

Bill Riley, ██████████, Bradford on Avon, Wiltshire, BA15 ██████████

APPENDIX 4 2020 Report

Sally Madgwick
Rights of Way & Countryside
Wiltshire Council
Trowbridge BA14 8JN

Your ref: CALW89/2018/08

19th March 2020

Dear Ms. Madgwick,

**The Wiltshire Council Parish of Calne Without Bridleway 89 (part), 89A and 89B
Diversion Order and Definitive Map and Statement Modification Order 2019**

Thank you for your letter dated 5th March 2020 together with enclosures referring to the above named Order.

The applicant appears to be rehearsing the same old arguments, which have already been soundly rebutted. However, I feel that three documents which have been cited in support of the application deserve comment, even though their relevance to the proposed diversion is unclear.

First, the Wootton Bassett diversions. These were in no way comparable with the proposed diversion of Calstone Mill Lane. The former were made in consequence of footpaths affected by the construction of a new housing development. No ancient lanes or views of historic buildings were affected.

Second, the copy of part of a map said to date from 1776. It is true that the map does not appear to show a bridge over the stream at that date, but that does not mean that there was no 'crossing point'. It is highly improbable (bearing in mind the extreme length of any alternative road) that the farms and inhabitants of Calstone had no access from the south to their mill. It could simply mean that the stream was crossed by a ford at that time, or that the bridge was awaiting replacement at the time of the survey. In any case, reliable maps dating from 1808 onwards show a continuous road crossing the stream via a bridge.

Third, the '*Valuation of Tythes, 1802*'. The extract shows that somewhere in Calstone, there was a Drove measuring 1 acre 0 roods 25 perches, numbered 585 on a map (not provided) and nothing more. Even if it could be shown that the Order route was then described as a 'Drove', that does not mean it could not also have been a public carriage road. Numerous roads were described as such in inclosure awards.

Obviously, I maintain my objection.

Yours sincerely,

██████████

Bill Riley

Madgwick, Sally

From: michelle haley [REDACTED]
Sent: 16 March 2020 12:57
To: Madgwick, Sally
Subject: RE: calstone mill

Sally

Rite o, ta for clarification.. Yes I def wish it to stand, wont be withdrawing it!

Kind regards
michelle

From: Madgwick, Sally [mailto:Sally.Madgwick@wiltshire.gov.uk]
Sent: 16 March 2020 11:00
To: michelle haley
Subject: RE: calstone mill

Dear Michelle – thank you for your e.mail and comments about the WBAS decision. This has been submitted by the applicant to support his case so it has been sent to you correctly – however, I understand your confusion.

Please let me know in due course whether you wish your objection to stand or not.

Best regards

Sally

From: michelle haley [REDACTED]
Sent: 15 March 2020 17:12
To: Madgwick, Sally <Sally.Madgwick@wiltshire.gov.uk>
Subject: calstone mill

Sally

I received your letter asking if I wanted to withdraw my objection to the order, however I think you may have sent me some other papers by mistake as well.

I have an order decision letter made by a Barney Grimshaw in relation to Wootton Bassett FP 10 and FP 111!

I assume they are totally unconnected, but just wanted to let you know I had them in case they were meant to go to someone else!

Kind regards

Michelle haley



This email has been checked for viruses by Avast antivirus software.
www.avast.com

05 March 2020

Rights of Way and Countryside
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

James Higgs
[REDACTED]

Devizes
SN10 [REDACTED]

Your ref:

Our ref: CALW89/2018/08

COPY

Dear Mr Higgs

Highways Act 1980 – section 119

**The Wiltshire Council Parish of Calne Without Bridleway 89 (part), 89A and 89B
Diversion Order and Definitive Map and Statement Modification Order 2019**

Further to your objection to the above order Wiltshire Council has now received a total of 5 duly made objections and may now not resolve to confirm the order itself. The order will now be re-considered by the Northern Area Planning Committee who may resolve to abandon the order or to send it to the Planning Inspectorate for determination. In the event that all objections are withdrawn the committee may resolve that Wiltshire Council confirms the order.

It is usual to ask objectors whether they will withdraw their objection and this letter asks you to consider doing this. All of the objections have been considered by the applicant who has compiled a response that you may wish to consider, please see the enclosed. I have also enclosed copies of the other objections.

I would be grateful if you could let me know if you wish to withdraw your objection by 23 March 2020. If I do not hear from you your objection will remain and will be carried through to the next stage in the process.

