnesses from both sides will have opportunity to give their evidence in chief and be cross-examined on their evidence. Again in determining the order, the Inspector will take into account only the “evidence” regarding public rights.

Members of the Southern Area Planning Committee will consider the representations and objections to the making of the order against the evidence already before the Council and the legal tests for adding a footpath, in order to decide the Wiltshire Council recommendation which is attached to the order when it is sent to the Secretary of State for decision, i.e. that the order be confirmed without modification; confirmed with modification; or not confirmed.

Please be assured that your objections will receive full consideration and I will of course be advising all interested parties of the Southern Area Planning Committee date, once the formal consultation period is ended and the case has been timetabled into the schedule of meetings. It is a public meeting and there is opportunity for public participation.

I hope this information is helpful.

Kind regards,

Janice Green

Rights of Way Officer
Wiltshire Council Waste and Environment
Ascot Court Trowbridge BA14 0XA
Telephone: Internal 13345 External: +44 (0)1225 713345
Email: janice.green@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

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From: Richard Green
Sent: 07 January 2017 17:11
To: Green, Janice
Subject: Ref JG/PC/27 2015/11

Dear Ms Green,

My husband and I are aware that the council has decided to make an order to make a public right of way across a piece of land in the High St, Porton. Ref JG/PC/27 2015/11.

We would like to make an objection to this plan as we believe that this footpath is not required as there is already a perfectly good roadway that joins the High St to the footpath that goes between buildings in Bourne Close and into the recreation grounds. There is no advantage to making a footpath across this privately owned piece of land. We are also concerned that this order to make a footpath will result in significant costs to the village and county council for a footpath that is not required.

Gillian and Richard Green.

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Green, Janice

From: Roly Grimshaw [redacted]
Sent: 16 January 2017 08:35
To: Green, Janice
Subject: Ref JG/PC/27 2015/11
Attachments: Wiltshire Council Letter 16 Jan 17.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms Green

I attach a letter of objection to the above application. I have sent a signed copy in the post today.

Many thanks

Roly

Roly Grimshaw

[redacted]

**Chalk House
Winterslow Road
Porton
Salisbury
SP4 0LF**

16 January 2017

Janice Green
Rights of Way Officer
Waste and Environment
Wiltshire Council
Bythesea Road
Trowbridge BA14 8JN

Dear Ms Green

Ref JG/PC/27 2015/11

Objection to the application to add a footpath to the definitive map and statement of public rights of way in the Parish of Idmiston (Porton)

Lack of Disabled Access

I object strongly to this application for several reasons, the principal one being the lack of disabled access. The solution is simple, inexpensive and should satisfy all parties.

The ground between Points B and C is fine for wheelchairs, but between Points A and B, across the rough ground, it is totally unsuitable. If the proposed path went from A to B via the existing tarmac road it would be completely suitable for wheelchair users.

The route from the High Street through the tarmac road in Bourne Close, through the playground and on to Winterslow Road is good for the disabled, except for this small strip across the rough ground. As there is no pavement in the High Street anyway, and no room to add one, pavement access on this short strip of tarmac is not relevant.

An Obvious Solution

The wish of a few people in Porton is for a right of way from the High Street to the village playground. In my opinion that is a fair wish. The only contention in this application is over the private land between Points A and B. If the route of the footpath was directed from Point A, around this piece of private land to Point B and then continuing as shown on the application to Point C, the local community's wish would be met and it would be unlikely that there would be any objections.

I live in Porton, with my wife and disabled mother-in-law. We walk our dogs daily and often access the playground from the High Street. We would not dream of crossing this usually damp and messy patch and can see clearly that the application is a backdoor means of defeating another planning application for a building on the site and so a total misuse of the Council's time.

Yours sincerely

Roly Grimshaw

Green, Janice

From: owenharry1380gt
Sent: 16 January 2017 20:08
To: Green, Janice
Subject: JG/PC/272015/11
Attachments: Footpath objection.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms Green

Please find attached my objection to the footpath in Poron.

Owen Harry

Sent from Samsung Mobile

Mr Owen Harry

1 North End

Allington

Salisbury

Sp4 Obs

16 Jan 2017

Reference: JG/PC/272015/11

Dear Ms Green

I would like to object to the footpath going across the land at Bourne close, Porton. Myself and my family regularly walk in this area and have done for many years now and see no issue using the tarmac road for this route, using the grassland as a path seems completely unnecessary.

Yours sincerely



Owen Harry

Green, Janice

From: [Redacted]
Sent: 17 January 2017 16:04
To: Green, Janice
Subject: Ref. JG/PC/27 2015/11
Attachments: Image (4).jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Please see attached letter.
S Harry

5 Bonaker Close
Porton
Salisbury
SP4 0LG


17th January 2017

Your ref: JG/PC/27 2015/11

Dear Ms Green

I am writing with regard to the proposed footpath across land at Bourne Close, Porton. I regularly walk in this area with my granddaughter on our way to the recreation ground and have no issue with the current route. I consider a footpath on the grassland at that point unnecessary and a waste of the council's already over stretched resources.

