

Mr Richard Broadhead
Head of Rights of Way and Countryside
Rights of Way Section
Waste and Environment
Wiltshire Council
Bythesea Road
Trowbridge, Wiltshire
BA14 8JN

31 May 2018

Your Reference:
Our Reference: DXW/M5436-2

Direct Line: 01225 [REDACTED]
Direct Fax: 01225 [REDACTED]
Email: [REDACTED]

Dear Sirs

Application to divert part of bridleway CALW89 and bridleways CALW89A and CALW89B

Please find enclosed an application to divert the above bridleways under section 119 of the Highways Act 1980, together with enclosures.

I would be grateful if you would please acknowledge receipt of this application - an email to dwlash@thrings.com will suffice.

I look forward to hearing from you.

Yours faithfully

[REDACTED]
Derek Walsh

Partner

Thrings LLP

THRINGS

solitors

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Dear Sirs

Application to divert part of bridleway CALW89 and bridleways CALW89A and CALW89B

We act on behalf of Mr and Mrs J E Moore of The Mill House, Calstone Wellington, Calne, Wiltshire, SN11 8QF.

ENCLOSURES

1. Application under section 119 of the Highways Act 1980 to divert part of bridleway CALW89 and bridleways CALW89A and CALW89B.
2. Plan showing:
 - (a) the unaffected line of the above mentioned bridleways as a dotted black line
 - (b) the section of the above bridleways (the present bridleway) to be extinguished as a public bridleway as a solid black line
 - (c) the diverted and proposed bridleway to be provided as a broken black line
3. Aerial photograph of the present bridleway and the proposed bridleway.
4. Details of our clients' title to the land over which the proposed bridleway should be diverted.
5. Details of our clients' title (three title numbers) to The Mill House, over which the present bridleway runs.

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6. Plan of The Mill House c1910
7. Wiltshire Council Definitive Map - Public rights of way at Calstone Wellington - with Theobalds Green shown at Point "T" and Manor Farm at Point "M" for reference only.
8. Wiltshire Council Definitive Statement - Description of public rights of way
9. Plan showing reinforced track within the proposed bridleway ("the track") on the north side of the river.
10. Exchange of emails between our clients and The British Horse Society approving work to proposed bridleway.
11. Planning Permissions for the track - north side dated 21 June 2016 and south side dated 16 May 2018.
12. Record of use of the present bridleway and the proposed bridleway - March to December 2017.
13. Photograph of the present bridleway in winter before the proposed bridleway was created.
14. Photograph of land, which is collapsing close to the present bridleway.
15. Stopping Up Order dated 23 April 2007.
16. E-mail dated 15 May 2013, and photographs, from Julian Haines to Stephen Leonard.
17. Public Path Diversion order in respect of Bishop's Cannings Path no. 4 (Horton Mill) including plan.
18. Photograph of The Mill House from the proposed bridleway taken from the south.
19. Photograph of The Mill House from the proposed bridleway taken from the north.
20. Copy local search dated 7 February 2000.
21. Schedule of Unclassified Roads.
22. Comments of the editors on Section 119 of the Highways Act 1980 in *Encyclopaedia of Highway - Law and Practice* Volume 1, at para 2-200.
23. Opinion of Counsel, Barry Denyer-Green, Falcon Chambers dated 30 May 2018.
24. Decision FPS/Y3940/4/10, Pewsey Path No. 62.

1. Application

- 1.1 Our clients are applying under section 119 of the Highways Act 1980 to divert part of bridleway CALW89 and the whole of bridleways CALW89A and CALW89B.
- 1.2 The principal reasons for requesting a diversion order are the impact on our clients' privacy and security. There are also safety issues for riders and walkers passing so close to their house. We believe there are many other reasons which support a diversion and that diverting the route will not only assist our clients, but will be of benefit to riders and walkers and Wiltshire Council. In outline, we say that it is expedient to make the diversion in the interests of our clients as the owners of the affected land.
- 1.3 We shall refer to the stretch of bridleway(s) to be diverted as "the present bridleway" and the proposed bridleway, which is to link into CALW89, as the "proposed bridleway".
- 1.4 An aerial photograph of the present bridleway and proposed bridleway is enclosed (Enclosure 3).
- 1.5 Our clients are prepared to underwrite the cost of obtaining a diversion order.

2. Differences from 2013 application

- 2.1 This application differs from a previous application, BB/2013/20, submitted by our clients on 3 September 2013, in a number of respects.
- 2.2 The application excludes a stretch of land on the south side of the river, part of which is adjacent to a pole and wire stay and which was identified as a "serious hazard" in the Decision Report prepared by Barbara Burke dated 1 December 2015.
- 2.3 The application now includes CALW89B. CALW89B is a 7 metre strip of land between CALW89A and the public highway, U/C road 7008. This stretch was omitted from the 2013 Application.
- 2.4 The proposed bridleway has been created and has been in use by the vast majority of users since 2013 as a permissive bridleway.
- 2.5 In 2016 the stretch of the proposed bridleway that lies north of the river was reinforced by the creation of the track, within the proposed bridleway (see paras 9.6 to 9.11) to a specification approved by the British Horse Society.
- 2.6 A plan showing the track is enclosed (Enclosure 9).
- 2.7 Copies of the emails giving approval to the construction of the track by the British Horse Society are enclosed (Enclosure 10), as is a copy of the Planning Permission (Enclosure 11).
- 2.8 The track ensures that the proposed bridleway is more convenient than the present bridleway for riders, walkers, cyclists and other users. In addition wheelchair users and others with mobility difficulties now have access.

- 2.9 Trees have been cut back to widen the proposed bridleway further. On the south side of the river the proposed bridleway varies in width from 4 metres to up to between 7.5 metres and 10.5 metres. The width of the proposed bridleway on the north side of the river varies from between 6 metres up to 11 metres.
- 2.10 By creating the proposed bridleway, which is now the route users take, our clients' Labrador dog no longer rushes out and spooks the horses.
- 2.11 The proposed bridleway is used, and has since 2013 been used, in preference to the present bridleway. This is clear evidence that it is substantially as convenient as the present bridleway and preferred.
- 2.12 A Record of the Use of the present bridleway and the proposed bridleway between March 2017 and December 2017 is enclosed (see Para 2.17 and Enclosure 12). This is clear evidence that the proposed bridleway is substantially as convenient as the present bridleway.
- 2.13 On 15 May 2013 Julian Haines (County Engineer) emailed Stephen Leonard (Rights of Way Warden) to state that he found the stone arch bridge within the proposed bridleway, which we shall refer to as Bridge X, in "fairly poor condition" and identified works which would be needed to bring it up to standard (Enclosure 16). All these works have been carried out and the bridge fenced.
- 2.14 The present bridleway is increasingly vulnerable to land slippage through natural erosion. A large section of land adjacent to the bridleway collapsed in 2015 (Enclosure 14). Work has been done to limit this with boulders placed in the river and tree planting. However the slippage continues gradually in the direction of the present bridleway. This is likely to get worse over time and contributes to making the present bridleway unsafe.
- 2.15 In comparing the present bridleway with the proposed bridleway it is necessary to compare the natural condition of the land, through or over which the present bridleway passes with the proposed bridleway. The latter is considerably more stable. The natural condition of the present bridleway is inherently unstable, probably because of underground water courses or springs.

3. Background

- 3.1 In February 2000, our clients purchased The Mill House. They have since purchased other land, including the land through which the proposed bridleway runs.
- 3.2 At the time of our clients' purchase, the results of the local authority search carried out with Wiltshire Council, by their solicitors, revealed no rights of way through the property. Wiltshire Council also confirmed at that time that there were no public rights of way through the property (Enclosure 20).
- 3.3 Any suggestion that our clients knew there were rights of way through the property when they bought it is totally unfounded.
- 3.4 In September 2005, Wiltshire County Council was asked to determine the status of any rights of way which may have become established through The Mill House.

- 3.5 It was not until 5 January 2009 the Council determined that the driveway was a bridleway.
- 3.6 The bridleway is not an ancient or historical route.
- 3.6.1 The mill was constructed in the second half of the 18th century. It remained a mill until about 1915. It then became a dairy and continued as such until 1968, when it first became a single private dwelling.
- 3.6.2 The Malthouse opposite the mill was much larger than today. It extended several metres in front of the present building (see plan c1910 - Enclosure 6)
- 3.6.3 As can be seen from the plan there were workshops along the northern side of the Malthouse.
- 3.6.4 Between the Malthouse and the bridge there was a building, again restricting the area around the mill. This was demolished some years ago and all that remains on the surface is a mound.
- 3.6.5 Farmers would bring their grain to the mill either from the village to the south or from the north.
- 3.6.6 Those bringing their grain from the north would offload it by the northern side of the mill. A pulley wheel is still present on the side of the mill.
- 3.6.7 Those coming from the south would take the track from the village road.
- 3.6.8 At the bottom of the track, on the other side of the river from the mill, they would turn their carts. They would offload their grain here and carry it across the bridge to the mill.
- 3.6.9 It is clear that the area in front of the mill was a busy working area, between the activities of the mill, the Malthouse and the building next to the bridge. It is most unlikely that riders or walkers would simply have passed through between all the activities and the Council has already accepted this proposition.
- 3.6.10 If anyone did pass through it is likely to have occurred only with the consent of the mill owner.
- 3.6.11 The route through Calstone Mill is not a route to anywhere in particular. People going to the Mill from the Calne Road or the Devizes Road are far more likely to have taken the main village roads. The route via the mill is not a short cut.
- 3.6.12 The whole of the bridleway was what is known as Settled Land. The legal owner of the land did not have the power to dedicate the land to the public until after 1925. It is only subsequent to that date that bridleway rights could have become established. These were not in fact confirmed until 2009.
- 3.7 Our clients are now seeking to divert the bridleway over other land within their ownership.

4. Interests of the Landowner

- 4.1 The fact that the driveway is a bridleway impacts significantly on our clients' privacy and security. They have young children who are anxious when strangers come by, often peering in through the windows. Some people also have a habit of straying from the path into the garden, which causes concern.
- 4.2 Before the proposed bridleway was created, in the summer months, riders and walkers sometimes would come through as early as 7am disturbing our clients, particularly at weekends, and also after 8pm at night when they were trying to get the children to bed.
- 4.3 Some people have come through with dogs, which are not on a lead. In some cases they have run all over the garden causing anxiety to our clients' children and pets. It is not uncommon for dogs to relieve themselves on our clients' driveway or in the garden, leaving them to clear up the mess.
- 4.4 Our clients have a dog, a black Labrador, that gets upset when people or animals come through. This often causes it to bark.
- 4.5 Our clients have a gate at the top of the drive. It has a handle to enable riders to open and close it. On occasions our clients close the gate, particularly when they have young children at home. Notwithstanding this, it is often left open by people coming through, which impacts on their privacy and security.
- 4.6 There have been a number of thefts locally (our clients have had some bicycles and boots stolen from the front of the house) and security is an issue. Security is not improved by having people wandering through.
- 4.7 The issue of security came to a head on 5 July 2017, when our clients' 16 year old daughter, Matilda, was threatened by someone using the present bridleway. Our clients were at a school event for their younger son. Matilda was in the house alone. At about 6.30pm a man appeared at the front of the house shouting. Matilda quickly locked the doors. The man, a complete stranger, kept shouting at Matilda and started going around the house trying the doors and windows to gain entry. Matilda rang her parents who immediately contacted a neighbour to go to Matilda's aid. They then rang the police. The neighbour arrived very quickly and the police arrived a few minutes later. The police subsequently arrested the man and took him away.

5. The present bridleway

- 5.1 The present bridleway enters our clients' property from the north at the entrance to their driveway. It then follows the driveway, roughly 3 metres wide, passing less than 4 metres from the front door of their house. At its closest, the bridleway is only 2.4 metres from the front of the house.
- 5.2 Although the Definitive Map Statement describes the bridleway along our clients' driveway as being 4 metres wide, this is not correct. The driveway has remained unchanged for hundreds of years. It has vertical sides. It is and has only ever been about 3 metres wide.

- 5.3 The driveway is steep and often undulating and slippery. In front of the house our clients park their cars, as do visitors. Most days they have 5 or 6 cars parked in front of the house.
- 5.4 Proceeding southwards, the present bridleway then crosses a bridge over the river, at Point "Y" (Enclosure 2) and continues up a hill to the road junction at Manor Farm, Calstone.
- 5.5 The width of this bridge, which we shall refer to as "Bridge Y", within the railings, is 0.98 metres. Close to the bridge, the land on the south side of the river has suffered from landslip following persistent rain over the winters of 2012 - 2015 and again in early 2018.

6. Condition of the Present Bridleway

- 6.1 The surface of the present bridleway is in parts poor, particularly between Point "C" and Bridge Y (Enclosure 2). There is no evidence that this part of the present bridleway was ever reinforced.
- 6.2 It is a matter of fact that the present bridleway is virtually impassable and slippery between Point "C" and Bridge "Y" for about 6 weeks of the year. The photo (Enclosure 13), was taken shortly before the proposed bridleway was opened in 2013. This is the natural condition and it is this condition which is properly a matter of comparison.
- 6.3 During the winter months, before the proposed bridleway was created, only a handful of riders were able to attempt this. A few walkers were able to wade through the mud. A cyclist has fallen off and needed assistance. Our clients have been told of two accidents involving riders.
- 6.4 When our clients purchased The Mill House the land on the south side of the river was relatively flat. In recent years it has started to collapse and continues to do so in the direction of the bridleway. It is likely that this has been caused by underground culverts or streams eroding the sub soil until it could no longer take the weight of the surface. Our clients have installed a land drain to ease the problem and planted trees. As mentioned above, boulders have been placed in the river to prevent further slippage but this will not stop a collapse. (Enclosure 14).
- 6.5 Whilst the tests for diversion should be applied based on the present way being available at the required standard, as opposed to the actual condition, these are practical matters which impact on many of those who can use the bridleway and in particular those with mobility impairments.
- 6.6 The Inspector in the Purton Path No.104 Diversion Order concluded that the issue of the cost of bringing the present way up to the required standard should be given reduced weight when considering the interests of the public. However, his conclusion was based on his view that "the present route is an ancient route and attractive feature with a distinct history and character which is clearly valued by many people". In addition, he found there was a considerable dispute between the parties as to what the cost of reinstatement would actually be and with all of that in mind he reached the decision he did.

- 6.7 It is not the case here that the present bridleway is “an ancient route and attractive feature with a distinct history and character” - the Purton Decision can easily be distinguished from this present application.
- 6.8 The present bridleway is not a shortcut between Manor Farm, Calstone and Theobalds Green, marked “M” and “T” respectively on Enclosure 7. In fact, the distance between “M” and “T” on the main road is shorter. As to the lengths of the present and the proposed bridleways, see below at paragraphs 12.1 to 12.14.

7. The present bridge - Bridge Y

- 7.1 Bridge Y is a wooden bridge. It is less than 0.98 metres wide.
- 7.2 Bridge Y is often slippery and difficult for riders and cyclists to cross. There have been at least two accidents involving riders on the bridge.
- 7.3 The fast flowing river at Bridge Y can spook the horses.
- 7.4 Bridge Y was part of Unclassified Road 7005. By virtue of the Stopping Up Order dated 23 April 2007 (Enclosure 15) the road was stopped up reserving footpath and bridleway rights. Those rights can only be those exercised during the previous 20 years, which have been the same as those exercised today with their inherent physical restraints.
- 7.5 The offer of the proposed bridleway route and bridge also overcomes a problem with what to do about Bridge Y when it reaches the end of its natural life. The difficulty is this: -
- 7.5.1 Wiltshire Council is responsible for the repair and maintenance of Bridge Y.
- 7.5.2 When Bridge Y reaches the end of its natural life it will need to be replaced.
- 7.5.3 There is a limited amount of space to accommodate a new bridge without compulsorily acquiring some extra land and changing the appearance of the site.
- 7.5.4 On either side of Bridge Y are the foundations of parts of the mill (it used to extend over the river). The whole of the curtilage of The Mill House is now listed. This includes all the buildings or what remains of them.
- 7.5.5 Some of the land on the south side of the river has suffered from landslip not far from the bridleway.
- 7.5.6 The physical characteristics of Bridge Y are quite properly matters of comparison.
- 7.6 Our clients' proposal is that upon the diversion of the bridleway coming into effect, Wiltshire Council will be relieved of any further responsibility for repairing and maintaining Bridge Y, as it will no longer be subject to public rights of way.
- ## **8. The route of the proposed bridleway.**
- 8.1 The route of the proposed bridleway is shown by a broken black line on the attached plan (Enclosure 2), between Points “A” and “C”.

- 8.2 In considering the proposed bridleway, our clients took into account the views expressed in 2013 by Stephen Leonard, the Senior Rights of Way Warden, who was supportive, although of course made no comment on legal issues.
- 8.3 The route of the proposed bridleway can be described as follows: -
- 8.3.1 Coming from the north, along the road, U/C 7008, towards the entrance to The Mill House, the proposed bridleway starts at the opening to the field on the right, where footpath CALW43 enters the field. This has been marked "A" on the plan. The opening will not be gated.
 - 8.3.2 The proposed bridleway then turns left and follows the line of the boundary of the field to where footpath CALW40 crosses Bridge X.
 - 8.3.3 Point "B" on the map is the point level with the point at which the present bridleway begins. The distance between Points "A" and "B" on the plan (26 metres) does not add to the journey of anyone using the proposed bridleway. They would otherwise have covered the distance from Point "A" on the plan by continuing along road U/C 7008 to the start of CALW89B, at the top of our clients' driveway.
 - 8.3.4 From the bridge (Bridge X) the land climbs gently upwards and turns east. The proposed bridleway follows the line of the field turning gently south at the point where it meets the present bridleway (CALW89), marked "C" on the plan. This point will remain open and not be gated.
 - 8.3.5 The proposed bridleway can be and is used all year round. The present bridleway is largely out of use during the winter months as it becomes too boggy (Enclosure 13).
- 8.4 In addition to the new bridleway, walkers would continue to be able to use and enjoy Footpaths CALW40, CALW41, CALW42 and CALW43.
- 8.5 Bridge Y would be taken over by our clients, relieving Wiltshire Council of any further responsibility for it.

9. Condition of the Proposed Bridleway

- 9.1 Unlike the present bridleway, the proposed bridleway can be used all the year round. It meets the standards of the British Horse Society, who support the diversion.
- 9.2 The proposed bridleway enables horses to be lead, which is not possible between points B and C on the Plan (Enclosure 2).
- 9.3 It is much wider, safer and has a more gentle incline. The proposed bridleway is the one that people prefer to use.
- 9.4 It is clearly more convenient as our clients have observed more people are now using the proposed bridleway. This includes people with limited mobility who are unable to use the present bridleway. We enclose a record of the use of the present bridleway and the proposed bridleway during the period March 2017 to December 2017 (Enclosure 12) upon which we shall comment further in paragraph 12.17.

- 9.5 In 2016, our clients consulted with the British Horse Society and sought their advice on the creation of an all weather surface.
- 9.6 Our clients agreed with the British Horse Society to reinforce the surface on the north side of the river.
- 9.7 The reinforced surface was along a 3 metre wide track with an approximate length of 140 metre (Enclosure 9).
- 9.8 We attach (Enclosure 10) an exchange of e mails dated 1 March 2016 and 9 March 2016 between our clients and Mark Weston of the British Horse Society.
- 9.9 The track remains clear of footpaths CAL40 and CAL43.
- 9.10 The track runs along a stretch of the proposed bridleway where the width is 6 metres or more, giving users the opportunity to decide whether to use the grass surface or the reinforced surface.
- 9.11 The work carried out is described as follows: -
“Proposed track laid of 150mm Type 1 Mendip Aggregate over Lobrene Membrane. 75mm Mendip Dust over rolled level.”
- 9.12 Planning permission for the carrying out of the work was granted on 21 June 2016 (Enclosure 11).
- 9.13 The work was carried out by PB Services (Wiltshire) Limited. This Company has carried out substantial maintenance and repair work to bridleways for Wiltshire Council.
- 9.14 The work to the proposed bridleway ensures continuous use and enjoyment all year round.
- 9.15 Although the British Horse Society did not feel it was necessary, our clients intend to carry out similar work to that part of the proposed bridleway on the south side of the river. Planning permission was granted on 16 May 2018 (Enclosure 11) and work is expected to commence in June 2018

10. Width of the Proposed Bridleway

- 10.1 The proposed bridleway on the south side of the river varies in width from 4 metres up to between 7.5 metres and 10.5 metres.
- 10.2 The width of the proposed bridleway on the north side of the river varies from between 6 metres up to 11 metres.
- 10.3 This not only recreates the Awarded Widths of the three bridleway sections but also adds yet more width to enhance the position further.

11. The new bridge - Bridge X

- 11.1 Bridge X is now in good repair.
- 11.2 Bridge X is between 1.7 metres and 1.8 metres wide, almost double the width of Bridge Y.

- 11.3 Bridge X is considerably more accessible for riders, walkers and other users (especially disabled users) than Bridge Y, particularly in wet conditions.
- 11.4 Stephen Leonard, the Rights of Way Warden, arranged for the County Engineer to look at Bridge X.
- 11.5 In an e-mail dated 15 May 2013 from Julian Haines (County Engineer) to Stephen Leonard, Julian Haines reported that he found the bridge to be in "fairly poor condition" and identified works which would be needed to bring it up to standard.
- 11.6 The works identified by Julian Haines have all been carried out and Bridge X has been fenced.
- 11.7 Julian Haines even suggested a "*new timber bridleway bridge*" as a possibility. Our clients would be happy to adopt his suggestion, if necessary.
- 11.8 A copy of the exchange of e-mails with photographs attached is enclosed (Enclosure 16).

12 Length of the proposed bridleway

- 12.1 In comparing the length of the proposed bridleway with the present bridleway, it is necessary to look at a number of factors.
- 12.2 First, to calculate the extra length. To compare like with like the measurement should be taken between Points "B" and "C" on the plan, where there is a common start and finishing point.
- 12.3 The distance between Points "A" and "B", 26 metres, does not add to the journey of anyone using the proposed bridleway. They would otherwise have covered the same distance along the road U/C7008 between Point "A" on the plan and the start of CALW89B.
- 12.4 The distance between points "B" and "C" along the present bridleway is 122 metres. The distance between points "B" and "C" taking the route across Bridge X is 222 metres.
- 12.5 It is acknowledged that the proposed bridleway is 100 metres longer than the present bridleway. Putting this in perspective, a length of 100 metres is illustrated on Enclosure 3 between Points "A" and "Z".
- 12.6 100 metres is a distance covered by an average walker in just over a minute, and in a much shorter period by someone riding or cycling. The present bridleway has gates at either end which need to be opened and closed. This adds to the time taken to cover the present bridleway. The proposed bridleway is and will remain ungated.
- 12.7 The total length of the three bridleways, CALW89, CALW89A and CALW89B together is 404 metres and therefore the additional 100 metres must also be seen in the context of this total length. However, users do not start and end their journeys at the termination of these three bridleways.
- 12.8 Pedestrians and horse riders are very unlikely to use only the 404 metres for a walk or ride, and therefore a more realistic comparison should be between an extra 100 metres and the average walk or ride length that they take.