Yours sincerely

Sally Madgwick
Definitive Map and Highway Records Manager
Direct Line: 01225 713392
Sally.madgwick@wiltshire.gov.uk

05 March 2020

Rights of Way and Countryside
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

B Riley

██████████
Bradford on Avon
Wiltshire
BA15 ██████████

Your ref:

Our ref: CALW89/2018/08

copy

Dear Mr Riley

Highways Act 1980 – section 119

The Wiltshire Council Parish of Calne Without Bridleway 89 (part), 89A and 89B Diversion Order and Definitive Map and Statement Modification Order 2019

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It is usual to ask objectors whether they will withdraw their objection and this letter asks you to consider doing this. All of the objections have been considered by the applicant who has compiled a response that you may wish to consider, please see the enclosed. I have also enclosed copies of the other objections.

You will see that the applicant consistently denies that the highway is an ancient one. Notwithstanding objections relating to the loss of convenience with the longer proposed route it is clear that enjoyment related to historical context is an important consideration. If you have any further comments on this arising from the applicant's comments I would be pleased to receive them.

I would be grateful if you could let me know if you wish to withdraw your objection by 23 March 2020. If I do not hear from you your objection will remain and will be carried through to the next stage in the process.

Yours sincerely

Sally Madgwick
Definitive Map and Highway Records Manager
Direct Line: 01225 713392
Sally.madgwick@wiltshire.gov.uk

05 March 2020

Rights of Way and Countryside
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

N Beardsley
Wiltshire Bridleways Association
[REDACTED]
Enford
SN9 [REDACTED]

copy

Your ref:
Our ref: CALW89/2018/08

Dear Mr Beardsley

**Highways Act 1980 – section 119
The Wiltshire Council Parish of Calne Without Bridleway 89 (part), 89A and 89B
Diversion Order and Definitive Map and Statement Modification Order 2019**

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It is usual to ask objectors whether they will withdraw their objection and this letter asks you to consider doing this. All of the objections have been considered by the applicant who has compiled a response that you may wish to consider, please see the enclosed. I have also enclosed copies of the other objections.

I would be grateful if you could let me know if you wish to withdraw your objection by 23 March 2020. If I do not hear from you your objection will remain and will be carried through to the next stage in the process. If you wish to request an extension to this period to allow your committee to further consider the matter please contact me before 23 March.

Yours sincerely

Sally Madgwick
Definitive Map and Highway Records Manager
Direct Line: 01225 713392
Sally.madgwick@wiltshire.gov.uk

05 March 2020

Kate Ashbrook
Open Spaces Society
25a Bell Street
Henley-on-Thames
RG9 2BA

Rights of Way and Countryside
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

COPY

Your ref:

Our ref: CALW89/2018/08

Dear Ms Ashbrook

Highways Act 1980 – section 119

The Wiltshire Council Parish of Calne Without Bridleway 89 (part), 89A and 89B Diversion Order and Definitive Map and Statement Modification Order 2019

Further to your objection to the above order Wiltshire Council has now received a total of 5 duly made objections and may now not resolve to confirm the order itself. The order will now be re-considered by the Northern Area Planning Committee who may resolve to abandon the order or to send it to the Planning Inspectorate for determination. In the event that all objections are withdrawn the committee may resolve that Wiltshire Council confirms the order.

It is usual to ask objectors whether they will withdraw their objection and this letter asks you to consider doing this. All of the objections have been considered by the applicant who has compiled a response that you may wish to consider, please see the enclosed. I have also enclosed copies of the other objections.

In response to the part of your objection relating to the failure of the order to specify gates or gaps for the junctions with the footpaths it is considered that the stiles in place at these locations are associated with the footpaths and whilst currently unauthorised are capable of authorisation under s.147 Highways Act 1980.

I would be grateful if you could let me know if you wish to withdraw your objection by 23 March 2020. If I do not hear from you your objection will remain and will be carried through to the next stage in the process.

Yours sincerely

Sally Madgwick
Definitive Map and Highway Records Manager
Direct Line: 01225 713392
Sally.madgwick@wiltshire.gov.uk

05 March 2020

Rights of Way and Countryside
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Mrs M Haley

[REDACTED]
Rowde
Devizes
SN10 [REDACTED]

COPY

Your ref:

Our ref: CALW89/2018/08

Dear Mrs Haley

Highways Act 1980 – section 119

The Wiltshire Council Parish of Calne Without Bridleway 89 (part), 89A and 89B Diversion Order and Definitive Map and Statement Modification Order 2019

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It is usual to ask objectors whether they will withdraw their objection and this letter asks you to consider doing this. All of the objections have been considered by the applicant who has compiled a response that you may wish to consider, please see the enclosed. I have also enclosed copies of the other objections.