Yours sincerely



Sally Harry

Green, Janice

From: Green, Janice
Sent: 02 February 2017 12:53
To: 'DUDLEY HUMPHREYS'
Subject: RE: Ref:JG/PC/272015/11 - Bourne Close, Porton.

Dear Mr Humphreys,

Thank you for your e-mail dated 23rd January, with many apologies for the delay in getting back to you.

In answer to your query regarding the Bourne Close road way, I can confirm that there are presently no public rights recorded over Bourne Close (the surfaced road). It is a private road and is not an adopted road. If the order adding a footpath is successful, only rights for the public on foot will be added over the private road and there will be no public vehicular rights over Bourne Close.

I hope this is helpful,

Kind regards,

Janice

Janice Green

Rights of Way Officer
 Wiltshire Council Waste and Environment
 Ascot Court Trowbridge BA14 0XA
 Telephone: Internal 13345 External: +44 (0)1225 713345
 Email: janice.green@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

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From: DUDLEY HUMPHREYS [mailto:dudley.humphreys@wiltshire.gov.uk]
Sent: 23 January 2017 16:52
To: Green, Janice
Subject: Re: Ref:JG/PC/272015/11 - Bourne Close, Porton.

Dear MS Green,

Many thanks for your response. Clear and instructive. Again, many thanks.

I will reiterate my earlier comments. I believe that the majority of people using this access (including me) , will continue to use the Tarmac Road rather than cross a grass verge due to ease

I notice that you quote the Highways Act 1980. I assume that Bourne Close is an Adopted Road. If this Right of Way is agreed, as a driver is there any special conditions that I should be aware of, Please advise.

Yours sincerely,
 Dudley Humphreys

On Friday, 20 January 2017, 16:18, "Green, Janice" <janice.green@wiltshire.gov.uk> wrote:

Dear Mr Humphreys,

Wildlife and Countryside Act 1981 – Section 53
The Wiltshire Council (Parish of Idmiston) Path no.9 Definitive Map and Statement Modification
Order 2016

Thank you for your e-mail dated 16th January, with many apologies for the delay in getting back to you. I acknowledge safe receipt of your objection to the making of the above-mentioned order adding a footpath in the parish of Idmiston (Porton), within the formal objection period which ends on 25th January 2017.

This order is made under Section 53 of the Wildlife and Countryside Act 1981, which allows any party (under subsection (5)), to apply to the authority to amend the definitive map and statement of public rights of way, and Section 31 of the Highways Act 1980 which relates to dedication of a highway presumed after public user, as of right and without interruption, for a period of 20 years or more i.e.

“(1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”

The decision to make the order adding a footpath in this case, has been made at Wiltshire Council Associate Director level, based upon the available evidence of public user. However the making of an order is just the start of the process and where we have now received a number of objections to the making of the order, the order must be forwarded to the Secretary of State for determination.

All the objections will now be fully considered in a report to the Southern Area Planning Committee whose Members will consider the evidence contained within the objections and representations received following the making of the order, against the evidence already before the Council and the legal tests for making a definitive map modification order, as set out under Section 53 of the Wildlife and Countryside Act 1981 and Section 31 of the Highways Act 1980, in order to determine the Wiltshire Council recommendation which is attached to the order when it is sent to the Secretary of State for determination. Where Members of the Committee continue to support the making of the order, the Council will recommend that the order is confirmed with or without modification and where the Committee resolves that the Council no longer supports the making of the order, it will recommend that the order is not confirmed.

Please be assured that your objections will receive full consideration within the Committee report and I will of course be advising all interested parties of the Southern Area Planning Committee date, once the formal objection period is closed and the case has been timetabled into the schedule of meetings. It is a public meeting and there is opportunity for public participation, details of which will be provided.

I hope this is helpful, but please do let me know if you should require any further information.

Kind regards,

Janice Green

Rights of Way Officer
Wiltshire Council Waste and Environment
Ascot Court Trowbridge BA14 0XA
Telephone: Internal 13345 External: +44 (0)1225 713345
Email: janice.green@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

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From: DUDLEY HUMPHREYS [mailto:]
Sent: 16 January 2017 12:12
To: Green, Janice
Subject: Ref:JG/PC/272015/11 - Bourne Close, Porton.

Dear Ms Green,

I am a resident of this Parish and have lived in the village since 1998. During this time, I have used the footpath to and from the park. The majority of people that I have observed, over various dates and times, like me, have used the tarmac road rather than use the grass triangle. There has never been a noticeable pathway across this grass so footfall must have been low.

My major concern regarding this decision is that it seems to have been taken without any historical evidence or any details of any future increase in footfall or traffic. Please advise who (Position not name) and details of the Law or Byelaw that allows a Council to confiscate land from a Private Landowner without any definitive reasons and without the use of compulsory purchase. Has French Law been allowed to enter this country without us knowing?

I look forward to receiving your comments.