- 12.9 As a minimum, the closest points at which a rider could begin to enjoy the bridleways is at Theobalds Green ("T") at one end and Manor Farm ("M") (Enclosure 7) at the other end, a distance of 880 metres. These are the closest points at which a lorry or trailer could park to disembark a horse.
- 12.10 The reality is that riders and walkers start and end their journeys much further away, whether from one of the liveries in the village or further afield. Again, in the context of any such journey, an additional 100 metres is insignificant and the riders regard this as a "good thing".
- 12.11 When the access network is considered as a whole, riders/walkers using the present or proposed bridleways are likely to connect with other bridleways or footpaths in the area. In terms of bridleways these are, to the north CALW34, CALW8 and CALW77, to the east CALW7 and to the south CALW38 and CALW39. In terms of footpaths these are, to the north CALW44, CALW45 and CAAW46 and to the east CALW71 and CALW9.
- 12.12 When the additional distance is considered in this context 100 metres becomes insignificant. In Decision FPS/Y3940/4/10 in respect of Pewsey Path no.62 the Inspector was considering a slight increase in length of the bridleway in question, an additional 20 metres. However, the Inspector also had to consider the termination point as there was a difference of 150 metres between the old and new termination points. The significance of this is that if the termination point was altered by this distance a user attempting to reach the connecting bridleways was subject to a saving of 130 metres if going in one direction but an additional 150 metres if going in the other. In the event, the Inspector concluded that, "*even in the worst possible scenario, I recognise the additional length will undoubtedly be less convenient but I do not consider it to be substantially so in this context*" (original emphasis).
- 12.13 In the same way, when considering the additional 100 metres it is not sufficient to compare the present bridleway with the proposed bridleway in isolation. Even if it is considered that an additional 100 metres is less convenient then, just as in the Pewsey Path 62 Decision, it is not substantially less convenient.
- 12.14 In any event, even if the increased length was seen as a disadvantage, that has to be weighed against the overriding advantages. It is telling that only two objections were received in response to the original application and several letters and emails were sent in support of the proposed bridleway.
- 12.15 The proposed bridleway can be used all the year round. It is much wider, has a more gentle incline and is accessible by many more people, including those who could not manage the present bridleway. As the Inspector in the Pewsey Path 62 Decision concluded in respect of convenience "*I conclude the proposed route in this case would be less convenient in some respects but an improvement in others*" - the same principle applies here.
- 12.16 Since 2013, both riders and walkers have chosen to use the new route. The best evidence that the proposed bridleway is not "*substantially less convenient*" and is preferred is the fact that, given a choice between using the present bridleway and the proposed bridleway, users have chosen to use the proposed bridleway.

12.17 We enclose a Record of Use (Enclosure 12) of the present bridleway compared with the proposed bridleway. In the period from March 2017 to December 2017 the uses can be broken down as follows: -

<u>Users</u>	<u>Present bridleway</u>	<u>Proposed bridleway</u>
Riders	0	659
Walkers	14	934
Cyclists	0	26

NB. Groups of users travelling together are counted as 1.

12.18 Our clients undertake not to gate the proposed bridleway and it would be dedicated as such thereby allowing a free flow of movement. Furthermore the proposed bridleway does not conflict with any farming activities.

12.19 Unlike the present bridleway, the proposed bridleway is unaffected by nearby hedges and trees which hang over or are in close proximity.

12.20 Horton Mill is an old mill near Devizes, Wiltshire SN10 3NE.

12.20.1 When it was purchased by the present owners an old footpath (we believe) ran in front of the house (brown line between Points A-B - Enclosure 17).

12.20.2 The owners wished to divert the footpath away from the house and round an adjoining field (green line A-C-D to join up with BCAN11).

12.20.3 According to the owners, they were told that it would be easier if the diverted route was upgraded to a bridleway but we understand that further investigations have revealed the original right of way may have had higher rights in any event (i.e. bridleway status).

12.20.4 Wiltshire Bridleways Association made the application for them supported by Barbara Burke.

12.20.5 We understand that no one was concerned in that case that they were extinguishing an ancient footpath. The route through our clients' property is not even ancient.

12.20.6 Although the owners were upgrading from a footpath to a bridleway, our clients are diverting a bridleway which, in the view of Avon Vale Hunt Pony Club, should be closed, to something much better.

12.20.7 It appears from the Order (Enclosure 17) that there were no objections to the Horton Mill application and it was made unopposed.

13. Mobility

- 13.1 The proposed bridleway is wider, has a more gentle incline, and can be used all the year round. It also has a reinforced surface on the north side of the river. There are plans to install a similar surface on the south side.
- 13.2 The proposed bridleway has opened up a route to people who have been unable to use the present bridleway. Our clients' elderly neighbours, who exercise their dogs, regularly use the proposed bridleway now, whereas before they would have avoided the present bridleway for fear of falling over due to the wet, boggy and uneven conditions.
- 13.3 People with mobility difficulties and children in buggies are able to use and enjoy the proposed bridleway, all year round.
- 13.4 Children on horseback can be lead along the proposed bridleway as can horses being lead by riders.
- 13.5 There are enormous advantages to the community in having access to the proposed bridleway and it clearly satisfies section 119 of the Highways Act 1980. The fact that people choose to use it in preference to the present bridleway is clear evidence that it is at least as commodious. This would satisfy one of the further legal tests, as explained below.
- 13.6 This diversion also satisfies a number of objectives in Wiltshire's Public Rights of Way Improvement Plan 2015-2025 (ROWIP), as can be seen from the extracts below. In particular:

SO14 To promote travel modes that are beneficial to health

- Walking, cycling and horse riding have been shown to be beneficial to both physical and mental health
- The CAN provides routes and areas people can use to undertake these healthy travel modes, so its use can be promoted

SO15 To reduce barriers to transport and access for people with disabilities and mobility impairment

- The CAN provides some opportunities for those with mobility impairments to access local services and the countryside. Examples of these opportunities include:
 - wheelchair accessible paths
 - Riding for the Disabled groups
 - disabled people driving along Byways Open to All Traffic to access remote locations
- Reducing barriers may include replacing stiles with gaps or gates, surfacing improvements or improving maintenance on key links

- 13.7 Furthermore, in the context of use of the countryside access network the ROWIP identifies the needs of the elderly and those with mobility impairments - both groups will benefit from the improved surface afforded by the proposed bridleway (see extract below).

7.3 Demographic changes

Finding 4:

Population growth in Wiltshire:

- the population grew by 5.3% from 2002 to 2010
- this trend is expected to continue, with a 7.5% increase in the county's population from 2010 to 2021²⁶

Conclusion 4:

An increasing population will lead to greater use of the network. As much of the demand for the CAN is from where people live, upgrades to the network around new housing sites must be sought

Finding 5:

Ageing population in Wiltshire:

- the population is ageing considerably more rapidly than average increases across England or the south-west. There was a growth of 20% in the number of people aged 65 or over between 2002 and 2010
- this trend is expected to continue, with a further 35% increase in the number of people over 65 in Wiltshire from 2010 to 2021²⁷

Conclusion 5:

If older people are to keep active and therefore healthy, they will need a more accessible network as they are more likely to find stiles (and sometimes surfacing and latches) difficult than other people. This highlights the need to replace stiles with gaps or gates on key routes, which can also benefit wheelchair users and parents with buggies and children

7.4 Disability

Finding 6:

- 32% of Wiltshire's residents say that they have a long-standing illness, disability or infirmity. Of these, 56% say it limits their activities in some way (i.e. 18% of the total population asked)²⁸
- Many of those who say disability limits their activities will have a mobility impairment. This could be, for example:
 - o being blind
 - o a wheelchair user
 - o not being able to walk very far
 - o finding uneven surfaces painful to walk on
 - o finding gradients, climbing over stiles or opening stiff latches or other informal gate closures difficult

Conclusion 6:

The requirements for improving accessibility for people with these sorts of disability are generally the same as discussed in conclusion 5

13.8 Indeed the ROWIP specifically addresses this issue as an opportunity to provide a more coherent network with greater access.

2-5	Improve conditions on the network for those with mobility impairments	<p>Some people find routes difficult to use due to uneven surfaces. Stiles can be a barrier for many with mobility impairments and pushchairs; they can also be a problem for people walking dogs.</p> <ul style="list-style-type: none"> • Where there is demand to make certain routes more accessible, improve maintenance (e.g. cut back vegetation further) and undertake surface improvements • Working within the framework of Wiltshire Council's gaps, gates and stiles policy, seek to replace stiles with gaps or gates where demand is greatest and landowners are willing • Encourage landowners to follow best practice for furniture design, as set out in the gaps, gates and stiles policy, including provision of dog access where possible • In partnership with user groups, promote existing and create new accessible trails where they would be well used • Improve surfacing on byways open to all traffic where there is demand for those with mobility impairments to be able to drive to remote locations (e.g. to enjoy views) 	What accessibility improvements have been undertaken on key routes?	SO6, SO15, SO17, SO18
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13.9 If our clients' application is unsuccessful it is likely that at some time in the future the proposed bridleway will be closed to incorporate the land in a possible development of the barn opposite The Mill House. The reason is that The Mill House would be exposed to the risk of Bridge Y having to be replaced at some time in the future. This would completely change

the character of the place. In those circumstances our clients might seek to recoup some of their loss by developing the barn for residential use, as has happened elsewhere in the village. This would mean that many people who enjoy walking and riding locally will be limited to the present bridleway and its hazards, and will lose the advantages of the proposed bridleway, as explained above.

14. Sharing of the proposed bridleway bridge

- 14.1 Riders and walkers will both share use of the proposed bridleway bridge. That is nothing new. Riders and walkers already share the present bridge, which is much narrower - less than a metre wide.
- 14.2 Walkers can take full advantage of CAL40 and CAL41 or may choose to walk along the proposed bridleway. There is good visibility as the bridge is approached from either side with widths between 10.5 metres on the south side and 13 metres on the north side of the river.

15. Views/character of the route

- 15.1 Stunning views of the house are obtained from the proposed bridleway on both the north and south sides of the river. Much better views than standing immediately in front of the house and looking up - see photos (Enclosures 18 and 19) of The Mill House taken from the proposed bridleway, north and south.
- 15.2 Our clients would be prepared to maintain the views from the proposed bridleway for people's enjoyment.
- 15.3 The objectors to the previous application noted a loss of purpose when using the diversion but it should be noted that public rights of way skirting properties are not new nor are applications to divert rights of way around properties - take for example the Pewsey Path 62 Decision (Enclosure 24) which is exactly on point and in which the diversion order was confirmed.
- 15.4 We also refer to the diversion of Bishop's Canning Path 4 (Enclosure 17) which includes two right angle turns but otherwise follows the general direction of the original route. Right angle turns on public rights of way are not novel.
- 15.5 The objectors claim a loss of purpose when using the proposed bridleway. Bearing in mind there were only two objectors as against numerous users in support the objectors' views are not widely shared. When considering this point the council should take into account all views expressed by respondents.
- 15.6 In terms of public enjoyment, the Inspector in the Pewsey Path 62 Decision noted the comments of several objectors that the alternative route would be of a wholly different character (but consistent with the route as a whole) and remove the opportunity to see at close hand some of the interesting listed buildings within the farm complex. In that case (not unlike this application) the diversion took an alternative route along an elevated level which the Inspector found provided an alternative view of the house and farm complex seen in the context of the landscape, as opposed to close up but limited views within the yard. The

similarities with this application are obvious. As can be seen from the photographs enclosed with this application the views of the Mill House provide their own enjoyment to users of the proposed bridleway. As the Inspector in the Pewsey Path 62 Decision said *"having considered the various aspects raised [the character of the route and the views], I conclude it would be different but not any less enjoyable."* The same point is made here - the users of the proposed bridleway would enjoy different but equally as enjoyable views of the Mill House and in their use of the way generally.

16. Historical value

- 16.1 The site is not of great historical value. Major works have been carried out over the years with the approval of the Listed Building Department, English Heritage and other statutory and historical bodies. Nothing of historical value has been discovered on the site. The property was one of many mills between the source of the River Marden and Chippenham.

17. Local Searches

- 17.1 At the time of purchase, Local Searches were carried out by the solicitors, and further enquiries concerning any rights of way were made of Wiltshire County Council. Wiltshire County Council maintained that there were no rights of way passing in front of The Mill House.
- 17.2 A copy of the local authority search carried out with Wiltshire County Council is attached (Enclosure 20).
- 17.3 The hatched plan shows what was being bought at the time and also includes the road (U/C 7008) leading up to the house.
- 17.4 The search reveals the footpaths CALW43 and CALW69 and the bridleway CALW77.
- 17.5 The search also shows U/C 7008 just entering our clients' driveway at the top and U/C 7005 just crossing the river and entering our property at the south. The latter is bizarre as there were buildings blocking the way - since demolished (see Enclosure 6).
- 17.6 Further enquiries were made and the solicitor handling the conveyancing was told that there was clearly a mistake with the plan. She was sent a Schedule of Unclassified Roads, which prevailed over the plan (Enclosure 21).
- 17.7 The Schedule revealed that U/C 7008 should have stopped at the entrance to the property. U/C 7005 should have stopped at the bridge. When the Stopping Up Order (Enclosure 15) was granted, these anomalies were resolved.
- 17.8 The area between U/C 7005 and U/C 7008 was not shown as affected by any rights of way. It was not until 2009 that it was determined that a bridleway had been established passing in front of The Mill House.
- 17.9 The diversion of the bridleway would therefore simply take our clients back to the position they believed they were in, as far as rights of way in front of The Mill House are concerned, in 2000.

18. Finance

18.1 Our clients are prepared to:-

- 18.1.1 bear the cost of any further improvement works required to the proposed bridleway. They have already carried out works to the standard recommended by the British Horse Society.
- 18.1.2 take responsibility for the future maintenance and upkeep of the proposed bridleway.
- 18.1.3 take responsibility for the future maintenance and upkeep of Bridge "X".
- 18.1.4 relieve Wiltshire Council of any responsibility for the maintenance of Bridge "Y".

18.2 We have addressed the costs issue in the context of the public interest above in paragraph 6.6.

19. The relevant legal powers and criteria

19.1 Section 119(1) provides that the Council may create any such new bridleway as appears to the Council requisite for effecting the diversion, and the extinguishment, of a public right of way, as appears requisite to the Council: the order is called a public path diversion order. The Council may do so:

"where it appears to a council as respects a ... bridleway ... in their area ... that, in the interests of the owner, ... of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted ..., the Council may, ... by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an opposed order [create the new route and extinguish the old]".

19.2 Section 119(6) contains an important criterion:

"the Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that the diversion to be affected by it is expedient as mentioned in sub-section (1) above, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which -

- (a) the diversion would have on public enjoyment of the path or way as a whole,*
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and*
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it".*

- 19.3 There are therefore three principal criteria.
- 19.3.1 First, the criterion of expediency in sub-section (1).
- 19.3.2 Second, the criterion that the path or way will not be substantially less convenient to the public in consequence of the diversion in sub-section (6).
- 19.3.3 Third, the considerations in sub-paragraphs (a) - (c) in sub-section (6).
- 19.4 The Council should, accordingly, apply these criteria in a systematic manner. Even if there are any objections to this Application, they should not, as a matter of principle, preclude the Council from making the order even if any present objections are unlikely, or indeed are not, withdrawn.
- 19.5 As to the first criterion of expediency, sub-section (1) refers to the interests of the owner, lessee or occupier of land crossed by the way, or of the public. The advantages set out above of the proposed diversion are plainly expedient having regard to the interests of the owner.
- 19.6 However they are also expedient having regard to the interests of the public as the public will gain a wider bridleway, less incline in its route, and the omission of a length of the present route liable to flooding and similar disadvantages. The first criterion is satisfied.
- 19.7 As to the second criterion in sub-section (6), that the way will not be substantially less convenient to the public in consequence of the diversion, the following matters arise. The expression "*substantially less convenient to the public*" was considered in Young v Secretary of State for Food and Rural Affairs [2002] EWHC 844 (Admin) where Turner J said (at para 27) that the expression is capable of finding a satisfactory meaning by reference to consideration of such matters as the length, difficulty of walking and purpose of the path.
- 19.8 That case makes clear that the matter of length is only one factor, and difficulties, as outlined above in relation to the present bridleway, and the purpose of the bridleway, are also relevant factors.
- 19.9 Whilst it is true that the relevant length of the diverted route is approximately 100 metres longer than the present, that additional length must be considered against the advantages of its additional width as a bridleway, a more satisfactory incline, and the avoidance of an area substantially liable to flooding and becoming boggy.
- 19.10 The Council should conclude that, having regard to the additional advantages, as against the additional length, the proposed route will be as convenient to the public. Length is only one of the matters to be taken into account, in considering convenience, and is not the determining feature.
- 19.11 Third, as to the considerations contained within sub-paragraphs (a) to (c) of sub-section (6), Turner J, in the Young case, concluded that these considerations were not intended to qualify the word "convenient" as well as the expression "*expedient to confirm the order having regard to the effect which ... the diversion would have on public enjoyment of the path as a whole*".
- 19.12 It follows that if there is any substantial negative impact on the enjoyment of a path, this is to be balanced against the interests of the landowner rather than to be considered as a bar to

the confirmation of the order: see the comments of the editors on Section 119 of the Highways Act 1980 in *Encyclopaedia of Highway - Law and Practice* Volume 1, at [para 2-199] (Enclosure 22).

- 19.13 In consequence, the mere fact that there may be an objection on a ground that, for example, the diverted way is longer, that does not amount to a bar on the making or confirmation of an order, but is merely a matter that must be balanced against the expediency in the interests of the owner.
- 19.14 Taking into account the considerations at sub-sections (a) to (c) of sub-section (6), the position is as follows.
- 19.15 As to consideration (a), the effect of the diversion on public enjoyment of the bridleway as a whole, it would be open to Wiltshire Council to conclude that, having regard to the advantages and disadvantages, as set out above, there is no serious disadvantage to the public enjoyment of the bridleway as a whole.
- 19.16 In relation to consideration (b), land served by the bridleway would continue to be served following the diversion. There is no adverse consequence in relation to this consideration.
- 19.17 As to consideration (c), the land over which the diversion will be made is owned by our clients, they have created the diverted way at their expense, constructed a bridge and are prepared to agree to its maintenance.
- 19.18 We accept that Wiltshire Council does have a discretion, even if the conditions precedent are satisfied. But, a decision should at least be rational and not be made against the weight of the evidence and other material. A decision to dismiss an application, in the exercise of the discretion, notwithstanding that the legal tests are satisfied, runs the very high risk of being judicially reviewable.

20. General

- 20.1 For as long as a diversion of the present bridleway has been discussed, there has been tremendous support from Calne Without Parish Council, the British Horse Society, members of the Wiltshire Bridleway Association, the Pony Club, the local County Councillor, the local Member of Parliament, local liveries, riders, walkers and villagers. The reason for that support is that they view the proposed route as an enhancement on the present route and substantially as convenient.
- 20.2 It is obvious that horse-riders are using the proposed bridleway extensively (See Record of Use Enclosure 12), and probably prefer it for the following reasons;
- 20.2.1 First, because Bridge X is more accessible to horses, than Bridge Y.
- 20.2.2 Second, because it avoids a potential conflict between horses and pedestrians or vehicles in front of the Mill House.
- 20.2.3 Third, because it avoids the steep incline to the south of Bridge Y.

- 20.2.4 Fourth, because the views of the Mill House are better than those from the present bridleways.
- 20.3 The Council is required to carry out the requisite balancing exercise between expediency in the interest of the landowner and public enjoyment.

21. Summary

- 21.1. It is of course accepted that *“a diversion order cannot be confirmed under section 119(6) if the path or way will be substantially less convenient to the public in consequence of the diversion.”*
- 21.2. If, on the face of it, the increased length of 100 metres, (i) over a length of 404 metres, (ii) or more reasonably, at least 880 metres being the distance between Points “T” and “M” (Enclosure 6), (iii) or when considering the access network as a whole and the connecting bridleways and footpaths in the area is seen as a disadvantage, that has to be weighed against the overriding advantages which include the following matters.
- 21.3. Since 2013, the proposed route has been the route of choice for people passing through. It is more convenient and preferred. (Enclosure 12).
- 21.2 The proposed route can be used all the year round. The present route cannot be used for about 6 weeks of the year owing to boggy ground. (Enclosure 13).
- 21.3 The distance has to be compared with the average ride or walk length that might be enjoyed by a rider or walker and not simply the length of the present bridleway, which is 404 metres. Nobody starts and ends their journey at either end of the bridleway where it joins the village roads.
- 21.4 The proposed route is much wider, up to 11 metres wide for a significant distance.
- 21.5 The proposed route is much safer. Users can pass easily and there are fewer hazards.
- 21.6 Users do not have to encounter a narrow driveway which can be slippery.
- 21.7 Bridge Y is wooden, narrow and can be slippery. Bridge X is a stone arch bridge with a firm surface and fenced sides.
- 21.8 Bridge X is almost twice the width of Bridge Y.
- 21.9 Horses can be spooked by the fast flowing river while crossing Bridge Y. The river flows more gently under Bridge X. The route in front of the house is always very busy - vehicles come up and down the driveway all day - animals and children add to this activity all of which have been know to spook horses.
- 21.10 The proposed route is wide enough for horses to be lead.
- 21.11 The proposed route is more gentle. It can be and is used by many more people.
- 21.12 The proposed route is more easily used by people with mobility difficulties. Children’s buggies can manage it. Mobility scooters have been known to go round in the summer. Neither could contemplate the present route.

- 21.13 The views of the house are better, different, arguably more enjoyable but at the very least are no less enjoyable.
- 21.14 Users on the north side have a choice between using the reinforced surface or the grass.
- 21.15 Riders have room to canter if there is no other traffic.
- 21.16 Most people respect our clients' privacy and security and prefer the proposed bridleway. They do not want to work their way past parked cars, children and animals, including a Labrador who will bark at strangers.
- 21.17 The threat to Matilda Moore on 5 July 2017 brings into focus the need to improve security which cannot be done while the present bridleway remains.
- 21.18 Any suggestion that our clients should retain the present bridleway and the proposed bridleway is not acceptable. If the diversion of the present bridleway is not approved alternative arrangements will be made for the property and the permissive bridleway will be closed to the public.

22. Final submission

22.1 It is clear that Wiltshire Council:

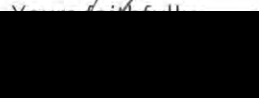
22.1.1 does have power to make an order under section 119 of the Highways Act 1980;

22.1.2 the relevant criteria are satisfied; and

22.1.3 there does not appear to be any substantial reason why the order should not be made.

