

AGENDA

Meeting: Northern Area Planning Committee
Place: Council Chamber - Council Offices, Monkton Park, Chippenham
Date: Wednesday 15 February 2017
Time: 3.00 pm

Please direct any enquiries on this Agenda to Edmund Blick, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718059 or email edmund.blick@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

Membership:

Cllr Tony Trotman (Chairman)	Cllr Chuck Berry
Cllr Peter Hutton (Vice Chairman)	Cllr Terry Chivers
Cllr Christine Crisp	Cllr Howard Greenman
Cllr Mollie Groom	Cllr Howard Marshall
Cllr Toby Sturgis	Cllr Chris Hurst
Cllr Glenis Ansell	

Substitutes:

Cllr Philip Whalley	Cllr Linda Packard
Cllr Desna Allen	Cllr Graham Wright
Cllr Mary Champion	Cllr George Jeans
Cllr Ernie Clark	Cllr Melody Thompson
Cllr Dennis Drewett	Cllr Bill Douglas
Cllr Jacqui Lay	

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Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

AGENDA

Part I

Items to be considered when the meeting is open to the public

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting**

To approve and sign as a correct record the minutes of the meeting held on Wednesday 4th January 2017.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register by phone, email or in person no later than 2.50pm on the day of the meeting.

The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered.

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **(4 clear working days, e.g. Wednesday of week before a Wednesday meeting)** in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **(2 clear working days, eg Friday of week before a Wednesday meeting)**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Planning Appeals and Updates** *(Pages 7 - 8)*

To receive details of completed and pending appeals and other updates as appropriate.

7 **Rights of Way Modification- Parish of Box** *(Pages 9 - 188)*

To consider and determine the following application.

8 **Planning Applications**

To consider and determine the following planning applications.

8a **15/10682/FUL- Marden Farm, Rookery Park, Calne, SN11 0LH**
(Pages 189 - 200)

8b **16/09038/LBC & 16/08525/FUL Thistle Barn Stable Block, Ashley, Box, SN13 8AJ** *(Pages 201 - 216)*

8c **16/09353/FUL - London Road Streetworks, London Road, Box, Corsham SN13 8LU** *(Pages 217 - 224)*

8d **16/09314/OUT-Old Glove Factory, Adj. 25 Brockleaze, Neston, Corsham, SN13 9TJ** *(Pages 225 - 236)*

8e **16/11413/FUL- Mobile Home, Woodbarn Farm, Stanton St Quintin,**

9 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency.

Part II

Items during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

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NORTHERN AREA PLANNING COMMITTEE

MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 4 JANUARY 2017 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.

Present:

Cllr Tony Trotman (Chairman), Cllr Peter Hutton (Vice Chairman), Cllr Christine Crisp, Cllr Mollie Groom, Cllr Toby Sturgis, Cllr Chuck Berry, Cllr Howard Greenman, Cllr Howard Marshall and Cllr Chris Hurst

Also Present:

Cllr John Thomson

1 Apologies

Apologies were received from Cllr Glenis Ansell and Cllr Terry Chivers.

2 Minutes of the Previous Meeting

The minutes of the meeting held on Wednesday 7th December 2016 were presented.

RESOLVED:

To approve as a true and correct record and sign the minutes.

3 Declarations of Interest

Cllr Toby Sturgis declared an interest in agenda item 7c, Mays Farm. He informed the Committee that his son's firm may be the selling agent of the property in question, Mays Farm. In respect of item 7a Church Farm applications, the councillor stated that he knew many of people on both the applicants and objectors side. In respect of the above-named items, the councillor declared that he would participate in the debate and vote on each item with an open mind.

Cllr Howard Greenman also declared an interest in agenda item 7c Mays Farm, stating that he knew the applicants however, he declared that he would participate in the debate and vote on each item with an open mind.

4 Chairman's Announcements

There were no Chairman's announcements.

5 **Public Participation**

The Committee noted the rules of public participation which would apply to agenda items no. 7b and 7c.

However, the Chairman explained that he would use his discretion to change the procedure for agenda item 7a- 16/05721/FUL- 16/05729/FUL: 9 Church Farm, Easton Grey, Malmesbury.

Due to the applications having a cumulative impact and common representations having been submitted in relation to many of the applications, the public participation would take place under the first application only. Although for this agenda item, the public speakers would have 4 minutes, instead of the usual 3 and speakers from the Town/Parish Council would have 5 minutes instead of the usual 4.

The Chairman proposed that item 7c on the agenda be brought forward for determination first and that the applications 16/05721/FUL-16/05729/FUL Church Farm be considered in a different order, as detailed in the late items.

RESOLVED:

To change the order of the agenda, as detailed above.

6 **Planning Appeals and Updates**

The Committee noted the contents of the appeals update.

7 **Planning Applications**

Attention was drawn to the late list of observations provided at the meeting and attached to these minutes, in respect of the ordering of the agenda and applications 7a) 16/09965/LBC: Mays Farm, Hullavington and 7b) 9 Church Farm, Easton Grey, Malmesbury:-16/05721/FUL-16/05729/FUL, as listed in the supplementary reports and 7c 15/10712/FUL: Land North of Baydons Lane, Chippenham.

8 **16/09965/LBC: Mays Farm, Hullavington.**

The applicant Kim Swithinbank spoke in favour of the application.

The Conservation Officer introduced the application for Listed Building Consent on a Grade-II Listed farmhouse building, a retrospective application to include replacement of bedroom timber floors with plywood, replacement of living room, sitting room and dining room floors and hearths, alterations to master bedroom partitions, installation of freestanding bath on raised platform, alterations to kitchen window, removal of second floor bedroom ceiling, and reinstatement of recently blocked up gate in the garden boundary wall.

The officer detailed some of the planning history of the property, explaining that in 2012 it had come under new ownership however some of the work undertaken by the owners had not been in accordance with permission granted, for which retrospective approval was now sought. Pictures were shown to the Committee demonstrating the works done in contravention to consent. These works were considered to give a false impression of the history of the building

and result in the unjustified loss of historic fabric. It was highlighted that the applicant had not given justification as to why much of the contravening work had been necessary or why alternative materials, from existing or agreed under the approved scheme, had been used. It was noted that some of the works undertaken, although beyond the permission granted, could be deemed acceptable, given information secured by the site inspection, however other elements were considered wholly unacceptable. The officer explained the recommendation for refusal, by reason of the harm caused to the historic fabric of the building.

There were no technical questions.

Public speakers, as listed above, were then invited to make representations by the Chairman.

Cllr Toby Sturgis spoke on behalf of the local member, Baroness Jane Scott of Bybrook. The councillor considered the matter as a balance between benefit and harm, noting that some good work had been undertaken to what had been a building in a very poor condition, but agreeing that it had been done in contravention of planning permissions and no justification had been given for this.

Cllr Toby Sturgis moved the officer's recommendation to refuse the application which was seconded by Cllr Peter Hutton.

During the debate that followed, members considered that, whilst some of the works were of good quality, they had been against the advice and permissions given by the officers and without sufficiently robust and detailed supporting historical and structural/condition survey evidence to justify doing so. It was noted that in particular the plywood floor was not suitable for the listed building and should be removed and that if permission was granted it would cover all of the works, including the plywood. On balance, members considered that to approve the application would set a dangerous precedent for all listed buildings in Wiltshire and noted that if the application was refused, the applicant could begin to negotiations again on the works undertaken to resolve the situation appropriately, including the provision of necessary supporting evidence and information.

RESOLVED:

That Listed Building Consent be REFUSED for the following reason:

The works, by reason of its design, size and location fails to conserve the character and special interest of the heritage asset and the setting of adjacent heritage assets. This harm is not otherwise justified by any public benefit so the proposals are therefore contrary to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 131, 132, 134 and 207 of the National Planning Policy Framework and Core Policy 58 of the adopted Wiltshire Core Strategy.

9a 16/05728/FUL: 9 Church Farm, Easton Grey, Malmesbury.

John Heathcock, Henry Jodrell and Keith Waterhouse spoke against the application. The Chairman of Easton Grey Parish Council, John Tremayne, also spoke against the application. Simon Tomlinson, Ian Firth and Marc Willis spoke in support of the application.

The Planning Officer gave an overview of the 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. A site location plan, its proximity to the road and photographs of the site were shown. A comparison between the current layout of the site and proposed layout of the site was provided. It was highlighted that the 9 concurrent applications would have a cumulative impact on the site, all were located within an Area of Outstanding Natural Beauty (AONB) and outside of a defined settlement.

The Planning Officer then proceeded to introduce the application in respect of the Anaerobic Digester.

The officer introduced the report, showing pictures and diagrams which identified the proposed location and specifications of the Anaerobic Digester (AD). The officer confirmed the applicant was looking to consolidate his existing business and explained that the Anaerobic Digester was to be built with the intention of minimalizing the impact on the area.

The officer explained the proposed conditions and identified that screening would be provided by landscaping and, in part, existing structures at the site. It was advised that a slurry lagoon was already in existence on the site and neighbours would likely see a reduction in odour disturbance, as a result of the proposed development, due to the modern model. An Odour Protection Management Plan would also mitigate any potential impacts.

Attention was drawn to objections raised by residents in respect of surrounding highways and drainage issues. The officer advised that these concerns had been addressed by the conditions set out in the report. In respect of drainage, a strategy had been submitted utilising and expanding upon the existing drainage ditches at the site, and it was also identified that the site and land ownership were sufficient to accommodate any additional requirements and proposals that may prove necessary following detailed site assessment of drainage requirements as required by the conditions. It was identified that Drainage Engineers were satisfied with the proposals. It was noted that the proposals to consolidate operations at the site would reduce traffic movements in the locality overall and would be sustainable by reducing inter-site travel. The officer drew attention to the late observations in respect of the AD Unit and other applications for Church Farm, which had been published as a supplement to the agenda and proposed an additional condition in respect of the Dairy Parlour. The officer verified that 15 objections had been received in respect of the application, in addition to an objection from the parish council. In response to

the public concern that feedstock would be brought in to feed the AD unit, it was confirmed that the applicant had demonstrated he could provide sufficient feedstock for the AD.

The Chairman invited members to ask technical questions, in response to which officers confirmed the proposed locations of new buildings on the site location plan.

The Chairman invited members of the public to make representations, as detailed above.

The local member, Cllr John Thomson, cited traffic, drainage and landscaping concerns that had been raised by local residents. The Councillor considered that if members were minded to approve all applications at Church Farm, there would need to be strong condition control.

In response to statements from the public and local member it was confirmed that the development would reduce vehicle movement, a flare stack for the AD unit was not necessary, and that drainage, landscaping and odour issues were addressed by conditions. The officer addressed planning conditions suggested in the public participation and explained those that would not be acceptable and those which would be acceptable if the Committee wished to attach them to permission.

Cllr Toby Sturgis moved the officer's recommendation to grant planning permission subject to additional conditions in respect of ingredients used in the AD unit to derive ingredients from within the site/landholding unless otherwise agreed in writing by the Local Planning Authority, and to provide additional passing spaces for traffic, utilising expanded field access to the adjacent highway. This proposal was seconded by Cllr Howard Greenman.

In the debate that followed, members discussed the benefit of deferring for a site visit to see a working example of the AD unit. It was considered that the application was acceptable, subject to the additional conditions suggested which would help to reduce traffic and improve the sustainability of the development.

RESOLVED:

That planning permission be GRANTED subject to the following conditions:

- 1. The anaerobic digestion plant forming part of the development hereby approved shall use ingredients (including dairy slurry, animal bedding / FYM, grass silage and other farm produced manures) derived from the land marked in yellow under plan reference 'Tomlinson Farms.mpd' and related contract farmed land only, and from no other source unless otherwise agreed in advance in writing by the Local Planning Authority.**

REASON: To accord with the terms of the application and to ensure that traffic generated by the development does not exceed the levels set out in the application particulars as justification for the development, in the interests of amenity and highway safety

2. No development shall take place until plans showing the provision of at least two passing spaces being provided within enlarged field openings in the highway to the north of the application site have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the passing spaces shall be laid out in strict accordance with the approved plans prior to the first operation of the Anaerobic Digester and shall be retained for no other use, apart from vehicular access to the adjoining fields, in perpetuity.

REASON: In the interests of highway safety

3. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan - 2663/01A - Received 13th July 2016;
 - Proposed Block Plan - PA400 - Received 2nd December 2016;
 - Proposed North Elevation - PA102 - Received 30th November 2016;
 - Proposed West Elevation - PA103 - Received 30th November 2016;
 - Proposed South Elevation - PA104 - Received 30th November 2016;
 - Proposed East Elevation - PA105 - Received 30th November 2016;AD Unit Statement - 16-10211 - Received 30th November 2016.

REASON: For the avoidance of doubt and in the interests of proper planning.

5. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :
 - location and current canopy spread of all existing trees and hedgerows on the land;
 - full details of any to be retained, together with measures for their protection in the course of development;

- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- retained historic landscape features and proposed restoration, where relevant.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

6. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

7. No development shall commence on site until an Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection,

mitigation and compensation for protected species, priority species and priority habitats.

8. No development shall commence on site until a comprehensive scheme for the discharge of surface water from the wider site (including surface water from the access/driveways/service areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

9. No development shall commence on site until a scheme of acoustic insulation and noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from the anaerobic digester, grain drying plant and any mechanical ventilation.

The approved scheme shall be implemented in full before use commences and maintained at all times thereafter. In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a thorough background noise survey and noise assessment in accordance with BS4142:2014 (or any subsequent version) and demonstrate that the rating noise level is at or below the background noise level.

REASON: To ensure the retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

10. No development shall commence on site until an odour management plan has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures for the control of odours from the site arising from the use of the anaerobic digester. Thereafter, the scheme shall be implemented and maintained in strict accordance with the approved details for as long as the anaerobic digester is operational.

REASON: To ensure the retention of an environment free from intrusive levels of odour disturbance in the interests of the amenity of the area.

11. No development shall commence on site until a construction management plan has been submitted to and approved in writing by

the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- (i) The movement of construction vehicles;
- (ii) The cutting or other processing of building materials on site;
- (iii) Wheel washing and vehicle wash down facilities;
- (iv) The transportation and storage of waste and building materials;
- (v) The recycling of waste materials (if any)
- (vi) The loading and unloading of equipment and materials
- (vii) The location and use of generators and temporary site accommodation
- (viii) Pile driving (If it is to be within 200m of residential properties)
- (ix) Schedules for any plans to float polish flooring

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

12. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

13. INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

14. INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

15. INFORMATIVE TO APPLICANT:

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

16. INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

17. INFORMATIVE TO APPLICANT:

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

18. INFORMATIVE TO APPLICANT:

The proposed Anaerobic Digester (AD) Plant will require a permit under the Environmental Permitting Regulations 2010. The operator is advised to contact the EA's Permitting Centre on 03708 506 506 to discuss an installation pre application enquiry.

9b 16/05722/FUL: 9 Church Farm, Easton Grey, Malmesbury

Public Participation was conducted as outlined above.

The Planning Officer explained that the application was one of 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the

creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. This application related only to the erection of the beef building.

The Planning Officer introduced the report, showing pictures and diagrams of the proposed build, featuring 12 pens with a capacity of up to 280 animals. It was explained that conditions in respect of landscaping and drainage were suggested, as with other applications on the site. The Planning Officer highlighted that an agricultural dwelling was appropriate development within the AONB.

In response to technical questions, officers clarified that it the usage of the building would not be classed as intensive farming. The Chairman questioned whether there would be conditions against light disturbance, in response to which, it was confirmed that there was a proposed condition on every application for Church Farm to cover external site over the whole site.

Local Member, Cllr John Thomson, suggested that any lighting on site should be low-level.

Cllr Peter Hutton proposed the officer's recommendation which was seconded by Cllr Toby Sturgis.

In the debate that followed, members noted that the Council's Agricultural Consultant was satisfied with the application.

RESOLVED:

That planning permission be GRANTED subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**
 - i. Site Location Plan - 2663/01A - Received 13th July 2016;**
 - ii. Proposed Block Plan - 2663/02 - Received 13th July 2016;**
 - iii. Proposed Floor Plans - 2663/03A - Received 24th June 2016**
 - iv. Proposed Elevations - 2663/03 - Received 24th June 2016**

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development**

on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :

- i. location and current canopy spread of all existing trees and hedgerows on the land;
- ii. full details of any to be retained, together with measures for their protection in the course of development;
- iii. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- iv. finished levels and contours;
- v. means of enclosure;
- vi. car park layouts;
- vii. other vehicle and pedestrian access and circulation areas;
- viii. all hard and soft surfacing materials;
- ix. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- x. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- xi. retained historic landscape features and proposed restoration, where relevant.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

4. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. No development shall commence on site until an Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential

disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.

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REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

7. No development shall commence on site until a scheme of acoustic insulation and noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from the anaerobic digester, grain drying plant and any mechanical ventilation.

The approved scheme shall be implemented in full before use commences and maintained at all times thereafter. In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a thorough background noise survey and noise assessment in accordance with BS4142:2014 (or any subsequent version) and demonstrate that the rating noise level is at or below the background noise level.

REASON: To ensure the retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

8. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of

noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- i. The movement of construction vehicles;
- ii. The cutting or other processing of building materials on site;
- iii. Wheel washing and vehicle wash down facilities;
- iv. The transportation and storage of waste and building materials;
- v. The recycling of waste materials (if any)
- vi. The loading and unloading of equipment and materials
- vii. The location and use of generators and temporary site accommodation
- viii. Pile driving (If it is to be within 200m of residential properties)
- ix. Schedules for any plans to float polish flooring

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

9. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

10. **INFORMATIVE TO APPLICANT:** The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

11. INFORMATIVE TO APPLICANT: The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

12. INFORMATIVE TO APPLICANT: Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

13. INFORMATIVE TO APPLICANT: The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

14. INFORMATIVE TO APPLICANT: Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

9c 16/05723/FUL: 9 Church Farm, Easton Grey, Malmesbury

Public participation was conducted as outlined above.

The Planning Officer explained that the application was one of 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. This application related only to the erection of a hardstanding and shed for the storage of implements and machinery which would be used across the site.

The Planning Officer introduced the report and showed pictures and diagrams of the proposed site, giving details about the specifications and materials to be used. It was explained that conditions in respect of landscaping and drainage were suggested, as with other applications on the site.

The Chairman invited technical questions and there were none.

Cllr Chuck Berry moved the officer's recommendation; this was seconded by Cllr Peter Hutton.

RESOLVED:

That planning permission be GRANTED subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**
 - i. Site Location Plan - 2663/01 - Received 30th June 2016;**
 - ii. Proposed Block Plan - 2663/02 - Received 30th June 2016;**
 - iii. Proposed Floor Plans and Elevations - 2663/05 - Received 30th June 2016.**

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :**
 - i. location and current canopy spread of all existing trees and hedgerows on the land;**
 - ii. full details of any to be retained, together with measures for their protection in the course of development;**
 - iii. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;**
 - iv. finished levels and contours;**
 - v. means of enclosure;**
 - vi. car park layouts;**
 - vii. other vehicle and pedestrian access and circulation areas;**
 - viii. all hard and soft surfacing materials;**
 - ix. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);**
 - x. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);**
 - xi. retained historic landscape features and proposed restoration, where relevant.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 4. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.**

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 5. No development shall commence on site until an Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

- 6. No development shall commence on site until a comprehensive scheme for the discharge of surface water from the wider site (including surface water from the access/driveways/service areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.**

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the

matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

- 7. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:**
 - i. The movement of construction vehicles;**
 - ii. The cutting or other processing of building materials on site;**
 - iii. Wheel washing and vehicle wash down facilities;**
 - iv. The transportation and storage of waste and building materials;**
 - v. The recycling of waste materials (if any)**
 - vi. The loading and unloading of equipment and materials**
 - vii. The location and use of generators and temporary site accommodation**
 - viii. Pile driving (If it is to be within 200m of residential properties)**
 - ix. Schedules for any plans to float polish flooring**

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

- 8. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.**

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

- 9. INFORMATIVE TO APPLICANT:** Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.
- 10. INFORMATIVE TO APPLICANT:** Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
- 11. INFORMATIVE TO APPLICANT:** The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.
- 12. INFORMATIVE TO APPLICANT:** The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.
- 13. INFORMATIVE TO APPLICANT:** The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

9d 16/05724/FUL: 9 Church Farm, Easton Grey, Malmesbury.

Public participation was conducted as outlined above.

The Planning Officer explained that the application was one of 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. This application related only to the erection of the Farm Office and Workshop.

The Planning Officer introduced the report and showed pictures and diagrams of the proposed site, giving details about the specifications and materials to be used. It was explained that conditions in respect of landscaping and drainage were suggested, as with other applications on the site.

The Chairman invited technical questions and Cllr Toby Sturgis asked if there could be any conditions to remove permitted rights to convert the office to residential use in the future. The Planning officers confirmed that this was an option.

Cllr Sturgis moved that authority be delegated to officers to grant permission subject to the conditions in the report, and an additional condition to restrict conversion of the office into residential use, the wording of which to be determined by officers. This was seconded by Cllr Peter Hutton.

RESOLVED:

To DELEGATE authority to the Head of Service for Development Management to GRANT planning permission subject to the conditions below and an additional condition to restrict conversion of the approved office wholly or in part, to residential use, either through removal of any Permitted Development Rights or other legislative and policy measures. Authority is delegated to the Head of Service to prepare an appropriately worded condition in this regard.

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i. Site Location Plan - 2663/01 - Received 10th June 2016;**
 - ii. Proposed Floor Plans and Elevations - 2663/04 - Received 10th June 2016.****

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:**
 - i. location and current canopy spread of all existing trees and hedgerows on the land;**
 - ii. full details of any to be retained, together with measures for their protection in the course of development;**
 - iii. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;**
 - iv. finished levels and contours;**
 - v. means of enclosure;**
 - vi. car park layouts;**
 - vii. other vehicle and pedestrian access and circulation areas;**
 - viii. all hard and soft surfacing materials;**
 - ix. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);**
 - x. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);**
 - xi. retained historic landscape features and proposed restoration, where relevant.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 4. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.**

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. **No development shall commence on site until an Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

6. **No development shall commence on site until a comprehensive scheme for the discharge of surface water from the wider site (including surface water from the access/driveways/service areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.**

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

7. **No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:**
 - i. **The movement of construction vehicles;**
 - ii. **The cutting or other processing of building materials on site;**
 - iii. **Wheel washing and vehicle wash down facilities;**
 - iv. **The transportation and storage of waste and building materials;**
 - v. **The recycling of waste materials (if any)**
 - vi. **The loading and unloading of equipment and materials**
 - vii. **The location and use of generators and temporary site accommodation**
 - viii. **Pile driving (If it is to be within 200m of residential properties)**
 - ix. **Schedules for any plans to float polish flooring**

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with

in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

8. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

9. **INFORMATIVE TO APPLICANT:** The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.
10. **INFORMATIVE TO APPLICANT:** The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.
11. **INFORMATIVE TO APPLICANT:** Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

12. INFORMATIVE TO APPLICANT: Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

9e 16/05725/FUL: 9 Church Farm, Easton Grey, Malmesbury

Public participation was conducted as outlined above.

The Planning Officer explained that the application was one of 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. This application related only to the erection of the grain and straights store.

The Planning Officer introduced the report and showed pictures and diagrams of the proposed site, giving details about the specifications and materials to be used. The proposed floor plans were highlighted and it was explained that conditions in respect of landscaping and drainage were suggested, as with other applications on the site.

The Chairman invited technical questions, in response to which officers explained that traffic to and from the farm for grain delivery would be reduced as a result of the development.

Cllr Peter Hutton proposed the officer's recommendation which was seconded by Cllr Chuck Berry.

RESOLVED:

That planning permission be GRANTED subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**
 - i. Site Location Plan - 2663/01 - Received 24th June 2016;**
 - ii. Proposed Block Plan - 2663/02 - Received 24th June 2016;**
 - iii. Proposed Floor Plans and Elevations - 2663/06 - Received 10th June 2016.**

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :**
- i. location and current canopy spread of all existing trees and hedgerows on the land;**
 - ii. full details of any to be retained, together with measures for their protection in the course of development;**
 - iii. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;**
 - iv. finished levels and contours;**
 - v. means of enclosure;**
 - vi. car park layouts;**
 - vii. other vehicle and pedestrian access and circulation areas;**
 - viii. all hard and soft surfacing materials;**
 - ix. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);**
 - x. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);**
 - xi. retained historic landscape features and proposed restoration, where relevant.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 4. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.**

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. **No development shall commence on site until an Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

6. **No development shall commence on site until a comprehensive scheme for the discharge of surface water from the wider site (including surface water from the access/driveways/service areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.**

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

7. **No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:**
 - i. **The movement of construction vehicles;**
 - ii. **The cutting or other processing of building materials on site;**
 - iii. **Wheel washing and vehicle wash down facilities;**
 - iv. **The transportation and storage of waste and building materials;**
 - v. **The recycling of waste materials (if any)**
 - vi. **The loading and unloading of equipment and materials**
 - vii. **The location and use of generators and temporary site accommodation**
 - viii. **Pile driving (If it is to be within 200m of residential properties)**
 - ix. **Schedules for any plans to float polish flooring**

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with

in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

8. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

9. **INFORMATIVE TO APPLICANT:** The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.
10. **INFORMATIVE TO APPLICANT:** Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
11. **INFORMATIVE TO APPLICANT:** Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.
12. **INFORMATIVE TO APPLICANT:** The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory

protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

13. INFORMATIVE TO APPLICANT: The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

9f 16/05726/FUL: 9 Church Farm, Easton Grey, Malmesbury.

Public participation was conducted as outlined above.

The Planning Officer explained that the application was one of 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. This application related only to the erection of the straw barn.

The Planning Officer introduced the report and showed pictures and diagrams of the proposed site, giving details about the specifications and materials to be used. It was explained that conditions in respect of landscaping and drainage were suggested, as with other applications on the site.

The Chairman invited technical questions and there were none.

Cllr Anthony Trotman proposed the officer's recommendation which was seconded by Cllr Peter Hutton.

RESOLVED:

That planning permission be GRANTED subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i. Site Location Plan - 2663/01A - Received 13th July 2016
 - ii. Proposed Block Plan - 2663/02 - Received 13th July 2016
 - iii. Proposed Floor Plans and Elevations - PA-100 - Received 10th June 2016.

REASON: For the avoidance of doubt and in the interests of proper planning.

3. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :
 - i. location and current canopy spread of all existing trees and hedgerows on the land;
 - ii. full details of any to be retained, together with measures for their protection in the course of development;
 - iii. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
 - iv. finished levels and contours;
 - v. means of enclosure;
 - vi. car park layouts;
 - vii. other vehicle and pedestrian access and circulation areas;
 - viii. all hard and soft surfacing materials;
 - ix. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
 - x. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
 - xi. retained historic landscape features and proposed restoration, where relevant.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

4. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. No development shall commence on site until an Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

6. No development shall commence on site until a comprehensive scheme for the discharge of surface water from the wider site (including surface water from the access/driveways/service areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

7. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:
 - i. The movement of construction vehicles;
 - ii. The cutting or other processing of building materials on site;
 - iii. Wheel washing and vehicle wash down facilities;
 - iv. The transportation and storage of waste and building materials;
 - v. The recycling of waste materials (if any)

- vi. The loading and unloading of equipment and materials
- vii. The location and use of generators and temporary site accommodation
- viii. Pile driving (If it is to be within 200m of residential properties)
- ix. Schedules for any plans to float polish flooring

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

- 8. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

- 9. **INFORMATIVE TO APPLICANT:** Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
- 10. **INFORMATIVE TO APPLICANT:** Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.
- 11. **INFORMATIVE TO APPLICANT:** The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic

importance, available access and the ground conditions appertaining to the sewer in question.

12. INFORMATIVE TO APPLICANT: The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

13. INFORMATIVE TO APPLICANT: The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

9g 16/05727/FUL: 9 Church Farm, Easton Grey, Malmesbury.

Public participation was conducted as outlined above.

The Planning Officer explained that the application was one of 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. This application related only to the erection of the grain dryer.

The Planning Officer introduced the reports and showed pictures and diagrams of the proposed site, giving details about the specifications and materials to be used. It was highlighted that this building would be higher in elevation compared to neighbouring buildings. Conditions in respect of landscaping and drainage were suggested, as with other applications on the site, and a condition was also proposed in respect of noise control.

The Chairman invited technical questions in response to which the officer confirmed that an intention of the applicant was that fuel from the AD unit would be used to power the grain dryer; it would not be reasonable to condition this, however an informative could be added.

Cllr Anthony Trotman proposed the officer's recommendation, subject to an additional informative on usage of fuel from the Anaerobic Digester unit to

power the grain dryer, the wording of which to be delegated to officers. The motion was seconded by Cllr Peter Hutton.

RESOLVED:

That planning permission be GRANTED subject to the conditions below and an additional Informative to request that the applicant investigate the possibility of servicing the Grain Dryer hereby approved with power generated by the AD unit approved under application reference 16/05728/FUL. Authority is delegated to the Head of Service to prepare an appropriately worded informative in this regard.

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i. Site Location Plan - 2663/01 - Received 10th June 2016;**
 - ii. Proposed Block Plan - 2663/02 - Received 10th June 2016;**
 - iii. Proposed Floor Plans and Elevations - 2663/09 - Received 10th June 2016.****

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :
 - i. location and current canopy spread of all existing trees and hedgerows on the land;**
 - ii. full details of any to be retained, together with measures for their protection in the course of development;**
 - iii. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;**
 - iv. finished levels and contours;**
 - v. means of enclosure;**
 - vi. car park layouts;**
 - vii. other vehicle and pedestrian access and circulation areas;**
 - viii. all hard and soft surfacing materials;**
 - ix. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);**
 - x. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);****

- xii. retained historic landscape features and proposed restoration, where relevant.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

4. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. No development shall commence on site until an Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

6. No development shall commence on site until a comprehensive scheme for the discharge of surface water from the wider site (including surface water from the access/driveways/service areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

- 7. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:**
 - i. The movement of construction vehicles;**
 - ii. The cutting or other processing of building materials on site;**
 - iii. Wheel washing and vehicle wash down facilities;**
 - iv. The transportation and storage of waste and building materials;**
 - v. The recycling of waste materials (if any)**
 - vi. The loading and unloading of equipment and materials**
 - vii. The location and use of generators and temporary site accommodation**
 - viii. Pile driving (If it is to be within 200m of residential properties)**
 - ix. Schedules for any plans to float polish flooring**

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

- 8. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.**

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

- 9. No development shall commence on site until a scheme of acoustic insulation and noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from the anaerobic digester, grain drying plant and any mechanical ventilation. The approved scheme shall be implemented in full before use commences and maintained at all times thereafter. In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a thorough background noise survey and noise assessment in accordance with BS4142:2014 (or any subsequent version) and demonstrate that the rating noise level is at or below the background noise level.**
- 10. INFORMATIVE TO APPLICANT: The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.**
- 11. INFORMATIVE TO APPLICANT: The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.**
- 12. INFORMATIVE TO APPLICANT: The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.**
- 13. INFORMATIVE TO APPLICANT: Please note that Council offices do not have the facility to receive material samples. Please deliver**

material samples to site and inform the Planning Officer where they are to be found.

14. INFORMATIVE TO APPLICANT: Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

9h 16/05729/FUL: 9 Church Farm, Easton Grey, Malmesbury.

Public participation was conducted as outlined above.

The Planning Officer explained that the application was one of 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. This application related only to the erection of the dairy parlour only.

The Planning Officer introduced the report and showed pictures and diagrams of the proposed site, giving details about the specifications and materials to be used. It was explained that conditions in respect of landscaping and drainage were suggested, as with other applications on the site, a condition on noise was also included and attention was drawn to the additional condition proposed in the late items.

The Chairman invited technical questions, members questioned the stopping of the Dairy vehicles on the highway to service the building and the potential for a hardstanding layby to be provided. It was confirmed that the proposed conditions should address landscaping on the site and the site was located further from the highway than other agricultural buildings on site. Local member Cllr John Thomson expressed concern that access arrangements for servicing the building had not been fully considered in the application.

Cllr Toby Sturgis moved that authority be delegated to officers to grant planning permission, subject to the conditions in the report and further conditioning for suitable, hardstanding/layby to be provided to service the dairy, the wording of which to be determined by officers. This was seconded by Cllr Peter Hutton.

In the debate that followed, councillors agreed that hardstanding should be provided in the interests of highway safety, and retained free of obstruction or other usage, for the purposes of servicing the proposed Dairy Parlour. Members also noted the proposed landscaping of the site.

RESOLVED:

To DELEGATE authority to GRANT planning permission to the Head of Service for Development Management subject to the conditions below and an additional condition to require the submission and approval of details for the provision of an off road (off the metalled highway/carriageway)

hardstanding/layby suitable for the servicing of the Dairy Parlour hereby approved. Authority is delegated to the Head of Service to provide an appropriately worded condition in this regard.

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**
 - i. Site Location Plan - 2663/01A - Received 13th July 2016;**
 - ii. Proposed Block Plan - 2663/02 - Received 13th July 2016;**
 - iii. Proposed Floor Plans and Elevations - 2663/10A - Received 13th July 2016;**

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:**
 - i. location and current canopy spread of all existing trees and hedgerows on the land;**
 - ii. full details of any to be retained, together with measures for their protection in the course of development;**
 - iii. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;**
 - iv. finished levels and contours;**
 - v. means of enclosure;**
 - vi. car park layouts;**
 - vii. other vehicle and pedestrian access and circulation areas;**
 - viii. all hard and soft surfacing materials;**
 - ix. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);**
 - x. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);**
 - xi. retained historic landscape features and proposed restoration, where relevant.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development

is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

4. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. No development shall commence on site until an Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

6. No development shall commence on site until a comprehensive scheme for the discharge of surface water from the wider site (including surface water from the access/driveways/service areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in

an acceptable manner, to ensure that the development can be adequately drained.

7. No development shall commence on site until a scheme of acoustic insulation and noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from the anaerobic digester, grain drying plant and any mechanical ventilation. The approved scheme shall be implemented in full before use commences and maintained at all times thereafter. In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a thorough background noise survey and noise assessment in accordance with BS4142:2014 (or any subsequent version) and demonstrate that the rating noise level is at or below the background noise level.

REASON: To ensure the retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

8. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:
 - i. The movement of construction vehicles;
 - ii. The cutting or other processing of building materials on site;
 - iii. Wheel washing and vehicle wash down facilities;
 - iv. The transportation and storage of waste and building materials;
 - v. The recycling of waste materials (if any)
 - vi. The loading and unloading of equipment and materials
 - vii. The location and use of generators and temporary site accommodation
 - viii. Pile driving (If it is to be within 200m of residential properties)
 - ix. Schedules for any plans to float polish flooring

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general,

detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

9. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

10. No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

11. **INFORMATIVE TO APPLICANT:** Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

12. **INFORMATIVE TO APPLICANT:** Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

13. **INFORMATIVE TO APPLICANT:** The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

14. INFORMATIVE TO APPLICANT: The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

15. INFORMATIVE TO APPLICANT: The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

9i 16/05721/FUL: 9 Church Farm, Easton Grey, Malmesbury.

Public participation was conducted as outlined above.

The Planning Officer explained that the application was one of 9 concurrent applications at the site, seeking various agricultural buildings to allow for the consolidation of the applicant's beef and dairy businesses, including the creation of an agricultural workers dwelling and an Anaerobic Digester for use by the applicant's business. This application related only to the erection of the agricultural farmers dwelling and heifer shed.

The Planning Officer introduced the report and showed pictures and diagrams of the proposed site, giving details about the specifications and materials to be used. It was explained that conditions in respect of landscaping and drainage were suggested, as with other applications on the site. It was highlighted that there was a functional need for the dwelling on the site, as identified by the Council's Agricultural Consultant, and that other buildings near the site were unable to be used. The officer identified that the dwelling had been designed to reflect the financial and functional requirements of the operation as proposed. The officer advised that it was conditioned that the dwelling would not be occupied until the beef and dairy element of the farm was in use and would be restricted to use by agricultural workers and their dependents. Following submissions in by the applicant team, it was clarified that the Council's agricultural consultant had identified that part of the functional need for a

dwelling related to the provision and operation of the dairy herd facilities and therefore the conditional restriction in this respect was necessary.

The Chairman invited technical questions and it was confirmed that the dwelling was necessitated by the agricultural work and not maintenance of the AD unit.

Cllr Anthony Trotman proposed the officer's recommendation, which was seconded by Cllr Peter Hutton.

RESOLVED:

That planning permission be GRANTED, subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**
 - i. Site Location Plan - 2663/01 - Received 24th June 2016;**
 - ii. Proposed Heifer Shed - 2663/07 - Received 10th June 2016;**
 - iii. Proposed Dwelling Elevations - 2663/11A - Received 30th November 2016**
 - iv. Proposed Dwelling Floor Plans - 2663/12A - Received 30th November 2016**

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3. No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs of the dwelling hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 4. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.**

REASON: The site is in an area where residential development for purposes other than the essential needs of agriculture or forestry is not normally permitted and this permission is only granted on the basis of an essential need for a new dwelling/residential accommodation in this location having been demonstrated.

5. The dwelling hereby approved shall not be first occupied until the agricultural buildings approved under application reference 16/05722/FUL (Beef Building) & 16/05729/FUL (Dairy Parlour) have been erected in strict accordance with the approved plans, occupied and the associated agricultural business be operational at the site.

REASON: To ensure that the dwelling is required for a key worker for the agricultural land use at the site.

6. No development shall commence on site until a scheme of hard and soft landscaping to mitigate against the impacts of the development on the Area of Outstanding Natural Beauty has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :
 - i. location and current canopy spread of all existing trees and hedgerows on the land;
 - ii. full details of any to be retained, together with measures for their protection in the course of development;
 - iii. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
 - iv. finished levels and contours;
 - v. means of enclosure;
 - vi. car park layouts;
 - vii. other vehicle and pedestrian access and circulation areas;
 - viii. all hard and soft surfacing materials;
 - ix. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
 - x. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
 - xi. retained historic landscape features and proposed restoration, where relevant.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

7. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs,

trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

8. No development shall commence on site until An Ecological Mitigation and Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan will address the loss of grassland and trees and the potential disturbance to wildlife using hedgerows and trees around the site boundary. It will offer gains for biodiversity by aiming to help meet targets in the Wiltshire Biodiversity Action Plan for named species.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

9. No development shall commence on site until a comprehensive scheme for the discharge of surface water from the wider site (including surface water from the access/driveways/service areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

10. No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer (if required) have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in acceptable manner, to ensure that the development can be adequately drained.

- 11. No development shall commence on site until a plan showing space for the parking of 3 vehicles has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the parking spaces shall be provided in strict accordance with the approved plan prior to the occupation of the dwelling and shall not be used other than for the parking of vehicles or for the purpose of access.**

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

- 12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-H shall take place on the dwelling house(s) hereby permitted or within their curtilage.**

REASON: In the interests of the amenity of the Area of Outstanding Natural Beauty and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements to an agricultural workers dwelling.

- 13. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:**
 - i. The movement of construction vehicles;**
 - ii. The cutting or other processing of building materials on site;**
 - iii. Wheel washing and vehicle wash down facilities;**
 - iv. The transportation and storage of waste and building materials;**
 - v. The recycling of waste materials (if any)**
 - vi. The loading and unloading of equipment and materials**
 - vii. The location and use of generators and temporary site accommodation**
 - viii. Pile driving (If it is to be within 200m of residential properties)**
 - ix. Schedules for any plans to float polish flooring**

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

14. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

15. INFORMATIVE TO APPLICANT: The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

16. INFORMATIVE TO APPLICANT: Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

17. INFORMATIVE TO APPLICANT: The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should

seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

18. INFORMATIVE TO APPLICANT: The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence. If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

19. INFORMATIVE TO APPLICANT: Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

10 **15/10712/FUL: Land North of Baydons Lane, Chippenham.**

Michael Sammes, Vanessa Robshaw and Michael Gibbons spoke against the application. John Bostock spoke in favour of the application.

The Planning Officer introduced the report which was an application for the erection of 6 dwellings, which had been reported to Committee on 26 October 2016 and deferred for further consideration of three issues: the possibility for an environmental corridor, an assessment of the Japanese Knotweed issues on the site, and vicinity, and the possibility of traffic calming measures sympathetic to the character of the conservation area. Officers explained that all issues had been considered and addressed by the proposed conditions in the report.

The officer showed pictures and diagrams which identified proposed location and specifications of the build, it was highlighted that slight alterations had been made to the layout, moving the proposed houses further into the site and therefore further away from neighbours, alterations had also been made to avoid the root zone of a beech tree on the site. The environmental corridor was now included in the plans with minor alterations and with minimal impact. The Knotweed issue had been addressed by a condition to ensure the removal of the species prior to commencing the building works. The traffic calming measures were to be dealt with by a revised road layout and protection zones, alternative materials appropriate to the conservation area status of the site had been proposed by the applicant and agreed by officers.

The Chairman invited members to ask technical questions and there were none.

The Chairman invited members of the public to make representations, as detailed above.

In response to statements from the public, the Planning Officer explained that the Committee was already familiar with the application; members were considering the three issues deferred from a previous Committee meeting, and key changes to the proposed consent were in response to the matters Committee had sought further clarity on when it was last debated. It was explained that public consultation on the revised plans had not been undertaken since the overall impact of the proposed development on neighbours had been lessened in comparison to the previous proposals. The proposed condition on Knotweed had been considered appropriate by the Council's Ecologist.

Cllr Peter Hutton moved the officer's recommendation, subject to the conditions in the report and a requirement that a completion survey be carried out post eradication of the Knotweed, and an informative referring the applicant to the maximum fine for allowing Knotweed to spread, the wording of which to be determined by officers. This was seconded by Cllr Howard Greenman.

In the debate that followed members considered the impact of the Japanese Knotweed and agreed the development to be acceptable and an improvement to the previous proposal.

RESOLVED:

That authority is DELEGATED to the Head of Development Management to GRANT planning permission, subject to conditions listed below and completion of a S106 legal agreement within six months of the date of the resolution of this Committee, and subject to an amendment to the proposed condition in respect of Knotweed in order to secure a completion survey of the land in question post eradication and removal works to confirm removal and also an Informative to be added referring the applicant to the maximum fine permissible if Knotweed is allowed to spread. Authority is delegated to the Head of Service to prepare appropriate wording in this regard.

In the event of failure to complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Head of Development Management to REFUSE planning permission for the following reason:-

The application proposal fails to provide the necessary mitigation in line with Policies CP50, CP51 and CP58 of the Wiltshire Core Strategy (Adopted January 2015) and Paras 7, 14 & 17 of the National Planning Policy Framework March 2012.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drawing No: 1631 - 01 (as submitted 20/09/2016) - Site Plan
 - Drawing No: 1631 - 02 REV H (as submitted 13/12/2016) - Site Layout
 - Drawing No: 1631 - 03 REV F (as submitted 13/12/2016) – Street Elevations & Sections
 - Drawing No: 1631 - 04 REV D (as submitted 13/12/2016) – Rear elevations & Sections
 - Drawing No: 1631 - 05 REV G (as submitted 13/12/2016) - Parking Provision
 - Drawing No: 1631 - 06 REV K (as submitted 16/12/2016) - Drainage Strategy
 - Drawing No: 1631 - 07 REV H (as submitted 13/12/2016) – Landscaping Layout
 - Drawing No: 1631 - Plot1fp (as submitted 13/12/2016) - Plot 1 Floor Plan and Elevations
 - Drawing No: 1631 - Plot2el (as submitted 13/12/2016) - Plot 2 Floor Plan and Elevations
 - Drawing No: 1631 REV A - Plot3fp (as submitted 13/12/2016) - Plot 3 Floor Plans
 - Drawing No: 1631 REV A - Plot3el (as submitted 13/12/2016) - Plot 3 Elevations
 - Drawing No: 1631 REV A - Plot4el (as submitted 13/12/2016) - Plot 4 Elevations
 - Drawing No: 1631 REV A - Plot4fp (as submitted 13/12/2016) - Plot 4 Floor Plan
 - Drawing No: 1631 REV B - Plot5/6fp (as submitted 13/12/2016) - Plot 5 & 6 Floor Plan
 - Drawing No: 1631 REV B- Plot5/6el (as submitted 13/12/2016) - Plot 5 & 6 Elevations
 - Drawing No: 1631 REV B - gar/encl (as submitted 13/12/2016) - Garages and Enclosure plans.
 - Drawing No: 1631 0700 Rev P5 (13/12/2016) Engineering Layout and Details
 - D37 36 P2 Rev A (13/12/2016)
 - D37 36 P1 (13/12/2016)
 - D37 36 P3 (13/12/2016)
 - Extended Phase 1 Habitat Survey and Assessment by Alder Ecology (May 2013)
 - Ecological Assessment by Tyler Grange (June 2016)
 - FRA Addendum Report by Craddys (June 2016)

REASON: For the avoidance of doubt and in the interests of proper planning.

3. No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area

4. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - hours of construction, including deliveries;

Has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

5. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority before commencement of the development. The content of the LEMP shall include, but not necessarily be limited to, the following information:
 - Description and evaluation of features to be managed;

- Landscape and ecological trends and constraints on site that might influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions;
- Preparation of a work schedule (including an annual work);
- Details of the body or organisation responsible for implementation of the plan;
- Ongoing monitoring and remedial measures;
- Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery. The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. The LEMP shall be implemented in full in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority

6. No development shall commence on site (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:
 - Protection of trees including details of root protection areas and fencing;
 - Mitigation for any potential tree bat roosts to be removed;
 - An updated badger survey and mitigation strategy;
 - A reptile mitigation strategy including methods to be applied during the construction phase and details of the proposed receptor site including long-term maintenance.
 - Protection of breeding birds.
 - Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

A report prepared by a competent person(s), certifying that the required mitigation and/ or compensation measures identified in the CEMP have been completed to their satisfaction, shall be submitted to the Local Planning Authority within 3 months of the date of

substantial completion of the development or at the end of the next available planting season, whichever is the sooner.

REASON: To ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats.

7. No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:-

- A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2012 and a plan indicating the alignment of the protective fencing;
- A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837: 2012;
- A schedule of tree works conforming to British Standard 3998: 2010;
- Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- Plans and particulars showing the siting of the service and piping infrastructure. The detailed landscaped plan should be not less than 1:200 scale, showing the position of any trees proposed to be retained and the positions and routes of all proposed and existing pipes, drains, sewers, and public services, including gas, electricity, telephone and water.
- A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;
- Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
- Details of all other activities, which have implications for trees on or adjacent to the site.
- Day and sunlight calculations must be submitted in accordance with Building
- Research Establishment guidance and British Standards 8206 Part 2: 2008 Light for Buildings Part 2 - Code of practice for daylighting.

- In order that trees to be retained on-site are not damaged during the construction works and to ensure that as far as possible the work is carried no demolition, site clearance or development should commence on site until a precommencement site meeting has been held, attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Planning Authority, to discuss details of the proposed work and working procedures.
- Subsequently and until the completion of all site works, site visits should be carried out on a weekly basis by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority.
- Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

8. No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development, until a Tree Protection Plan showing the exact position of each tree/s and their protective fencing in accordance with British Standard 5837: 2012: "Trees in Relation to Design, Demolition and Construction - Recommendations"; has been submitted to and approved in writing by the Local Planning Authority, and;

The protective fencing shall be erected in accordance with the approved details. The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work – Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

[In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

- 9. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable urban drainage details has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.**

REASON: To ensure that the development can be adequately drained.

- 10. No development shall commence on site until a scheme for the discharge of surface water from the highway fronting the site has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the highway drainage scheme has been constructed in accordance with the approved scheme.**

REASON: To ensure that the development can be adequately drained

- 11. No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.**

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

- 12.** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

- 13.** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no gates, fences, walls or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site.

REASON: In the interests of visual amenity.

- 14.** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation.

REASON: To secure the retention of adequate parking provision, in the interests of highway safety.

- 15.** There must be no ground raising or obstruction to flow on existing land at or below the 1 in 100 year flood level (45.57mAOD).

REASON: In the interests of flood prevention

- 16.** The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been issued and submitted to, and approved in writing by, the local planning authority certifying that this level or equivalent has been achieved.

REASON: To ensure that the objectives of sustainable development equal or equivalent to those set out in Policy CP41 of the Wiltshire Core Strategy are achieved.

17. No development including vegetation removal / management, site clearance, ground works or intrusive site investigations, shall commence until a detailed method statement for the removal/eradication of Japanese knotweed on the site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed during any operations in accordance with best practice, and ensure the safe disposal of invasive plant material as required. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant covered under the Wildlife and Countryside Act 1981. Development shall be carried out in strict accordance with the approved method statement.

18. No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

19. No development shall commence on site until details of the 'highway works' consisting of carriageway widening / traffic calming / lowered kerb to be formed at Baydon Lane have been submitted to, and approved in writing by, the Local Planning Authority. The highway works shall include the re-surfacing of the wearing course of the whole carriageway (ie after the widening). No part of the development shall be occupied until the 'highway works' have been provided in accordance with the approved details (numbered 1084_0700 P5 and titled 'Engineering Layout and Details').

REASON: In the interests of highway safety.

20. No development shall commence on site until visibility splays at both access points have been provided between the edge of the carriageway and a line extending from a point 2m metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 25 metres from the centre of the access in accordance with the approved plans (numbered 1084_0700 P5 and titled 'Engineering Layout and Details'). Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 0.6m above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation.

REASON: To safeguard the amenities and character of the area and in the interest of highway safety.

22. INFORMATIVE TO APPLICANT: The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

23. INFORMATIVE TO APPLICANT: Please note that Japanese Knotweed waste (the plant itself or material containing its rhizomes) is classed as a controlled/special waste and therefore needs to be disposed of in accordance with the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991. It may be necessary to inform the Environment Agency of the intention to bury or burning Japanese Knotweed onsite. Any soils or material contaminated with Japanese Knotweed should be disposed of at an authorised landfill site or suitable disposal site. Please see government guidance for further details. <https://www.gov.uk/guidance/prevent-japanese-knotweed-fromspreading>

24. INFORMATIVE TO APPLICANT: Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

25. INFORMATIVE TO APPLICANT: This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].

26. INFORMATIVE TO APPLICANT: The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

27. INFORMATIVE TO APPLICANT: The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

28. INFORMATIVE TO APPLICANT: Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

29. INFORMATIVE TO APPLICANT: The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website- www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.

11 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 6.35 pm)

The Officer who has produced these minutes is Edmund Blick of Democratic Services, direct line 01225 718059, e-mail edmund.blick@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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Wiltshire Council
Northern Area Planning Committee
15th February 2017

Planning Appeals Received between 22/12/2016 and 02/02/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
15/08962/LBC	The Old Farmhouse 13 Moor Barton, Neston Corsham, Wiltshire SN13 9SH	CORSHAM	Removal of Existing Concrete Roof Tiles, Plastic Gutters & Downpipes and Replace with Reclaimed Double Roman Tiles, Cast Iron Rainwater Goods, Oak Fascia and Installation of a Small Conservation Roof-Light to Match the Existing.	DEL	Written Representations	Refuse	23/12/2016	No
15/10659/FUL	Ashley, Common Road Malmesbury, Wiltshire SN16 0HN	ST PAUL MALMESBURY WITHOUT	Proposed Erection of Two Detached Dwellings & Associated Landscaping, Following the Demolition of the Existing Dwelling.	COMM	Written Representations	Approve with Conditions	28/12/2016	Yes
16/03036/FUL	46 Park Lane, Corsham Wiltshire, SN13 9LG	CORSHAM	Erection of New Dwelling, Single Storey Extensions to Side & Rear & Loft Conversion to Existing Dwelling	DEL	Written Representations	Refuse	22/12/2016	No
16/03930/FUL	1 The Firs, Kemble Wiltshire, GL7 6AZ	CRUDWELL	Proposed New Dwelling	DEL	Written Representations	Refuse	28/12/2016	No
16/05143/FUL	Pen-Y-Brook, Notton Lacock, Chippenham Wiltshire, SN15 2NF	LACOCK	Proposed new first time buyer housing to include 2no. two bed homes and 1no. one bed apartment.	DEL	Written Representations	Refuse	28/12/2016	No
16/05959/OUT	Land to the South East of South View & North of Webbs Court, South View, Lyneham, Wiltshire	LYNEHAM AND BRADENSTOKE	Outline planning application for residential development of up to 60 dwellings; including the creation of new vehicular access, public open space, natural children's play area, landscape planting, pumping station, surface water attenuation and associated infrastructure (all matters reserved except means of access only in relation to a new point of access into the site) (Resubmission of 15/12487/OUT)	COMM	Inquiry	Approve with Conditions	16/01/2017	Yes
16/06534/LBC	Yatesbury Manor South Yatesbury, Calne Wiltshire, SN11 8YE	CHERHILL	Installation of two stud partition walls with half glazed Victorian style sliding doors, subdividing the conservatory into three sections (retention of)	DEL	Written Representations	Refuse	23/12/2016	No
16/06542/FUL	40 The Street, Hullavington Wiltshire, SN14 6DU	HULLAVINGTON	Creation of a new vehicular access onto a classified road	COMM	House Holder Appeal	Approve with Conditions	24/01/2017	Yes
16/06927/FUL	46 Park Lane, Corsham Wiltshire, SN13 9LG	CORSHAM	Proposed Erection of New Dwelling, Single Storey Extensions to Side & Rear & Loft Conversion of Existing Dwelling (Resubmission of 16/03036/FUL)	DEL	Written Representations	Refuse	22/12/2016	No
16/07095/OUT	Wood Lane Nursery Wood Lane, Braydon SN5 0AJ	LYDIARD MILLICENT	Demolition of existing buildings and glass houses & erection of single dwelling (outline application for access and layout only)	DEL	Written Representations	Refuse	22/12/2016	No

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Agenda Item 4

16/08475/PNCOU	Building 3 Nables Farm Scotland Hill Upper Seagry Chippenham Wiltshire, SN15 5HB	SEAGRY	Notification for Prior Approval - Conversion of Existing Building (Building No. 3) Falling Within Class B8, for Use as 3 No. Dwellings (Use Class C3) Pursuant to Class P	DEL	Written Representations	Refuse	28/12/2016	No
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Planning Appeals Decided between 22/12/2016 and 02/02/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
15/11147/FUL	Home Orchard Ashley, Box, SN13 8AN	BOX	Siting of Garden Cabin for Tourist Use and Associated Works (Retrospective)	DEL	Written Reps	Refuse	Dismissed	30/01/2017	No
16/02442/FUL	Kintyre, Sutton Lane Sutton Benger Chippenham Wiltshire, SN15 4RR	SUTTON BENGER	Covered Yard for Livestock	DEL	Written Reps	Approve with Conditions	Dismissed	10/01/2017	No
16/03206/FUL	Firs Farm Swindon Road Little Somerford Wiltshire, SN15 5BJ	LEA AND CLEVERTON	Demolition of Existing Outbuilding to be Replaced with 4no. Tourist Accommodation Units with Associated Parking	DEL	Written Reps	Refuse	Allowed with Conditions	19/01/2017	No
16/04999/OUT	Land off School Lane Lea, Malmesbury Wiltshire, SN16 9PQ	LEA AND CLEVERTON	Outline Application for Erection of 1No. New Dwelling (All Matters Reserved)	DEL	Written Reps	Refuse	Dismissed	27/01/2017	No
16/05003/FUL	Sunrise, Box Hill Corsham, Wiltshire SN13 8HE	BOX	Proposed Conversion of Existing Garage to New Dwelling	DEL	Written Reps	Refuse	Dismissed	31/01/2017	No
16/06839/FUL	6 Locks Lane, Purton Swindon, Wiltshire SN5 4HD	PURTON	Detached Triple Garage with Office/Store Above (Part Retrospective)	DEL	House Holder Appeal	Refuse	Allowed with Conditions	01/02/2017	No

WILTSHIRE COUNCIL

AGENDA ITEM NO.