I have noted your comments regarding the obscuring of the way markers for the definitive line and have raised them with the Countryside Access Officer for the area.

I would be grateful if you could let me know if you wish to withdraw your objection by 23 March 2020. If I do not hear from you your objection will remain and will be carried through to the next stage in the process.

Yours sincerely

Sally Madgwick
Definitive Map and Highway Records Manager
Direct Line: 01225 713392
Sally.madgwick@wiltshire.gov.uk

Madgwick, Sally

From: Derek Walsh [REDACTED]
Sent: 28 February 2020 12:33
To: Madgwick, Sally
Cc: [REDACTED]
Subject: Diversion of bridleway at The Mill House, Calstone
Attachments: 1. 1776 Map of Calstone.pdf; 2. 1802 Valuation of Tythes.pdf; Notes on objections - MOO1042_1_29700114.docx.pdf; Wootton Bassett ROW3226575.pdf

Dear Sally

I have now had an opportunity to review the five objections submitted.

There is nothing especially new raised by these objections however I have provided some comments in the attached note which are intended to serve as much as a reminder for all concerned as a comment on the objections themselves. The overriding purpose is, of course, for the objectors to take a reasonable view of this matter and withdraw their objections so that the WCC can confirm the order unopposed. I expect you will know pretty swiftly whether the objectors will withdraw their applications - it is unlikely they will require much time to decide given there is nothing new to consider. I expect you will allow them a similar 14 days to confirm their position one way or another.

Assuming the objections are not withdrawn then we are keen, as you are aware, for the matter to return to Committee at the earliest opportunity and for this to be referred to a public inquiry. Any indication you can provide in this regard would be much appreciated.

Finally, I expect you have lots to deal with at the moment and particularly so after the recent outage but if we could make swift progress with this matter (as ever) that would be much appreciated

Regards

Derek

Derek Walsh
Partner

Knights plc
[REDACTED]

W www.knightsplc.com

Knights plc

Please [click here](#) to view our email disclaimer.

General remarks

There are some issues which arise across all objections and which can be dealt with in the round. We do not intend to comment on every issue raised by the objections and so we will limit our comments to the key issues. The absence of any comment on the remaining issues does not indicate that the points made are accepted.

In short, this application satisfies all of the requirements of s.119, (i) as we have set out in the 2018 application and supporting documents, (ii) by reference to the usage statistics which show that it is almost universally popular with users of the way, (iii) the mass support that this application has attracted including the Ramblers and BHS, (iv) the unanimous decision of WCC's planning committee which considered the arguments surrounding the convenience test and the enjoyment test (to use the shorthand).

It is inevitable that some people will argue against the above and may raise an isolated point or two and say that the proposed route is substantially less convenient (for example) without carrying out the necessary balancing exercise. A proposed route may be less convenient in some respects but whether that equates to substantially less convenient is a different matter entirely when taken with other factors e.g. surface/drainage/gradient/surrounding views. As a good example, we attach the PINS Decision in respect of *Royal Wootton Bassett: Footpaths 10 and 111 (ROW/3226575)*, dated 6 February 2020.

With regard to the history of the route there are vague references to its antiquity or to it being ancient and/or historic. Whether it is "ancient" within the usual sense that term is used in respect of highways is covered in the Decision Report at para 5.12. We dealt with this issue in our letter dated 19 March 2019 (paras 7-16) and a significant amount of research has been done by our clients on the actual history of the route. By way of brief summary for these purposes, the 1776 map ("*A Map or Plan of the Manor of Calston*" by *Joseph Dickenson* - attached) the parcels of land are edged in blue and there is no bridge or crossing point at the Mill. *The Valuation of Tythes by John Wilkins* in 1802 (attached) refers to the relevant parcel as pasture, ref: "585 - Drove" and it was subject to tithes. The Decision Report, at para 5.4, then picks up the position from the Calne Inclosure Award 1818 map by which time a bridge was installed for the benefit of the tenant farmers on the Bowood Estate. Finally, and importantly in this regard, Bowood Estate was settled land. Prior to the enactment of s.56(2) of the Settled Land Act 1925 a tenant for life had no power to dedicate land nor could there be an implied dedication.

