

DECISION REPORT
WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53
APPLICATION TO ADD A FOOTPATH TO THE DEFINITIVE MAP AND STATEMENT OF
PUBLIC RIGHTS OF WAY – PEWSEY- MILTON LILBOURNE

1. Purpose of Report

- 1.1. To determine an application, made under Section 53 of the Wildlife and Countryside Act 1981, to add footpaths to the definitive map and statement of public rights of way, in the Parishes of Pewsey and Milton Lilbourne. The claimed routes lead from footpath PEWS37 in an easterly direction to bridleway PEWS 38 where the route splits in two, one spur leading east on the northern side of a stream before crossing back over the stream and continuing east to bridleway MLIL18. The other spur leads east from bridleway PEWS38 on the southern side of the stream following the stream south easterly to its junction with bridleway MLIL18.

2. Relevance to Council's Business Plan

- 2.1. 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.

3. Location

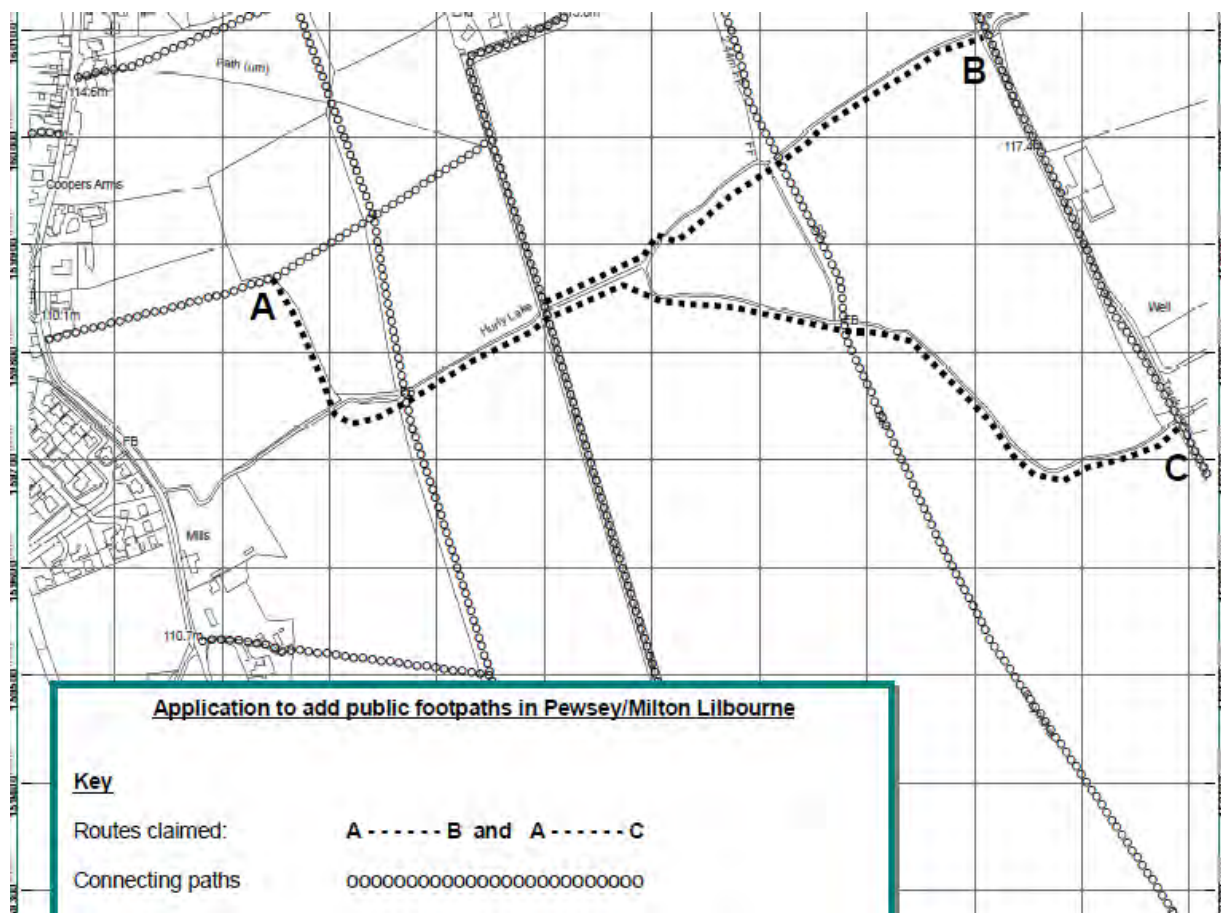


3.1 The claimed routes are south east of the village of Pewsey and just south of the small hamlet of Kepnal. Following the route of Hurlly Lake stream the claimed routes cross over into the parish of Milton Lilbourne, with the village of Milton Lilbourne further to the east along the B3087.

3.2 2014 Aerial Photo of area with public rights of way marked – footpaths denoted by purple lines and bridleways by green lines.



4. Claimed Footpath Routes

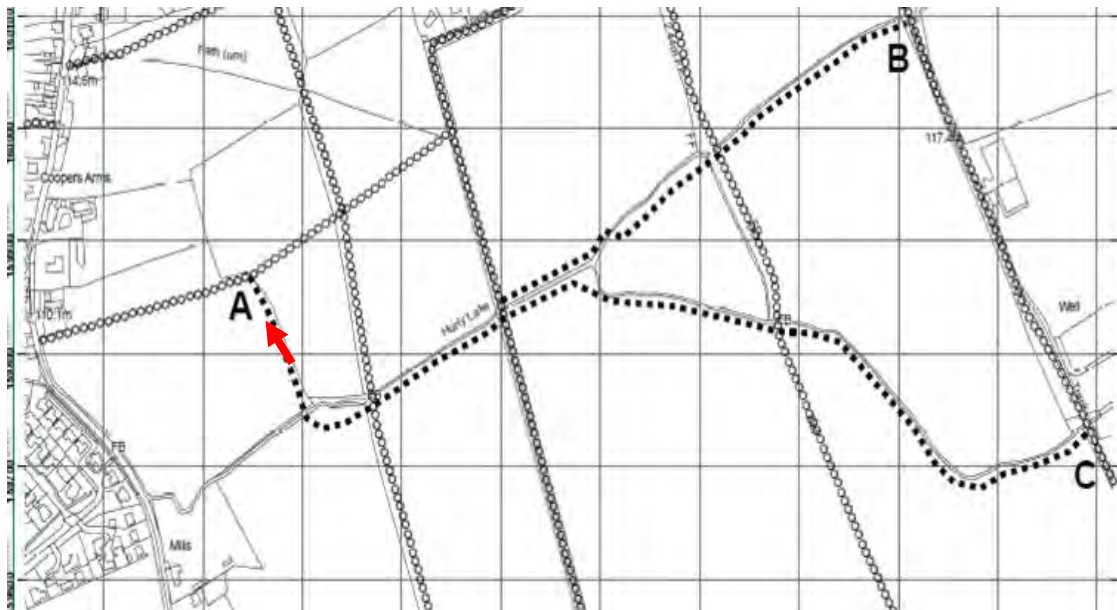


4.1. The application is made under Section 53 of the Wildlife and Countryside Act 1981, to add a footpath to the definitive map and statement of public rights of way in the parishes of Pewsey and Milton Lilbourne, leading from point A, at its junction with footpath Pewsey 37 leading south and the turning east to meet bridleway Pewsey 38. The route then splits in two, one leading on the north side of Hurly Lake (which is a stream) and continuing east to its junction with bridleway Milton Lilbourne at point B. The other leads from Pewsey 38 on the south side of Hurly Lake, continuing in a south easterly direction to its junction with bridleway Milton Lilbourne 18 at point C. Route A to C is approximately 1,050 metres long. Route A – B is approximately 880 metres long.

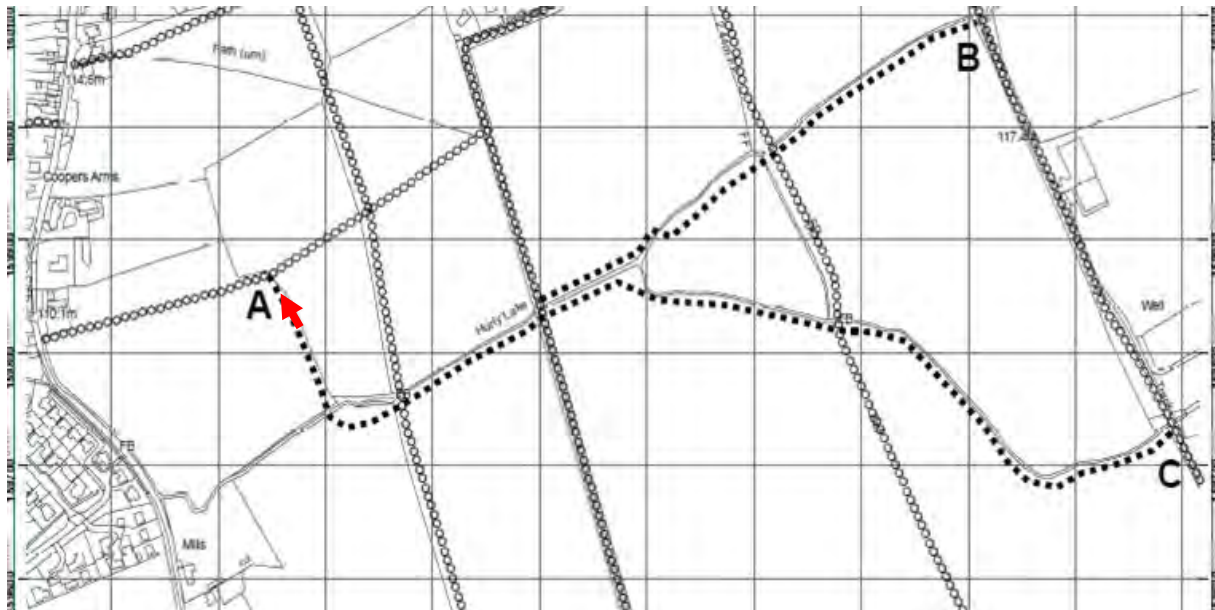
5. Photographs

Photos taken on 5th June 2017 of the claimed route.

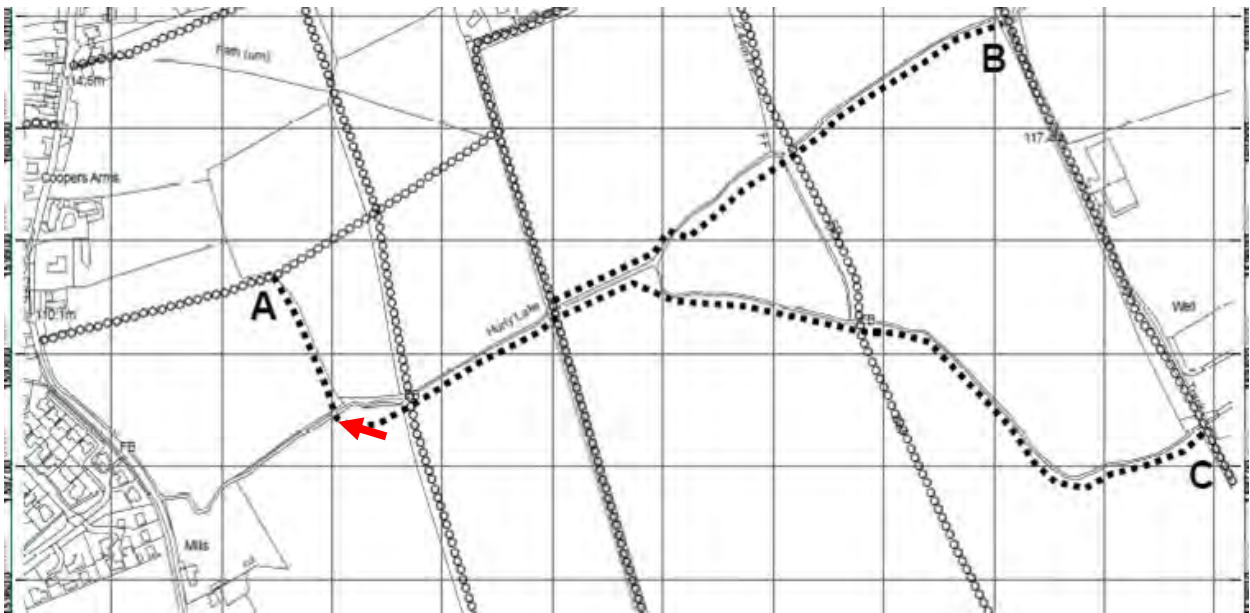
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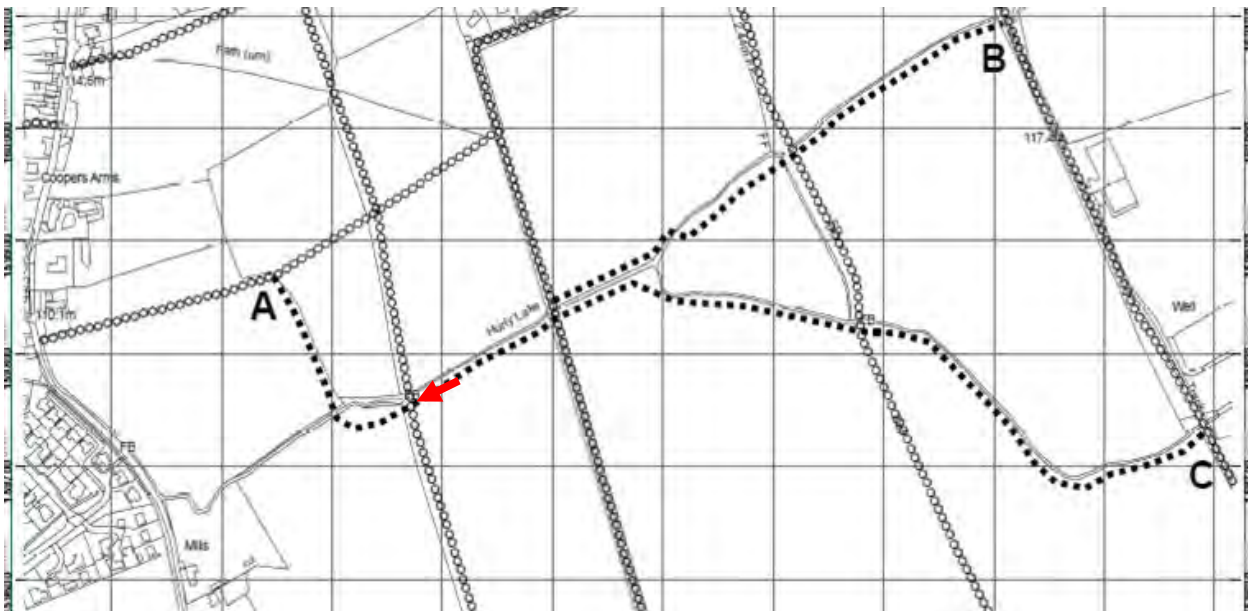
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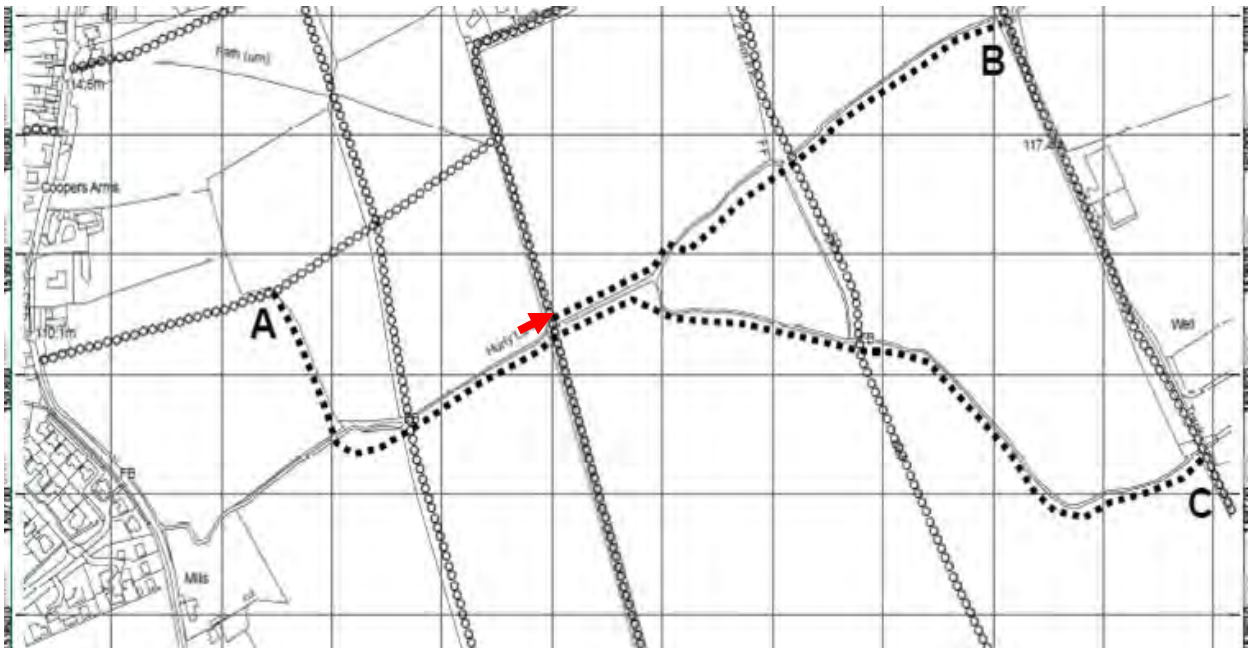
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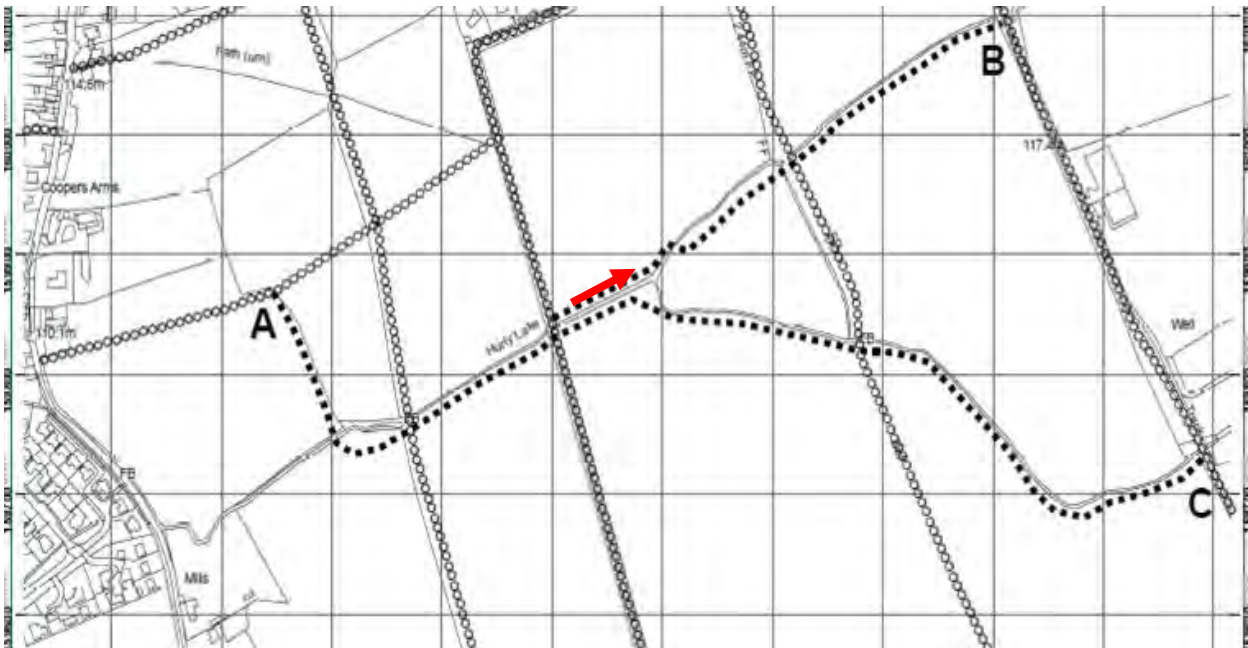
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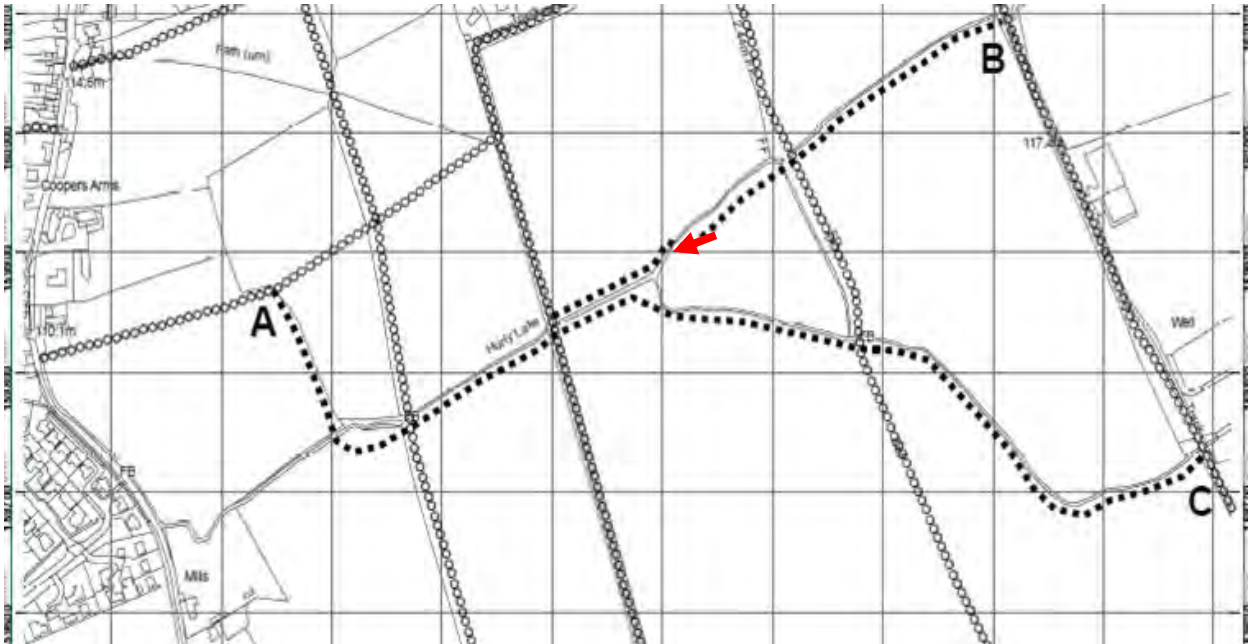
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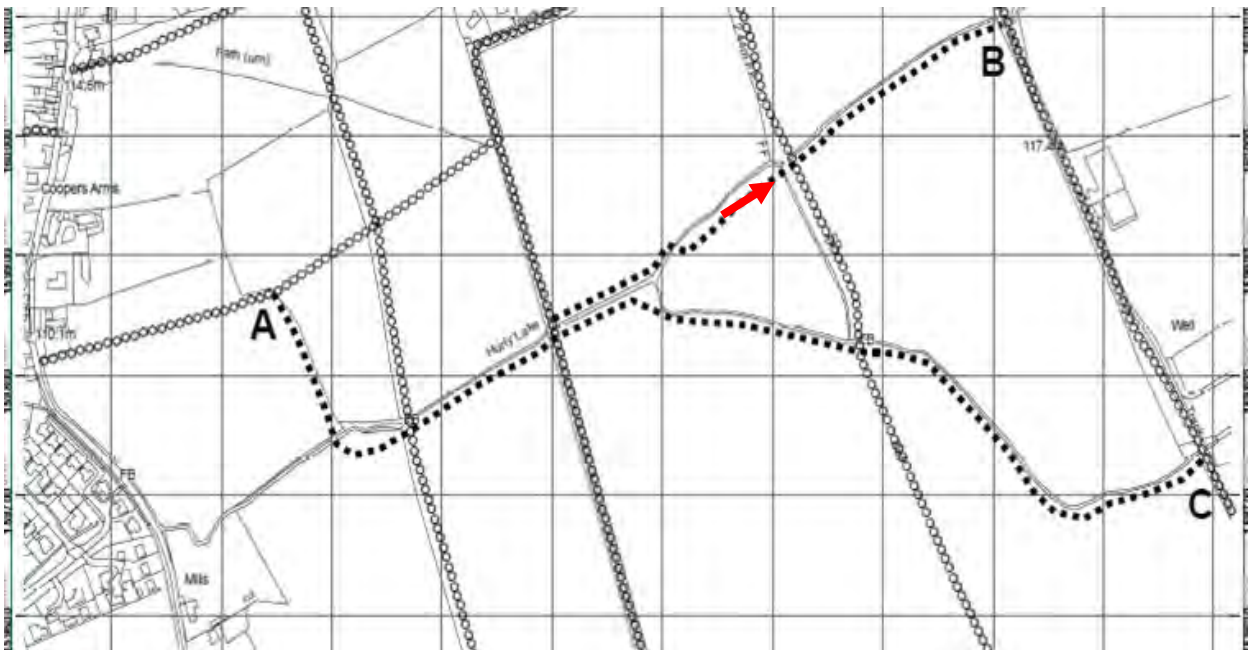
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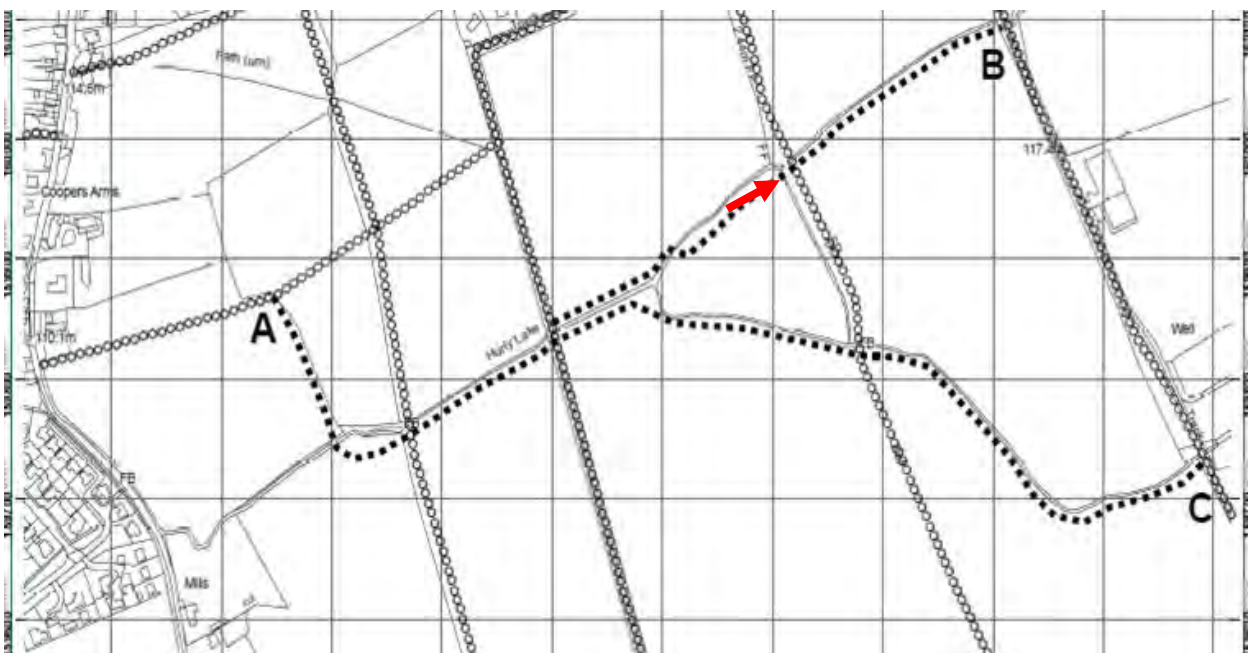
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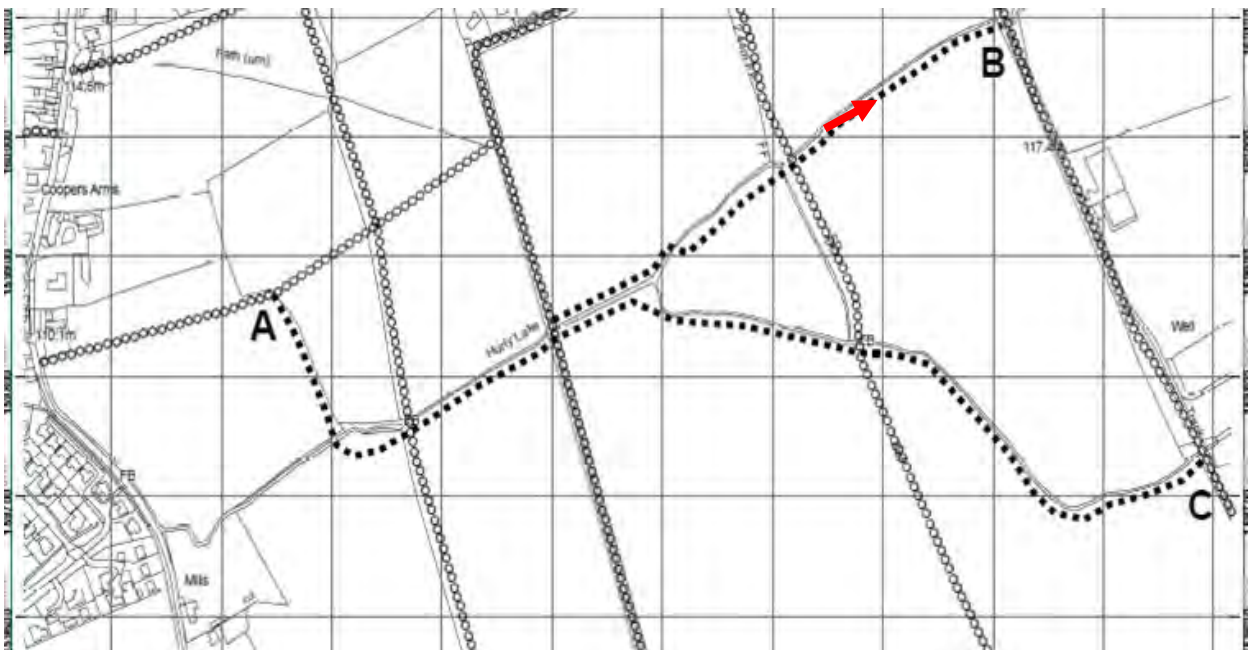
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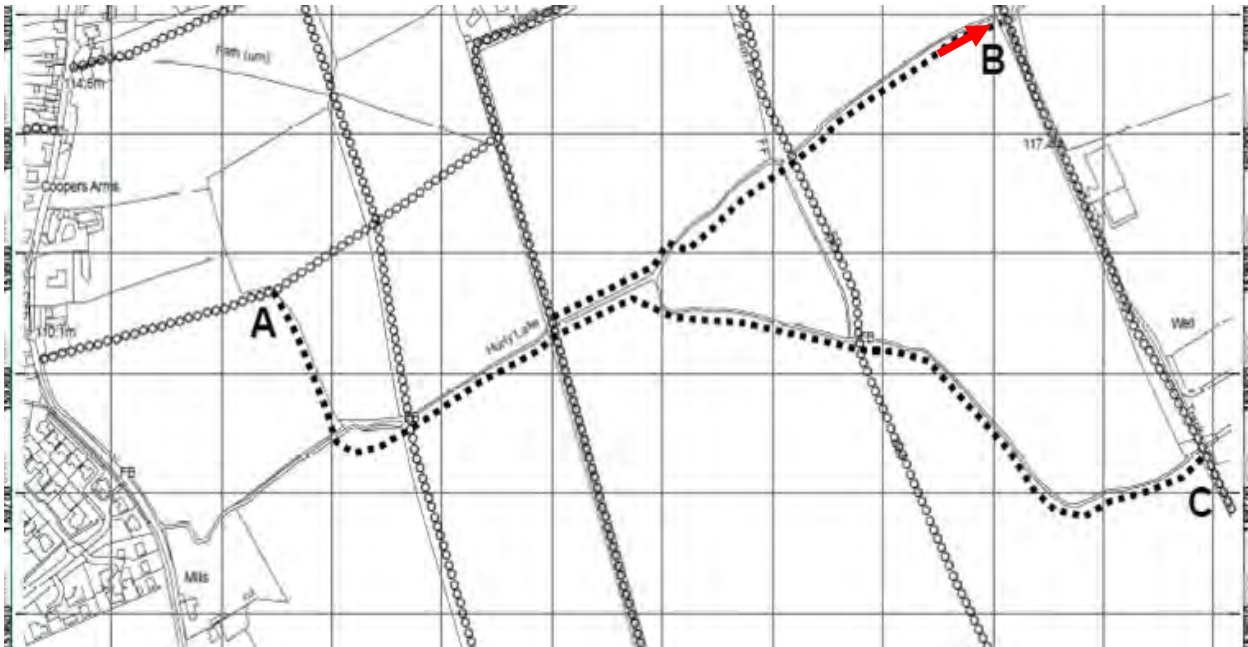
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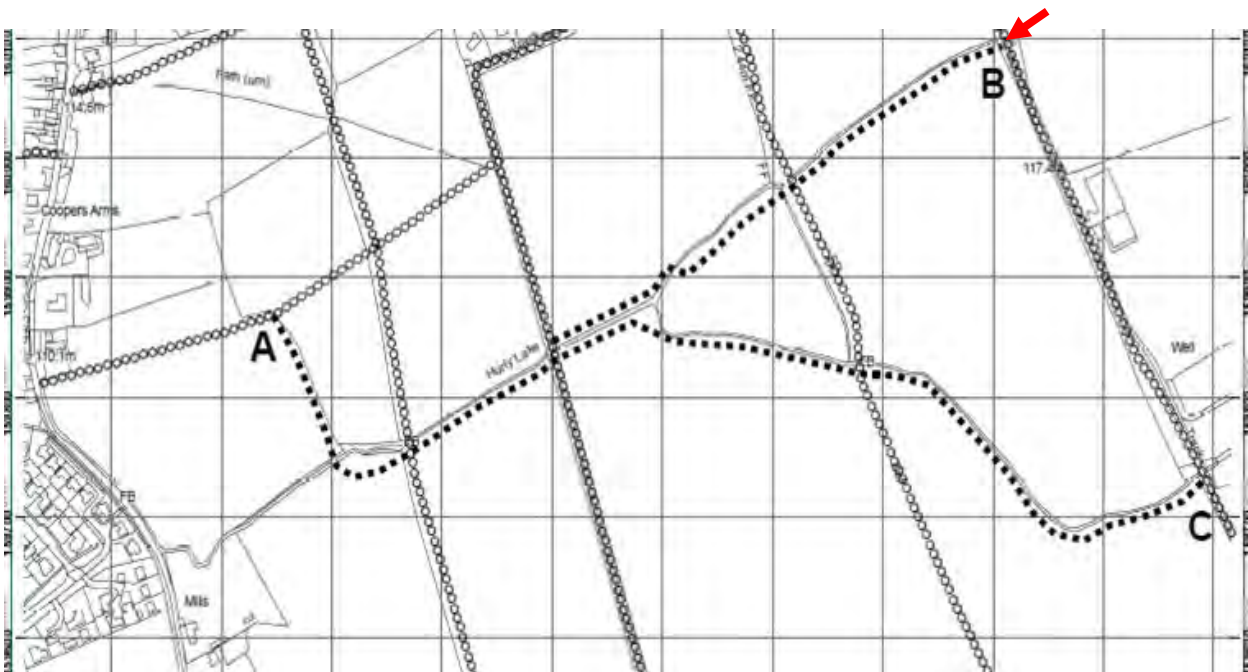
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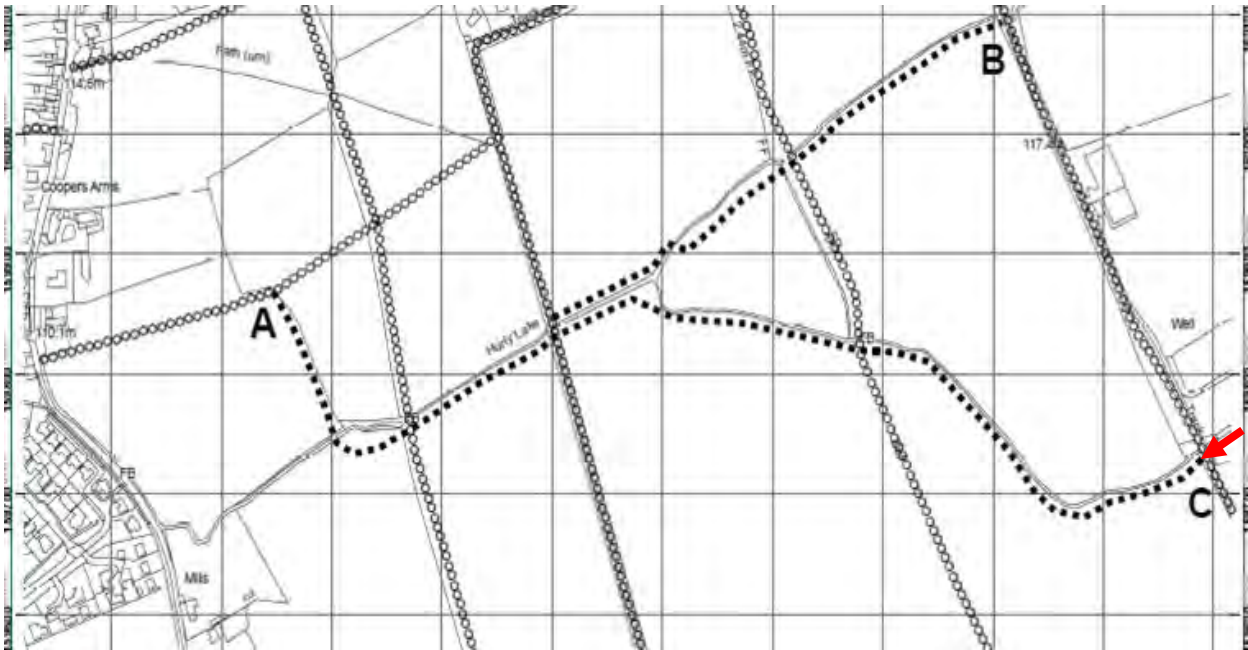
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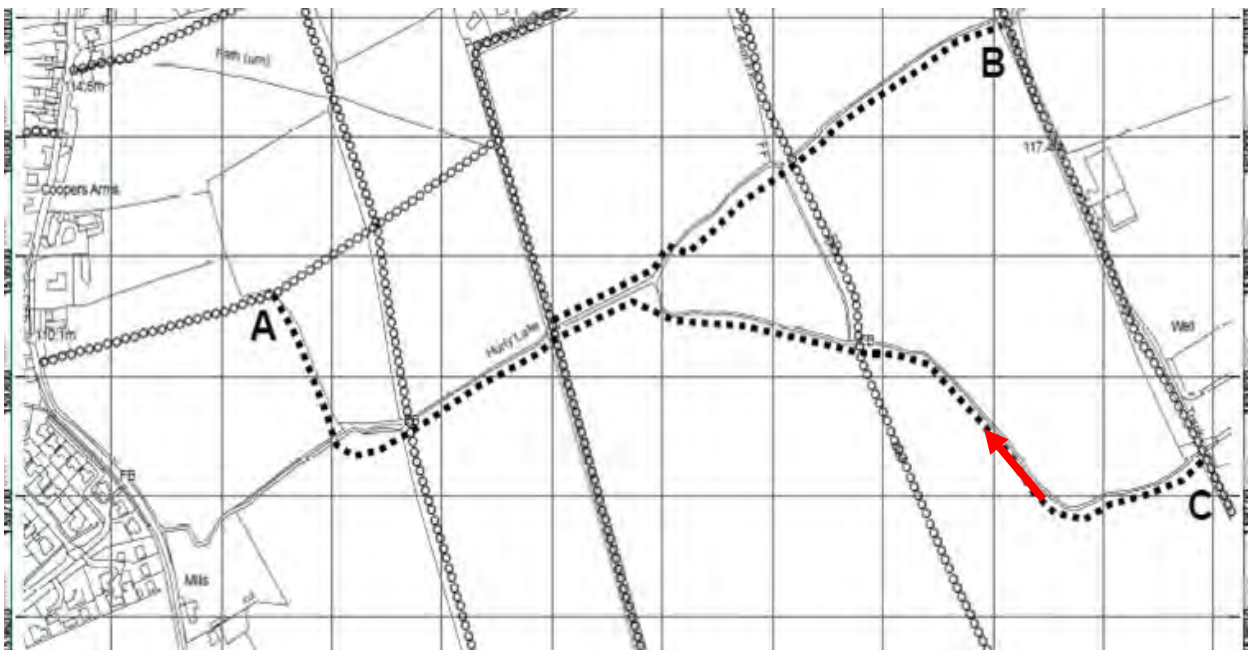
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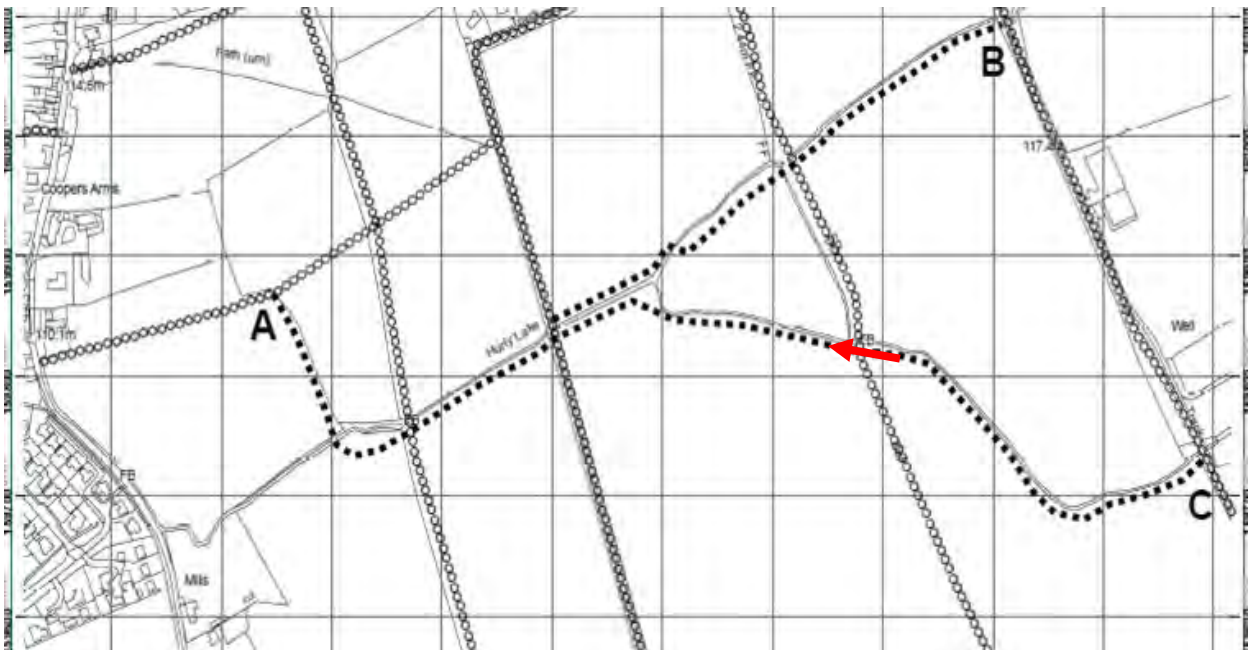
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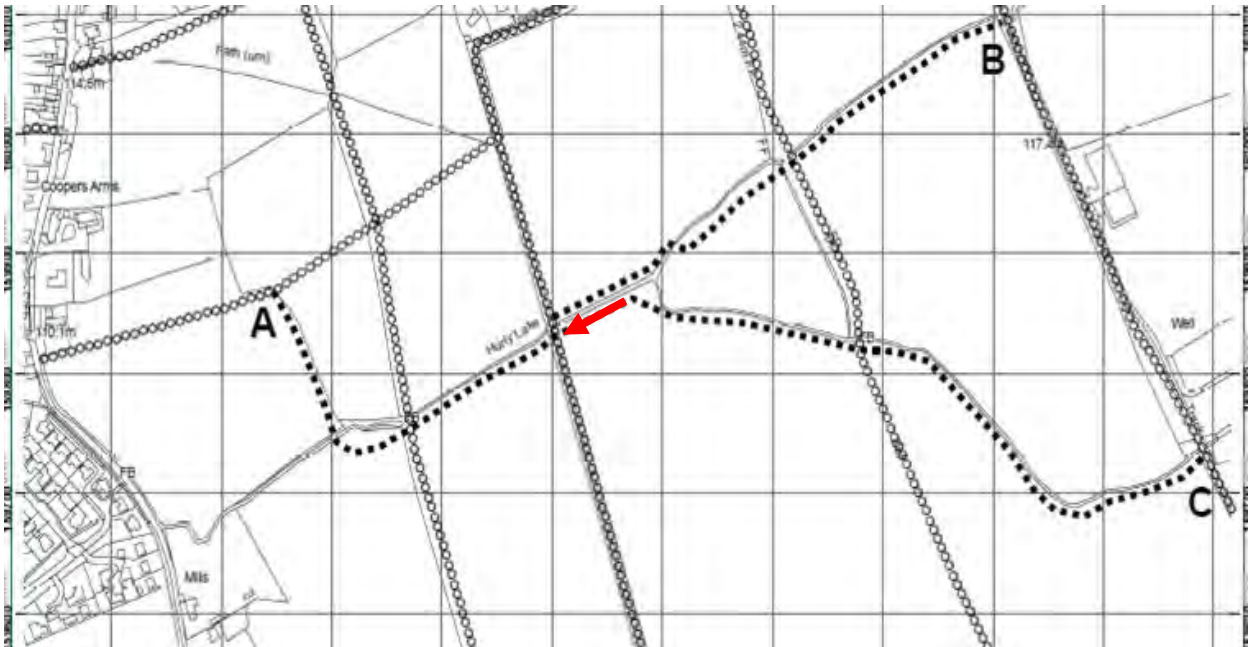
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6. Registered Landowners