NORTHERN AREA PLANNING COMMITTEE

15 February 2017

WILDLIFE AND COUNTRYSIDE ACT 1981

THE WILTSHIRE COUNCIL PARISH OF BOX 107A, 107B and 107C RIGHTS OF WAY MODIFICATION ORDER 2016

Purpose of Report

1. To:
 - (i) Consider the one representation and one objection received to the making of The Wiltshire Council Parish of Box 107A, 107B and 107C Rights of Way Modification Order 2016 made under Section 53 of the Wildlife and Countryside Act 1981.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs with the notification that Wiltshire Council supports the confirmation of the Order as made.

The Order is appended at **Appendix 1**.

Relevance to Council's Business Plan

2. Working with the local community to provide a rights of way network which is fit for purpose, making Wiltshire an even better place to live, work and visit.

Background

3. On 1 September 2015 Wiltshire Council received an application from the Springfield and Clift Residents Association for a definitive map modification order (DMMO) to add public footpaths to the definitive map over land at Leafy Lane, Box.
4. The application is supported by evidence of use by 42 members of the public who have used the claimed routes for varying periods of time from 1970 onwards. They claim to have used the paths on foot in a manner that is 'as of right', that is, without permission, without force and without secrecy.
5. The claimed routes lead through woodland from three entry points on Leafy Lane. The routes from the three entry points variously converge and follow the northern boundary of the woodland before leading south along the boundary of a field currently owned and used by Leafy Lane Playing Fields (LLPF) Ltd.

6. Prior to 1998 all of the land was owned by a Mr Padfield who leased some of the land to the Royal Air Force for use as a sports field. Some of the land was leased or tenanted and was used for grazing cows. In 1998 Mr Padfield sold all of the land over which the claimed routes lead to LLPF Ltd who has divided the land into three distinct areas; playing fields and clubhouse, woodland and a separate pathway linking Boxfields Road with the woodland area via a field perimeter path.
7. Wiltshire Council consulted on the application and decided that the application formed at least a reasonable allegation that public rights on foot are reasonably alleged to subsist and accordingly an Order to record the routes as public footpaths was made. The Council's decision report to make the Order is appended here at **Appendix 2** and the relevant legislation is detailed at sections 2 and 11 therein.
8. The Order was duly advertised and attracted one representation in support of the Order and one objection to the Order.
9. Unless the representation and objection are withdrawn, Wiltshire Council may not proceed with confirming the Order which must now be forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination.

Main Considerations for the Council

10. **Representation** Mrs K Barstow 27 September 2016

"Having seen the letter written to you regarding the footpath along the top of the field, I noticed that Mr Mullins says that they have closed off that path during the Football Tournament usually held in early June. I can say that my husband and I have walked along that pathway many of the years that the tournament has been going on and have never been stopped or asked not to use the path. This year we walked along that path, chatted to the people selling the programmes then walked on, at no time were we asked politely or otherwise not to use the path, we most certainly never had to barge our way through."

11. **Objection** Foot Anstey acting for Leafy Lane Playing Fields Ltd 24 October 2016

The objection is appended here at **Appendix 3**.

12. The objection raised a number of issues which the applicant has addressed in a response received on 1 December 2016. This is appended here at **Appendix 4**.

Comments on the representation and objection

13. Members of the Committee are now required to consider the representation and objection received.
14. The **representation** challenges the case of the objector with regard to the claim that the Order route was obstructed once a year by programme sellers and that that was sufficient to cause an interruption in the public use so that a dedication either by statute (s.31 of the Highways Act 1980) or at common law cannot occur.

15. It is agreed that an effective interruption may be the regular closing of a route (for example the locking of a gate for one day of the year). However, the interruption has to be sufficient to bring to the public's attention that their use was interrupted and that their right to use the way was being challenged. The High Court has recently held that preventing access to a shop on a day when it was not open (the locking of a gate on Christmas Day) was insufficient to form an interruption for this reason. *Ali v Secretary of State for Environment Food and Rural affairs [2015] EWHC 893*
16. It is clear from Mrs Barstow's response that she was never stopped from using the way by programme sellers and nor was she challenged. No other users report being challenged and in the applicant's response at **Appendix 4** (annex D) it is clear that when the applicant himself walked the Order route on 7 June 2015, the day of the annual tournament, that he was not challenged and nor did he encounter anyone selling programmes.
17. Additionally, it is doubtful that the programme sellers would have been on site for all of the hours of daylight. Since it is known that dog walkers especially frequent footpaths early in the morning and in the evening, for any interruption to come to the attention of the public it would have been necessary to close the path for at least 16 hours at this time of the year. It is also a consideration that people walking dogs or people seeking a quiet walk may actually avoid the path on the day of the tournament and would hence be unaware of any challenge, as would people walking in the woods only.
18. Officers consider that any challenge based on the actions of the programme sellers is insufficient to challenge the public's use and would not form an interruption to any use.
19. The **objection (Appendix 3)** is based on a number of points which are considered below.
20. For Section 31 of the Highways Act 1980 to apply it is necessary to identify a 20 year period in which to examine the relevant evidence. This is known as the "relevant period" and it is considered that there are two relevant periods for consideration. The first ends with the sale of the land to LLPF Ltd (1978 to 1998) and the second ends with the making of the application itself (1995 to 2015). Although evidence relating to the use of the paths is relatively consistent throughout both periods it is clear that the change in ownership, and hence use of the field and woodland by the new owner, does mean that some considerations may only apply for one of the two relevant periods.
21. **1978 – 1998**

The land was owned by Mr Padfield during this time. He states that there were no gates or stiles and that access must have been by force. The objector adduces a statement from Mr Hancock at 2.3.2 "*from 1968] no one used the wood for recreation...*" but contradicts it with one from Mr Beattie who vaguely recalls going to the woods with his older brothers and sisters in the period 1954 to 1964 and more clearly as a teenager in the mid to late 1960s and early 1970s "*spending many of the school holidays playing in the woods making dens and having lots of fun*". Mr Beattie recalls having to climb a fence to get into the

wood and of being chased out by ‘the farmer’. However, Mr Beattie’s use of the woods as a school child and teenager pre-dates both relevant periods and may well reflect the situation with the land at that time. There is no evidence to suggest that anyone was challenged in either relevant period. Additionally, photographs supplied by the applicant at Annex K, **Appendix 4** show that there was at least one stile into the woods (Order plan point B) in 1996 and at Annex H a gate and gap, side gate or stile at Order plan point C. The squeeze gap at A is long standing and contemporary with the concrete posts and the stone stile to the east of A in the wall is a historic feature pre-dating 1950 (when a footpath was diverted from the field).

22. It is further noted that Ministry of Defence (MOD) housing to the north of the wood has a gate into the wood and a stile existed at point B on the Order plan which enabled access to the NAAFI on the opposite side of the road. A stile in the fence line between the wood and the field also existed (presumably to enable access to the sports ground when it was used by the MOD) (see **Appendix 4** Annex J. The land was demonstrably porous despite the recollection of Mr Padfield that it was not.
23. In 1995 Mr Padfield wrote to Mrs Hair (Chairman of the Rudloe Action Group) stating that *“we had an understanding that I would allow residents continued access to the land, in return I had hoped to have some co-operation over the development of football facilities”*.
24. Mrs Hair responded in writing to Mr Padfield after a site meeting with him. At point 4 she stated *“If a decision is made to go ahead with football pitches, our community group will co-operate with regard to access to and on the area, e.g. signposts or possible leaflet to householders.”*
25. If Mr Padfield’s approach to the Rudloe Action Group is held to be a grant of permission and a demonstration of the landowner’s lack of intention to dedicate then this would amount to a calling into question of the public right and another relevant period (1975 to 1995) would need to be considered.
26. No evidence has been submitted relating to the nature of the “understanding” that Mr Padfield thought he had with the Rudloe Action group and there is no evidence as to the size and scope of this group. It is also clear that any “understanding” related to the development of football facilities and did not extend to the woodland.
27. It is an essential requirement that any intention of the landowner not to dedicate a right of way is brought to the attention of the relevant audience, that is, the users of the path. In relation to the proper meaning of the words in s31(1) *“there is sufficient evidence that there was no intention ... to dedicate ...”*, the leading decision is that of the House of Lords in *R (Godmanchester Town Council) v Secretary of State for the Environment, Food and Rural Affairs [2007] UKHL 28, [2008] 1 AC 221*. Lord Hoffmann said (paragraph 32):

“... ‘intention’ means what the relevant audience, namely users of the way, would reasonably have understood the landowner’s intention to be”.

Lord Hoffmann then said (paragraph 33):

“[section 31(1)] requires ‘sufficient evidence’ that there was no such intention [to dedicate]. In other words, the evidence must be inconsistent with an intention to dedicate. That seems to me to contemplate evidence of objective acts, existing and perceptible outside the landowner’s consciousness ... the objective acts must be perceptible by the relevant audience”.

In the same case Lord Hope said (paragraph 57) that:

“[the landowner] must take steps to disabuse the public of the belief that the way has been dedicated to public use. ... the landowner must communicate his intention to the public in some way if he is to satisfy the requirements of the proviso”.

Lord Scott, also in the same case, said (paragraph 68) that:

“Evidence ‘sufficient’ to displace the statutory deemed conclusion of dedication should at least establish a positive intention”.

28. In any event, if Mr Padfield’s “understanding” was to be held to represent the granting of permission and an interruption to use that is ‘as of right’ there remains a sufficiency of evidence for the relevant period 1975 to 1995.
29. The objector considers that the evidence of use of the paths is unpersuasive as the user evidence forms fail to differentiate between use before and after 1999 (when the field perimeter path was fenced off from the wider field).
30. It is agreed that users generally fail to record changes such as the fencing of the perimeter path or perhaps the dilapidation of a stile or fence with time. However, this could be indicative of how little the changes affected their use of the paths. Users were accustomed to following the perimeter of the field from Boxfield Road to the woodland (as requested on the MOD signs) so why would the erection of the fence and subsequent hedge planting in 1999 have made any difference to them? Photographs taken from the perimeter path prior to 1999 confirm that it was in use (**Appendix 4**). It is clear that some users did stop using the cross field paths at this time (Mrs Barstow is one) but these routes are not the subject of this application.
31. The objector questions the motivation of the applicant and considers that the evidence has been produced in response to a campaign rather than on the basis of factual recollection and is therefore partial and has been given undue weight by the Council.
32. There is no requirement for Statements of Fact or Statutory Declarations in this process and it is usual for applications to be made to the Council in the same manner that this one is. There is always a motivation for making these applications and it is equally usual for applicants to try to locate users of the path. In so many cases people have a nodding acquaintance with other users but have little idea of who they are or how to contact them and accordingly it is again quite usual for evidence to be actively sought rather than passively given.

33. Any shortcomings in evidence, from any party, would, in any event, be revealed under cross examination at a subsequent public inquiry.
34. The objector considers that 'well worn tracks' did not arise until the 1980s, late in the first relevant period and that this is supported by photographs of the playing field taken in 1998 (**Appendix 2A** – sub appendix 8). It is also contended that the woodland was overgrown.
35. Officers are unconvinced that these photographs would have shown a walked path as the camera angle and distance is such that only the fence, grass and shrubs can be seen behind the goals. In **Appendix 4** the applicant has provided photographs of the woodland in 1985 (it is far from overgrown) and of the field edge in 1998 (showing stile and MOD notice on the route at point A) and in 1996 which may show a walked path. Additionally, he has included photographs taken from the field edge path in 1996 and 1997. The photograph taken in 1999 after the fence had been put in place by LLPF Ltd shows that a trodden path was clearly well established by this time. Photographs of paths in the wood taken in 1993, 1996, 1997, 1998 and 1999 are also included.
36. There is some evidence that Mr Padfield erected signs in the woodland though it is not known where they were sited, what they said or the periods they were in place or maintained for. There is evidence that the MOD erected signs stating that "all dogs must be kept on a lead and only walked around the perimeter of the station sports field" and that these signs were in place in 1998. There is also evidence of signs being erected by LLPF Ltd at entrances to the woodland. Although it is known what they said, they were not maintained and failed to be readable at some point.
37. For a sign to be effective in defeating s.31(1) of the Highways Act 1980 it must clearly indicate the land owners lack of intention to dedicate a public right of way. Signs stating "private land" or "private road" have been held by the courts not to apply. A sign granting a revocable permission may be taken as intention not to dedicate.
38. Officers consider that none of the above signs sufficiently convey to the users of the path that their use is by permission or that the landowner has no intention to dedicate a public right of way. The LLPF Ltd signs welcome public access to some areas, thus making it clear that the public should not use the other areas and are very clear about risks associated with dog fouling.
39. LLPF Ltd has, amongst its stated objectives, an objective to "*provide for the inhabitants of Corsham and surrounding areas in the interests of social welfare facilities for the recreation and leisure time occupation with the object of improving their conditions of life*" and "*to advance and improve the education and physical, mental and social well being of the community by the provision of sporting and recreation amenities, grounds and facilities of all kinds.*" NB there is a misquote of these stated objectives in the objectors submission 3.21.
40. While it may be argued that these objectives mean that use by the public from 1999 to 2015 has been 'by right' and not 'as of right', it is clear from LLPF Ltd's proposed sale of the woodland that they do not consider this to be an area provided as part of their statutory objectives. The woodland is clearly

superfluous and is to be disposed of. Additionally, they make clear in their letter to the Parish Council of 11 February 2013 (**Appendix 2A**) that the path at the field edge *“It is not a thoroughfare but an access path only to the rear of Leafy Lane Playing Fields Ltd.”*

41. Although the objector has produced minutes demonstrating that it had encountered problems with dogs around the playing areas, that a gate needed replacing, that private and ‘no dogs’ signs were to be investigated, that Box Highlands School had “used the woodland” without permission and that a fence had been cut, it is not clear whether any of these incidents relate to the claimed path. It is known that the metal fencing around the woodland was severely damaged by falling trees in 1990 and this may have been the reason it was removed.
42. The objector questions whether the path is two metres wide. It is agreed that parts of the path may have restrictions and if the Inspector is minded to confirm the Order they are empowered to alter the recorded width.
43. The objector states at 7.1 that they will make a claim under Section 28 of the Highways Act 1980 as a result of the depreciation value of its property. The compensation so described does not apply to orders made under s.53 of the Wildlife and Countryside Act 1981. Only in the event of unreasonable behaviour by any party at a public inquiry may any party seek to reclaim costs.
44. The objector also considers that if the Order is confirmed they will apply for a diversion order to divert the paths to the perimeter of the property. Wiltshire Council would accept such an application, which it has a power to process, subject to the necessary legal tests being met.

Safeguarding Considerations

45. There are no safeguarding considerations associated with the confirmation of the making of this Order.

Public Health Implications

46. There are no identified public health implications which arise from the confirmation of the making of this Order.

Corporate Procurement Implications

47. In the event this Order is forwarded to the Secretary of State there are a number of opportunities for expenditure that may occur and these are covered in paragraphs 51 to 53 of this report.

Environmental and Climate Change Considerations

48. There are no environmental or climate change considerations associated with the confirmation of the making of this Order.

Equalities Impact of the Proposal

49. Matters relating to the equalities impact of the proposal are not relevant considerations in accordance with s.53 of the Wildlife and Countryside Act 1981.

Risk Assessment

50. There are no identified risks which arise from the confirmation of the making of this Order. The financial and legal risks to the Council are outlined in the “Financial Implications” and “Legal Implications” sections below.

Financial Implications

51. The making and determination of Orders under the Wildlife and Countryside Act 1981 is a statutory duty for Wiltshire Council for which financial provision has been made.
52. Where there are outstanding objections to the making of the Order, the Committee may resolve that Wiltshire Council continues to support the making and confirmation of the Order. The Order will then be determined by the Planning Inspectorate by way of written representations, local hearing or local public inquiry, all of which have a financial implication for the Council. If the case is determined by written representations the cost to the Council is £200 to £300; however, where a local hearing is held the costs to the Council are estimated at £300 to £500 and £1,000 to £3,000 where the case is determined by local public inquiry with legal representation (£300 to £500 without).
53. Where the Council objects to the Order the Order must still be forwarded to the Secretary of State for determination. As in the case of a supported Order, the possible processes and costs range from £200 to £3,000 as detailed at paragraph 52 above.

Legal Implications

54. Where the Council does not support confirmation of the making of the Order, clear reasons for this must be given and must relate to the evidence available. The applicant may seek judicial review of the Council’s decision if this is seen as incorrect by them. The cost for this may be up to £50,000.

Options Considered

55. Members may resolve that:
- (i) The Order should be forwarded to the Secretary of State for determination with a recommendation as follows:
 - (a) The Order be confirmed without modification.
 - (b) The Order be confirmed with modification.
 - (c) The Order should not be confirmed.

Reason for Proposal

56. Unless the objection and representation is withdrawn the Order must be forwarded to the Secretary of State for Environment Food and Rural Affairs for determination.
57. It is considered that nothing in the objector's submissions demonstrates that, in spite of the landowners' stated intention not to dedicate a public right of way, that they brought that lack of intention to the attention of the relevant audience, that is, the users of the path.
58. There is evidence that since at least the 1970s the site has been porous, there was a squeeze gap and stone stile into the field at the Boxfields Road end (point A), there was a stile into the woods, there was a gate from the MOD housing into the wood and there was at least one gate and one stile leading from the woodland into Leafy Lane. The route from the MOD housing gate to the former NAAFI is an obvious and attractive one. Furthermore, signs pre-dating LLPF Ltd ownership encouraged people to walk around the perimeter of the field.
59. There is correspondence relating to public access to the area from 1995 onwards between the landowner and both the Rudloe Action Group and the Parish Council but it is unclear as to whether this relates to the claimed routes and the focus of the attention appears to be, justifiably for an organisation promoting playing fields, on keeping the public and dogs away from football pitches rather than away from the site entirely.
60. Evidence of challenges pre-date the relevant period and evidence relating to the placement and the wording of signs is vague in the period pre-dating LLPF Ltd's ownership and insufficient to satisfy s.31(3) of the Highways Act 1980 during LLPF Ltd's ownership.
61. The testimony of users of the path has been questioned by the objector and this evidence may be tested, along with the objector's evidence at a public inquiry. In *R v Secretary of State for the Environment ex p. Bagshaw and Norton* [1994] 68 P&CR 402 Owen J "*In a case where the evidence of witnesses as to user is conflicting, if the right would be shown to exist by reasonably accepting one side and reasonably rejecting the other on paper, it would be reasonable to allege that such a right subsisted. The reasonableness of that rejection may be confirmed or destroyed by seeing the witnesses at the inquiry.*"
62. In making this Order the Council considered that public rights on foot are reasonably alleged to subsist. It is considered that no further evidence has been adduced to alter either that decision or to conclude that, on the balance of probability, a public right has not been acquired. Clearly the testing of witnesses will be key to the final decision in this case.

Proposal

63. That “The Wiltshire Council Parish of Box 107A, 107B and 107C Rights of Way Modification Order 2016 is forwarded to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it is confirmed as made.

Tracy Carter

Associate Director – Waste and Environment

Report Author:

Sally Madgwick

Rights of Way Officer – Definitive Map

The following unpublished documents have been relied on in the preparation of this Report:

None

Appendices:

- Appendix 1 - Order and Plan
- Appendix 2 - Decision Report
- Appendix 2A - Landowner’s response to initial consultation
- Appendix 2B - User evidence summary
- Appendix 3 - Objection
- Appendix 4 - Applicant’s response to objection

WILDLIFE AND COUNTRYSIDE ACT 1981**THE DEFINITIVE MAP AND STATEMENT FOR THE CALNE AND CHIPPENHAM
RURAL DISTRICT COUNCIL AREA DATED 1953 AS MODIFIED UNDER THE
PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981****THE WILTSHIRE COUNCIL PARISH OF BOX PATHS 107 A, 107 B and 107 C RIGHTS
OF WAY MODIFICATION ORDER 2016**

This order is made by Wiltshire Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Definitive Map and Statement for the Calne and Chippenham Rural District Council Area dated 1953 as modified under the provisions of the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(c)(i) of the Act, namely the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows: -

- (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;

The Authority has consulted with every local authority whose area includes the land to which the order relates.

The Wiltshire Council hereby order that:

1. For the purposes of this Order the relevant date is the 25th August 2016
2. The Definitive Map and Statement for the Calne and Chippenham Rural District Council Area dated 1953 as modified under the provisions of the Wildlife and Countryside Act 1981 shall be modified as described in Parts I and II of the Schedule and shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as The Wiltshire Council Parish of Box Paths 107 A, 107 B and 107 C Rights of Way Modification Order 2016

THE COMMON SEAL of
WILTSHIRE COUNCIL was
hereunto affixed this 1st day
of September 2016 in the
presence of:

}
}
}
}

Kaneeke

Senior Solicitor



84232

SCHEDULE

PART I

MODIFICATION OF THE DEFINITIVE MAP

Parish	Path No	Description of footpath to be added	Modified under Section 53(3) as Specified
Box	107 A	Length of footpath as shown by a broken black line marked A to B on the plan annexed hereto. Width 2 metres Approximate length 730 m	53(3)(c)(i)
Box	107 B	Length of footpath as shown by a broken black line marked C to E on the plan annexed hereto. Width 2 metres Approximate length 215 m	53(3)(c)(i)
Box	107 C	Length of footpath as shown by a broken black line marked D to F on the plan annexed hereto. Width 2 metres Approximate length 175 m	53(3)(c)(i)

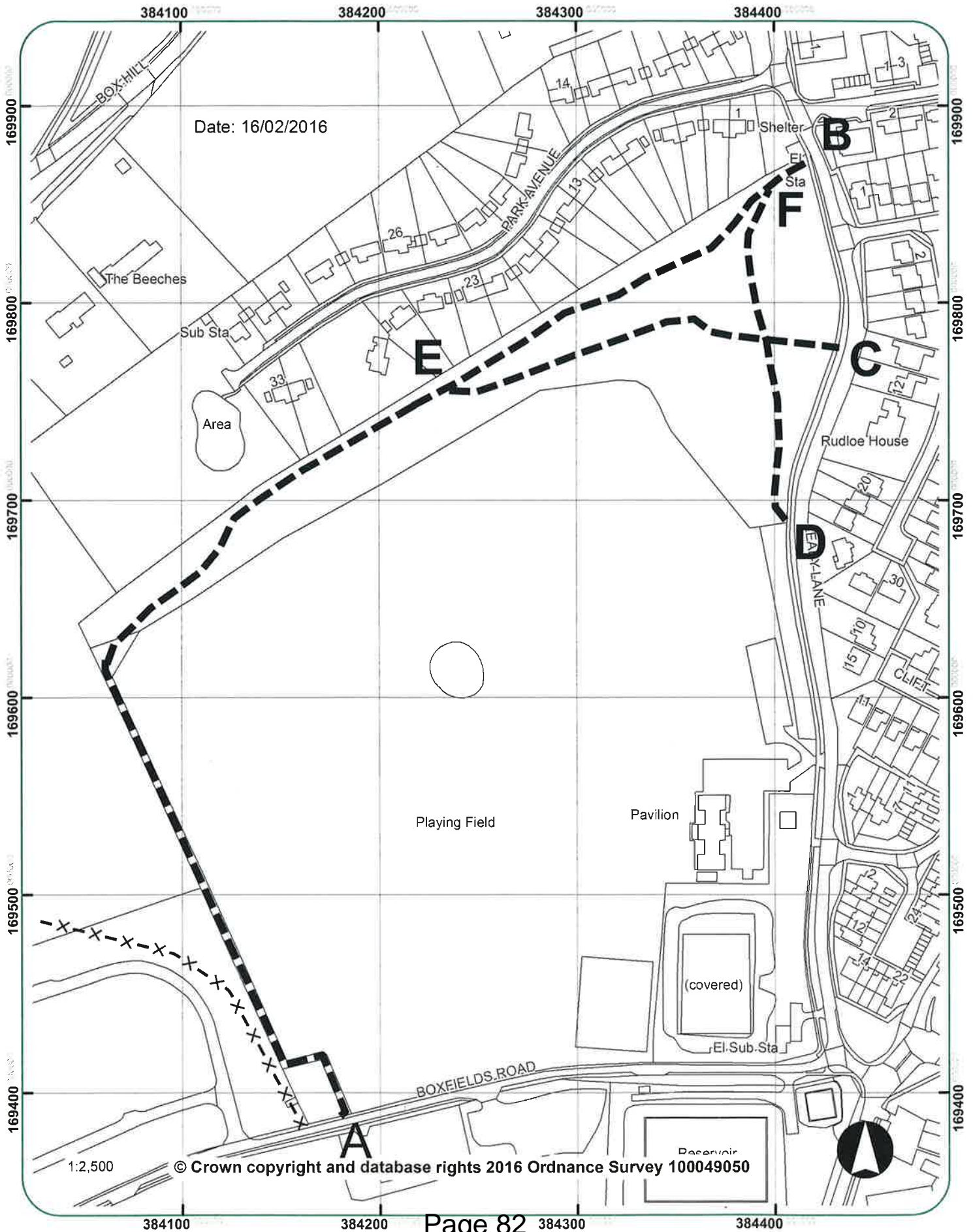
PART 2

MODIFICATION OF THE DEFINITIVE STATEMENT

Parish	Path No	Description of footpath to be added	Modified under Section 53(3) as Specified
Box	107 A	<u>FOOTPATH</u> leading from Boxfields Road at OS Grid ref. ST 8418 6939 in a generally north north westerly direction along the field edge to the woodland where generally north east to Leafy Lane at OS Grid ref. ST 8442 6987. Width 2 metres Approximate length 730 metres	53(3)(c)(i)
Limitations and Conditions: Squeeze gap at ST 8418 6939 Stile at ST 8442 6987			
Box	107 B	<u>FOOTPATH</u> leading from Leafy Lane at OS Grid ref. ST 8443 6978 leading in a generally westerly direction to its junction with path 107 A at OS Grid ref. ST 8424 6976. Width 2 metres Approximate length 215 metres	53(3)(c)(i)
Box	107 C	<u>FOOTPATH</u> leading from Leafy Lane at OS Grid ref ST 8441 6969 leading in a northerly direction to its junction with path 107 A at OS Grid ref. ST 8440 6986. Width 2 metres Approximate length 175 metres	53(3)(c)(i)

BOX 107 A, B and C ORDER PLAN

- Footpath to be added BOX 107 A A - - - - - B
- Footpath to be added BOX 107 B C - - - - - E
- Footpath to be added BOX 107 C D - - - - - F
- Unaffected footpath X-X-X-X-X-X-X-X-X-X



WILDLIFE AND COUNTRYSIDE ACT 1981 Section 53

DECISION REPORT

APPLICATION FOR AN ORDER TO MODIFY THE DEFINITIVE MAP AND STATEMENT BY ADDING FOOTPATHS AT LEAFY LANE, BOX

NB All documents (including user evidence forms, responses to consultations and correspondence) are available to be viewed at the Council's offices at Ascot Court, Aintree Avenue, White Horse Business Park, Trowbridge; please contact Sally Madgwick on 01225 713392.

1.0 Application

Application number: 2015/10

Application date: Dated 01 September 2015. Received 18 September 2015

Applicant: Springfield & Clift Residents Association
29 Springfield Close
Rudloe
Corsham
SN13 0JR

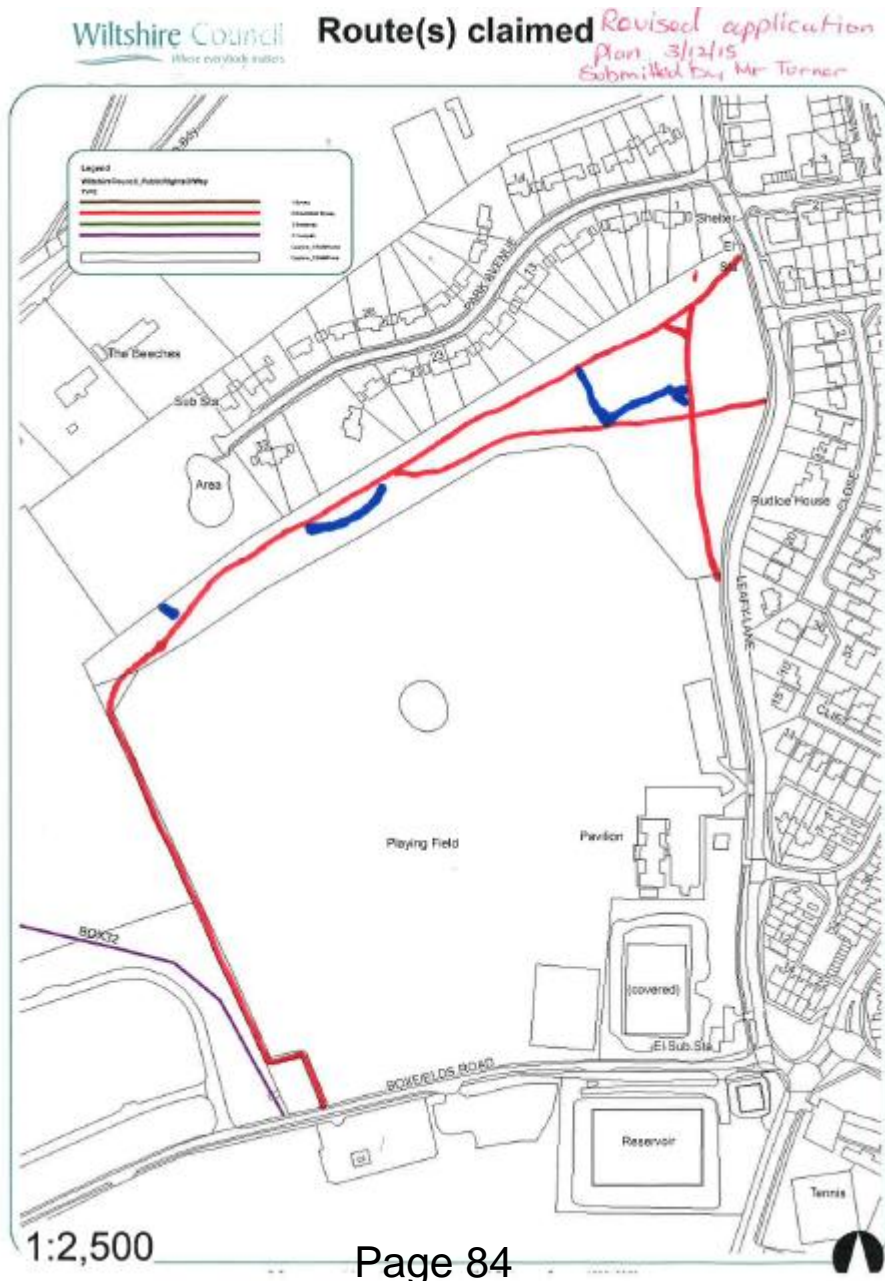
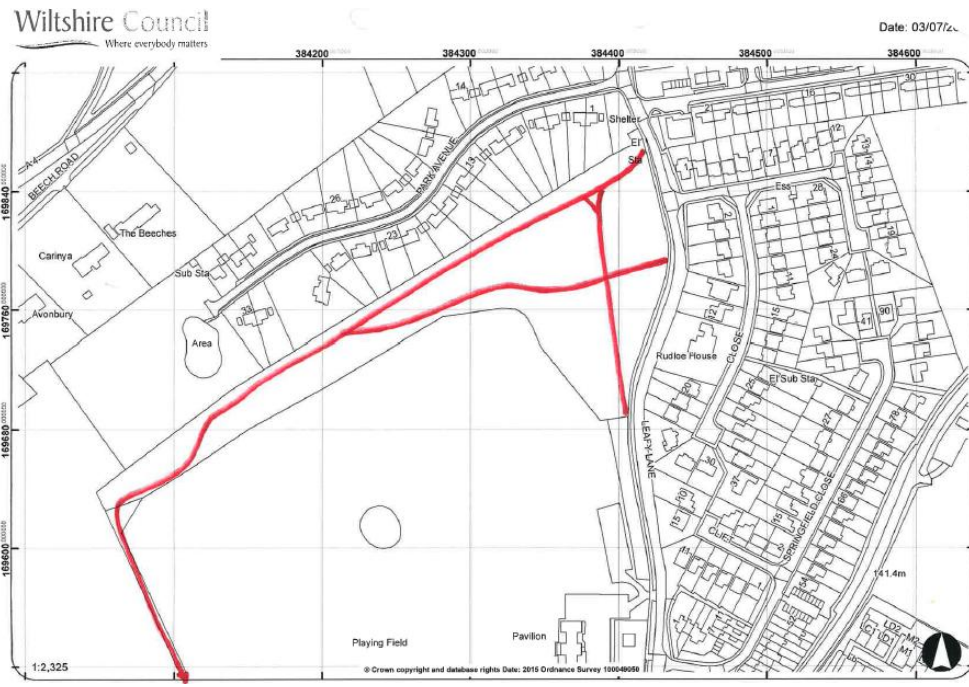
Application to: Add the footpath from Leafy Lane (3 entrances in Leafy Lane Wood) through Leafy Lane Wood to Boxfields Road.

Width: Varying from 3 metres to 1 metre

Sch. 14 compliance: Notice of Application for Modification Order (Form 1)
Certificate of Service of Notice of Application (Form 3) served on Leafy Lane Playing Fields Ltd
Plan at scale 1:2325 showing claimed routes in red. Further 1:2500 plan submitted showing route ending at Boxfields Road plus additional paths in blue. Plan submitted 03 December 2015
42 User evidence forms

Basis of application: That public rights on foot subsist over the routes and should be added to the definitive map

1.1 Application maps:



2.0 Legal empowerment

2.1 The Wildlife and Countryside Act 1981 (c.69) s.53 (2)(b) applies:

As regards every definitive map and statement the Surveying Authority shall-

- (a) *as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and*
- (b) *as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of the events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of that event.*

The event referred to in subsection 2 above relevant to this case is either:

(3)(b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or a restricted byway;

or

(3)(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic.

3.0 Compliance of the application

3.1 Section 53 (5) of the Wildlife and Countryside Act 1981 (WCA81) allows:

(5) any person may apply to the authority for an Order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.

Schedule 14 to this Act states:

Form of applications

An application shall be made in the prescribed form and shall be accompanied by –

- (a) *a map drawn to the prescribed scale and showing the way or ways to which the application relates and*
- (b) *copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application.*

Schedule 14 (2) requires that notice is served on owners and occupiers of any land to which the application relates.

- 3.2 This application comprised the below and is considered to be compliant with the legislation.

Notice of Application for Modification Order (Form 1)

Certificate of Service of Notice of Application (Form 3) served on

Leafy Lane Playing Fields Ltd

Plan at scale 1:2325 showing claimed routes in red. Further

1:2500 plan submitted showing route ending at Boxfields Road

plus additional paths in blue. Plan submitted 03 December 2015

42 User evidence forms

4.0 Land ownership details

- 4.1 The land over which the claimed route leads is owned by Leafy Lane Playing Fields Ltd (LLPF Ltd). They bought the land in 1998. The woodland area has recently been offered for sale. A purchaser has been found but as at date of report the sale has not been completed.
- 4.2 Prior to 1998 the land was owned by Mr Graham Padfield though it is not known for how long Mr Padfield had owned it. Mr Padfield did not respond to a letter sent on the 8th December 2015 seeking information though did later e.mail the Council confirming 1998 as the date of sale.
- 4.3 From at least the late 1960s part of the land was leased to the Ministry of Defence for use as sports field including a football pitch and a cricket pitch. It is not known when this lease expired. These occupied about one third of the existing sports area with the rest of the open ground fenced off to enable the grazing of cows. The tenants for this land for unknown periods were Mr and Mrs Maidment (1980s) and Mr Clive Freeman.
- 4.4 During some of the MOD's occupation of part of the land 2 signs with the following wording were displayed:
- “Ministry of Defence*
- This is a prohibited place within the meaning of the official secrets act – unauthorised persons entering the area may be arrested and prosecuted.”*
- “All dogs must be kept on a lead and only walked around the perimeter of the station sportsfield. Golf practice is prohibited on the station sportsfield.”*
- The extent of the MOD lease is not known though on the balance of probabilities it is thought unlikely to have included the woodland and the grazed field. The notice directs the public around the edge of the sportsfield.
- 4.5 From 1998 to the date of report LLPF Ltd have displayed the following signs at the entrances to the land at Leafy Lane. The signs have been vandalised and are not generally readable, however, the signs are known to show a map showing the woods and a narrow strip along the western edge of the land in green and the remainder of the field in orange. The green land is affected by this application to record footpaths. They state:

“This is Private Land Owned by Leafy Lane Playing Fields Ltd

We are pleased to welcome walkers and dogs in the designated areas coloured green on the adjacent plan marked by signs on the site. This area has been developed for the enjoyment of local residents and walkers. Please make sure that dogs do not enter the playing field areas coloured red because it is used by young children, sportsmen and women. This approach follows the firm recommendation of the Playing Fields association who have highlighted potential problems when dogs foul playing areas”

“Dog mess is dirty and unpleasant and is of particular concern.

- In play areas where young children are not always discriminating about what they touch or pick up.*
- On sports pitches where players often young people frequently slide on the surface*
- To ground staff when mowing*

There is concern about Toxoceriasis, a disease which can be spread through dog faeces even though the risk to health is comparatively small.

Please ensure you keep to the designated area in the interest of all users.

4.6 Image of sign in storage (supplied by LLPF Ltd):



4.7 Leafy Lane Playing Fields Ltd

LLPF Ltd is a private limited company incorporated on the 24th October 1996. A copy of its Certificate of Incorporation and Memorandum of Association has been provided by the applicant and is included in his evidence (witness no 34).

4.8 The Company's objects are listed at 3 (a) to (b)(xiv) and were amended on 7th April 1997 by Special Resolution as follows:

“That the objects of the company be amended by specifically including the following additional paragraph: -

To provide for the inhabitants of Corsham and surrounding areas in the interests of social welfare facilities for recreation and leisure time occupation with the object of improving their conditions of life.”

This is addition to 3(a):

“To advance and improve the education and physical, mental and social well-being of the community by the provision of sporting and recreational amenities, grounds and facilities of all kinds.”

4.9 Tree Preservation Order

The whole of the woodland area is included in Leafy Lane Rudloe Tree Preservation Order (No.1) 1995. This matter is irrelevant to the determination of this application to record footpaths in the definitive map and statement.

4.10 Charitable Status

LLPF Ltd is registered as Registered Charity No. 1062013.

4.11 Asset of Community Value Application

The woodland area was the subject of an application to be listed as an Asset of Community Value. The application was made on the 15th May 2015 and refused by Wiltshire Council on 24th July 2015. This matter is irrelevant to the determination of this application to record footpaths in the definitive map and statement.

4.12 The application to list the woodland as an asset of community value appears to have been the result of local residents fearing the sale of the woodland area by LLPF Ltd. A key question being whether the sale was an action that LLPF Ltd, as a registered charity, could take.

4.13 In their response dated 10th June 2015 to the Community asset application LLPF Ltd made the following comment:

“The woodland area on the other hand, which the applicant wishes the council to list as a community asset, marked in red on Appendix 1, does not provide any community asset in regards to fulfilling requirements of a community asset (as listed further) nor does it provide the amenities for the local community towards fulfilling our duty under our charitable status. The decision to release capital by selling the woodland area was taken after much discussion. Leafy Lane Playing Fields Ltd finally decided that as the woodland area was not part of our core aims, nor did it have a need within the community, the selling of the land was only the way forward for the charity to progress.

After fulfilling our duties under the Charities Commission, the Woodlands sale...was advertised....although we would be within our legal rights to sell before your decision we have decided to wait...”

4.14 While matters related to assets of community value are irrelevant to this application the ability to sell part of the land does demonstrate the capacity to dedicate that LLPF Ltd has

and that the woodland area was not considered to be subject to the objectives of the company.

5.0 Description of route

5.1 There are three distinct entrances to the woodland area from Leafy Lane and well trodden tracks leading into the woods from them. A number of trodden tracks then lead south west through the wood emerging at the western end into a fenced track between 2 and 3 metres wide. The enclosed area was created in 1999 by Leafy Lane Playing Fields specifically to keep dogs away from the playing fields. Access to the playing fields from this track is prevented by a locked gate. Access to this track from the south is through a 'squeeze' gap and/or over a stile at Boxfields Road (at the site of the former shop).

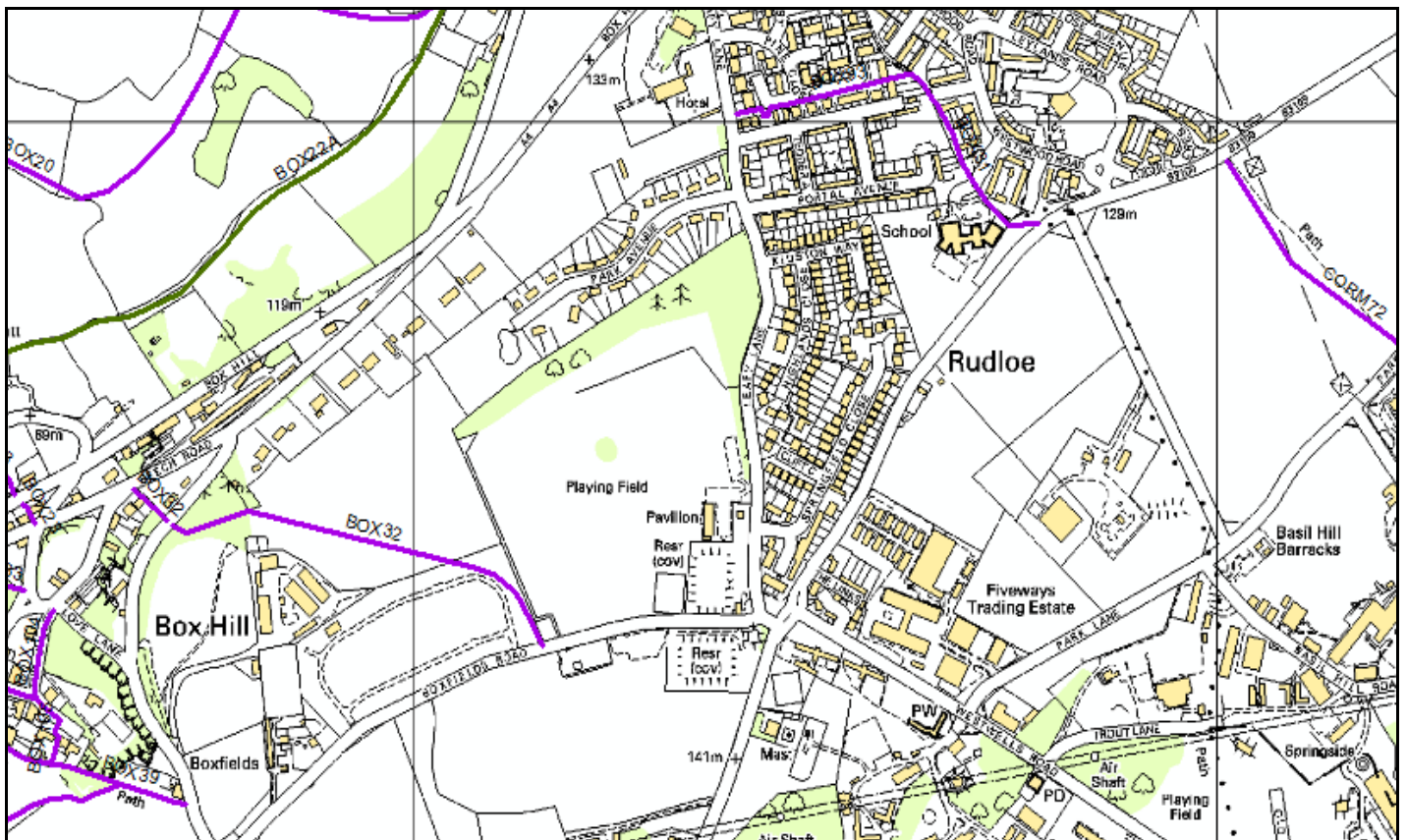
5.2 There is additional access to the claimed route from the MOD housing and play area in the north. This is through a gate which has a sign on it (readable from the woodland into the MOD site) stating:

"Ministry of Defence. This is a prohibited place within the meaning of the Official Secrets Act. Unauthorised persons entering the site may be arrested and prosecuted."

The positioning of this sign supports that the MOD had no jurisdiction over the woodland area.

6.0 Current Records – Definitive Map and aerial photographs

6.1 There are no recorded rights of way across the site. The closest footpath is Box 32. See extract from the working copy of the definitive map below:



6.2 Aerial photograph 2001



6.3 Aerial photograph 2006



6.4 Aerial photograph 2014



6.5 An aerial photograph from 1950 clearly shows the Boxfields pre-fabricated housing development to the south and west of the LLPF Ltd land (pale blue square).



7.0 Site visit 20 November 2015



Stile and 'squeeze' gap at Boxfields Road



Southerly end of claimed route from Boxfields Road



Westerly edge of site – playing fields on RHS behind hedge



Claimed route leads into woodland area



Well trodden tracks into woodland area



Main east west track south of Park Avenue



Main east west track south of Park Avenue



Main east west track south of Park Avenue towards Leafy Lane Electricity sub station



Leafy Lane junction at sub station opposite former NAAFI



From Leafy Lane sub station junction
looking east back along track



Second entrance from Leafy Lane
south of sub station



Third and most southerly entrance
from Leafy Lane

Tracks are generally well defined and claimed routes can be identified reasonably well:

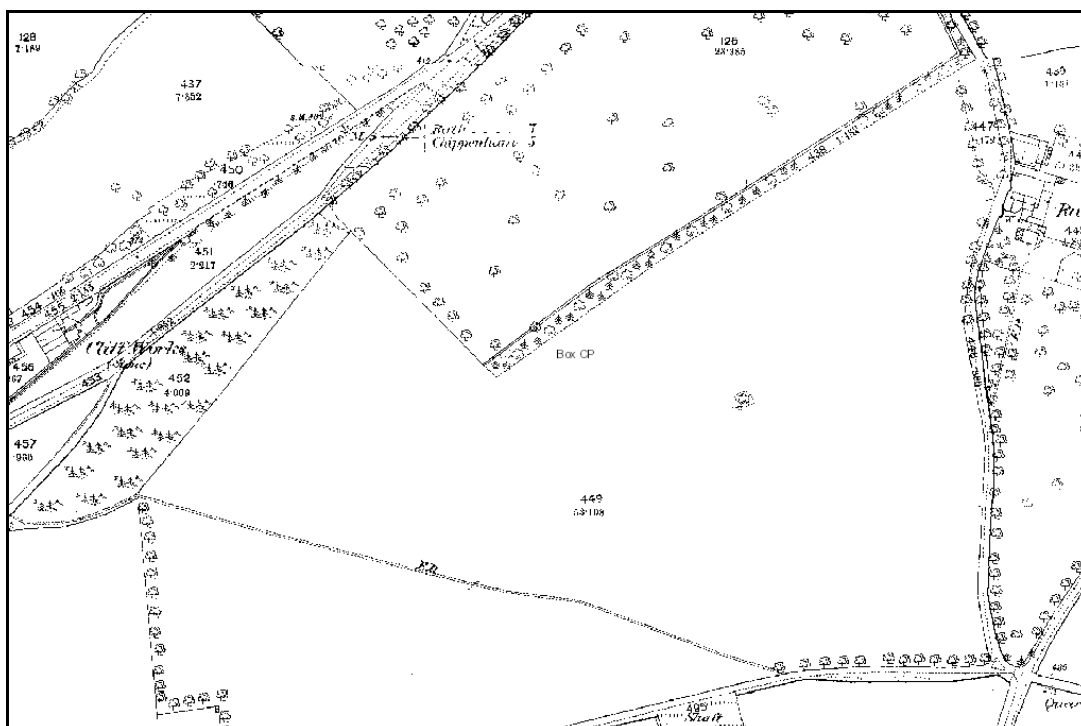


8.0 Context of application and historical evidence

- 8.1 Historically the area around Box, and specifically the area of the claimed route, has been extensively mined for stone. Boxfields Road to the south of Leafy Lane Playing fields is a continuation of Quarry Hill Road and the land now used for playing fields formed part of a much larger field under which was Cliff Quarry. In 1884 the Ordnance Survey recorded Cliff Works in the north west and a quarry shaft south of the claimed route on the opposite side of Quarry Hill Road/Boxfields Road.
- 8.2 There is a historic footpath in this area and this links Quarry Hill Road/Boxfields Road with Cliff Works in a straight line. The end of this path was diverted at the Boxfields estate by Order in 1951 (The Stopping up of Highways (Wiltshire) (No. 4) Order 1951) and the route is now recorded in the definitive map and statement as Box path no. 32.
- 8.3 The southerly end of the historic path is where the stone stile into the playing fields is today. This stile does not form part of the claimed route.



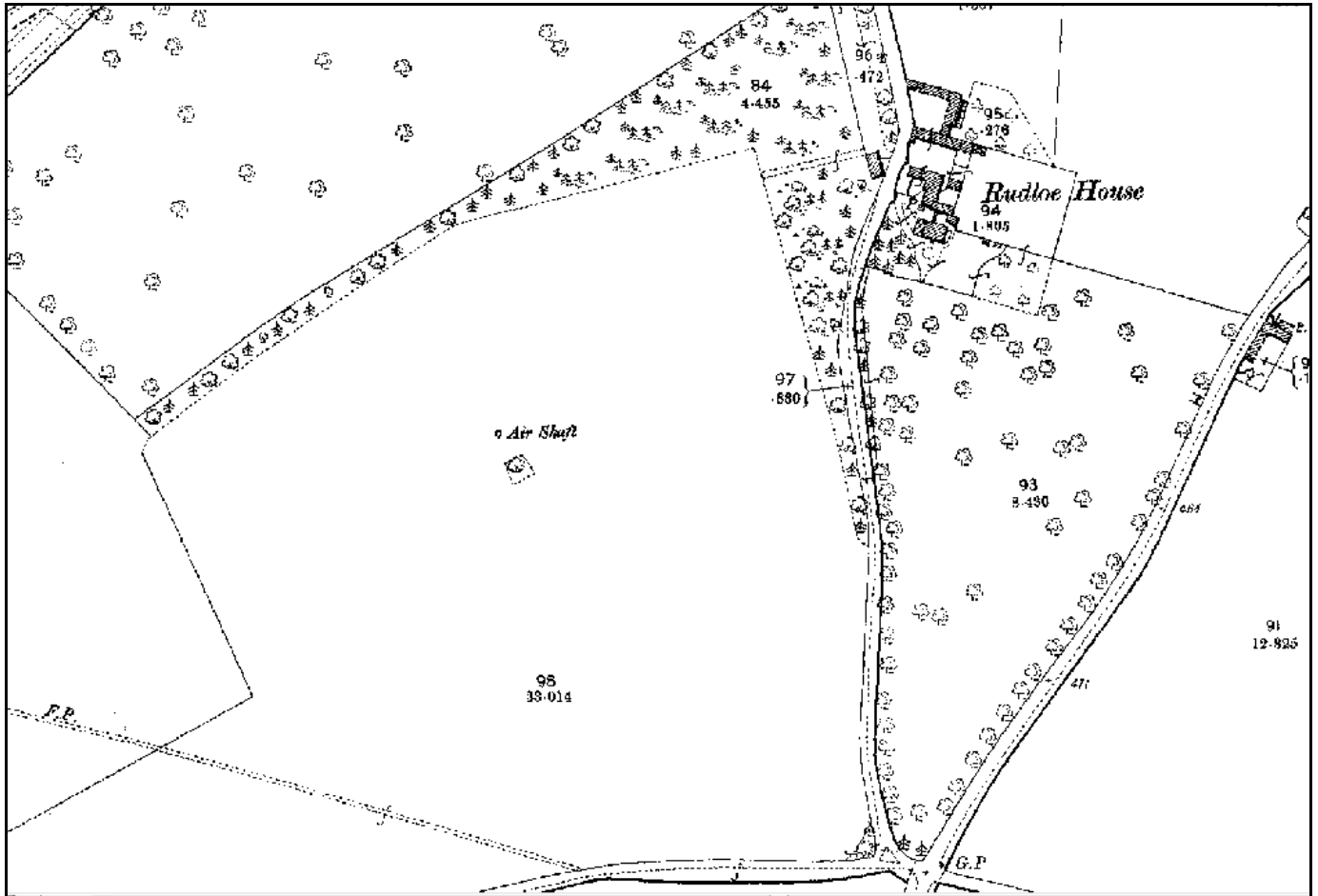
- 8.4 Extract from OS 1:2500 County Series Map Sheet XXV.11 1884 survey showing larger field and historic footpath Box 32.:



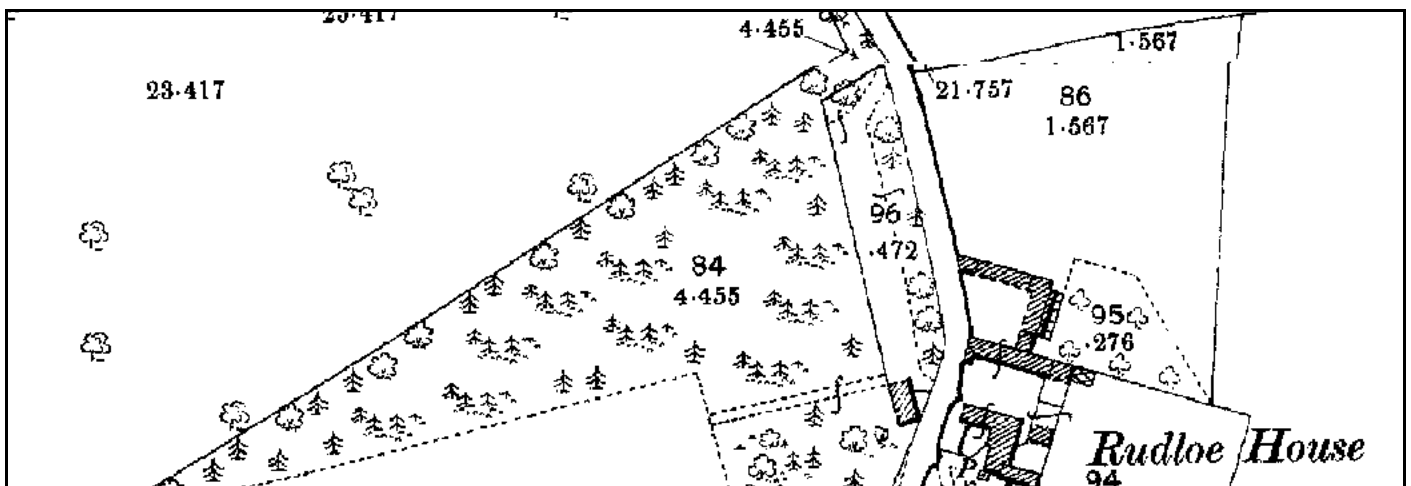
8.5 The description of the end of the footpath that was diverted in 1951 is given in the order as:

“That length of footpath leading from Quarry Hill Road to the tramway from the Wharf at Box to the Clift Works which extends from a point ...”