22.2 The Opinion of Counsel, Mr Barry Denyer-Green, is enclosed in support of this application (Enclosure 23).

If you have any questions on any of the above please do not hesitate to contact the writer in the first instance.



Thrings LLP

HIGHWAYS ACT 1980 S.119 Application to Divert a Public Path

1. Full Name and address of Applicant

Name: JOHN EDWARDS MOORE and LUCY ANNA MOORE

Address: THE MILL HOUSE, CALSTONE WELLINGTON,
CALNE, WILTSHIRE, SN11 8QF

Tel No: 01249 [REDACTED] Daytime Tel No: 01249 [REDACTED] Fax: _____

Email address: [REDACTED]

2. Name and Address of Agents (if any) or Address for correspondence (if different from above)

Name: _____

Address: _____

Tel No: _____

3. Particulars of Rights of Way to be diverted NB Byways Open to All Traffic may not be diverted under this process

a) Footpath/Bridleway/Restricted byway Number PART CALW 89, CALW 89A and CALW 89B.

b) Parish of CALNE WITHOUT

c) From See plan - Point "B" OS grid ref 688.10 025.15

to See plan - Point "C" OS grid ref 686.95 024.95

Existing ~~stiles/gates~~ bridges (list and show position on plan)

Bridge to the south of The Mill House at Point "Y" on the Plan.

d) Length in metres of section to be diverted 122 metres

e) Width in metres of section to be diverted 3 metres along driveway, widening south of the river.

f) Is the existing route freely available to the public? Yes

If not, please give reasons: _____

4. Reasons for the diversion of the path

NB A public path order may be made in the interests of the landowner.

Please give details of the reason for this application.

Please see accompanying letter with reasons and submissions.

5. Particulars of new path to be provided

a) From Please see plan - Point "A" OS grid ref 688.37 025.15

to Please see plan - Point "C" OS grid ref 686.95 024.95
(if known)

Proposed ~~stiles/gates~~ bridges (list with grid refs and show position on plan). The Council will not normally agree to stiles or gates in the Order setting out the new route. If necessary they may be authorised separately under s147 of the Highways Act 1980 to prevent the ingress or egress of stock.

Existing bridge at Point "X"

- a) Length in metres 248 metres between Points "A" and "E", of which 26 metres is parallel to existing public highway from present bridleway.
- b) Width in metres Between 4 metres and 11 metres.

Please note, for a footpath the minimum width required by the Council for the new route is 2 metres; for a bridleway 4 metres. In some circumstances greater widths may be necessary)

- c) Surface Grass and Mendip Aggregate and Dust as approved by British Horse Society.
- d) What other works do you propose to undertake to bring the new path into use for the public (e.g. gates, bridges, steps etc)?

Please see accompanying letter.

Please enclose written confirmation from any person having an interest in the land connected with the proposed new path of their agreement to any necessary work required to bring the new path into use for the public.

6 Particulars of Ownership. Proof of ownership to be supplied with the application

- a) Applicant's interest in the land over which the existing path referred to in this application passes

Owner

- b) Applicant's interest in the land over which the new path is to be provided

Owner

- c) Have any other persons an interest in the land over which existing or proposed paths pass? If so, give names and addresses of persons and nature of interest

No

- d) Please enclose written confirmation from every person having an interest in the land over which the section of path to be provided crosses, consenting to the application, or give particulars of any consents still required to be obtained

7 Names and addresses of Statutory Undertakers in the area (whether or not their apparatus is likely to be affected)

- a) Gas Board British Gas, PO Box 4805, Worthing, BN11 9QW
- b) Electricity Board Southern Electric, PO Box 29977, Glasgow G67 9BW
- c) Water Authority Wessex Water, 1 Clivedon Walk, Nailsea, Bristol BS48 1WA
- d) Telecommunications BT, Providence Row, Durham, DH98 1BT

8 This application should be accompanied by a plan, scale 1:2500 at A3 or A4 as follows:

- a) Unaffected line of path shown as a dotted line e.g. ○○○○○○○○○○○○○○○○○
- b) Section of path to be diverted shown as a solid black line e.g. _____
- c) New path to be provided shown as a broken black line e.g. - - - - -

9 Costs for the making of the Order

We charge actual costs because we have a power to process public path orders, rather than a legal duty.

Declaration

I/We understand that no authority for the diversion of a highway is conferred unless and until an Order has been made and confirmed and notice of its making and confirmation have been published. Additionally the new path must be built and certified as acceptable by Wiltshire Council before the order may come into effect.

I/We declare that the highway to be diverted is in no way obstructed and that it is fully available to the public. (Subject to 3f above).

I/We hereby agree that if a Diversion Order is made, I/We will pay any compensation which may arise in consequence of the coming into operation of the Order and any expenses which may be incurred in bringing the new route of the path into a fit condition for use by the public as required by the Council.

I/We declare that to the best of my/our knowledge and belief all the particulars given are true and accurate.

I/We will be responsible for waymarking the diversion to the Council standard before the original highway is closed.

I/We agree to pay Wiltshire Council the sum of £1875 plus the cost of any associated site works incurred by the Council on completion of the application or proportion of same if the application is withdrawn or if an order is made, advertised but subsequently not confirmed.

I/We apply for the Diversion of the highway described above.

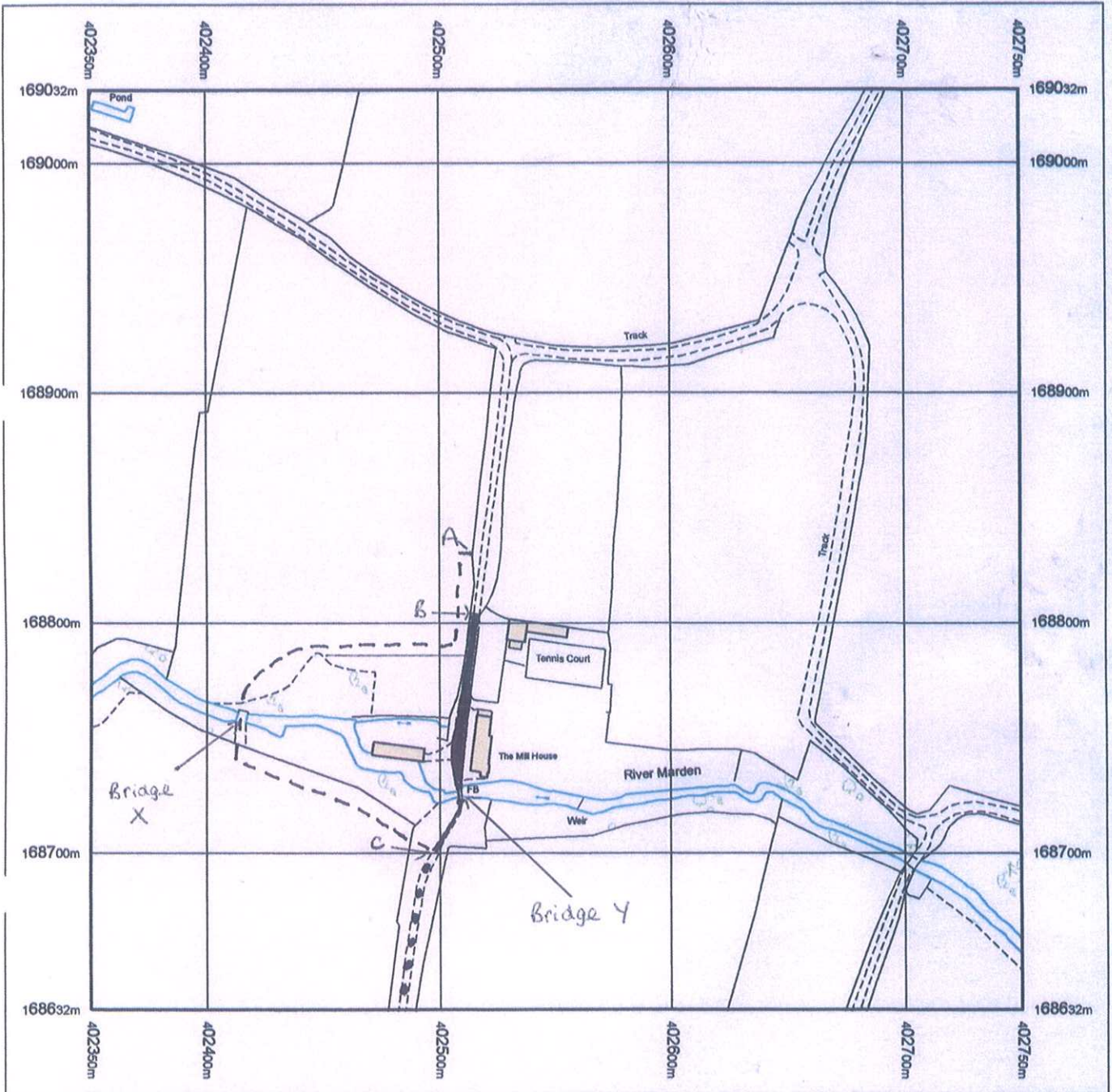
Signed _____

Date 31st May 2018

On completion, this form should be returned, together with the plan to:
The Rights of Way Manager, Rights of Way Section, Waste and Environment,
Wiltshire Council, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN

Please remember to enclose:

- The completed form,
- a plan based on an ordnance survey map of a scale not less than **1:2500 at A3 or A4**
- proof of title



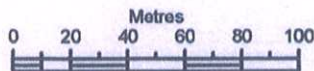
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The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.



Scale 1:2500

Supplied by: **Outlet User**
Serial number: 00082500
Centre coordinates: 402550 168832

Further information can be found on the OS Sitemap Information leaflet or the Ordnance Survey web site:

3



Title Number : WT309963

This title is dealt with by Land Registry, Weymouth Office.

The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

Neither this extract nor the full copy is an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy.

This extract shows information current on 25 OCT 2016 at 12:23:56 and so does not take account of any application made after that time even if pending in the Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: WT309963
Address of Property	: Land at Theobalds Green, Calstone, Calne
Price Stated	: £85,000
Registered Owner(s)	: JOHN EDWARD MOORE and LUCY ANNA MOORE of The Mill House, Calstone, Calne SN11 8QF.
Lender(s)	: None

Title number WT309963

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 25 OCT 2016 at 12:23:56. This copy does not take account of any application made after that time even if still pending in the Land Registry when this copy was issued.

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A: Property Register

This register describes the land and estate comprised in the title.

WILTSHIRE

- 1 (16.06.2009) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Theobalds Green, Calstone, Calne.
- 2 (24.05.2013) The Transfer dated 28 February 2013 referred to in the Charges Register contains a provision as to boundary structures.
- 3 (01.08.2013) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (24.05.2013) PROPRIETOR: JOHN EDWARD MOORE and LUCY ANNA MOORE of The Mill House, Calstone, Calne SN11 8QF.
- 2 (24.05.2013) The price stated to have been paid on 28 February 2013 was £85,000.

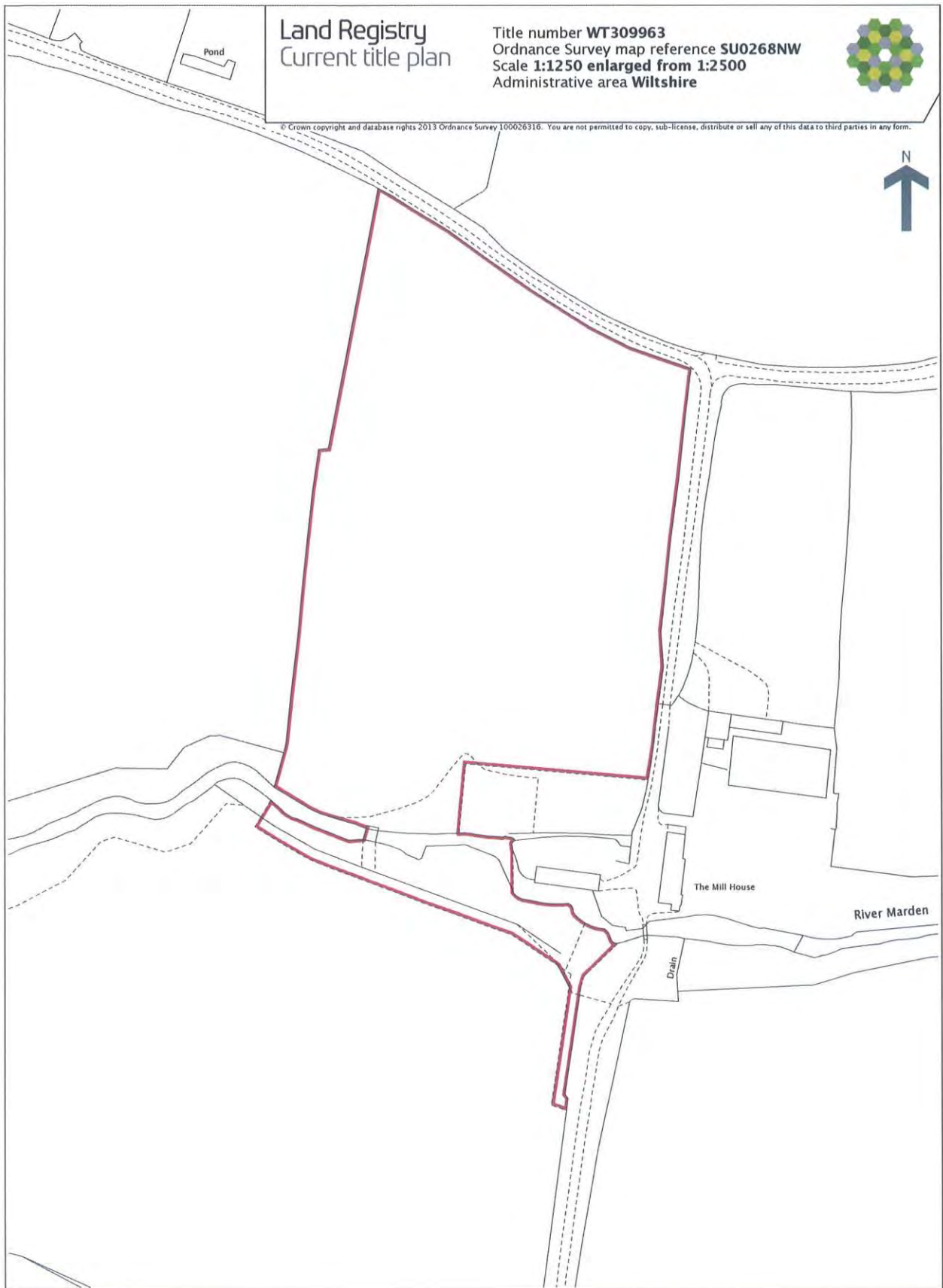
C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (24.05.2013) The land is subject to the rights reserved by a Transfer of the land in this title dated 28 February 2013 made between (1) Patrick Hill Maundrell and Sandra Marie Maundrell and (2) John Edward Moore and Lucy Anna Moore.

NOTE: Copy filed.

End of register



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This title is dealt with by Land Registry, Weymouth Office.

5.1

Title Number : WT190593

This title is dealt with by Land Registry, Weymouth Office.

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This extract shows information current on 25 OCT 2016 at 12:20:43 and so does not take account of any application made after that time even if pending in the Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: WT190593
Address of Property	: The Mill House, Calstone Wellington, Calne, (SN11 8QF)
Price Stated	: Not Available
Registered Owner(s)	: JOHN EDWARD MOORE and LUCY ANNA MOORE of The Mill House, Calstone Wellington, Calne, Wiltshire SN11 8QF.
Lender(s)	: None

Title number WT190593

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A: Property Register

This register describes the land and estate comprised in the title.

WILTSHIRE

- 1 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being The Mill House, Calstone Wellington, Calne, (SN11 8QF).
- 2 (21.02.2012) A new title plan based on the latest revision of the Ordnance Survey Map and showing the land added to the title by yellow tinting has been prepared.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 PROPRIETOR: JOHN EDWARD MOORE and LUCY ANNA MOORE of The Mill House, Calstone Wellington, Calne, Wiltshire SN11 8QF.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 A Transfer of the land tinted blue on the filed plan dated 7 November 2001 made between (1) The Honourable Charles Maurice Petty Fitzmaurice (Transferor) and (2) John Edward Moore and Lucy Anna Moore (Transferee) contains the following covenants:-

"Definitions

13.1.1 "the Retained Land" means that part of the land known as Sprays Farm more particularly described in the conveyance on sale referred to in Clause 4 as is not comprised by the Property

Restrictive covenants by the Transferee

13.2 The Transferee covenants with the Transferor, to the intent that the burden of the covenant will run with and bind the Property and every part of it and that the benefit of the covenant will be annexed to and run with the Retained Land and every part of it, to observe and perform the following stipulations :-

13.2.1 Not to erect any permanent buildings on the Property

13.2.2 Not to use the Property other than in conjunction with that part of the Transferee's adjoining property known as the Mill House shown edged green on the attached plan or part thereof"

NOTE 1: The Property referred to is the land tinted blue on the filed plan. The conveyance in Clause 4 referred to is a Conveyance dated 16

Title number WT190593

C: Charges Register continued

October 1973 made between (1) The Most Honourable George John Charles Mercer Nairne Marquess of Lansdowne and (2) The Honourable Charles Maurice Petty Fitzmaurice

NOTE 2: Copy plan filed.

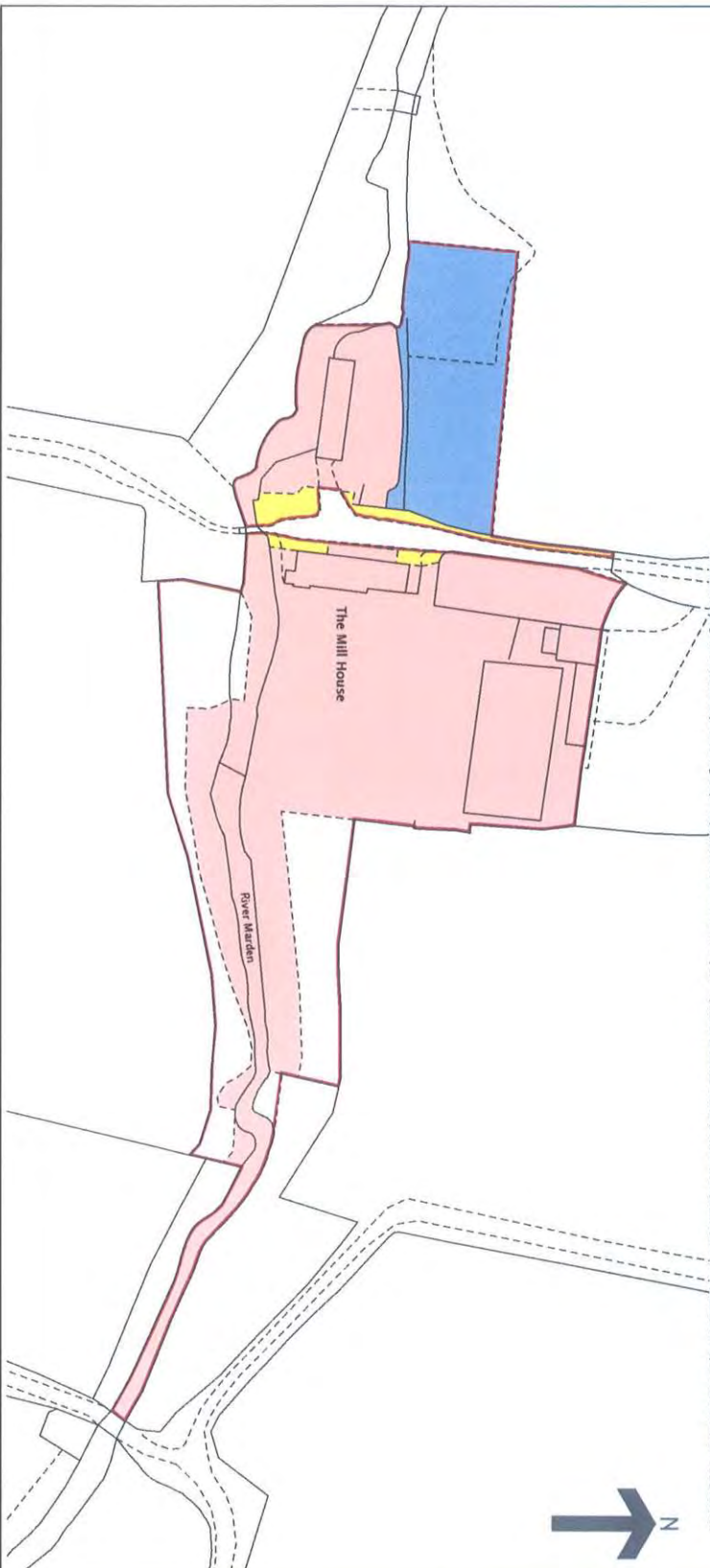
End of register

Land Registry Current title plan

Title number **WT190593**
Ordnance Survey map reference **SU0268NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Wiltshire**



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This title is dealt with by Land Registry, Weymouth Office.

Title Number : WT261018

This title is dealt with by Land Registry, Weymouth Office.

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This extract shows information current on 25 OCT 2016 at 12:22:27 and so does not take account of any application made after that time even if pending in the Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: WT261018
Address of Property	: Land on the west side of The Mill House, Calstone, Calne
Price Stated	: Not Available
Registered Owner(s)	: JOHN EDWARD MOORE and LUCY ANNA MOORE of The Mill House, Calstone Wellington, Calne, Wiltshire SN11 8QF.
Lender(s)	: None

Title number WT261018

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A: Property Register

This register describes the land and estate comprised in the title.

WILTSHIRE

- 1 (14.06.2007) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land on the west side of The Mill House, Calstone, Calne.

NOTE: As to the part tinted blue on the title plan the footbridge is not included in the title.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

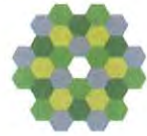
Title possessory

- 1 (14.06.2007) PROPRIETOR: JOHN EDWARD MOORE and LUCY ANNA MOORE of The Mill House, Calstone Wellington, Calne, Wiltshire SN11 8QF.
- 2 (14.06.2007) The value as at 14 June 2007 was stated to be under £100,000.

End of register

Land Registry
Current title plan

Title number **WT261018**
Ordnance Survey map reference **SU0268NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Wiltshire**



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This title is dealt with by Land Registry, Weymouth Office.

Title Number : WT420850

This title is dealt with by Land Registry, Weymouth Office.