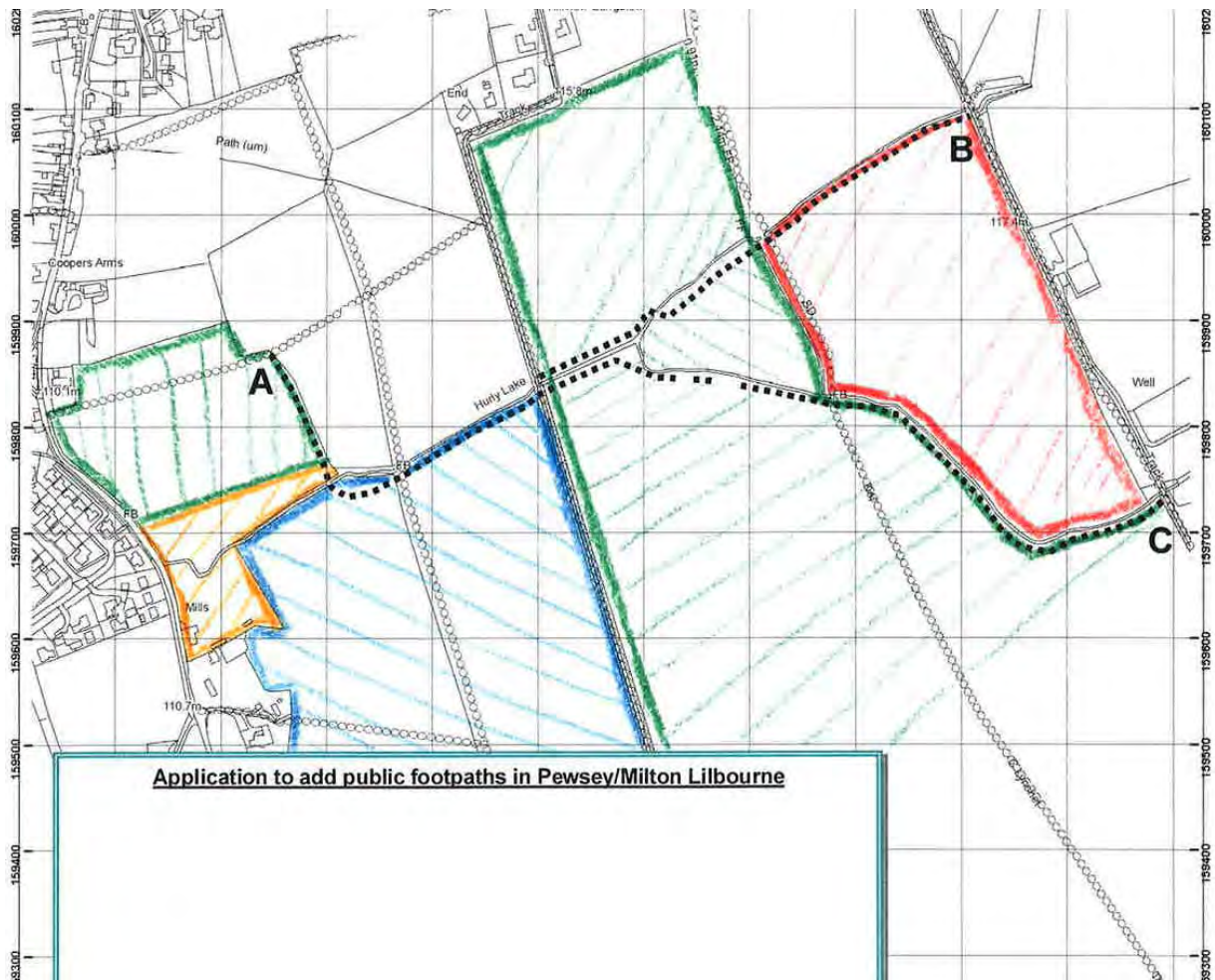
6.1. The three owners of the land affected by the application are:

Mrs Sarah Ingram Hill of Southcott House, Pewsey, Wiltshire, SN9 5JF- **land hatched in blue**

Mrs Rachel Kim Laughton of Green Drove House, Green Drove, Pewsey, Wiltshire, SN9 5JD- **land hatched in green**

Mr Alexander Newbigging c/o Fyfield Manor, Pewsey, Wiltshire, SN9 5JS- **land hatched in red**

James and Josephine Del Mar of Mills Farm. Southcott, Pewsey, Wiltshire, SN9 5JF- **land hatched in orange** were believed to have been directly affected by this application. Mr Del Mar has since stated his landownership only reaches up to the culvert entering the field(which is owned by Ms Laughton) and as such the claimed footpath does not actually enter his ownership.



6.2. The application was made in the name of Pewsey East Walkers. The contact is Mr George Haddock of 8 St. Johns Close , Pewsey. Pewsey East Walkers have served notice on the landowners J.M Strong and Partners of Green Drove House , Pewsey, Ingram Holdings Ltd of Southcott House, Pewsey, D.K Newbigging of Fyfield Manor, Pewsey and Francis and Gaye Brook of Conygre Farm, Easton Royal who they state are the land tenants of D.K Newbigging. James and Josephine Del Mar did not have notice served upon them but have since been consulted on the application. Mr Del Mar has since informed officers he does not believe the claimed route is over his land as the entrance to the field which the claimed route traverses is owned by Mrs Laughton.

7. Background

7.1. Wiltshire Council are in receipt of an application made under Section 53 of the Wildlife and Countryside Act 1981, to add a footpath to the definitive map and statement of public rights

of way, in the parishes of Pewsey and Milton Lilbourne. The claimed routes lead from footpath PEWS37 in an easterly direction to bridleway PEWS 38 where the route splits in two, one spur leading east on the northern side of a stream before crossing back over the stream and continuing east to bridleway MLIL18. The other spur leads east from bridleway PEWS38 on the southern side of the stream following the stream south easterly to its junction with bridleway MLIL18. The application is dated 12th April 2017 and is made by Pewsey East Walkers c/o of 8 Manor St Johns Close, Pewsey, Wiltshire, SN9 5BJ on the grounds that public footpath rights can be reasonably alleged to subsist or subsist over the land, on the balance of probabilities, based on user evidence and should be recorded within the definitive map and statement of public rights of way.

- 7.2. The application forms comply with the regulations set out in regulation 8(3) Schedule 7 of the Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 SI 1993 No 12 and are accompanied by a plan drawn at a scale of 1:6000 highlighting the claimed route, 44 completed user evidence forms and supporting evidence.

8. Initial Consultation

Wiltshire Council undertook an initial consultation regarding the proposal on 7th June 2017. User groups, Pewsey Parish Council, Milton Lilbourne Parish Council, landowners, the Council member for area, neighbouring properties and all interested parties were consulted as part of this process. The following replies were received.

- 8.1. Pewsey Parish Council replied by email as follows:

“Dear Craig,

Your ref CH/PEWS/2017/02

Firstly, you should know that the walkers concerned wanted Pewsey Parish Council to put this application in on their behalf.

Two of the walkers attended the Full Council meeting on 14th March 2017 to put their case, but the Councillors voted, by a substantial majority, not to support them, believing that there was a good network of footpaths available in Pewsey already (copy of minutes attached item 3/13).

Prior to the Council meeting, we had brokered a meeting with one of the landowners and the walkers. The landowner made an offer to accommodate the walkers which we believed to be very fair and reasonable, and we are disappointed that it has proved unacceptable to them.

Yours sincerely

Alison Kent
Clerk to Pewsey Parish Council"

The minutes referred to are below. The relevant section has been extracted from the full minutes.

PEWSEY PARISH COUNCIL

MINUTES OF A MEETING OF THE **FULL COUNCIL** HELD IN THE PARISH OFFICE, BOUVERIE HALL, PEWSEY ON 14th MARCH 2017 at 7.00pm

PRESENT: Cllr Haskell (Chairman), Cllr Fleming, Cllrs Mrs Dalrymple, Ann Hogg, Mrs Hughes, Mrs Hunt, Mrs Stevens, Cllrs Carder, Coppard, Eyles, Ford, Giles, Hagan, Kimber, Smith and Stevens.

IN ATTENDANCE: Alison Kent (Clerk), Mr Haddock and members of the public.

3/1 APOLOGIES: Cllr Kerry Pycroft, Cllrs Deck and Sharpe.

3/2 DECLARATION OF INTEREST: Cllr Ford on item 8 c).

3/13 FOOTPATHS: Cllr Haskell had reported the missing sign on FP39 and the bridge crossing on FP36. On 20th February, he, Cllr Deck and Eyles had met with local walkers and one of the landowners relating to a well-used route. The subsequent letter and map from the landowner had been circulated to all members along with the email correspondence between Mr Haddock and Rights of Way. Although already presented at the last Environment Committee, Mr Haddock explained the walkers' case showing the application route marked in red. Nearly all definitive paths and bridleways in this area go north-south. This well walked route goes w-e, making it an important connecting route and as a circular route. He stated that it had always been one of the most used routes on the eastern side of Pewsey. New landowners had erected barriers since September 2016 on routes previously walked by many people without restrictions. It was important to realise that they were not seeking to create a new route, it was considered an ancient route possibly used for centuries.

At the informal meeting with one of the landowners (there are four) the issue of ground nesting birds on nature strips at the field edges was cited. Vehicle tracks had been witnessed. He felt that the Rights of Way officer seemed pretty clear that the route could be turned into a defined route, especially if evidence provided of use for more than 20 years. The application was a dry legal process. If the Parish Council made the application then the process would be depersonalised. The effort made to reach a compromise was appreciated but the outcome not suitable. Over 40 people have completed the user evidence document and were also prepared to attend any public meeting or enquiry.

Cllr Haskell said that the informal meeting was held to be fair and equitable. Cllr Giles said that the proposed route was not a registered footpath. The walkers were claiming it was a right of way created by historic usage, the landowners claiming that it is historic trespass. He felt that it was for the walkers to put together and present their case, not obligatory for the Parish Council to make the application. It was worth remembering the support that local landowners had given to various causes in Pewsey over many years which should be taken into consideration.

Cllr Mrs Hunt asked why the walkers insisted on adding a further route which was not a footpath when there was a perfectly accessible, legal route nearby. She had also noted the signs had been vandalised. Cllr Fleming accepted that the compromise only covered a quarter of the proposed route. With the opinion expressed by Rights of Way the application was likely to proceed whether the Parish Council liked it or not. He asked where the duty of the Parish Council lay, with the walkers or the landowners. Cllr Eyles agreed with the comments made by Cllr Giles. Cllr Ford could not agree with spending any money on the process. Cllr Stevens honestly believed that this route had not been used that often and suggested the application should be made by the local ramblers group rather than the Parish Council.

Cllr Giles proposed that the Parish Council do not lead an application for the registration of this route as an official Right of Way, seconded Cllr Ford, 15 for, 1 against.

8.2. Milton Lilbourne Parish Council replied by email on 4th July :

Craig

Please be advised we as the Parish Council fully support the introduction (or re-introduction) of the said paths and opening of the countryside, but can offer no additional evidence in support currently

Kind Regards

ROBERT JONES Clerk
Milton Lilbourne Parish Council

A further email was received later that day :

Dear Craig

Please note in addition that Milton Lilbourne Parish Council in particular support route C as it is a well-used link between Clay Lane (ML1) bridleway and the recently re-opened bridleway 18A, which runs along our western boundary.