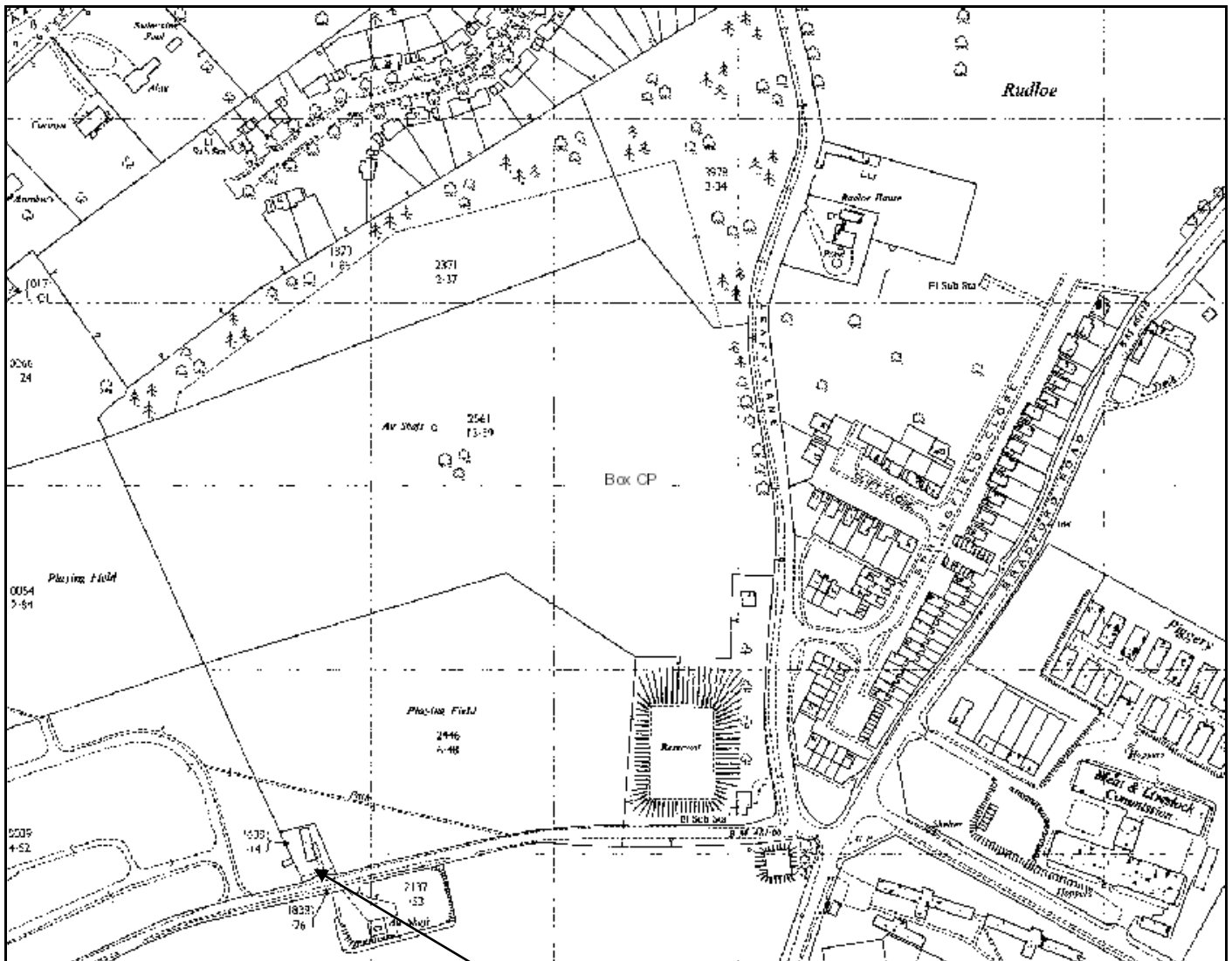
8.6 Ordnance Survey 1:2500 maps (County Series) record an air shaft being in the playing field as below from 1899 onwards:



8.7 No historical maps show any footpaths other than Box 32 within the woods or across the field at any time though a track is shown linking Leafy Lane through the woods to the field at a point approximately where the electricity sub station is today and another opposite Rudloe House:



8.8 The area around Box and Corsham is also used by the Ministry of Defence (MOD), primarily because the underground tunnels from the quarrying industry make a good defence resource. By the 1960s MOD housing had been built to the north of the claimed route and private housing also spread to the land to the east of Leafy Lane from this time onwards.



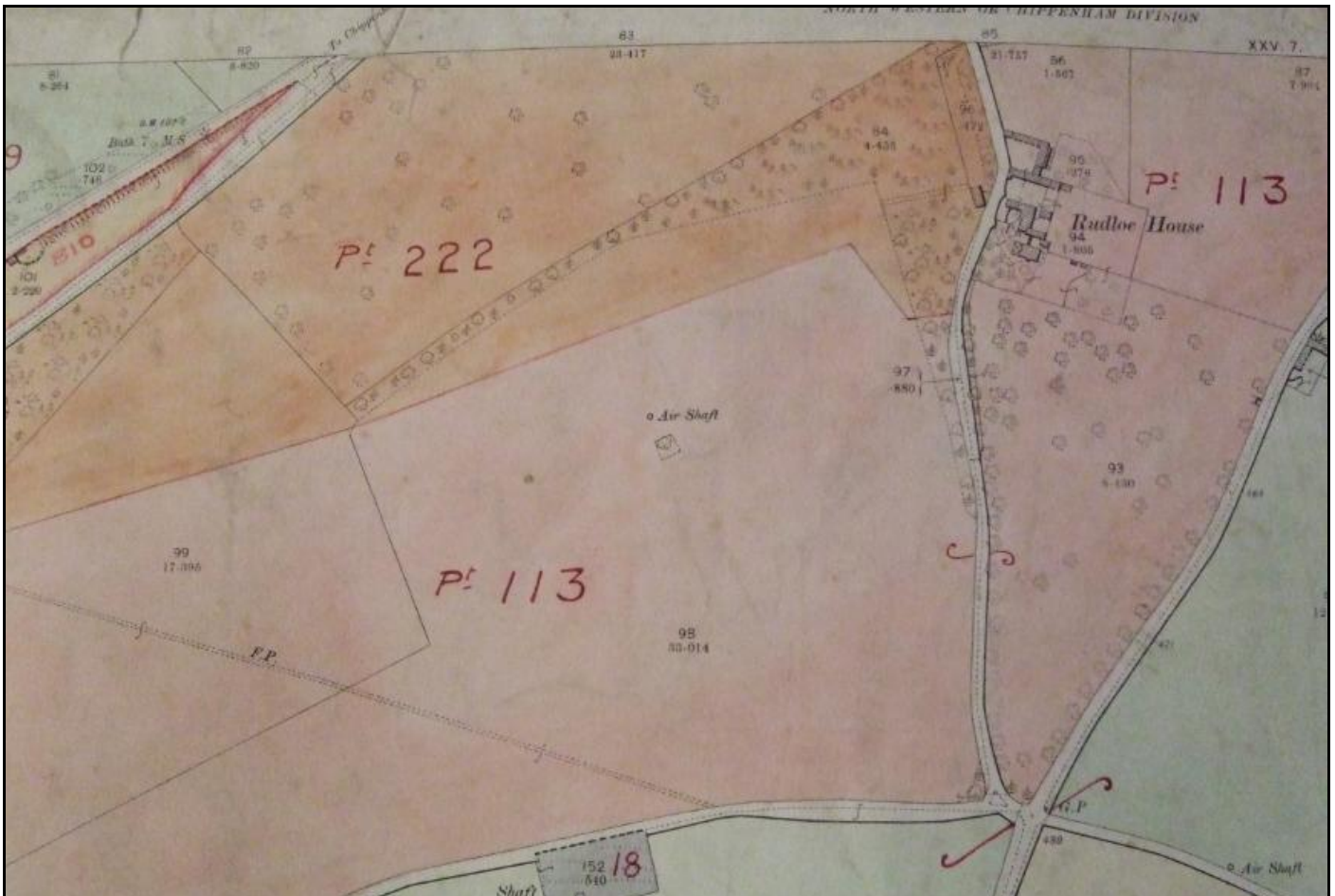
8.9 The above map, representing the site in around the late 1960s clearly shows the housing to the north of the woods and the layout of the site before LLPF Ltd bought the site in 1998. The map shows that before 1998 the Playing Field (an MOD facility leased to them from Mr Padfield) occupied a smaller area to the south of the site with smaller enclosures to the north. The air shaft is still shown.

8.10 The small enclosure in the bottom left hand corner of the site, beside which the claimed route now leads, was at that time a building which was used as a shop. The area immediately to the west formed part of the Boxfields estate, an area of pre-fabricated housing which was occupied from the 1940s through to the early 1960s when it was demolished. The line of the estate roads can be seen on this map and on aerial photographs today.

8.11 Although Clift Quarry continued in operation until the 1960s the use of the land over which the claimed route leads was likely to have been relatively unaffected by the activities of the quarry and the Finance Act 1909/1910 documents record it as being two separate hereditaments, number 113 and 222. The area was occupied by John Blake and owned by

W L Philip Esq, described as part of Sherbrooke Box and also part of Box Field Farm. No 222 was occupied and owned by W L Philip Esq. and again listed as Sherbrooke, part of Box Field Farm.

- 8.12 There are no deductions listed in the valuation book for Public Rights of Way or User. This is anomalous with Box 32 being shown as a footpath (F.P.) by the OS; a designation that is suggestive of public rights for which a deduction could be claimed.
- 8.13 In any event it is clear that no paths over the claimed route were shown or deducted from the valuation for either hereditament.



- 8.15 No parts of the claimed routes were claimed by Box Parish Council when the Calne and Chippenham Definitive Map and Statement were prepared in the early 1950s.
- 8.14 Officers have been unable to identify any evidence to support that any part of the claimed route was an ancient footpath (pre-1949) and will therefore rely on the evidence adduced by the applicant on user evidence forms and all responses to the initial consultation.

9.0 Consultation

- 9.1 The following letter of consultation was circulated on 08 December 2015:

Wildlife and Countryside Act 1981 s.53

Application to add public footpaths to the definitive map and statement at Leafy Lane, Box

Wiltshire Council has received an application from the Springfield and Clift Residents Association for an order adding public footpaths to the definitive map and statement. A number of paths through woodland alongside Leafy Lane are claimed, also a path linking Boxfields Road with the woodland. Please see enclosed copy of the application map. The application is supported by evidence of use from 42 people dating back, in some cases, to the early 1970s.

The Council must investigate all relevant evidence made available to it and accordingly invites any further evidence that you may have. I would be especially grateful for any information relating to signage (for example - what did the now yellow signs at Leafy Lane entrances say?) and use prior to 1996 (including perhaps photographs taken on the routes). Comments and evidence from any landowner, tenant or occupier from the period 1970 to 2015 are especially invited.

Please could responses be sent to me at the above address by the end of January 2016. If you have any queries please do not hesitate to contact me.

9.2 A copy of the application map received on the 3rd December 2015 and shown at paragraph 1.1 was included.

9.3 The consultation was sent to:

The Auto Cycle Union
Commons Open Spaces and Footpaths Society
Wiltshire Bridleways Association
Wiltshire Cycling Touring Club
British Horse Society
British Horse Society Wiltshire
Wiltshire Councillor Mr D Tonge
Box Parish Council
Corsham Town Council
Byways and Bridleways Trust
British Driving Society
Wiltshire Council Rights of Way Warden
Wiltshire Ramblers
Wiltshire Rambler Local rep.
Wiltshire Council County Ecologist
Open Spaces Society Local rep
Mr P Neuman Leafy Lane Playing Fields Ltd
Mr R Mullins Leafy Lane Playing Fields Ltd
42 people who had submitted user evidence forms
Mr G Padfield (landowner prior to 1996)

10.0 Consultation responses

10.1 **Dr D Wright** 27.12.15

“Thank you for the invitation to comment on the disposal of the Woodland described in the Public Notice issued at Ref A” Public notice describing the intent to dispose of woodland belonging to Leafy Lane Playing Fields Trust dated 13 August 2015. “I can confirm that I have lived in my current home at Kidston Way since 1996 and have walked the circular

route through Leafy Lane woods to Boxfields and returning to Kidston Way and Leafy Lane daily over the period 1996 – 2015. Noting the invitation posted by the owners of the wood to keep to the prescribed footpaths and avoid dogs fouling the woods.”

10.2 **Mr and Mrs M Canham** 27.12.15

“The signs would have advised where they could walk their dogs “NOT ON THE PLAYING FIELDS”. The path linking the woodland and Boxfields road was set up by the sports club at the start of their tenure once again to avoid people walking on the sportsfield with their dogs. The red lines on the map are a fair reflection of where people walk consistently.”

10.3 **Wiltshire Council County Ecologist** 06.01.15

“Thank you for consulting me on the above application for additional new footpaths. I have carried out a desk study of the area and find that the area of woodland concerned carries no special designations for nature conservation, is not listed as ancient woodland and has no records of protected species associated with it. My only concern is that this woodland contributes to primary connectivity within the wider landscape area, linking different areas of habitat, providing secluded commuting routes for a range of birds, small mammals and other wildlife species and providing a buffer to the residential development close by. The number of paths proposed through the woodland, although they may already be in use, is likely to be detrimental to the function of the woodland for biodiversity, i.e. human disturbance is likely to reduce the number of wildlife individuals that can forage and move around safely. I fully support the health benefits for people that walking in woodland brings and also that direct routes linking key areas are most useful to the local community. However, I would ask that the applicants reconsider the number of pathways crossing through the woodland and reduce the number to the fewest and most efficient to serve the community.”

Officer’s comment: The Council may only consider the paths used and whether the legal tests relating to that use are met in deciding whether paths may, or may not, be recorded as public footpaths.

10.4 **Mr and Mrs P Turner** 06.01.15

Happy New Year and thanks for the letters dated 8th December 2015 regarding Springfield and Cliff Residents Association application.

Regarding "The Council must investigate all relevant evidence ... and invites any further evidence ...", as you know, I have many photographs (actually thousands!) of this area including Leafy Lane Wood and the subject footpaths. Within this 'collection' I may have a photograph of the signs at the Leafy Lane Wood entrances but, strangely, I doubt that I have as I have always tried to avoid signage in the photographs. I should say that from what I remember, the signage specified pictorially (with text) the area that was granted to walkers (specifically dog walkers) and others for recreation within the woodland area of Leafy Lane Playing Fields. The signs were contemporary with, and public notification of, the substance of the Leafy Lane Playing Fields (LLPF) Project Manager, Mr Graham Cogswell's, letter dated 13th January 1999 which, inter alia, stated "An extended dog walking area is being provided around what is in fact a privately owned site, however, we have always intended that the site be sensibly used by the whole community".

As you will know from copies already passed to you, this stated intention confirms one of Leafy Lane Playing Fields Ltd's 'Objects' from its Companies Act Certificate of Incorporation and Memorandum of Association document dated 24th October 1996 that is "To advance and improve the education and physical, mental and social well-being of the community by the provision of sporting and recreation amenities, grounds and facilities of all kinds". This particular 'object' was indeed confirmed by an LLPF Extraordinary General Meeting 'Special Resolution' dated 7th April 1997 which stated "That the objects of the company be amended by specifically including the following additional paragraph:- To provide for the inhabitants of Corsham and surrounding areas in the interests of social welfare facilities for recreation and leisure time occupation with the object of improving their conditions of life". I have attached the documents for the sake of completeness.

Apologies that the foregoing has gone over old ground!

As I indicate above, I have thousands (this is not an exaggeration, the number is probably close to ten thousand) of photographs of the local area centred on Rudloe and Leafy Lane. This number includes many photographs taken in and around Leafy Lane Wood since we moved to this area in 1975. Many of the photos may be found on the Rudloe website, rudloescene which was founded and is administered by yours truly. The principal pages where photos of the wood may be found are here <http://www.rudloescene.co.uk/localities/rudloe/> and here <http://www.rudloescene.co.uk/localities/rudloe/leafy-lane-flora-fauna/> but photos (and news) may also be found here <http://www.rudloescene.co.uk/news/rudloe/leafy-lane/>.

Most pictures will be post-1996 but, given the scale of my 'collection', there are quite a number of pre-1996 photos. However ... as most of the images are of the flora and fauna of the woodland (principally trees), there is no particular point of reference regarding the date - I know the dates involved but it seems that such photos will perhaps be of limited use with regard to our objective of establishing rights of way? Please let me know if any might be of use and/or if you would like me to search for any photos of the 1999 signs.

As you know, we have a number of documents relating to pre-1996 ownership from Mr Graham Padfield (the owner). I believe we passed the most relevant to you at our meeting before Christmas. However, there are also a number of documents regarding the woodland under LLPF stewardship which I have just re-discovered. I have included relevant parts from these documents as attachments. These are:

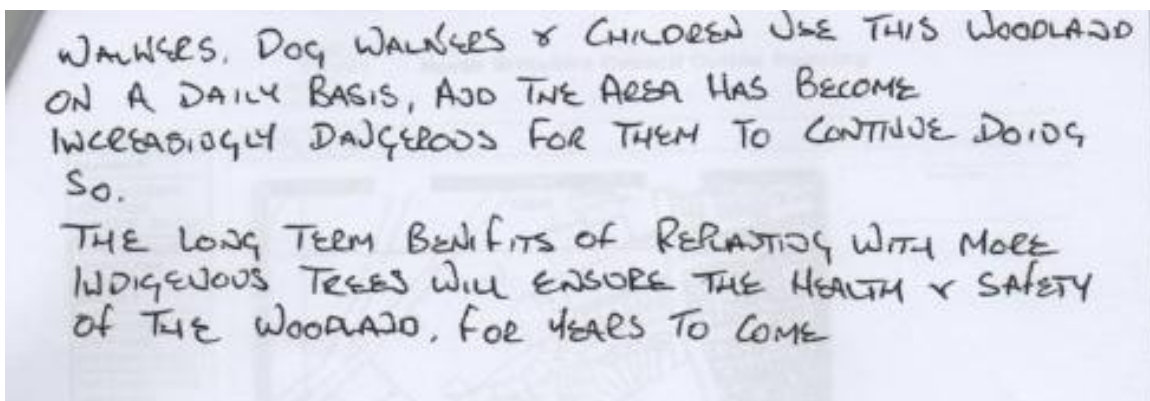
page 4 of the Messrs Greenman report on Leafy Lane Wood (headed 99.01277.TPO at top right) of 21/4/1998 which includes, under 'Area 3. Dark Red' the text "**From stile at Leafy Lane**"

- Map from above report (also headed 99.01277.TPO) which shows the 'Dark Red' area at the north-west corner of the wood adjacent to the substation
- A letter from LLPF (Peter Morgan) dated 2nd May 1998 which includes the text "Leafy Lane Playing Fields have to make sure that the woodland is a safe place for the public to have access"
- A letter from LLPF (Peter Morgan) dated 10 July 1998 to all Rudloe residents with regard to "formulating ideas and managing (sic) the woodland area" (also includes a request for my thoughts on the history of the Wood)

- A letter from me to Peter Morgan dated 1st August 1998 responding to his request
- A letter from me to Graham Cogswell, LLPF Project Manager dated 3rd January 1999
- A 2-page letter from me to NWDC and others dated 22nd May 1999 which includes the text "I am pleased that we have the woodland and newly-created* footpaths to use". *I believe I have my politically correct hat on here
- A letter from me to Messrs Greenman dated 13 Sept 99 which includes the wording "I noted a small piece in the local paper at the weekend - 'Following complaints about the potential danger of falling branches, clearance of footpaths is to go ahead on Leafy Lane woods'"
- An application from LLPF (Steve Bray) for tree work in Leafy Lane Wood. The first three pages are attached, the third of which states "Walkers, dog walkers and children use this woodland on a daily basis"

In case of any problems with the attachments, please let me know if you would like this email and attachments also to be sent by post. I have copied this to the chairman and secretary of the Springfield and Clift Residents Association for information."

Extract from 2009 application for works to trees made by Leafy Lane Playing Fields Ltd:



Extract from 1999 letter from Paul Turner to Mr Cogswell, Leafy Lane Playing Fields Ltd:

I had not appreciated that the 'strip paddock', which is enclosed by the line of trees to the north of the main playing field area, was going to form part of the playing field. I had assumed that this was an area which could be used by the local residents. Scores of people from the Rudloe estates use the playing fields to exercise their dogs. It is, or was, the only local green space available for this purpose, and so for people who for many reasons cannot venture further afield, it was an integral part of their daily routine. I don't know if you are a dog owner, but having had dogs for many years, I have become aware that for many people it serves a useful social function. For those who would otherwise be isolated inside their homes, especially in winter, it provides the opportunity to take the fresh air, to meet other locals who perhaps they would never normally encounter and to find out what is going on in the neighbourhood (like the putting-up of fences for example). I have also become aware that dog owners

10.5 Celia Hopkins 13.01.16

"Being a regular user of the footpaths in question since 1978, I support the application to add the indicated footpaths through the woodland adjacent to Leafy Lane to the definitive map and to the statement.

The main paths and the newly marked paths shown in red and blue respectively on the Revised Application, are all in regular use.

The old faded yellow signs at two entrances indicated that paths around the playing field and through the wooded areas (originally marked green, now marked red on the application) afforded access to everyone, including dogs. The signs forbade dogs access to any remaining playing field areas which were identified in red on the sign."

10.6 Box Parish Council 13.01.16

"Thank you for your letter dated 8th December 2015. The Parish Council does not have any evidence in this case other than knowledge that these paths have been used for a considerable number of years and a councillor who has lived in Rudloe for 30 years and knows that these paths have been walked. If I receive any further evidence I will forward it to you."

10.7 Robert Davies 07.01.16

"Further to the evidence I gave you last year in relation to adding a public footpath to the definitive map at leafy lane I have enclosed a photograph of the remains of a stile put up by the tenant of the land Clive Freeman prior to 1996 when the land was sold. It is located near the electricity sub station and bus shelter at the A4 end of the wood, it was constructed at least 3 years before the land was purchased by Leafy Lane Playing Fields Ltd.

In 1994 Graham Padfield the owner at that time walked through the woods with me where I pointed out areas where people walked and although there were no rights of way he indicated he understood why the area was popular with local people and we discussed the possibility of the selling of the land.

I have seen letters supplied to you by Paul Turner from representatives of Leafy Lane Ltd making it clear that the woodland was open for walkers.

The now faded signs put up in the wood and the entrance to the path at Boxfields Road were coloured red and green indicating that anybody could walk in the green areas this included the path leading to Boxfields Road. The red areas only excluded dogs, pedestrians could still walk in these areas.

I gave you details of Clive Freemans address and landline number however if you have difficulty in contacting him please let me know, I spoke to him some time ago about the stile he erected and he agreed he would give evidence of this if required. I have lived in the area since 1974 and have walked on these paths and fields since that time and I was not warned by the owner or his tenant at anytime that I was trespassing."

10.8 John Harrill 14.01.16

"In reply to your letter of 8th December 2015; having lived in Rudloe since 1972 (Pine Close and then Kidston Way). During this time we have always enjoyed walks with our children and now grand children, through the wooded area shown on your map and which the trees/wild life provided endless enjoyment.

I notice in your letter the mention of yellow signs – these were put in place by the present owners who purchased the playfield and woodland in 1996; the signs stated that no dogs were allowed on the playing field, but dog walkers could use the path as shown on your map in red. The four signs were located as shown by the black crosses I have drawn on

your map. Indeed as a dog walker myself I have used these paths and also the revised paths marked in blue added by Mr Turner; at least twice daily since 1996.

Hoping this information will be helpful to your enquiries and sincerely hope that the areas marked will continue to be accessible and enjoyed by the general public.”

10.9 Mr Harrill subsequently confirmed that he had walked the paths in the period 1972 to 1996 as well as after 1996.

10.10 **Elizabeth Arkell** 15.01.16

“With regard to the signage at the entrances abutting Leafy lane, there are three. One is sited at the car park entrance, one at each end of the next two entrances. I have marked these with a cross on your copy plan.

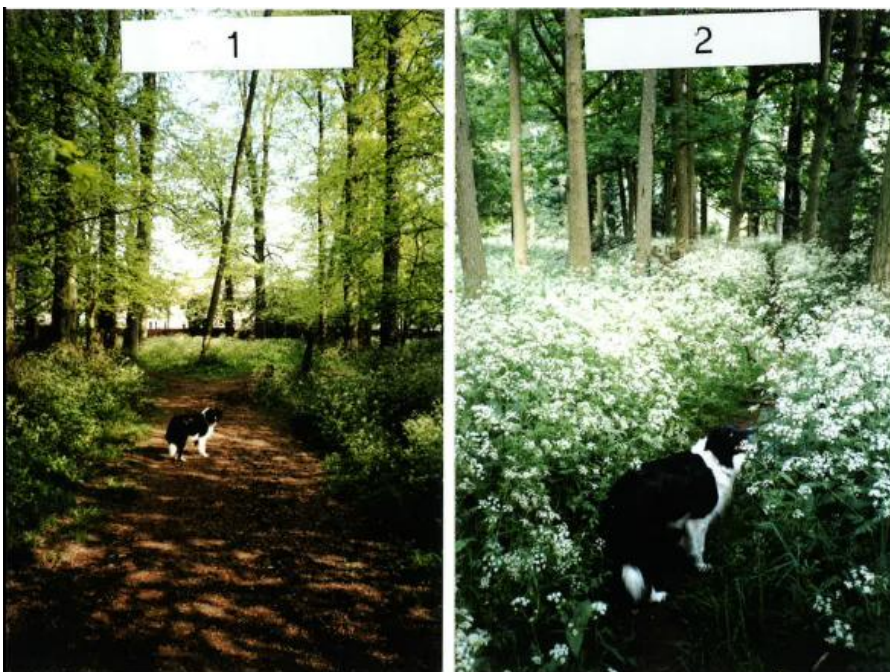
The sign on the post at the second entrance down from the car park is just legible if the light is in the right place and says:

“We are pleased to welcome walkers and dogs in the designated area coloured green on the adjacent plan marked by signs on the site. This area has been developed for the enjoyment of local residents and walkers. Please make sure that dogs do not enter the playing field areas coloured red because it is used by young children, sportsmen and women. This approach follows the firm recommendation of the Playing Fields association who have highlighted potential problems when dogs foul playing areas.”

“There were two further paragraphs which are very difficult to transcribe but relate solely to keeping dogs off the playing fields as fouling affects the enjoyment of children and others using the playing fields.”

10.11 **Kevin Short** 15.01.16

“Please find enclosed three photographs taken in the early 1990s showing evidence of the well worn tracks in use at that time. I have enjoyed the experience of walking five different border collies through the woodland on an almost daily basis since 1982.”



Photograph 1 is on North south route parallel with Leafy Lane. Photograph 2 is on main track south of Park Avenue.



Photograph 3 shows use of a route south of the existing treeline but north of a belt of trees that is no longer present. This route is clearly well used but is not claimed by the applicant.

10.12 Kathryn Barstow 22.01.16

“I understand that my friend and neighbour, Mrs Arkell has already sent you a copy of the writing that is visible in the correct light, of one of the signs. I attach a photo of the map on the sign. I have enhanced the colour by changing the contrast and brightness and it now clearly shows the designated area for local residents and walkers (this area is black on my photo as opposed to the green mentioned on the sign.

I would also like to add: Box Highlands School used to be situated off White Ennox Lane before it moved to the Broadlands site. Children living in Rudloe would have walked to school through these woods every day, being the easiest way to get to White Ennox Lane. This suggests that the footpath through the woods goes back to at least the time that Box Highlands School was first set up. (Box People and Places website suggests that this was November 1943)

This suggest that, at the very least the main footpath through the woods and along the playing field should qualify, by virtue of long usage, as a definitive footpath.”

10.13 Officers asked Mrs Barstow whether she had any recollection or evidence of people using the claimed routes at that time to access White Ennox Lane.

“Unfortunately I did not live here until 1989 so cannot confirm that exactly. However when I first lived here there was a stile by the main entrance near the bus stop. The gate into the top of the woods that enters the MOD field I do know is part of the escape plan in the event of fire in Park Avenue. My late sister was a Squadron Leader based here and on one occasion one of the trustees saw fit to put a very large padlock on the gate. She phoned him to ask for it to be removed I can only assume that he declined but a few days later my husband and I were walking our dogs and saw him and an MOD police officer walking to remove the padlock.

When I first came here there was a path from this gate to a stile in the fence of the field which was then used by the forces. This fence ran the other side of the ash trees on the field some 10 plus yards into the field. People always walked their dogs along the edge of the field, this was why the footpath was hedged off so that the walkway was designated and one therefore did not have to walk across the playing fields.”

10.14 John and Susan Griffith 25.01.16

“My husband and I have lived on the Rudloe estate since June 2000 and in all the years of living here we have enjoyed the pleasure of being able to walk through the beautiful landscapes in the area including the woodland that you refer to.

With reference to your enclosed map, we can confirm that, in our minds, there has never been any doubt as to the intended use of the paths and routes shown; that being for use to the general public as official public footpaths. The main clue to this is the stile at the Boxfields Road end of the indicated right of way coupled with the fact that the path itself is bordered by boundary fences on either side of it which makes it impossible to wander off the line until you meet the woodland. Even then the routes are clearly defined by well trodden paths that have been engraved into the land over time. At the other end of the main path which meets Leafy lane at the bus shelter, there is, and always has been (since our time of living here) open access at this point and there is no evidence of any damaged or broken barrier to assume otherwise.

With regard to the sign at the pavilion end of the woodland, we cannot remember precisely what it said but think something along the lines that indicated walkers were welcome into the woodland. We think there was a picture possibly of the woodland and some wording which might have stated that dogs must be kept on a lead; but we cannot be absolutely sure about that. What we can be sure about is that there was never any signage to indicate that the land was private or that walking on it was an act of trespass. (Again this applies since 2000). Also we have never at anytime been approached to say that we were trespassing on private property.

We are also aware that a number of trees in the woodland have preservation orders on them and the trees in question are labelled accordingly.

In addition to this information please find enclosed two photographs that we have taken over the years that highlight the natural beauty of the woodland.

We hope this information helps to reinforce the view that the footpaths shown have, for many years been a public right of way and that the people of Rudloe will be allowed to continue to walk through the woodland and enjoy its natural beauty.”



Photographs submitted by Mr and Mrs Griffith

10.15 **Stella M Vain** 01.02.16

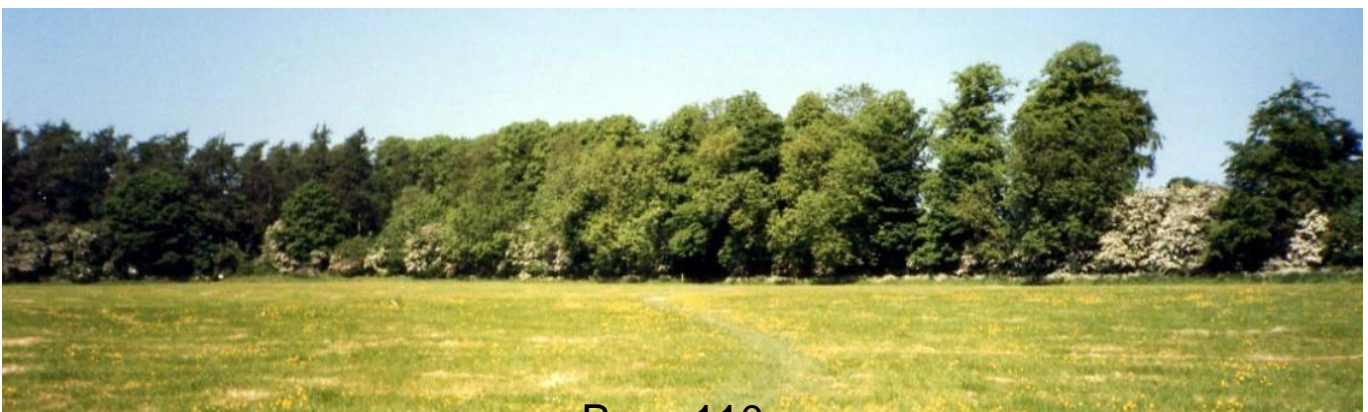
“Further to your letter of 08.12.2015 (sorry for the delay) there is little I can add to my original response to Leafy Lane woods paths. Just to reiterate that I have lived opposite the woods since 1968 – nearly 50 years. During that time I have walked the footpaths in and around the woods with my children, family, friends and usually accompanied by dogs. I was also an active member of Box Natural History and Archaeological Society who monthly walked the footpaths in and around Rudloe to ensure that the footpaths weren’t lost to us through neglect, farming and development.

I cannot accurately describe the signpost in those days but in my memory they were old fashioned finger posts. The entrance to the footpath from Boxfields road was over a stone stile which is still in place. This footpath was reinstated around the edge of the field when the new football club subsequently obtained the field.

I hope this may add to your enquiry. We would hate to lose these ancient footpaths.”

10.16 **Kevin Short** 25.01.16

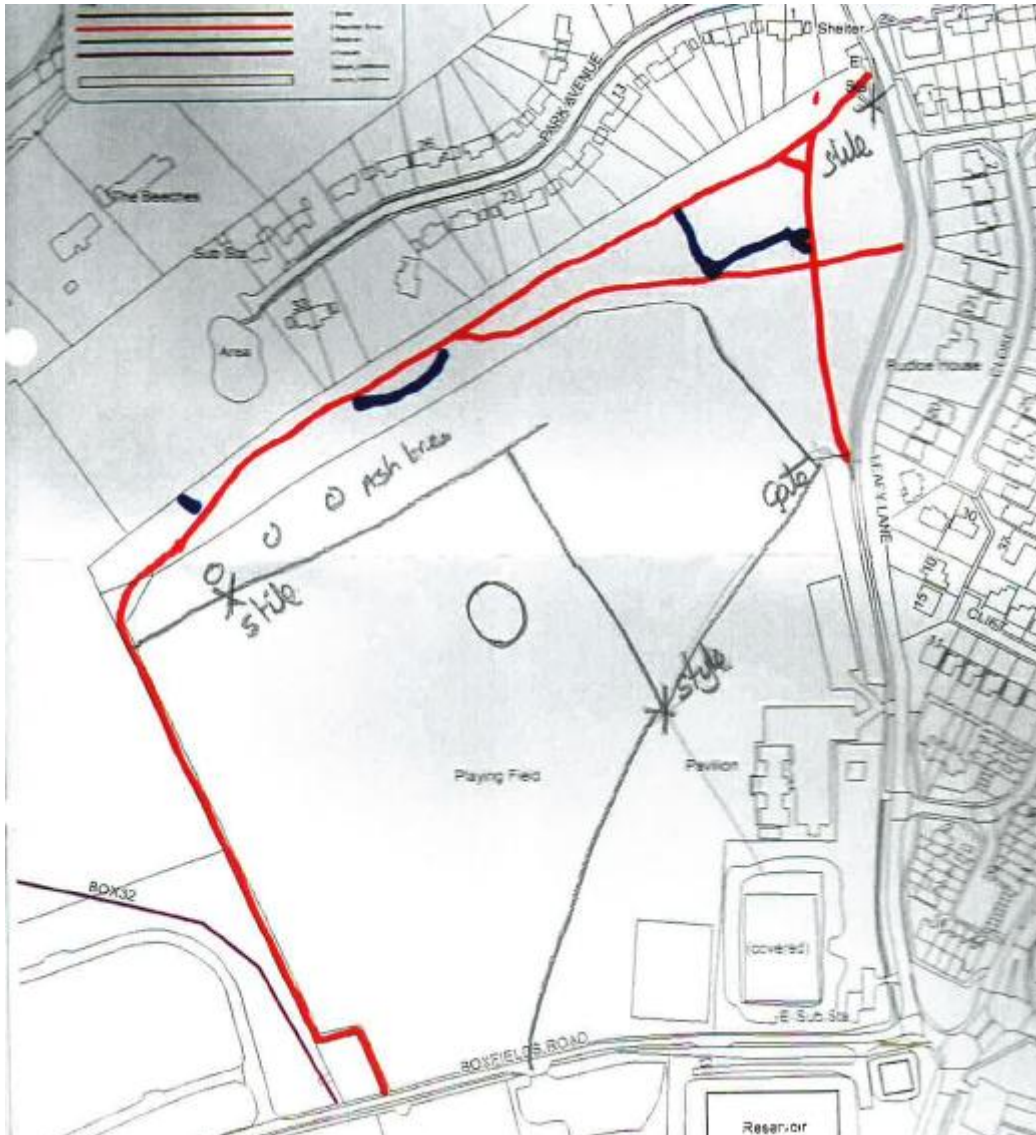
“Thank you for your very nice letter of 18 January 2016. Just to confirm my photographs were indeed taken before the land was purchased by Leafy Lane Playing Fields. I have (hopefully!) attached some more shots taken on the same day as photograph no 3, showing in the background the beautiful hedgerows and hawthorn trees destroyed by them. The land was also soon sprayed with chemicals and all the wild flowers in evidence killed off! Please note also the rugby posts, in use when the sports fields were owned and used by the Royal Air Force.”





10.17 **Kathryn Barstow** 29.01.16

“In addition to my previous note I have attached a map of Leafy Lane Playing fields as I remember then I arrived in 1989. The main playing field was divided into playing field and rough pasture nearest the road with a stile located in the middle. One could go through a gate by the road and diagonally across the field to the stone stile on Boxfields Road.”



10.18 **Jane McDermott** 02.02.16

“I understand that you are compiling evidence regarding the footpaths in the Leafy Lane Wood Rudloe, to support an application to add the path to the definitive map. I lived in the RAF housing to the north of Leafy Lane woodland from 1995 – 1997 (Park Lane) and used the path twice a day to walk my dog, connecting to the surrounding footpath network around Box Valley and towards Hazlebury. I was frequently accompanied by my neighbours (fellow dog walkers!) on these walks.”

10.19 **K J Oatley** 08.02.16

“I noticed a recent article in rudloescene.co.uk that some issues concerning the sale and use of this land. Clearly a lot of debate and controversy has been generated in the process for the future sale/use of this wooded area of our landscape.”

As a former professional in the town, it goes without saying, that such woodlands play a very important part to our environment and as such afford the population a benefit which has great value, both in terms of the possible small amount of peace and tranquillity it offers but also in terms of the catchment for our increasing problem of pollution.

Very little in the form of additional woodland has been “planned” for the Corsham area and although we do not benefit from a great parkland owned by Corsham Estates nothing has been created for future generations. It is therefore essential that such areas of land which have already been designated a open space should be retained in perpetuity for everyone’s future pleasure and enjoyment.

I plead with you to take a very special look at this, consider carefully any decision taken, has to be taken for the future and not just “today.”

10.20 Robert Mullins on behalf of LLPF Ltd 26.01.16

The response from LLPF Ltd is appended to this report at **Appendix A.**

10.21 Philip Beattie 01.02.16

In response to a question relating to use of the land by the MOD as a sports field.

“As far as I can remember RAF Rudloe Manor were still using the playing field up to the time that Leafy lane purchased the land. It was always known to us as the RAF pitch and had been used by them since at least the late 1960s presumably on some sort of lease arrangement from the farmer Padfield. When it was used by them the sports field part of the ground which included a football pitch and a cricket pitch was only about a third of the existing area with the rest of the ground fenced off with barbed wire fencing and this area used by the farmer for grazing his cows.”

NB Mr Beattie also submitted a full response to Robert Mullins of Leafy Lane Playing Fields Ltd and this forms part of Appendix A (sub appendix 1).

10.22 Graham Padfield 01.02.16

In response to a request from Robert Mullins, Treasurer of Leafy Lane Playing Fields Ltd, and further to a telephone conversation they had had, for “ a letter that your family opposed access to the land by locals – if you have any other evidence i.e. old photographs/letters written that would back up the case that would be great.”

“hello Mike, sorry to have taken so long to get back to you. I can confirm that there were no public rights of way on leafy lane fields that we sold for playing fields in 1998. While in our ownership we kept signs erected to make people aware that it was private land and that there were no rights of way. we have also kept gates padlocked. Many people did get over the railings to walk dogs, but no stiles existed. I cannot find a photo to prove this but one may turn up. I hope this is helpful.”

10.23 Officers wrote to Mr Padfield by e.mail on 9th February asking for details of what the signs said, where they were placed and the dates of his ownership of the land. Mr Padfield replied on 10th February 2016:

“The land was sold by myself in 1998. Until that time I kept signs posted wherever people got into the field informing them that the land was private and there was no public right of

way. I distinctly remember going up a ladder to fix signs above the height at which they could be easily vandalised. At least one sign was half way up a tree. I may have taken photos of the signs at the time, though I think it is unlikely that I will find them now."

10.24 Clive Freeman telephone conversation 10.02.16

The case officer rang Mr Freeman as he farms the land to the west of the woodland and had grazed cattle at the claimed site at times. He had owned his land from 1970 onwards and although he could not recollect details about stiles at the site he did remember that people "had always" walked through the woods. Problems were caused to him by this use as people tried to walk on west through his land and fences were frequently broken down by them.

10.25 Paul Turner 09.02.16

E.mail in response to case officer's request for a pre 1996 photograph showing a stile on the site. This photograph had been viewed by the case officer on 3rd December 2015. Mr Turner agreed that he had the photograph and that it showed a stile on the playing field site before Leafy Lane Playing Fields Ltd bought the land.

10.26 Another photograph taken 1987/1988 showing two gateposts in the fenceline opposite Rudloe House. It is not possible whether this was a stile or a gate but it is clearly an entrance/exit point for the woods.



10.27 Mark and Susan Maidment 13.02.16

Mr and Mrs Maidment rented the field south of the woodland in the 1980s from Mr Padfield. They can remember a stile by the NAAFI "*and people always walked through the woods regardless of whether there was a right of way!*" "*I remember the path to be well worn*".

10.28 The NAAFI was on the site of current community centre and café opposite the entrance to the woodland by the sub station.

11.0 Considerations

11.1 Statutory Presumed Dedication – Highways Act 1980 Section 31

In full Section 31 of The Highways Act 1980 states:

31. Dedication of way as highway presumed after public use of 20 years

(1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

(2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.

(3) Where the owner of the land over which any such way as aforesaid passes –

(a) has erected in such a manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and

(b) has maintained the notice after the 1st January 1934, or any later date on which it was erected the notice, in the absence of proof of any contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

(4) In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) above, so however, that no injury is done thereby to the business or occupation of the tenant.

(5) Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as highway is, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as highway.

(6) An owner of land may at any time deposit with the appropriate council-

(a) a map of the land on a scale of not less than 6 inches to 1 mile and

(b) a statement indicating what ways (if any) over the land he admits to have been dedicated as highways;

And, in any case in which such a deposit has been made, statutory declarations made by that owner or by his successors in title and lodged by him or them with the appropriate council at any time –

(i) within ten years from the date of deposit

(ii) within ten years from the date on which any previous declaration was last lodged under this section,

to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgement of such previous declaration, as the case may be, are, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.

(7) For the purpose of the foregoing provisions of this section, 'owner', in relation to any land, means a person who is for the time being entitled to dispose of the fee simple in the land; and for the purposes of subsections (5) and (6) above 'the appropriate council' means the council of the county, metropolitan district or London Borough in which the way (in the case of subsection (5)) or the land (in the case of subsection (6)) is situated or, where the land is situated in the City, the Common Council.

(7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an Order making modifications so as to show the right on the definitive map and statement.

(7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.

(8) Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public or statutory purposes to dedicate a way over the land as a highway if the existence of a highway would be incompatible with those purposes.

NB The Growth and Infrastructure Act 2013 brought about alterations to s.31(6) extending the length of time that a deposit remains valid for from 10 years to 20 years.

Section 31(1) requires that the use by the public must have been as of right without interruption for a full period of 20 years.

The term 'as of right' is considered to mean without force (*nec vi*), without secrecy (*nec clam*) and without permission (*nec precario*).

11.2 The date when use was brought into question

11.3 Wiltshire Council has not received a deposit made under s.31(6) of the Highways Act 1980 in respect of this piece of land. Neither has Wiltshire Council received any notice under s.31(5) of the Highways Act 1980.

11.4 The Highways Act 1980 also provides for the landowner or tenant to negative any intention to dedicate the land as a public right of way by the erection of notices (s. 31 (3) & (4)). The notices must be inconsistent with the dedication of the way as a highway and must be maintained. In *Burrows v Secretary of State for the Environment, Food and Rural Affairs [2004] EWHC 132 (Admin)* it was held that a notice must have been erected by or on the authority of the landowner to have the effect of rebutting the presumption but that, although the notice did not have to be in place for the whole of the claimed 20 year period, it would

have to be in place for a substantial time so that the intention of the landowner can be brought home to the public.

- 11.5 During the ownership of the land by Leafy LLPF Ltd (1998 to date of report) a number of signs have been in place at entrances to the land. These signs are detailed at 4.5 and 4.6. The text is repeated here:

“This is Private Land Owned by Leafy Lane Playing Fields Ltd

We are pleased to welcome walkers and dogs in the designated areas coloured green on the adjacent plan marked by signs on the site. This area has been developed for the enjoyment of local residents and walkers. Please make sure that dogs do not enter the playing field areas coloured red because it is used by young children, sportsmen and women. This approach follows the firm recommendation of the Playing Fields association who have highlighted potential problems when dogs foul playing areas”

“Dog mess is dirty and unpleasant and is of particular concern.

- In play areas where young children are not always discriminating about what they touch or pick up.*
- On sports pitches where players often young people frequently slide on the surface*
- To ground staff when mowing*

There is concern about Toxoceriasis, a disease which can be spread through dog faeces even though the risk to health is comparatively small.

Please ensure you keep to the designated area in the interest of all users.”

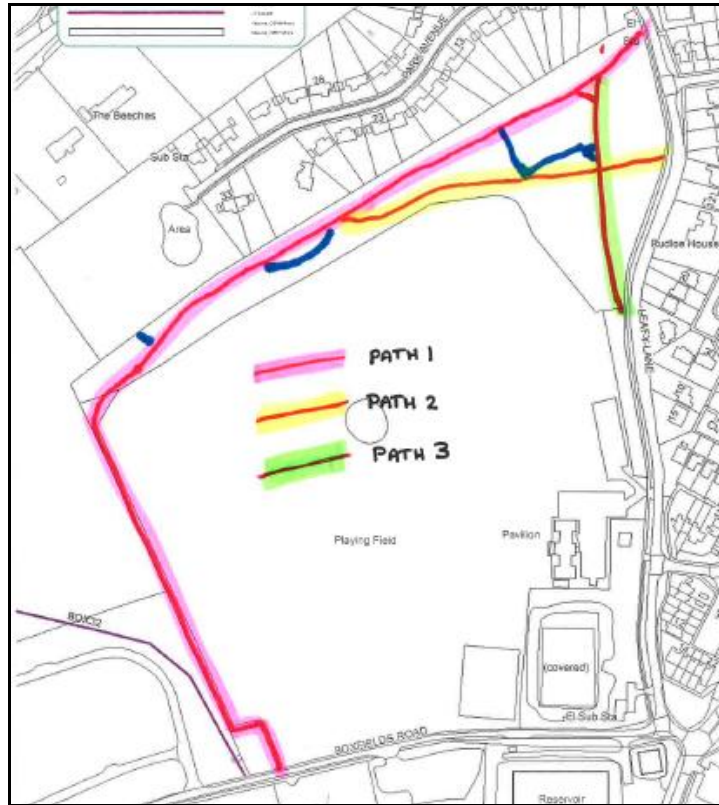
- 11.6 Although some of the signs remain in their original positions, one that was vandalised was not replaced and was put into storage and the other signs have demonstrably not been maintained as readable signs, the writing fading and becoming unreadable with time and vandalism.
- 11.7 Signs that say ‘Private Land’ are not sufficient to demonstrate no intention to dedicate and are hence not compliant with s.31(6) of the Highways Act 1980. It is feature of public rights of way that they almost always lead over private land and hence any sign stating this is merely recording the fact that the land is not owned by a public body.
- 11.8 The signs encourage use of the areas coloured green, which include the woodland area, and are not specific about the use of paths within the woodland. Additionally the purpose of them appears to be more related to the control of dogs and keeping them away from playing fields than it is rights of way – which are not mentioned.
- 11.9 Signs may also negate s.31(1) if they are clear that use of paths is subject to a revocable permission (so ‘by right’ rather than ‘as of right’). These signs do not convey this message to the public.
- 11.10 There is some evidence of the erection of signs in the woodland by Mr Padfield in the period from the early 1970s to 1998. Mr Padfield states at 10.22 and 10.23 that he kept signs erected to make people aware that it was private land and that there were no rights of way. He recalls fixing one sign high in a tree to prevent vandalism.

- 11.11 Although 17 users recall the signs erected by LLPF Ltd (some of which are still in place) only 2 of the 42 recall an older sign in the woods. Witness no 34 (the applicant) possibly recalls one no right of way sign in a tree before 1996 and witness no 35 recalls a sign in the 1970s at Leafy Lane near a gateway.
- 11.12 No-one has been able to say what Mr Padfield's signs said exactly and accordingly whether they would be sufficient to rebut the presumption of dedication. Additionally the Council has no evidence of the position of the signs or for how long they were in place.
- 11.13 It is clear that although there were some signs in the woods at some times prior to 1998, very few people saw them (or could remember them) and no-one can show or state what they said. In any event the signs were clearly not maintained when they were vandalised (Mr Padfield had clearly learned to put them high in trees to avoid this and LLPF Ltd had merely stored a vandalised sign and had not maintained others when they became unreadable). Hence neither s.31(3 or 4) is satisfied by these signs and neither Mr Padfield or LLPF Ltd ever took advantage of the provisions of s.31(5) which would have allowed them to give notice to the Council that signs erected in accordance with s.31(3 or 4) had been vandalised and were impossible to maintain.
- 11.14 Officers therefore consider that the notices erected on this site were insufficient to bring the right of way into question.
- 11.15 Access across the site altered in the period 1998/1999 when LLPF Ltd bought the land and expanded the existing sporting facilities there. Around this time the woodland and small field fencing was altered and the public were encouraged to use the pathway along the western edge of the site. It is noted that three planning applications to develop the site for LLPF Ltd activities were submitted from 1996 to 1998 and accordingly some changes to the playing fields occurred before the 1998 transfer of ownership.
- 11.16 Any use of paths across the site leading from the woodland south towards Boxfields Road were called into question at this time (by the erection of the fence specifically to restrict access to walkers and dogs). The new field perimeter walk becoming the only route available to walkers from that time onwards, a period of 16 years, though it is likely that some walkers used the field edge before that time.
- 11.17 Use of the woodland section was called into question by the making of the application, 2015. This would make the relevant period 1995 – 2015.
- 11.18 If it were judged that within that period the memorandum of association of LLPF Ltd made it impossible for them to dedicate the land (either by statutory means or by express dedication) then the date for calling into question of the woodland area would be 1978 – 1998 as it is necessary to consider whether a public right had already been acquired by the time LLPF Ltd acquired the land. Additionally the Council may need to consider whether a right of way had been dedicated at common law before or during that time. It is certainly possible that the field edge path provided by LLPF Ltd and unprotected by signage or express permission may have given rise to a dedication at common law.

11.19 Officers consider that there are two possible dates for the calling into question of the routes and for the purposes of s.31(1) of the Highways Act 1980 the relevant periods are: 1995 to 2015 or 1978 – 1998 if the later period is not satisfied. If Common Law dedication (which does not require 20 years) is to be considered for the perimeter path then the date would be 1999 onwards.

12.0 Whether the public used the routes or paths and is there a route or path?

12.1 The application plan shows three principal paths as shown on the plan below:



12.2 41 of the 42 witnesses have walked the pink route or parts of it— path number 1, 21 have walked the yellow route or parts of it – path number 2 and 29 have walked the green route – path number 3 or parts of it.

12.3 For path number 1, 4 of the 41 witnesses claim to have only walked the woodland part.

12.4 The application brings to the Council’s attention a substantive body of evidence supporting the use of the paths for a period dating back to 1968. This is further supported by the awareness that Mr Padfield and LLPF Ltd as owners of the land and Mr Freeman and Mr and Mrs Maidment as tenants had of the use of the land by the public.

12.5 The application shows that on the balance of probability the public used the routes claimed.

12.6 Is there a route?

To satisfy section 31 (1) ‘a way of such a character’ the route must be definable. In *Oxfordshire County Council v Oxford City council* [2004] Ch 253 Lightman J said that the true meaning and effect of the exception of “a way of such character that use of it by the public could not give rise at common law to any presumption of dedication” is that “the user

must be as a right of passage over a more or less defined route and not a mere or indefinite passing over land”.

