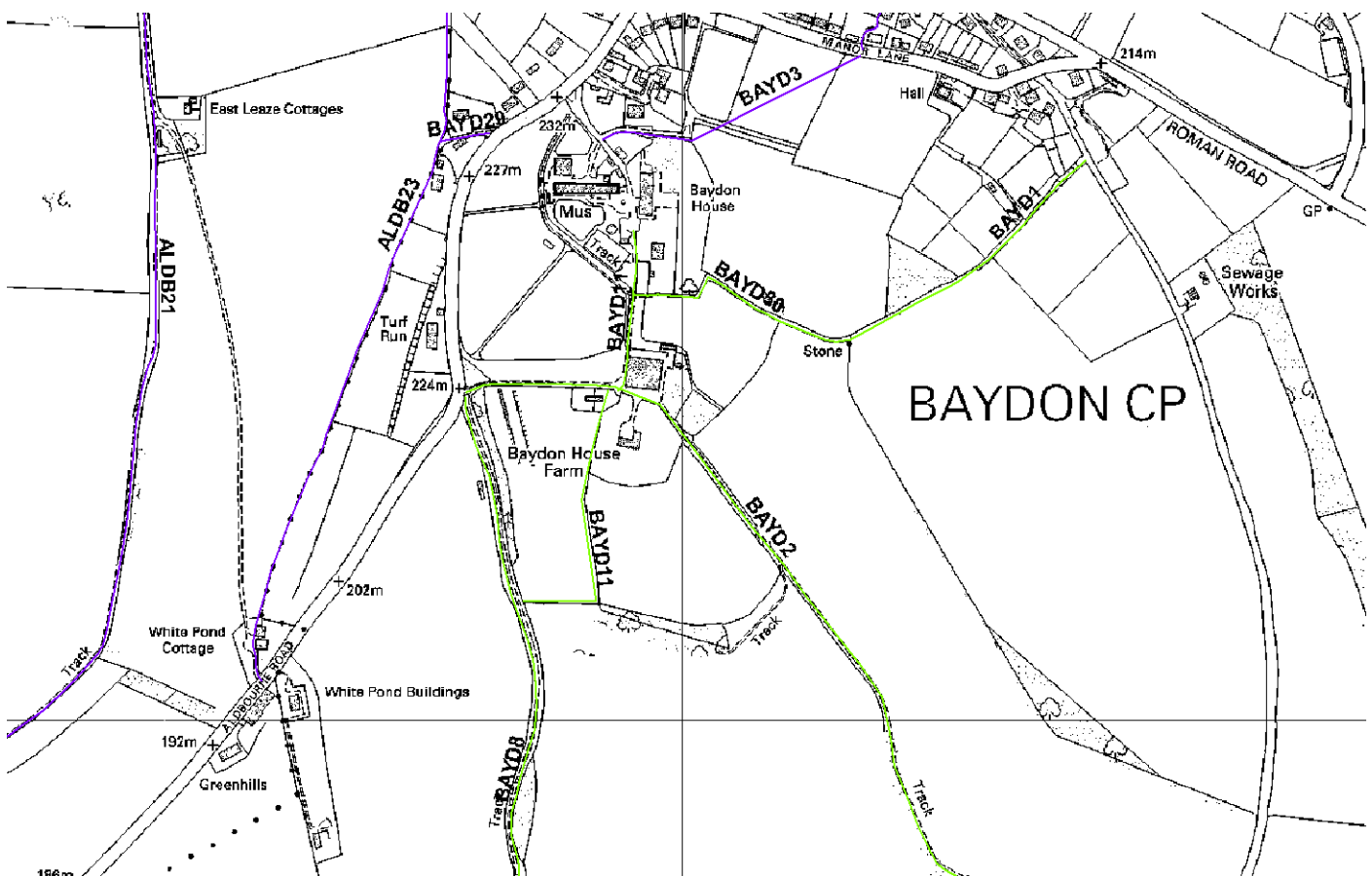


Review of widths and limitations

1 Overview

The farm now called Baydon House Farm but formerly known as Payne’s Farm has its buildings at the cross roads of public rights of way Baydon 2 and Baydon 11. Both routes are currently recorded in the definitive map and statement as bridleways though it is noted that this is without prejudice to the existence of any higher rights (s.56 Wildlife and Countryside Act 1981). Baydon 2 was claimed by Baydon Parish Council in 1950 as a Bridle Road (Payne’s Lane) and Baydon 11 was claimed by the parish council in 1950 as a Road Used as a Public Path (RUPP). The Countryside Act 1968 required the reclassification of RUPPs and Baydon 11 was reclassified as a bridleway without objection. It is noted that this reclassification is also without prejudice to the existence of higher rights (R v Secretary of State for Environment ex parte Riley (1989) 59 P & CR 1).