Yours sincerely

David Fall
(Vice Chairman MLPC)

8.3 Emma Kingston representing Alexander Newbigging responded;

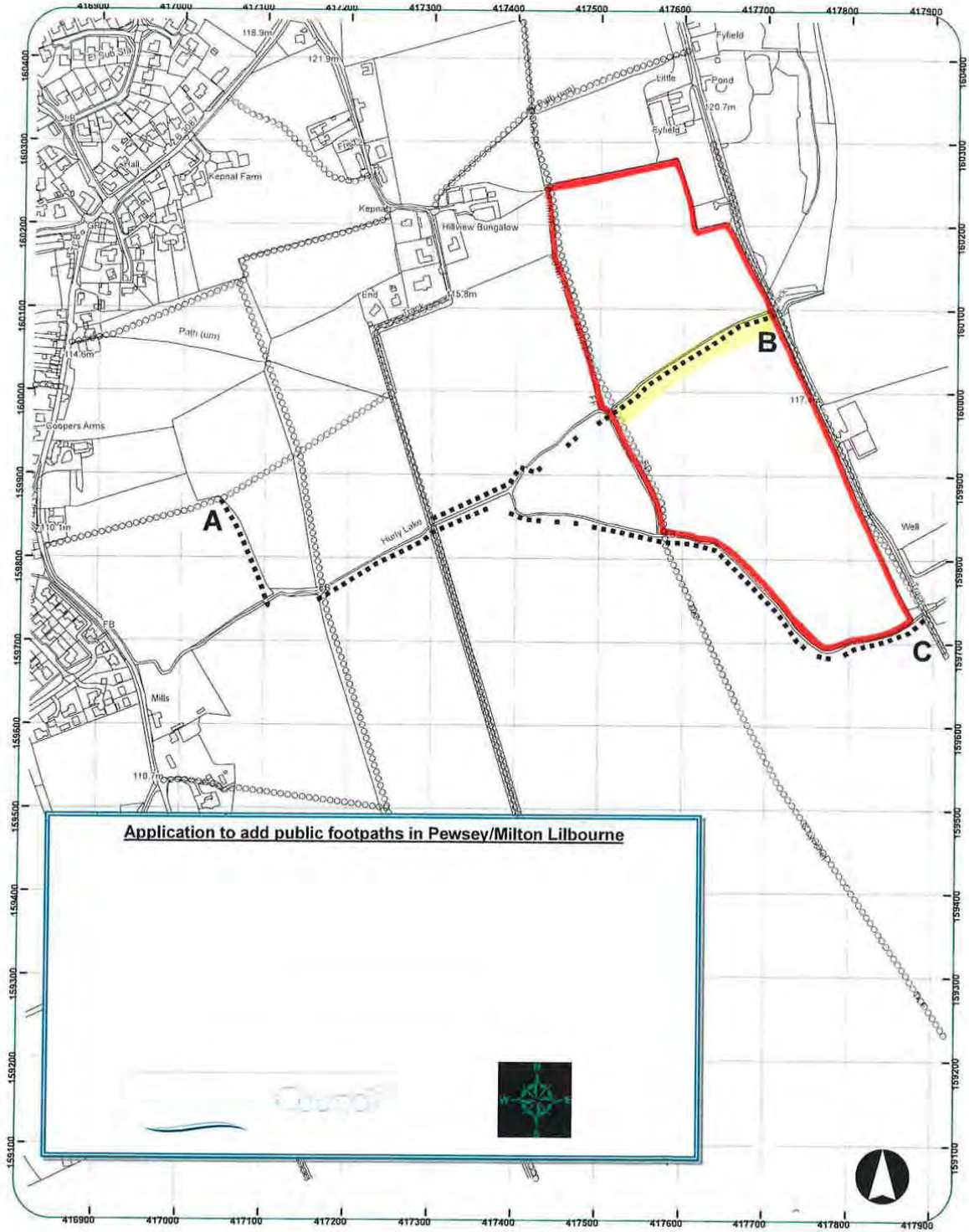
I am writing in response to your letter dated 7th June 2017 on behalf of Alexander Newbigging, the freehold owner of land at Fyfield, as shown edged red on the attached plan. Part of the claimed route A-B affects my client's land (as highlighted yellow).

Although my client has only owned this land since September 2016, the Newbigging family have lived in Fyfield and indeed have owned the land immediately to the north for over thirty years. During this time, it has not been apparent that frequent use has been made of this path, and it is evident from the physical state of the ground that frequent use has not been made – see photo attached (taken 15 May 2017).

My client objects to this application on the basis that he does not believe that there has been sufficient use of the section over his land to justify the claim. Is the evidence that has been submitted by the claimed users available for us to view?

I look forward to hearing from you further.

h Coun





8.4. Maggie Roberts of Meadowcroft, Kepnal, Pewsey responded;

As you are aware, there is only one footpath mapped between Kepnal and Fyfield. As far as the parish boundary, this has been impassable for 3-4 weeks due to the oilseed rape tangling....on the east side of the parish boundary, the footpath has been sprayed and kept clear.

This enforces the need to keep the streamside paths open, as they always have been, and to allow people to move around independently without the use of cars.

Regards, Maggie Roberts, Meadowcroft, Kepnal Sent from my Huawei Mobile

8.5 Geoffrey Parsons the Wiltshire Ramblers representative for the area responded;

*Myren Flat
30 Studly Rise
TROWBRIDGE
Wilt's BA14 0PH
3/6/2017*

Dear Craig,

With Reference to the Application for an Order to Add footpaths to the definitive map and statement in Pewsey and Milton Lilbourne.

Unfortunately because of very recent Major Knee Surgery, I am unable to get out and do a site visit, but looking at the Area Map and environs I would welcome the addition of these Paths

yours sincerely



8.6 Ms (Rachel) Kim Laughton and Ms Sarah Ingram Hill , both landowners, responded with landowner evidence forms and supporting evidence. These can be seen at appendix A and B of this report.

9. Main Considerations for the Council

9.1. The definitive map and statement of public rights of way are conclusive evidence as to the particulars contained therein, however this is without prejudice to any question whether the public had at that date any right of way other than that right. Wiltshire Council is the Surveying Authority for the County of Wiltshire, excluding the Borough of Swindon. The Surveying Authority is the body responsible for the preparation and continuous review of the definitive map and statement of public rights of way. The Wildlife and Countryside Act 1981 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.”*

9.2. The event referred to in subsection 2 (as above) relevant to this case is:

“(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.”*

9.3. Section 53 (5) of the Act allows any person to apply for a definitive map modification order under subsection 2 (above), as follows:

“Any person may apply to the authority 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.”

9.4. Schedule 14 of the Wildlife and Countryside 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.”

The prescribed scale is included within the *“Statutory Instruments 1993 No.12 Rights of Way – The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993”*, which states that *“A definitive map shall be on a scale of not less than 1/25,000.”*

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.

9.5. Section 31 (as amended) of the Highways Act 1980, refers to the dedication of a way as a highway, presumed after public use for 20 years:

- “(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 been actually enjoyed by the public as of right without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.*
- (2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.*
- (3) Where the owner of the land over which any such way as aforesaid passes –*
- (a) has erected in such a manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and*
- (b) has maintained the notice after the 1st January 1934, or any later date on which it was erected, the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.*
- (4) In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) above, so however, that no injury is done thereby to the business or occupation of the tenant.*
- (5) Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as highway is, in the absence of proof to a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as highway.*
- (6) An owner of land may at any time deposit with the appropriate council-*
- (a) a map of the land on a scale of not less than 6 inches to 1 mile and*

(b) a statement indicating what ways (if any) over the land he admits to having been dedicated as highways;

And, in any case in which such a deposit has been made, statutory declarations made by that owner or by his successors in title and lodged by him or them with the appropriate council at any time –

(i) within ten years from the date of deposit

(ii) within ten years from the date on which any previous declaration was last lodged under this section,

to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgement of such previous declaration, as the case may be, are, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.

(7) For the purpose of the foregoing provisions of this section, ‘owner’, in relation to any land, means a person who is for the time being entitled to dispose of the fee simple in the land; and for the purposes of subsections (5) and (6) above ‘the appropriate council’ means the council of the county, metropolitan district or London Borough in which the way (in the case of subsection (5)) or the land (in the case of subsection (6)) is situated or, where the land is situated in the City, the Common Council.

(7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an Order making modifications so as to show the right on the definitive map and statement.

(7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.

(8) *Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public and statutory purposes to dedicate a way over land as a highway if the existence of a highway would be incompatible with those purposes.*”

9.6. Section 32 of the Highways Act 1980, states that the authority may consider a range of historical documents and their provenance:

“Evidence of dedication of a way as highway

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 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.”

10. Documentary Evidence

10.1. Ordnance Survey (OS) maps covering the area have been viewed using the National Library of Scotland website <http://maps.nls.uk> to ascertain if any historical evidence could be found of a public right existing over the claimed route.

10.2 OS Map 1886/7 Scale of 1:2500



10.3 OS Map 1900 scale of 1:2500



10.4 OS Map 1936/9 scale 1:2500



10.5. In the maps above it can be seen that no recorded footpath or any other path was recorded on any of the OS maps dating back to 1886. It should be noted from 1888, OS maps carried a disclaimer that the representation of a track or way on the map was not evidence of a public right of way.

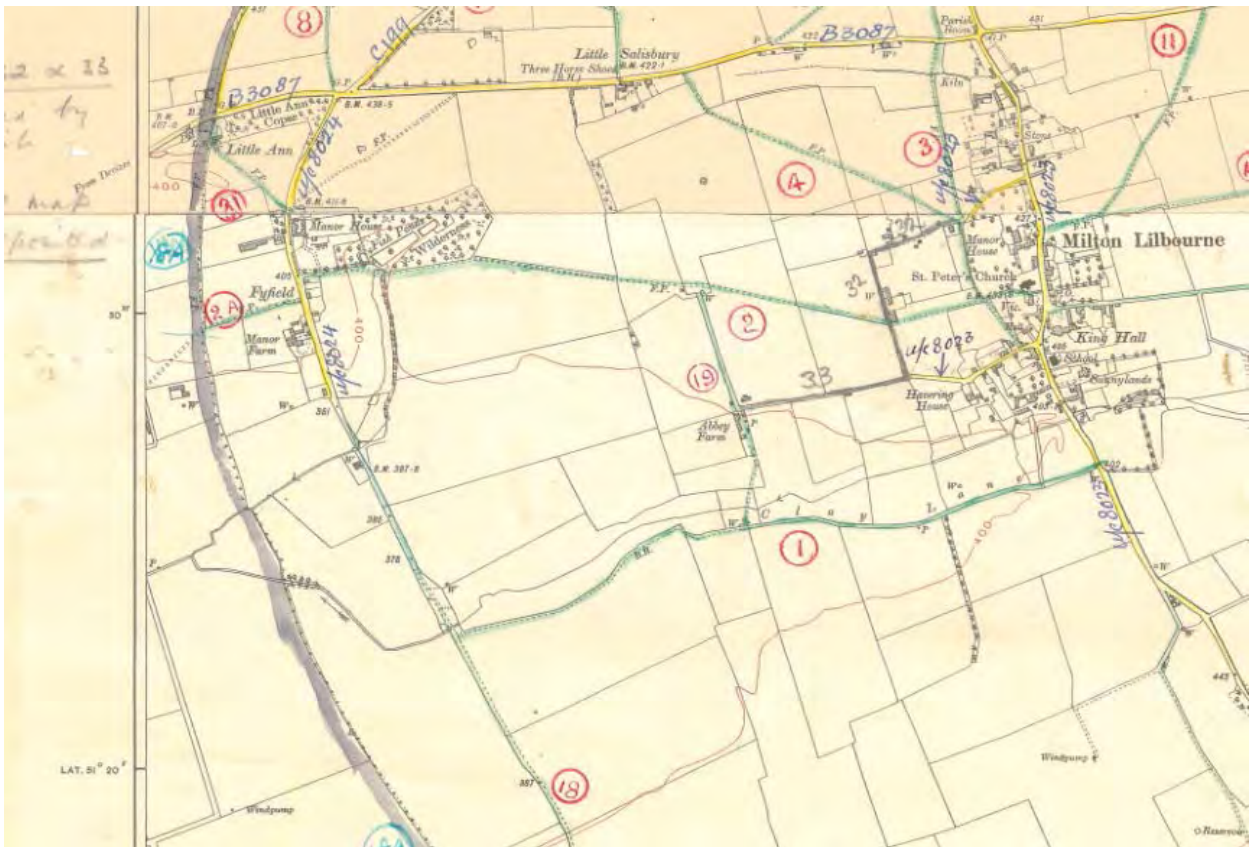
10.6. The preliminary step to creating the definitive map of public rights of way as a result of the National Parks and Countryside Access (NPACA) act 1949 was for each parish to submit a map to the county council marking the public rights of way which they believed existed in their parish. The parish claim map and statements, submitted by Pewsey and Milton Lilbourne Parish Councils can be seen below.

10.7. Pewsey Parish Claim map- surveyed 1950-1951



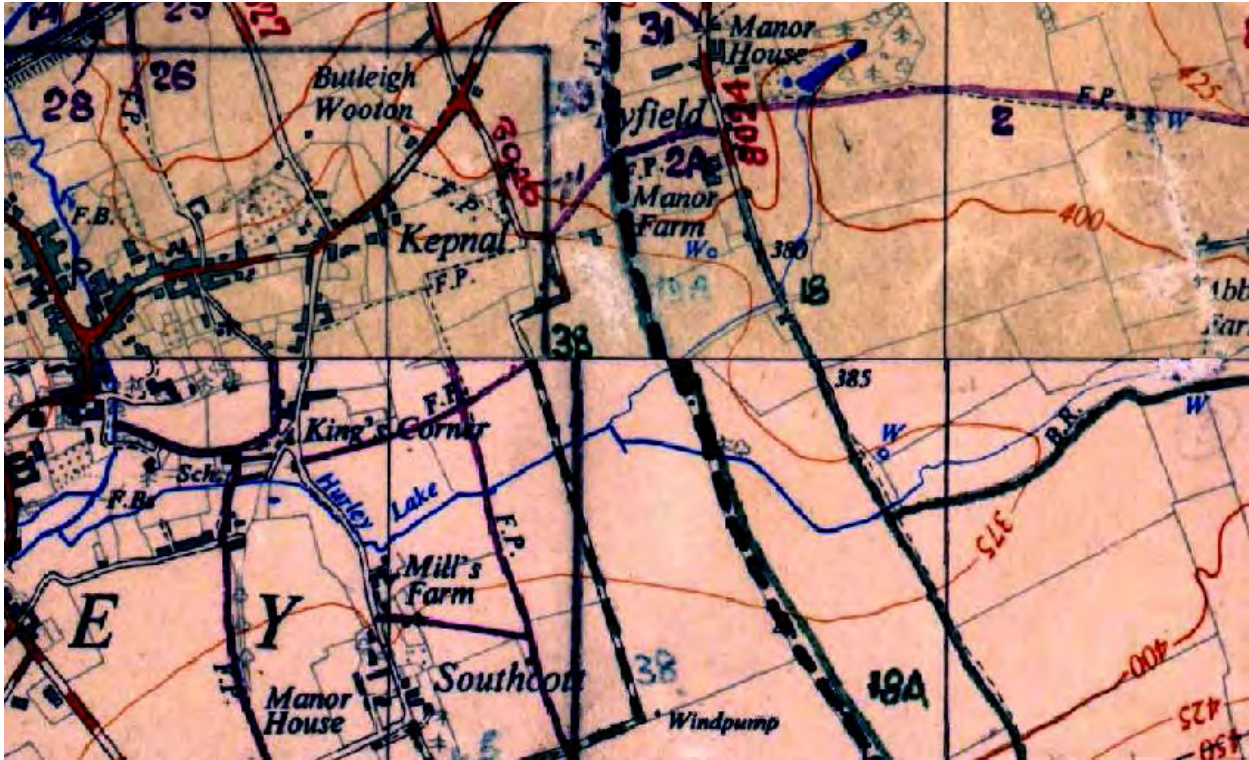


10.8. Milton Lilbourne Parish Claim Map- surveyed 1951



10.9. Looking at the parish claim maps and the historic OS maps it can be seen that the claimed route subject to this application has not been claimed as a public right of way in the past.

10.10. The 1952 Pewsey Rural District Council Definitive Map does not record the route as a public right of way.



10.11. In summary, no evidence has been found that the claimed route has been recorded as a public footpath or a path of any kind in the various documents examined.

11. Twenty Year Use

11.1. Section 31 of The Highways Act 1980 states: (see paragraph 9.7 of this report for section 31 in full)

“(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 been actually enjoyed by the public as of right without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

11.2. The period of 20 years is taken as 20 years counted back from the date that the way was first called into question. In this case it is deemed the way was brought into question when the current owners of the land erected signs and barriers across the claimed routes in Autumn of 2016. Different months have been quoted when these barriers were erected, but all of them state at some time between September and December 2016. Therefore the relevant 20 year period for this case is 1996-2016.

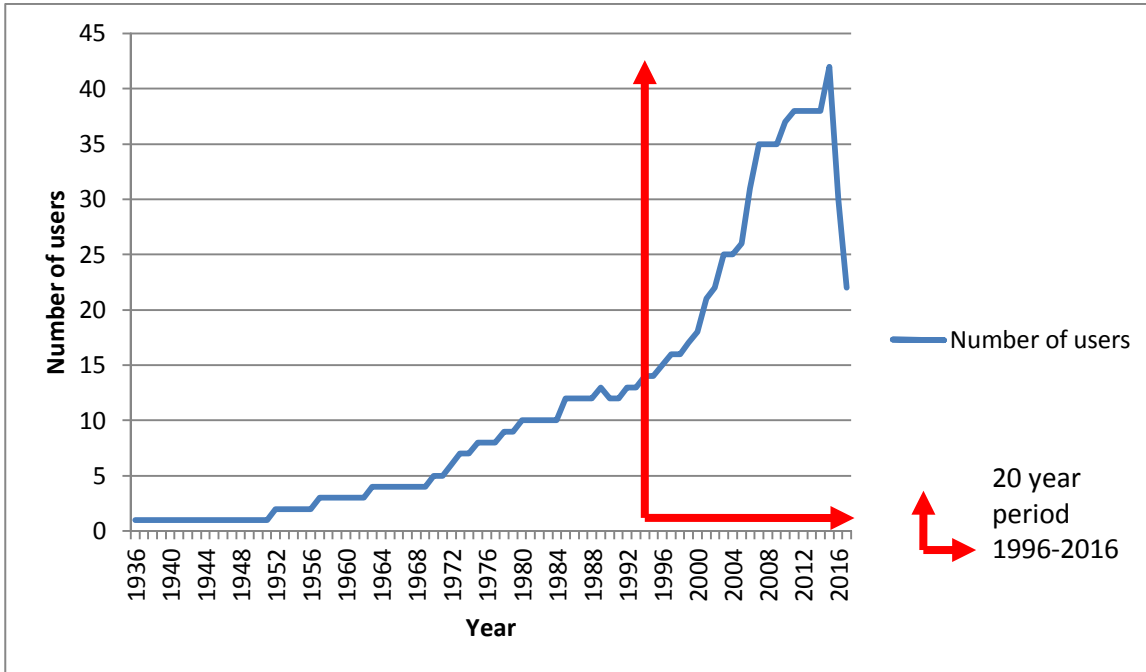
12. User Evidence Forms

As part of the application, a total of 44 witness forms were submitted as evidence. The use of the way claimed by these 44 users covers the period 1952-2017.

12.1. When considering the relevant 20 year period of 1996-2016 in this case, of the 44 users, 12 claim to have used the route for the whole 20 year period of 1996-2016 on a frequent basis, some claiming to have used it daily or three / four times a week. A further 18 users have claimed 10+ years of use between 1996-2016 and 13 have claimed less than 10 years use in the 20 year period considered. This takes the total number of individual users in the 20 year period to 43. The one other completed user form declared they were unsure at what date their use started, however they do state *“ I retired 12 years ago and have used the “ footpath” / field edge often during this time- occasionally prior to this”* so it can be ascertained from this statement his use has been at least 11 years of the relevant 20 year period. 1 user has also declared their family owned some of the land and so their use at that time, of that part of the route is likely to have been by right and must be discounted.

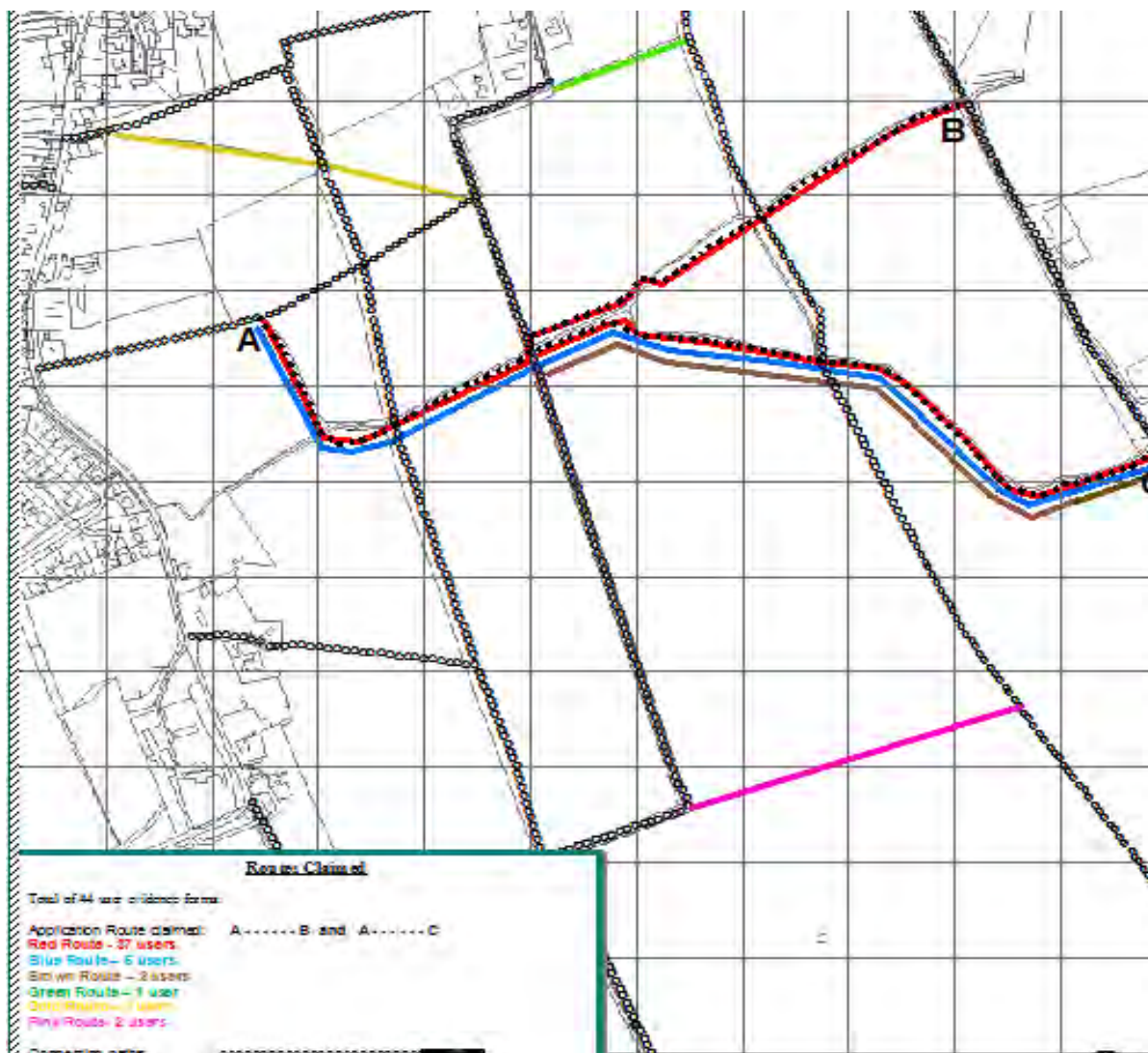
12.2. Below is a chart showing the number of individual users who claimed use in each year from 1930s-2017.

Chart showing usage of way



For the relevant 20 year period (1996-2016) it can be seen that between 15 and 42 individual users are using the path each year, with the claimed use increasing in the 2000s. This could be due to the increase in population of the village or that persons using the routes further back in time have either passed on or moved away from the area. Consistent use can be seen from the 1970s onwards. The earliest claimed use dates back to the 1930s although it should be noted this individual’s family owned some of the land at that time and so their use could be by right at that time. The first use as of right can be seen to be from 1952. It should also be noted this chart does not delineate between the slightly different uses claimed of the routes walked; only recording any use of any part of the claimed route.

12.3. It should be noted that not all user forms claimed the entire route. This is demonstrated on the map below.



12.4. It can be seen that of the 44 user evidence forms submitted 37 of the users claim to have walked the entirety of the application route, the other 7 claiming to have used part of the route (blue and brown route). Three other small spurs of path are claimed in very small numbers (green, gold and pink routes). It is deemed that the user evidence submitted for these spurs are not sufficient to warrant further discussion or consideration for the purpose of this report.

12.5. There is no statutory minimum level of users required for the presumption of dedication. The quality of the evidence i.e its honesty, accuracy, credibility, and consistency are of much greater importance than the number of users.

In R (Lewis) v Redcar and Cleveland Borough Council UKSK 11 (03 March 2010), a Town and Village Green registration case, Lord Walker refers to Mr Laurence QC, who:

“...relied on a general proposition that if the public (or a section of the public) is to acquire a right by prescription, they must by their conduct bring home to the landowner that a right is being asserted against him...”

Lord Walker goes on to quote Lindley L J in the case of Hollins v Verney [1884] giving the judgement of the Court of Appeal:

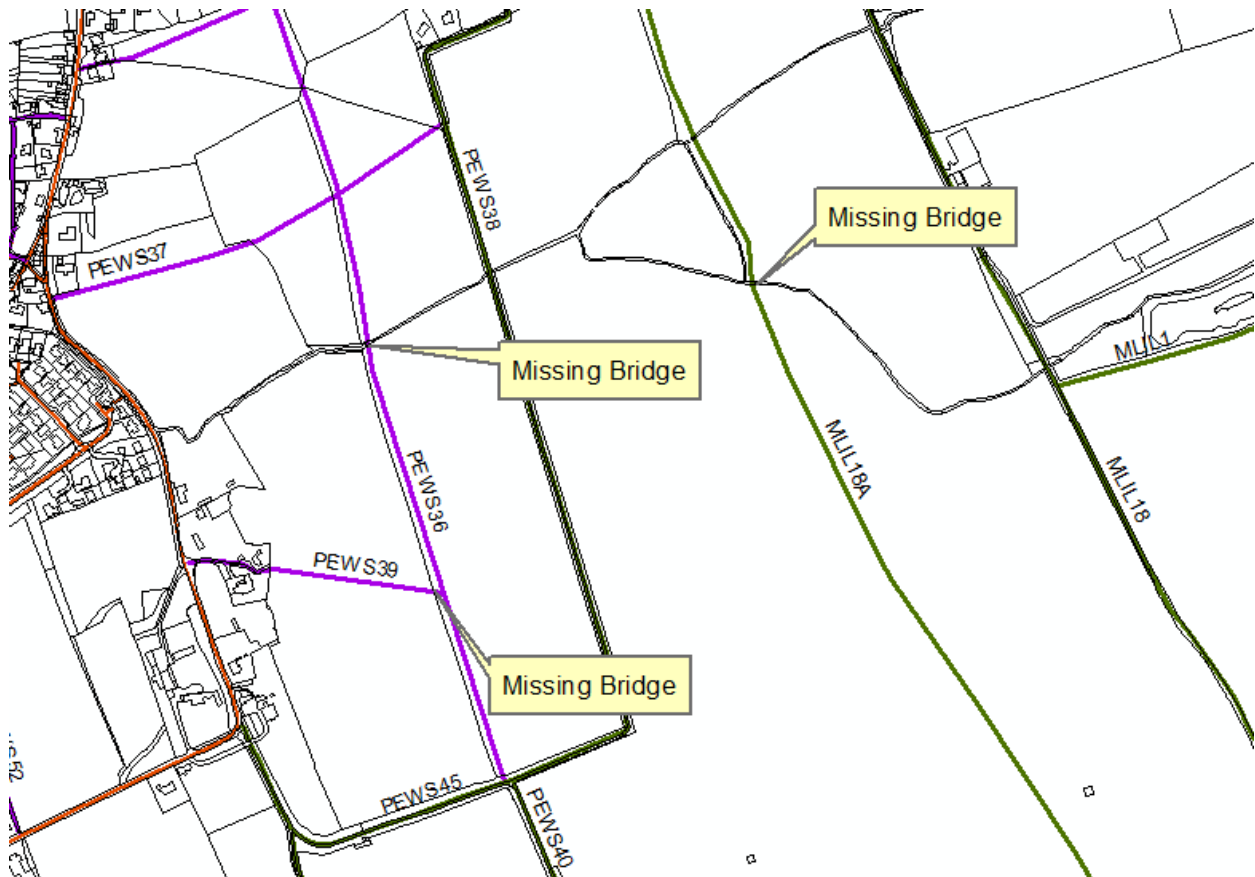
“...no actual user can be sufficient to satisfy the statute, unless during the whole of the statutory term...the user is enough at any rate to carry to the mind of a reasonable person who is in possession of the servient tenement the fact that a continuous right to enjoyment is being asserted, and ought to be resisted if such right is not recognised and if resistance to it is intended.”

