

**AMESBURY: PROPOSED DIVERSION OF BYWAY OPEN TO ALL TRAFFIC NO. 1  
(PART) AND BRIDLEWAY NO. 29 (PART)  
OFFICER'S RESPONSE TO OBJECTIONS**

OBJECTION	OFFICER'S RESPONSE
<p>The proposed byway diversion would fail the essential Section 116 requirement for being more "commodious".</p>	<p>The diversion of Byway No.1 Amesbury is considered by Officers to be more commodious for the following reasons:</p> <ul style="list-style-type: none"> <li>• The new track will be laid with a hardcore material surface, which can be used in all weathers. The present surface of Byway 1 can become rutted and waterlogged during the winter months.</li> <li>• The new 6 metre wide track and verge of 2 metres will exceed the legal width of the byway presently recorded in the Definitive Statement as 2.5 – 3.6 metres.</li> <li>• The increase in length of the path is not substantial (i.e. approximately 108 metres is replaced by approximately 140 metres) and the start and end points remain the same.</li> </ul>
<p>The proposed byway diversion is wholly unnecessary and devoid of any real merit. It would provide no benefit for byway users, nor any genuine prospect for protecting an ancient monument that's been traversed by heavy "coach" traffic for some considerable period of time during the 16<sup>th</sup> – 19<sup>th</sup> centuries and probably originating during the period of Roman occupation.</p>	<p>The reasons for the byway diversion are stated above.</p> <p>It is understood that the byway diversion was initially proposed by English Heritage, to protect Scheduled Ancient Monument No.12200 from further damage and protect the setting of the Scheduled Ancient Monument. An application has not been received from English Heritage, but it is clear that the Amesbury Property Company fully supports the proposals and have subsequently made the application, including a schedule of works to make the diversion route available.</p>

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	<p>It is acknowledged that Byway No.1 Amesbury is an ancient route from Salisbury – Marlborough, however, Wiltshire County Council's policy on rights of way, does include historical and archaeological considerations, stating “...<i>there may also be a need to consider minor path diversions in order to avoid conflicts between access and archaeology...</i>” There are deep wheel ruts to the eastern side of the present line of the byway which could be damaging archaeology and English Heritage obviously consider that there is enough threat to support a diversion. The Assistant Archaeologist at Wiltshire County Council has written to support the diversion of Byway No. 1, to ensure the long term preservation of Scheduled Ancient Monuments in the area.</p> <p>Comments have been received in support of the application, expressing regret at the diversion of the historical route, but also recognising that some change is inevitable and that the proposed changes are the best solution.</p> <p>English Heritage has advised the Amesbury Property Company that it would require regular access to the barrows for ongoing management and trust that the diversion will allow for this to be retained from the byway. The Amesbury Property Company has advised that it intends to topsoil the existing route so future access for English Heritage will not be hindered.</p>
<p>If English Heritage were to attempt any “restoration” of this Bronze Age round-barrow, it would scandalously contravene their own long-established code of practice.</p>	<p>It is understood that the byway diversion was initially proposed by English Heritage to protect Scheduled Ancient Monument No. 12200 from further damage and protect the setting of the Scheduled Ancient Monument.</p>

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<p>It would be mischievously irresponsible for the county highways authority to abuse the Magistrates' Court by presenting a proposal which is so manifestly incompatible with the intentions of the Highways Act 1952 and in clear contravention of national government guidelines.</p>	<p>Officers have been unable to find reference to the Highways Act of 1952.</p> <p>The Department of the Environment Circular No. 2/1993 <i>"Public Rights of Way"</i>, <i>"consolidates and amplifies, where necessary, previous guidance on recording, maintaining, protecting and modifying the rights of way network"</i>. The document forms only advice and guidance to local authorities and they are not bound by non-statutory guidance. Paragraph 35 of the document states that Section 116 of the Highways Act 1980, may be used by the Highway Authority to <i>"stop up or divert a highway of any description, other than a trunk or special road"</i>. It appears to Officers that the provisions apply to footpaths and bridleways, whilst acknowledging that there are separate powers under the Highways Act to stop up and divert footpaths and bridleways, i.e. Section 119 of the Highways Act as the Circular also states:</p> <p><i>"While it is recognised that there may be circumstances where it is appropriate to use the magistrates' court procedure, for example the extinguishment or diversion of a footpath or bridleway (or to retain such rights) simultaneously with the extinguishment of a vehicular right of way, the Secretaries of State consider that authorities should make use of the other powers available unless there are good reasons for not doing so."</i></p> <p>Officers consider that it is appropriate to use Section 116 to divert that part of Bridleway No. 29 Amesbury. There are <i>"good reasons"</i>, as the bridleway and byway applications have been made simultaneously, the bridleway adjoins the byway and it is therefore appropriate that they should be considered together in order to furnish the Magistrates' with an overview of the diversion proposals. The byway diversion must be considered by the Magistrates' Court under Section 116 of the Highways Act 1980 in any case.</p>

