

AGENDA

Meeting: Southern Area Planning Committee
Place: Alamein Suite - City Hall, Malthouse Lane, Salisbury, SP2 7TU
Date: Thursday 21 July 2016
Time: 6.00 pm

Please direct any enquiries on this Agenda to Lisa Moore, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line (01722) 434560 or email lisa.moore@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 Fred Westmoreland
(Chairman)
Cllr Christopher Devine
(Vice Chairman)
Cllr Richard Britton
Cllr Richard Clewer
Cllr Brian Dalton
Cllr Jose Green

Cllr Mike Hewitt
Cllr George Jeans
Cllr Ian McLennan
Cllr Ian Tomes
Cllr Ian West

Substitutes:

Cllr Trevor Carbin
Cllr Terry Chivers
Cllr Ernie Clark
Cllr Tony Deane
Cllr Dennis Drewett
Cllr Peter Edge
Cllr Magnus Macdonald

Cllr Leo Randall
Cllr Ricky Rogers
Cllr John Smale
Cllr John Walsh
Cllr Bridget Wayman
Cllr Graham Wright

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AGENDA

Part I

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

1 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

2 **Minutes** (*Pages 7 - 16*)

To approve and sign as a correct record the minutes of the meeting held on 9 June 2016.

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 and Councillors' Questions**

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 in person no later than 5.50pm on the day of the meeting.

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. The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice.

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 (acting on behalf of the Corporate

Director) no later than 5pm on Thursday 14 June 2016. 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 **Durnford 4 (Woodrow) Rights of Way Modification Order 2016**
(Pages 17 - 78)

To consider the objections received to the making of The Wiltshire Council Durnford 4 (Woodrow) Rights of Way Modification Order 2016 made under Section 53 of the Wildlife and Countryside Act 1981.

7 **Planning Appeals** (Pages 79 - 80)

To receive details of completed and pending appeals.

8 **Planning Applications**

To consider and determine planning applications in the attached schedule.

8a **16/03988/FUL: Stonehenge Visitors Centre, Airmans Corner, SP4 7DE**

Permanent use of temporary coach park and modification of existing coach park to create 53 coach spaces and 26 motorhome spaces; construction of ancillary building for new coach visitor facilities; change of use from agricultural land and creation of new visitor transit system turnaround area for shuttle bus use; creation of extended visitor transit system turnaround area for shuttle bus use; decommissioning of existing visitor transit system turnaround area; all with associated ancillary and landscaping works.

8b **16/04773/FUL: Boxhedge Cottage, High Street, Porton, SP4 0LH**

Proposed two storey rear extension.

8c **16/04776/LBC: Boxhedge Cottage, High Street, Porton, SP4 0LH**

The application seeks listed building consent to erect a two storey extension to the rear of the property.

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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SOUTHERN AREA PLANNING COMMITTEE

**DRAFT MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING
HELD ON 9 JUNE 2016 AT SARUM ACADEMY, WESTWOOD ROAD,
SALISBURY, WILTSHIRE, SP2 9HS.**

Present:

Cllr Fred Westmoreland (Chairman), Cllr Christopher Devine (Vice Chairman),
Cllr Brian Dalton, Cllr Jose Green, Cllr Mike Hewitt, Cllr George Jeans, Cllr Ian Tomes,
Cllr Ian West and Cllr John Smale (Substitute)

40 Apologies for Absence

Apologies for absence were received from:

- Cllr Richard Britton – who was substituted by Cllr John Smale
- Cllr Richard Clewer
- Cllr Ian McLennan

41 Minutes

The minutes of the meeting held on Thursday 28 April 2016 were presented.

Resolved:

To approve as a correct record and sign the minutes of 28 April 2016.

42 Declarations of Interest

There were none.

43 Chairman's Announcements

The Chairman explained the meeting procedure to the members of the public.

44 **Public Participation and Councillors' Questions**

The committee noted the rules on public participation.

45 **Planning Appeals**

The committee received details of planning appeals logged and those determined by for the period 21 March and 27 May 2016.

Resolved

That the report be received and noted.

46 **Planning Applications**

46a 16/03468/FUL: Oak View, High Post Road, Netton

Public Participation

Mr Matt Glover spoke in objection to the application

Mr Tim Elliot spoke in objection to the application

Mr Rob Foster spoke in objection to the application

Ms Caroline Everett spoke in support of the application

Mrs Rosalind Bee spoke in support of the application

Cllr Steve Langdon (chairman) of Durnford Parish Council spoke in objection to the application.

The Senior Planning Officer noted that there had been a site visit earlier that day and introduced the application which was for a proposed construction of new detached dwelling and relocation of existing access to serve new dwelling. With the creation of new access to serve existing dwelling. This application was a resubmission of application 15/09441/FUL.

Previous planning permission was already in place for a large garage with accommodation in the roof, however if this application was granted then that garage would no longer be possible.

The application site was in open countryside and outside of the Housing Policy Boundary, so was recommended for refusal.

Members of the Committee then had the opportunity to ask technical questions of the Officers. It was noted that the grass banks along the roadside, which were currently being used for parking could be reinstated to a greater height to prevent cars parking there. The site had previously been within the Housing Policy Boundary prior to this being moved a few years ago. The fence and hedge at the exits of the property could be conditioned to a maximum height to provide good visibility for vehicles.

Members of the public then had the opportunity to present their views to the Committee, as detailed above.

The Unitary Division Member; Cllr Mike Hewitt then addressed the Committee stating that the original development started as one house, then went on to be studios and a garage. The site was outside of the Housing Policy Boundary, however there were two local development sites which could provide work in the area and could be considered sustainable. The steep bank along the roadside should remain to prevent parking. He felt that any additional Planning already permitted should be taken away. Discussions could be had with the developer as to whether a contribution back in to the village could be agreed upon.

The Committee discussed the application, noting that the existing garage and hedge height acted to obscure the view to the neighbouring property from the windows on the proposed development.

The Legal Officer advised that applications for planning permission must be determined in compliance with the Core Strategy and Planning Policy Boundary.

It was raised that the Core Strategy and Housing Policy Boundary originally set out many strategic sites for housing development; however it only identified 80-85% of the housing numbers required for a five year supply. It was always assumed that other sites would come to light in other ways. The five year supply would never be achieved unless they looked outside the Planning Policy Boundary. It was argued that the application could be considered, the question was whether it was a sustainable development for the site.

Cllr Mike Hewitt moved the motion to approve the application with conditions. This was seconded by Cllr John Smale.

Resolved

That the application be APPROVED 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. No development shall commence on site until finer details, and where so appropriate samples, of all external materials, flint work, eaves, windows, landscaping and boundary treatments to be used on the development 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 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.

3. The grass bank to the south-eastern boundary of the site shall be retained at the same height as the existing grass bank, and the separation distance between the neighbouring driveway and the new access shall be permanently maintained. The existing site access shall be permanently stopped up and reinstated as a grass bank prior to the occupation of the dwelling hereby approved. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of visual amenity and highway safety.

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

REASON: In the interests of highway safety.

5. 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 garages, sheds, greenhouses and other ancillary domestic outbuildings shall be erected anywhere on the site on the approved plans.

REASON: To safeguard the character and appearance of the area.

6. 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.

7. The bathroom and ensuite windows in the eastern elevation shall be glazed with obscure glass and fixed with a ventilation stay restricting the opening of the window prior to the first occupation of the development hereby permitted and shall be permanently maintained in perpetuity.

REASON: In the interests of residential amenity and privacy.

8. No part of the development shall be first brought into use until the visibility splays shown on the approved plans have been provided, with no obstruction to visibility at or above a height of 1000mm 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

9. Demolition or construction works shall not take place outside 0730 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.

REASON: In the interests of neighbouring amenity.

10. This development shall be in accordance with the submitted drawings:

- Location Plan, P15-086 02-02-001A, dated 21/09/15 and received to this office on 04/04/16

- First Floor Plan, P15-086 02-03-002D, dated 21/03/16 and received to this office on 04/04/16

- Ground Floor Plan, P15-086 02-03-001C, dated 21/03/16 and received to this office on 04/04/16

- Elevations, P15-086 02-05-001D, dated 29/03/16 and received to this office on 04/04/16

- Roof Plan, P15-086 02-03-003C, dated 21/03/16 and received to this office on 04/04/16

- Site Plan, P15-086 02-02-002D, dated 01/03/16 and received to this office on 04/04/16

- Elevations, P15-086 02-05-002D, dated 29/03/16 and received to this office on 04/04/16

- Streetscene, P15-086 02-05-005D, dated 29/03/16 and received to this office on 04/04/16

REASON: For the avoidance of doubt.

INFORMATIVE:

Many wildlife species are legally protected. The applicant should be aware that if it becomes apparent that the site is being used or has previously been used by protected species (such as slowworms, badgers, barn owls or bats), work should STOP immediately and Natural England should be contacted at their Devizes office 01380 725344 for advice on how to proceed.

INFORMATIVE:

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

46b 16/02517/FUL: Deems, Rollestone Road, Shrewton, Wiltshire, SP3 4HG

Public Participation

Ms Heather Smith spoke in objection to the application.

Cllr John Berry of Shrewton Parish Council spoke in objection to the application.

The Planning Officer drew attention to the late correspondence circulated at the meeting, detailing amendments to the garage roof, side and front elevations which were not in accordance with the plans. She then introduced the application for the newly submitted plans, explaining that Planning permission had been granted in 2015 for a single-storey side extension and a single-storey rear extension. The current application was inside the same footprint, but sought retrospective approval for amendments to the scheme. The amendments included changes to the side and roof windows, materials, roof design, flue and patio doors.

Members of the Committee then had the opportunity to ask technical questions of the Officers. It was noted that the side windows had increased from 2 obscure fixed closed to 3 obscure opening windows. There was no safety reason why the side windows could not be fixed closed, as not required for ventilation.

A flue had been added and a parapet wall all the way around, resulting in a slight raise to the elevation. The side of the extension was now cladded instead of plain brick, however if the cladding was removed then the other changes would be permissible under permitted development rights. It was noted that the application had not been to Committee the first time. The new build was 30cm away from the neighbouring boundary.

Members of the public then had the opportunity to present their views to the Committee, as detailed above.

The Unitary Division Member Cllr Ian West then addressed the Committee stating that he had visited the site and felt the closeness to neighbouring properties and the impact upon residents as a result was unacceptable.

Although there were a lot of parts of the development which had not been carried out to plan, he felt that the three opening windows along the side

were a step too far. He proposed that the developer be required to revert back to the original 2 fixed shut windows.

The Committee discussed the application, noting that it was sorry that this application had not come before them originally. It asked that Building Control be urged to visit the site to ensure that the wood burner and flue had been installed in compliance with regulations, ensuring that the fumes did not go into the neighbouring property.

A general feeling of empathy for the neighbour was felt and in support of that it was proposed that the three opening side windows should be fixed shut opaque windows.

Cllr Ian West moved the Officers recommendation with an amendment as detailed above for Approval subject to conditions; this was seconded by Cllr Chris Devine.

Resolved

That the application be APPROVED 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:
0128/PL/01 Rev C dated 05/05/16 received 05/05/16
0128/PL/02 Rev C dated 05/05/16 received 05/05/16
0128/Ex/01 dated 05/05/16 received 11/03/16**

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

- 3 The windows in the East elevation of the side extension shall be glazed with obscure glass only to an obscurity level of no less than level 4 and permanently fixed shut within 2 months of the date of this planning permission and shall be permanently maintained in perpetuity.**

REASON: In the interests of residential amenity and privacy.

46c 16/02778/FUL: 22 Cholderton, Salisbury, SP4 0DL

Public Participation

Mr David Shearer spoke in objection to the application

Mrs Jaqueline Shearer spoke in objection to the application

The Senior Planning Officer introduced the application for a proposed single storey rear kitchen extension and link, which would not result in any demonstrable harm to the character or setting of the existing house which was a grade II listed building, nor would it have a harmful impact on the appearance of the wider Cholderton Conservation Area.

Following an earlier application for an identical development which was refused planning permission on 19 March 2015 and dismissed at appeal on 15 October 2015, the application was accompanied by a Sun Study and BRE compliance statement which indicated that the proposed extension would not cause loss of light to the neighbouring property. The Sun Study has been independently scrutinised by another expert in this field and found to be sound.

Appendix A of the report detailed the appeals decision, listing the two reasons for refusal, of which reason one had not been supported by the Inspector, which left reason two standing. The application was recommended for approval.

Members of the Committee then had the opportunity to ask technical questions of the Officers. It was noted that the sun study was aimed at providing a rounded view through the year.

Members of the public then had the opportunity to present their views to the Committee, as detailed above.

The Unitary Division Member Cllr John Smale then addressed the Committee stating that the size of the development was 60% of the original property size, which he felt to be overdevelopment on this plot. The development was too close, only 0.8m from the neighbouring boundary. His concerns had been raised with the Parish Meeting who supported them, however did not wish to speak at the meeting.

The Committee discussed the application, noting that on a previous site visit to the development site and the neighbouring property it was felt that the development would result in an unacceptable loss of light and overshadowing to the neighbouring property, which included ambient light as well as direct sunlight. It was felt that a development of 60% the size of the original property was excessive for a property in the existing row of Victorian cottages. The sun study took readings at staggered times of the day, including at 8am and again at 10am, missing the sun which had risen to a

point where it shone on the neighbouring property at 8.09am until it passed before 10am, thus not providing a reflective account.

Cllr John Smale moved a motion for refusal with reasons; this was seconded by Cllr Chris Devine.

Following debate on the reasons for refusal, an amendment to the motions reason for refusal to take out 'loss of light' was put forward by Cllr Westmoreland, this was seconded by Cllr Smale.

Resolved

That the application be REFUSED for the following reasons:

1. The proposed single storey extension by reason of its height and proximity to the boundary with No 23/24 Cholderrton (Saddlestone Cottage) would have an adverse impact on the amenities of No 23/24 Cholderton in particular overshadowing contrary to core policy57 (vii) of the Wiltshire Core Strategy.

46d 16/02547/DP3: Winterbourne Earls School, Winterbourne Earls, Salisbury, SP4 6HA

The Senior Planning Officer drew attention to the late correspondence circulated at the meeting and introduced the application which was for the proposed renewal of permission for two existing mobile classrooms at Winterbourne Earls School. The application was being considered by committee because it was a council application and objections had been received by the Parish Council relating to impact on traffic.

Members of the Committee then had the opportunity to ask technical questions of the Officers. It was noted that it was not known whether the school had a current traffic plan. The late correspondence was a response from Highways which indicated they had no concerns.

Cllr Ian West moved the Officers recommendation for Approval; this was seconded by Cllr Chris Devine.

Resolved

That the application be APPROVED subject to the following conditions:

- 1 The building hereby permitted shall be removed and the land restored to its former condition on or before 09/06/2021 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority prior to that date.**

REASON: The building is constructed out of materials which are likely to deteriorate to the detriment of the external appearance of the building and which would have an adverse effect upon the visual amenities of the area.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:**

**Application Forms
Site Location Plan
Drawing No. 1623/46 Rev O**

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

47 Urgent Items

There were no urgent items; however the following Site Visits were requested:

- Cllr Ian West – Stonehenge 16/03988/FUL

The Chairman then put forward a motion to grant delegated authority to the Development Control Team Leader in consultation with the Chairman to organise site visits when required, without the need to submit a request at the meeting.

Resolved

The Southern Area Planning Committee gave delegated authority to the Development Control Team Leader in consultation with the Chairman to organise site visits when required.

(Duration of meeting: 6.00pm – 8.52pm)

The Officer who has produced these minutes is Lisa Moore, of Democratic Services, direct line (01722) 434560, e-mail lisa.moore@wiltshire.gov.uk

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

WILTSHIRE COUNCIL

AGENDA ITEM NO. 6

SOUTHERN AREA PLANNING COMMITTEE

21 JULY 2016

WILDLIFE AND COUNTRYSIDE ACT 1981
THE WILTSHIRE COUNCIL

THE WILTSHIRE COUNCIL DURNFORD 4 (WOODROW) RIGHTS OF WAY
MODIFICATION ORDER 2016

Purpose of Report

1. To:
 - (i) Consider the objections received to the making of The Wiltshire Council Durnford 4 (Woodrow) 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 for determination.

A copy of the Order is attached at **Appendix A**.

Relevance to Council's Business Plan

2. 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.

Background

3. In 2005 Wiltshire Council received an application to record the right of way Durnford 4 (Woodrow) as a byway open to all traffic.
4. The application relied on historical evidence which showed that although the route was currently recorded as a bridleway it had a higher status and should be so recorded.
5. Officers of the Council have investigated the evidence and agree that Durnford 4 (Woodrow) is an ancient carriageway and road and that the definitive map and statement should be altered accordingly.
6. The full report including the relevant legislation is appended at **Appendix B**.
7. The report finds that the route has ancient origins and was awarded as a Public Carriageway and Driftway leading from Durnford towards Winterbourne Dauntsey by an Award arising out of an Act of Parliament in 1793. Any rights for the public to use the way with mechanically propelled vehicles (MPVs) was extinguished by Act of Parliament in 2006. Accordingly, the route may not now be recorded as a byway open to all traffic and should be recorded as a restricted byway instead.

8. The public have a right to pass and re-pass along a restricted byway on foot, on horseback or leading a horse, on a cycle or with a horse drawn vehicle (e.g. pony and trap). There is no right for the public to use the way with an MPV though anyone using the way for access to property retains a private right to do so with an MPV.
9. The parish council, applicant, local people and the landowner have not objected to this Order but two objections have been received from other members of the public. Although the objections contain no details of the basis for the objection and adduce no further evidence, Wiltshire Council may not disregard them and proceed with confirming the Order. The Order must now be sent to the Secretary of State for Environment, Food and Rural Affairs for determination.
10. A recommendation from the Council is required to accompany the Order when it is submitted.

Main Considerations for the Council

11. Two objections have been duly made:

(i) **Mr J Hawkins, Poulshot, Devizes**

"I write in connection with the above application. I know the area well. I wish to object strongly.

I hereby object to the above order on the grounds that I have used the route over many years and insist on future use by myself and others on a motorcycle.

I believe the correct classification of this route to be a Byway Open to All Traffic.

The Countryside is and should remain open to all users."

(ii) **Mr S Packer, Bath**

"I write to object to the aforementioned order on the grounds that I believe it is incorrect.

I believe the way to carry motor vehicle rights and the correct classification to be Byway Open to All Traffic."

Comments on the objections

12. Members of the Committee are now required to consider the objections received.
13. The Order must be forwarded to the Secretary of State for the Environment, Food and Rural Affairs for determination and the Members of the Committee must decide the Wiltshire Council recommendation which is attached to the Order when it is forwarded to the Secretary of State, i.e.:
 - (i) that the Order be confirmed as made, or
 - (ii) that the Order be confirmed with modification, or
 - (iii) that the Order should not be confirmed.

14. Although it is recognised that those seeking to record and use Byways Open to All Traffic were severely affected by the Natural Environment and Rural Communities Act 2006, the belief that Durnford 4 (Woodrow) should be recorded as a byway open to all traffic is insufficient to achieve this. Additionally, the evidence from the first objector that he used the way on a motorcycle is insufficiently detailed to allow the Council to consider it as part of the evidence of use considered for the period 2001 to 2006 (see **Section 19 Appendix B**).
15. Officers have written to both objectors enclosing full details of the Council's decision to make the Order and have requested additional details of their evidence and invited the withdrawal of their objections. No responses have been forthcoming and hence officers consider that there is nothing in either objection that would alter the assessment of the evidence or the original decision to make and confirm (in the event that no objections had been received) the Order (**paragraph 29 Appendix B**).

Safeguarding Considerations

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

Public Health Implications

17. There are no identified public health implications which arise from this Order.

Procurement Implications

18. There are no procurement implications associated with the withdrawal of this Order.
19. In the event that this Order is forwarded to the Secretary of State there are a number of opportunities for expenditure and these are explained in paragraphs 23 to 26 inclusive of this report.

Environmental and Climate Change Considerations

20. There are no environmental or climate change considerations associated with this Order.

Equalities Impact of the Proposal

21. The proposed new routes will be more accessible to a wider range of users.

Risk Assessment

22. There are no identified risks which arise from this Order. The financial and legal risks to the Council are outlined in the "Financial Implications" and "Legal Implications" sections below.

Financial Implications

23. The making and determination of Orders made under the Wildlife and Countryside Act 1981 is a statutory duty for Wiltshire Council for which financial provision has been made.
24. 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 outcome of the Order will then be determined by 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).
25. Where the Council objects to the Order (i.e. it no longer supports making it, or wishes it be modified to record a Byway Open to All Traffic) 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 24 above.

Legal Implications

26. Where the Council does not support 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 if this decision is seen as incorrect or unjust by them. The cost for this may be up to £50,000.

Options Considered

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

Reason for Proposal

28. The historical evidence supporting Durnford 4 (Woodrow) being an ancient carriageway is cohesive and compelling and no parties have raised any objection to the historical aspect of the Order. Additionally, there has been no explicit challenge to the officers' interpretation of the 2006 Act and its effect of extinguishing public MPV rights.
29. The two objectors fail to raise any significant evidence or comment for the Council to consider and accordingly, and in line with its statutory duty, the Council should proceed with supporting the recording of the route as a restricted byway.

Proposal

30. That “The Wiltshire Durnford 4 (Woodrow) Rights of Way Modification Order 2016” is forwarded to the Secretary of State for the Environment, Food and Rural Affairs for determination with the recommendation that the Order be confirmed without modification.

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 A – Order and Plan
Appendix B – Decision Report

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WILDLIFE AND COUNTRYSIDE ACT 1981**THE DEFINITIVE MAP AND STATEMENT FOR THE AMESBURY RURAL DISTRICT COUNCIL AREA DATED 1952 AS MODIFIED UNDER THE PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981****THE WILTSHIRE COUNCIL DURNFORD 4 (WOODROW) 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 Amesbury Rural District Council area dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of events specified in section 53(3)(c)(ii) & (iii) of the Act, namely the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

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

The Wiltshire Council hereby order that:

1. For the purposes of this Order the relevant date is the 12th March 2016
2. The Definitive Map and Statement for the Amesbury Rural District Council Area dated 1952 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 plan attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as the Wiltshire Council Durnford 4 (Woodrow) Rights of Way Modification Order 2016

THE COMMON SEAL of
WILTSHIRE COUNCIL was
hereunto affixed this 15th day
of March 2016

}
}
}
}

in the presence of:



Senior Solicitor



82956

SCHEDULE

PART I

MODIFICATION OF DEFINITIVE MAP

Parish	Path No	Description of path or way to be upgraded	Modified under Section 53(3) as specified
Durnford	4	Length of restricted byway shown by a broken line and small arrowheads marked A to B to C on the plan annexed hereto. Width A to B 6.10 metres (with pinch point of 5.5 metres at OS Grid ref SU1375 3829) Width B to C 9.14 metres (30 feet) Approximate length 2.158 kms	53(3)(c)(ii) & (iii)

SCHEDULE

PART II

MODIFICATION OF DEFINITIVE STATEMENT

Parish	Path No	Description of path	Modified under Section 53(3) as specified
Durnford	4	<u>RESTRICTED BYWAY WOODROW</u> From road U/C 10048 at Durnford Church leading south-east, east and south-east to the Salisbury – Amesbury road, A.345	53(3)(c)(ii) & (iii)

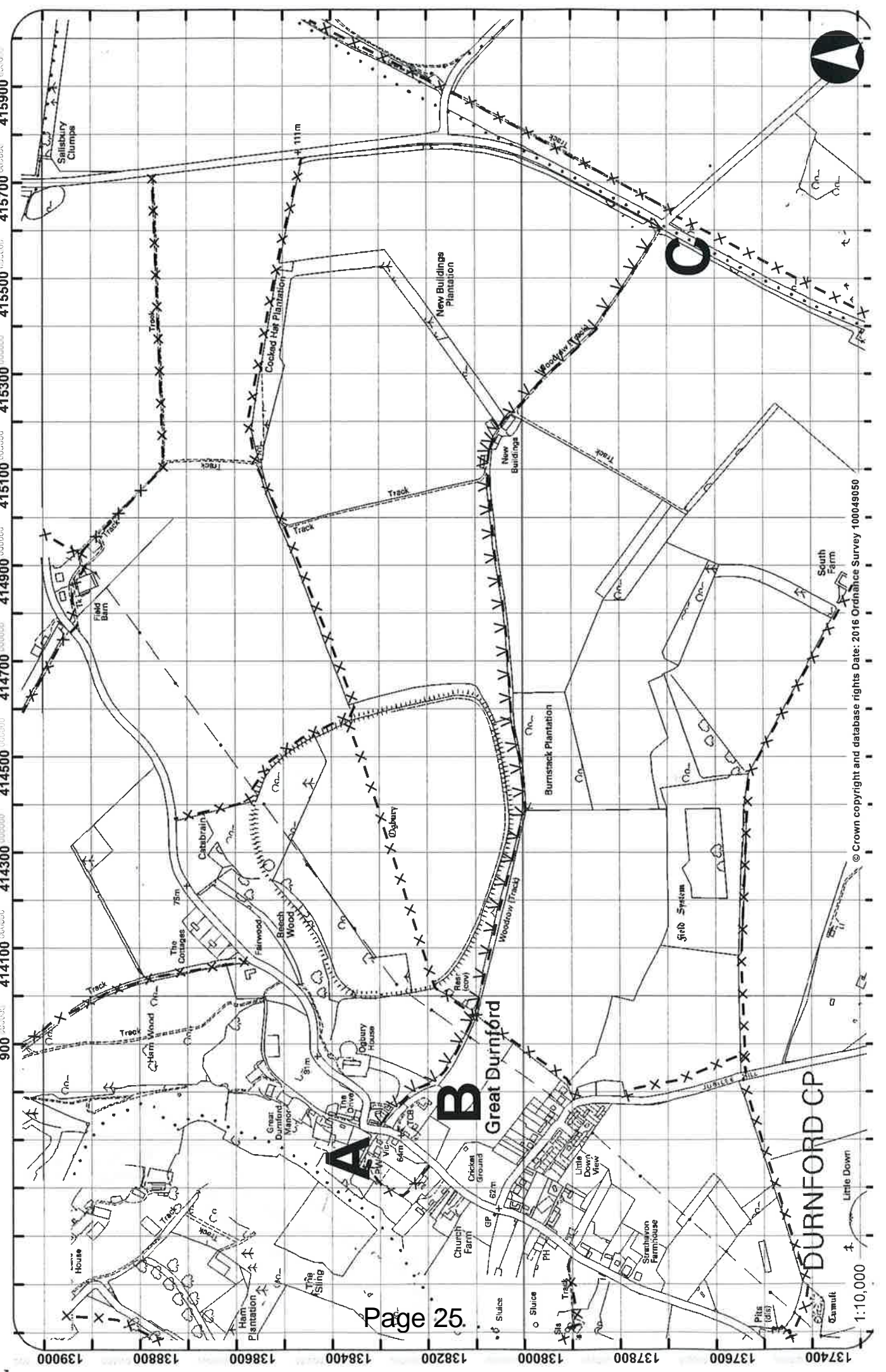
Width OS Grid ref. SU 1373 3830 to SU 1382 3819 = 6.10 metres
Pinchpoint of 5.5 metres at OS Grid ref. SU1375 3829
Width OS Grid ref. SU 1382 3819 to SU 1560 3771 = 9.14 metres (30 feet)