12.6. What must be considered is the level of user, i.e. 44 users whose claimed use is on the whole consistent. The 20 year period which must be considered, 1996-2016, all 44 users claim some use in the 20 year period. The use of the path can be seen to be increasing in recent years (see chart at 12.2). It should be noted the population of Pewsey has increased significantly in recent years, with a recorded population of 2,647 in 1971 and 3,634 in 2011. We must consider whether or not this claimed use is sufficient to make the landowners aware that a public right was being asserted against them? The level of claimed use and clear public feeling and knowledge of this route would indicate the owners/ occupiers of the land would have been aware of the path being used if present. The fact that people were using the claimed path is not disputed by the owners of the land from 2007 onwards, the nature of the use is disputed, and these points will be discussed later in the report.

12.7. The 44 people who filled out witness forms had an opportunity to give extra comments or observations at the end of the form. A number of people took the opportunity to fill out this section. Many of the users state the claimed route offers a circular route linking with other existing rights of way which run predominantly north/south up to Pewsey Hill with few if any linking paths east/west. The addition of the claimed route would offer a circular route without the requirement to scale Pewsey Hill, however the need or want of a route is not a consideration under Section 53 of the Wildlife and Countryside Act 1981. One user has included aerial photography of the area dating back to the 1940s, these images can be

viewed at www.getmapping.com, and claims these images show evidence of the routes being used as a path. I do not consider these images to be clear evidence of use of the route as a public footpath as they are not clear and the lines that are visible may have been caused by farm vehicles or private use of some other kind. The images will not be relied upon for evidence.

12.8. Some users have stated they have used the western section of the application route as the existing rights of way PEWS36 and 39 have been unavailable until recent years as a bridge has been missing on both paths. Also MLIL18A has not been available due to a missing bridge until recently. See map below.



The bridge accessing PEWS36 and 39 were replaced/ installed by Wiltshire Council in July 2015, the bridle bridge on Milton Lilbourne 18A was installed by Wiltshire Council in February 2017. Wiltshire Councils rights of way department carried out a parish survey of Pewsey in May 2011 and found that neither right of way PEWS36 nor 39 had bridges, and it was noted on the inspection report that bridges were required at these locations. Milton

Lilbourne was similarly inspected in January 2013 and it was noted that at the location of the newly installed bridle bridge was a sleeper bridge which was not adequate for a bridleway but may have allowed for foot traffic, albeit not in a satisfactory manner. It is not known at what date previous bridges either collapsed or existed at all in the case of PEWS39 and MLIL18A. It can be seen in the case of PEWS36 on the 1950/51 Pewsey Parish claim map (see 10.6) the parish surveyor marked at the location of the bridge in question “bridge broken” but no records of any repair or replacement have been found up until the survey in 2011 and subsequent replacement installed in July 2015. It is also not known when or if MLIL18A had an appropriate bridle bridge before the installation by Wiltshire Council of a new bridge in February 2017. Records have been found dating back to 2007 that only a sleeper bridge was in place on this route. The lack of bridges on these routes could be seen to have had an effect on the available routes to the public and may have contributed to the public walking on routes other than the legally recorded public rights of way. However it is clear this is not the sole reason the application route was walked , with many users stating they walked the application route for access to the countryside and following the stream in general and forming circular walks.

12.9. There is some evidence of bridle way use of the route, i.e. on bicycle or horseback. 2 users of the 44 have claimed use on pedal cycle, one of which was monthly and 1 of which daily. With such limited user evidence claiming use of bicycle or horse the application will be considered as an application to record a public footpath with rights on foot only.

13. Objections

13.1. As part of the consultation process the landowners were consulted. The three landowners affected are Mrs Kim Laughton, Mr Alexander Newbigging and Mrs Sarah Ingram Hill.

13.2. Mrs Laughton and Mrs Ingram Hill required longer than the initial consultation date to submit their evidence and statements and was duly received by Wiltshire Council in August and September 2017 in the form of Landowner Evidence Forms, supporting documents and statements (see appendix A and B). Mr Newbigging who is represented by Emma Kingston of Carter Jonas has objected to the application in principle (see 8.3) and has confirmed he has no further evidence to submit and is aware of the evidence Mrs Laughton has submitted.

13.3. Pewsey Parish Council responded to the initial consultation (see 8.1) stating they voted against making this application on behalf of the walkers by a large majority of 15 to 1. The parish state the reasons for not supporting this application is that there are adequate

footpaths in the area already and that a reasonable offer was made by the landowners to accommodate the walkers wishes. Conversely Milton Lilbourne Parish Council wrote in support of the application (see 8.2). Neither Parish Council offered any evidence. The case must be judged on the evidence available, the want or need for the claimed route is not a consideration applicable to section 31 of the Highways Act (see 9.7).

14. Signs and Notices

- 14.1. The evidence provided by Mrs Laughton and Mrs Ingram Hill both include statements from Mr Mike Hooper who farmed the land in question between 2001 and 2016 when the land was sold. In his signed statement Mr Hooper states there was no evidence of use of the path before 2007, as the fields were ploughed and cropped to their margins, when the land was put into an Entry Level Stewardship scheme one of which the requirements was for a 6 metre wide environmental strips to be put along the edges of the fields. These 6 metre strips which are mapped in the evidence provided (see appendix A) do match the claimed path. Mr Hooper says use of the route only began when these 6 metre wide strips were introduced for the stewardship scheme and he and his staff asked people numerous times to not walk on these environmental strips as the farm could be penalised for allowing walkers on these strips as they are specifically for wildlife.
- 14.2. Mr Hooper goes on to say that at the quarterly meeting held on the 14th May 2008 between himself , the previous landowner and his farm management company it was agreed to place signs on the 6m margins stating no footpath as a matter of urgency, the signs being 12" x 8" in size, a copy of the minutes of the meeting and a map showing locations of where the signs were erected can be seen in appendix A. Looking at the minutes provided of the meeting under the heading "ENTRY LEVEL SCHEME" it states " *MH was still to erect the signs on the 6m margins. This would be done as a matter of urgency*" The minutes do not state the wording or nature of the signs to be erected.
- 14.3. I have emailed Mr Hooper and asked if he had any photographs of the signs at that time or if he remembered the wording of the signs, Mr Hooper responded "*Dear Mr Harlow . I did have photographs of the signs but unfortunately they have been long since deleted which is a shame. I assume you meant wording in your email and as such to the best of my recollection it read: Please keep off, these are environmental stewardship margins not to be walked on. The wording may not be completely correct but it was to that effect. I know that we erected them not long after they were established and had them pulled up and thrown into the ditches almost immediately. We re erected them only to have it done again!*". Mr Hoopers signed statement is backed up by a signed statement from Mr Tony Blanchard who has been employed by Mike Hooper since 2005

(see appendix A). Mr Blanchard states he helped Mr Hooper erect signs in spring 2008 notifying walkers that they were not to walk on environmental strips as these were not footpaths. Mr Hooper and Mr Blanchard both state the signs were torn down and thrown in the ditch, were retrieved and reinstated only to be torn down again and eventually they gave up as the signs were lost.

14.4. The evidence provided by Mr Hooper and Mr Blanchard is at odds with the evidence provided by the 44 user evidence forms. A specific question is asked in the UEF which says *“Have you ever seen any signs or notices suggesting whether or not the application is a public right of way?(for example “Private”, “Keep Out”, No Right Of Way “Trespassers will be prosecuted”)*. None of the 44 people who completed user evidence forms answered this question stating they saw any signage on the routes prior to the new landowners erecting signage in late 2016. 36 of the UEFs claimed use of the route covers the year 2008 when Mr Hooper and Mr Blanchard state they erected signage. This leaves 2 signed statements saying they erected signage in 2008 informing the public not to walk on the route and 36 signed statements saying they walked the route during 2008 and saw no such signage. The signs could have been erected and torn down before any of the 36 users who have submitted user evidence saw the signs, however with the contradictory evidence it is not possible to draw firm conclusions.

14.5. A statement was also submitted by Mr Robert Hodgson who was employed by Mike Hooper and worked on the land in question from 2013-2016. Mr Hodgson states he approached people throughout the time he worked on the land who were walking on the field margins and asked them to keep off and keep to official footpaths. He also describes an incident in which a man and his dog would not move out of the way in order for Mr Hodgson to continue ploughing the field, after repeatedly asking the man to move he did. None of the user forms describe an incident before 2016 in which they were challenged and indeed it is possible none of them were challenged and the individuals that were challenged have not submitted any evidence. A conflict of evidence is apparent on the matter of users of the path being challenged.

14.6. The intention or lack of intention to dedicate a path a public right of way is addressed in section 31 of the Highways Act specifically addressing erecting notices or signs in the following sections

(2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought

into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.

- (3) *Where the owner of the land over which any such way as aforesaid passes –*
- (a) *has erected in such a manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and*
- (b) *has maintained the notice after the 1st January 1934, or any later date on which it was erected, the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.*
- (4) *In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) above, so however, that no injury is done thereby to the business or occupation of the tenant.*
- (5) *Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as highway is, in the absence of proof to a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as highway.*

14.7. As can be seen it is the landowner's responsibility to maintain any such notice and where it is torn down to give notice to the appropriate council that the way is not dedicated as highway. Wiltshire Council have no record of any such notice in relation to any such notices that were torn down. As discussed earlier photographic evidence that Mr Hooper may have of the signage was requested but unfortunately he does not have any and we do not have the exact wording of the signs that are claimed were displayed. If it were considered that the signs erected in 2008 were sufficient to show a lack of intention to dedicate this would lead the path to be called into question in 2008 and the 20 year relevant period to be considered could be taken as 1988-2008, which in itself may have adequate user evidence with over 10 users claiming use dating back to 1988, but this will not be explored further at this point.

15. As of right

15.1. Section 31(1) of the 1980 Highways Act requires that the use by the public must have been as of right without interruption for a full period of 20 years.

The term 'as of right' is considered to mean without force (*nec vi*), without secrecy (*nec clam*) and without permission (*nec precario*).

Without Force

15.2. None of the 44 users has declared in their form they used any force to access the path. The only barriers that have been mentioned in any form are ditches and barbed wire fences which were erected in late 2016 by the new landowners which led the path to be called into question. This is supported by the evidence supplied by the landowners who erected barriers in 2016 but there is no recollection of any physical barrier in previous years.

Without Secrecy

15.3. The use of the path is questioned by the landowners, who claim the path was not used before 2007 when 6 metre wide strips were implemented for the stewardship scheme as the route was ploughed and cultivated to the edge of the fields. However the actual use of the path from 2007 onwards is not questioned by Ms Laughton and Ms Ingram Hill, however Mr Newbigging in his letter of objection states “ *the Newbigging family have lived in Fyfield and indeed have owned the land immediately north for over thirty years. During this time, it has not been apparent that frequent use has been made of this path, and it is evident from the physical state of the ground that frequent use has not been made- see photo (taken May 2017)*” (**see 8.3**). This photo does not give clear evidence of a lack of use of this section of the claimed route and in any case is taken in May 2017 months after barriers were erected in late 2016 to stop or at least limit the use of the route in which time clear signs of use may have overgrown or faded. It does not seem that the use of the way before or after 2007 was in secrecy.

Without Permission

15.4. Of the 44 user evidence forms none have said they had permission to use the route. However one of the users, Charlene Twisk, owned some of the land previously and so her use of the land during that period would have been by permission as her family owned the land. Ms Laughton claims in her submission Gill Cooke, who submitted a user evidence form, also had permission to use the land through her family's ownership of the land. These two users' evidence could be investigated further as to ascertain when their family ownership

ceased but even if we excluded these two users that leaves 42 users who had no permission to use the route. The landowners do not claim to have given permission to anyone to use the route.

16. Landowner's intention

16.1. Under Section 31 of the Highways Act 1980, there is a presumption of dedication after uninterrupted public use of a route for a period of 20 years or more in a manner that is “as of right”, unless during that period, there can be demonstrated there was no intention on the landowner’s part to dedicate the land as a highway during that period. Intention to dedicate was discussed in the Godmanchester case, R (on the application of Godmanchester Town Council (Appellants) v. Secretary of State for the Environment , Food and Rural Affairs (Respondent) and one other action R (on the application of Drain) (Appellant) v. Secretary of State for the Environment, Food and Rural Affairs (Respondent) and other action [2007] UKHL 28, which is considered the leading authority in this matter. In his leading judgement Lord Hoffman approved the words of Denning LJ in the Fairey case, 1956: seen at paragraph 20 of the Godmanchester case:

“...in order for there to be “sufficient evidence there was no intention” to dedicate the way, there must be evidence of some overt acts on the part of the landowner such as to show the public at large – the public who use the path...that he had no intention to dedicate. He must in Lord Blackburn’s words, take steps to disabuse these persons of any belief that there was a public right...”

16.2. In the same case, Lord Neuberger of Abbotsbury went further on this point in paragraph 83 of the case:

“...the cogent and clear analysis of Denning LJ in Fairey v Southampton County Council [1956] 2 QB at 458, quoted by Lord Hoffman, clearly indicated that the intention referred to in the proviso to section 1(1) of the 1932 Act was intended to be a communicated intention. That analysis was accepted and recorded in textbooks and it was followed and applied in cases identified by Lord Hoffman by High Court Judges and by the Court of Appeal for the subsequent forty years. Further, it appears to have been an analysis which was acceptable to the legislature, given that section (1) of the 1932 Act was re-enacted in section 34(1) of the Highways Act 1959 and again in section 31(1) of the 1980 Act.”

Lord Hoffman went on the say at paragraph 32:

“I think that upon the true construction of section 31(1), “intention” means what the relevant audience, namely the users of the way would reasonably have understood the owner’s intention to be. The test is...objective: not what the owner subjectively intended not what particular users of the way subjectively assumed, but whether a reasonable user would have understood that the owner was intending, as Lord Blackburn put it in Mann v Brodie (1885), to “disabuse” [him] of the notion that the way was a public highway.”

16.3. On 27th July 2017 Mrs Sarah Ingram Hill made a deposit under s.31(6) Highways Act 1980 and section 15A (1) of the Commons Act 2006 declaring the public rights of way over the land in her ownership that is affected by this application and that no other ways have been dedicated as highways over her property. Similarly Mrs Kim Laughton also made a deposit on 27th July 2017 under s.31(6) Highways Act 1980 and section 15A (1) of the Commons Act 2006 declaring the public rights of way over the land in her ownership that is affected by this application and no other ways have been dedicated as highways over her property.

These deposits are available to be viewed online

at http://php.wiltshire.gov.uk/row/sect31deposits/deposit_search.php . A duly made deposit under s.31(6) HA80 is, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.

16.4. The deposits and declarations made on this land only protects its status from the date of the deposit, in this case 27th July 2017 and as such does not demonstrate the landowners lack of intention to dedicate this route before that date. The 20 year period of use claimed by users from 1996-2016 is not affected by these deposits.

17. Width and Route

17.1. The route claimed by the users in the main follows the same two routes – see 12.3 of this report. It is disputed by the landowners that parts of this route was used before 2007 as the fields were ploughed to the edge and made into 6m wide strips in 2007. It is clear a 6 metre wide strip would be more attractive to walkers than a ploughed field, but it would not be impossible for walkers to use the edge of a ploughed / cultivated field. 36 of the users claim to have used the path before the year 2007 and there is no mention of the change in nature of the route being a factor in their use of the route in any manner.

17.2. Below is aerial photography of the area showing the fields in question.

2001 aerial photo.



It can be seen in the 2001 aerial photo the route has been cultivated close to the edge of the stream.

17.3.

2005/06 aerial photo.



Again in 2005/06 the field are cultivated close to the edge of the stream.

17.4. 2014 aerial photo.



In the 2014 aerial photo it can be seen strips have been left along the edge of the fields in question as per the landowners' statements of a 6m strip being left for the stewardship scheme.

17.5. It does raise questions that none of the users mention or refer to the change in nature of the routes in 2007 which there is evidence did take place. As stated earlier in the report it is not improbable people can walk along the edge of cultivated fields but with such a change in the width and land management of a stream side path for it not be mentioned in any of the user evidence forms does leave this a point to examine further under possible future cross examination.

17.6. The width of the path claimed in the user evidence forms vary from statements such as “ 1m” , “width for two people”, “ 2-10ft”, “minimum 3.5m”, “10m wide” to “variable” amongst other measurements. The nature of the path on the ground would certainly be narrower to the eye at the western end of the path going south from PEWS37 as it follows the edge of a field which is often cultivated. Whereas, as has been discussed, the path east of PEWS38 following the stream follows 6 metre wide strips left by the landowner which were created in 2007. This does not mean the whole 6 metres would have been used as the path and further to that point before 2007 there were not 6m strips left but none of the users make reference to this in relation to the width of the path or in any manner. Neither do many of the user evidence forms make a distinction between different sections of the path when stating the width of the path but it would not be reasonable to assume a statement of 6 metres would be applicable to the whole path or that the behaviour of a reasonable walker would lead them

over a 6 metre wide area. It is the officers' conclusion that the width of the path if recorded would be 2 metres.

18. Common Law Dedication

18.1. Section 5 of the Planning Inspectorate's Definitive Map Orders: Consistency Guidelines suggest that even where a claim meets the tests under Section 31 of the Highways Act 1980 for dedication under statute law, there should be consideration of the matter at common law.

Dedication at common law may be considered where a way has been used by the public for less than 20 years. Where the origin of a highway is not known, its status at common law depends on the inference that the way was in fact dedicated at some point in the past.

A highway can be created at common law by a landowner dedicating the land to the public for use as a highway, either expressly, or in the absence of evidence of actual express dedication by landowners, through implied dedication, for example making no objection to overt public use of the way. It also relies upon the public showing their acceptance of the route by using the way. Whilst the principles of dedication and acceptance remain the same in both statute and common law, there is a significant difference in the burden of proof, i.e. at common law the burden of proving the owners' intentions remains with the applicant. Whilst it is acknowledged that dedication of the route as a public highway may have taken place at common law at some time in the past, it is recognised that in practice evidence of such dedication is difficult to obtain and it is then more usual to apply Section 31 of the Highways Act 1980.

18.2. Relatively few highways can be shown to have been expressly dedicated. In this case I do not believe the landowners actions have expressly dedicated the way as a highway. It could be argued the previous landowners' lack of objection to use of the path by not taking any action to express their intention not to dedicate way as a highway could lead to there being a case at common law. However this will not be relied upon for this case and section 31 of the Highways Act 1980 will be applied.

19. Conclusion

19.1. This application to add a footpath to the definitive map and statement in the parishes of Pewsey and Milton Lilbourne has attracted a lot of local interest with 44 users submitting evidence via user forms claiming to have used the path during various periods over the last 20 years and beyond. The land was sold in 2016 and the new landowners, of whom there are three who are directly affected, blocked the application route in the knowledge it was not a recorded public right of way on the definitive map, thus prompting the local population to submit an application to Wiltshire Council to record the path as a public footpath.

19.2. The main weight of evidence in support of the application comes in the form of the 44 user forms. Having examined these forms there is clear and consistent use of the way claimed dating back decades and a large amount of use claimed in the 20 year period considered under section 31 of the Highways Act. The previous landowner before the change of ownership in 2016 may not have been on site to see the use of the application route but it would seem unlikely they were completely unaware of the use claimed and no direct action was taken until 2008 to erect signs on the route to inform the public it was not a public right of way.

19.3. A key argument raised by the landowner and supported by witness statements state the way was not used until 2007 when 6 metre wide strips were left uncultivated around the edge of the fields which unwittingly encouraged the use of the way. This is in contrast to the evidence submitted by the 44 users of whom a high proportion claim use of the way before and during 2007. Aerial photography does support the statement that the routes were cultivated to the edge of the fields before 2007 but this does not mean the route cannot have been used by the public at all. In such a matter where this is no conclusive evidence to ascertain the facts the fairest outcome is for the witnesses on either side to be cross examined on their evidence.

19.4. Statements from the farm workers were submitted claiming to have erected signs on the application route in 2008 and this is supported by the minutes of a meeting, although these minutes do not state the purpose or wording of the signs to be erected. The signs were then torn down and eventually the workers gave up re-erecting them. None of the 44 user forms claim to have seen any signs pre-dating the signs and barriers erected in 2016 which gave the impression the way was not dedicated as a public right of way. Again there is a clear

conflict in the evidence submitted and with no incontrovertible evidence either way the fairest outcome is for the witnesses on either side to be cross examined on their evidence.

19.5. The case of *R v Secretary of State for the Environment, ex p. Bagshaw and Norton*, Queen's Bench Division (Owen J.): April 28, 1994, deals with the applications of both Mrs Norton and Mr Bagshaw, who had applied to their respective County Councils for Orders to add public rights of way to the definitive map and statements, based upon witness evidence of at least 20 years uninterrupted public user and where the Councils determined not to make Orders. On appeal, in both cases, the Secretary of State considered that the Councils should not be directed to make the Orders. At judicial review, Owen J allowed both applications; quashed the Secretary of State's decisions and held that:

“(1) under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981, the tests which the county council and the then Secretary of State needed to apply were whether the evidence produced by the claimant, together with all the other evidence available, showed that either (a) a right of way subsisted or (b) that it was reasonable to allege that a right of way subsisted. On test (a) it would be necessary to show that the right of way did subsist on the balance of probabilities. On test (b) it would be necessary to show that a reasonable person, having considered all the relevant evidence available, could reasonably allege a right of way to subsist. Neither the claimant nor the court were to be the judge of that and the decision of the Secretary of State was final if he had asked himself the right question, subject to an allegation of Wednesbury unreasonableness. The evidence necessary to establish that a right of way is reasonably alleged to subsist is less than that needed to show that a right of way does subsist. The Secretary of State had erred in law in both cases as he could not show that test (b) had been satisfied.”

Owen J also held that:

“(2) In a case where the evidence from witnesses as to user is conflicting, if the right would be shown to exist by reasonably accepting one side and reasonably rejecting the other on paper, it would be reasonable to allege that such a right subsisted. The reasonableness of that rejection may be confirmed or destroyed by seeing the witnesses at the inquiry.”

19.3. Having considered all this evidence, officers conclude that it can be reasonably alleged that a right for the public on foot subsists over the land in question and that there is no incontrovertible evidence that such a right does not exist. Making an order to record the route as a public footpath on the definitive map and statement allows for objections and if

appropriate a public inquiry at which the witnesses can be cross examined by an independent inspector appointed by the Secretary of State.

20. Overview and Scrutiny Engagement

Overview and Scrutiny Engagement is not required in this case. The Council must follow the statutory process which is set out under Section 53 of the Wildlife and Countryside Act 1981.

21. Safeguarding Considerations

Considerations relating to the safeguarding of anyone affected by the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981, are not considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.

22. Public Health Implications

Considerations relating to the public health implications of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981, are not considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.

23. Environmental Impact of the Proposal

Considerations relating to the environmental impact of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981, are not considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.

24. Equalities Impact of the Proposal

Considerations relating to the equalities impact of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981, are not considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.

25. Risk Assessment

Considerations relating to the health and safety implications of the making and confirmation of an order under Section 53(2) of the Wildlife and Countryside Act 1981, are not

considerations permitted within the Act. Any such order must be made and confirmed based on the relevant evidence alone.

26. Financial Implications

26.1. The determination of definitive map modification order applications and modifying the definitive map and statement of public rights of way accordingly, is a statutory duty for the Council, therefore the costs of processing such orders are borne by the Council. There is no mechanism by which the Council can re-charge these costs to the applicant.

26.2. Where no definitive map modification order is made, the costs to the Council in processing the definitive map modification order application are minimal.

26.3. Where a definitive map modification order is made and objections received which are not withdrawn, the order falls to be determined by the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA). An Independent Inspector appointed on behalf of the SoSEFRA will determine the order by written representations, local hearing or local public inquiry, which have a financial implication for the Council. If the case is determined by written representations the financial implication for the Council is negligible, however where a local hearing is held, the costs to the Council are estimated at £200 - £500 and a public inquiry could cost between £1500 - £3000, if Wiltshire Council supports the order (where legal representation is required by the Council) and around £200-£500 if it does not support the order (i.e. where no legal representation is required by the Council as the case is presented by the applicant). Any decision taken by SoSEFRA is liable to challenge in the High Court, the council would bear no financial burden at this stage as the decision has been made by the SoSEFRA.

27. Legal Considerations

Where the Surveying Authority determines to refuse to make an order, the applicant may lodge an appeal with the SoSEFRA, who will consider the evidence and may direct the Council to make an order.

If an order is made and objections are received, the procedure is as detailed above in paragraph 26.3.

28. Options Considered

To:

- (i) Refuse to make a definitive map modification order, under Section 53 of the Wildlife and Countryside Act 1981, where it is considered that there is insufficient evidence that a right of way for the public on foot subsists or is reasonably alleged to subsist, on the balance of probabilities, or
- (ii) Where there is sufficient evidence that a right for the public on foot subsists or is reasonably alleged to subsist, on the balance of probabilities, the authority is required to make a definitive map modification order to add a footpath to the definitive map and statement of public rights of way, under Section 53 of the Wildlife and Countryside Act 1981.

28.1. Section 53(3)(b) requires that on the balance of probability a presumption is raised that the public have enjoyed a public right of way over the land for a set period of time. Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 provides that an order should be made if the Authority discovers evidence, which, when considered with all other relevant evidence available to them, shows that, on the balance of probabilities, a right of way subsists or is reasonably alleged to subsist over land in the area to which the map relates. This section allows for the consideration of common law and the inclusion of historical evidence and is the more commonly used section.

28.2 In considering the evidence under section 53(3)(c)(i) there are two tests which need to be applied, as set out in the case of *R v Secretary of State ex parte Mrs J Norton and Mr R Bagshaw*(1994) 68P & CR 402 (*Bagshaw*):

Test A: Does a right of way subsist on the balance of probabilities? This requires the authority to be satisfied that there is clear evidence in favour of public rights and no credible evidence to the contrary.

Test B: Is it reasonable to allege that on the balance of probabilities a right of way subsists? If the evidence in support of the claimed paths is finely balanced but there is no incontrovertible evidence that a right of way cannot be reasonably alleged to subsist, then the authority should find that a public right of way has been reasonably alleged.

To confirm the Order, a stronger test needs to be applied; that is, essentially that contained within Test A. In *Todd and Bradley v SoSEFRA [2004] EWHC 1450 (Admin)*. Evans-Lombe J

found that the appropriate test for confirmation is the normal civil burden of proof that such a way subsists on the balance of probabilities.

Test B is the weaker test and only requires that on the balance of probabilities it is reasonably alleged that public rights subsist. This allegation may only be defeated at the order making stage by incontrovertible evidence.

29. Reasons for Proposal

It is considered that there is sufficient evidence to meet test B as described in the above paragraph 28.2 that a public right on foot exists over the route in the parishes of Pewsey and Milton Lilbourne subject of this application. The user evidence supplied demonstrates 20 years of uninterrupted use of the route in the relevant period. The issues of use and signage are disputed by the owners of the land, with the lack of conclusive evidence in favour of either side on these subjects the council can only conclude it can be reasonably alleged that rights exist over this land, if the landowner objects to this decision using the evidence already considered or any other reasons this case would then have to be brought to a public inquiry where an inspector would have the opportunity to cross examine the evidence submitted by all parties. At this stage officers believe test B has been met as there is no incontrovertible evidence.

30. Recommendation

That Wiltshire Council makes a definitive map modification order to record a public footpath over the route in the parishes of Pewsey and Milton Lilbourne subject to this application.

Craig Harlow
Rights of Way Officer
24 October 2017

Witness Statement

Full Name: Mike Hooper

Address: [REDACTED]

4ND [REDACTED]

Tel No (Day): [REDACTED]

Tel no (Eve): [REDACTED]

Email address: [REDACTED]

Path Details:

Parish: Pewsey

Claimed Status of Way: Private land - not a public right of way.

Description of Path: See map. Council's Ref: CH/PEWS/2017/02

Background

I have been a farmer based in West Lavington for 30 years and have acted for other landowners as a contract farmer for 20 years.

Together with my staff we farmed all the land affected by this footpath application for the previous owner (Mr Paul Pelham / Barset Farms) from October 2001 until September 2016, when the land was sold to the four new owners. I no longer farm the land or have any connection to it.

Cultivation History of the Land

When I took over the land back in 2001 all of the fields had been, and continued to be, ploughed right to the edges. There were no margins and I did not see people walking on the field edges. There was also no evidence of walking such as flattened grass or wearing of a path. This was true of all of the field margins along the two routes sought from A to B and A to C.