However, as above, people may take a different view or derive enjoyment from different aspects of a route. What is fundamental here is that we are not concerned with the history of the route as we might be in the context of a DMMO application. Even if it was established that this was an ancient (in its wider sense) route then that is simply another factor to be weighed up as part of the balancing exercise - it is determinative of nothing in the context of the 2018 application and yet the objectors seem to place significant weight on it.

Objection 1 - Mrs M Haley

Mrs Haley is a member of the Wiltshire Bridleways Association (WBA) and was formerly its Treasurer. She wrote on behalf of the WBA to object to the previous application in 2013 and we note her references to Barbara Burke's 2015 report. There is no relevance in Mrs Haley referring to conclusions reached in the 2015 report in the context of the 2018 application. The 2018 application is different from the 2013 application for the reasons set out in paragraph 2 of the 2018 application. Furthermore, the 2018

application was (rightly) considered wholly distinct from the 2013 application when it was considered by Sally Madgwick (see para 5.15 of the Decision Report).

Objection 2 - Kate Ashbrook, Open Spaces Society (OSS)

Beyond the general remarks made above there is little substance in Ms Ashbrook's objection that requires comment.

We disagree with her view that the Order is defective.

The reference to BS5709 is misguided in that the relevant standards are not requirements but best practice guidance which suggests the pecking order of "least restrictive options". In the context of this application, the gaps are just that and no structures are being considered which might bring the above guidance into play.

Objection 3 - WBA

The WBA is relying on its letter from January 2019. We have addressed the issues raised therein in our letter dated 19 March 2019 (paras 35 to 44).

Objection 4 - Mr B Riley (of Trail Riders Fellowship)

See "General remarks" above. Mr Riley is also a WBA member.

Objection 5 - Mr J Higgs (of Trail Riders Fellowship)

See "General remarks" above.

