

AGENDA

Meeting: Southern Area Planning Committee
Place: Alamein Suite - City Hall, Malthouse Lane, Salisbury, SP2 7TU
Date: Thursday 16 November 2017
Time: 3.00 pm

Please direct any enquiries on this Agenda to Lisa Moore, of Democratic Services, Five Rivers, Salisbury, direct line (01722) 434560 or email lisa.moore@wiltshire.gov.uk

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

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Membership:

Cllr Fred Westmoreland (Chairman)	Cllr Mike Hewitt
Cllr Richard Britton (Vice-Chairman)	Cllr Sven Hocking
Cllr Brian Dalton	Cllr George Jeans
Cllr Matthew Dean	Cllr Ian McLennan
Cllr Christopher Devine	Cllr John Smale
Cllr Jose Green	

Substitutes:

Cllr Trevor Carbin	Cllr Bridget Wayman
Cllr Ernie Clark	Cllr Graham Wright
Cllr Tony Deane	Cllr Robert Yuill
Cllr John Walsh	

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Public Participation

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

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

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

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

AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 36*)

To approve and sign as a correct record the minutes of the meeting held on 19 October 2017.

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

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

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

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

Questions

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

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **Thursday 9 November** in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **Monday 13 November**. 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 **Whiteparish Path No. 41 Rights of Way Modification Order 2017**
(Pages 37 - 242)

To consider two representations and two objections received to the making of The Wiltshire Council Parish of Whiteparish Path No. 41 Rights of Way Modification Order 2017 made under Section 53 of the Wildlife and Countryside Act 1981.

It is recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs and that Wiltshire Council supports the confirmation of the Order as made.

7 **Planning Appeals and Updates** (Pages 243 - 244)

To receive details of completed and pending appeals and other updates as appropriate for the period 06/10/2017 to 03/11/2017.

8 **Planning Applications**

To consider and determine planning applications in the attached schedule.

8a **17/08365/FUL - Longs Farm, Sutton Mandeville SP3 5LT**
(Pages 245 - 276)

Proposed demolition of existing buildings and its replacement with four tourist accommodation units together with associated works. (Amended scheme following withdrawal of application 16/10495/FUL).

8b **17/05344/ful and 17/05345/LBC - Garden Cottage, Penruddock Arms, Dinton - ITEM WITHDRAWN** (Pages 277 - 298)

This item has been withdrawn and will not be considered by Committee at this meeting.

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

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 19 OCTOBER 2017 AT ALAMEIN SUITE - CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU.

Present:

Cllr Richard Britton (Vice-Chairman), Cllr Brian Dalton, Cllr Christopher Devine, Cllr Jose Green, Cllr Mike Hewitt, Cllr Sven Hocking, Cllr George Jeans, Cllr Ian McLennan, Cllr John Smale, Cllr Tony Deane (Substitute) and Cllr Robert Yuill (Substitute)

Also Present:

Cllr John Walsh

204 **Apologies**

Apologies were received from:

- Cllr Fred Westmoreland – who was substituted by Cllr Robert Yuill
- Cllr Matthew Dean – who was substituted by Cllr Tony Deane

205 **Minutes of the Previous Meeting**

The minutes of the meeting held on 24th August 2017 were presented.

Resolved:

To approve as a correct record and sign the minutes.

206 **Declarations of Interest**

There were none.

207 **Chairman's Announcements**

The Chairman noted that the order of the applications would be changed, due to some speakers having to leave early on. He then explained the meeting procedure to the members of the public.

208 **Public Participation**

The committee noted the rules on public participation.

209 **Planning Appeals and Updates**

The Committee received details of the appeal decisions for the period 11/08/2017 to 06/10/2017, as detailed in the agenda.

Resolved

To note the update.

210 **Planning Applications**

211 **17/06469/FUL - Land adjacent to allotments, Down Barn Road, Winterbourne Gunner, SP4 6JN**

Public Speakers

Vicky Hotton spoke in support of the application

Katherine Allen spoke in support of the application

Dan Steedman spoke in support of the application

Cllr Charles Penn spoke on behalf of Winterbourne PC

The Senior Planning Officer, Richard Nash introduced the report, which recommended that the application for the construction of one detached dwelling with disabled annexe, including work space for lifelong living and outside space for supported horticultural activities, be refused as the site was within open countryside, outside of any recognised limits of development, there were highway safety issues and the impact on the setting of a Grade II listed building. The needs of the Applicant's child were also highlighted as a primary consideration.

Members of the Committee then had the opportunity to ask technical questions of the Officer. It was clarified that a new access to the site would be created, this would lead out onto a straight fast piece of road.

The applicant had offered to improve and extend the pedestrian path near to the site, Highways had objected to that proposal.

The local Neighbourhood Plan (NHP) was in the developmental stage only, and currently had not included the proposed land as a development site.

If approved, the house would become quite an asset in this part of Wiltshire, as the property was a dwelling house it was not possible to condition it for type of use.

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

The Unitary Division Member, Cllr Mike Hewitt then spoke in Support of the application, noting that this was not an easy decision, the applicant had gone a long way to look for a site in the area however none had become available.

The nearest home to accommodate Carston was out of county. For the family to take control of the situation, this was the only way. He felt that the listed building mentioned in the report was a wreck. There was no protection on this building.

Cllr Hewitt then moved for approval, against Officer's recommendation. This was seconded by Cllr John Smale.

A debate followed where key issues raised included, That the site was not in the emerging NHP. The site was in an open area, where permitted development would not usually be approved.

The parish council whilst was sympathetic, had not come up with an alternative site within the village. The medical condition and associated needs of the child were material considerations. The expected need would be for a further 50 to 60 years.

Aside from the genuine need, which was proven, the other exceptions detailed in CP46 were not met.

The Committee voted on the motion of Approval, subject to conditions.

Resolved

That planning permission for application 17/06469/FUL be approved against Officer's recommendation, with 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:

Location Plan including land required for highway works

Aerial photograph and description of highway works

LDS/13673-TP1 (Entrance Detail)

A.1 (Part Ground Floor Plan)

A.2 (Part Ground Floor Plan)

A.3 (Proposed North and South Elevations)

A.3 (Proposed West and East Elevations)

A.4 (First Floor Plan)

A.05 (Block Plan)

A.6 (Section)

A.7 (Block Plan)

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

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

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

4: No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

location and current canopy spread of all existing trees and hedgerows on the land;
full details of any to be retained, together with measures for their protection in the course of development;
a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
finished levels and contours;
means of enclosure;
all hard and soft surfacing materials;

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

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

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

6: The development hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

7: The gradient of the access way shall not at any point be steeper than 1 in 15 for a distance of 4.5m from its junction with the public highway.

REASON: In the interests of highway safety.

8: Any gates to close the access shall be set back a minimum distance of 4.5m from the edge of the carriageway and made to open inwards (away from the highway) only.

REASON: In the interests of highway safety.

9: The development shall not be first occupied until the visibility splays have been formed in accordance with the approved details shown on drawing numbered LDS/13673-TP1. Such visibility splays shall thereafter be permanently maintained free from obstruction to vision above a height of 1.0m above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

10: The development shall not be first occupied until the proposed pedestrian facilities in the field on the opposite side of the C286 to the application site have been cleared of obstructions, fenced, gated and surfaced as proposed for pedestrian traffic. The footpath shall be maintained as such thereafter.

REASON: To ensure that the development is served by an adequate means of pedestrian access and in the interests of highway safety.

11: No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the local planning authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

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

12: No development shall commence on site until:

a) 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

b) The approved programme of archaeological work has been carried out in accordance with the approved details.

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

matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the recording of any matters of archaeological interest.

13: No construction shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON: In the interests of the amenity of nearby residential properties.

14: No development shall commence until a mitigation and compensation strategy for any protected species on the site (during construction and post construction) has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved strategy and any features provided as prescribed in the strategy shall be retained in perpetuity.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to mitigate against the loss of existing biodiversity and nature habitats.

15: Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, B, C, E or F, or Part 2, Class, shall take place on the dwellinghouse hereby permitted or within its curtilage.

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.

HIGHWAY INFORMATIVE: The development hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from the local highway authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the Council's Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352.

ARCHAEOLOGY 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.

212 **17/06148/VAR & 17/06159/LBC - The Crown Inn, Church Street, Tisbury, SP3 6NH**

Public Speakers

Philip Eastern (Agent) spoke in support of the application.

The Senior Planning Officer, Warren Simmonds introduced the report, which recommended that the application for a variation of condition 2 of 15/04530/FUL and 15/04698/LBC relating to approved plans, be approved subject to conditions as detailed in the report.

The Conservation officer had been consulted as it was a listed building, and had raised no objection. CPRE south Wiltshire group had objected to the level of detail provided in these applications.

Members of the Committee then had the opportunity to ask technical questions of the Officer. There were none.

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

The Unitary Division Member, Cllr Tony Dean then spoke in objection to the Application. He noted that Tisbury Parish Council was not able to attend to speak in objection of the application. He read a short email on behalf of them, stating that the PC believed the proposed development would be less in-keeping than the previous.

Cllr Dean then moved for Refusal, against Officer's recommendation, on the grounds that the details available were insufficient. The changes were minor changes to the windows. The PC recognised that the pub was no longer viable, however they would like to see the front elevation maintained.

This was seconded by Cllr Hewitt

A debate followed where key issues raised included, the proposed alterations were minor.

The Committee voted on the motion of Refusal, against Officer's recommendation. The motion was not carried.

Cllr Devine moved for approval in line with Officer's recommendation.

This was seconded by Cllr Hocking

The members voted on the motion of approval.

Resolved

That planning permission for application 17/06148/VAR be Approved, with 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:

**Drawing number 1314160-17-Revision B dated 08.08.17, as deposited with the local planning authority on 11.08.17, and
Drawing number 1314160-08-Revision E dated 26.03.15, as deposited with the local planning authority on 13.11.15, and
Drawing number 1314160-10-Revision C dated 26.03.15, as deposited with the local planning authority on 13.11.15, and
Drawing number 1314160-16 dated 09.11.15, as deposited with the local planning authority on 13.11.15, and
Drawing number 1314160-07-Revision E dated 26.03.15, as deposited with the local planning authority on 13.11.15, and
Drawing number 1314160-11-Revision C dated 26.03.15, as deposited with the local planning authority on 03.08.15.**

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

3. No development shall commence on site until a construction methodology (i.e. details of coursing, capping etc) and exact details of the materials to be used for the external stone wall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity, the character and setting of listed building(s) and the existing character of the surrounding conservation area

4. No development shall commence on site until details consisting of large scale drawings to include horizontal and vertical sections of all new and any replacement windows (including head, sill and window reveal details), doors and rooflight windows, together with appropriate details of any new or replacement rainwater goods have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity, the character and setting of listed building(s) and the existing character of the surrounding conservation area

5. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 on weekdays and 08:00 to 13:00 on Saturdays. No burning of waste shall take place on the site during the construction phase of the development.

REASON: In the interests of neighbouring amenities

6. The development shall be constructed in strict accordance with the mitigation plan detailed in Appendices E and F of the submitted Phase II Bat Survey, The Crown Inn, Tisbury document produced by David Leach Ecology Ltd., dated September 2015. No external lighting will spill onto the roof of the building or onto adjacent flight corridors such as hedgerows or tree lines.

Reason: In the interests of nature conservation and to prevent undue impacts on protected species.

7. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/parking area), incorporating sustainable drainage details together with permeability test results to BRE365, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

8. No development shall commence on site until a sample panel of render, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: In the interests of visual amenity and the character and appearance of the area.

CIL INFORMATIVE:

The proposed development could be subject to the Community Infrastructure Levy. Wiltshire Council has now adopted a Community Infrastructure Levy (CIL) charging schedule. CIL is a charge that local authorities can place on new development in their area. The money generated through CIL will contribute to the funding of infrastructure to support growth. Wiltshire Council is on course to adopt CIL in early summer of 2015.

If the proposed development is liable for CIL, you (or whoever has assumed liability for the development) would be liable to make payment to Wiltshire Council for this type of development. More information and the charging schedule for CIL can be found using the following link:

[http://www.wiltshire.gov.uk/planninganddevelopment/dmcommunityinfrastructur
elevy.htm](http://www.wiltshire.gov.uk/planninganddevelopment/dmcommunityinfrastructur
elevy.htm)

Resolved

That planning permission for application 17/06159/LBC be Approved with the following conditions:

1. The works for which Listed Building Consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

**Drawing number 1314160-17-Revision B dated 08.08.17, as deposited with the local planning authority on 11.08.17, and
Drawing number 1314160-08-Revision E dated 26.03.15, as deposited with the local planning authority on 13.11.15, and
Drawing number 1314160-10-Revision C dated 26.03.15, as deposited with the local planning authority on 13.11.15, and
Drawing number 1314160-16 dated 09.11.15, as deposited with the local planning authority on 13.11.15, and
Drawing number 1314160-07-Revision E dated 26.03.15, as deposited with the local planning authority on 13.11.15, and
Drawing number 1314160-11-Revision C dated 26.03.15, as deposited with the local planning authority on 03.08.15.**

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

3. No development shall commence on site until details consisting of large scale drawings to include horizontal and vertical sections of all new and any replacement windows (including head, sill and window reveal details), doors and rooflight windows, together with appropriate details of any new or replacement rainwater goods have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity, the character and setting of listed building(s) and the existing character of the surrounding conservation area

4. No development shall commence on site until a sample panel of render, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: In the interests of visual amenity and the character and appearance of the area.

213 **17/07765/VAR - Shaftesbury Drove, Harnham, SP2 8QH**

Public Speakers

Mr Stephen Berry spoke in objection to the application

The Senior Planning Officer, Warren Simmonds introduced the report, which recommended that the application for a variation of Condition 2 of 13/05402/FUL relating to approved plans, be approved with conditions as detailed in the report.

Members of the Committee then had the opportunity to ask technical questions of the Officer. It was clarified that plots 1 & 2 had no garages, and plots 4 & 5 could access their back gardens through their garages.

The site was cut in to the hill side and was a lower level than the surrounding properties.

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

The Unitary Division Member, Cllr Brain Dalton then spoke in objection to the application, noting that the inspector had previously overturned the committees earlier decision, to give the original development permission, with associated conditions. Those conditions were more favourable than the alterations being proposed. The work to build the garages had already started without waiting for permission. The garages would not be used as garages and he felt that the hipped roofs were more attractive.

Cllr Dalton then moved for Refusal, against Officer's recommendation.

This was seconded by Cllr Devine.

A debate followed where key issues raised included, that the alterations included the parts which had been removed for the appeal to go through.

The proposal now was massively cramped, with every space taken up with a garage or sun room. It was felt that there would be a parking issue here, as the garages would not be used for the cars, and therefore the cars would park elsewhere. However, there were still 2 parking places per property as the garage did count as one, and so the proposals met the criteria for parking.

The garages join up the properties and makes the development appear as one whole mass. This was considered as over development.

The Committee voted on the motion of Refusal.

Resolved

That planning permission for application 17/07765/VAR be Refused against Officer's recommendation, for the following reasons:

The proposed variations to the previously approved scheme would result in an increased scale and mass that it is considered would reduce the overall quality of the design of the development and would constitute an overdevelopment of the site. Additionally, the proposed amendments to the previously approved roof forms would increase the mass and perceived visual impact of the development and would be thereby out of keeping with the existing character of the surrounding area. In these respects the proposal is considered contrary to Core Policy CP57 of the adopted Wiltshire Core Strategy and the aims and objectives of the NPPF & NPPG

214 **17/05583/DP3 - The Stonehenge School, Antrobus Road, Amesbury, SP4 7ND**

Public Speakers

Ian Simpson spoke in objection of the application

Suzanne Gough spoke in support to the application

The Senior Planning Officer, Georgina Wright, introduced the report, which recommended that the application for a two-phase expansion of Stonehenge School:

Phase 1 - new building, additional parking spaces, covered canopy link between existing Upper School and new building, fencing and resurfacing to provide all-weather training facility, separate small fenced games court, and associated landscaping.

Phase 2 - new building, demolition of Lower School building and creation of new playing field and car park, improvements to Lower School car park, and associated landscaping, be approved with conditions, as detailed in the report.

There would also be separate in and out access arrangement and possibly a bus link through the site.

Members of the Committee then had the opportunity to ask technical questions of the Officer. It was clarified that the flat roof design would meet the standards required to withstand rainfall.

The main reason for the required digging down on the site was to try and reduce the bulk of the development in relation to the neighbouring properties.

It was noted that it was for the education authority to decide if the development was value for money.

The arboriculture report had been amended in response to the Tree Officers report, however there was not the capacity to provide a like for like replacement.

The Holders Road recreation ground site had also been considered as a possible site, and had been declared as not viable.

Members of the public then had the opportunity to present their view to the

Committee as detailed above.

Concern was noted regarding the suggestion that insufficient work had been carried out on the ground works of the site, with the plans to remove and relay a new pipe under the field. It was noted that the route of the realigned pipe was not for planning to consider, it was for Wessex Water to plan that.

The Unitary Division Member, Cllr Westmoreland was not in attendance to speak.

As neighbouring ward Member, Cllr Yuill spoke on the application, he noted that the local Member, Cllr Westmoreland had believed that whilst funding was available for phase 1 it was not yet available for phase 2. He asked whether any timescales could be made available for the phase 2 works. This was not possible at the moment as they were not in a position to move forward with phase 2.

He hoped the Holders Road facility would be safeguarded, as he felt that there were not enough areas for recreation in Amesbury.

Cllr Yuill then moved for Approval, in line with Officer's recommendation.

This was seconded by Cllr Devine.

A debate followed where key issues raised included, that if after phase 1 was complete, the project was not ready to move on to phase 2, there would be an interim loss of the playing field until the phase 2, however they already had over what was required.

A community use agreement would be produced within 12 months of approval, this would permit the wider public having access to the sports facilities.

The Committee voted on the motion of approval, subject to conditions.

Resolved

That planning permission for application 17/05583/DP3 be approved in line with Officer's recommendation, with 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:**

Application Form & Certificate

Ref: E-100 P07 – Elevations – Planning Phase 1. Received – 03.07.2017

Ref: E-200 P06 – Elevations – Planning Phase 2. Received – 03.07.2017

Ref: P-0-20 P03 – Block 2 – Lower School – Ground Floor Plan. Received – 03.07.2017

Ref: P-0-21 P04 – Block 1 – Upper School – Ground Floor Plan. Received – 03.07.2017

Ref: P-0-30 P03 – Lower School – Ground Floor Plan Phase 1 Works. Received – 03.07.2017

Ref: P-0-33 P03 – Upper School – Ground Floor Plan Phase 1 Works. Received – 03.07.2017

Ref: P-0-100 P04 – Ground Floor Plan – Planning Phase 1. Received – 03.07.2017

Ref: P-0-200 P06 – Ground Floor Plan – Planning Phase 2. Received – 03.07.2017

Ref: P-1-20 P03 – Block 2 – Lower School – First Floor Plan. Received – 03.07.2017

Ref: P-1-33 P05 – Upper School – First Floor Plan Alterations. Received – 03.07.2017

Ref: P-1-100 P04 – First Floor Plan – Planning Phase 1. Received – 03.07.2017

Ref: P-1-200 P04 – First Floor Plan Planning – Phase 2. Received – 03.07.2017

Ref: P-1-21 P04 – Block 1 – Upper School – First Floor Plan. Received – 03.07.2017

Ref: P-R-100 P03 – Roof Plan – Planning Phase 1. Received – 03.07.2017

Ref: P-R-200 P04 – Roof Plan – Planning Phase 2. Received – 03.07.2017

Ref: P-Site-01 P04 – Location Plan. Received – 03.07.2017

Ref: P-Site-110 T03 – Proposed Site Plan Phase 1. Received – 21.09.2017

Ref: P-Site-111 T02 – Proposed Site Plan A Phase 1. Received – 21.09.2017

Ref: P-Site-112 T02 – Proposed Site Plan_B Phase 1. Received – 21.09.2017

Ref: P-Site-113 T04 – Proposed Site Plan_C Phase 1. Received – 21.09.2017

Ref: P-Site-114 T02 – Proposed Site Plan_Fence Types_A Phase 1. Received – 21.09.2017

Ref: P-Site-115 T04 – Proposed Site Plan_Fence Types/Levels Phase 1 drg B. Received – 21.09.2017

Ref: P-Site-116 P05 – Proposed Site Plan_Fence Types/Levels Phase 1_drg C. Received – 03.07.2017

Ref: P-Site-123 P03 – Phase 1 Construction Access & Facilities Plan C. Received – 03.07.2017

Ref: P-Site-210 P09 – Proposed Site Plan Phase 2. Received – 21.09.2017

Ref: P-Site-211 P09 – Proposed Site Plan – A Phase 2. Received – 21.09.2017
 Ref: P-Site-212 P09 – Proposed Site Plan – B Phase 2. Received – 21.09.2017
 Ref: P-Site-213 P10 – Proposed Site Plan – C Phase 2. Received – 21.09.2017
 Ref: P-Site-215 P03 – Proposed Site Plan A – Phase 2 Fencing. Received – 21.09.2017
 Ref: P-Site-216 P03 – Proposed Site Plan B – Fencing & Levels Phase 2 drg B. Received – 21.09.2017
 Ref: P-Site-221 P02 – Phase 2 Construction Access & Facilities Plan A. Received – 03.07.2017
 Ref: P-Site-223 P03 – Phase 2 Construction Access & Facilities Plan C. Received – 03.07.2017
 Ref: P-Site-222 P03 – Phase 2 Construction Access & Facilities Plan B. Received – 03.07.2017
 Ref: P-Site-223 P03 – Phase 2 Construction Access & Facilities Plan C. Received – 03.07.2017
 Ref: S-Site-100 P05 – Site Sectional Elevations. Received – 03.07.2017
 Ref: S-Site-101 P03 – Site Sectional Elevations. Received – 03.07.2017
 Ref: S-Site-105 P02 – Site Sections – Surrounding Properties. Received – 03.07.2017
 Ref: SK-10 P03 – 3D View – Ground Floor – Phase 1. Received – 03.07.2017
 Ref: SK-11 P03 – 3D View – First Floor – Phase 1. Received – 03.07.2017
 Ref: SK-12 P02 – 3D View – Ground Floor – Phase 2. Received – 03.07.2017
 Ref: SK-13 P02 – 3D View – First Floor – Phase 2. Received – 03.07.2017
 Ref: SK-100 P04 – Section Planning – Phase 1. Received – 03.07.2017
 Ref: SK-200 P03 – Sections Plans – Phase 2. Received – 03.07.2017
 Ref: 416.00210.00029 Rev A – Plant Schedule Phase 1 and 2. Received – 03.07.2017
 Ref: 416.00210.00029.29.002.2 – Landscape Strategy: Phase 1. Received – 28.09.2017
 Ref: 416.00210.00029.29.003.3 – Landscape Strategy: Phase 2. Received – 28.09.2017

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

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

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

4. **No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.**

REASON: In the interests of neighbouring amenities

5. **No burning of waste or other materials shall take place on the development site during the demolition/construction phase of the development.**

REASON: In the interests of neighbouring amenities

6. **The emergency vehicle access alongside the north-east side of the Phase 1 Building shall at all times be closed to motor vehicle use by fixed and removable bollards as indicated on drawing number P-Site/113/T04, except at those times when the access is in use by emergency or maintenance vehicles.**

REASON: In the interests of highway safety.

7. **Prior to the occupation of the Phase 2 Building, the 23 space car parking area and the mini bus parking area, identified adjacent to the proposed sports pitches (near the Antrobus Road entrance), shall have been laid out in accordance with the approved plans and shall thereafter be maintained and kept available for the parking of vehicles.**

REASON: In the interests of providing safe and convenient car parking for the users of the development.

8. **Prior to the occupation of the Phase 1 Building, the Phase 1 cycle shelter shown on plan number P-Site-112/T02, and the 3 cycle hoops wall brackets near to the main reception, shall be provided in accordance with the approved plans and shall thereafter be maintained and kept available for the parking of cycles.**

REASON: In the interests of providing safe and convenient cycle parking for the users of the development.

9. **Prior to the occupation of the Phase 2 Building, the Phase 2 cycle shelter shown on plan P-Site-210/P09 shall be provided in accordance with the approved plans and shall thereafter be maintained and kept available for the parking of cycles.**

REASON: In the interests of providing safe and convenient cycle parking for the users of the development.

10. Prior to the occupation of the Phase 2 Building, details of the proposed one-way system through the site from Holders Road to Antrobus Road shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include improvements to the Antrobus Road spur leading into the school entrance from the main section of Antrobus Road; footway widening or the introduction of a “pedestrian friendly”; and a timetable for its implementation. The development shall be implemented in accordance with the approved details and retained/maintained as such in perpetuity.

REASON: In the interests of safe and convenient access to the site.

11. Notwithstanding the submitted Travel Plan, no development shall commence on site until a revised travel plan taking on board the comments made by the Council’s Travel Plan Coordinator, has been submitted to and agreed in writing by the Local Planning Authority. The School Travel Plan shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from these results.

REASON: In the interests of road safety and reducing private car movements to and from the school.

12. No development shall commence on site until a scheme for the discharge of foul water from the site, including diversion of existing sewers and improvement works to public system, has been submitted to and approved in writing by the Local Planning Authority in consultation with the sewerage undertaker. The foul water drainage scheme shall be constructed in accordance with the agreed details prior to the occupation of the building hereby approved.

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

13. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 and location of top ground water level, has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be constructed in accordance with the agreed details prior to the occupation of the building hereby approved.

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

14. No development of the Artificial Grass Pitch hereby approved shall commence until details of the design and layout of the pitch have been submitted to and approved in writing by the Local Planning Authority in consultation with Sport England. The Artificial Grass Pitch shall be constructed in strict accordance with the approved details and maintained as such in perpetuity.

REASON: To ensure the development is fit for purpose and sustainable

15. Before the Artificial Grass Pitch and Natural Turf Pitch hereby approved are first brought into use, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review, shall be submitted to and approved in writing by the Local Planning Authority in consultation with Sport England. The management and maintenance scheme for the Artificial Grass Pitches should also include measures to ensure the replacement of the Artificial Grass Pitch within the manufacturer's specified period. The Artificial Grass Pitch and Natural Turf Pitch shall be used and maintained in full accordance with the agreed details at all times.

REASON: To ensure that a new facilities are capable of being managed and maintained to deliver facilities which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport

16. Within 12 months of the date of this permission, a community use agreement prepared in consultation with Sport England shall be submitted to and approved in writing by the Local Planning Authority. The agreement shall apply to all of the sports facilities identified in both Phase 1 and Phase 2 hereby approved, and shall include details of pricing policy, hours of use, access by non-educational establishment user's, management responsibilities and a mechanism for review. The development shall be used in strict compliance with the approved agreement.

REASON: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport

17. The playing field and pitch shall be constructed and laid out in accordance with the approved drawings and in accordance with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011). The playing field and pitch shall be made available for use at the recommendation of the agronomist hereby permitted.

REASON: To ensure the quality of pitches is satisfactory

18. No demolition of any of the current buildings shall occur on the site, until the buildings have been re-assessed by a suitably qualified ecologist for the presence of bats. the findings and if necessary any necessary mitigation measures shall be submitted to and agreed in writing by the Local Planning Authority before any demolition takes place on the site. The demolition works shall be undertaken in accordance with the agreed details.

REASON: Whilst the buildings are currently found to be acceptable for demolition, once empty and disused the buildings may deteriorate and opportunities may develop for bats to roost within the structure. It is therefore necessary to resurvey the buildings in the interests of ecology and protected species.

19. No demolition, site clearance or development shall commence on site until an updated/corrected Arboricultural Method Statement and revised Tree Protection Plan, prepared by an Arboricultural consultant, providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details.

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

20. 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 windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the North Eastern or North Western elevations of the Phase 1 and Phase 2 Buildings hereby permitted.

REASON: In the interests of residential amenity and privacy

INFORMATIVES:

- 1) Please note that the spur road improvements that will be required in order to satisfy condition 10 will also require the completion of a Section 278 Agreement.
- 2) Please note that the granting of this permission does not override or give overriding permission for any works that are governed by other legislation or other legal requirements, for example in relation to the proposed diversion of the public sewer pipe.

215 **17/04897/FUL - 92a Queen Alexandra Road, Salisbury, SP2 9LB**

Public Speakers

Dave Hacker spoke in objection of the application

Jack Holloway spoke in objection to the application

Philip Holdcroft spoke in support of the application

The Senior Planning Officer Lucy Minting, introduced the report, which recommended that the application for the demolition of existing buildings & erect two No.3 bed houses & two No.2 bed bungalows with parking, be approved with conditions, as detailed in the report.