The working copy of the definitive map shows the rights of way as below:



And the statement records:

- | | | |
|-----------|---|--|
| Baydon 2 | <u>BRIDLEWAY</u> . Paynes Lane. From the Aldbourne road C.189, at its junction with path No.8, leading east to Paine's Farm, then south-east to road U/C 5018 north of Gore's Copse. Approximate length 1.2 k.m. | Relevant date
1 st January
1985 |
| Baydon 11 | <u>BRIDLEWAY</u> . From the southern end of road U/C 5013 at Baydon House Farm leading in a southerly direction past Paine's Farm, across path No.2 continuing south for approximately 270 m then in a westerly direction to path No.8. Approximate length 303 m. | Relevant date
1st January
1985 |

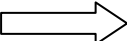
It is noted that no width is recorded for either route. It is therefore necessary to consider what width, on the balance of probabilities, would public rights have extended to. An application has been made for the erections of gates on Baydon 2 and 11 and this has raised the question of both the width of the right of way and the status that should be recorded in the definitive map and statement.

2 Historical Context

Although currently a network of bridleways exist in the area south of Baydon, a considerable amount of historical mapping exists that depict the routes as being of greater local importance in the past. Until the 1790s Baydon was a tithing in the parish of Ramsbury and although modern routes predominantly link Baydon with neighbouring Aldbourne, at the end of the 18th century the village of Ramsbury and the settlements at Mariage Hill were clearly more prominent and important destinations than they are today. Marring Hill is shown on modern OS maps and lays at the southern end of Baydon 7.

Andrew's and Dury's Map of Wiltshire (1773) drawn at a scale of 2 inches to one mile is an important early county map and shows fenced and unfenced roads, buildings, gardens, relief (by shading or hatching), farms and churches. The map represents the route of bridleway Baydon 8 as being the most direct north south road from Baydon and depicts bridleway Baydon 2 and 7 as being roads leading to Mariage Hill. The C.189 which leaves Baydon from the south towards Aldbourne is shown as a road but not as the major route out of the village.

See excerpt from map on page 3.

The white arrow  indicates Baydon path 8.

The yellow arrow  indicates Baydon path 2.

The red arrow  indicates the C.189 road to Aldbourne.

Baydon 11 is not wholly apparent on this map though routes are shown that would link Baydon House and the village with the farm, they are however not on the straight line route that exists today.

Although the map of Wiltshire does not have a key, Andrews' and Dury's map of Hertfordshire does and the symbology would appear to similar. Hence it is noted that Baydon 2 from the C.189 to a point south east of the farm was a road fenced on both sides but continuing on as an unfenced road to meet the unclassified road u/c5018 and Baydon path 7 south the Mariage Hill.