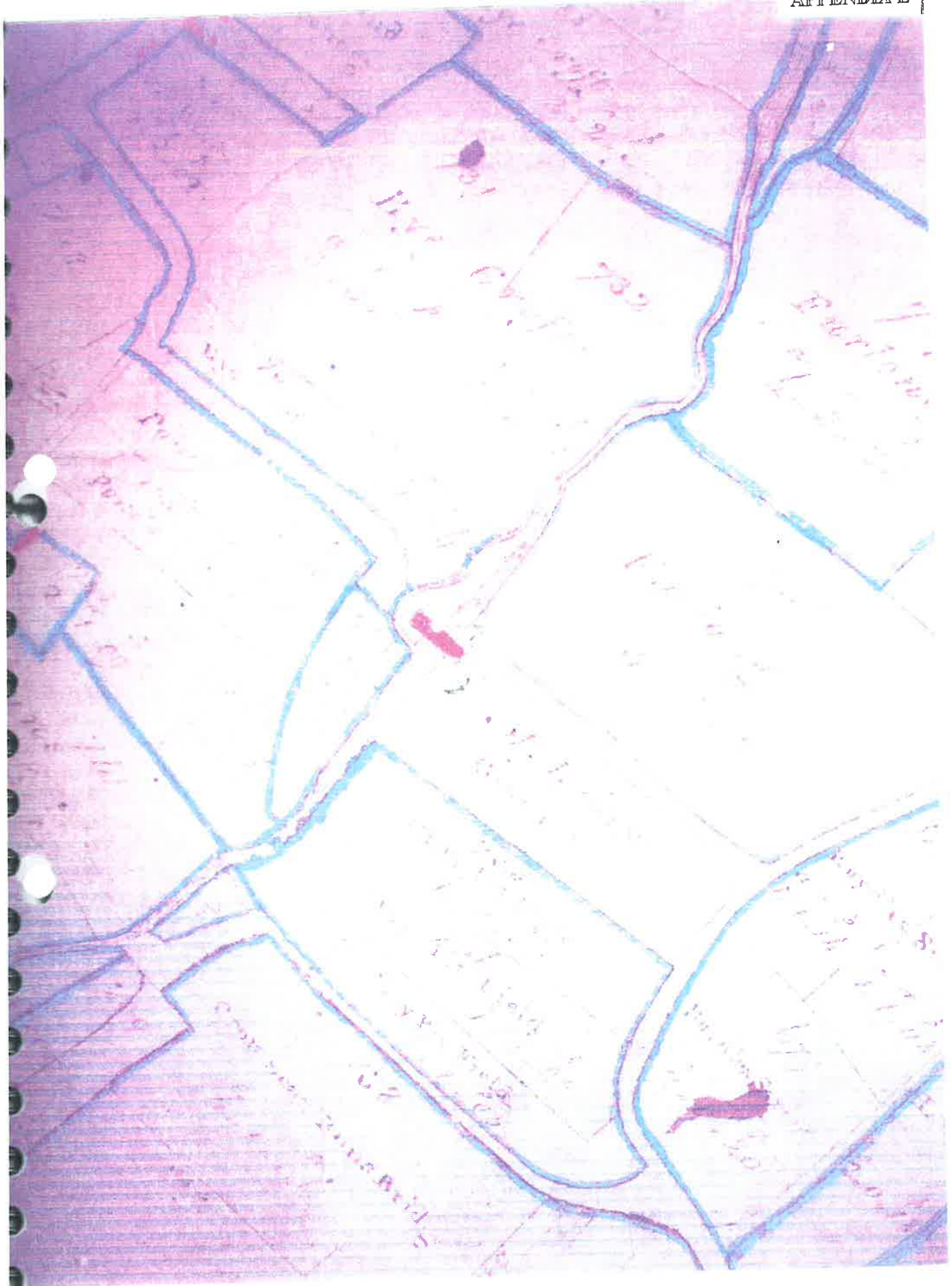
Costs

Given the stated aims of the WBA and OSS we suggest that it would surely be a better use of their time and resources to focus on other public rights of way matters that are far more contentious than this one - this diversion application has popular support including the Ramblers and BHS.

Furthermore, by withdrawing their objections they will also free up WCC time and resources to take on more worthy causes. With 2026 just around the corner there will be many DMMO applications that could ultimately provide a great benefit to the public and WCC will need all its available resources to deal with those applications.

We invite the objectors to withdraw their objections.

28 February 2020



F
G
H
I
J

Collection of Syllables by

John A. Wilkins

in
1802

No. 3

*Printed at the
Office of the
Missouri Gazette*

Calston

Manquets of Sundowne

100 Names of Pieces noble Pasture

Rob^t Bailey

130th Joshua

231. 2. 27 37. 3. 3

543 Picked hay	1. 1. 10
544 3000 or 4000 burning loads	2. 5. 25
545 1000 or 1200	1. 1. 1
546 1000 or 1200 burning loads	2. 2. 26
547 Little Hill	2. 2. 24
548 Homestead p Close	1. 3. 32
549 Homestead p Little Pasture Close	1. 3. 31
550 1000 or 1200	1. 1. 14
551 1000 or 1200	1. 3. 31
552 Little Hill	2. 5. 32
553 Above called in Pasture	1. 1. 37
554 Hill p Close	1. 3. 31
555 1000 or 1200	2. 2. 21
556 Middle of Little Pasture	2. 2. 29
557 Homestead p Close with the same	1. 1. 4
558 Homestead	2. 1. 2
559 1000 or 1200	1. 1. 20
560 1000 or 1200	1. 1. 26
561 1000 or 1200	1. 1. 25
562 1000 or 1200	1. 1. 6
563 1000 or 1200	2. 2. 5
564 Homestead p Close	1. 3. 34
565 1000 or 1200	1. 2. 14
566 1000 or 1200	2. 2. 29
567 1000 or 1200	1. 1. 16
568 1000 or 1200	1. 1. 6
569 1000 or 1200	1. 1. 1
570 1000 or 1200	3. 3. 30
571 1000 or 1200	1. 1. 10
572 1000 or 1200	2. 2. 16
573 1000 or 1200	1. 1. 9

231. 2. 27 37. 3. 3



Order Decisions

Site visit made on 21 January 2020

by **Barney Grimshaw BA DPA MRTPI (Rtd)**

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

Decision date: 06 February 2020

Order Ref: ROW/3226575

- This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as The Wiltshire Council Parish of Royal Wootton Bassett Paths No.10 (part) and No.111 (part) Diversion and Definitive Map and Statement Modification Order 2018.
- The Order is dated 21 May 2018 and proposes to divert parts of two footpaths at Woodshaw Meadows, Royal Wootton Bassett as shown on the Order Maps and described in the Order Schedule.
- There was 1 objection outstanding when The Wiltshire Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed subject to a modification that does not require advertising.

Procedural Matters

1. I made an unaccompanied inspection of the area on 21 January 2020, when I was able to walk and/or view the whole of the proposed new paths and the routes of the existing ones.
2. In writing this decision I have found it convenient to refer to points on the Order routes as shown on the Order Maps. I therefore attach copies of these maps.