Approximate length 2.158 kms

DURNFORD 4 (WOODROW) ORDER PLAN
Restricted byway to be upgraded A-V-V-V-V-B-V-V-V-V-V-C
Unaffected rights of way

Date: 08/03/2016

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WILDLIFE AND COUNTRYSIDE ACT 1981 S.53

DECISION REPORT

DURNFORD 4 – WOODROW

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: 2005/39

Date of application: 06 May 2005

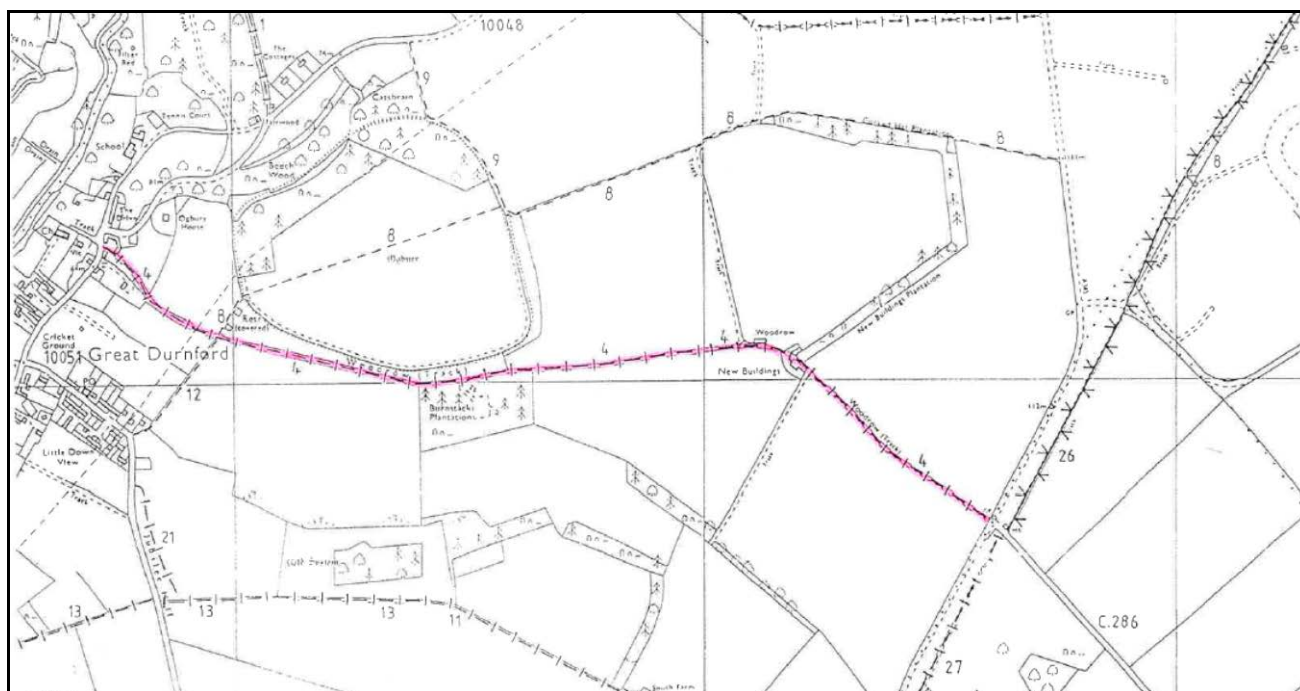
Applicant: Mr Bill Riley
141 Bath Road
Bradford on Avon
BA15 1SS

Application for: An Order modifying the definitive map and statement for the area by upgrading to a byway open to all traffic the bridleway No. 4 in the parish of Durnford: and varying the particulars relating to the byway open to all traffic by recording a width of 30 feet (9.14 metres) where awarded, and not less than 20 feet (6.10 metres) elsewhere; and shown highlighted on the map accompanying this application

Application comprises: Form of Application for Modification Order Schedule 7 Regulation 8(1)
Form of Certificate of Service of Notice of Application Schedule 9 Regulation 8(4)
Notice served on:
Mr M d'Arcy Irvine, Wilsford Manor, Wilsford, SP4 7BL
Mr G Rasch, Heale Farms, Heale House, Middle Woodford, SP4 6NT
Mr and Mrs H Hawkings, Woodrow Cottage, Great Durnford, Salisbury, SP4 6AZ
The Occupier, The Small House, Great Durnford, SP4 6AZ

The Occupier, Dairy House, Great Durnford, SP4 6AZ
The Occupier, Dairy Cottage, Great Durnford, SP4 6AZ
The Occupier, Ogbury House, Great Durnford, SP4 6AZ
Map to the scale 1:10000 showing claimed route highlighted in pink
Extract from the Salisbury and Winchester Journal 07.08.1858
Summary of Evidence

Application map



2.0 Enabling Legislation

- 2.1 Wiltshire Council is the surveying authority for the County of Wiltshire, excluding the Borough of Swindon. A surveying authority is the body responsible for the preparation and upkeep of the definitive map of public rights of way.
- 2.2 The Wildlife and Countryside Act 1981 (WCA 1981)(c.69) section 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 these events, by order make such modifications to the map***

and statement as appear to them to be requisite in consequence of that event.

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

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

(ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description

(iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

2.4 The council must consider all available evidence and this may relate to a dedication at common law or by statute law. Historical evidence may be considered by virtue of Section 32 of The Highways Act 1980 (below):

A court or tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

2.5 Section 53(5) WCA 1981 allows for any person to apply 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.

2.6 Schedule 14 to this Act states:

Form of applications

1. *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.

Notice of applications

2. (1) *Subject to sub-paragraph (2), the applicant shall serve a notice stating that the application has been made on every owner and occupier of any land to which the application relates*

(2) If, after reasonable inquiry has been made, the authority are satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates, the authority may direct that the notice required to be served on him by sub-paragraph (1) may be served by addressing it to him by the description "owner" or "occupier" of the land (describing it) and by affixing it to some conspicuous object or objects on the land.

(3) When the requirements of this paragraph have been complied with, the applicant shall certify that fact to the authority.

(4) Every notice or certificate under this paragraph shall be in the prescribed form.

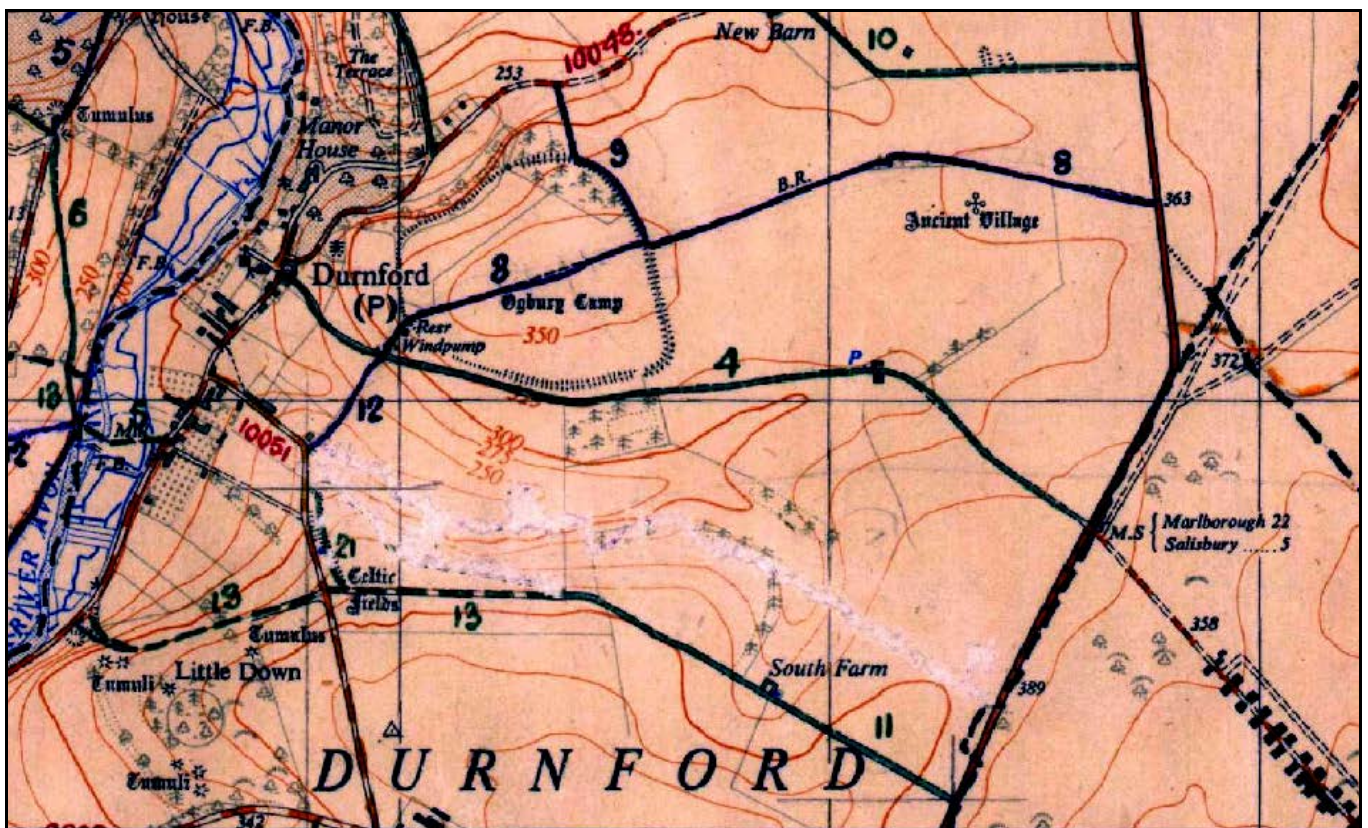
- 2.7 A surveying authority has discretionary power to waive strict compliance to Schedule 14 when determining an application or may consider the application to be improperly made whereby the surveying authority may use the evidence brought to its attention as a trigger to make its own decision under Section 53(2) of the 1981 Act.
- 2.8 This application is considered to fail the test of strict compliance (no actual copies of evidence were adduced, only a list and extracts were provided) to Schedule 14 but to otherwise be compliant.
- 2.9 Although it is clear that it is possible to proceed with most applications that are not strictly compliant with Schedule 14, legislation enacted in May 2006 (Natural Environment and Rural Communities Act 2006 (NERC Act 2006 see section 17 of this report) means it is necessary for the Council to consider strict compliance where an exemption from the extinguishment of public rights for mechanically propelled vehicles (MPVs) under s.67(3) may apply.
- 2.10 An exemption under s.67(3) may only apply where an application was received before the 20th January 2005. In this instance the application was made on the 6th May 2005 and therefore s.67(3) can not apply.
- 2.11 The NERC Act 2006 permits further exemptions to the extinguishment of public vehicular rights under s.67(2), however, in all cases it is necessary to establish whether, on the balance of probabilities, the route carried a right for the public to use a mechanically propelled vehicle before the 2nd May 2006. Only then is it appropriate to consider whether any savings apply. As a result NERC Act 2006 will be covered later in this report (see sections 17 and 19 of this report).

3.0 Land Ownership

- 3.1 The majority of Durnford 4 (Woodrow) is included in Registered Title no WT315372 though a short section through the barns is included in Registered Title no WT195700.
- 3.2 The ownership is given as the Great Durnford Estate (formerly belonging to Mr M d'Arcy Irvine on whom notice was served in May 2005) and the land is farmed by Great Durnford Farms and Heale Farms.

4.0 Current Records

- 4.1 The claimed route is recorded in the Amesbury Rural District Council Area definitive map and statement dated 1952 as follows:

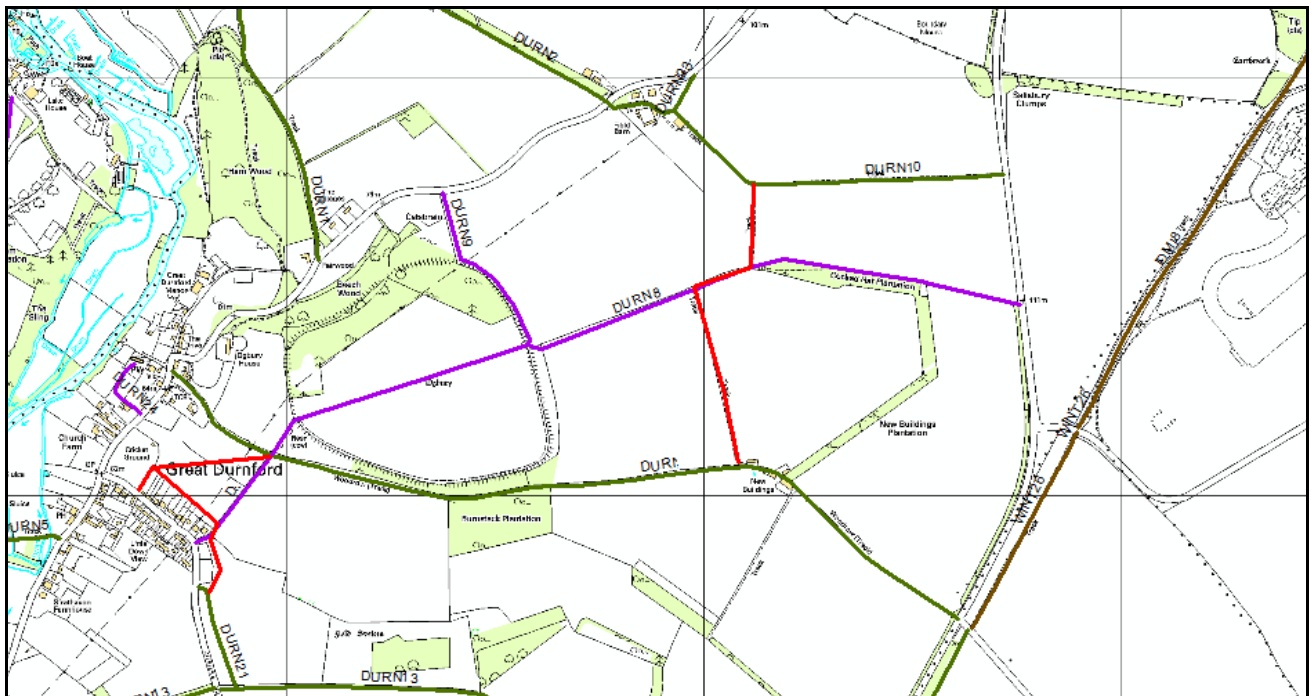


Footpaths = purple
Bridleways = solid green line
Roads Used and Public Paths = broken green line

B.R. From road U/c 10048 at Durnford Church leading south east, east and south-east to the Salisbury – Amesbury road, A.345.

Approximate length 2360 yards Width 9 feet

4.2 The working copy of the definitive map (showing all changes since 1952) shows that the route has remained unchanged in the record since 1952:



Footpaths = purple Bridleways = green Byways open to traffic = brown

Red line show routes subject to DMMO applications based on evidence of use on foot and for the route linking Durnford 4 (Woodrow) with Durnford 10 additional use by cycle and on horseback.

5.0 Photographs

5.1 Site visit 01 March 2016 From A345 west towards Durnford





Track to field on left Durnford 4 (Woodrow) straight on (white arrows)



Durnford 4 (Woodrow) straight on







Post in middle of Durnford 4 (Woodrow) east of Woodrow Cottage



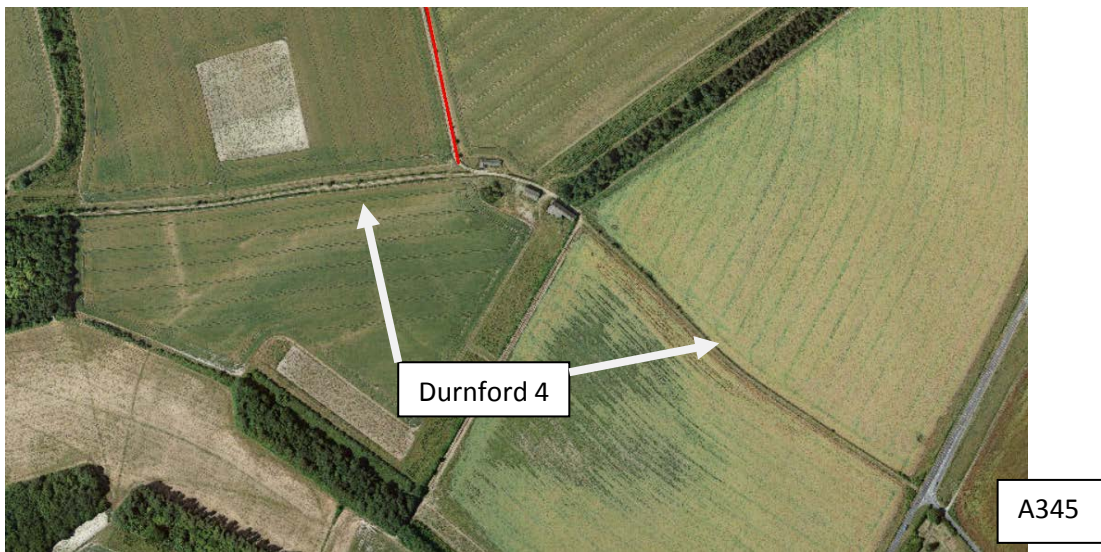
Woodrow Cottage



View of western end of Durnford 4 (Woodrow) past Woodrow Cottage

5.2 Aerial photographs

2014 (red line shows claimed bridleway application no. 2015/07) Eastern section



2001 Eastern section



2014 Western section



2001 Western section



2006 photograph showing effect of farm vehicle use on Durnford 4



6.0 Pre consultation correspondence

6.1 The application, when made in May 2005 triggered some correspondence with the then Wiltshire County Council.

6.2 10.05.05

A telephone call from Mr G Rasch of Heale Farms which resulted in him being sent a summary of the evidence (from the application) and a copy of Natural England's Guidance on Definitive Map processes (NE112).

6.3 **18.05.05**

A fax message was received from Ms Heather Sprague of The Small House, Great Durnford.

"I wish to register with you that I am opposed to the opening of Bridleway no 4 at Great Durnford to all traffic. At present the bridleway is used by walkers and riders and horses and motorised farm vehicles and equipment.

The junction of Woodrow bridleway 4 and the road to Amesbury (track) is tight between houses, with a blind corner and the Church Lane (also blind at juncture with Track road and Manor Drive).

The Woodrow track (Bridleway 4) is used a good deal by families with small children. They learn a lot about the country, trees and different species of flowers and hedge bushes. It is a good habitat for wild creatures. It is a lovely peaceful place to walk.

It would be sad to hand this to noisy 4 x 4 vehicles, heavy duty motor bikes (note: how the old ox droves have been destroyed by this between Wilton and Shaftesbury).

The track leads to farm buildings. Once it would have crossed what is the A345 now; this is a section of the A345 which is very dangerous and where there are frequent accidents. The land is all privately cared for.

In 1996 I think (the Police would be able to give information) there was, at the time of the Summer Solstice, an invasion of Great Durnford by a Hippy Convoy; the convoy turned up Bridleway 4, apparently with the intention of setting up Camp at Ogbury. Thanks to the Police they did not succeed. It was some hours before the convoy was removed.

I watched from my garden and orchard as the lorries and vans with their tree trunks strapped on, churned up the bridleway below me. It was sad and frightening so you may understand why I don't want this bridleway no. 4 opened up to all traffic."

6.4 **07.06.05**

A letter from Durnford Parish Council including reference to Durnford 4:

"It is understood by the Parish Council that enquiries have been made to use this bridleway which runs from Great Durnford to the A345. The Parish Council are concerned that 4 x 4 cars could be hoping to use this and this is, of course, causing considerable concern to the Council."

Wiltshire Council responded on 15.06.06 explaining the effects of the NERC Act 2006.

6.5 **22.06.06**

A letter from Miles d’Arcy-Irvine, Wilsford & Durnford Estates Ltd:

“...the bridleway traverses farmland managed on behalf of clients of this Company. I would be grateful, therefore, for confirmation that, in accordance with the contents of Miss Langton’s letter of the 15th June 2006 to Mrs Rowntree, I am correct in understanding that Mr Riley’s application, as referred to above, will now be dealt with under the new procedures and that, as a consequence, it is no longer possible for that application to result in bridleway 4 being upgraded to a BOAT, in view of the date of Mr Riley’s application and the fact that the bridleway in question has not been used for motorised vehicle traffic in living memory (if ever).”

6.6 **12.08.08**

A letter from the applicant:

“Certain applications of mine for byways open to all traffic might be able to be processed as restricted byway because, post Winchester, I am currently unable to provide evidence that an exemption applies. Records have not been kept as to whether any maps or documents were submitted at the time, so please check that the following 20 applications are indeed non compliant first.”

A list of DMMO applications follows of which 2005/39 Durnford 4 is one.

6.7 **24/05/11**

One MPV user evidence form/Section 67(2) NERC exemption form was submitted by Mr Keith Dobson of Amesbury declaring use of the route with a motorcycle from 2000 to 2011. Photographs of the motorcycle on the route taken on 01.05.06.

7.0 **Initial Consultation**

On the 31 December 2015 Wiltshire Council circulated the following letter:

***“Wildlife and Countryside Act 1981 s.53
Application to upgrade bridleway Durnford 4 – Woodrow***

In May 2005 Wiltshire Council received an application for a modification order to record Durnford path no 4 (Woodrow) as a byway open to all traffic (BOAT). The application adduces historical evidence which supports that Woodrow is an ancient road dating back to at least 1675. The majority of the route was awarded to the public as a Public Carriage Road when the North End tithing of Great Durnford was enclosed by Act of Parliament in 1794. The route was recorded by the highway authority as a publicly maintainable road in 1881 and has been represented as a road in a variety of documents from 1675 to 1947.

Although the route is currently recorded as a bridleway the applicant considers that on the balance of probabilities higher rights subsist. If they do, the Council has a duty to make an Order to record them. The route affected by the application is shown in pink on the enclosed map.

Although the original 2005 application was for a byway open to all traffic the law changed in 2006 and it is considered likely that any right for the public to use a mechanically propelled vehicle (MPV) on the route has been extinguished (although any adjoining property relying on the public right for access to their property would have this saved as a private right). The extinguishment of the public right is dependent of certain exemptions not applying. It is noted that the applicant does not rely on any exemptions that may have preserved the public MPV right.

In the event that the public MPV right has been extinguished the route would be recorded as a restricted byway. This is a route over which the public has a right to pass and re-pass on foot, on or leading a horse, on a bicycle and driving a horse and cart but not to drive a mechanical vehicle (for example a car or motorbike).

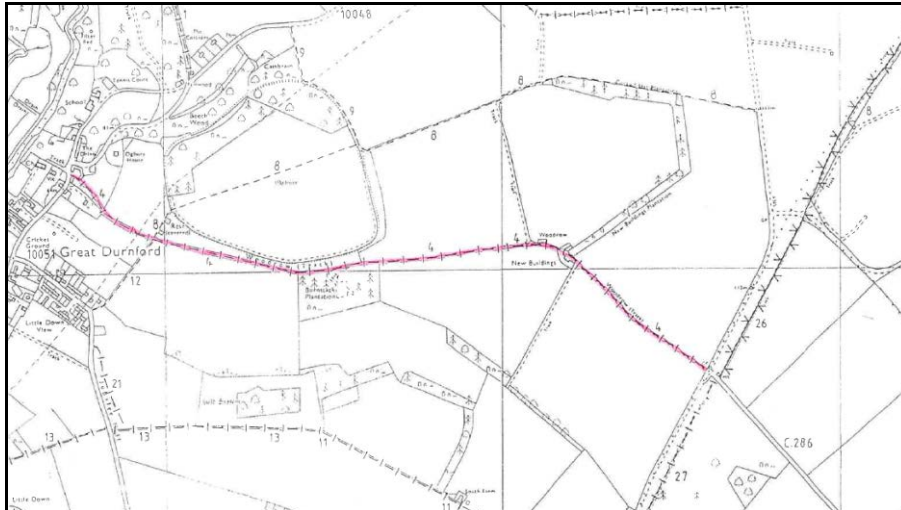
Wiltshire Council is currently investigating 4 applications for Orders to alter the definitive map and statement in Great Durnford and it is considered sensible to determine this application (2005/39) now; primarily to save wear and tear on historical documents relating to Great Durnford but also to address all potential definitive map changes in the parish at the same time.

If you have any comment on the above or evidence relating to Woodrow please ensure it is sent to me by February 29 2016.”