- 12.7 The application map shows a number of paths through the woodland. Witnesses have provided evidence of use for the paths shown in red but not those shown in blue. The blue paths are therefore not considered in this report.
- 12.8 The case officer found, on a site visit on 20 November 2015, that the paths shown in red were easily identifiable as well trodden paths (see photographs at paragraph 7). It is noted that even though the photos were taken in late autumn, the paths were still identifiable despite the fallen leaves.
- 12.9 That part of path no. 1 linking Boxfields Road with the woodland is clearly defined by hedging and has been since 1999. Before that time to walk this route the public would have been walking a field edge beside the MOD playing fields as directed by the MOD sign.
- 12.10 Although it is clear from LLPF Ltd correspondence that there were issues with dogs fouling the playing fields users have submitted evidence that they walked the field edge. It is accepted that a reasonable person would skirt a managed playing field rather than cross it (though their dog may run over it), and certainly at times when it was in use, a reasonable person would defer to that use and go round it. This has been held not to be inconsistent with a public right (R (Lewis v Redcar and Cleveland Borough Council) [2010] UKSC 11.
- 12.11 The field edge route also aligned approximately with the stile in the woodland fenceline as remembered by Kathryn Barstow in her evidence. The presence and position of this access point is also in agreement with the gate linking the MOD recreation area with the MOD sportsfield and Boxfield Road. A clear route existed and early use (pre-1999) could have utilised the stone stile which remains in place in the wall beside Boxfield Road or it could have used the ‘squeeze’ gap between the old wire fenceline and the wall. The stone stile originally served **footpath BOX 32** which was diverted out of the field in 1951. The ‘squeeze’ gap is still in use today and provides the more direct link.



12.12 It is accepted that the claimed routes were used by the public and that they were ways capable of being dedicated as public rights of way.

13.0 Whether use was for the full period of 20 years

13.1 There are 27 witnesses who claim to have used all or some of the claimed routes for the full 20 year period between 1995 and 2015 and 12 witnesses who have used all or some of the claimed routes for the full 20 year period 1978 – 1998. Additional witnesses have used the routes for some times within these two periods.

13.2 Evidence has been given of use before that time by Mr Beattie and Mr R F Hancock, both of whom have known and lived in the area for a long time (born 1941 and 1953) Mr R F Hancock removed timber from the woods in 1968 and recalls that at that time no one used the wood for recreation and that the fences were in good order. Mr Beattie vaguely recalls going to the woods from Boxfields to play in the 1950s and early 60s and more clearly later in the 60s using the woods for playing in. He recalls that the woods were securely fenced with a metal fence and that you had climb in and that the farmer chased them out a couple of times saying it was 'Private Property'. There were no footpaths at that time.

13.2 However, evidence adduced by Mr Bob Hancock who had a lot to do with setting up the LLPF Ltd complex in the 90s, describes the 1998/9 fencing of the woods being taken down within a week of being put up, the public claiming that "they were there before the playing fields".

13.3 Taken as a whole, the evidence adduced from all parties suggests that although some access to the woods from Boxfields took place in the late 1950s and early 1960s the level of use that created the well trodden paths we see today didn't start until the late 1960s/early 1970s. This is reflected in the evidence and corresponds with the development of the Springfield/Cliff areas for relatively high density housing.

13.4 The erection of the fence and hedge defining the field edge path obstructed all other routes linking the wood with the stone stile and the 'squeeze' gap and the public would have had no choice but to use the newly created route – which they appear to have done. Although this route was only clearly defined 16 or 17 years ago it had always been possible for the public to walk along the field edge and get onto Boxfields Road via the 'squeeze' gap or the stone stile.

13.5 The public could therefore have enjoyed in excess of 20 years usage of the field edge route as well as the woodland routes.

14.0 Whether use was interrupted

14.1 There is no evidence for any interruption to use of routes through the woodland (see conclusion at paragraph 11.14 relating to notices).

14.2 The claimed route around the perimeter of the field was formalised with fencing/hedging in 1999, accordingly, use of any other routes leading from the woodland to Boxfield Road was interrupted at this time. See paragraph 13.2 above.

- 14.3 Witnesses claim to have only used a perimeter route and no evidence has been adduced showing use of any other routes though Mrs Barstow in a later submission describes a cross field route.
- 14.4 LLPF Ltd claim to have interrupted use of the perimeter route by allowing it to become overgrown and by the actions of programme sellers on match days.
- 14.5 Evidence has been adduced in the form of e-mails from Kathryn Barstow who complained about hedge growth in 2013. She complains that she is “*fed up catching my clothes on brambler/thorn bushes/rose thorns, one of these days it is going to cause damage and I do not suppose that...*” It is clear that although the path was unpleasant to use, it was not obstructed.
- 14.6 It is accepted that LLPF Ltd volunteers may have wished to dissuade anyone viewing the football for free from the path during paying tournaments or matches. However, visibility is not good from the perimeter path (as the hedges are well grown) and anyone selling programmes there would not be in a good position to do so from there. No witnesses report being stopped in this way and any closure of the path for matches has clearly been sufficiently infrequent to represent an effective interruption to use. It is also apparent that the closure of the path would not have been with the intention of bringing to the public’s attention that the use was by a revocable permission; it was more to prevent the public from viewing the sport.

15.0 Whether use was as of right – without secrecy, force or permission

15.1 Secrecy

The public have used the woodland routes and the field openly, during hours of daylight and in sight of any landowners or tenants. LLPF Ltd were clearly aware of the use in 1999 when they sought to rationalise it with signage and fencing and Mr Padfield was aware of the use as he knew that his signs were removed or vandalised. Tenants Crossman and Maidment were also aware of the use.

15.2 Use was without secrecy.

15.2 Force

Although LLPF Ltd suffered damage to fencing between the woodland and the field (letter of P Beattie Appendix 2 to LLPF Ltd’s representation at Appendix A) and Mr Freeman suffered (and still does) damage to his fencing between the woodland and his field, there is little or no evidence that any force has been used on the claimed routes.

15.3 LLPF Ltd have supplied photographs of damage to fencing at Appendix 10 of their submission. One image does not appear to be on a claimed route. The image showing the metal rail fencing is the entrance to the woods by the sub-station but there is no evidence of repair or maintenance at this site where a stile once stood (supposedly the one allegedly erected by Mr Crossman in the early 1990s and/or the one remembered by the Maidments as being used for access to the NAAFI).

15.4 Although there is evidence of damage to fences and signs, it appears to be only Mr Crossman who has repaired his fencing to keep his stock in and who has suffered repeated damage. This fencing is not part of a claimed route.

15.6 **Permission**

There is no evidence before the Council that Mr Padfield (owner), Mr Crossman, Mr and Mrs Maidment or the MOD (all tenants for parts of the land) gave the public permission to walk anywhere. Indeed the MOD directed walkers around the edge of their leased land.

- 15.7 LLPF Ltd sought to formalise use of the land when they bought the land in 1998. Signs were erected (but not maintained) at entrances to the land. The signs showed the areas the public were encouraged to use and they detailed how they should behave if with dogs. However the signs did not state use was by permission and nor did they suggest that any use was by a revocable permission (i.e. it could be stopped at any time).
- 15.8 Likewise LLPF Ltd formalised a field edge path and fenced the woodland from the pitch areas thus forcing the public to use this route only. Witnesses record using this field edge route before it was formalised and there was no signage erected to suggest that use of it was by permission or that permission could be taken away.
- 15.9 Signage erected by LLPF Ltd seems to have been clear in affirming that the land was privately owned, but this is an irrelevant statement with regard to acquiring a public right over it.
- 15.10 LLPF Ltd has *inter alia* in its Memorandum of Association the following objects:
- To advance and improve the education and physical, mental and social well being of the community by the provision of sporting and recreation amenities, grounds and facilities of all kinds.*
- To provide for the inhabitants of Corsham and surrounding areas in the interests of social welfare facilities for recreation and leisure time occupation with the object of improving their conditions of life.*
- 15.11 It may then be argued that the provision of footpaths is an essential tenet of some of the objectives of the owner and that use is by right and not as of right. However, it is clear that LLPF Ltd have not regarded the woodland as a part of the land that satisfies the objectives of the organisation since the land is currently being sold and that the Charity Commissioners are satisfied that this is so.
- 15.12 It is also clear that the provision of the formalised perimeter path was to prevent the fouling of pitches by dogs rather than to specifically provide for the recreational needs of walkers and as such does not appear to be seen as meeting one of the objectives. Additionally, if this were argued to be so it would be incompatible with the selling off of the woodland as the resultant path would become a cul-de-sac – hardly a provision for recreational needs.
- 15.13 Given the sale of the woodland and the divorcing of it from the objectives of LLPF Ltd the annexing of the perimeter path from the recreational facility has more the air of a dedication to the public than that of a permissive route. There is certainly no way anyone using the path would have been aware that use was considered to be permissive.

15.14 On balance it is considered that these objectives cannot be taken as implying a revocable permission and in any event it is more likely than not that public use was ongoing on these paths before LLPF Ltd bought the site.

15.15 Use was without permission.

16.0 The intention of the landowners

16.1 It is clear from the responses of both Mr Padfield and LLPF Ltd that notwithstanding the efficacy of any actions they may have taken to prevent public rights being acquired neither of them had any intention of dedicating the routes to the public.

16.2 However, during Mr Padfield's ownership of the land there was a 'squeeze' gap and a stone stile in the wall at Boxfields Road and there was at least one stile and one gate in the fenceline along Leafy Lane. Another witness has stated that there was a stile in the fenceline from the woodland and other evidence suggests that the woodland was not well fenced from the playing field area until LLPF Ltd took over in 1998.

16.3 In *R (Godmanchester Town Council) v Environment Secretary [2007] 3 W.L.R. 85* at para. 6 Lord Hoffman stated:

"As a matter of experience and common sense, however, dedication is not usually the most likely explanation for long user by the public, any more than a lost modern grant is the most likely explanation for long user of a private right of way. People do dedicate land as public highways, particularly in laying out building schemes. It is however hard to believe that many of the cartways, bridle paths and footpaths in rural areas owe their origin to a conscious act of dedication. Tolerance, good nature, ignorance or inertia on the part of landowners over many years are more likely explanations."

16.4 The Ministry of Defence (MOD) tenancy

The MOD were a tenant of part of the land for an unknown period. That period ended in 1998. Although the provisions of the Highways Act 1980 may only apply to Crown Land where an agreement is in place for it to do so (s.327 Highways Act 1980), in their position as relatively short term tenants or lease holders it is doubtful whether this exemption could apply. Additionally their tenancy only extended to the land used for their sports facilities (or additional use of the land for Mr Crossman and Mr and Mrs Maidment would not have followed).

16.5 Although they had an interest in the land they did not have the power to dedicate a public right of way as they were not holders of the fee simple. Dedication cannot be implied by a leaseholder unless the acquiescence of the freehold owner in the use by the public can be established.

16.6 The Crown may however dedicate a highway over lands within its ownership and the common law principles of dedication and acceptance apply in the same way as with a private person. However, this is not the case here.

17.0 Subjective belief

It does not matter what is in the mind of the user of the way or whether he believes it to be a public right of way or not; it is the nature of his actual use that is the consideration.

Lord Hoffman in *R v Oxfordshire CC Ex p. Sunningwell Parish Council* [2000] A.C. 335 at 356:

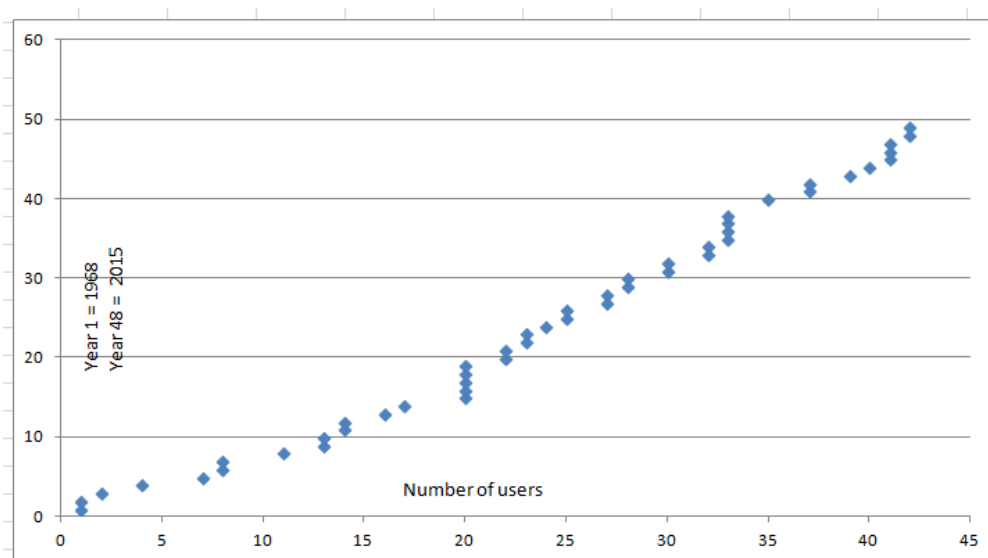
“In the case of public rights, evidence of reputation of the existence of the right was always admissible and formed the subject of a special exception to the hearsay rule. But that is not at all the same thing as evidence of the individual states of mind of people who used the way. In the normal case, of course, outward appearance and inward belief will coincide. A person who believes he has the right to use a footpath will use in the way in which a person having such a right would use it. But user which is apparently as of right cannot be discounted merely because, as will often be the case, many of the users over a long period were subjectively indifferent as to whether a right existed, or even had private knowledge that it did not. Where Parliament has provided for the creation of rights by 20 years user, it is almost inevitable that user in the earlier years will have been without any very confident belief in the existence of a legal right. But that does not mean that it must be ignored.”

18.0 The common law test

In the absence of evidence of actual express dedication by a landowner, proof of a past dedication is inevitably achieved by looking at the character and extent of use of the way using the principles of *“nec clam, nec vi and nec precario”* i.e. ‘as of right’ and as discussed at section 15 of this report.

18.1 The common law test does not require a period of time to be satisfied (unlike the 20 years specified in s.31 Highways Act 1980) but use would be expected to be of such frequency so as for the owner of the land to be aware of the use and to demonstrate acceptance by the public..

18.2 Use of the claimed routes has increased with time as the graph below illustrates. In year 1 (1968) only one user has given evidence but by 2015 (year 48) 42 people are using the routes. There is no increase in use in 1999 (year = 31) corresponding with LLPF Ltd purchase, signage and formalisation of field edge path.



NB Any assumptions about use increasing with time must be approached with caution and offset by an appreciation of how much more difficult it is to collect evidence from people who would have used the path 50 plus years ago.

- 18.3 There is a high frequency of use with 26 people claiming daily or twice daily use and with all witnesses recording seeing other walkers. There is a clear acceptance by the public.

19.0 Conclusions on the statutory test

- 19.1 Use by the public has been consistent for a period back to at least 1968. The Council has little evidence of use for the land when the Boxfields pre-fabricated housing existed, only the statement of Mr Beattie which states that children would use the woods but that they were chased off by the farmer.
- 19.2 It was probably not until the housing developments to the east of Leafy Lane and the MOD housing to the north were built that use became more frequent. It would appear that by the 1980s use was sufficiently high for the tenants (Mr and Mrs Maidment) to comment that the path was “well worn”. There was no interruption to this use (see chart at 18.2) and if there had been attempts to stop it, it is clear that they were unsuccessful.
- 19.3 Mr Padfield erected some signage but cannot recall what it said. He recalls that it was vandalised and was placed high in a tree to prevent this. However, very few witnesses recall this and it is unlikely to satisfy the requirements of s.31(3) & (4) of the Highways Act 1980 in defeating s.31(1).
- 19.4 Signage erected by LLPF Ltd was not maintained to be readable and besides did not contain appropriate wording to either satisfy s.31(3) or (4) of the Highways Act 1980 or to grant permission or to imply that it was granted.
- 19.5 No deposits were made with Wiltshire Council under s.31 (5) or (6) of the Highways Act 1980.
- 19.6 Officers consider that based on the evidence before it that the requirements of s.31(1) are met for either the period 1995 to 2015 or, if the statutory provision cannot be applied because of the objectives of LLPF Ltd, for the period 1975 – 1995.

20.0 Conclusions on the common law test

Where the requirements of the statutory test are met it is not usual to need to consider the common law tests. However, there have been some clear indications to the public that they may use this site including the erection of at least one stile at Leafy Lane (by the sub station), the retention of the stone stile after the extinguishment of the cross field path in 1951, the obvious ‘squeeze’ gap between the wall and the fence where the shop once stood on Boxfields Road and the gate linking the MOD area with the woodland area (presumably through which they walked to get through the woodland to the NAAFI as remembered by Mr and Mrs Maidment from the 1980s. Additionally one witness recalls and specifies where the stile was linking the woodland with the perimeter of the field. However, other witnesses do not specify that they recall that.

- 20.1 Additionally LLPF Ltd created a clear route for the public to use beside the playing field. It is considered that there is a possibility, that if the creation of this route was as a wholly new route then the use may have been by right (as opposed to ‘as of right’) as a result of the

objectives of LLPF Ltd, however, evidence given by witnesses shows that the field edge path was in use long before LLPF Ltd bought the land and it is also arguable whether the objectives of a limited company are sufficiently and reasonably accessible to the public to make it clear to them what was the intention of the landowner. Certainly there were no outward signs that this may have been the case.

20.2 See also the officer's comments at 15.11 – 15.14 relating to the situation now proposed by LLPF Ltd whereby the path potentially becomes a cul-de-sac with the sale of the woodland.

20.3 Officers do not intend to rely on the common law test in the first instance but it is noted that use of these paths is consistent and considerable and has the appearance of a right being asserted.

21.0 Legal and financial considerations and risk assessment

If Wiltshire Council refuses to make an order the applicant may lodge an appeal with the Secretary of State who will consider the evidence and may direct the Council to make the order. If the Council is directed to make an Order it must do so.

21.1 Failure to progress this case to determination within a year of application may result in the applicant seeking a direction from the Secretary of State. As Wiltshire Council prioritises user based applications it is likely that the Council would be directed to make a determination.

21.2 If an order, when made and advertised receives objections which are duly made it must be forwarded to the Secretary of State for determination. Through their agent, the Planning Inspectorate (PINS), the order may be determined by way of written representations (no additional cost to the Council), a local hearing (cost £200 to £500) or a public inquiry (cost £3500 - £5000 if Wiltshire Council supports the order; around £300 if it does not). The Council may support the Order, object to it or where directed to make it, may take a neutral stance.

21.3 Statute is clear as to the Council's duty in this matter and financial provision has been made to pursue this duty. It is considered unlikely that judicial review would be sought by any party if the statute is adhered to. Costs arising from judicial review of the Council's processes or decision making can be high (in the region of £20,000 to £50,000).

22.0 Equality impact

22.1 Consideration of the Equality Act 2010 is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981. If the path is recorded in the definitive map and statement it must be as used and accepted by the public though any further improvements to access could be pursued by negotiation with the landowner as appropriate.

23.0 Relationship to Council's business plan

23.1 Consideration of the Council's Business Plan is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981. However, Wiltshire Council is committed to working with the local community to provide a rights of way network fit for purpose, making Wiltshire an even better place to live, work and visit.

24.0 Safeguarding considerations

24.1 Consideration of Safeguarding matters is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981.

25.0 Public Health Implications

25.1 Consideration of public health implications is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981.

26.0 Options to consider

- 26.1
- i) To make an order under s.53(3)(b) or (c)(i) of the Wildlife and Countryside Act 1981.
 - ii) Not make an order under s.53(3)(b) or (c)(i) of the Wildlife and Countryside Act 1981 and to refuse the application.

27.0 Reasons for recommendation

Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 provides that an order should be made if the Authority discovers evidence, which, when considered with all other relevant evidence available to them, shows that, on the balance of probabilities, a right of way subsists or is reasonably alleged to subsist over land in the area to which the map relates.

27.1 In considering the evidence under this section there are two tests which need to be applied, as set out in the case of *R v Secretary of State ex parte Mrs J Norton and Mr R Bagshaw*(1994) 68P & CR 402 (*Bagshaw*):

Test A: Does a right of way subsist on the balance of probabilities? This requires the authority to be satisfied that there is clear evidence in favour of public rights and no credible evidence to the contrary.

Test B: Is it reasonable to allege that on the balance of probabilities a right of way subsists? If the evidence in support of the claimed paths is finely balanced but there is no incontrovertible evidence that a right of way cannot be reasonably alleged to subsist, then the authority should find that a public right of way has been reasonably alleged.

27.2 To confirm the Order, a stronger test needs to be applied; that is, essentially that contained within Test A. In *Todd and Bradley v SoSEFRA [2004] EWHC 1450 (Admin)*. Evans-Lombe J found that the appropriate test for confirmation is the normal civil burden of proof that such a way subsists on the balance of probabilities.

27.3 Test B is the weaker test and only requires that on the balance of probabilities it is reasonably alleged that public rights subsist. This allegation may only be defeated at the order making stage by incontrovertible evidence. Incontrovertible evidence is that contained within s.31(3)(4)(5) and (6) of the Highways Act 1980.

27.4 There has been no incontrovertible evidence adduced or discovered in relation to this claim under the requirements of sections 31(3)(4)(5) and (6) of the Highways Act 1980.

27.5 The evidence of the 42 witnesses who have used the path is at least a reasonable allegation that public rights subsist. There is evidence of infrequent use and challenge to use of the routes in the late 1950s through to the late 1960s but it is clear from the profile of use at 18.2 that public use increases over time. It is likely that although Mr Padfield

had no intention of dedicating rights of way to the public he failed to convey that fact to them and use continued.

27.6 The summary of Wills J in *Eyre v New Forest Highway Board (1892) 56 JP 517* is repeated here to illustrate the long standing nature of the situation that Mr Padfield found himself in:

“you have a person in ownership for the time being of Tinker’s lane, who did not wish the public to pass, and who would have stopped, and wished to stop, their passage if he could. If so, and if the impression left upon your mind by the bulk of the evidence that you have heard, is that notwithstanding his objection to it, he was not able to stop it, and that the thing went on, surely it is a strong ground for supposing that there really was a right acquired by the public before that time which he could not interfere with.”

27.7 By the time LLPF Ltd acquired the land in 1998 the public were using the claimed routes freely to the extent that LLPF Ltd sought to formalise the use by containing the walking public to certain areas to prevent dogs fouling the playing areas.

27.8 Users of the way do not appear to have objected to this, do not appear to have questioned the calling into question of any routes that they may have been using at that time (certainly no application to Wiltshire Council was made) and use of the woodland routes and field edge path appears to have continued.

27.9 The law requires that the relevant period for the consideration of this application is, in this case, the date of application, making a 20 year period 1995 to 2015. However, in the event that any actions of LLPF Ltd called the ways into question in 1998 the relevant period would be 1978 to 1998.

27.10 It is considered that there is at least a sufficiency of cohesive evidence to make a reasonable allegation that public rights have been acquired. Test B (paragraph 21.1) therefore applies.

27.11 In considering this application officers have been minded to question whether the routes through the woodland area are defined routes or merely a wandering through woodland.

27.12 Stephen Sauvain Q.C. in *Highway Law (Fourth Edition)* at 1.19 states:

“It is a primary characteristic of a highway that the public right of passage follows a known, defined line. The common law did not recognise any public right to wander across countryside (jus spatiendi). Thus, where there had been regular use of woodlands through which the public had wandered at will, it was held that this use was not sufficient to infer dedication to the public of the woodland tracks as public paths.”

Sauvain relies on:

Chapman v Cripps (1862) 2 F. & F. 864; Schwinge v Dowell (1862) 2 F. & F. 845

27.13 On an unaccompanied site visit in November the case officer had no difficulty identify the most northern route and the field perimeter path (Route 1). Additionally, when accessing the other two claimed routes (Routes 2 and 3) from Leafy Lane the walked paths were clear on the ground and linked to the other claimed paths as shown in the application plan.

27.14 It is almost certainly the defined entry points from Leafy Lane that give rise to the defined paths and also the use of the paths for specific purposes. For example Route 1 was used for access to the NAAFI from the MOD housing and as part of a longer walk avoiding the road and linking in with the footpath network. Routes 2 and 3 are more likely to allow people to take shorter circular walks.

27.15 Although it is considered there is a sufficiency of evidence given for all of the routes to form a reasonable allegation it is noted that use of Routes 2 & 3 is significantly lower than Route 1 and this may arise from the availability of the more southerly access points (especially the one closest to the car park) in the early years.

28.0 Recommendation

That Wiltshire Council makes an Order under s.53(3)(c)(i) of the Wildlife and Countryside Act 1981 to record the paths detailed in the application as public footpaths in the definitive map and statement and that if no objections or representations are made that the Order is confirmed.

Sally Madgwick

Rights of Way Officer – definitive map

16 February 2016

Appendices:

Appendix A Submission by Leafy lanes Playing Fields Ltd

Appendix B Summary of User Evidence

Appendix C Draft Order

23, The Bassetts
Box, Corsham
Wiltshire
SN13 8ER

23rd January 2016

Rights of Way Officer
Rights of Way and Countryside,
Waste and Environment
County Hall
Bythesea Road
Trowbridge Wiltshire
BA14 8JN

APPENDIX A
TO DECISION REPORT

Ref: SM/2015/10

Dear Sally Madgwick

As a Trustee and Director of the charitable Company Leafy Lane Playing Fields Ltd, I have been nominated by the management committee to write to you in regards to the application for an order to modify the definitive map and statement by adding footpaths at Leafy Lane, Box.

Leafy Lane Playing Fields Ltd would like to state there has never been any intention to dedicate any of the land owned by the company as public rights of way and no such paths across the land are missing from the definitive maps.

In this letter Leafy Lane Playing Fields Ltd intends to put forward evidence which clearly demonstrates the application for an order to modify the definitive map should be refused by Wiltshire County Council.

1. Legal obligations under Charitable Status

Firstly and most importantly regarding dedication of land, if Leafy Lane Playing Fields Ltd were to give away any of the land it owns for free for in this case footpath usage, equating to about 25% of the land, the company would be breaking it's charitable status, and under the Charities Commissions laws the directors and trustees would be held liable for illegally breaching our charitable status.

2. Land's status before 1998

Leafy Lane Playing Fields Ltd purchased the woodlands and field from Mr Padfield in 1998. When Mr Padfield owned the land, the woodlands were completely fenced off; he certainly did not like members of the public coming onto his land and informed the public of this by erecting signs stating "Private Keep out". Mr Padfield's son remembers erecting the signage with his father in the 1970s. This information was conveyed to me verbally by Mr Padfield's son, unfortunately he has not had a chance to put into writing his evidence yet. As this letter will become public domain Mr Padfield's number has not been included here, should verification of the status of the woods when his father owned them be required, the contact number can be supplied. The existence of "Private Keep Out" signs being in place when Mr Padfield owned the land has also been verified by three people on their forms of evidence the council received with the application. Locals who claim to having entered and walked the woodland freely prior to the company owning the land, are mistaken as the woodlands were well fenced and over grown, this has been verified in the letters from Mr Hancock and Mr Beattie (see appendix 1 and 2).

3. Land's status under Leafy Lane Playing Fields Ltd after 1998.

After Leafy Lane Playing Fields Ltd purchased the land, signs were erected at every official entrance point into the woodland and onto the playing fields, stating "THIS IS PRIVATE LAND OWNED BY LEAFY LANE PLAYING FIELDS LTD." also showing a plan of the land under Leafy Lane Playing Fields Ltd.'s ownership and a code of conduct on usage. The original signs are still in place though faded, if examined closely the words in bold stating, the word "private" can still be seen. (See appendix 3). An original sign was put into the storage shed about five years ago, after it was removed from its position and shoved through a changing room window; there was a police investigation at the time. As this sign was placed into storage five years ago it has not faded to the extent of the other signs still in place have done, meaning the information on the stored sign is clearly readable, (See Appendix 4). The sign clearly

proves that Leafy Lane Playing Fields Ltd made sure members of the public were fully aware "The land is privately owned" by the company. Most importantly all of the signs publicly displayed on all official access points, stating the land is "private" and access restricted under a set terms, demonstrates Leafy Lane Playing Fields Ltd. has never intended to dedicate any land as rights of way.

4. Public awareness of land being Private and with restrictions.

The information on the status of the company's land would be fully known by many locals, especially to the twenty people, whose forms of evidence stated they are aware of signs being in existence and also that they have been using the area before 2010. This is because the sign put into storage only five years ago, would when in position have been clearly readable before 2010, as would have the signs still in place today, leaving no doubt in the public's mind over the status of the land in question, at Leafy Lane. The signs make fully aware to members of the public that any walks marked, are private walkways within the boundaries of private land and never intended to become public rights of way. As permission for usage is granted under terms laid down by the landowners, Leafy Lane Playing Fields Ltd has the right to prevent usage on any date or during any period of time. A clear large sign still exists by the main entrance to the site which indicates who the land is owned by (see Appendix 5).

The status of the woods and field at Leafy Lane was made well known to the locals in 1999, as Mr P. Turner, evidence form no.34, would be well aware as he quotes on his form a letter received from Leafy Lane Playing Fields Ltd in 1999 to himself, written by Mr G. Cogswell, in regards to a public meeting held by Leafy Lane Playing Fields Ltd. with local residents. On Mr Turner's form where he has put "" he omits a vital part of Mr Cogswell's letter, the letter actually reads as follows; *"An extended dog walking area is being provided around what is in fact a privately owned site, however we have always intended that the site be sensibly used by the whole community."* This clearly informs the reader of the letter, the land is private and must be sensibly used which is expressing that should Leafy Lane Playing Fields Ltd feel that use is not sensible then they have the right to prevent and restrict usage due to the land's private status. (See Appendix 6)

5. Private Permissive Dog walk status

It has been noted on the applicant's diagram of paths, there is a supposed right of way which goes across the top of the playing fields from the woodlands onto Box fields Road. People who have who claimed to walked this route, especially with their dog, prior to 1999 are mistaken. The area is a hedged off area which was not in existence until after 1999 as this is the private permissive dog walk which, is noted in Mr Cogswell's letter to Mr P. Turner in 1999. The area was not sectioned off from the main playing fields until after 1999, so did not become a permissive dog walk until a maximum of fifteen years ago. As Leafy Lane Playing Fields Ltd have always had a strict policy of prohibiting dogs on the playing fields, with signs written in red stating "No Dogs" around the playing fields (see Appendix 7), and with this supposed right of way going across the playing fields prior to 1999, people would have been in breach of Leafy Lane Playing Fields Ltd.'s strict policy on No dogs so would have definitely been told to leave. Photographic evidence enclosed (see Appendix 8) also shows evidence of the area as not being sectioned off from the playing fields before 1999.

Though the area is now sectioned off from the playing fields to create a private dog walk, under the conditions of a permissive footpath. In line with the ordinance maps' definition *"this footpath takes you over private land and isn't a right of way. The landowner has granted permission for the route to be used by the public but they also have the right to withdraw that permission if they choose. The path will often be closed for one day a year in order to protect the landowner against any future claims of continuous public right of way"*. In order to maintain the status of the area as a permissive path and to prevent claims to it being a Right of Way, Leafy Lane Playing Fields Ltd regularly blocked access along this route. Access to members of the public along the route has been denied during the tournament weekend as the programme sellers have placed themselves across this area and turned away people trying to gain access through; those who have gone through have forced their way past. Access has been deliberately blocked with the hedging being deliberately left to over grow across the area in order to prevent members of the public walking along the route. Proof Leafy Lane Playing Fields Ltd have blocked the area is evident by the fact people have even complained to Box Parish Council regarding the area. In response Box Parish Council has handed these complains to Leafy Lane Playing Fields Ltd., the company's reply to them has been to inform the Parish Council the land is private and no rights of way exist across the land, the information has then been passed onto the complaints. Mrs K. Barstow, evidence form no.3, is well aware of the area being private with no public rights of way as she has been one of the complainants and the recipient of our information back via Box Parish

Council, her response was to threaten to exercise her dog on the playing fields if the hedge was not cut back from blocking the area. (See Appendix 9)

6. Misuse and vandalism of Leafy Lane Playing Fields Ltd.'s land

The company directors and trustees of Leafy Lane Playing Fields Ltd. are all volunteers and the area at Leafy Lane is only manned when people have hired the facilities or work is being undertaken on the land. Though some locals on their evidence forms state the company is aware of how the area is being used; this is not the case, with the area not manned permanently the company is not always aware of what is happening on their land. Unfortunately the awareness of the land being unmanned is often taken for granted, with the land not being used in accordance with the company's terms and vandalism happens on a regular basis.

When company directors, trustees or persons linked to the company see members of the public breaching the company's directives they are told to leave the area. On a number of occasions I have told horse riders that they are not permitted on the land and are told to leave the area. A couple of months ago my wife witnessed two men in the woodlands metal detecting and digging holes, she informed them the land was private and permission was required from Leafy Lane Playing Fields Ltd., having been informed to the nature of the land they up tools and left the area. Even today one local resident, who was taking photographs of work being carried within the woodland, was informed by one of the directors that he was on 'Private Land' and was not permitted to photograph the work. The resident stopped taking photographs immediately and left the area without arguing this is because the person was already fully aware the woodlands status.

Vandalism is one of the company's biggest problems, with signs as seen in the picture appendix 3, being tampered with, damage to the building and astro. Whilst fencing erected by Leafy Lane Playing Fields Ltd to prevent free access is removed or bent over in order to gain access into other areas of the land (see Appendix10). The fences are regularly repaired, the one by supposed access number one is one fence in particular, it was repaired with wire mesh but as you can see in the picture in appendix 11 it is missing again. Only last week it was found that because shrubbery has been cleared people have now deliberately damaged the perimeter fence in three places and damaged a gate to gain access via other routes, I repaired a fence on Thursday 7th January 2016 only to go and find it damaged again on Sunday 10th January 2016. Unfortunately the cost of repairing these fences is high and money is not constantly available to repair this constant wanton vandalism. Leafy Lane Playing Fields Ltd. sometimes feel we are on a losing battle against members of the public creating unauthorised access points and wandering all over the land, we have tried to prevent access so that members of the public are not allowed unrestricted access, but how are we supposed to keep members of the public from accessing our land and generally wandering about, unrestricted and then claim it is a right of way, when people keep breaking through fencing and barriers?

7. Lack of defined track contrary to Note 7 on the evidence form, .

In note 7 on the form of evidence it states *"It is important that the way follows a defined track, and is not an area over which you have wandered at large"* There are no singular defined tracks within the woodland which have been in constant use for 20 years which equate to the definitions of a right of way. The woodland area which is referred to in the application is an area where people have not stuck constantly to any defined routes and generally wander at random all over the company's private land. Evidence this area does not have one defined track and is not a right of way, but is being used as just a woodland to wander at large in, is clearly evident from the twenty forms which mark out several supposed routes and mention generally wandering around different areas within the woodlands, this is contrary to Note 7. All the supposed walkways are undefined paths naturally formed either by; gaps in trees, where trees have fallen down or removed and where plants have not grown. People have abused the woodland by tramping down new areas of ground every day to avoid overgrown bushes and muddy areas or just to gain access to a different part of the woods. This means new areas of ground is being flattened, which is why there are large variation in widths and number of supposed paths. Whilst in the process flora and fauna is being destroyed. Further proof there is not a defined route is shown through the application, it has a number of supposed pathways marked, with more being added after application, the reason being the applicants are unable to show a defined right of way across the land is because there is not one in existence.

Leafy Lane Playing Fields Ltd. do tend and manage the woodland but do not clear areas so people can walk a defined route. The company wants the area to remain as natural woodland, so if bushes, trees or plants become overgrown or grow on a supposed track then these are left to grow deliberately, due to this, not one defined Right of Way has ever been established. The company only maintains the woodland in order to prevent it from becoming overgrown and unmanageable.

8. Interrupted usage within the 20 year period.

In order to prove a right of way exists so that it is to be added to the definitive map, firstly there should be evidence which shows uninterrupted usage by the public for a period of over 20 years prior to the application date of September 2015. It has been noted on your summary of the forms you have received some have claimed 20 years of using supposed paths. This in fact is not the case, firstly the woodlands cannot have been walked or used freely for a total of 20 years as before 1998 only 17 years ago, as the woodland area was fenced off, by the previous owner and his intentions made clear people were not welcome on his land with the usage of signs, evidence letters Appendix 1 and 2. Secondly, the area running along the top of the playing field did not exist until after 1999, 16 years ago and has regularly been blocked deliberately so certainly hasn't been used uninterrupted for 20 years. Thirdly, not one singular route in the woodland can be claimed to have been continuously been walked uninterrupted for 20 years as over the years as supposed paths have altered over the years as areas become over grown and not cleared.

9. Illegal access to M.O.D. property.

Leafy Lane Playing Fields Ltd. would also like to point out that a number of people seem to claim there is access through the woods through a gate into a play area at the top of Park Avenue. Please note that this gate leads onto land and a play area owned by the M.O.D. Access through this gate, is strictly forbidden and entering land beyond this gate is trespassing on M.O.D. property. Anyone doing so could be subject to arrest by the M.O.D. police if caught, there are signs stating this. (See Appendix 12) . The gate has also been padlocked to prevent the general public using this gate as an access point into or from the woodland onto M.O.D. land. The M.O.D. police distributed a letter around in the area regarding the locking of the gate and this letter also reminded locals the woodland is private land. (See Appendix 13)

10. Certificate of Incorporation and Memorandum of Association

Finally, to Mr P. Turner quotes Leafy Lane Playing Field Ltd.'s Certificate of Incorporation and Memorandum of Association. As this is something you enquired about in our telephone conversation I thought I should explain to you the nature of this document. Firstly, I would like to make clear to yourself that Leafy Lane Playing Fields Ltd.'s Certificate of Incorporation and Memorandum of Association were written up in order for the company to become registered as a not for profit charitable company. In recent months we have been in close communication with the charities commission who have verified that as a charitable company Leafy Lane Playing Fields Ltd. do not have to own the area at Leafy Lane or any other land in order to operate as a company and fulfil its objectives. So long as the company's objectives are followed the directors are at liberty to choose where and how they fulfil these objectives, as verified by the Charities Commission.

This being the case under our Memorandum of Association objective *"To advance and improve the education and physical, mental and social well-being of the community by the provision of sporting and recreation amenities, grounds and facilities of all kinds"* and the additional objective *"To provide for the inhabitants of Corsham and surrounding areas in the interests of social welfare facilities for the recreation and leisure time occupation with the object of improving their conditions of life"* Leafy Lane Playing Fields Ltd. is not legally tied to providing these facilities solely at Leafy Lane nor is the company obliged to provide any facilities free of charge. After all the company needs to charge usage in order to maintain and improve the area. Nor does the company's Memorandum of Association state the company is in anyway obliged to provide for locals; free footpaths, free dog walks, freedom to ramble within the woods or any other free usage or free activities. Neither does the document state the company must consult or be answerable to local residents or any other members of the general public, all decisions made on the usage of the land and facilities, and other company business is entirely down to the discretion of the directors and trustees of Leafy Lane Playing Fields Ltd.

As a charitable company the only body the company has to consult about certain decisions is The Charities Commission. This being the case Leafy Lane Playing Fields Ltd.'s Memorandum of Association carries no relevance with regards to this application. Unfortunately this document is used by the applicants whenever this group feel they have some form of right, over the company's land, as recently demonstrated in their application to register the land as a community asset, the application was unsuccessful, this application is yet another attempt to prevent Leafy Lane Playing Fields Ltd.'s carrying out its legal right to sell the woodland.

Leafy Lane Playing Fields Ltd. would like it to be known that the company adheres to its objective completely by hiring its grounds and facilities at a cost to local football clubs, cricket clubs, the local scouting group, slimming clubs, the local polling station and other local groups. Money raised from the selling of the woodland will greatly help towards the continuation of providing, improving and building on the facilities Leafy Lane Playing Fields Ltd. offers.

11. Summary

In summary, Leafy Lane Playing Fields Ltd has through this letter and evidence given that;

- It has never been the intention to dedicate any rights of way by ourselves or the previous owner.
- It was clear the land was labelled '**Private Keep Out** ', by the previous owner before 1996.
- Signs erected by Leafy Lane Playing Fields Ltd. stated '**Private**' together with limitations of public use.
- People have been told to leave when not abiding by the company's terms of use.
- Areas regularly blocked so no continuous usage.
- Less than a period of 20 years usage of supposed walks.
- Access points opened via vandalism.

Leafy Lane Playing Fields Ltd. are hopeful that on reading this letter and studying the evidence, it demonstrates the company never intended to dedicate any form of rights of ways, and that Wiltshire County Council comes to a decision where by it is decided no public rights of ways exist within the land, meaning a modification of the definitive map does not apply in this case.

Yours Sincerely,

A large, dark, rectangular redaction mark covering the signature area.

Mr Robert Mullins

Treasurer, Director and Trustee
Of
Leafy Lane Playing Fields Ltd.

boxmadhouse@aol.com

Appendix 1

Leafy Lane Playing Fields

R.F.Hancock

20 Fleetwood Close

Neston

Wilts SN13 9TF

3rd January 2016

TO WHOM IT MAY CONCERN

My recent conversation with Mr. Robert Mullins about the land you own at Rudloe gives me cause for concern. Firstly let me explain about myself, being born in the area at Folly Farm Rudloe in 1941 and brought up in the area.

In 1968 I took the tenancy of the Quarrymans Arms, and shortly afterwards was invited to remove Timber from the wood at Leafy Lane which you now own.

At that time no one used the wood for recreation either for themselves or their dogs. The fences were all in good order, and to be quite honest there were not a lot of dogs in the area at that time.

Yours sincerely

R.F.HANCOCK



R.F.Hancock

20 Fleetwood Close

Neston, Wilts.

SN13 9TF

3rd January 2016

Robert Mullins,

Re: Leafy Lane Playing Fields

Dear Bob, recent to our conversation about the wood which your organisation own at Rudloe, I had a lot to do with the setting up of the complex in the 90's. My first concern was of dogs fouling on the playing areas.

So the committee at that time drew up a plan to allow for dogs in a restricted area. There were fences erected and hedges planted to the west side of the site which now still stands, and as you said is still maintained. Also at the same time there was a section of land set aside with a narrow strip of woodland and grass alongside to the officer's quarters to the North side of the site.

Within a week the fence was cut and a steady stream of dog walkers ignored the regulations laid down at that time. There were notices erected and the wire was repaired several times to no avail, although you tell me that the fouling of the pitch is fairly minimal now.

There has been an explosion of dogs in the past 20 years as we are all aware, and right to roam legislation was brought into force did not help. I said at the time I was groundsman to some of the committee, why not call a meeting with the local residents and discuss the problem. Their argument was they were there before the playing fields, which not true as the ministry used it themselves during and after the war for their own sports.

It is since the new developments have arrived since that this problem has arisen. Perhaps you should call another meeting with the residents. There might be now more concern with this new disease outbreak in Wiltshire which affects dogs feet especially in muddy areas and which is a killer.

Anyway Bob good luck with your venture, I am sure you will need it.

Regards

Bob Hancock

A blacked-out redaction covering the signature of Bob Hancock.

Appendix 2

Mr P Beattie
11 Pine Close
Rudloe
Corsham
Wilts SN13 0LB

Rights of Way and Countryside
Waste and Environment
County Hall
Bythesea Road
Trowbridge
Wiltshire BA14 8JN

F.A.O Ms Sally Madgwick

Your Ref: SM/2015/10

**Wildlife and Countryside Act 1981 s.53
Application to add public footpaths to the definitive map and statement at Leafy Lane**

Dear Ms Madgwick

I see from looking at the rudloescene website <http://rudloescene.co.uk> that you have received an application from the Springfield and Clift Residents Association for an order to add public footpaths to the definitive map and statement at Leafy Lane Rudloe and that this application is supported by evidence of use from some 42 local people dating back in some case to the early 1970s.

The reason for writing to you is to give you some information from what I know about the woodland at Leafy Lane. I was born on the old Rudloe Estate in June 1953 and at the age of one moved to Boxfields where I lived until September 1964 when we moved back to the newly built council estate at Rudloe. I continued to live here until 1980 when I bought my first house in Ashwood Road and then in March 1987 I moved to my current address in Pine Close. As you can see from this I have lived around Rudloe all my life nearly 63 years.

I vaguely remember going to the woods with my older brothers and friends while still living at Boxfields but during my teenage years I can vividly remember spending many of the school holidays playing in the woods making dens and generally having lots of fun. I remember there was a metal fence all around the wood which you had to climb over to get in and that it was 'Private Property'. I also vaguely remember friends and myself being chased out by the farmer on a couple of occasions with him telling us it was 'Private Property'. I also remember that the wood was much denser back then than what it is now with more trees and bushes and certainly no clearly defined footpaths. I also remember playing in the fields where Springfield Close and Clift Close now stand so I have more years of knowledge than any of the 42 local people mentioned above.

I know the woodland is now privately owned by Leafy Lane Playing Fields Ltd and that they intend to sell it at auction and use the proceeds from the sale to enhance and improve the current sporting facilities at Leafy Lane. It is only since this intention was made known to local residents that they have tried everything they can to prevent this with the above application being the latest attempt.

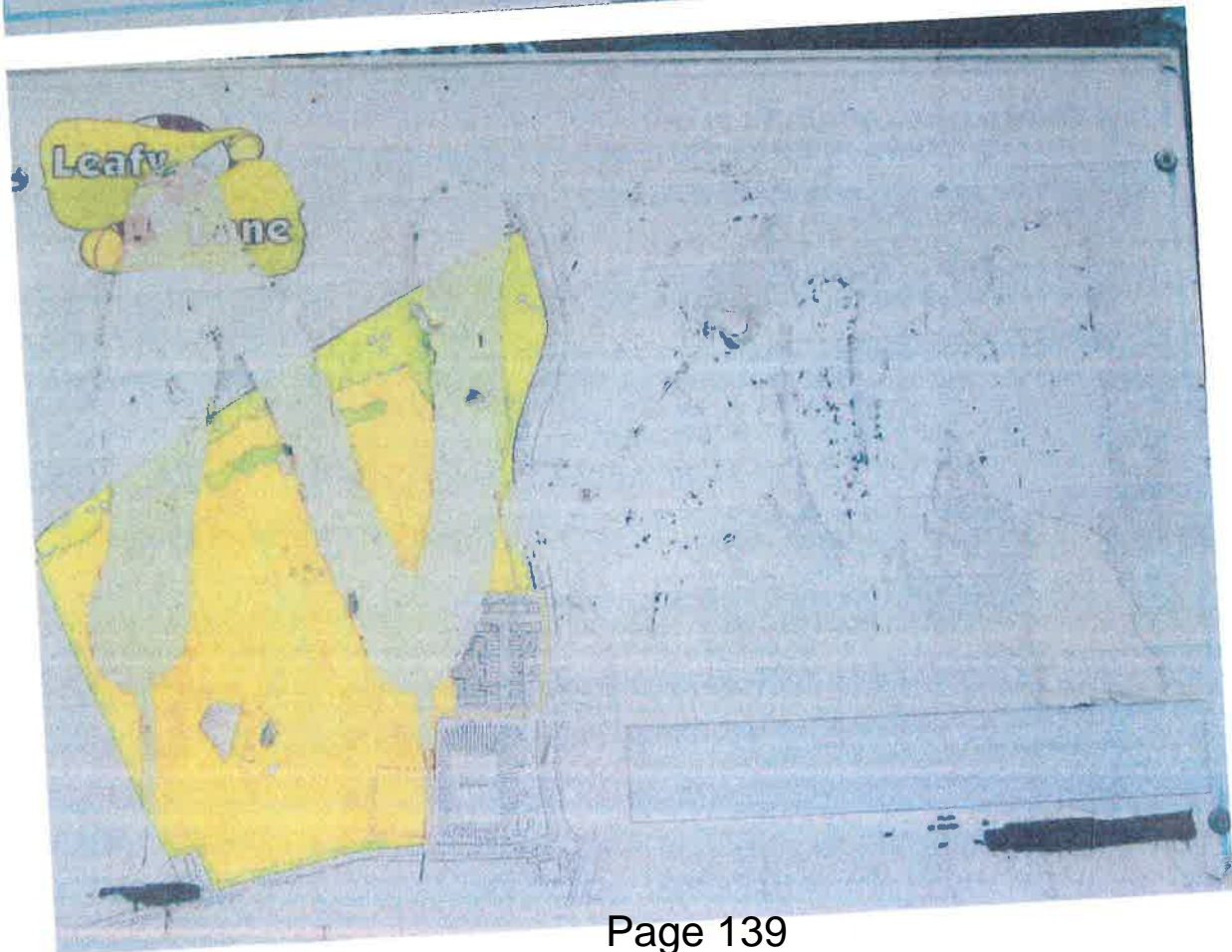
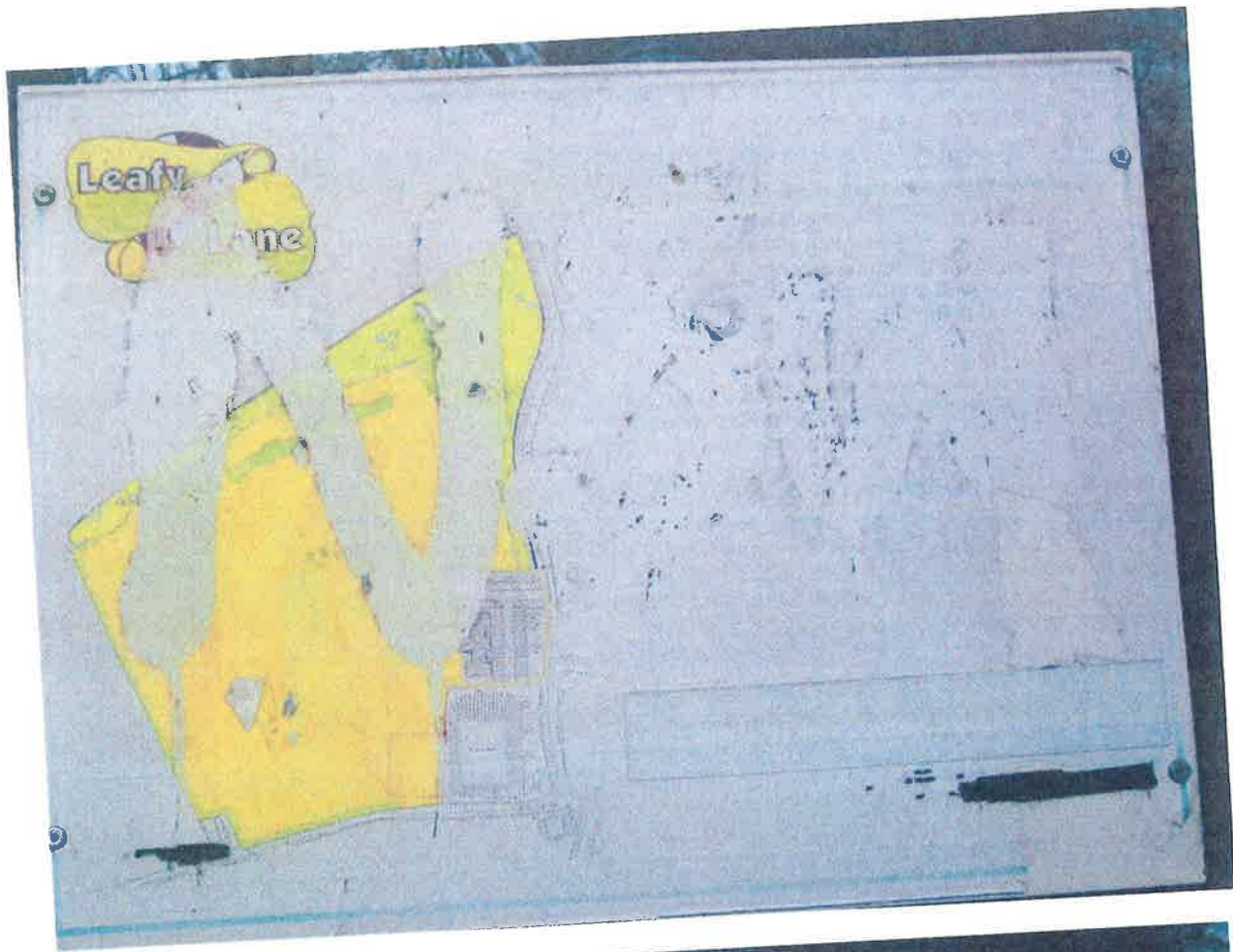
I trust you will take my evidence and knowledge of the woods into account along with any other evidence from locals you may have when making your decision as I cannot see how this application can be approved when there have never been any public footpaths through the woods as far as long as I can remember the woods have always been privately owned.

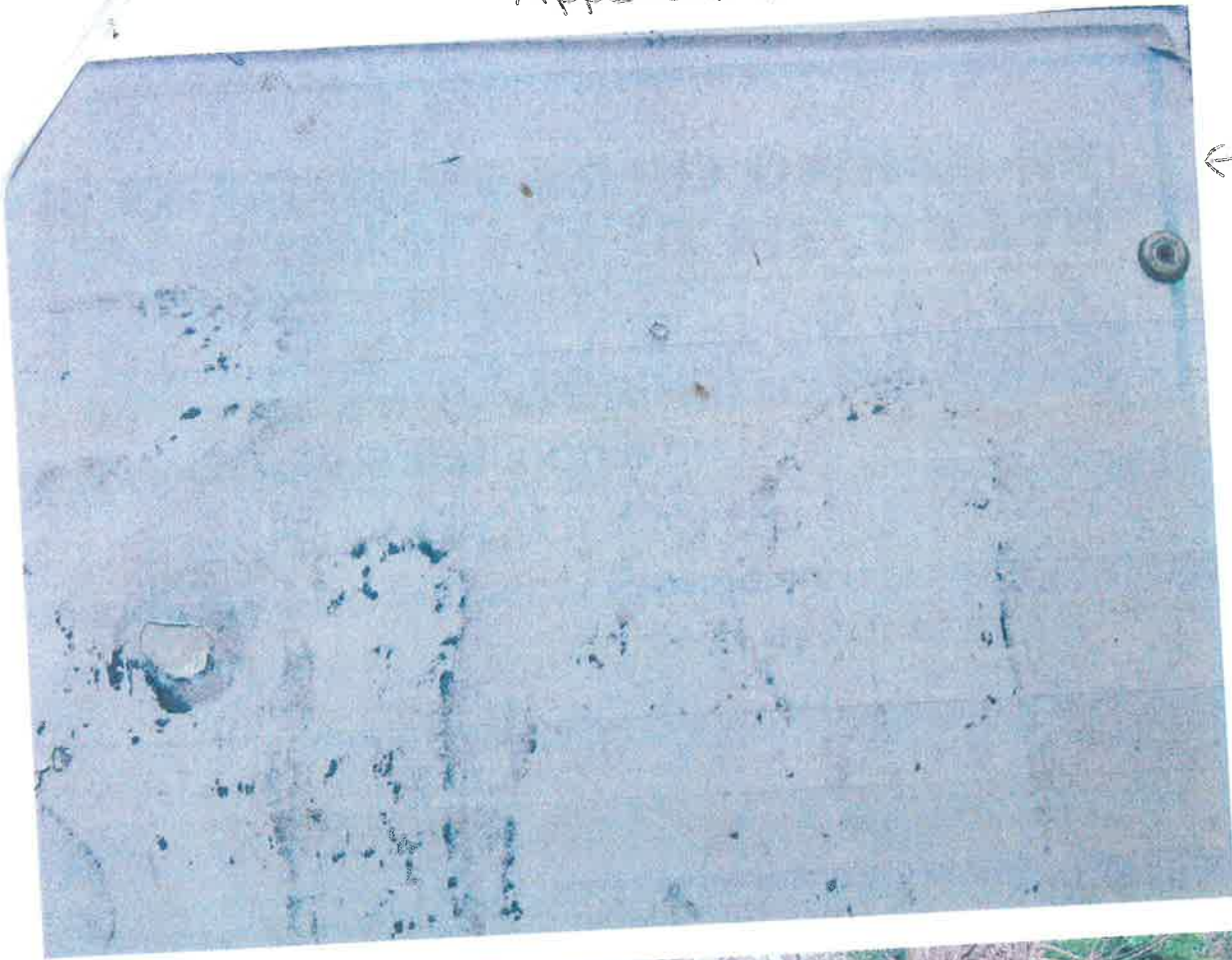
Yours sincerely

Phil Beattie

Appendix 3

sign still in place see last picture as to position, writing can still be read. Please note vandalism to sign.







