

# AGENDA SUPPLEMENT (1)

**Meeting:** Southern Area Planning Committee

**Place:** The Pump Room - The Old Fire Station Enterprise Centre, 2 Salt Lane,  
Salisbury, SP1 1DU

**Date:** Thursday 11 January 2024

**Time:** 3.00 pm

---

**The Agenda for the above meeting was published on 3 January 2024. Additional documents are now available and are attached to this Agenda Supplement.**

Please direct any enquiries on this Agenda to Lisa Alexander of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01722 434560 or email [lisa.alexander@wiltshire.gov.uk](mailto:lisa.alexander@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

---

## **Part I – Presentation Slides (Pages 3 - 12)**

DATE OF PUBLICATION: 10 January 2024
--------------------------------------

This page is intentionally left blank

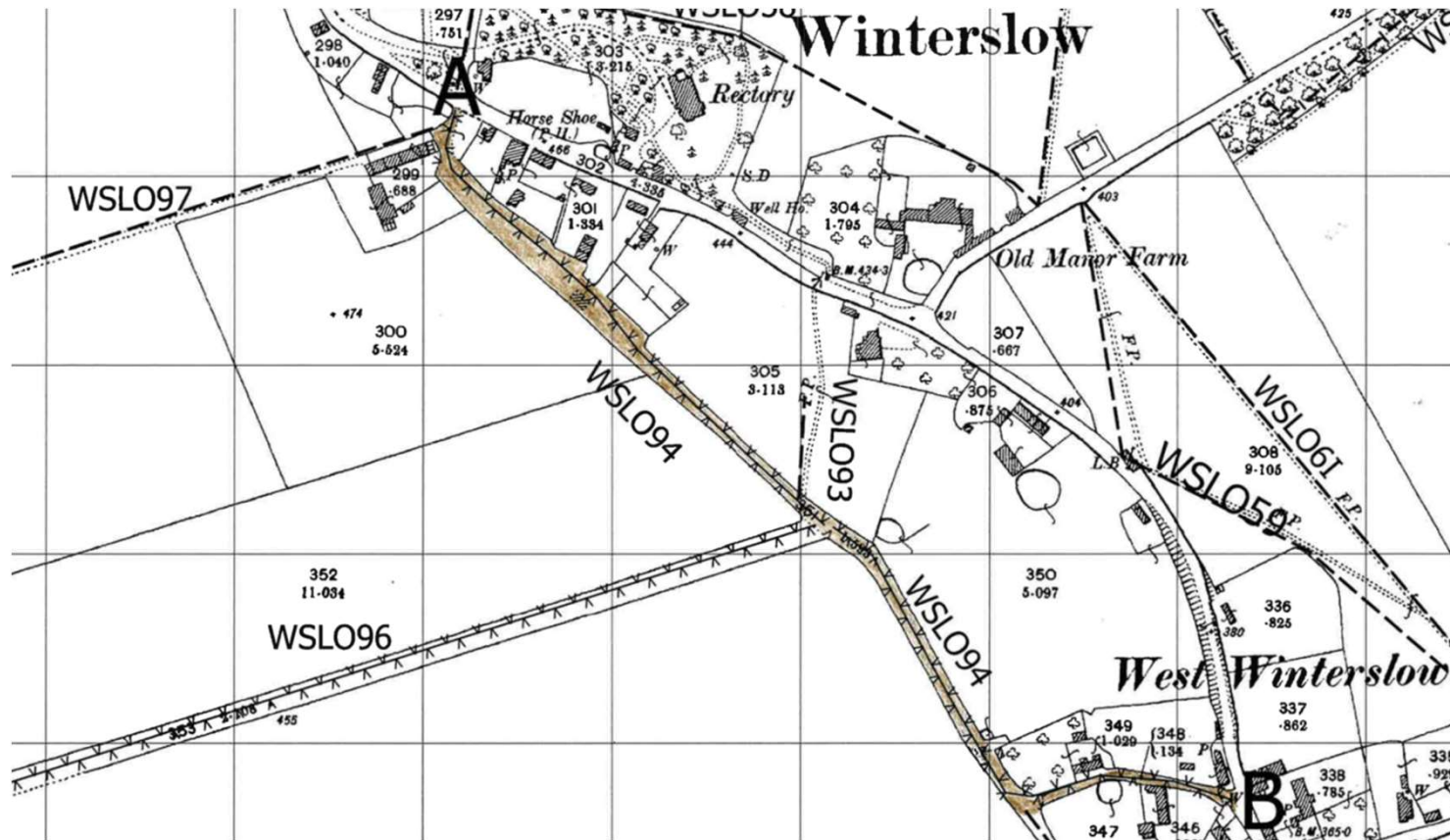
# Wildlife and Countryside Act 1981 s.53