7.2 The letter was sent to the following:

The Auto Cycle Union	Commons, Open Spaces &Footpaths Society
Wiltshire Bridleways Association	Cycling Touring Club
British Horse Society	Durnford Parish Council
Wiltshire Councillor M Hewitt	British Horse Society (Wiltshire)
Byways and Bridleways Trust	British Driving Society
Wiltshire Council Senior Rights of Way Warden	
The Ramblers (Wiltshire)	The Ramblers (South Wiltshire)
Applicant Mr B Riley	N Gallop, Woodrow Cottage
G Rasch, Heale House	S Langdon, White Cottage
M Gentle, Durnford Estate	Mr J Blackwood, Dairy House
Durnford Properties	Julian Properties
Woodhouse Properties	R Barnett, Countryside Access Consultant
Great Durnford Farms	Owner/occupier, Dairy Cottage
Owner/occupier The Small House	
Owner/occupier Ogbury House	

7.3 The following map was also circulated:



NB This is the application map shown at 1.1.

8.0 Consultation responses

8.1 Mr B Riley 06.01.16

“There is one minor piece of additional evidence (can’t remember if I’ve mentioned it before). It’s from the Salisbury Journal and a rather poor photograph from the microfilm reader screen is attached – you can just about read it. If it’s any use, a copy of the original paper should reproduce well.

Keith Dobson, who lives in Durnford, is/was a regular MPV user of this lane. He was going to try and contact other users. I have jogged his memory.”

The Salisbury Journal extract will be considered in the historical records section at 15.23.

8.2 Mr A Clarke, Cycling Touring Club 08.01.16

“We don’t think it is relevant but might be of interest.

Our cycling group cycled the "bridleway" Durnford 4 on Christmas day 1983. I have attached a scan of the relevant pages from our newsletter of the time. I remember it well as we didn’t know if anyone would turn out on Christmas morning. To my surprise there were quite a few of us including people who didn’t come out very often.

My annotated O/S map shows that this was the first time our cycling group was recorded as using this bridleway.

We just thought it might amuse you to know how eccentric Salisbury cyclists are!”

Scan of newsletter supports that a run was scheduled for the 25th December 1983.

8.3 **Durnford Estate, 03.03.16**

On the 3rd March 2016 the Durnford Estate submitted a response to the four applications to record footpaths and bridleways over its land submitted in 2015. As part of their response, Ms Rhoda Barnett acting for the estate stated:

“Please note also that I understand that the Landowners do not wish to make any comments on your investigation into the evidence relating to the application to upgrade Bridleway 4 Durnford. They do however reserve the right to make representations to your council should they deem it necessary once a report is presented to the relevant Committee and if a modification order is made.”

8.4 **Wiltshire Trail Riders Fellowship 07.02.16**

A submission of 25 user evidence forms for use of the way with mechanically propelled vehicles were submitted. This makes a total of 26 and these have been considered with other user evidence of the ways as adduced in support of the 2015 applications at Section 19 of this report.

8.5 **N Gallop, Woodrow Cottage 26.02.16**

“You wrote about the application to change the status of the Woodrow. Your letter stated that this kind of use would be preserved, even if the access became more restricted. I’m writing simply to inform you that we use our car on the first 100 yards of the Woodrow on a daily basis to give access to the parking area at the top of our garden, and we have planning permission for a triple garage (barn type garage) in this area of our garden.

We have made daily use of this part of the track for 12 years, and so did the previous owners, and I believe the owners before, who laid concrete to provide a parking area.”

9.0 **General Context** *Notes taken from Victoria County History Vol 15 (1993)*

9.1 Durnford is a civil parish in the Woodford Valley bounded by the River Avon in the west and the A345 in the east. Today, Durnford includes the settlements of Great Durnford, Netton, Salterton and Little Durnford. Prior to 1885, Normanton, a settlement on the west bank of the Avon formed a part of Durnford but was transferred to Wilsford in 1885. In 1986 a small part of Durnford was transferred to Woodford and land at Laverstock was added.

9.2 The population of Durnford was 553 in 1861 falling to 380 by 1891. In 2011 the population was 368.

9.3 Great Durnford is the largest of the settlements and Durnford 4 (Woodrow) lies wholly within it, extending from the crossroad with the road to the church and the u/c

10048 leading broadly in an easterly direction to the crossroad at the parish boundary and its junction with the A345 (former Marlborough Road) and the C.286 road to Winterbourne Gunner. Durnford 4 (Woodrow) forms the most direct connection with the village centre and the main road.

- 9.4 The road that is the eastern parish boundary (and at the eastern end of Durnford 4) was the main road from Chipping Campden (Glos) via Marlborough to Salisbury in the 17th century and the main road to Amesbury converged on it just north east of the Durnford 4 junction. The main road that is now the A345 was realigned as a straight road and the old Marlborough Road is now recorded as byway open to all traffic Winterbourne 26. The milestone near the junction remains (Marlborough 22 Salisbury 5).
- 9.5 The iron age hill fort known as Ogbury Camp lies to the north of Durnford 4 (Woodrow) and is accessible from it. Woodrow Cottage, a listed building dating back to the late 16th century lies beside Durnford 4 and the u/c10048 and appears to have been built with reference to the roads which bound it.
- 9.6 The demesne lands of Great Durnford manor appear to have lain in severalty south and east of Ogbury Camp. There were three open fields (in 1412 there was East (later called Woodrow), Middle and North, all of about 100 acres. Additionally there was a cow down and a sheep down, possibly including Ogbury Camp and Catsbrain Hill.
- 9.7 In 1794 this arable and downland pasture ('Durnford Northend') was enclosed by Act and approximately 50 acres of meadows and home closes allotted in exchange. The act of inclosure of the open fields and downland created a number of roads, one of which was Durnford 4 (Woodway) though its route pre-dated inclosure.
- 9.8 The allotment commuted the tithes and accordingly, in this area of Durnford, there was no need for further commutation of Great Tithes under The Tithe Commutation Act 1836 in Northend tithing. Tithes in Southend tithing were commuted at a later date (1842).

10.0 Historical Records

- 10.1 The route recorded as Durnford 4 can be seen on maps dating from 1675 to the present day. Although it can be helpful to present these in chronological order to show the consistent recording of a way over time it does not allow for the need to apply evidential weight to documents. For example although a way may appear on fifty commercial maps it does not necessarily carry as much evidential weight as if the way is shown in perhaps two publicly consulted documents or created, say, as the result of an Act of Parliament.
- 10.2 Therefore, in evaluating historical evidence it is necessary to recognise that differing weight must be given to different evidence. The following categorisation has been used;

Category A carries the highest weight and category F the lowest. This system of categorisation has been devised by officers with regard to The Planning Inspectorate's Consistency Guidelines:

<http://www.planningportal.gov.uk/planning/countryside/rightsofway/guidance> (as revised to date of report) and Chapter 6 of the book 'Rights of Way A Guide to Law and Practice – Fourth Edition' by John Riddall and John Trevelyan.

Abbreviations: Wiltshire and Swindon History Centre, Chippenham (WSHC), The National Archive, Kew (TNA), House of Lords Record Office (HoL)

Category	May provide evidence for	Examples
A	Legal creation of a highway Reputation of a way as a highway Physical existence of a way Conclusive evidence of public rights	Inclosure Acts, awards and plans Orders creating, diverting or extinguishing highways Railway and canal acts and plans Definitive map and statement
B	Reputation of a way as a highway Physical existence of a way	Documents, maps plans drawn up as a result of legislation, consulted upon, but whose primary purpose was not to record public rights. i.e. Tithe Commission, Inland Revenue Finance Act
C	Reputation of a way as a highway Physical existence of a way	Includes local government records (highway board, county council, parish council)
D	Reputation of a way as a highway Physical existence of way	Other maps and documents showing highways additional to or as a part of their purpose. Includes parish maps, estate plans, conveyances
E	Reputation of a way as a highway Physical existence of a way	Commercial maps, some Ordnance Survey records
F	Reputation of a way as a highway Physical evidence of a way	Local repute, consultation responses

11.0 Category A Evidence

11.1 Evidence within this category is potentially of the highest weight and includes conclusive evidence (i.e. the definitive map and statement), inclosure acts, awards and plans, legal orders or events and deposited plans for public undertakings (i.e. arising from an Act of Parliament which specifically required the identification and verification of public rights of way).

11.2 Inclosure

Between 1545 and 1880 the old system of farming scattered arable strips of land and grazing animals on common pasture was gradually replaced as landowners sought to improve the productivity of their land. The process of inclosure began by agreement between the parties concerned, although locally powerful landowners may have had significant influence on the outcome. By the early eighteenth century, a process developed by which a Private Act of Parliament could be promoted to authorise inclosure where the consent of all those with an interest was not forthcoming. The process was further refined at the beginning of the nineteenth century with the passing of two main general acts, bringing together the most commonly used clauses and applying these to each local act unless otherwise stated.

11.3 Land at Durnford Northend was enclosed by a private act made in 1793 entitled “An Act for dividing and allotting Certain open and Common Fields, Downs and other Commonable Lands and Grounds in the Parish of Durnford in the County of Wilts”. 33 George III, C.43 (The National Archive HL/PO/PB/1/1793/33G3n139). The award viewed is held by Wiltshire and Swindon History Centre Catalogue reference EA36

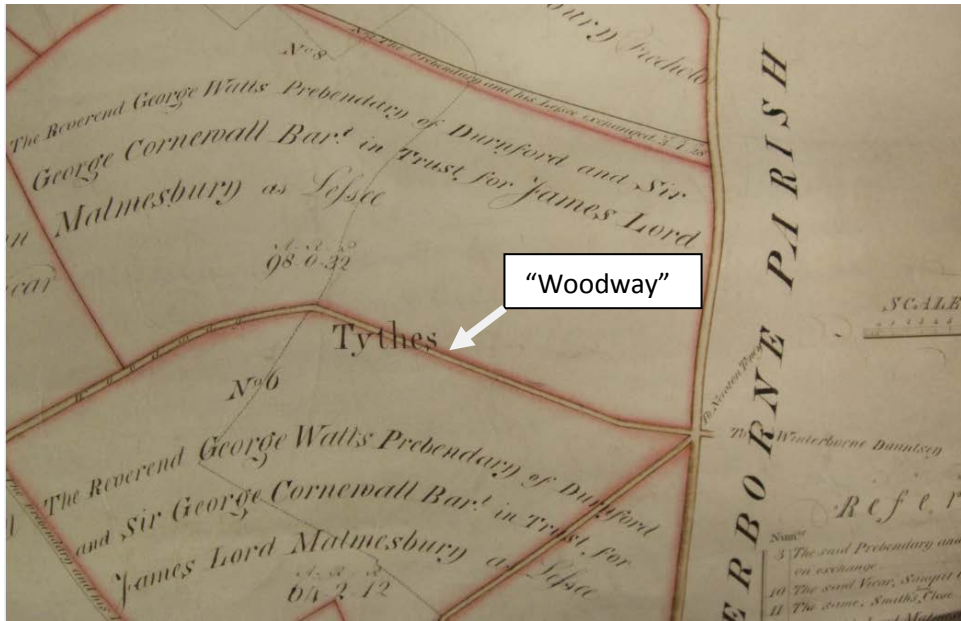
11.4 The award is dated 1794 and has a map dated 1793 attached. The map is entitled “*A Map of the North End Tything and Manor of Hungerford Durnford in the County of Wilts as divided and allotted 1793*”. It is drawn to the scale of 6 chains to one inch.

11.5 The map has a key:

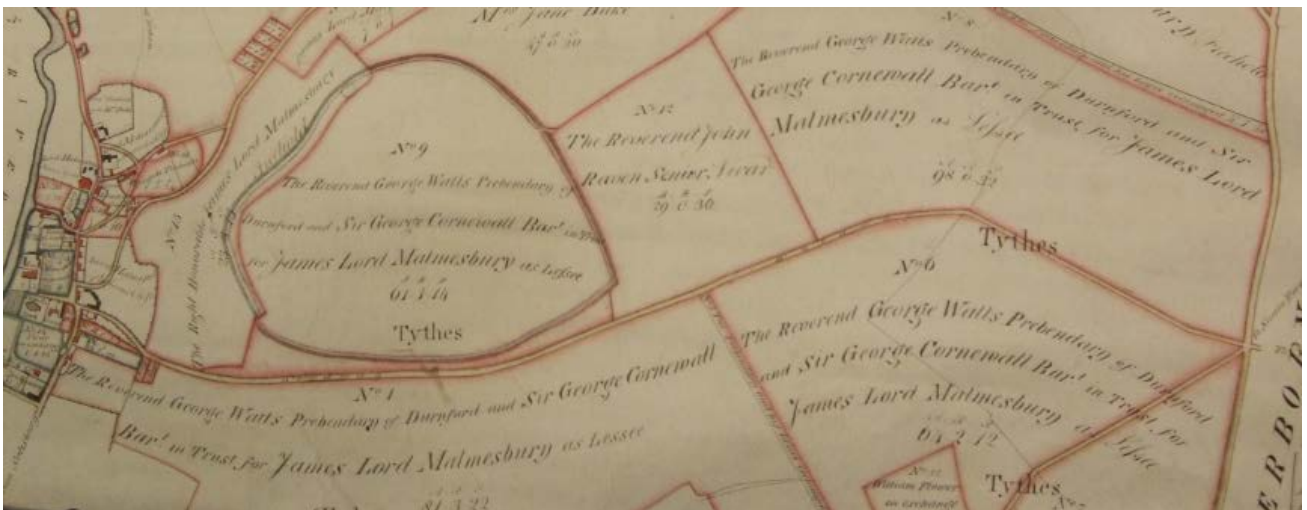
“The boundaries of the Allotments of the several Proprietors are coloured Red; Those of the Old Inclosures exchanged, Blue; the Roads, Brown; The Houses Deep Red; and the Outbuildings Black: The Numbers in the several Allotments and exchanged Premises, refer to the Numbers in the Margin of the Award.”

11.6 Durnford 4 is shown as a brown coloured track and labelled “Woodway” in two places. At the eastern end it forms part of a five road cross roads with the continuations into the neighbouring parish marked “*To Newton Toney*” and “*To Winterbourne Dauntsey*”.

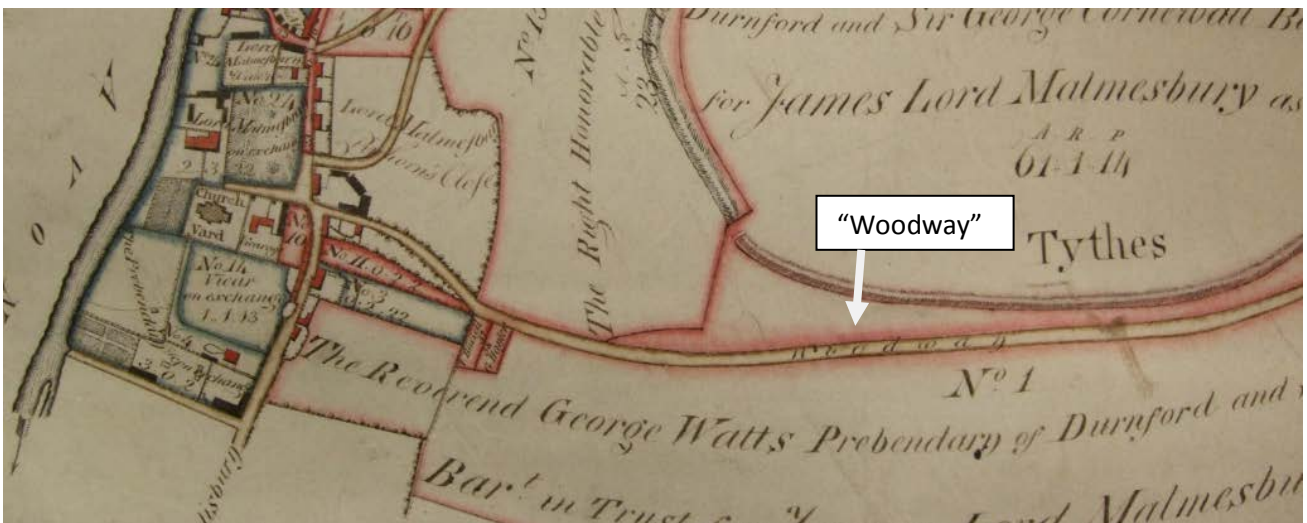
11.7 Eastern end of route



11.8 Entire length



11.9 Western end



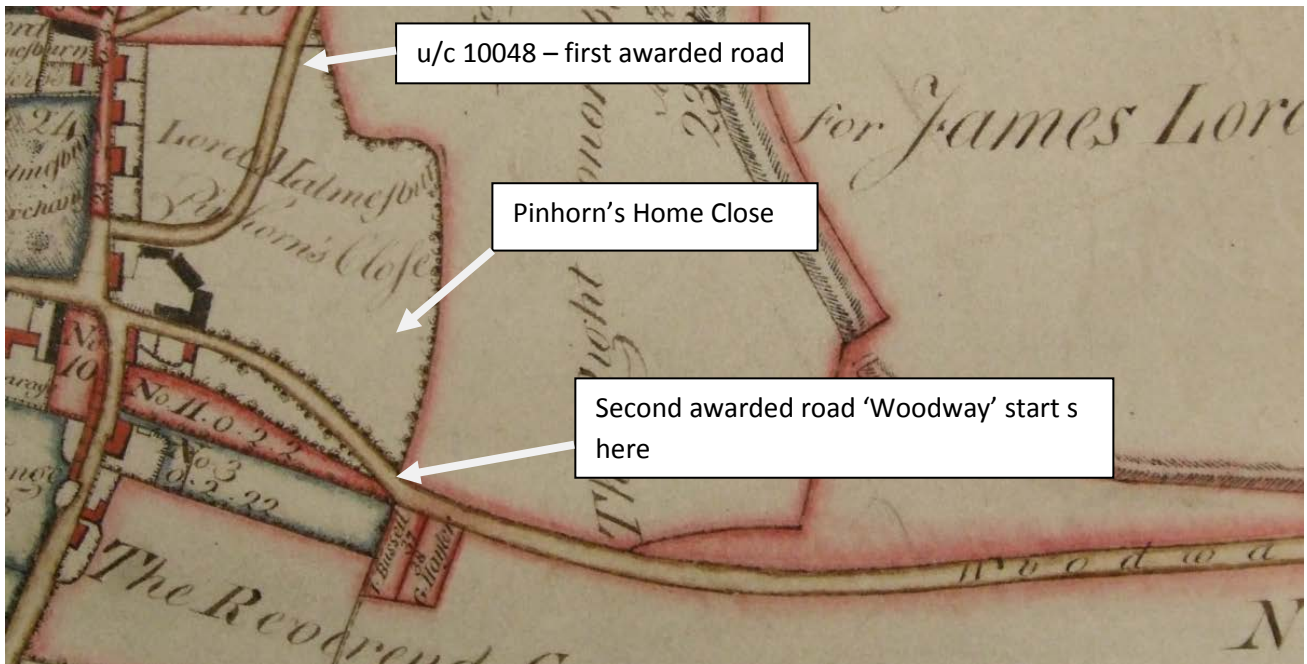
11.10 Five roads were awarded and have been transcribed as follows. Durnford 4 (“Woodway”) is the second awarded and is shown in bold text.

“One Public Carriage Road and Driftway beginning at the North end of that part of the street in the village of Durnford which is in the South End Tything and extending Northward along the Street of the said Village in its present Course or Direction and of its present Breadth to the Southwest Corner of a Garden called Pinhorn’s now in the occupation of Stephen Smith then turning Eastward and Northward of the breadth of twenty four ffeet through and over an old Inclosure belonging to the Right Honorable James Lord Malmesbury called Pinhorn’s Home Close then continuing Northwards into through and over an old Inclosure allotted to the said James Lord Malmesbury and then continuing Northeastwards of the Breadth of Thirty feet over an allotment hereinafter described and awarded to the said James Lord Malmesbury to the ancient upper road leading from Durnford towards Amesbury at the Distance of twenty perches Eastwards of Water’s Common Close and then continuing Eastward in the usual Course of the said Road to its entrance into the parish of Amesbury the same being part of the Public Road leading from Durnford towards Amesbury aforesaid AND the said Commissioners do hereby award order and direct that the first described part of the last mentioned Road as far as it leads through the said Inclosures and part of the said Allotment to the said James Lord Malmesbury until it joins the said ancient public Road called Amesbury upper Way shall on or before the twenty fourth day of June next be properly formed and made fit for the passage of all persons having occasion to use the same with Carts and Carriages by and at the expense of the said James Lord Malmesbury his heirs and assigns as to the expenses of the first forming and making therof and that the present public Road along the street of the said village shall remain as a public Road until the last described public Road shall be formed and made as aforesaid.”

This Road is now recorded as the road u/c 10048

“ONE other public Carriage Road and Driftway of the breadth of Thirty ffeet beginning at the East End of an ancient Lane leading into the ffarm ffield at the South Corner of an old Inclosure called Pinhorn’s Home Close and extending from thence in or near its usual Course or Direction between the ffarm ffield and Woodway ffield and over the ffarm Down to its usual entrance into the Parish of Winterbourne Dauntsey near the five mile stone on the Marlborough Road the same being part of the Public Road leading from Durnford towards Winterbourne Dauntsey and called Woodway.”

This Road is currently recorded as bridleway Durnford no. 4.



One other Public Carriage Road and Driftway of the like breadth of thirty feet beginning at the usual entrance into the South Side of the said field called the farm field and extending from thence Northeastward in or near its usual Course over the same field and over the said Down called the farm Down until the same Road meets the said Woodway at its entrance into the said Parish of Winterbourne Dauntsey and the same being part of the Public Road leading from Woodford towards Newton Toney and Winterbourne Dauntsey.”

This Road is not recorded as a public highway in either the definitive map or the highway record though it is possible that parts of it are incorporated into bridleway Durnford 11.

“One Public Carriage Road and Driftway of the breadth of forty feet beginning at its usual entrance into the said Down called the farm Down at the distance of forty-five perches from the south-east Corner thereof and extending from thence Northward along the East boundary of the said Down and of the Tenantry Down to the North Corner of the last mentioned Down where the said road enters the parish of Amesbury the same being part of the Public Road leading from Salisbury towards Everly and Marlborough.”

This Road is now the A345/Byway Open to All Traffic Winterbourne 26 (this section of the A345 was straightened and widened beside the byway leading to the route being recorded in Winterbourne)..

One other public Carriage Road and Driftway of the like breadth of Forty feet branching out of the last described Road at or near the Southwest Corner of the tything of Gumbleton in the Parish of Idmiston and extending from thence in a Northwards direction in a straight line over the said Down called the Tenantry Down

in the Parish of Durnford to the usual entrance of the same Road into the Parish of Amesbury the same being part of the Public Road leading from Salisbury towards Amesbury aforesaid.”

This Road is now recorded as the A345.

11.11 **Other Category A Evidence**

The route is not affected by any plans for public undertakings (for example railway or canal schemes). In Wiltshire, Quarter Sessions records have been searched and indexed for highway references and no entries relating to the route of Durnford 4 have been found. Additionally no applications or orders for diversions, closures or creations from 1750 – 1971 relating to the route of Durnford 4 have been found. No Orders relating to the route have been found in other public records to date of report. In Wiltshire, Petty and Special Sessions Justices’ minute books have also been indexed for highway references but again, no references relating to Durnford 4 have been found.

12.0 **Category B Evidence**

Category B evidence may be documents or plans drawn up as a result of legislation, and consulted upon but where the primary purpose was not to record public rights. Examples of this includes records from the Tithe Commissioners and the Inland Revenue.

- 12.1 **The Tithe Commutation Act of 1836** A system of taxation existed in Britain whereby farmers and people who worked the land were bound to pay tithes to the church. These payments were in kind and generally represented one tenth of production. The system was both unpopular, cumbersome and increasingly unjust as the industrial revolution gathered pace. The Tithe Commutation Act of 1836 sought to commute these tithe payments in kind to annual rent-charges. Parliament appointed a three man commission to direct a staff of assistant commissioners, valuers and surveyors who mapped, valued and apportioned rent charges among thousands of separate parcels of the titheable land in different states of cultivation.
- 12.2 Tithe surveys required careful mapping and examination of the landscape and land use and the maps and apportionments documents that resulted can offer valuable evidence of how the parish was at that time.
- 12.3 Although a tithe map and apportionment was drawn up for part of Durnford, the tithes in the North End tithing were commuted to rent charges during the process of Inclosure in 1794 and as a result the tithe map does not cover the land affected by

this. Accordingly the area of Durnford 4 is not shown in the tithe survey and the tithe records for Durnford offer no evidence relating to Durnford 4.

12.4 **Inland Revenue Finance Act 1909/1910 Records**

Plans WSHC L8/10/60

Valuation Book WSHC L8/1/146

In 1910 The Inland Revenue provided for the levying of tax (Increment Value Duty) on the increase in site value of land between its valuation on 30 April 1909 and, broadly speaking, its subsequent sale or other transfer. The survey was usually carried out by Inland Revenue Inspectors working in an area of the county of which they were knowledgeable. Every individual piece of land in private ownership was recorded and mapped and, because tax was to be levied based on area, highways and common land were generally carefully identified and included in the documentation.

- 12.5 The following is taken from the Journal of the Society of Archivists (JSA, Vol 8(2) no 2, Oct 1986 p 95-103 "An Edwardian Land Survey: the Finance (1909-10) Act and describes the process by which this was achieved. It is clear that the survey was carefully undertaken by people with local knowledge:

"The Valuation Department assumed responsibility of valuation for rating purposes, and the hereditaments of 1910 provided the basis for their work for very many years, so that the documents of that time often continued to be used as working documents long after the repeal of land clauses".

