

**NOTE OF SUPPORT IN RESPECT OF THE APPLICATION REFERRED TO
BELOW FROM THE BRITISH HORSE SOCIETY (WILTSHIRE).**

**Highways Act 1980 s119 and Wildlife and Countryside Act 1981 s53 –
Consultation re Calne Without Footpaths 40 and 41 (“Footpaths”) and
Bridleways 89,89A, and 89B (“Bridleways”) at SN11 8QF (“Consultation”)**

This note is written, formally, in my capacity as Bridleway Officer (Legal) for the British Horse Society (Wiltshire County) (“BHS”), to confirm the support of The British Horse Society for the Application for the Diversion (“Diversion”) of part of bridleway CALW89 and bridleways CALW89A and CALW89B submitted by Thrings on behalf of Mr and Mrs Moore dated 31st May 2018 (“2018 Application”).

1. Background

The BHS has consistently supported the intended Diversion right from the beginning of its involvement in approximately October 2015. Accordingly, it supported the first Application for diversion (actually made by Mr and Mrs Moore in 2013) (“2013 Application”) and now supports the 2018 Application.

It has done so, throughout, for substantially the same reason - this is an excellent Diversion which is an improvement on the current route and meets the needs of walkers, runners, equestrians and cyclists. It may also improve the position of the disabled. All in all, it is in our view, a better route than the current one. In addition the Diversion is one that, in my view, Wiltshire Council has full power to grant under s119 Highways Act 1980.

I am aware from numerous exchanges with different parties involved with the Diversion, that the 2013 Application and Wiltshire Council’s refusal of it produced some strong responses of disbelief. For example, the support by Wiltshire Council of the objection lodged by the Wiltshire Bridleway Association (“WBA”), a body associated with the BHS, resulted (to judge from traffic on Facebook) in a number of resignations from the WBA.

I am also aware that the fact that the BHS has supported the 2013 Application, and now supports the 2018 Application, might be misinterpreted as support for the Applicants themselves. That is not the case. The “client” (for want of a better expression) of the BHS is the bridleway and the Diversion and no one and nothing else.

I, therefore, want to make it clear, right from the outset, that this note (which sets out continued support for the Diversion from the BHS) has been produced following an impartial review of the facts of the Diversion as set out in the 2018 Application, and applying the criteria set out in s119 Highways Act 1980.

The WBA’s principal ground of opposition to the 2013 Application, as I understand it, was largely one of principle, namely that the current bridleway

route shown on the Definitive Map (“Current Definitive Map Route”) was an ancient historic route.

As such, it seemed that the WBA’s view was that this ancient route should be preserved at all costs and regardless of consequence. This was so, despite the presence of, in my view, a significantly better route as set out in the (now) 2018 Application.

I am not sure on what evidence they reached this conclusion. It is a fact, however, that there is material evidence to the contrary. That material evidence is summarised in the 2018 Application.

Wiltshire Council (through Barbara Burke) (“WC”) reviewed the 2013 Application and refused it on the principal grounds set out in paragraphs 4.1 – 4.8 of the WC Decision Report dated 1.12.2015 (“WC 2015 Decision Report”).

I have read the WC 2015 Decision Report and I find some of the reasoning in there extremely difficult to follow. There is very little discussion in the WC 2015 Decision Report of, for example, the difficulties and dangers presented by the Current Definitive Map Route nor of the glorious riding freedom offered by the 2018 Application route.

How then do I regard the 2018 Application from an equestrian point of view? And, in my capacity as the Bridleway Officer (Legal) for the BHS (Wiltshire County), does the revised route, in my view, satisfy s119 HA 1980 so that Wiltshire Council ought properly to allow it?

2. My Riding Experience

I set out below a short note of my riding experience. I do this because the 2018 Application requests diversion of the several bridleways involved under s119 Highways Act 1980 (“s119 HA”).