Yours sincerely

Dudley Humphreys
115 East Gomeldon Road
Gomeldon
Salisbury
Wiltshire
SP4 6LZ

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Green, Janice

From: Parish Clerk
Sent: 17 December 2016 12:51
To: Green, Janice
Subject: Proposal for definitive map modification
Attachments: Letter to Janice Green, Rights of Way 2035 on 17th December.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Janice

In relation to your letter ref: JG/PC/27 2015/11 proposing to add a public footpath in Idmiston Parish, please find the attached letter containing Idmiston Parish Council's agreed representations relating to the proposed order. I would be grateful for your confirmation of receipt.

Best regards

Jim

Jim Slater

Clerk to Idmiston Parish Council





IDMISTON PARISH COUNCIL
Memorial Hall
Idmiston Road, Porton,
Salisbury SP4 0LB
Clerk: Jim Slater

17 December 2016

Janice Green
Rights of Way Officer
Rights of Way & Countryside Team
Wiltshire Council
County Hall, Bythesea Road
Trowbridge BA14 8JN

Your ref: JG/PC/27 2015/11

Dear Janice

Wiltshire Council (Parish of Idmiston) Path no.9 Definitive Map and Statement Modification Order 2016.

Idmiston Parish Council considered in detail the documents that you sent advising that you are proposing to make a definitive map modification order.

Idmiston Parish Council wishes to object to this order as it is not required.

Idmiston Parish Council believes that the application to modify the definitive map is unnecessary.

Section B to C on the proposed definitive map modification order has long been under the jurisdiction of Idmiston Parish Council, as a recognised way of entering Porton Playing Fields. There would be no objection to this section becoming a public footpath, although the change is felt to be unnecessary. In contrast, the proposed Section A to B is over a piece of privately owned grassland which provides little or no advantage to pedestrians over the existing access via the tarmac part of Bourne Close. Making section A-B part of the definitive footpath map would disadvantage the landowner and provide no sensible advantage to parishioners.

Idmiston Parish Council objects to this application and would like it to be dismissed.

Best regards

Jim Slater
Clerk to Idmiston Parish Council

Green, Janice

From: DEBBIE JONES
Sent: 23 January 2017 18:05
To: Green, Janice
Subject: JG?PC27 2015/11
Attachments: Wiltshire council objection letter.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Please find enclosed my objection

**Rogues Roost
East Gomeldon Road
Salisbury Wilts
SP4 6NB**

23 January 2017

Janice Green
Rights of Way Officer
Waste and Environment
Wiltshire Council
Bythesea Road
Trowbridge BA14 8JN

Dear Ms Green

Ref JG/PC/27 2015/11

Objection to the application to add a footpath to the definitive map and statement of public rights of way in the Parish of Idmiston (Porton)

As you are aware I am the owner of the piece of land on the map between A and B, over which the footpath application is being made.

I have many objections to the proposal, but would like to highlight three:

1. Conflict of Interest

A planning application (14/10638/FUL) was submitted on 14 November 2014. During that process of consultation, the application for a footpath was submitted on 3 November 2015 by Mrs Creswell, who is also leading group of objectors to the planning application. It is of note that no one had submitted an application for a footpath before the planning application was known.

Many of the witnesses in your document are also objectors to the planning application. They know that the implementation of this footpath will reduce the size of the plot sufficiently to prevent a house being built.

In the Decision Report at para 10.14 it is stated that "the quality of evidence, i.e. its honesty, accuracy, credibility and consistency, is of much greater importance than the number of witnesses."

The credibility of witnesses must therefore be drawn into question. It is clear that the application for a footpath is not being made in the interests of walkers, but to prevent a house being built on the site.

2. Incorrect Right of Representation

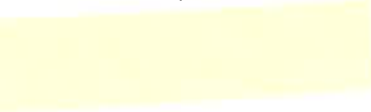
In the Decision Report at para 7.1 it is stated that the application "is made by Mrs Creswell on behalf of Porton Neighbourhood Plan Group." The Neighbourhood Plan is in draft form only and has not been ratified by Idmiston Parish Council. The Porton Neighbourhood Plan Group is therefore not a representative body and it is misleading to make that claim.

3. Inaccurate Witness Statements

The witness statements are in many cases blatantly inaccurate and need to be verified before a decision is taken. I can give many examples, but for purposes of brevity, here is one: in para 10.29 it states that Dr Patricia Appleyard confirms that “we can see much of the footpath from Appledown and can confirm that it is well-used by members of the public.” A quick inspection of the site will show that the route over my land between A and B cannot be seen from Appledown.

Finally, as a local resident, I am embarrassed by the time and effort wasted by all those involved, particularly at County Council level. It has been obvious to all locals that this application was submitted to damage a planning application. There is a perfectly good level and safe route for pedestrians from A to C on the little used tarmac road.

Yours sincerely

A rectangular area of the document is redacted with a solid yellow background, obscuring the signature of Mark Jones.

Mark Jones

Mr C Joy
2 Avenue Cottage
Porton
Salisbury
SP4 0NR

15th January 2017

Reference JG/PC/272015/11

Dear Ms Green

We would like to object to the footpath going across grass land at Bourne Close, Porton, which is privately owned. My brother and I walk to the local shop everyday. We regularly continue up the High Street, walk into Bourne Close on the tarmac road through the park and back home.