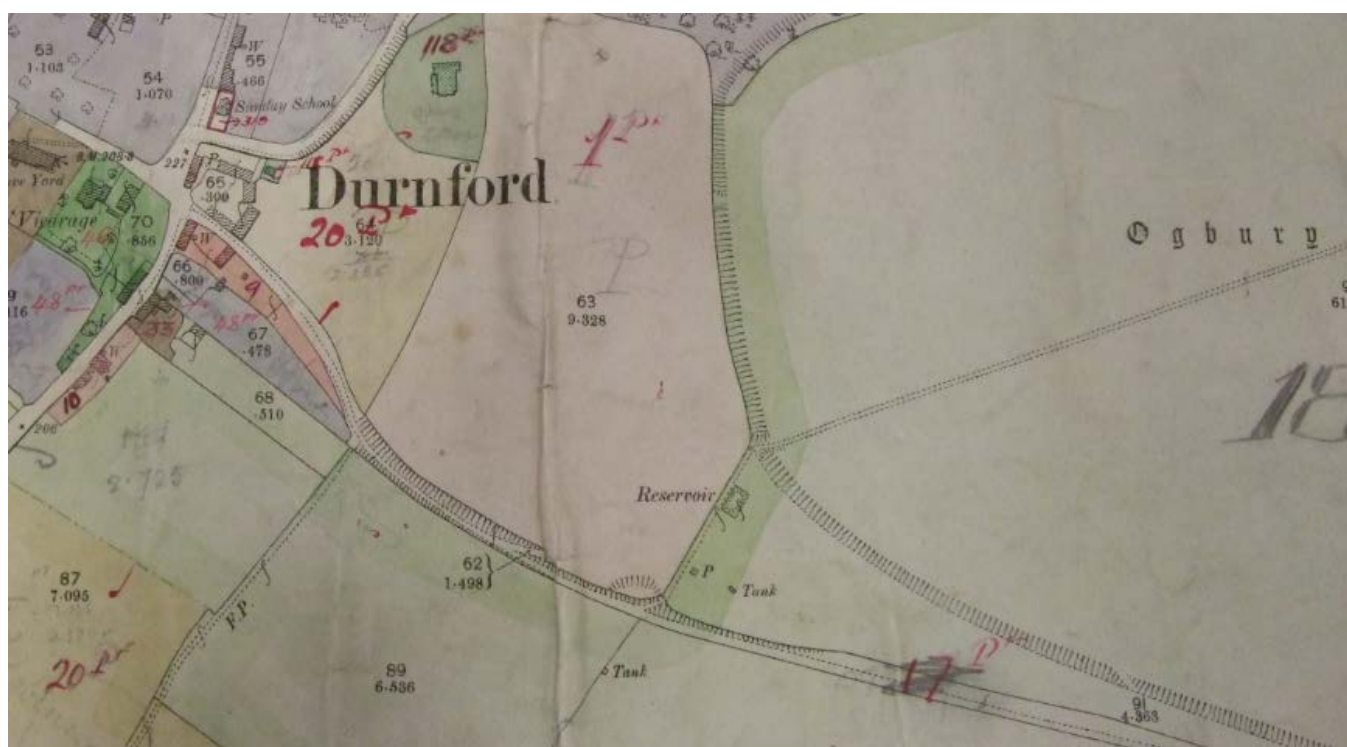
"A land valuation officer was appointed to each income tax parish. These were almost always the existing assessors of income tax (who were also frequently assistant overseers), and some several thousand were appointed nationally. This enabled the Inland Revenue to have local people with local knowledge undertaking the crucial task of identifying each hereditament."

- 12.6 The working copy of the Finance Act plans held at Wiltshire and Swindon History centre (WSHC) have been viewed. The base maps for these records were the Second Edition of the Ordnance Survey's County Series maps at a scale of 1:2500. These maps had been revised in 1899 by the OS and provide the most accurate record of the landscape that we have for this area at that time. Sheets 60/7, 8, 11 & 12 (L8/10/60) have been viewed.
- 12.7 Land that was valued for taxation purposes was shown coloured and given a hereditament number. This number allows reference to a valuation book where deductions are listed. Deductions were permitted where the value of a property was diminished, for example if a public right of way, an easement or a right of common existed. It was common practice for valuers to exclude public roads by leaving them uncoloured and in some instances by re-enforcing their separation from the surrounding hereditaments by drawing on 'broken braces'. Braces were a symbol

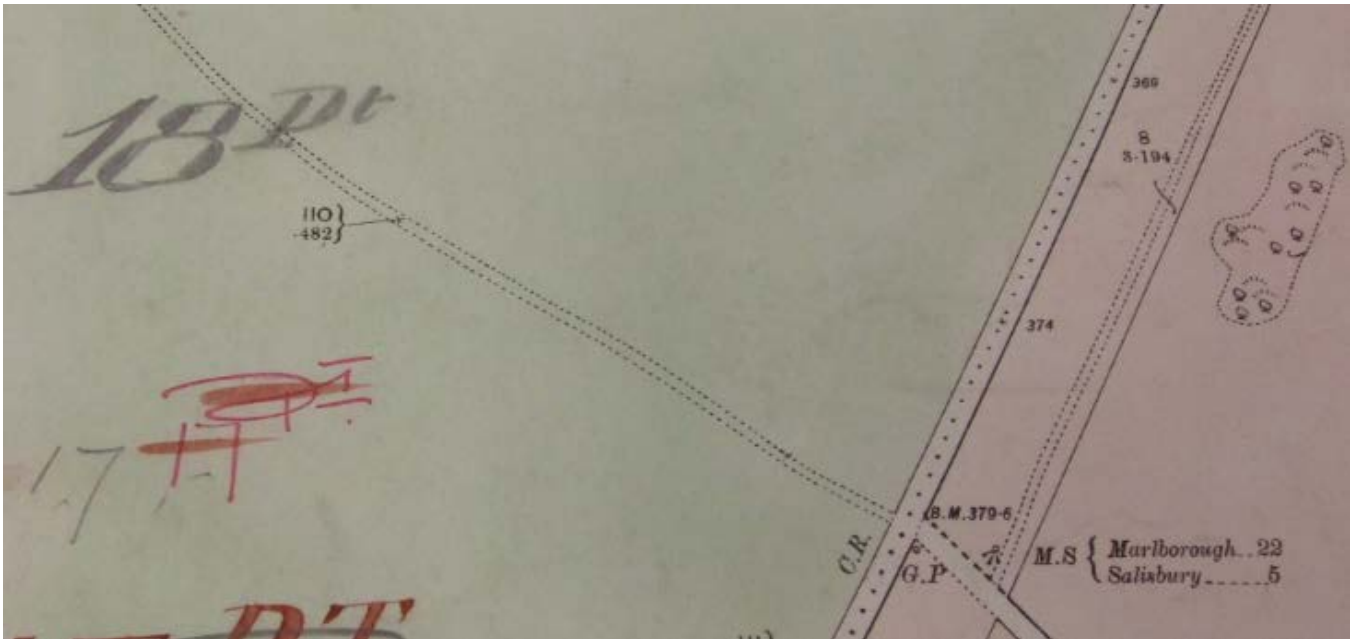
used by the OS to link or join features and by breaking them the surveyor could show that something was un-connected with an adjoining feature.

- 12.8 The Finance Act is not specific about the exclusion of roads though they may be excluded under s.25 or Section 35(1) of the Act which says that “No duty under this part of the Act shall be charged in respect of any land or interest held by or on behalf of a rating authority”.
- 12.9 A length of approximately 265 yards at the western end of Durnford 4 is shown uncoloured and untaxed in the conventional manner for a public road in the control of the highway authority. The surveyor has been deliberate in this depiction by drawing half a red brace against the lane making it clear it is excluded.
- 12.10 Where the lane enters the land coloured green and numbered 18 it becomes coloured green and continues through this hereditament, and coloured green, until its junction with the A345.
- 12.11 Details relating to Hereditament 18 in the Valuation Book lists the owners as the Eccl. Commissioners, the name of the property as being Church Farm, the extent of the property as being 371a. 0p. 37p and a Deduction for Rights of Way or User as being £108.” The valuer was a local man; Richard Pile of Netton.
- 12.12 Although there was no set amount for deductions relating to rights of way or amounts proportional to the status (or at least no records of any instructions survive) it is noted that the sum of £108 is a significant sum and may well include the track that is now Durnford 4.

Western end



Eastern end



13.0 Category C Evidence

Evidence in this category includes local government records (i.e. parish council, rural district council, highway board and county council), that is records whose purpose is connected with the administration of public assets, has legal responsibility for the protection of public rights and assets and is subject to public scrutiny. Includes bodies whose function is the highway authority. These can be important records as they relate to maintenance liability and can be a clear indication of public acceptance of same.

13.1 Amesbury Rural Sanitary Authority Minutes WSHC G1/1/1

Section 24 of the Highways and Locomotives (Amendment) Act 1878 permitted authorities to make application to the Justices to discontinue the repair of certain district roads.

13.2 It is clear from the Minute Books of the Amesbury Rural Sanitary Authority (the highway authority responsible for the upkeep of roads in the area at that time) that in 1880 they were considering making an application to the Justices to do this for certain roads, of which Durnford 4 (Woodrow) was one. The first application to cease repairing roads in Amesbury and Boscombe was refused by the Court and all other proposals abandoned.

13.3 Minutes December 01 1880

“was decided at the next meeting to report to the Board on the steps necessary to be taken to carry out the wishes of the Board. When they would determine whether

applications would be made under the 24th section of the Highways and Locomotives amendment Act 1878 for an order of justices declaring the road unnecessary.

The Surveyor was directed to report to a subsequent meeting of the Board on the roads which he considered should not be repaired by the Board in the several parishes of Boscombe, Winterbourne Earls, Durnford, Figheldean, Bulford, Milston, Shrewton, Maddington and Winterbourne Stoke.”

13.4 Minutes December 15 1880

“In pursuance of the direction given me at the last meeting of the Board I beg to make the following report as to the roads which appear unnecessary for public use in the following parishes.

Durnford – The road commencing at Salterton and crossing the Salisbury main road at Reads Pond and ending afterwards in the parish of Winterbourne Earls. This road is in a very rough state the only repairs that have been done being the packing of the ruts in some places also

The road commencing at Mr Powells shop and ending at High Post. This road is in a very bad state and is used almost entirely by the occupiers of the adjoining land Mr Thorne, Mr Smith and Mr Benjapeld.”

The surveyor listed 8 roads in total but only 2 in Durnford. Woodway was added at a subsequent meeting in May:

13.5 Minutes May 11 1881

“The surveyor reported that he had 600 Loads in stock 400 loads of which he had collected during the last month. And that he was the opinion that a road in Great Durnford commencing near the Church through Mr Thorns Farm and ending at the Salisbury and Amesbury main road was unnecessary for public use and should be added to those he had already reported on.”

13.6 Amesbury Rural District Council Take Over Map 1929

As a result of the Local Government Act 1929 the maintenance liability for rural roads was taken over by Wiltshire County Council. Surveyors from the Rural District Councils came into the offices of the County Council and roads for which they had the maintenance liability for were shown coloured on 1:10560 Ordnance Survey maps. These maps are known as ‘the Takeover Maps’ in Wiltshire.

13.7 Durnford 4 (Woodrow) has not been coloured on this map but its status is acknowledged by an inscription in red ink beside it - *“Awarded 30 feet”*.

14.0 Category D Evidence

Evidence in this category includes other maps, plans or documents which show highways additional to or as a part of their purpose but which were not produced as a result of legislation or subject to consultation. Examples are parish maps, estate plans, conveyances or sales particulars.

14.1 Church Farm Sales Particulars 1920 WSHC CC/Bishopric/214a/1)

Sales particulars dating from a sale held on the 13th July 1920 have been viewed. The “*Plan of Agricultural Properties at Woodford & Durnford Wilts*” shows Durnford 4 (Woodrow) leading from opposite the church to the main road (now A345) on its usual course. A length of approximately 900 yards of the western end is shown uncoloured and excluded from the sale. The remainder is coloured green with Lot 5 and numbered 109.



14.2 The schedule lists for Lot 5, number on plan, 109 and being “*Description, Road*”; area 18p.

SCHEDULE.			Area.		
No. on Plan.	Description.		A.	R.	P.
93	Arable	...	109	1	39
121	Ditto	...	15	1	13
90	Ditto	...	38	1	21
Pt. 94	Ditto (estimated)	...	125	2	27
91	Pasture	...	4	1	18
89	Ditto	...	6	2	6
Pt. 87	Ditto	...	2	2	29
68	Ditto	...	2	2	2
75	House, Buildings, Garden, &c.	...	1	2	23
73	Orchard	...	1	0	10
74	Withy Bed	...	1	1	1
92	Pasture (Ogbury Camp)	...	61	3	6
109	Road	...			18
107	Down	...	3	2	0
			Ac.	371	1 13

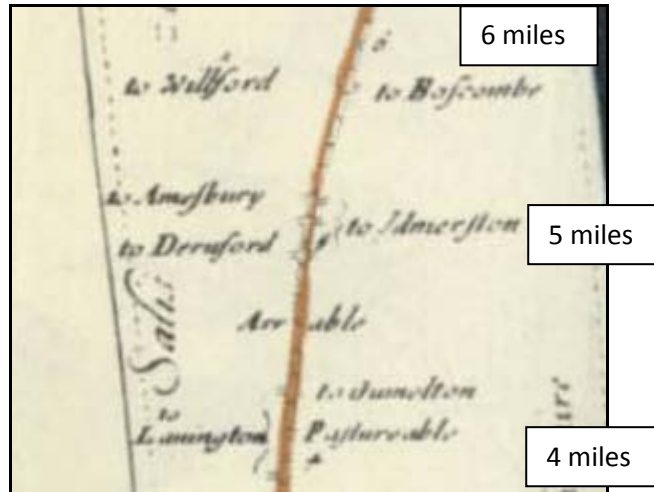
- 14.3 Under the Conditions of Sale, at paragraph 16, it is clear that each Lot is conveyed subject to...all rights of way...affecting such Lot.

16. Each Lot is believed and shall be taken to be correctly described both in Particulars and Plans, as to boundaries, quantities, cultivation, access, dimensions, or fences, but if any error or mistake in the Particulars or Plan be discovered the same shall not annul the Sale, nor shall any allowance or compensation be made in respect thereof. Each Lot is sold subject to the existing tenancy or tenancies and the rights of the present Tenant and the Landlord's obligations in respect thereof, and to any Order which may be made before or after the Contract for Sale by any competent authority relating to the cultivation of any of the Property. Each Lot will be conveyed subject to and henceforth charged with all the tithe rent charges (other than that belonging to the Vendors, which will by the conveyances be conveyed to the Purchasers), outgoings, and payments (if any) and to all rights of road or way, water, light, and other easements (if any) affecting such Lot. All notes, statements, and memoranda contained in the Particulars shall be binding on each Purchaser as if the same were here repeated as Conditions of Sale.

15.0 Category E Evidence

Evidence in this category includes commercial maps and Ordnance Survey maps, plans and documents. It is usual for there to be a significant quantity of evidence in this category and it is important to bear in mind the originality and purpose of the documents. The value of this group of evidence lies in the continuity of records over a long period of time and any differing origin. It must be borne in mind that this group of documents would have had the largest public circulation outside of the parish.

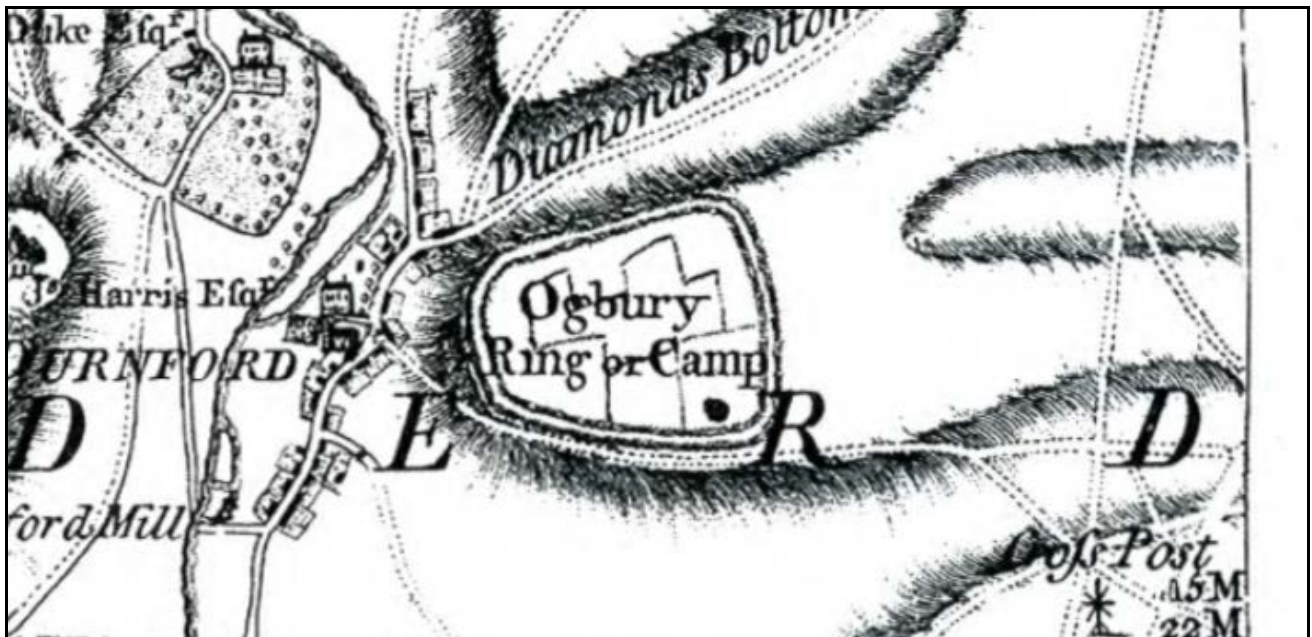
- 15.1 Not all commercial maps are derived from the same surveys and although there is some duplication of Ordnance Survey derived material, a number of surveyors of early maps produced independent surveys. Hence it is useful to compare the county maps produced by Andrews and Dury, C & I Greenwood and the Ordnance Survey. In this instance the route is also shown in an independent survey map published in 1675 and this is included here also.
- 15.2 It must also be considered that even when surveys produced by the OS were used by other map makers there was considerable scope for revision and updating specific to the individual purpose. For example, maps produced by Bartholomew's were continually revised and early versions were verified by the Cyclists Touring Club and Popular Series maps produced by the Ordnance Survey were revised with reference to highway surveyors.
- 15.3 **Ogilby's Britannia 1" to one mile Road Map Plate 85 1675**
- John Ogilby is credited with publishing Britain's first Road Atlas. It was produced as a series of linear strip maps, a logical step from the listed itineraries that preceded it. The maps showed the "principle roads" but also showed junctions with cross roads and their destination. Mile markers were also shown on the principal roads.
- 15.4 Five miles north of Salisbury, where the milestone "Marlborough 22 Salisbury 5" now stands on the Old Marlborough Road (byway 26) a "Cross Road" is shown leading westwards "To Dornford" on the line of Durnford 4.



15.4 Andrews and Dury's Map of Wiltshire 1773

The map is drawn at the scale of 2 inches to one mile. It does not have a key but Andrews' and Dury's map of Hertfordshire does and the symbology appears to be the same. Durnford 4 (Woodrow) is shown as a minor road. The 5 mile milestone is a useful reference point.

Sheet 4

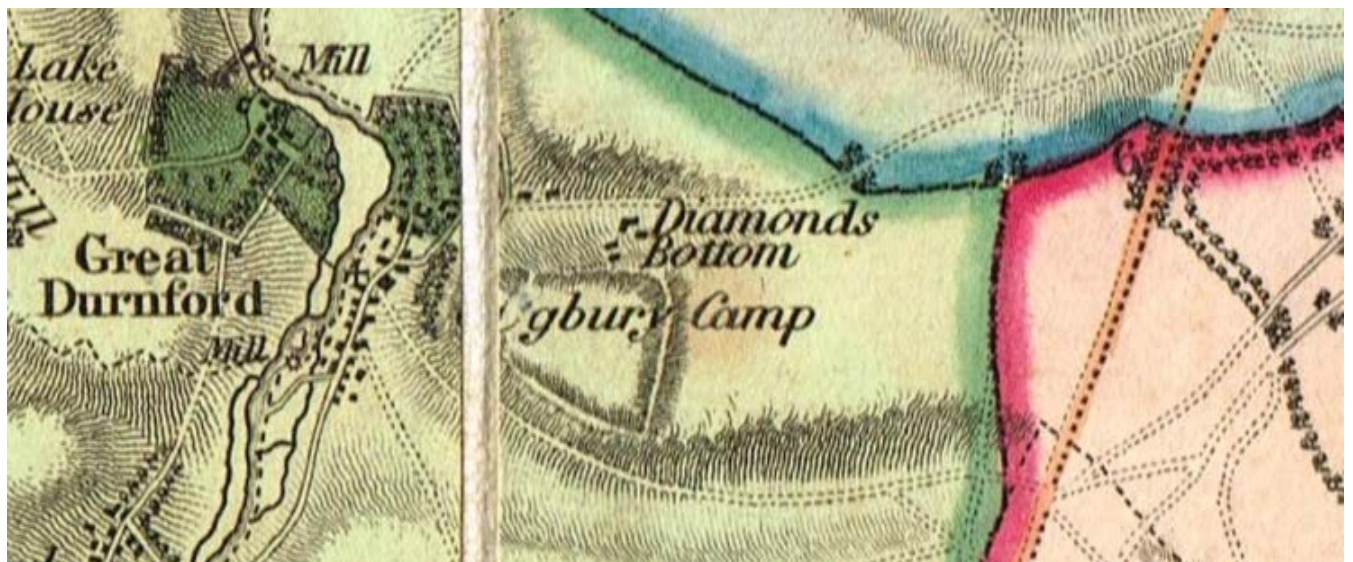
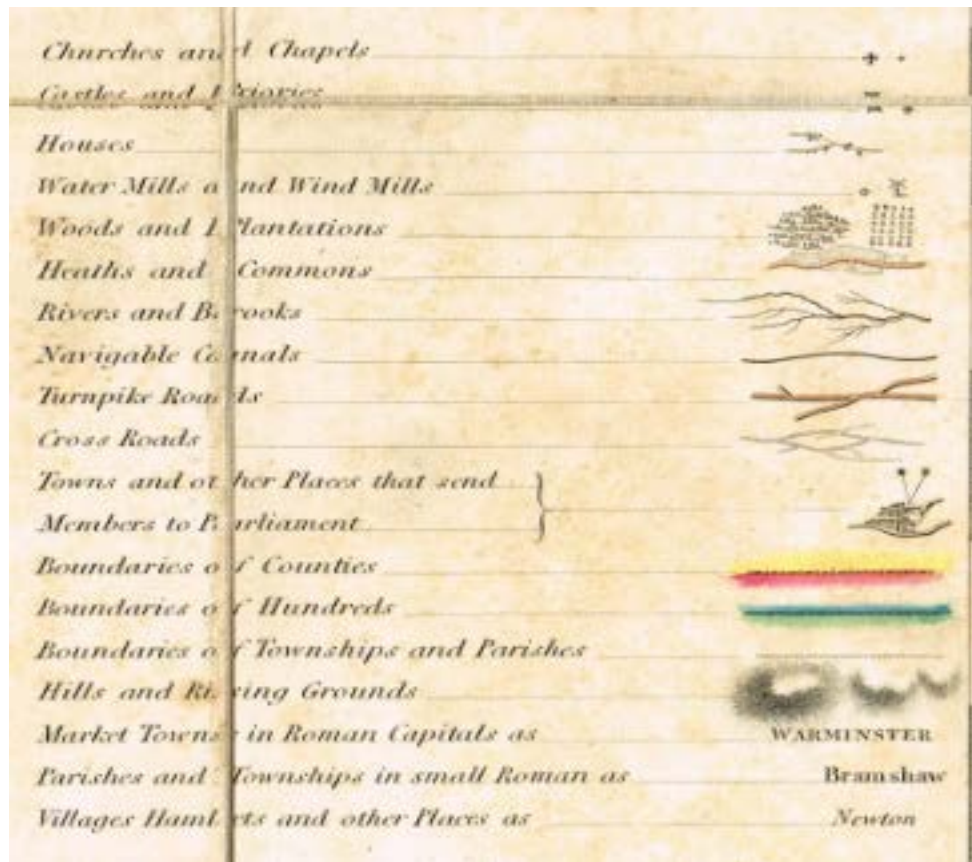


15.5 The Revised and Corrected Edition dated 1810 shows the road on the same route but as a "Cross Road".

15.6 C and I Greenwood's Map of Wiltshire 1820

Greenwood's maps relied on a survey independent of Ogilby, Andrews' and Dury and the Ordnance Survey and can be a useful source of information. The maps

were produced at a scale of 1 inch to the mile, in full colour and have a key. The route of Durnford 4 is shown as a 'Cross Road'.



15.7 The Council is guided by the Planning Inspectorate's Consistency Guidelines (para 2.24 to 2.30) for the definition of a cross road.

"In modern usage the term cross road/crossroads is generally taken to mean the point where two roads cross. However old maps and documents may attach a

different meaning to the term. These include a highway running between, and joining, other highways, a byway and a road that joined regional centres.”

- 15.8 Howarth J’s comments in the case of Hollins-v-Oldham 1995 concluded that the category known as ‘cross road’ must mean a public road in respect of which no toll was payable. The judge gave his reason for this view, stating:

“This latter category, it seems to me, must mean a public road in respect of which no toll is payable. This map was probably produced for the benefit of wealthy people who wished to travel either on horseback or by means of horse and carriage. The cost of such plans when they were produced would have been so expensive that no other kind of purchaser could be envisaged. There is no point, it seems to me, in showing a road to such a purchaser which he did not have the right to use.”

- 15.9 Greenwood’s Reduced Map of Wiltshire, corrected to 1829 shows the route as an “open Road”.