As such a key test is s119(6) HA which, inter alia, requires “that the path or way will not be substantially less convenient to the public in consequence of the diversion....”.

So, what is my level of riding experience so that I can bring an equestrian element to this issue? And what does that experience bring to this issue so as to enable me to compare one route against the other from a rider’s point of view? And, how might that background have a bearing on the issues in question for the purposes of s119 HA?

I first learned to ride when I was about 27 years old. That is late in life in riding terms. Throughout my riding life (until my retirement from full time work as a Solicitor in 2015) I have been a weekend rider. I learned to ride to pre Novice Eventing level and competed occasionally until about 1994, when the demands of work and family made carrying on competing impracticable. I turned instead to friendly hacking for longer distances.

I have been on numerous long distance hacks in England up to a length of about 32k. I have ridden in Africa on riding safaris on several occasions and also ridden across parts of Normandy in France. I have, in the course of the African rides, had to ride out fast at full gallop to avoid a very angry elephant and stood, mounted, on a narrow stone bridge, with a steep drop into a donga below, as my only potential route of escape from a full grown male lion that we had suddenly come across, just 80 or so yards further down the track. In 2008, I took a three months sabbatical from my Firm; and my wife and I rode a 1000 miles across different parts of Wales and England raising £3,500 for charity.

In 2017 we rode approx 140 miles in 8 days across Spain in 42 degrees of heat (ie 10 degrees hotter than the summer of 2018 in the UK). Since semi-retirement in 2015, I ride with my wife about 3/4 times a week for between one and three hours a time.

Despite having ridden thousands of miles, the vast majority of them outside the safe confines of the equestrian school, and experienced some awkward situations, I rank (in horse terms), in my view at least, as a novice rider. Novice riders are not necessarily nervous riders, but novice riders are not deeply experienced horsemen through and through.

When I encounter an awkward situation, I still need to pause and think (if circumstances allow) whilst the truly experienced rider, who has ridden all his/her life, knows what to do almost by instinct. That knowledge often comes from having ridden lots and lots of different horses each with their own peculiar capabilities and downsides. Weekend/novice riders, by contrast, tend to have one mount (perhaps for several years) and to ride only that one horse.

Equally, when I assess an awkward drop or a lengthy slithery path, or equivalent, I do that in the way a novice does it. My question to myself will be "Will my horse do that route"? The very experienced horseman, however, might well say "If I take this horse, and attack that climb or issue in this way, then I know from my experience (usually of riding lots and lots of other different horses) that this horse can do it".

My background, and in particular the fact that I came to riding late, therefore assists me in the task of assessing a route in a way that is sympathetic to the needs of a significant number of riders out there. Lots of us out there are what I am - a novice rider. So, we want to ride routes that we feel comfortable with; routes suitable for novice riders.

3. Inspections of the Bridleways concerned

I have inspected the bridleways in question on two occasions.

The initial visit was on 9th February 2016 when, together with Sarah Jones of the BHS, I first familiarised myself with the site, the related bridleways and the two bridges referred to in the 2018 Application. I also discussed with John Moore the

issues he was encountering, the intended permissive route as well as his intention to put down at his own cost a rider/horse friendly 3 metre wide track of over 100 metres in length on the north side of the river.

The second was in July 2017 when I re-inspected the site after the horse/rider friendly track referred to above had been installed and was in use. It was, quite clearly, a wonderful addition; and, very obviously, to judge from the number of visible hoof prints in it, much in use. By the same token, there was little evidence, based on that visit, of the Current Definitive Map Route being used, although it was very clearly available for use.

4. A comparison of the 2018 Application route with the Current Definitive Map Route

4.1 The Current Definitive Map Route

The Current Definitive Map Route has, to my eye and applying my experience from an equestrian point of view, the following key characteristics:

4.1.1 Starting from the north, the drop down to the house over CALW89B and CALW89A is pretty steep and not very inviting to ride;

4.1.2 The entrance to the driveway is gated. The gate is “horse friendly” but, if closed, must be negotiated. Negotiating a gate, where it needs to be opened and then closed again, is often a difficult and, regularly, a time consuming task for novice riders.