We have lived in this village over 70 years and do not see any point having a footpath over the grass area when there is a perfectly good tarmac road to use.

Yours sincerely

Mr C Joy



Mr & Mrs Maher
1 Bourne Close
Porton
Salisbury
Wilts
SP4 0LL

Janice Green
Rights of Way & Countryside Team
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Ref JG/PC/272015/11

Path no.9 Definitive Map Modification

13.01.17

Dear Janice

We would like to object to the above modification.

Our reasons for the above objection are as follows,

Path A to B is across private land and there is already tarmac path in the same direction next to it that is already used constantly.

Path B to C has always been used as a route to the park anyway.

In our years of living in Bourne Close (7 years) we rarely saw anyone walk across path A to B, you'd occasionally see a child or dog take a short cut but never adults.

We also feel like this would be a waste of the councils money, having young children we'd much rather the council spent money on safe crossing for the local school.

Yours Sincerely


Wayne and Laura Maher

Green, Janice

From: Rita and Bob Pope
Sent: 12 December 2016 09:42
To: Green, Janice
Subject: JG/PC/27 2015/11

Dear Janice Green

I am writing in regards of the proposed footpath between High Street and Bourne Close, Porton.

I wish to declare that I have an interest in this as Pope Plan and Build provided the architectural services and have been representing Mr Jones through the planning process.

However I wish to object to the footpath on a personal level as I live on High Street only a few meters from the site. I feel this proposal is the tax payers (such as myself) waste of money. Creating a foot path that has been proven never existing in the past and the ongoing cost on its maintenance is an unnecessary expense to the parish council. There is no foot path leading from High Street to the land in question and no footpath leading from the land to the bottom of Bourne Close, where the play park is located.

Therefore I cannot see a logical reason to spend money and create a footpath here when the taxpayer money could be used much more efficiently, for necessary works in the parish (such as renovating bus shelter or cutting down dangerous trees etc).

I would question how many people who live the far end of High Street (such as myself) would use a footpath instead of walking down the road, which actually a short cut in comparison.

I would like to point out that although I have an interest as declared above, the footpath application will not stop my client from applying for an application as the proposed dwelling can still fit on the land (slightly shifted towards Bourne Close) even if the footpath gets a go ahead, and vice versa if the footpath gets turned down that doesn't necessarily mean that my client will get the permission to build.

Yours sincerely,

Rita Pope

Pope Plan and Build Limited

Boxhedge Cottage
High Street
Porton
Salisbury
Wiltshire
SP4 0LH

Green, Janice

From: Jim Slater
Sent: 26 January 2017 16:34
To: Green, Janice
Subject: FW: Objection to proposal for new footpath
Attachments: Bourne Close footpath letter.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Janice

I would be grateful for your confirmation that you received my earlier email before the deadline for submissions.
Thanks and best regards
Jim

From: Jim Slater
Sent: Friday, January 20, 2017 9:24 PM
To: janice.green@wiltshire.gov.uk
Subject: Objection to proposal for new footpath

Hello Ms Green

Please find attached my letter of objection to the proposal for a new footpath (No.9) between High Street and Bourne Close, Porton.

I would be grateful for confirmation of receipt.

Best regards

Janet Slater (Mrs)

17 Winterslow Road, Porton
SALISBURY, Wiltshire
SP4 0LW United Kingdom

17 Winterslow Road, Porton, Salisbury, Wiltshire, SP4 0LW UK

Janice Green
Rights of Way Officer
Rights of Way & Countryside Team
Wiltshire Council
County Hall, Bythesea Road
Trowbridge BA 14 8JN

20 January 2017

Dear Ms Green

Wiltshire Council (Parish of Idmiston) Path No.9 Definitive Map and Statement Modification Order 2016

I wish to object to the proposal to add a footpath over the green area on the corner of Porton High Street and Bourne Close.

Anyone wishing to access Porton playing field from the High Street would normally walk on the nearby tarmac roadway. There is very little traffic along Bourne Close and no need to create an extra footpath.

I have lived in the village, close to the area concerned, for nearly 40 years and have never understood there to be a footpath over this green area, and have always walked on the tarmac. If public money is to be spent on extra footpaths for the village, this would certainly not be one to prioritise.

I have concerns that this application for a new footpath is being put forward by a small group of people whose primary purpose is not in fact to get a new footpath, but rather to prevent a potential planning application for a house on the same land from being successful. This should not be a reason for granting a new footpath.

I only know of this footpath application from my regular attendance at Parish Council meetings, and have concerns that the official application notice Ref 2015/11 on the Wiltshire Council Website (attached to this letter) shows virtually no information – why are there no attachments to show letters of objection or support?

I re-iterate that I object to this application for a new footpath on the grounds that it is unnecessary and a waste of public money at a time when Wiltshire budgets are being cut back.