The Main Issues

3. The Order is made in the interests of the landowner. Section 119 of the 1980 Act therefore requires that, before confirming the Order, I must be satisfied that:
 - It is expedient in the interests of the landowner that the footpaths should be diverted;
 - The new footpaths will not be substantially less convenient to the public;
 - The diversions are expedient with regard to:
 - the effect on public enjoyment of the rights of way as a whole;
 - the effect on other land served by the existing rights of way;
 - the effect of the proposed new rights of way on the land over which they are created and any land held with it.
-

4. Regard should also be given to any material provisions of the Rights of Way Improvement Plan for the area.

Reasons

Whether it is expedient in the interests of the landowner that the footpaths be diverted

5. The land crossed by the footpaths is currently being developed for the construction of new houses. The current routes of both footpaths pass through newly constructed properties. It therefore seems to be clearly in the interests of the landowner that the diversion should take place so as to allow the permitted development to be lawfully completed and the properties sold.
6. The objector argues that the existence of newly built houses on the existing routes of the footpaths should be disregarded when considering the proposed diversions and to some extent this is true. However, even if this is done, it seems to me that it is clearly in the interests of the landowner for him to be able to carry out the housing development for which he has acquired planning permission.

Whether the new footpaths will be substantially less convenient to the public

7. Footpath 111 is proposed to be diverted to a more direct route along a field boundary in one section and partially on to surfaced paths. The proposed new route is of a similar length to the existing one. Overall, this would seem to be at least as convenient to the public. I also note that there are no objections outstanding in respect of this diversion.
8. On the other hand, the proposed diversion of Footpath 10 involves a significant deviation from the present relatively direct route which would add 140 metres to the length of the footpath. The proposed new route would follow an estate road, Evening Star, for approximately 100 metres (Points C-D, Plan A).
9. It is argued on behalf of the OMA and the landowner that, in the context of a footpath 2.7km long, the extra distance would not make the path substantially less convenient to the public. It is also pointed out that for some users wishing to join the path part way along, the new route could be more convenient.
10. The proposed new path would be surfaced in part and elsewhere is said to be located on better drained land than the existing route and accordingly is likely to be more convenient for users in wet conditions.
11. The additional distance and less direct route of the proposed new section of footpath might be regarded as less convenient by some users. However, this will to some extent be offset by the path being either surfaced or crossing better drained land and, in any event, it is my view that, overall, the new route will not be substantially less convenient to the public.

The effect on public enjoyment of the rights of way as a whole

12. The development of the area crossed by the paths will inevitably be altered as a result of the housing development and this will change the character of the footpaths. This would be the case even if the development had been designed in a manner that did not require any footpath diversions.

13. With regard to Footpath 111, apart from the inevitable change in the character of the area, I see no reason why the proposed new route would be less enjoyable to use.
14. With regard to Footpath 10, the fact that approximately 100 metres of the proposed new route will follow an estate road might make this less enjoyable for some users. However, the section of road involved will only serve a limited number of houses and is unlikely to be heavily trafficked. It is also a relatively short section of a much longer right of way.
15. On the other hand, the fact that the new path will be surfaced or less wet underfoot could make it more enjoyable to use. Overall, it is my view that the proposed diversion will not have a major adverse effect on public enjoyment of the right of way as a whole.

The effect on other land served by the rights of way

16. I have seen no evidence to suggest that the proposed diversions would have any adverse effect on other land served by the existing rights of way.

The effect of the new rights of way on the land over which they are created and other land held with it

17. All of the land over which the new rights of way would be created is in the same ownership as the existing paths. The landowner has applied for the diversions and believes that overall its effect will be beneficial. I have no reason think otherwise.

The Rights of Way Improvement Plan (ROWIP)

18. I have not seen the ROWIP, but it is stated on behalf of the OMA that the proposed new paths will be free from any barriers to access which is an important tenet of the plan. The plan also recognises that the historic nature of the rights of way network is likely to require changes in order to meet future needs. It would therefore appear that the proposed diversions will not conflict with any material provisions of the ROWIP.

Other Matters

19. The objector has put forward an alternative diversion in respect of Footpath 10 which he regards as preferable. However, it is not within my remit to consider such alternatives. I must assess the diversion proposed in the Order against the criteria set out in the 1980 Act which is what I have done.
20. In the Order, it is stated that it was formally sealed on the 21 May 201. This is clearly incorrect, and the OMA has requested that the Order be modified so as to state that it was sealed on 21 May 2018. I do not believe that this error will have misled or prejudiced the interests of any party as the Order is clearly titled as having been made in 2018. I have also seen evidence that the Order was in fact properly sealed on the 21 May 2018. I therefore propose to modify the Order accordingly.