The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

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This extract shows information current on 25 OCT 2016 at 12:11:14 and so does not take account of any application made after that time even if pending in the Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: WT420850
Address of Property	: land adjoining The Mill House, Calstone, Calne (SN11 8QF)
Price Stated	: Not Available
Registered Owner(s)	: JOHN EDWARD MOORE and LUCY ANNA MOORE of The Mill House, Calstone, Calne SN11 8QF.
Lender(s)	: None

Title number WT420850

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A: Property Register

This register describes the land and estate comprised in the title.

WILTSHIRE

- 1 (11.03.2016) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being land adjoining The Mill House, Calstone, Calne (SN11 8QF).

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title possessory

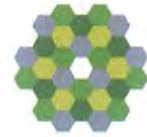
- 1 (11.03.2016) PROPRIETOR: JOHN EDWARD MOORE and LUCY ANNA MOORE of The Mill House, Calstone, Calne SN11 8QF.
- 2 (11.03.2016) The value as at 11 March 2016 was stated to be under £80,000.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (11.03.2016) The land is subject to such restrictive covenants as may have been imposed thereon before 11 March 2016 and are still subsisting and capable of being enforced.

End of register



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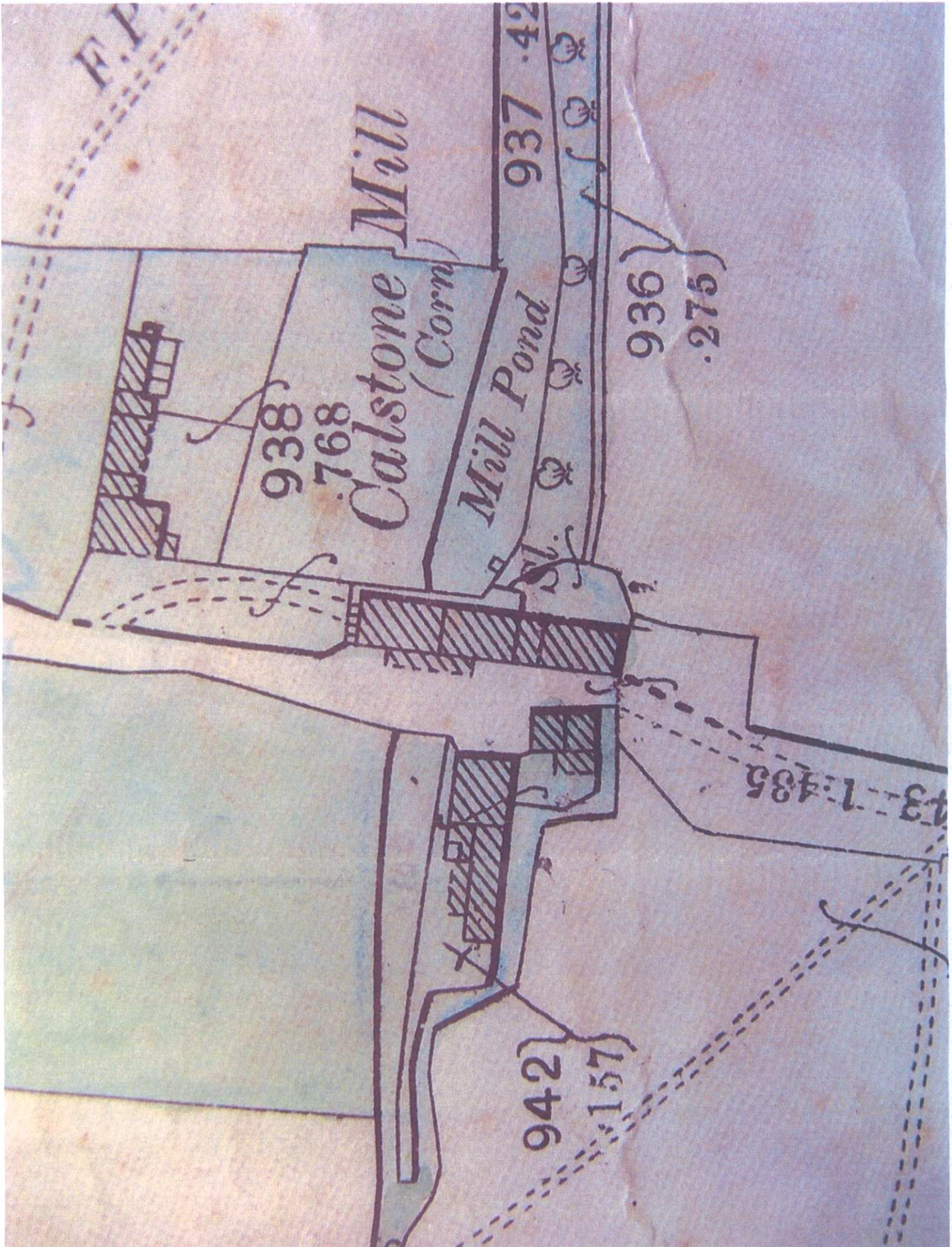
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This title is dealt with by Land Registry, Weymouth Office.

6

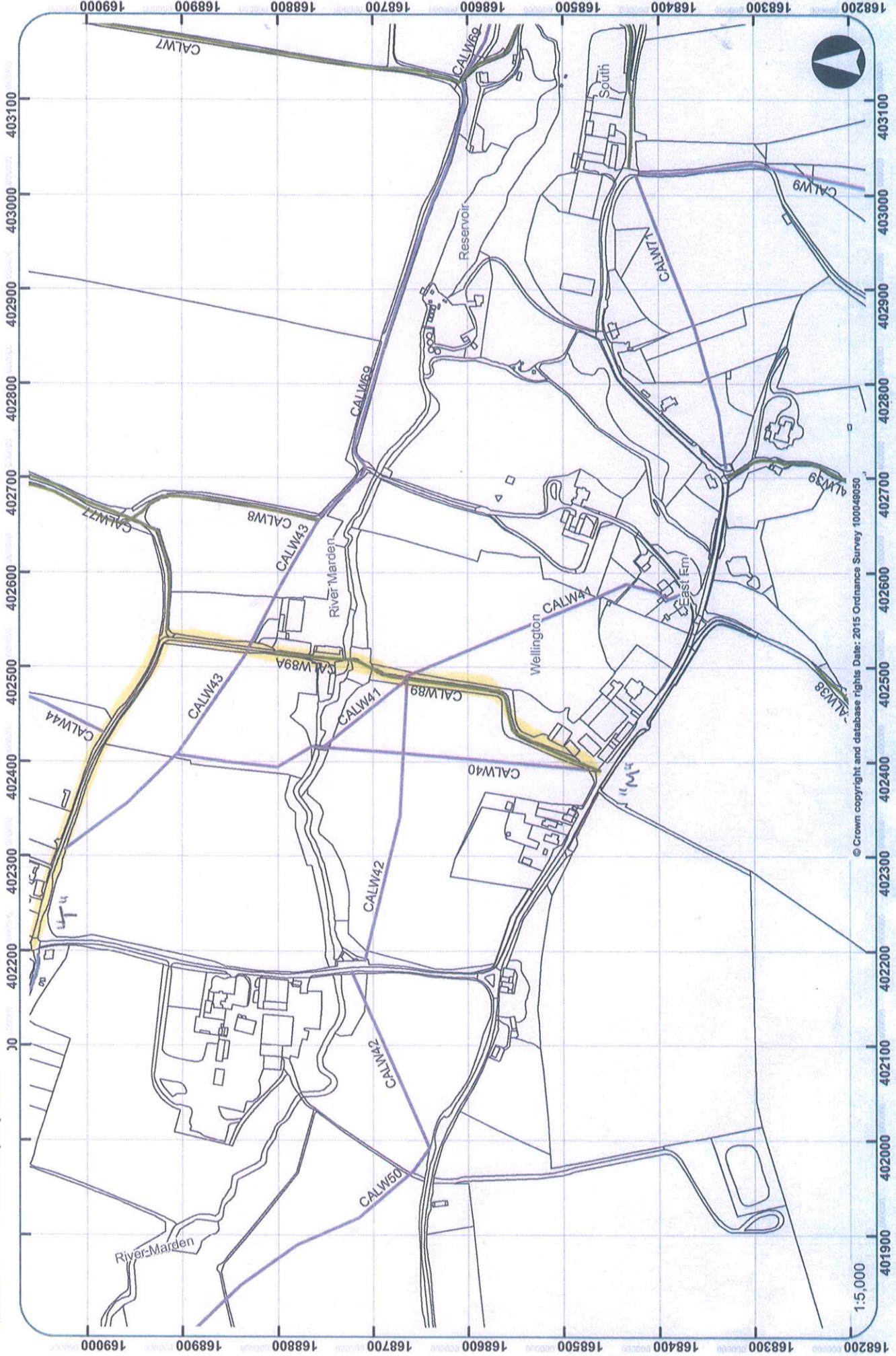
(v)



Public rights of way at Calstone Wellington

Date: 08/12/2015

7



<u>Parish</u>	<u>Path No.</u>	<u>Description of Path</u>	<u>Limitations or conditions affecting public rights</u>
Calne Without	85	<u>FOOTPATH.</u> From the junction of spur road U/C 4170 with path No.79, south-east of Ash Hill Farm, leading north-east along the edge of Tynning Plantation at Raspberry Copse, along the west side of Horse Copse, across path No.82 to path No.84, about 218 m south of Devizes road, A.342, at Old Derry Hill. Formerly Pewsham No.4. Approximate length 2 km. Width 0.9 m. - 3 m.	relevant date 9th July 1991
Calne Without	86	<u>FOOTPATH.</u> From London Road, A.4, leading north-east along Derry Woods and Close Wood to the Stanley - Studley road, C.137. Approximate length 1.3 km. Width 0.9 m.	relevant date 26th June 1990
Calne Without	87	<u>FOOTPATH.</u> From road U/C 4170, opposite path No.27, Lacock, leading generally north-east to path no.85, north-west of Nethermore Farm. (Formerly Pewsham path No.9.) Approximate length 710 m.	relevant date 9th July 1991
Calne Without	88	<u>BYWAY</u> From Byway no 36, Bishops Cannings, at OS Grid Reference SU 0587 6823 leading north-east for a distance of approximately 80m, north-west for approximately 60m then continuing north-east for 311m to the Cherhill Parish Boundary at OS Grid Reference SU 0600 6860. Approximate length: 451m Width: 4m unfenced (6m fenced)	relevant date 19 th July 2001
Calne Without	89	<u>BRIDLEWAY.</u> From the unclassified road south of Manor Farm, 7005, leading in a general north easterly direction to the south end of public bridleway 89A, to the north of Calstone Mill House. Approximate length: 344 metres Width: 4 -10 metres.	12 th March 2008
Calne	89A	<u>BRIDLEWAY.</u> From the northern end of public	25 th March 2009

<u>Parish</u>	<u>Path No.</u>	<u>Description of Path</u>	<u>Limitations or conditions affecting public rights</u>
Without		bridleway 89 leading north past Calstone Mill House to public bridleway 89B. Approximate length: 53m Width: 4 – 8 metres as coloured green on the Order map	
Calne Without	89B	<u>BRIDLEWAY</u> . From the southern end of u/c road 7008 leading south to public bridleway 89A Approximate length; 7m Width: 4m	28 th May 2009

9

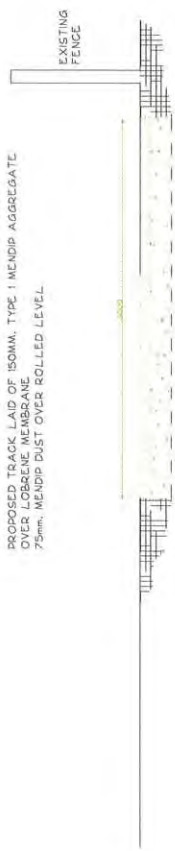
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SITE LAYOUT - 1:500

PROPOSED TRACK Laid OF 100MM TYPE 1 MENDIP AGGREGATE
 OVER 75mm MENDIP DUST OVER ROLLED LEVEL



SECTION THRO' PROPOSED TRACK - 1:20

PROJECT
 PROPOSED ACCESS TRACK
 MILL HOUSE
 CALLSTONE WELLLINGTON
 WILTS.

SCALE	1:500 1:20 at A1	DRAWN	
		CHECKED	

DRAWN TITLE
 SITE PLANS & SECTION

EMPLOYEE
 MR & MRS J. MOORE

DATE	DATE	REV	DATE
26/16	1	4/16	

From: Mark Weston [REDACTED]
Subject: RE: Bridleway surface
Date: 9 March 2016 18:40
To: John Moore [REDACTED]

Dear John,

Apologies for not getting back to you on Monday – I was struck down by some flu like virus and was in London yesterday.

The details you propose are fine subject to some kind of membrane being put down to stop the hard core from sinking.

Please do not hesitate to contact me if you wish to discuss this further,

Best wishes,

From: Mark Weston
Sent: 02 March 2016 15:46
To: 'John Moore'
Subject: RE: Bridleway surface

Dear John,

I will get back to you on Monday and hope this will be ok.

Best wishes,

From: John Moore [REDACTED]
Sent: 01 March 2016 07:16
To: Mark Weston
Subject: Fwd: Bridleway surface

Dear Mark,

I am forwarding an e mail from Peter Brown who does a lot of work for Wiltshire Council in maintaining bridleways.

You will see what he is suggesting for the surface of the bridleway. As I understand it there would be some initial work (the main work) followed by some top up work once the original work had bedded down.

Just to give you a bit more information, I attach a plan showing the route of the proposed bridleway between points A-B-X-C. I also attach a photo showing what the present bridleway looks like in winter – it is impassable for about 6 weeks of the year.

Our plan is to create a bridleway that is much wider and safer than the present bridleway and can be used all the year round.

The length of the proposed bridleway is about 250 metres. It runs either side of a chalk stream, which is the start of the River Marden.

The proposed bridleway on the south side of the river varies in width from 4 metres up to between 7.5 metres and 10.5 metres.

The width of the proposed bridleway on the north side of the river varies from between 6 metres up to 11 metres.

The route is presently grass, which for the most part drains well. It has been suggested by Sarah Jones that the width of the "reinforced" section of the bridleway should be 3 metres.

I am happy to do this but would like to make sure that it also fulfills your recommendations.

Best wishes,

John





Begin forwarded message:

From: P B SERVICES [REDACTED]
Subject: Re: Bridleway surface
Date: 29 February 2016 19:41:31 GMT
To: John Moore <[REDACTED]>

Hi John,

Having looked at the proposed route of the bridleway with you the ground is rather wet to consider doing any work at the moment. When the ground is more firmer I would propose laying between 100mm - 150mm of type 1 mendip stone (40mm to dust), compact the base layer with heavy vibrating roller and cover with 50-75mm of mendip dust to fill the voids.

If the ground was in the right condition I would try to lay the base stone thinner and compact with roller. I would then cover base stone with 50-75mm of mendip dust hoping this will allow the grass to grow through, thus making it a more greener path.

Hopefully this will be of some use to you, if you have any questions please just give me a ring.

I will come back to you with an estimate of costings.

Many thanks

Peter

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(1.1)

Town & Country Planning Act 1990

Notification of Full Planning

Application Reference Number: 16/03821/FUL

Agent J.J.Sample Parham Bungalow Parham Lane Mkt.Lavington Devizes SN10 4QA	Applicant c/o Agent The Mill House Calstone Wilts SN11 8QF
Parish: CALNE WITHOUT	
Particulars of Development: New access track hardstanding	
At: The Mill House, Calstone, Wilts, SN11 8QF	

In pursuance of its powers under the above Act, the Council hereby grant **PLANNING PERMISSION** for the above development to be carried out in accordance with the application and plans submitted (listed below).

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.

Subject to the following conditions:

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

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

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

DRWG 1 - Site Plans & Section

Received 5 May 2016

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

- 3 **INFORMATIVE TO APPLICANT:**
Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
- 4 **INFORMATIVE TO APPLICANT:**
Please be advised that nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site. You are advised to contact the PROW officer on 01225 713048.
- 5 **INFORMATIVE TO APPLICANT:**
The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

Signed



Director for Economic Development & Planning

Dated: 21 June 2016

Town and Country Planning Act 1990
PERMISSION FOR DEVELOPMENT

NOTES

1. **Other Necessary Consents.** This document only conveys permission for the proposed development under Part III of the Town and Country Planning Act 1990 and the applicant must also comply with all the byelaws, regulations and statutory provisions in force in the area and secure such other approvals and permissions as may be necessary under other parts of the Town and Country Planning Act 1990 or other legislation.

In particular the applicant is reminded of the following matters:-

- 1.1 the need in appropriate cases to obtain approval under Building Regulations. **(The Building Regulations may be applicable to this proposal. Please contact the Council's Building Control team before considering work on site);**
 - 1.2 the need to obtain an appropriate order if the proposal involves the stopping up or diversion of a public right of way or other highway (including highway verge);
 - 1.3 the need to obtain a separate "Listed Building Consent" to the demolition, alteration or extension of any listed building of architectural or historic interest;
 - 1.4 the need to make any appropriate arrangements under the Highways Act 1980, in respect of any works within the limits of a highway. The address of the Highway Authority is County Hall, Trowbridge, BA14 8JD (It is the responsibility of the applicant to ascertain whether the proposed development affects any listed building or public right of way / other highway, including highway verge).
2. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to grant permission subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal - <http://www.planningportal.gov.uk/planning/appeals>). The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission of the proposed development could not have been so granted otherwise than subject to the conditions imposed by the local planning authority, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him.

If the applicant wishes to have any further explanation of the reasons for the conditions imposed on this permission it will be given on request and a meeting arranged if necessary.

Appeals where an enforcement notice has been issued. Article 33 (2) (b) & (c) of the Town and Country Planning (Development Management Procedure) (England) Order 2010, provides that a shorter time limit to appeal to the Secretary of State shall apply where an enforcement notice has been served, as follows:-

'Type A appeal', 28 days from— the date of the notice of the decision or determination giving rise to the appeal; or

expiry of the specified period;

'Type B appeal', 28 days from the date on which the enforcement notice is served;

['Type A appeal' means an appeal in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) was served no earlier than 2 years before the application is made;

(b) was served before— (i) the date of the notice of the decision or determination giving rise to the appeal; or (ii) the expiry of the specified period; and

(c) is not withdrawn before the expiry of the period of 28 days from the date specified in sub-paragraph (b);

'Type B appeal' means an appeal in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) is served on or after— (i) the date of the notice of the decision or determination giving rise to the

appeal, or (ii) the expiry of the specified period;

(b) is served earlier than 28 days before the expiry of the time limit specified— (i) in the case of a householder appeal, in paragraph (2)(a) of the Order; or (ii) in any other case, in paragraph (2)(d) of the Order; and

(c) is not withdrawn before the expiry of the period of 28 days from the date on which the enforcement notice is served.]”

3. **Purchase Notices.** If permission to develop land is granted subject to conditions, whether by the local planning authority or by the Secretary of State for Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
4. **Compensation.** In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
5. **Discharge of Conditions.** There is now a fee for applications to discharge planning conditions, details of which are set out on the Council's website. The fee is payable per request and not per condition. The fee must be paid when the request is made, and cannot be received retrospectively. It does not matter when the permission was granted as long as it remains extant. The request, identifying the permission (with reference number) and the conditions concerned, should be made by using the 1 APP forms which are available on the Councils Website or the Planning Portal.

You are advised that the local planning authority has up to 12 weeks to consider the request, that you apply well in advance of when you intend to start work
6. **Street naming and numbering.** If this permission relates to the creation of new dwellings/commercial units or conversion of buildings into dwellings/commercial units, you are required to apply for street naming and numbering to ensure that the new buildings are allocated accurate addresses and registered with the Royal Mail. Relevant application forms, guidance notes and fee sheets are available to download at <http://www.wiltshire.gov.uk/planninganddevelopment/streetnaming> or you can contact the Address Information Team on 01225 770508 or by email at streetnaming@wiltshire.gov.uk



SITE LAYOUT - 1:1500



SECTION THRO' PROPOSED TRACK - 1:120

- NOTES**
1. CONFORM WITH BS 1186 PART 1:2003
 2. DO NOT BACK CHARGE FROM THE DRIVE
 3. BRICK FOOTING TO BE CONCRETE
 4. 150MM TYPE 1 AGGREGATE IS REFERRED TO AS 'MENDING DUST' IN BS 1186 PART 1:2003
 5. THE DRIVE SHALL BE CONCRETE WITH 150MM TYPE 1 AGGREGATE OVER ROLLED LEVEL

PROJECT
 PROPOSED ACCESS TRACK
 MILL HOUSE
 CALSTONE WELLSINGTON
 WILTS.

SCALE
 1:1500 1:200 OF A1
 DRAWN | CHECKED

SITE PLANS & SECTION

DESIGNER
 M.R. & MRS. J. MOORE

JOB No. 2818
DATE 1/4/16

Town & Country Planning Act 1990

Notification of Full Planning

Application Reference Number: 18/02808/FUL

<p>Agent J.J.Sample Parham Bungalow Parham Lane Mkt.Lavington Devizes SN10 4QA</p>	<p>Applicant c/o Agent The Mill House Calstone SN11 8QF</p>
<p>Particulars of Development: New access track hardstanding</p>	
<p>At: The Mill House, Calstone, Wiltshire, SN11 8QF</p>	

In pursuance of its powers under the above Act, the Council hereby grant PLANNING PERMISSION for the above development to be carried out in accordance with the application and plans submitted (listed below).

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.

Subject to the following conditions:

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan and 1803 DRWG. 1 dated 23/03/18.

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

- 3 **INFORMATIVE TO APPLICANT:**

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

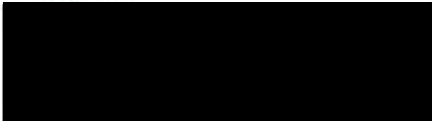
- 4 **INFORMATIVE TO APPLICANT:**
The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

- 5 **INFORMATIVE TO APPLICANT:**
Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

- 6 **INFORMATIVE TO APPLICANT:**
Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

Signed



Tim Martienssen
Director
Economic Development and Planning

Dated: 16 May 2018

Town and Country Planning Act 1990
PERMISSION FOR DEVELOPMENT
NOTES

1. **Other Necessary Consents.** This document only conveys permission for the proposed development under Part III of the Town and Country Planning Act 1990 and the applicant must also comply with all the byelaws, regulations and statutory provisions in force in the area and secure such other approvals and permissions as may be necessary under other parts of the Town and Country Planning Act 1990 or other legislation.

In particular the applicant is reminded of the following matters:-

- 1.1 the need in appropriate cases to obtain approval under Building Regulations. **(The Building Regulations may be applicable to this proposal. Please contact the Council's Building Control team before considering work on site);**
 - 1.2 the need to obtain an appropriate order if the proposal involves the stopping up or diversion of a public right of way or other highway (including highway verge);
 - 1.3 the need to obtain a separate "Listed Building Consent" to the demolition, alteration or extension of any listed building of architectural or historic interest;
 - 1.4 the need to make any appropriate arrangements under the Highways Act 1980, in respect of any works within the limits of a highway. The address of the Highway Authority is County Hall, Trowbridge, BA14 8JD (It is the responsibility of the applicant to ascertain whether the proposed development affects any listed building or public right of way / other highway, including highway verge).
2. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to grant permission subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal - <http://www.planningportal.gov.uk/planning/appeals>). The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission of the proposed development could not have been so granted otherwise than subject to the conditions imposed by the local planning authority, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him.