The development included 9 parking spaces which amounted to 2 for each dwelling and one for visitors, positioned in the driveway.

The previously refused scheme had gone to appeal and was dismissed by the inspector. That report was a material consideration.

Members of the Committee then had the opportunity to ask technical questions of the Officer. It was clarified that it was not necessary to condition the ownership of the shared driveway.

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

It was noted that the current tenant had witnessed hedgehogs and other wildlife in the grounds of the development site. However there was no specific requirement to have an ecology study, this could be included as an informative.

The removal of one dwelling increased the separation distances and mass of the heights of the buildings. The dwellings would all benefit from good sized gardens.

There had been no objections from key consultees and the scheme was compliant with development plan policies.

The Unitary Division Member, Cllr John Walsh then spoke in objection to the application, noting that the small route down from Queen Alexander Road was not relative, but it was the route to Wellington Way. The road in the evening was busy with parked cars. The developer was hungry to cram houses into this space.

Despite this application being an improvement on what had been put forward before, he felt that only two houses would be better on this plot.

He stated that Salisbury City Council was not happy with the double parking, and added that the problems would be worse in the evening when people returned home from work and parked their cars.

He felt that the proposal was overdevelopment, and was detrimental to wildlife and residents.

Cllr Devine then moved for Approval in line with Officer's recommendation. Noting that there was a duty of responsibility for the endangered species, however this has been to appeal, the inspector had made some pertinent points and the applicant had listened to that and brought back a revised application.

This was seconded by Cllr McLennan. A debate followed.

The Committee voted on the motion of approval subject to conditions.

Resolved

That planning permission for application 17/04897/FUL be approved in line with Officer's recommendation, with 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:
Plan Reference: 8745/200 Site, Block and Location Plans and Indicative Street Scene Rev D, dated 06/09/2017, received by this office 06/09/2017
Plan Reference: 8745/204 Unit 4 Plans and Elevations Rev A, dated 11/05/2017, received by this office 06/06/2017
Plan Reference: 8745/203 Unit 3 Plans and Elevations Rev A, dated 11/05/2017, received by this office 06/06/2017
Plan Reference: 8745/202 Unit 2 Plans and Elevations, dated October 2016, received by this office 06/06/2017
Plan Reference: 8745/201 Unit 1 Plans and Elevations, dated October 2016, received by this office 06/06/2017
REASON: For the avoidance of doubt and in the interests of proper planning.
- 3** No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.
- 4** No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-
location and current canopy spread of all existing trees and hedgerows on the land;
full details of any to be retained, together with measures for their protection in the course of development;
a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
means of enclosure; and
all hard and soft surfacing materials;
REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 5 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the dwelling or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.
REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.**
- 6 No development shall commence on site until a scheme for the discharge of surface water from the accesses/driveway, incorporating sustainable drainage details, has been submitted to and approved in writing by the local planning authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.
REASON: To ensure that the development can be adequately drained.**
- 7 The development hereby permitted shall not be first occupied until the whole of the parking area serving Plots 1-2, measured from the back of the footway, together with the first five metres of the access drive to Plots 3 & 4, has been consolidated and surfaced (not loose stone or gravel). These areas shall be maintained as such thereafter.
REASON: In the interests of highway safety.**
- 8 The gradient of the access/parking areas serving Plots 1-2 and the access driveway serving Plots 3 & 4 shall not at any point be steeper than 1 in 15 for a distance of five metres from their junctions with the public highway.
REASON: In the interests of highway safety.**
- 9 No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.
REASON: To protect the amenity of nearby residents.**
- 10 The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. The dwellings shall not be first occupied until evidence has been issued and submitted to, and approved in writing by, the local planning authority certifying that this level or equivalent has been achieved.
REASON: To ensure that the objectives of sustainable development equal or equivalent to those set out in Policy CP41 of the Wiltshire Core**

Strategy are achieved.

- 11 The first floor windows in the North East and South West Elevations of plots 1 and 2 shall be glazed with obscure glass only and fitted to be top hung only or 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 as such in perpetuity.
REASON: In the interests of residential amenity and privacy.
- 12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted.
REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.
- 13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order with or without modification), there shall be no windows or other forms of openings inserted above ground floor level in the side elevations of units 1 or 2 of the development hereby permitted.
REASON: To secure adequate standards of privacy for the occupants of neighbouring premises.
- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), 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.

INFORMATIVE TO APPLICANT: Community Infrastructure Levy

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL

exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.

INFORMATIVE TO APPLICANT: Surface Water and Foul Drainage

The application form states foul drainage disposal will be main sewer via an existing connection – the applicant will need to investigate the location of existing foul drainage system and pipework within the site as there may be S105A public sewers crossing the site which would prevent the layout shown thus requiring a layout change or permission from Wessex Water to divert.

The application form states storm water drainage disposal to be via a soakaway – this could be an issue due to the high ground water level – any soakaway **MUST** have at least 1m of unsaturated soil between the base of any soakaway and the agreed top water level of the ground water taking into account seasonal variations.

INFORMATIVE TO APPLICANT: Works on the highway

The consent hereby permitted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from the local highway authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the Council's Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352.

INFORMATIVE TO APPLICANT: Environmental Protection Act 1990

The applicant should be aware that Councils must investigate complaints about issues that could be a 'statutory nuisance' (a nuisance covered by the Environmental Protection Act 1990). If a complaint of statutory nuisance is justified an Abatement Notice can be served upon the person responsible, occupier or owner of the premises requiring that the nuisance be abated.

In light of this legislation, the Public Protection team recommend the following:

No burning of waste or other materials shall take place on the development site during the demolition/construction phase of the development.

Measures should be taken to reduce and manage the emission of dust during the demolition and/or construction phase of the development.

INFORMATIVE TO APPLICANT: Asbestos

Any asbestos should only be removed by a licenced contractor. Asbestos waste is classified as 'special waste' and as such, can only be disposed of at a site licensed by the Environment Agency. Any contractor used must also be licensed to carry 'special waste'.

INFORMATIVE TO APPLICANT: Material Samples

Please note that Council offices do not have the facility to receive

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

INFORMATIVE TO APPLICANT: Protected Species

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

216 **17/07475/FUL - Caddens, Lower Road, Homington, SP5 4NG**

Public Speakers

Jane Gregory spoke in objection of the application

David Sharpe spoke in support to the application

James Butcher spoke in support of the application

Jane Gregory read the statement of Homington Parish Council.

The Planning Officer, Joe Richardson introduced the report, which recommended that the application for extensions, alterations and construction of replacement garage, be approved with conditions, as detailed in the report.

Some works had already taken place, in the installation of the gates to the dwelling. The proposed garage had also been moved back in line with the dwelling.

Attention was drawn to the late correspondence received from a member of the public, which had been circulated at the meeting.

Members of the Committee then had the opportunity to ask technical questions of the Officer. It was clarified that there would be a linkway to the proposed double garage from the main dwelling.

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

The Unitary Division Member, Cllr Richard Clewer then spoke in objection to the application, noting that it had been called in at the request of the parish council and a number of residents who still had concern about the design and style of the proposal.

The scale and size had been the main concerns, as this was a small village, with not many large buildings in the village. It was not an urban area, and some comments had raised concern that the design was too urban.

Cllr Devine then moved for Approval, in line with Officer's recommendation. This was seconded by Cllr Hewitt

A debate followed where key issues raised included,

the conservation officer had given a thorough report which concluded that this was an awful development and should not be built. There had been little or no concerns from Highways.

What was the purpose in protecting these special areas of AONB if we did not protect them from unsuitable developments.

Resolved

That planning permission for application 17/07475/FUL be approved in line with Officer's recommendation, with 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:**

**DWG No: 216083/01 Rev B Site Location Plan and Proposed Block Plan
Date Received 01.08.17**

DWG No: 216083/04 Rev B Proposed Floor Plans Date Received 01.08.17

**DWG No: 216083/05 Rev B Proposed Front and Rear Elevation and Side
Garage Elevations Date Received 01.08.17**

**DWG No: 216083/06 Rev B Proposed Side (East and West) Elevations
and South Section Date Received 01.08.17**

**DWG No: 216083/07 Rev B Proposed Street Scene Elevation Date
Received 01.08.17**

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

- 3 Notwithstanding the approved drawings, no works shall commence in relation to those matters below until details of the following have been submitted to and approved in writing by the Local Planning Authority**

(i) Approval of the roofing materials to be used on the development hereby permitted;

(ii) A sample panel of the proposed brick (in Flemish Bond) is constructed on site and left as a reference panel with the Local Planning Authority to approve the choice of brick, colour of mortar and finish of

pointing;

(iii) A brick string course is added to the front elevation of the dwelling house with a sectional drawing submitted to and approved in writing by the Local Planning Authority before the commencement of works.

(iv) A section drawing at a scale of 1:5 shall be submitted to and approved in writing by the Local Planning Authority showing the profile and means of fitting of the rainwater goods to the development hereby permitted.

(v) Window lintels will be pre-fabricated gauged bricks (4 course deep) and detail will be submitted to the Local Planning Authority for approval;

(vi) The cills to the front elevation windows to be constructed with Bath stone and stooled.

(vii) The render to be used on the external elevations will be a soft render and shall not have a bell mouth detail;

(viii) A detailed drawing of the chimney at a scale of 1:10 shall be submitted. The chimney will be constructed of brick.

The works shall be carried out in accordance with the approved details.

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

- 4 The development hereby permitted (the enlargement of the dwellinghouse) shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

- 5 No part of the development (the enlarged dwelling) hereby permitted shall be first brought into use until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

- 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), the garage hereby permitted shall not be converted to habitable accommodation.

REASON: To secure the retention of adequate parking provision and to limit the residential conversion of the garage space, in the interests of

highway safety and amenity.

- 7 Works associated with the construction of the development hereby permitted shall only take place between the hours of 08:00 to 17:00 from Mondays to Fridays and between the hours of 08:00 to 13:00 and on Saturdays. No construction works associated with the development hereby permitted shall take place at any time on Sundays and on Bank or Public Holidays.

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

217 **Urgent Items**

There were no urgent items

(Duration of meeting: 3.00 - 6.40 pm – 6.40pm)

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

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WILTSHIRE COUNCIL

AGENDA ITEM NO.6

SOUTHERN AREA PLANNING COMMITTEE

16 NOVEMBER 2017

WILDLIFE AND COUNTRYSIDE ACT 1981

THE WILTSHIRE COUNCIL PARISH OF WHITEPARISH PATH NO. 41 RIGHTS OF WAY MODIFICATION ORDER 2017

Purpose of Report

1. To:
 - (i) Consider the two representations and two objections received to the making of The Wiltshire Council Parish of Whiteparish Path No. 41 Rights of Way Modification Order 2017 made under Section 53 of the Wildlife and Countryside Act 1981; and
 - (ii) Recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination with the recommendation from Wiltshire Council that the Order be confirmed as made.

Relevance to the Council's Business Plan

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

Background

3. On 27 October 2016 Wiltshire Council received an application from five residents of Whiteparish for an order to record a public footpath over land at Mean Wood, Whiteparish. The claimed path leads through the woodland in a relatively direct north-south direction broadly parallel to the western edge of the woodland.
4. The application adduced evidence from 25 people who completed user evidence forms (UEFs) detailing their use on foot of routes in Mean Wood for varying lengths of time dating from 1969.
5. For public rights to have been acquired by statute law (see **Appendix 1** paragraph 12.1 – Highways Act 1980 Section 31) it is necessary for the use to have been uninterrupted for a period of at least 20 years in a manner that is 'as of right', that is, the use must have been without force, without secrecy and without permission. This would give rise to a 'presumption of dedication'.

6. A presumption of dedication may be defeated in a number of ways, including the erection and maintenance of signage indicating that there is no intention to dedicate public rights, effective challenges to use, the closure of the claimed route (for example a closure for one day every year may be effective), the granting of permission or by depositing a number of documents with the Council as prescribed by Section 31 of the Highways Act 1980 (see **Appendix 1** paragraph 12.1).
7. Wiltshire Council has a duty to consider all relevant available evidence and officers conducted an initial consultation into the application between November 2016 and the end of January 2017.
8. All of the evidence and responses were duly considered in the Council's Decision report appended here at **Appendix 1** and based on the legal test contained within Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 (see **Appendix 1** paragraph 2.1), that is that the application formed a reasonable allegation that a public right subsisted, an Order was made to record the path as a footpath in the definitive map and statement.
9. The Order was duly advertised and has attracted two representations in support and two objections. A copy of the Order is appended here at **Appendix 2**.
10. Wiltshire Council may not confirm or abandon this Order and must forward it to the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA) for determination. However, it must first consider the representations and objections to the Order and make a recommendation to SoSEFRA regarding the determination of the Order.
11. It is important that only the evidence adduced or discovered is considered and it is noted that matters relating to desirability, the environment, need or health and safety are not relevant considerations for the application of Section 53 of the Wildlife and Countryside Act 1981.

Main Considerations for the Council

12. Section 53(2) of the Wildlife and Countryside Act 1981 places a duty upon the Surveying Authority to keep the definitive map and statement of public rights of way under continuous review.
13. The Order is made under Section 53(3)(c) of the Wildlife and Countryside Act 1981, based on:

“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows-

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

14. Under Section 31(1) of the Highways Act 1980 *“where a way over any land, other than a way of such character that use of it by the public could not give rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”*
15. Evidence is the key and therefore valid objections to the making of the Order must challenge the evidence available to the Surveying Authority. The Authority is not able to take into account other considerations, such as the suitability of the way for use by the public, the proximity of any other paths or facilities, environmental impacts and any need or desire for the claimed route.

The representations and the objections

16. **Representation** Mr and Mrs H Barrett

“We wish to support the order proposing to add the footpath through Mean Wood to the definitive map. The path is an attractive, seasonally varied, tranquil and sheltered walk through mixed woodland.

We have regularly used the path which has migrated to different alignments since moving to Whiteparish in 1985. We have never been challenged but noted that works at the northern and southern ends in, we think, 2014, clearly discouraged use.

We would welcome the addition of the path as a contribution to continued quiet enjoyment of the countryside.”

17. **Representation** Ms Trudi Deane (one of the applicants)

“As you can appreciate it was difficult for us to accurately plot the route we followed on a map as there were lots of twists and turns around trees and such like in the woods. However, I have recently spoken to a lady runner in the village who used the route regularly and often wore a GPS tracker. She has kindly printed me out a copy of the route.”

A copy of the route monitored by the runner’s GPS is appended at **Appendix 3**.

18. **Objection** Dr Peter Claydon – Campaign for Rural England

“Proposal to modify definitive plan of Rights of Way and list Whiteparish Path 41

Application Ref: 2016/10 WHIT

The South Wiltshire Group of the Wiltshire CPRE is puzzled by the application to alter the status of the existing footpath through Mean Wood, Whiteparish from a permissive path into a protected right of way.

Within yards of the proposed Footpath 41 there is, alongside the western border of Mean Wood, an existing Right of Way, Footpath 23. This existing Footpath 23 links between Footpath 21 and Footpath 20 in exactly the same manner as the

proposed Footpath 41. There does not appear to be any historical evidence of there being a footpath other than the Footpath 23 running up to the top of the hill adjacent to the woodland when the Cowesfield Estate was owned by the Lawrence Family.

There is however strong evidence from personal experience and also shown by the correspondence associated with this Decision Report that the footpath within Mean Woodland is well recognised to have been used with permission, given freely by the landowner over many years, which allowed people to walk and ride through the woodland. It is a lovely walk through the woods up to the top of Dean Hill, particularly in the Spring time. That there may have been some that have taken the opportunity without gaining personal permission to use the footpath is a reflection on them rather than the status of the route along which they were trespassing.

The photograph 5.3 in the Decision Notice shows how little respect there is by walkers by the creation of a secondary route alongside the normal path. This alone is sufficient reason for a permissive right to be withdrawn. Clearly this photograph should not be used as evidence to create this route into a definitive Right of Way.

Modifying the definitive map to include this path as Footpath 41 will be taken by many landlords as the catalyst to refuse any permissive rights in the future. Indeed the very nature of a permissive right is that it can be withdrawn if the privilege is abused or the need for privacy, for whatever reason, is required.

The result of altering the status of this footpath may fundamentally alter the carefully developed relationship between landowners and those who love the countryside when within yards of the proposed Footpath 41 there exists a perfectly good accessible Footpath 23.

This proposal should be refused.”

19. **Objection** Whiteparish Parish Council

“Whiteparish Parish Council objects to Wiltshire Council Parish of Whiteparish Path No. 41 Rights of Way Modification Order 2017 – Mean Wood, Whiteparish. This was a unanimous decision and members of Whiteparish Parish Council have always understood this was a permissive footpath.”

Comments on the representations and objections

20. **Representation from Mr and Mrs Barrett**

Mr and Mrs Barrett refer to using the path from 1985 to 2014, a period of 29 years without challenge. They have not completed a UEF and are additional witnesses to those listed in **Appendix 1.B**, their evidence was therefore not considered prior to the making of the Order.

Although they refer to a migration of the route it is not known to what extent or when. It is further noted that the existence of the route is not disputed and in the landowner's submission at the initial consultation stage, Burges Salmon acting for Mr Newman state on the subject of the route itself:

"For the avoidance of doubt, my client does not deny the existence of the Proposed Footpath..."

21. Representation from Ms T Deane

The plan of the route taken by the local runner with her GPS tracker in 2013 (see **Appendix 3**) shows that she took a route very similar to, or the same as, the Order route in respect of the north-south path on the western side of the wood (she also ran a further loop within the wood that is not part of this case). It is considered more likely than not that she was following a trodden or defined path.

22. Objection from Dr P Claydon

Dr Claydon believes that use of the route was with permission "freely given" by the landowner over many years. Since use by permission is not use that is 'as of right' then if, on the balance of probabilities, use was by permission, then the application should fail.

23. It is accepted in the Council's decision report (**Appendix 1** para. 17.15) that the landowner granted permission to use the woods to a number of people. However, it is a well established point of law that for a challenge to be effective it must be brought to the attention of the relevant audience, that is, the users of the path. It is noted that 27 (25 originally plus Mr and Mrs Barrett) people have provided evidence that they did not have permission to walk the path and it is also a route that is promoted on a website for walkers and has clearly been used by members of the public. This is evidenced by the route's inclusion in not only the walking website forum but also another website "Geograph" where people publish photographs and describe them (**Appendix 1** paras 5.1 to 5.8).

24. There have been no signs on the land to deter or inform users; in the period 1992 to 2012 the land was unprotected by any deposits made under the Highways Act 1980 legislation (i.e. s.31(5) or s.31(6)), the route was promoted on the internet and was clearly used as a result. It is difficult to see how any users would have known that the landowner required them to have permission to walk that way if they did not know him, bump into him in the woods or were a member of the shooting syndicate.

25. Objection from Whiteparish Parish Council

The Parish Council maintains that the Order route is a permissive path. In its original submission to the Council as part of the initial consultation phase the Parish Council responded that it had always believed the path to be permissive.

26. Membership of a parish council is a transient matter (membership changes) and accordingly the memory of the parish council exists in its records and minutes. Officers of Wiltshire Council have read Whiteparish Parish Council's minutes from 1896 to 1962 and did not find any reference to the claimed path in Mean

Wood. It is usual for minute books to be deposited at the County Archive but it was noted that no minute books since 1962 had been deposited for Whiteparish.

27. The minutes are a matter of public record and may be viewed and accordingly officers of Wiltshire Council wrote to the parish clerk on two occasions requesting that they provide details of references to Mean Wood in the minutes from 1962 to date or, failing that, permit the Council to inspect them. Unfortunately no response has been forthcoming.
28. It is therefore difficult to attach weight to the Parish Council's objection other than to note that all of the members present at the time of the unanimous decision considered the route to be permissive. The basis on which the Parish Council made this decision is not known.

Safeguarding Considerations

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

Public Health Implications

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

Corporate Procurement Implications

31. In the event this Order is forwarded to the Secretary of State there are a number of opportunities for expenditure that may occur and these are covered in paragraphs 35 to 37 of this report.

Environmental and Climate Change Considerations

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

Equalities Impact of the Proposal

33. Matters relating to the equalities impact of the proposal are not relevant considerations under Section 53 of the Wildlife and Countryside Act 1981.

Risk Assessment

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

Financial Implications

35. The making and determination of Orders under the Wildlife and Countryside Act 1981 is a statutory duty for Wiltshire Council for which financial provision has been made.

36. 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 a one day local public inquiry with legal representation (£300 to £500 without).
37. Where the Council objects to the Order, the Order must still be forwarded to the Secretary of State for determination. As in the case of a supported Order, the possible processes and costs range from £200 to £3,000 as detailed at paragraph 36 above.

Legal Implications

38. 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's decision if it is seen as incorrect or unjust by them. The cost for this may be up to £50,000.

Options Considered

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

Reason for Proposal

40. Unless the objections and representations are withdrawn the Order must be forwarded to the Secretary of State for Environment Food and Rural Affairs for determination.
41. It is considered that nothing in the objectors' submissions demonstrates that the landowners brought their lack of intention to dedicate a public right of way to the attention of the relevant audience, that is, a considerable number of users of the path both locally and from other places. This is in spite of the landowners' stated intention not to dedicate and limited range of granting permission to users. Neither did they satisfy any statutory process of demonstrating a negative intention to dedicate the land.
42. The testimony of users of the path has been questioned by the objectors who claim that use has been by permission and this evidence may be tested, along with all other evidence at a public inquiry. In *R v Secretary of State for the Environment ex p. Bagshaw and Norton* [1994] 68 P&CR 402 Owen J "In a case where the evidence of witnesses as to user is conflicting, if the right would be shown to exist by reasonably accepting one side and reasonably rejecting the

other on paper, it would be reasonable to allege that such a right subsisted. The reasonableness of that rejection may be confirmed or destroyed by seeing the witnesses at the inquiry.”

43. In making this Order the Council considered that a reasonable allegation as to the acquisition of public rights had been made. It is considered that no further evidence has been adduced to alter either that decision or to conclude anything other than, on the balance of probability, a public right has been acquired. Clearly the testing of witnesses will be key to the final decision in this case but the Council’s duty remains with supporting the Order based on the evidence it has before it.

Proposal

44. That “The Wiltshire Council Parish of Whiteparish Path No. 41 Rights of Way Modification Order 2017” is forwarded to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it is confirmed as made.

Tracy Carter

Director – Waste and Environment

Report Author:

Sally Madgwick

Rights of Way Officer – Definitive Map

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

None

Appendices:

Appendix 1 – Decision report

Appendix A to Decision report – consultation responses

Appendix B Summary of user evidence

Appendix 2 - Order

Appendix 3 – Route traced by GPS tracker in 2013

WILDLIFE AND COUNTRYSIDE ACT 1981 S.53

DECISION REPORT

**APPLICATION FOR AN ORDER TO ADD A FOOTPATH AT MEAN WOOD,
WHITEPARISH TO THE DEFINITIVE MAP AND STATEMENT**

NB All documents (including user evidence forms, responses to consultations and correspondence) are available to be viewed at the Council's offices, weekdays from 0900 to 1700, at Ascot Court, Aintree Avenue, White Horse Business Park, Trowbridge; please contact Sally Madgwick on 01225 713392.

1.0 Application

Application number: 2016/10

Application date: 27 October 2016

Applicant: Mrs Jane Lax, Mrs Patricia Woodruffe, Mr Christopher Baker,
Mrs Trudi Deane and Mr Paul Witcher
Abbotstone House
The Street
Whiteparish
Salisbury
SP5 2SH

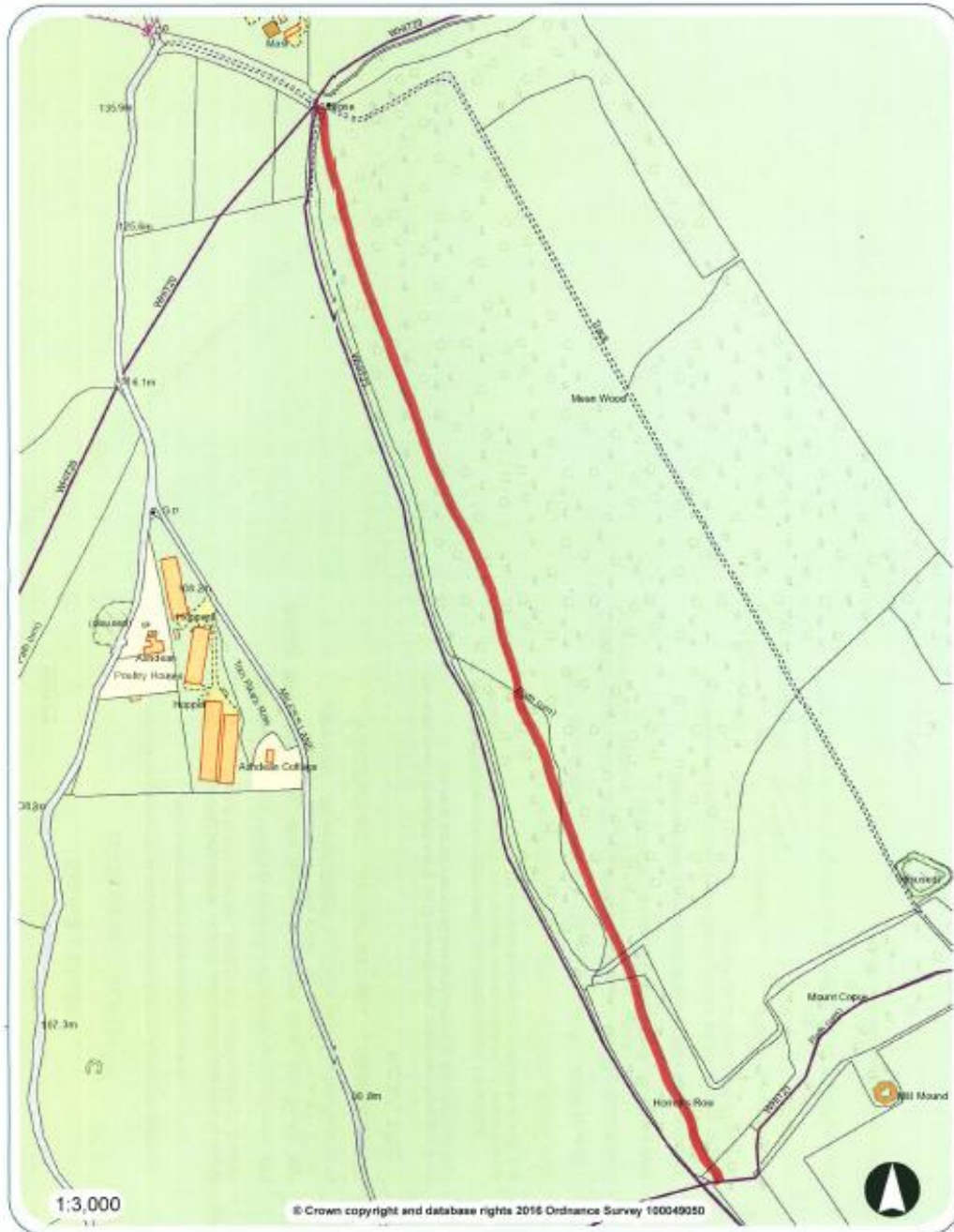
Application to: Add a footpath following route through the woods, reasonably straight but around trees and land features where necessary.

Width: Averaging one metre

Application comprises: Notice of Application for Modification Order (Form 1)
Notice of Certificate of Notice (Form 3) served on:
i) Mr B G Newman
Maydene
Forest Road
Hale
Fordingbridge
(Registered Land Registry Address)
ii) Mr B G Newman
Honeysuckle Lodge
Miles Lane
Whiteparish
SP5 2QU
(Home Address)
Map of the scale 1:3000 showing the applicant routes
25 User Evidence Forms (UEFs)

Basis of application: That public rights on foot have been acquired over the claimed routes based on use by the public.

1.1 Extract from application map:



2.0 Legal empowerment

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

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

- (a) *as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in*

consequence of the occurrence, before that date, of any of the events specified in subsection (3); and

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

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

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

or

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

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

- 2.2 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.

3.0 Compliance of the application

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

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

Schedule 14 to this Act states:

Form of applications

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.

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.

3.2 This application served notice on the owner of the land, Mr Bradley Newman. It is understood that the shooting rights for land in the area (which includes Mean Wood) are rented to a shooting syndicate and have been for a period of at least 60 years. The terms of the rental are not known to the Council and it is not the case for the landowner that the syndicate is an occupier within the sense of Schedule 14 (2)(1) above. However, it is noted that notice was not served upon the shooting syndicate. It is further noted however that the shooting syndicate were aware of the application within the consultation period (which was extended at the landowners request) and members have responded fully to the initial consultation.