Yours sincerely,



Janet Slater (Mrs)



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Rights of Way Information

Reference Number 2015/11
Parish Idmiston
Date Application 03/11/2015
Intended Effect FP
Location From The High Street to the recreation ground via Bourne Close
Grid Start SU187366
Grid End SU187367
RoW ID
Applicant Porton Neighbourhood Plan Group
Evidence user
WCC Decision
WCC Decision Date
Appeal
SoS Directives
Order Made Date
Objections
Committee Date
Date Sent to SoS
Order Confirmed
Date of Confirmation
Officer
Archive? No

[Scanned image of Application 2015/11](#)

Green, Janice

From: geoff thomas
Sent: 12 January 2017 17:44
To: Green, Janice
Subject: Re: Footpath no.9 Idmiston (Bourne Close, Porton)
Attachments: Mark Jones letter 12 Jan.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Dear Miss Green

Please find attached pdf copy of letter I've posted to you today.

Will follow events with interest.

Yours sincerely

Geoff Thomas

On Mon, Dec 5, 2016 at 2:58 PM, Green, Janice <janice.green@wiltshire.gov.uk> wrote:

Dear Mr Thomas

Wildlife and Countryside Act 1981 – Section 53**The Wiltshire Council (Parish of Idmiston) Path no.9 Definitive Map and Statement Modification Order**

Thank you for your e-mail regarding the above-mentioned definitive map modification order, made by Wiltshire Council on 28th November 2016.

For your information I have attached a copy of the Wiltshire Council decision report, which sets out the reasons for Wiltshire Council's decision to make an order in this case; a copy of the definitive map modification order and a copy of the notice of the making of an order, giving interested parties opportunity to make representations or objections to the order, (this formal objection period closes on Wednesday 25th January 2017). Notice of the making of the order will also appear in the Salisbury Journal on Thursday 8th December and notice will also be posted on site.

The making of the order is just the start of the process of formally adding a footpath to the map and statement and the case will now proceed as follows:

- 1) A definitive map modification order is made and notice of the order is forwarded to all interested parties including the landowners; applicant; Parish Council; user groups and the Wiltshire Councillor. Notice of the order is also advertised in a local newspaper and posted on site and is followed by a statutory objection period of 6 weeks, during which time any party may submit objections or representations regarding the order, in writing to Wiltshire Council.

- 2) Where no objections to the making of the order are received, the order may be confirmed as a unopposed order by Wiltshire Council and the definitive map and statement of public rights of way are amended accordingly.

- 3) Where the Council does receive objections to the order which are not withdrawn, the order must be forwarded to the Secretary of State for determination and it cannot simply be withdrawn or amended by the Council. Before the order is submitted to the Secretary of State, it is considered by the Southern Area Planning Committee, whose Members will consider the evidence already before the Council and the representations and objections received during the objection period, against the legal tests for adding a public footpath as set out under Section 53 of the Wildlife and Countryside Act 1981 and Section 31 of the Highways Act 1980, in order to determine whether or not Wiltshire Council continues to support the making of the order in the light of the further evidence received and the Wiltshire Council recommendation which is attached to the order when it is forwarded to the Secretary of State for determination. Members of the Committee may resolve either to support the making of the order, in which case they will recommend that the order be confirmed with or without modification, or where Wiltshire Council no longer supports the making of the order, Members will recommend that the order is not confirmed.

- 4) Following the submission of the order to the Secretary of State, including Wiltshire Council's recommendation and all of the evidence before the Council, an Inspector appointed on behalf of the Secretary of State will determine the application through the written representations procedure, or by holding a local hearing, or local public inquiry. In the experience of Officers, witness evidence cases are usually determined by the holding of a local public inquiry at which witnesses on both sides may give their evidence in chief and be cross-examined on their evidence.

- 5) The Inspector will determine to confirm the order without modification; confirm the order with modification; or not confirm the order, based upon the evidence before them. Where the order is confirmed the definitive map and statement of public rights of way are amended accordingly. The decision of the Inspector is open to legal challenge.

I hope this is helpful, but please do let me know if you should require any further information at this time.

Kind regards,

Janice Green

Rights of Way Officer

Wiltshire Council Waste and Environment

Ascot Court Trowbridge BA14 0XA

Telephone: Internal 13345 External: [+44 \(0\)1225 713345](tel:+44(0)1225713345)

Email: janice.green@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

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143 East Gomeldon Road
East Gomeldon
Salisbury
SP4 6NB
12 January 2017

Janice Green
Rights of Way Officer
Waste and Environment
Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Dear Miss Green

Reference: JG/PC/27 2015/11

Application to add a footpath to the definitive map and statement of public rights of way in the parish of Idmiston (Porton).

Ignorance is bliss and hindsight is a wonderful thing. I've reviewed the decision report for the above application. For Mark Jones hindsight would have been very useful and his apparent ignorance of the rights of way process could have a significant impact for him and his family. Had Mark knocked two signs into the ground at the north and south end of his private land saying something like "Private property – not a public right of way" 12 years ago he would not be in the unfortunate position he is facing now.

I am a resident of Idmiston Parish and live near Mark. I am aware of 3 planning applications he has made to construct a 3 bedroom and latterly a 2 bedroom property on the land affected by the application to add a footpath. I'm not siding either way in respect of any future planning application on this land, at present there are more planning issues affecting his ability to gain planning permission than just the alleged footpath on his land.