Riding out with my wife (we mostly ride together), I prefer to avoid gates if possible. Where they cannot be avoided, then more often than not, one of us will dismount, open the gate for the other and then remount. We do this both for safety and for reasons of convenience. Remounting safely often involves the rider concerned finding a verge or tree stump that is high enough to use as a make shift mounting block, and the other standing (mounted) in front of the horse being mounted, this to reduce the risk of an accident.

The whole process can, and often does, take time. It also, certainly, does detract from the enjoyment of the ride - getting on and off, particularly from a spooky or high spirited mount, can be awkward, inconvenient and, sometimes, unsafe. In addition, there can be no doubt that the free flow of the bridleway route is lost.

4.1.3 CALW89A passes right over the otherwise private drive of The Mill House and, to use it, involves riding right past the front windows and front door of The Mill House.

I never enjoy this sort of element. I feel that the owners of the house have a right to their privacy if at all possible; and I do not like invading that privacy, if that can reasonably be avoided. Riding past, with eyes averted, consciously trying not to look through windows or into private gardens is uncomfortable in my view.

Nor, in my case, is this feeling peculiar to The Mill House. There is an equivalent situation that I am aware of at Great Durnford in the Woodford Valley where the river runs close to The Mill House at DURN 5 and WFOR 13. And, whilst I have never ridden this route, I have walked it (or sections of it) on several occasions in 2017. I felt the same there, on each occasion.

4.1.4 Once past the house, you need to cross the River Marden using a narrow bridge. The bridge crosses the fast moving millstream. It is a horrible bridge, narrow, low sided and poorly maintained by Wiltshire Council.

I have ridden narrow, low-sided bridges both out hunting on the Kent Marshes and in Africa perfectly happily, but I would not ride this one. I would turn back instead and try to find another way through to the other side if I possibly could.

This bridge is, frankly, thoroughly dangerous from a rider's point of view. The wooden surface looked, to my eye, unsafe and, very probably, slippery when wet or frosty. There was absolutely no room to turn, once on the bridge with a horse. If anything happened, there was a real risk of either or both of horse or rider landing in the Mill Stream with, potentially, very dangerous consequences for horse or rider or both.

Equally, it would not be much better to dismount and to lead a horse across, although I accept it would be safer for the rider, at least. From a riding point of view, once dismounted, a rider has far less control over a horse; and sometimes less capability to prevent an accident.

In any event, I care about my mount and respect him. I would not want to risk the bond of trust that grows over time and many miles between horse and rider by exposing him to the risks presented by this bridge.

There is one aspect that I can say for certain: I would never expose a child on a pony to this bridge, however experienced the child or mount might be. The risks are horribly obvious and the consequences of any of those risks turning into reality, too awful to contemplate.

It seems to me to be very likely that WC has neglected its highway repair and maintenance responsibilities in this location. Sadly, in Wiltshire, that is not an unusual situation: another such example that springs immediately to mind, without my having even to pause for thought, is MINETY 55; a key route offering safe off-road riding, yet so founderous as to be almost unrideable. The surface of CALW89 south of the bridge is another.

It is not that WC do not want to maintain routes, but the fact is that there is simply insufficient money in Wiltshire to maintain the substantial network of routes that exist – a situation that is surely set to get worse. Contrast the wonderful alternative Diversion route: beautifully sited, well funded and supported by the undertakings given in the 2018 Application.

4.1.5 Assuming that you can get across the bridge on CALW89 (and few of us would want to risk the trip), at least on the two occasions that I inspected, I found the route on the other side was slippery, boggy and would (at best) prove, in my view, difficult to ride. It might be practicable coming from the north (I trudged up the bridleway on foot, slipping and sliding as I went) but to ride down it, particularly when wet was, at best, for the very experienced.