3.3 The failure to comply with the terms of paragraph 2 of Schedule 14 and its effect on an application were considered in the Court of Appeal in the case of *R (Warden and Fellows of Winchester College and Humphrey Feeds Limited v Hampshire County Council & SoSEFRA* [2008] EWCA Civ 431). Although the first and principal issue related to public vehicular rights the court considered the implications of the failure of the terms of paragraph 2 as a second issue. Dyson LJ considered that the matter rested on the consequences of the defect rather than requiring strict compliance.

“69 It is true that the certificate was not properly issued, but it does not follow that the consequent determination was invalid. In R v Soneji [2005] UKHL [2006] 1 AC 340 at [23], having reviewed the authorities on the distinction between mandatory and directory requirements, Lord Steyn said “the emphasis ought to be on the consequences of non-

compliance, and posing the question whether Parliament can fairly be taken to have intended total invalidity. That is how I would approach what is ultimately a question of statutory construction.”

“70 Adopting that approach, I conclude that Parliament cannot fairly be taken to have intended that, if a paragraph 2(2) certificate is wrongly issued, it must follow that a determination on which it is based is invalid. The facts of the present case show that the better approach is to examine the consequences of the defect in the certificate. If they are serious and the defective certificate has caused real prejudice, then it may be that the determination of which it is based should be declared to be invalid. But in my judgement, on the facts of the case, the judge reached the correct conclusion on this issue and for the right reasons.”

- 3.4 Although the shooting syndicate would have been unaware of the application on the 27th October 2016 by at least the beginning of January 2017 they had been informed and members were responding to the Council’s initial consultation. Additionally the initial consultation period was extended until the end of January on the request of the landowner. It is therefore considered that no prejudice has been caused to any party as a result of any failure of the Certificate and accordingly Wiltshire Council will proceed with the determination of the application.

4.0 Land ownership details

The land is owned by Mr Bradley Gerald Newman and forms part of his farm called Upper Cowesfield Farm, Miles Lane, Whiteparish. The farm was bought by his father in the early 1950s and Mr Bradley Newman has been involved with the farm since the mid-1960s.

Mr Bradley Gerald Newman
Honeysuckle Lodge
Miles Lane
Whiteparish
SP5 2QU

5.0 Description of routes

The claimed route starts from footpath Whiteparish 21 (WHIT21) at Horrell’s Row and leads through woodland in a broadly northerly direction to its junction with footpath Whiteparish 20 (WHIT20) at the northern end of Mean Wood. Some users record stiles in place though it is noted that stiles are in place on WHIT20 and WHIT21 and that these may be the ones described.

- 5.1 The claimed route was fenced off and a considerable earth bund amassed at the northern entry point early in 2015.
- 5.2 The walked path was clearly defined in 2008, 2009 and 2013 (photographs supplied by the applicant and online at www.geograph.org.uk/photo/1053171 and 1053181) and the submission from the landowner’s agent, at paragraph 1.5 states:

For the avoidance of doubt, my client does not deny the existence of the Proposed Footpath. His objection is that any use of that path does not indicate any intent on his part to dedicate the land as highway.”

5.3 2009



5.4 2009



5.5 2008



5.6 2013

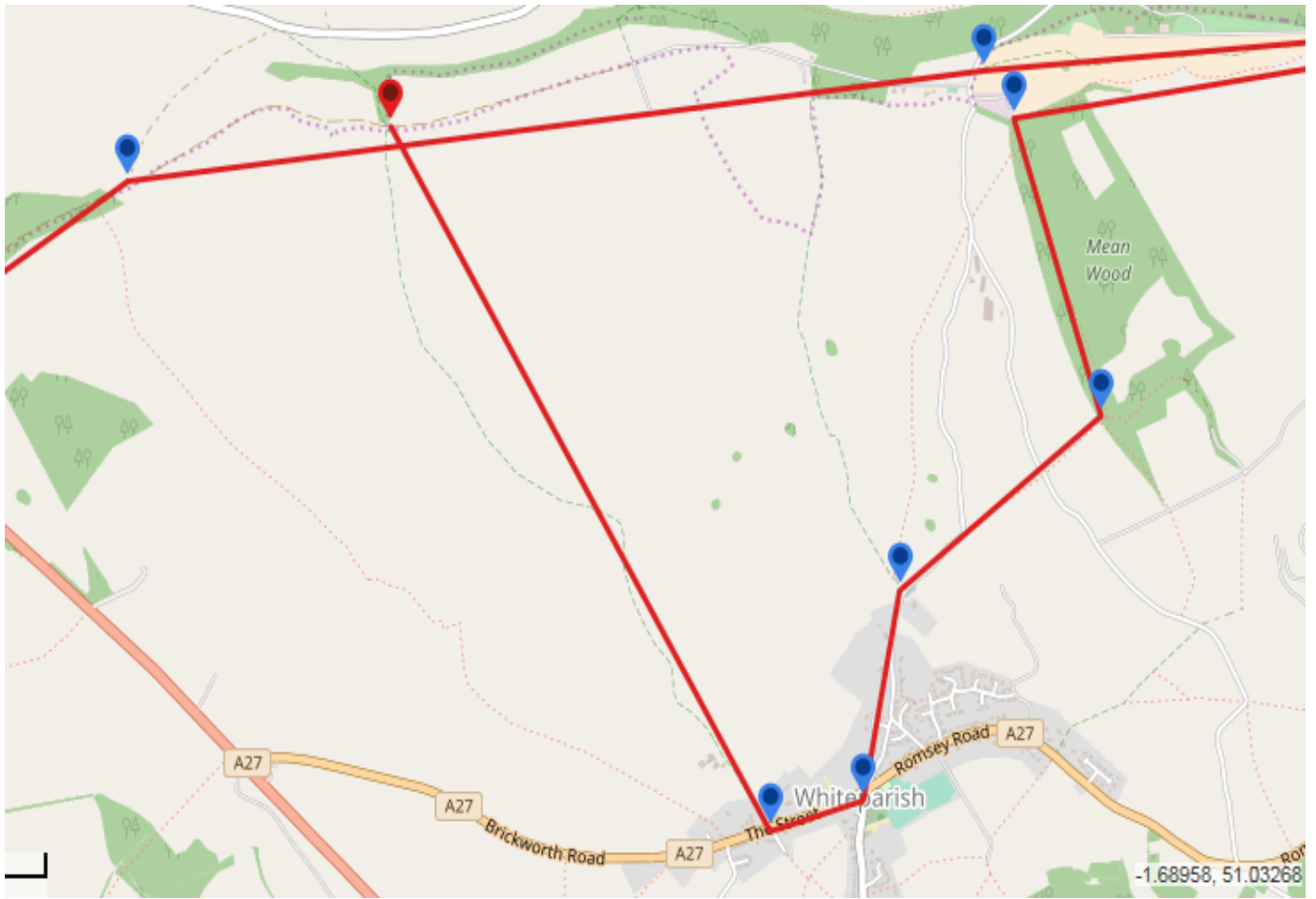


5.7 The claimed route is also featured as part of a promoted walk on the internet at <http://my.viewranger.com/route/details/MjNfNDE5Ng==>

“A fine walk starting from the folly on Pepperbox Hill takes you across to Dean Hill, with splendid views over the open countryside to the south-east of Salisbury, then through Mean Wood, which in springtime is thickly carpeted with bluebells, then on down to the village of Whiteparish. Stop here for refreshments from the village stores or one of two pubs and then, after a short walk through the village, it's back across fields and a gentle climb back to Pepperbox Hill.

Written for Walkingworld by Peter Harper”















A map clearly shows the route through Mean Wood:



5.8 The Walking World website records that the walk was revised in 2009 and that a number of people have used it:

<http://walks.walkingworld.com/walk/Pepperbox-Hill---Dean-Hill---Whiteparish---Pepperbox-Hill.aspx>

Respondent John Crisp recorded in 2015 that the described route through Mean Wood had been blocked.

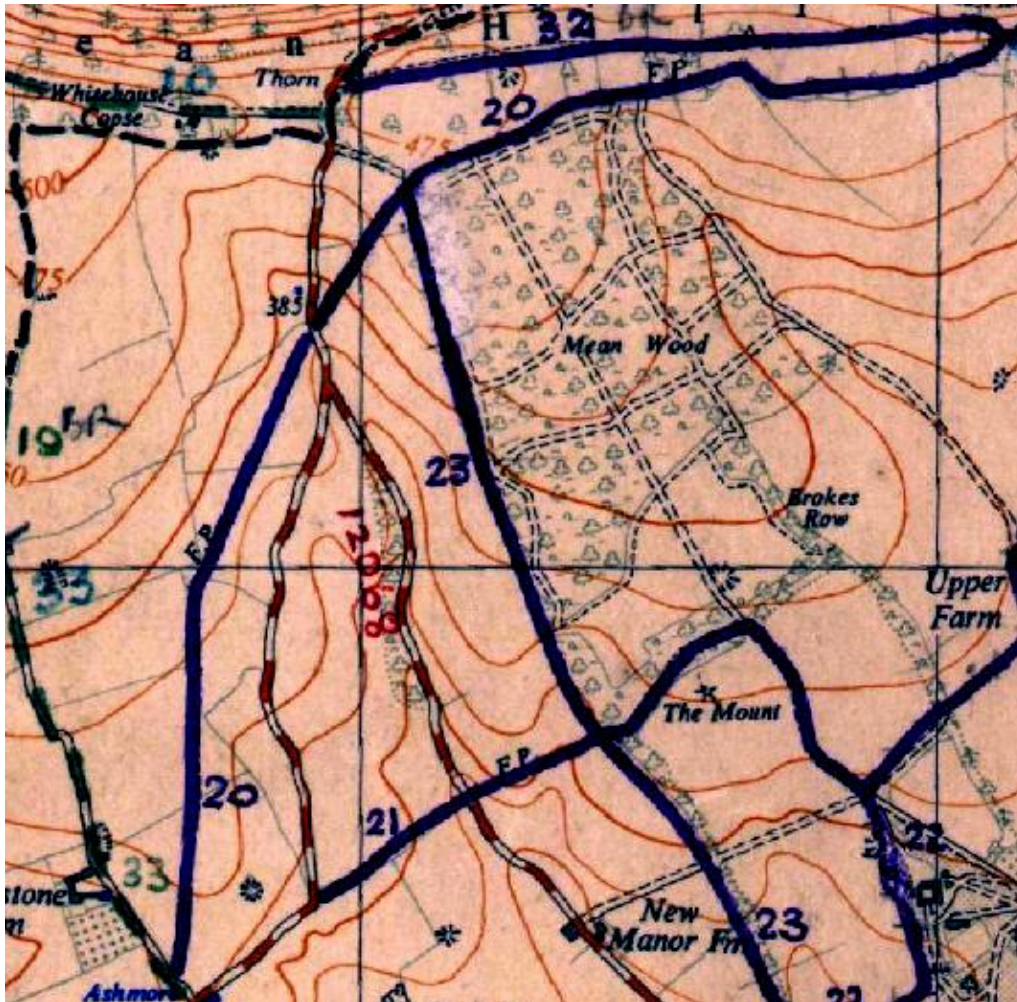
-  23/03/2015 - **John Crisp** 
 With our walking group, I have just completed this walk. Great ridge views across to Salisbury and as far as Southampton Docks and Fawley in the other direction. It is disappointing that the path into Mean Wood [Waymark 5] now only tracks north-east as the described route has been blocked with banks, ditches and barbed wire. We had to follow the edge of the wood[SSE] in the field. During our walk, in late March, we found that the fields, from Waymark 6 to 7 and leading back NW towards Waymark 10, after Whelpley Farm, had either been winter planted, seeded or harrowed. This made the route awkward to follow. The public houses in Whiteparish now only appear to open Thursdays to Sundays ...shame we were walking on Monday!
-
-  16/04/2012 - **Caroline Jones** 
 Did this walk yesterday and it was the prettiest of walks. The bluebells in the woods and the vibrant yellow of the rape seed. I would highly recommend this walk. Wonderful. Caroline
-
-  30/11/2010 - **Geoff Symons** 
 At WP9, the footpath goes along a gravel drive between two cottages. Passing further housing, the path continues between fields to a stile. This stile is of the ladder type, the fencing around the stile is very close mesh, which even my little terrier could not get through. So beware if you have a large dog, the only way over the style is to lift your dog over. The remainder of the walk is very dog friendly and the views from Dean Hill ridge are fantastic.
-
-  22/11/2010 - **elizabeth lloyd** 
 Just completed this walk, weather kind to us with sunshine so the views were amazing, great walk, a little muddy in places but nothing the correct footwear couldn't deal with.
-
-  09/11/2010 - **Walkingworld Administrator** 
 The problem that had existed just after WP9 has now been dealt with by the local authority PROW department. Our thanks to them for their work. They have asked us to mention that the driveway adjacent to the path at WP9 is private and cars should not be parked there. So, if you should decide to start the walk in Whiteparish, please bear this in mind. Adrian (Admin)
-
-  31/07/2010 - **Lyn Lovell** 
 Best walk yet! Only problem was that in Whiteparish the home owners have blocked off the footpath and filled with rubbish. Views were amazing. Dogs and children loved this walk
-
-  04/06/2009 - **Walkingworld Administrator** 
 This walk was revised and updated June 2009 by Peter.

6.0 Current Records – Definitive Map, Highway Record and aerial photographs

Definitive Map and Statement

The parish of Whiteparish is covered by the Salisbury and Wilton Rural District Council definitive map and statement dated 1952. The claimed route is not recorded in this document and was not the subject of a parish claim or any objection to its omission.

- 6.2 Adjoining rights of way were claimed by the parish council, are shown in the map and have remained unaltered to date. See extract from definitive map below (public footpaths are shown in purple):



6.3 The definitive statements for WHIT20, WHIT21 and WHIT23 are as follows:

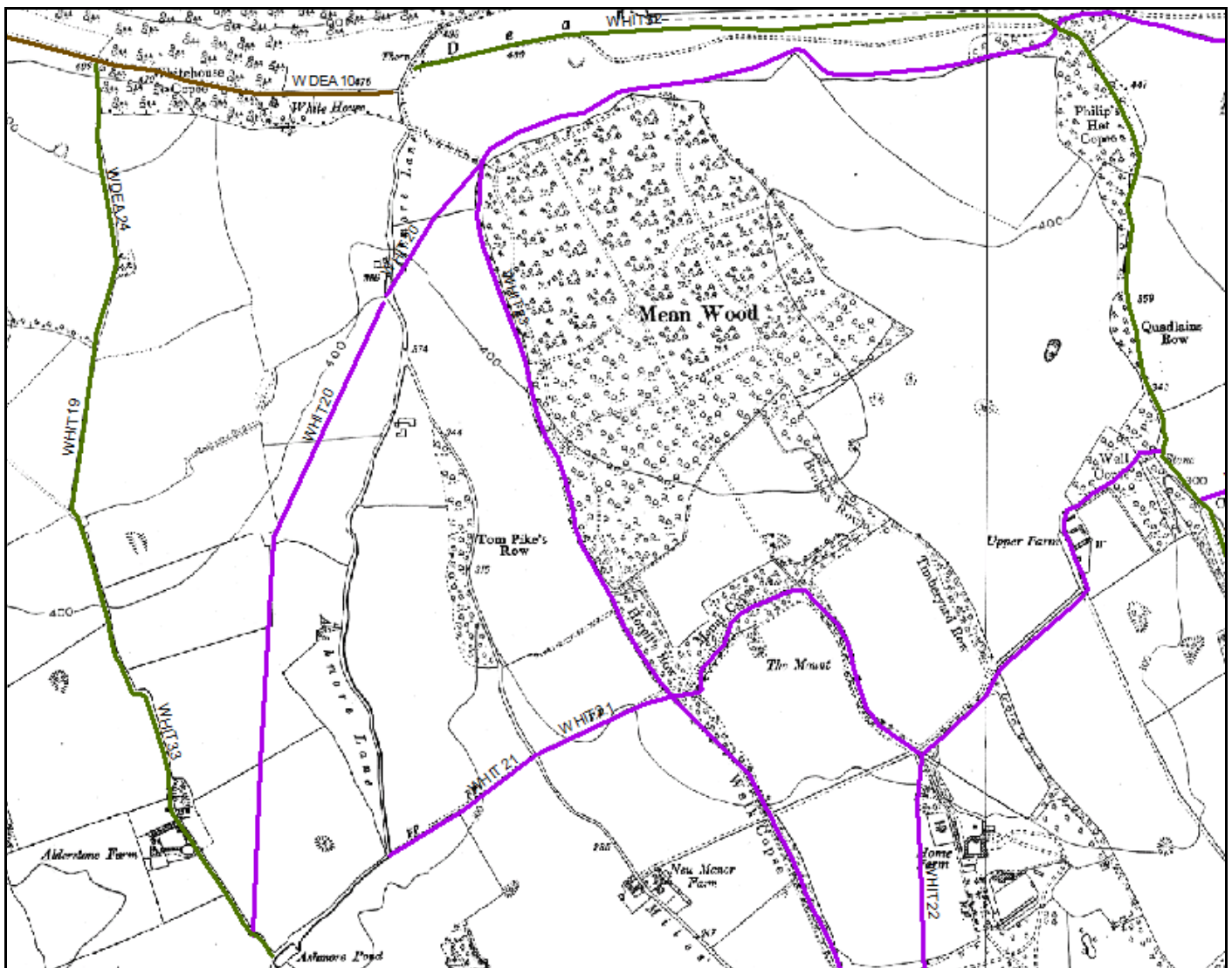
WHIT20 FOOTPATH. From Alderstone Lane, path No.33, opposite Ashmore Pond, leading north and north-east across Ashmore Lane, U/C 12025, and continuing east along the north side of Mean Wood, Philips' Hat Copse and Biddlesdown Bow to the Hampshire County boundary. Approximately length 3200 m

WHIT21 FOOTPATH. From Ashmore Lane, U/C 12025, leading north-east across Miles' Lane, U/C 12068, through Horell's Row and Mount Copse, then south-east to its junction with path No.22, north of Home Farm, then north-east and north to Upper Cowsfield Farm and north-east through Well Copse to path No.39 then, leaving path No.39 100 m to the south-east, continuing east-north-east up Yew Tree Hill and past Upper Barncroft Row, then south and east-north-east through Gatmore Copse to the Hampshire County boundary. Approximately length 4000 m Width 1.2 m

WHIT23 FOOTPATH. From Miles Lane, U/C 12068, at its junction with path No.22, leading north-west along the south side of Miles Lane for about 75 m then, across the Lane, north-east and generally north-west along Walk Copse, across path No.21 at the top of Horell's Row and continuing along the western side of Mean Wood to path No.20 at Dean Hill. Approximate length 1780 m Width 1.2 m

6.4 The working copy of the definitive map shows the surrounding network as below:

Footpaths = purple Bridleways = green Byways Open to All Traffic = brown



6.5 The route is not recorded in the Council's highway record though it is observed that a pathway through the wood is shown on the underlying map.

6.6 Owing to the dense tree canopy in this area aerial photographs are of no assistance.

7.0 Signs

No signs have been reported as being in place along the claimed route either directing walkers or prohibiting access in any way.

7.1 Footpath WHIT23 (leading parallel to the claimed route) was surveyed by the Ramblers Association volunteers for the benefit of Wiltshire County Council in September 2007. While walking WHIT23 alongside Mean Wood the surveyor observed that there were "Many unofficial/permissive paths in Mean Wood." A waymark and stile were in place at the cross roads with WHIT21.

7.2 These surveys undertaken in 2007 revealed that generally the rights of way network was well waymarked and provided for in the area. However, It is noted that the definitive line of WHIT20 is obstructed by paddock fencing and the public use an alternative route in this area.

8.0 Context of application

Mean Wood is an ancient woodland. Andrews and Dury's Map of Wiltshire dated 1773 records Miles Lane as a cul de sac and the route that is now footpath number 23 as the major route, a road leading past Mean Wood, past Cowesfield House and South to Testwood farm and onto Cowsfield Green.



8.1 The book, *Whiteparish – 100 years of an English Village* ISBN 0-9537744-0-6 records that Mean Wood was traditionally managed as coppice with standards. The widely spaced standards were planted amongst the coppice stools and provided long term timber requirements whilst the understory of hazel was coppiced on a 7 to 10 year rotation. The product of this was used for making thatching spars and hurdles and residues were made into faggots and used to fire a local bread oven. The practice of cutting hazel to ground level each year leads to the proliferation of ground flora such as bluebells and it is clear from the evidence of all parties that the bluebells in Mean Wood are a reason to visit in the spring.

- 8.2 The landowner, Mr Bradley Newman recalls that as late as the 1970s and 1980s a hurdle and spur maker (Mr Holland May) worked in the woods and he is also recalled by Mr Newman's son, Alexander.
- 8.3 A shooting syndicate has rented the shooting rights from the landowner for a period exceeding 60 years. Shooting takes place every 3 weeks from the 1st October until the 1st February and the whole wood is driven in a southerly direction. The Game Act of 1831 prevents shooting taking place on a Sunday. Objector Mr Gilbert Thompson states that he shoots over Mean wood every third Saturday in the season.

9.0 Consultation

Wiltshire Council carried out an initial consultation into the application on the 15th November 2016 and extended the time allowed at the landowner's request to the end of January 2017.

The following letter was circulated:

“Wildlife and Countryside Act 1981 s.53

Application for an Order to add a public footpath at Mean Wood, Whiteparish to the definitive map and statement

Wiltshire Council has received an application for a definitive map modification order to add a public footpath to the definitive map and statement. The claimed route leads in a broadly north south direction through the woodland in a manner that is approximately parallel to the existing public footpath Whiteparish 23 and Mile's Lane to the west.

The application is supported by evidence of use submitted by 25 people who have used the route without force, secrecy or permission for varying amounts of time dating from 1969 to 2015 when it is alleged that access to the wood was physically prevented.

Before the Council makes a decision whether to make an Order or not it must consider all available relevant evidence and accordingly you are invited to submit any evidence or comments that you may have. Dated photographs are especially helpful as are recollections of notices, alterations to the route, challenges to use and so forth.

Please let me have your responses by the 30th December 2016. If you have any queries please do not hesitate to contact me.”

The application map shown at 1.1 was included.

- 9.2 The consultation was sent to the following:

The Auto Cycle Union	Commons, Open Spaces and Footpaths Society
Wiltshire Bridleways Association	Wiltshire Cycling Touring Club
British Horse Society	Whiteparish Parish Council
Wiltshire Councillor R Britton	Byways and Bridleways Trust
British Driving Society	Wiltshire Council Rights of Way Warden
Wiltshire Ramblers	The Applicants
Mr B G Newman	All users who have submitted user evidence forms

10.0 Consultation Responses – Appendix A

Considerably more responses to the initial consultation were received than were invited and many of those submitted in objection are of the same format and contain a large number of similar phrases and paragraphs. Accordingly copies of the correspondence are appended at Appendix A and key points are summarised below:

1) **Nick Cowen – Senior Rights of Way Warden**

Survey sheet dated 27th September 2007 for path no 23 west of Mean Wood submitted including a comment that there were “many unofficial/permissive paths in Mean Wood”

Correspondence dated 8th April 2015 relating to the blockage of a path in Mean Wood and a possible application to record it.

2) **Keith Hobbs, Whiteparish**

Moved to Whiteparish in early 1979 and locals recommended that he walked in Mean Woods. He and his family did (his daughter also rode a horse sometimes) and at no time during the many years did anyone stop or advise them they should not be there. Met other walkers. No signs. Less use in the 1990s and 2000s but still unhindered. Discovered route blocked in 2015/2016.

3) **Geograph website – paths in Mean Wood**

Clearly walked paths shown in photos submitted in 2008. Text states: “*although the path is shown at the woods edge on the map, it clearly runs some distance inside the wood.*”

4) **John Herrett, Whiteparish**

Photograph of the wood taken in 2009 showing section of path.

5) **Mr and Mrs J C d’Orville, Whiteparish**

Bought their house in 2000 and were told of the walk by the previous owner who had used the walk since 1968. Photograph of wood and path taken 2013.

6) **John Dunlop, Whiteparish**

Has used the path regularly since 1998. Sent photograph taken in 2004 of his daughter and a dog on the path.

7) **Jennifer Foster, Whiteparish**

Has used the path from 1986 and met no challenge or objection. Knows a great many other villagers use the path.

8) **Trudi Dean, Whiteparish**

Photographs submitted from April 2009 (Chris Baker), May 2008 and May 2013 (Sheila Harrison-King).

9) **Peter Claydon, Whiteparish**

Has lived in Whiteparish for 40 years and considers the landowner “has always shown the courtesy of permitting those who wished to walk through the private woodland known as Mean Wood..”

10) **Whiteparish Parish Council**

Unanimously objects to the application. Has always understood this was a permissive footpath.

NB – In December 2016 and again in March 2017 the case officer asked for any evidence (minutes etc) of the foundation for the Council’s understanding that the way was permissive. To date of report none has been submitted for the Council to consider.

11) **Peter Redhead, Whiteparish**

A neighbour of the landowner. Was given permission to walk the path in 1993. Understood it was well known as a permissive path.

12) **Emily Carey, Cowesfield, Whiteparish**

A neighbour of the landowner. Was given verbal agreement to use the path in November 2012 when she became aware of the path. Used the path weekly. Often encountered others and always asked if they had permission. No-one she asked confirmed they had the owner’s permission to use the path.

13) **Robert Carey, Cowesfield, Whiteparish**

Exactly as number 12 above.

14) **Sally Newman, Cowesfield, Whiteparish**

Moved to the village in 1993 and walked the path through Mean Wood. Was given verbal permission by the owners in 1993. Has never met walkers who stated it was a public right of way.

NB Shared surname but not related to the landowner.

15) **Christine Wood, Whiteparish**

Frequently walked the claimed path in the woods since 1976. Had the verbal permission of the landowner. Occasionally met others and some were unaware that the route was not a public right of way.

16) **Andrew Wood, Bournemouth**

Lived in Whiteparish from 1988 to 2006. Walked in the woods but his family had been given verbal permission to do so (see number 15 above). Last walked the path in October 2016.

17) **James Wood, Whiteparish**

Lived in Whiteparish between 1988 and 2006 and walked in the woods but his family had been given verbal permission by the landowner (see numbers 15 and 16 above). Last walked the path in December 2016.

18) **Dennis Wood, Whiteparish**

Frequently walked the claimed path in the woods since 1976. Access was by verbal permission of the landowner. Occasionally met others and some were unaware that the route was not a public right of way. Would refer users to the Whiteparish website for details of the location of public paths.

19) **Gilbert Thompson, London**

A member of the shooting syndicate since 1999 and shoots 'over Mean Wood' every third Saturday in the shooting season. Has never seen a member of the public on the path. Has concerns relating to safety.

20) **Elizabeth Davis, Fair Oak**

in Her husband was a leading member of the shoot for nearly 50 years until his death October 2016. The shoot is much more than 6 or 7 shoot days in the season. On those days about 25/30 people come together (with a large number of dogs) and walk through Mean Wood in an orderly manner. For the rest of the year the keeper supports the birds and the conservation of the area. Has seen walkers (though not many) and considers they disrupt the birds and the animals and pick and trample flowers. Has concerns about the loss of the shoot.

21) **Jonathan Davis, Pontypridd**

His father was a shoot member and he has been a frequent participant. Has moved away but still visits frequently. On only a few occasions has seen walkers on the path, the vast majority walk outside the wood on the definitive path. Has concerns about the future of the shoot and the impact on the land of the claimed path.

22) **Philip Curtis, Sherborne**

Lived in Whiteparish from 1977 to 1982. Throughout this time he walked through the woods with the verbal permission of the landowner. Doesn't recollect seeing anyone else. Knew only three properties who used the claimed path with the permission of the landowner. These were the Angels from Home Farm, the Woods at Mole End and Jack Chant who lived in a caravan at the landowner's property. On one occasion Jack Chant was assaulted when confronting poachers and this was

reported to the Police. The landowner was very concerned about access to his property.

23) **Geraldine Cobern, Cowesfield, Whiteparish**

Her family has lived at Home Farm since 1931 and she has used the claimed path since the 1950s (and rode a horse along it when she was younger). Her family were given verbal permission by the current owner's father. Would occasionally see other users on the path, mainly neighbours, who to the best of her knowledge had also been given permission to use the path.

24) **John Sherwood Webb, Southampton**

Has been involved with the shoot for 63 years. In all that time he has never met any members of the public in the area. Has concerns about opening up this part of the wood for reasons of safety and environmental protection. Is aware this is a permissive path.