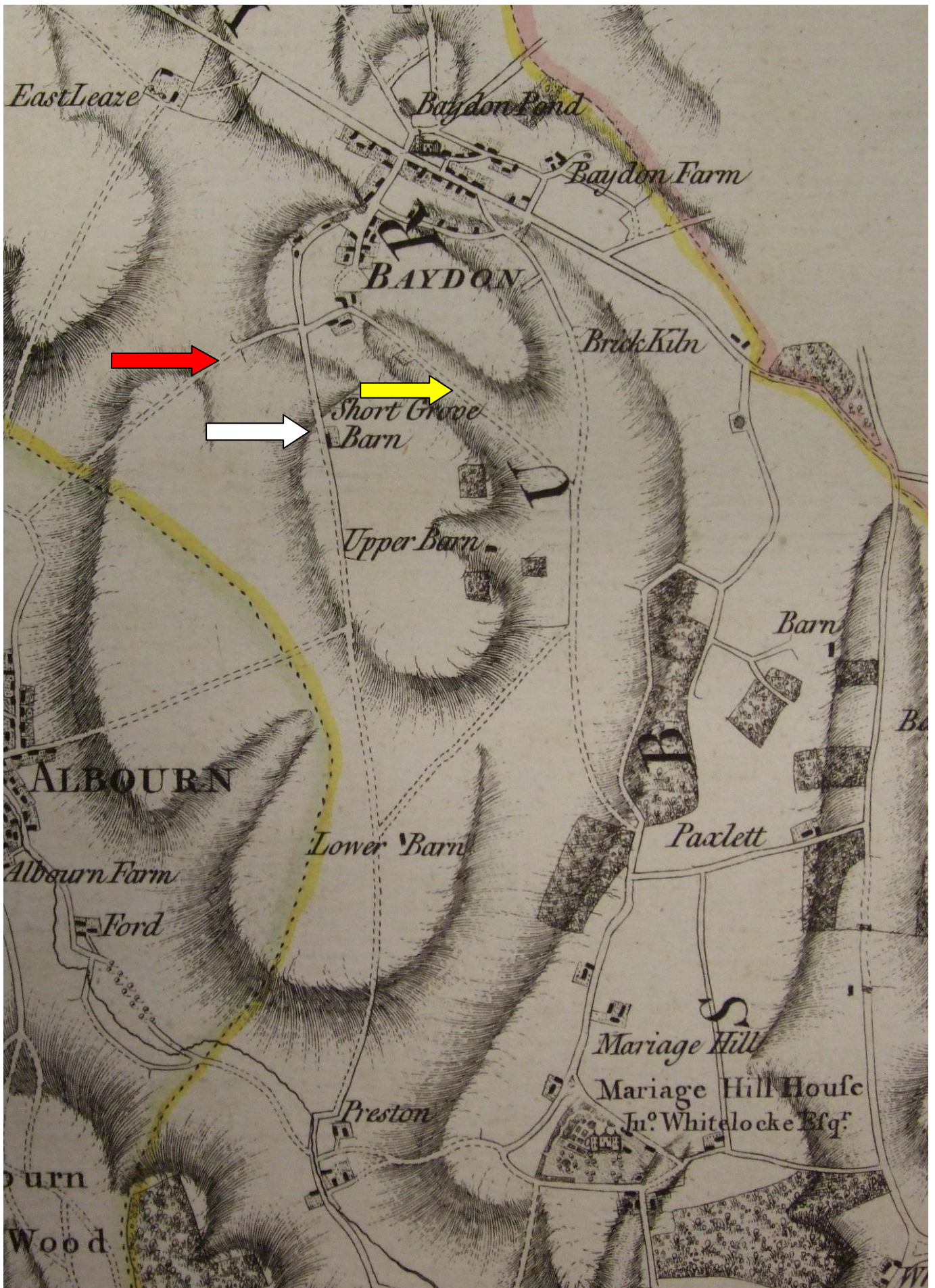
This would suggest that some enclosure of land close to the farm and buildings had occurred by 1773. The surveyor was careful with this notation as can be seen at Preston where the road (the continuation of Baydon 8 into Ramsbury) is shown fenced on one side and unfenced on the other.

The process of enclosure happened by two awards in Ramsbury and the tithing of Baydon in 1722 and in 1777/1778.

Although a map accompanies the 1778 award it is predominantly of the centre of Ramsbury and does not extend to show the lands enclosed in Baydon.

The 1727 award sets out a number of roads and one footway. Without a plan showing the enclosures it is difficult to ascertain where the roads lead, however all the roads have an awarded width given in the table at page 4.

The 1777/1778 award sets out 16 public roads or highways and some footways. All of the public roads or highways have a breadth of forty feet. 7 of these are in the tithing of Baydon. As with the 1727 award it is difficult to determine exactly where these awarded routes lead without a plan showing the Baydon tithing allotments, however in 1982 the parish council considered that one of them was Baydon 7. It is clear that further work needs to be done on this to determine exactly where the awarded routes are.



Excerpt from Andrews' and Dury's Map of Wiltshire 1773

Table showing widths of roads awarded in 1727

No	Name	Width
1	Caresdon Lane	24 feet
2	Hare Lane	24 feet
3	London Road	42 feet
4	West Lane	24 feet
5	East Lane	24 feet
6	Parsons Lane	24 feet
7	A Way	12 feet
8	A Way	20 feet
9	Stone Lane Causey	30 feet
10	A Lane or Cartway	30 feet
11	A Lane	30 feet
12	Mead Lane	24 feet
13	Stone Lane Way	16 feet
14	Coomb Way	16 feet
15	South Lane	33 feet
16	Hill Close Lane	33 feet
17	A Lane or Way	16.5 feet
18	Cross Lane	33 feet