4.1.6 That done, you meet the second gate in the orchard below point C. Gating the route here is perfectly fair, to my mind. There is a security issue to consider particularly after the very unfortunate incident involving the Applicant's daughter; and the gate itself was designed for equestrian use, where so many that we encounter are not. However, gates on slippery, steep paths (even equestrian gates) are always difficult to use and often not safe. I have already referred above to our practice at home for negotiating gates reasonably safely.

4.1.7 So, here on this route, the access from the north is steep, the invasion of privacy awkward, the bridge dangerous and (at best) treacherous to cross, the going underfoot in parts, boggy and awkward and the gates that must be negotiated time consuming to go through, potentially involving dismounting and remounting with all of the time and related risk that that involves plus, of course, the disruption to the free flowing feel of the route.

4.1.8 When you have negotiated this type of section, the natural reaction from some one like me is "pew, done it, still alive, not in the water, horse and rider intact and united/reunited; let us hope it improves from here".

4.1.9 Would I look forward eagerly to a return trip over the same route? I would be very chary of riding it in wet, frosty or windy conditions nor would I want to be on it in heavy rain ie any of the circumstances in which horses can get spooked. So, at best, and particularly from a safety point of view, it is a fine summers day ride only, in my view; and then only after assessing that bridge and the route uphill/downhill which follows it/precedes it with the greatest of care.

4.1.10 WC in their Decision Report of 2015 state: "The existing route provides a better surface for a wide cross section of users". They did not define who this "wide cross section of users" was. However it is difficult to see how they could possibly have reached this conclusion based on any inspection of the route.

The route is extremely difficult, in places, to cross safely. For example, it was not easy, without slipping and sliding, to walk up or down between points Y and C. I cannot, on that basis, see how it provides a "better surface" for any of the ordinary groups who might have used the route: walkers, riders and cyclists. I strongly suspect that the disabled would struggle, even armed with a "Tramper".

4.2 The 2018 Application Route

The 2018 Application Route has, on the same basis as above, and again coming from the north, the following key characteristics:

4.2.1 It is free of gates throughout. The Applicant has undertaken not to gate the new route at any point (see paragraph 12.18 of the Application). This from an equestrian point of view:

(a) allows the rider to pass untroubled and in a very convenient, easy and free flowing fashion over the whole route. The route is not broken up by the process of opening and closing gates;

(b) enables the rider to enjoy the views and to concentrate, in an uninterrupted and thoroughly enjoyable manner, on the wonderful experience of riding across the country;

(c) can reduce, markedly, the time that it takes to pass over the route. Comparing gated with ungated, particularly where anyone has to get off and then back on again, there can be quite a difference there. Gated tends, very often, to be much slower, even if the alternative route is a little longer;

(d) overall, ungated is, to me at least, very often a much more pleasurable experience. Certainly, that applies here.

4.2.2 The route, at point A turns you slightly away from the house and away from that feeling of invading privacy.

4.2.3 Spectacular views open up to ones right as well as below, views which, at best, are rather obscured by comparison with the route down the drive over CALW89A.

4.2.4 And the route is invitingly wide. I always find that width, in situations such as these, engenders confidence both in the horse and in the rider. There is a wonderful feeling of freedom. Not only can everyone look around and get a feel for where they are and where they are going next, but if anything goes wrong (a horse spooks or whatever) there is room to sort the situation out – contrast the steep, awkward, narrow, boggy Current Definitive Map Route and that awful bridge plus those gates.

And then there is that inviting canter over the BHS approved surface unworried by any sense of slipping or sliding etc. It is just “lets go – this is why I learned to ride!”

4.2.5 Below that you come to the restored stone bridge. This is of a good safe width and it has excellent safe equestrian rails on either side. A nervous horse, staring down at the mill stream below – perhaps this is the first time that this horse has seen an obstacle of this nature - can safely, gently and calmly be encouraged over this bridge. So, both rider and horse have a good experience. And the bond between them is enhanced – contrast the scary and potentially uncomfortable Current Definitive Map Route.