25) **David Sutton, West Dean**

Is aware that the path is a permissive path. Has concerns about safety on shooting days, disturbance to wildlife and disturbance to game birds.

26) **Christopher Yates, Southampton**

Is a beater for the Whiteparish Shoot. Attends every Saturday between October and 1st February, this means he attends Cowesfield Farm and Mean Wood once every three weeks during that period.

Is aware that the claimed route is a permissive path. Has never seen anyone walking on the path.

27) **George Lazarus, Whiteparish**

Moved to the village 19 years ago and is a keen dog walker. Used the path and about 10 years ago met Mr Newman who told him the route was permissive. Permission was extended to Mr Lazarus and anyone with him. Only occasionally walks the route (perhaps twice a year) and doesn't recall meeting anyone.

28) **Tricia Baker, Sherfield English**

Owns the adjacent field. First walked the path in the mid 1980s when taken through by Mrs Newman. She was given permission by the Newmans and sometimes met her in there. Sometimes saw people in the woods but assumed they had permission too. Disputes the line of the definitive map footpath over her land.

29) **Thomas wood, Winchester**

As nos 16 and 17 though lived at home until 2007. Last used the path December 2016.

30) **Anonymous submission**

Extract from the Whiteparish Village Magazine March 2015 announcing that the “owner of Mean Woods now closing the permissible footpath through this particularly lovely stretch of woodland.”

31) **Mark Bailey, Southampton**

A member of the Whiteparish shoot actively involved in the running of it for the last 8 years. Is aware the path is permissive. Has Mr Newman’s permission to walk the path as a member of the shoot. Has never seen anyone other than a shoot member use it. Has concerns about safety and wildlife disturbance.

32) **Jack Ward, Southampton**

Head beater for Whiteparish Shoot. Member since 2012. Heavily involved with the rearing of pheasants. Is aware this is a permissive path. Has only met one walker who complained about the shoot and he was advised “that it would be folly to carry on his walk and to take the public footpath”.

33) **Sean English, Landford**

Lived at Cowesfield farmhouse from 1973 until 1996. Used the path regularly. Mr Newman had given him permission but not on Saturdays during shooting season. Only met people who had permission to be there.

Became a member of the shooting syndicate and is responsible for managing one of the sites. The claimed footpath is used as a main drive on Cowesfield shoot days (which includes Mean Wood). The path is used by beaters and walking guns to drive the woods towards the southern end where the standing guns are positioned. Believes the claimed path would be detrimental to the future of the shoot and the wildlife. Is aware that out of control dogs have chased wildlife.

34) **Adam Wilson, Barford St Martin**

Member of the shoot for 4 years and an occasional guest before that. Is aware it is a permissive path. Has never seen a member of the public on the path. Presumes this is because they have heard the shooting or are aware the shoot is in there. Considers it potentially dangerous to record a public path here.

35) **Kay Lindars and Tony Kilby, Hamble**

Is aware this is a permissive path. Have been on the shoot for 5 years and have never seen anyone on the path other than shoot members. It would be dangerous. Looking at the Ordnance Survey maps they note that it appears there are ample public footpaths in the area already.

36) **Alan Clark, Romsey**

Knows that Mr Newman grants permission to use the path. Has used the path with the Scouts since the mid-1980s and with the Boys Brigade since the mid-1990s with Mr Newman's permission. Has also walked it with the church group from the early 1990s to 2014.

37) **Clive Jones, Lyndhurst**

Has walked the path on average of 6 times per year for over 30 years and has had the permission of Mr Newman. Has never seen anyone else in the woods. Considers there is a danger of harm to wildlife and that there is no need for another footpath.

38) **Burges Salmon acting for Bradley Newman**

Summary of key points:

- (a) That there was a s.31(6) deposit in 2012
- (b)(i) Evidence of permission by a large number of letters
- (b)(ii) Frequent and complete exclusion of members of the public when regular shoots occurred
- (b)(iii) Foot and mouth closures
- (b)(iv) Evidence of regular challenge and request to refrain from using the way
- (b)(v) Flaws in the evidence submitted

Does not deny the existence of the footpath.

Unauthorised users were regularly challenged.

Statement of Bradley Newman

- The wood is let to a shooting syndicate
- Jack Chant worked in the woods late 1960s onwards, Holland May worked in the wood in the 1970s and 1980s.
- Other people who challenged users include Captain Hamilton (1970 to 1990), Mrs Butler, Mr and Mrs Gallagher (1982 onwards).
- Walked there himself 1981 onwards. Hardly saw anyone. Challenged anyone he didn't know.
- The path moved in 2014.

Statement of Susan Newman

- Permission given to the hunt and the followers
- Hardly saw anyone
- Challenged anyone she didn't know

Statement of Lydia Newman (daughter) b. 1990

- Used the path several times per month, more in the bluebell season throughout her life.
- Only ever met one person who she challenged.

Statement of Alexander Newman (son) b.1981

- Lived at Honeysuckle Lodge 1981 to 2004
- Regularly walked Mean Wood. Remembers Holland May and Jack Chant working in the woods and re-directing people.
- Considers the Baker family were given permission.
- Walked the path monthly 1993 to 2004 and never met anyone on the path. Did see others in other parts of the wood and redirected them.
- Mr G Barrett and Mr M Barrett are gamekeepers for the shoot. Their role is to ensure walkers use the public rights of way. Has never seen anyone on the path but records "there have been occasions when people have been redirected back to the public footpath at other times".
- Mr M Barrett changed the route in 2014 to allow his bedridden grandmother to be driven through.

Statement of Jason Newman (son) b. 1982

- Used the path regularly – walked and rode
- After 2004 only about 10 times per year
- Has only ever seen people he knows on the path

Statement of Glen Barrett (Spare time gamekeeper)

- In charge of shoot days and day to day running of the shoot since 1986

- Syndicate has 14 paying guns. Members have permission to walk
- Never seen a walker in the woods during a drive
- Visits the wood 2 to 3 times per week and daily from July onwards.
- Has encountered walkers.

Statement of Michael Barrett

- Helped run the shoot from 1980
- Believes path was made by previous woodsmen
- The paths were opened up around 1998 for the Newmans to ride horses round. This made it easier for the uninvited to get in and use the paths
- Challenged around 2 per month
- Walked to the woods up to 3 x per week
- Did not see walkers

Additional Statements

Leo Randall

- Used path for 15 years about 2 or 3 times per week.
- Local people said it was permissive and on checking with the landowner he confirmed that he had given a general permission for the public to use the path.
- Supporters of the application said they met the landowner and he never objected to them being in the wood.
- The term permissive seems to have been dropped from the campaign

Lorraine Smith

- Used the path once a month from the early 1980s with friend from Whiteparish who have permission.

Helen Randall

- Used the path since 1978 about every 2 weeks. Had been given verbal permission.
- Saw other walkers on the path

Jane Glasgow

- Leader of the Boys Brigade.
- Had permission from Mr Newman to camp and walk with church groups in the bluebell season.
- Has used the path since the mid 1990s.

11.0 Historical Mapping and Records

In determining this application the Council must consider all relevant evidence available to it and this includes historical documents and plans. It is able to do this under Section 32 of the Highways Act 1980:

32. Evidence of dedication of way as highway

A court or other tribunal, before determining whether a way 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 circumstance, 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.

11.1 Andrews' and Dury's Map of Wiltshire 1773

This map covers the whole of the County at the scale of 1 inch to 2 miles and is based on an independent survey. The Wiltshire map doesn't have a key but Andrew's and Dury's contemporary County map for Hertfordshire does and it is clear that the features displayed on the Wiltshire map may be reasonably identified from the Hertfordshire's map's key. Roads are shown (fenced or unfenced) but footpaths and bridleways are not.

11.2 An extract showing Mean Wood is included in this report at page 12. The wood is shown adjoining a significant road which is now recorded as footpath Whiteparish 23. Miles Lane is shown as a cul-de-sac leading only to a dwelling or farm.

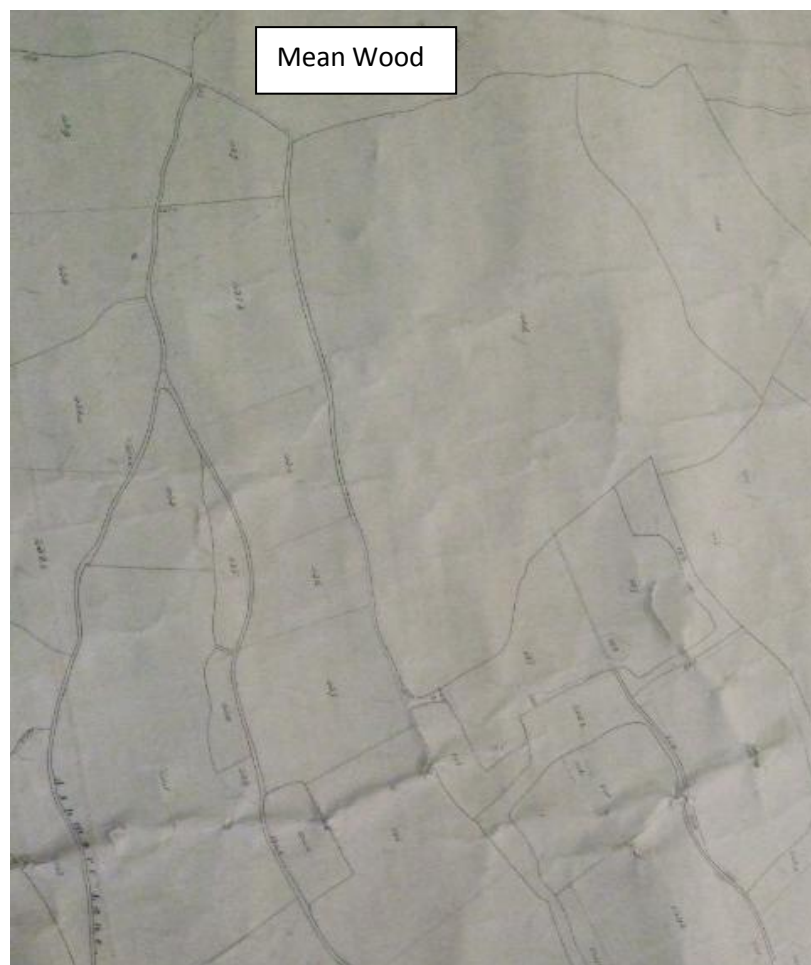
11.3 Whiteparish Tithe Survey – 1840/1841

By the early to mid 1800s it had become clear that system of paying tithes in kind to the church was not only cumbersome and archaic, it failed to embrace revenues from new forms of industry like mills, engineering works and textile industries. Although some parishes commuted their tithe payments to rent charges during the process of inclosure, these often failed to cover the whole parish or in some cases failed to address the matter at all. Accordingly the Tithe Commutation Act 1836 formalised and reformed the way in which the Church was financed on agricultural output. It required that where tithes were still relevant that those areas be surveyed and rent charges apportioned accordingly.

11.4 Although the identification of public rights of way was in no way a function of the process, in many cases the accurate mapping of the area (in the case of Whiteparish at the scale of 6

chains to one inch) resulted in the identification of roads, bridleways and footpaths along with a variety of other topographical features including wells, quarries, pits and woods. The purpose of the survey was to identify land that was capable of production and apply a charge accordingly. Hence although most roads would have been exempt from tithes it is often found that footpaths and bridleways were not since it was perfectly feasible to graze cattle or take a hay crop from a field with a path through it.

- 11.5 The tithe map for Whiteparish is undated but is drawn by F J Kelsey of Salisbury and shows a variety of features including foot and bridleways, water bodies, houses, some building names, road names and a brick kiln. Parcels of land and some features are numbered and referred to and described in the accompanying tithe apportionment document.
- 11.6 Mean Wood is shown as parcel number 426, Mean Wood. It is a wood owned and occupied by Lady Selina Mary Freemantle. The woodland area does not extend to Miles Lane as it was shown by Andrews and Dury but instead is bounded by a track corresponding in part to the route of footpath Whiteparish 23 today.
- 11.7 It may be speculated that this track leads along the western edge of the woodland in a similar manner to the claimed route, it is not apparent from this map whether the track shown is within or outside of the woodland. This matter is clarified however by the Ordnance Survey County Series mapping considered at 11.9 onwards where it is shown as a wooded track between the woodland and the field.



11.8 No tracks or paths are shown within the wood.

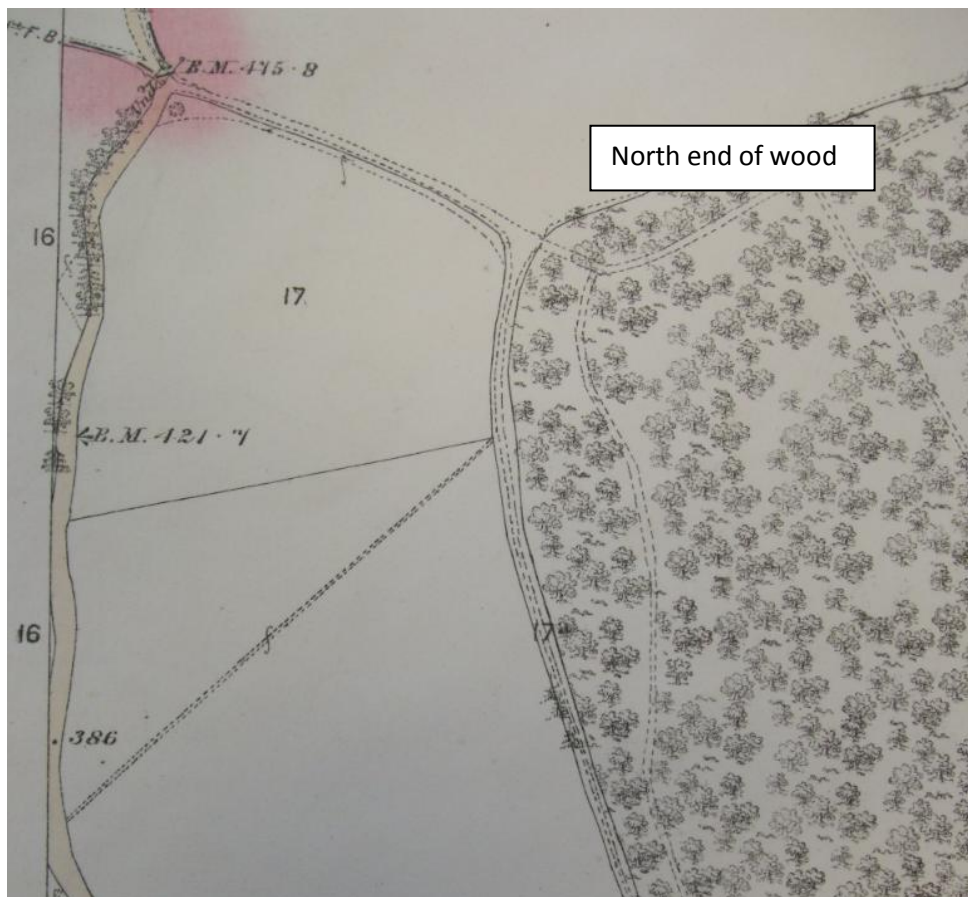
11.9 Ordnance Survey Maps – County Series

11.10 Ordnance Survey maps dating back to the latter part of the 19th century have been viewed.

11.12 Surveyors acted under a variety of instructions from the Ordnance Survey regarding the recording of roads and paths (though all of the maps viewed carry a disclaimer to the effect that the representation of any road or path is not necessarily indicative of public rights along it) and from 1882 onwards footpaths were shown by 'F.P', *“the object of..F.P. being that the public may not mistake them for roads traversable by horses or wheeled traffic”* (From Southampton Circular 16.2.83). A further Circular in 1893 advised: *“Mere convenience footpaths for the use of a household, cottage or farm, or for the temporary use of workmen should not be shown, but paths leading to any well defined object of use or interest, as to a public well, should be shown.”*

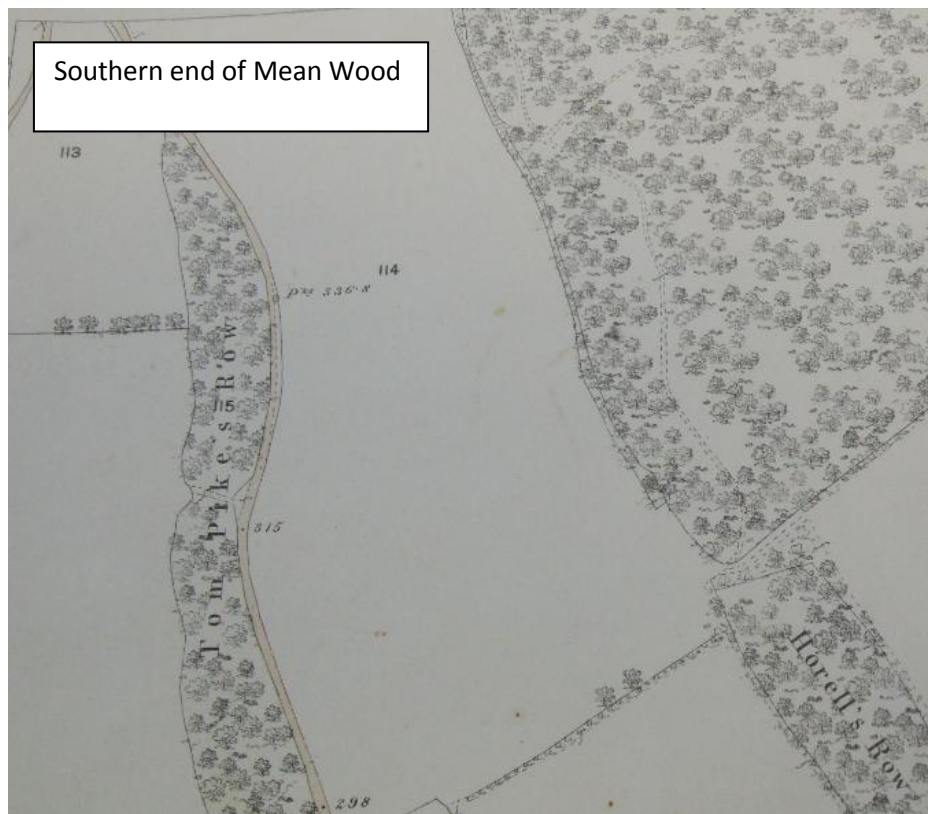
11.13 County Series Maps (25 inches to one mile) Sheets 72.8 and 72.12 dating from 1876 have been viewed and show a number of paths leading through Mean Wood including one which is similar if not the same as the claimed route. The letters F.P. do not appear along it.

First Edition printed with 1883 corrections:



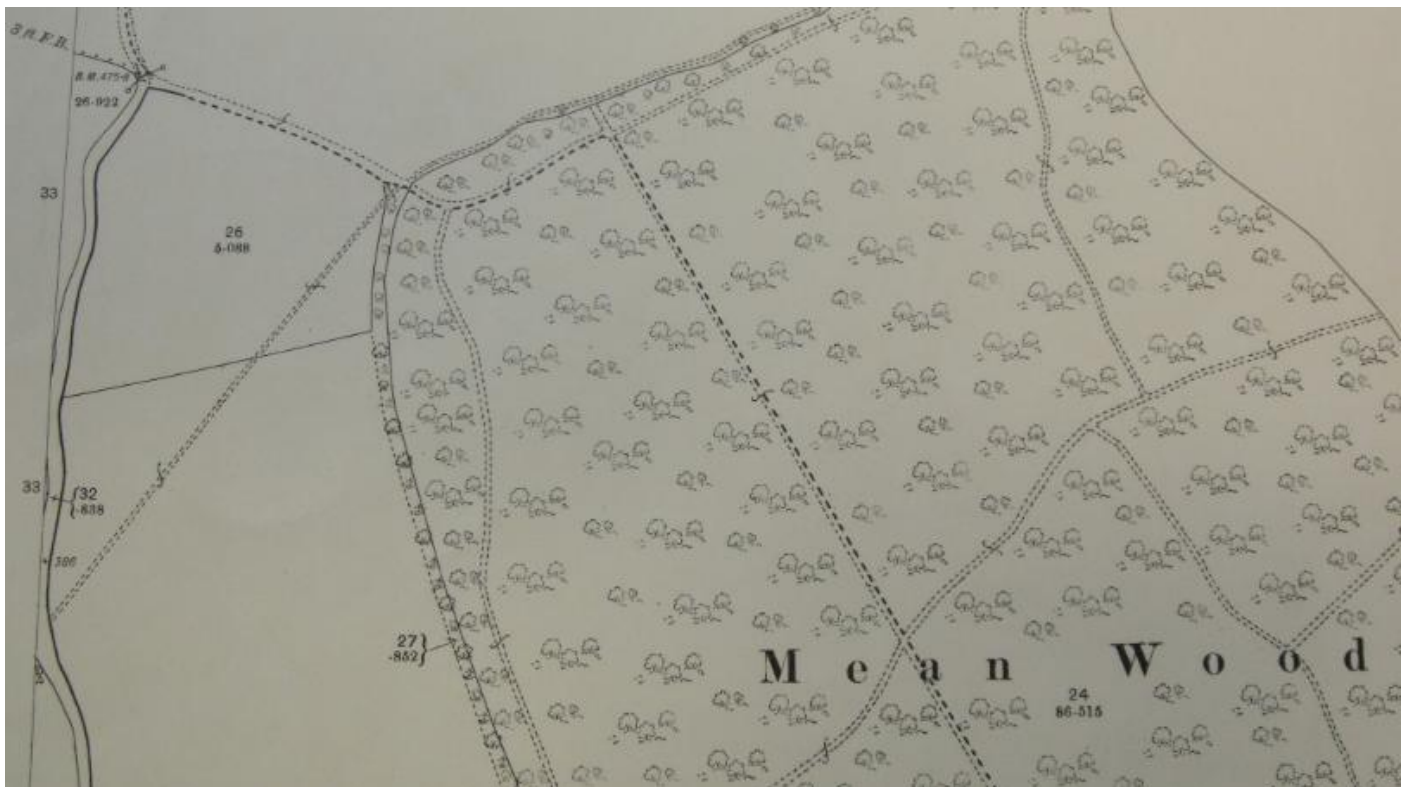
The track is not recorded as wooded on this edition but is corrected on later editions (and the adjoining sheet) to show the track as being wooded.

First Edition 1876 survey:



NB the path to the west of the wood is shown inside the wooded area on this map.

11.14 Second Edition Revised 1900





The western track is shown as wooded. No continuation track is recorded in Horrell's Row.

11.15 Editions of 1925 (sheets 72.8 and 72.12) show the tracks, paths and woods in the same way.

11.16 Ordnance Survey maps of this period may be regarded as being representative of the topographical detail at the time of the survey (and revision where appropriate), in fact, they have been held to be a model of planimetric accuracy. However, it is noted that they merely serve to show that there was a path there, not to give an indication as to whether the paths were publicly or privately used.

11.17 **Ordnance Survey County Series 1:10560 scale Sheet 72**

These maps are derived from the 1:2500 (25 inches to one mile) maps discussed above. As such they offer no further unique evidence but are useful in this case as they show the whole of the course of the claimed route on one map sheet.



11.18 Finance Act 1909/1910 L8/1/182 and L8/10/72 (WSHC cat. no.)

The Finance Act 1909/1910 required that a detailed survey of all property in the country be surveyed and valued. A tax was then payable on any increase in property values when they were sold. The Act proved unpopular and was repealed by 1920, however, the Inland Revenue had carried out its surveys and valuations by this time and their data provides a useful record of how land was valued at that time and of whether any deductions for public rights of way, roads or easements had been claimed or applied. The valuer for Whiteparish was a local man, Mr W C Page and it certainly reasonable to assume that his local knowledge would have enhanced the accuracy of his survey.

11.19 The survey resulted in base maps (the Ordnance Survey's 1:2500 County Series Second Edition sheets were used) being coloured and numbered as hereditaments. Details of the hereditaments were then recorded in a valuation book. Both of these records have been viewed for Whiteparish.

11.20 Mean Wood is shown coloured pink as part of Hereditament 132 owned and occupied by William Frederick Lawrence and the western track and land west to Miles Lane is coloured yellow and numbered 85, also listed as owned and belonging to William Frederick Lawrence, though part of a different farm holding. No deductions for rights of way are shown for any parts of these hereditaments. However, the valuation book does not record any deductions for any other hereditaments in Whiteparish (even though there would have been historic public rights of way there at this time) and accordingly no evidential weight can be put on this record.

11.21 Parish Council Minutes and Sales Particulars

Parish Council minutes from 1945 to 1962 (WSHC cat. no. 1980) have been read but no mentions found relating to paths at Mean Wood. Officers have requested that later records (which have not been submitted to the County Archive) and minutes are searched for references to the woodland (since it is the parish council's case that they always knew the claimed path to be permissive) but at date of report, no response has been forthcoming from the parish clerk.

11.22 Sales particulars relating to the sale of Cowesfield House and 123 acres in 1949 have been viewed but the sale plan shows the land offered for sale stopping to the south of Mean Wood. WSHC cat. No 3382/108

11.23 Officers conclude that whilst the historic evidence viewed is supportive of the existence of a path through the woods the same as, or similar to the claimed route (at least as far south as Horrell's Row), little or no evidential weight may be placed upon it for the purposes of this application. It is further noted that no parties doubt the existence of the claimed route, this being detailed explicitly in the landowner's objection.

12.0 Considerations based on evidence of use

Summary of User Evidence – Appendix B

12.1 Statutory Presumed Dedication – Highways Act 1980 Section 31

Section 31 of The Highways Act 1980 states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12.2 The date when use was brought into question

Although use of the path was physically prevented early in 2015 when barbed wire was erected across the ends of the path and an earth bund was built at the northern end, it is considered that use was actually called into question by the deposit of a statement, plan and statutory declaration made under s.31(6) of the Highways Act 1980 lodged with Wiltshire Council, by the landowner, in February 2012.

12.3 There is no evidence of any other event that called the use into question and accordingly the relevant period for the consideration of s.31(1) of the Highways Act 1980 has been taken as from 1992 to 2012.

12.4 **S.31(5) or (6) deposits.**

Although Wiltshire Council holds records of landowner deposits dating back to the Rights of Way Act of 1932 the only deposit that has been identified relates to the deposit of a statement and plan on the 9th February 2012 and a statutory declaration and plan on the 17th February 2012 under Section 31(6) of the highways Act 1980. They were made by the landowner (Mr Bradley Newman) and both identify all of the land affected by the claimed route. The declaration is clear in its purpose of demonstrating that no additional rights of way had been dedicated in the period 9th to 17th February 2012. Officers consider them to be duly made and to be sufficient evidence to negative the intention of the owner or his successors in title to dedicate any additional ways as highways.

12.5 **Signs and notices**

No party claims to have seen or erected signs or notices on the land in the period 1992 to 2012.

12.6 **Locked Gates**

No party claims to have locked or encountered any barriers to access including locked gates in the period 1992 to 2012.

13.0 **Is there a route or path and did the public use it?**

13.1 **Is there a route?**

To satisfy section 31 (1) 'a way of such a character' the route must be definable. In *Oxfordshire County Council v Oxford City Council* [2004] Ch 253 Lightman J said that the true meaning and effect of the exception of "*a way of such character that use of it by the public could not give rise at common law to any presumption of dedication*" is that "*the user must be as a right of passage over a more or less defined route and not a mere or indefinite passing over land*".

13.2 There appears to be little conflict of evidence over the course of the claimed route. Some users only claim to have used some of the route (witnesses 3, 6, 8, 9 and 25) and some witness have drawn a route slightly to the west of the claimed route. However, this is almost certainly a consequence of the lack of definition on the background mapping used as more detailed maps do show a defined path that has been in existence over the majority of the claimed route since the late 1800s.

13.3 Additionally photographs submitted by users show a clearly defined track and the landowner, in his submission at page 2 para 1.5 states:

“For the avoidance of doubt, my client does not deny the existence of the Proposed Footpath. His objection is that any use of that path does not indicate any intent on his part to dedicate the land as highway”.

13.4 Officers are satisfied that the claimed route is of such character that it is capable of being recorded as a public highway.

14.0 Have the public used the route?

There are 25 witnesses who have submitted user evidence forms. None claim to have been an employee or tenant of Mr Newman’s or to have held any licence to access the land. The Planning Inspectorate’s Consistency Guidelines at para. 5.13 states:

“Consequently, use wholly or largely by local people may be use by the public, as, depending on the circumstances of the case, that use could be by a number of people who may sensibly be taken to represent the local community. It is unlikely that use confined to members of a single family and their friends would be sufficient to represent ‘the public’.”