3 Evidence

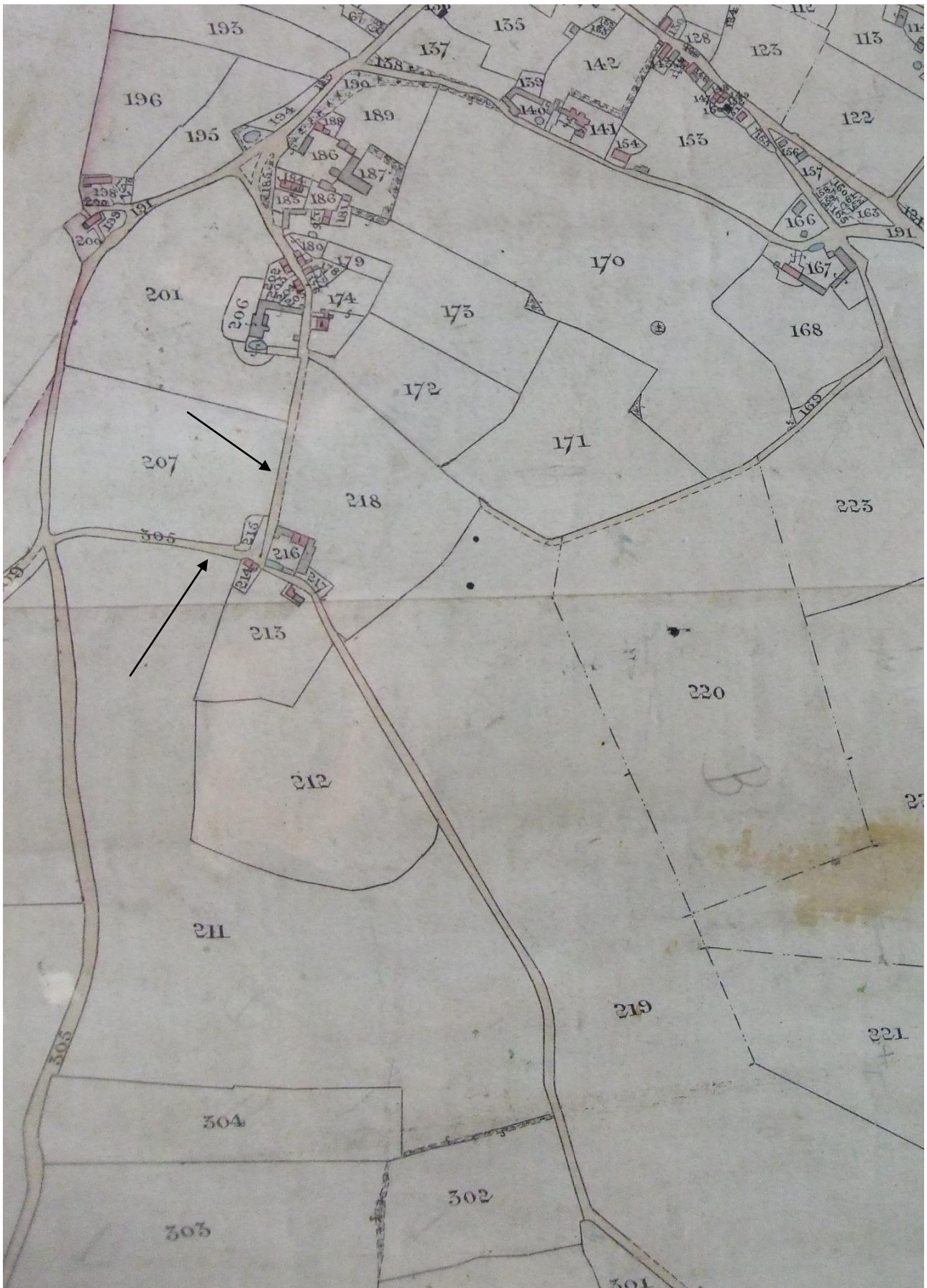
3.1 Parish Map 1845 (WSHC 2627/2H)

This map is a plan of the Parish of Baydon, surveyed by A M May, Marlborough and drawn at a scale of 6 chains to one inch. The whole parish is surveyed including the six titheable fields covered by the tithe apportionment of 1848. The plan bears the stamp of the tithe commissioners and may have been forwarded to their office as evidence of the limited amount of titheable land in the parish. It is considered that it was probably drawn up for parochial purposes.

Land parcels and roads are numbered but no book of reference appears to have survived.

Roads are shown coloured sienna and a considerable amount of the symbology used is that recommended in the British Parliamentary Paper XLIV 405 1837 suggesting a relationship with the tithe apportionment process. Roads have destinations written on them (i.e. "to Lambourne" "From Aldbourne"). The surveyor also appears to record where a road is fenced or unfenced – unfenced roads being shown by pecked lines along that boundary. An example of this is Baydon 1 south of Walrond's Farm.