15.10 Ordnance Surveyor’s 2” Drawings 1807

In preparation for the publication of the OS’s 1” to 1 mile series (now known as ‘the Old Series’) the OS appointed surveyors to survey and draw the country at the scale of 2 inches to one mile. Edmund Crocker is attributed as surveying the area around Salisbury in 1807 and although Ogbury Camp is depicted in great detail, Durnford 4 is not shown. Although later OS maps corrected this error it is interesting to note that although the surveyor has clearly taken great pains to show the archaeology in this rich area, he has not recorded the road that other earlier surveyors had seen.



15.11 Colt Hoare’s Map of the Hundreds of Everley, Ambresbury & Underditch 1826

This map was surveyed by the brother of Edmund Crocker (see 15.10 above), Philip Crocker for Sir Richard Colt Hoare’s History of Modern Wiltshire published in 1826. Durnford 4 (Woodrow) can be clearly seen passing in its usual east/west direction just south of Ogbury Camp.



15.12 Ordnance Survey Mapping – The County Series 1:2500 1877 - 1939

The 1:2500 scale was introduced in 1853-4 and by 1896 it covered the whole of what were considered the cultivated parts of Britain. Sheets 60.7, 60.8, 60.11 & 60.12 cover the applicant route. J B Harley, historian of the Ordnance Survey, records that “the maps delineate the landscape with great detail and accuracy. In fact practically all the significant man made features to be found on the ground are depicted. Many phenomena make their debut on the printed map and as a topographical record the series transcends all previous maps. Every road...., field...., stream and building are shown; non-agricultural land is distinguished...quarries, sand, gravel and clay pits are depicted separately; all administrative boundaries..are shown;....hundreds of minor place names...appear on the map for the first time. Where appropriate, all topographical features are shown to scale. The series is thus a standard topographical authority”.

15.13 Richard Oliver in his book “Ordnance Survey Maps a complete guide for historians” recognises that surveying errors (and paper distortion during printing) cannot be ruled out, particularly where detail is sparse, but in practice such errors are likely to be very hard to demonstrate, because of a general paucity of suitable sources rivalling or bettering the OS in planimetric accuracy and completeness of depiction.”

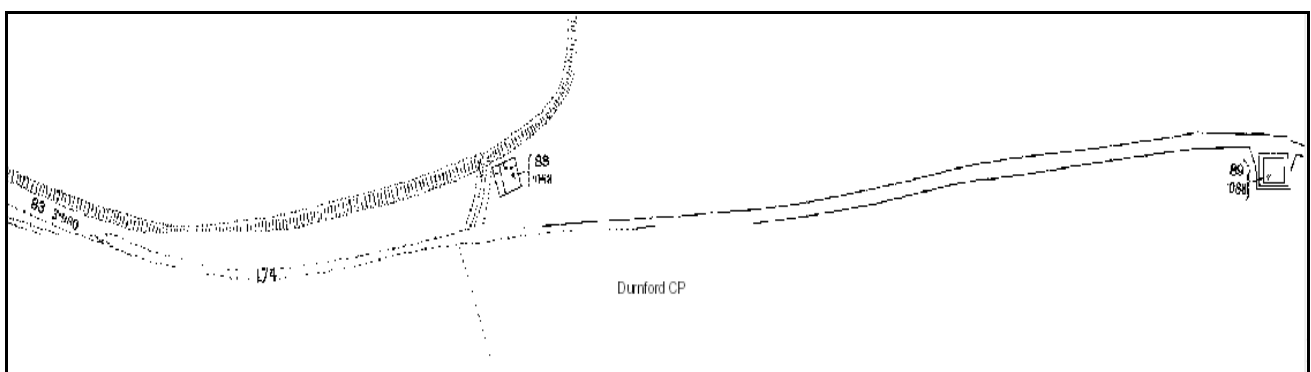
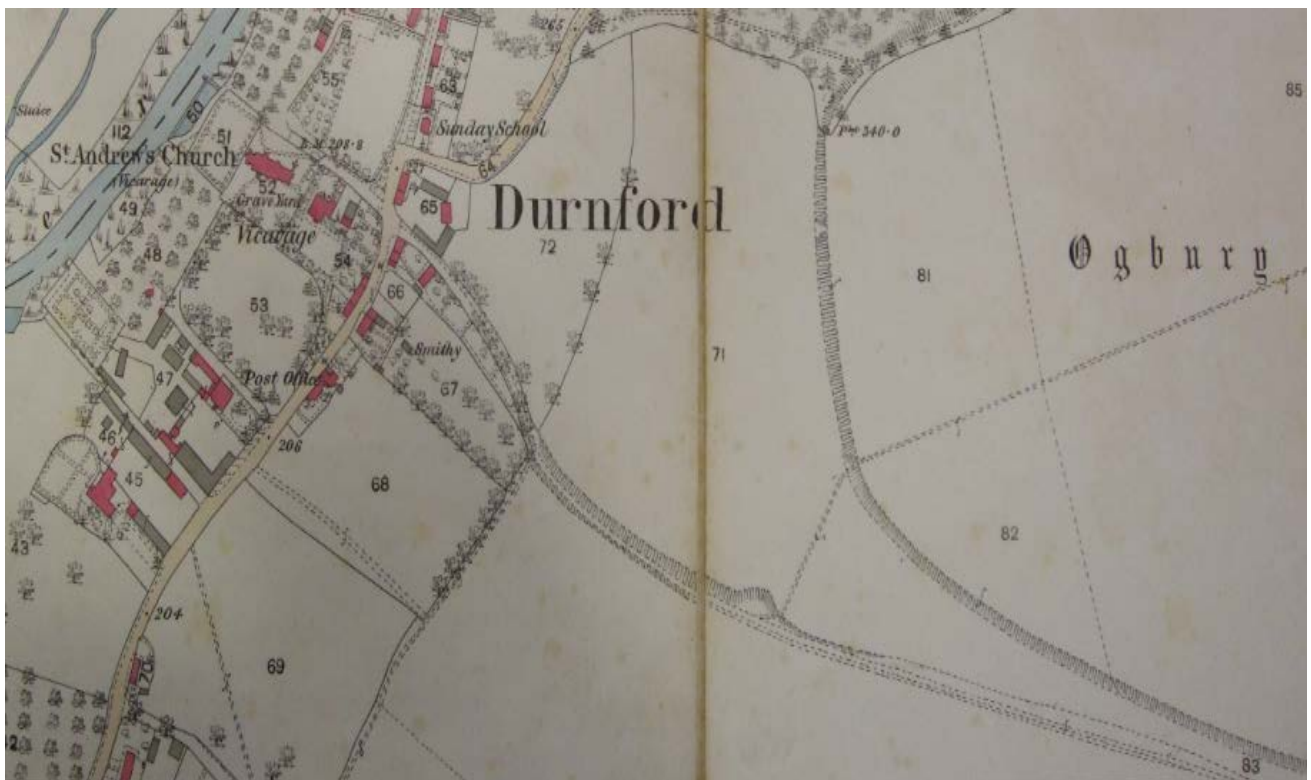
15.14 Ordnance Survey maps from 1888, although presenting an accurate representation of the landscape and its features do carry a disclaimer to the effect that the representation of any road or track is no evidence of a public right of way.

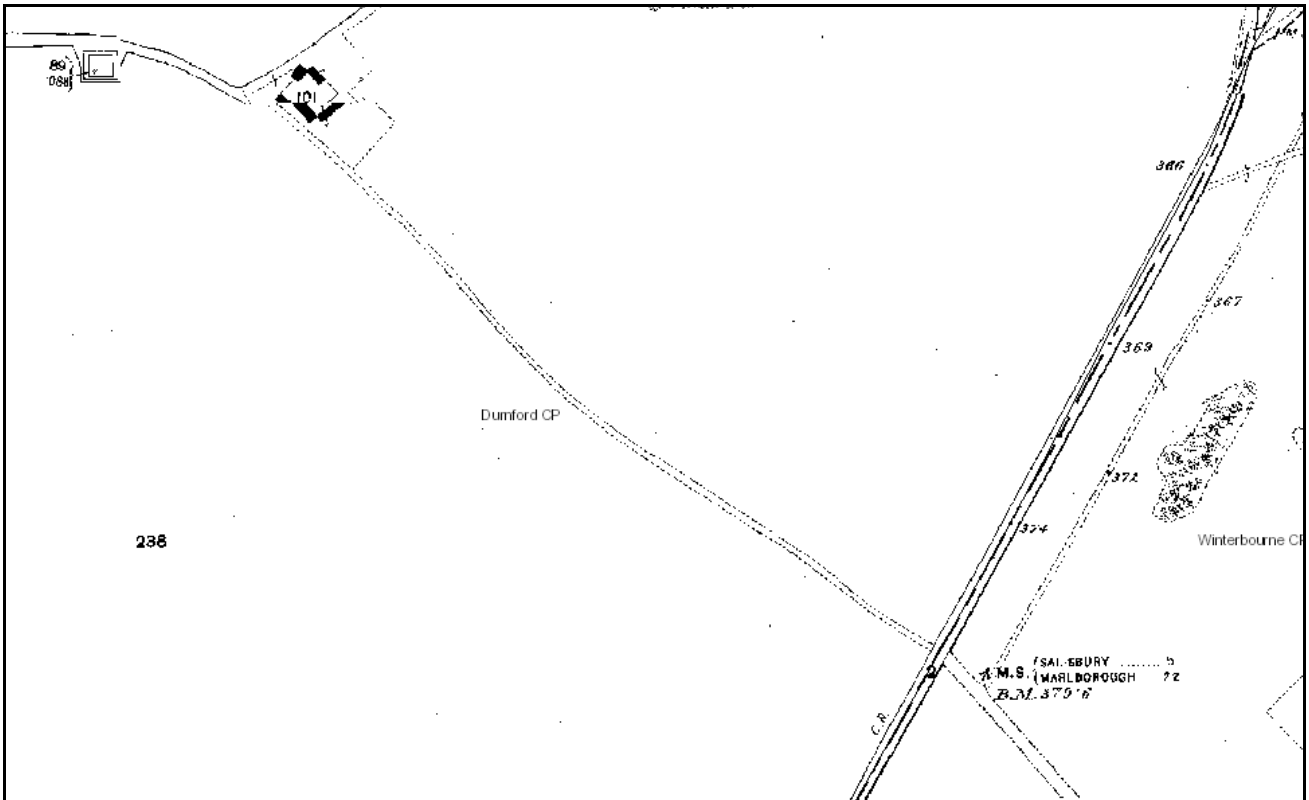
15.15 It was the practice of the OS to allocate parcel numbers to distinct pieces of land and measure them. These are numbered and recorded on the map as acreages. Where applicable parcels were ‘braced’ with adjoining parcels – for example a pond in a field may be braced with the adjoining land or a track across a field may be braced in with the surrounding land and measured with that. However, some features “*are always separately numbered and measured irrespective of their size. They include railways in rural areas (in built up areas they may form part of ‘Town area’), all public*

roads, whether fenced or unfenced and foreshore and tidal water....” (From Ordnance Survey Maps a descriptive manual by J B Harley published by the Ordnance Survey 1975). For the earlier (to 1879) First Edition maps the OS produced a Book of Reference (or Acreage Book) in which parcel numbers were listed against acreages and land use. The book was not produced for the Second Edition maps (1900/1901) and for these (and subsequent editions) the parcel number and acreage was printed on the sheet. Land use information was dropped. Unfortunately the First Edition maps in this area do not have land use information available for them at the Wiltshire and Swindon History Centre.

15.16 First Edition surveyed 1877

The route is shown as a partly fenced road, separately numbered and measured throughout. There are no gates.





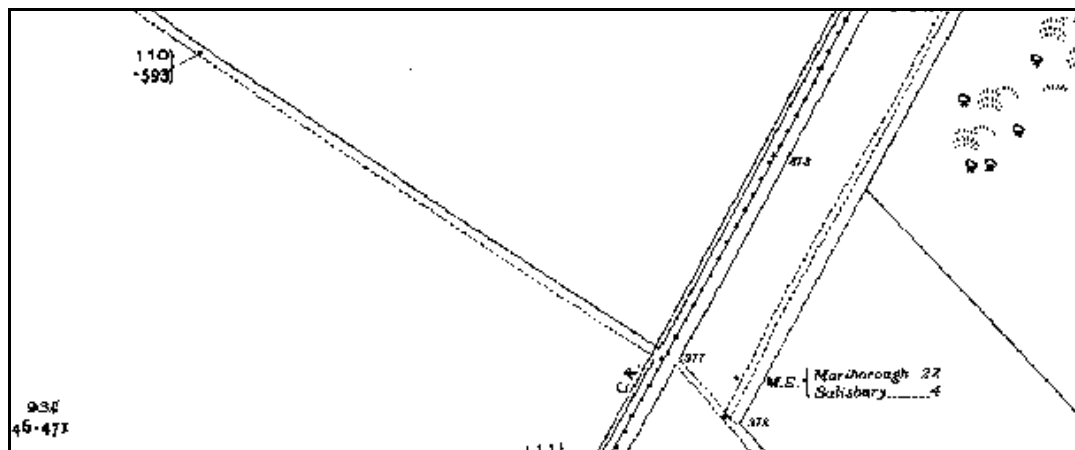
15.17 Second Edition Revised 1899 Published 1901

The route is shown as a fenced road from Woodrow Cottage to the barns and then as an unfenced road from the barns to the main road (A345). The route is not shown as a footpath (F.P.) or bridleway (B.R.).

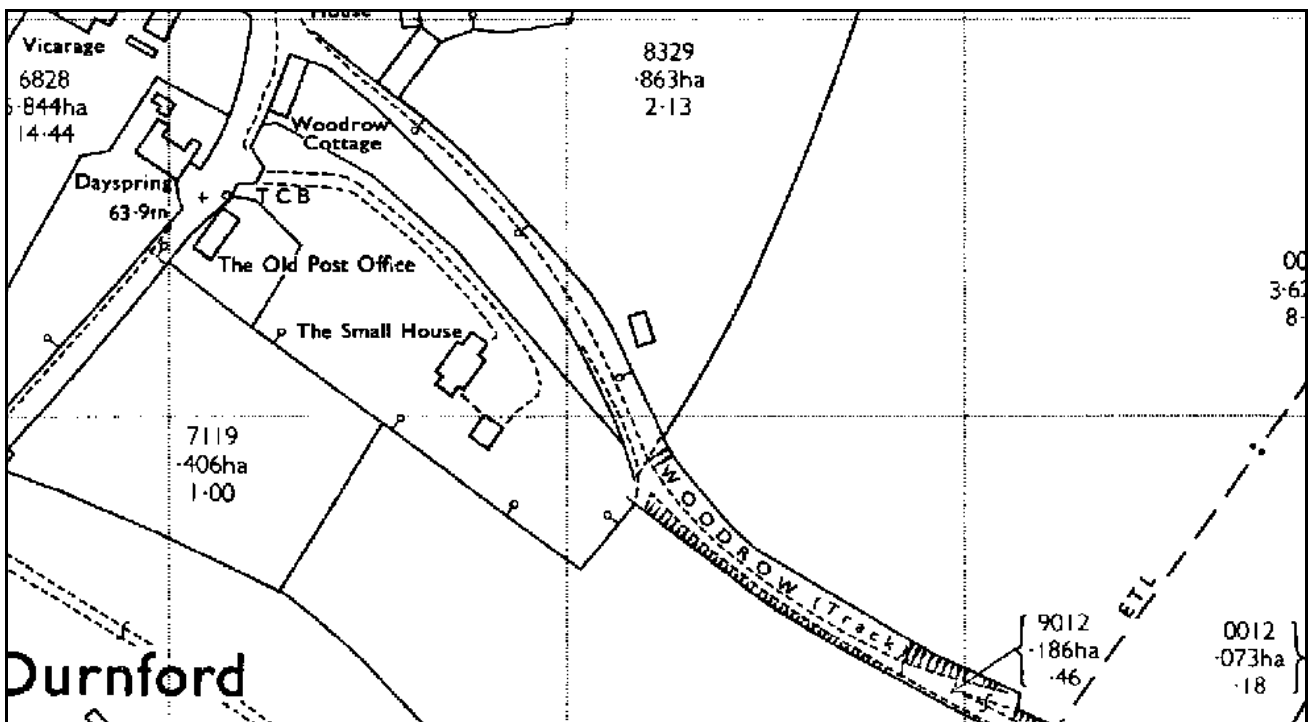
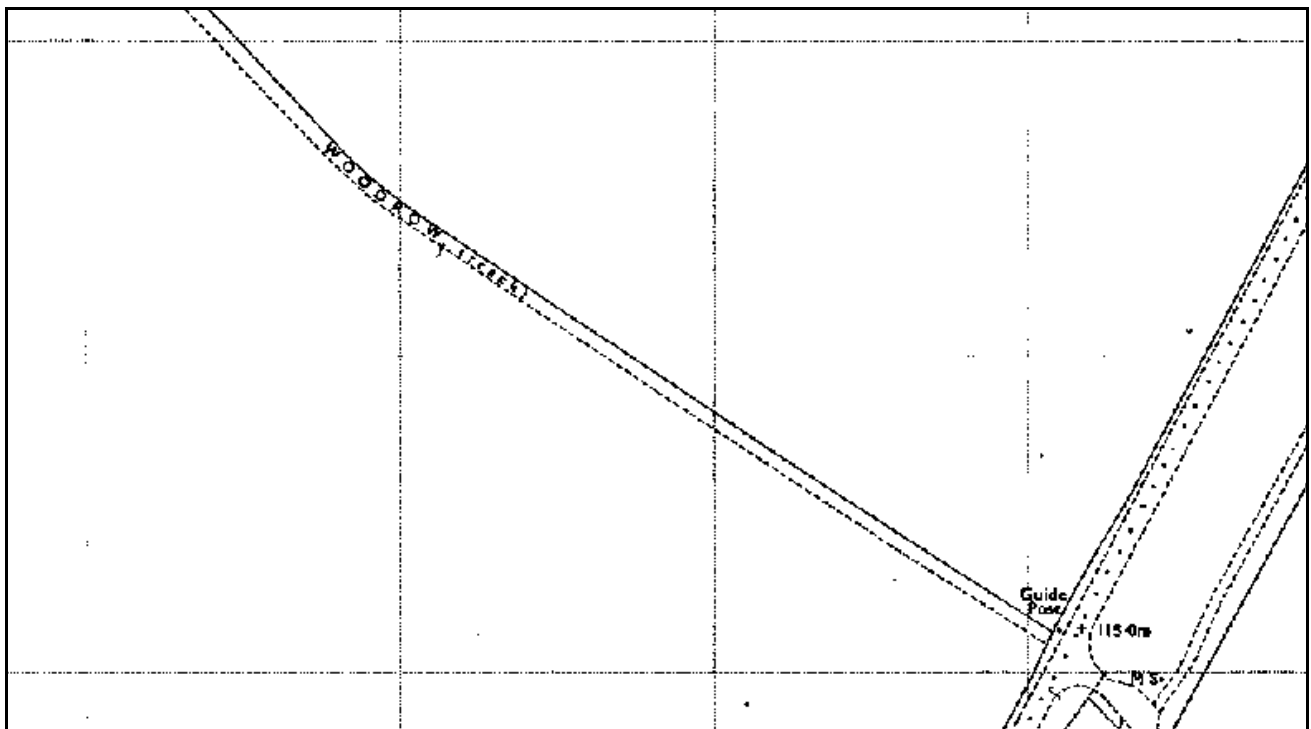
15.18 3rd Edition Revised 1922 Published 1925 also Edition of 1939

In the 1925 edition the route is shown as a part fenced and part unfenced road in the same manner as the first and second editions of the map.

15.19 By the 1939 Edition the route is shown fenced on the northern boundary from the barns to the A345 (as it is today). It remains numbered as a separate parcel.

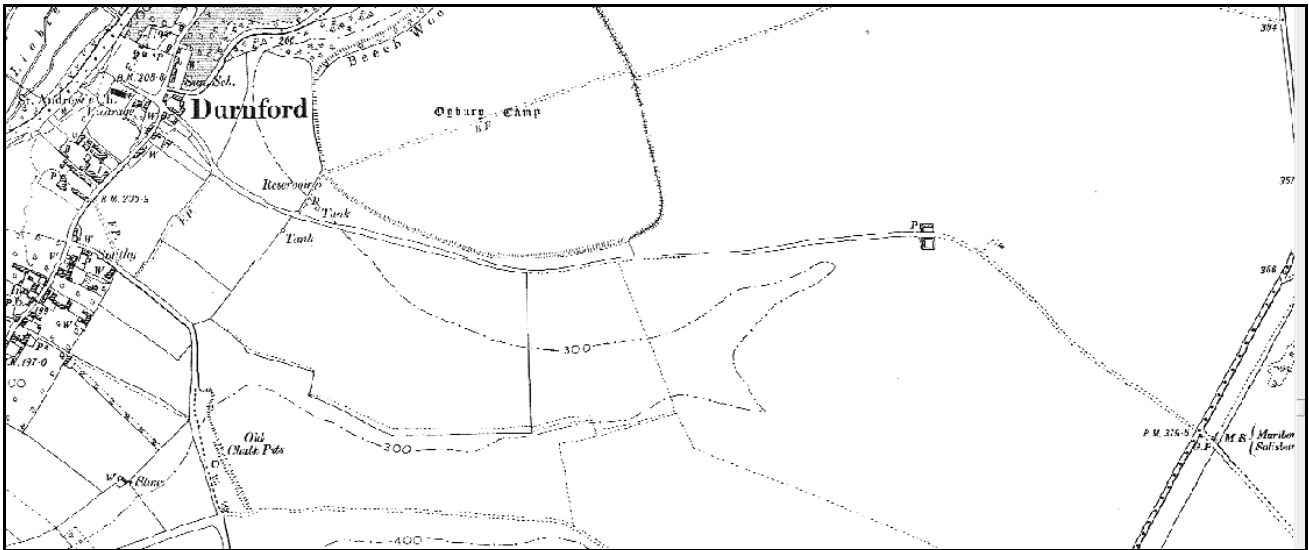


15.20 By the late 1970s the Ordnance Survey recorded the name “Woodrow” at several points along the track.



15.21 Ordnance Survey 1:10560 maps

The base survey data for the six inch series is taken from the 25 inch (1:2500) series and it is rare to see any differences in the maps. However, the six inch series does have a key and all editions viewed show the route of Durnford 4 as a “Minor Road”



15.22 Other Commercial Maps

The applicant has adduced a number of small scale commercial maps showing Durnford 4 as a road to support the application. These maps have not all been viewed by officers at the date of report.

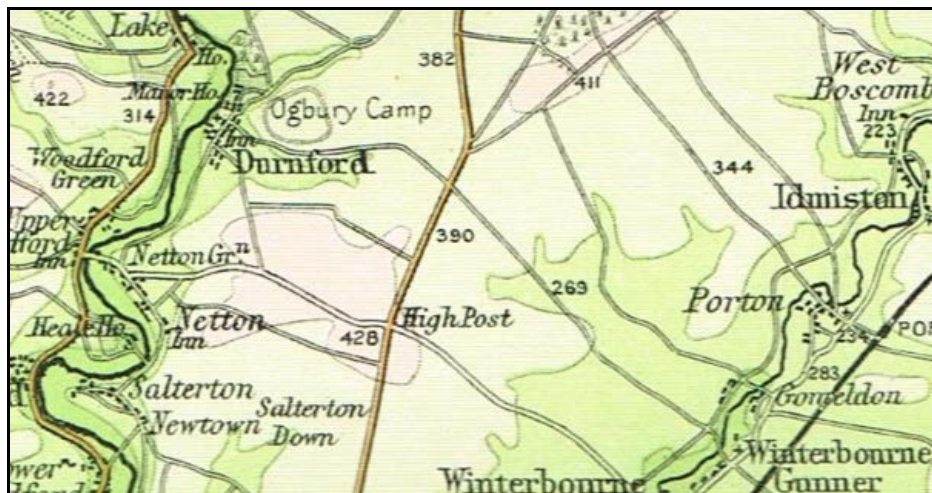
Gall & Inglis Half inch Map for Cyclists Tourists etc 1898 Minor road

Ordnance Survey 1" Map Revised New Series Sheet 298 1898 Three quarters is classified as "*metalled Road, Third Class*" and one quarter is classified as "*Unmetalled Road*"

Murray's Half inch Map of Salisbury & neighbourhood 1899 Minor road

Gall & Inglis 2.5 miles to 1" Map for Cyclists Tourists etc 1902 Minor road

Bartholomew's Half inch Survey Atlas Plate 64 1904 "*Other Driving Road*"
A different symbol is used for footpaths & bridleways



Bartholomew's Half inch Map for Tourists and Cyclists Sheet 33 1904-5 Coloured with red dots and classified "*Indifferent Road (Passable)*".

Ordnance Survey 1" Map 3rd Edition Sheet 123, 1908 Three quarters is classified as "*Metalled Road, Third Class*" and one quarter is classified as "*Unmetalled Road*".

Ordnance Survey Half inch maps Sheets 33 1910 and 38 c.1911 "*Other Road*"

















The Royal Automobile Half inch Official Touring Map c.1915 "*Other Road*"



Milestone Motor Map c.1916

"Unfenced Road"



GENERAL REFERENCE	
Main Motoring Roads	 County Names HANTS
Secondary Motoring Roads	 County Boundaries
Other Metalled Roads	 Golf Courses 
Unfenced Roads	 Race Courses 
Mileage indicated thus	 Trigonometrical Points 
Railways & Stations	 Altitudes in Feet 746
Canals	 Tumuli 
Parks	 Adjoining Sections thus 
Woods	 Limits of same 
Letters in margin refer to Golf Course Index A E.	
Scale - 3 Miles to 1 inch	
	

Walters' Guide to Wiltshire, Map 1, 1920

Minor road

Ordnance Survey Half inch Road Map Sheet 33 1926

"Other Road"

Ordnance Survey 1" Map 5th Edition Sheet 131

"Unmetalled Road"

Ordnance Survey 1" Map New Popular Edition Sheet 167 1940 (Roads revised 1947)

"Unmetalled Road"

15.23 **Salisbury and Winchester Journal 7th August 1858**

A notice posted by the British Archaeological Association in the edition of the Salisbury and Winchester Journal (the local paper) printed on the 7th August 1858 has been viewed:

"Meeting of the British Archaeological Association.