14.1 All of the users who completed UEFs live in the parish of Whiteparish, a parish with a population of around 1400 residents during the relevant period. Additionally there is evidence of use by the wider public detailed at the Walking World website (given here at para. 5.8) and recorded by a member of the public in 2008 on the Geograph website (see Appendix 1) and www.geograph.org.uk/photo/1053181 *“Path, Mean Wood - Although the path is shown at the woods edge on the map, it clearly runs some distance inside the wood”.*

14.2 It is noted that the Parish Council object to the application and state that they consider the path to have been permissive. However, it has not been made clear to officers how this was known to the parish council and has not been evidenced in parish council minutes for the relevant period, or beyond.

14.3 Officers are satisfied that the claimed route has been used by the public.

15.0 Is there a sufficiency of use for the full 20 years?

15.1 All of the 25 users have used the claimed route during the period 1992 to 2012 with 8 of them having used it for the full 20 years. 2 of these appear to have only used part of the claimed route. There is no requirement for all users to have used the route for the full 20 year period and the Planning Inspectorate’s Consistency Guidelines state at 5.16 that *“Use of a way by different persons, each for periods of less than 20 years, will suffice if, taken together, they total a continuous period of 20 years or more (Davis v Whitby (1974)).”*

15.2 The Planning Inspectorate’s Consistency Guidelines state at 5.15 that there is *“no statutory minimum level of user required to show sufficient use to raise a presumption of dedication. Use should have been by a sufficient number of people to show that it was use ‘by public’*

and this may vary from case to case. Often the quantity of user evidence is less important in meeting these sufficiency tests than the quality (i.e. its cogency, honesty, accuracy, credibility and consistency with other evidence, etc)."

15.3 At 5.20:

"In R (Lewis) v Redcar and Cleveland Borough Council UKSC 11 (03 March 2010) Lord Walker said that if the public is to acquire a right by prescription, they must bring home to the landowner that a right is being asserted against him. Lord Walker accepts the view of Lord Hoffman in Sunningwell that the English theory of prescription is concerned with how the matter would have appeared to the owner of the land or, if there was an absentee owner, to a reasonable owner who was on the spot. In R (Powell and Irani) v SSEFRA [2014] EWHC 4009 (Admin) Dove J confirmed that the judgements in Lewis were not authority for an additional test beyond the tripartite 'as of right' test. The judgements in Lewis confirm that the extent and quality of use should be sufficient to alert an observant owner to the fact that a public right is being asserted. The presumption of dedication arises from acquiescence in the use. Again in Redcar, in the Court of Appeal Dyson LJ refers to Hollins and Verney and the words of Lindley LJ.

"...no actual user can be sufficient to satisfy the statute, unless during the whole of the statutory term...the user is enough at any rate to carry to the mind of a reasonable person...the fact that a continuous right to enjoyment is being asserted, and ought to be resisted if such a right is not recognised, and if resistance is intended."

15.4 There can be little doubt in this case that the evidence adduced by the applicant could have been supplemented had there been any way of knowing who had followed the online walking route recommended by Walking World on the internet.

15.5 Witnesses opposing the order detail a mixed picture of use which appears to be a reasonable reflection of a range of experiences and use during different times of the day, week and year. For example:

Bradley Newman – Hardly saw anyone

Susan Newman – Hardly saw anyone

Lydia Newman – Met one person

Alexander Newman – Never met anyone

Jason Newman – Only ever saw people he knew

Glen Barrett (shoot member) – Never saw anyone in the wood on shoot days but challenged walkers in the wood at other times

Michael Barrett (shoot member) – Did not see walkers when shooting but challenged walkers in the wood around twice per month.

Leo Randall – Saw other users

Emily Carey – Often encountered others

Robert Carey – Often encountered others

Sally Newman – Never met anyone who said it was a PROW

Dennis Wood – Occasionally met others

Gilbert Thompson (shoot member) – Never saw a member of the public

Elizabeth Davis (Shoot member) – Has seen some walkers
 Jonathan Davis (Shoot member) – On a few occasions has seen walkers
 Geraldine Cobern – Occasionally saw others
 John Sherwood Webb (shoot member) – Has never met any members of the public
 Tricia Barker (owns adjacent field) – Sometimes saw others
 Mark Bailey (shoot member) – Never seen anyone other than shoot members
 Jack Ward (shoot member) – Has only met one walker who complained about the shoot
 Adam Wilson (shoot member) – Has never seen the public on it.
 Kay Lindars (shoot member) – has never seen anyone using the path other than shoot members
 Clive Jones (walks the area about 6 times per year) – Has never seen anyone

15.6 It is noted that it is likely that during a shoot (every third Saturday October to February) members of the public (especially those with dogs or children) would be likely to avoid the area generally.

15.5 Officers consider there is a sufficiency of use for the full 20 years 1992 to 2012.
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16.0 Whether use was interrupted

No users report their use being interrupted. It is possible that had they tried to walk the claimed route on a shoot day when the shoot was in progress in this area of the wood they may have met with an interruption to use in the form of a challenge. However, no shoot members or organisers claim this happened and given the relative infrequency of the shoots, the limited time of the day that they cover, the time of year that they take place in (it is likely that there is less recreational walking in the winter) and the likelihood of people avoiding the area generally when the shoot was on means that there can have been no effective interruption caused. Mssrs Barrett, who clearly have a close involvement with the wood and the shoot confirm that they didn't see walkers in the wood or on the path on during a shoot.

16.1 One witness (Mrs Emily Carey) opposing the application claims to have challenged walkers she saw in the wood and other witnesses (Mssrs M and G Barrett) recall challenging people in the wood though had never encountered anyone on the path during a drive for the shoot. Mr Woods also made users aware that the path was not a public right of way. However, it is not clear whether in so doing he challenged their use or was merely being informative based on what was shown on the map.

16.2 The landowner, Mr Newman, considers that the exclusion of members of the public from Mean Wood (and all public footpaths) during the Foot and Mouth outbreak in 2001 is an interruption to use.

16.3 The Planning Inspectorate's Advice Note 15 makes it very clear that this is not the case.

“9. Against this background, it does not seem that the temporary cessation of use of ways solely because of the implementation of measures under the Foot and Mouth Disease Order 1983 could be classified as an “interruption” under section 31(1).”

16.2 Officers consider there was no effective interruption to use in the period 1992 to 2012.

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

17.1 Secrecy

Use cannot be considered to be ‘as of right’ if it has been carried out in a covert manner or perhaps only in the hours of darkness.

17.2 Use of the claimed route has not been carried out in secret. There has been a general awareness of use of the route and it would have been indistinguishable to anyone whether a user had permission or did not (i.e. there was no formal permit or badge issued for those with permission).

17.3 Force

Use cannot be considered to be ‘as of right’ if it has been carried out with the use of force. This may include the breaking of locks, cutting of wire or passing over, through or around an intentional blockage such as a locked gate. Additionally, use of a path even though there are notices preventing it or making it clear that the landowner has no intention to dedicate the route as a right of way may also be considered to be use by force.

17.4 There has been no evidence of force being used.

17.5 Permission

Use cannot be considered to be ‘as of right’ if it has been carried out with the permission of the landowner.

17.6 If there is express permission to use a route then the use is not ‘as of right’ and public rights will not have been acquired.

17.7 None of the 25 users of the path who support the application record having sought, or been given permission to walk the claimed route. However, a considerable number of responses have been received by people who did use the route with the express permission of Mr Newman.

17.8 Those who used it with permission appear to fall into three categories. Some are family members (Mr and Mrs Newman and their children), some are members of the Whiteparish shoot (who appear to have permission to enter the woods as a result of this) and others are local people given express permission (including neighbours and a local church group).

- 17.9 Permission has also been granted to groups (for example the Scouts or the Boys Brigade) to use the woods though this is likely to have been a more general permission rather than specifically just to walk the claimed route.
- 17.10 In some instances there is a direct conflict whereby Mr and Mrs Baker claim to have walked the path in the woods without permission and Mr Newman claims to have granted them permission to walk there.
- 17.11 The response from the parish council is that they had considered the path to be permissive but they have been unable to provide any evidence to support how they, as an elected body that has changed over time, were aware of this.
- 17.12 There is no evidence of any signs having been erected on the route to indicate that use was by a revocable permission and all permissions given appear to have been verbal. While this is almost certainly a fair reflection of how things were, officers consider that Mr Newman failed to make the permissive nature of the path, as he saw it, known to the relevant audience. That is, the users of the path. It was not until 2012 that Mr Newman clarified his lack of intention to dedicate.
- 17.13 The Planning Inspectorate’s Consistency Guidelines is helpful in this respect:

“5.24 If there is express permission to use a route then the use is not ‘as of right’. The issue of implied permission, or toleration by the landowner, is more difficult. In the context of a call not to be too ready to allow tolerated trespasses to ripen into rights, Lord Hoffman, Sunningwell 1999, held that toleration by the landowner of use of a way is not inconsistent with user as of right. In R(Beresford) v Sunderland CC [2003], Lord Bingham stated that a licence to use land could not be implied from mere inaction of a landowner with knowledge of the use to which his land was being put. Lord Scott stated in the Beresford case

“I believe this rigid distinction between express permission and implied permission to be unacceptable. It is clear enough that merely standing by, with knowledge of the use, and doing nothing about it, i.e. toleration or acquiescence, is consistent with the use being “as of right”.

5.25 Permission may be implied from the conduct of a landowner in absence of express words. Lord Bingham, in Beresford, stated that

“...a landowner may so conduct himself as to make clear, even in the absence of any express statement, notice, record, that the inhabitants’ use of the land is pursuant to his permission.”

But encouragement to use a way may not equate with permission: As Lord Rodger put it,

“the mere fact that a landowner encourages an activity on his land does not indicate...that it takes place only by virtue of his revocable permission.”

In the same case, Lords Bingham and Walker gave some examples of conduct that might amount to permission, but the correct inference to be drawn will depend on any evidence of overt and contemporaneous acts that is presented.”

17.14 Aspects of *Beresford* relating to implied permission where land was held by a public body (or similar with a public duty) were overturned in the Supreme Court in the case of *R v North Yorkshire County Council & Others ex parte Barkas* [2014] UKSC 31. However, the principles outlined above and maintained within the Consistency Guidelines were not. In the case of *Barkas*, Lord Neuberger stated:

“In relation to the acquisition of easements by prescription, the law is correctly stated in Gale on Easements (19th edition, 2012), para 4 – 115:

“The law draws a distinction between acquiescence by the owner on the one hand and licence or permission from the owner on the other hand. In some circumstances, the distinction may not matter but in the law of prescription the distinction is fundamental. This is because user which is acquiesced in by the owner is ‘as of right’; acquiescence is the foundation of prescription. However, user which is with the licence or permission of the owner is not ‘as of right’. Permission involves some positive act or acts on the part of the owner, whereas passive toleration is all that is required for acquiescence.”

17.15 The over-riding principle ingrained in any action taken by a landowner to indicate his lack of intention to dedicate is that it must be brought to the attention of the users. Whilst officers do not dispute that Mr Newman did not intend to dedicate a right of way across his land and indeed did grant verbal permission to a number of people to access the woods (though it is not clear whether this was a permission for general access to the wood or only to the claimed route) it is considered that he failed to bring it to the attention of the relevant audience by any means (i.e. signage, notices or perhaps a revocation of the permission for one day a year).

17.16 Again it is helpful to turn to the Consistency Guidelines provided by the Planning Inspectorate which ably deal with the considerations of Lord Hoffman in the leading case in this area of work known as ‘Godmanchester’ (*R(on the Application of Godmanchester Town Council)(Appellants) v SSEFRA and R (on the application of Drain)(Appellant) v SSEFRA* [2007 UKHL 28]):

“5.28 “Intention to dedicate” was considered in Godmanchester, which is the authoritative case dealing with the proviso to HA80 s.31. In his leading judgement, Lord Hoffman approved the obiter dicta of Denning LJ (as he then was) in Fairey v Southampton County Council [1956] who held “in order for there to be ‘sufficient evidence there was no intention’ to dedicate the way, there must be evidence of some overt acts on the part of the landowner such as to show the public at large – the people who use the path...that he had no intention to dedicate.”

5.29

“5.30 Lord Hoffman held that “upon the true construction of section 31(1), ‘intention’ means what the relevant audience, namely the users of the way, would reasonably have understood the owner’s intention to be. The test is...objective: not what the owner subjectively intended nor what particular users of the way subjectively assumed, but whether a reasonable user would have understood that the owner was intending, as Lord

Blackburn put it in Mann v Brodie (1885), to ‘disabuse’ [him] ‘ of the notion that the way was a public highway.’

“5.31 For a landowner to benefit from the proviso to s31(1) there must be ‘sufficient evidence’ that there was no intention to dedicate. The evidence must be inconsistent with an intention to dedicate, it must be contemporaneous and it must have been brought to the attention of those people concerned with using the way....”

17.17 Officers consider that whilst some permission had been granted to some people it was not sufficient to make the public at large (including those following the walk promoted nationally online) using the path aware that the landowner considered it to be a permissive route. Use was predominantly not by permission or licence.

18.0 The intention of the landowners and subjective belief

It is settled law that unless the landowner conveys his intention to the relevant audience it does not matter what, locked inside his mind, his intention was.

18.1 Nor does it matter what is in the mind of the user of the way or whether he believes it to be a public right of way or not; it is the nature of his actual use that is the consideration.

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

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

18.2 What matters in these cases is whether the use satisfies s.31(1) of the Highways Act 1980 and not the belief of the parties involved.

19.0 The common law test

In the absence of evidence of actual express dedication by a landowner, proof of a past dedication is inevitably achieved by looking at the character and extent of use of the way using the principles of *“nec clam, nec vi and nec precario”* i.e. ‘as of right’ and as discussed at section 17 of this report.

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

19.2 The Planning Inspectorate's Consistency Guidelines consider common law dedication at 5.49 and state:

"In Nicholson Dyson J commented on an assertion that Jaques was authority for the view that the quality of user required to found an inferred dedication was different from that required to found a statutory dedication. To bring the statutory presumption into play it was not necessary that the user should have been so notorious as to give rise to the presumption necessary for common law purposes, that the owner must have been aware of it and acquiesced in it. Dyson J stated "The relevant criteria so far as the quality of the user is concerned are the same in both cases. The use must be open, uninterrupted and as of right. The notoriety of the use is relevant for common law purposes in the sense that the more notorious it is, the more readily will deduction be inferred if the other conditions are satisfied. But notoriety is also relevant for the purpose of the statute, since the more notorious it is, the more difficult it will be for the owner to show that there was no intention to dedicate."

19.3 Although Mr Newman may have demonstrated some tolerance to use there have been no positive acts of dedication (for example the erection of stiles) and there have been some acts of granting permission.

20.0 Conclusions on the statutory test

Wiltshire Council may consider using either section 53(3)(b) or section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 in respect of the evidence considered in this application.

20.1 Section 53(3)(b) requires that on the balance of probability a presumption is raised that the public have enjoyed a public right of way over the land for a set period of time.

Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 provides that an order should be made if the Authority discovers evidence, which, when considered with all other relevant evidence available to them, shows that, on the balance of probabilities, a right of way subsists or is reasonably alleged to subsist over land in the area to which the map relates. This section allows for the consideration of common law and the inclusion of historical evidence and is the more commonly used section. It offers a two tier approach to the evaluation of the evidence with a lower bar set to make an Order ('a reasonable allegation') than to confirm one ('on the balance of probabilities').

20.2 In considering the evidence under section 53(3)(c)(i) there are two tests which need to be applied, as set out in the case of *R v Secretary of State ex parte Mrs J Norton and Mr R Bagshaw*(1994) 68P & CR 402 (*Bagshaw*):

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

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

- 20.3 To confirm the Order, a stronger test needs to be applied; that is, essentially that contained within Test A. In *Todd and Bradley v SoSEFRA [2004] EWHC 1450 (Admin)*. Evans-Lombe J found that the appropriate test for confirmation is the normal civil burden of proof that such a way subsists on the balance of probabilities.
- 20.4 Test B is the weaker test and only requires that on the balance of probabilities it is reasonably alleged that public rights subsist. This allegation may only be defeated at the order making stage by incontrovertible evidence.
- 20.5 There is a clear conflict of evidence in this case and officers consider that much of the evidence on both sides is credible and would benefit from examination under cross examination. Only the deposit made by Mr Newman in 2012 may be viewed to be incontrovertible and accordingly the relevant period of 1992 to 2012 applies for the evaluation of evidence of use.
- 20.6 The Council is bound to follow Test B as detailed above.

21.0 Conclusions on the common law test

Lord Hoffman highlighted the difficulties associated with identifying a qualifying act for a dedication at common law in paragraph 6 of *Godmanchester [2007] UKHL 28*:

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

- 21.1 Although it is possible that the ongoing use by the public against a background of tolerance can lead to a dedication at common law without a specific act of dedication, the application of common law principles of dedication are not considered further in this case as it is considered that the statutory requirement contained within s.31(1) of the 1980 Act has been met.

22.0 Legal and financial considerations and risk assessment

- 22.1 Failure to progress this case to determination within a year of application may result in the applicant seeking a direction from the Secretary of State. As Wiltshire Council prioritises user based applications it is likely that the Council would be directed to make a determination. At the date of drafting this report the Council is six months into this one year period.
- 22.2 If Wiltshire Council refuses to make an order the applicant may lodge an appeal with the Secretary of State who will consider the evidence and may direct the Council to make the order. If the Council is directed to make an Order it must do so. In the case of this application, the legal test for making an Order is weaker than the test to confirm it and there is a risk in deciding not to make an Order that the decision may be overturned by the Secretary of State at the appeal stage and that the Council is subsequently directed to make an Order.
- 22.3 If the Council makes an Order or is directed to make an Order, and when made and advertised it receives objections which are duly made it must be forwarded to the Secretary of State for determination. Through their agent, the Planning Inspectorate (PINS), the order may be determined by way of written representations (no additional cost to the Council), a local hearing (cost £200 to £500) or a public inquiry (cost £3500 - £5000 if Wiltshire Council supports the order; around £300 if it does not). The Council may support the Order, object to it or where directed to make it and applicable, may take a neutral stance.
- 22.4 Statute is clear as to the Council's duty in this matter and financial provision has been made to pursue this duty. It is considered unlikely that judicial review would be sought by any party if the statute is adhered to. Costs arising from judicial review of the Council's processes or decision making can be high (in the region of £20,000 to £50,000).

23.0 Equality impact

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

24.0 Relationship to Council's business plan

- 24.1 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.

25.0 Safeguarding considerations

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

26.0 Public Health Implications

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

27.0 Options to consider

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

28.0 Reasons for recommendation

Officers consider that the application forms a reasonable allegation that a public right of way subsists and that s.31(1) of the Highways Act 1980 is satisfied for the period 1992 to 2012.

- 28.1 There is a clear conflict of evidence relating to just one issue and that is whether the use by the public has been 'as of right' as it is the landowner's view that use has been with his permission. It is a logical step to say that where use continued with denied or revoked permission, that use would have been by force. It is agreed that where use is by permission or by force a claim that a public right had been acquired would fail.
- 28.2 However, 25 people have provided evidence that they didn't have permission to walk the path and didn't use force to do so. There were no signs to deter or inform them, in the period 1992 to 2012 the land was unprotected by any deposits under s.31(6) and the walk was promoted on a walking website and clearly used. It is difficult to see how they would have known that the landowner required them to have permission to walk that way if they did not know him or were a member of the shooting syndicate.
- 28.3 It is the view of officers that notwithstanding Mr Newman's view that the route was permissive (and indeed that of some other people within the community) he failed to bring it to the attention of the relevant audience, that is, the users of the path.
- 28.4 There is no incontrovertible evidence to defeat this application and the Council is bound by the decision of Owen J in R v Secretary of State for the Environment, ex p. Bagshaw and Norton to proceed with making an Order under s.53(3)(c)(i) WCA 81.
- 28.5 Owen J held that:

"(2) In a case where the evidence from witnesses as to users is conflicting, if the right would be shown to exist by reasonably accepting one side and reasonably rejecting the other on paper, it would be reasonable to allege that such a right subsisted. The reasonableness of that rejection may be confirmed or destroyed by seeing the witnesses at the inquiry."

29.0 Recommendation

That an Order be made under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to record a public footpath at Mean wood, Whiteparish and that if no objections are received (or any so made are withdrawn) that the Order be confirmed.

Sally Madgwick

Rights of Way Officer – definitive map

26 April 2017

Appendix A Consultation responses

Appendix B Summary of user evidence

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APPENDIX A

CONSULTATION RESPONSES



Madgwick, Sally

From: Cowen, Nick
Sent: 21 November 2016 11:23
To: Madgwick, Sally
Subject: FW: Mean Wood Whiteparish

Hi Sally,

Here's the earliest correspondence that I can find. I didn't get involved but was copied in for info.

I will also forward part of Graham Read's survey of Whiteparish in 2007 and in particular his comment on the fp 23 spread sheet re Mean Wood. Graham has put up a link to Picasa where all his photos are kept but I couldn't open it.

All best

Nick

From: graham&elaine read [redacted]
Sent: 08 April 2015 19:52
To: [redacted]
Cc: [redacted], Martin RA_Norman; Cowen, Nick
Subject: Mean Wood Whiteparish

Hello Brian.

I have been forwarded your email by Miken Arney concerning paths in Mean Wood.

I see from your email a number of residents are no longer able to walk in Mean Wood due to an alleged blockage. They are naturally upset about this and are considering claiming a definitive path following guidance information from ramblers head office.

Can I firstly say that claiming a definitive path is a serious business. It should not be taken lightly, and the claimants must be 100% honest when making the claim. No massaging or embellishing the facts, just the honest truth concerning witness statements.

Secondly sentiment, personal feelings or grievances having nothing to do with making a claim. Just the plain facts about where, when, and for how long have people walked in Mean wood.

They have to establish that more than seven people have walked for more than twenty years in Mean Wood. However it is not as simple as that. They have to have walked without the owners permission. They have to either have walked without the owners knowledge, or if the owner knew, he or she did not give them permission but made no effort to remove or ask them to leave.

However if the owner gave them permission to walk then a definitive path can not be claimed. The owner has a legal right to withdraw that permission, and stop the walking. I note Tony from The Street describes walking this " permissive" path for ten years. If as Tony says it is permissible, and all the other people have known it to be so, then you have no case to claim it. Secondly I have to say Tony's views concerning a claim are not much help to you as he has only been walking Mean Wood for ten years.

Finally it is not acceptable to claim that people walked (possibly roamed about) in Mean Wood eg viewing the Bluebells. You have to claim that all of you have walked exactly the same path(s) for the 20 year period minimum with no deviations from those claimed paths.

Can I make one or two observations about Mean Wood. There are no definitive paths in the main block of Mean Wood with a small exception. Footpaths WHIT 20 and WHIT 23 enter the wood in the NW corner over a stile . WHIT 23 is a W side boundary path to Mean Wood . It is on the outside of the wood in the bordering field. It meets footpath WHIT 21. at GR 254 247 . WHIT 21 then crosses a small spinney of woodland in a SW top NE direction, to join up with a track. The footpath then continues in a S direction towards Home Farm. The track itself appears to continue N into Mean Wood. This N running track is not a Right of Way and is not on the Definitive RoWs map.

So is no easy operation to claim a right to walk a path. I'm afraid the odds and burden of proof is stacked heavily against you.

Back in 2007, just after the New Forest National Park was formed, we were asked to carry out an audit of all the RoW in those villages in Wiltshire that would be wholly or partially within the national Park boundary. Whiteparish is one such village.

I enclose my photographic survey of the relevant paths around Mean Wood.

Whiteparish FP 20 walking from E to W

<https://picasaweb.google.com/N15GSR/WhiteparishFP20#>

Whiteparish FP 21 walking W to E

<https://picasaweb.google.com/N15GSR/WhiteparishFP21#>

Whiteparish FP 23 walking N to S

<https://picasaweb.google.com/N15GSR/WhiteparishFP23#>

They may not be of help to you, but hopefully they are of interest

Kind regards

[Graham Read](#)

Joint Group footpath Secretary, South Wiltshire Ramblers

Parish name: WHITEPARISH

Date: 27/09/2007

Page No: 1

NUM	PATH	GRID	INVENTORY	PROBLEM	DATE
1	Whit FP23	2509 2558	line of FP west of Mean Wood	Many unofficial/permisive paths in Mean Wood	27/09/07
2	"	2539 2477	waymark post & stile off. X road with FP21		"
3	"	2560 2449	single step stile (N) crossing Upper Cowesfield Farm road	No waymarks. Farm road is not a RoW	"
4	"	2561 2448	single step stile (S) crossing Upper Cowesfield Farm road	No waymarks. Farm road is not a RoW	"
5	"	2566 2417	single step stile onto Miles Lane		"
6	"	2566 2417	finger post opposite side of Miles Lane to stile	leaning over, no writing on sign	"
7	"	2573 2414	double finger post for FP off Miles Lane		"
8	"	2575 2415	slip thru by old locked wooden gate c/w waymarks		"
9	"	2577 2416	double electric fence gate with insulated handles across FP		"
10	"	2577 2416 to 2587 2423	Line of FP across field	no guiding waymarks, next stile not visible	"
11	"	2587 2423	double step stile c/w Beware of Bull, WCC dog signs		"
12	"	2587 2423	electric fence gate with insulated handle	difficult to open	"
13	"	2584 2442	single step stile and rails		"
14	"	2588 2461	single step stile c/w WCC dog, Beware of Bull & waymarks	no waymarks either way	"


Brickworth Road,
Whiteparish,
Salisbury, Wilts.
SP5 2QG

20th November 2016

Your Ref: SM/2016/10

Dear Sally,

Mean Wood

Thank you for your letter dated 15th November 2016. My experiences from visits to the wood are as follows:-

I moved to Whiteparish in early 1979 and it was not long before I was recommended by the locals to go for a walk in Mean Woods. This became a regular pastime over the next two years or so, for myself, my wife and my two stepchildren. We would start the walk at the top entrance and soon after entering the wood would take a right hand turn down a well-defined and used, narrow path that meandered through the mainly hazel coppice down the length of the plantation. This was a particular treat in Spring when the bluebells, and at the top of the wood the wild garlic, were in full bloom. This path took us to an open grass area which crossed the wood. Our return to the entrance was via the hard track which skirts the side of the wood. One of my stepdaughters, who was a keen horse rider also included Mean Woods on some of her outings. At no time during the many years we went to the wood were we stopped or advised that it was a no go area, we only met other walkers who quite often joined us on our walk. Also, there were no signs to say it was private or no mention of trespassing, there was nothing to suggest that it was not open to all.

During the 1990's and 2000's my job and hobby took me abroad on a fairly regular basis so my visits to the wood were more limited but, if I could, I would make a springtime pilgrimage to savour the bluebell spectacle. It never disappointed me! Again, over this period my visits were unhindered and to all intents and purposes things were as they used to be.

More recently I retired and decided that bluebells at Mean Wood were worthy of a springtime photograph. Much to my surprise and dismay, I found the entrance and its surrounds were bared, with the gate and fences laced with barbed wire – not the sort that is used around farmers' fields but more of the Fort Knox variety. Unbelievable, the pleasure this wood gave me now seemed to be a thing of the past!!!

It was great News to now hear that an effort is being made to get things back to what they were.

Kind Regards,


Keith Hobbs

3

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SU2525 : Path, Mean Wood

Related Images

near to Whiteparish, *Wiltshire, Great Britain*



Path, Mean Wood

Although the path is shown at the woods edge on the map, it clearly runs some distance inside the wood.



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2008

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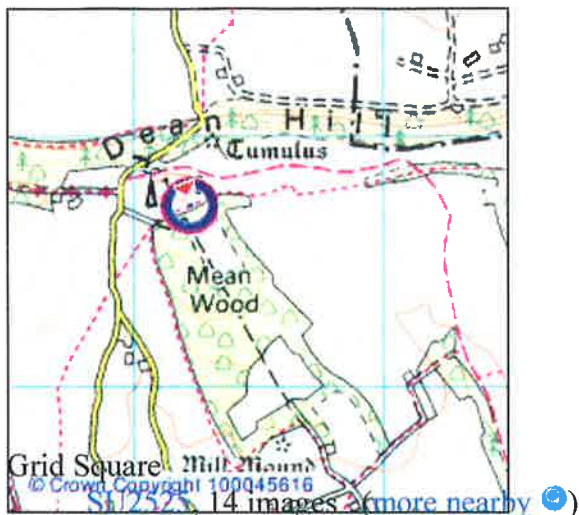
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Photographer

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Image classification:

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Date Taken

Tuesday, 18 November, 2008 ([more nearby](#))

Submitted

Thursday, 20 November, 2008

Category

Footpath ([more nearby](#))

Subject Location

OSGB36: [SU 252 251](#) [100m precision]

WGS84: 51:1.5048N 1:38.4980W

Photographer Location

OSGB36: [SU 252 251](#)

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Geograph - photograph every grid square

SU2525 : Path in Mean Wood

near to West Dean, *Wiltshire, Great Britain*

Related Images



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Path in Mean Wood

The footpath runs just inside the wood.