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<p>As I have clearly explained in earlier communications, the proposed routing of the bridleway, tightly sandwiched between a motor road and a metalled pedestrian/cycle path and partially obstructed by road signs and service "manholes", would be wholly inappropriate for equestrian traffic.</p>	<p>Officers consider that the bridleway diversion is more commodious to the public for the following reasons:</p> <ul style="list-style-type: none"> <li>• The diversion would provide a defined, permanent route, not subject to continual diversion and disruption as planning applications over the route are made and would ensure that the path is not disturbed by building activities. This would be beneficial for members of the public using the path in the future.</li> <li>• Additional width would be added to the path by the diversion. The legal width of the bridleway is presently recorded in the Definitive Statement as 1.84 – 2.4 metres. The new width of the path alongside the estate road corridor would exceed this, having a width of 3 metres and in the landscaped area the width would exceed 3 metres.</li> <li>• The new route is shorter in distance, having a length of approximately 490 metres, whilst its present length is approximately 580 metres. Although the diversion has a different termination point, it remains on the same highway (i.e. Byway 1 Amesbury) and to reach the same termination point on Byway 1 Amesbury (i.e. point B on <b>Appendix 1</b>) the diversion adds approximately 80 metres.</li> </ul> <p>The land use around the bridleway is changing due to the development of the Solstice Business Park, which has already been agreed by the District Council. It is unlikely that the present route, which was "<i>a pleasant rural ride</i>" can remain so, and it is not yet certain to what extent the area where the bridleway now lies will be developed. Change is inevitable in this particular case.</p>

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	<p>In consultations Wiltshire County Council has sought comments from the equestrian user groups, i.e. Wiltshire Bridleways Association and representatives from the British Horse Society, neither have made any comments or objections to the proposed re-routing of the bridleway. If these user groups were concerned by the proposals comments or objections would have been received. In all consultations it has been made clear to groups and individuals that the proposed new bridleway route will fall alongside the new estate road corridor. There are manhole covers within the verge area, none of which are raised. There are also two road signs and a lamppost located within the proposed bridleway which leaves a remainder of over 2 metres of the verge available for use by the public at these points.</p>
<p>It would be perfectly feasible and considerably more suitable for the bridleway to be routed at a distance of at least 20 metres from the roadway.</p>	<p>To divert the bridleway to a route at least 20 metres from the roadway is not an available option. The Amesbury Property Company has advised Wiltshire County Council of the route onto which it wishes to divert Bridleway No. 29. Presumably this route has been chosen because it is the most appropriate over land which is due to be developed and has outline planning permission. It appears that the southern section of the proposed new bridleway follows a route across the most open and landscaped part of the site.</p> <p>In consultations Wiltshire County Council has sought comments from the equestrian user groups, i.e. Wiltshire Bridleways Association and representatives from the British Horse Society, neither have made any comments or objections to the proposed re-routing of the bridleway. If these user groups were concerned by the proposals comments or objections would have been received. In all consultations it has been made clear to groups and individuals that the proposed new bridleway route will fall alongside the new estate road corridor.</p>

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<p>A suitable bridleway diversion should be processed under Section 119 so that any objections could be fully examined by means of a Public Inquiry.</p>	<p>Wiltshire County Council does not consider that Section 116 of the Highways Act 1980 is being incorrectly used to divert Bridleway No. 29 Amesbury. Neither do Officers consider that the Magistrates' Court hearing places objectors at a disadvantage, or prevents objections from being put forward.</p> <p>If a bridleway diversion is carried out under Section 119 of the Highways Act 1980, objections made to the making of an order and not withdrawn, could lead to a Public Inquiry, at which an independent Inspector appointed on behalf of the Secretary of State, will hear evidence from all parties in order to make a decision regarding the confirmation of the order. In comparing the Public Inquiry procedure to that of the Magistrates' Court hearing, both are equally open. Objectors and supporters are given ample opportunity for making their views known and the proposals would be subject to the same public consultation process.</p>