(continued from Supplement to this day's Journal) Wednesday

This day was devoted to an examination of the Muniments and the Library of the Cathedral, and to an excursion to Wilton and its neighbourhood. At ten o'clock a numerous party assembled in the Library, when

Mr PETTIGREW introduced Mr. Black, the palaeographer of the Society.

Durnford

The carriages being sent round to Great Durnford by the bridge, the party were ferried over the river to Great Durnford Church. The principal features of this edifice are the arches of the north and south entrances.....The old parish register was examined with much interest. Durnford Church was the last place visited by the bulk of the excursionists, though a few walked to Ogbury Camp, which is an extensive earthen work, on the brow of a hill, a few hundred yards from the village, from which it is approached by what is supposed to have been a covered way, now used as a waggon road."

15.24 The westerly part of Durnford 4 has its carriageway approximately 15 or 20 feet below the surrounding land in some places and, it is certainly not an unreasonable suggestion that this could once have been a covered way allowing concealed access to and from the camp. If this is the case; the road has very ancient origins.



A sunken section of the lane today

16.0 Category F Evidence

Evidence in this category includes any user or anecdotal evidence.

- 16.1 A total of 26 forms demonstrating use of the route with a mechanically propelled vehicle (MPV) have been received. The use covers the period from the late 1980s to 2016 and has been adduced to demonstrate an exemption from s.67 of the NERC Act 2006.
- 16.2 The application of the NERC Act 2006 will be considered fully in Section 18 below.

17.0 Natural Environment and Rural Communities Act 2006

17.1 On the 2nd May 2006 the **NERC Act 2006** commenced and section 67(1) of this Act had the effect of extinguishing the right to drive any mechanically propelled vehicle on any route that, immediately before commencement:

- (1) (a) *was not shown in a definitive map and statement, or*
(b) *was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.*

But this is subject to subsections (2) to (8)

Subsections 2 to 8 are parts of the Act that detail exemptions to the extinguishment of vehicular rights.

(2) *Subsection (1) does not apply to an existing public right of way if –*

- (a) *it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles*

(b) *immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c.66)(List of highways maintainable at public expense),*

(c) *it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles*

(d) *it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or*

(e) *it was created by virtue of use by such vehicles during a period ending before 1st December 1930.*

(3) *Subsection (1) does not apply to an existing public right of way if –*

(a) *before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c.69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,*

(b) *before commencement the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or*

(c) *before commencement a person with an interest in land has made such an application immediately before commencement, use of the way for mechanically propelled vehicles –*

(i) *was reasonably necessary to enable that person to obtain access to the land or*

(ii) *would have been reasonably necessary to enable that person to obtain access to a part of that land if he had an interest in that part only.*

(4) *“The relevant date” means –*

(a) *in relation to England, 20th January 2005;*

(b) *in relation to Wales, 19th May 2005.*

(5) *Where, immediately before commencement, the exercise of an existing public right of way to which subsection (1) applies –*

(a) *was reasonably necessary to enable a person with an interest in land to obtain access to the land, or*

(b) *would have been reasonably necessary to enable that person to obtain access to a part of that land if he had an interest in that part only, the right becomes a private right of way for mechanically propelled vehicles for the benefit of the land or (as the case may be) the part of the land.*

(6) *For the purposes of subsection (3) an application under section 53(5) of the 1981 Act is made when it is made in accordance with paragraph 1 of Schedule 14 to that Act*

- (7) *For the purposes of subsections 3(c)(i) and (5)(a), it is irrelevant whether the person was, immediately before commencement, in fact –*
- (a) exercising the existing public right of way, or*
(b) able to exercise it.
- (8) *Nothing in this section applies in relation to an area in London to which Part 3 of the Wildlife and Countryside Act 1981 (c.69) does not apply.*
- (9) *Any provision made by virtue of section 48(9) of the Countryside and Rights of Way Act 2000 (c.37) has effect to this section.*

18.0 Interim Decision regarding public rights over Durnford 4 prior to the 2nd May 2006.

In order to determine this application to record Durnford 4 (Woodrow) as a byway open to all traffic Wiltshire Council must first consider whether a public vehicular right subsisted prior to the implementation of the NERC Act 2006 on the 2nd May 2006.

- 18.1 Officers have viewed a considerable number of documents relating to the route and it is considered that they provide a consistent and cohesive record of the route as a public road prior to 2006.
- 18.2 Of greatest evidential weight is the Inclosure Award of 1794 considered at Section 11. This awarded a Public Carriage Road and driftway with a width of 30 feet leading out of an ancient lane across the newly enclosed downs to meet the main road between Salisbury and Marlborough.
- 18.3 There is evidence that a road existed linking the village of Great Durnford with the main road in 1675 (further supported by a map of 1773) and that this route was not only retained and formalised at Inclosure in 1793 but that it survived in records as a road and not a footpath or a bridleway.
- 18.4 The records of the highway authority in 1880 support that the route was a publicly maintainable road (presumably as a result of it being a pre- 1835 highway – hence an ‘ancient highway’ according to the Highways Act of that year), even though they considered it unnecessary.
- 18.5 It is not unreasonable to assume that the route was little used by this time (if it had not have been the highway authority would have been unlikely to consider it unnecessary) and that it continued to be so to the extent that in 1950 when the route was surveyed by the Parish Council as a requirement of the National Parks and Access to the Countryside Act 1949 (preparation of the definitive map and statement), the Parish Council regarded it as a bridleway and it has been recorded as such in the definitive map and statement since that time.

18.6 It is therefore considered that, on the balance of probabilities, Durnford 4, Woodrow (or Woodway) was a public vehicular highway prior to the 2nd May 2006.

19.0 Consideration of the Effect of NERCA 2006

It is appropriate to consider each exemption in turn:

19.1 **(2)(a)** *it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles.*

19.2 It is upon this exemption that a number of users of the way rely and accordingly 26 user evidence forms have been submitted to demonstrate use of the way with MPVs.

24 of the 26 users have ridden or driven the way for recreational purposes during the period 2001 to 2006 with 7 of them having used the route for all 5 years.

The frequency of use varies between once in the 5 year period to a maximum estimate of 75 times in the 5 years. However, the more usual frequency is around 3 to 4 times per year per person. Users report travelling in group of up to 10 with around 3 or 4 being more usual.

19.3 It is not known if the others in the group also filled out evidence forms, if they did then the use should not be multiplied but if they did not it is reasonable to multiply the usual frequency of say 4 times per annum with the usual group number of say 4. This gives an estimate of 384 (24 users each with 4 others = 96, each using it 4 times = 384) vehicle passes per annum or approximately one per day. This would be a maximum figure based on a number of assumptions.

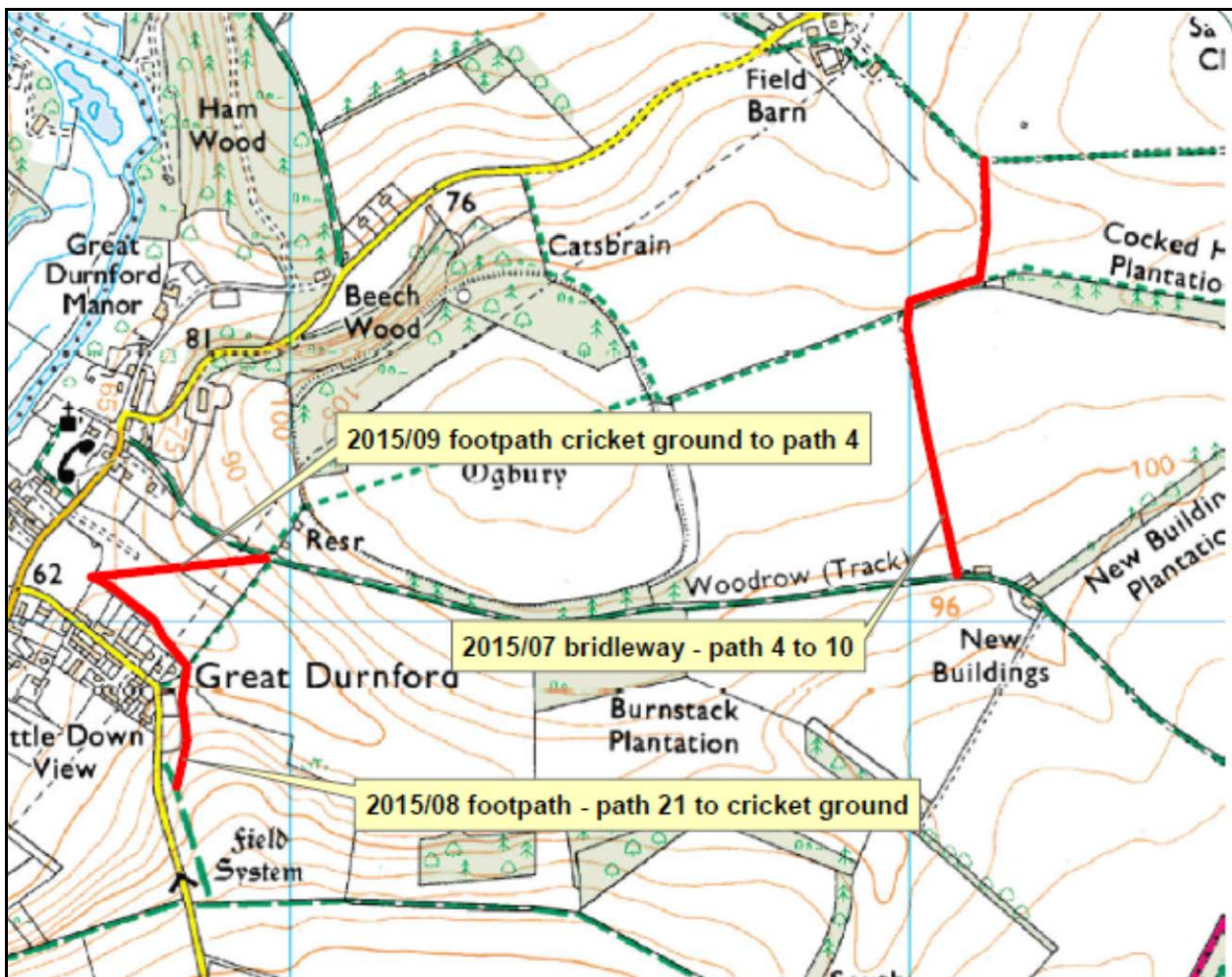
19.3 It is not clear what sort of vehicle people used, and although it is noted that a folding metal bollard is in place in the middle of the track near Woodrow Cottage, it is not known whether it was ever in the upright position or if it was, for how long. Certainly no users have reported it as being an obstruction to their use and indeed it would not have been to a motorcyclist.

19.4 Durnford 4 (Woodrow) is a logical link in any recreational MPV route allowing users to link byway Winterbourne 26 with byway Wilsford cum Lake 2 to Stonehenge and officers consider that the evidence adduced represents a fair reflection of the use it may have had.

19.5 That this use was relatively light is supported by statements submitted at the time of the application in 2005; Mrs Sprague did not “want this bridleway opened to all traffic” and she further states that the way is used by “walkers and riders and horses and motorised farm vehicles and equipment”. She was clearly unaware of the MPV

use from her property The Small House, the garden of which adjoins Durnford 4 (Woodrow).

- 19.6 In 2005 the Parish Council also wrote to Wiltshire Council stating that they were concerned that “4 x 4 cars could be hoping to use this” as a result of the “enquiries to use this bridleway”. Again it appears that they were unaware of existing use.
- 19.7 Even if use by MPVs is relatively light, it is of course still possible for them to be the main user of the route and hence to satisfy sec. 67(2)(a) NERCA 2006.
- 19.8 Coincidental to this application Wiltshire Council also has before it four applications to record footpaths and a bridleway over land at Durnford. These applications are based on user evidence and are recorded as application numbers 2015/06, 07, 08 and 09. Application number 2015/09 adduces evidence of use on foot for a route that would allow users to walk along Durnford 4 in either direction and application number 2015/07 adduces evidence of use on foot, cycle and horse for a route that requires people to use a significant length (or all of) of Durnford 4. The map below shows the claimed routes in red. Durnford 4 (Woodrow) is shown as a bridleway labelled “Woodrow (Track)” and it is clear how it has to be used to access the claimed routes shown in red.



- 19.9 Application no 2015/09 is supported by the evidence of 19 witnesses who have walked the path for variable lengths of time leading back to the 1960s and extending to 2015. 16 of the users had walked the way from 2001 to 2006. The frequency of use was high with some of them walking it daily or at least weekly or monthly.
- 19.10 It is not known which of these included Durnford 4 in their walk but it did form the northern terminus of the claimed route and would have provided a useful and pleasant walk in either direction.
- 19.11 Application no 2015/07 is supported by the evidence of 32 people all of whom would have had to walk, ride or cycle over parts of Durnford 4 to access the route claimed in the application. They could have used Durnford 4 from either direction – the crossing if the A345 clearly not being a deterrent to horse riders as evidenced by hoof prints on the ground today at that end and the ease of access to byway Winterbourne 26 on the other side of the A345.
- 19.12 Of the 32 people 27 had used Durnford 4 (or parts thereof) for all five years between 2001 and 2006. The frequency of use ranged from daily to ‘about 8 times per year’ with most people using it at least once per month. All users reported seeing other users though it is noted that it is not known if these people had also submitted evidence.
- 19.13 Evaluating frequency of user evidence can be difficult but in this instance it is felt that there is clear evidence of use from walkers, cyclists and horse riders that demonstrates how well used Durnford 4 is. Although officers are in no doubt that the way has also been enjoyed by MPV users, it is considered that their use was not more frequent than other types of user in the period 2001 to 2006.
- 19.14 I conclude that the requirements of Section (2)(a) NERCA 2006 are not met and public vehicular rights are not preserved by this section.
- 19.15 **(2)(b)** *immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c.66)(list of highways maintainable at public expense).*

The claimed route is shown in the definitive map and statement and is not shown in a list required to be kept under section 36(6) of the Highways Act 1980 (the Highway Record)

I conclude that the requirements of Section (2)(b) NERCA 2006 are not met and public vehicular rights are not preserved by this section.

(2)(c) *it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles.*

It is known that this road was a carriage road in 1794, a time before mechanically propelled vehicles existed.

I conclude that the requirements of Section (2)(c) NERC Act 2006 are not met.

(2)(d) *it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.*

Public MPV rights have not been preserved by this section.

(2)(e) *it was created by virtue of use by such vehicles during a period ending before 1930*

Public MPV rights have not been preserved by this section.

(3)(a) *(3) Subsection (1) does not apply to an existing public right of way over a way if –*

(a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c.69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic.

An application was not made before the relevant date (20 January 2005).

19.16 It is concluded that the public's right to drive a motor vehicle over the route was extinguished on the 2nd May 2006. However, as the route was a public vehicular highway prior to this date, section 67(5) of the NERC Act 2006 applies with respect to private access rights to property:

(5) Where immediately before commencement, the exercise of an existing public right of way to which subsection (1) applies –

(a) was reasonably necessary to enable a person with an interest in land to obtain access to the land, or

(b) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had an interest in that part only, the right becomes a private right of way for mechanically propelled vehicles for the benefit of the land or (as the case may be) the part of the land.

This is in addition to any granted easements or consents that the Council is unaware of.

20.0 Legal and Financial Considerations

20.1 The determination of Definitive Map Modification Orders (DMMOs) and the continual review of the definitive map are statutory processes for which financial provision has been made. In determining applications for DMMOs the Council is acting in pursuit of its statutory duty and cannot be challenged in so doing (subject to due process being followed).

- 20.2 If an order is made and advertised and no objections are forthcoming the Council will not incur any further costs beyond advertising the confirmation of the order. If the order attracts objections that are not withdrawn it must be forwarded to the Secretary of State for determination. It may be determined by written representations (no additional cost to the Council), a local hearing (additional costs to the Council in the region of £300) or a public inquiry (additional costs to the Council in the region of £4000).
- 20.3 If the route is upgraded to restricted byway the highway authority is not placed under a specific duty to produce a suitable surface for use on horseback or for non-mechanically propelled vehicles. However, the authority is placed under a duty to ensure that the route is safe for use by the general public traffic of the area and has a duty to maintain the surface of the highway to that extent. No works to the route are currently identified.

21.0 Risk Assessment

- 21.1 Section 53 of the Wildlife and Countryside Act 1981 (WCA 81) does not provide for consideration of issues relating to health and safety
- 21.2 The Council is the surveying authority for the County of Wiltshire (excluding the Borough of Swindon) and has a duty to keep the definitive map and statement under continual review (s.53(2)(b) WCA 81). There is therefore no risk associated with the Council pursuing this duty correctly.
- 21.3 If the Council fails to pursue this duty in this case it is liable to complaints being submitted through the Council's internal procedure leading to the Ombudsman. Ultimately a request for judicial review could be made.
- 21.4 Advice from the Planning Inspectorate is that a byway open to all traffic application should not be refused as the Schedule 14 appeal process is not open in a case where evidence subsists and the Council has a duty to make an Order. The Schedule 14 appeal procedure is only open to applicants where the Council refuses to make any order. The applicant's appeal route is thereby through objection to the Council's order. Officers consider it highly unlikely that the 2005 applicant would object to a restricted byway order as the effect of the NERC Act 2006 is generally well known and understood. Additionally the Council has benefitted from having the additional evidence of use adduced in support of the 2015 applications, especially 2015/07.

22.0 Environmental Impact of the Recommendation

- 22.1 Section 53 of the Wildlife and Countryside Act 1981 does not provide for consideration of issues relating to the environment.

23.0 Equality Impact

- 23.1 The character of the route will not alter with the making of an order to record the way as restricted byway. The legal right to pass and repass over the entire width will be protected which will ensure that obstructions and encroachments may be removed by Order of the Council. This could lead to greater accessibility.
- 23.2 A restricted byway may be used by a horse and cart. Many people who cannot ride a horse for reasons of a disability drive horses and the recording of this long route as a restricted byway will increase the available network for them. This will lead to greater accessibility. This would offer a significant improvement to the network for carriage drivers.
- 23.3 The recording of the full width as a restricted byway is in line with the Council's duty under The Equality Act 2010. Equality is however not a material consideration contained within the Wildlife and Countryside Act 1981.

24.0 Safeguarding Considerations

- 24.0 Section 53 of the Wildlife and Countryside Act 1981 does not provide for consideration of issues relating to safeguarding.
- 24.1 It is however noted that there are no considerations arising.

25.0 Public Health Considerations

- 25.1 Section 53 of the Wildlife and Countryside Act 1981 does not provide for consideration of issues relating to public health.

26.0 Relationship to the Council's Business Plan

- 26.1 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.

27.0 Options to Consider

- i) To make an Order to modify the definitive map and statement to show Durnford 4 (Woodrow) as a restricted byway width 30 feet (9.14 metres) and 20 feet (6.10 metres)
- ii) To make an Order to modify the definitive map and statement to show Durnford 4 (Woodrow) as a byway open to all traffic width 30 feet (9.14 metres) and 20 feet (6.10 metres)
- iii) To refuse the application for an Order

28.0 Reason for Recommendation

- 28.1 A substantive body of historical evidence supports that on the balance of probability Durnford 4 (Woodway) should be recorded with a higher status than bridleway and that the width should be recorded.
- 28.2 The route is an ancient one that predated and survived the process of parliamentary inclosure being awarded as a Public Carriage Road and Driftway in 1794.
- 28.3 Public rights were affected by the NERC Act 2006 and Wiltshire Council must consider the effect of the Act on them.
- 28.4 It is clear that s.67(1) of the 2006 Act extinguished the public MPV right and officers have accordingly considered a number of exemptions to this given in s.67(2) and (3) of the same Act.
- 28.5 A number of MPV users have adduced evidence of their use during the period required to satisfy the exemption contained within s.67(2)(a) of the Act.
- 28.6 Although there has been undoubted use by MPVs during this period the Council also has before it evidence of use of Durnford 4 which was adduced as part of independent applications for DMMOs for linking paths. It has therefore been possible to compare the use of several types of user and it is considered that, on the balance of probability, the main user was not by MPV during the period 2001 – 2006.

29.0 Recommendation

That an Order is made under s.53(3)(c)(ii) and (iii) of the Wildlife and Countryside Act 1981 to record Durnford path no 4 (Woodrow) as a restricted byway with a width of 30 feet (9.14 metres) and 20 feet (6.10 metres) and to confirm the Order if no objections or representations are made to it.

Sally Madgwick

Rights of Way Officer – Definitive Map

08 March 2016

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Wiltshire Council
Southern Area Planning Committee
21st July 2016

Forthcoming Hearings and Public Inquiries between 29/06/2016 and 31/12/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Date	Overturn at Cttee
14/12175/FUL	Land between the junction of A36 (Southampton Road) and New Petersfinger Road Salisbury Wiltshire	SALISBURY CITY	65 bed hotel with drive thru restaurant with associated parking, access and landscaping	COMM	Hearing	Approve with Conditions	05/07/2016	Yes
15/06643/FUL	Garden Cottage Penruddocke Arms Hindon Road Dinton Wiltshire SP3 5EL	DINTON	Extension to form a kitchen and additional bed rooms	DEL	Hearing	Refuse	29/09/2016	No

Planning Appeals Received between 27/05/2016 and 07/07/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
15/02806/LBC	Garden Cottage Penruddocke Arms Hindon Road Dinton Wiltshire SP3 5EL	DINTON	Extension to form a kitchen and additional bed rooms	DEL	Hearing	Refuse	08/06/2016	No
15/06643/FUL	Garden Cottage Penruddocke Arms Hindon Road Dinton Wiltshire SP3 5EL	DINTON	Extension to form a kitchen and additional bed rooms	DEL	Hearing	Refuse	08/06/2016	No
15/2046/LBC	3 Winchester Street Salisbury SP1 1HB	SALISBURY CITY	Proposed illuminated fascia sign, proposed hanging fascia sign and window graphics	DEL	Written Representations	Refuse	23/06/2016	No
15/06615/ADV	3 Winchester Street Salisbury SP1 1HB	SALISBURY CITY	Proposed illuminated fascia sign, proposed hanging fascia sign and window graphics	DEL	Written Representations	Refuse	23/06/2016	No
16/02585/FUL	62 East Gomeldon oad Gomeldon SP4 6LT	IDMISTON	Proposed Single storey rear extension and alterations	DEL	Householder	Refuse	06/07/2016	No

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded ?
13/05402/FUL	Harnham Telephone Repeater Station Shaftesbury Drove Salisbury, SP2 8QH	SALISBURY CITY	The demolition of existing telephone repeater station and development of two 4 bedroom and four 3 bedroom houses, with associated access, car parking and landscaping	COMM	Hearing	Refuse	Allowed with Conditions	25/05/2016	No
15/05639/VAR	Spitfire Road Old Sarum, Wiltshire SP4 6EB	LAVERSTOCK	Vary condition 2 of S/2000/1029 to extend the hours of operation from Monday to Friday from 07:30-18:00 to 07:00 to 23:00	DEL	Written Reps	Refuse	Allowed with Conditions	26/05/2016	Yes
15/11736/FUL	Zeals Garage Chapel Lane, Zeals BA12 6NL	ZEALS	Proposed change of use from petrol station to car wash.	DEL	Written Reps	Refuse	Allowed with Conditions	08/06/2016	No
15/07491/FUL	Dinton Village Hall Bratch Lane, Dinton Wiltshire, SP3 5EB	DINTON	Remove existing 2m high bund and replace with 2m high acoustic fence, level area and seed to grass	DEL	Written Reps	Refuse	Dismissed	21/06/2016	No
14/11277/FUL	Antrobus Arms Hotel 15 Church Street Amesbury, SP4 7EU	AMESBURY	Retrospective planning permission for a marquee in the hotel garden.	DEL	Written Reps	Refuse	Dismissed	24/06/2016	No
14/1159/LBC	Antrobus Arms Hotel 15 Church Street Amesbury, SP4 7EU	AMESBURY	Retrospective planning permission for a marquee in the hotel garden.	DEL	Written Reps	Refuse	Dismissed	24/06/2016	No

REPORT FOR SOUTH AREA PLANNING COMMITTEE

Report No. 1

Date of Meeting	21/07/16
Application Number	16/03988/FUL
Site Address	Stonehenge Visitors Centre, Airmans Corner, SP4 7DE
Proposal	Permanent use of temporary coach park and modification of existing coach park to create 53 coach spaces and 26 motorhome spaces; construction of ancillary building for new coach visitor facilities; change of use from agricultural land and creation of new visitor transit system turnaround area for shuttle bus use; creation of extended visitor transit system turnaround area for shuttle bus use; decommissioning of existing visitor transit system turnaround area; all with associated ancillary and landscaping works.
Applicant	English Heritage
Town/Parish Council	AMESBURY
Electoral Division	AMESBURY WEST – Cllr West
Grid Ref	410063 142800
Type of application	Full Planning
Case Officer	Louise Porter

Reason for the application being considered by Committee

Cllr West has called this application to the Southern Area Planning Committee for the following reasons:

- Scale of development
- Visual impact upon the surrounding area
- Environmental/highway impact
- Car parking (use)

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 approved subject to conditions.