Footpath PEWS37 runs west to east from the Southcott road across the middle of the field behind the Coopers Inn pub and this has always been heavily used. However, when I first took on the land, walkers crossed into the next field to the west, thereby continuing along the official footpath (PEWS37) until joining footpath PEWS38, which runs north to south. They generally did not join PEWS36 because for much of the time there was no bridge where PEWS36 crosses the stream and the ground is muddy due to poaching by cattle and flooding. Walkers completed a circular walk by return to the road at Southcott via PEWS45. I have marked this in orange on the attached map (Map 1). Anyone walking on the fields would have been asked by myself or my staff not to do so and to stick to the footpath as a matter of course. This has and remains my standard practice for all land that I farm.

However, in 2007 the land was put into an Entry Level Stewardship (ELS) scheme. One requirement of this scheme was for 6m environmental strips to be put in along the edges of

fields. These are shown on Map 2 (attached) and you will note that they essentially match the footpath application.

Prior to the creation of the environmental strips, the field edges concerned were not walked as the fields were ploughed and cultivated right to the edge. However, once grass strips were introduced in 2007, people started walking on them. I and my staff asked people on numerous occasions not to walk on the environmental strips. As farmers we can be penalised by the Rural Payments Agency (RPA) if these strips are walked on because they are specifically designed to encourage wildlife. We therefore went to some effort to stop people from doing so.

The walking on the environmental strips was discussed at the quarterly meeting held on 14th May 2008 between myself, the previous landowner and his farm management company (Ray Gasson & Associates). I am enclosing a copy of the minutes of this meeting which show that it was agreed at the landowner's request that we erect signs on the 6m margins stating no footpath as a matter of urgency. The signs 12" X 8" in size

I put up signs in the places marked with an "S" in a circle on the map enclosed (Map 2). I did this with one of my staff, Tony Blanchard, who has also confirmed this in his own statement.

Shortly after the signs were erected, they were taken up and thrown into the ditches. We retrieved the signs and re-installed them on a number of occasions but eventually ceased to do so as we were unable to find them.

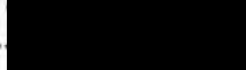
Myself and my staff continued to ask people not to walk on the fields and to stick to the official footpaths. In one incident, in around 2012, Robert Hodgson, a member of my staff, had to repeatedly ask a man with his dog to move out of his way so that he could plough the remaining part of the field. The man remained in the way despite repeated asking to move, eventually he moved and Robert was able to finish.

Flooding

Not only were the fields ploughed right to the edges prior to entry into the ELS scheme, which meant that there was no margin for walking, but also parts of the proposed routes are subject to significant seasonal flooding (please see Map 3) which was sufficient to make the routes impassable due to the depth of water and ground conditions. Walkers therefore stuck to the official footpaths which were not ploughed or subject to flooding.

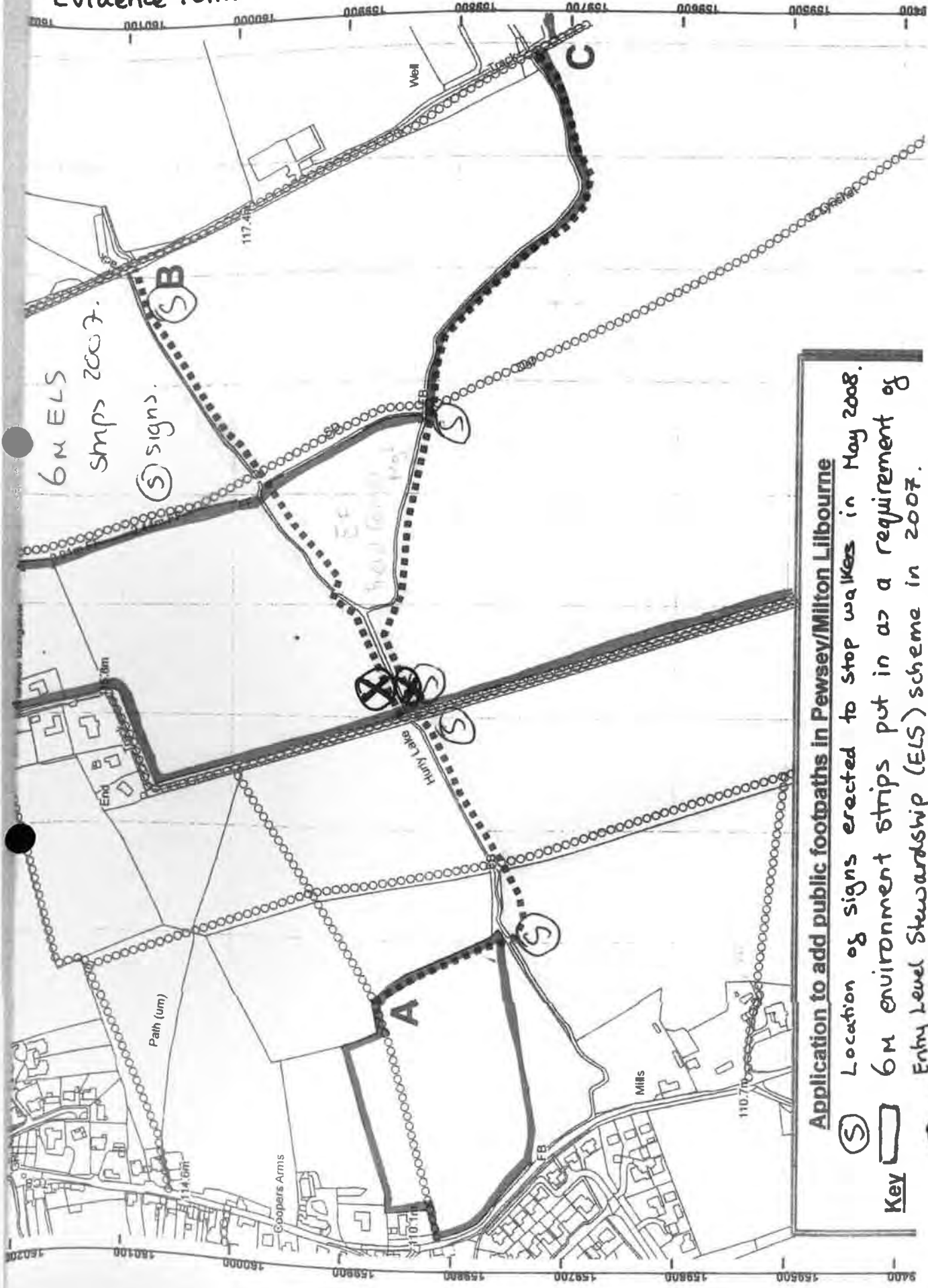
However, since 2007, the introduction of the environmental strips has provided a 6 metre grass margin which has also improved ground conditions (as the strips are not ploughed) which has made the route theoretically passable with wellies.

I confirm that the above is a true statement:

Signature: 

Name: M. Hodgson

Date: 10/08/17



Application to add public footpaths in Pewsey/Milton Lilbourne

(S) Location of signs erected to stop walkers in May 2008.

6M environment strips put in as a requirement of Entry Level Stewardship (ELS) scheme in 2007.

(X) Signs erected stating not a footpath in late 2016 and wire gates

Witness Statement

Full Name: Tony Blanchard

Address: [Redacted]

Tel No (Day): [Redacted]

Tel no (Eve):

Email address: [Redacted]

Path Details:

Parish: Pewsey

Claimed Status of Way: Private land - not a public right of way.

Description of Path: See map. Council's Ref: CH/PEWS/2017/02

Background

I have been employed by Mike Hooper of Cornbury Farm Contracting Ltd ("Cornbury") since 2005

As part of this employment I have worked on the land affected by this footpath application.

I can confirm that I helped Mike Hooper erect signs explaining that they were environmental margins and not footpaths 12 X 8 in size in the spring of 2008 notifying walkers that they were not to walk on the environmental strips as these were not footpaths. I also confirm that these signs were pulled up and thrown into the ditch. We retrieved the signs and reinstated them but they kept being removed until eventually we gave up as the signs were lost.

Throughout the period from 2005 to 2016 whilst I worked for Mike Hooper on this land, I approached people I saw walking on the field margins that were not footpaths and asked them to keep off the field margins and to keep to the official footpaths. We did not approach people every time but consistently enough for our views to be well known. Sometimes we would be working at the opposite end of the field so by the time we got to the walkers or followed them it took too much time. We were ignored by some of the walkers that we challenged so started to challenge them less as it was a waste of time.

Signature: [Redacted]

Name: T. Blanchard.

Date: 10/5/17

Witness Statement

Full Name: Robert Hodgson
Address: [Redacted]
Tel No (Day): [Redacted]
Tel no (Eve):
Email address: [Redacted]

Path Details:

Parish: Pewsey

Claimed Status of Way: Private land - not a public right of way.

Description of Path: See map. Council's Ref: CH/PEWS/2017/02

Background

I have been employed by Mike Hooper of Cornbury Farm Contracting Ltd ("Cornbury") since 2013.

As part of this employment I have worked on the land affected by this footpath application.

Throughout the period from 2013 to 2016 whilst I worked for Mike Hooper on this land, I approached people I saw walking on the field margins that were not footpaths and asked them to keep off the field margins and to keep to the official footpaths.

In about 2013 I also had a specific incident where one man with his dog would not move out of the way in order to allow me to finish ploughing the field. I repeatedly asked him to move. In the end he moved.

Signature: [Redacted]
Name: ROBERT ALAN HODGSON
Date: 10-5-2017

Mike Hooper

Map 1

Wiltshire Council
Where everybody matters

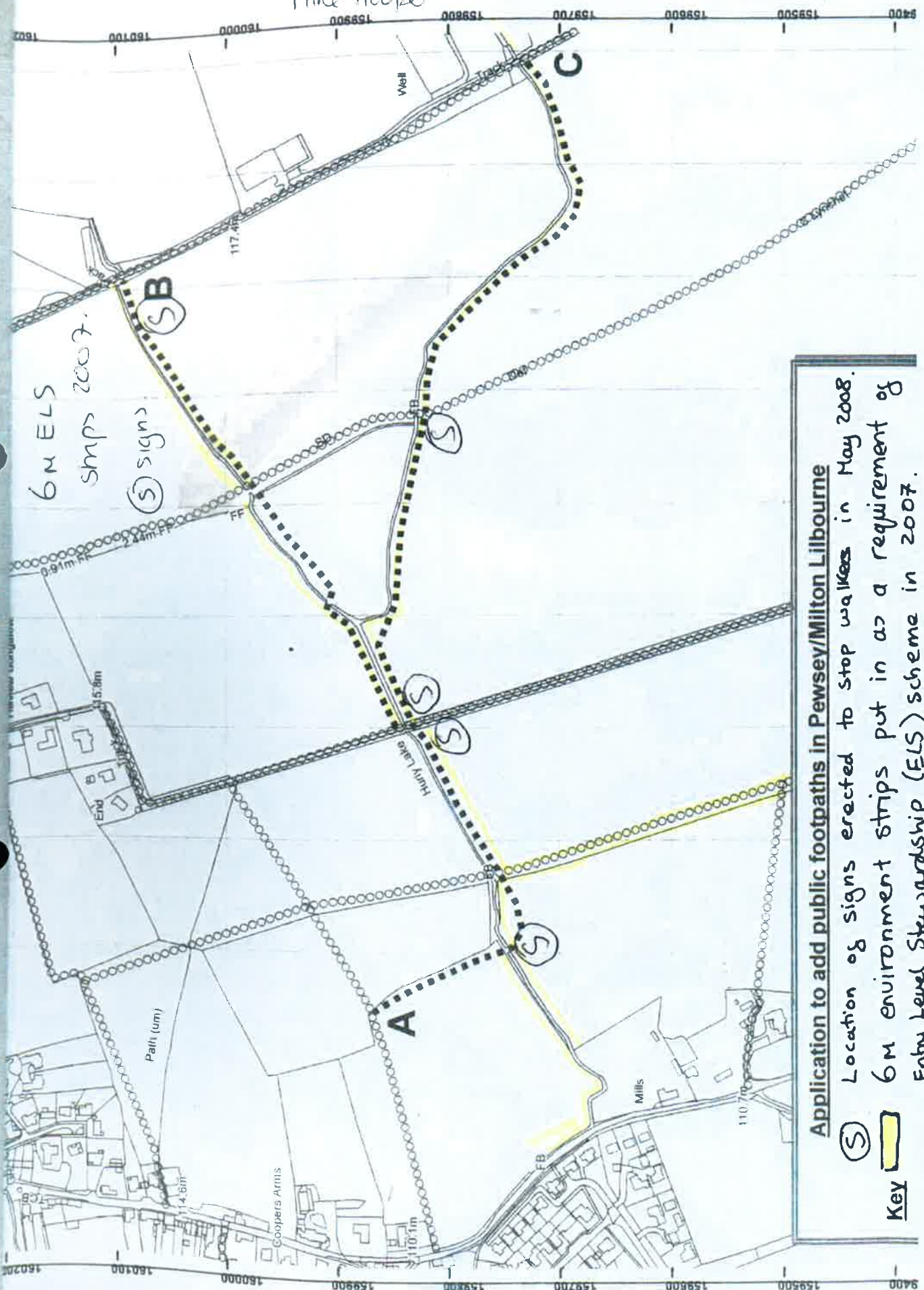
E14 1181 Plan D



— Shows main route used by walkers.
⊗ where PEWS36 crosses the stream

Mike Hooper

Map 2



6M ELS
smps 2007.
S signs

Application to add public footpaths in Pewsey/Milton Lilbourne

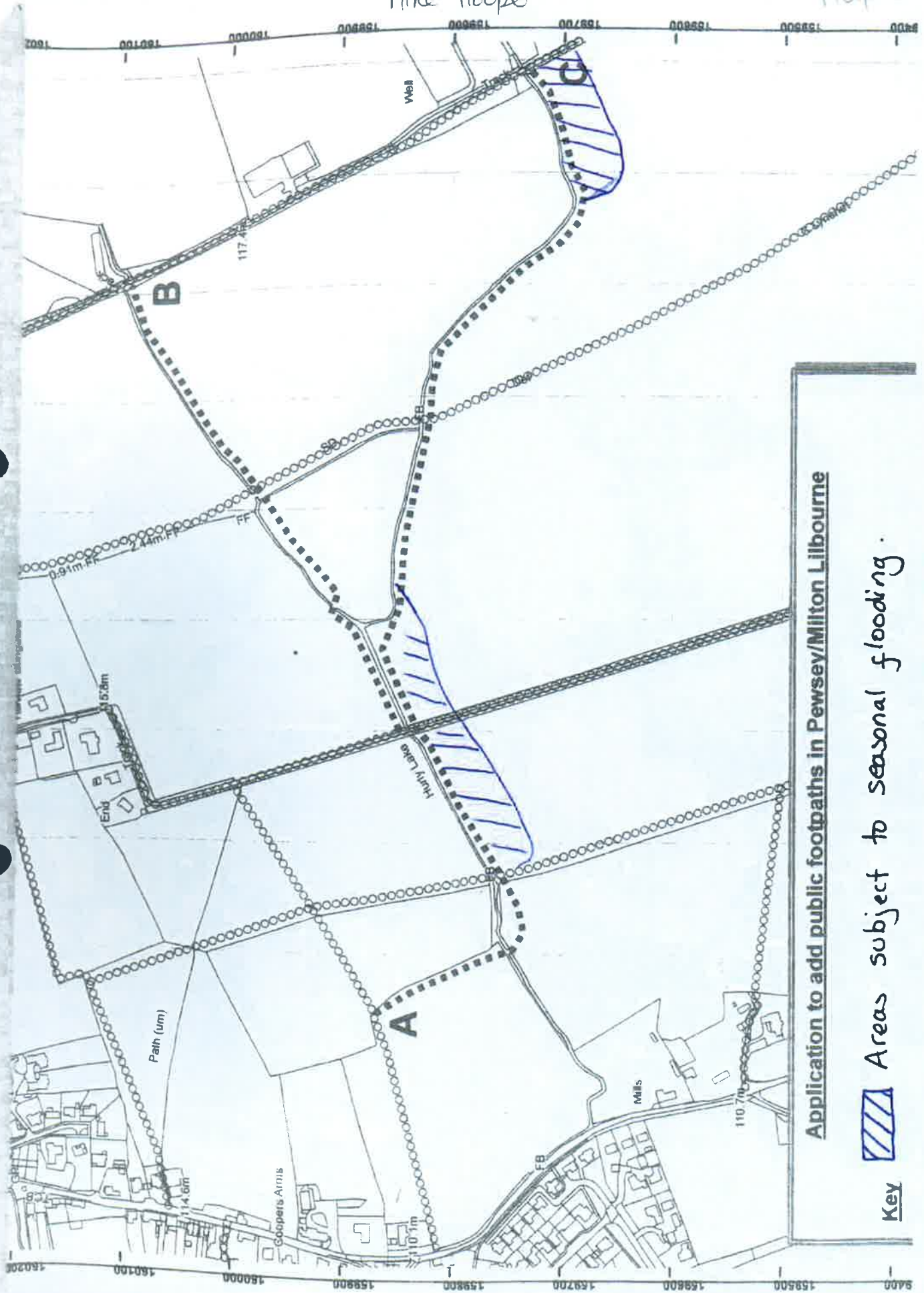
S Location of signs erected to stop walkers in May 2008.

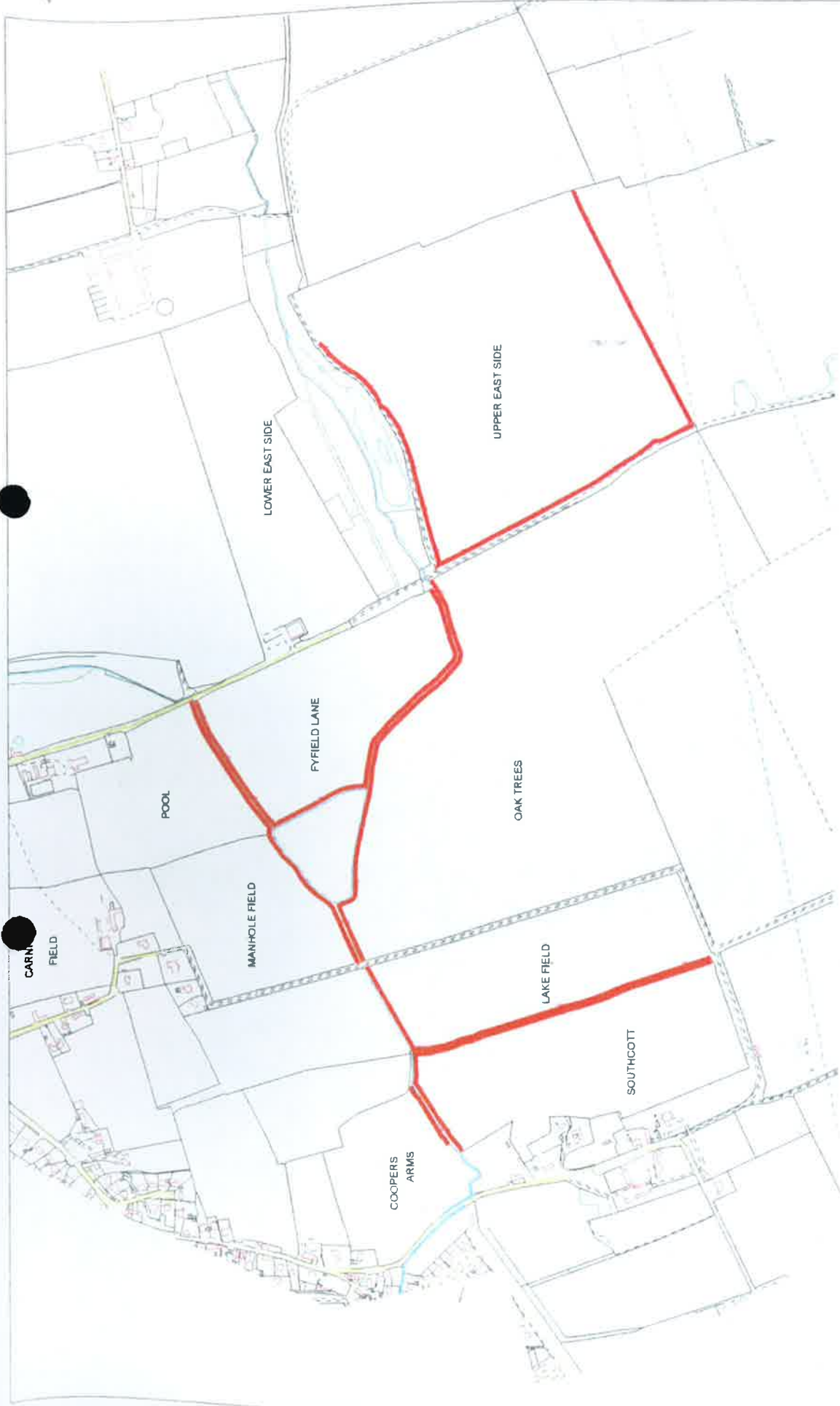
6M environment strips put in as a requirement of Entry Level Stewardship (ELS) scheme in 2007.

Key

Mike Hooper

Map 3





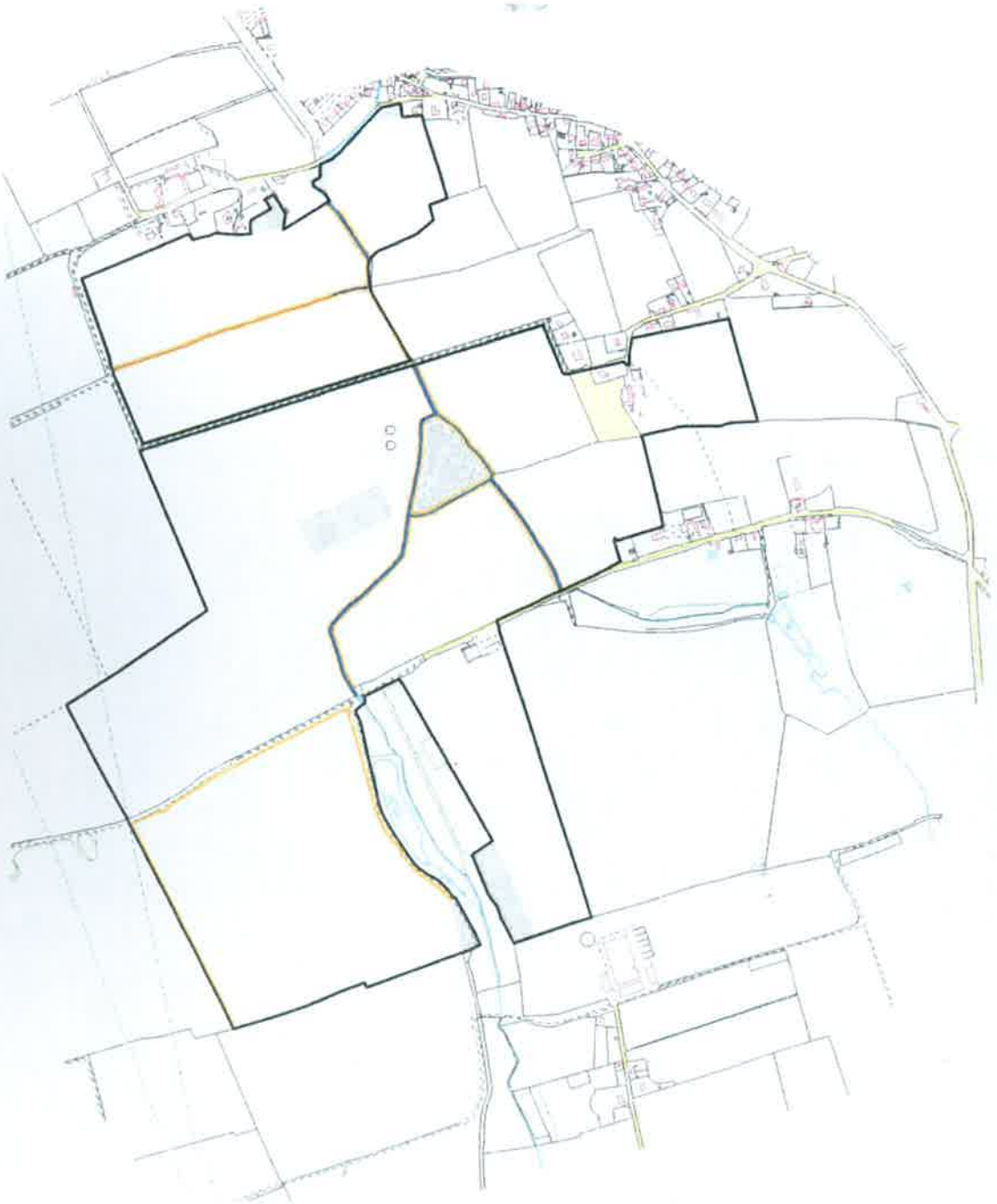
Farmade
Amais

Printed: 06 December 2006

Scale: 1:7500

R GA 2001

Using Ordnance Survey digital data with permission of the controller of HMSO, Crown Copyright



- ELS 2011 APP
- 1 Hybrid hedgerow
 - 2 Hybrid hedgerow & ditch
 - Field Corner Mixture
 - Low input grassland

- 1 Hybrid hedgerow ditch
- 2 Hybrid hedgerow ditch
- In field trees
- Very Low input grassland

- 2 Hybrid Ditch
- In margins
- In field trees

RAY GASSON & ASSOCIATES
FARM MANAGEMENT AND CONSULTANCY SERVICES

MIDDLE HILL, HOOK NORTON, BANBURY,
OXFORDSHIRE. OX15 5PL

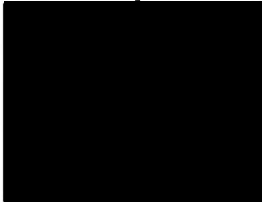
TELEPHONE: 01608 737888 FACSIMILE: 01608 737778

e-mail: rga@gassonassociates.com Website: www.gassonassociates.com

Our Reference: EW/FMG62

14 May 2008

Mr M Hooper

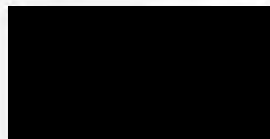


Dear Mike

Barset Farms

I enclose a copy of the minutes of our meeting held at Manningford Bohune on Wednesday 9 April 2008.

Yours sincerely



Emma Watson
Direct Dial: 01608 738024
email: emma@gassonassociates.com

BARSET FARMS

MINUTES of the meeting held at Manor Farm House, Manningford Bohune on Wednesday 9 April 2008.

Present: Mr P N D Pelham, Mrs V G Pelham, C Reid, J Clark, M Hooper, and E Watson

1 2008 HARVEST CROPPING

- a Winter Wheat (163.31 hectares): Crops were progressing well. Grass weed control had been applied. The T₀ fungicide would be applied shortly, but disease levels were currently low.
- b Winter Oilseed Rape (67.10 hectares): The majority of the small plants had survived the winter and the crop was progressing well. Blacklands was much more advanced and would require a growth regulator.
- c Winter Oats (40.01 hectares): Spring growth was yet to commence. The first nitrogen dressing had been applied. Broadleaved weed control was still to be applied.
- d Linseed (55.46 hectares): Varieties were Abacus and Bilton. Poultry muck was being applied on the day of the meeting and the ground would be cultivated and drilled once this was complete.
- e Cross Compliance: The Soil Protection Review had been updated.
- f ACCS: The inspection had been passed.

3 ENTRY LEVEL SCHEME

MH was still to erect the signs on the 6m margins. This would be done as a matter of urgency.

The 6m margin next to the bridleway in Woodbridge would be ploughed out and the ELS agreement adjusted accordingly.

4 DOWNLAND AND OTHER GRASSLAND

MH would apply the annual fertiliser dressing as soon as conditions allowed.

5 AGRICULTURAL WASTE REGULATIONS

6 GRAIN STORE

Bodmans had secured the old grainstore doors.

Fishlock & Dyer had been unable to repair the sensor lights. CR would investigate the feasibility of fitting a timer switch instead.

7 OTHER BUILDINGS

It was agreed that the internal roof to the chemical store would be felted to ensure that the rain which leaked through the barn roof did not damage the plywood. Work would also be carried out to bring the electrics up to standard. The automatic heaters were currently working, but would be monitored.

A quote from Wiltshire Waste to remove the old grain drier at no cost would be accepted.

8 BRIDGE TO BLACKLANDS

9 SHOOT

Hare coursers had been sited around Field Barn and Gordon had chased them from the premises. MH would help PP position old tree trunks in any gaps in the roadside hedge to ensure they could not easily gain access to the land.

10 ROADS, HEDGES, DITCHES AND GATES

MH would carry out remedial works to the Field Barn track as conditions allowed. MH would liaise with CR regarding stone requirements.

11 SECURITY

12 FINANCE

a 2007 Harvest: EW circulated an updated outturn statement.

Variable costs were unchanged from the previous quarter.

Profit share was likely to be approximately £93,000 better than budget.

MH would invoice PNDP for the remainder of the contract charge.