However I am writing to object to the proposed right of way on this land. I consider that the Council's report is fundamentally flawed and would not stand up to scrutiny under appeal. A sign off sheet showing that the report had been approved by 4 people. The report was dated 22 June 2016, the initial application being dated 3 November 2015 but there was a shocking gap of over 3 months before the Associate Director signed the report off. Clearly a path of circa 114m metres isn't the highest priority for the Council but I think the excessive turnaround time would have added to stress for people affected by the planning application.

As I mentioned earlier had Mark been better advised when he purchased the land he would have erected signs warning people that the property was private property and that people did not have any right to use it without his permission. The affected land is circa 30 metres long and 10 metres wide and in the absence of permission people could simply walk a few more metres on the road. I'm

guessing that in the absence of a pending planning application the local response would probably have been indifference. The fact that there was a planning application to erect a 2 bedroom property on the site is highly relevant to this application but the Council does not appear to have taken this into consideration when assessing the quality and reliability of the evidence submitted.

In the 60 page report you assessed a number of factors and explained some of the precedents and cases of English common law. In your study of the historical evidence supporting the alleged footpath you find no conclusive evidence to support the alleged footpath.

The proposed public right of way is marked A to B over the land owned by Mark Jones, with the remainder of the route ending at the gate of the recreation field. I do not consider that there is any contention over the remaining section of the path and the report notes that the 20 year clock for assessing the validity of the public right of way is started at the point when the fence was erected by Mark Jones.

Mark Jones claims that he had not seen any members of the public using his private land and would have asked anyone he had seen not to do so. A neighbour believed that it was private land, they had seen a few children crossing the land but the land was boggy and wet in winter, there was no footpath and the majority of people would walk around the road. The previous owner, Mr Pike, sold the land to Mark Jones and in his period of ownership (1998 – 2004) there was not a footpath and he did not give permission for the public to walk across the land. The previous owner in the 20 year period is believed to be Mr Ray Stockton. You quote one person who apparently knew the owner, the owner knew people were using the claimed route and was quite happy about it. In my professional career I deal with hard facts and evidence, the Council really do not have any solid evidence for this period that can be independently substantiated and including this statement as evidence that the owner at the time actively supported the alleged use of his land is thoroughly unprofessional. The whole basis of English law is that evidence has to be substantiated. The Council appear to be biased in attributing the opinion of a third party to the beliefs of a landowner.

The piece of land in question would be a natural short cut for people coming from the direction of Porton Nisa or heading back from the recreation field in the direction of the Porton Nisa. I can certainly see that in good weather and in the absence of any notice indicating the property was private land people would walk across the land. It may be that Mark or previous owners have seen occasional use but did not necessarily remember it in their initial submission of evidence. It may also be that any occasional use may have gone unnoticed or was not considered sufficiently significant to be an issue. This is clearly a mistake from his position as he should have been more active, whether there was any evidence of trespass or not.

The actual evidence of trespass appears to amount to mainly written evidence from 27 users, of whom roughly half have previously objected to the planning applications. In the report the Council note the contradictory nature of this evidence. Clearly there are some people who have never seen the area walked over and used as a footpath by the public and there are some people who appear to consider the alleged footpath to be well used. Given that Mark Jones is a self-employed person and works in agriculture it is perfectly reasonable to assume that he is unlikely to see many trespassers during weekday working hours or often weekends when he was working. As the alleged footpath leads to the recreation ground, which is locked during the night, he would most probably have missed physically seeing the majority of any alleged users trespassing over his land. This would cover

the period that he was living near the land and if the use was less frequent than indicated by the user evidence submissions he may have not had many trespassers to actually spot. Living away from Porton restricted his ability to have caught anybody in the act of trespassing over his land. Realistically apart from a friendly local resident Mark would need to rely on physical evidence to indicate a problem with trespassing. You might expect that the regular use of a grassed area would quickly lead to an established path physically obvious to the naked eye. There are various photographs of the alleged path in the report and also in documents lodged at Wiltshire Council in connection with the planning applications for the proposed development. None of these conclusively evidence a defined and well used path on this land, in fact most evidence a lack of any path.

The application is for a footpath that follows in a straight line along the line of the neighbouring Rose Cottage. It's interesting that in the photograph taken from "Fieldings" circa 1993 a red arrow shows an apparent path that curves in a completely different line from the proposed route. However as this is not in a line running parallel to the wall it would appear that this cannot be a footpath, its' not in the right place and doesn't follow a logical line for walkers to follow. Paragraph 10.35 refers to a picture taken in 1980, this appears to contain a possible path along the line of the proposed right of way, Mark Jones has various alternative reasons for this. The report then states that Google images and other photos were submitted and reviewed and "Officers have concluded that the Google images and estate agents photograph do not show a well trodden path over the green area". Officers also viewed aerial photographs held by Wiltshire Council and could only see a line that was in the wrong place and had probably been created by a mower or a vehicle. "Overall the photographic evidence of a well trodden track is inconclusive in this case and cannot be relied upon to support the existence of public rights".