If the applicant wishes to have any further explanation of the reasons for the conditions imposed on this permission it will be given on request and a meeting arranged if necessary.

Appeals where an enforcement notice has been issued. Article 33 (2) (b) & (c) of the Town and Country Planning (Development Management Procedure) (England) Order 2010, provides that a shorter time limit to appeal to the Secretary of State shall apply where an enforcement notice has been served, as follows:-

'Type A appeal', 28 days from— the date of the notice of the decision or determination giving rise to the appeal; or

expiry of the specified period;

'Type B appeal', 28 days from the date on which the enforcement notice is served;

['Type A appeal' means an appeal in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) was served no earlier than 2 years before the application is made;

(b) was served before— (i) the date of the notice of the decision or determination giving rise to the appeal; or (ii) the expiry of the specified period; and

(c) is not withdrawn before the expiry of the period of 28 days from the date specified in sub-paragraph (b);

'Type B appeal' means an appeal in respect of an application relating to land and development which

are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) is served on or after— (i) the date of the notice of the decision or determination giving rise to the appeal, or (ii) the expiry of the specified period;

(b) is served earlier than 28 days before the expiry of the time limit specified— (i) in the case of a householder appeal, in paragraph (2)(a) of the Order; or (ii) in any other case, in paragraph (2)(d) of the Order; and

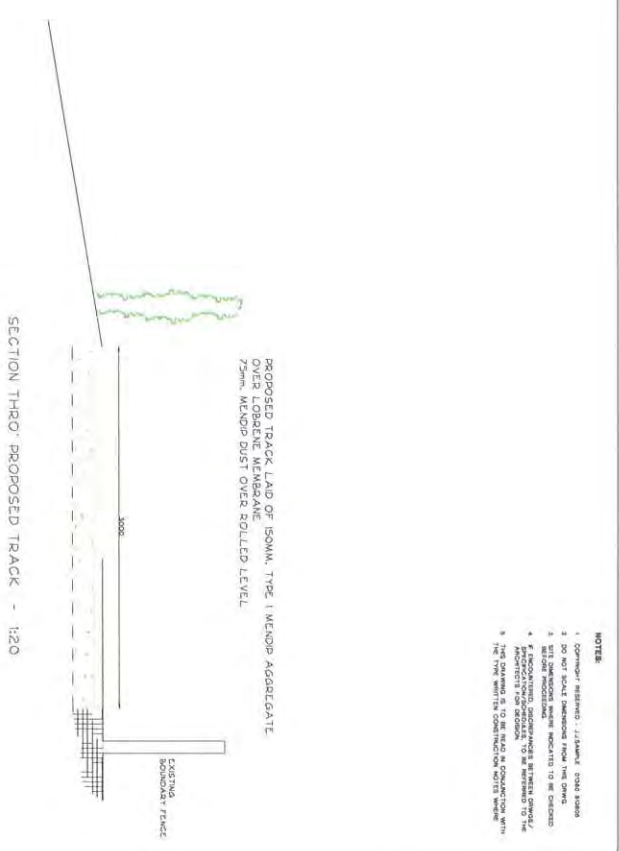
(c) is not withdrawn before the expiry of the period of 28 days from the date on which the enforcement notice is served.]”

3. **Purchase Notices.** If permission to develop land is granted subject to conditions, whether by the local planning authority or by the Secretary of State for Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
4. **Compensation.** In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
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7. **Informative** There is a legal duty of care incumbent on the customer and contractor that all commercial waste generated as a result of the works hereby authorised is safely contained, transported and disposed of lawfully in line with the Environmental Protection Act 1990 and Environmental Permitting Regulations 2016 (as well as any other related legislation). Failing to do so can lead to individuals or organisations being prosecuted for unlawful waste management.



SITE LAYOUT - 1:500



SECTION THRO' PROPOSED TRACK - 1:20



- NOTES**
1. CONFORM WITH: 1.14 AND 1.15
 2. 200 OF SOIL DIMENSIONS FROM THE DRIVE
 3. ALL DIMENSIONS SHOWN MUST BE TO BE CHECKED
 4. ALL DIMENSIONS SHOWN MUST BE TO BE CHECKED
 5. ALL DIMENSIONS SHOWN MUST BE TO BE CHECKED
 6. ALL DIMENSIONS SHOWN MUST BE TO BE CHECKED
 7. ALL DIMENSIONS SHOWN MUST BE TO BE CHECKED
 8. ALL DIMENSIONS SHOWN MUST BE TO BE CHECKED
 9. ALL DIMENSIONS SHOWN MUST BE TO BE CHECKED
 10. ALL DIMENSIONS SHOWN MUST BE TO BE CHECKED

PROPOSED TRACK LAD OF 150MM, TYPE 1 MESH AGGREGATE
 75MM MANHOLE DUST OVER ROLLED LEVEL

PROPOSED ACCESS TRACK
 MILL HOUSE
 CALSTONE WELLINGTON
 WILTS.

SITE PLANS & SECTION

DATE	BY	CHECKED
18/03	3/18	

Record of Use of Bridleways 2017

Proposed Bridleway

<u>Month</u>	<u>Riders</u>	<u>Cyclists</u>	<u>Walkers and Runners</u>	<u>Total</u>
March	34	1	41	76
April	83	1	82	166
May	98	6	84	188
June	79	3	103	185
July	82	6	93	181
August	103	0	144	247
September	74	3	121	198
October	50	3	125	178
November	39	3	76	118
December	17	0	65	82

NB Groups of individuals travelling together are counted as 1.

Official Bridleway

<u>Month</u>	<u>Riders</u>	<u>Cyclists</u>	<u>Walkers and Runners</u>	<u>Total</u>
March			3	3
April			0	0
May			1	1
June			1	1
July			0	0
August			0	0
September			3	3
October			3	3
November			1	1
December			2	2

NB Groups of individuals travelling together are counted as 1.





IN THE COUNTY OF WILTSHIRE

IN THE LOCAL JUSTICE AREA OF NORTH WEST WILTSHIRE

Before the Magistrates' Court sitting at Chippenham
on 23rd April 2007

Complaint having been made by Stephen Guy Gerrard, Solicitor to the Council, of County Hall, Trowbridge, in the County of Wiltshire (hereinafter called "the Complainant") for an Order under Section 116 of the Highways Act 1980 authorising the stopping-up of public vehicular rights over the two areas of highway referred to in Schedule 1 to this Order and shown hatched respectively pink and blue on the plan attached to this order, subject to the reservation of public footpath and bridleway rights thereover. *2007*

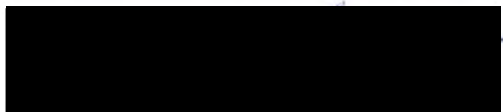
On the ground that the areas of highway referred to in Schedule 1 to this Order and shown hatched respectively pink and blue on the plan attached to this order are unnecessary for public vehicular use.

And the Court having heard the Complainant.

And the Court being satisfied that the Complainant has given the Notices required by Part 1 of the 12th Schedule of the Highways Act 1980.

And the Court being satisfied that the areas of highway referred to in Schedule 1 to this order and shown hatched respectively pink and blue on the plan attached to this order are unnecessary for public vehicular use.

IT IS HEREBY ORDERED that the lengths of highway referred to in Schedule 1 to this Order and shown hatched respectively pink and blue on the plan attached to this order be stopped-up subject to the reservation of a bridleway thereover. *2007*



Chairman of the Magistrates' Court
sitting at Chippenham
In the County of Wiltshire
Local Justice Area of North West Wiltshire
on 23rd April 2007

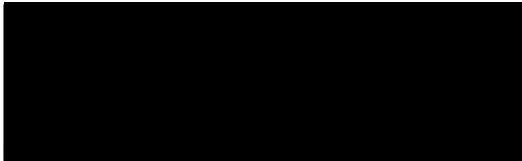
HIGHWAYS ACT 1980 – SECTION 116 APPLICATION

SCHEDULE 1

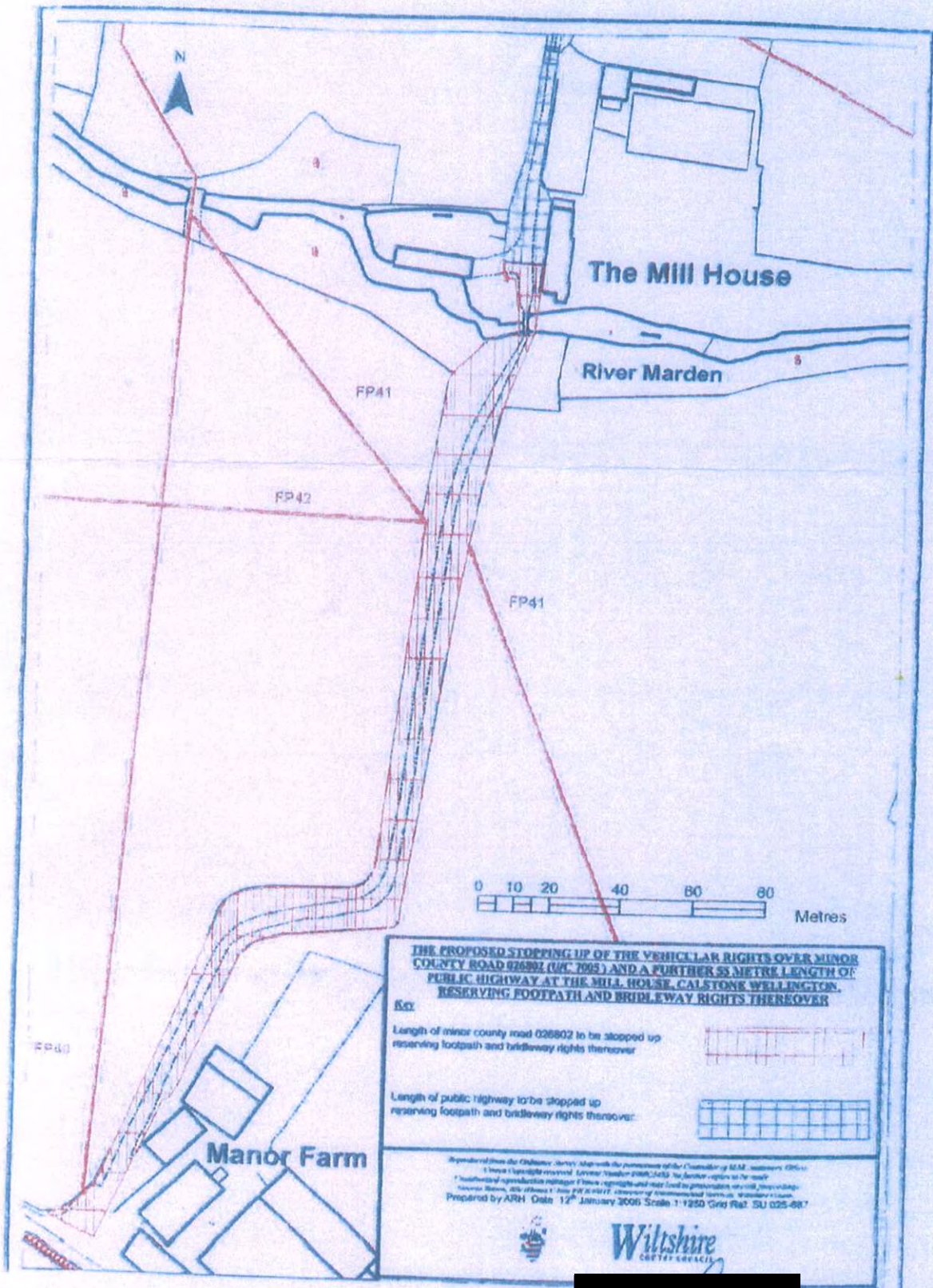
Description of the areas of highway subject to the stopping up of public vehicular rights at Calstone Wellington Near Calne, Wiltshire

- (i) The length of public highway including part of U/C 7008 which extends from a point approximately 15 metres north of the small bridge over the river Marden to the gated entrance to the property known as Calstone Mill in a northerly direction for a distance of approximately 55 metres. The legal width of the highway is a maximum of approximately 8.1 metres.

- (ii) The part of Minor County Road 026802 (unclassified road U/c 7005) which extends in a southerly direction from a point approximately 20 metres north of the River Marden by Calstone Mill for a distance of approximately 289 metres to a point adjacent to Manor Farm. It contains a small bridge over the River Marden of 1 metre in width and 5.2 metres long. The passable highway width is approximately 4 metres and the legal width is a maximum of approximately 10 metres.



23/4/07



THE PROPOSED STOPPING UP OF THE VEHICULAR RIGHTS OVER MINOR COUNTY ROAD 026802 (A/C. 7002) AND A FURTHER 58 METRE LENGTH OF PUBLIC HIGHWAY AT THE MILL HOUSE, CALSTONK WELLINGTON, RESERVING FOOTPATH AND BRIDLEWAY RIGHTS THEREOVER

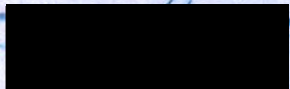
Key:

Length of minor county road 026802 to be stopped up reserving footpath and bridleway rights thereover

Length of public highway to be stopped up reserving footpath and bridleway rights thereover

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Wiltshire
COUNCIL SERVICES



23/4/07

16

From: **Leonard, Stephen** stephen.leonard@wiltshire.gov.uk
Subject: FW: The Mill House, Calstone - proposed bridleway diversion
Date: 15 May 2013 10:06
To: [REDACTED]
Cc: Madgwick, Sally Sally.Madgwick@wiltshire.gov.uk, Haines, Julian Julian.Haines@wiltshire.gov.uk

Hi John

Please find attached our bridge engineers recommendations for the bridge on the proposed bridleway diversion for your consideration.
If you have any further questions please get back to me

Regards

Stephen

Stephen Leonard
Senior Rights of Way Warden
Wiltshire Council
Bath Road Industrial Estate
Chippenham
SN14 0AB

Tel: 01249 445554
Mob: 07771 721255
Fax: 01249 445559
Email stephen.leonard@wiltshire.gov.uk

Follow Wiltshire Council



From: Haines, Julian
Sent: 15 May 2013 09:20
To: Leonard, Stephen
Subject: FW: The Mill House, Calstone - proposed bridleway diversion

This time with the photos.

Julian Haines
Tel: 01225 713225
Mob: 07500 100769

From: Haines, Julian
Sent: 15 May 2013 09:19
To: Leonard, Stephen
Subject: RE: The Mill House, Calstone - proposed bridleway diversion

Stephen,

Sorry for the delay in responding.

The bridge is actually in a fairly poor condition and whilst it may have carried agricultural vehicles in the past I wouldn't suggest such use now. The bridge could be patched up for light bridleway use but if continued farm usage were required then I would suggest reconstruction. I have attached a pdf of photos rather than doing a full structural report. As well as extensive works required to return the bridge to its 'as built' condition we would also want to see parapets added.

All in all I suspect it would be cheaper to reconstruct the bridge or at least build a new timber bridleway bridge alongside. A new kit bridleway bridge would be circa £4,000 and we as the Council would then adopt and maintain it for perpetuity.

Julian Haines
Tel: 01225 713225
Mob: 07500 100769

From: Leonard, Stephen
Sent: 24 April 2013 09:43
To: Haines, Julian
Subject: FW: The Mill House, Calstone - proposed bridleway diversion

Hi Julian

If you have time could you visit this bridge, which has a footpath over it at present but the proposal is to have bridle way use. Could you let me know what is needed to bring it up to spec so that the owner can price up the works before the application

Regards

Stephen

From: John Moore [REDACTED]
Sent: 04 April 2013 15:54
To: Leonard, Stephen
Subject: The Mill House, Calstone - proposed bridleway diversion

Dear Stephen,

Thank you very much for coming out this morning and looking at our proposals for diverting the bridleway.

I have done a note (attached) (largely for my benefit so that I don't forget!!) of some of the issues which came out of our discussion. This includes a description of the proposed route and a plan which I would propose to use as part of the application. I need to put in the grid references.

I would very much like to hear your views as to what needs to be done to bring the route up to bridleway standard. I can then confirm in our application that we are happy to do this at our

cost.

If you feel that there are other points we should be considering I would be most grateful if you would let me know. I appreciate that there may be further points when interested parties are consulted.

I would propose submitting our application once our title to the land had been registered at the Land Registry.

Best wishes,

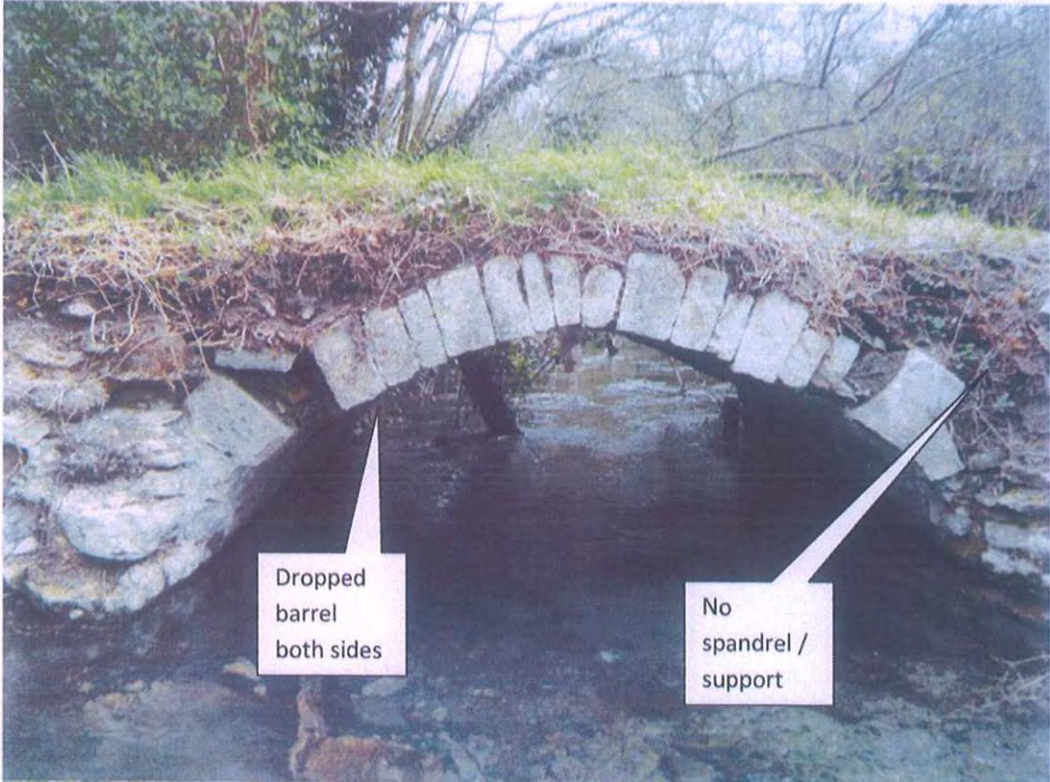
John

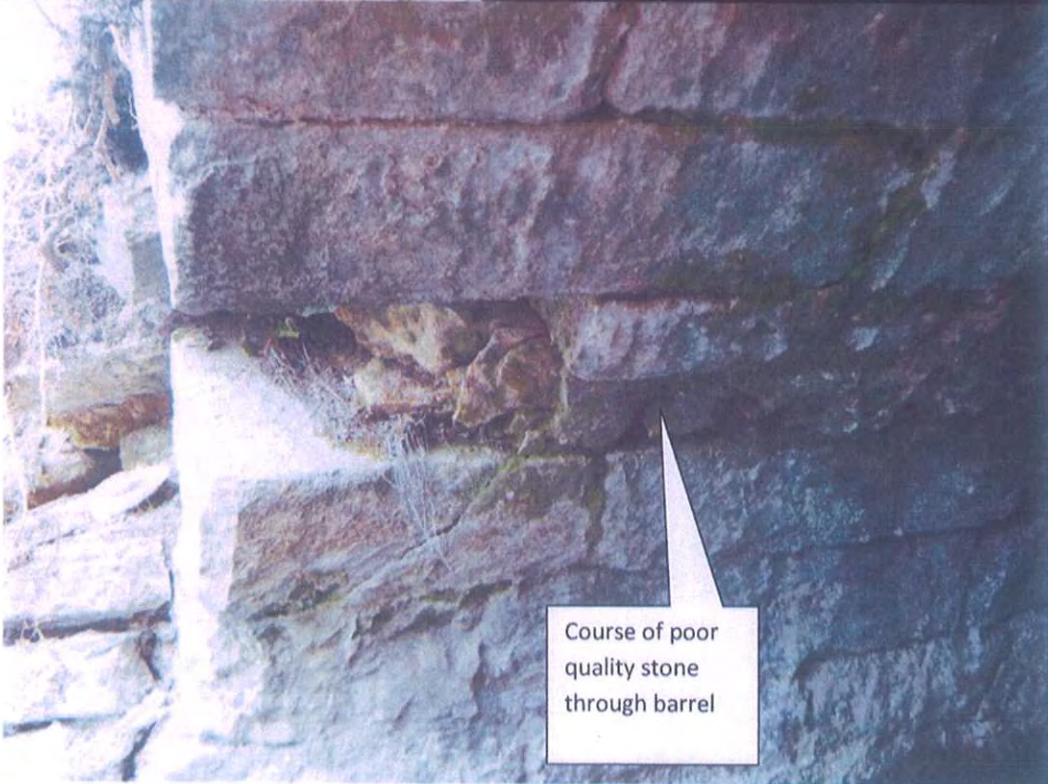
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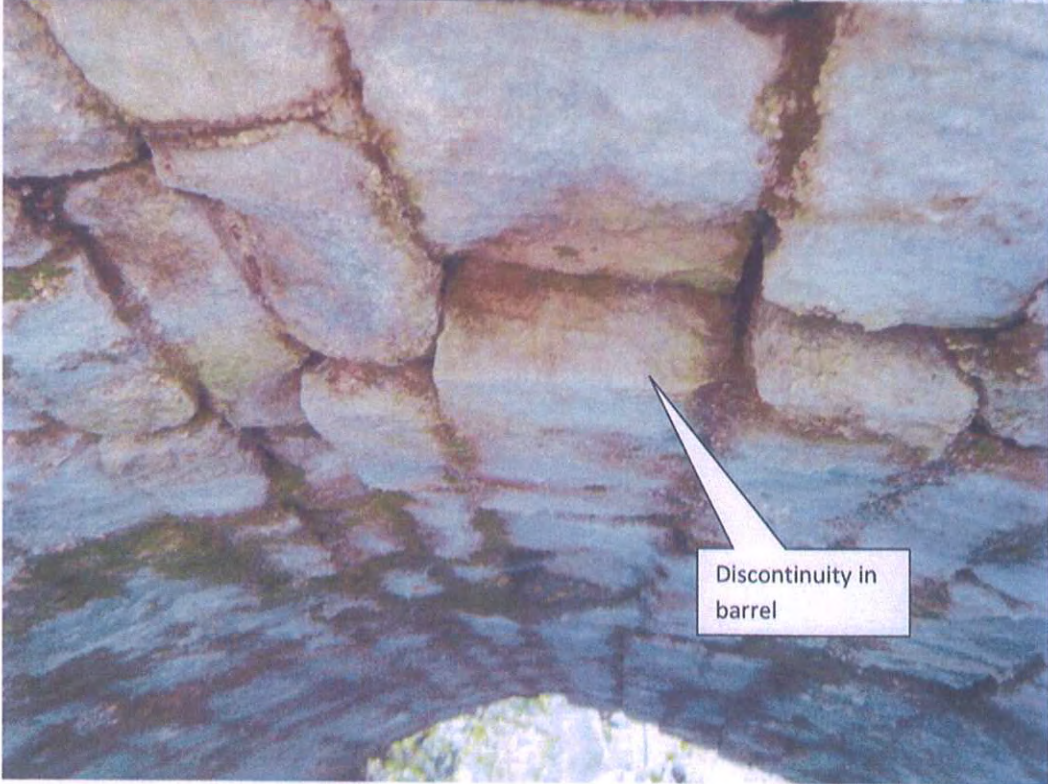