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year taken

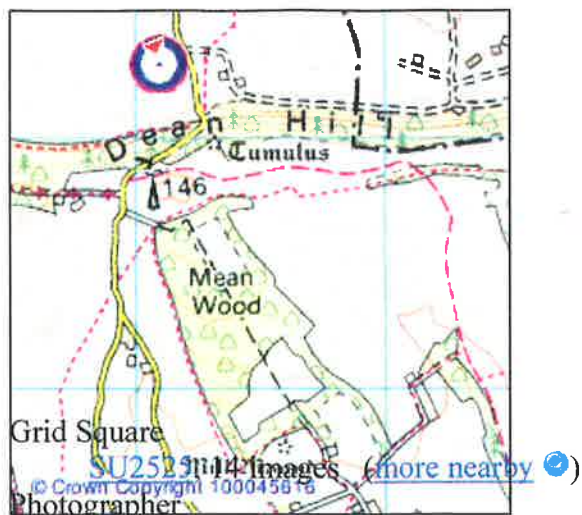
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Thursday, 20 November, 2008

Category

Footpath ([more nearby](#))

Subject Location

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WGS84: 51:1.7318N 1:38.6075W

Photographer Location

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[SU2425](#) : **Track to Mean Wood, Dean Hill**

near to West Dean, *Wiltshire, Great Britain*

Related Images



Track to Mean Wood, Dean Hill



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year taken
2007

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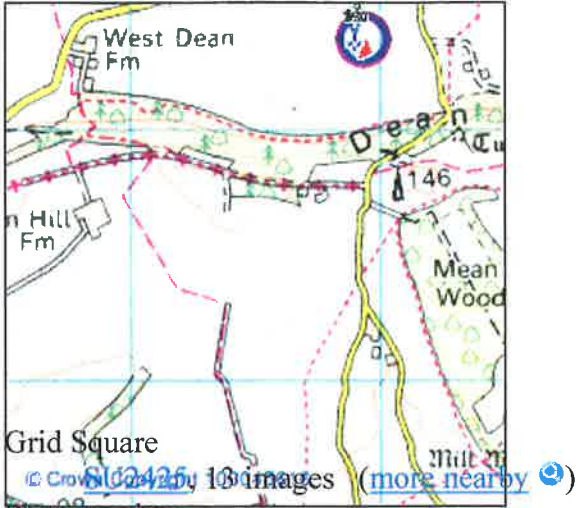
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Tuesday, 6 March, 2007 ([more nearby](#))

Submitted

Tuesday, 6 March, 2007

Category

[Track](#) > Track ([more nearby](#))

Subject Location

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WGS84: 51:1.8077N 1:38.7438W

Photographer Location

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Madgwick, Sally

From: John Herrett [redacted]
Sent: 28 November 2016 10:30
To: Madgwick, Sally
Subject: Application for adding Public Footpath at Mean Wood, ref. Sm/2016/10
Attachments: DSC_0010.JPG

Dear Sally

I note the article in "Steeple and Street", our Parish Magazine regarding the above application.

I have a photograph taken on this footpath in 2009, it is not date-stamped by as a digital image it has EXIF data embedded which includes the original date (19th April 2009). The path is visible on the left-hand side of the picture.

I will attach the photograph now, if you need me to fill in any forms or provide additional information please let me know.

Yours sincerely

John Herrett

[redacted] Common Road
Whiteparish
Salisbury
Wiltshire
SP5 2SX

Telephone: [redacted]
Mobile: [redacted]

5007
112007
2007
2007



Ms. S. Madgwick
Rights of Way officer
County Hall
By the sea Road
Trowbridge
Wiltshire.
BA14 8JN

Dean Lane
Whiteparish
Salisbury
Wiltshire SP5 2RW
Tel. [REDACTED]

(5)

25th November 2016

RE APPLICATION FOR AN ORDER TO ADD A
PUBLIC FOOTPATH AT MEAN WOOD,
WHITEPARISH, WILTSHIRE

Dear Ms Madgwick,


Thank you for your letter dated 15th
November 2016.

There is a point we would like to mention
When we moved to this area in June 2000
we asked the owner of the property we
eventually bought if there were any walks
locally where we could walk our dogs?
She replied that Mean Wood - a $\frac{1}{4}$ of a
mile away was ideal and a lot of the
villagers used the footpath frequently.
Mrs Butler had lived in our property for
thirty two years and had herself walked
with her dogs in Mean Wood.

At bluebell time as you can see
from the enclosed photograph (taken
April 2013) it was beautiful and not
being able to enjoy such a spectacle
is extremely upsetting!

We would like to add that we both
used this footpath almost on a daily
basis up to 2014 when we sadly were
told we no longer had access!

Yours sincerely,


MR & MRS JC. d'ORVILLE



(6)

Madgwick, Sally

From: John Dunlop [mailto:jdunlop@holmes.ac.uk]
Sent: 04 December 2016 16:17
To: Madgwick, Sally
Subject: Public footpath at Mean Wood, Whiteparish
Attachments: Mean Wood path photo.JPG

Dear Ms Madgwick,

Further to my original submission regarding use of the path in Mean Wood and to your letter to me of 15 November, I provide below some additional information. Please read this in conjunction with my original submission.

As requested I enclose a photograph of my daughter on the path in Mean Wood, which was taken about 12.5 years ago. That is, in Spring 2004. You will note that the path is clearly well used and distinct. While the photograph is not itself dated it is easy for me to accurately assess the date from my daughter's age.

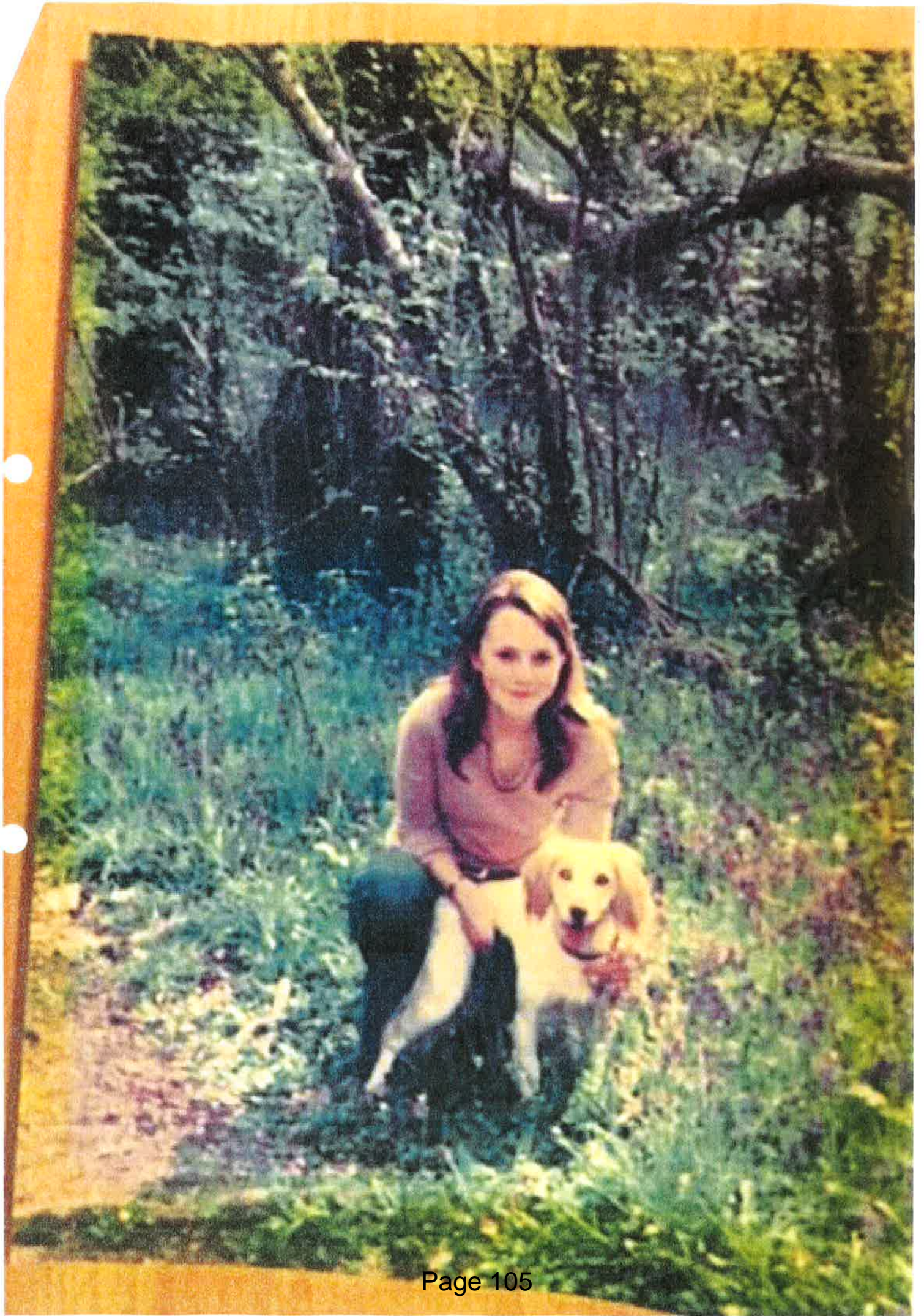
My family and I used the path frequently and at least once a month since 1998, until the path was blocked last year. On most walks along the path we would meet other walkers using the path in both directions.

We would indeed like to use the path again in the future to continue to enjoy its beauty.

I hope that this will assist you in your decision.

Regards

John Dunlop



(7)

Madgwick, Sally

From: [REDACTED]
Sent: 06 December 2016 18:44
To: Madgwick, Sally
Subject: Sm/2016/10

Dear Sally

I have used the path through Mean Wood, Whiteparish, from 1986 when I moved into the village until its closure with gates and wire in 2015. During this time no challenge or objection was ever made, and I know a great many other villagers used this path, particularly in May when the bluebells flower. The precise route has changed several times due to fallen trees across the path.

Regards

Jennifer Foster

(7)



1:3,000

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Madgwick, Sally

From: [redacted]
Sent: 30 January 2017 15:05
To: Madgwick, Sally
Subject: Mean Wood, Whiteparish

8

Good afternoon Sally

I have attached some photos that have been given to me by a couple of interested parties in the application for Mean Wood. The first two are from Sheila Harrison-King of Clay Street and the rest are from Chris Baker of Meadow Court. They both submitted user evidence forms so could you please attach these? I have put hard copies in the post for your attention today.

I was also dismayed to see that the Parish Council have lodged an objection to the application. None of the group of applicants were aware that they had it minuted for discussion or we would have attended their meeting to hear what was said. I am surprised that the chair of the Parish Council did not declare a conflict of interest - he was, for many years, manager of the adjoining farm and must know the landowner in this case very well.

I hope we have done enough to demonstrate the regular and unchallenged use of this path to make their objection worthless! Many thanks for all your advice over this case - I look forward to hearing the legal wheels turn!

Regards
Trudi Deane



11-05-2018



11-05-2018

8

Hi Treadie,

As promised on the e-mail 3 hard copies
of the Meap Woods bookpull. Taken
by myself April 2009.

Took some binding but got there in the
end!

Best regards,

Chris

~~XXXXXXXXXX~~

APRIL 2009







Madgwick, Sally

Subject: FW: Application 2016/10

9

From: CLAYDON [REDACTED]
Sent: 09 December 2016 09:30
To: rightsofway
Subject: Application 2016/10

Dear Rights of Way Team

Re: Application 2016/10 Modification of definitive map regarding a right of way through Mean Wood in Whiteparish

I have been resident in Whiteparish for over 40 years and this application to assign a Right of Way to what has always been accepted to be a Permissive Path is, in my view, misguided.

The Landowner has always shown the courtesy of permitting those who wished to walk through the private woodland known as Mean Wood, particularly at the time of bluebells in full flower. That this courtesy has been withdrawn, for whatever reasons, is entirely within the right of the landowner. That the privilege of wandering through the delightful woodland has been withdrawn may in part be related to the damaging habit of new routes being created at will by some of those who have walked through the woods.

It should be noted that existing Right of Way Footpath 23 runs along the entire length of the western side of Mean Wood running in fact parallel and within a few yards of the route that is the subject of this application. Footpath 23 would appear to provide a more than adequate access from Footpath 21 up to Footpath 20. From an environmental impact point of view Footpath 23 is considerably better.

However sad it is to have lost the permissive path there can be little reason for it to be given any definitive rights of way within yards of Footpath 23.

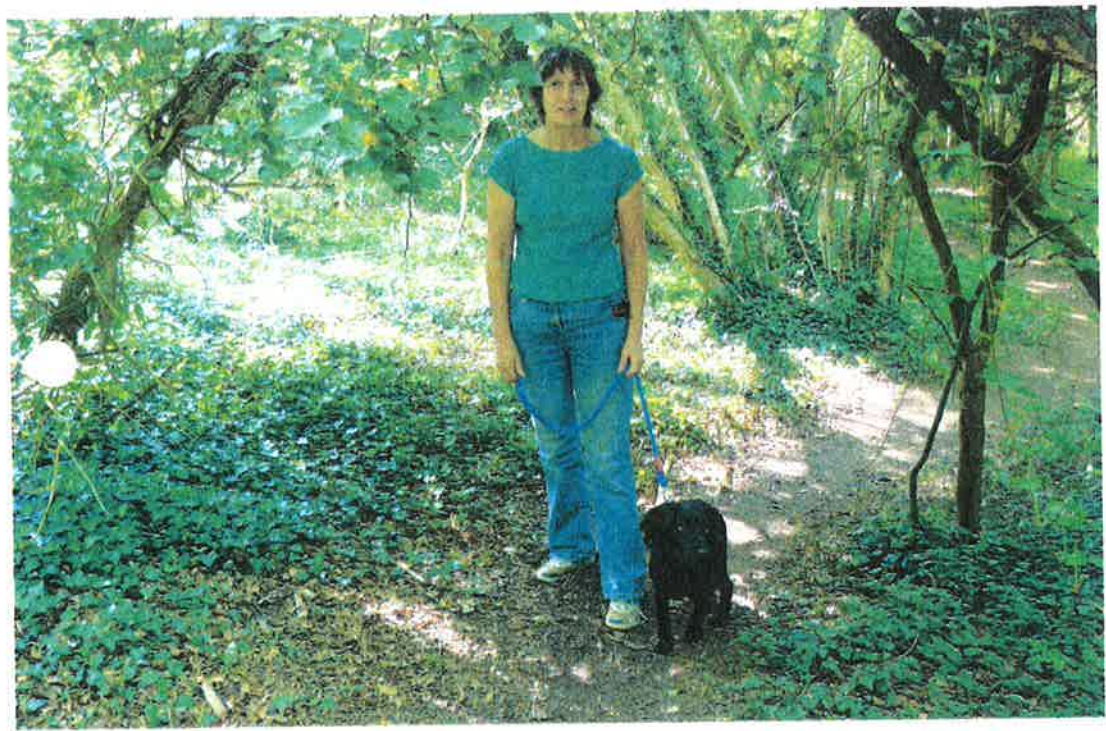
Yours sincerely

Peter Claydon



May 2013.

~~WILLIAM~~ KING
HARRISON
SHEILA



11.05.2008.

~~8 9 11~~

SHEILA HARRISON KING

~~1~~
KING
N

Madgwick, Sally

From: Madgwick, Sally
Sent: 22 December 2016 10:53
To: [REDACTED]
Subject: RE: Mean Wood, Whiteparish application

10

Dear Mrs Pennington

Thank you for your response. If the Parish Council has any evidence of permission being granted (perhaps entries in minutes?) then please could you let the Council have sight of it.

Best regards

Sally

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

Tel. 01225 713392

sally.madgwick@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

Follow Wiltshire Council



From: MARIA PENNINGTON [REDACTED]
Sent: 21 December 2016 11:27
To: Madgwick, Sally
Cc: Britton, Richard; Cowen, Nick; 1 TREVOR KING
Subject: Mean Wood, Whiteparish application

Dear Ms Madgwick,

Whiteparish Parish Council object to the application for an Order to add a public footpath at Mean Wood, Whiteparish to the definitive map and statement.

This was a unanimous decision and Whiteparish Parish Council has always understood this was a permissive footpath.

We would appreciate if you could please acknowledge receipt of this response.


Cowesfield
Whiteparish
Wilts SP5 2QR
Tel 01794 884546

(11)

Sally Madgwick
Rights of Way Officer
Wiltshire Council
Bythesea Road
Trowbridge
Wilts BA14 8JN

9 January 2017

Dear Ms Madgwick

Objection to Footpath Modification at Mean Wood, Whiteparish

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement. I do not agree with this footpath being added to the definitive map. I am a neighbour of the owner.

You will see from the attached plan that the path starts at the southern end of Mean Wood within 10/15 metres of where footpaths 23 and 21 cross. The path goes through the wood running parallel to footpath 23 and about 10/20 metres of it ending close to where path 23 meets path 20.

I moved to the village of Whiteparish in 1993 and have walked the footpaths in the area since that time, including the path at Mean Wood. However, the land owners, whilst giving me, my family and friends verbal permission to use the path back in 1993, made it clear that the path through Mean Wood was permissive hence I have always been aware of its status and, as such, that access could be withdrawn at any time.

I have walked the path over the years with friends and family and on the rare occasions we have met anyone, I cannot recall them stating it was a public right of way. My understanding is that it was well known as a permissive path only.

We have many permissive paths in this area and my concern is that if this application was successful then landowners in my local area and no doubt further afield, will no longer be prepared to have permissive paths across their land and those that do, are likely to want to withdraw them as soon as possible.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours sincerely




(Sales Manager - retired)
Att



12

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

E mail. sally.madgwick@wiltshire.gov.uk

11th January 2017

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Mrs Emily Jayne Carey, [redacted], Cowesfield, Salisbury, Wiltshire, SP5 2QX. Telephone Number: [redacted] Mobile: [redacted], Email: [redacted] Occupation: Account Director

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it, ending close to where path 23 meets path 20.

I am a neighbour of the owner.

I became aware of the existence of the path in April 2012 and first started using the path when we moved into our acquired current residence in November 2012 and have used it since then on a regular basis. I knew this was not a public footpath and subsequently not a public right of way open to all. I was given the landowners permission for myself and my family to use the path by verbal agreement in November 2012. We used the path on a weekly basis.

I often encountered other users on the path and always asked them if they had the landowners permission to use the path and they were of the belief it was a public right of way, of which I informed them it was not the case. I pointed out that there is a definitive map on the Whiteparish website in addition to readily available Ordnance Survey Maps. I told them that it was a permissive path and that the land owner had given me permission to use it. I told them that it was not a Public Right of Way.

On more than one occasion I have actually showed people on the Ordnance Survey Map that this is not a public right of way. No-one I asked using the path confirmed they had the landowners permission to use the path.

The land owner gave me and my family permission to use the path. He knew it was not a public right of way and it has never featured on Ordnance Survey Maps .

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Kind Regards,

[redacted signature]

Mrs Emily Carey

Date: 10th January 2017

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

E mail. sally.madgwick@wiltshire.gov.uk

11th January 2017

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Mr Robert Armstrong Carey, [REDACTED] Cowesfield, Salisbury, Wiltshire, SP5 2QX. Telephone Number: [REDACTED] Mobile: [REDACTED] Email: [REDACTED] Occupation: Dental Technician

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

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The land owner gave me and my family permission to use the path. He knew it was not a public right of way and it has never featured on Ordnance Survey Maps .

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Kind Regards,

[REDACTED]

Mr Robert Carey

Date: 10th January 2017

14

[REDACTED]
[REDACTED]
Cowesfield
Whiteparish
Wilts SP5 2QR
Tel [REDACTED]

Sally Madgwick
Rights of Way Officer
Wiltshire Council
Bythesea Road
Trowbridge
Wilts BA14 8JN

7 January 2017

Dear Ms Madgwick

REF Sm/2016/10 Objection to Footpath Modification at Mean Wood, Whiteparish

With reference to the Application for an Order to add a public footpath at Mean Wood, Whiteparish to the definitive map, I would like to state that I am unable to support this application.

Please see the map showing clearly the proposed footpath to be added to the definitive map marked in red attached to this statement. As you can see, the path starts at the southern end of Mean Wood within 10/15 metres of where footpaths 23 and 21 cross. The path goes through the wood running parallel to footpath 23 and about 10/20 metres of it ending close to where path 23 meets path 20.

I moved to the village of Whiteparish in 1993 and have walked the footpaths in the area since that time, including the path at Mean Wood. However, the land owners, whilst giving me, my family and friends verbal permission to use the path back in 1993, made it clear that the path through Mean Wood was permissive hence I have always been aware of its status and, as such, that access could be withdrawn at any time.

I have walked the path over the years with friends and family and have never met any walkers who stated it was a public right of way. Certainly local friends who have walked with me knew the status of the path to be permissive.

If this application was successful it would discourage land owners from agreeing to have permissive footpaths across their land and result in less footpaths not only in my local area but in the County and Country.

I am a neighbour of the owner and whilst we share the same surname, we are not related.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours sincerely

A black rectangular redaction box covering the signature of Sally Newman.

Sally Newman
(HR Manager - retired)

Att



15

Christine Elizabeth Wood

[REDACTED]
Whiteparish
Salisbury, Wiltshire
SP5 2QX
10th January 2017

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

Dear Sally Madgwick

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Christine Elizabeth Wood

[REDACTED]
Whiteparish
Salisbury
Wilts
SP52QX

Telephone [REDACTED]

Occupation - Bookkeeper

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement. The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it ending close to where path 23 meets path 20.

I have lived at the above address which is close to Mean Wood since March 1976 and have frequently walked in the woods using the path in the attached plan. During the last 40 years I have used the path, with family, friends and on my own, on average once or twice every month, depending on the weather. I have always understood that the path was not a public right of way, that it has never appeared as a public right of way on any OS map, and that I could only access the path because I had the verbal permission of the landowner.

Occasionally there were other walkers using this path and some of them were unaware that they were actually on private land and that the path was not a public right of way.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours sincerely

A black rectangular redaction mark covering the signature of Christine Elizabeth Wood.

Christine Elizabeth Wood



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

Andrew Peter Wood
[Redacted]
[Redacted]
55 Wellington road
Bournemouth
BH88JL
16 January 2017

Dear Sally Madgwick

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Telephone [Redacted]

Occupation IT Specialist

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it ending close to where path 23 meets path 20.

Between May 1988 and 2006 I lived at my parents home at 2 Hillside Cottages , Whiteparish, Salisbury, SP5 2QX which is close to Mean Wood. During that period I walked in the woods using the path in the attached plan with my parents, while younger, and in later years on my own or with my brothers and friends. Access to the wood and the path were with the permission, given verbally, by the landowner to my parents who the landowner also granted access to members of the family. It was made clear by my parents that the path was not a public right of way and that I could only access the path with the permission of the landowner.

Over the years, while at home, I used the path often mainly during summer months. When I visit my parents I will still take advantage of the path through the woods. I last walked the path with my girlfriend and her dog in October 2016.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours Faithfully



Andrew Peter Wood



17

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

James Denholm Wood
[REDACTED]
Whiteparish
Salisbury
Wiltshire
SP52QX
19th January 2017

Dear Sally Madgwick

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Telephone [REDACTED]

Occupation Car Salesman

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it ending close to where path 23 meets path 20.

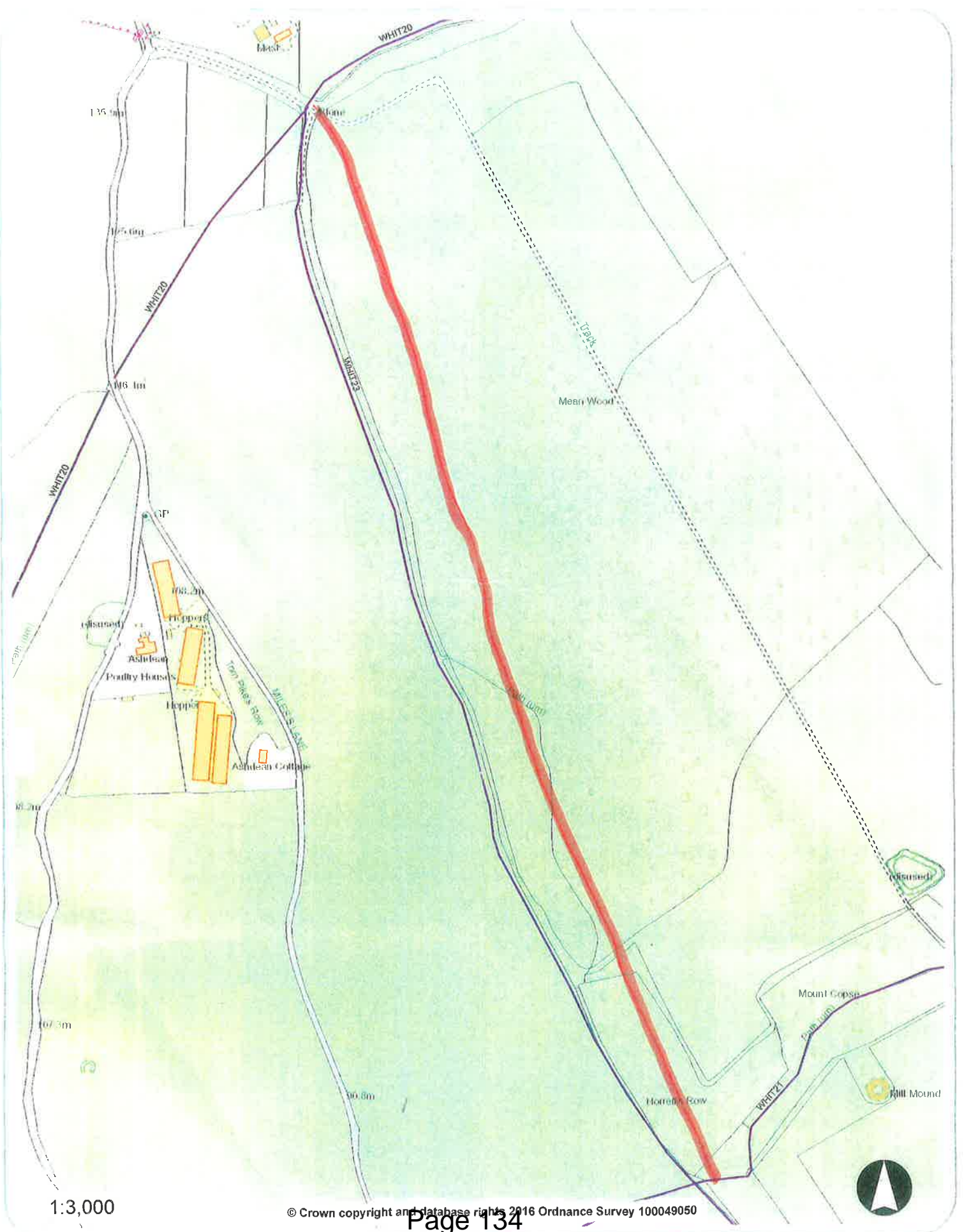
Since May 1988 and 2006, apart from periods working away, I have lived at my parents home at the above address which is close to Mean Wood. During that period I walked in the woods using the path in the attached plan with my parents, while younger, and in later years on my own or with my brothers and friends. Access to the wood and the path were with the permission, given verbally, by the landowner to my parents who also granted access to members of the family. It was made clear by my parents that the path was not a public right of way and that I could only access the path with the permission of the landowner.

Over the years I have used the path often, while younger, mainly during summer months. Although I do not use the path currently due to work pressures I will still, very occasionally, take advantage of the path through the woods. I last walked the path over the Christmas period.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours Faithfully [REDACTED]

James Denholm Wood



1:3,000

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18

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

Dennis William Wood

[REDACTED]
Whiteparish
Salisbury
Wiltshire
SP52QX

18 January 2017

Dear Sally Madgwick

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Dennis William Wood

[REDACTED]
Whiteparish
Salisbury
Wilts
SP52QX

Telephone [REDACTED]

Occupation Retired

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it ending close to where path 23 meets path 20.