WC in their rejection of this section of the route in their Report dated 1.12.2015 (“WC 2015 Report”) referred to the confluence of walkers, horse riders and

cyclists at this bridge producing a “conflict situation” and that “ the proposed diversion would require all users to share the confined space of the bridge and has the potential to adversely affect their enjoyment of the route as a whole” (paragraph 4.6d).

I can honestly say that I struggle with the emphasis placed by WC on this aspect of the WC 2015 Report. All that I can say is that I have ridden thousands of miles of narrow tracks, encountered hundreds and hundreds of walkers and cyclists and never encountered “conflict”. Each party simply has regard for the needs of the other and both can pass sensibly, often with a smile or a word of thanks and a wave, to continue to enjoy the day.

In addition, the bridge on the Current Definitive Map Route is significantly narrower than the one on the 2018 Application route, so, if “conflict” is an issue to WC then it exists to a far greater degree on the current route than the 2018 Application route.

4.2.6 At this point, the proposed new route swings left handed over a gently inclined uphill track with rather splendid views of the Mill House below and to the left. This section has, I understand, recently been surfaced and made even better than it was before. In addition, those works required the grant by WC of Planning Permission. It is difficult to understand why WC would, in the circumstances of this route, have granted Planning Permission for these works if they did not see them, and the route that they served, as beneficial.

The Mill House stands out in its setting from here; and you can look at it without the faintest element of embarrassment creeping in. This is vastly better in my view than averting ones eyes in embarrassment as you creep past the front door and windows of the house on CALW89A.

And, in addition, the Applicant has undertaken to maintain those views (see The 2018 Application).

So, everyone gains from this approach: the owners of the Mill House regain their privacy and security, much needed after the incident involving their daughter. The riders lose that sense of embarrassment that comes with proximity to the Mill House when riding on CALW89A, the route is splendidly accessible and easily capable of being ridden and the surrounding views are glorious, with the Mill House being seen by everyone in its proper setting.

What is there not to like?

4.2.7 And the going throughout over the whole length of the diversion A – C is usable year in and year out, so far as I could see from my inspections. Certainly, there were none of the issues that would be encountered on CALW89 when, after riding the steep driveway and crossing bridge Y (if you are brave or foolhardy enough) you would be faced with the difficult route up to point C. No heavy, boggy and horrible going, nor any gates.

4.2.8 The 2018 Application differs from the 2013 Application by the removal from it of that section which suffered from the wire stay which the WC 2015 Report described as a “serious hazard” (para 4.6e).

To describe this wire stay in this situation as a “**serious** hazard” (my emphasis) is, I think, rather excessive. If that is really their view, then they ought also to remove the “**serious** hazard” constituted by the same design of wire stay on (for example) the bridleway up from Whiteparish in the south east of the County at WHIT 39 and WHIT32. Yet, they have not suggested that at Whiteparish. So, why have they laid this degree of emphasis here?

I completely agree, though, that the wire stay could constitute a hazard (as it could at WHIT 39). I raised the same concern, quite independently, with the Applicant when I first inspected on the 9th February 2016. So, that concern is now removed.

4.2.9 The 2018 Application Route is also one that I think could safely be ridden by children of a wide range of ages mounted on different ponies of different experience ranges. In addition, a vast spread of riders of widely differing abilities, mounted on horses themselves of differing experience and capability could, in my view, use it safely.

That can absolutely not be said of CALW89A/CALW89, particularly in respect of the section over the bridge and up/down the section leading to/from point C.

4.3 Conclusion on this aspect

So, for all these reasons, the 2018 Application Route is vastly to be preferred to the Current Definitive Map Route: vitally, you can ride the whole of the 2018 Application Route safely and at any time of the year. It is a splendid, free flowing, convenient, safe and uninterrupted route, affording wonderful views both of the surrounding countryside and of The Mill House itself.