There was approximately 1 load of wheat remaining to be moved.

b 2008 Harvest: EW circulated an updated outturn statement. Seed costs were currently under budget but there would be further expenditure of approximately £2,500 on Linseed seed. Fertiliser costs were slightly over budget. Spray costs were under budget but there was significant further expenditure to come.

Grain Sales: EW circulated an updated schedule of 2008 commitments.

- d Contract Farming Agreement: In response to the recent changes in agricultural returns, the terms of the contract were discussed with a view to amending the agreement from 1 October 2008. An initial budget for the 2009 harvest was circulated. It was noted that costs were increasing significantly, especially fertiliser and diesel. A proposal was tabled which would increase MH's contract charge to £90/ac, and profit over £50/ac would be split 50:50 rather than 70:30. MH would discuss the proposal with the family before commenting.

15 DATE OF NEXT MEETING

This was arranged for Tuesday 1 July at 2.30 pm.

EW/FMG62
5 May 2008

Ray Gasson & Associates
Middle Hill
Hook Norton
Banbury
OX15 5PL
email: rga@gassonassociates.com





LANDOWNER EVIDENCE FORM

The object of this enquiry is to establish whether a Public Right of Way exists. It is important that you answer all the questions accurately and as fully as possible. This is of special importance as the information given may be examined at a Public Inquiry or Hearing.

FULL NAME (Rachel) Kim Laughton

ADDRESS

Tel no (day)

e.mail address

PATH DETAILS:

Parish Pewsey Parish, Wiltshire

Claimed Status of Way No public right of way. Applicant is claiming a footpath which we dispute.

Description of Path (also see attached map)

From: Southcott **To:** Kepnal

1. **The route of the way is shown on the accompanying plan.**

Does the route cross or adjoin your land? YES

If no, no further questions need to be answered.

If yes, please indicate on the plan the position of your land and state the number of years it has been in your ownership Since September 2016. Boundaries shown in red on attached map.

2. **Do you believe this way to be public?**

(a) *If so, with what status* No. It is not a footpath and has been private cropped field.

(b) *For how long have you held this belief?*

I have lived in Pewsey for most of my life with only a few years spent living elsewhere. I am now 43. In my life time, this land has always been farmed and never suggested by signage as a footpath. I understand from the previous landowner and the previous contract farmer that they both challenged walkers on a number of occasions and asked them not to walk on the land and to use the public rights of way.

I have spoken to Mr Mike Hooper of Combury Farm Contracting Ltd, the farm contractor who farmed all the land covered by this footpath application from 2001 until 2016. Mr Hooper has told me categorically that people did not used to walk on the land when he first took it over in 2001. All of the fields concerned were ploughed to the edges (which can be seen on historic images via Google Earth), which would have made walking difficult, and as there were already numerous public rights of way available, which were much easier to walk on, people stuck to these.

For example, people did walk through the field behind the Coopers Arms on PEWS37 at the westerly end of the proposed route but then continued eastwards on PEWS37 until it met PEWS36 or PEWS38. They

did not cut round the edge of the field behind the Coopers' Arms as the field and the next one they would come to were ploughed right to the edge.

However, in 2007 the land was entered into the government's Entry Level Stewardship (ELS) environmental scheme. This scheme enables the farmer / landowner to select land management options that will improve the environment and foster wildlife. One of the options selected was that of 6 metre environmental strips ("ELS strips") which were introduced along various field margins. Please see the attached map of where the 6m strips were located. These strips were "non-rotational" ie they were there all year and were there every year from 2007 through until 2016.

When the 6m ELS strips were introduced in 2007, some people started to walk on them and to walk their dogs on them as they appeared to be a nice footpath and were easy to walk on. This is why the proposed routes effectively follow the strips. The former owner and farm contractors challenged walkers and asked them not to walk on the strips and to use the public rights of way.

Despite being asked not to walk on the strips, some people ignored this and continued to do so. The landowner did not wish the land to be used as a footpath and asked his contract farmer to erect signs stating that it was not a footpath. At a meeting this request was repeated (please see attached Minutes of the meeting between held on 9 April 2008 repeating the request to put up the signs).

Shortly after this meeting Mike Hooper, the contract farmer, together with one of his staff members, erected signs at several points along the disputed route (please see attached map showing where these signs were located) stating that it was not a footpath. Mike Hooper and two of his staff are happy to confirm this. The signs were repeatedly pulled up and interfered with and eventually Mike Hooper and his staff gave up reinstating them. They did, however, continue to challenge walkers and ask them to stick to the public rights of way.

ELS environmental strips are grass margins which are created for wildlife, including to encourage ground nesting birds such as grey partridge and other wildlife such as brown hare and harvest mice. Clearly people walking along these, particularly with dogs, causes major disturbance and defeat what the farmer, and DEFRA, are trying to achieve.

Farmers participating in environmental stewardship schemes receive a payment as long as the requirements are achieved. Farms are inspected by DEFRA to ensure compliance and payment deduction or penalties are incurred where conditions are breached. Damage to ELS strips from walkers and dogs, such as compaction, trampling or "poaching", would be picked up in an inspection and can cause a reclaim of the grant and a penalty. This is another reason why farmers and landowners do not wish the public to walk on ELS strips and why they often put up signs to this effect.

I note that some of those who have completed user evidence forms suggest that the claimed routes are long established tracks which have been used by the public for many years. We have reviewed the relevant OS mapping from the late nineteenth century to recent times and can find no representation of a route of any kind on the claimed alignments. I have also looked at various aerial mapping online, and prior to 2007, I can see no evidence of these routes being used as a footpath. I suggest this should cast doubt upon the credibility of any suggestion that these are long established and well used paths.

I note that user evidence forms have been submitted by Charlene Twisk and Gill Cooke. My understanding is that the Cooke family bought Southcott Manor Farm in 1933 which included some of the land over which the routes pass. In different land transactions, pieces of land were then sold off by the Cooke family during the 1960s and 1970s. I believe Charlene Twisk to be a daughter of the Cooke family who owned some of this land and Gill Cooke was married to Mr Cooke's son. Their use should therefore not be regarded as representative of use by the general public.

In summary, prior to 2007 the route was not being walked on as the fields were ploughed right to the edges, making walking difficult hence walkers remained on the numerous available public rights of way.

Any walkers who were encountered by the former landowner or contract farmworkers, were challenged and asked to use the public rights of way.

In 2007, 6 metre environmental strips were introduced along various field margins and problems were experienced with people starting to walk along the HLS strips despite being asked not to. The landowner and contract farming team continued to challenge walkers who they came across and ask them to use the public rights of way. In 2008 signs stating that it was not a footpath were erected at various locations along the proposed route. These signs were repeatedly removed and damaged and eventually the contract farmers gave up reinstating them but continued to tell people verbally to stick to the public rights of way.

9. Have there, to your knowledge, ever been on the way any stiles or gates?

a. If yes, state whether the gate or gates were ever locked. A wire "Wiltshire gate" was installed at the entrances to our fields to the East of PEWS38 (at the same location as the 2016 signs shown on the attached map).

b. Show their position on the accompanying plan. Please see attached map

10. Have you ever obstructed the way?

a. If yes, state where, how and when. Please see answer to question (9).

We have placed wire gates across the field entrances to the East of PEWS38.

11. Can you give any further information? Please continue on a separate sheet of paper if needed.

Please find attached the following:

- map marked "Evidence Form" (Rachel) Kim Laughton
- submissions from Mike Hooper of Combury Contract Farming Ltd
- submission from two employees of Combury Contract Farming Ltd
- plan showing location of 6 metre environmental strips.
- Minutes of a meeting held on 9th April 2008.

DECLARATION

I hereby certify that, to the best of my knowledge and belief, the information that I have given is true.

Signed...



Date:

11th August 2017

Please return this form and any accompanying map to:

Rights of Way and Countryside Section, Waste and Environment, Wiltshire Council

County Hall, Trowbridge, BA14 8JN

APPENDIX 1B

Response to Public right of Way Application List of enclosures

Landowners form

Evidence Statement from Mike Hooper who contract farmed the land between 2001 and 2016.

Evidence statement from Mike Hoopers employees

Attached map showing position of environment strips as a requirement for Entry Level Stewardship (ELS) Scheme in 2007 and and position of signs that were erected in September 2016 and Wiltshire gate.

Photograph of sign and the sign in the ditch after it had been pulled up.

Map showing fields in S Ingram Hill's ownership

Except from a letter from Withy King in response to queries during due diligence regarding footpaths.

Map showing the fields in my ownership.

Response to Application Forms

I have responded to Mr Haddock's application which is the lead submission from which the others follow on.

I have also commented on Ms Twisks application

I have made brief comments on Margaret Forbes, David and Kirstin Warry Philippa Gilliam and Janice Oakman's applications.

I believe response to the other applications is covered by these comments

Addition to land owner's form

I have responded to the applications. People feel that they are being excluded and cannot see that walking over private land that does not contain livestock cannot be causing any damage. Unfortunately this view is mistaken. The Farm has been part of an Environmental Stewardship scheme since 2007. To the uninformed eye it appears that the fields have large margins that have been left fallow and therefore no harm occur from the public walking them and exercising their dogs. This is obviously not so. The farmer leaves these areas for nesting birds and other wild life. If used as a dog walk in the nesting season the results could be damaging. It is also possible that the farmer loses the right to be in the Scheme.

This is addressed in Mike Hoopers signed statement (Mike Hooper of Cornbury Farm Contracting Ltd)

Many of the applications state that there have been no "Private" signs before September 2016. This is not correct. Please see Mike Hoopers statement. On all occasions that they have been erected they have been torn down by walkers. (see attached photo). This shows that the walkers that have done this have been aware that they are on private ground and not a public footpath.

I believe that Mrs Laughton has submitted minutes of a meeting of Ray Gasson Associates that makes a brief reference to the erection of the footpath signs by HLS on behalf of the previous landowner

I do not think that the aerial photography is helpful.

We are happy to support the existing footpaths that cross our land. Pews36 and Pews 39. We do, however, have members of the public abusing that access. We have on several occasions had whole families running through our barley crop off the footpath. I have also had a man with two dogs running through the crop in June 2017.

Many new houses have been built in Pewsey over recent years. This has led to a huge increase in dog walking. It is possible to make a circular dog walk without using the routes that have been applied for. I would therefore argue that the area is accessible, but should be restricted to the footpaths that are already designated.

Expensive new bridges have been installed on PEW36 and PEW39 to assist walkers to keep to the correct paths by the Council.

I purchased Southcott House 2003 and there was no obvious use of either footpath PEW36 or PEW39. This was because the fields were ploughed to the edges at this time and there was no bridge over the stream at Pew 36. The public walked around the bridleway from Winters Drove to Kepnal It was only after the SLS strips were introduced in 2007 that people started to walk down PEW 36 and then along Hurly Stream to the Kepnal track, but not directly across Coopers field. Pewsey 37 goes west/east to Pewsey 38. Pewsey 36 goes North/ South from Pewsey 35. There is and has always been a west/east path along Pewsey 37 to Pewsey 38. This has recently had new metal swing gates installed along the boundary fields which replaced the wooden stiles that were there previously. The crossing of the Hurly stream on Pewsey 36 has been improved greatly by the installation of a new bridge so that the path that interconnects at Pewsey 37 is now excellent. This means that the temporary walking down the side of Coopers Field is now unnecessary. There is no reason not to use the designated footpath.

The enclosed lawyers letter show the response to due diligence enquiries during the sale of the land. It give the reason that walkers started diverting from the designated footpath as they could not cross the ditch. This has now been resolved by the new bridge.

The Kepnal Farm was purchased and then split between 3 new owners. I believe that the evidence that has been provided by both myself, Kim Laughton and on behalf of the Alex Newbiggin will overlap and the evidence will apply to the whole farm before it was split.

LANDOWNER EVIDENCE FORM

The object of this enquiry is to establish whether a Public Right of Way exists. It is important that you answer all the questions accurately and as fully as possible. This is of special importance as the information given may be examined at a Public Inquiry or Hearing.

FULL NAME SARAH PAM INGRAM HILL

ADDRESS ..
Tel no (day)
e.mail address

PATH DETAILS:

Parish DEWSEY

Claimed Status of Way FOOTPATH

Description of Path (also see attached map)

From: HURLET LAKE STREAM BY TO: PEW 36 TO PEW 38

1. The route of the way is shown on the accompanying plan.

Does the route cross or adjoin your land? YES / ~~NO~~

If no, no further questions need to be answered.

If yes, please indicate on the plan the position of your land and state the number of years it has been in your ownership SINCE 2016 or tenancy

2. Do you believe this way to be public?

(a) If so, with what status No

(b) For how long have you held this belief? SINCE 2003

3. Have you seen, or been aware of, members of the public using this way?

(a) If so, please state the period, regularity and nature of such use ONLY SINCE 2007

4. Have you ever required people to ask permission before using the way?

If so, please give details No

5. Have you deposited a Section 31 (Highways Act 1980) plan and statement? YES / ~~NO~~

HLD/PEW/2017/10

1st pair accepted
by Wiltshire Council
early August 2017.

If so, please give details and dates Submitted June 2017

6. Have you, or someone on your behalf, ever turned back or stopped anyone from using the way?

If yes, please give details and appropriate dates In Sept 2016 by James Strong's Farm Manager at the time

7. Have you, or someone on your behalf, ever told anyone using the way it was not public?

If yes, please give details and appropriate dates As above

8. Have you ever erected notices or signs stating that the way was not public?

a. If yes, please give details and approximate dates Yes (see map)

They were thrown in the ditch several times they have stopped since the application to the Council

b. State whether these notices were ever defaced or destroyed and whether they were replaced.

c. Show their position on the accompanying plan

9. Have there, to your knowledge, ever been on the way any stiles or gates? YES / NO

a. If yes, state whether the gate or gates were ever locked Installed Sept 2016 + locked

b. Show their position on the accompanying plan

10. Have you ever obstructed the way?

a. If yes, state where, how and when See map with position of locked Wiltshire Gate

11. Can you give any further information? Please continue on a separate sheet of paper if needed.

See attached

DECLARATION

I hereby certify that, to the best of my knowledge and belief, the information that I have given is true.

Signed: 

Date: 28/8/17

Please return the accompanying map to:

Rights of Way and Countryside Section,

Waste and Environment

Wiltshire Council

County Hall

Trowbridge

BA14 8JN

Witness Statement

Full Name: Mike Hooper

Address:

4ND

Tel No (Day):

Tel no (Eve):

Email address:

Path Details:

Parish: Pewsey

Claimed Status of Way: Private land - not a public right of way.

Description of Path: See map. Council's Ref: CH/PEWS/2017/02

Background

I have been a farmer based in West Lavington for 30 years and have acted for other landowners as a contract farmer for 20 years.

Together with my staff we farmed all the land affected by this footpath application for the previous owner (Mr Paul Pelham / Basset Farms) from October 2001 until September 2016, when the land was sold to the four new owners. I no longer farm the land or have any connection to it.

Cultivation History of the Land

When I took over the land back in 2001 all of the fields had been, and continued to be, ploughed right to the edges. There were no margins and I did not see people walking on the field edges. There was also no evidence of walking such as flattened grass or wearing of a path. This was true of all of the field margins along the two routes sought from A to B and A to C.

Footpath PEWS37 runs west to east from the Southcott road across the middle of the field behind the Coopers Inn pub and this has always been heavily used. However, when I first took on the land, walkers crossed into the next field to the west, thereby continuing along the official footpath (PEWS37) until joining footpath PEWS38, which runs north to south. They generally did not join PEWS36 because for much of the time there was no bridge where PEWS36 crosses the stream and the ground is muddy due to poaching by cattle and flooding. Walkers completed a circular walk by return to the road at Southcott via PEWS45. I have marked this in orange on the attached map (Map 1). Anyone walking on the fields would have been asked by myself or my staff not to do so and to stick to the footpath as a matter of course. This has and remains my standard practice for all land that I farm.

However, in 2007 the land was put into an Entry Level Stewardship (ELS) scheme. One requirement of this scheme was for 6m environmental strips to be put in along the edges of

P.T.O.

- fields. These are shown on Map 2 (attached) and you will note that they essentially match the footpath application.

Prior to the creation of the environmental strips, the field edges concerned were not walked as the fields were ploughed and cultivated right to the edge. However, once grass strips were introduced in 2007, people started walking on them. I and my staff asked people on numerous occasions not to walk on the environmental strips. As farmers we can be penalised by the Rural Payments Agency (RPA) if these strips are walked on because they are specifically designed to encourage wildlife. We therefore went to some effort to stop people from doing so.

The walking on the environmental strips was discussed at the quarterly meeting held on 14th May 2008 between myself, the previous landowner and his farm management company (Ray Gasson & Associates). I am enclosing a copy of the minutes of this meeting which show that it was agreed at the landowner's request that we erect signs on the 6m margins stating no footpath as a matter of urgency. The signs 12" X 8" in size

I put up signs in the places marked with an "S" in a circle on the map enclosed (Map 2). I did this with one of my staff, Tony Blanchard, who has also confirmed this in his own statement.

Shortly after the signs were erected, they were taken up and thrown into the ditches. We retrieved the signs and re-installed them on a number of occasions but eventually ceased to do so as we were unable to find them.


Myself and my staff continued to ask people not to walk on the fields and to stick to the official footpaths. In one incident, in around 2012, Robert Hodgson, a member of my staff, had to repeatedly ask a man with his dog to move out of his way so that he could plough the remaining part of the field. The man remained in the way despite repeated asking to move, eventually he moved and Robert was able to finish.

Flooding

Not only were the fields ploughed right to the edges prior to entry into the ELS scheme, which meant that there was no margin for walking, but also parts of the proposed routes are subject to significant seasonal flooding (please see Map 3) which was sufficient to make the routes impassable due to the depth of water and ground conditions. Walkers therefore stuck to the official footpaths which were not ploughed or subject to flooding.

However, since 2007, the introduction of the environmental strips has provided a 6 metre grass margin which has also improved ground conditions (as the strips are not ploughed) which has made the route theoretically passable with wellies.

I confirm that the above is a true statement:

Signature: 

Name: M. Hooper

Date: 10/08/17

Witness Statement

Full Name: Robert Hodgson

Address:

Tel No (Day):

Tel no (Eve):

Email address:

Path Details:

Parish: Pewsey

Claimed Status of Way: Private land - not a public right of way.

Description of Path: See map. Council's Ref: CH/PEWS/2017/02

Background

I have been employed by Mike Hooper of Cornbury Farm Contracting Ltd ("Cornbury") since 2013

As part of this employment I have worked on the land affected by this footpath application.

Throughout the period from 2013 to 2016 whilst I worked for Mike Hooper on this land, I approached people I saw walking on the field margins that were not footpaths and asked them to keep off the field margins and to keep to the official footpaths.

In about 2013 I also had a specific incident where one man with his dog would not move out of the way in order to allow me to finish ploughing the field. I repeatedly asked him to move. In the end he moved.

Witness Statement

Full Name: Tony Blanchard

Address:

Tel No (Day):

Tel no (Eve):

Email address:



Path Details:

Parish: Pewsey

Claimed Status of Way: Private land - not a public right of way.

Description of Path: See map. Council's Ref: CH/PEWS/2017/02

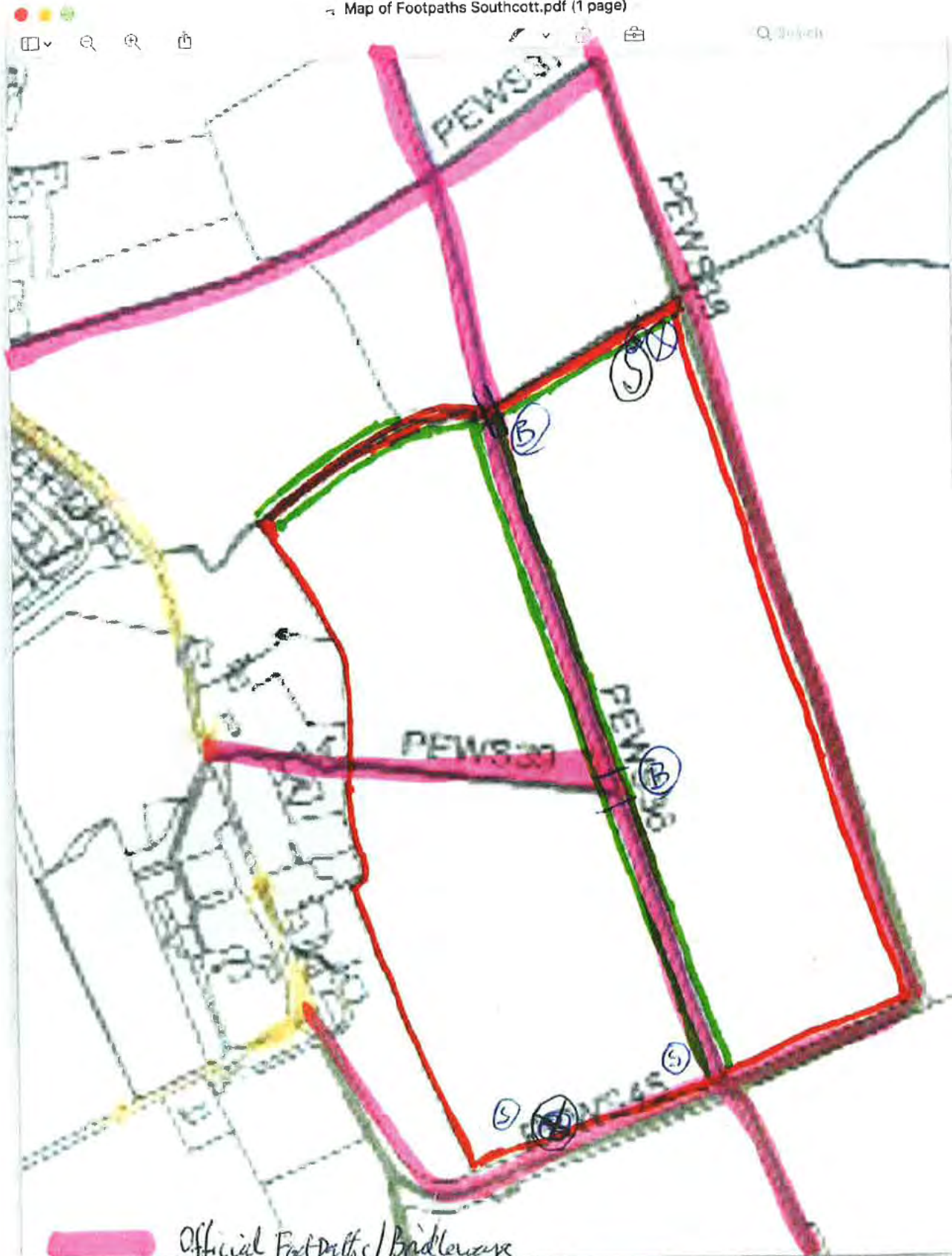
Background

I have been employed by Mike Hooper of Cornbury Farm Contracting Ltd ("Cornbury") since 2005

As part of this employment I have worked on the land affected by this footpath application.

I can confirm that I helped Mike Hooper erect signs explaining that they were environmental margins and not footpaths 12 X 8 in size in the spring of 2008 notifying walkers that they were not to walk on the environmental strips as these were not footpaths. I also confirm that these signs were pulled up and thrown into the ditch. We retrieved the signs and reinstated them but they kept being removed until eventually we gave up as the signs were lost.

Throughout the period from 2001 to 2016 whilst I worked for Mike Hooper on this land, I approached people I saw walking on the field margins that were not footpaths and asked them to keep off the field margins and to keep to the official footpaths. We did not approach people every time but consistently enough for our views to be well known. Sometimes we would be working at the opposite end of the field so by the time we got to the walkers or followed them it took too much time. We were ignored by some of the walkers that we challenged so started to challenge them less as it was a waste of time.



-  Official Footpaths/Bridleways
-  Boundary of land owned by S114
-  ELS Scheme
-  Signs erected Sept/Oct 2016
-  New bridges installed Oct 2015
-  Wired Wiltshire Gate

Environmental Stewardship claim form (2015)

Natural England
Customer Services, PO Box 530, Worcester, WR5 2WZ
Telephone: 0300 060 1115
Email: cs.worcester@naturalengland.org.uk
Website: www.gov.uk/government/organisations/natural-england



* A G 0 0 3 7 2 8 0 0 *



* E S / R E V C L A I M F O R M *

Your claim form (all pages, including this page) and any applicable supporting documents must be returned to and received by the Natural England office above on or before 15th May 2015.

If you do not return a valid claim form by the above date the following penalties will be applied, unless force majeure or other exceptional circumstances apply:

- If we receive your claim after 15th May 2015 but on or before 9th June 2015 we will apply a penalty of 1% of your payment for this claim year for each working day that your claim is late.
- If we receive your claim after 9th June 2015 we will withhold all of your payment for this claim year.

If we do not receive any applicable supporting documents required for your claim we will withhold all of your payment for this claim year until they are received.

If you want confirmation that your claim has been received, please tick this box



DO NOT DETACH THE SLIP BELOW

ENVIRONMENTAL STEWARDSHIP CLAIM FORM ACKNOWLEDGEMENT

Claim reference

AG00372800/2015 - *Main*



Your claim form was received by Natural England on the date shown below. This acknowledgement only provides proof that your form has been received by Natural England.

Mrs Emma Watson
Gasson Associates
Middle Hill
Hook Norton
Banbury OX15 5PL

Date stamp (for NE use)

Environmental Stewardship claim form (2015)

Please complete this form by hand, using block letters and black ink throughout and ensuring any alterations are initialled by you - **do not use correcting fluid.**

Please ensure that you complete all relevant sections of this form, including any applicable tick boxes, and that you sign and date it. **Failure to do so may reduce your payment as the form may need to be returned to you for completion which could result in you not meeting the claim deadlines referred to on page 1 of this form.**

If you require more space for any section please continue on a separate sheet, ensuring that you add the claim reference and sign and date each sheet.

Scheme	Entry Level Stewardship
Agreement Holder's Name	Barset Farms
Agreement Title	Barset Farms
Agreement Reference/Claim Year	AG00372800/2015
Period covered by claim	1st January 2015 to 31st December 2015
Vendor Number	344816
If any of the information above is incorrect, please ensure that you contact Natural England as soon as possible, using the telephone number shown on page 1, as we may need to send you a new claim form.	

DO NOT WRITE ANYTHING BELOW THIS LINE

This space is intentionally left blank for the reverse of the acknowledgement slip
DO NOT WRITE ANYTHING HERE

Extract from a letter from.

Angus Williams of Witley Key.
regarding Due diligence questions.

Dated. 17th Feb. 2016

4. With regard to the public footpath, the enquiries raised said that there was a footpath crossing east to west, which I suspect could well be the footpath affecting the land that you have agreed to purchase and the sellers have said that they have not experienced any problems with the right of way, but have limited knowledge as to how much it is used. They have also said on the basis they do not live on site, they do not know if people are venturing off the rights of way. You, yourself, have some knowledge of this and we have discussed it and you are comfortable that that has really only been happening for two or three years, due to field margins etc.

The sellers went on to say that they become aware of the diversion along the ditch, which will be your northern boundary last February that people had used the grass track on the south side of the ditch, which of course we discussed on site. The sellers have said that this was a result of people not being able to transverse the ditch on the Pewsey 3936 footpath. They were diverted around the headland of the field to link to Pewsey 36. The foot bridge was installed by the local authority last summer.

The sellers have said that they are not aware of any applications or anticipated applications to dedicate this as a new public route. Apparently, there have only been complaints about reinstating the foot bridge, which is now in place.

[REDACTED]

6. We are advised that walkers using footpath Pewsey 39 walked the headland along the ditch from the corner where the land adjoins James Del Marr's property up to point B (where the right of way across Kim's land will join your land). They say this was only done when the public could not cross the ditch and that the local authority, as we have mentioned before, installed a new bridge during last summer.