Since March 1976 I have lived at the above address which is close to Mean Wood. Since then, soon after that date, I have frequently walked in the woods using the path in the attached plan. Access to the wood and the path were with the permission, given verbally, by the landowner who knew this was not a public right of way and has never appeared as such on any OS maps. My understanding was and is that the path was not a public right of way and that I could only access the path with the permission of the landowner.

Over the years I used the path, on average, every few weeks, sometimes more frequently depending on time of year or the weather. I last walked the path a week ago.

During these walks I have occasionally met other people on the path. It was clear to me in conversations with some of the walkers that they were unaware that they were on private land

and unaware that the path was not a public right of way. Generally I would refer anyone to the Whiteparish website which shows exactly the location of public paths in the area.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours Faithfully

A black rectangular redaction mark covering the signature of Dennis William Wood.

Dennis William Wood



1:3,000

[REDACTED]
[REDACTED]
[REDACTED]
London W4 1TU

19

19 January 2017

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

E mail. sally.madgwick@wiltshire.gov.uk

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

My name is Gilbert Thompson (dob [REDACTED]), my contact details are as shown above and I am an Emeritus Professor in the Faculty of Medicine of Imperial College London.

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

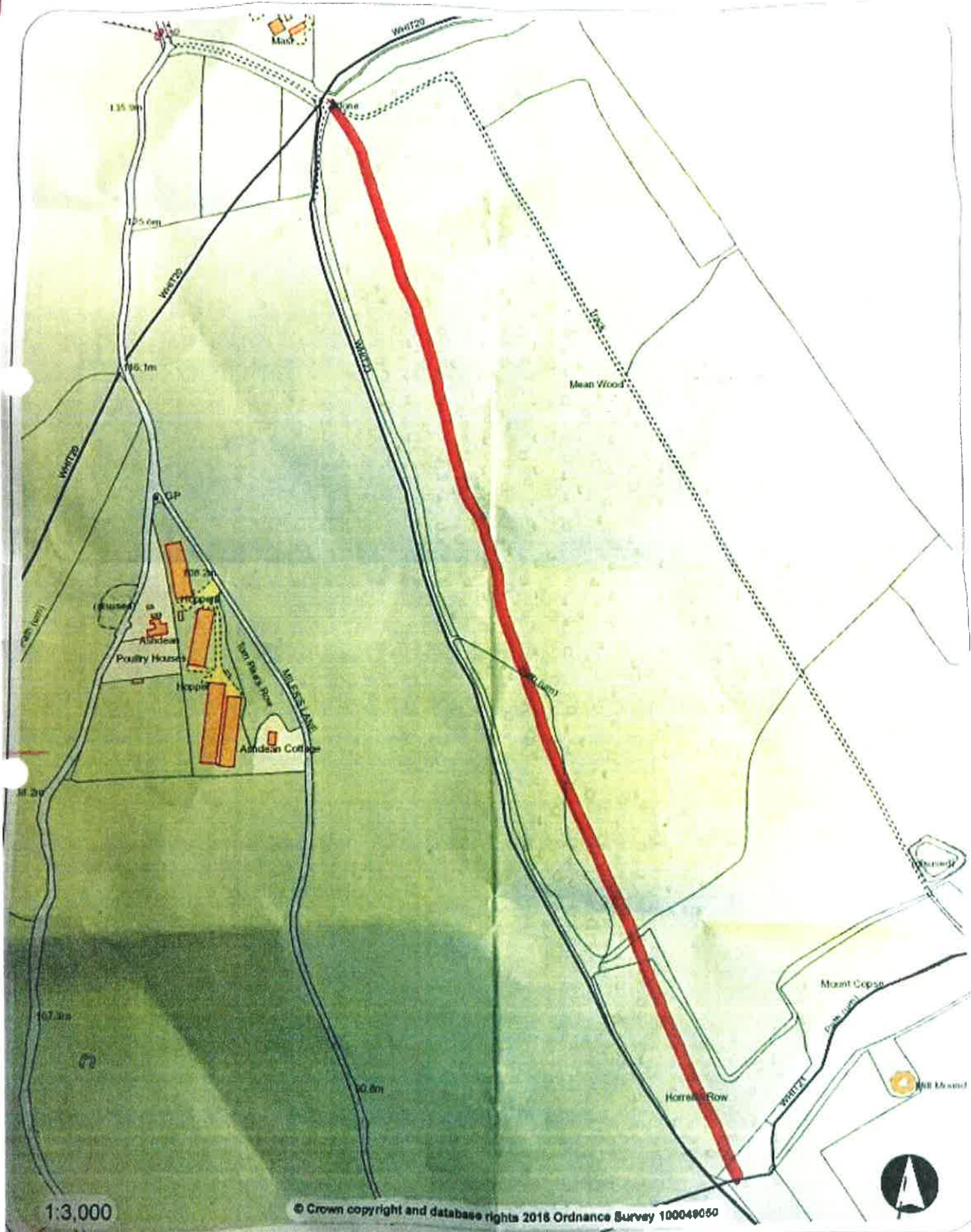
The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it., ending close to where path 23 meets path 20.

I am aware that this is a permissive path over private woodland to be used only with the owner's permission and that it is not a public right of way.

The path (marked red on the attached plan) crosses land that our shooting syndicate rents from Mr Newman. I have been a member of the syndicate (The Whiteparish Shoot) for the past 18 years and have been shooting over Mean Wood every third Saturday during the shooting season. I have never seen a member of the public using the permissive path in Mean Wood and believe it would be dangerous for anyone to do so during a shoot. I also worry about the safety of any dogs accompanying a walker, which in turn might harm the wildlife eg badgers, deer in Mean Wood. These safety concerns are the main reasons for my objection to the proposal to make the footpath a public right of way.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

[REDACTED]
[REDACTED]
[REDACTED]
Professor Gilbert Thompson MD, DSc, FRCP



[REDACTED]
[REDACTED]
Botley Road,
Fair Oak,
Hants. SO50 7AN.

20

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

20th January, 2017.

From Elizabeth Davis, [REDACTED] Retired. DOB [REDACTED]
[REDACTED]

Dear Ms Madgwick,

Objection to Footpath Modification Order at Mean Wood,
Whiteparish.

Before his death in late October of last year my late husband Christopher Davis was a leading member of the Whiteparish Shoot for nearly 50 years. Over this time we have worked together on both the Shoot Days and all the various other activities involved so I feel I can speak on his behalf and also mine.

The Shoot is much more than the six or seven shoot days in the season. On those

days about 25/30 people are involved, plus a large number of dogs, some guns some walking and beating and also some providing refreshment. We spread out through Mean Wood and walk through in an orderly and organized manner. Very much pleasure and much healthy exercise combined with, we hope, enough prey to provide a meal to take home.

For the rest of the year we have our Keeper working on supporting the birds, and enhancing the woodland environment and also we have work parties in order to help the work-load. What we do does not just support the shooting but does a great deal for conservation and we are proud of the fact that by putting down food after the end of the shooting season and clearing the paths and undergrowth and encouraging growth of brambles in the right places we support the wild bird population and also the deer and squirrels. We are very keen to encourage the butterflies and are always keeping an eye for any injured wild life. We look after the area with pride.

If you allow a footpath through the wood then all this will be impossible. When we do see walkers- luckily not many - they are nearly always preceded by their dogs and they seem to have no perception of the harm dogs can do being left to rush around happy, of course, but free to trample indiscriminately. They disrupt birds and animals. They pick the bluebells and primroses and violate this peaceful place.

Our members and followers come from a wide range of people, ages and from as

far away as London, Cardiff and the outskirts of Southampton. We have always made a point of encouraging youngsters and a 7 or 8 mile walk on a Saturday is much better in our opinion than sitting indoors and being bored. We therefore have members who are grandfathers (and yes we did know their fathers) who are delighted to spend the day with their sons/daughters and in turn their youngsters.

The Land owner does not want to loose us as tenants and we desparately do not want to loose what has given such pleasure for so long.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Signed.

ELIZABETH M DAVIS 20-1-2017.

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

21

E mail. Sally.madgwick@wiltshire.gov.uk

22/01/2017

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Jonathan Davis, [REDACTED], Efail Isaf, Pontypridd CF38 1AP

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it ending close to where path 23 meets path 20.

I am aware that this is a permissive path over private woodland to be used only with the owner's permission. It is not a public right of way.

The path marked red on the plan crosses land that our shooting syndicate rents from Mr Newman. My father was a founding member of the shoot and I have been a frequent participant to shoot days and had open access to this land for over 40 years. Whilst I now live away from the area I still visit frequently and my two children have used the woodland since they were born.

During that time I have on only a few occasions seen members of the public walking along the proposed footpath, the vast majority of walkers seem perfectly happy to walk on the existing public footpath that runs along the boundary of the woodland.

The walkers whom I have encountered, have frequently had dogs running freely and uncontrolled this in its self causes significant damage to the woodland and danger to the wildlife especially badgers, foxes and deer. The path on the field boundary minimises this impact, moving it inside would increase the problem and ultimately may result in native resident animals moving away from the area.

This woodland is a managed area predominantly for use as shooting but a major part of that work is improving the overall habitat and therefore biodiversity of the area. If you do walk the woods it is clear to see the above average variety and numbers of all animals that are a result of over 50 years of woodland management.

In terms of shoot days, we utilise the whole of the wood and spread out throughout the area to be covered by the footpath on a number of "drives". Whilst the syndicate puts safety above all else and we always work on the principle that there could be members of the public in the area, opening this up fully as a footpath would undoubtedly increase the risks and would likely mean that the current use of the

woods would have to be changed or even stopped. This would not only bring an end to a shoot syndicate that has been in existence for over 50 years and currently enjoys welcoming the 4th generation of some member family's but would also cause a loss of income to the landowner. The end result would also be that the woodland would not be managed going forwards with a subsequent impact on the natural environment.

I am always in favour of access to the countryside when done in a controlled and compatible way that ensures that the main uses of the land are un-effected or at least a proper balance of both public and private interests is met.

In this instance the existence of a footpath so close to the proposed new route seems to offer little if any public access benefits, whilst causing significant impact to the current land use and users. As such I would like to register this formal objection to the proposal on the basis that it offers no real public access benefit and would cause significant impact to the usage, value and environment of Mean wood.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Your Sincerely

Jonathan Davis

Sally Madgwick
Rights of Way and Countryside Waste and Management
County Hall
Bythesea Road
Trowbridge
BA14 8JN

22

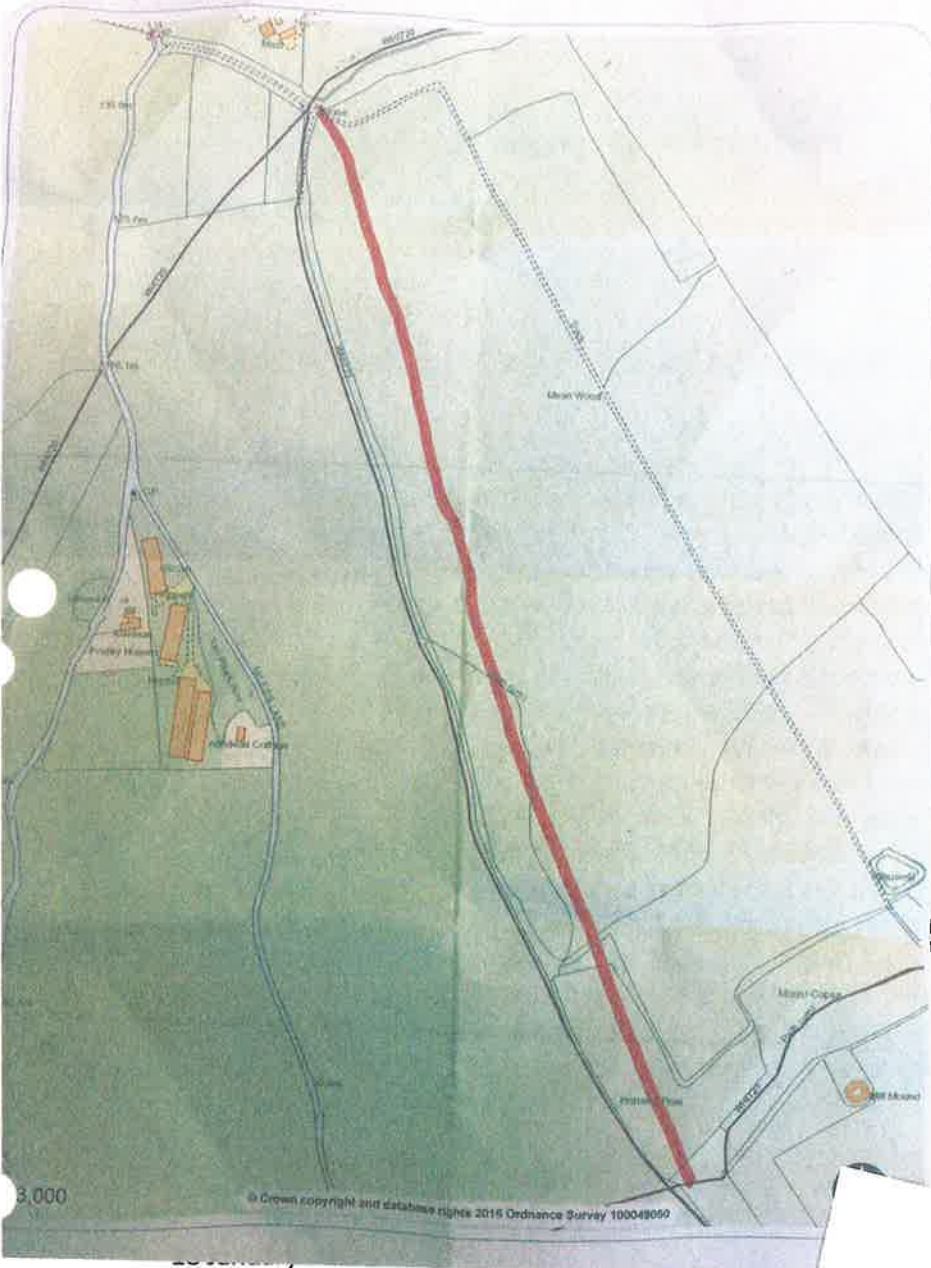
Objection to Footpath Modification Order at Mean Wood, Whiteparish

This witness statement is made by Philip Charles Curtis of [REDACTED], Stony Lane, Holwell, Sherborne, DT9 5LJ. I am a retired officer of Customs & Excise and can be contacted on [REDACTED] [REDACTED]. From April 1977 until December 1982 I lived in a property named "Mole End" which is situated adjacent to the track that runs alongside Mean Wood and approximately 100 metres south of Mount Copse. Throughout this time my wife and I walked through Mean Wood, Mount Copse and surrounding fields with the verbal permission of the land owner. The path marked in red on the plan attached to my statement appeared to be very lightly used judging from its condition. I do not recollect seeing another person in Mean Wood during the time I walked through it, along the path marked in red on the plan, whilst exercising our dog. I always believed that no right of way existed along that footpath because it was not shown on the OS map. During the summer I walked through Mean Wood on at least a weekly basis but during the winter about once a month, at weekends. During the time we lived at Mole End I knew of only three other properties whose occupants used the subject footpath with the permission of the landowner. These were the Angels who lived at Home Farm, The Woods who lived next to Mole End and Jack Chant who lived in a caravan on the land owner's property. Jack Chant worked informally for the land owner and the location of his caravan provided some security against opportunist theft and damage. On one occasion Jack Chant was assaulted when he confronted persons he believed were poachers and this was reported to the police. I believe that the land owner was very concerned about access to his property because of such risks. I hereby certify that to the best of my knowledge and belief the facts I have stated in this statement are true.

[REDACTED]
PHILIP CHARLES CURTIS

18 January 2017

22



Whiteparish

[Redacted] Stony Lane, Holwell, Wiltshire can be contacted on 01963 251111. The path is named "Mole End" which is a narrow path approximately 100 metres south of the road through Mean Wood, Mount Copse and Hill Mound. The path marked in red on the map is in a poor condition. I do not know if it has ever been walked through it, along the path marked in red. I have believed that no right of way existed along the path. During the summer I walked through it once a month, at weekends. The properties whose occupants used to live there were the Angels who lived at Hill Mound and the owner who lived in a caravan on the site. The location of his property is shown on the map. On one occasion Jack Chant visited the site and this was reported to the council. I believe the facts I have stated in this

23

[REDACTED]
Cowesfield
Whiteparish
Salisbury
Wiltshire
SP5 2QY

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

20th January 2017

Dear Ms Madgwick,

**Objection to Footpath Modification Order at Mean Wood, Cowesfield,
Whiteparish.**

It has been brought to my attention that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it., ending close to where path 23 meets path 20.

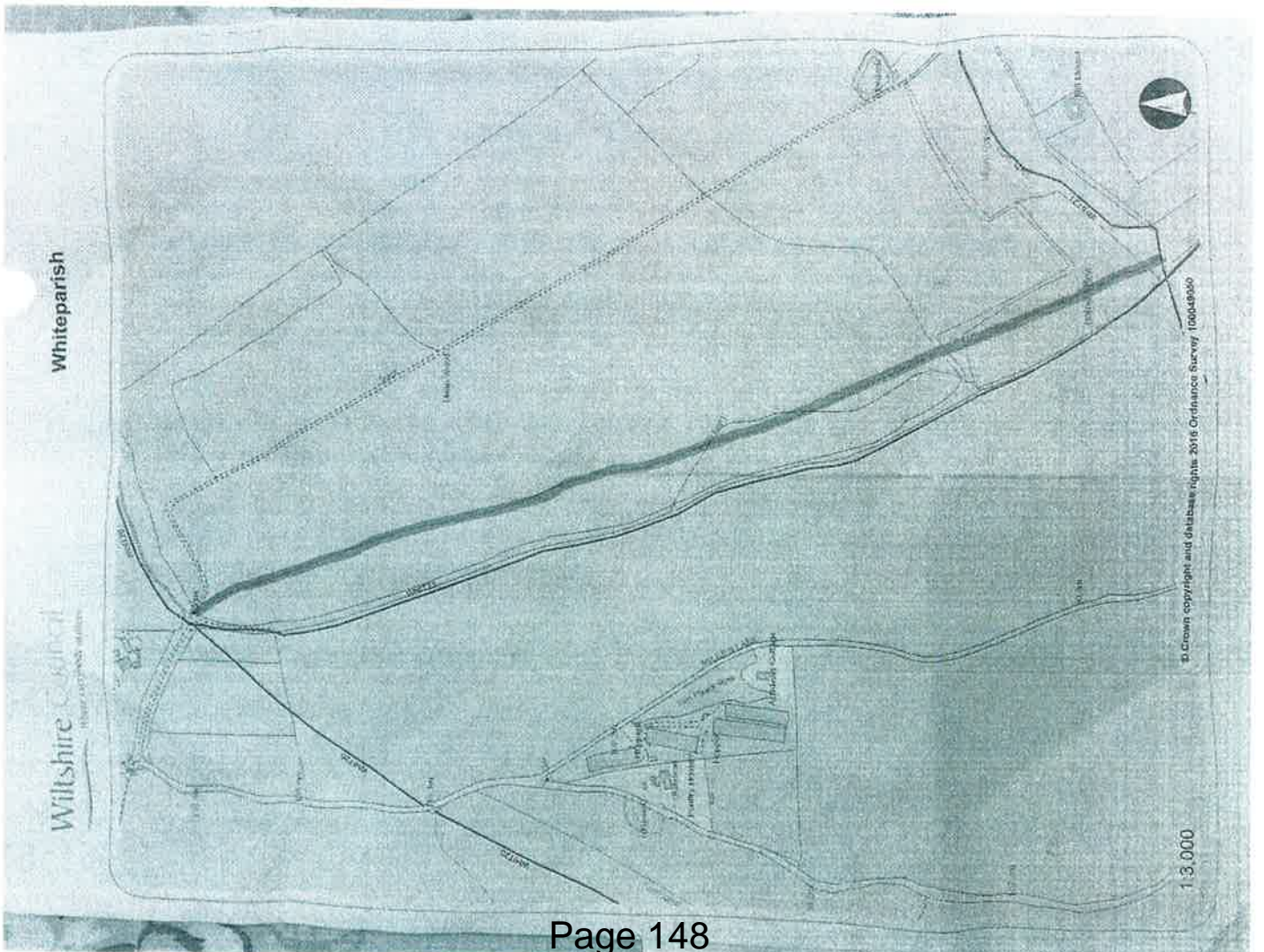
My Grandfather moved to Home Farm, Cowesfield in 1931 and I have lived here all of my life. I am aware that this is a permissive path over private woodland to be used only with the owner's permission. It is not a public right of way. My family were given verbal permission to use the path by the current owners father and I have used the path since I was a child in the 1950's. When I was younger I would ride my horse on the path and more recently use it approximately weekly to exercise my dogs.

I would occasionally see other users on the path, mainly neighbours, such as a family who used to live in Hill Side cottage. Who to the best of my knowledge were also given permission to use the path by the owners.

I have never seen the path featured on any Ordnance Survey Maps, and have always been of the opinion that this was not an official footpath and that some of the users had not been given permission.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

[REDACTED]
Geraldine Cobern [REDACTED]



Whiteparish

Wiltshire

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1:3,000

[Redacted]
Hythe Marina Village
Hythe
Southampton

24

Email: [Redacted]

19/1/2017

Mrs Sally Madgwick,
Rights of Way & Countryside Waste & Environment,
County Halls,
Bythesee Rd.,
Trowbridge,
BA14 8TN

Dear Mrs Madgwick,

Re: Objection to Footpath Modification
Order of Mean Wood, Whiteparish

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

I am aware that this is a permissive path over private woodland to be used only with the owner's permission. It is not a public right of way.

The footpath marked red on the plan crosses land that our shooting syndicate rents from Mr. Newman.

I am now 73 years of age and have been involved in shooting Mean Wood when I was 10 and under the instruction of my father, Mr. R.F. Webb, who was a member of the syndicate at that time, until the present day. In all that time I have never met any members of the public in that area.

I am most concerned that opening up this part of the wood would cause safety problems for everyone including the animals and birds that make Mean Wood their home.

I cannot see that this modified order will be of any benefit to anyone.

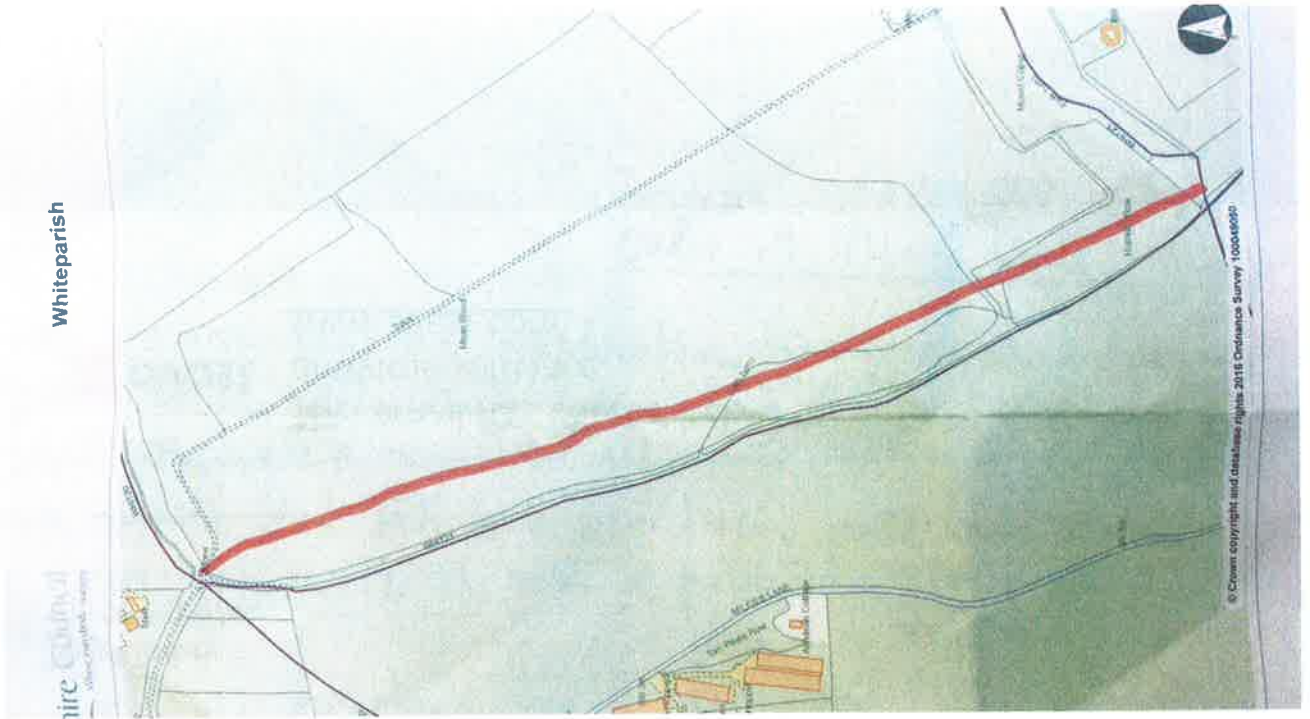
I hereby certify that, to the best of my knowledge and belief the facts that I have stated in this statement are true.

Signed:-

A black rectangular redaction box covering the signature of John Sherwood Webb.

JOHN SHERWOOD WEBB (Retired Company Director)

19TH January 2017



25

Dr. David Sutton FRCA
Consultant Anaesthetist

[REDACTED]
West Dean
Salisbury
Wiltshire
SP5 1HP

Tel: [REDACTED]

Mob: [REDACTED]

Email: [REDACTED]

19 January 2017

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

Dear Ms. Madgwick,

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement. The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it., ending close to where path 23 meets path 20.

The path marked red on the plan crosses land that our shooting syndicate (The Whiteparish Shoot) rents from the land owner, Mr Bradley Newman. This shoot has been active in Mean Wood for many decades and has, in that time, maintained the wood to the benefit of all users, clearing pathways and tracks, opening up clearings to encourage wildlife and generally improving the environment.

I am aware that this is a permissive path over private woodland to be used only with the owner's permission. It is not a public right of way. I am concerned that creating a Public Right of Way through the wood will have a number of adverse consequences, including:

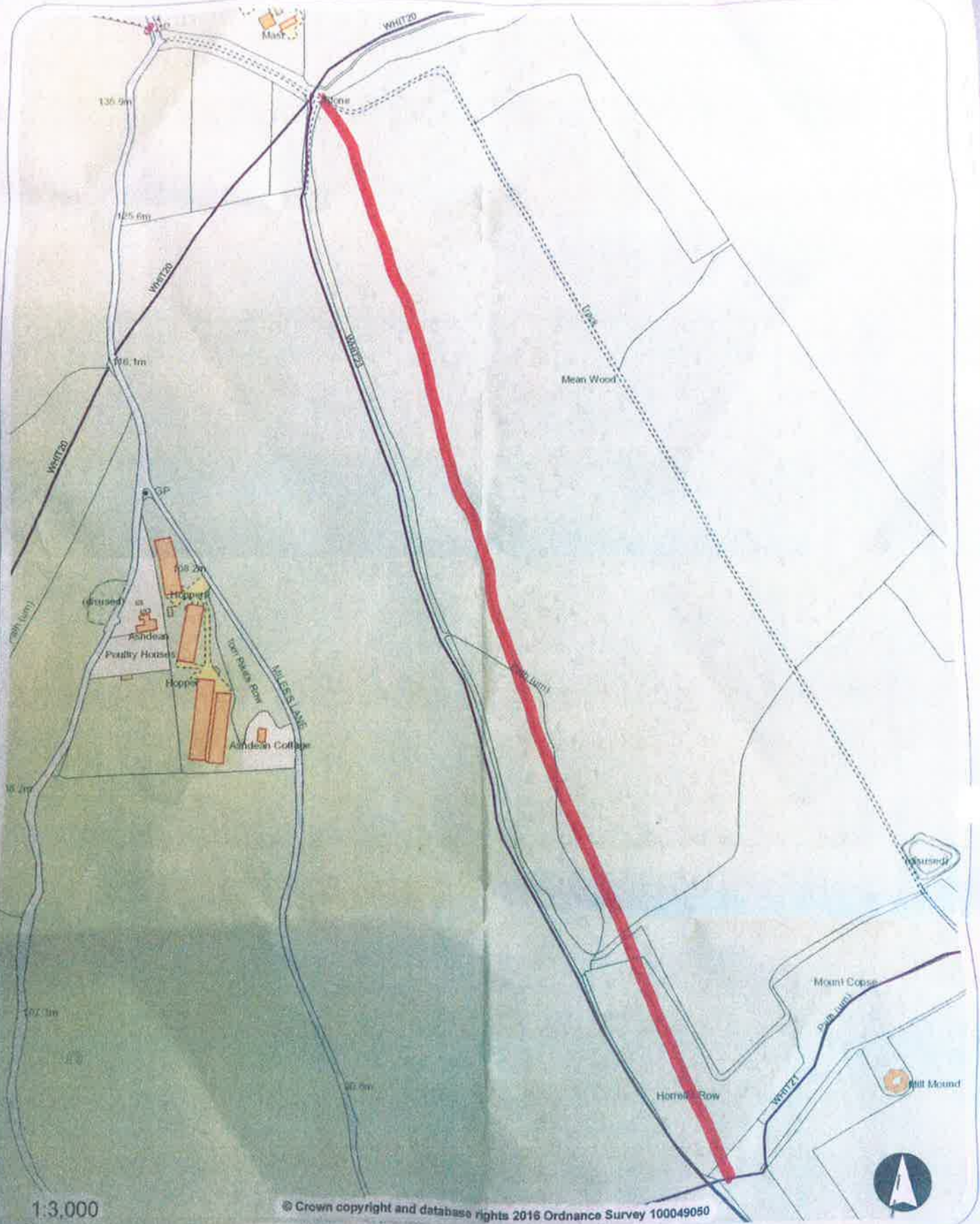
- Safety of walkers during shooting days, in woodland with obscured lines of sight
- Disturbance to wildlife
- Disturbance to game birds and feeders

As there is an alternative path in use, I do not feel a Public Right of Way through the wood is required or desirable.