In addition, it accords The Mill House the security it properly needs; and guards against a recurrence of the appalling incident involving Mr and Mrs Moore’s daughter, Matilda (see the 2018 Application itself).

None of that can genuinely be said of the Current Definitive Map Route despite the views of WC expressed in their 2015 Report or, for that matter, the views of the Wiltshire Bridleway Association.

And the 2018 Application Route genuinely does have “a better surface for a wide cross section of users”. It is wider and more accessible too; and it affords splendid views. It can safely be traversed, in my view, by children on ponies, novice riders, those leading horses from another (ridden) horse, walkers and, I suspect, cyclists. In addition, the disabled, surely, have a better set of options on the 2018 Application Route than on the steep and treacherous Current Definitive Map Route.

So, it is very difficult indeed to see how WC could have reached the conclusion that they did at paragraph 4.8.a of their 2015 Report:

“It is not considered the application to divert the bridleway meets with any of the aims of the Countryside Access Improvement Plan 2015-2025” (my emphasis).

In any event, that comment can certainly not be made of the 2018 Application Route.

Yet, WC in their Decision Report of 2015 said that the “difference in lengths of the two routes is significant.....The length of the proposed alternative route is substantially longer at 222 metres”. WC cited the case of R (Young) v. Secretary of State (2002) and expressed the view that this difference in length was a material factor in their conclusion that the Diversion failed the test of “will not be substantially less convenient to the public in consequence of the diversion” (s119(6) HA).

In fact, the difference in length is only 100 metres (see the 2018 Application, paragraph 12.5). In addition, the Young case makes it quite clear that length is not the sole factor. Instead, as the PINS Guidance makes it clear “the view in Young was that the decision maker would have to **balance** the interests of the applicant for the order against those of the public to determine whether it was expedient to confirm the order” (my emphasis) (see the extract quoted by WC themselves at para 4.4 of the WC 2015 Decision Report).

So, length alone, is not a determining factor. Instead it is a factor in the balancing act that must go on to determine “not be substantially less convenient”.

The Oxford English Dictionary definition of “convenience” is (so far as relevant) “the state of being able to proceed with something without difficulty, the quality of being useful, easy or suitable for someone”. This is the “natural and ordinary meaning” of the word “convenient”.

To my mind, the issue of “not be substantially less convenient,” in this context, therefore, also imports a discussion, for example, of the issue of “convenience” of passage as well as “safety” of passage coupled with the issue of the “overall experience” of passage. All of these factors are consistent with the above core definition.

On that basis I would submit that the 2018 Application Route is a significant improvement on the Current Definitive Map Route and more than meets the test of “not be substantially less convenient”.

A difference of 100 metres (even 222 metres) is as nothing when taken in the context of a proper country walk or run of a few miles or a decent ride across the country of (say) a couple of hours duration and perhaps 6 – 10 miles in length. It is even less to a cyclist who is, quite probably, going a lot further.

What does matter, though, is convenience or “flow”. A poorly surfaced, slippery and slithery, gated route is not “convenient” and does not “flow”. Instead it is plain hard work!

If you are a walker, you have to stop, find the catch on the gate, open it, turn round and then close it again. That is inconvenient (if only in a small way) but nevertheless, the rhythm and “flow” of the walk is temporarily interrupted. That position is magnified if you are a runner or cyclist: having got into your “stride” you do not want to break stride to perform those same tasks; and then have to work hard to regain your rhythm and stride all over again – that wastes energy too. On a horse, where you may well have to get off in order to open and close a gate safely (particularly if it is above or below you on a path or way), then the break in “flow” is considerable and the route is inconvenient.