← Can still be read.



Appendix 4

Sign in Storage.



**THIS IS PRIVATE LAND OWNED
LEAFY LANE PLAYING FIELDS LTD**

We are pleased to welcome walkers and dogs in the designated areas coloured GREEN on the adjacent map and marked by signs on site.

This has been developed for the enjoyment of local residents and walkers. Please make sure that dogs do not enter the playing field areas coloured RED because it is used by young children, sportsmen and women.

- In play areas where young children are not always supervising what they touch or pick up.
- On sports pitches where players, often young people, frequently slide on the surface.
- To ground staff when mowing.

There is concern about toxocarosis, a disease which can be spread through dog faeces, even though the risk to health is comparatively small.

PLEASE ENSURE YOU KEEP TO THE DESIGNATED AREAS IN THE INTEREST OF ALL USERS.



**THIS IS PRIVATE LAND OWNED
LEAFY LANE PLAYING FIELDS LTD**

We are pleased to welcome walkers and dogs in the designated areas coloured GREEN on the adjacent map and marked by signs on site.

This has been developed for the enjoyment of local residents and walkers. Please make sure that dogs do not enter the playing field areas coloured RED because it is used by young children, sportsmen and women.



Leafy Lane Playing Field Project

Registered Charity No. 1062013

Bam House
Middlehill
Box
Corsham
Wilts
SN13 8QN
13 January 1999

Dear Mr Turner,

I refer to your letter of 3 January and apologise for the delay in replying.

We have had a number of open meetings to explain the details of the project over the last year or so. The last one in early 98 was specifically to explain the proposals for the wooded area and use by local residents. It was well advertised by letter and posters and reasonably well attended, although I don't recall your name being on the attendance list.

That meeting generated some interest and a group of some 7 or 8 people stayed behind to discuss further. I went away with the impression that they would meet and come back with ideas. Mrs Burstow was the named contact that I had from that group. I had at least two subsequent telephone conversations with Mr Burstow over a three month period following that meeting, but no positive or concrete proposals or support. I had also arranged a meeting with the Wiltshire Wildlife Trust to discuss proposals and grants etc. which he pulled out of at the last minute.

Peter Morgan as a local resident then offered to get involved with the project and represent local views. I understand that he has spoken to you in passing. A letter was sent to local residents asking for help and ideas but again there was no positive response. Appeals have been put out for help with fund raising, but again with no response. I am not sure what else we could have done to get more local people involved, bearing in mind that all of the input on our side is voluntary and that we also have other commitments.

We have real concerns about the use of the main playing area by dogs. We already have the problem of pitches being fouled excessively and owners not clearing up after their dogs. I am sure as someone who has been involved in football you understand the 'unpleasantness' of playing in such conditions and the health risks involved. We have and will closely follow the guidelines laid down by the NPFA (copy attached). We are in the process of erecting fencing to the wooded area to the north and north east. This is being extended on the western (Box side), with hedging. A line of trees has been planted inside the wall adjacent to Boxfields road. This will create a circular dog walk around the majority of the site in addition to the large wooded area to the north.

We are advised by our experts that the wooded area to the north needs work to make it safe as there are a number of trees that need attention. Lack of funds at this time has delayed this work so people use this area in the meantime at their own risk.

The project has been substantially funded by the Lottery Sports Council with the principal aim of maximising its use for sporting activity by the local community. There is a real dearth of good sporting facilities in the North Wilts area, hence the highest priority given to this project by North Wilts District Council in their Leisure Strategy.

Corsham Boys Football Club would not have been able to run as many teams as they have this season without these facilities, because of lack of pitches in the area. Hence the early use of part of the site before the changing rooms are complete. At the present time we intend and need to use the 'strip paddock' area for training and games for the younger age groups. This is unlikely to start until the summer when the adjacent field is completed, cut and rolled.

In conclusion we have always encouraged local residents to get involved in the project and will continue to do so. Well over 100 Rudloe people already do so as parents and / or users of the facilities so far. We believe that our proposals enhance the site for all users and are based on national guidelines. An extended dog walking area is being provided around what is in fact a privately owned site, however, we have always intended that the site be sensibly used by the whole community.

Can I also urge you to contribute to the project in any way you can. Perhaps you would like to discuss with Peter Morgan ways in which this can be achieved.

Yours sincerely



Graham Cogswell (Project Manager)

Appendix 7



Appendix 8

Evidence no walkway existed at the top of the playing fields before 1998. Date of picture is accurate as our son sitting in front row is aged 8 years old in the photo.



Fence which can be seen at top of the picture is the farmer's boundary fence, note there is no hedge separating the playing field from the farmer's field. Anyone walking along the top of the field at this time with a dog would have been told to leave as can clearly see they would have been on walking directly on the playing fields.



Box Parish Council

Communication regarding top area of playfield.

From: "Kathryn Barstow" [REDACTED]
Date: 08 January 2013 23:29
To: "box parish council" <mailbox@boxparish.org.uk>
Subject: Footpath along side of Leafy Lane playing fields

At the end of November I wrote asking that the council to request that the hedge along the footpath around the Leafy Lane playing fields field be trimmed. I notice that the hedge on the inside of the field has been trimmed but the footpath side remains uncut.

I am fed up of catching my clothes on the brambles/ thorn bushes / rose thorns, one of these days it is going to cause damage and I do not suppose that the Playing fields committee will want to pay for a replacement jacket! The footpath is muddy slippery and dangerous. If the hedges are not cut I shall be walking my dogs on the playing field side of the hedge!

As council tax payers who have no choice in whether the playing fields get a grant from our Parish, I think that we should get something back with the money that we put in.

I am fed up of this situation, no expense seems to be spared for the footballers, with floodlights on every night. If people are expected to use the footpath around the field then it should be properly maintained.

I would like to hear the Council's opinion in this matter.

Regards

Kathryn Barstow

BOX PARISH COUNCIL

Mrs.M.S.CAREY
Clerk to the Council

**COUNCIL OFFICE
THE PARADE
BOX
CORSHAM
WILTS SN13 8NX**

Telephone: 01225 742356
Fax: 01225 744049

Office Hours
Monday & Thursday
9.30 – 12.30
or by appointment

E-mail: mailbox@boxparish.org.uk
Website address: www.boxparish.org.uk

Our ref: PFC/MC

14th January 2013

Mr S. Bray
27 Highlands Close
Rudloe
Corsham
Wilts
SN13 0LA

Dear Stevenne,

Leafy Lane Playing Fields

Please find attached an email from a parishioner regarding the state of the footpath alongside the Leafy Lane Playing Fields.

Could you please pass this on to the management committee and ask that they look into this please.

Yours sincerely,



Margaret Carey
Clerk

Leafy Lane Playing Fields Limited

Registered Charity No 1062013

VAT Reg. No 701 2210 14

23 The Bassetts
Box
Corsham
Wilts
SN13 8ER

Tel no 01225 743201

Chairman
Box Parish Council
The Parade
Box
Wilts
SN13 8NX

Date 11th February 2013

Private and Confidential

Dear Mrs Carey

I am writing to you with reference to your letter dated 14th January 2013 regarding the path which runs along the top end of Leafy Lane Playing Fields.

There are no public rights of way across any of the land owned by Leafy Lane Playing Fields Ltd. The path referred to by the parishioner, belongs to Leafy Lane Playing Fields Ltd. It is **not a thoroughfare but an access path only to the rear of Leafy Lane Playing Fields Ltd** property. Your parishioner is incorrect in their assumption that the hedge is not cut back as I can confirm that the hedges to each side of the path are regularly maintained by our contactor so it is kept clear to enable us gain access to our property.

Please could you notify your parishioner that the public right of way in fact goes diagonally across the farmer's field next to Leafy Lane Playing Fields, as marked by stiles. **So when walking along the path referred to in the e-mail they are not on a public right of way but on private property.**

Could you also pass onto your parishioners that due to health and safety. Leafy Lane Playing Fields Ltd have a strict no dogs policy, anybody seen walking their dogs across the field containing the pitches are asked to leave and if persists will be banned from entering any of the property owned by Leafy Lane Playing Fields Ltd, as use of any of the areas and facilities owned by us does so at the discretion of the Directors of the company.

Regards

R Mullins
Director Leafy Lane Playing Fields Ltd

BOX PARISH COUNCIL

Mrs.M.S.CAREY
Clerk to the Council

Office Hours
Monday & Thursday
9.30 – 12.30
or by appointment

E-mail: mailbox@boxparish.org.uk
Website address: www.boxparish.org.uk

COUNCIL OFFICE
THE PARADE
BOX
CORSHAM
WILTS SN13 8NX

Telephone: 01225 742356
Fax: 01225 744049

14th February 2013

Our ref; PFC/MC

Mr R. Mullins
Leafy Lane Playing Fields Ltd
23 The Bassetts
Box
Corsham
Wilts
SN13 8ER

Dear Mr Mullins,

Further to your letter to the Parish Council dated 11th February, I enclose a further email received from the parishioner in question.

Yours sincerely,



Margaret Carey
Clerk

Box Parish Council

From: "Kathryn Barstow" [redacted]
Date: 13 February 2013 17:54
To: "Box Parish Council" <mailbox@boxparish.org.uk>
Subject: Re: Footpath along side of Leafy Lane playing fields

Dear Margaret,

Thank you for forwarding the letter from Mr Mullins. My comment to that reply is that I would have no cause to complain if the hedge in question had been trimmed on the footpath side. I take it that Mr Mullins does not actually look at the footpath very often and certainly not in the last few months!! I would like say also to the football club that if I am not allowed to take my dog onto the field why do I often see spectators with their dogs on the field? One rule for us and another for them! I have no intention of taking my dogs onto the field as I do respect the health and safety issues involved, others are less so.

In a recent conversation with Mr Bray, he told us that the Football club had never maintained the hedge and that had been done by the Parish Council.

Does the left hand know what the right hands doing? Sounds like chaos to me! If Mr Mullins says that the hedge is maintained on both sides perhaps he would like to show the council that he is telling the truth, as he appears to be saying that I am incorrect. I can assure you that I am quite correct in this case. I live here! I just wish that the management would try to get on with the people who live in the area and not try to make enemies of us. Dog walkers patrol the area for them and are on the whole very responsible people. After all campers in the summer do far more to damage the environment, and I will not go into detail of the rubbish left by them, and by others, which is more often than not cleared up by locals, with no word of thanks.

Kind Regards

Kathryn Barstow

On 13 Feb 2013, at 11:32, "Box Parish Council" <mailbox@boxparish.org.uk> wrote:

> Dear Kathryn

>

> Further to your letter please find attached a reply from the Leafy Lane Playing Fields Ltd which sets out the situation re the hedge and the footpath

>

> Margaret

>

> -----Original Message----- From: Kathryn Barstow

> Sent: Tuesday, January 08, 2013 11:29 PM

> To: box parish council

> Subject: Footpath along side of Leafy Lane playing fields

>

> At the end of November I wrote asking that the council to request that the hedge along

Appendix 10
Broken fencing.



Appendix 12.



Appendix II





MINISTRY OF DEFENCE
Community Police Office

MOD Community Centre
Portal Avenue, Corsham, Wiltshire, SN13 0LQ
Tel/Fax: (01225) 812677 VPN: 94 382 x 7186
Mobile: (07775) 826178



e-mail: lee.maplesden671@mdpga.mod.uk



Corsham Dcpo

MAY 2010

Dear Resident,

You may have recently been affected by the appearance of a padlock securing a gate in the fence that forms the left-hand boundary of the field at the end of Park Avenue. The gate allows access into the top end of a wooded area used by many local residents to exercise their dogs. This wood along with the adjoining sports fields, floodlit astro-turf pitch and clubhouse, is private property belonging to Leafy Lane Playing Fields Ltd (LLPF).

Local enquiries confirmed initial suspicions that the padlock had been put on the gate by a representative of the LLPF committee. I have spoken with LLPF on a couple of occasions since and spent time walking their property with them, listening to their concerns. The main issues were as follows:

- LLPF are keen to provide good-quality, safe and hygienic facilities for local football and cricket teams, the vast majority of which are youth teams. However, they are fighting a continuous battle against wanton vandalism to the clubhouse and also the constant fouling of the sports pitches, by dogs being allowed to run-free under little or no control from their owners. Dog excrement on the sports pitches is not only extremely annoying and very unpleasant it also harbours disease, namely Toxocara Canis, which can reportedly cause partial blindness and other long term debilitating disorders especially in young children.
- 'No dogs allowed' signs have been positioned around the perimeter and in an attempt to reduce points of easy access to the sports pitches LLPF have put a wire fence across an opening that leads from the top end of the woods. It is through this opening that LLPF believe most of the offending uncontrolled dogs enter the fields. Unfortunately this wire fence is being ignored; with people either going over it, under it, or on some occasions, cutting through it. Although unsubstantiated it was assumed that those responsible for the damage were coming through the gate at the end of Park Avenue and therefore must have been service families; hence the use of the padlock. Having discussed the matter in person with LLPF that assumption of service family involvement, which can't be totally discounted, is now far more proportionate.
- Another area of concern for the club is the safety of walkers within the wooded area. Many of the trees planted by the RAF decades ago to act as a privacy screen and a wind-break for their properties in Park Avenue are not indigenous to the UK. Unlike the

Community Stakeholder Partners



Page 1 of

native oaks that were already in the area these trees have very shallow and wide-spreading root systems, which as they get taller are failing to provide suitable support to them; the danger being that these trees are starting to fall down by themselves. LLPF are investing a lot of time and available money in managing this problem, in order to make it as safe as possible. A considerable amount of work has already been carried out to remove the most unstable trees and to clear safe walking routes through the woods, although there are still many trees leaning at quite precarious angles, as their roots are being pulled-out of the ground; these trees are being managed. LLPF do not want to have to close the woods off to the public; they want to be able to continue to provide this safe dog-walking area as it protects their interests in the sports pitches as previously mentioned, however, they do ask that walkers take care and stick to the cleared routes.

At the end of that meeting I made various recommendations to hopefully assist them in achieving their goals in partnership with the local community, as opposed to being at odds with them. The padlock, which was used to cause inconvenience and local upset in order to promote this kind of dialogue, has been removed and advice has been given regarding the use of barbed wire in the area. LLPF is therefore requesting the help of the local community with 'policing' the area, so that they can continue to provide these excellent facilities for years to come, by:

1. Respecting the sports pitches by using the route around them; through the wooded area, along the footpath and out into Boxfields Road, as opposed to across them.
2. Ensuring that any dog waste is collected and removed in accordance with the law.
3. Educating irresponsible dog owners who do allow their dogs to run-free on the fields and/or roam uncontrolled within the wooded area and foul unsupervised.
4. Informing LLPF (number to be made available on signage around the perimeter) of any instance of blatant disregard for the facility (e.g. dog fouling or acts of damage), so that punitive action may be sought against the offenders.
5. Staying on the cleared walkways within the woods and notifying LLPF of any trees that could be deemed to be dangerous.

Lee Maplesden
PC 1902
Defence Community Police Officer

Relevant periods considered: 1995 – 2015 and 1978 – 1998 (pre- Leafy Lanes Playing Field Ltd ownership)

No	Name	Address	Period of Use	Years in 1995 – 2015 period	Years in 1978 – 1998 period
1	Mr Terry Allen	13 Kidston Way, Rudloe, Wiltshire	1987 – 2015	20	11
2	Mrs Elizabeth Arkell	2 Kidston Way, Rudloe, Corsham, SN13 0JZ	Early 90s to 2015	20	c.6
3	Mrs Kathryn Barstow	2 Highlands Close, Rudloe, Corsham	1989 to 2015	20	9
4	Mr Michael Canham	8 Springfield Close, Corsham, SN13 0JP	1982 – 2015	20	8
5	Mrs Susan Canham	8 Springfield Close, Rudloe, Corsham, SN13 0JP	1982 – 2015	20	8
6	Mrs Marilyn Chubb	7 Ashwood Road, Rudloe, SN13 0LF	2002 – 2015	13	0
7	Mrs Olivia Cleverley	1 Highlands Close, Rudloe, Corsham, SN13 0LA	1972 – 2015	20	20
8	Mrs Gillian Cook	11 Springfield Close, Rudloe, Corsham, SN13 0JP	1970 – 79, 2000 – 2015, occ from 1985	20	3
9	Ms Angela Cornelius	21 Kidston Way, Leafy Lane, Rudloe, SN13 0JZ	1971 – 2015	20	20
10	Mrs Patricia Crowe	10 Kidston Way, Leafy Lane, Rudloe, SN13 0JZ	1973 – 2015	20	20
11	Mr Robert Davies	88 Springfield Close, Corsham, SN13 0JR	1976 – 2015	20	20
12	Mr Stafford Peter Davis	6 Kidston Way, Rudloe, Corsham, SN13 0JZ	1972 – 2015	20	20
13	Mrs Margaret Duxbury	19 Springfield Close, Rudloe, Corsham, SN13 0JR	1985 – 2015	20	13
14	Mr Robin Duxbury	19 Springfield Close, Rudloe, Corsham, SN13 0JR	1985 – 2015	20	13
15	Mr David Gale	12 The Links, Hawthorn, Corsham, SN13 0NX	1994 – 2015	20	4
16	Mrs Mary Gale	27 Pine Close, Corsham	2007 – 2015	8	0
17	Mr Alex Gilmour	10 The Links, Hawthorn, Corsham, SN13 0NX	2009 – 2015	6	0
18	Mrs Susan Griffith	66 Ashwood Road, Rudloe, SN13 0LG	2000 – 2015	15	0
19	Mrs Patricia Chater	6 Springfield Close, Corsham, SN13 0JP	2007 – 2015	8	0
20	Mr John Harrill	15 Kidston Way, Rudloe, SN13 0JZ	1998 – 2015	17	0
21	Ms Victoria Hess	11 Ashwood Road, Rudloe, Corsham, SN13 0LF	2010 – 2015	5	0
22	Mrs Celia Hopkins	80 Springfield Close, Corsham, SN13 0JR	1978 – 2015	20	20
23	Mrs Samantha Ledbury	38 Pine Close, Corsham, SN13 0LB	2011 – 2015	4	0
24	Mrs Susan Mackie	24 Park Avenue, Corsham, SN13 0JT	2014 – 2015	1	0
25	Mr Howard Manthley	74 Springfield Close, Rudloe, SN13 0JR	1991 – 2015	20	7

No	Name	Address	Period of Use	Years in relevant period	Years in 1976 – 1998 period
26	Mrs Sarah Miles	56 Springfield Close, Rudloe Park, SN13 0JR	1980 – 2015	20	18
27	David and Patricia Moore	8 Kidston Way, Leafy Lane, Rudloe, SN13 0JZ	2000 – 2015	15	0
28	Mrs Juliet Powell	15 Pine Close, Rudloe	2009 – 2015	6	0
29	Mr Kevin Short	12 Pine Close, Rudloe, Corsham	1982 – 2015	20	16
30	Mr Anthony Simpson	72 Springfield Close, Corsham, SN13 0JR	1998 – 2015	17	0
31	Mr Christopher Tarbitten	86 Springfield Close, Rudloe, SN13 0JR	2005 – 2015	10	0
32	Mrs Pauline Tiley	48 Pine Close, Rudloe, Corsham	1971 – 2015	20	20
33	Mr Richard Turner	29 Springfield Close, Rudloe, SN13 0JR	1980 – 1999 and 2006 – present	13	18
34	Mr Paul Turner	29 Springfield Close, Rudloe, Corsham	1975 – 2015	20	20
35	Mrs Esther Turner	29 Springfield Close Rudloe, SN13 0JR	1976 – 2015	20	20
36	Mr William Turner	3 Highland Close, Rudloe	1972 – 2015	20	20
37	Mrs Constance Uncles	4 Highlands Close, Rudloe Park, SN13 0LA	1980 – 2015	20	18
38	Mrs Stella Vain	15 Springfield Close, Rudloe, Corsham, SN13 0JR	1968 – 2015	20	20
39	Mr Samuel Wadkin Snaith	37 Pine Close, Corsham, SN13 0LB	1981 – 2015	20	17
40	Mrs Madeleine Wright	40 Ashwood Road, Rudloe, Corsham, SN13 0LF	1975 – 2015	20	20
41	Mr David Wright	40 Ashwood Road, Corsham, SN13 0LF	1975 – 2015	20	20
42	Dr David Wright	14 Kidston Way, Rudloe, Corsham, Wiltshire	1996 – 2015	19	0

No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
1	In 1988 regularly	People walking dogs	No	Stile onto Quarry Hill road	No	No	Yes, I have used this route on many occasions and never been questioned
2	Twice daily	Walkers, riders and cyclists	Yes, 3 indicating where walkers should go	Bar gate at entrance to woods unlocked gate to side	No	No	Yes, because of the signage showing where people can walk, the footpath is unobstructed and kept clear
3	Twice daily	Walkers and pushchairs	Yes at Leafy Lane entrance	Stile at Leafy Lane and Boxfield Road gate at Leafy lane	Yes Leafy Lane Playing Field designated the area as "dog walking area" when they took over in 1998?	No	Yes, previous owner I was told was aware but did not mind. Current owners designated the area for dog walker etc so granting permission for public access Identifies change in route across field c.1998
4	Daily	Yes frequently walkers	No	No	No	No	Yes, because the area concerned is adjacent to the present owner(s)
5	2 to 3 times per week	Other people walking	No	Stile at exit onto Tunnel	No	no	Yes, sports area is adjacent to the wooded area

No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
				Inn Road			
6	3 times per week	Other dog walkers	Not known	Gate on Leafy Lane Stile on Boxfields Road	No	No	Yes, because for years most residents of the area like to use the woods for walking and the owners are well aware of this
7	Daily	Yes other dog walkers and children playing	Yes at nearest point to football club and at second entrance off Leafy Lane	Originally a stile near the bus stop – not maintained and no longer there. Gates at the middle entrance off Leafy Lane	I consider that the map erected on signs at the entrances to the woods showing the authorised routes to take through the woods confirmed the rights of way ie gave permission	No	Yes, because when the football club opened signs showing the rights of way for dog walkers were put up at the entrance points. Two of those signs are still up but faded and illegible due to age. Before the football club took over the woods it was regularly used by families and dog walkers

No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
8	Approx 5 times per week	Yes, walkers, buggies, small children on bikes, runners	Yes signs for dog walkers permission as they aren't allowed to use adjoining fields. Signs showed a plan of the woods erected about 15 yrs ago now defaced/faded	2 gates never locked	No	No	Yes, previously mentioned dog walking signs with map on each erected by landowner and visual sightings/meetings of landowners in wood
Page 1 of 1	Daily	Yes walkers and cyclists	Yes, map of path on a sign off Leafy Lane	Gate off Leafy Lane never locked	No	No	Yes, 3 paths from Leafy Lane are obviously used continuously by a lot of people
Page 1 of 1	Twice a day on numerous occasions	Yes walkers cyclists and a horse	No	2 gates off Leafy Lane, pedestrian gate open. Broken stile near to sub station	No	No	Yes, because a previous owner/occupier put up stiles once the paths became wider and it was obvious that the public were using the wood for recreational purposes as the bars of the fence by the stile on Leafy Lane were gradually removed. No one attempted to repair the fence. The pedestrian gate has never been locked for over 40 yrs to my knowledge

No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
11	Daily	Many walkers	Yes faded sign put up by current landowner inviting access	Stile at leafy lane entrance put in c. 1992	In about 1992 Clive Freeman of Freeman Agricultural Engineers put up a stile because he was aware of the public walking the path	No	Yes because of the well worn path through the woods and he would see them or his agent or tenant. I have old photos dating back many years I could produce in evidence if necessary. They are of sentimental value so I have not enclosed them.
12	Daily	Other walkers	I believe there were signposts marking footpath many years ago	Not answered	Not answered	No	Yes, I have lived on Leafy lane for the last 40 years and myself and neighbours have used the footpath daily
13	Daily until 2012 now 2 or 3 times per week	Many times dog walking	Football club put up signs and map	No	No	No	Yes
14	At one time daily now 2 or 3 times per week	Always and walking	Signs and plans were put up by the football club but have largely	No	No but presumed permission by omission	Not in 30+ yrs nor have heard of anyone	Yes, the chairman of the football club lives opposite and it is obvious on a daily basis you observe the number of people using it. When the weather is wet the entries off Leafy Lane

			gone or faded			else	quickly turn to mud leaving a myriad of tracks
No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
15	3 times per week	Yes walkers	Not answered	Not answered	No	No	Yes because no restrictions have been put into place
16	Twice daily	Yes walkers	Not really	2 gates one stile	Always used it	No	Yes because everyone used it
17	Every 2 or 3 days	Yes walkers	Signage marking permissive route at entrance	Stile on Boxfields Road	No	No	Yes, permissive path signage in place and route clearance undertaken in 2014 as well as hedge cutting along the rear of the route
18	Each weekend	Yes on foot	No	Stile at Boxfields Road	No	No	Yes, in the 15 years of using the woodland I have seen many people/families enjoying the woodland for recreational purposes and have at no time been or seen any member of the public challenged for using the woodland walk
19	Several times per week	Yes walking	Plan of area sign on Leafy lane	Open access	No just assumed permission from signs and plan	No	Yes, open access and paths used constantly from early morning until night time. Paths kept well defined by constant use
20	Twice daily	Yes other dog walkers	On Leafy Lane entrances	Gate on entering but never locked	No	No	Yes because of signposted dog walk
21	Monthly	Yes other walkers	No	No	No	No	Yes, walkers are visible from the playing fields owned by the football club who own the woodland too

No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
22	Daily	Walkers and joggers	No	Stile at bus stop. Early 90s farmer had cows in woodland	No	No	Yes, owner must have been aware of use as the paths as shown on plan have not changed and are paths that are well trodden and have been for many years
23	Twice per week	Walkers with dogs and children	No	No	No	No I had no idea until now that it was private	Yes, the footpath is heavily used and well established
24	4 or 5 times per week	Walkers	No	Yes, never locked	No	No	Yes, path is occasionally cleared and strimmed and there is a large gate leading onto the path, permanently unbolted
25	Daily when possible	Yes	Faded signs on lower 2 Leafy Lane entrances	Stile at Boxfield Road	No	No	Yes, many people – adults and children use the paths so I believe the owner is aware of the public using the paths and has no objection
26	Daily	Walkers	No	Gate onto Leafy Lane never locked	No	No	Yes, it is obvious to the owners that the track is used and is my belief that they are fully aware
27	Twice a day variously	Walkers and cyclists	No	Stile at Boxfields, small gate never locked	No	No	Yes, in my opinion the owner/occupier must be aware of the pathways and broken fence as to my knowledge have been there over 15 years
28	Twice a week	Walkers	Woodland sign	Gate never locked	No	No	Yes, there are no private signs. There are gates, paths even a sign showing the wood but it is old

No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
29	Now weekly was daily	Walkers	Maps of permitted walking routes at each gateway	Gate never secured	No	No	Yes – 30 years of public use. Consultation with the parish council over changes made to nearby sports fields including area known as “the Carriageway”
30	Daily	Often – walkers and runners	Yes indicating dog walking area at main entrance points and Boxfield Rd and sports field	Gates were never locked	Use indicated by signage		Yes, well worn paths, signs indicating dog walking areas, grass cutting, fence repairs to separate the dog walkers from the sports field, written appeals to keep dogs off the playing fields
31	Twice per day	Fellow dog walkers daily	No	Stile on Boxfields Rd vehicle and pedestrian gate on Leafy Lane	No	No	Yes, one of the dog walkers I meet is the chairman of Leafy Lane Playing Fields Ltd
32	Twice a day	Other dog walkers	No	Stile at Boxfields road	No	No	Yes, because nobody ever asked why I was there and don't know of anybody that was asked
33	Daily but not between 199 and 2006	Walkers	No	No	No	No	Yes because there are clear footpaths established where there are gaps in fences and clear entrances for people to access the woods

No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
34	Daily to 2006 then 2 per week	Frequently walkers	Originally 4 (1996?) now 2. Signs indicate it is a recreational area. Maybe no right of way sign on tree pre 1996	Gates on Leafy lane, vehicular one never used	Since 1996 permission given by Leafy Lane Playing Fields Ltd and special resolution 1997 and letter 1999	no	Yes, the Special Resolution 1997 states “to provide for the inhabitants of Corsham and surrounding areas in the interests of social welfare facilities for recreation and leisure”. Letter of 1999 states “This will create a circular dog walk around the majority of the site in addition to the large wooded area to the north” and “ an extended dog walking area is being provided around...we have always intended that the site be sensibly used by the whole community.”
35	Daily	Yes dog walkers and children playing	Years ago, in the 1970s at leafy Lane near a gateway (no longer there)	?	No	No	Yes Mr Padfield who was the previous owner was aware back in the 70s that people walked through the adjoining fields to the woods – and when Leafy Lane Playing Fields were aware of people walking for leisure either with or without dogs – they are the current owners of the wood since 1995
36	Daily	Yes dog walkers and children playing	Sign post at southerly Leafy Lane entrance instructing dog walkers	Stile	Sign informing dog walkers of the direction to proceed	No	Yes, sign informing dog walkers of the direction to proceed
37	At least weekly	Yes walkers	Not answered	Not answered	No	No	Yes

No	Frequency	Other users	Signs	Stiles or gates	Permission	Challenge	Was the Owner aware?
38	2 or 3 times per week	Regularly walkers	Notice at entrance showing route of footpath now faded	Stile onto Boxfields road open entrance to Leafy Lane	No	No	Yes, the owner diverted part of the footpath to go around conversion to a football/cricket pitch instead of across
39	3 times per week	Yes walkers	No	Stile at Boxfields Rd	No	No	Don't know
40	Twice daily now 3 times per week	Yes	Way marking posts indicating dog walking route and at Leafy lane	Large gate with small gate	No was not aware permission was required	No	Yes he/she did not have a problem with public using the pathway
41	3 times a day	Yes dog walkers	Yes	Stile at Boxfields Road end	No	No	Yes footpaths through were defined by them
42	Daily	Walkers and dogs	No	Stile at Boxfields Rd end	No	No	Yes, yellow signs describe primary path and signs advising dog walkers not to soil the area

Widths: 2.5, 2.5, 2.5, 2.5, variable, 3, 2.5, 1.5 – 4.0, 2.5, variable, 2 – 4, 3, 1.5, 3, variable, variable, 1 – 4, 1 – 3, 3 – 4, 0.5 – 4, 1.5, 3.5, 1.5, 1, 3.5, 2, 2, 1 – 4.5, 1 – 4, 1 – 3, variable, variable, 1, 2, 1, 2.5, 1 – 3, 1.5

Submitted Plans:

The application is to record three paths through the woodland. These have been labelled Paths 1 (the main path), 2 and 3 by officers as shown below:



Witnesses have submitted their own plans of where they walk. Some witnesses have walked all of the claimed routes, some only parts of them and others different paths. As a result the plans have been compared with the application plan and listed below where reasonable agreement is shown.

Summary of Use – all periods

Route 1	Route 1	Route 1	Route 2	Route 2	Route 3	Route 3
1	20	36	3	40 (part)	2	26
2 (wood only)	21	37	6 (approx)	41	3	28
3	22	38 (part)	7 (approx)	42	4 (part)	30 (part)
4 (part)	23 (wood only)	39	8 (approx)	17	5 (part)	31
5 (part)	24	40	9	19	6	32
6	25	41	10	Total 21	7	33
7	26	42	14 (approx)		8	34
8	27	17 (pt)	16 (approx)		9	36 (part)
9 (wood only)	28	19	24 (part)		10	38
10	29 (wood only)	Total 41	28 (part)		13	40 (part)
11	30		30		14	41
12	31		31		16	42
13	32		33		18	17 (part)
14	33		34		20	19
16	34		35		24	Total 29
18	35		36 (part)		25	

NB Witnesses 15,17,19 and 27 had not submitted sufficiently completed plans. As a result new blank plans were sent 20.11.15. Plans for witnesses 17 and 19 were returned,

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Wiltshire Council
Rights of Way and Countryside Waste and
Environment
County Hall,
Bythesea Road
Trowbridge
Wiltshire BA14 8JN

Our Ref: sjw/dict5/232484/1
Your Ref: SM2015/10
Date: 24 October 2016
When calling please ask for: Stephanie White
e-mail: sjw@footanstey.com
Direct Line: +44 (0)1392 685371
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By First Class Post and e-mail to sally.madgwick@wiltshire.gov.uk

Dear Sirs

Application 2015/10 to Add Public Footpaths to Definitive Map and Statement at Leafy Lane, Box

Our Client: Leafy Lane Playing Fields Limited ("LLPFL")

1 Background

- 1.1 We act for Leafy Lane Playing Fields Limited.
- 1.2 We write further to the order made by Wiltshire Council under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add paths detailed in the application by Springfield and Cliff Residents Association to the Definitive Map and Statement. The paths concerned cross woodland which belongs to LLPFL.
- 1.3 These representations are intended to be in addition to the representations already made by LLPFL in this matter. LLPFL's representations are contained in Annex 1 of the Decision Report prepared by Sally Madgwick and dated 16 February 2016.
- 1.4 The Order dated 1 September 2016 has been made on the basis that officers of Wiltshire Council are satisfied that, based on the evidence before it, the requirements of Section 31(1) Highways Act 1980 are met for either the period 1995 to 2015 or, if the statutory provision cannot be applied because of the objectives of LLPFL Limited, for the period 1975 to 1995.
- 1.5 Although they do not intend to rely on it, Officers also consider the Common Law test is satisfied.

2 Statutory Test contained in section 31(1) Highways Act 1980 for the Relevant Period of 1978 -1998 ("the First Relevant Period")

- 2.1 The Statutory Test set out in section 31(1) Highways Act 1980 requires that;

"Where a way over land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

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2.2 The Statutory Test is not satisfied for the First Relevant Period.

2.3 Use of the way was not 'as of right'

- 2.3.1 For use to be 'as of right' the use must be exercised without force, secrecy or permission. Any use of the path during the First Relevant Period has been exercised with force, if at all, and not as of right.
- 2.3.2 Mr Padfield, owner of the land during the First Relevant Period confirms there were no stiles at that time and that gates were locked. He recalls that people might have got over the railings but no stiles existed. Mr Padfield has confirmed to LLPFL in an e-mail dated 13 October 2016 that *"There were no stiles or gates for access". Evidently it was not possible to access the woodland during the First Relevant Period without exercising force.*
- 2.3.3 LLPFL has adduced evidence from Mr Hancock, a local resident of the site who confirms *"[from 1968] no one used the wood for recreation either for themselves or their dogs. The fences were all in good order".*
- 2.3.4 Further, Mr Beattie's recollections from the late 70s and early 80s confirm *"there was a metal fence all around the wood which you had to climb over to get in and that it was 'Private Property'. I also vaguely remember friends and myself being chased out by the farmer on a couple of occasions".*
- 2.3.5 Evidently use during this period use was not as of right given that Mr Padfield took steps to 'chase' people off of the land.
- 2.3.6 Mr Padfield has provided to LLPFL correspondence between Mrs Hair, the Chairman of the Rudloe Action Group ("RAG"), and Mr Padfield which was exchanged in 1995. In that correspondence Mr Padfield states that he is prepared to grant access provided the residents made a payment for use of the woodland of £300.00 per annum. This amounts to an offer to use the footpath by means of a licence. If RAG sought permission to use the footpath in 1995 they did not use the footpath 'as of right'. The response from Mrs Hair states "No further action re. funding to rent or purchase the land [...] our community group will co-operate with regard to access to and on the area eg. signposting". The response from Mrs Hair confirms the RAG group accepted they needed permission in order to access the land and they did not use a path in the woodland 'as of right'. We enclose a copy of the members of RAG, 4 of whom have submitted evidence in support of use of the footpath.

2.4 Use of the way was not without Interruption

- 2.4.1 An interruption means some actual and physical stopping of the enjoyment (*Merstham Manor Ltd v Coulsdon and Purley UDC*). Use has held to be interrupted where a gate across a path was locked even though people continued to use the route by going around the gate (*R v Secretary of State for the Environment ex parte Blake*). Mr Padfield is unequivocal in his statement that *"we kept gates padlocked".*
- 2.4.2 It is accepted that the land was fenced and not maintained to be accessible to users meaning the use cannot have been without interruption. Further, the woodland was used for the grazing of livestock meaning the fences and gates would have been in place during the First Relevant Period.

2.5 Full period of 20 years

- 2.5.1 The User evidence for the First Relevant Period is unpersuasive. Many of those adducing user evidence for the First Relevant Period do not distinguish their recollections of using the area between the First Relevant Period and the Second Relevant Period. It is our submission that the permissive use which has existed since LLPFL owned the Land has altered people's recollections of the period prior to the creation of the permissive footpath by LLPFL in 1999.

- 2.5.2 User evidence from Mrs Crowe (10) states that "*a previous owner/occupier put up stiles once the paths became wider and it was obvious that the public were using the wood for recreational purposes as the bars of the fence by the stiles on Leafy Lane were gradually removed*". It is evident that there was not a full period of 20 years use prior to the acquisition by LLPFL in 1998.
- 2.5.3 The User evidence from Box Parish Council referred to at paragraph 10.6 of the Councillors report represents duplication. Our client understands that the councillor referred to, who has used the path regularly, is Mr Barstow who has independently provided User Evidence in contributing to his wife's evidence.
- 2.5.4 It is evident that much of the User evidence which has been adduced has been prepared by residents motivated to 'protect the woodland' from development after LLPFL marketed the land affected by the proposed paths for sale. We refer to the various press cuttings enclosed which demonstrate that the residents have been invited to support the campaign in an effort to have a right of way registered in order to prevent a sale. The evidence, none of which is supported by a statement of truth, has evidently been produced in response to the campaign of the Springfield and Clift Residents Association rather than on the basis of factual recollection. The user evidence is beyond partial evidence and clearly motivated by the campaign and it has been given undue weight by the Council.
- 2.5.5 The 'well-worn tracks' did not arise until the 80s, late in the First Relevant Period. LLPFL have adduced photographs which show that there was no walkway between points A and B of the map annexed to the Order during the First Relevant Period. The right of way was created by Leafy Lane Playing Fields Limited as a permissive path only. Prior to the work to cut back the path the way had been significantly overgrown.
- 2.6 *There is sufficient evidence that there was no intention during that period [The First Relevant Period] to dedicate*
- 2.6.1 Mr Padfield confirms "*While in our ownership we kept signs erected to make people aware that it was private land and there were no rights of way, we have also kept gates padlocked [...] no stiles existed*". Mr Padfield recalls maintaining those signs and other users recall seeing them. In an e-mail from Graham Padfield to LLPFL he states "*Signs were displayed saying Private Land, I think they also said No Public Footpath. I remember putting the signs up myself. They were nailed to trees out of reach of vandals*"
- 2.6.2 The officer states that "*there were some signs and no one can show or state what they said*". They are recalled by other users and their intention was to deter trespassers. The officer makes a step that there was no intention during that period to dedicate. Mr Padfield, maintained signs, actively deterred users when he saw them and kept gates locked. There is sufficient evidence, including the statement of the land owner himself, that there was no intention to dedicate during the First Relevant Period. Mr Davies' user evidence referred to at paragraph 10.7 of the Officer's report confirms the stile to access the woods only existed three years before the land was transferred to Leafy Lane and the permissive path was created. Mr Padfield was aware the land was popular but he did not tolerate the use of the land for walkers and he did not believe or intend a public path to exist.
- 2.6.3 Evidently Mr Beattie's recollections demonstrate that there was no intention on Mr Padfield's part to dedicate. Barriers to access were maintained. The acts of Mr Padfield in limiting access, putting up signs, and 'chasing people off the property' amount to a lack of intention to dedicate. The fact that Mr Padfield might have been unsuccessful on some occasions does not mean he acquiesced to the exercise of the right, he went out of his way to deter its exercise which is demonstrable of a lack of intention to dedicate.

3 Statutory Test for the Relevant Period of 1995 – 2015 ("the Second Relevant Period")

3.1 The Statutory Test set out in section 31(1) Highways Act 1980 is set out at paragraph 2.1 above. The Statutory Test is not satisfied in the Second Relevant Period.

3.2 As of Right

3.2.1 It is the stated objective of LLPFL to;

"advance and improve the education and physical, mental and social well-being of the community by the provision of sporting and recreation amenities ,grounds and facilities of all kinds by walkers has been permissive by LLPFL, it is not as of right, and the use has been subject to interruption" and

"provide for the inhabitants of Corsham and surrounding areas in the interests of social welfare facilities for the recreation and leisure time occupation with the object of improving their conditions of live".

3.2.2 In pursuance of those objectives LLPFL permits the use of a footpath around the edge of the playing field. LLPFL has historically displayed signs on the property some of which still remain. Eight of the users having submitted evidence referring to the signs which are evidently effective.

3.2.3 The signs states;

"We are pleased to welcome walkers and dogs in the designated areas coloured green on the adjacent plan marked by signs on the site. This area has been developed for the enjoyment of local residents and walkers. Please make sure that dogs do not enter the playing field areas coloured red because it is used by young children, sportsmen and women. This approach follows the firm recommendation of the Playing Fields association who have highlighted potential problems when dogs foul playing areas."

3.2.4 The sign is permissive in nature but carries with it restrictions. The sign communicates LLPFL's intention which is to permit local residents to use the path, subject to observing the rules attached. The existence of the sign welcoming dog walkers means that use, since those signs have been in places has been by right as opposed to as of right. User is permissive in the case of invitees, the signs displayed by LLPFL permit users as invitees and accordingly the use has not been as of right. Express permission defeats a claim that user is as of right, and the signs amount to express permission.

3.2.5 It has always been the intention of LLPFL to create a permissive path and not a public right of way. The intention to invite residents is evidenced in the letter from Mr Graham Cogswell to Mr Turner which states;

"An extended dog walking area is being provided around what is in fact a privately owned site, we have always intended that the site be sensibly used by the whole community".

3.2.6 We enclose extracts from the minutes of meetings of the LLPFL Management committee which confirm that the woodland has been managed as private land subject to a permissive path.

- 3.2.6.1 The minutes of the meeting of 30 March 2005 confirm that signs and gates have been maintained.
- 3.2.6.2 The minutes of the meeting of 26 November 2003 confirm that LLPFL have maintained fencing in order to prevent people from 'just walking in'. They also replaced signage confirming the land was property of Leafy Lane and private property.
- 3.2.6.3 The minutes of the meeting of 26 March 2003 confirm that where individuals used the woodland without permission they were reminded not to do so,
- 3.2.6.4 The minutes of the meeting of 9 May 2001 confirm that LLPFL have continued to repair perimeter fencing throughout their ownership.
- 3.2.6.5 The minutes of the meeting of 29 November 2000 confirm LLPFL have maintained a padlock on the entrance to the woodland.

Clearly the path has been created as a permissive path and consequently the user is not 'as of right'.

3.3 Without Interruption

- 3.3.1 There have been regular instances of interruption during the Second Relevant Period which prevent the Statutory Test being satisfied.
- 3.3.2 In 2010 LLPFL put padlocks on the access at the gate between points A and B on the plan as a consequence of acts of vandalism to club property. That case of interruption is evidenced in the letter from the Ministry of Defence Community Police Office to local residents which states "*You may have recently been affected by the appearance of a padlock securing a gate in the fence that forms the left-hand boundary of the field to the end of Park Avenue*". After discussions with the police and local residents the lock was removed.
- 3.3.3 In 2013 LLPFL also put obstructions on the route marked A – B out of health and safety concerns arising from necessary works to trees in the area. Those obstructions to use of the path represent an interruption.
- 3.3.4 LLPFL has been cognisant of the consequences of allowing a permissive path and has regularly obstructed it, on an annual basis, in order to prevent a claim that a public path has arisen. During the annual tournament weekend programme sellers place themselves between points A, and E to deny access to dog walkers as the sports are ticketed. A plan showing the location of the programme sellers is enclosed. This act of obstruction is evidence that use of the right of way has not been as of right and it has been regularly interrupted. Shutting a path for at least a day a year has been accepted as a standard method of demonstrating an intention not to dedicate (*Rugby Charity Trustees and Merriweather and British Museum Trustees*). A single act of interruption by a landowner is of much more weight upon the question of intention than many acts of enjoyment (*Poole v Huskinson*).

4 Identifying the path

- 4.1 In order to satisfy section 31(1) 'a way of such character' the route must be definable. Our client does not accept that there is an identifiable path between points B and D and points E and C of the proposed footpath. The officer describes the paths as "*easily identifiable well trodden paths*". The woodland to the north east of our client's property is dense and the paths between B and D and E and C cannot be easily identified. Users of the permissive path take various routes through the woodland and there is not a clear and identifiable path between these points.

5 Common Law Test

- 5.1 Use as of right, for a sufficient period, will give rise to a claim that a right of way arises as a result of common law. It is noted that the Order is not brought forward on this basis.
- 5.2 For the reasons set out above it is the position of LLPFL that since 1999 use of the woodland for walkers has been by right as invitee of LLPFL and not as of right. Accordingly, any successful claim under Common Law Test relies on the First Relevant Period.
- 5.3 If the use as of right can be established prior to LLPFL's acquisition it is clear that there was no intention to dedicate on the part of Mr Padfield given the signage he recalls maintaining on the land.
- 5.4 Where there is a claim that a public right of way has been dedicated it is for the claimant to prove that it can be inferred by the landowner's conduct that he had actually dedicated the route as a public right of way. The Officer's conclusion is that "*no-one has been able to say what Mr Padfield's signs said exactly and accordingly whether this would be sufficient to rebut the presumption of dedication*". In the case of the Common Law test it is for the claimant to prove that it is inferred that the landowner dedicated the route. In circumstances where it cannot be ascertained what those signs say the claimant has not discharged that burden of proof and any doubt should be exercised against the claimant.

6 Width of the Path

- 6.1 Without prejudice to our client's position that a footpath does not exist it is noted that the description of the footpath in the Schedule to the Order specifies the width of the path as 2 metres. Given that the trees are densely packed in parts of the woodland the width of the existing permissive path does not extend to 2 metres throughout its entire length and is at most 1 metre in width. The permissive path which exists between points A to B where the hedgerow is mature and overgrown any permissive path does not extend to more than 1 metre in width.

7 Diversion and Compensation

- 7.1 Without prejudice to our client's position that no public path exists in the event that the Order is made our client will apply to the Secretary of State for compensation under section 28 Highways Act 1980 as a result of the depreciation of the value of its property. Further, if the Public Path is added our client will apply for a public path diversion order in respect of the paths between point B and D and C and E to divert these paths around the edge of its property.

8 Conclusions

- 8.1 Use of the path during the First Relevant Period was not as of right. Users exercised force to enter the land as for much of the First Relevant Period there were no stiles and gates were locked. Mr Padfield displayed signs and actively deterred people from entering the woodland and consequently use cannot have been as of right.
- 8.2 Use of the path during the Second Relevant Period was by right and not as of right. LLPFL invites dog walkers to use the woodland as a permissive path which is obstructed on a regular basis to preserve its status as a permissive path.
- 8.3 There is no common law claim that a public right of way exists where use during the First Relevant Period and Second Relevant Period has not been as of right.

Our client demands a public inquiry to determine whether the order was justified.

Yours faithfully

Foot Anstey LLP

Foot Anstey LLP
Property Litigation

Enc.

Press articles

Correspondence between Mr Padfield and Mrs Hair

Plan demonstrating location of programme sellers

Extracts of the Minutes of the LLPFL Management Committee

Gazette & Herald

Rudloe residents rally together to try and save woodland beauty spot

11:45am Wednesday 23 September 2015

Leafy Lane

/ [Tanya Yilmaz](#), Trowbridge reporter / [TanyaNewsWilts](#)

RESIDENTS around Leafy Lane in Corsham are planning to rally together in one final bid to save the woodland area after it didn't sell for its £50,000 guide price at auction last week.

The area, which is owned by registered charity Leafy Lane Playing Fields Ltd, tried to sell the land at auction on Thursday.

Chris Tarbitten, of Springfield Close, said he was stunned after the decision to sell the land came to light last month.

He added: "It is in effect a commercially worthless piece of land and we won't make any money because the conservation order of the trees will make it a liability.

"There is a very strong community spirit and the people wish that we want to keep it in community ownership. I am sure there is a tremendous amount of goodwill from people to help support them financially and physically in maintaining the area."

After being set up in 1996, the charity received grants and donations to enable it to buy both the wood and large adjoining field to develop the sports ground and build the club house.

But five acres of woodland out of a total of 23 acres could still be sold to an outside party by Strakers despite it not going to auction.

Robert Davies, also of the adjacent Springfield Close, said if the trustees approached the community they would be keen to work with them financially.

He said: "It is unfortunate that they did not want to consult with the community because there are a lot of people in the community who would want to help. I've spoken to people who said they would contribute financially if it meant preserving the woodland and so you can understand why people are upset about it as it goes against the wishes of the original trustees.

"There would be a considerable amount of generosity from people and it is a real shame they want to sell it because we are trying to do what we think is right for the community."

Fellow resident Paul Turner shares the same view. He added: "I think people will be relieved that it didn't sell because many were worried as to who could end up with the land. The reason why the woodland doesn't make money is that it isn't there to make money, it is there to be enjoyed by the community."

Many residents are now hoping to register an informal footpath within the woodland as a public right of way which will further their attempts to keep the land in the heart of the community.

No one was available for comment from Leafy Lane Playing Fields Ltd.

Gazette & Herald

11:02am Friday 26 August 2016

Rudloe villagers angry over sale of Leafy Lane land

Rudloe villagers angry over sale of Leafy Lane land

/ [Jessica Wells](#)

VILLAGERS in Rudloe are incensed that the owners of Leafy Lane woodland are attempting to sell part of it once again, with many fearing that the site could be used for other aims.

Trustees of Leafy Lane Playing Fields Ltd are trying to sell eight acres of woodland, including a green space known as the glade, through Strakers for a guide price of £77,500, and members of the Springfield and Cliff Close Residents' Association have raised their concerns.

Robert Davies, one of the committee members, said: "They do actually do a lot of good and a lot of people are very happy with the facilities and children being able to use it all, although not everybody is aware that they own the woodland.

"There is a lot of bad feeling though. If they just consulted with us it would be a lot better."

The association argues it has been kept in the dark by the charity and that the sale contradicts the charity's core aim to provide Corsham residents "in the interests of social welfare facilities for recreation and leisure time occupation with the object of improving their conditions of life".

"I don't think they will reconsider it," Mr Davies said of the sale. "North Wiltshire Council donated £75,000 to help buy the land and to set themselves up but quite a lot of money came through donations too.

"And of course they are now attempting to sell the land for £77,000 including the green space and we don't understand why."

Robert Mullins, one of the Leafy Lane trustees, has once again reassured his neighbours that the sale is above board and that the money raised from the sale will go back into the facilities.

He said: "We are attempting to sell a proportion of our land and the charity commission has stated we can sell all the land if we wish and still operate as a charity, but we would not do that.

"We are selling the land to raise money to enhance the facilities at Leafy Lane for the residents in Corsham and it will not detract from what we offer.

"We would like certain groups to put an offer in of course and there is a local group who wish to purchase it, but we have to get the best we can as set out in English law.

"We will still keep 20 acres of land which will still be available to use."

Gazette & Herald

Villagers' concern over plan to auction off beauty spot in Corsham

11:25am Wednesday 9 September 2015

Leafy Lane

/ [Tanya Yilmaz](#), Trowbridge reporter / [TanyaNewsWilts](#)

RUDLOE residents are outraged that part of Leafy Lane woodland will be put up for sale at auction in a fortnight – with many fearing they could lose access to the land altogether.

The area is owned by Leafy Lane Playing Fields Ltd, a registered charity that was set up in 1996 and has since received grants and donations to enable it to buy both the wood and large adjoining field develop the sports ground and build the club house.

The two largest grants were £425,000 from Sports England via the Lottery commission and £75,000 from North Wilts District Council.

But on September 17, five acres of woodland out of a total of 23-acres will be sold at auction to the highest bidder with many residents concerned over its future.

Robert Davies, 70, of Springfield Close, said he is worried that if placed into the wrong hands, the 200-year-old woodland will be lost forever.

“At the time of when they first had the land they invited people to walk in Leafy Lane and they put a footpath at the back for people to use,” he said.

“It is not just dog walkers who use the woodland area but a lot of other people too who like to have an afternoon walk there and it is lots of wildlife there and people enjoy it so it is very troubling to think that they say it is underused.

“I am surprised that they have decided to sell it at auction because it is like lottery selling and we do not know who the new owner is. There is no guarantee they will continue letting the community use the land and to sell it to the highest bidder risks having it fenced off for other uses which would be a real shame.

“If the trustees consulted with the community, we could have helped them financially and helped them to manage the woodland area.”

Robert Mullins, who is one of the five trustees of Leafy Lane, said although he could not comment on speculation regarding the new owner, he wanted to assure the community that the sale is above board and legal.