2. Report Summary

The main issues in the considerations of this application are as follows:

- Principle of Development
- Landscape and Visual Impact
- Highway Impact
- Heritage Impact
- Ecological Impact
- Trees

Representations received:

- Amesbury Town Council and Winterbourne Stoke Parish Council support the proposal.
- Shrewton Parish Council object to the proposal.
- 3 third party letters support the application
- 11 third party letters object to the application

- 1 third party letter comments on the application

3. Site Description

The application relates to the Stonehenge World Heritage Site (WHS). The SHVC and associated coach and car parks are relatively recent additions to the landscape, constructed in 2013 following the decommissioning of the old visitor centre and car/coach park which was approximately 0.12km from the Stonehenge monument. The application site is split into two areas; the Visitor Transit System (VTS) drop-off/turnaround area at the Stones, and the Stonehenge Visitor Centre (SHVC) and its coach park, which are positioned approximately 2km from the Stonehenge monument, adjacent to the junction between the A360 and the B3086.

4. Planning History

S/2009/1527	Decommissioning of existing visitor facilities and a section of the a344; the erection of a new visitors centre, car park, coach park and ancillary services building; and related highways and landscaping works
S/2012/0118	Erection of an ancillary services building which replaces the proposed ancillary services building granted under planning permission S/2009/1527
S/2013/0101	Creation of new access and associated works
S/2013/0102	Installation of interpretation panels, archaeological presentations and associated works
13/06505/FUL	Erection of 2 Neolithic houses and the temporary siting of a portacabin, marquee, generator, diesel supply unit, water bowser and two portaloos
14/11874/SCR	EIA Screening request for temporary coach park
14/12106/FUL	Change of use from agricultural land and creation (temporary consent 2 years) of a 26 space coach park and associated ancillary works
15/07038/FUL	Resurfacing of pedestrian crossing point and Kent Carriage Gap, revision to Fargo drop off layout and relocation of cycle racks
15/12605/SCR	EIA Screening Opinion request for Stonehenge Visitor's Enhancement Project - Permanent coach park, ancillary coach visitors facilities building, visitors transit system turnaround area works and related landscaping works

5. The Proposal

The proposal involves the following elements (which are split over two sites – see map below):

- Modification of the existing coach park layout to provide a total of 28 tarmac coach spaces, 26 tarmac motorhome spaces, 25 reinforced gravel overflow coach/motorhome spaces, and 8 loading/waiting coach bays.

- Erection of a Coach Visitor Facilities Ancillary Building (CVFAB) adjacent to the coach park – providing ticketing, audio-guides and toilet facilities specifically for coach visitors.
- Decommissioning of the existing VTS turnaround area/drop-off/loading area at the Visitor Centre.
- Creation of a new VTS turnaround/drop-off/loading bay at Visitor Centre on the north of the A344 (for coach visitors) and on southern side of A344 (for car visitors).
- Extension to the existing VTS turnaround/drop-off/loading area at the Stones
- Replacement of all land trains with shuttle buses.
- Replacement of the footpath surface between the Visitor Centre and the A344
- Associated landscaping works



6. Planning Policy

National Planning Policy Framework (NPPF)

- Paragraph 128 – “In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”.
- Paragraph 137 - “Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably”.
- Paragraph 141 – “Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted”.

Planning Practice Guidance

Relevant Core Strategy policies include (but are not limited to):

- Core Policy 4 - sets out the 'Spatial Strategy' for the Amesbury Community Area within which Stonehenge is located. The specifically issues this policy raises in relation to Stonehenge are as follows (para 5.19):
 - Delivery of improved visitor facilities at Stonehenge
 - The World Heritage Site will be protected from inappropriate development both within the Site and in its setting so as to sustain its outstanding universal value in accordance with Core Policy 59.
- Core Policy 6 – The World Heritage Site and its setting will be protected so as to sustain its Outstanding Universal Value in accordance with Core Policy 59. New visitor facilities will be supported where they:
 - i. Return Stonehenge to a more respectful setting befitting its World Heritage Site status
 - ii. Include measures to mitigate the negative impacts of the roads
 - iii. Introduce a greatly enhanced visitor experience in a high quality visitor centre
 - iv. Implement an environmentally sensitive method of managing visitors to and from Stonehenge
 - v. Include a tourist information element, which highlights other attractions and facilities on offer in the surrounding area and raises the profile of Wiltshire

- Core Policy 39 - sets out the policy for tourist development and states extensions to existing facilities should be appropriate in scale to their location and ensure the future viability of the business.
- Core Policy 50 – requires proposals to incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats.
- Core Policy 58 – requires development to protect, conserve and where possible enhance the historic environment
- Core Policy 59 – The outstanding universal value (OUV) of the World Heritage Site will be sustained by:
 - i. Giving precedence to the protection of the World Heritage Site and its setting
 - ii. Development not adversely affecting the World Heritage Site and its attributes of OUV. This includes the physical fabric, character, appearance, setting or views into or out of the World Heritage Site
 - iii. Seeking opportunities to support and maintain the positive management of the World Heritage Site through development that delivers improved conservation, preservation and interpretation and reduces the negative impact of roads, traffic and visitor pressure
 - iv. Requiring development to demonstrate that full account has been taken of their impact upon the World Heritage Site and its setting. Proposals will need to demonstrate that the development will have no individual, cumulative or consequential adverse effect upon the Site and its OUV. Consideration of opportunities for enhancing the World Heritage Site and sustaining its OUV should also be demonstrated. This will include proposals for climate change mitigation and renewable energy schemes.

The Stonehenge, Avebury and Associated Sites World Heritage Site Management Plan 2015

UNESCO Guidelines for the implementation of the World Heritage Convention (2015)

7. Summary of consultation responses

Winterbourne Stoke Parish Council: Support

Amesbury Town Council: Support

- However, disappointed there is no additional access to the Stones from Amesbury

Shrewton Parish Council: Object

- An objection to the coach park extension being made permanent, due to E.H. failure to implement their promises of providing an access route for pedestrians/cyclists to and from Amesbury. This was the first of many failures to support local people.
- This is the third time the parking has been extended, how many more times is this going to happen?
- Only 12 additional places should be allowed because of traffic.
- English Heritage originally stated that they wanted to return Stonehenge to its original setting but the planned VTS drop-off goes against this.
- Start a public bus service in Amesbury, maybe as a Park and Ride in Solstice Park, to the visitor centre, freeing up some of the existing car park for coaches
- Suggestion to build an underpass under the 303 linking Amesbury to Stonehenge or, to save money, make a new link path from Stonehenge, to the North and parallel to

the 303, so cyclists and walkers can use the existing Countess Roundabout underpass to access the Stones from Amesbury.

- No objection in principle to coaches but extra traffic is a problem.
- The postcode quoted is wrong as it is the postcode for Stonehenge in the Amesbury parish whilst the Visitor Centre is in the Winterbourne Stoke Parish.

Wiltshire Archaeology: Support subject to conditions

Wiltshire Drainage: Support

Wiltshire Ecology: No objections

Wiltshire Landscape: No objections

Wiltshire Highways: No objection subject to conditions and s278 agreement being completed.

Environment Agency: No objection subject to conditions

Highways England: No objections

Historic England: No objections

Natural England: No objections

World Heritage Site Coordination Unit: Object. No evidence submitted of research into improved sustainable transport options and the feasibility of parking provision being located outside the WHS and its setting.

8. Publicity

The application was advertised by 4x Site Notices, and published in the Salisbury Journal and on the Wiltshire Council's website.

3 letters supporting the application were received, covering the following points:

- Support the specific parking provision for motorhomes
- More streamlined visitor handling
- Increasing tourism income for the area

11 letters objecting to the application were received, covering the following points:

- CVFAB will be prominent in the landscape
- Inadequate Landscape and Visual Impact Analysis.
- Insufficient landscaping proposed
- Existing trees should be given TPOs
- More spaces will result in more traffic on local roads.
- Worsening of views from various points in the landscape
- No new land should be taken
- Planning permission should be not be granted until re-routing of the A303 is undertaken
- Visual harm from multiple coaches reflecting sunlight

1 letter providing comments (without a specific support/objection) to the application was received, covering the following points:

- Improvements to safety, but question the need for the level of coach parking proposed.

Other issues raised that are not material planning considerations:

- Further works are required over the World Heritage Site to improve the rest of the visitor experience – *[this is not considered relevant to the current proposal]*.
- Some aspects of the original planning permission for the Visitor Centre are still not completed/conditions not complied with, e.g. the Right of Way from the Stock Bottom (A303) to the Stones, along the path of the old A344 is still not open for use, and there is no landscaped walk to the Stones from the Visitor Centre – *[There is an ongoing enforcement case regarding some issues from the previous consent, however this is not of relevance to the current proposal]*.
- Consideration should be given to allowing motorhomes to park for at least 24hrs, and supply/waste water connections provided – *[this is not considered relevant to the current proposal]*.
- Landscaping should be extended to also surround the car park – *[the car park is not within the red line of this application site, nor are works to the car park considered a necessary requirement in relation to the current proposal]*.

It is noted that one representation letter stated that the application was unclear in what the proposal entailed and its location. All of the documents submitted for the application are published to the Wiltshire Council website, and they provide very detailed information about the proposal and its location.

The same representation letter also questioned the level of publicity undertaken, stating that the only site notice visible was at the Stones. In reality 4x site notices were displayed – 1 at the VTS drop-off at the Stones, 1 within the coach park, 1 within the car park and 1 just outside of the main gated vehicular entrance to the site. In addition the application has been advertised in the Salisbury Journal and also on the Wiltshire Council website. Therefore the level of publicity meets the required of the legislation. In terms of the questioning over the wording on the Site Notice, the wording “This proposal may affect a listed building or its setting, a conservation area or its setting and or a public right of way” is a standard text that is on every Site Notice produced by Wiltshire Council.

9. Planning Considerations

9.1 Principle of Development

Core Policies 6 and 59, together with paragraph 137 of the NPPF, allows for development within the World Heritage Site that better reveals the heritage significance and provides education on the heritage, whilst not adversely impacting on the heritage asset and its setting. Therefore the principle of development within the Stonehenge World Heritage Site, relating to the Stonehenge Visitor Centre is acceptable subject to it meeting all the criteria of Core Policies 6 and 59.

9.2 Landscape and Visual Impact

9.2.1 General Landscape Impacts

A Landscape and Visual Impact Assessment was submitted with the application. This assessment concluded “*although the proposed development would have some potential localised negative landscape and visual effects, these can be adequately mitigated through the proposed landscaping measures*”.

Quoting sections 5.2 and 5.3 of the Landscape and Visual Impact Assessment:

“When considered in the context of the existing coach park, ancillary building, car park and visitor centre at Airman’s Corner in the round, the scale of change associated with the proposed permanent coach park, coach visitor facilities ancillary building and VTS turning loop at Airman’s Corner would be comparatively small. The proposed area of permanent coach parking is currently a coach park which is used frequently, and concentrates coach parking within a restricted area of the site. In addition, the maximum number of coaches on the site at any one time (53 spaces) will be slightly less than the existing situation (56 spaces). There would be limited increase in visual clutter as the appearance of the proposed permanent coach park; coach visitor facilities ancillary building and the VTS turning loop would be perceived as an extension of the existing visitor facilities in this location... the majority of the scheme’s built footprint re-uses previously developed land within the coach park site, and the remaining areas of built footprint are largely reversible.”

“In conjunction with the screening afforded by the existing beech trees and ancillary building along the southern boundary of the application site, and the undulating landscape in which the site is located, once established the proposed boundary edge tree and scrub planting will help further screen and/or soften the appearance of the coaches and the new coach visitor facilities ancillary building seen in views from the wider landscape. The decommissioning, removal and restoration to grassland of the existing VTS turnaround are adjacent to the Visitor Centre would be a beneficial landscape impact.”

“When considered in the context of the existing VTS turnaround area, the scale of change associated with the proposed extension to the VTS turnaround area near the Stones would be minor. The extended VTS turning area would not have a significant permanent adverse impact on the character and appearance of the landscape, or on the amenity of recreational users of public rights of way and open access land in the vicinity of the Stones.”

The Wiltshire Council Landscape Officer has reviewed the submitted Landscape and Visual Impact Assessment, and is content with the level of assessment and detail provided.

9.2.2 Specific Design Impacts

All access routes (both vehicular and pedestrian) will be constructed in materials to match those already in existence within the application site and within the SHVC locality. This provides a consistent, uniformed approach across the site.

The CVFAB is to be flat-roofed and single-storey (only marginally taller than a standard coach) and is to be located on land of a lower level than the majority of the coach parking spaces. The building is to be clad in vertical weathered timber panels which will extend upwards as a parapet to hide the flat-roof. The timber cladding will match that of the existing ancillary building. The timber cladding, being a natural material, is considered to maximise the building’s ability to blend in with the surroundings and ensures the building is as unobtrusive as possible.

The removal of the existing VTS turning area at SHVC allows for improved landscape views from the SHVC, as at present the SHVC outlook is directly onto this turning area.

9.2.3 Proposed Mitigation for Visual Impacts

A landscaping scheme forms part of the proposal, which will follow the basis of the existing landscaping works that have been undertaken in and around the SHVC site. In summary, the landscaping works are designed to soften, rather than hide, the visual impact of the coaches, with the intention to retain the character of the open chalk downland landscape.

Native trees and shrubs will be planted in a woodland matrix to blend in with the existing landscape.

The proposed landscaping at the VTS turning area at the Stones will be minimal, with the increased area of turning loop being subtly blended into existing land levels and sown with a chalk grassland mix.

The submitted landscaping proposal is considered to be appropriate for its setting, providing a compromise between retaining the open character of the area whilst softening the visual impact of the proposals.

9.3 Highway Impact

9.3.1 Impact on the Local Road Network

The approval of 14/12106/FUL for the temporary coach park, accepted that there was a need for a larger coach park than that which was originally built at the time of the construction of the new SHVC (S/2009/1527). Therefore the impact of this current coach park proposal on the local road network is not considered to be any different from the temporary coach park approved under 14/12106/FUL.

Wiltshire Highways supports the general principle of the permanent coach park which meets the current parking requirements for the site.

9.3.2 Highway Safety within the Application Site and the Visitor Transit System (VTS)

The proposal also includes amendments to the VTS, with the replacement of all land-trains with buses. The type of vehicle used for transporting visitors from the SHVC to the Stones is not a relevant planning consideration, and the actual use of buses does not require planning permission. The alterations to the A344 and the VTS's drop-off/loading bays and turning areas do require planning permission however. The buses require a lower kerb than the land-trains, and also require different turning circles; as such all existing infrastructure requires amending.

The initial consultation response from Wiltshire Highways raised several concerns and requested further information to be submitted. Following the receipt of vehicle tracking diagrams to demonstrate the usability of the various elements of the coach park and VTS, and clarification of various aspects of the proposal, all but two of the highway concerns have been resolved. The two unresolved issues relate to the exit arrangements from the coach park, and the realignment of the pedestrian route past the VTS turning area at the Stones. Wiltshire Highways have requested pre-commencement conditions be imposed in order to appropriately resolve these issues.

In addition, it is necessary for the applicant to enter into a legal agreement, to address the requirement for coaches to only turn left out of the site. The agreement will provide for payment for a Traffic Regulation Order to be advertised and implemented, and to provide on-site signage.

9.3.3 Misc

The World Heritage Site Coordination Unit objected to the proposal on the basis that no evidence had been submitted of research into more sustainable transport options and the feasibility of parking provision being located outside the WHS and its setting. In response, the applicant stated that off-site coach parking provision outside of the World Heritage Site had been considered, however the option was discounted as it would lead to undesirable

increases in the number of coach journeys on local roads by doubling coach movements. Other options such as park and ride were also considered but discounted for various reasons. The applicant concluded that expanding the existing coach park on a permanent basis would encourage more visitors to arrive by coach and therefore on balance this was considered to be the most sustainable transport option.

9.4 Heritage Impact

9.4.1 Archaeological Impact

The Heritage Impact Assessment (HIA) which accompanies the application recognises the archaeological potential of the site. Wiltshire Archaeology have been consulted on proposal and have commented with regard to the potential for impact upon non-designated heritage assets with an archaeological interest.

The National Planning and Policy Framework (NPPF) contains the following Policy:

“128. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”

The Heritage Impact Assessment that accompanies the application fulfils the requirement within this paragraph for a desk based assessment.

As the HIA states, parts of the site, and areas directly adjacent to the site, have been the subject of previous archaeological works. The HIA also states:

“Although the results of previous archaeological evaluation trenching, test pitting and watching briefs in the area all suggest a low potential for significant archaeological remains to exist here, the survival of such remains cannot be ruled out. Consultation with the Wiltshire Council Assistant County Archaeologist concluded that archaeological investigation would be required prior to development, to offset any loss in archaeological remains.”

Therefore an archaeological evaluation is not necessary for this application.

The NPPF also says: *141. Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.*

It is therefore required that a programme of archaeological works is carried out as part of the development, at the applicant’s expense and risk.

In terms of the archaeological impacts from the proposed landscaping scheme (discussed in 9.2.3 of this report), this is designed such that the planting will have minimal impact on any

archaeological remains. The landscaping will be planted into very subtle bunds above the existing ground levels that will blend into the existing ground levels, allowing sufficient depth for the root structures not to interfere with archaeological remains. The layout of the planting will be dictated by the depth of the bunds, e.g. adjacent to the western boundary of the site will be suitable for tree and shrub planting, whilst on the sections of bund which are closest to the existing levels, only chalk grassland will be sown.

9.4.2 Impact on the Outstanding Universal Value (OUV) of the World Heritage Site

When considering the proposal in the context of the existing SHVC, Coach Park and other development works already undertaken on the site, the scale of change proposed is comparatively small. There would be no change to the character or legibility of any of the key Scheduled Monument groups or the visual relationship between them.

Historic England were consulted on the proposal and have concluded that the works proposed would not result in harm to OUV of the World Heritage Site.

9.5 Ecological Impact

The development lies 1.5km from the Salisbury Plain SAC / SPA, and much of the site is already developed from the previous temporary coach park permission. The proportion of the application site that comprises development on existing arable agricultural land (the VTS turnaround/drop-off/loading bay adjacent to the coach park) is of a relatively small scale, and therefore the Wiltshire Ecologist does not consider it is likely to have a significant effect on stone curlew, which are a feature of the SPA. It is considered unlikely that there will be ground nesting birds on this section of existing arable agricultural land, however the developer has confirmed that if approved, the proposed works would not be taking place during the breeding season. This can be controlled via condition. Natural England have no comments to make on the proposal, on the basis that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

Stone curlews are also listed on annex 1 of the EU Birds Directive and Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and are thus protected from disturbance while they are breeding. The nearest that stone curlews have been recorded nesting is approximately 1.6 km away. At this distance, these nest sites are unlikely to be affected by the development proposals if they are used in the future.

9.6 Trees

The proposal results in the loss of a section of beech trees in the tree belt adjacent to the A344, to facilitate the creation of the VTS turning loop and coach visitor drop-off/loading bay. The Wiltshire Council Arboriculturalist has been consulted on the proposal and has raised no objections, stating that the trees are not worthy of a Tree Protection Order.

9.7 Misc

An Environmental Impact Assessment Screening Request was submitted for the proposal prior to the submission of this planning application. It was concluded that whilst the proposed development was categorised as Schedule 2 Development, the proposal was not likely to have significant environment impacts and as such an Environmental Impact Assessment was not required.

10. Conclusion

The proposed modification of the existing coach park layout and its associated permanent expansion and ancillary building, together with the infrastructure amendments to facilitate the replacement of land-trains with buses and the proposed landscaping scheme, will provide significant public benefit by means of an improved visitor experience. Taking into consideration this public benefit and there being no demonstrable harm to heritage, ecology, highways, landscape and visual amenity, on balance the proposal is considered to be acceptable. As such the proposal is considered to be in accordance with paragraphs 128, 137 and 141 of the National Planning Policy Framework (NPPF), the Planning Practice Guidance, Core Policies 4, 6, 39, 50, 57, 58 and 59 of the adopted Wiltshire Core Strategy, The Stonehenge, Avebury and Associated Sites World Heritage Site Management Plan 2015 and UNESCO Guidelines for the implementation of the World Heritage Convention (2015).

RECOMMENDATION:

Subject to the applicant entering into a legal agreement to achieve delivery of the Traffic Regulation Order and related infrastructure, delegate to the Area Development Manager (South) to grant planning 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 The development hereby permitted shall be carried out in accordance with the following approved plans:

Design & Access Statement dated April 2015 received 18/04/16
Planning Statement dated April 2016 received 18/04/16
Landscape & Visual Impact Assessment dated April 2016 received 18/04/16
Heritage Impact Assessment dated April 2016 received 18/04/16
1515/253 Rev P5 dated 13/04/16 received 18/04/16
1515/242 Rev P13 dated 13/04/16 received 18/04/16
1733/010/020 Rev C dated 14/04/16 received 18/04/16
1733/10/21 Rev A dated 13/04/16 received 18/04/16
1733/10/23 dated 13/04/16 received 18/04/16
HED.1152.103 Rev A dated 04/04/16 received 18/04/16
HED.1152.104 Rev A dated 04/04/16 received 18/04/16
HED.1152.105 Rev A dated 05/04/16 received 18/04/16
HED.1152.SK002 Rev A dated 04/04/16 received 18/04/16
1733/10/25 Rev A dated 13/04/16 received 18/04/16
1515/215 Rev P8 dated 13/04/16 received 18/04/16
1515/272 Rev P4 dated 13/04/16 received 18/04/16
1515/273 Rev P4 dated 13/04/16 received 18/04/16
1515/216 Rev P8 dated 13/04/16 received 18/04/16
1515/270 Rev P4 dated 13/04/16 received 18/04/16
1515/271 Rev P4 dated 13/04/16 received 18/04/16
1515/211 Rev P8 dated 13/04/16 received 18/04/16
HED.1152.106 dated 14/03/16 received 18/04/16

1515/251 Rev P7 dated 13/04/16 received 18/04/16
1733/10/026 Rev A dated 13/04/16 received 18/04/16
1733/10/22 Rev A dated 13/04/16 received 18/04/16
12246-1 Rev 0 dated 13/04/16 received 18/04/16
12246-2 Rev 0 dated 13/04/16 received 18/04/16
12246-3 Rev 0 dated 13/04/16 received 18/04/16
12246-4 Rev 0 dated 14/04/16 received 18/04/16
12246-5 Rev 0 dated 14/04/16 received 18/04/16
12246-6 Rev 0 dated 14/04/16 received 18/04/16
12246-7 Rev 0 dated 14/04/16 received 18/04/16
12246-8 Rev 0 dated 14/04/16 received 18/04/16
12246-9 Rev 0 dated 14/04/16 received 18/04/16
1733/10/07 Rev A dated 12/02/16 received 28/06/16
1733/10/08 Rev A dated 12/02/16 received 28/06/16
1733/10/09 Rev B dated 02/06/16 received 28/06/16
1733/10/10 Rev B dated 02/06/16 received 28/06/16
1733/10/13 Rev B dated 02/06/16 received 28/06/16
1733/10/14 Rev B dated 02/06/16 received 28/06/16
1733/10/15 Rev B dated 02/06/16 received 28/06/16
1733/10/16 Rev B dated 02/06/16 received 28/06/16
1733/10/30 Rev A dated 24/06/16 received 28/06/16
1733/10/34 dated 02/06/16 received 28/06/16
11110205R_Wiltshire Highways Comments_Responses_Final_28-06-16 received 28/06/16
Email from Alan Baxter Ltd to Wiltshire Council 30/06/16 17:06
Email from Chris Blandford Associates to Wiltshire Council 28/06/16 20:47

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

- 3 Prior to the commencement of the development hereby approved, details for temporary parking of coaches displaced from the development area during the course of the works shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To ensure an adequate supply of coach parking at the Stonehenge Visitor Centre site during the works.

- 4 Notwithstanding the submitted drawings showing the proposals for directing pedestrian arrivals in the vicinity of the A344 junction with Byway 12, prior to the commencement of the development hereby approved further details shall be submitted to and approved in writing by the Local Planning Authority demonstrating how pedestrians using the signed and lined route on the southern side of the A344 can access the Stones without having to cross the A344 or to walk within the route used by the Visitor Transit System to the east side of Byway 12. The approved details shall be implemented before the proposed bus turning arrangements are brought into effect.

Reason: In the interests of highway and visitor pedestrian safety.

- 5 Notwithstanding the submitted drawing showing the access and egress arrangements for the extended visitor coach park area at the north-west side of the coach park, prior to the commencement of the development hereby approved further details shall be submitted to and approved in writing by the Local Planning Authority demonstrating

how the potential conflict between arrivals and departures will be eliminated or managed. The approved arrangements shall be implemented before the coach/motorhome park extension area is first brought into use.

Reason: In order remove the conflicts between coaches arriving at and departing from the extended area of coach parking, and potential consequences on other departing traffic.

- 6 Prior to the Visitor Transit System operations hereby approved coming into effect, a Coach/Motorhome Parking and Visitor Transit System Management Plan shall first have been submitted to and approved in writing by the Local Planning Authority. The Coach/Motorhome Park and the Visitor Transit System shall be operated at all times in accordance with the management plan so approved.

Reason: In order to ensure that the coach/motorhome parking areas are operated and managed in a manner consistent with the safe practices, and to ensure that pedestrian users of the A344 are not exposed to unnecessary risk resulting from its use by the Visitor Transit System.

- 7 Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of highway safety.

- 8 No development approved by this permission shall be commenced until a scheme for surface water drainage, incorporating pollution prevention measures, has been submitted to and agreed in writing by the Local Planning Authority, in consultation with the Environment Agency. The scheme shall be fully implemented as agreed.

Reason: To protect controlled waters from pollution, particularly the local groundwater.

INFORMATIVE

A full oil retention interceptor should be installed as part of the surface water drainage for the proposed coach park, of a sufficient size to deal with the increased size and risk of oil spills and leaks.