In short there is no historical evidence to support the footpath and photographic evidence cannot be relied upon. This then leaves the user evidence forms. It is perfectly possible that these users have an alternative motive for supporting the application for the footpath and this motive may lead to a degree of exaggeration over the use of the alleged footpath. None of the user evidence statements are sworn under oath and I question the validity and reliability of evidence that has been given in the knowledge that a public right of way would torpedo the then current planning application and any future applications. I believe that the Council has been naïve and effectively adopted a numerical approach to the review. In the absence of any conclusive proof of the existence of the footpath the Council has accepted the user evidence supporting the footpath application and ignored the views of anyone holding the opposite view. I'm sure that people would have walked over the land at some point but this user evidence is biased and is not sufficient evidence to justify making the order.

It is interesting looking back at the initial objection letters for the 3 bedroom building originally applied for by Mark Jones. There were a few objections that mentioned the use of the land as a footpath but the majority of the objections failed to mention this initially. Some of the objection letters do not follow a logical argument that would support the existence of a footpath that could be a public right of way.

Jeremy Harris raised a number of concerns regarding the development including access issues around the tight bend if the property was built. He included a photograph of the area with a sign to the close knocked over. The photo does not show any conclusive evidence of the alleged footpath.

Ms Wendy Bright raised similar concerns but no mention of a footpath.

Steven Castellano lives in Fieldings and he numbered his concerns and had 10 points. Point 9 was that children and walkers regularly use Bourne Close to enter and exit the playing field. They need good visibility to safely approach the junction. Surely if there was a regular and well used footpath, which would be clearly visible to him as a local resident, the argument would be that the children and walkers have always been able to access the playing field safely by walking across the green and the proposed development would instead force children to use the road.

He submitted a further letter with 2 photos (one the view from Fieldings referred to above, showing a possible path in the wrong place and the same photograph that Jeremy Harris submitted). Again no mention of the actual footpath.

Mr and Mrs Bray have similar concerns, the open space provides a good line of sight for children. Again the logical argument would be that the existing footpath would be lost and children would be forced to use the road instead. The letter doesn't refer to any footpath at all.

Even Valerie Cresswell, who submitted the application for the right of way does not refer to any footpath or possible right of way in her first letter of objection, an unusual omission considering her later application.

Jane White included 7 concerns, one being that the development would obscure visibility, a common theme but again no mention that the green area was actually contained an existing footpath.

However a couple of objectors, Wesley Bright and Mark Adams did refer to use of the land as a right of way. I think it is significant that a number of the public have therefore recognised that the planning application registered in November 2014 is actually a clear challenge to any public use of the land. Planning to erect a residence on private land is a clear indication to any member of the public that this is not public land and there is no express or implied intention to allow the general public access to this land. Therefore I think it is also possible that the 20 year timescale used by the Council is not started from the point when public use is first called into question.

Moving on to the next application by this stage Mark Jones had submitted a new application for a two bedroom house. Most objection letters are very similar and are probably mainly simply saved on a computer and redated after minor changes. However I think that now a head of steam had been generated and people opposed to any development on the site had worked out that the existence of a public right of way would scupper any possibility of a future development, the site is too small to support a public right of way through the back garden.

Wendy Bright still doesn't refer to the footpath, Steven Castellano says that people have used the site as a footpath for 22 years and can provide photographic evidence to support this assertion. Mr & Mrs Bray don't really change their objections and make no reference to a footpath. Valerie Cresswell writes an expanded letter but makes no mention of a footpath, just loss of an informal open space and Clifford White submitted a letter (assume his wife is Jane at the same address) which refers to the loss of the footpath.

For the most recent planning application Wendy Bright now points out the green has been used for many years as a safe walking area. Mr & Mrs Bright also refer to the public use for the past 30 years.

Mr & Mrs Bray still raise safety concerns but make no reference to the loss of the footpath. Valerie Cresswell now refers to the use of the land by the public for as long as anyone can remember and that the Porton Neighbourhood Plan Group had begun the process of claiming the existence of a public right of way.

The Council report contains evidence from users (often the same objectors to the planning application) recording their use of the land and their view of how often and how wide the alleged footpath was. There are significant variations in the perceived width of the footpath over the Mark Jones land. The council have somehow arrived at a width of 1.46 metres. Given that the majority of users submitted a width of about 1m it seems odd that the Council has arrived at 1.46m. This seems to be an average approach based on the mean average of the answers including one of 4-5 metres. One thing that would be certain if the footpath was 1.46 metres wide, it would show up on the aerial photographs or other photographic evidence but no such evidence has been provided for any footpath.

In paragraph 10.60 the Council state that "none of the landowners claim to have carried out any overt acts to bring home to the public that the right of way was being challenged". However they have not been able to discuss this with the owner before Mr Pike, though they accept the word of a third party on his behalf! The Council seem very willing to accept the user evidence without viewing the evidence in the context that that it has been given and the planning application is probably the main driver for the right of way application. In the summary of representations and objections received at the time of the initial proposal Councillor Mike Hewitt sums it up perfectly. No problem with section from B to C, A to B is over private land and access can be easily obtained by walking around the road, where there has always been access. The only reason it is being asked for is because of the potential planning application. The Idmiston Parish Council minutes for their meeting dated 12 December 2016 have objected to the proposed footpath.