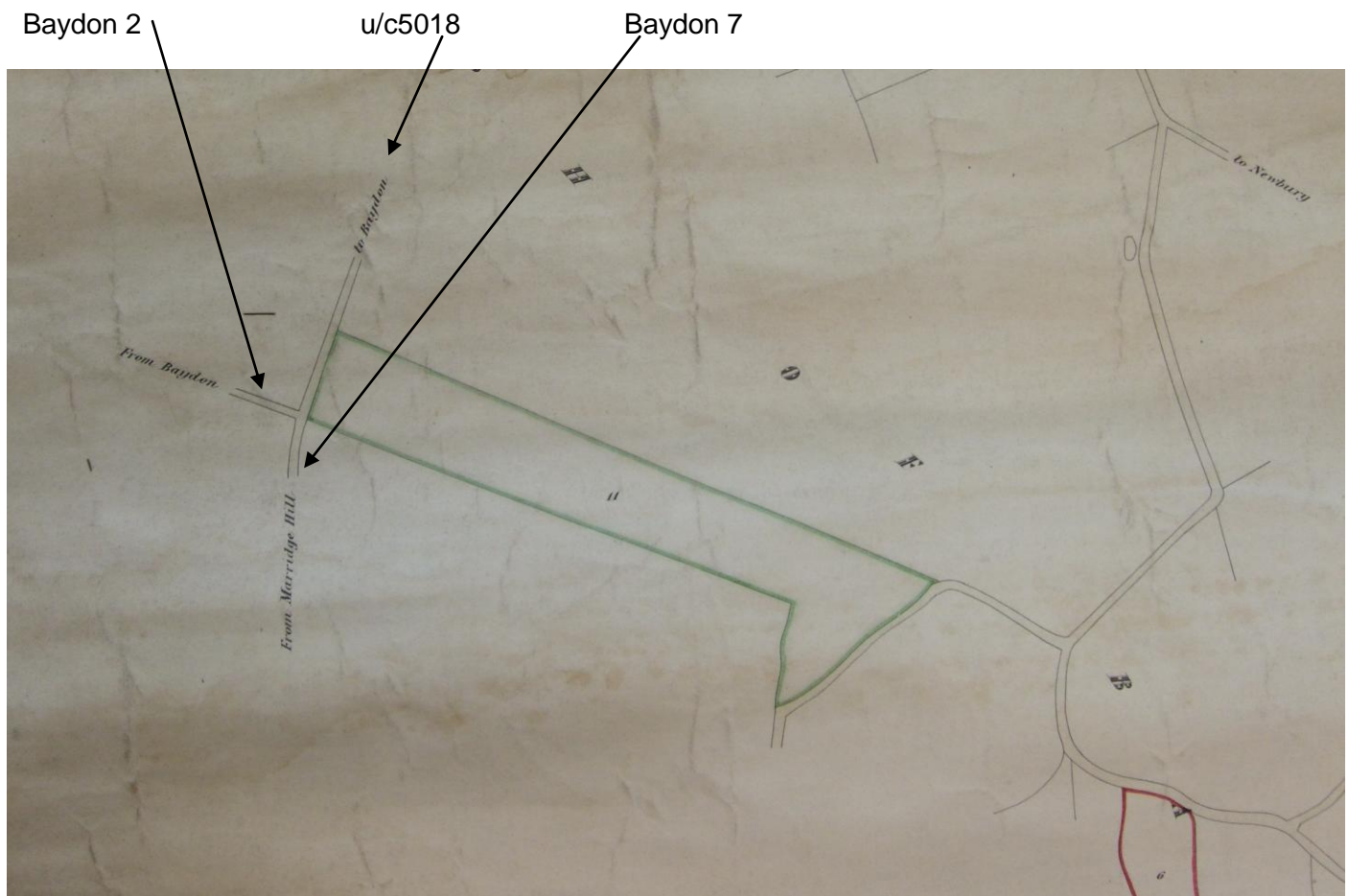
Baydon 2 and Baydon 11 to the farm that is now Baydon house Farm are shown coloured sienna and numbered 305. Baydon 2 is fenced for the majority of its route (being unfenced near to its junction with Baydon 7). Baydon 11 between the farm buildings is shown unfenced to the east side and leading through enclosure 218. No gates are shown here or on any other part of the map. It is therefore considered that the map did not show gates, even though they may have been present. For example, where a road crossed an enclosure it would be logical that it would have been gated.



Although an accurate width measurement has not been taken from this map it is reasonable to deduce that in 1845 Baydon 2 included the whole width between hedge or fence boundaries and that these boundaries were of a similar spacing to other local minor roads.

3.2 Tithe Map Baydon 1848 (WSHC T/A Baydon)

This map and apportionment only covers 6 titheable enclosures, none of which are in the area under investigation near the farm. Roads are shown in sienna with destinations (“from Marridge Hill”, “to Baydon” and “from Baydon”) and it is considered that the plan showing the enclosure numbered 11 shows the junction of Baydon 2 (“from Baydon”) with Baydon 7 (“From Marridge Hill”) and the u/c 5018 (“to Baydon”) – a route awarded in 1778.