He added: “We are a registered charity and we are selling of part of the land that we do not use and we are hoping to raise money which will be put back into improving the sporting facilities that are already there.

“There has been a public notice in place informing people about it which has been up since August 13.

“We have had responses from people about the sale which have been generally negative because they see it as a loss of facilities.

“We are selling the land for the best of the charity we run. We want to secure the financial viability of the charity and we want to take it further and move forward with the facilities currently there.”

The land has been given a guide price of £50,000 from Strakers and is due to be sold at auction on September 17 at the Corn Exchange in Devizes.

50 Springfield Close
Rushmore Park
Crowtham
Wiltshire
SN13 0JP
8th June.

Dear Graham,

I am writing, on behalf of the committee, to thank you for meeting us on the field last Tuesday, 6th June, and taking the time to discuss future proposals. As a result, I would like to confirm the following:

1. No further action re: funding to rent, or purchase, the land will be taken until a decision is made about the football pitches.
 2. I shall be informed of that decision by either yourself and/or Tony Hamison.
 3. We shall be involved in any discussions resulting from the decision.
 4. If a decision is made to go ahead with football pitches, our community group will co-operate with regard to access to and on the area e.g. signposting possible leaflet to householders.
- I hope that this meets with your approval

and I look forward to hearing from you once a decision has been reached. In the meantime we shall 'hold back' whilst keeping an eye on the area.

Yours sincerely,

Sally Hair

Chairman, Rndlor Achar Group:

Park Farm
Kelston
BATH
BA1 9AG
17/4/95

ref. Land off Leafy Lane.
Without Prejudice.

Dear Mrs Hair, 810409.

Following my telephone conversation with you, I would like to make the following points.

We had an understanding that I would allow residents continued access to the land, in return I had hoped to have some cooperation over the development of football facilities.

Unknown to me your organisation has been instrumental in putting a tree preservation order on every tree and shrub on the land. I regard this as a betrayal of trust.

Many landowners would simply prevent further access. However I am prepared to allow you future access as long as you pay something for it.

I suggested on the telephone a payment of £300 each year for the strip of paddock and the woodland. This would be for access only, not exclusive occupancy. It is also normal in these situations for you to pay the cost of setting up a legal agreement. My solicitor tells me this will be in the region of £300 plus VAT. I would also expect you to erect a fence where it is broken near the electricity sub station. You will probably want to make a stile there, if so a sign should also be erected saying that access is permissive, not of right.

I feel that communication and understanding are at the heart of every good working relationship. I have made the effort to meet interested people, in future I expect you to communicate with me direct rather than by invoking the dead hand of bureaucracy. It would probably be a good idea if I met your committee.

I look forward to hearing from you.

Yours,

Graham Padfield.

INCOMPLETE LISTS 1982 - 1994

RUDLOE PARK/BOXFIELDS

Birds

Animals

Trees

Flowers/Plants

Sensible.

Martin Matthews

811252

old Pigeons

Rudloe

Harry Barstow

811829

Sally Hair

810409 50, Springfield Close

John Cuthbertson

Rudloe Park

810872

Consham Wilts.

Esther Turner *rust lipstick.*

810408

Bob Davies

811818

Margaret Rosell 810686

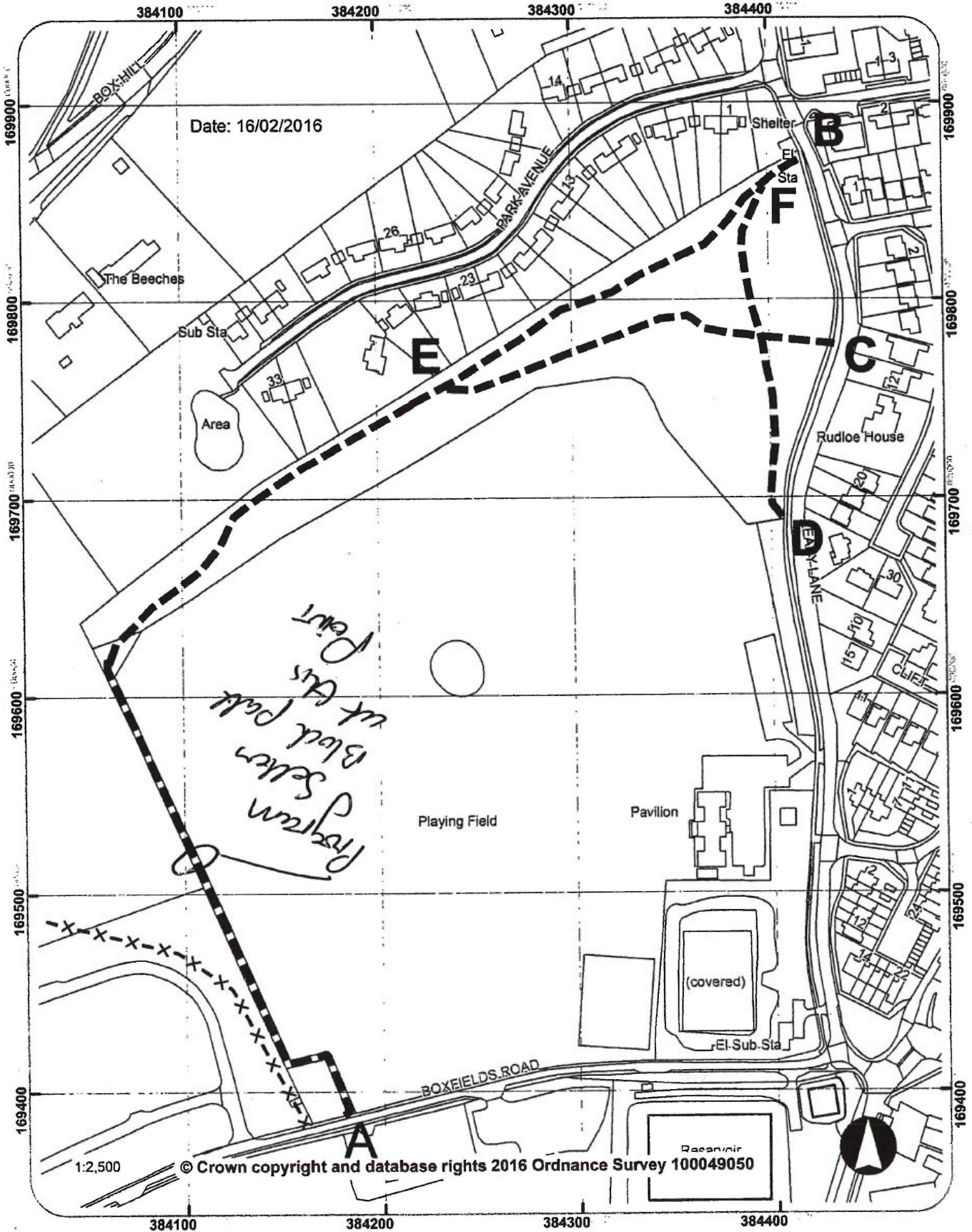
Steve Wheeler

Paul Turner ? up Yonder

742 768. Box.

BOX 107 A, B and C ORDER PLAN

- Footpath to be added BOX 107 A A - - - - - B
- Footpath to be added BOX 107 B C - - - - - E
- Footpath to be added BOX 107 C D - - - - - F
- Unaffected footpath X - X - X - X - X - X - X -



**LEAFY LANE PLAYING FIELDS LTD
Management Committee**

Minutes of meeting on 30 March 2005

Held at the Clubhouse

Those present

Andy Cooper	Director / Chairman	AFC Corsham
Marcus Bray	Director	AFC Corsham
Margaret Rousell	Director	North Wiltshire District Council
Roy Jackson	Director	North Wiltshire District Council
Philip Beatie		
Julie Lye		
Peter Morgan	Secretary	
Andy Ross	AFC Corsham nominated Director	

Apologies

None

Minutes of the last meeting. Were approved

Matters Arising

The shower heads have been cleaned

The sanitary ware has been repaired and was now in working order.

MB will obtain a price for the water softener enclosure.

The users will be reminded that the lights must be turned off after use.

It was agreed to obtain a quotation for a special clean of the sanitary ware.

We have only received 2 replies regarding the additional name boards. It was agreed to go ahead with the manufacture and add signs to it if users request it.

It was agreed to provide NO DOGS signs around the playing area.

The replacement of the gate is now urgent.

Treasurers Report

The Treasurer was not present so no report was given.

Update on interim meeting on all weather playing area

MB had circulated the letter regarding sponsorship of the all weather playing area.

It was agreed that an opening paragraph should be added to introduce what Leafy Lane was all about and the wording was agreed.

MB asked for committee members to submit suggested local companies that should be targeted .

There may be need for an interim meeting prior to the AGM to take this matter forward.

Grounds Report

Check with KF regarding the maintenance of the banks around the car park areas. Contact has been made with Lackham Collage and they have agreed to look at the wooded area with a view to carrying out tree surgery.

Now that the 6 a side tournament is taking place the small goals will have to be repaired. AFC Corsham will have to pay for the repair.

Building Maintenance

The internal walls will require cleaning and it was agreed to carry this out at the end of the season. A test area will be done first to find the best way to clean off the mud. The managers will be told again that all boots should be taken off prior to entry. We should still consider a boot cleaning area.

Building Operations

The clean is leaving at the end of April.

This is because of the bad state that the changing rooms are left in after use.

Changing rooms 1&2 are the worst.

We should consider a charge for cleaning and PB will look into the conditions of use form to make sure that this could be applied.

We should advertise for anew cleaner in the AFC Corsham News letter.

PB to obtain a price for a contract cleaner but this may be too expensive.

Use of Facilities

The League semi finals went well but there was a lot of clearing up to do.

The AFC Corsham 6 aside tournament will be held on 4/5 June.

The MU school is due on 7/8 April. Will they require changing rooms?

NWDC have hired the club room for the May local election. PM will open up and lock up.

AOB

The Directors and committee will stand for another year and Andy Ross will join as a new Director.

PM will arrange for the tea room doors to be made secure.

Volunteers are required for teas rota. Contact should e made to JL.

We should consider changing the tea room lock as we have experienced some break ins.

We have been approached about purchasing adjacent land from the farmer. We were not aware of any approach and PB will reply to say that we are not interested.

The next meeting will be the AGM on May 25th at 8pm.

**LEAFY LANE PLAYING FIELDS LTD
Management Committee**

**Minutes of meeting held on 26 November 2003
Held at the Club House**

Those present

Andy Cooper	Director/Chairman	AFC Corsham
Clive Hancock	Treasurer	AFC Corsham
Peter Fellows	Director	AFC Corsham
Margaret Rousell	Director	NWDC
K Ford		
Phil Beattie		
Peter Morgan	Co. Sec.	

Apologies

Julie Lye

Minutes of last meeting were approved

Matters arising

MR has approached Box PC regarding cutting the dog walking area and it is in hand. The small sided goals are at PF home and he will arrange with KF to take them to the playing fields.

We have received the £450 grant from Box PC. CH to thank Box PC.

KF will investigate the boot cleaning equipment. We shall need two cleaning areas.

Ground Maintenance.

KF reported that many of the shrubs have been pulled up by children. He has replanted those he could find but the bank will require more plants. Can we consider temporary fencing to protect the area.

The goal mouths on pitch 5 have deteriorated because of constant use. This pitch should be used alternately with pitch 4. It was agreed to take down the nets and play on pitch 4 to give 5 time to recover. KF to investigate re turfing the goals.

The store is again very untidy. Team managers are to be told to make sure that they place equipment in the store and not just throw it in. PF offered to fix some hooks on the wall to keep wet equipment off of the floor.

It was agreed to not lock the main gate but reassess the situation at the end of January. KF will arrange to cut back the shrubs at the front of the building.

Treasurers Report

Money in the bank.

NAT WEST £ 5141.72

PORTMAN £ 9104.54

Andy Kerr has agreed to Audit the accounts again this year and this will be done by the end of January 2004.

With the start of the season income is starting to come in.

Building Maintenance

PM to investigate fixing a water bar at the bottom of the store doors to stop rain blowing in. Also adjust doors as they have become tight.

KF will investigate purchasing an external lime store.

AFC Corsham have asked us to consider providing additional flood lighting to light the area between the all weather and the club house. PM will investigate costs and

MR will check on the planning situation.

PM will arrange to replace broken loo seats.

Use of facilities

Youth Action Wiltshire have asked if they can use our facilities for a Gillette Cup Game in Feb 2004. This was agreed at £30 plus VAT.

An advertisement for the Chippenham Harriers run has appeared in the papers. PB will contact them as we have not received a booking. It was agreed that we should charge £15 and if they want to run their own tea bar we should charge an additional £50.

The Netball team are still using the all weather but are looking for new members.

The League have asked to use the facilities for the week end of 16/17 March.

A O B

PM to obtain an estimate to replace the main sign board and private and no dogs signs.

PM to arrange for the Leafy Lane metal fence to be taken down but to make sure that we still provide security from people just walking in.

PM to check out the situation of our Safety Policy.

PM reported that all the Directors have been registered with Companies House except Bruce Campbell. Bruce has not yet returned his signed form for submission.

Future Meetings will take place as follows

28th January 2004

31st March 2004

26th May 2004 (AGM)

**LEAFY LANE PLAYING FIELDS LTD
MANAGEMENT COMMITTEE**

**Minutes of Meeting on 26 March 2003
held at the Clubhouse.**

Those Present.

Graham Cogswell	Project Manager
Clive Hancock	
Margaret Rousell	
Roy Jackson	
Philip Beatie	
Elsbeth Wales	
Andy Cooper	
Peter Morgan	

Apologies

Julie Lye
Kevin Ford

Guest

Peter Fellows	Chairman of AFC Corsham
---------------	-------------------------

Matters Arising from last minutes

None

Secretary's Report

None

Treasures Report

We have £ 4252.00 in reserves and £ 7255 in current account and £ 623 in the savings account.

We are to review our charges for next season at the end of the financial year.

These will be ratified at the AGM.

. Corsham Park Rangers owe £ 270.00 for this season. CH to chase

We have received at rate rebate of 80%.

Chase Chippenham Harriers regarding their cheque for their use of the facilities.

Grounds Maintenance

The landscaping to the mounds is complete. Some dogwood has been pulled out by children. KF to replant.

KF will prepare pitches in the glade including fitting posts.

KF to assess the situation of the moles and take the necessary action.

Boot cleaning has become a problem. KF to price the various options of grids and brushes.

Building Operations

None

Building Maintenance.

The flood lights appear to have an intermittent fault . PM to contact E&S Electrical to attend site to repair.

It was agreed to appoint ADT to carry out the annual service of the intruder and fire alarms.

Use of facilities

We have signed a Joint Venture Agreement with Corsham Cricket Club for the use of the facilities and the relaying of the cricket square. This agreement is for 5 years at an agreed charge of £ 30.00 per game plus PRI increases for each year.

Future Events

The annual 6 a side will be held on the weekend of 7/8 June. A meeting has been arranged of 11 February to discuss details.

MR has kindly donated a trophy for the girls event and has sent cheque to Peter Fellows.

A local resident has kindly donated an ex RAF trophy for AFC Corsham to use.

A O B

MR has spoken with the Head Teacher from Box Highlands regarding their use of the woodland without permission.

PF has agreed additional parking in the adjoining field for the 6 a side.

It was agreed to change the date of the AGM to 14th May at 8 pm.

Elspeth Wales and Andy Cooper will resign as Directors at the AGM. PM to advertise the AGM 21 days prior to the AGM.

LEAFY LANE PLAYING FIELDS LTD

ANNUAL GENERAL MEETING

Held at the Club House on Wednesday 9th May 2001.

1 Apologies

Robert Knight
Margaret Rousell
Roy Jackson
Gordon Matthews

10 people in total attended the meeting.

2 Minutes of the last AGM.

The minutes were approved.

3 Matters arising

The all weather playing area lighting has been upgraded.
The new playing area was now in use.
Rudloe Football club has now reformed and are playing at Leafy Lane.

4 Chairmans Opening Remarks.

The year 2000 has been a year of stability. This years committee have positively contributed and helped get things done.

Clive Hancock took over as Treasurer and has carried out a very competent job, not only keeping on top of day to day bills but also the few major capital items as well. He has also found his way through the vagaries of VAT and interaction between the main player CBFC and Leafy Lane. Clive has provided the committee with regular budget updates which have proved useful.

Phil Beattie has been in charge of an ever increasing number of bookings, particularly one offs which are harder to deal with. This has kept him busy but he is always willing to help with a host of minor and major items of work that need to be done.

Robert Knight and Peter Morgan have dealt with maintenance which up to now has been low but a maintenance programme needs to be in place to keep the building up together.

Julie Lye took over from **Theresa** and has been a real stalwart managing and normally doing the tea rosta and organising the cleaning. This is a thankless job but is always done with a smile

Kevin Ford is over seeing the grounds maintenance and planting.

We have seen 3 new directors establish themselves a with a whole host of others without who's dedicated help this club would fold.

On the development front we have finally built the store with the aid of grants from the FA and NWDC.

We have contracted with WDS for cutting the field and marking the pitches.

The 6-a-side tournament was again a great success and the Xmas draw brought in welcome revenue.

Our facilities are always in demand and we have seen a growth in a varied use. As well as CBFC and Rudloe FC we have 2 Sunday teams playing with demand for more. Box Hill CC has seen a slump in members but continues to use the pitch. We also have Net ball, guides, yoga, running clubs, and paragliding at Leafy Lane. CBFC run the biggest 6-A-side tournament in the west and we host representative league games.

We survived one of the wettest winters but it was Foot and Mouth that finally closed our pitches for a few weeks.

There has been some disappointments with the continual damage to the perimeter fencing and fowling by dogs. Records show that in Britain 50 deaths has occurred from faeces disease.

Parking has also been a problem and we will try to enlarge the parking this year.

Over all we have a good team in place and are on a sound financial footing.

5 Presentation of Accounts and Treasurers Report.

Clive Hancock presented an Income and Expenditure Account which sows an increase in funds of approx £2500 for the year. Corsham Boys is the main user with an income of £8024 with the other users income of £2000.

The store had been funded by grants from FA. NWDC, Methuen trust and the balance of £2500 from our own funds.

The main building expenditure was retention's paid to contractors.

The only major capital expenditure will be the extention to the car park this year.

Phil Beattie asked that a vote of thanks to Clive should be recorded in the minutes for all his hard work throughout the year.

6 Election of Directors.

The constitution requires that we should have 7 directors and 2 should resign each year and 2 voted on. Margaret Rousell and Roy Jackson offered to resign and were then re appointed for a further year.

7 Committee Members.

Robert Knight has resigned due to increased workload at work. Committee members will be Philip Beattie, Julie Lye, Kevin Ford, Gordon Matthews, Bob Morrish and Peter Morgan. One committee place remains vacant.

8 Future Events.

This years major event will again be the 6-A-side tournament. This event provides a considerable sum to LLPF and all help will be welcome.

9 Any Other Business.

PB. all three senior teams have been asked if they wish to continue to use LLPF next season. Two have confirmed that they will play at Leafy Lane next season. The other will be chased.

GC. It was agreed that signs should be fitted regarding the miss use of the grounds by dog walkers and the cutting of the fence. Also we may put an article in the local paper to advertise these signs.

PB. pointed out the many comments regarding our facilities and they are known as the best around.

**The new committee should
will be held on Wednesday**

**Leafy Lane Playing Fields Ltd
Management Committee**

26 November
**Minutes of Meeting on 27 September 2000 at 20.00 hrs
Held at the Clubhouse.**

Those Present

✓ Graham Cogswell	Director LLP Ltd	Project Manager
✓ Clive Hancock	Director LLP Ltd	Treasurer
✓ Margaret Rousell	Director LLP Ltd	
✓ Kevin Ford		
✓ Peter Morgan		
✓ Robert Knight		
✓ Philip Beattie		
✓ Gordon Matthews		
✓ Julie Lye		

Apologies

✓ ~~Roy Jackson~~
Stuart Wilmot
✓ ~~Elsbeth Wales~~
✓ ~~Bob Morrish~~
✓ ~~Andy Cooper~~ *Director*

Matters arising

1.01 The Quarryman's Arms football team are definitely not playing at Leafy Lane.

Secretary's report

2.0 [MR Webber of 12 Ashwood Road has Written regarding overgrown vegetation along the dog walking areas. PM will walk the area to see how bad the area is. MR suggested that the Air Cadets or The Cotswold Warden may be able to help. It was agreed to fit a chain and pad lock to the gate off Leafy Lane. This would stop people with dogs from gaining access to the playing area. PB suggested that Rudloe FC may be able to move the]

not cut smaller for moving

broken metal fence up to the area of broken barbed wire fencing, but it may be too heavy in one piece.

- 2.02 Bob Grey has written requesting if he can use the field for taking off and landing in his power glider. It was agreed but subject to an annual fee of £50.00

Treasurers Report

- 3.01 The Treasurer issued reports showing current balances, outstanding commitments and projections of current costs against budgets.(see attached)
- 3.02 The NATWEST balance is £7962.11 and the Portman balance is £9664.96
- 3.03 The balance is mainly as before but we are due a grant of £7500.00 from the LA and GC is applying for a grant of £6000.00 from the FA for the store.

Reports

- 4.01 **Store**
- 4.02 GC has agreed a contract figure of £17500.00 for the construction of the new store. The contractor is HARRIS and work is due to start next week and will take approx 6 weeks.
- 5.01 **Building Operations**
- 5.02 We may have to change the cleaner because the existing cleaner is probably going to leave.
- 5.03 Additional help is required for running the shop on Sundays.It is hoped to arrange help at the next Corsham Boys meeting.
- 5.04 The running club has asked to use the building again this year on 28 January.A charge of £60.00 will be made and they will give a donation to Leafy Lane when they calculate their financial situation:
- 6.01 **Building Maintenance**
- 6.02 The replacement taps have been delivered and PM will arrange for these to be fitted.Also the cistern leak in changing room 5.
- 6.03 The boilers have been set for winter hot water. Heating will be arranged from 1st November.
- 6.04 The muddy walls have now been cleaned.

6.05 A planned maintenance schedule will be prepared by Robert Knight and Peter Morgan Inspection arranged for 9th October..

7.01 **All Weather Area**

7.02 It was agreed to arrange for the water connection adjacent to the all weather area at a cost of £205.00. We can then hire a high pressure jetter for £100.00 to wash the playing area.

7.03 KF will arrange weed killing around the all weather playing area.

✓ See note

8.01 **Grounds Maintenance**

8.02 The annual grounds maintenance is agreed at £1900.00 The goal post sockets have now arrived and will be fitted. KF will discuss fertilising the playing areas.

9.01 **Fund Raising**

9.02 It was agreed to hold the Christmas draw together with a football match on Wednesday 27 December at lunchtime.

9.03 The Christmas draw prize list is:-

- 1st 1hour plane flight
 - 2nd Video recorder
 - 3rd A crate of wine
- other prizes will be welcome.

10.01 **AOB**

10.02 GC has applied to the FA for a grant of £6000.00 for the store.

10.03 The cricket net will be taken down and stored.

10.04 MR asked if the grounds could be used for a Fireworks night. There would not be a bonfire. It was agreed in principal and MR will confirm if required.

10.05 It was agreed that meetings should be held every 2 months and it would be left to the Chairman if other meetings needed to be called.

The next meeting will be held on Wednesday 29 November commencing at 20.00 hrs.

List of future meetings

24 January	2001
28 March	2001
25 April	2001

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Springfield & Clift Residents Association



Comments on Foot Anstey's (on behalf of Leafy Lane Playing Fields Ltd) representations regarding application 2015/10 – the request, by the Springfield & Clift Residents Association and others, to add public footpaths to the definitive map at Leafy Lane, Rudloe

Introduction

Thanks to Wiltshire Council Rights of Way department for the opportunity to comment on Foot Anstey's representation sjw/dict5/232484/1 dated 24 October 2016.

It should be noted that this document brings together, at the request of WCROW, the comments of SCRA, local people who completed evidence forms and others. It has, however, been compiled and written by an individual (see foot of document) whose particular comments may be identified by the use of the first person.

The following acronyms are used: Wiltshire Council Rights of Way Department – WCROW; Foot Anstey – FA; Leafy Lane Playing Fields Ltd – LLPF; Springfield & Clift Residents Association – SCRA, Asset of Community Value – ACV; Rudloe Action Group - RAG.

SCRA does not propose to argue the rights and wrongs of the technicalities such as statutory tests, usage 'as of right' and so on as WCROW and, presumably, FA are experts in this field and have come to different conclusions. SCRA does propose to further examine the anecdotal evidence used in the arguments.

FA's paragraph 1.3 states: "These representations are intended to be **in addition to** the representation already made by LLPF". We would therefore propose to comment on some aspects of LLPF's representation (not all, clearly, as it has already been taken into account by WCROW) in particular the calling into question, through use of the word "mistaken", of locals' evidence.

LLPF claims "Locals who claim to have entered and walked the woodland freely prior to the company owning the land are mistaken as the woods were well fenced and overgrown ..." (in section 2). Let us then through a simple device, that of a photograph with a known date, put this misinformation to

bed right at the start. In annex F, the reader will find a photograph of Mrs Wooster of Rudloe House in Leafy Lane, walking her dogs in the wood in January 1985. Other photographs in annexes P and Q were also taken prior to LLPF's ownership.

Similarly, a partisan or partial view has been adopted by FA in their "The evidence, none of which is supported by a statement of truth" in paragraph 2.5.4. There is no requirement for such statements in these rights of way cases. Statements of truth were not requested from either 'side' so this insinuation is unwarranted.

Also in paragraph 2.5.4, FA makes the following assertion: "(The evidence) has apparently been produced in response to the campaign of SCRA rather than on the basis of factual recollection". However, this statement is incongruous and misleading. The first part (response to campaign) is true but that has had no bearing on witness statements. This argument is illogical, unsound and untrue.

FA appear to have been unduly influenced by an unreliable witness, LLPF, which only came into existence in 1996. This 'unreliability' is discussed in the next part.

Note that the Order Plan map showing the locations of all the photographs in the annexes may be found at annex C.

Background

The following paragraphs may not be seen to be pertinent to the matter in hand but they do examine the background issues which have led to the position we find ourselves in today. Had things taken a different course, the two 'sides' may not have found themselves in this adversarial position.

There is a history of correspondence between SCRA, LLPF and, occasionally, Wiltshire Council. This has involved the subjects of: local involvement with and access to the woodland; litter; a proposed, illegal rook cull; a bid by SCRA to have Leafy Lane Wood declared an asset of community value (ACV) and the 'legality' of LLPF's proposal to sell the woodland.

A chain of events of particular significance was: LLPF's representation on SCRA's bid to have Leafy Lane Wood declared an ACV; the publication of this representation on the Rudloe website; a number of threatening emails from the author of the representation and my eventual response. Had LLPF supported this bid, or at least not been so antagonistic towards it, then perhaps we would never have come to this pass.

LLPF's submission on the ACV bid and my response are weighty documents (but very illuminating!). They may be found on the Rudloe website in an article dated 26th July 2015 here: <http://www.rudloescene.co.uk/news/rudloe/leafy-lane/>. If decision makers do not have the time or energy to plough through these documents, perhaps they could take note of the final paragraph of my response which is shown in the next paragraph here:

"I'm sure there must be some punctilious regulations in existence which could be brought to bear for sending threatening emails, for vilifying a section of the local community and for presenting

misinformation and disinformation to public bodies. Further research is required here but, in the meantime and in the absence of confirmation regarding a quorate sanctioning of the 10th June letter, I expect an apology from you to the people of Rudloe for the distasteful representation made regarding our community asset bid." It should be noted that neither an apology nor further threatening emails were received.

Had the ACV bid been successful, SCRA would have had six months in which to raise the money to purchase the woodland and we could perhaps then have gone on to propose the changes to the definitive map without objection.

With such a significant military presence at Rudloe and with married quarters being adjacent to and opposite Leafy Lane Wood, there may have been an opportunity to take advantage of the Armed Forces Community Covenant Grant Scheme which, in 2014, saw £763,773 drawn down into Wiltshire.

Also, with so many proposed developments in west Corsham and Rudloe (700 new homes) there perhaps would have been the possibility to instigate a section 106 agreement with for example Hannick Homes (88 homes at Rudloe) or Redcliffe (170 homes in Bradford Road) to compensate the local community for loss of open space.

The ACV having failed, another local community organisation, the Neston & Box Scout Group, expressed an interest in purchasing the woodland. On 22nd August 2016, I sent an email to the Scout Group informing them of this potential funding. That email may be found at annex A.

The reader may see that the purpose of Rudloe community submissions in first of all applying for ACV status, then applying for the footpaths through the wood and the footpath skirting the playing field to be added to the definitive map and then to suggest a potential source of funding to the Neston and Box Scout Group is to do what we believed that LLPF should be or should have been doing and that is: securing the woodland and its well-used paths for the local community. And this was not simply a recent initiative by SCRA. The Rudloe Action Group (RAG) was formed in 1995, with thirteen local members, to this same end.

Apart from RAG, other local people have been concerned. A letter dated August 1994 from a correspondent in Canada to Mrs Wooster of Rudloe House states, inter alia: *"I am sorry to hear that some of the old lands will be changed, do you think it will go ahead even though the local people are upset about it? I think it is wonderful that you are trying so hard to preserve the land, I just hope you are successful"*. An extract from the letter is shown in annex G.

The subject application is, as stated above, the latest attempt to secure the pathways for the local community, other avenues having been thwarted.

The FA submission dated 24th October 2016 on behalf of LLPF

Section 2 of FA's submission concentrates on the 'as of right' test for the period 1978 -1998, or the First Relevant Period. WCROW will know, and has already argued, that this test is satisfied. Section

2.3.1 states “For use to be ‘as of right’ the use must be exercised without force, secrecy or permission”. FA’s argument is that “use has been exercised **with force, if at all**”.

Our Comments:

1. Thirty local people, in their evidence forms, testified to use within this period. The tenant farmers, Freeman and Maidment also affirmed use by the public and the existence of a stile by the NAAFI in Leafy Lane. Messrs Greenman confirmed the existence of the stile in their arboricultural report dated 21st April 1998. This stile may be seen in the photographs taken in 1996 and 1998 at annex K. A gate or gates, opposite Rudloe House, is/are shown in the photograph taken in winter 1987/88 in section 10.26 of the Decision Report. This/these gate(s) may also be seen in the 1983 photograph at annex H.
2. Ironically, evidence of usage may be found within FA’s own unnumbered annexes. Firstly, the letter from the landowner, Mr Padfield, dated 17/4/1995 states “... I would allow residents **continued access** ...”. This might (might!) intimate that use of the pathways was permissive but few of the scores of regular users would have been aware of this. Secondly, paragraph 2.3.6 which states “We enclose a copy of the members of RAG ...” (which is no such thing; see later analysis of this) is on a paper compiled by Mrs Jean Wooster of Rudloe House (in Leafy Lane) and headed ‘Incomplete Lists 1982 – 1994, Rudloe Park/Boxfields’. These lists describe flora and fauna which were found in Leafy Lane Wood and elsewhere, the first page (of five) of which is headed “Birds seen in Rudloe Park Wood/hedge/field”. “Rudloe Park Wood” is the subject wood. Mrs Wooster’s lists may be found here: <http://www.rudloescene.co.uk/localities/rudloe/leafy-lane-flora-fauna/>
3. With regard to paragraph 2.3.5, as the landowner’s farm is at Kelston, west of Bath and some twelve miles away, “chasing people off the land” is implausible.

Paragraph 2.3.4 and 2.3.5 discuss “Mr Beattie’s recollections” with his “vaguely remember” with regard to “going into the woods” and being “chased out by the farmer”. Mr Beattie also states “I have more years of knowledge than any of the 42 local people” (the 42 local witnesses) and “Only since this intention was made known that they have tried everything they can to prevent this”. Mr Beattie’s letter may be found in appendix 2 of the Decision Report.

Our comments:

1. Phil Beattie is a stalwart of the Rudloe community and I have great respect for him but he fails to mention that he is a long-standing committee member of LLPF. He writes of LLPF as if it was a third-party organisation and not one with which he is intimately involved.
2. Phil’s “more years of knowledge” starts with being “born on the old Rudloe Estate in June 1953”. Well, let’s trump that ... Esther Turner (one of the 42) was born on Rudloe Estate in April 1950 and has lived at Rudloe for 55 years (with the years ‘away’ being only just a mile or two away (Pockeredge and Priory Street, Corsham). The same home at Rudloe Estate has been occupied by the family since 1964, so 52 years to date (2016).
3. Continuing with Phil’s “more years of knowledge”, as far as I know, Phil has never had dogs and has never used the wood for recreation so he may not appreciate the true value of the wood. The years of knowledge of people who have used the wood is enormous with the 42

witnesses alone having accumulated 429 years in the First Relevant Period and 697 years in the Second Relevant Period.

4. Phil's use of "they" is disparaging as if "they" were some kind of insidious, rogue community out simply to foil LLPF to some devious purpose. This continues the somewhat coloured (shall we say) stance adopted by LLPF in its representation on the ACV bid (which I described to LLPF, both verbally and by email, as "a disgrace").
5. It is simply not the case that the Rudloe community (recently through the SCRA) has been active in trying to protect the woodland "only since this intention (to sell) was made known". This has been going on for years through: RAG (formed in 1995); individuals (eg Mrs Wooster of Rudloe House – see references elsewhere); email communications about protecting woodland fauna and the collection of rubbish within the LLPF area (and elsewhere), catalogued at the Rudloe community's CPRE LitterAction webpage here: <http://www.litteraction.org.uk/the-rudloe-mob>.
6. With regard the community's care for the woodland and its environs, the following text from the above-quoted webpage may be of interest: "*Rather than an AONB, Leafy Lane Playing Fields resembles a rubbish tip. The Rudloe Mob has an onslaught on the accumulation every couple of months or so. Of the 14 bags collected on 23rd February 2012, 10 came from the playing fields and this was just the tip of the iceberg ...*".

Paragraph 2.3.6 concentrates on correspondence between Mr Padfield and Mrs Hair, the chairman of Rudloe Action Group (RAG) in 1995 in which the following assertion is made "... the RAG group accepted they needed permission in order to access the land and they did not use a path in the woodland 'as of right'". This paragraph also says, as stated above, "We enclose a copy of the members of RAG, 4 of whom have submitted evidence in support of use of the footpath (sic)".

Our comments:

1. No such acceptance is to be found in Mrs Hair's letter, the relevant paragraph of which simply states "... our community group will co-operate with regard to access to and on the area e.g. signposts ...", which is prefaced by the conditional statement "**If a decision is made to go ahead with football pitches ...**". In any case, this group of eleven local people (plus two from Box) did not have any jurisdiction over the many hundreds of Rudloe residents.
2. The supposed "copy of the members of RAG" is nothing of the sort. It is simply a list of names handwritten onto the cover page of Mrs Wooster's flora/fauna lists, probably at an open meeting held at Box Highlands School before RAG was formed. Six of those named (or misnamed – Estha Turner for example) became members of RAG; three (John Cuthbertson, Paul Turner and Margaret Roussell) did not. (Paul Turner wasn't present at the open meeting either so addition of his name here is a fiction). The list of the thirteen members of RAG may be found from page 1 of the RAG meeting (1 March 1995) minutes shown at Annex B.

Paragraph 2.5.1 asserts that "Many of those adducing user evidence for the First Relevant Period do not distinguish their recollections of using the area between the First Relevant Period and the Second Relevant Period" and "It is our submission that the permissive use which has existed since LLPFL owned the Land has altered people's recollections of the period prior to the creation of the permissive footpath by LLPFL in 1999."

Our comments:

1. The First Relevant Period and Second Relevant Period are constructions found within the Decision Report. Evidence forms simply gave the full periods over which local people walked the pathways. How could these people know what periods would be so designated?
2. Apart from walkers through their evidence forms, others such as tenant farmers Maidment and Freeman and Messrs Greenman have affirmed the presence of well-used pathways and the stile by the NAAFI at point B prior to LLPF's ownership.
3. As stated above, Mrs Jean Wooster who lived at Rudloe House in Leafy Lane from 1982 to 1995 compiled lists of flora and fauna found in the wood and elsewhere.
4. Numerous photographs of the footpaths prior to LLPF's ownership may be found in the annexes.

Paragraph 2.5.2 cites Mrs Crowe's evidence and FA responds "It is evident that there was not a full period of 20 years use prior to the acquisition by LLPFL in 1998".

Our comments:

1. FA's response here is a non sequitur. The Crowes moved to Kidston Way on 1st January 1973. How could a period of residence (and use of the paths) of 25 years up to 1998 not represent "a full period of 20 years"?

Paragraph 2.5.4 has already been discussed in the introduction. Here, FA discusses the motivation for the application for paths to be added to the definitive map, the lack of statements of truth and questions the "factual recollection" of the forty-two who provided evidence statements (and others also eg Freeman, Maidment and Messrs Greenman).

Our comments:

1. Surely there is a motive behind any and every application? In this case, local people are passionate about protecting local woodland and pathways. This is evident from the formation of RAG in 1995 **and also** from the hundreds of photos and associated text on the Rudloe website (for example the Leafy Lane flora/fauna pages here: <http://www.rudloescene.co.uk/localities/rudloe/leafy-lane-flora-fauna/>) **and** the application for the wood to be declared an asset of community value (ACV) **and** the application for the paths to be added to the definitive map. In addition, another local community group, Neston and Box Scouts, has been advised by SCRA of potential funding towards purchase of the wood in order to try to save it for the local community. FA (and LLPF) disparages this aim as if it were a hanging offence for local people to want to save a local wood and its pathways for this and future generations.
2. We have here also, as mentioned in the introduction, the reference to evidence "not supported by a statement of truth". I repeat, statements of truth were neither requested nor provided (by either 'side'). This invidious statement is unwarranted and unfair.

3. FA uses invalid, specious reasoning here in that requested statements through the evidence forms provided by WCROW disqualify that evidence as not being gained by factual recollection. FA also describes the evidence as “partial” as, of course, is the ‘evidence’ of its client, LLPF. On our ‘side’ I would say that an individual’s evidence is bound to be partial (both in terms of the whole and also in providing statements with which LLPF, its client, takes issue); each statement builds the bigger picture. The impartial WCROW team and Planning Inspectorate will decide the matter.

In paragraph 2.5.5 FA cites the “adduced photographs” as evidence that there was no “walkway” between points A and B. The “adduced photographs” are shown in appendix 8 of WCROW’s Decision Report. The last sentence in this paragraph needs analysis.

Our comments:

1. The two photographs do not, indeed cannot, show the extent of the A-B route; they are simply landscape views west (with football team in the foreground). Part of the A-B route may be intimated in the background.
2. The photographs are taken at a distance of 250 metres from the partial A-B route (distance has been calculated by Daftlogic’s distance calculator at www.daftlogic.com) - the claim “there was no walkway” cannot possibly be deduced at such a distance.
3. All parties know that, in 1999, LLPF constructed a fence and then planted a hedge in order, principally, to prevent dogs from straying onto the playing fields between the ‘top end’ of the wood (and its stile shown in annex J) and the stile/squeeze gap in Boxfields Road (part of the A-B route).
4. The last sentence “Prior to the work to cut back the path the way had been significantly overgrown.” is perhaps revealing. Here FA appears to be saying, as testified in evidence forms and shown in photographs, that there was a ‘way’. Any ‘overgrowing’ on a pathway on an open playing field can be and was simply avoided by walking around it.
5. A ‘zoomed’ photograph, part of a wider landscape picture taken in 1998, is attached at annex L which shows the stile (and sign) at point A (of route A-B). The stile and squeeze gap are shown in part 7.0 of the Decision Report. Walkers would access the playing fields across this stile or through the adjacent ‘squeeze gap’. Those heading to Leafy Lane Wood would use the perimeter route A-B as directed by the MoD signs (see annex M) and exit into the woodland at the stile shown in the ‘zoomed’ photographs to be found at annex J. This state of affairs would be reversed for walkers going in the other direction.
6. Mrs McDermott, a resident of Park Avenue (military officers’ quarters) between 1995 and 1997, has stated: “I used these stiles, together with other military personnel to access the wood and to walk our dogs”.
7. Numerous photographs taken on the playing field section of route A-B are to be found in annex O.

The content of section 2.6 and its three paragraphs have, I believe, already been considered by WCROW in its Decision Report. However, one comment follows:

Our comments:

1. The assertion in paragraph 2.6.2 *“Mr Padfield was aware the land was popular but he did not tolerate the use of the land for walkers and he did not believe or intend a public path to exist”* is incongruous. If Mr Padfield was aware that the paths were popular then his beliefs or intentions were not communicated to users. And lack of toleration cannot have been exercised remotely from his farm twelve miles away. In the twenty-three years 1975 (the time we moved to Rudloe (or back to Rudloe in my wife’s case)) to 1998 of Mr Padfield’s ownership, we (myself, my wife and our children) didn’t once encounter Mr Padfield on our daily walks.

The subject of ‘as of right’ in paragraphs 3.2.1 to 3.2.5 has effectively been dealt with in section 11 of the Decision Report. In paragraph 3.2.6 we find references to the minutes of five LLPF meetings; the minutes themselves are enclosed with FA’s submission.

Our comments:

1. Seeing LLPF minutes is a revelation. The following should be noted from the Rudloe website (in an article dated 30th January 2016 here <http://www.rudloescene.co.uk/news/rudloe/leafy-lane/>):

LLPF’s actions fly in the face of these charitable aims. I should remind readers of the ultimate sentence in the 21st September 2015 article below which stated: *“Neither the community nor indeed the general public is aware whether the decision to sell the wood (or in fact, any decision) was made at a quorate trustee meeting as no minutes or any other details of Leafy Lane Playing Fields Ltd meetings are published”*.

In spite of the fact that this organisation was enabled through grants, including grants from public funds, it appears that LLPF is not being run as an open, accessible, charitable organisation but, effectively, as a secret society. The local, and wider, community should be aware of who is making decisions and why.

2. Indeed at Annex I, the reader will find an (rather long) email chain in which I ask the following in the email dated 25th March 2012: *“Could you tell me the reason and/or let me have a copy of the appropriate minutes. I would also be interested in attending your April meeting for the rook agenda item only”*. There was no response to the minutes request and, as may be seen, the email from LLPF (Mr Mullins) dated 25th March 2012 states that the April meeting will be closed to the public.
3. It is all very well for minutes of closed meetings to assert that certain actions have been or will be taken but the public, as indicated above, were blissfully unaware of what decisions were being taken and what actions were initiated.
4. This situation is reflected in FA’s 3.2.6.2 and 3.2.6.4 which quote from LLPF minutes of 26th November 2003 with: *“LLPF have maintained fencing”* and 9th May 2001 with: *“LLPF have continued to repair perimeter fencing”*. However, we also see in the November 2003

minutes: “PM to arrange for the Leafy Lane metal fence to be taken down ...”. The public was unaware of what was going on here and why.

5. As I indicate, seeing LLPF minutes at long last is a revelation.

Section 3.3 ‘Without Interruption’ cites three instances of “regular” interruption.

Our comments:

1. The first instance, in para. 3.3.2, refers to the locking of a gate to/from the western end of the military married quarters in Park Lane. This access to the woodland affected only the families of military personnel (officers), was a single episode over a very short period in May 2010 and was certainly not “regular”.
2. No one recalls the ‘interruption’ in 2013 but if there were obstructions walkers would have diverted as required for health and safety reasons. However, this short, single incident was not “regular”.
3. With regard to paragraph 3.3.4 and LLPF’s annual six-a-side events being “ticketed”, having lived across the road from these events since LLPF’s inception and being a former Corsham Boy’s manager, I have taken more than a passing interest in the events and have never been approached by a programme seller. Notwithstanding this, no one (not myself, my wife, Mr Davies, Mr Harrill, Mrs Hopkins, Mrs Miles, Mr Gale and so on (no one) has ever been obstructed by any representative of LLPF (whether programme sellers or anyone else) on the western path. If anyone had been obstructed, this ‘news’ would have spread like wildfire amongst the local community.
4. Indeed, Mr Davies has, inter alia, said the following: “I have walked continuously on the paths until the present time, this includes when many events have taken place on the land and when a field next to point A has been used for car parking. I have never been stopped and told by any members of LLPF or their agents that the path was closed”. And Mrs Hopkins: “Since Leafy Lane Playing Fields Ltd took over the land in 1996, the woodland paths have never been closed, not for a single day. No notice to that effect has ever appeared and I have never seen any person stationed along the route to enforce closure.” And Mrs Barstow: “I have lived here since 1989 and have never been asked to leave the area, by anyone in all of that time”.
5. The location claimed for the positioning of the programme sellers would be worthless as it is around 90 metres to the north of the western entrance - see map at annex N showing the location of the actual entrance (lower point) and the claimed location. It appears that this “evidence” has been contrived with inattention to detail.
6. I walked this western pathway (part of route A-B) on 7th June 2015 during a tournament. The photograph at annex D (taken at 14:44) shows the car park with the western entrance (unfortunately) not visible as a white van blocks the view. The photo at annex E shows the last picture taken in Leafy Lane Wood before entering the western pathway – this is timed at 14:36. So it took eight minutes to walk this route; no programme sellers or indeed any other LLPF representative was to be found there.

Section 4's only paragraph questions the existence of identifiable paths between points B and D and E and C and describes the woodland as "dense".

Our comments:

1. WCROW has already dealt with this in the Decision Report, but numerous photographs of these routes may be found on the Rudloe website here: <http://www.rudloescene.co.uk/localities/rudloe/> specifically in the 'Views of Rudloe including Leafy Lane Wood and Bradford Road' gallery in photograph numbers 1, 2, 5, 40, 47, 48, 137-141 and 148-151. Further photos may be found at annexes P and Q. The routes are well-defined.

Section 6 of FA's document questions the width of the path and states that no path is more than 1 metre in width.

Our comments:

1. It will be clear from photograph 2 in annex P that, at this point and for a length of about 50 metres, route B-D is over 2 metres wide.
2. The photos in annex Q indicate that route A-B is at least 2 metres wide for a substantial part of its length.

FA's section 7 discusses an application to the Secretary of State for compensation for devaluation of the property and a future application for a public path diversion order.

Our comments:

1. Things need never have come to this pass
2. Had LLPF not been so antagonistic towards the local community, when in line with their founding document their aims should have been "To advance and improve the education and physical, mental and social well-being of the **community** by the provision of sporting and **recreation amenities, grounds and facilities of all kinds**" and "To provide for the inhabitants of Corsham and surrounding areas in the interests of social welfare facilities for recreation and **leisure time occupation with the object of improving their conditions of life**", this time-wasting exercise for all concerned need never have arisen.
3. LLPF still looks at the future through a dark lens when the best outcome may be brought about by a positive attitude with, for example, LLPF receiving the funds it requires for the sale of the land **with** the local community safeguarding the woodland through its purchase and/or stewardship. If events had taken a different turn (ie if SCRA's community asset bid had been successful) then the community would have had six months in which to try to fund the purchase of the wood. There are national funds available for local projects which bring together civilian and military communities and with Rudloe having such a big military presence, we may well have been able to propose such a project (which might simply be the use of a natural woodland for recreation). In fact, we could/can take this idea forward

anyway but, given LLPF's antagonism, it would be very difficult to reach an accommodation with them.

Conclusion

The foregoing and the previous representations from both 'sides' describe apparently irreconcilable positions with, on the one side LLPF having no appreciation of the value of the woodland and on the other, local people regarding the woodland as an irreplaceable treasure.

Quoted earlier but K J Oatley's (a former architectural/environmental professional in Corsham) consultation response in section 10.19 of the Decision Report, which includes, "... such woodlands play a very important part to our environment and as such afford the population a benefit which has great value ..." and "Very little in the form of additional woodland has been planned for the Corsham area" whilst not relevant to the 'legal' argument, is illuminating.

Most locals exercise their dogs using the woodland and playing field paths. A simple pleasure but as Monty Don said in a recent Times article "Dogs provide companionship, exercise and health. They get us into the fresh air which is not just good for your body but excellent for your mind". This simple pleasure is not accepted by LLPF but not only that, LLPF would deny the pleasure to others.

From our family's experiences, I can recount many encounters which have made and cemented friendships, for example, with Dave and Lyn Gale of The Links, Pat and Bill Turner of Highlands Close, Mickey Mee of Pine Close, Dave and Madeleine Wright of Ashwood Road and many others. My wife became good friends with Shamilla, a military dentist who lived in Park Avenue, a friendship which would never have come about had it not been for walking in the wood.

Mrs Barstow has said: "The woodland area is incredibly important to the people of Rudloe as a whole. It is a place where all walks of life meet to put the world to rights. Walkers with or without dogs enjoy the beautiful trees, wildlife and fresh clean air, in all weathers. It is the hub of the community on the hill and I only wish that the Trustees would realise its importance to the community as a whole."

Terry Allen has said: "Prior to the LLPF project being approved there was a meeting held at Rudloe and we were asked to be sympathetic towards the playing field project because it was for children. At the same time the subject of the woodland facility was discussed and it was agreed by the LLPF committee that this area would be protected for the use of the residents. The woodland area and the wildlife are very important to the Rudloe people, with all the trees and birds (including owls) and insects. The tranquillity of the wood during a nice stroll or a walk through to the local pub is what life is all about."

Ironically, Mr Davies of SCRA says in an email: "I have known one of the current (LLPF) trustees since about 2007 and we had a friendly relationship until February 2015 due to the fact that we both have labradors and often walked on the paths through the wood. In about 2009 until 2010 I walked his dog for him during the week due to his work commitments ...".

LLPF's current, intransigent attitude towards the woodland and its users and their threats, should they 'lose', to apply to the Secretary of State for compensation and, even before any decision has been made, to apply for a public path diversion order does not bode well for a harmonious relationship with the community. Even now, LLPF has installed a chain and padlock around the gate at entrance C (on 31st October 2016) for the first time in the almost twenty years of their ownership and directly below the sign that welcomed walkers, and persons unknown have dismantled the stile at point A.

However, let's try to be positive. There must be a way forward if only the two 'sides' could be brought together. As indicated in the introduction, there are possibilities through grants and/or section 106 agreements which may see both the local community and LLPF satisfied. We hope for a more positive future; SCRA will try to secure a better relationship with LLPF perhaps through mediation.

Paul Turner
Springfield and Clift Residents Association
29 Springfield Close
Rudloe
Corsham SN13 0JR

1st December 2016

Annex A

Email sent to Alastair Gill, an executive of Neston and Box Scout Group, on 22nd August 2016

Alastair,

I was thinking (did you hear the gears grinding?).

I am a committee member of a local rugby club, Bath & Wiltshire Romans, with one responsibility being searching out potential grant funding. One possibility this year was to take advantage of a government scheme with £10 million available for projects bringing military and civilian communities together. Details of the scheme were published this year through Corsham Community Matters; the 'link' is here:

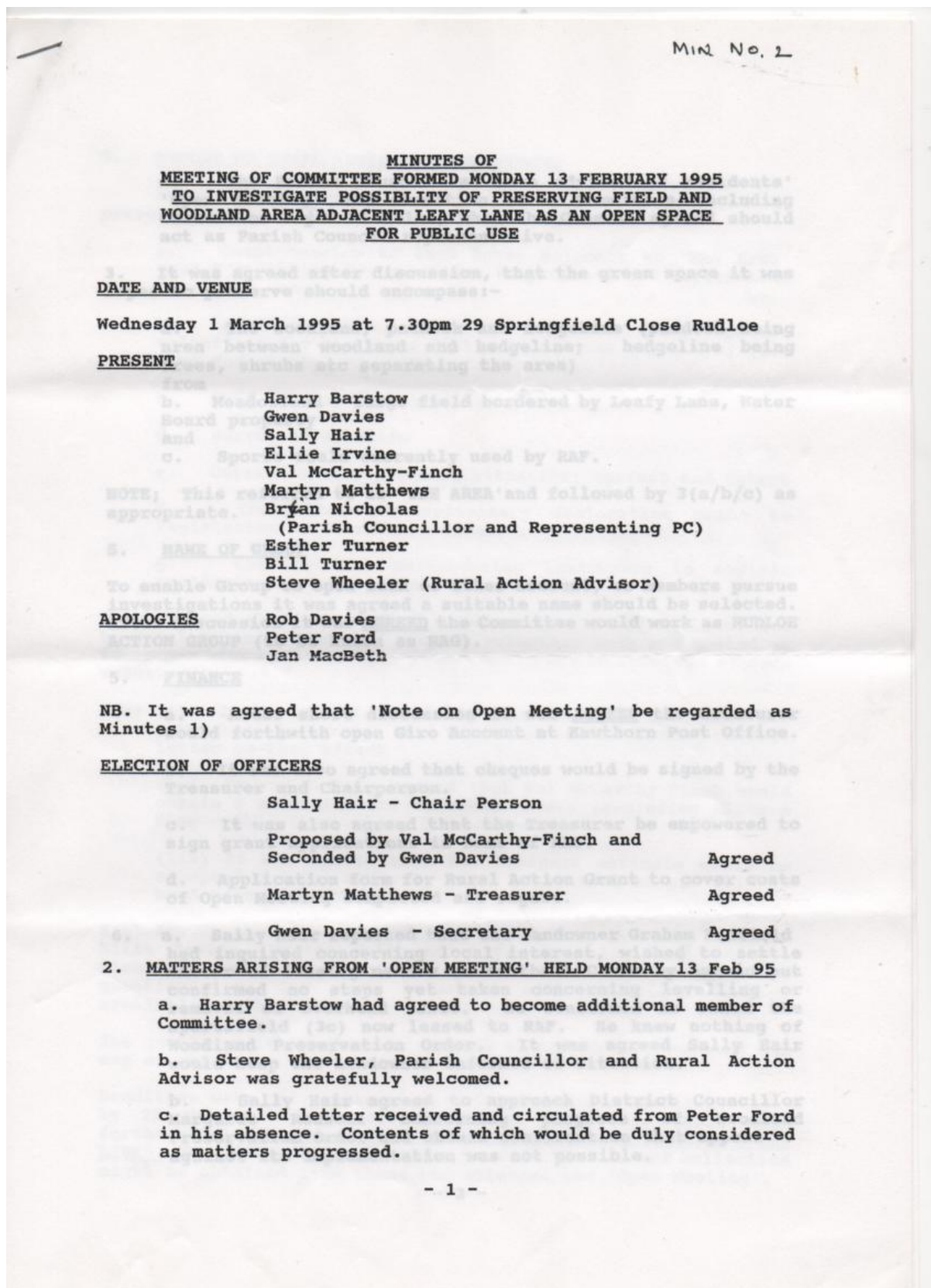
<http://corsham.ourcommunitymatters.org.uk/news/government-funding-available-for-projects-bringing-military-and-civilian-communities-together/>

As you will see, the deadline for this year's 'round' was 22nd June. Unfortunately, whilst our club had many military members last year, all had moved on this year so we were not in a position to propose a project.