Conclusions

21. Having regard to these and all other matters raised, I conclude that the Order should be confirmed subject to the modification referred to.

Formal Decisions

22. I confirm the Order subject to the modification of the date when it was sealed so as to read "*this 21st day of May 2018*".

Barney Grimshaw

Inspector

Date: 18/05/2018

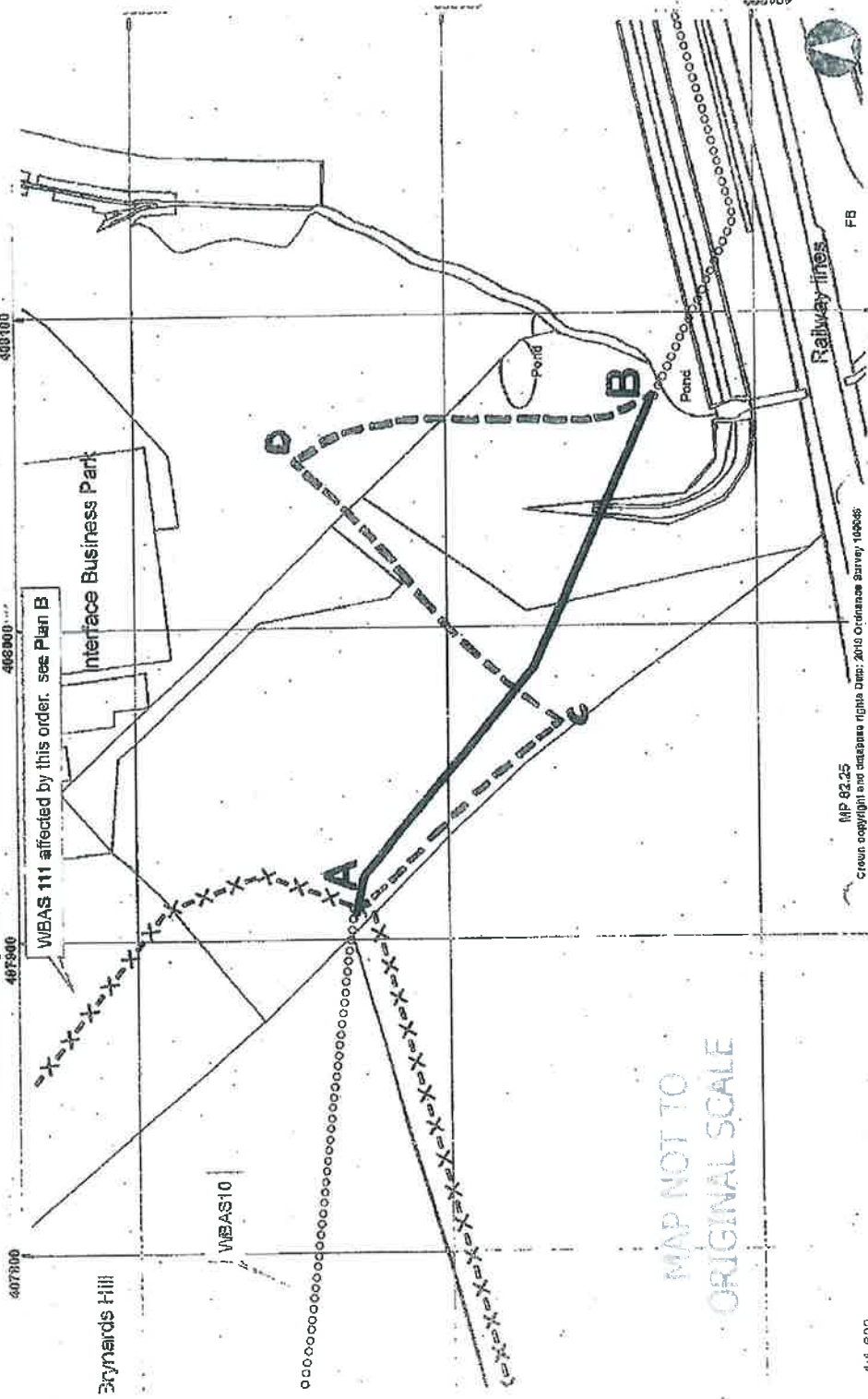
PLAN A

PLAN A - Wootton Bassett path no 10

Path to be extinguished A ——— B

