

WYLYE: PROPOSED ADDITION OF FOOTPATH WYLYE 11 TO DEFINITIVE MAP AND STATEMENT
SUMMARY OF EVIDENCE OF DEDICATION WITHIN THE RELEVANT 20 YEAR PERIOD (JANUARY 1987-JANUARY 2007)

EVIDENCE FOR DEDICATION	EVIDENCE AGAINST DEDICATION	OFFICERS COMMENTS	SUMMARY
<p>There have now been a total of 30 witnesses claiming to have used the route at some time during the relevant period. They say that no permission was given to them by the landowner to use the route.</p> <p>To the knowledge of the witnesses there were no notices indicating the route was not a public right of way in place when they used the route during the relevant period.</p> <p>Fourteen of the witnesses have claimed to have used the route at the beginning of the relevant period between 1987 and 1988. These witnesses all claim that the route was passable at those times and no obstructions were in place.</p>	<p>The landowner claims that people had been given permission to use the path during the relevant period but has been unable to supply details of those people.</p> <p>Five letters of objection have been submitted indicating that 'No Right of Way' notices were visibly in place on or adjacent to the claimed route during the late 1980s and early 1990s. It is claimed the signs were later removed by person or persons unknown. A photograph was submitted claiming to show a 'No Right of Way' notice at point A on the Order Map.</p> <p>The landowner submitted an aerial photograph of point B on the Order route and claimed this showed a continual hedgeline across the Order route where it joins the Old A303 (point B on the Order Map). The landowners family and Mr. Atterton (Mr. Lyall's Farm manager) claim that the route was not available for use between 1987 and 1988 (or a short while after this time) because of barbed wire across point B.</p> <p>Mr. Woolley, the landowner's Land Agent, states that it is believed the access from the Old A303 was not created before 1988 because until the Wyllye by-pass was constructed, this boundary was adjoining the busy highway and that no access to the fields existed when the A303 followed its original route.</p>	<p>There are conflicting statements between supporters and objectors to the Order concerning the existence of notices being in place during the twenty year relevant period. The burden of proof to rebut the witness evidence lies with those wishing to disprove the claimed public rights.</p> <p>The 1980 Act is clear on what must be done with regard to notices to rebut an intention to dedicate</p> <p>The landowner's photograph at point A was the only photograph submitted of claimed notices on or directly adjacent to the claimed route during the relevant 20 year period. The photograph is undated and too distant for any notice to be discerned (see s.31 (iii) of the Highways Act 1980). Other photographs of notices were submitted but were taken after the 20 year period and so are not relevant under the legislation.</p> <p>No notice was submitted to the County Council under s.31 (v) of the 1980 Highway Act during the relevant 20 year period of claimed use as is required under the legislation if site notices are torn down or removed, nor was any statutory deposit of a map and statement lodged with the relevant authority under s.31 (vi) during the relevant 20 year period of claimed use. Section 31 subsections (iii), (v) & (vi) of The Highways Act 1980 are set out in paragraph 26 of the main report.</p> <p>It was originally claimed by objectors that there was a continual thick hedgeline across the route where it joins the Old A303 at point B; the angle of the landowner's submitted photograph was such that this could not be determined from it. An aerial photograph dated 1981 from the County Archives shows a gap in the hedgeline at point B on the Order route.</p> <p>It is claimed by objectors that there was barbed wire across the gap until 1988. The access point on the Order route to the Old A303 is said by the landowner to have been cleared at the same time that a hedge running from a bend in Green Lane towards the Old A303 was removed, which was in 1988. Aerial photographs from the county archives show that the above mentioned hedge from the bend in Green Lane to the Old A303, and therefore also the access to the Old A303, was removed between 1971 and 1981 and not in 1988 as claimed by objectors. This supports the statements from the fourteen witnesses who have claimed to use the way without obstruction during 1987-8.</p> <p>Mr. Lyall (the tenant farmer from 1987) has claimed in a recent letter that to his knowledge there was no barbed wire at the junction of the Old A303 and he can remember no signs on or near the route</p> <p>Highway County Surveyor documents show that the final stages of the Wyllye bypass was completed in the year 1975-6, not 1988 as inferred by Mr Woolley, the landowner's land agent.</p>	<p>Officers believe the requirements of the Wildlife and Countryside Act 1981 have been met in that it is reasonably alleged on the balance of probabilities that public footpath rights subsist over the land on which the order is made and so to comply with the law the Order should be sent to the Secretary of State with all objections and representations with the recommendation that the Order is confirmed as made.</p>