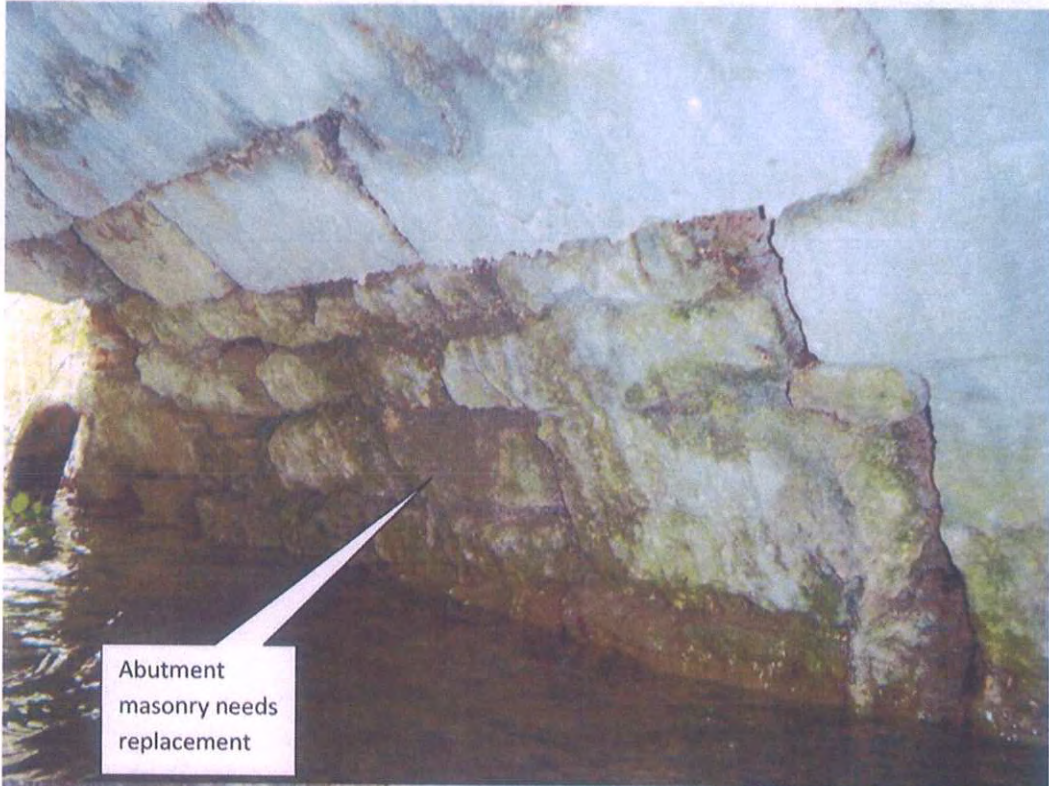
Course of poor quality stone through barrel



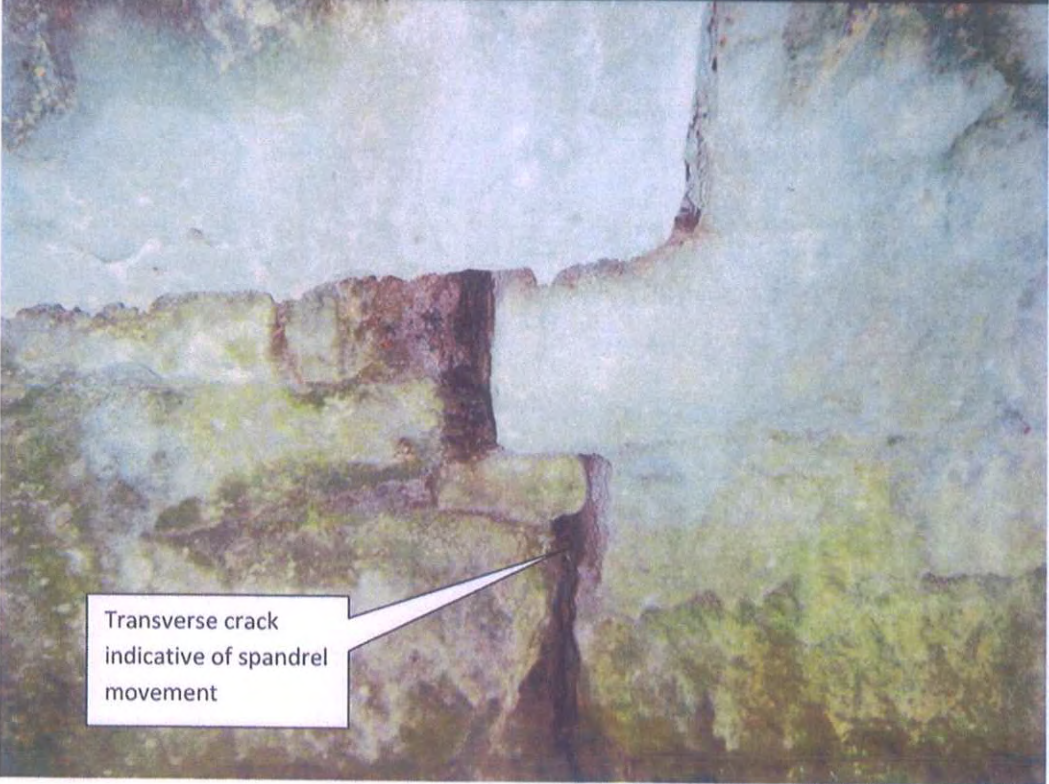
Areas of poor quality stone



Discontinuity in barrel



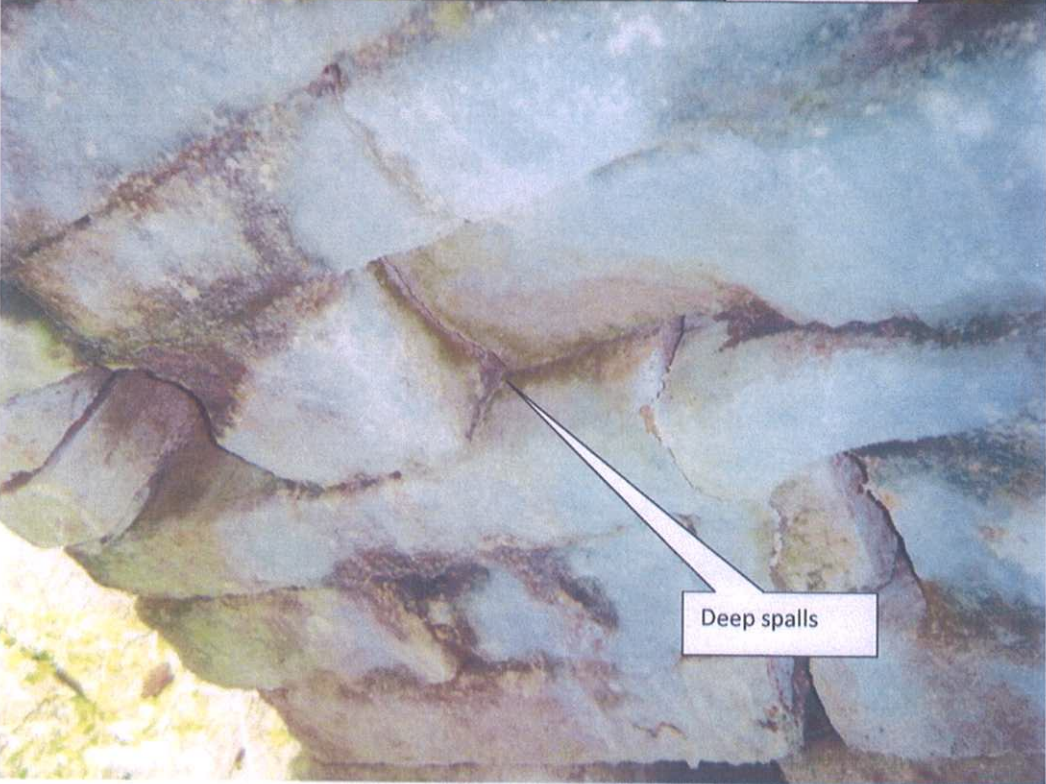
Abutment
masonry needs
replacement



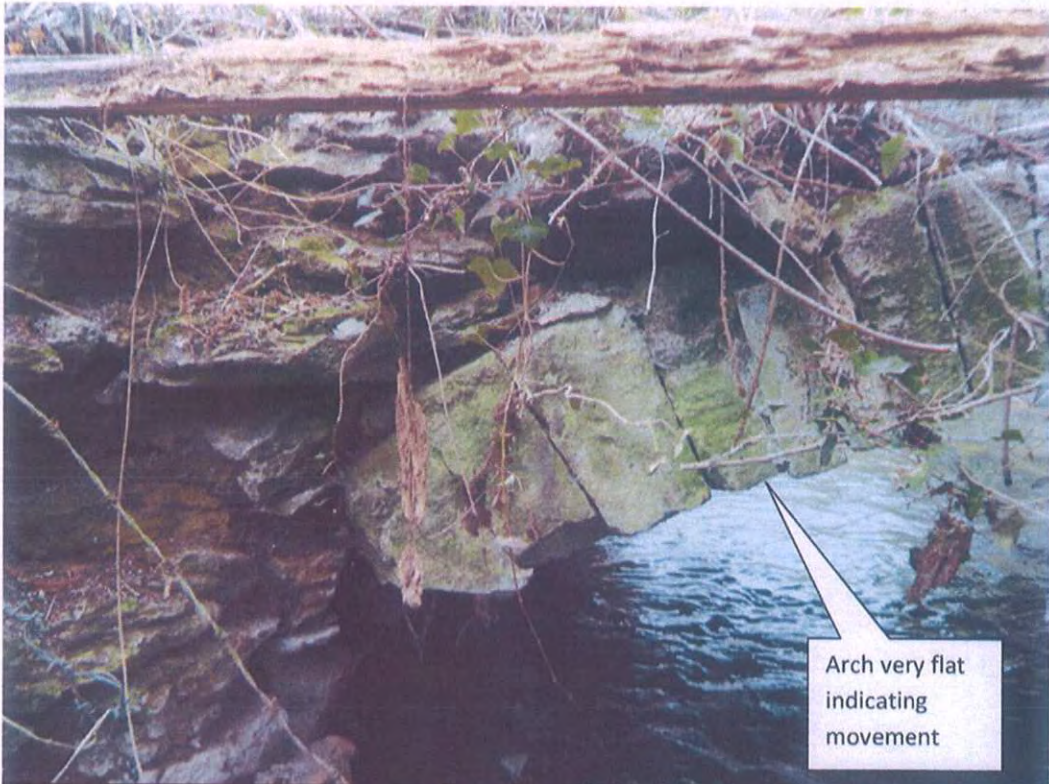
Transverse crack
indicative of spandrel
movement



Abutment masonry needs replacement



Deep spalls



Arch very flat
indicating
movement



No springing
support to
arch ring



Very flat arch and missing keystone



PUBLIC PATH DIVERSION ORDER
HIGHWAYS ACT 1980 SECTION 119

The Wiltshire County Council Parish of Bishop's Cannings Path No 4
(Sheet No SU 06) Diversion Order 2008

This Order is made by the Wiltshire County Council "the authority" under Section 119 of The Highways Act 1980 ("the 1980 Act") because it appears to the authority that, in the interests of the owner of the land crossed by the public right of way described in paragraph 1 of this Order, it is expedient that the line of the path should be diverted.

BY THIS ORDER:

1. The public right of way over land situate at Horton Mill, Bishop's Cannings and shown as a bold continuous line on the map contained in this Order and described in part 1 of the Schedule to this Order, shall be stopped up after 28 days from the date of confirmation of this Order.

2. There shall at the end of 28 days from the date of confirmation of this Order be a Public Right of Way over the land situate at Horton Mill, Bishop's Cannings described in part 2 of the Schedule and shown by a broken line on the map contained in this Order.

3. The rights conferred on the public under this Order shall be subject to the limitations and conditions set out in part 3 of the Schedule.

SCHEDULE

Part 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

The length of path 4 in the parish of Bishop's Cannings as shown on the attached plan as a bold continuous line from point A at OS grid reference SU04824 63655 past Horton Mill to point D at OS grid reference SU 04574 63709. Approximate length 265 metres.

Part 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

The length of path 4 as shown on the attached plan as a broken line from point A at OS grid reference SU04824 63655 leading in a south south westerly direction to point B (OS grid reference SU04807 63619), through gate, follow field boundary to point C (OS grid reference SU04683 63665), through gate and across field in a west north westerly direction to join Bishop's Cannings path No 4 at point D (OS grid reference SU04574 63709). Approximate length 310 metres. Width 3 metres.

Part 3

LIMITATIONS AND CONDITIONS

Gate to BS5709:2006 at SU04807 63619
Gate to BS5709:2006 at SU 04683 63665

THE COMMON SEAL of
THE WILTSHIRE COUNTY COUNCIL
Was hereunto affixed this
15th day of October 2008

}
}
}
}

In the presence of:-



Deputy Head of
Legal Services



714838

Diversion of all public rights on BCAN4 at Horton Mill

Route to be extinguished A ——— D
New route for public rights A - - - - B - - - - C - - - - D

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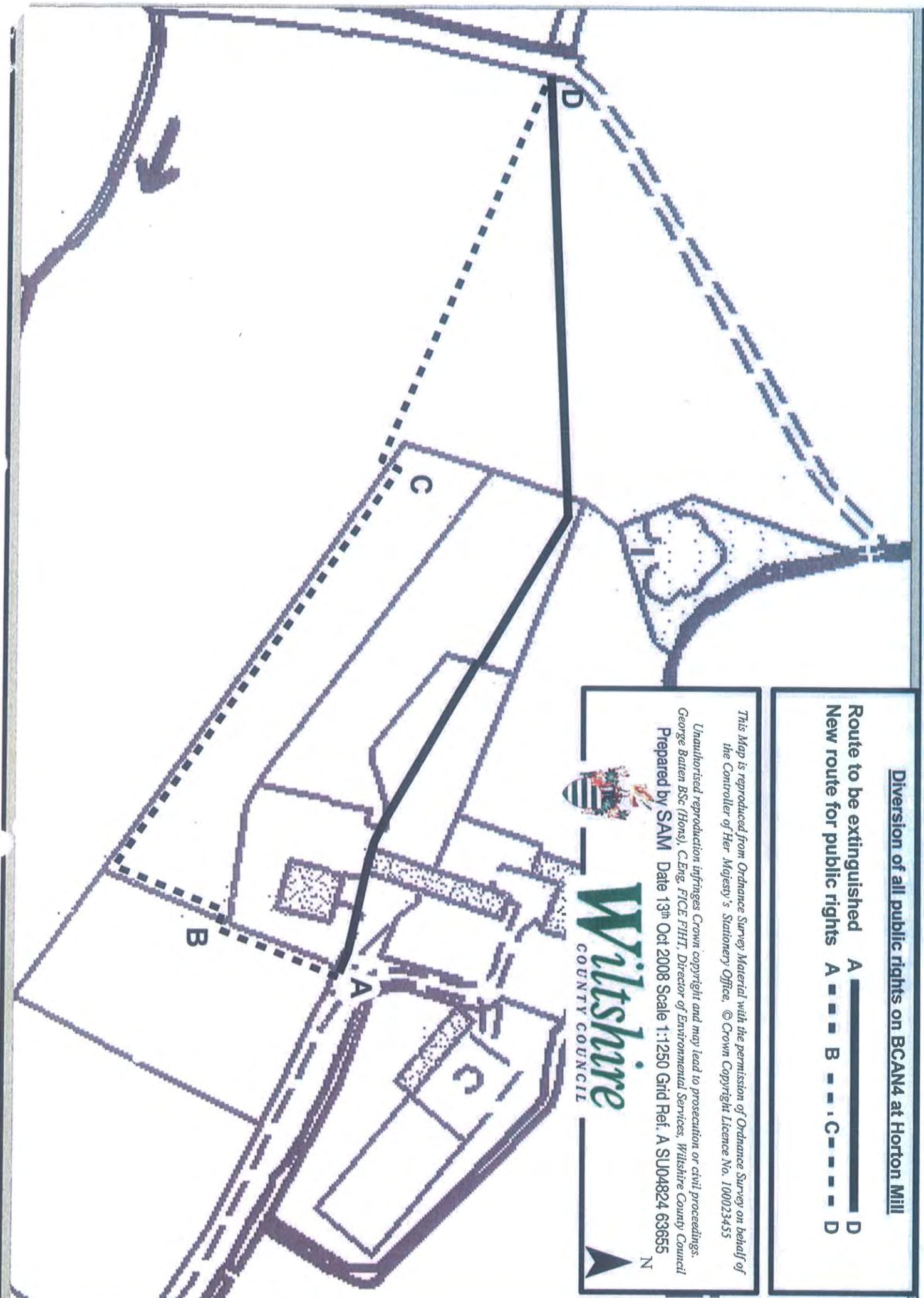
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George Baten BSc (Hons), C.Eng. FICE FIHT, Director of Environmental Services, Wiltshire County Council*

Prepared by SAM Date 13th Oct 2008 Scale 1:1250 Grid Ref. A SU04824 63655



Wiltshire
COUNTY COUNCIL

N



Whereas the making of the Wiltshire County Council Parish of Bishop's Cannings Path Number 4 (Sheet No SU 06) Diversion Order 2008 was advertised and no objections or representations were made, the Wiltshire Council hereby confirms the Order.