I would think that there will be further 'rounds' in the future; I doubt if all the funding has been used up. I would imagine that local Scout groups have a mix of children from civilian and military families and the woodland is adjacent to civilian and military estates at Rudloe. Your project may be ready-made for such funding - I think this would be worth pursuing if you can come to an agreement with the Leafy Lane Playing Field organisation.

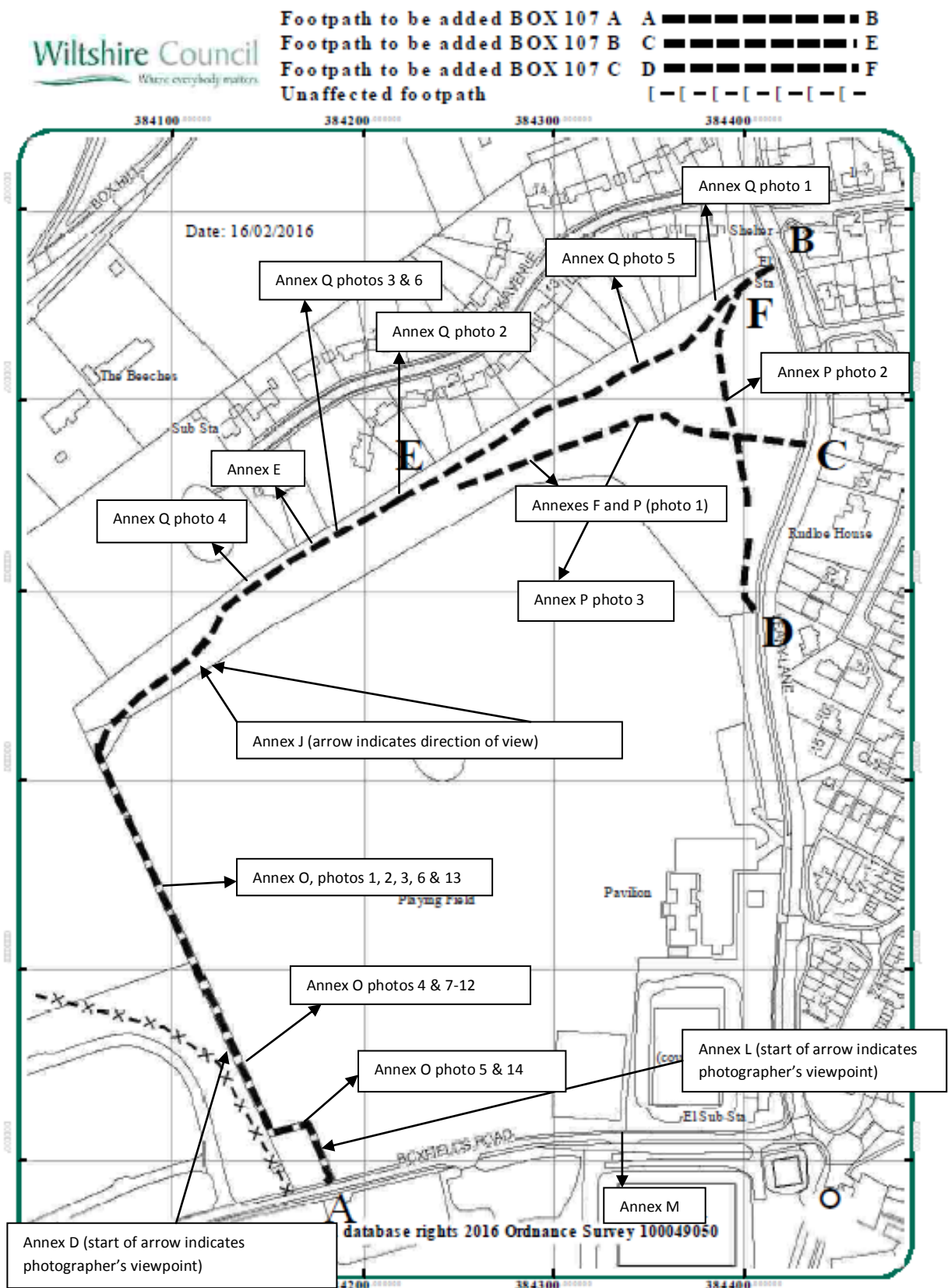
Regards

Paul Turner



Annex C

Location of photographer in photos to be found in this document's annexes:



Annex D

Car park for the Leafy Lane annual football tournament on 7th June 2015 at 14:44. The entrance (normally locked) to the playing fields is obscured by the distant white van at centre-right. However, I had just walked along the pathway; no one was stationed here as claimed by the LLPF organisation.



Annex E

Last picture, of beeches, in Leafy Lane Wood before walking along the west pathway. The photograph has the date/time of 7th June 2015 at 14:36. As indicated in Annex D, no LLPF personnel were stationed on the pathway.



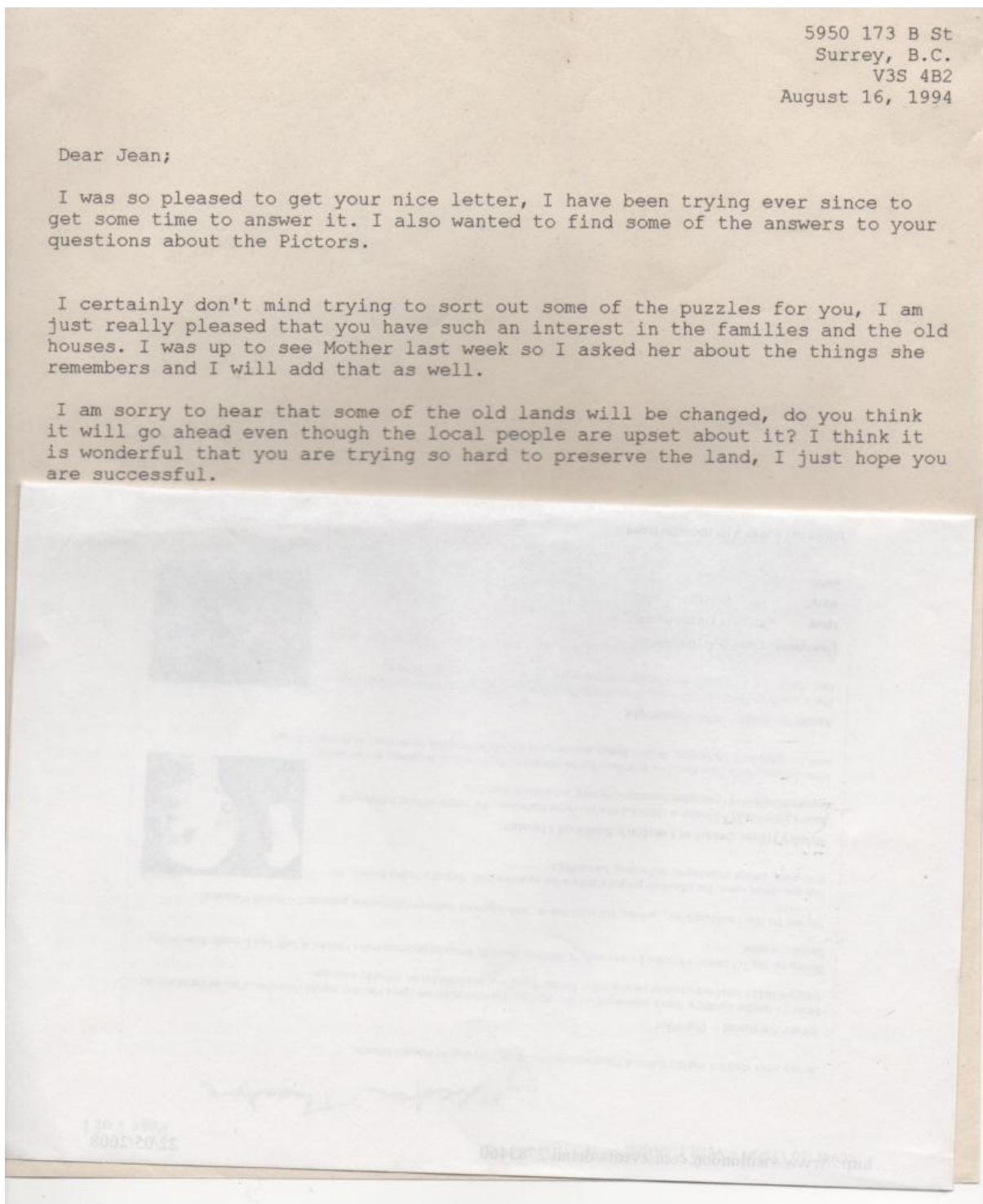
Annex F

Mrs Jean Wooster of Rudloe House exercising her dogs in Leafy Lane Wood in January 1985. The RAF housing can clearly be seen in the background in this supposedly inaccessible and overgrown wood.



Annex G

Extract of a 1994 letter from a correspondent in Canada to Mrs Wooster of Rudloe House.



Annex H

Gate(s) at point C in Leafy Lane opposite Rudloe House in May 1983



Annex I

boxmadhouse

1 of 4

Re: Leafy Lane Wood

B

boxmadhouse@aol.com

Reply

Sun 25/03/2012, 08:28

You
Paul

You have read too much into my words

As stated in our telephone conversation the committee have refused a previous request to cull crows on our land which still stands.

The meeting in April will be closed to only the Leafy Lane Committee.

Bob

-----Original Message-----

From: Paul Turner <wirepuller@hotmail.com>

To: Bob Mullins <boxmadhouse@aol.com>

Sent: Sun, 25 Mar 2012 2:09

Subject: RE: Leafy Lane Wood

Bob,

Thanks for the prompt response.

Your first sentence is interesting. Do you mean that it is or was the **long-term** intention of Leafy Lane Playing Fields Ltd, whose Charity Commission classification is listed as 'environment, conservation and heritage' (amongst others), to cull rooks on your land?

Perhaps I am reading too much into your words? However, I did ask in my 19th April email about which of the 'purposes' under which a Natural England licence is granted ('The prevention of damage or disease' and 'Conserving flora & fauna') would apply in this case. This is a very small rookery so I cannot imagine that either case applies. Assuming I am correct regarding your 'long-term' intention, your committee must have discussed the purpose of this cull. Could you tell me the reason and/or let me have a copy of the appropriate minutes. I would also be interested in attending your April meeting for the rook agenda item only.

Annex I continued

You may be interested in the following items from the BBC (three videos: Dawn and Dusk with Mike Dilger, Dawn Rooks with Simon King and Gathering Rooks with Alan Titchmarsh):

[http://www.bbc.co.uk/nature/life/Rook_\(bird\)](http://www.bbc.co.uk/nature/life/Rook_(bird))

Regards

Paul

To: wirepuller@hotmail.com
Subject: Re: Leafy Lane Wood
From: boxmadhouse@aol.com
Date: Sat, 24 Mar 2012 10:35:44 -0400

Paul

the cull has been stopped in the short term.

The Leafy Lane directors have a meeting in April. where it will be one of the items for discussion

Bob

-----Original Message-----

From: Paul Turner <wirepuller@hotmail.com>
To: Bob Mullins <boxmadhouse@aol.com>
Sent: Sat, 24 Mar 2012 13:38
Subject: FW: Leafy Lane Wood

Bob,

Ref my email of 19th below, do you have any further information?

Regards

Paul

From: wirepuller@hotmail.com
To: boxmadhouse@aol.com
CC: daviro44@hotmail.co.uk
Subject: FW: Leafy Lane Wood
Date: Mon, 19 Mar 2012 19:31:18 +0000

Bob,

There are too many Bobs involved in this email chain!

Annex I continued

Rob Davies has forwarded the email below from the other Bob (crowcull@btinternet.com) to me. Let's call this other 'Bob' Mr Crowcull for the moment.

Mr Crowcull appears to have the impression that he has outline, but not yet specific, permission to cull crows in Leafy Lane Wood. Mr Crowcull doesn't even appear to know what he proposes to cull! There is an old English rhyme which goes:

A crow in a crowd is a rook
A rook on its own is a crow

There was quite a commotion in 2011 when a corvid cull was proposed (I believe by the charity Songbird Survival), across a specified number of English counties, with the supposed intention of protecting songbirds. However, there was no scientific evidence presented and I don't know if the cull actually went ahead. I will do a bit of research on this.

As I may have indicated in our phone call, I am rather concerned that what appears to be a 'rogue' individual can take it upon himself to use a gun to shoot wildlife. It appears, from what you told me, that he does not have the landowner's approval or permission. Even if he did, he would need a licence from Natural England - see the link below (which specifically mentions rooks and crows).

http://www.naturalengland.org.uk/Images/wml-gl06_tcm6-24151.pdf

As he appears not to have permission then I cannot see that he has a licence. In addition, below this 'technical' level is the 'motivation' level - why is he thinking of doing this? You will see from the Natural England website that licences are granted for specific purposes:

<http://www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/generallicences.aspx#a>

The purposes listed are 'The prevention of damage or disease' and 'Conserving flora & fauna'. Do you have any idea what Mr Crowcull's supposed purpose is?

Regards

Paul Turner
29 Springfield Close

01225 810408

From: daviro44@hotmail.co.uk
To: wirepuller@hotmail.com
Subject: FW: Leafy Lane Wood
Date: Mon, 19 Mar 2012 18:19:21 +0000

Annex I continued

Date: Mon, 19 Mar 2012 17:29:18 +0000

From: crowcull@btinternet.com

Subject: Re: Leafy Lane Wood

To: daviro44@hotmail.co.uk

Hi Robert

Thanks for your email. The signs have been taken down as we are not ready to proceed at present, but don't worry as and when we are ready sign will go up with the new dates, we will have a Police cordon tape across all the entrances when the shooting is in progress and a sweep of the woods will be done before we start. So enjoy your dog walking and there is no need to worry.

Kind Regards

Bob

From: Robert Davies <daviro44@hotmail.co.uk>

To: crowcull@btinternet.com

Sent: Monday, 19 March 2012, 14:10

Subject: Leafy Lane Wood

Hello Bob

I regularly walk in the woods in the early evening, could you confirm if the cull is going ahead as I noticed yesterday that both the notices have been removed and not all dog walkers would have seen them?

Regards

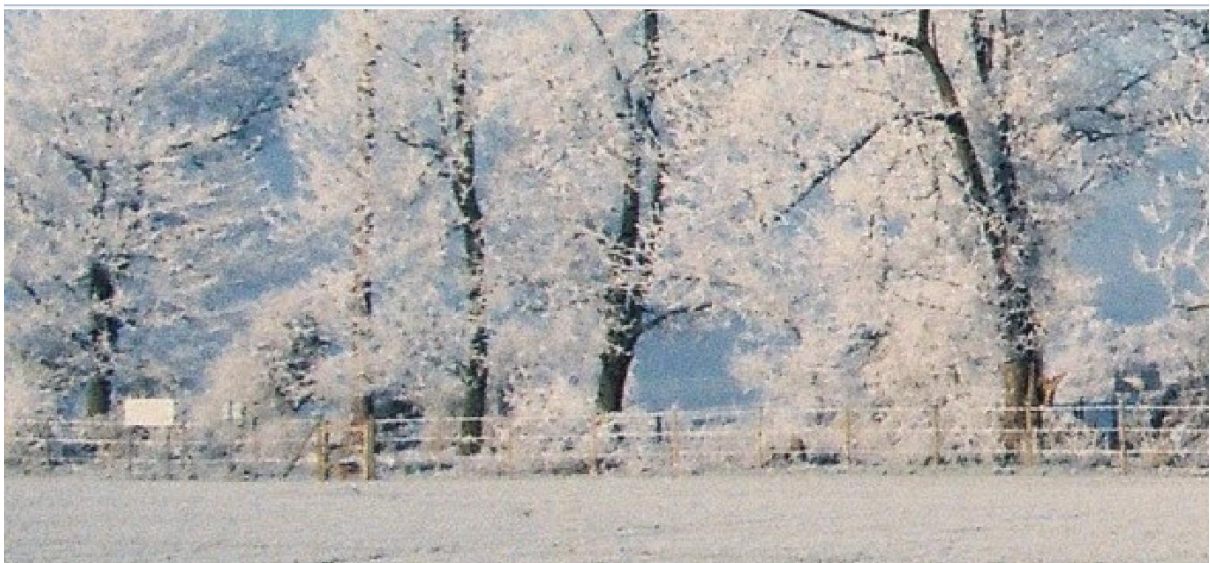
Robert

Annex J

A 'zoom' from a landscape of the RAF playing fields, taken in January 1998, showing the stile (to the right of the signs) between the west end of Leafy Lane Wood and the playing fields. One of the signs said "All dogs must be kept on a lead and only walked around the perimeter of the station sportsfield".



Another 'zoomed' photograph of the same stile at Christmas 1996



Annex K

Stile at point B in Leafy Lane – zoomed part of a photo taken on 13th April 1998. The stile may be seen to the left of and across the road from the telegraph pole.



Another view of the stile at point B in Leafy Lane in summer 1996



Annex L – ‘zoomed’ image from photo taken in July 1998 of stile and notice (“all dogs must be kept on lead ...”) at point A of route A-B adjacent to Boxfields Road. Note that the stile and notice are at centre-left (not the gate and notice at far left).



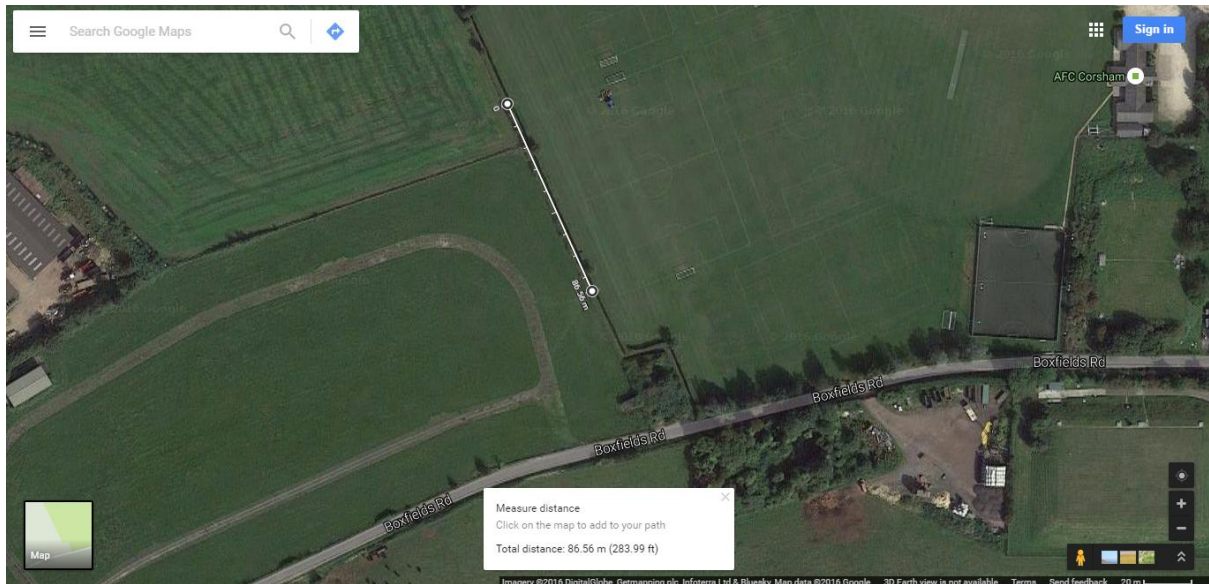
Annex M

MoD sign, one of a number, directing walkers to keep to the perimeter of the playing fields (the playing field part of route A-B is along the western perimeter) – July 1998



Annex N

Map (from Google Maps) showing the distance from the actual western pedestrian entrance (to the playing fields) to the point claimed that programmes sellers pitch their wares (86 metres at least).



Annex O

Photographs of, or taken from, the playing field section of route A-B

1. Christmas 1996, I am on the path but unfortunately the hound has strayed a bit



2. Stepping back from the perimeter path to enable the photo in January 1994



3. View west from the perimeter path in February 1997



4. View south-west from the perimeter path in July 1999



5. Mike and Sue Canham on the playing field section of route A-B in November 1996



6. View west from the playing field section of the A-B route – Christmas 1996



7. View east from playing field section of route A-B in February 1997



8. View north-west along the playing field section of the A-B route in July 1999 after the new fence has been installed but before the hedge is established. The pathway is well-worn.



9. View north-west from playing field A-B route in May 1997. Location may be identified by Scots pine at western end of Leafy Lane Wood.



10. View west from playing field section of A-B route in October 1997.



11. View south-west from playing field section of A-B route to beech wood in White Ennox Lane in February 1997.



12. View west along A-B playing field route in February 1997



13. View south-west on A-B playing field route in February 1997



14. View east from A-B playing field route in February 1997



Annex P

Photographs of routes B-D and C-E

1. Route C-E in March 1997



2. Route B-D in May 1997



3. Route C-E in summer 1999



Annex Q

Photographs of route A-B some of which indicate its width

1. Route A-B on 21st December 1999



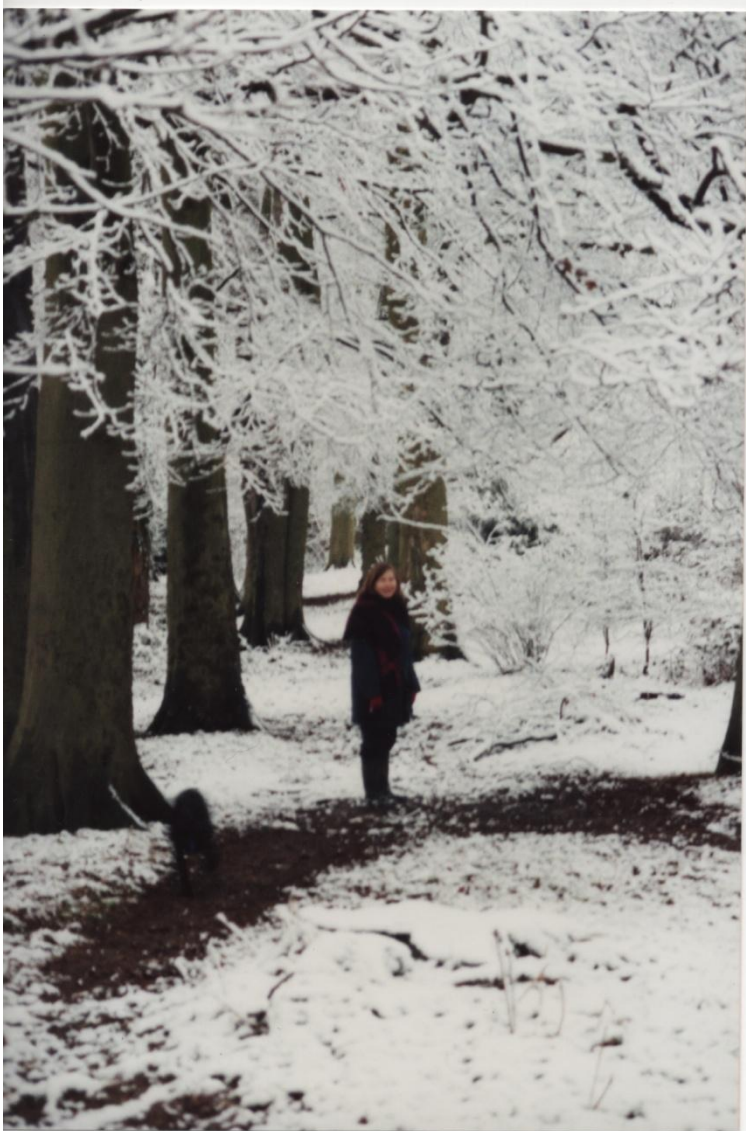
2. Route A-B in September 1996



3. Another view of A-B in September 1996



4. View close to route A-B on Christmas Day 1993



5. Route A-B in October 1998



6. Route A-B in August 1999



REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	15 February 2017
Application Number	15/10682/FUL
Site Address	Marden Farm, Rookery Park, Calne, Wiltshire, SN11 0LH
Proposal	Proposed Development of 56 Residential Dwellings, Open Space, Landscaping, Sustainable Urban Drainage, Vehicular Access & Associated Infrastructure & Engineering Works.
Applicant	Redrow Homes Ltd
Town/Parish Council	CALNE WITHOUT
Electoral Division	CALNE RURAL – Cllr Christine Crisp
Grid Ref	399900 169504
Type of application	Full Planning
Case Officer	Chris Marsh

Reason for the application being considered by Committee

The application has been referred back to Committee due to further delays in the completion of the S106 agreement following the death of one of the original parties. An amended resolution granting a further extension of time for completion of the agreement and issue of planning permission is sought.

Background

The application was originally considered at the Committee meeting of 17 February 2016, whereupon Members voted on the following resolution, subject to the deletion of Condition 6 from the list recommended by Officers:

That authority is delegated to the Area Development Manager to GRANT planning permission, subject to conditions listed below and completion of a S106 legal agreement within six months of the date of the resolution of this Committee.

In the event of failure to complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to REFUSE planning permission for the following reason:-

The application proposal fails to provide and secure the necessary and required Services and infrastructure supporting the proposed residential development including Affordable Housing; Waste; Public Open Spaces; Air Quality Management and is therefore contrary to Policies CP3 CP43 & CP55 of the Wiltshire Core Strategy Adopted January 2015 and Paras 7, 14 & 17 of the National Planning Policy Framework March 2012.

An engrossed copy of the legal agreement was subsequently circulated for signing during the week ending 12 August 2016, however the illness and later death of a third party signatory prevented the agreement's completion. An amended resolution was subsequently passed by Committee at the meeting of 24 August 2016 to allow for the completion of Probate and associated amendments to the agreement, and worded as follows:

That authority is delegated to the Area Development Manager to GRANT planning permission, subject to conditions listed below and completion of a S106 legal agreement within six months of the date of the resolution of this Committee or one month after the completion of Probate, whichever is the later.

In the event of failure to complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to REFUSE planning permission for the following reason:-

The application proposal fails to provide and secure the necessary and required Services and infrastructure supporting the proposed residential development including Affordable Housing; Waste; Public Open Spaces; Air Quality Management and is therefore contrary to Policies CP3 CP43 & CP55 of the Wiltshire Core Strategy Adopted January 2015 and Paras 7, 14 & 17 of the National Planning Policy Framework March 2012.

Although Probate is anticipated to be completed imminently, it has become apparent that due to the passing of time the required additional changes to the agreement to reflect the updated title and interested parties will take longer than initially anticipated. In light of these changes, it is not considered feasible that the agreement will be signed prior to either of the deadlines set out in the resolution of 24 August 2016.

In order to guard against the risk of having an out-of-date or legally unsound agreement to secure necessary planning obligations in respect of the development, a further extension of time is sought as an amendment to the resolution. It is considered by officers that this represents a reasonable request in the circumstances, which are exceptional. Given the applicant's intended dovetailing of housebuilding between this site and the larger scheme of 125 dwellings directly adjacent, it is not considered likely that this will impact significantly on housing delivery.

The earlier resolution is therefore referred back to Committee with a recommendation to authorise an extension of time for a further six months from the original resolved deadline, in order to complete the current agreement and issue planning permission. Substantive planning obligations and conditions remain unchanged.

RECOMMENDATION

That authority is delegated to the Area Development Manager to GRANT planning permission, subject to conditions listed below and completion of a S106 legal agreement on or before 24 August 2017.

In the event of failure to complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to REFUSE planning permission for the following reason:-

The application proposal fails to provide and secure the necessary and required Services and infrastructure supporting the proposed residential development including Affordable Housing; Waste; Public Open Spaces; Air Quality Management and is therefore contrary to Policies CP3 & CP43 of the Wiltshire Core Strategy adopted January 2015

CONDITIONS AND INFORMATIVES:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

D29 16 P4 Rev A - Tree Protection Plan
Received 11 November 2015
MARD-15-04-01 rev A - Site Location Plan
MARD-15-04-02 rev B - Planning Layout
MARD-15-04-03 rev C - Proposed Materials Layout
MARD-15-04-04 rev B - Enclosures Layout
MARD-15-04-05 rev B - Storey Heights Layout
MARD-15-04-06 rev B - Adoption Layout
394-CH-010 rev D - Drainage Strategy
RED20064-11B Sheet 1 - Landscape Proposals rev B
RED20064-11B Sheet 2 - Landscape Proposals rev B
RED20064-11B Sheet 3 - Landscape Proposals rev B
RED20064-11B Sheet 4 - Landscape Proposals rev B
RED20064-11B Sheet 5 - Landscape Proposals rev B

Received 25 January 2016

House Types Booklet rev C

Received 26 January 2016

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 4 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the buildings or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 5 No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the roads are laid out and constructed in a satisfactory manner.

- 6 No part of the development shall be first occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the garages hereby permitted shall not be converted to habitable accommodation.

REASON: To secure the retention of adequate parking provision, in the interests of highway safety.

- 8 No construction works shall take place anywhere on the site outside the hours of 0730 and 1800 on Mondays-Fridays and 0800 and 1300 on Saturdays. Works shall not take place at any time on Sundays and Bank or Public Holidays.

No burning of waste or other materials shall take place anywhere on the site at any time.

REASON: To ensure the retention of an environment free from intrusive levels of noise, activity and pollution in the interests of the amenity of the area.

- 9 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details and information regarding existing ordinary watercourses within the site (as well as pollution protection to the proposed attenuation pond), has been submitted to and approved in writing by the Local Planning Authority.

The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

- 10 No development shall commence on site until a scheme for the discharge of foul water from the site, including full details of pumping station/finishes/fencing/prevention measure to prevent pollution of proposed adjacent attenuation pond and other SUDS features, has been submitted to and approved in writing by the Local Planning Authority.

The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of

flooding or pose a risk to public health or the environment.

- 11 No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwater and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a

timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report (referred to in PPS23 as a validation report) must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage (ii) above).

The verification report and signed statement should be submitted to and approved in writing of the Local Planning Authority.

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely

without unacceptable risks to workers, neighbours and other offsite receptors.

- 12 No development shall commence until a Landscape, Ecological and Arboricultural Management Plan (LEAMP) has been submitted to and approved in writing by the Local Planning Authority. The submitted LEAMP shall have particular regard to the measures secured under Condition 21 of the permission N/12/04038/FUL and the addendum to the Ecological Impact Assessment (dated 20th October, 2015) so as to support and enhance the ecological mitigation measures previously agreed.

All capital works shall be carried out to the approved timescales and all areas identified in the LEAMMP shall be managed in accordance with the approved prescriptions in perpetuity. All monitoring reports shall be submitted in writing to the local planning authority.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure adequate protection, mitigation and compensation for protected species, priority species and habitats.

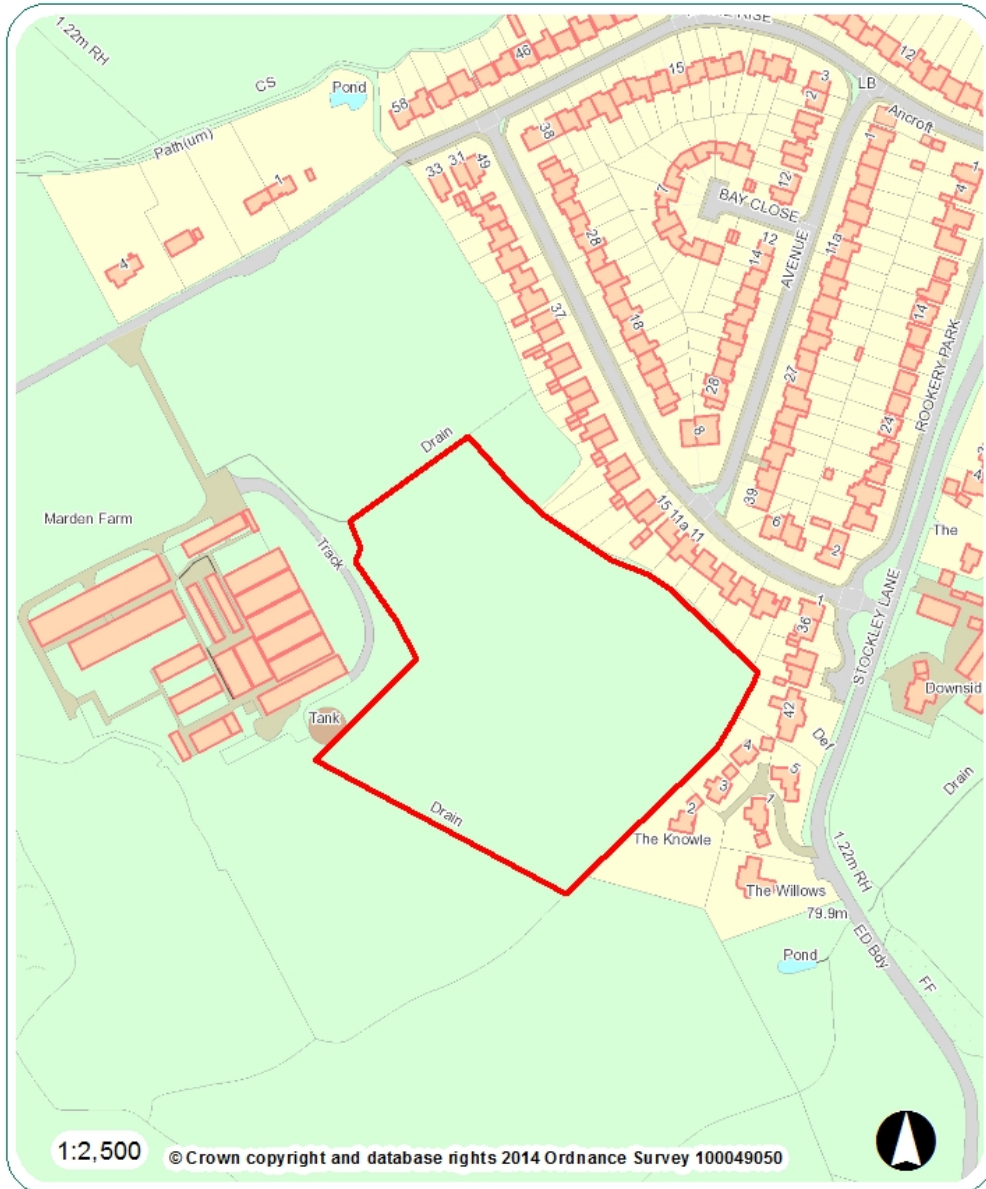
- 13 No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- h) measures for the protection of the natural environment; and
- i) hours of construction, including deliveries

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

- 14 **INFORMATIVE TO APPLICANT:**
Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
- 15 **INFORMATIVE TO APPLICANT:**
This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].
- 16 **INFORMATIVE TO APPLICANT:**
The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.
- 17 **INFORMATIVE TO APPLICANT:**
The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.
- If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.
- 18 **INFORMATIVE TO APPLICANT:**
The applicant should note that any works on, over or near (within 8m of top of bank) an ordinary water course will require a separate formal Land Drainage Consent application and approval, as will any new proposed connection.
- 19 **INFORMATIVE TO APPLICANT:**
Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.
- 20 **INFORMATIVE TO APPLICANT:**
The applicant is advised that the development hereby approved represents chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. A separate Community Infrastructure Levy Liability Notice will be issued by the Local Planning Authority. Should you require further information with regards to CIL please refer to the Council's Website
www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	03 February 2017
Application Number	16/08525/FUL & 16/09038/LBC
Site Address	Stable Block Thistle Barn Ashley Box Wiltshire SN13 8AJ
Proposal	Works to and change of use of stable block to 2 holiday lets
Applicant	Mr P Waters
Town/Parish Council	BOX
Ward	BOX AND COLERNE – Cllr Shelia Parker
Grid Ref	381370 168467
Type of application	Full Planning
Case Officer	Victoria Davis

Reason for the application being considered by Committee

The application has been called into committee by the Local Member, Cllr Shelia Parker in order to consider the scale of development, relationship with adjoining properties and the highways impact.

1. Purpose of Report

To consider the above application and to recommend that Planning Permission and Listed Building Consent is GRANTED subject to planning conditions.

2. Report Summary

11 Letters of objection received from 6 Neighbours; The Parish Council Objects to the proposal.

The main issues are:

- Principle of development

- Impact on the character and appearance of the surrounding area including Area of Outstanding Natural Beauty
- Green Belt Policy
- Residential amenity
- Parking and access

3. Site Description

This application relates to Thistle Barn which is a grade II listed Barn previously converted to a residential dwelling. The site falls within the small settlement of Ashley which does not feature a settlement framework boundary. The site is within Ashley Conservation Area, the Cotswold Area of Outstanding Natural Beauty (AONB) and the Western Wiltshire Green Belt. A private access track leads from the road to a large parking area to the west of Thistle Barn. The track continues to the east to serve the neighbouring property, Bre. Immediately to the east of the Thistle Barn is a small courtyard area and stable block which is currently used for domestic storage. To the north of the property is a large private garden.

4. Relevant Planning History

15/08877/FUL Change of Use and Conversion of Stable Block to Two Holiday Lets
15/08937/LBC Change of Use and Conversion of Stable Block to Two Holiday Lets

Both applications were WITHDRAWN after concerns were raised in relation to the overall scale and design.

5. The Proposal

The application seeks planning permission and listed building consent for the conversion of the former stable block and into two self contained holiday lets. The building which is the subject of the application was most recently used as domestic storage ancillary to Thistle Barn. These current applications follow two previous applications which proposed converting and extending the existing stable building to provide two, two storey holiday lets. These applications were withdrawn after concerns were raised in relation to the overall scale and design.

This latest proposal initially sought permission to replace the roof of the stable block however it was immediately established that there was no justification for raising the height of the roof, especially given the Green Belt location. This point was raised with the agent and revised plans were submitted. The revised proposal shows that the two self contained, one bed-roomed holiday lets would be created wholly within the existing built structure of the stable building and that the existing roof and roof-lights would be retained. It is intended to retain all of the existing door and window openings and to refurbish the frames where necessary. One new window will be fitted to the front (west) elevation and the existing window will be enlarged to match. It is proposed to finish the front (west) elevation in off white self coloured render. Access to the site utilises the existing private access track which

currently serves Thistle Barn and Bre. Three parking spaces are to be provided within an existing hard standing area to the south and west of the stable building.

6. Planning Policy

Wiltshire Core Strategy:

CP 1 Settlement Strategy
CP 2 Delivery Strategy
CP11 The Spatial Strategy: Corsham Community Area
CP39 Tourist Development
CP48 Supporting Rural Life
CP51 Landscape
CP57 Ensuring High Quality Design and Place Shaping
CP 58 Ensuring the Conservation of the Historic Environment
CP 61 Transport and New Development
CP64 Demand Management

National Planning Policy Framework (NPPF):

Achieving sustainable development – Core Planning Principles, para 17

Chapter 3 Supporting a Prosperous Rural Economy, para 28
Chapter 7 Requiring Good Design, para 64
Chapter 9 Protecting Green Belt Land, para 89 & 90
Chapter 11 Conserving and Enhancing the Natural Environment, para 115
Chapter 12 Conserving and Enhancing the Historic Environment, para 128, 129, 131, 132 & 134

Cotswold AONB Management Plan 2013-2018

7. Consultations

Box Parish Council: Objection - comments are summarised below -

- Increase in height, bulk and mass would harm the openness of the Green Belt
- Highways concerns in relation to visibility and increased vehicle movements
- Queried the alleged business use at the site
- Questioned feasibility of conversion – foundations
- Suggested that if permission was granted conditions should be applied to limit the occupancy to holiday let only

Highways: No Objection

The officer initially requested a parking plan to demonstrate the on-site parking for both the proposed holiday lets and the existing property. A revised plan was submitted and no objection is raised to the revised layout.

Conservation Officer: Supportive of the proposal in principle. Comments are summarised below -

- The existing building is of little architectural merit and currently has a negative impact on the setting of several surrounding heritage assets.
- There is no justification for increasing the roof height and therefore increasing the overall visual impact this building has on the setting of the nearby listed buildings.
- The existing roof height and pitch should be retained. An aesthetic slate or tiled roof finish is an option at this shallow pitch, alternatively a replacement 'low key' metal roof could also be considered.
- The use of render to the external walls is not considered any worse than the existing finish

The officer is satisfied that, subject to the existing roof pitch being retained, the proposal would not cause any harm to the significance of the curtilage listed building. The development would have a neutral impact on the setting of the principal listed building and the character and appearance of the surrounding conservation area would be preserved.

8. Publicity

The application was advertised by site notice and neighbour consultation. A second neighbour consultation was carried out (on receipt of revised plans, parking plan and structural survey) allowing 14 days for further comments.

11 letters of objection were received overall from 6 neighbours. The issues raised are summarised below-

- Concern relating to whether the existing building is capable of conversion – query relating to the suitability of the foundations
- Resulting building is inappropriate and contrary to the Core Strategy for development within AONB & Green Belt
- Access, traffic and parking issues – highways safety particularly affecting Bre and Ashley Leigh
- Plans are unclear, lack of dimensions, height of building is unclear
- Concern relating to future commercial use of the property and site
- Reference made to ongoing issue with a number of vehicles being parked at the property and an alleged business use
- Drainage concerns relating to capacity of existing foul and surface water systems

Dorset and Wiltshire Fire and Rescue: Commented in relation to building regulations, building access, water supply and sprinkler systems. Full comments are available online.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require Local Planning Authorities in determining planning applications affecting a Listed Building or Conservation Area to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

Principle of Development

Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the county and identifies four tiers of settlement – Principal Settlements, Market Towns, Local Service Centres, and Large and Small Villages. Only the Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined 'limits of development'/settlement boundaries.

Core Policy 2 of the WCS sets out the delivery strategy for Council and states within the 'limits of development', as defined on the policies map, there is a presumption in favour of sustainable development. The policy goes on to set out that other than in circumstances as permitted by other policies within this plan, identified in paragraph 4.25, development will not be permitted outside the limits of development.

Paragraph 4.25 sets out 'exception policies' which seek to respond to local circumstance and national policy. These exception policies are as follows

- Additional employment land (Core Policy 34)
- Military establishments (Core Policy 37)
- Development related to tourism (Core Policies 39 and 40)
- Rural exception sites (Core Policy 44)
- Specialist accommodation provision (Core Policies 46 and 47)
- Supporting rural life (Core Policy 48)

The proposed site in Ashley is located outside of the defined 'limits of development' however, and it is therefore considered that the proposed development should be considered under Core Policies 39 and 48, two of the exceptions policies listed in paragraph 4.25.

Core Policy 48 relates to supporting rural life and sets out that proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses will be supported where they satisfy the following criteria:

- i. The building(s) is/are structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building.*

A basic structural survey has been provided which sets out that the building is structurally sound and that its conversion to a usable property would be feasible. The report concludes

that the structure is in good condition and can be converted without significant modification. Some neighbours have raised concern relating to lack of foundations supporting part of the wall along the north-eastern boundary. The councils building control officer has reviewed the structural report in conjunction with various internal and external photographs of the building and was satisfied with its conclusion. The officer commented as follows -

“The fact there appears to be little or no foundation would not mean the conversion cannot take place ; most barns that we deal with do not have modern up to standard foundations ; in such cases we look for excessive movement and cracking which this barn doesn` t appear to have”

On the basis that minimal external alterations are necessary to facilitate the conversion it is accepted that the character of the original building would be preserved.

ii. The use would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas.

The revised application is for the change of the use of an existing building, with minimal external alterations proposed. The application is therefore not considered to have any impacts on the character or appearance of the surrounding area. There are no increased impacts on residential amenity resulting from the conversion of the building. The application proposes two, small one bedroom holiday lets. The anticipated vehicle movements associated with their occupation are unlikely to cause a significant level of disturbance to nearby residents.

iii. The building can be served by adequate access and infrastructure.

The site is accessed directly from the main road through Ashley. As an existing building the surface water arrangements are unchanged and the agent submits that the foul drainage will connect to an existing septic tank, a condition requiring submission of details in this respect is proposed. Adequate car parking provision for the holiday let can be accommodated within the site which meets the requirements of the council’s highways officer.

iv. The site has reasonable access to local services.

The site is situated along a main road through Ashley and is well connected to surrounding settlements including the large village of Box and the Market Town of Corsham. Rail and bus links are available to wider destinations from these settlements. The site is also located within walking distance of a public house and filling station with convenience store.

v. The conversion or re-use of a heritage asset would lead to its long term safeguarding.

The building itself is curtilage listed through its association with Grade II listed Thistle Barn. The external alterations are considered to improve the overall appearance of the building

which would have a positive impact on the setting of the listed building and conservation area. It is considered that finding an appropriate use for this building would contribute to its long term safeguarding which in turn would protect the contribution it makes to the character of the surrounding conservation area and setting of Thistle Barn.

It is considered that the development does satisfy the criteria of Core Policy 48.

Core Policy 39 is also relevant in this case as it specifically relates to new tourist development. This policy seeks to focus tourism development of an appropriate scale within Principal Settlements and Market Towns. Outside the Principal Settlements and Market Towns, the policy sets out that tourist and visitor facilities should be located in or close to Local Service Centres or Large and Small Villages. This policy also sets out that in exceptional cases development may be supported away from these locations where it can be demonstrated that all of the following criteria are met:

- i. There is evidence that the facilities are in conjunction with a particular countryside attraction.
- ii. No suitable alternative existing buildings or sites exist which are available for reuse.
- iii. The scale, design and use of the proposal is compatible with its wider landscape setting and would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas.
- iv. The building is served by adequate access and infrastructure.
- v. The site has reasonable access to local services and a local employment base.

The application relates to the conversion of an existing building for two small one bed-roomed holiday lets. The site is situated just off the main road through Ashley which is well connected via the A4 to nearby settlements including the Box, Corsham and the City of Bath which is an established draw for visitors to the area. Rail and bus links are available to wider destinations from these settlements. The site is also located close to the village public house and filling station with convenience store. The proposed external changes would improve the appearance of the building overall meaning the proposed development is considered compatible with its setting. As has already been discussed in the sections above, the location is considered to have adequate parking, infrastructure and access to local services. The development is therefore considered to meet the requirements of Core Policy 39.

Development within the Green Belt

The main consideration would be whether the proposed development would be inappropriate development in the greenbelt for the purposes of the NPPF. Paragraph's 89 and 90 of the NPPF list forms of development that would not be considered inappropriate in the Greenbelt and this includes the reuse of existing buildings providing they are of permanent and substantial construction. It is considered that the development as proposed does fall within this category and so would not be considered inappropriate. It is also important to consider whether the development would have any adverse effect on the openness of the Green Belt.

In this case, the revised plans show that the holiday accommodation would be provided within the existing plan area of the building and that the existing roof would be retained. With no extension of the existing building being proposed there would be no impact on the openness of the greenbelt as a result of the development.

Impact on significance of curtilage listed building, setting of Thistle Barn and Conservation Area

The Conservation Officer has been consulted in order to assess whether the proposal would result in any harm to the significance of the curtilage listed building or the setting of Thistle Barn and surrounding conservation area. In relation to the original plans, the officer commented that there was no justification for raising the roof of the building as was initially proposed. The officer confirmed that subject to the existing roof pitch being retained, the proposal would not harm the significance of the stable block or the setting of Thistle Barn. In this case revised proposal shows that the existing roof and roof-lights would be retained. The existing doors and windows will be retained and refurbished where necessary. There is one new window proposed to the front elevation (facing Thistle Barn) along with the enlargement of one existing window in the same elevation. This elevation will also be finished in render. The courtyard area between the stable and Thistle Barn is already used for parking vehicles and so the appearance of this area would be unchanged by the proposed change of use. These minor external alterations will have no significant effect on the appearance of the stable block overall. It is not considered that the proposal would harm the significance of the curtilage listed building or the setting of the principally listed Thistle Barn. The impact on the surrounding conservation area is neutral and so its character and appearance would be preserved.

Area of Outstanding Natural Beauty

The site is also located within the Cotswold Area of Outstanding Natural Beauty Core Policy 51 aims to protect the beauty of the wider landscape. The Cotswold AONB Management Plan acknowledges that tourism is an important element of the economy of the AONB it also explains that conversions of traditional buildings for alternative uses need to be carefully appraised to ensure their character and setting are protected. In this case, the the external appearance of the building and its curtilage would be largely unchanged as a result of the modest alterations and so the proposal would have a negligible visual impact on the wider landscape.

Highways

The development would result in the creation of two holiday lets. The highways officer initially requested a plan to demonstrate the parking that would be made available for the holiday lets as well as the parking provision for the existing property, Thistle Barn. A revised site plan was submitted which demonstrated the proposed parking arrangements. The Officer provided the following final comments -

Having seen the updated parking allocation information submitted for the above proposal of converting ancillary outbuilding storage space into holiday lets I am satisfied that there is sufficient space within the site for parking allocated to the main dwelling and for provision of parking spaces for the proposed two units for holiday let conversion.

The amount of traffic created by the proposal will not have a significant impact on the highway and provided the units remain ancillary to Thistle Barn I can raise no highway objection.

As a separate issue there is an ongoing dispute between the occupant of Thistle Barn and some of the neighbouring residents in relation to an alleged business operation being carried out at the property. Several of the neighbour's letters referred to this and explained that a number of vehicles, in excess of what would be expected for domestic purposes, were regularly parked at the property. The letters explained that the resultant increase in vehicle movements has led to ongoing highways safety issues in the area. It is understood that this complaint is being investigated by the Council's enforcement officers. The alleged business use at Thistle Barn is not a material consideration that has a bearing on this current application which must, under national planning legislation, be considered on its own merits.

Impact on residential amenity

As the building itself would not be extended and no additional windows and doors are proposed in elevations facing the neighbouring properties there would be no additional impacts in terms of overlooking, overshadowing, loss of light or overbearing appearance. The vehicular access into the site is existing and currently serves Thistle Barn and Bre. The anticipated increase in vehicle movements that would be associated with the two holiday lets would be unlikely to cause a significant level of disturbance to any nearby residents.

Ecology

It was confirmed by the Ecology Officer that a bat survey would not be required in this case.

10. Conclusion

The proposal is considered to be acceptable in principle and design. The location is considered appropriate for the conversion of an existing rural building for the purpose of providing tourist accommodation. The proposal is not considered to be detrimental to the openness of the green belt falling within the identified development which is not considered inappropriate in the green belt; or to the rural character or natural beauty of the wider landscape. There would be no harm to the significance of the curtilage listed building or other nearby heritage assets and the character and appearance of the surrounding conservation area will be preserved. It will not cause harm to the amenities currently enjoyed by the occupants of the residential properties nearby. The proposal is therefore considered

to comply with Core Policies 1, 2, 39, 48, 51, 57 & 58 of the WCS as well as sections 3, 7, 9, 11 & 12 of the NPPF.

The Stable Block at Thistle Barn is a curtilage listed building which it is desirable to preserve, for its contribution to the significance and the setting of the principle listed building. The alterations will preserve the special interest of Thistle Barn, the listed building and its setting, in accordance with S.16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraph 17(10) & Section 12 of the National Planning Policy Framework.

11. Recommendation

Planning Permission be GRANTED subject to conditions;

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Existing Stable Plan 2276/2, Existing Elevations 2293/3 and Proposed Ground Floor 2293/4 rev. A (all received 1 September 2016), Proposed Rear (East) Elevation 2276/6 rev.D, Proposed End Elevations 2293/7 rev.C and Proposed Front (West) Elevation 2276/9 rev.E (all received 8 November 2016) and Location and Block Plan 2293/1 rev.B (received 6th December 2016)

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall commence on site until details of the works for the disposal of sewerage including details of the existing septic tank connection have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first occupied until the approved sewerage and septic tank details have been fully implemented in accordance with the approved plans.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or

the environment.

- 4 Notwithstanding Class C3 of the Schedule to the Town and Country (Use Classes) Order 1987 (as amended)(or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification), the accommodation hereby permitted shall be used to provide holiday accommodation only, which shall not be occupied as permanent, unrestricted accommodation or as a primary place of residence. An up to date register of names and main home addresses of all occupiers shall be maintained and shall be made available at all reasonable times to the Local Planning Authority.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

- 5 INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

- 6 INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

- 7 INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

- 8 INFORMATIVE TO APPLICANT:

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in

question.

9 INFORMATIVE TO APPLICANT:

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website
[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructur
elevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructur/elevy).

12. Recommendation

Listed Building Consent be GRANTED subject to conditions;

- 1 The works for which Listed Building Consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The works hereby permitted shall be carried out in accordance with the following approved plans:

Existing Stable Plan 2276/2, Existing Elevations 2293/3 and Proposed Ground Floor 2293/4 rev. A (all received 1 September 2016), Proposed Rear (East)Elevation 2276/6 rev.D, Proposed End Elevations 2293/7 rev.C and Proposed Front (West) Elevation 2276/9 rev.E (all received 8 November 2016) and Location and Block Plan 2293/1 rev.B (received 6th December 2016)

REASON: For the avoidance of doubt and in the interests of proper planning.

3 Notwithstanding the approved drawings, no works shall commence until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- (1) Large scale details of all external joinery (1:5 elevation, 1:2 section) including vertical and horizontal cross-sections through openings to show the positions of joinery within openings, depth of reveal, heads, sills and lintels;
- (2) Full details of external flues, background and mechanical ventilation, soil/vent pipes and their exits to the open air;
- (3) A full schedule and specification of repairs including:
- (4) a structural engineer's report setting out the nature of, and suggested remedial work to, structural defects;
- (5) Full details of external decoration to render, joinery and metalwork; and
- (6) Full details and samples of external materials.

The works shall be carried out in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of preserving the character and appearance of the listed building and its setting.

4 No render shall be applied to any building or walls on site until a sample panel of the render to be used on the external walls not less than 1 metre square, has been made available on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: In the interests of visual amenity and the character and appearance of the listed building and its setting.