Path to be created A - - - C - - - D - - - B

Unaffected paths



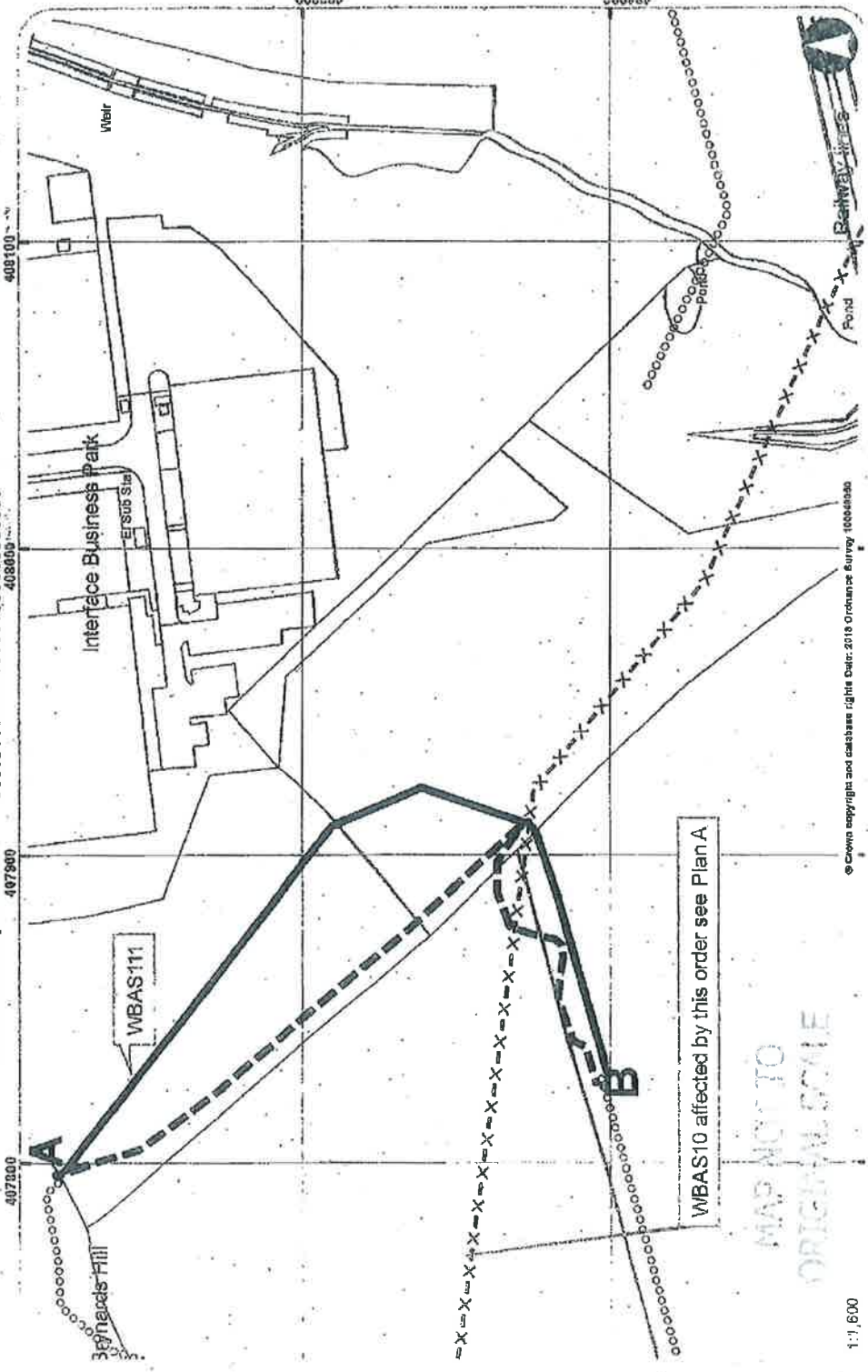
MAP NOT TO ORIGINAL SCALE

MP 82.25
Crown copyright and database rights 2018 Ordnance Survey 100008

1:1,800

PLAN B
 Date: 16/05/2018

PLAN B
 Path to be extinguished A ———— B
 Path to be created A - - - - - B
 Unaffected paths



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WBAS10 affected by this order see Plan A

MAP NOT TO ORIGINAL SCALE

1:1,600