[REDACTED]

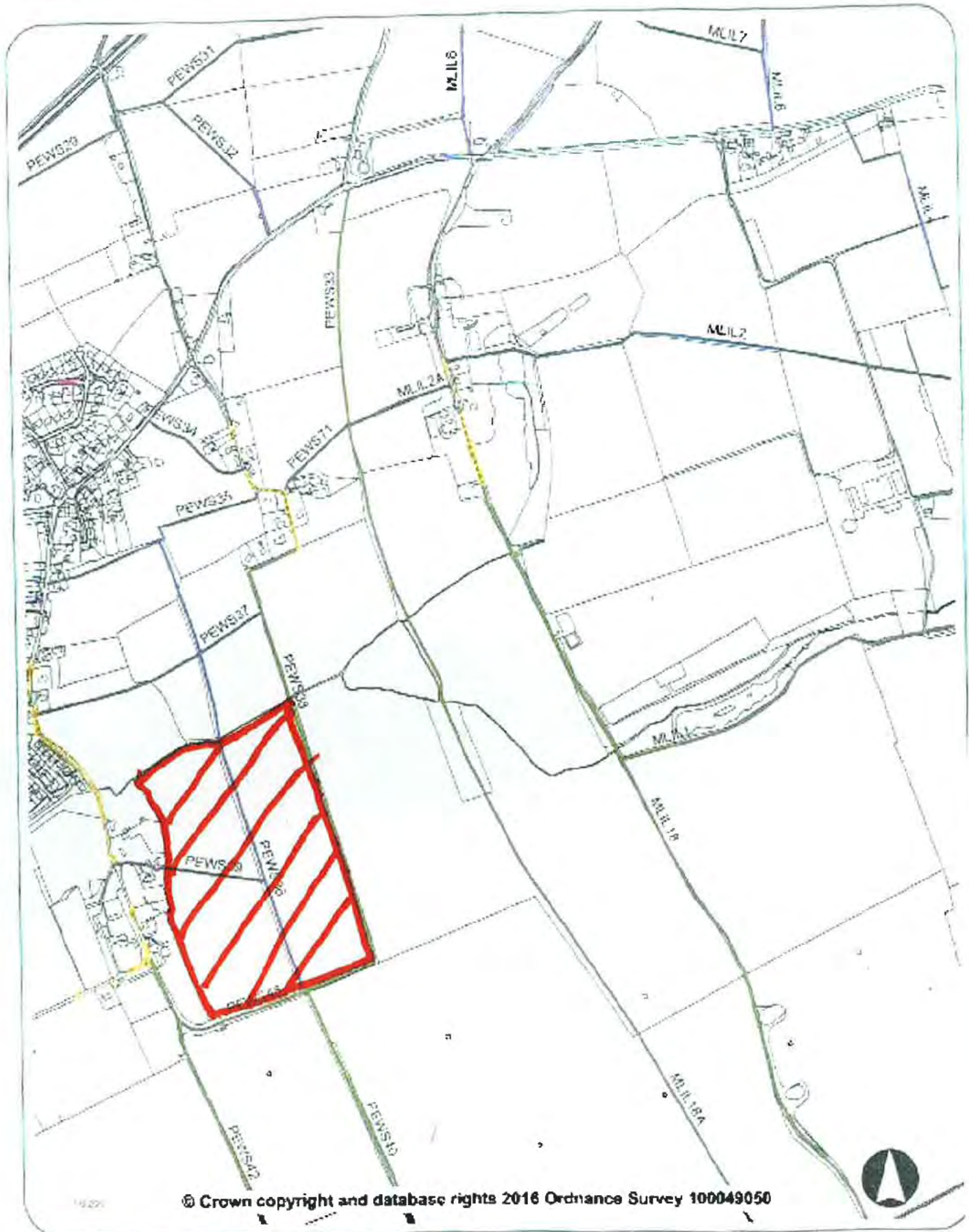
7. [REDACTED]
lat


8. W [REDACTED]

I look forward to hearing from you.

Yours sincerely


Angus Williams
Partner



 LAND OWNED BY MRS S. INGRAM HILL

Response to Public Right of Way User Evidence Statements

I comment on Mr Haddock's application as this is the lead submission and some others. Where there is no additional information I have not commented

5. The field boundaries were this width after the farm signed up for the SLR scheme in 2007. These headlands were left then to allow the wildlife to flourish. The Farmer would have been penalised if it was found that the public were using these headlands as footpaths.

9 It is incorrect that there have not been any signs before 2016. (See Mike Hooper's statement). He also states that the signs were torn up as happened when they were erected in 2016. (see attached photo)

Mr Haddock states that dog walkers have increased greatly over the last few years. This is correct and has been the result of the increase in houses that have been built in Pewsey.

18 Mr Haddock states that the routes have been used for at least 80 years. This is hearsay and therefore not reliable evidence.

20 It is incorrect to say the application route has been used as a connection route between villages. This would have been on the existing and recognised footpaths.

Ms Twisk

7b States that locked gates have proliferated over the last few years, although she does not state where.

She states that Mr Haddock has been told he was on private property in September 2016. He denies ever having been told.

Margaret Roberts

18 (3) Knows that these paths are not on the map as footpaths.

David and Kirstin Warry

17 Mrs Warry states that she is an expert on reading Aerial photography. As the routes identified have been used for the movement of farm machinery I think this must be difficult. The farm track that runs across Lake field and Southcott Field has been used to access Cooper's field with farm machinery in recent years.

Philippa Gilliam

13 says that she is aware the paths applied for are not on the current OS map as designated footpaths

Janice Oakman

13 States that Pat Beresford had told her that the applied for paths were not public footpaths. If they had been walked as "ancient rights" they would be on the OS map as definitive footpaths.



1/3/17.

Showing sign pulled
up and thrown in
the ditch.

27/2/17.

Photograph of Private
Level Signs



WILDLIFE AND COUNTRYSIDE ACT 1981

THE DEFINITIVE MAP AND STATEMENT FOR THE PEWSEY RURAL DISTRICT COUNCIL AREA DATED 1952

THE WILTSHIRE COUNCIL PARISH OF PEWSEY PATH NO.82 AND PATH NO.82A AND THE PARISH OF MILTON LILBOURNE PATH NO.34 AND PATH NO. 34A DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017

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 Pewsey Rural District Council Area definitive map and statement dated 1952 require modification in consequence of the occurrence of an event specified in section 53(3)(c)(i) 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.

The authority have consulted with every local authority whose area includes the land to which the order relates. The Wiltshire Council hereby order that:

1. For the purposes of this order the relevant date is 2nd November 2017.
2. The Pewsey Rural District Council Area definitive map and statement dated 1952 shall be modified as described in Part I and Part II of the Schedule and shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as the Wiltshire Council Parish of Pewsey Path no.82 and Path no.82A and the Parish of Milton Lilbourne Path no.34 and Path no.34A Definitive Map and Statement Modification Order 2017.

THE COMMON SEAL OF }
THE WILTSHIRE COUNCIL }
was hereunto affixed this }
7th of November 2017 }
in the presence of:



Senior Solicitor



SCHEDULE

PART I

Modification of Definitive Map

Description of path or way to be added

That length of footpath as shown by a broken black line with short intervals on the attached plan, leading from point A at OS Grid Reference SU 1704-5986, at its junction with PEWS37, leading in a southerly direction for approximately 140 metres where the path crosses over a culvert and leads in an easterly direction following the field edge for approximately 215 metres to PEWS38. The path then splits either side of Hurly Lake stream. The spur on the northern side of Hurly Lake leads in east north easterly direction for approximately 125 metres to SU 1740-5990 where it crosses over Hurly Lake via a culvert and continues in an east north easterly direction to its junction with MLIL18 at point E at SU 1770-6009. At point C at SU 1730-5983 the southern spur of the path follows the stream in a south easterly direction for approximately 675 metres to point F and its junction with MLIL 18 at SU 1789-5972.

PART II

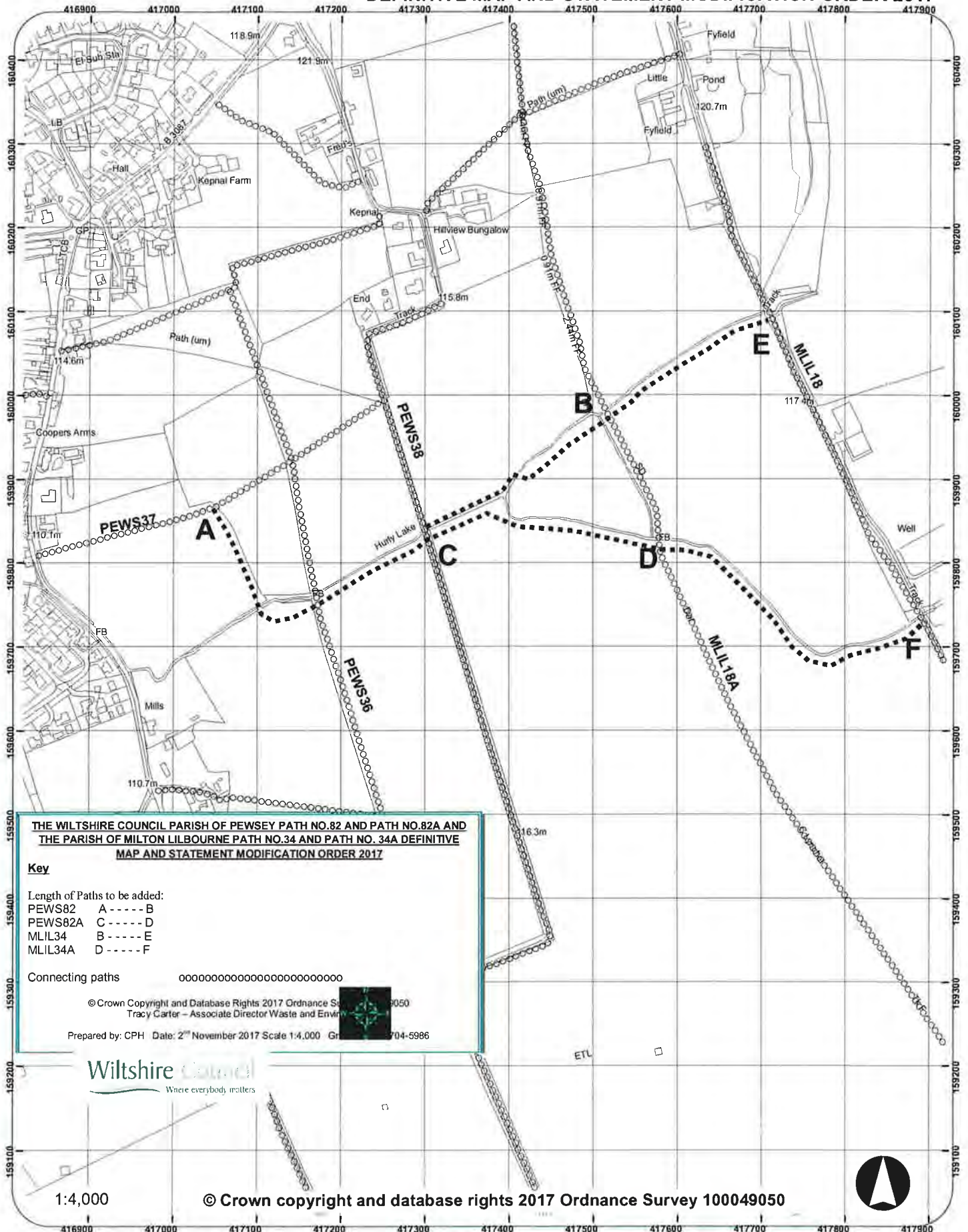
Modification of Definitive Statement

Variation of particulars of path or way

<u>Parish</u>	<u>Path No.</u>	<u>Modified Statement to read:-</u>	<u>Modified under Section 53(3) as specified</u>
Pewsey	82	From OS Grid Reference SU 1704-5986 at its junction with footpath PEWS37, leading in an southerly direction for approximately 140 metres where the path crosses over a culvert and leads in an east-north-easterly direction following the field edge for approximately 215 metres to its junction with PEWS 38. The Path then continues on the north side of Hurly Lake stream in an east-north-easterly direction before crossing over Hurly Lake stream via a culvert at SU 1740-5990 and then continuing to the Milton Lilbourne parish boundary at SU 1751-5996. Approximate Length 633 metres. Width 2 metres	53(3)(c)(i)

Pewsey	82A	From OS Grid Reference SU 1730-5983 leading in a south- easterly direction following the south side of Hurly Lake stream to the Milton Lilbourne parish boundary at SU 1757-5982. Approximate length 297 metres. Width 2 metres.	53(3)(c)(i)
Milton Lilbourne	34	From OS Grid Reference SU 1751-5996 leading in an east-north-easterly direction following the field boundary to its junction with MLIL18 at SU 1770-6009. Approximate length 232 metres. Width 2 metres.	53(3)(c)(i)
Milton Lilbourne	34A	From OS Grid Reference SU 1757-5982 leading in a south easterly direction following the southern side of the stream to its junction with MLIL18 at SU 1789-5972. Approximate length 375 metres. Width 2 metres.	53(3)(c)(i)

**THE WILTSHIRE COUNCIL
PARISH OF PEWSEY PATH NO.82 AND PATH NO.82A
AND THE PARISH OF MILTON LILBOURNE PATH NO.34 AND PATH NO. 34A
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017**



THE WILTSHIRE COUNCIL PARISH OF PEWSEY PATH NO.82 AND PATH NO.82A AND THE PARISH OF MILTON LILBOURNE PATH NO.34 AND PATH NO. 34A DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017

Key

Length of Paths to be added:
 PEWS82 A ----- B
 PEWS82A C ----- D
 MLIL34 B ----- E
 MLIL34A D ----- F

Connecting paths 00000000000000000000000000000000

© Crown Copyright and Database Rights 2017 Ordnance Survey 100049050
 Tracy Carter – Associate Director Waste and Environment

Prepared by: CPH Date: 27 November 2017 Scale 1:4,000 Grid Reference: ST704 5986



APPENDIX 3i

Our Ref: NF/AES/320565.0001
Your Ref: CH 2017/02
Date: 15 December 2017

Birketts LLP
24-26 Museum Street
Ipswich
Suffolk IP1 1HZ

T: +44 (0)1473 232300
F: +44 (0)1473 230524
DX: 3206 Ipswich
E: mail@birketts.co.uk

Wiltshire Council
Rights of Way and Countryside Team
Unit 9
Ascot Court
White Horse Business Park
TROWBRIDGE BA14 0XA

www.birketts.co.uk

By email to: craig.harlow@wiltshire.gov.uk and post

Dear Sirs

Wildlife and Countryside Act 1981 s.53

The Wiltshire Council parish of Pewsey path No. 82 and 82A and the parish of Milton Lilbourne path No. 34 and 34A Definitive Map and Statement Modification Order 2017

We are instructed by J M Strong and Partners of Green Drove House, Green Drove, Pewsey, Wiltshire SN9 5JD, Mr Alexander Newbigging c/o Fyfield Manor, Fyfield, Pewsey, Wiltshire SN9 5JS and Mrs Sarah Ingram Hill of Southcott House, Southcott, Pewsey, Wiltshire SN9 5JF the owners of the land affected by the above Order. Please accept this letter as an objection on behalf of our clients to confirmation of the Order. The grounds for objection include, but are not limited to:-

1. The evidence of use relied upon in making the Order, particularly claimed use prior to 2007, is not consistent with the objectors knowledge and experience of the use of this land. The objectors do not accept that there has been sufficient use as of right to represent use by the public. The credibility of the user evidence should be tested by cross-examination.
2. The Order route follows 6 meter wide field margins that were first created in 2007 when the land was entered into an Entry Level Stewardship scheme. Prior to this the land was cultivated up to the field edge, leaving no strip which could have been used as a footpath, and there was no evidence of any such use.
3. Such use as there may have been of the Order route has only taken place since 2007 when the 6 meter grass margins were in place. Accordingly any such use has been for an insufficient period to give rise to a statutory presumption of dedication, or to an inference of dedication at common law.
4. The Order route is subject to significant seasonal flooding which is often sufficient to render the route impassable due to the depth of water and ground conditions.
5. In response to such public use as there was after 2007 the landowners or their representatives challenged users on the Order route and signs were placed on the route stating that the land is private and denying the existence of any public right of way. Although the signs were repeatedly removed and or damaged, they were reinstated a number of times. By these means any subsequent use of the route was rendered not as of right and furthermore the landowner sufficiently demonstrated a lack of intention to dedicate.

Please acknowledge safe receipt of this objection.

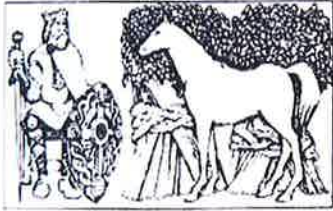
Yours faithfully



Birketts LLP

Direct Line:
Direct e-mail:





PEWSEY
PARISH
COUNCIL



Mr C. Harlow
Rights of Way Officer
Waste and Environment
Wiltshire Council
Unit 9 Ascot Court
White Horse Business Park
Trowbridge
BA14 0XA

17th November 2017

Dear Mr Harlow,

Reference: CH/2017/02

Pewsey FP82/82A and Milton Lilbourne FP34/34A definitive map and statement modification order 2017.

Thank you for your letter dated 9th November regarding the modification order detailed above. You will have already received the Parish Council's objection to the proposal as detailed in the email of 6th July 2017 and there is nothing further to add.

Could you please clarify the next steps and also advise whether the Parish Council objection counts as one or per member?

Yours sincerely

Alison Kent
Clerk to Pewsey Parish Council

www.miltonlilbourne.org.uk

**Saffron Cottage,
Milton Lilbourne,
Near Pewsey,
Wiltshire,
SN9 5LQ.**

**Telephone: 01672 562348
E-mail : dafyddfall@gmail.com**

Craig Harlow Esq.,
Rights of Way Officer,
Rights of Way and Countryside, Waste & Environment,
Wiltshire Council,
Unit 9,
Ascot Park,
White House Business Park,
Trowbridge,
BA14 OXA.

Your reference : 2017/02


Dear Mr.Harlow

**DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER PEWSEY AND
MILTON LILBOURNE PARISHES 2017/02**

Milton Lilbourne Parish Council warmly supports the proposal to designate the new footpaths outlined in Definitive Map and Statement Modification Order 2017/02 dated 9 November 2017. The proposed footpaths are well-walked and provide useful east-west links between bridleways 18 and 18A running roughly north-south in the parish of Milton Lilbourne.

Please let me know if you need any further information.

Yours sincerely,



David Fall
Vice-Chairman
Milton Lilbourne Parish Council

19th December 2017

Rights of Way & Countryside Team
Waste and Environment
Wiltshire Council
Unit 9
Ascot Court
White Horse Business Park
Trowbridge
BA14 0XA

«Name»
«Address_1»
«Address_2»
«Address_3»
«Address_4»
«Address_5»
«Address_6»

Your ref:
Our ref: CH 2017/02

Dear «Salutation»

Wildlife and Countryside Act 1981 – Section 53
The Wiltshire Council parish of Pewsey path No.82 and 82A and the parish of Milton
Lilbourne path No.34 and 34A definitive map and statement modification order 2017.

The above order made on the 7th November 2017, has attracted 2 objections to date.

One of these objections, which is from the owners of the land affected by the order route, states the order route was not used before 2007 when these routes were made into 6 metre wide strips for an environmental stewardship scheme and use by the public before the creation of these strips did not happen.

I have noted in your submitted user evidence form you have claimed use of the order route before 2007.

Please could you reply to this letter stating any details of your use before 2007 you recall, in particular any difference in the nature of the surface or appearance of the order route before and after 2007 you may have noticed and how any change in the nature of the land affected your use of the order route. I have included a copy of the order plan which you may wish to use to annotate any observations you make.

This information will be of great help going forward in the process.

Many Thanks

Yours «Close»

Craig Harlow
Rights of Way Officer
Direct line: 01249 468568
Email: craig.harlow@wiltshire.gov.uk

Enc. Order plan

IVAN PAGE-RATCLIFF



23 December 2017

**Your Ref: CH2017/02
By email and Post**

**Mr Craig Harlow
Rights of Way Officer
Wiltshire Council
White Horse Business Park
Trowbridge BA14 OXA**

Dear Mr Harlow

I respond to your letter dated 19th December 2017 and enclosed plan for which I thank you.

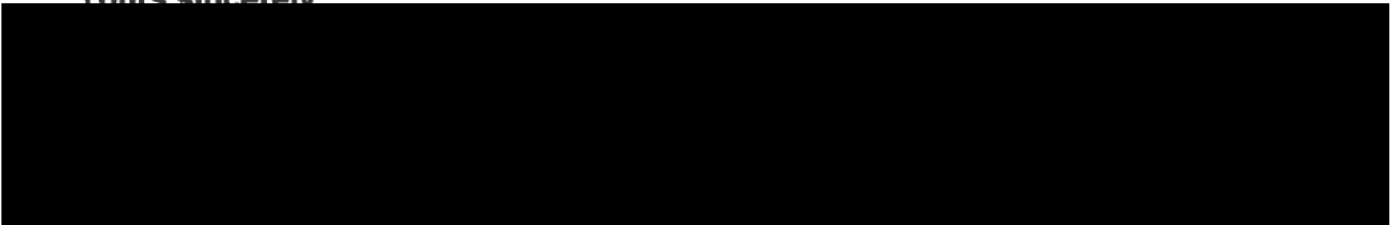
In your second paragraph the statement that the order route WAS NOT USED before 2007 and use by the public before the creation of the 6 metre strips DID NOT HAPPEN. These statements are incorrect.

In the summer of 2006 I recall that my wife and I walked daily along the paths - points C and E and C and F (hatched red on the map) and more occasionally along the route A to C (hatched green on the map). We have a small well behaved dog which accompanies us and which is normally on a lead. On our walks we usually encountered a maximum of 3-4 other walkers, so the "traffic" was light. Few walkers used the "order" routes as they did/do not attract visitors from out of the immediate area.

It is true that there was much more width after the 6 metre strips were cut for the Environmental Scheme but prior to this there were defined paths, maybe some 3-4 feet in width which we observed.

I hope this information will be of be of help to you.

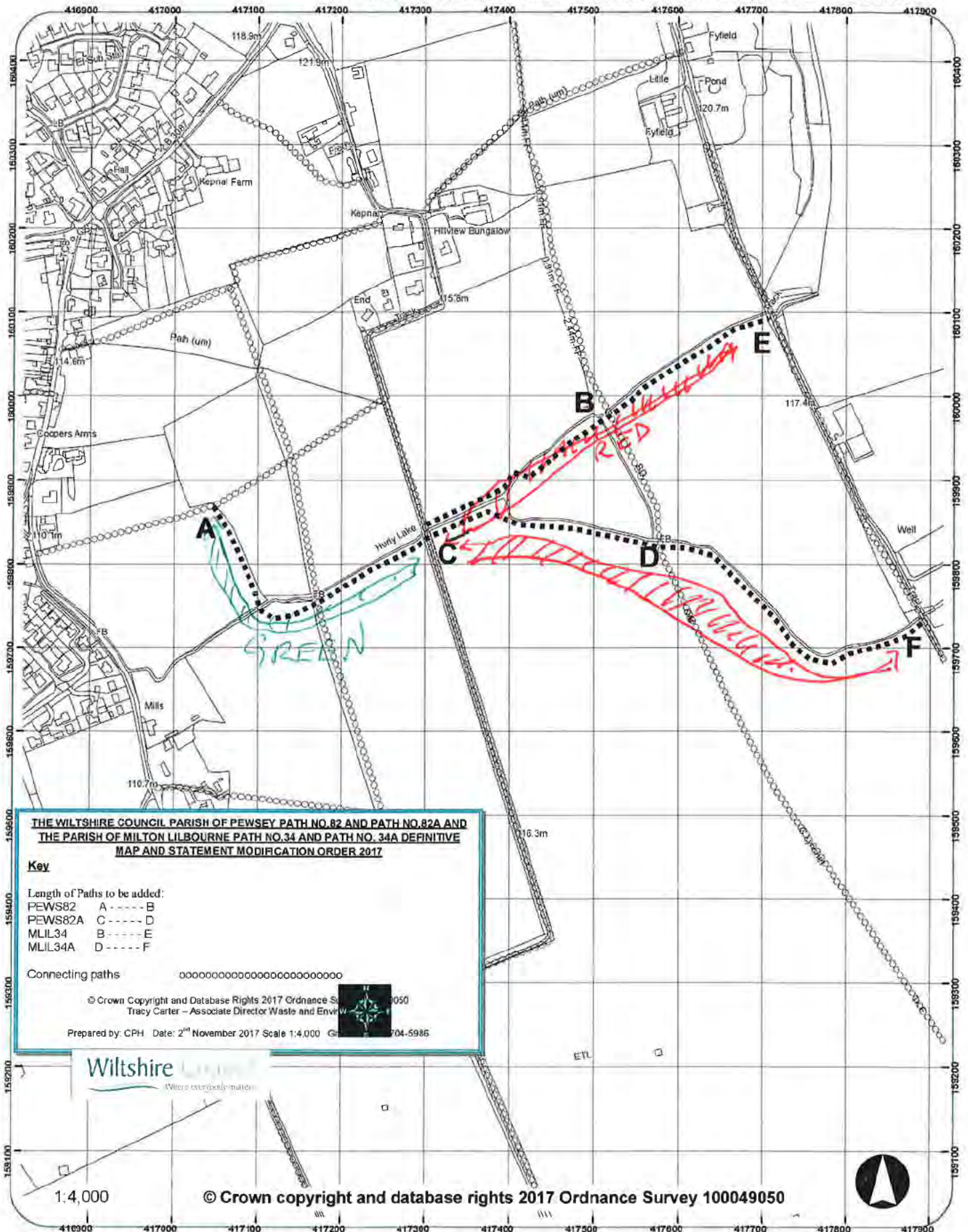
Yours sincerely



IVAN PAGE-RATCLIFF

SALLY PAGE-RATCLIFF

**THE WILTSHIRE COUNCIL
PARISH OF PEWSEY PATH NO.82 AND PATH NO.82A
AND THE PARISH OF MILTON LILBOURNE PATH NO.34 AND PATH NO. 34A
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017**

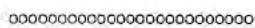


THE WILTSHIRE COUNCIL PARISH OF PEWSEY PATH NO.82 AND PATH NO.82A AND THE PARISH OF MILTON LILBOURNE PATH NO.34 AND PATH NO. 34A DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017

Key

- Length of Paths to be added:
 PEWS82 A - - - - B
 PEWS82A C - - - - D
 MLIL34 B - - - - E
 MLIL34A D - - - - F

Connecting paths



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 Tracy Carter - Associate Director Waste and Enviro

Prepared by: CPH Date: 2nd November 2017 Scale 1:4,000 Grid Reference: ST704-5985



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

your ref: CH 2017/02

4 Jan 2017

Attention of Craig Harlow

Pewsey paths 82 & 82A and Milton Lilbourne paths 34 & 34A

Thank you for your letter of 19 December.

Like most walkers I do not keep a written or photographic record of the majority of my walks and I can confirm I have none relating to the above paths. What I can say with certainty is that I have regularly walked these paths since we moved to Wootton Rivers nearly 25 years ago. I have never been challenged nor indeed have the routes been obstructed until recently when fencing and notices have barred my way.

The paths above are part of a particularly favourite walk from Wootton Rivers to Milton Lilbourne then across towards Fyfield Manor (either MLIL1 or 2), along the lane/bridleway (MLIL18) to pick up the paths at E or F on your map following them through to Pewsey. I have probably undertaken this walk on average four times a year over the last 25 years. Sometimes I have used the above paths from Pewsey car park as a circular route.

The pattern of leaving a wider strip at the edge of fields mentioned in your letter has become common in recent years but previously I walked the above paths at the curtilage of the fields. I have no record of when these changes occurred and indeed there have always been physical differences depending on the time of year.

The essential point is that I have walked the above paths without challenge prior to 2007 going back 25 years. If you want to discuss this matter please give me a call.

Yours sincerely

David Parry

Harlow, Craig

From: [REDACTED]
Sent: 06 January 2018 17:45
To: Harlow, Craig
Subject: Pewsey East Walkers

Follow Up Flag: Follow up
Flag Status: Flagged

Thankyou for your recent letter and I am pleased to be able to repeat in the strongest possible way that my husband, who died 18 years ago and I regularly walked along the streamside paths in Kepnal from the time of our moving here in December 1975.

Weekend walking, when the children were old enough, would have been east of Kepnal...summer evenings were the C A route.

I particularly remember one summer probably 1993 or 1994, when my youngest had learned to ride a bike but could not go out onto the main road. We would go down the drove and turn right at C, then right,up to A, lift the bike over the stile to go back across the field.

I remember walking the same route with my brother visiting from South Africa Christmas 1993.

Regarding flooding and muddy patches....we always wore wellies and could ferry the children over any that were too deep. That's country living and why we love Kepnal.

Sincerely,

Maggie Roberts

Sent from my Huawei Mobile

Harlow, Craig

From: [REDACTED]
Sent: 08 January 2018 09:46
To: Harlow, Craig
Cc: Lesley Bradshaw; Bernadette Haddock
Subject: Pewsey footpath No.82 and 82A... Reference CH 2017/02
Attachments: B1 southcott footpath bridge.JPG; C1 Footpath off Southcott ploughed.JPG; Footpath map Pewsey.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

To Craig Harlow

Rights of Way Officer

Dear Mr Harlow

Thank you for your letter of the 19th December.

You have asked specifically for my memory of the surface of the route prior to 2007. It's important to understand the condition of footpaths in the Pewsey area.

As a walker, my assessment of the paths in and around Pewsey was, until recently, that they are particularly badly signed and maintained. Only in the last 2 years have stiles been replaced by gates with very limited signage erected.