3.3 Sales Plan 1890 (WSHC 1225/8)

Document 1225/8 is a bundle of documents appertaining to the sale of lands in Baydon. It contains a plan entitled:

Plan of the Freehold Property in the Parish of Baydon Wilts to be sold by Auction by Mr Mark Jeans at the Goddard Arms Hotel Swindon on Monday June 23rd 1890 at 2.30 pm in 8 lots.

The plan is drawn at 6 chains to one inch and was surveyed by Mark Jeans FSI, Surveyor, Marlborough. The plan shows roads coloured sienna (“To Aldbourne”, “To Lambourne”) and shows Baydon 11 to its junction with Baydon 2 and Baydon 2 as sienna coloured roads leading between enclosures. It is noted that the land surrounding these routes is in different ownership, some belonging to T.P. Brown Esq and Lots 2 and 3 being offered for sale. The farm that was subsequently Payne’s Farm and latterly Baydon House Farm was included in the sale of Lot 2.

The plan has not been measured but represents the routes being investigated as being fenced and of similar width to the surrounding road network (except the London Road – Ermin Street). It is also noted that by 1890 Baydon 11 where it passed through field no 22 was fenced.



Baydon 11

Baydon 2

3.4 Inland Revenue Finance Act 1909/1910 (WSHC L8/10/24 and L8/1/44)

The Finance Act of 1909/1910 required the Inland Revenue to conduct a nationwide valuation of property. The purpose of the survey was to value all property with the aim of raising revenue based on increases in property values when sold. A number of deductions were permitted and tax was not payable on these items. An example of an exemption is a road or public right of way, however there are other reasons for deductions which may include rights of common or other easements. Surveyors initially acted on information given by landowners but also conducted a full survey of all properties. Land and property holdings were divided into 'hereditaments' and maps were produced that showed coloured hereditaments. The base map for this was the 1:2500 Ordnance Survey Second Edition map (1901).

Section 35(1) of the Act says that "No duty under this part of the Act shall be charged in respect of any land or interest held by or on behalf of a rating authority". This land was represented by the valuer leaving it uncoloured and excluded from the surrounding hereditaments, often by 'broken braces'.

The survey in Baydon was conducted by a local valuer, Charles Smith of Westfield Farm, Aldbourne, who completed his surveying on Nov 28 1910.

In 1910 it was recorded that two landowners owned land abutting Baydon 2 which was bordered by hereditaments 423 and 469 and 467. The whole of Baydon 2 is excluded from the valuation and is left uncoloured and depicted by 'broken braces'. This is in common with the surrounding local road network.

Baydon 11 is not shown excluded from the valuation in this way and is shown as a track through fields, unfenced on the underlying map (1899 revision). Hereditament 423 is Browns Farm and was owned by Reginald Brown of Brodsworth, Doncaster and occupied by Chas Herbert Hussy. It was a large land

holding (264 acres and 3 roods) and the valuer did not record any deductions for public rights of way or user over it, though he did, it is noted, make this deduction for other hereditaments.

The Finance Act plan provides good evidence, that on the balance of probabilities, that the whole of Baydon 2 was regarded as a road and not as part of any of the three surrounding landowner's holdings.



Excerpt from Valuation Plan (working copy) sheet XXIV.5 Wiltshire

3.5 Ordnance Survey 1:2500 County Series

Baydon 11 and part of Baydon 2 are shown on Wiltshire Sheet XXIV.5. This series of maps provides the most accurate source of mapping information available for the whole of the country dating from the late 19th century to the middle of the 20th century. The scale of the maps is 1:2500 and although care must be taken in taking measurements from them, they are likely to provide the best source of accurate measurements available.

The extract below is taken from a recent court case (Fortune and others v Wiltshire Council and Taylor Wimpey 2010) where McCahill J found for the following evidence from Mr Vaughan, a surveyor. In his evidence Mr Vaughan compares modern surveying methods with the 1:2500 County Series maps of the Ordnance Survey:

57. On 9 November 2006, Mr Vaughan returned to Rowden Lane to undertake a detailed measured survey. He used very modern and sophisticated equipment which produced a map of great accuracy. Distances were measured to plus or minus 1mm and the collected data was transferred electronically to a computer which produced a digital survey drawing. The accuracy of the survey drawing prepared by Mr Vaughan was orders of magnitude greater than any other form of mapping already available.
58. The next most accurate form of mapping is that produced by the current Ordnance Survey ("OS") map, at accuracies of around 1m (urban), 2.3m (rural). The accuracy of the detail surveyed by him was better than 50mm (2 inches).
59. Having prepared his own digital survey drawing (4077), he then mapped on to it a series of OS maps, starting with the most recent OS map currently available followed by the 1924, 1900 and 1886 editions. As a result, he produced a number of survey drawings, each combining his own survey drawing with each of those four OS maps, attempting to obtain a best fit. They form Appendices E1, E2, E3 and E4 to his report.
60. The correlation of data between his map and the most recent OS map is excellent, as illustrated by the correlation of hard features at either end of the disputed length of the track.
61. Comparing his digital survey drawing with the most recent digital OS map, he concluded that Rowden Lane had changed very little over the last 10 years. He then looked back at the earlier maps, starting with 1924, through 1900 and ending with the 1886 map. He found excellent correlation between his own digital survey and the 1924, 1900 and 1886 OS maps too.
62. His conclusion, therefore, was that with respect to the agricultural features, there was a high probability of continuity, suggesting that the current configuration of Rowden Lane has broadly remained the same over the last 120 years.

Three editions of the 1:2500 were viewed and measured:

Second Edition 1899 Surveyed 1883 Revised 1893

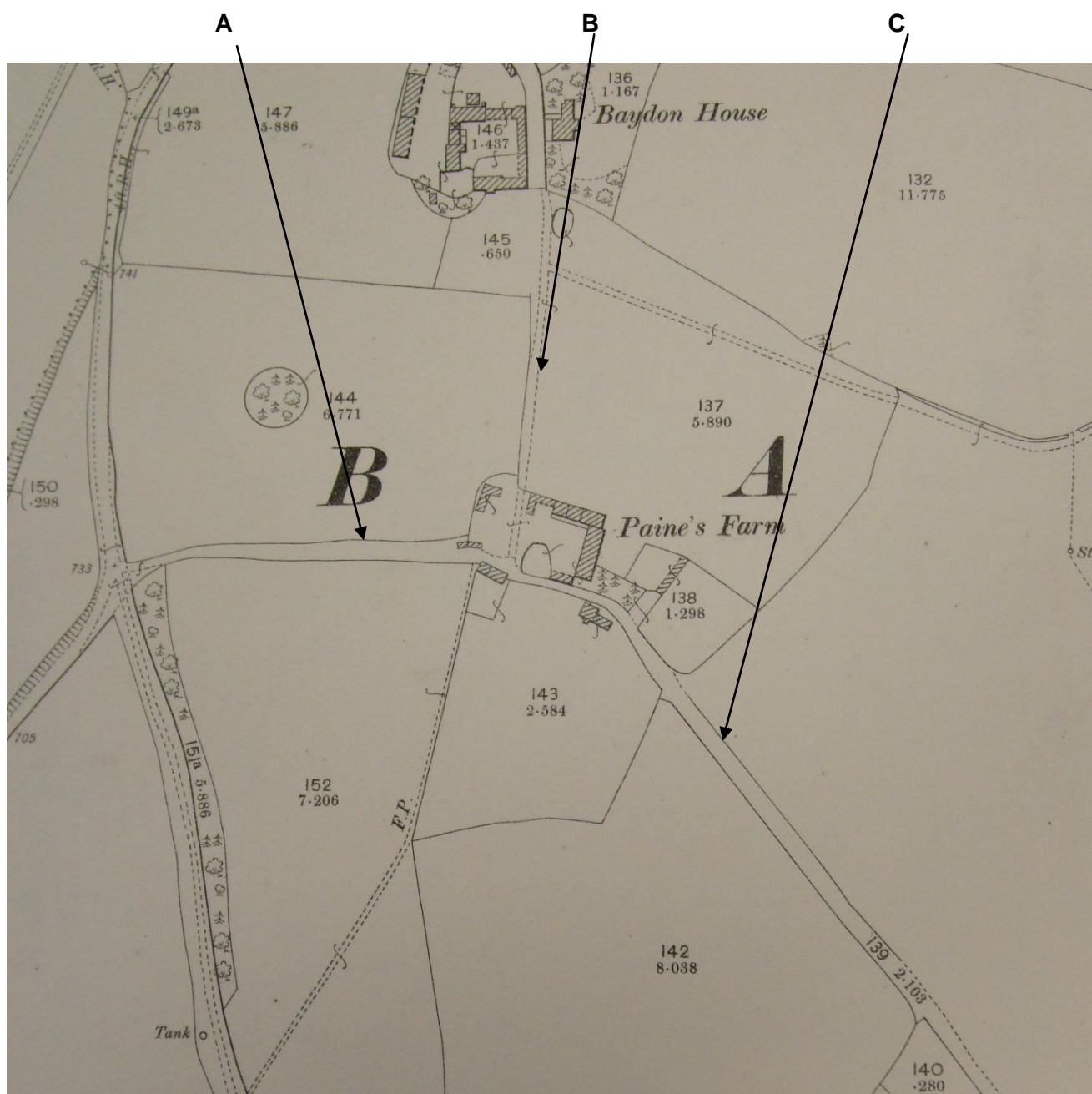
Edition of 1912 Surveyed 1883 Revised 1898 (and Berks section 1910)