THE COMMON SEAL of the
WILTSHIRE COUNCIL
Was hereby affixed this
1st day of April 2009
in the presence of:

~~~~~



*M. A. Smith*  
Principal Solicitor

715414













Your ref:- HSXS. Road

MACFARLANES  
DX 138  
CHANCERY LANE

|                                             |                  |
|---------------------------------------------|------------------|
| DISTRICT COUNCIL<br>OFFICIAL SEARCH<br>NO:- | <u>19 905536</u> |
|---------------------------------------------|------------------|

PROPERTY SUBJECT TO SEARCH:- THE MILL HOUSE, OLSONE WELINGTON WILTS CALNE

PART 1

d

- 1.1.1. Structure Plans for North-East, South and Western Wiltshire have been approved.
- 1.1.2. A draft replacement plan is currently under consideration.

\*1.2.1. The Wiltshire Minerals Local Plan is adopted and a Wiltshire Waste Local Plan Consultation Draft is being prepared.  
NOTE: District Councils have prepared, or are preparing, local plans covering the whole of their area. Like the County Council Local Plans, these show planning policies in more detail than the Structure Plans. The District Council Local Plans have superseded Local Plans previously prepared by the County Council for the Western Wiltshire Green Belt and Wiltshire Landscape.

\*1.2.2. Yes - A replacement Wiltshire Minerals Local Plan.  
NOTE: Adopted District Council Local Plans are also being reviewed.

1.3. None

1.4.1. } Not applicable  
1.4.2. }

\*1.5.1. No

\*1.5.2. Not applicable  
NOTE: Refer also to District Council reply as to Non-Statutory Plans.

\*1.6. Wiltshire Minerals Local Plan and proposed replacement.

- (a) ~~No/Yes~~
- (b) ~~No/Yes~~

~~Western Wiltshire Green Belt Local Plan.~~

(See note to 1.2.1. This Plan is superseded by District Council Local Plans)

- (a) None.
- (b) ~~None/The property is shown as being within the Western Wiltshire Green Belt.~~

Wiltshire Landscape Local Plan.

(See note to 1.2.1. This Plan is superseded by District Council Local Plans)

- (a) None.
- (b) The property is within an area/areas ticked below:
  - an Area of Outstanding Natural Beauty
  - a Special Landscape Area
  - the Salisbury Plain Training area
  - the Landscape setting to Salisbury/Bradford on Avon/Devizes/Marlborough/Warminster/Wilton/Wootton Bassett
  - an Area of High Ecological Value
  - an Area of Special Archaeological Significance.

In addition, policies concerning Ministry of Defence Land, predominantly broadleaved woodlands and the designation of Local Nature Reserves will apply if relevant to the property.

\*1.7. No ~~Yes~~

2. Refer to District Council reply.

3.1. ~~No~~ Yes  
Roads U/c 7008 and  
U/c 7005 as shown  
hatched blue are publicly  
maintained.

3.2. (a) ~~No~~ Yes  
(b) ~~No~~ Yes N/A  
3.3.1. No Yes  
3.3.2. No Yes

(N.B. The existence of a Section 38 Agreement under the Highways Act 1980 (or Section 40 of the 1959 Act) and a Bond does not mean that the County Council will complete the roadworks or adopt them as highways maintainable at the public expense if the developer and/or the Bondsman should fail to fulfil their obligations under the Agreement for any reason. Such an Agreement and/or a Bond does not absolve frontagers from liability for road charges under the Private Street Works Code, and are no guarantee that the roads will be completed satisfactorily and adopted).

4.1.1. None  
4.1.2. (a) None  
(b) None  
\*4.2. (a) None  
(b) None  
4.3. None  
4.4. (a) None  
(b) None

5. Public Health Acts  
Housing Acts  
Building Acts  
Part III of the  
Environmental  
Protection Act, 1990  
Highways Acts  
None  
Refer to District Council  
reply.

6 and 7 Refer to District Council reply.

\*8.1.1. None  
\*8.1.2. None  
\*8.2. None  
\*8.3. Not applicable  
\*8.4. No Yes  
\*8.5.1. No Yes  
\*8.5.2. No Yes  
\*8.5.3. No Yes

9. Refer to District Council reply.

\*10.1. No Yes  
\*10.2. No Yes  
\*11. None

12. Refer to District Council reply.

\*13. No Yes

14 and 15 Refer to District Council reply.

16. None

NOTES: Refer to Page 3 if replies to any Part 2 enquiries are required.

Any queries arising from answers given on this form to be addressed to County Secretary and Solicitor quoting the Search No.

\*All enquiries marked with an asterisk will be answered jointly by both the County Council and the respective District Council.

Proper Officer M.O. Holder.

Date 7 FEB 2000

Under arrangements made between the District Council and the County Council, both Authorities respond simultaneously to this Form of Enquiries, having regard to their respective responsibilities. Where the answer to a question is to be supplied by the District Council this is stated on the form. The replies above are furnished after appropriate enquiries and in the belief that they are in accordance with the information at present available to the officers of the County Council but on the distinct understanding that neither the County Council nor any officer of the County Council is legally responsible therefor except for negligence.

**PART II**

(Replies to be given to questions in this Part where the applicant has initialled the Form of Enquiries.)

7. NONE

21. Refer to District Council reply.

\*22. None

23.1 ~~No~~ Yes

23.2 ~~No~~

24, 25, 26, 27, 28, 29, 30 and 31 Refer to District Council reply.

32. No Yes

33. Refer to District Council reply.

\*34. From 1st April 1996 Wiltshire County Council ceased to have responsibility for Waste Regulation Authority matters, all enquiries should be addressed to:

**Districts of North Wiltshire and West Wiltshire**

The Environment Agency,  
North Wessex Area,  
Rivers House,  
East Quay,  
Bridgwater,  
Somerset. TA6 4YS.  
Tel: 01278 457333  
Fax: 01278 452985

**Districts of Kennet and Salisbury**

The Environment Agency,  
South Wessex Area,  
Rivers House,  
Sunrise Business Park,  
Blandford Forum,  
Dorset. DT11 8ST.  
Tel: 01258 456080  
Fax: 01258 455998

3. Public Footpaths (FP.43 + FP.69 Calne Without) and a Bridleway (BR.77 Calne Without) are shown on the enclosed copy of the Definitive Map of Rights of Way.

9.

35, 36 and 37 Refer to District Council reply.

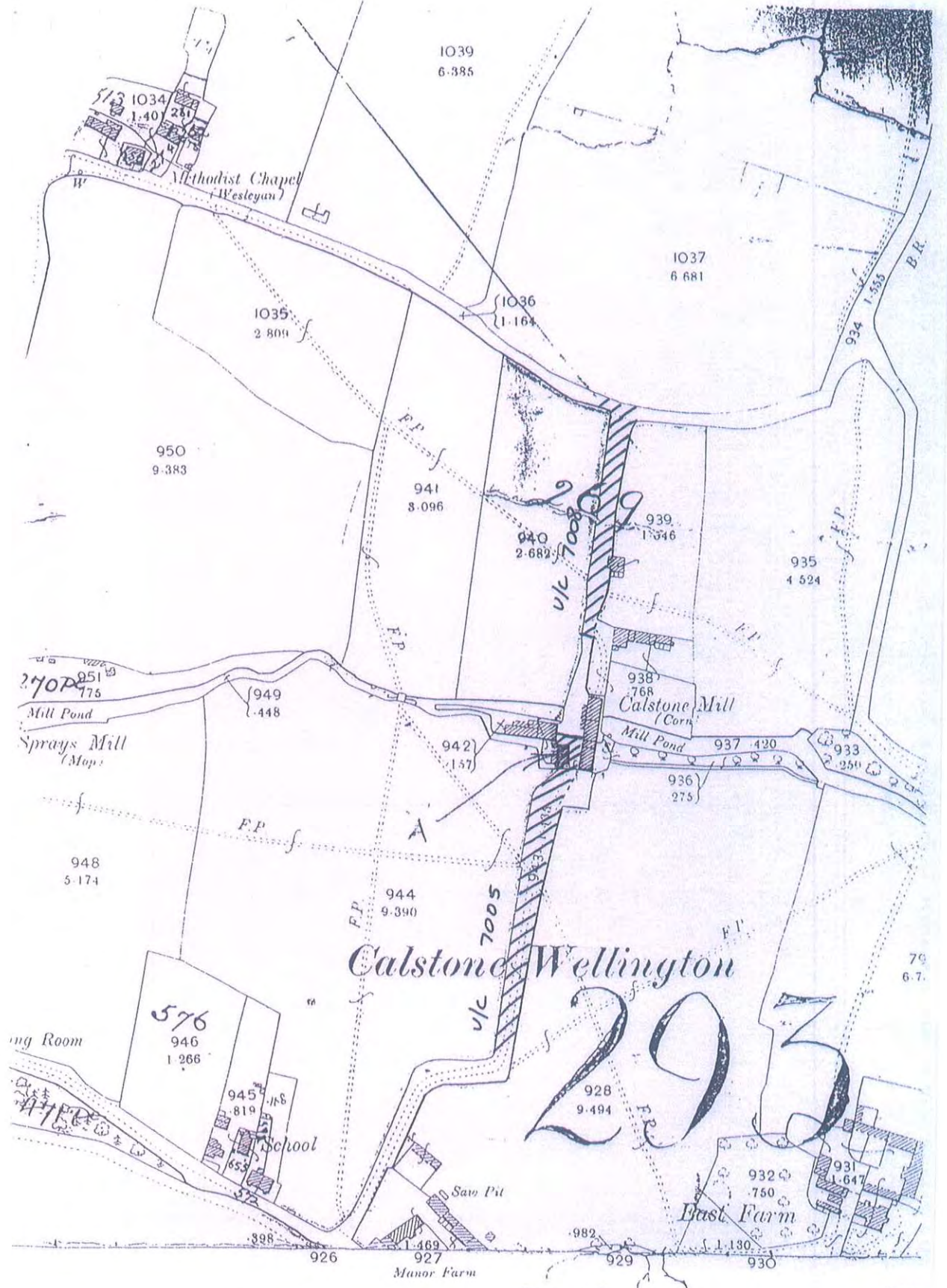
0.

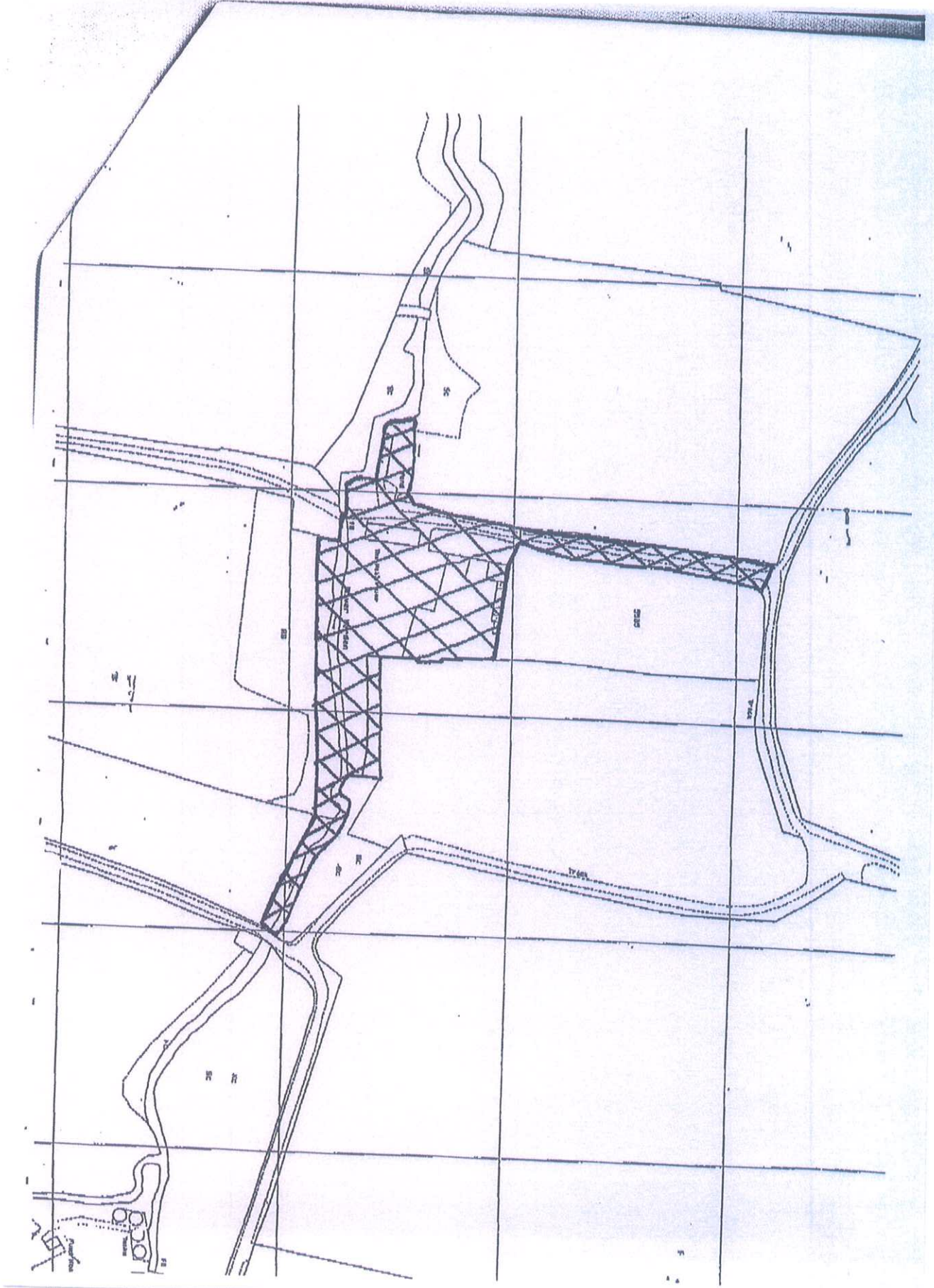
NONE

38. Refer to relevant Water Authority or District Council reply.

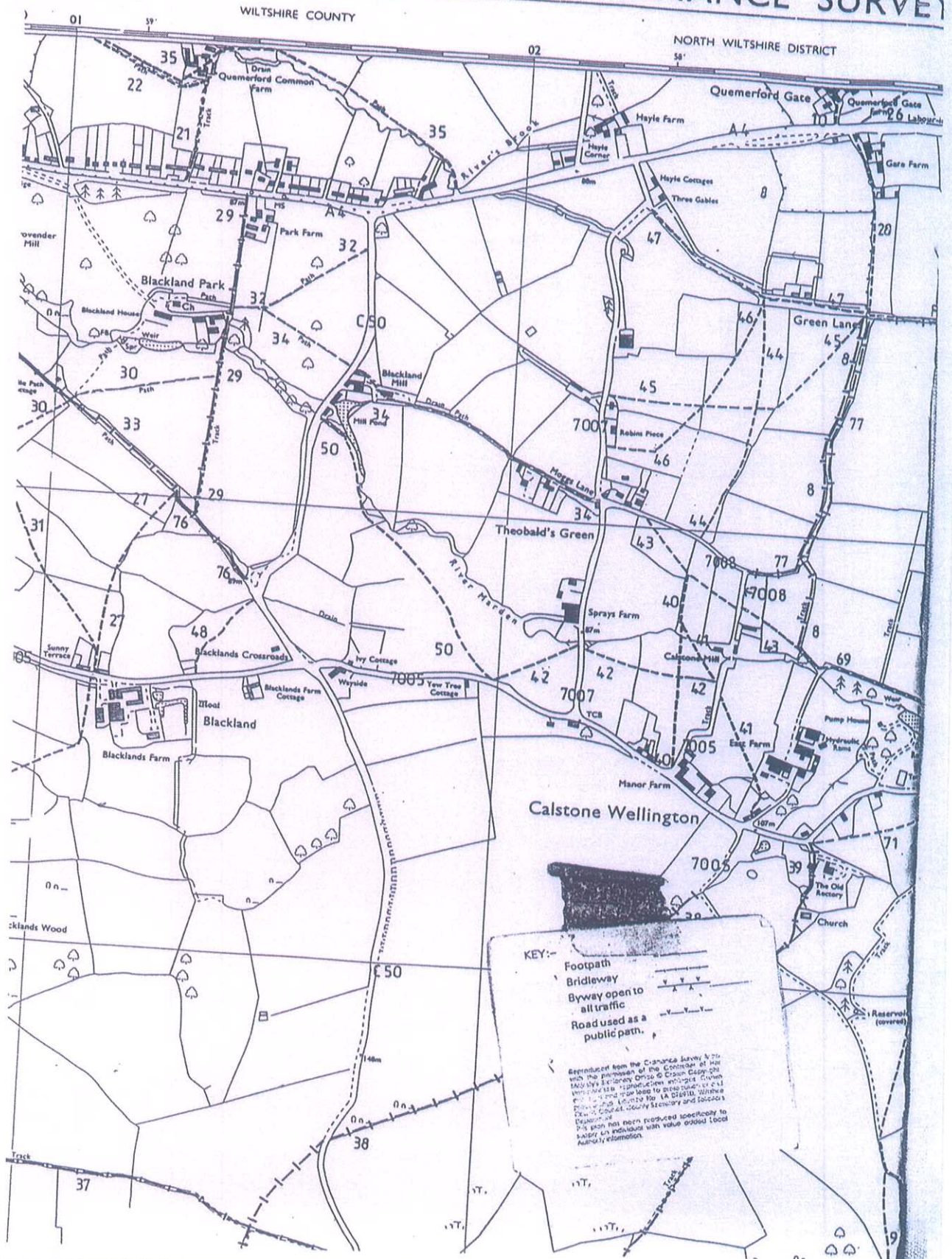
Proper Officer M. O. Holder

Date 7 FEB 2000





# ORDNANCE SURVEY





COUNTY ROAD SCHEDULE

CLASS: UNCLASSIFIED ROADS

Division No. ...3..... Melksham.....

| New Number | Old Number | Description                                                                                                                                                                                                                                                                                                                                                          | Km   |
|------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| 3303       | 7008       | Calstone-Mill Lane. From U/C3302 about 320 metres north of Bridge R.7/99, leading east past Methodist Chapel and south to Calstone Mill                                                                                                                                                                                                                              | 0.52 |
| 3300       | 7005       | Calne-Blackland-Calstone. From C.247 about 90 metres south of Knights Marsh, leading southeast and east past Blackland Farm, across C.50 past Calstone Reading Room and Manor Farm to South Farm. Including spurs leading north from near Manor Farm to Bridge R.7/98 northeast to East Farm and southwest opposite East Farm road. (Part known as Maundrells Lane). | 3.45 |

An... ..  
 1/3 1/3, 2/3, 3/3  
 1/3 1/3 1/3  
 1/3 1/3 1/3  
 1/3 1/3 1/3





## GUIDANCE FOR LOCAL AUTHORITIES

*England:* Rights of Way Circular 1/2009, see below at para.6-1861.

*Wales:* Welsh Circular Nos 44/90 "Rights of Way Act 1990", see below at para.6-1331/2; 5/93 "Public Rights of Way", see below at para.6-1451 and 6/93 "Recovery of Costs of Public Path and Rail Crossing Orders"-see below at para.6-1457.1.

**[THE NEXT PARAGRAPH IS 2-200]**

## GENERAL NOTE

An authority (see the notes to s.118 above) may make a public path diversion order if satisfied that the diversion is in the interests of the owner or occupier or lessee of the land or, alternatively, is in the public interest. This provision was substituted by the Wildlife and Countryside Act 1981 and is considerably wider than the previous version of the section which had required that the diversion should either secure the more "efficient use" of the land or that it would provide a shorter or more commodious route. The order is subject to the confirmation of the Secretary of State for the Environment and creates a new way and extinguishes the old.

A diversion order may be made on the application of the owner, lessee or occupier of the whole of the land crossed by the part of the path or way to be diverted or it may be made by the relevant authority on its own initiative—e.g. where the diversion is considered to be in the public interest.

*The Structure of the section: the statutory discretion*

The structure of this statutory provision has some similarities to that contained in s.118 above. The section starts by investing in the local highway authority an inherent discretion in determining whether the statutory requirements have been met—encompassed in the words "Where it appears to a local highway authority..." The statutory requirements themselves are not absolutes. The authority has to conclude that "in the interests" of the owner etc or of the public it is "expedient that the line of the path or way, or part of that line, should be diverted". Finally, the decision to make the order is expressed as a power—they "may" make the order. The existence of this discretion has been accepted by the court in *Hargrave v Stroud DC* [2002] EWCA Civ 1281. Per Schieman, L.J. at para. 15:

On the face of the subsection therefore the authority has a discretion as to whether or not to make an order. I do not consider that the mere fact that it is expedient in the interests of the owner that the line of the path should be diverted means that Parliament has imposed on the authority a duty to make such an order once it is satisfied that this condition precedent has been fulfilled."

Notwithstanding the different discretionary elements, if a Council obviously took into account irrelevant factors or failed to take into account relevant factors or otherwise acted unreasonably the decision could be open to challenge; see *Padfield v Minister of Agriculture, Fisheries and Food* [1968] A.C. 997; *Secretary of State for Education and Science v Tameside MBC* [1977] A.C. 1014; *Hargrave v Stroud DC* (above); *Ashbrook v East Sussex CC* [2002] EWCA Civ 1701.

Once made, the order may be the subject of objections. The submission of objections removes the power of the local highway authority to confirm the order itself. To obtain confirmation the order must be submitted to the Secretary of State. However this does not mean that local authority must submit the order to the Secretary of State. It now seems settled that a local authority has a discretion whether or not to submit the order i.e. whether or not to proceed with the order: *Hargrave v Stroud DC* (above), per Schieman, L. J., at para.19

"There is no express provision as to what is to happen in the, no doubt rare, case of the authority changing their mind as to the desirability of diverting the footpath after having made an order. But for my part I see no reason why, other things being equal, they should not change their mind. There is often in these questions no blindingly right answer. . . I can see no reason why one should construe this Act of Parliament in such a way as to put the authority into a straitjacket where it must continue the process just because it has started it."

Buxton, L.J. made the point equally forcefully, at para.33

"I therefore approach section 119 on the basis that it would need clear words in the section to impose upon the Council the initial obligation to make an order once an application is made to it. Far from there being the words in that sense there are in my judgement clear words in the opposite direction, by the use by Parliament of the word 'may' in s.119(1). True it is that on one reading of the section it might be said in literal terms that the licence to the Council to exercise its discretion extends only to the making of the order, and not to the submission of the order to the Secretary of State. But that is only one possible reading of the section. On another reading, even of the literal

words, the discretion of the Local Authority continues past the stage of the making of the order and into the stage of considering whether to submit the order to the Secretary of State. In light of the background considerations that I have already ventured to refer to, it seems to me that the latter reading is by far the more cogent interpretation of this section. As my Lord has said, the process of inquiry and the process of consideration will be a continuing one, and indeed the Local Authority not only may, but ought to, retain an open mind on whether or not it can support the propositions originally put before it in the light of local reaction."

It follows, equally, that the Secretary of State or his Inspector, when making their decision, have a discretion whether or not to confirm the order.

#### *The statutory criteria*

Like s. 118 this section sets out the matters to which the decision maker is to have regard differently in subs.(1) (the order making stage) and subs.(6) (the order confirmation stage). At the order making stage the issues are whether it is expedient in the interests of the landowner, lessee or occupier or in the interests of the public, that the order should be made. At the confirmation stage, the decision maker has again to be satisfied as to these matters and also

"that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—

- (a) the diversion would have on the enjoyment of the path or way as a whole,
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it . . ."

However, the decision maker is also to take into account the provisions for compensation in subs.(5). A landowner whose land simply adjoins the line of the new way will not fall within the category of land affected by the creation of the new way under para.(c) above: see *Allen v Bagshot RDC* (1971) 69 L.G.R. 33.

These provisions imply a lesser, or at least different, exercise at the stage when the order is made than is to be carried out by the confirming authority. There may be good reason why the consideration of the issues set out s.119(6) should be left to the confirmation stage. At that point, the extent of any public objection or support for the order will be better known—there may well have been a public inquiry to consider the objections.

In *Ramblers Association v Secretary of State for the Environment Food and Rural Affairs* [2012] EWHC 3333 (Admin) Ouseley J. accepted that the test which the local authority had initially to apply under subs.(1) was different from that applicable to the Secretary of State's consideration under subs.(6) of whether or not to confirm the Order. At para.25 he said:

"The question for the Council and indeed the question for the Inspector is whether it is expedient in the interests of the land owner that the order be made. It is perfectly obvious why such a question has to be asked and answered at the outset. If it is not expedient in the interests of the land owner, it is difficult to see why the order would be made in the first place. But it is undoubtedly an important separate question.

26. It is plainly not an all-embracing discretion because the Council would otherwise be obliged to make an order once it was satisfied that it was in the interests of the land owner that it be made. The purpose of the discretionary power is to enable the local authority to consider other relevant factors which, in my judgment, clearly do include those that are set out more specifically in section 119(6) and any other relevant matters.

27. When, however, the Secretary of State or Inspector is considering the section 119(1) expediency question under section 119(6), he must do so by confining himself to what is expedient in the interests of the land owner. He is not at that stage concerned with the exercise of the discretionary powers which arises once a conclusion has been reached about what is expedient in the interests of the land owner. That wider class falls to be dealt with under the second expediency question in section 119(6)."

However, the expediency issue in s.119(6) was not confined to the specific factors in sub-para (a) to (c), nor to the effect of compensation on the land onto which the path might be diverted. It covered all things material. Looking at the subs.(1) test, the question of whether the land owner bought knowing the footpath, or bought not knowing of it, or bought taking a chance that he might be able to obtain a diversion order, however, has nothing to do with whether it is expedient in his interests that the order be made.

Nor did the question whether making the order might set a precedent. The precedent issue was capable of being a relevant issue under subs.(6). But, notwithstanding the fact that Secretary of State had conceded that the owners knowledge of the existence of the path at the time of their purchase of the property was relevant under subs.(6) (which the judge doubted) it was not one which could carry much weight.

Under s. 118 there has been some caselaw concerning these different tests and whether the decision maker may fall into error at the order making stage by taking into account matters to be determined at the confirmation stage; see para.2-198 above.

Section 119(1) gives a discretion to the local highway authority. However, it has been suggested in *Hargrove v Stroud DC* (above) that the order making authority may still take into account the matters set out in s.119(6) in deciding whether to make the order in the first place and in deciding whether or not to refer the order to the Secretary of State if objections are lodged; per Schieman, L.J. at para. 17.

"In my judgment the authority faced with an application to make a footpath diversion order is at liberty to refuse to do so. In considering what to do the Council is, in my judgment, entitled to take into account the matters set out in s. 119(6). It would be ridiculous for the Council to be forced to put under way the whole machinery necessary to secure a footpath diversion order where it was manifest that at the end of the day the order would not be confirmed."

However, the factors to be considered at the confirmation stage do have to be tackled carefully and systematically. In *Young v Secretary of State for Food and Rural Affairs* [2002] EWHC 844 (Admin) the court had to consider the relationship between the expediency test in subs.(6) and the consideration of whether or not the path was substantially less convenient to the public. It was pointed out that subs.(6) has three elements to it. First there is the consideration of expediency according to the test in subs.(1), i.e. whether it is expedient that the path should be diverted in the interests of the landowner or the public. Secondly, there is the test whether or not the path is substantially less convenient to the public in consequence of the diversion. Third there is the test whether it is expedient that the order should be confirmed having regard to the matters set out in subs.(6)(a)-(c), i.e., inter alia, having regard to the effect which the coming into operation of the order would have on public enjoyment of the path or way as a whole. The court took the view that these were indeed three separate tests and that the Inspector had conflated the second and third tests in deciding not to confirm the Order by considering that the path was substantially less convenient by reason of its impact on the enjoyment of the public of the path or way as a whole. The decision was quashed. Turner J. said:

"27 ... In my judgment the expression 'substantially less convenient to the public' is eminently capable of finding a satisfactory meaning by reference to consideration of such matters as the length, difficulty of walking and purpose of the path. Those are features which readily fall within the presumed contemplation of the draftsman of this section as falling within the natural and ordinary meaning of the word 'convenient'.

28 I find it not to have been within the contemplation of the draftsman that the considerations contained within subparagraphs (a) to (c) of subsection (6) should have been intended to qualify the word 'convenient' as well as the expression 'expedient to confirm the order having regard to the effect which... the diversion would have on public enjoyment of the path as a whole'."

The significance of what might otherwise appear to be semantic distinction is that a substantial negative impact on enjoyment of a path (e.g. amenity) is to be balanced against the interests of the land-owner rather than to be considered as a bar to the confirmation of the order.

As to what might be taken into account in deciding whether or not an order is expedient in the interests of the landowner, the decision in *Roberton v Secretary of State for the Environment* [1976] 1 W.L.R. 371 may still be relevant. An application was made for the diversion of a footpath running near to the Chequers mansion house, on the ground that there was a real fear of an assassination attempt on the Prime Minister; the path ran within 275 yards of the terrace. The order for diversion was made under the former version of this subsection. Held, that in the circumstances the order was expedient "for securing the efficient use of the land" within the subsection. It may be noted, however, that the *Hargrave* decision (above) related to an application by a landowner on similar security grounds.

In *Ashbrook v East Sussex CC* [2002] EWCA Civ 1701 the question arose as to when a local authority might properly exercise its discretion to divert a highway which has been deliberately obstructed rather than seeking to enforce against the obstruction. The landowner had deliberately obstructed the right of way by erecting a large barn over it and by fencing off the line of the path and also by blocking it by placing a line of refrigeration units across it. He had failed to comply with notices from the local highway authority under s.143 and s.137ZA of the Highways Act 1980 requiring him to remove the obstructions and had failed to comply with orders under s.137 of the 1980 Act from the magistrates court requiring him to do so. He did, however, apply for a public path diversion order which would have taken the path

around the obstacles. That order was duly made by the local highway authority and was the subject of objections. Kate Ashbrook, an officer of the Ramblers Association, sought to challenge the decision of the local authority to make the Order on the grounds that the Council departed from its own published guidelines and that this departure defeated Ms Ashbrook's own legitimate expectation as to how the Council would deal with the matter. The Council's footpath officer had adopted informal guidelines as to the circumstances in which it would normally be prepared to make diversion orders. These were publicly available. In this Note the Council indicated that it would only make a diversion order in a case where a path had been obstructed by a structure or building if, inter alia, the removal of the obstruction was not considered reasonably achievable.

At first instance the court held that these guidelines did give rise to a legitimate expectation that the Council would be guided by its own policy and that, if it chose to depart from that policy it would have to give reasons for that choice. However, it was open to the Council to conclude that removal of the barn was not reasonably achievable. The Court of Appeal allowed the Claimant's appeal, holding that the Council should have taken into account the deliberate and persistent flouting of the law at the time when they decided whether or not to submit the order for confirmation. They had not done so and the decision should, therefore, be quashed.