INFORMATIVE

An application to vary the abstraction licence SW/043/0021/003 will need to be submitted to the Environment Agency as the proposal contains information that the potable abstraction will be above the licenced limits. Pre-application guidance sought with the Environment Agency is welcomed - contact Carol Pediani on 02030 259285). Online application guidance is at the following link:
<https://www.gov.uk/government/publications/water-abstraction-application-for-a-water-resources-licence>. A variation to the licence can take up to 13 weeks to determine and approve any increase in volumes abstracted above existing abstraction limits.

INFORMATIVE

The Environment Agency request that the applicant provides confirmation that the permitted sewage discharge volume will be complied with. (The proposal only states that the treatment volume will be "within the manufacturer's designed process capability of the MBR plant"). This confirmation should be sent to Carol Pediani - carol.pediani@environment-agency.gov.uk.

INFORMATIVE

Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery
- oils/chemicals and materials
- wheel washing and vehicle wash-down
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

- 9 No development shall commence until details of the foul drainage disposal package treatment plant have been submitted to and agreed in writing by the Local Planning Authority. These details must include a future ownership/maintenance regime. The development shall be undertaken 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 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.

- 10 No development shall commence within the area indicated (proposed development site) until:

- A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- The approved programme of archaeological work has been carried out in accordance with the approved details.

Reason: To enable the recording of any matters of archaeological interest.

INFORMATIVE

The work should be conducted by a professionally recognised archaeological contractor in accordance with a written scheme of investigation approved by this office and there will be a financial implication for the applicant.

INFORMATIVE

The applicant should be aware that, if archaeological remains are encountered, this may have an effect on their programme of works. If human remains are encountered during the works, they cannot be removed without the appropriate permissions.

INFORMATIVE

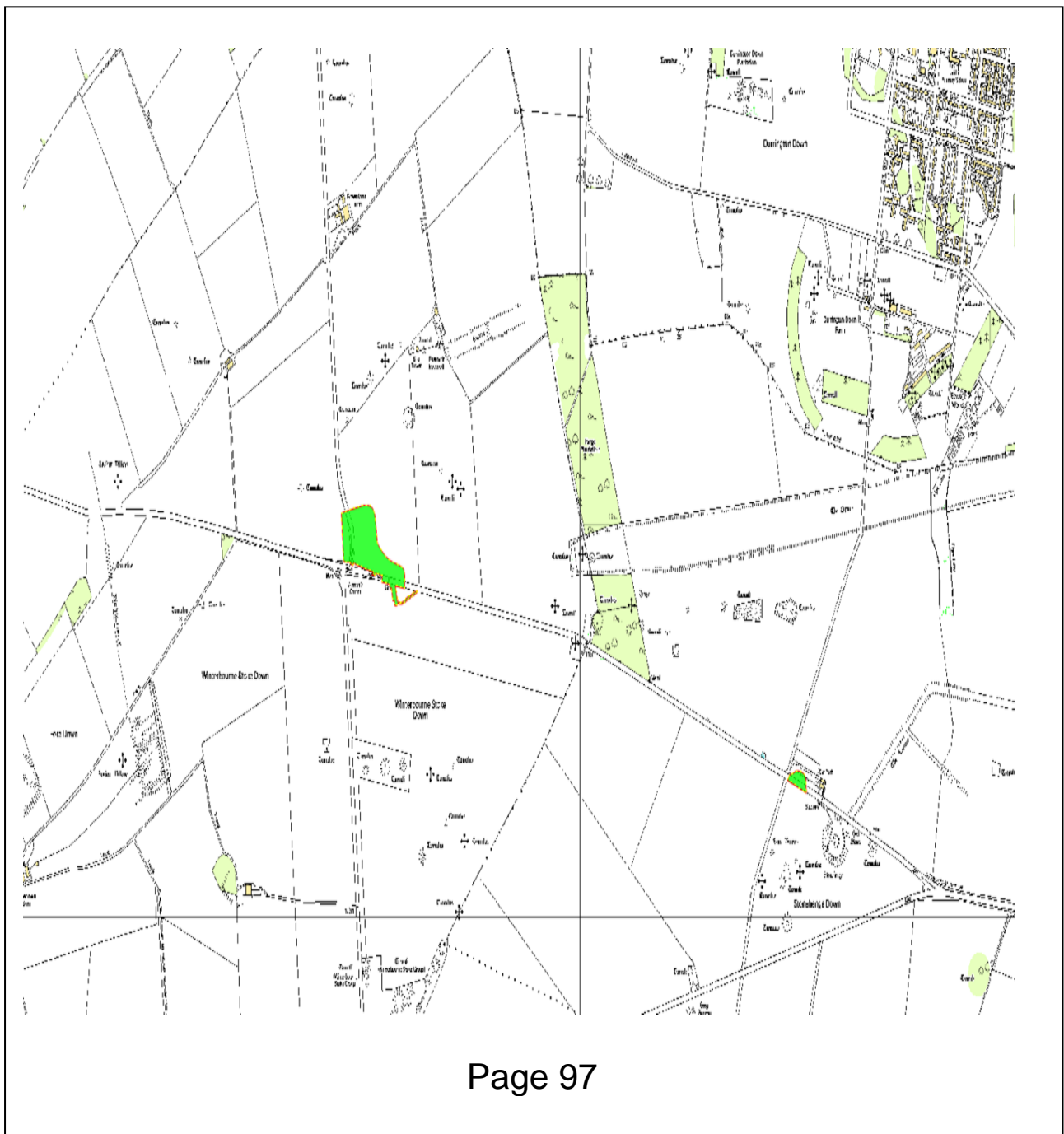
This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the **[INSERT]**.

INFORMATIVE

A Section 278 agreement will be required in order to construct those works which include alterations to the highway.

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Application Number	16/03988/FUL
Site Address	Stonehenge Visitors Centre, Airmans Corner, SP4 7DE
Proposal	Permanent use of temporary coach park and modification of existing coach park to create 53 coach spaces and 26 motorhome spaces; construction of ancillary building for new coach visitor facilities; change of use from agricultural land and creation of new visitor transit system turnaround area for shuttle bus use; creation of extended visitor transit system turnaround area for shuttle bus use; decommissioning of existing visitor transit system turnaround area; all with associated ancillary and landscaping works.
Case Officer	Louise Porter



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 2

Date of Meeting	21 st July 2016
Application Number	16/04773/FUL
Site Address	Boxhedge Cottage High Street Porton SP4 0LH
Proposal	Proposed two storey rear extension
Applicant	Mr & Mrs Pope
Town/Parish Council	IDMISTON
Electoral Division	BOURNE AND WOODVALLEY – (Councillor Mike Hewitt)
Grid Ref	418729 136509
Type of application	Full Planning
Case Officer	Laura Baker

Reason for the application being considered by Committee

The application has been called in to committee by Councillor Hewitt as the application is recommended for refusal.

1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission should be REFUSED.

2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle of development
- Design and Impact on Historic Environment
- Impact on neighbour amenity

3. Site Description

The application site is located on the High Street within the south of Porton. The property is a two storey detached dwelling that was formerly three separate cottages. The site is constructed from a timber frame with brick and render under a thatched roof. The property

is grade II listed and falls within the Porton Conservation area. A footpath runs within close proximity to the site on the eastern boundary.

4. Planning History

There is no planning application history relevant to Boxhedge Cottage. A two storey new build is currently under construction in land adjacent to the property.

5. The Proposal

The application seeks planning permission to erect a two storey extension to the rear of the property. The purpose of the works is to provide an additional bedroom and ensuite bathroom at first floor level and sitting room on the ground floor. The extension is proposed to be constructed out of materials that will match the existing building.

6. Local Planning Policy

Planning (Listed Building and Conservation Areas) Act 1990

- Section 16: Preserving a Listed Building or its setting
- Section 66: Special considerations affecting planning functions

National Planning Policy Framework (NPPF):

- Section 12: Conserving and enhancing the historic environment
- Section 7 - Requiring good design

Wiltshire Core Strategy (WCS):

- Core Policy 58: Ensuring the conservation of the historic environment
- Core Policy 57: Ensuring high quality design and place shaping

7. Summary of consultation responses

Parish Council - No Objections

Highways - No Objections

Conservation - Objections (negative impact upon the listed building)

8. Publicity

The application was advertised by press / site notice and neighbour consultation letters.

2 Letters of support have been received

9. Planning Considerations

9.1 Principle of Development

Core Policy 57 states “a high standard of design is required in all new developments, including extensions... Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality”. The “Creating Places” Supplementary Planning Guidance gives further direction of household extensions –

- Avoid large extensions which overwhelm the original dwelling
- In all circumstances the key principle is that it will still be obvious what part of the building was original, with later extensions being clearly subordinate
- New roof pitches should match those of the existing dwelling but should be of a narrower span achieved by the use of setbacks and a dropped ridge

Core Policy 58 of the Wiltshire Core Strategy states that designation of a listed building does not preclude the possibility of new development. In considering applications for new development, the council will seek to ensure that the form, scale, design and materials of new buildings are complementary to the historic context. Core Policy 58 states that development should protect, conserve and where possible enhance the historic environment.

9.2 Design and Impact on the Historic Environment

The Conservation Officer has advised that the primary significance of Boxhedge Cottage as a listed building is in its specific layout and the excellent survival of historic fabric; the level of visibility of the building or any part of it is rarely a relevant consideration in Listed Building Consent, however it is core to the considerations relevant to the Conservation Area. Some original fabric has been lost or altered to the property, however many of these changes contribute to the historic interest of the building’s evolution.

The application states that the proposal is made as the ‘living space is limited for a family size dwelling, and an upper floor master bedroom with ensuite that would make this dwelling suitable for modern living and family use’. The property was originally divided into three dwellings, this given it is not considered that the level of accommodation is so poor as to render it sufficiently undesirable that its occupancy (and thereby maintenance) could be jeopardised. The application proposes that three large reception rooms, four bedrooms and two bathrooms which, by thatched cottage standards, is a substantial range of accommodation, especially for the size of plot that it now occupies. It is therefore not considered that the application proposes any public benefits.

The proposal is a two-storey extension at right-angles to the rear of the existing building. The rear elevation of the existing building is in a single plane, with the centre bays of exposed historic timber-framing with infill panels of brick, plaster and flint. The proposed extension would be built over this wall, thereby removing it from external visibility, also cutting out a significant section of the timber-frame’s essential eaves plate in order to create first floor access. The loss of visibility of the rear elevation and loss of fabric combine to generate a significant adverse impact on the character of the listed building; the application proposes

that this external wall would remain exposed internally; the harm is created by denying its visibility alongside the rest of the rear of the cottage.

The size and bulk of the extension is also a concern. Its orientation is at ninety degrees to the existing and does not reflect the traditional form of extension of thatched cottages, where linearity would usually have been preserved for thatching reasons.

The extension would change the relationship between the property and its curtilage. The curtilage has already been significantly reduced in scale by the new dwelling to the south, and that remaining to the east would be inaccessible from the house due to the excavations necessary to construct the extension and ground levels. This would have a negative effect that would have a highly adverse impact on the setting of the listed building.

The visual impact of the works would be limited from the public realm, although there would be partial views of the new roof and stack, and therefore it is considered that the impact on the character of the Conservation Area is negligible.

9.3 Impact on Neighbour Amenity

The property is bounded to the north by an access track for neighbouring properties and no.6 Parsons Close beyond, to the east the property is bounded by a footpath and no.'s 1 & 2 Highfield Cottages, to the south is the new build that is currently under construction and to the north is agricultural land.

In terms of neighbour impact, the property has dense hedging on the northern boundary which provides screening of the site from properties to the north. It is not considered that there would not be any significant impact on properties to the east given the change in levels from the site to the neighbouring dwellings.

The new build property would be the most likely to be effected in terms of neighbour amenity. The proposed drawings that show there would be a small bedroom window looking onto the new build and double doors at ground floor level. This being said, it is considered that there would be a separation distance between the two houses that would be large enough that the development would not be overbearing in nature or result in the loss of privacy for future inhabitants of the new build.

10. Conclusion

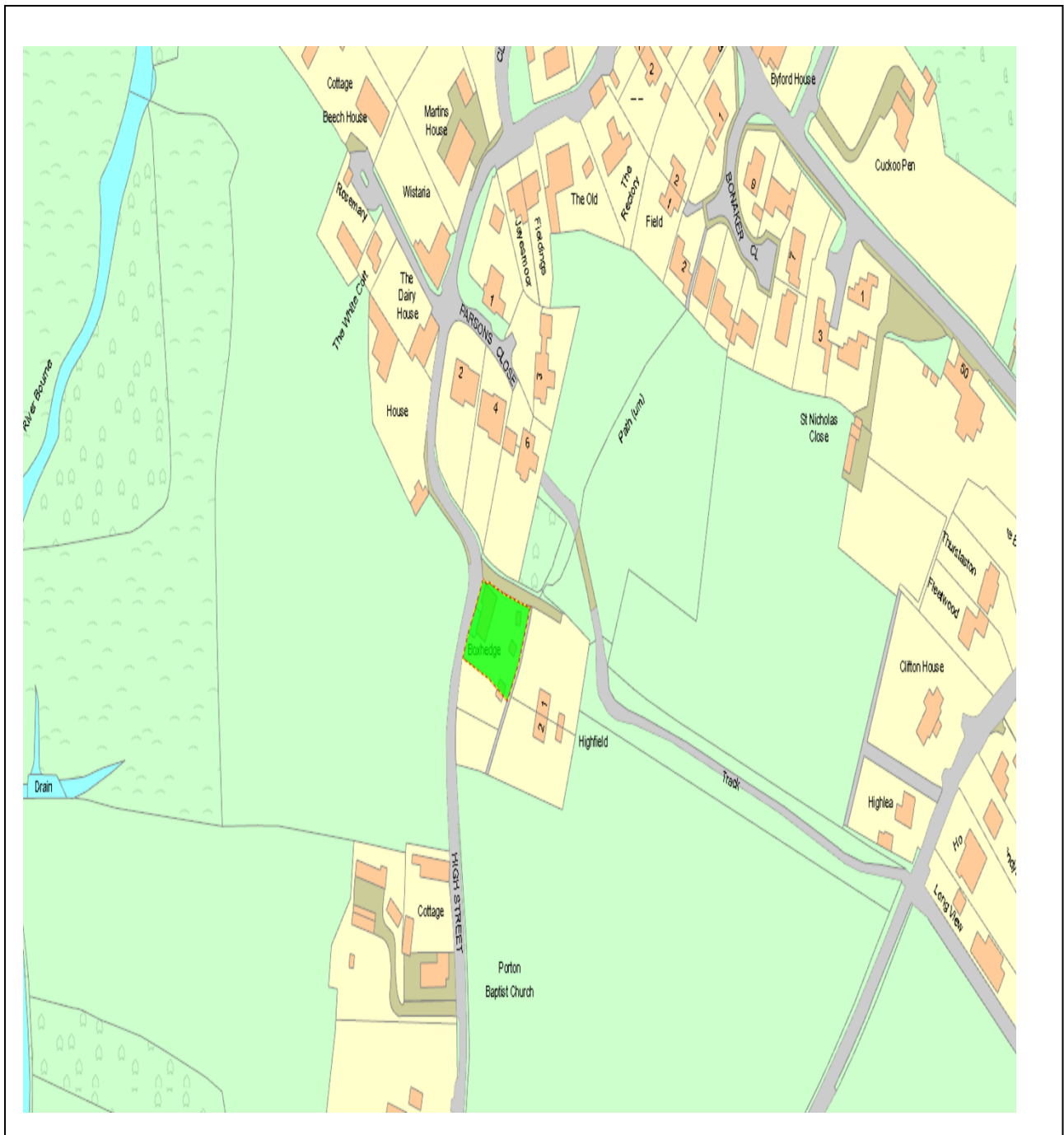
In conclusion, it is considered that the proposed extension, by reason of its attachment to the rear of the listed building, the enlarged openings causing loss of significant historic fabric, its bulk, and the impact on its setting, would fail to preserve the character and setting of the listed building as required by s16 and s66 of the Act. It would also fail to meet the expectations of Wilts Core Strategy CP58 and NPPF para 134.

RECOMMENDATION: Refuse Planning Permission

- (1) The proposed extension, by reason of its attachment to the rear of the listed building, the enlarged openings causing loss of significant historic fabric, its bulk, and the impact on its setting, would fail to preserve the character and setting of the listed building as required by Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would also fail to meet the expectations of Wiltshire Core Strategy Core Policies 57 and 58 and the NPPF.

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Application Number	16/04773/FUL
Site Address	Boxhedge Cottage, High Street, Porton, SP4 0LH
Proposal	Proposed two storey rear extension
Case Officer	Laura Baker



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 3

Date of Meeting	21 st July 2016
Application Number	16/04776/LBC
Site Address	Boxhedge Cottage High Street Porton SP4 0LH
Proposal	Proposed two storey rear extension
Applicant	Mr & Mrs Pope
Town/Parish Council	IDMISTON
Electoral Division	BOURNE AND WOODVALLEY – (Councillor Mike Hewitt)
Grid Ref	418729 136509
Type of application	Listed Building Consent
Case Officer	Laura Baker

Reason for the application being considered by Committee

The application has been called in to committee by Councillor Hewitt as the application is recommended for refusal.

1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission should be REFUSED.

2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Planning History
- Impact on the Listed Building

3. Site Description

The application site is located on the High Street within the south of Porton. The property is a two storey detached dwelling that was formerly three separate cottages. The property is constructed from a timber frame with brick and render under a thatched roof. The property is grade II listed and falls within the Porton Conservation area. A footpath runs within close proximity to the site on the eastern boundary.

4. Planning History

There is no planning application history relevant to Boxhedge Cottage. A two storey new build is currently under construction in land adjacent to the property.

5. The Proposal

The application seeks listed building consent for to erect a two storey extension to the rear of the property. The purpose of the works is to provide an additional bedroom and ensuite bathroom at first floor level and sitting room on the ground floor. The extension is proposed to be constructed out of materials that will match the existing building.

6. Local Planning Policy

Planning (Listed Building and Conservation Areas) Act 1990

- Section 16: Preserving a Listed Building or its setting
- Section 66: Special considerations affecting planning functions

National Planning Policy Framework (NPPF):

- Section 12: Conserving and enhancing the historic environment
- Section 7 - Requiring good design

Wiltshire Core Strategy (WCS):

- Core Policy 58: Ensuring the conservation of the historic environment
- Core Policy 57: Ensuring high quality design and place shaping

7. Summary of consultation responses

Parish Council - No Objections

Salisbury Civic Society – Objections (negative impact upon the listed building)

Conservation - Objections (negative impact upon the listed building)

8. Publicity

The application was advertised by press / site notice and neighbour consultation letters.

2 letters of support have been received

9. Planning Considerations

9.1 Impact on the Listed Building and Conservation Area

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works the local planning

authority [or the Secretary of State] shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The council has a duty under the PLBCA Act 1990 to pay special regard to preserving the character of listed buildings and conservation areas. Listed buildings are identified as being of national significance, and the considerations in handling applications for listed building consent are separate from those of planning permission, for which specialist advice is required to be sought just as would works affecting a scheduled monument. Change is of course not in itself objectionable, however the duty of special regard requires the council to consider the impact of any changes on the character and significance of listed buildings; unless exceptional circumstances exist, proposals that would adversely affect the character or significance should be rejected so that the wider community (both local and national) benefits of our finite heritage are maintained.

The Conservation Officer has advised that the primary significance of Boxhedge Cottage as a listed building is in its specific layout and the excellent survival of historic fabric; the level of visibility of the building or any part of it is rarely a relevant consideration in Listed Building Consent, however it is core to the considerations relevant to the Conservation Area. Some original fabric has been lost or altered to the property, however many of these changes contribute to the historic interest of the building's evolution.

The application states that the proposal is made as the 'living space is limited for a family size dwelling, and an upper floor master bedroom with ensuite that would make this dwelling suitable for modern living and family use'. The property was originally divided into three dwellings, this given it is not considered that the level of accommodation is so poor as to render it sufficiently undesirable that its occupancy (and thereby maintenance) could be jeopardised. The application proposes that three large reception rooms, four bedrooms and two bathrooms which, by thatched cottage standards, is a substantial range of accommodation, especially for the size of plot that it now occupies. It is therefore not considered that the application proposes any public benefits.

The proposal is a two-storey extension at right-angles to the rear of the existing building. The rear elevation of the existing building is in a single plane, with the centre bays of exposed historic timber-framing with infill panels of brick, plaster and flint. The proposed extension would be built over this wall, thereby removing it from external visibility, also cutting out a significant section of the timber-frame's essential eaves plate in order to create first floor access. The loss of visibility of the rear elevation and loss of fabric combine to generate a significant adverse impact on the character of the listed building; the application proposes that this external wall would remain exposed internally; the harm is created by denying its visibility alongside the rest of the rear of the cottage.

The size and bulk of the extension is also a concern. Its orientation is at ninety degrees to the existing and does not reflect the traditional form of extension of thatched cottages, where linearity would usually have been preserved for thatching reasons.

The extension would change the relationship between the property and its curtilage. The curtilage has already been significantly reduced in scale by the new dwelling to the south, and that remaining to the east would be inaccessible from the house due to the excavations necessary to construct the extension and ground levels. This would have a negative effect that would have a highly adverse impact on the setting of the listed building.

The visual impact of the works would be limited from the public realm, although there would be partial views of the new roof and stack, and therefore it is considered that the impact on the character of the Conservation Area is negligible.

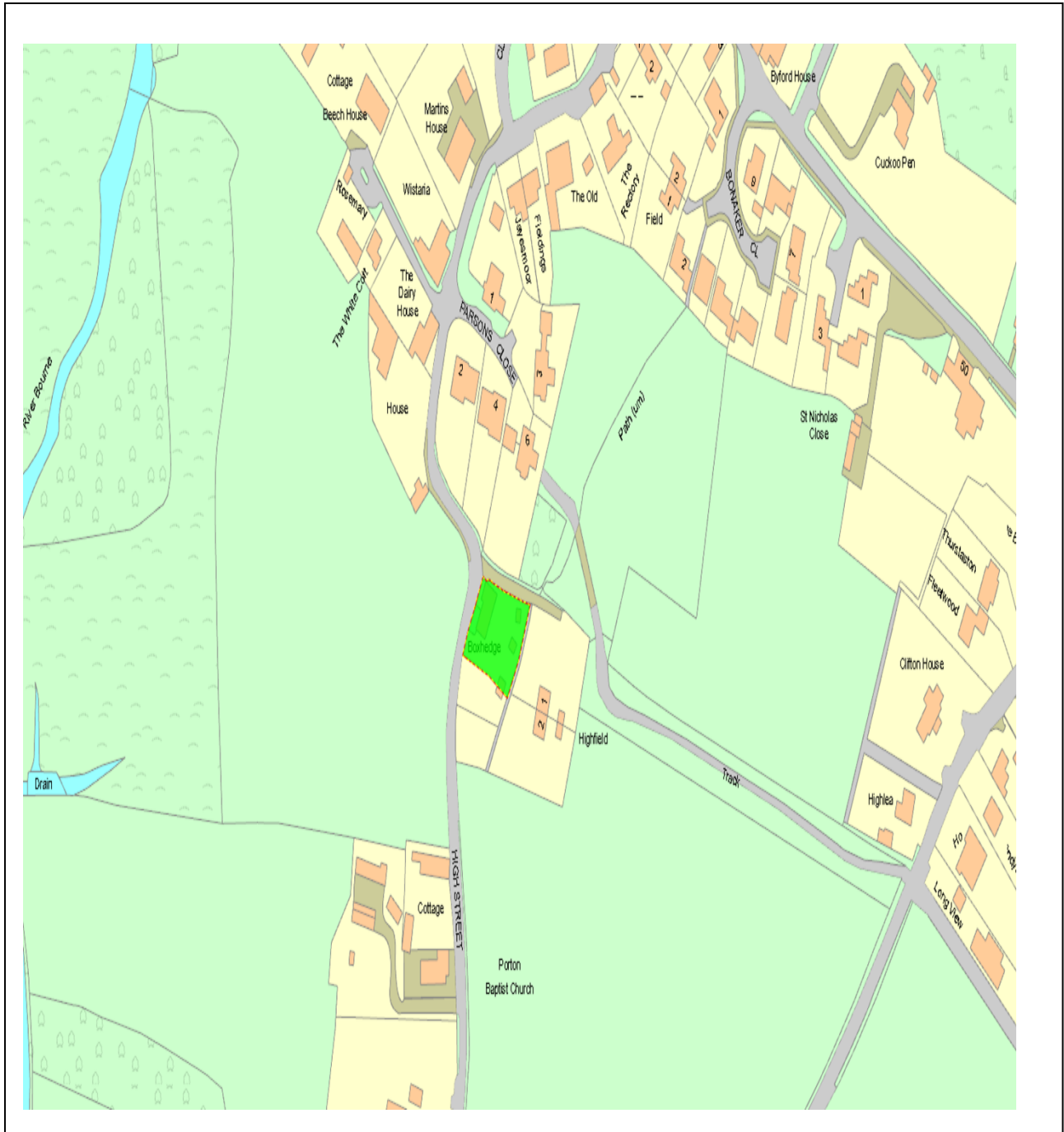
10. Conclusion

In conclusion, it is considered that the proposed extension, by reason of its attachment to the rear of the listed building, the enlarged openings causing loss of significant historic fabric, its bulk, and the impact on its setting, would fail to preserve the character and setting of the listed building as required by s16 and s66 of the Act. It would also fail to meet the expectations of Wilts Core Strategy CP58 and NPPF para 134.

RECOMMENDATION: Refuse Listed Building Consent

- (1) The proposed extension, by reason of its attachment to the rear of the listed building, the enlarged openings causing loss of significant historic fabric, its bulk, and the impact on its setting, would fail to preserve the character and setting of the listed building as required by Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would also fail to meet the expectations of Wiltshire Core Strategy Core Policy 58 and NPPF.

Application Number	16/04776/LBC
Site Address	Boxhedge Cottage, High Street, Porton, SP4 0LH
Proposal	Proposed two storey rear extension
Case Officer	Laura Baker



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