Edition of 1924 Surveyed 1883 Revised 1910

All maps were measured using a steel ruler and all maps scale bars were also measured. The scale bars on all maps gave that **61mm = 500 feet**

None of the maps record any gates on Baydon 2 which is represented as a public road in that it was separately measured and numbered. Baydon 11 is shown having a gate at the point where it leaves parcel number 137 and joins parcel 139 (Baydon 2). It is also shown gated near Baydon House (at the end of the u/c road). None of the maps record a change in this condition. **APPENDIX 1**

Measurements were made of the width at the following points:



Map Edition	Point A mm	Point A feet	Point B mm	Point B feet	Point C mm	Point C feet
1899	4.5	36.9	2.5	20.5	4.0	32.8
1912	4.5	36.9	2.5	20.5	4.0	32.8
1924	4.5	36.9	2.5	20.5	4.0	32.8

3.6 Parish Claim

As a result of the National Parks and Access to the Countryside Act 1949 Parish Councils were required to identify what rights of way existed within their parish to the County Council. These surveyed formed the basis for the definitive map of public rights of way. Baydon Parish Council formed a special committee to deal with this task and the returns are reasonably well detailed and researched. Claim forms invited the council to give additional information but no question relating to width was asked. Details from the forms for Baydon 2,7,8 and 11 are as follows:

Baydon 2 – Paynes Lane – Bridle Road of flint and cobbles from White Pond Hill to Paynes Cottage then grassy surface. No stiles, gates, footbridges or stepping stones, no direction posts and in a good state. Not subject to ploughing.

Baydon 7 – Field Barn Lane – Bridle Road. Grassy. No stiles, gates, footbridges or stepping stones and no direction posts. Uninterrupted for its whole length.

Baydon 8 – Green Hill or Green lane – Bridle Road of part flint and part grass. No stiles, gates, footbridges or stepping stones and no direction posts. White Pond Hill to parish boundary known as Green Hill to Fords Farm and is open.

Baydon 11 – From Baydon House Farm to Green Hill Lane – Carriage Road Bridleway. Part flint and part grassy. Four gates, first at Baydon House, second at Payne’s Farm. Third at Payne’s Cottage and Fourth at Green Hill Lane.

3.7 Land Ownership

Baydon 11 from Payne’s Farm Gate north to Baydon House gate is part of title number WT166023 and in 2008 was in the ownership of Basella Ltd, though now thought to be in the ownership of Mr and Mrs M Lloyd. The route of Baydon 2, was not included in the 1890 sale and was at the time of the Finance Act 1910 not recorded as being in any person’s ownership and bounded by three different landowners. It would be worth further investigating the current land ownership in this area and requesting details of the conveyance that would have affected Baydon 2.

4.0 Recommendations

That the width of **Baydon 2** is between the field boundaries of the land adjoining which appears to have been enclosed in part by 1773. These widths have been measured from historical maps and appear to be between 33 and 37 feet. The public would be entitled to the use and enjoyment of the full width. This is greatly supported by the Inland Revenue Finance Act evidence and it is noted that 33 feet was a width measurement awarded and set out in 1722.

No gates have ever been recorded along this route. This is not surprising as it is depicted consistently as a through route leading from the upper part of the village to Marridge Hill and Ramsbury and has, on the

balance of probability, got higher rights along it. This being the case any gating of the way would, in all likelihood, have constituted an obstruction to the highway.

That the width of **Baydon 11** is more difficult to ascertain as it ran through an enclosure and was not fenced on one side for much of its existence. This width is likely to have been similar to the width of lanes in the local area and it appears to have been dedicated to the public by such use since 1773. The measured width of 20.5 feet is likely to be a minimum.

As this route is subject to a later dedication and because it led through an enclosure it is considered that the gate at Payne's Farm buildings is a feature of the route. It also separates different land holdings.

The continuation of Baydon 11 past Payne's Cottage is also a later dedication and it is likely that the gates claimed by the parish on this route are features of the route.

Sally Madgwick

31st January 2010