There is no adequate physical evidence of any well used footpath across the land and this is a concerted attempt by a minority of villagers to prevent any future planning permission being obtained. The proposed footpath is unnecessary and the likely use of the right of way will be minimal. There are plenty of valid reasons for a public rights of way to be established but this case is not one of them. The motives for the application are negative rather than positive, the public right of way application does not appear to have been made in good faith but is a blocking mechanism for any future planning applications.

The Council has made a poor effort at assessing the available evidence and have accepted user evidence from those claiming user, ignored the lack of supporting evidence and lack of physical evidence of any footpath. It seems to me that any public use would have been very light and their alleged trespassing over the land has not produced any physical evidence of the path. It's probable that Mark's failure to remember seeing any trespassers, to actually catch anyone in the act or actively do anything to prevent trespassing is more likely to be because there was such light use of the land that a footpath was never physically created and he had no reason to act.

The Council has also failed to take account of the views of the landowners or others who deny the existence of the footpath (apart from the one that they could not contact but were told by one witness that he was perfectly happy for people to use the land). The user evidence is not consistent with earlier objections to the planning applications. These inconsistencies are relevant to the

subsequent user evidence submissions as they demonstrate that there is a clear bias in the evidence submitted and they are not consistent with the earlier objections. If the alleged public right of way had been public knowledge at the time of these objections then it would be an obvious point to raise. It's inconsistent to refer to safety concerns without referring to the loss of the "right of way".

Overall I think there is really a lack of evidence to demonstrate that the alleged path exists and this application will fail when reviewed by an independent third party.

Yours sincerely

Geoff Thomas

Farleys Malone 108
Winterslow Road
Porton
Salisbury, Wiltshire
SP4 0JX

For the Attention of Janice Green
Rights of Way Officer
Rights of Way Countryside Team
Waste and Environment
County Hall
Bythesea Road
Trowbridge
Wiltshire BA14 8JN

23rd January 2017

Dear Janice

REF : JG/PC/27 2015/11

**Wildlife and Countryside Act 1981 – Section 53
The Wiltshire Council (Parish of Idmiston) Path No9 Definitive Map and
Statement Modification Order 2016**

I write in response to the above matter as an Ex Chair of Idmiston Parish Council.

I held the office of Chair of Idmiston Parish Council from April 2008 until May 2012.

I had worked as a Parish Councillor for over six years and it was my understanding that Bourne Close roadway belonged to the Parish Council and it was the Parish Councils responsibility to maintain it.

I always walked my dogs through the playing field by the entrance on Winterslow road and then through and out down Bourne Close. We have never walked on the grass verge as it does not join the pathway to the playing field and it is a very very quiet road with hardly any traffic movements, except for access to the houses, therefore there was no necessity to walk anywhere other than on the roadway.

To my knowledge and recollections, I have never seen anyone walking along the grass nor was there any evidence of a worn pathway of any description to identify a pathway on this grassed area. It was widely known that this was a privately owned piece of land and not Council owned.

As a Parish Council we were never asked to provide a pathway across that piece of land, as everyone that we are aware of uses the roadway.

I personally would consider it to be a complete waste of Council funding to put a pathway where we do not need one and as a resident of Porton am completely opposed to this pathway as it is totally unnecessary.

Andrew Tidd

Farleys Malone 108
Winterslow Road
Porton
Salisbury, Wiltshire
SP4 0JX

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I held the office of Chair of Idmiston Parish Council from May 2012 until July 2014 when due to family commitments I took a sabbatical from the Parish Council and then subsequently resigned as Chair and as a Parish Councillor, in the Autumn of 2014.

I had worked as a Parish Councillor for over six years and it was my understanding that Bourne Close roadway belonged to the Parish Council and it was the Parish Councils responsibility to maintain it.

We have always walked our dogs through the playing field by the entrance on Winterslow road and then through and out down Bourne Close. We have never walked on the grass verge as it does not join the pathway to the playing field and it is a very very quiet road with hardly any traffic movements, except for access to the houses, therefore there was no necessity to walk anywhere other than on the roadway.

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Jan Tidd

Green, Janice

From: BARBARA TOOZE
Sent: 15 January 2017 10:48
To: Green, Janice
Subject: Ref JG/PC/27 2015/11

Follow Up Flag: Follow up
Flag Status: Completed

Dear Ms Green,

I am aware that the council has decided to make an order to make a public right of way across a piece of land in the High St, Porton. Ref JG/PC/27 2015/11.

I would like to make an objection to this plan as I believe that this footpath is in the wrong place. People walk to the recreation ground along the roadway of Bourne Close from the High St. I am concerned that the order to put the footpath across a private piece of land will result in significant costs to the village and county council for a footpath that is not required. Rather than make a new footpath across this piece of land, perhaps the order should place the footpath along the route taken by so many people, including myself in the past, and follow the line of the roadway rather than across the piece of open land.

Mrs Barbara Tooze
Merrymeet
Green Lane
Ford