

Rights of Way response to planning application E/2013/0170/FUL

FW: E/13/0170 is for extensions to Agricultural Buildings at Baydon House Farm, Baydon, Marlborough, SN8 2HX

The Rights of Way Section comments is as follows

- 1) The proposed development will, if it proceeds, obstruct the following public rights of way:
 - Bridleway No. 2, Baydon
 - Bridleway No. 11, Baydon

Applications for Public Path Diversion Orders under Section 257 of the Town and Country Planning Act 1990 for the affected sections of these bridleways will need to be made to Wiltshire Council and any Orders made, confirmed before the development that would prevent access to and along them.
- 2) Section 257 only permits paths to be diverted to the extent that allows the permitted development to proceed. The indicative plan included with the planning application proposes diversions of significant length; Wiltshire Council will need to be satisfied that they are necessary.
- 3) There is considerable evidence that, on the balance of probabilities, higher rights than those recorded in the Definitive Map and Statement exist over Bridleway Baydon No.2 and also over the northern section of Bridleway Baydon No.11 north and south of point A. The evidence for the existence of the higher right has already been provided to the owners of Baydon House Farm by Wiltshire Council's Rights of Way and Countryside service. Any application to divert just the bridleway rights is not only likely to attract objections but would be fundamentally flawed. In order to avoid the risk that higher rights than bridleway would be left undiverted, there are two options:
 - The landowner may agree to dedicate the replacement (diverted) path(s) as restricted byways, to include the higher rights. This process is straightforward and has been successfully employed elsewhere on a number of occasions, or
 - Wiltshire Council could further investigate the routes under Section 53(2) of the Wildlife and Countryside Act 1981, in order to determine their conclusive status prior to diversion, however this is potentially a lengthy process and could significantly delay the development.
- 4) Wiltshire Council does not necessarily agree that the route of Baydon Bridleway 11, south of point B on the indicative plan to its junction with Bridleway Baydon No.8, is correctly shown on either of the red and blue lines. The definitive routes will need to be agreed between the council and the landowners before any diversion order affecting this part of the route is made.
- 5) The specifications for the diverted routes will need to be agreed between the council and the landowners prior to the making of any diversion orders. As an indication of the council's requirements, the replacement routes will need to be of a minimum of 5.0 metres in width, surfaced with good quality stone and with the minimum possible number of gates or barriers only for the purpose of controlling the ingress and egress of animals.

- 6) Wiltshire Council's Rights of Way and Countryside service should be contacted for any additional advice required.