## The Wiltshire Council Winterslow Path No. 94 Rights of Way Modification Order 2023

## Wiltshire Council's Duty

- It is the council's duty under s.53 of the 1981 Act to keep the definitive map and statement under continual review and to change it by legal order where evidence shows it is in error.
- The legal test to confirm the order is that it is shown on the balance of probability – that is, that something is more likely than not.
- Any order so made must be duly advertised and if objections are made, or, if the order requires modification, Wiltshire Council must forward the order to the Secretary of State for Environment, Food and Rural Affairs for determination.
- The order before the committee today has attracted three objections that have not been withdrawn. The order is therefore before this committee who must consider whether to support the order or object to the order when it is sent to the Secretary of State.

Order Plan – records a width for Winterslow 94 between A and B (extent of brown colouring)



## The legal tests

- Does the evidence show that the whole width is a public highway?
- Is there any evidence that the public highway has been stopped up?
- Does the legal maxim 'once a highway, always a highway' apply?

## What can't be taken into consideration for making an order

- The environment or agriculture or forestry
- Desirability or need, criminal acts
- Duplication or cost
- Risk or public safety
- Matters relating to planning applications and consent
- Events post-dating the creation of the highway e.g. recent buildings

## The evidence

- WSLO94 or Back Drove is a byway open to all traffic with a recorded width of 10 feet, considered to be the narrow trackway leading through the wider Drove.
- The whole width of Back Drove is shown as a highway maintainable at the public expense in Wiltshire Council's highway record dating back to 1929 when the liability for the route was handed over to WCC from the Rural District Council.
- Historically it has formed part of a route between Pitton and Winterslow. The linking route in Pitton was awarded as a Public Carriage Road called the Winterslow Road with a width of at least 30 feet by Act of Parliament in 1820.
- The Tithe Survey of Winterslow dated 1841 records the whole width of the Drove coloured sienna in the same manner as the local road network and free from tithe. There are no buildings in the Drove at this time though it was the style of the area to have them and for them to be recorded (in nearby Pitton).
- The Tithe Survey of Pitton dated 1842 shows the adjoining route as "The Winterslow Road" and "To Winterslow".

## Evidence continued

- The vast majority of Back Drove has no registered owner and sales particulars dated 1902 from when the Winterslow Estate was sold clearly excludes Back Drove from the sale of all adjoining properties.
- A parish map dated 1841 but used in 1873 does not show buildings in the Drove.
- The Inland Revenue surveyed and valued all of the land in this area in 1910 as a result of the 1909/1910 Finance Act. This evidence is new to the consideration of the width of Back Drove since it was last considered in the 1980s. The valuer was a local man of good repute and he recorded the whole width of Back Drove as not being in any person's ownership and uncoloured in the same manner as the local highway network. The Act required valuers to exclude land in the control of the local rating authority in this manner and it is considered likely it was left uncoloured because it was a public road. The whole width is also confirmed by the addition of red broken braces separating the road from surrounding hereditaments.



## Widths

- Early maps (e.g. Andrews and Dury's Map of Wiltshire 1773) do not record an enclosed section for the upper part of the Drove but it is considered likely that a route existed as other parts of the Winterslow Road existed linking Winterslow with Pitton at this time. As this linking route was wide (at least 30 feet) it makes no sense that one end of it would only be 10 feet wide.
- Drovers are traditionally wide and it is likely that fencing appearing in the early 1800s was erected with respect to the highway.
- Later mapping supported this wide highway and the representation by the tithe commissioners and the Inland Revenue of a route without owners and in the same way as the local road network supports that. There was no identification of a route just 10 feet wide.
- Ordnance Survey mapping of the late 1800s/early 1900s has been used as the most accurate representation of the extent of highway and the order plan reflects the width excluded, probably as highway, by the Inland Revenue in 1910.

# Finance Act Plan



## Considerations and proposal

- The committee must decide on the balance of probability whether the historical evidence supports a wide highway along this route.
- Matters raised relating to modern encroachments are not relevant to this order.
- Matters relating to how Wiltshire Council will manage this highway are not relevant to this order.
- Proposal:
  - **That The Wiltshire Council Winterslow Path No. 94 Rights of Way Modification Order 2023 is submitted to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it be confirmed as made.**

This page is intentionally left blank