5 INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

6 INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

7 INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

8 INFORMATIVE TO APPLICANT:

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

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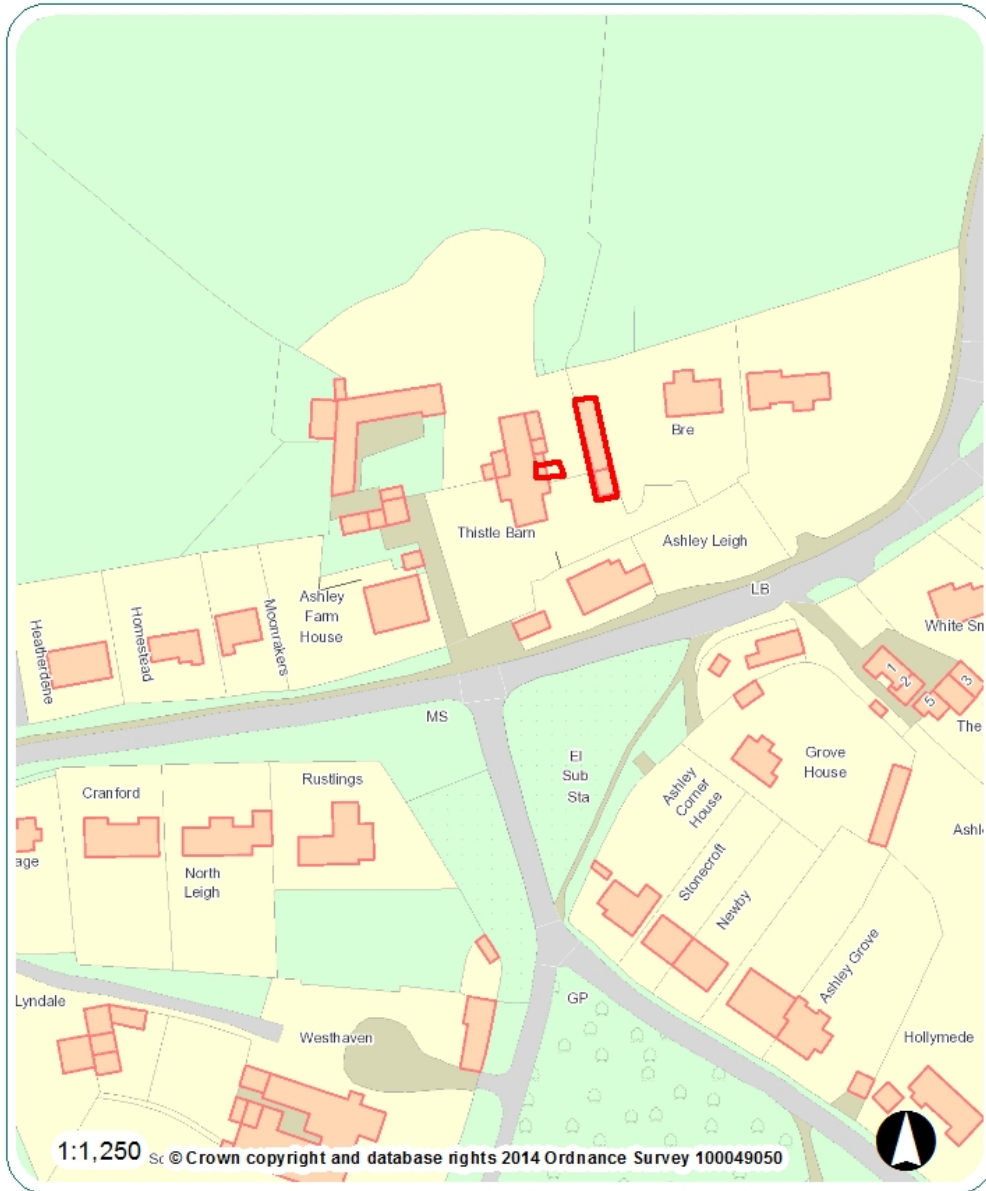
Stable Block

Thistle Barn

Ashley

Box

Wiltshire SN13 8AJ



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	4th January 2017
Application Number	16/09353/FUL
Site Address	London Road Streetworks, London Road, Box, Corsham SN13 8LU
Proposal	Proposed 4G equipment installation
Applicant	EE Ltd and Hutchinson 3G UK Ltd
Town/Parish Council	Box Parish
Ward	Box and Colerne
Grid Ref	
Type of application	Full Planning
Case Officer	Charmian Burkey

Reason for the application being considered by Committee

The application has been called into committee by the Cllr Sheila Parker, in order to consider the visual impact; Impact on neighbouring properties; design and car parking.

1. Purpose of Report

To consider the above application and to recommend that planning permission is GRANTED.

2. Main Issues

The main issues are:

- Principle of development
- Impact upon the listed building and its setting.
- Impact on AONB and Green Belt
- Impact on the character and appearance of the surrounding conservation area.
- Impact on highways and pedestrian safety.
- Impact on living conditions.

3. Site Description

The application has been amended since original submission so that rather than being built on part of the layby it will be built just to the south on the pavement. The pavement is widest at this point.

Just to the south is the bridge for the A4 which is Grade II listed. The nearby Box Tunnel is Grade II * listed.

The application site lies within the Bath Green Belt and Cotswolds AONB, but falls within the built up area of Box with development of varying forms in the vicinity. There is mast in the woods above Box Tunnel, which has been there since the 1970s.

4. Relevant Planning History

N/11/03984/FUL & N/12/02928/LBC – 8m high telecommunications mast with equipment cabinet - permission.

5. The Proposal

The proposal seeks planning permission for a 12m high telegraph pole style mast on the pavement just to the north of the Grade II listed bridge. The proposal also includes 4 cabinets 2 of approx 1.5m in height and 2 of approx 0.9m . The proposal has been moved from the layby south to just on the footpath at its widest part. It will be approx 6m from an approx 7.7m high telegraph pole and lighting column, with the cabinet in between.

6. Planning Policy

Wiltshire Core Strategy:

CP51 Landscape

CP57 Ensuring High Quality Design and Place Shaping

CP58 Ensuring the Conservation of the Historic Environment

National Planning Policy Framework (NPPF):

Achieving sustainable development – Core Planning Principles

Chapter 7 Requiring Good Design

Chapter 9 Green Belts

Chapter 11 Conserving and enhancing the natural environment

Chapter 12 Conserving and enhancing the historic environment

7. Consultations

Box Parish Council - Strong objections, stating that this would impact on the adjacent listed A4 railway bridge. They query the land ownership.

Highways - objected to the proposal when it was in the layby, but now the scheme has been shifted toward the bridge and will now involve the building up of the kerb for the first four metres of the public highway. This amended plan allows for the continued parking of cars toward the junction with The Wharf and protects the equipment by inclusion of kerbs.

Therefore, no highway objection can be raised to the proposal as outside of the construction phase the impact on the public highway cannot be seen as severe.

Heritage England has not yet replied.

Conservation Officer - The proposals are to install a 12m high telegraph pole with antennae at the top and a dish towards the top of the pole, on the grade II list London Road bridge on the edge of Box opposite the Grade II* listed Box Tunnel west portal. In addition to this pole, four cabinets and eight concrete bollards will be installed. The pole and cabinets require a 'new root foundation' but no details of this have been supplied. The site is in an AONB, outside but close to the conservation area.

The location where this equipment is to be installed is on the main road leading down from Corsham to Box. There is an existing 8m high telegraph pole and a 9m lamppost situated adjacent to the proposed site and these structures interfere with the view when approaching Box and the conservation area at its core. The height of the new pole and cumulative impact of this additional equipment would add considerably to the harm already caused by visual clutter of the existing equipment. The 12m pole will be visible from further away, particularly because of the bulk added by the dish which is at about 9.5m high. The cabinets and bollards will bring the visual splay of the road in by nearly 2m, further detracting from the setting of the heritage assets and Box itself.

The root foundations have not been detailed but it is suspected that the clue is in the name. As these structures are to be installed on a grade II listed bridge we would expect to see detailed sections of the proposed root foundation and investigations carried out prior to any permission being granted to demonstrate that the foundations will not impact on any historic material. This does not appear to have been done.

Whilst I understand that this equipment may provide a better mobile network and therefore be a public benefit, I feel that the scale, design and quantity of structures proposed, the cumulative impact and the lack of information as to how this will be installed, is harmful to the character of the area and setting of heritage assets. The works would be contrary to section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990, paragraphs 131, 132 and 134 of the NPPF, the BS7913, Historic England's Planning Practice Advice notes 2 & 3, as well CP 57 & 58 of the Wiltshire Core Strategy. I cannot support this application.

8. Publicity

The application was advertised by way of a site notice and neighbour notification.

59 letters of objection received raising the following:

- Safety for pedestrians.
- Impact on listed buildings, heritage assets and their setting.
- Obtrusive in street scene and impact on conservation area and AONB.
- Impact on Health as there is insufficient research.
- The alternative is a cable into Box Tunnel.
- The proposal is for commuters not village inhabitants.
- Impact on viewing platform for Box Tunnel.
- Street clutter.

9. Planning Considerations

The need for development is not a material planning consideration. However, the applicant has confirmed that this is a joint project between EE and the Home Office to provide essential coverage through Box Tunnel for emergency cover in particular. There are no available masts in this area that could be shared to achieve the required coverage. Suggestions about using cables to achieve the coverage have been refuted on the basis that Network Rail need to give their consent, which is not forthcoming.

Paragraph 132 of the NPPF states that when considering the impact of the proposed development on the significance of a heritage asset, great weight should be given to its conservation. The more important the asset the greater the weight shall be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Under paragraphs 133 & 134 any harm to the significance of a heritage asset needs to be outweighed by the public benefits.

Impact on the character and appearance of conservation area and effect on Listed Buildings

Development within the conservation area should protect, conserve and where possible, enhance the historic environment. The Box Conservation Area is, in itself, a Heritage Asset and the mast will affect its character. Whilst this part of the Conservation Area is more modern in character than the heart of the conservation area which contains more listed and traditional buildings, immediately adjacent to the site is the Grade II listed bridge. The Conservation officer has stated that the development will be harmful to the heritage assets in the locality and affect their setting. However, it is not true that the mast will be on the grade II listed bridge, as the position on the bridge was why the previous consents 11/03983/FUL and 12/02981/LBC were not implemented. The specific degree of harm has not been stipulated, but it is understood that the Council's Conservation Officer regards it as less than substantial and, therefore, whilst considerable weight is given to that harm, the balancing act set out in para 134 of the NPPF can be undertaken

The main purpose of the mast is to provide essential emergency cover in Box Tunnel, where currently there is no coverage. This cannot be provided in any other way. There is therefore considerable public benefit in allowing this application. Permission has been granted in 2012 for a smaller (8m) mast within metres of this site, but that was actually on the Grade II listed bridge and arguably more in the sight line from the Grade II* Listed Tunnel mouth. Although this proposed mast is higher at 12m, it is off the bridge and set in the context of other street furniture of 8-9m high telegraph poles and street lights. Overall, it is considered that the public benefit does outweigh the harm.

Impact on highway safety and parking

Now that the mast has been moved away from the lay-by so that any parking and pedestrian access is not compromised. Highways have removed their original objections.

Impact on AONB and Green Belt

The site is located within the AONB and Green Belt and is sited on a relatively open area of road on the A4 near the junction with the Wharf. There are trees and vegetation in the vicinity mainly on the south side of the road with some along the cutting towards the listed tunnel to the north.

Advice in section 9 of the NPPF seeks to maintain the openness of the Green Belt. Policy CP51 and guidance contained in section 11 of the NPPF refers to the need to protect the character and quality of the landscape. The mast would not affect the openness of the Green Belt. However, although it would be seen from the wider landscape context, it must be noted that this is against a backdrop of residential development and also nearby telegraph and lighting poles of approx 8m and 9m respectively. The cabinets could be coloured to fit in with their environment to minimise their impact, but in any case at such low heights are not considered to be intrusive.

So, whilst it is acknowledged that the AONB and Green Belt designations make this a sensitive location, it is clear that the existing street furniture is already a characteristic of this

area. When viewed on the ground walking across the bridge and looking to the Tunnel to the north, the mast will not be in view and if a view away from the Tunnel is taken towards Box Wharf a modern 3 storey development is seen with a terrace of elevated houses.

Overall it is considered that in landscape terms the mast is acceptable and in accordance with Policy CP51 and guidance in Section 7, 9, 11 and 12 of the NPPF.

Other Matters

Health matters surrounding masts are still a concern in the wider public, but this is not a planning matter.

Conclusion

The proposal is considered to be compliant with policies CP51, CP57 and CP58 of the Wiltshire Core Strategy and guidance in the NPPF particularly paras 132 and 134.

10. Recommendation

The recommendation is for permission subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Notwithstanding the details submitted, prior to the commencement of the development/works, details of the colour and finish of the mast and associated equipment shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and maintained thereafter.

REASON: In the interests of the character and appearance of the area and the adjacent Listed Building.

- 3 The mast and all equipment shall be removed from the site within 3 months of it ceasing to be required for telecommunications purposes.

REASON: In the interests of visual amenity and the adjacent Listed Building.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans: 75436/1451357-04; 01; 02; 03;05; 06; 07; 08; 09 received 8th December 2016.

REASON: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

INFORMATIVE TO APPLICANT:

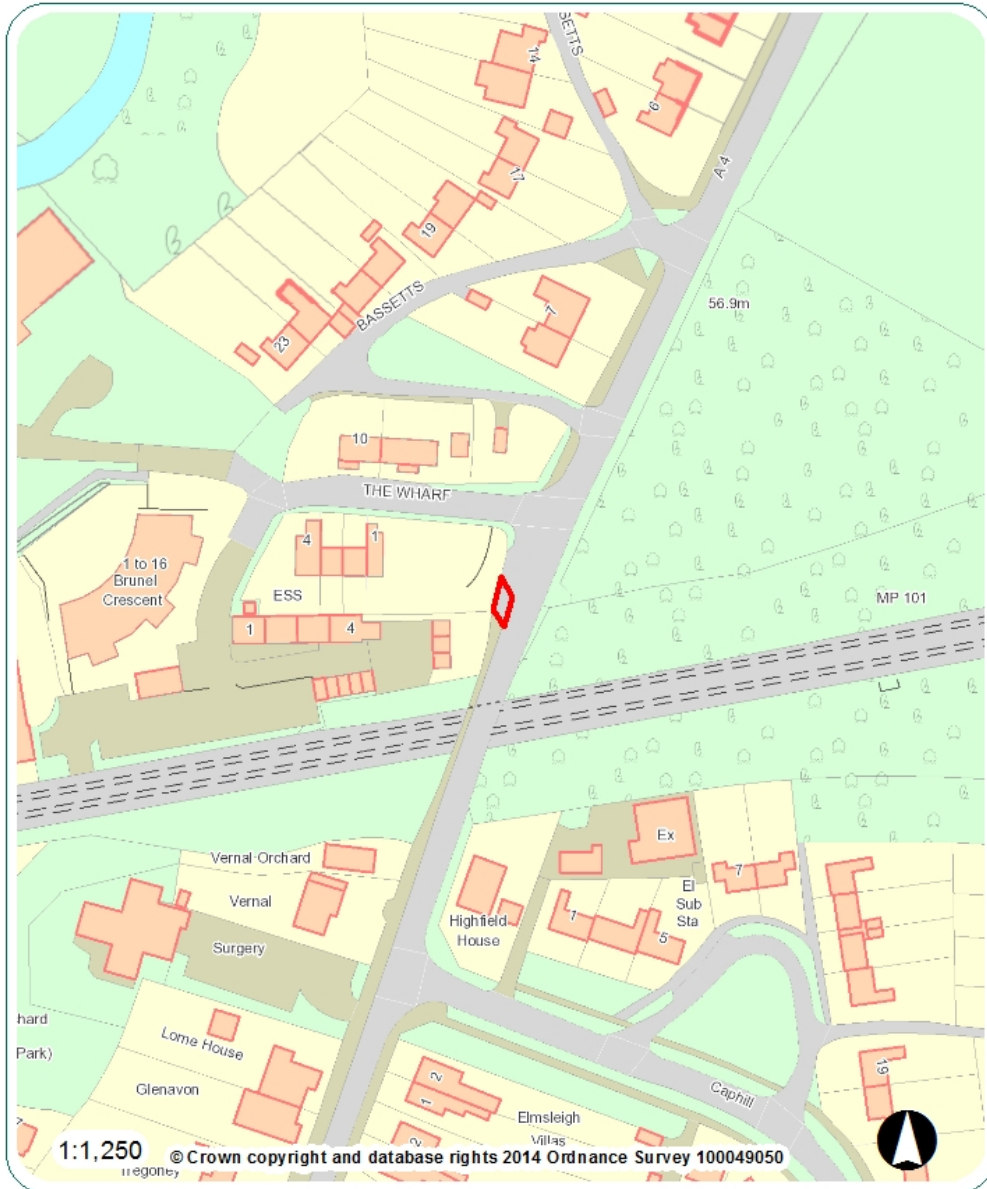
Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

16/09353/FUL
London Road Streetworks
London Road
Box
Wiltshire
SN13 8LU



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	15 February 2017
Application Number	16/09314/OUT
Site Address	Old Glove Factory, Adj. 25 Brockleaze, Neston, Corsham, Wiltshire, SN13 9TJ
Proposal	Demolition of redundant factory storage units, replacement with 10 new dwellings, associated works & landscaping.
Applicant	Mr & Mrs Sibley
Town/Parish Council	CORSHAM
Electoral Division	CORSHAM WITHOUT AND BOX HILL – Cllr Dick Tonge
Grid Ref	386726 168186
Type of application	Full Planning
Case Officer	Chris Marsh

Reason for the application being considered by Committee

The application has been called to Committee by Cllr Tonge in order to consider the need to replace derelict buildings on site.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be refused.

2. Report Summary

The key issues in the consideration of the application are as follows:

- Principle of development;
- Re-use of employment site;
- Impact on heritage assets;
- Impact on landscape;
- Impact on ecology;
- Impact on local highways;
- Impact on residential amenity;
- Drainage; and
- Planning obligations

3. Site Description

The application relates to a former glove factory situated on the outskirts of the village of Neston. The site is relatively isolated, with only a single residential property, no.25, lying to the immediate South and the remaining site boundaries abutting open agricultural land. Vehicular access is obtained via a narrow lane to the West of no.25. The application site, which amounts to around 0.25ha, comprises an array of disused light industrial buildings together with associated access and yard, all of which is set back from the highway behind the adjacent property. A small amount of undeveloped rough grassland is also included toward the North and East sides. Although the degree to which the buildings continue to be used for storage is questionable, manufacturing activity on the land has long ceased.

Three separate industrial buildings are arranged around a courtyard, open to the East, and each is different in size, scale and quality. The first building reached, arranged alongside the Northern part of the main access track, is two-storeys in scale and faced in natural stone under a pitched clay tile roof. Attached at its northern end is a further array of single-storey manufacturing space, extending further under a series of three asymmetrical pitched roofs and a lean-to at its far end. This element is finished externally in a mixed brick, with distinctive large arched windows. The remaining buildings, of lesser architectural quality, are laid out to either side of the central yard perpendicular to the larger section described. One of these is severely damaged by fire and missing significant structural sections. Both are originally of generous single-storey proportions, with a repeated asymmetrical profile sheet roof supported by a metal frame and clad in a mixture of reconstituted stone and concrete.

The site lies outside of any development framework boundary, around 400m beyond the Neston Conservation Area and approximately 2.5km East of the Cotswolds Area of Outstanding Natural Beauty. A public right of way – CORM45B – runs on a North-South axis a short distance to the West/northwest.

Full planning permission was granted in 2014 for the conversion of all three buildings, together with associated works (13/2173/FUL refers). At the time of writing, the permission remains unimplemented and expires on 25 February 2017.

4. Planning History

13/02173/FUL	Conversion of 3 Factory Units to 10 Dwellings
N/93/02103/FUL	CHANGE OF USE OF LAND FROM DOMESTIC TO WIDEN ACCESS ASSOCIATED WITH B1 USE WIDEN ACCESS FOR B1 USE
N/93/02093/CLE	CERTIFICATE OF LAWFULNESS - USE OF SITE AS B1 USE CLASS USE OF SITE AS B1 CLASS
N/91/01170/OUT	OUTLINE WITH SITING AND LANDSCAPING FOR RE-DEVELOPMENT OF EXISTING PREMISES FOR CONTINUED USE WITHIN CLASS B2
N/97/00858/OUT	O/L - RESIDENTIAL DEVELOPMENT O/L - RESIDENTIAL DEVELOPMENT
N/98/00884/OUT	OUTLINE - RESIDENTIAL DEVELOPMENT INCLUDING SITING LANDSCAPING AND MEANS OF ACCESS RESIDENTIAL DEVELOPMENT
N/02/00063/FUL	CHANGE OF USE TO STORAGE AND SALE OF RECLAIMED WALLING STONE AND ROOFING TILES
N/02/02960/CLP	CERTIFICATE OF LAWFUL USE FOR THE PROPOSED USE OF BUILDING FOR SHREDDING OF MOTOR VEHICLE TYRES

N/07/02070/FUL	Demolition of B1 Use Industrial Buildings and Erection of 11 Live Work Units
N/12/02174/FUL	Change of Use From B1 Light Industrial to Residential
15/02566/PREAPP	Demolition of Existing Buildings. New Development of 4 Detached Residential Units
16/08105/PREAPP	Demolition of Existing Non-Viable Industrial Buildings and Replacement with 10no. New Detached Dwellings Including Bat Facilities

5. The Proposal

Outline permission is sought in respect of the wholesale clearance of the site and the erection of up to 10no. new dwellings, together with associated access and landscaping works. Whilst approval is sought in respect of access detail, matters of layout, appearance, scale and landscaping are reserved for later consideration.

The indicative scheme shows 10 detached dwellings, laid out around the site periphery in a horseshoe shape, with gardens backing on to the site boundaries. Access is to be obtained via the existing site entrance from Brockleaze, leading past no.25 to serve each dwelling from a single route.

6. Local Planning Policy

The following planning policies are relevant:

Wiltshire Core Strategy:

- Core Policy 1 (Settlement strategy)
- Core Policy 2 (Delivery strategy)
- Core Policy 35 (Existing employment sites)
- Core Policy 41 (Sustainable construction and low-carbon energy)
- Core Policy 43 (Providing affordable homes)
- Core Policy 48 (Supporting rural life)
- Core Policy 50 (Biodiversity and geodiversity)
- Core Policy 51 (Landscape)
- Core Policy 57 (Ensuring high quality design and place shaping)
- Core Policy 58 (Ensuring the conservation of the historic environment)
- Core Policy 61 (Transport and new development)
- Core Policy 64 (Demand management)
- Core Policy 67 (Flood risk)

North Wiltshire Local Plan 2011:

- Saved Policy NE14 (Trees, site features and the control of new development)
- Saved Policy H4 (Residential development in the open countryside)

National Planning Policy Framework:

- Paragraphs 14 & 17
- Section 4 (Promoting sustainable transport)
- Section 6 (Delivering a wide choice of high quality homes)
- Section 7 (Requiring good design)
- Section 10 (Meeting the challenge of climate change, flooding and coastal change)
- Section 11 (Conserving and enhancing the natural environment)
- Section 12 (Conserving and enhancing the historic environment)

7. Summary of consultation responses

Corsham Town Council – support

Highways – objections, citing unsustainable location

Conservation – objections, citing unjustified loss of heritage asset

Ecology – objections, citing harm to protected and priority species (awaiting further comment)

Environmental Health – no objection, subject to conditions

Waste – no objection, subject to conditions

8. Publicity

The application was advertised by site notice and neighbour notification. Objections to the application were received from the neighbours at no.24, citing the increase in traffic, capacity issues with sewerage and potential harm to local wildlife arising from the scheme.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Principle of development

In principle, the proposal represents new residential development in the open countryside. Unequivocally, this represents a conflict with Core Policy 2 and saved Policy H4 of the former North Wiltshire Local Plan. There are no dwellings on site to be replaced, no conversion of existing fabric and no indication that the development should be treated as a rural exception such as targeted affordable housing or accommodation to meet the needs of a rural worker. As the number of units – although broadly not disproportionate to a settlement such as Neston – is limited, this will not ‘boost significantly’ the supply of housing and therefore the wider public benefits in this respect are associatively limited.

The application contests that the earlier permission for conversion is unviable as a prospect however the information submitted in this regard is lightweight at best. Although a supporting letter from the sale agents asserts that conversion and remediation costs would render the permitted scheme unviable, this still assumes a residual land value (based on credible estimates of final GDV based on local indicators and the exact nature of the units permitted) of several hundred thousand pounds. This does not seem an unreasonable return, especially in the light of no indication being provided as to the site’s current value as a (rather dilapidated) commercial storage facility.

Furthermore, it is understood that the site was marketed at a seemingly arbitrary mark nearing double that figure, likely explaining the conceivable lack of interest from potential developers. The agents’ letter does not specify to whom the site was marketed, however it is reasonable to assume that interest – particularly amongst smaller

developers specialising in bespoke schemes – would be greater if the accurate residual figure were used. Although the letter asserts that the site was marketed as early as 2012, planning permission for residential development was not obtained until the end of February 2014 so it is unclear what was actually marketed in the initial period of at least 14 months and how this relates to the current proposal. This, together with a lack of clarity over how potential purchasers were identified/targeted, further weakens the case that a robust marketing exercise has been carried out to establish that the extant scheme is unworkable.

Although the application is made in outline, examination of the marketing undertaken and assumptions of value and return strongly indicate that the intended form of development would be of a relatively conservative, suburban nature, making little concession to the industrial heritage of the site or embracing more experimental approaches. Whilst this is not considered to be intrinsically harmful – indeed Neston has its share of such dwellings – neither is it considered that the likely final design will be of anywhere near the exemplary standard required in national policy to justify in its own right new residential development in the open countryside. Thus although the prospect of detached, suburban housing does not in design terms itself weigh against the merits of the application, and could be controlled by reserved matters, neither should it command any positive weight in terms of the exception criteria intended to encourage exceptional new design in all environments. It should also be noted that adopting such unit types does little to address the wider affordability crisis in new housing or specifically address the most acute local housing needs.

Re-use of employment site

Whilst the wording of CP35 itself does not address existing/former employment sites outside of identified higher-order settlements, the supporting text does offer the following:

- 6.16 It will also be important to retain existing employment uses outside the Principal Employment Areas to maintain diversity and choice of sites for employers and allow for local business expansion. However, it is important to acknowledge that some older employment areas may no longer be fit for purpose or that their role has changed, for example, from a primarily employment site to a trade centre site. Changes of use within sites can invigorate an area and act as a positive catalyst for change. The overall employment land target includes an allowance for the replacement of some sites. Therefore, in some circumstances it may be appropriate to allow for the redevelopment (in whole or part) of existing employment sites for an alternative use, particularly where the site is not required to remain in its current use to support the local economy in the area.

Within this context, it is considered that the former glove factory and latterly storage facility contributes little to the local economy. The dilapidated buildings and low-level use of the site over recent years are self-evident and, taking a reasonable approach, do not warrant further interrogation in respect of any practical ongoing business prospect in the present condition. Alternative uses are nonetheless bound by other policies set out in the development plan.

Impact on heritage assets

Core Policy 58 states that “*Distinctive elements of Wiltshire’s historic environment, including non-designated heritage assets, which contribute to a sense of local character and identity will be conserved, and where possible enhanced.*” As an undesignated heritage asset, the demolition of the historic element of the buildings on site presents an obvious conflict with this policy that must be weighed in the planning balance. As

previously identified, it is considered that the historic two-storey building and attached distinctive range of workshops are of a high evidential and communal value and crucial to the identity and distinctiveness of the site. Thus these components have some identifiable historic merit.

The structural information indicates the condition of the buildings has deteriorated since the previous approval; substantially in respect of the fire-damaged modern building but more gradually and sporadically within the older fabric. As such, it is speculated that the costs of conversion and need for new structural fabric are greatly increased, although conversion itself in the proper sense has not been rendered impossible. There is no reason to doubt these conclusions, being that the almost non-existent level of use in the interim is not commensurate with regular maintenance. Nonetheless, a conversion cost is used for the purposes of estimating the land value; in accepting this value, one accepts that conversion remains – at least in practical terms – a realistic prospect.

As evidenced by the updated structural survey information, the relevant buildings can be considered as 'at risk'. To this end, CP58 further states that "*Heritage assets at risk will be monitored and development proposals that improve their condition will be encouraged.*" This was a critical plank of the justification originally provided for the redevelopment of the site as previously approved. The distinction between that earlier application and this is clear to see; whereas the earlier proposal brought back into active use the historic buildings, the current scheme comprises their wholesale removal. As the submission indicates that conversion of this fabric is merely complex and costly, but not impossible, the proposals represent a conflict with CP58 and Paragraphs 129, 131 and 135 of the NPPF. It should be noted that an active discharge of condition application in respect of 13/02173/FUL even advocates the buildings' capability for conversion, such that their loss is unjustified.

A relevant consideration in this instance, it appears no assessment has been given in principle to an alternative, hybrid, scheme comprising the conversion of the 'historic' fabric, demolition of the modern buildings and erection of a small number of high-quality new units. Such an approach has been adopted, for instance, at the nearby Old Dairy, Priory Street, Corsham, which is in the course of build-out and sale. Not only would this conserve historic fabric and potentially even lead to an increase in overall design quality, this may improve the cost balance of development and aid viability. It is regrettable that this notion has not been carried forward at least as an academic financial exercise, if not tested though a formal application and marketing. The significantly reduced heritage harm arising from such an approach, relative to wholesale redevelopment of the type indicated, is a relevant consideration.

Impact on landscape

Due to the relative degree of enclosure of this previously-developed site, it is not considered that the proposed development – subject to appropriate layout and landscaping – will appear as unduly prominent in the wider landscape and/or valued views. These include those from the nearby footpath route of CORM45B. Historic aerial photography indicates that the established industrial use of the site at one point extended as far as the northern boundary, which appears as an extended hard core or similarly-surfaced yard area. However, with the continuing decline in both the use of the facility and condition of the buildings, the most northerly section comprising approximately one quarter of the site has been steadily subsumed into the countryside. Nonetheless, this area does not independently contribute to the wider quality of the surrounding landscape and therefore its inclusion within the outline site boundary is unlikely to present serious difficulty in negotiating a final layout and design.

Impact on ecology

Updated ecological reports indicate that the deteriorating state of the buildings is likely to have lessened – although by no means eliminated – their capacity to support bat species, a key consideration in this location. Whilst incurring harm, death or loss of habitat to protected species is also a criminal matter under the Wildlife and Countryside Act, Core Policy 50 expects that nature conservation features shall be retained, buffered and managed favourably in order to maintain their value. For the part of the historic buildings, their continuing capacity to be converted would suggest that the current proposals for wholesale demolition would conflict with this requirement. This can only be compensated for – and not mitigated or avoided – by the provision of new conservation features in any replacement development.

The site is located within a core area of the Bath and Bradford Bats SAC and will affect at least one of the qualifying features. It is therefore likely that the application will require an appropriate assessment of potential effects including loss of roosts, degradation of commuting / foraging features, and lighting. In the first instance, however, the County Ecologist has identified that the lack of concession to likely commuting/foraging routes around the site periphery in the indicative layout is concerning. To properly consider the suitability of the site for the proposed quantum of development and access, details of corridors to be safeguarded for such purposes must be provided, establishing the parameters of any final layout and Landscape and Ecological Management Plan (LEMP). In particular, further attention was sought in respect of:

- Up to date bat surveys of the site in accordance with best practice;
- Details of any replacement roost provision;
- Minimum lighting requirements for sections of highway to be adopted, to be agreed with the highways team and lux plots produced to demonstrate the resulting light spill; and
- Potential revisions to plans to demonstrate that impacts upon commuting routes / foraging areas can be avoided.

Responding to a revised bat survey submitted during the course of the application period, the Ecologist notes that this now provides an account of a recent inspection of the existing buildings. The report confirms that the building is still used as a roost by lesser horseshoe bats however there is still no indication of how many bats use the building, at what time of year, or how they use the wider site for commuting / foraging. No further information on replacement roost provision or lighting has been provided and no amendments to the scheme have been made. The report highlights the likely presence of reptiles on the site due to the presence of suitable habitats however no survey has been carried out and given the number and type of properties proposed on the site it is unlikely that any suitable habitat for these species would remain when the site has been developed.

For the above reasons, the Ecologist retains an objection to the application on the basis that there is insufficient information available for the competent authority to consider whether an appropriate assessment is required and thus the proposals fail to meet the elementary tests of the Habitats Regulations and are likely to incur harm to protected priority/species currently using the site.

An additional submission from the applicant's consultant has been provided for the County Ecologist's review – further comments will follow and will be reported later.

Impact on local highways

The Council's Highways Officer has commented to the effect that the existing highway arrangements require some limited improvement in order to adequately serve the site access, which should be agreed by an amendment to the plans. Specifically, the adjustment of the proposals is sought in order the carriageway width is a minimum of 5m, with 2m service strip/footway (extended) and an opposite 0.5m service margin. This assumes that an adoptable road will be provided within the development, in respect of which further conditions would be required to ensure this is provided to an appropriate standard.

However, these changes have not been sought owing to an overriding highways objection in respect of the development's siting in the open countryside and with limited access to a range of services, employment opportunities and being unlikely to be well served by public transport. As such, the development is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. Whilst such an objection on grounds of sustainability was overcome previously by the exceptional circumstances warranting support in principle for the scheme (i.e. the re-use of heritage assets and conversion of buildings in the open countryside) the current proposals are unacceptable in principle, as discussed above, and therefore their unsustainable location warrants a further reason for refusal.

Impact on residential amenity

Mindful that the application is made in outline, it is not considered that the proposed quantum of development represents any insurmountable conflict between the development and the residential amenity of neighbouring occupiers. No.25 does maintain a slightly unusual relationship to the site involving traffic passing its western boundary however this will differ little from the established situation and although attracting a greater frequency of vehicle movements, this is not considered excessive and will generally comprise of smaller vehicles. Due to the well-established low level of use of the site, it is considered that the relative levels of activity overall will be largely comparable, and not out of keeping with the general character of the area. The co-location of residential uses in the quantum proposed is considered compatible in terms of residential amenity, with any issues of overlooking, overshadowing or overbearing capable of resolution through appropriate design measures.

Planning obligations

On the basis that the units would individually comprise no more than 100m² of floor space so that the scheme does not exceed 10 units or 1,000m² in total, it is considered that no specific on-site provision or off-site contributions should be provided under S106 of the Act. Although adopted policy expects on-site affordable housing and education contributions, there are no exceptional local circumstances that warrant this in light of the updated national Guidance. The upper limit on floor space would need to be controlled by condition in order to render the development acceptable in this regard, however.

The proposals would be liable for payments under the adopted Community Infrastructure Levy (CIL) Charging Schedule, although this is a process separate from planning. Whilst the lack of specific contributions is compliant with national guidance, it must be noted that the absence of any on-site affordable housing significantly diminishes the potential public benefits of the development, which are already limited.

Conclusions

By reason of its failure to meet any of the exceptional criteria for new residential development in the open countryside and, through the loss of historic fabric, specific shortcomings in respect of pts 2 and 3 of NPPF Paragraphs 55 and 116, the development is considered to be unsustainable and unacceptable in principle. There is insufficient information to suggest that a compliant scheme in this regard would be unfeasible or unviable however, moreover, the development would result in the unwarranted loss of a heritage asset with limited compensatory benefits either to housing delivery or the local economy.

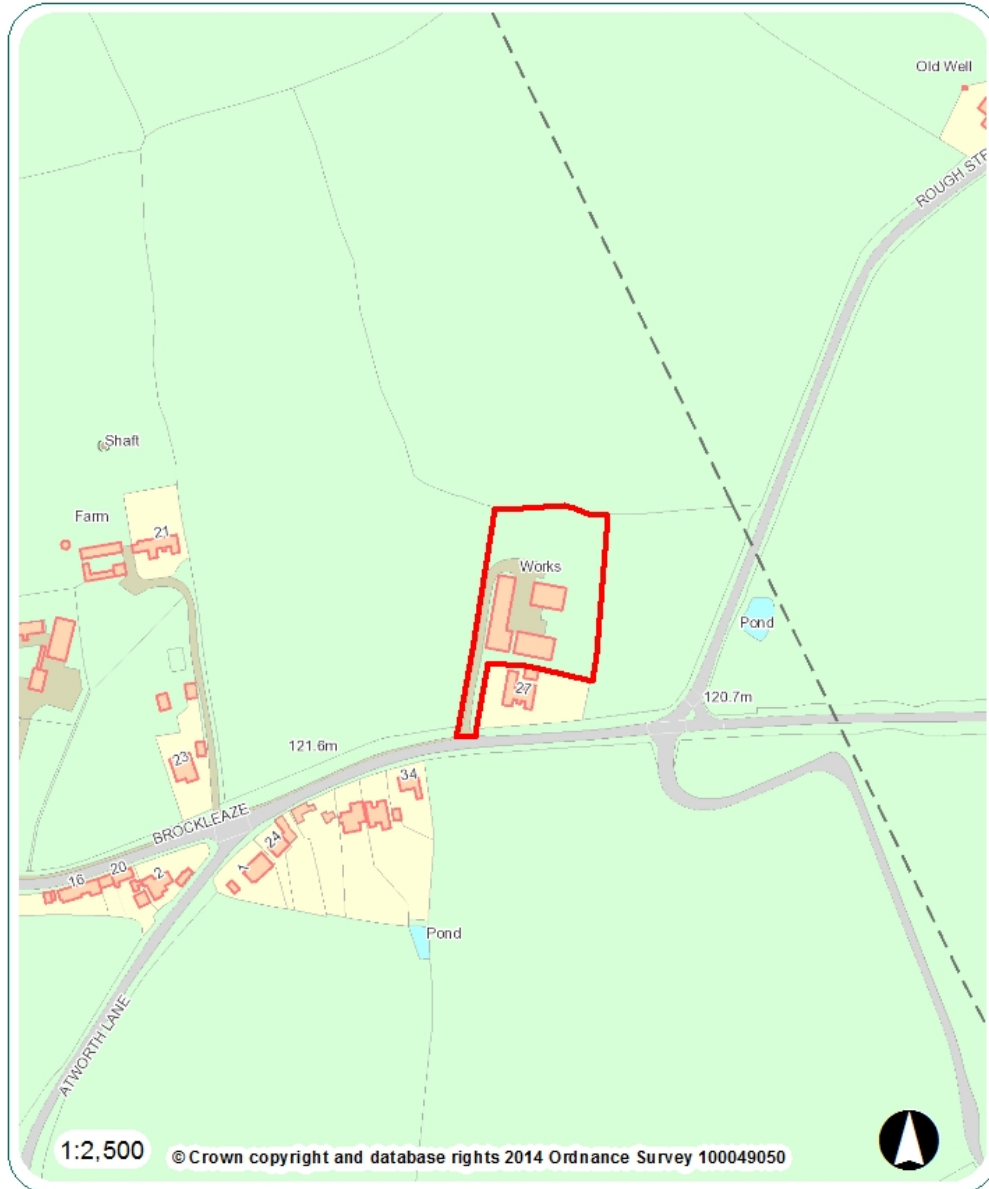
The submission strongly indicates that any intended scheme would in practice far from secure the exemplary standard of design that may override other considerations to warrant an exceptional approach to new residential development in the open countryside, and would result in the permanent and unjustified loss of heritage assets. Furthermore, it is likely that the scheme would result in the harm/loss of protected species and habitats, with inadequate information available to undertake a robust assessment of likely impacts in this regard. Overall, therefore, the development is considered to be unsustainable and therefore unacceptable in planning terms.

RECOMMENDATION

That the application is REFUSED for the following reasons:

- 1 In the absence of appropriate exceptional justification, the proposed development, by reason of its amount and location outside of the built area of Neston, represents inappropriate residential development in the open countryside in conflict with Core Policies 2 and 48 of the adopted Wiltshire Core Strategy, saved Policy H4 of the North Wiltshire Local Plan and Paragraph 55 of the National Planning Policy Framework.
- 2 The proposed development, located remote from a range of services, employment opportunities and being poorly served by public transport, is contrary to the key aims of local and national sustainable transport policy guidance which seeks to reduce growth in the length and number of motorised journeys. The proposal is contrary to Core Policy 60 of the adopted Wiltshire Core Strategy and Paragraph 34 of the National Planning Policy Framework.
- 3 The proposed development will result in the permanent and unjustified loss of an undesignated heritage asset of local value. No meaningful investigation of alternative options comprising the retention/conversion of the asset and accompanying enabling residential development has been undertaken, such that the proposals conflict unduly with the asset's conservation. The proposal conflicts with Core Policies 57(i) and (xiii) and 58 of the adopted Wiltshire Core Strategy and Paragraphs 129, 131 and 135 of the National Planning Policy Framework.
- 4 Insufficient information has been submitted with the application to enable the Council to carry out an appropriate assessment of the proposals or determine whether an appropriate assessment is required, in accordance with the requirements of Regulation 61 of the Habitats Regulations. The proposals are also likely to negatively affect protected / priority species in a manner contrary to Core Policy 50 of the adopted Wiltshire Core Strategy, Paragraph 118 of the National Planning Policy Framework and Circular 06/2005.

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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	15 February 2017
Application Number	16/11413/FUL
Site Address	Mobile Home, Woodbarn Farm, Stanton St Quintin, Chippenham, SN14 6DJ
Proposal	Removal of existing mobile home and replace with twin static lodge as retirement accommodation (Resubmission of 16/07310/FUL)
Applicant	Messrs. R & O Bishop
Town/Parish Council	STANTON ST. QUINTIN
Electoral Division	KINGTON – Councillor Howard Greenman
Grid Ref	389174 180177
Type of Application	Full Planning
Case Officer	Catherine Jackson

Reason for the application being considered by Committee:

The application has been called to Committee by the Local Member, Councillor Howard Greenman, in order to consider whether or not *‘the harm resulting from the planning application refusal and subsequent insecurity to two very elderly brothers from that refusal outweighs the strict interpretation of planning policy in this unique situation.’*

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be refused.

2. Report Summary

The main issues in the consideration of the above application are as follows:

- The principle of the proposal.
- Whether the proposed development would be in a sustainable location.
- The impact of the development on the character and appearance of the application site and surrounding landscape.
- The impact of the development on the residential amenities of neighbouring properties.
- The impact of the development on highway safety.

At the time of recommendation, no comments have been received from Stanton St. Quinton Parish Council with regard to the application. No comments have been received from members of the public as a result of the direct neighbour notification letters or site notice.

3. Site Description

The site to which this application relates is a parcel of land located to the west of the Small Village of Stanton St. Quintin, within the open countryside. The site includes various outbuildings used for commercial purposes. A woodland is located to the east and south of the site and open agricultural land is located to the west.

4. Planning History

N/92/00785/EUC	Established Use Certificate – Agriculture and Land Drainage and Earth Moving Contractors Depot	Granted July 1992
14/08250/CLE	Certificate of Lawfulness for Use of Structure as Dwelling	Refused October 2014
15/00242/ENF	Unauthorised stationing of a caravan on the land for residential purposes	Case Open - Proceedings Ongoing
16/07310/FUL	Removal of existing mobile home and replace with twin unit Static Lodge	Refused October 2016

A review of the planning history of the site indicates that the existing mobile home on the site does not benefit from planning permission. It appears that the mobile home was stationed on the site in June 2010 and has been occupied ever since.

The lawfulness of the structure as a dwelling has been tested through the submission of the CLE application in 2014. This was refused as it was determined that the mobile home had not been in situ and occupied for a period of at least 10 years at the time of the application.

5. The Proposal

This application seeks permission for the replacement of an existing unauthorised mobile home with a twin unit static lodge, to be used as retirement accommodation.

The proposed static lodge would consist of two bedrooms (one with en-suite), an open plan kitchen/dining/living area, a bathroom and a study. The accommodation would be of tin construction with UPVC windows and doors.

Access to the static lodge would be gained via the existing access point to the north east of the location of the proposal.

The existing unauthorised mobile home on site would be removed.

6. Planning Policy

National Planning Policy Framework (NPPF):
Paragraphs 14, 17 and 55; Sections 6 and 7

Planning Practice Guidance:
Determining a Planning Application
Rural Housing

Wiltshire Core Strategy (WCS):
Core Policy 1 – Settlement Strategy
Core Policy 2 – Delivery Strategy
Core Policy 46 – Meeting the Needs of Wiltshire’s Vulnerable and Older People
Core Policy 48 – Supporting Rural Life
Core Policy 51 – Landscape
Core Policy 57 – Ensuring High Quality Design and Place Shaping
Core Policy 60 – Sustainable Transport
Core Policy 61 – Transport and Development

North Wiltshire Local Plan 2011 (NWLPL):

7. Summary of Consultation Responses

Stanton St. Quintin Parish Council – No response received at the time of recommendation.

Wiltshire Council Highways – *‘As a replacement dwelling the unit would be like for like replacement and no additional strain would likely be placed on the highway network due to the proposal.*

However as a new dwelling in the countryside this would be a proposal that could trigger a highway objection due to being development outside of any development boundary in a non-sustainable location contrary to Core Policy 60 and would be situated remote from a range of services and having little or no alternatives to private car use.

If you are satisfied that this is a like for like replacement and there are policies in place to support the proposal then I would raise no highway objection subject to parking indicated being conditioned. However, if you are minded to follow the principle objection due to the location of the proposal, then please note highways comments above.’

Wiltshire Council Rights of Way – Objection raised – *‘The proposed development would obstruct the definitive (legal) line of SSTQ10. The council has a statutory duty to protect the definitive line of rights of way and circular 1/09 says they are a material consideration in planning applications.’*

8. Publicity

The application was advertised by site notice and direct neighbour notification letter. No representations from members of the public have been received.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Principle of the development:

The application site is located outside of a defined Settlement Framework Boundary and is not situated with, or well related to the built form of Stanton St Quintin. The site therefore sits within the open countryside. As a matter of principle, Core Policies 1, 2 and 60 direct new residential development towards settlements identified in the hierarchy set out in the Core Strategy, ensuring that new occupants would have adequate access to local employment, services and transport.

Saved Policy H4 of the NWLP allows for the replacement of existing dwellings within the open countryside. In order for the proposal to be considered under this policy, the residential use of the site must be lawful. The recent refusal of the CLE application (14/08250/CLE) indicates that the land in question had not been used for a period in excess of 10 years for the stationing of an occupied mobile home and associated residential curtilage. In addition, the existing mobile home does not benefit from planning permission and is subject to enforcement proceedings. The application therefore cannot be considered under Policy H4 of the NWLP.

Core Policy 2 of the WCS states other than in circumstances in accordance with paragraph 4.25 of the WCS, development outside of the defined limits of development will not be permitted.

The application has failed to provide any supporting information that would justify the siting of the static lodge in the location proposed under the terms of WCS CP2 or Saved Policy H4 of the NWLP. Although it is indicated on the Application Form that the proposal would be for retirement accommodation, the proposal does not provide evidence that Core Policy 46 of the Wiltshire Core Strategy has been met. In any event, WCS CP46 does not make provision for such accommodation in open countryside locations unrelated to larger settlements. Unsustainable, inaccessible and remote locations are not considered to be appropriate for elderly persons' accommodation. The site is located in an isolated location from which local services and facilities are not easily accessible unless travelling by car. Notwithstanding the modest scale of the proposal, the principal of residential development would therefore not be supported in this location.

Sustainability:

The spatial vision of the Wiltshire Core Strategy, as expressed in policies CP1 and CP2, is to locate new residential development within the settlement limits, in sustainable locations with good access to local services and facilities to minimise the need to travel. This approach reflects the emphasis for the location of housing set out in the NPPF and is also reflected in CP60.

Occupants of the development would be likely to be heavily reliant on the use of private cars for day to day activities. Traveline South West Service 92 runs every hour from Stanton St Quintin to Chippenham, however the nearest bus stop is approximately 1.6 km away from the application site over an unlit country lane with no footway. As such the development would be in an unsustainable location. The proposal would therefore be contrary to policies CP1, CP2, CP60 and CP61 of the Wiltshire Core Strategy.

Paragraph 55 of the NPPF says that local planning authorities should avoid approving isolated new homes in the countryside unless there are special circumstances. Based on the absence of any supporting information submitted, it is not considered that there are any special circumstances as identified in Paragraph 55 that would justify the stationing and occupation of the static lodge in the location proposed. In that context no evidence has been provided to suggest that the proposal is required for a rural worker to live at or near to their place of work for example. In addition, the proposal would not re-use a redundant or disused building and represents an unexceptional design which would not lead to an enhancement of the immediate setting.

Landscape:

The proposal would result in the general 'domestication' of the site's character, which would be emphasised by the accumulation of parked vehicles and domestic paraphernalia. The application does not clarify the proposed residential curtilage which may be at risk from becoming overly large should permission be granted. Notwithstanding this, the application site is well enclosed by hedging along its northern and western boundaries, as well as mature woodland to the south which would act to largely screen the modest static lodge from wider views.

In terms of design, the submitted Application Form indicates that the roof and walls of the proposal would be of tin construction. This is not considered to respond positively to the countryside setting of the application site, neither is it considered to represent high quality design.

Residential Amenity:

The proposal is located within the open countryside and an adequate distance away from nearby properties to ensure their residential amenities would not be compromised. On balance, this alone is not considered to outweigh the fundamental conflicts with the adopted development plan that have been outlined above.

Highway Issues:

As the existing mobile home on the site is unauthorised, the current proposal cannot be considered as a replacement dwelling but rather as a new dwelling within the countryside. As such, the Council's Highways Department have raised an objection to the proposal based on sustainability grounds as the site is situated remote from a range of services and occupiers of the site would have little or no alternatives to private car use. The proposal is therefore contrary to CP1, CP2, CP60 and CP61 of the Wiltshire Core Strategy.

10. Conclusion

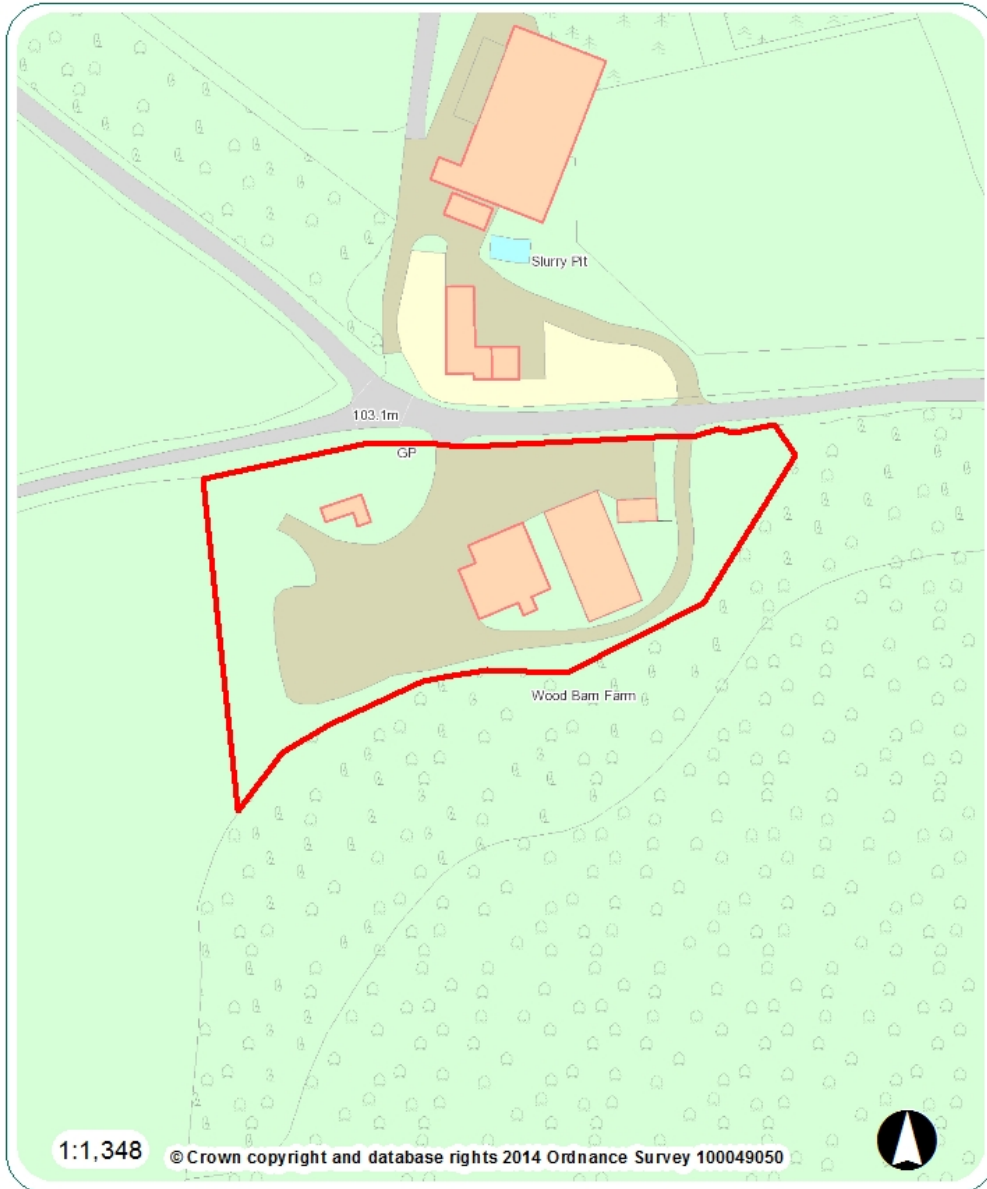
On balance, it is considered that the proposed development is not in accordance with the relevant planning policy as highlighted above. In the absence of any overriding public benefit or exceptional circumstances, it is recommended that the application be refused.

RECOMMENDATION:

That planning permission is REFUSED, for the following reasons:

- 1 The development would be in a rural location outside any recognised development limits or settlement, resulting in the formation of a new dwelling in the countryside. This is contrary to Paragraph 55 of the National Planning Policy Framework, Policies CP1 and CP2 of the Wiltshire Core Strategy (Adopted January 2015) and Saved Policy H4 of the North Wiltshire Local Plan, which restrict development outside of the towns and villages in rural areas and the open countryside except in a number of exceptional circumstances which are listed under Paragraph 4.25 of the Wiltshire Core Strategy and Paragraph 55 of the NPPF, none of which apply in this instance. As such, the proposal fails to promote a sustainable pattern of development within the County and is contrary to the aforementioned local and national policies.
- 2 The proposal, located remote from services, employment opportunities and not well served by public transport, is contrary to Paragraph 34 of the National Planning Policy Framework which seeks to promote sustainable development and reduce growth in the length and number of motorised journeys. The proposal also is contrary to the principles of sustainable development set out in policies CP1, CP2, CP60 and CP61 of the Wiltshire Core Strategy (Adopted January 2015).
- 3 Due to the use of materials proposed, the development would represent poor quality design which would fail to improve the character and quality of the area and would not respond positively to local distinctiveness. The proposal is therefore in conflict with Paragraph 64 of the National Planning Policy Framework and Core Policy 57 (i and iii) of the Wiltshire Core Strategy (Adopted January 2015).

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