The Council may require an applicant landowner, occupier or lessee to enter into an agreement with them to defray, or to make a contribution towards, any compensation which may be payable to a third party as a result of the making of the order and any expenses which may be incurred or recovered by the local highway authority in making the new way up to the standard required for use by the public: sub s (5).

*The restrictions imposed by subsection (2)*

Subs.(2) does not allow an Order under s.119 to be made where the diversion would alter the point



IN THE MATTER OF  
THE HIGHWAYS ACT 1980

AND IN THE MATTER OF  
THE DIVERSIONS OF PARTS OF CALW89, CALW89A AND  
CALW89B

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**OPINION**

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1. I am instructed to advise Mr and Mrs Moore in relation to their application under section 119 of the Highways Act 1980 to divert these three bridleways.

2. I have read the draft Application under section 119, which I understand is to be submitted to Wiltshire County Council in the next few days. I confirm section 19 of the Application, which sets out the relevant law and the legal tests, is correct and is applicable to the circumstances of this Application. In my opinion the legal tests are satisfied here.

3. I have visited the Property and walked the relevant parts of the existing bridleways and the length of the proposed diversion. I have had over 50 years' experience of matters relating to rights of way, and this is one of the clearest cases where a highway authority would allow the application and make the necessary orders, in accordance with the relevant legal tests.

4. Ultimately, the Council must carry out the requisite balancing exercise. In relation to the considerations contained within sub-paragraphs (a) to (c) of section 119(6) of the 1980 Act, Turner J, in Young v Secretary of State for Food and Rural Affairs [2002] EWHC 844 (Admin), concluded that these considerations were not intended to qualify the word “convenient” as well as the expression “expedient to confirm the order having regard to the effect which ... the diversion would have on public enjoyment of the path as a whole”. It follows that if there is any substantial negative impact on the enjoyment of a path, of which there appears to be none, this is to be balanced against the interests of the landowner rather than to be considered as a bar to the confirmation of the order: see the comments of the editors in *Encyclopaedia of Highway – Law and Practice* Volume 1, at para 2-199. In consequence, the mere fact that there may be the objections based on additional length, more limited width (if this be the case at all), or lack of a durable surface, such considerations do not amount to a bar on the making or confirmation of an order, but are merely matters that must be balanced against the expediency in the interests of the owner. In my opinion the Application demonstrates that that balancing exercise should favour the making of the diversion orders.

5. The Council can and should accept the Application and make the order.

**Falcon Chambers  
Falcon Court  
London EC4Y 1AA**

**BARRY DENYER-GREEN**

**30<sup>th</sup> May 2018**



IN THE MATTER OF  
THE HIGHWAYS ACT 1980

AND IN THE MATTER OF  
THE PROPOSED DIVERSIONS OF  
PART OF CALW89, CALW89A AND  
CALW89B

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**OPINION**

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THRINGS LLP  
2 QUEEN SQUARE  
BATH  
BA1 2HG

REF D WALSH



24.8.



## The Planning Inspectorate

### Order Decision

Inquiry opened on 25 November 2014

by **Sue Arnott FIPROW**

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 17 December 2014

#### Order Ref: **FPS/Y3940/4/10**

- This Order is made under Section 119 of the Highways Act 1980 and Section 53A(2) of the Wildlife and Countryside Act 1981. It is dated 18 October 2012 and is known as the Wiltshire Council Parish of Pewsey Path No. 62 (part) Diversion Order and Definitive Map and Statement Modification Order 2012.
- The Order proposes to divert a section of public bridleway at West Wick near Pewsey, as detailed in the Order map and schedule. It would also modify the definitive map and statement to take account of the change to Bridleway 62.
- There were three representations and eighteen objections outstanding when Wiltshire Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.

**Summary of Decision:** The Order is confirmed subject to the modifications set out in the 'Formal Decision' below.

#### Preliminary matters

1. I held a public local inquiry into the Order at the Village Hall in Milton Lilbourne on 25 November 2014 having walked the routes in question the previous afternoon. I made a further inspection of the site and its surroundings after closing the formal proceedings but, since none of the objectors were present at the inquiry, I was unable to make arrangements to be accompanied by objectors as well as supporters for this second visit. I therefore carried out both inspections of present and proposed routes alone.
2. This inquiry was originally scheduled for April 2014 but was adjourned until November in response to a request from the applicant's agent. The reason for the request arose from the need to ascertain the position as regards planning permission for the engineering works that would be required in order to provide the proposed new bridleway with an adequate surface. Since concern over the construction of the new track was a significant factor for many objectors, it made sense to defer consideration of the Order until this issue was resolved.
3. The planning authority has since concluded that the intended works fall within the class of development permitted under Schedule 2 of Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 and therefore prior approval under paragraph A.2(2)(d) of Part 6 is not required.
4. As a consequence of this process, detailed specifications for the proposed surface treatment and profile of the new route were prepared and publicised. Both Mr Ward, appearing for the order-making authority, Wiltshire Council (WC), and Mr Litton on behalf of the applicant suggested the absence of objectors at the inquiry might indicate that having been reassured that a

satisfactory alternative route could and would be constructed, they had chosen not to pursue their objections. Of course that is a possibility although I have received no further communication from any of the objectors to support or contradict this explanation. I have considered the points raised in the written objections even though the authors did not appear at the inquiry to add weight to their concerns. However, regardless of the attendance of any of the parties at the event, I need to be satisfied that the proposed diversion meets the tests set out in the relevant legislation if I am to confirm this Order.

#### **The Main Issues**

5. The requirements of Section 119 of the Highways Act 1980 (the 1980 Act) are that, in this case, before confirming the Order I must be satisfied that:
  - (a) it is expedient in the interests of the owner of the land crossed by Bridleway 62 that the right of way in question should be diverted;
  - (b) the new termination point of the bridleway (being on the same highway) will be substantially as convenient to the public;
  - (c) the new route to be provided will not be substantially less convenient to the public; and
  - (d) it is expedient to confirm the Order having regard also to (i) the effect of the diversion on public enjoyment of the way as a whole, and (ii) the effect the coming into operation of the Order would have with respect to other land served by the existing way and the land over which the new way would be created together with any land held with it, having had regard to the provision for compensation.
6. Further, in determining this Order I am required to have regard to any material provisions in any rights of way improvement plan for the area. I am also mindful of the requirements of the Equality Act 2010.

#### **Reasons**

##### ***The interests of the owner of the land***

7. In essence, this proposal seeks to divert a public bridleway out of a farm yard and away from the farm house for three main reasons: security, safety and privacy.
8. Yet many of the objectors draw attention to the fact that this farm has not been active for several years and that therefore the reasons to support re-alignment of the bridleway are of little substance. Indeed it was apparent to me when walking the present line of Bridleway 62 (between the points marked on the Order map as A and B) that there was little evidence of current agricultural activity at West Wick Farm visible from the public right of way.
9. However the evidence presented by the applicant and his agents, both before and at the inquiry, reveals a farm management plan for the future that would significantly intensify usage of the farm yard with both machinery and livestock.
10. The applicant purchased this property subject to an existing agricultural tenancy of part of the land; this tenancy will expire in 2016 and the land will be taken back in hand. Agent Mr Brown explained that the business plan will see West Wick becoming a working farm again, consisting of 236 acres, of which 203 will be planted with arable crops and 19 acres will consist of pasture and

woodland. The farm buildings will be renovated and improved and the yard will be used on a daily basis for a range of activities connected with the farm.

11. It is predicted that both safety and security will be compromised by the continued existence of Bridleway 62 through the heart of the farm complex. Whilst objectors argue that riding the route between A and B at present is not problematic at all, doing so through a busy farm yard would create dangers for horses, riders and farm workers alike if, for example, a horse is spooked by a tractor. Cyclists and walkers may be equally at risk.
12. Agent Mr Anstis submitted that it is simply not feasible to improve safety by fencing the bridleway on its present line to separate the public from farming activities. Neither would fencing the whole farm yard improve security if the public right of way remained through the middle. He explained how the applicant's ability to make adjustments to the farm buildings is limited since many are listed. Parts of the site are not visible from the house and office and, in his view, it is unrealistic and impractical to expect all doors to be locked all the time on a working farm. A recent attempted theft had been prevented by a farm worker recognising an intruder, but the public could not be expected to distinguish between people lawfully on the farm and potential thieves.
13. Some objectors question the need to divert the bridleway to increase privacy at the property; some argue the applicant knew the path was there when he bought West Wick Farm and others say that many public rights of way pass through farm yards and close to private dwellings in the locality without difficulty or complaint.
14. Although the applicant has every right to seek a diversion on the grounds of privacy, I do not place a great deal of weight on this factor, particularly as the ground floor rooms with windows facing the bridleway are not main living rooms. Yet I recognise the significant benefits residents would enjoy if the public bridleway does not run immediately past the main door into the house.
15. In summary I accept that West Wick Farm will become an active agricultural holding once the current tenancy expires in 2016 and that thereafter the presence of the public using Bridleway 62 through the yard will bring safety risks to the fore together with the heightened security concerns often expected with a rural property of this nature. Given the limited options for addressing these issues by other means, I am satisfied that the diversion sought by the applicant would benefit him as land owner. In conclusion I consider it would be expedient in the interests of the owner of the land to divert this bridleway.

***Convenience to the public***

16. In assessing the relative convenience of the present and proposed routes I have considered various factors including length, width, surface and gradient in the context of the role Bridleway 62 plays in the local network including the impact of the altered point of termination on Bridleway 23.
17. A simple comparison between lengths of the present and proposed routes (290 metres and 310 metres respectively) reveals little difference between the two. Given the overall length of Bridleway 62 in Pewsey parish is over 500 metres and its continuation to Oare a further kilometre or so, an additional 20 metres is of little consequence. However, the extra 150 metres between the points of termination, B and C, need to be taken into account. Here it depends entirely whether the user is following the connecting Bridleway 23 northwards or

southwards. In the former case there will be an overall saving in distance of some 130 metres; in the latter there will be an additional 150 metres to cover as well as the slightly longer new Bridleway 62. Yet even in the worst possible scenario, I recognise the additional length will undoubtedly be less convenient but I do not consider it to be *substantially* so in this context.

18. For pedestrians there is, at present, the additional option of a direct connection with Footpath 24 at point B. The diversion would result in the full additional 170 metres becoming necessary to continue and by a much less direct line via A-C-B or the reverse. I recognise this would be an inconvenience for walkers to an extent but one which I need to balance alongside other factors. I also bear in mind that, local resident, Mr Munday's impression was that relatively few people use this east-west route; most generally use Bridleway 62 along with Bridleway 23, although no actual survey data is available to support this.
19. In terms of its width, the Order schedule makes clear that the present 3 metres recorded in the definitive statement for section A-B would be increased to 4 metres for the new A-C. That is a very clear advantage (although I recognise that in practice much of A-B is unrestricted and may have been used beyond its legally defined extent.)
20. An additional feature related to the increased width is the nature of the surface that is proposed for the new route. Although it is intended to be constructed so as to be sufficiently robust to withstand agricultural vehicles, it is expected to be used by such traffic very infrequently. It is designed to offer a choice of surfaces to suit the different user types. Whilst providing hard limestone 'wheel tracks', it will also have a central grass section, giving it a more 'rural' appearance than the tarmac of the main access drive to house and farm and thus more in keeping with the character of the local countryside.
21. The applicant has indicated that he intends also to improve the condition of the lane surface between points B and C, thereby ensuring that users making the connection with the new bridleway would not be disadvantaged. WC confirmed that it would be prepared to authorise not only works to the surface of Bridleway 23 but also vegetation management along its verges.
22. It is the junction of the two bridleways at point C that is of greatest concern to many of the objectors. Looking at the proposed route at present, I can understand why, in the absence of any information about the intended profile and associated works, publication of the Order prompted so many objections from regular users. The present route A-B varies from a very shallow gradient to virtually flat whereas the proposed A-C has a gradual incline up to point C where it drops dramatically into the lane below. The applicant's intention is to re-grade the profile westwards from C so as to achieve a slope of no more than 1:25. The plans produced by his agents satisfy me that this will be possible. Once completed to the satisfaction of WC and when enhanced by the planned upgrading of C-B and with the vegetation cut back, I accept this would offer a substantially as convenient path surface for all types of bridleway user.
23. Under this heading I have looked at the question of public safety, especially in relation to agricultural vehicles which, it is said, may occasionally use the new track. In comparison with the activity likely within the farm yard once the business is developed, I consider the risks to the public on the new route to be significantly less. I am reassured by the applicant's agents who explained that the main vehicular use would be northwards out of the yard and effectively

across the new bridleway, not along it. With clear visibility here, the likelihood of conflict between tractors and the public, with or without horses, is reduced and is more easily and safely managed.

24. Finally, one of the arguments against the proposed diversion is based on concerns over what is described by an objector as an aggressive dog at Ley House (near point C). WC confirmed it had received no complaints about this and I was informed at the inquiry that there are two dogs living at the property: a Lurcher (which is kept indoors) and a Dachshund. Although I do not dismiss lightly the concerns of those intimidated by dog barking, in this case (and given the size of the dog), this is not a factor that would prevent me from confirming an otherwise satisfactory diversion.
25. Returning to the statutory test, this requires a comparison between present and proposed routes. Having considered all the factors which fall under the 'convenience' heading, I conclude the proposed route in this case would be less convenient in some respects but an improvement in others. Overall I consider the proposal would result in an alternative that would be *not substantially less convenient* than the present route and on balance, taking into account all relevant issues, I accept the proposed new point of termination of Bridleway 62 at point C on Bridleway 23 would be *substantially as convenient* as the present connection at point B.

#### **Public enjoyment**

26. Several objectors protest that the alternative route proposed would be of a wholly different character and remove the opportunity to see at close hand some of the interesting listed buildings with the farm complex. They argue that following the route through the settlement is part of its attraction, some claiming that the bridleway is of ancient origin.
27. In fact the historical evidence researched by WC has failed to provide any support for the existence of this bridleway before the late nineteenth century. Nevertheless, I understand the appeal of the farm in its current condition. Yet I have evidence before me that the air of quiet tranquillity within the yard will change significantly from 2016 onwards, such that the experience of bridleway users can be expected to alter considerably.
28. The consequence of the incline up to the western end near C is that the new route will afford superb long-distance views. From this elevated level there is an alternative view of the house and farm complex with its historic buildings seen in the context of the landscape, exchanged for close up but limited views of buildings within the yard.
29. Although none of the objectors voice such concerns, WC is aware that many members of the public dislike using rights of way which pass close to private dwellings where there is a feeling of intrusion, despite having the right to use the highway. This diversion would take the bridleway well away from the windows and doors of West Wick House, staying in more open countryside.
30. Having walked the whole route from Oare to the junction of Bridleway 62 with Bridleway 23 at B, I agree the proposal would result in an alternative route east of point A that would be of a rather different nature yet one that would be entirely consistent with the character of the route as a whole. Having considered the various aspects raised, I conclude it would be different but not any less enjoyable.

**Other considerations**

31. Compensation issues are not relevant here and no adverse effects arising from the diversion on any of the land concerned have been drawn to my attention. The owner of the land affected by the proposal is the applicant who clearly supports the Order.
32. WC drew attention to several aims and objectives within the Rights of Way Improvement Plan for Wiltshire which offer support for the proposed diversion, especially those under the headings "Managing network changes and improvements" and "Improving ease of access".
33. In particular Ms Madgwick highlighted the benefits of the diversion for the public: its greater width, the mixed surfacing to suit all types of user and the additional confidence people with partial sight or hearing impairments might enjoy as a result of this route following a field edge rather than through a dangerous farm yard. Whilst these relate generally to the convenience issue, I have given particular weight to the advantages for people with these types of disabilities.
34. At the inquiry I queried the provisions within the Order for the coming into operation of the new route. Articles 1 and 2 anticipate completion of the necessary works within 28 days of confirmation of the Order. Given the extent of the works, I consider that to be overly optimistic. In response, Mr Ward (for WC) submitted an alternative form of words that would ensure the public will not lose the right to use the present route before the new route has been completed to the satisfaction of the highway authority (WC). For the applicant, Mr Litton endorsed WC's request for this modification to the Order.

**Whether it is expedient to confirm the Order**

35. In reaching a final conclusion on the expediency of this diversion I must weigh the advantages that would accrue to the landowner in whose interest the Order is made against any disadvantages that may result for the public. In doing so I note that the proposed diversion is supported by the British Horse Society and the Wiltshire Bridleways Association and that neither Pewsey Parish Council nor the Rambler's Association oppose it.
36. Overall, taking into account all relevant factors and having addressed the statutory tests in Section 119 of the 1980 Act, I conclude it would be expedient to confirm the diversion proposed by this Order with a modification to better provide for certification of the works proposed to construct a suitable surface for the new bridleway.

**Conclusion**

37. Having regard to the above and all other matters raised in the written representations, I conclude that the Order should be confirmed with the modification noted at paragraph 34 above.

**Formal Decision**

38. I confirm the Order subject to the following modifications:
  - Delete from Article 1 (in line 3) the words:  
"... after 28 days from the date of confirmation of this Order, ..."



and substitute:

"... upon the local highway authority giving written certification that the work to create the public bridleway referred to at paragraph 2 below has been satisfactorily carried out, ..."

- Delete from Article 2 (in line 1) the words:

"There shall be at the end of 28 days from the date of confirmation of this Order (be) ..."

and substitute:

"Upon certification of the works as specified at paragraph 1 above or at the end of 56 days from the date of confirmation of this Order whichever is the sooner there shall be ...".

*Sue Arnott*

**Inspector**

## **APPEARANCES**

### **In support of the Order**

Mr T Ward                      Counsel instructed by Mr Gibbons, Solicitor to Wiltshire Council

*Who called*

Ms S Madgwick                Wiltshire Council; Rights of Way and Countryside Section

Mr J Litton                     Queens Counsel instructed by Marriotts, Property LLP

*Who called*

Mr R Anstis                    Chartered Surveyor, representing the applicant

Mr M Munday

Mr A Brown                    Marriotts Property LLP

Mr G Griffin                   Applicant

## **DOCUMENTS**

1. Copies of statutory notices and certification
2. Copy of the statutory objections
3. Wiltshire Council's statement of case with accompanying background documents, its statement of grounds for seeking confirmation and comments on the objections
4. Proof of evidence of Ms S Madgwick
5. Applicant's statement of case together with appendices
6. Proof of evidence of Mr R Anstis and supplementary proof
7. Email to Wiltshire Council dated 22 November 2014 from Jane Brown