- Reference the attached annotated map, path A1 to B1 is regularly ploughed (Photo C1) and only until recently has a bridge been erected at B1 to bridge the ditch (photo B1). Walking this path from Southcott, previously meant reaching an impasse at B1 and having to follow the ditch north or south on the farmer's field which we now know to be private land.
- The footpath D1 to E1 likewise is ploughed each year. The rise of the land on this field makes it difficult to see a marker at the end of the path and I have known in some years that several winding paths have been formed across the field.
- The footpath sign at A1, as you well know, has, on several occasions, been removed so that walkers new to the area cannot find the start of the path from Southcott Road. The sign has now been missing for over a year. I have recently discovered that the round plastic footpath signs on the new bridge at B1 have also been prised off.
- The path F1 to G1 to H1 is walked by many people every day. There are gates now installed at these points and it would seem strange to conclude that the well-trod path between them is not in fact a public footpath, but that's where everyone walks and have done for as long as I can recall.
- The bridge at J1 has only recently been erected. People walking North on the main track, upon reaching the stream were forced to turn left to point A or right to point C on your map. At point C the path naturally leads onto point D.

So, to your question. The state of the path prior to 2007 and the implementation of the wider strip, was the same as all other walked paths; sometimes it was ploughed and rough, sometimes flattened. I cannot recall a time when this did not look like a walked path. Of course, the land is never ploughed exactly up to the hedge, the roots would be damaged, so there is always some unploughed land to walk.

Interestingly, across the opposite end of the field containing the path C to D, I have marked it K1, there is another natural line that could be walked. The fence here until recently was in poor repair and the field easily accessed, but it has not been and as far as I can remember has never been used as a route. The point is, that people do not wander the Pewsey area aimlessly with no regard for a farmer's land. In the absence of signage, they keep to routes that show clear signs of being regularly walked.

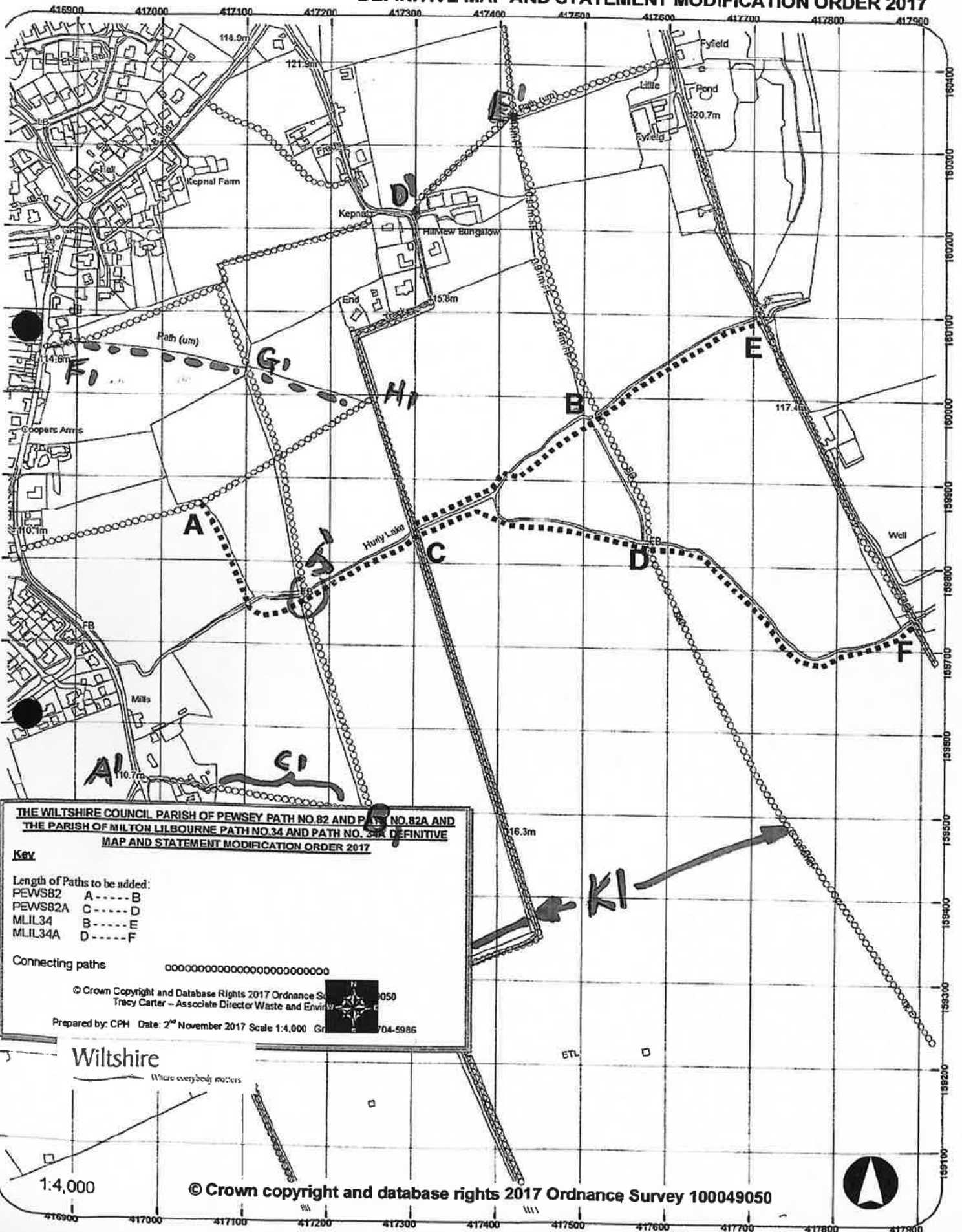
I have more photographs of the various routes showing the condition of the land if you would find them useful.

I trust this helps your understanding.

Yours sincerely

Bernard Bradshaw

THE WILTSHIRE COUNCIL
PARISH OF PEWSEY PATH NO.82 AND PATH NO.82A
AND THE PARISH OF MILTON LILBOURNE PATH NO.34 AND PATH NO. 34A
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017



THE WILTSHIRE COUNCIL. PARISH OF PEWSEY PATH NO.82 AND PATH NO.82A AND THE PARISH OF MILTON LILBOURNE PATH NO.34 AND PATH NO. 34A. DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017

Key

Length of Paths to be added:
 PEWS82 A - - - - B
 PEWS82A C - - - - D
 MLIL34 B - - - - E
 MLIL34A D - - - - F

Connecting paths
 ○○○○○○○○○○○○○○○○○○○○○○○○○○○○○○○

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 Tracy Carter - Associate Director Waste and Environment

Prepared by: CPH Date: 2nd November 2017 Scale 1:4,000 Grid Reference: ST704-5986

KI

ETL

Harlow, Craig

From: [REDACTED]
Sent: 08 January 2018 17:50
To: Harlow, Craig
Subject: Rights of way - Kepnal

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Craig,

It's recently come to my attention that several rights of way crossing Kepnal, in Pewsey are marked for closure.

It's also been brought to my attention that landowners claim that the paths were not walked prior to 2007. This is an outright lie - I spent the vast majority of my childhood walking these paths with friends and family, and have many fond memories walking along (and occasionally in!) the steam.

I'm now nearly 30 which, if my maths is correct, means I can state with some certainty that these paths were walked, frequently, from 1988 to at least 2006 when I left for university. I also have friends who can attest the same thing.

If you have any questions, or wish to hear the same from others please do not hesitate to get in contact.

Best regards,

Michael Roberts

[REDACTED]
[REDACTED]
[REDACTED]
Jan 6th 2018

Dear Mr Harlow,

I am writing in response to your letter concerning paths No 82 and 82A in Pewsey parish and paths No 34 and 34A in Milton Lilbourne parish dated Dec 19th.

Prior to 2007 most footpaths in this area either followed a field boundary or crossed a field between two stiles located on opposite sides of a field. These paths could be ploughed, planted across, flooded or easily walked depending on the season and the management of the land by the farmer. As far as I was aware, farmers are not obliged to keep footpaths as grass for the benefit of walkers. However, walkers are supposed to follow the country code by sticking to the permitted paths as best as they can i.e. by following closely to the field edges or walking in a straight line between two stiles unless directed to do otherwise by an appropriate sign.

I have always respected these codes of conduct and as a law- abiding person would never trespass on to land that was clearly signed to be out of bounds.

I have to say that having lived here for 40 years I don't recall seeing any such signs until very recently and was quite surprised to find that paths I have enjoyed using in the past were in fact not permitted.

Confusion has arisen due to the fact that until very recently very few footpath signs existed in the area in question and footbridges were not in place e.g. between points A and C on your map.

Because of this, and due to the fact that if you were attempting to follow a path it was often impossible to find, or indeed blocked, people took the only option open to them and followed in the footsteps of others by finding an alternative route. These routes still followed field boundaries and seemed to logically connect one path to another.

Until now, the farmers seem to have had no objection to this and so it was assumed that these paths were able to be used legitimately.

I have no proof of this but can only offer an assurance that I am giving my honest account in this matter.

I feel deeply saddened that the land owners have taken such a hostile stance over this and can only hope that a compromise can be reached to resolve this happily for all concerned.

Yours sincerely,

Lesley Bradshaw

APPENDIX 5(7)

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

your ref: CH 2017/02

4 Jan 2017

Attention of Craig Harlow

Dear Mr Harlow,

Pewsey paths 82 & 82A and Milton Lilbourne paths 34 & 34A

In response to your letter of 19 December, I write with the following further information and clarification.

I can confirm that whilst I may not be able to supply photographic proof, as one often does not take a camera on a regular local walk, I have indeed been walking the paths described since my earliest memories, going back some 44 years (I am now approaching 50 and have always walked in the local area.) The route was, and is, a regular round walk. I can also confirm with absolute certainty that I have never been challenged or the routes been obstructed until very recently, when the fencing and notices appeared.

As a child growing up in Pewsey, we walked these paths as a family. Later, as a teenager, and then as an adult, I made regular walks across the paths, either on my own or in the company of friends. The path was always adequately wide for two persons, never ploughed right up to the stream edge. In sustained periods of wet weather, wellie boots may have been required, as the far end of the path towards the Fyfield end became a little water logged, but it was never inaccessible. In periods of freezing weather, the ice formed on the edge of the field and provided great fun, as we skated up and down the frozen giant puddle. This enjoyment continued with my own children, now 18 and 16 years old, whom I regularly walked with from a very early age, both in baby slings and then on their own two feet.

The salient points are that the path was a well-known and used path going back, based on my own use, about 44 years on a regular basis, without hindrance from either challenge or obstruction. The path may have been narrower in the past than it now is but was always walkable by at least a couple of people abreast. It is only very recently that the fencing and barriers have appeared - surely if this was to protect wildlife, these fences would have been put in place at the time of widening field edge, it being a well-walked route. It is a natural direction to walk in to form a round route and I have never seen it abused, littered or crops disrespected.

I would be happy to speak with you further if there is any more information I can provide to clarify the points made.

Yours sincerely

Lara Jepson

From: [REDACTED]
Sent: 07 January 2018 13:08
To: Harlow, Craig
Subject: Right of way
[REDACTED] [REDACTED]

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr Harlow,

I lived at 8 Ball Road and a child and until early adulthood, I now own 5 Ball Road. From the age of 10 years old, which was in 1978 I remember walking our family dog along the path to the lake at Fyfield. At the time there was constant use of this footpath, by dog walkers, ramblers and also families and horse riders heading to the bridle way to the Hill.

I also used to go bird watching with friends along the river path, looking at river birds and also on the lake at Fyfield, and walking up the hill to Milton Lilbourne and then through Everleigh ashes and back down Pewsey hill past the white horse. These were all footpaths commonly frequented by many people.

This footpath has definitely been in full use since the late seventies, before then I am too young to remember.

I hope this helps but please do not hesitate to contact me if you require further information.

Best regards
Christopher Hames

[REDACTED]

From: [REDACTED]
Sent: 08 January 2018 17:46
To: Harlow, Craig
Subject: Pewsey paths 82 and 82A and Milton paths 34 and 34A

Follow Up Flag: Follow up
Flag Status: Flagged

REF CH 2017/02

Dear Mr Harlow,

In response to your letter I have emailed all “ the walkers” and hope a number have responded to you directly about their use of the route prior to 2007.

I offer my recollections of “the route” as follows:-

We moved to Pewsey in 1973, and used various parts of the route for family walks at weekends and during school holidays. We were never confronted by any farm workers and although the fields were largely ploughed never to the edges there was still room to walk.

I retired in 1995 and have walked these routes much more frequently since that – often on a daily basis, particularly from 2010. The widening of the strips certainly made walking easier and more enjoyable and I have never been aware of any problems caused by walkers using these. Furthermore the occasional flooding,(ground water), in some areas has not prevented me from using the route.

Your sincerely,
George and Bernadette Haddock

Sent from [Mail](#) for Windows 10

From: [REDACTED]
Sent: 07 January 2018 17:03
To: Harlow, Craig
Subject: Kepnal footpaths your Ref: CH 2017/02

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr Harlow,

Thank you for your letter dated 19 Dec 2017. I apologise for my tardy reply, Christmas rather intervened.

I first walked the routes in question in 1996. I retired from the RAF in March of that year, but with terminal leave etc I had set up my business(dog grooming) in Nov 1995. Mrs Pat Beresford was one of my first customers and we struck up a friendship based on our love of dogs and walking. Pat was once the footpaths member of Pewsey Parish Council, and she showed me just about every walk in the parish. One of our very first walks, if not the first, was what you have labelled C to F on the map you enclosed with your letter. I remember it so well, because one of her Yorkies shot off after a bird and disappeared from our sight, and she was distraught saying that he would fall in the "lake" (more of a large pond actually, and if I'm reading your map correctly it is at the point marked D) and drown. I ran ahead, hard going because it's quite rough ground, to discover a perfectly safe - if filthy- little dog. My own dogs at that time were the ones to dive into the pond, as my attention span is not long, especially when admiring the beautiful views in that area.

When walking the route you label C to E (again, if I am reading your map correctly) we not infrequently met a lady who used that path to walk to Pewsey on Tuesdays to do her shopping (there was a market in Pewsey on Tuesday then) and got the bus back. I particularly remember this because she said every time we saw her that she walked in, because getting the bus there and back would necessitate having to kill 3 hours in Pewsey before the next bus back, and she didn't have enough life left to keep wasting that much time. She seemed old at the time, but was probably the same age I am now, and like me, very fit and active.

The claim that these routes were un-walkable before the creation of the 6 foot set-aside in 2007 is ridiculous. I could take you on innumerable routes in, around ,even across fields where there is no set aside, but have been, and still are, walked for years. The vegetation on the paths in question was usually cut down in the autumn, and the paths were re-trodden by animals and humans again within weeks. Yes, they often flooded in the January/February period, and were very popular with the local children as a safe area to skate on when frozen! I saw children skating there on many occasions. In 2003, once when I was walking by the stream from A to C on your map (en route from Pewsey to visit Miss Beresford in Kepnal bungalow) I lost my lower denture in the vegetation along the side of the path (actually there were two paths running side by side because they hadn't cleared right up to the edge that year - a common occurrence- hence another parallel path had developed too). I walked up and down that path for over an hour searching for them, then my husband came back with me in the afternoon and we searched for over 2 hours. The area was rough and overgrown either side of the path, and despite searching repeatedly for many months, we never found them.

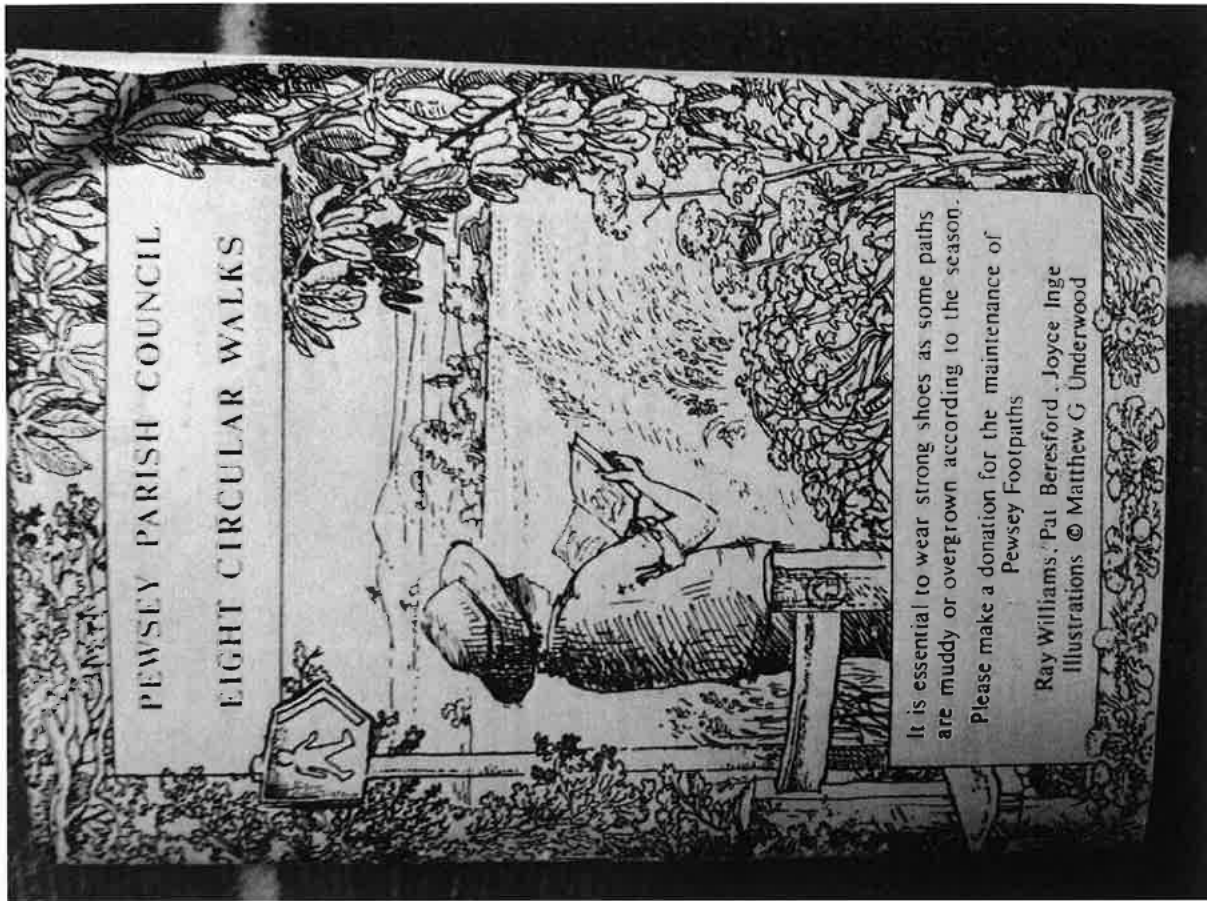
As for signs regarding permission to walk (or otherwise), until last year, 2016, I never saw any signs to the negative. There used to be signs saying "Permitted Access" in several places, though I couldn't pinpoint them. However, in the hope that it helps, I have attached a photo of the book of local walks that Pat Beresford co-wrote mentioning some of these signs in the area.

I hope this helps. If I can be of any further help in this matter, I would be happy to do so.

Walk 4 -

Keppal, Fyfield Down, Pewsey Hill, Winter's Drove
2½ - 3 hours

1. From the High Street Car Park go left and along River Street. At the old Infants' School turn left over the River Avon and follow the path through the Grove and round two sides of the Recreation Ground. Near the Play Area turn right into Ball Road and the footpath to Keppal and Milton Lilbourne is signposted on the right. Follow the path across two fields to Keppal.
2. At the Keppal lane go right a few yards. The footpath sign and the stile are on the left. The path runs across three fields to Fyfield. At Fyfield lane turn right and walk to the foot of the hill. The bridleway runs along the edge of a field and then through a wooded area which can be overgrown in the summer.
3. Go past the wind pump and up the hill. The path turns north east and climbs Fyfield Down. Then it curves round to the right to the Giant's Grave.
4. Walk along on the near side of the fence (where there are "Permitted Access" signs) to the two stiles on the parish boundary. Continue along the path by the side of the fence to the group of trees known as "Victory Clump". Walk past the Clump and look for Alfred Cook's memorial stone. The views from here over Pewsey Vale are superb.
5. From here go down the track to the stile at the top of Winter's Drove. Go down Winter's Drove. Go the left fork at the bottom. Go under Cuckoo Bridge. At the tarmac lane go right through Southcott to King's Corner and back via the Grove to the f...



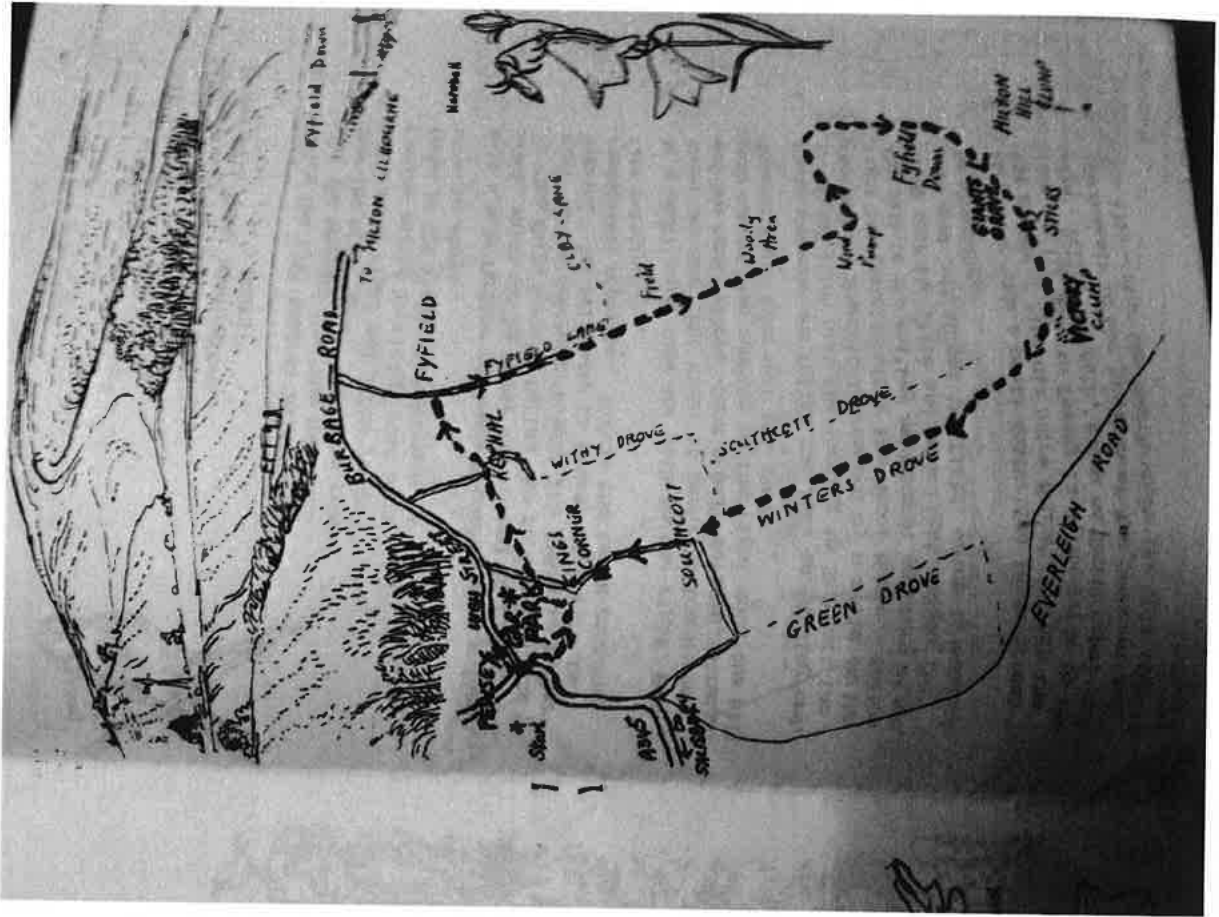
PEWSEY PARISH COUNCIL

EIGHT CIRCULAR WALKS

It is essential to wear strong shoes as some paths are muddy or overgrown according to the season.

Please make a donation for the maintenance of Pewsey Footpaths

Ray Williams, Pat Beresford, Joyce Inge
Illustrations © Matthew G Underwood



Harlow, Craig

From: [REDACTED]
Sent: 07 January 2018 13:07
To: Harlow, Craig
Subject: Rights of Way & Countryside Team. FAO Craig Harlow.Rights of Way Officer

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Harlow, I am writing with Regard to use of land affected by the order route.that states that the order route was not used prior to 2007. This is totally untrue. I and my family walked these fields from the late 70's and early 80's,we have continued to do so,walking dogs and bird watching up until the fences were erected. We walked along the edges of fields that were in use. We walked to Milton Lilbourne, and back. We also walked up to the Milton hill,and Pewsey white horse hill.

With Regards, [REDACTED]
Sent from [Mail](#) for Windows 10

APPENDIX 6



PEWSEY
PARISH
COUNCIL



Mr C. Harlow
Rights of Way Officer, Wiltshire Council
Unit 9 Ascot Court
White Horse Business Park
Trowbridge
BA14 0XA

5th February 2018

Dear Mr Harlow,

Your ref: CH/2017/02

Pewsey Parish Council wishes to clarify its exact position on the application for a modification order, due to local confusion.

Pewsey Parish Council does not object to the Pewsey East Walkers Group making an application to modify the footpaths, as detailed in their application, as it is their prerogative to do so.

The minutes of the Full Council dated 14th March 2017 are extant. The Council's email of 6th July 2017 and letter of 17th November 2017 should be disregarded as they do not correctly represent the Council's present stance on this matter. I apologise for presenting the incorrect wording and sincerely hope that it has not caused you any inconvenience.

Please inform all interested parties of the Parish Council's clarification.

Yours sincerely,

A black rectangular box redacting the signature of Alison Kent.

Alison Kent
Clerk to Pewsey Parish Council

Carter Jonas

Ailesbury Court
3rd Floor
High Street
Marlborough
SN8 1AA

T: 01672 519710
F: 01672 514051

Your ref:
Our ref: ELK/16092

Rights of Way & Countryside Team
Wiltshire Council
Unit 9, Ascot Court
White Horse Business Park
Trowbridge
BA14 0XA

FAO Craig Harlow

29 January 2018

Dear Sirs


Wildlife and Countryside Act 1981 s.53


The Wiltshire Council parish of Pewsey path No. 82 and 82A and the parish of Milton Lilbourne path No. 34 and 34A Definitive Map and Statement Modification Order 2017

Further to the submission of an objection to the above, made by Birketts on 15th December 2017, please find enclosed a signed letter from Brennans of Wiltshire which I am submitting to you as evidence on behalf of Alexander Newbigging, being one of the landowner/objectors. This information casts doubt on the credibility of some of the user evidence provided in support of the original Application.

Please would you acknowledge receipt.

Yours faithfully


Emma Kingston MRICS FAAV
Associate



Brennans of Wiltshire

Harepath Farm, Pewsey Road, Burbage, Marlborough, Wiltshire SN8 3BT
Tel: 01672 810380 Fax: 01672 811157 E-Mail: brennansofwiltshire@gmail.com
Web: brennansofwiltshire.co.uk

Wiltshire Council
Rights of Way & Countryside Team
Unit 9, Ascot Court
White Horse Business Park
Trowbridge BA14 0XA

Date: 23 January 2018


To whom it may concern

LAND AT KEPNAL – DAVID ALEXANDER NEWBIGGING

In connection with the Order to add footpaths to the definitive map in Pewsey & Milton Lilbourne and in particular path No. MLIL 34, Mr Newbigging has asked me to confirm the details of work undertaken by me in June 2013 under instructions from Paul Pelham of Barsett Farms Limited, the then owner of the land shown edged red on the plan attached.

I confirm that at the point marked with a thick blue line and the letter E on the plan, I removed a stretch of about 6m of hedge and ditch and constructed an access-way for farm machinery including a piped culvert. Prior to this work, there were no gaps and access could not be gained to the field at this point.

This work was part of a wider scheme of groundworks completed by me at the same time, and a copy of my invoice for the work is attached.



Brennans of Wiltshire

Brennans of Wiltshire

Warepath Farm, Pewsey Road, Burbage, Marlborough, Wiltshire SN8 3BT
Tel: 01672 810380 Fax: 01672 811157 E-Mail: brennansofwiltshire@gmail.com
Web: brennansofwiltshire.co.uk

Barsett Farms Limited
Manor Farm House
Manningford Bohune
Pewsey
Wiltshire
SN9 6BY

COPY

Sales Invoice: 102
Date: 2nd July 2013
Quotation Ref: CB/NB/5632
Order Number: Carol

Ref: Culvert @ Kepnal

Works now completed as per our above quotation reference
For the sum of £7,422.00 + VAT

To carry out ditching work ~ 1 day
For the sum of £300.00 + VAT

Sub Total	7,722.00
VAT @ 20%	1,544.40
TOTAL	9,266.40

Payment Term: Strictly 14 Days from Invoice

Interest will be charged on all overdue Sales Invoices @ 1.5% per month

VAT Registration No: 985 2777 60
UTR Registration Number: 15357 11875

Chris Brennan Limited - t/a Brennans of Wiltshire
Registration No: 7146052