And then there is the factor of “time” and its relationship to “convenient”. “Convenient” can and should, in my view, also be considered in terms of time spent to cover a route. The 100 metres here of additional length on the Diversion needs, properly, to be balanced against the need to open and close, safely, at least two gates on CALW89 and CALW89A and the time taken to do that.

It is certainly the case that on a horse moving at (say) no more than a measured trot (very possible on the glorious free flowing and gently inclining Diversion) at a speed, therefore, of 5-6 mph (approx.) the extra 100 metres of the Diversion route would be covered in a fraction of the time that it would take to open and close two sets of gates. I strongly suspect that that would apply even if the rider concerned was capable of using the “heel and hinge” technique and was an expert in doing it – most of us novices just curse and get off!

If the route were, however, covered at a canter, moving at (say) a measured 15 or so mph, then there can be no doubt at all that it would be vastly quicker to cover the ungated Diversion than the Current Definitive Map Route (even assuming that the issue of the horrible bridge did not exist). With that bridge, the whole issue is magnified.

And, yet, the Diversion is just that: a glorious canter.

Furthermore, the gate on the southern side of the property is, necessarily, on a downhill slope. This means that, if you approach it from the north, you would normally pull it towards you. Then you have to pass through, hanging somehow, onto a gate that wants to swing (now) away from you. To close it, that gate (now) has to be pulled towards you, up a slope, as you pass through and can easily “get away from you”. You then have to start all over again. That is both a factor of gravity and part of its design. So, this is a further factor in the decision as to whether or not to get off – the last thing you want is a gate getting out of control in this way – accidents happen that way.

The position is no better if you approach from the south: the gate now tends to swing away from you. You can get through safely but now have to retrieve it and

then (pushing uphill) close it. The time taken to do this is not insignificant, as are the risks associated with the process.

So, overall, it is very difficult to see why, particularly when viewed in terms of the need to create a route here that is sustainable in the long term, regardless of ownership of The Mill House, the Diversion should not be supported in every way possible.

5. The Proof of the Pudding

To those who still doubt my thesis here, I say: **“Enough of theory, what do the user statistics say? Is that not a real measure of “not be substantially less convenient”?**

After all, that which is “inconvenient” is rarely used in preference to the “convenient”, particularly when viewed over a reasonable period of time and particularly when (as here) both routes are open for use concurrently and so can be directly compared.

The central question to my mind, when two routes of this nature are set, the one against the other in close juxtaposition, and (vitaly) both are available for use at the same time, is which is actually used?

And, if the Diversion route is the more used, then it is very difficult indeed to say that that proposed Diversion route fails to satisfy the test of “not be substantially less convenient to the public in consequence of the diversion” where it is the more used.

So, what is the evidence of use?

Here, the Applicant has gathered evidence over two years; and the result of that evidence is simply overwhelming.

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.

Record of Use of Bridleways 2018

Proposed Bridleway

<u>Month</u>	<u>Riders</u>	<u>Cyclists</u>	<u>Walkers and Runners</u>	<u>Total</u>
March	22	0	154	176
April	49	4	94	147
May	73	1	102	176
June*	74	2	52	128
July	85	7	89	181
August	98	4	155	257
September	82	1	118	201
October	96	7	122	225
November	66	1	140	207
December	50	1	126	177

* Proposed bridleway closed between 4th June and 12th June 2018 for track works.

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	1	0	1	2
April	0	0	4	4
May	0	0	2	2
June*	0	0	11	11
July	0	1	1	2
August	0	1	1	2
September	0	0	0	0
October	0	0	2	2
November	0	0	1	1
December	0	0	2	2

* Proposed bridleway closed between 4th June and 12th June 2018 for track works.

NB Groups of individuals travelling together are counted as 1.

I am not a statistician, rather a commercial property development lawyer. So, I have taken a headline look at these figures. Yet, even on that basis, it is apparent that in 2017 a mere 14 groups of people used the Current Definitive Map Route and every last one of them was a walker or a runner; yet, this is supposed to be a bridleway!

In contrast, over the same period in 2017, 1,619 groups of individuals used the 2018 Application Route and 934 of them were runners/walkers and 659 were riders.

So, only 0.85% of all users preferred the Current Definitive Map Route to the 2018 Application Route.

That goes some way towards suggesting that all of the arguments that I have propounded above are made out.

The point that will be made, of course, is that people tend to use an alternative when it is first offered, but revert over a period of time when the “new” route proves to fail the test of “not be substantially less convenient”.

So, on that basis, what do the 2018 figures (above) suggest? They show, overwhelmingly, that the test is not failed; instead it is more than satisfied.

They reveal that in 2018 only 1.47% of all users preferred to use the Current Definitive Map Route. That includes a period in June when the Proposed Bridleway was closed for an all weather track to be installed on the south side.

What is more, the popularity of this excellent route actually increased as word, no doubt of its ease, gentle gradients, facility of passage, convenience, flow and overall offering, spread. So, we find that whilst in 2017 the total of all users who

employed the Diversion was 1,619, by 2018 that number had increased to 1,875. Vitally, the number of walkers and runners using the 2018 Application Route had increased by more than 200 whilst the rider numbers had increased from 659 to 695 .

So, in my view, the Diversion meets the aims of the Countryside Access Improvement Plan and satisfies the tests under s119(6).

Vitally, it is also apparent that it satisfies the needs of every one of the class of users set out in these statistics: walkers, riders and cyclists – every single one of these groups is using the 2018 Application Route in preference to the Current Definitive Route **AND** they are doing so, consistently and over a material period of time.

That latter point puts paid comprehensively, and for ever, to the argument that the Current Definitive Route is preferable and that the 2018 Application Route fails the test of “not be substantially less convenient”: the public may pay deference to a new route for a patch, out of politeness for example; but if that new route is not better than the old, they revert soon enough where, as here, they have the opportunity. To revert where the old is better than the new, is human nature.

Yet, that has resoundingly not happened here. And that can be for one reason alone: the new is, in truth, better than the old (look at the rising popularity, for example) AND the new more than satisfies the test under s119(6) HA 1980.

6. Conclusion

In my view, the proposed Diversion, with its improved access for all, its free flowing and time reducing nature, the works of improvement to the surface of the route both north and south of the stone bridge at X, the increased safety conferred by the Diversion, the undertakings given in the Applicants Letter of 2018 (which benefit Wiltshire County, its ratepayers and all user groups of the Diversion), coupled with the information and the route comparison set out above is one which the British Horse Society (Wiltshire) does, and should, properly support.

That conclusion is more than amply demonstrated by the user statistics. Furthermore, those user statistics are particularly telling in this context: here both routes are open concurrently, yet which is the more used? And is that difference marginal or overwhelming?

The Diversion meets, in my view, all of the tests under s119 HA 1980 and I support and agree also with the arguments under this head, set out in the Applicants 2018 Letter of Application (see, in particular, paragraph 19 of the 2018 Application).

Vitality, and in marked contrast to the Current Definitive Map Route, as the user figures demonstrate beyond any peradventure, it provides improved year round access and safe, off-road riding, cycling, running and walking benefitting BHS Members, other members of the equestrian community, walkers, cyclists, runners and (very possibly) the disabled.

Safety and getting equestrians (and other non-motorised countryside users) into the country off the roads is central to the policy and approach of the British Horse Society. It is also central to Government Policy in this area.

For all these overwhelming reasons, the Diversion that has been requested is very much within WC's powers to grant and should be granted without further ado.

Finally, if WC is still minded to refuse the 2018 Application, could I please ask that the matter be referred to the Secretary of State and an Inquiry held, so that all of the views involved in respect of this vital, important and connecting route can be properly and publicly aired and heard?

G. R. Bennett LLB,
Bridleway Officer (Legal)
British Horse Society (Wiltshire)

12th January 2019