Regards,

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

Dr. David Sutton



26

C.S. Yates

[REDACTED]
Hedge End,
Southampton.
SO304QQ

Tel: [REDACTED]

20th January 2017

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Dear Sir / Madam

I am Christopher Scott Yates and reside at the above address, my date of birth is [REDACTED] and I am a retired Detective Sergeant of the Hampshire Constabulary.

I am not a paying member of the group known as "The Whiteparish Shoot" but regularly act as a "beater" using my Springer Spaniel to flush birds for those shooting or "picking up" in which case I stand behind the guns and use the dog to retrieve shot game. I joined the Whiteparish shoot in this capacity in 2015 and attend every Saturday between October and the 1st February, which is the last day of the season although not always a Saturday. As such I have attended Cowesfield Farm and in particular Mean Wood once every three weeks during that period.

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement which I produce with an identification Reference of CSY/1. The path starts at the southern end of Mean Wood within 10 to 15 meters of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 meters of it, ending close to where path 23 meets path 20.

I am also aware that this is not a public right of way, this is a permissive path over private woodland to be used only with the owner's permission and as such the path marked in red on the attached plan crosses land that our shooting syndicate rents from the land owner, Mr. Newman.

Before a shoot commences a safety briefing is given to all participating and during a shoot there would be a number of 'beaters' working their dogs through these woods along with persons shooting in the woods. The other persons shooting would be stood in the opening surrounding Mean Woods in the hope that game would be flushed in their direction.

On every occasion that I have been present (2 seasons) I have never seen anyone walking along the path marked in red on the attached plan. If I had I would definitely have spoken to them, not only as it is private property but also as a concern for their safety as persons were shooting in that area. The law does not allow a person to carry a loaded shotgun in a public place for obvious

reasons, so a member of the public wandering onto private land where persons are not only in possession of a loaded shotgun but discharging them would always be a concern for safety.

I submit this statement with attached plan (ID Ref: CSY/1) for your consideration.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Signed 

Date. 20-01-2017

CHRISTOPHER SCOTT YATES




Objection to Footpath Modification Order at Mean Wood, Whiteparish.

George Lazarus

18/01/17

27


Common Road
Whiteparish
WILTS
SP5 2RE


Occupation: Agricultural Engineer

DOB: 26/09/69

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement. The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it, ending close to where path 23 meets path 20.

Since moving to the village 19 years ago and being a keen dog walker I have always been aware that there was no official footpath through Mean wood along the red line shown. Though I would occasionally use this route in the knowledge I was perhaps trespassing as the route was not shown on the map as a footpath.

When later, about 10 years ago I met the land owner Mr Newman he told me that it was a private wood with no public right of way and that the path was permissive. He was kind enough to give me and anyone accompanied by me permission to use the path shown.

I only occasionally walk this route, perhaps a couple of times a year, the last time being autumn 2016 and do not recall meeting anyone on this path.

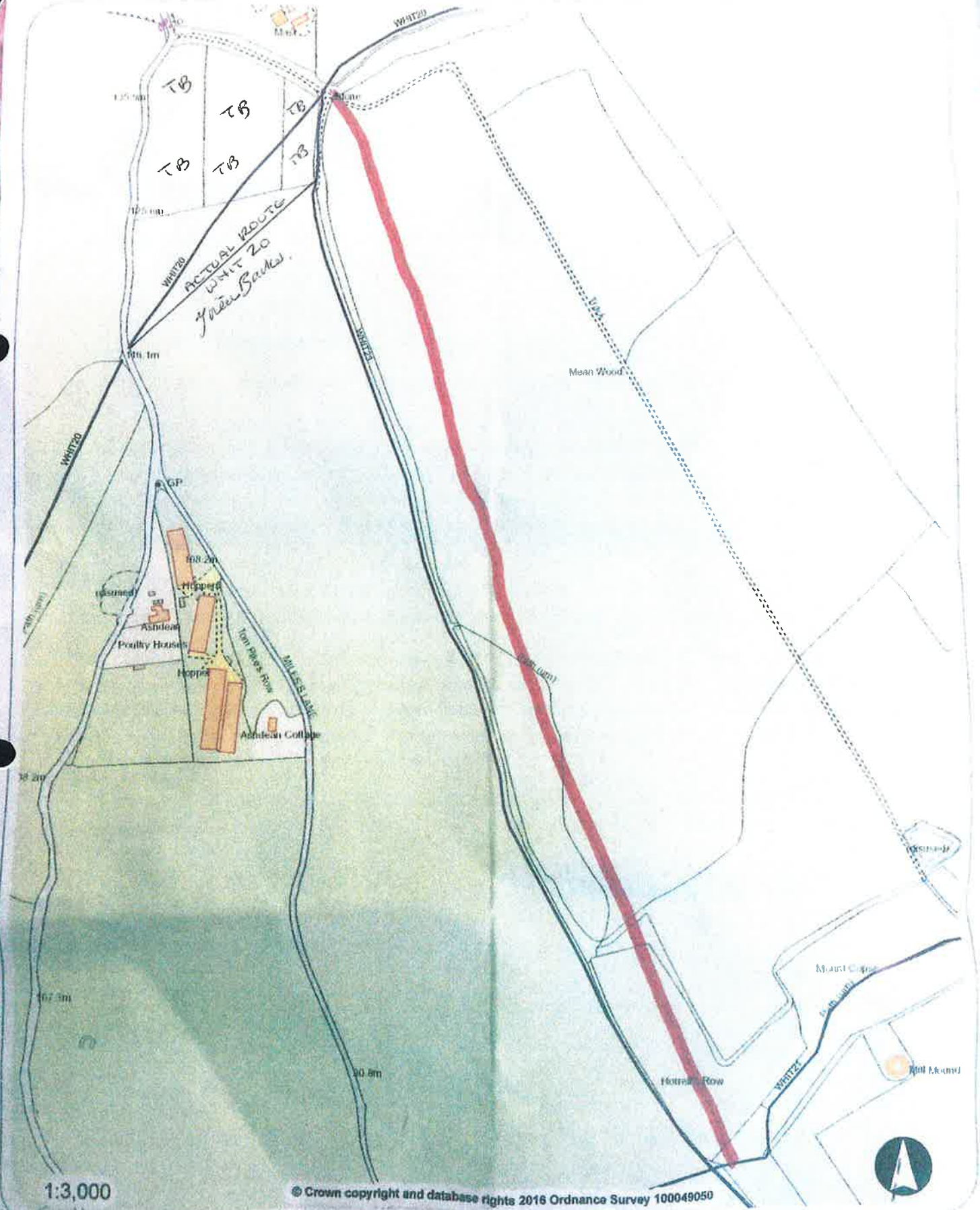
I feel there are more than enough official footpaths in the countryside and particularly in this case where there is one a matter of a few meters away from the path shown. Whiteparish is particularly well served for those who want a woodland walk with complete open access to the vast Common Wood on their doorstep.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

George Lazarus



Whiteparish



1:3,000

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[REDACTED] Ash Hill Common,
Sherfield English, Romsey, Hants.

SO51 6FU. 22nd January 2017

Dear Sir,

Re: Pathway through Mean Wood, Whiteparish, Salisbury.

I am Tricia Barker and I have lived at the above address (which in fact is in Wiltshire within the parish of Whiteparish) since 1980.

I am aware of an application to create a new public footpath through Mean Wood.

I am not connected to the owners of this land, but I do own the field next to the top of the proposed path.

I first walked through Mean Wood in the mid 1980s when I was taken through by Mrs Sue Newman. Mr and Mrs Newman gave me permission to use the path through the wood and I was always aware it was their private woodland. I sometimes met Mrs Newman in the woods and was always made welcome. I used the path more frequently when my daughters were younger. I last went through the wood in 2015.

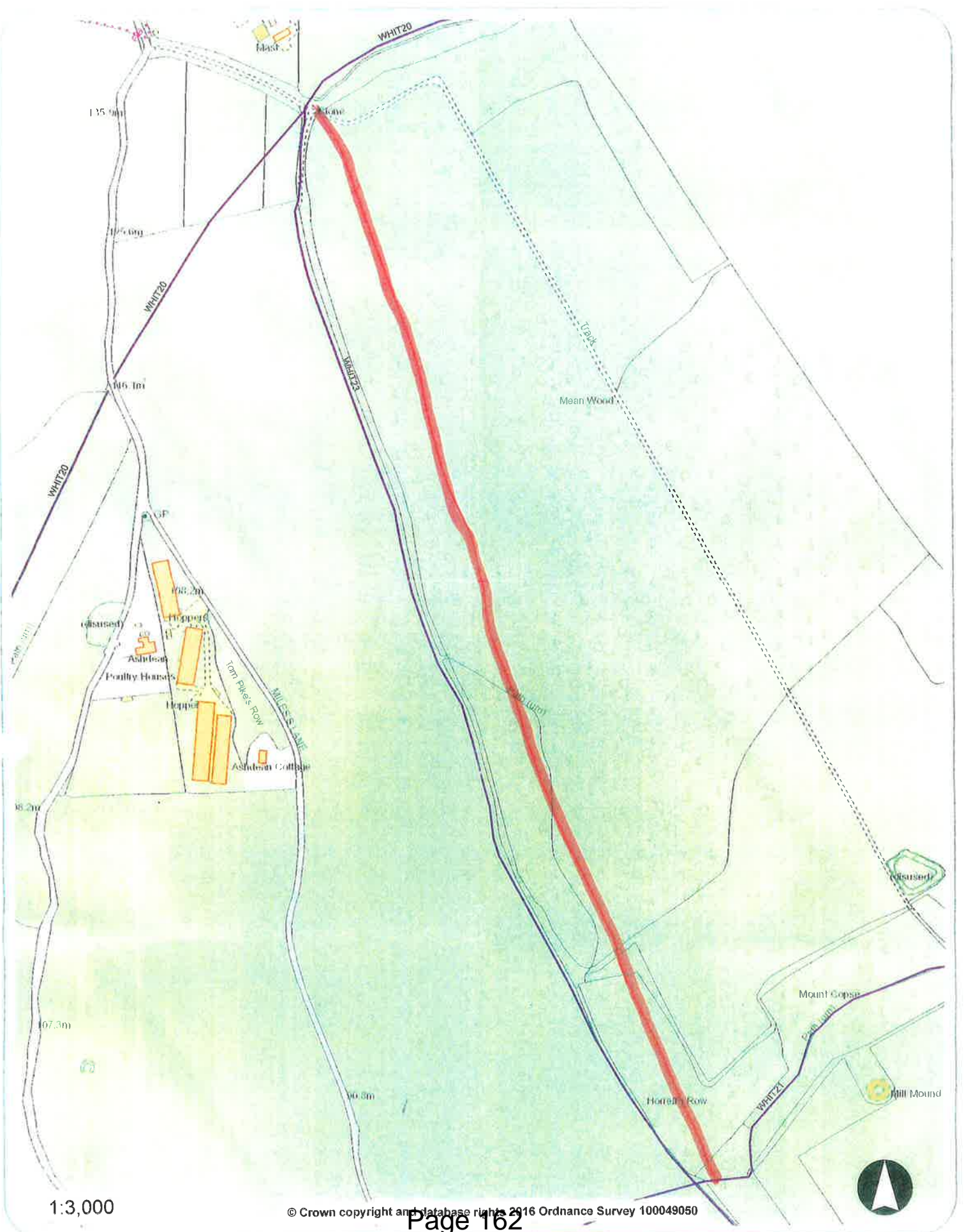
I sometimes saw other people in the woods, but it was not my place to ask if they had permission, I would have assumed that they had as it was the Newmans' private land and not a public path.

I am enclosing the plan of the proposed pathway and on it I have initialled TB the land that belongs to me. I have marked on this map the actual route taken by footpath Whit 20. This footpath joins Whit 23 on the southern boundary of my land and runs up the eastern side. It was in that position when I bought the land 20 years ago. The dense thicketing, trees and badger setts making it clear then that the path did not run as marked on the plan.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

[REDACTED]
Tricia Barker 22nd January 2017

01794 884286



1:3,000

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29

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

Thomas William Wood
[REDACTED]
Winchester
Hampshire
SO22 4LN

20 January 2017

Dear Sally Madgwick

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Telephone [REDACTED]

Clerk To Chambers

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it ending close to where path 23 meets path 20.

Between May 1988 and 2007 I lived at my parents home at 2 Hillside Cottages, Whiteparish, Salisbury, SP5 2QX which is close to Mean Wood. During that period I walked in the woods using the path in the attached plan with my parents, while younger, and in later years on my own or with my brothers. Access to the wood and the path were with the permission, given verbally, by the landowner to my parents who also granted access to members of the family. It was made clear by my parents that the path was not a public right of way and that I could only access the path with the permission of the landowner.

Over the years, while at home, I used the path often mainly during summer months. When I visit my parents I will still take advantage of the path through the woods. I last walked the path with my wife over the Christmas period.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours Faithfully

Thomas William Wood

[REDACTED]

Mean woods footpath closure. Dean Hill.

It is with great sadness that we now see the owner of Mean Woods now closing the permissible footpath through this particularly lovely stretch of woodland. During the last ten years we have resided in Whiteparish we have thoroughly enjoyed the access through Mean Woods, as I am sure generations of villagers have done for many years before.

Page 164

We understand that the owners are simply trying to secure the woodland from unscrupulous nocturnal visitors who have abused this access and caused damage. However we cannot see that a bit of barbed wire fencing will keep this sort of visitor out of the woodland but it is likely to stop law abiding village walkers from enjoying their favourite ramble.

During the ten years we have used the well trodden footpath through the woods we have never seen anyone causing damage or abusing the access in any way. The closure remains particularly sad at this time of year as the small early spring flowers start to appear and blue bells make their spectacular show throughout the woodland.

Tony (The Street)

Madgwick, Sally

From: mark bailey [REDACTED]
Sent: 24 January 2017 16:05
To: Madgwick, Sally
Subject: Fwd: Objection to footpath modification order at Meonwood Whiteparish

31

Sent from my iPad

Begin forwarded message:

From: Mark Bailey [REDACTED]
Date: 24 January 2017 at 4:24:35 pm CET
To: sally-madgwick@wiltshire.gov.uk
Subject: **Objection to footpath modification order at Meonwood Whiteparish**

Name: Mark Bailey
Address: [REDACTED] Bassett, Southampton
Telephone: [REDACTED]
Occupation: Retired
D.O.B. 27.05.1960

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Meon Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it, ending close to where path 23 meets path 20.

I am aware that this is a permissive path over private woodland to be used only with the owners permission. It is not a public right of way. The path marked red on the plan crosses land that our shooting syndicate rents from Mr Newman.

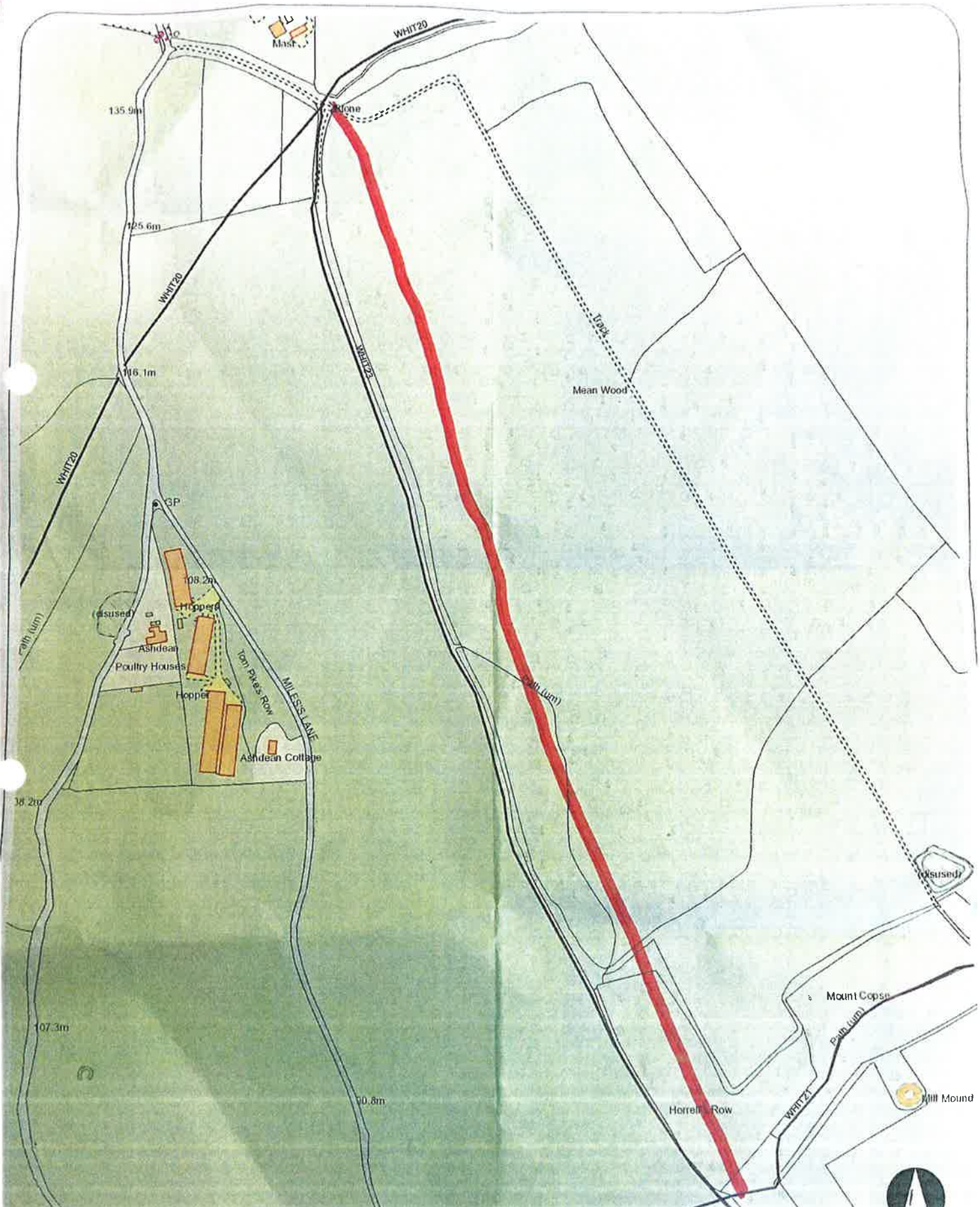
I am a member and am actively involved of the running of the Whiteparish shoot and have been so for the last 8 years. As a member I have Mr Newman's permission to walk the path which I do so on a regular basis, and can confirm that I have never seen anyone other than fellow shoot members use it.

I suspect the reason for this is twofold, firstly it is not a public footpath, and secondly on a shoot day it would be obvious to anyone that shooting is taking place, therefore making it unsafe to walk for anyone other than those involved in our shooting syndicate that have had safety briefings.

May I also bring to your attention that the possibility of public using this path could disturb wildlife species such as badgers which are protected and also nesting birds etc. Especially if accompanied by dogs that are not on leads.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Mark Bailey
MARK BAILEY



1:3,000

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

E mail. sally.madgwick@wiltshire.gov.uk

Date 24/01/16

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Jack Ward

[REDACTED] Totton

SO403LZ

Construction Projects Manager and Head Beater for the WPS.

I have been a member of the WPS since 2012 and have enjoyed, watched and have been educated in the management of the woods by the Landlords gamekeeper. I have been involved heavily in the rearing of Pheasants and the control of their habitat. Without this habit the conservation of the insects that lead to song birds and butterflies would be severely affected!!

I lead a team of dogs under tight control on shoot days and because of the nature of the training the dogs they are at close quarter at all times unlike other dogs owned by walkers I have observed in other areas of the Landlords farm. They have no control and cause damage to feeders and drive out ground egg laying birds. These woods are very delicate.

There are miles of paths for walking but the shoot is diluted into these rearing grounds. On shoot days I would be the one who would head the team and feel that there would be a safety issue. I have only met one walker who complained about the shoot and I politely issued him instructions that it was private property and also let him know as to where the guns stood and advised strongly that it would be folly to carry on his walk and to take the public footpath.

I am aware that this is a permissive path over private woodland to be used only with the owner's permission. It is not a public right of way and feel strongly it should stay that way.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

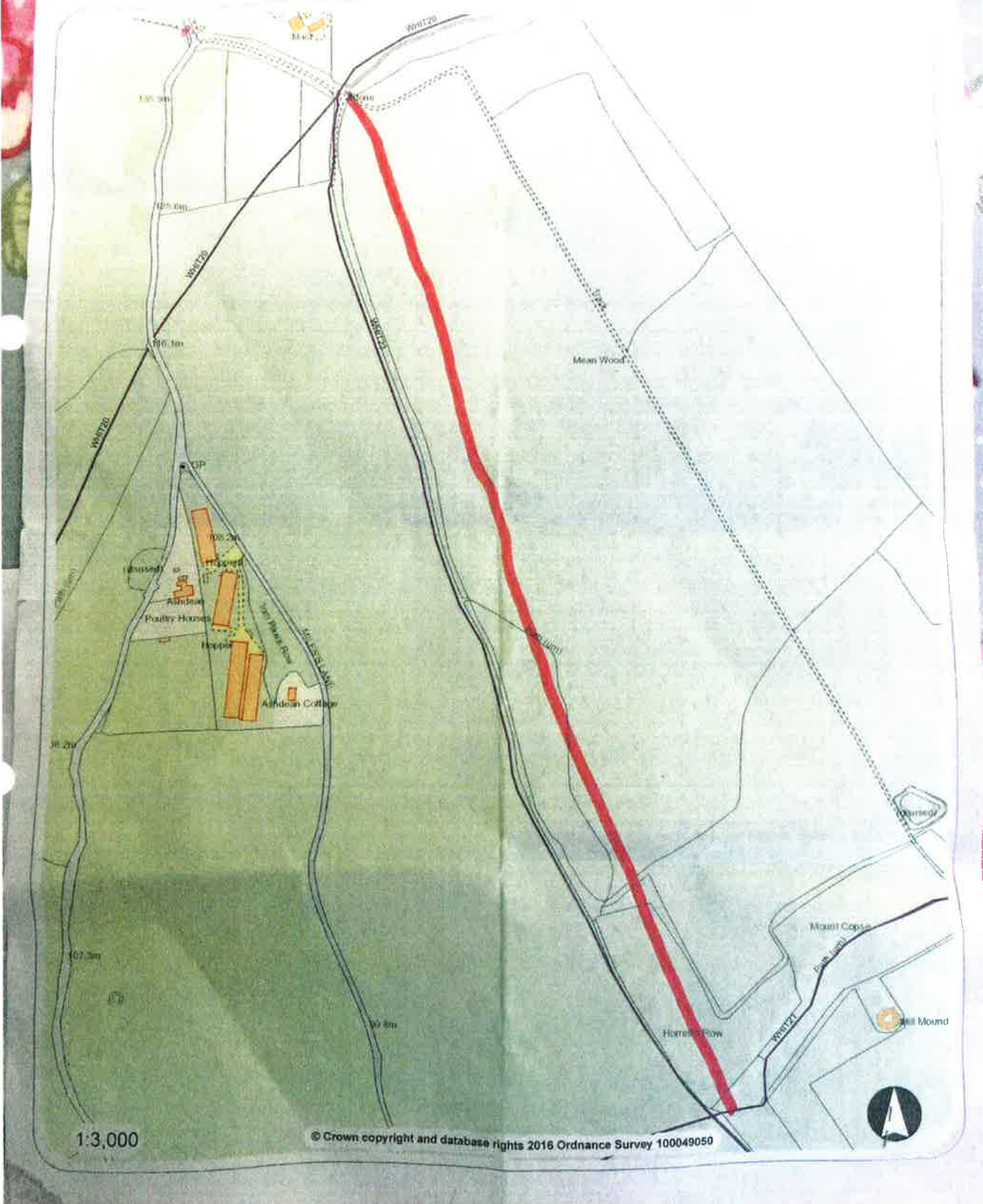
Signed

Jack Ward

Jward

Wiltshire

Whiteparish



[REDACTED], Landford, Salisbury, Wilts, SP5 2AD

133

Tel: [REDACTED]

24th January 2017

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

Dear Ms Madgwick,

Ref:-Objection to footpath modification order at Mean Wood, Whiteparish

I am writing to you as I have been made aware that an application has been made to add a new footpath in Mean Wood.

My name is Sean English. I am a 45 year old carpenter and a member of The Whiteparish Shoot. I grew up in Whiteparish, living at Cowesfield House Farm from 1973 when I was 2 years old. From a very young age my family were allowed to use the permissive path in Mean Wood. My father, Mr Jack English, was an acquaintance of the owner Mr Newman. Mr Newman had kindly given him permission to use this path, with the proviso that we were always to be aware of the shoot that used Mean Wood and consequently we were not to use the path or walk in the woods on Saturdays during the shooting season. All dogs were always to be under control and on a lead. I lived at Cowesfield until 1996 and my parent remained there until 1998 when my father retired. I used the path in Mean Wood regularly. The only people I can remember meeting on this path were people who, like myself had been given the landowners permission to be there. One of the people I met was Mr Glenn Barrett, who was taking over the position of gamekeeper at Mean Wood for the Whiteparish Shoot.

We would meet regularly and I began to take a keen interest in what was required to run a small shoot and also about land management and the general conservation work required.

It was several years later when I became directly involved with The Whiteparish Shoot when I joined the syndicate. All of the land used by the shoot is rented from Mr Newman. We have 3 sites which are rotated on a weekly basis throughout the shooting season. Mr Barrett manages 2 of these sites and in the last 2 years I have taken over the game keeping duties of the third site.

Shoot days at the Cowesfield site include Mean Wood. I assist Mr Barrett in running the shoot days. The path in question plays a pivotal role in one of the main drives in the shoot. The path is used by our team of beaters and some walking guns to drive the wood towards the southern end of the wood and adjacent field where the standing guns are positioned.

If this path was to become a public footpath I believe it would be detrimental to both our shoot and the natural wildlife in the wood.

Although I have not witnessed it myself at Mean Wood, I know there have been several incidences with out of control dogs chasing both the pheasants and other wildlife.

The path shaded in red on the map is within a few metres of the current public pathway. There is a fence between the wood and public path for most of its length and this helps to keep most people on the correct path.

The Whiteparish shoot have invested a lot of time and effort in the management of the woods during the 60 years it has been in existence. This benefits the local wildlife as much as it does the shoot and the pheasants. This tradition is something that members of the shoot are keen to continue with for many more years. However this would become increasingly difficult, if not impossible, should the general public and their dogs are allowed right of way through the wood.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Kind regards

Mr Sean English

24th January 2017



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

34

24 Jan 2017

E mail. sally.madgwick@wiltshire.gov.uk

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

From: Adam Wilson [REDACTED]; Barford St Martin SP3 4AT

01722 743741

I am a partner in a chartered accountancy practice, and have been an active member of the Whiteparish shoot for four years and an occasional guest of other members before that.

I have been informed that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it, ending close to where path 23 meets path 20.

I am aware that this is a permissive path over private woodland to be used only with the owner's permission. It is not a public right of way.

The path marked red on the plan crosses land that our shooting syndicate rents from Mr Newman.

I wish to object to the application. In all my time on the shoot I have never seen a member of public using the footpath – I presume because they will have heard the shooting or been aware from other people that the wood is used for shooting.

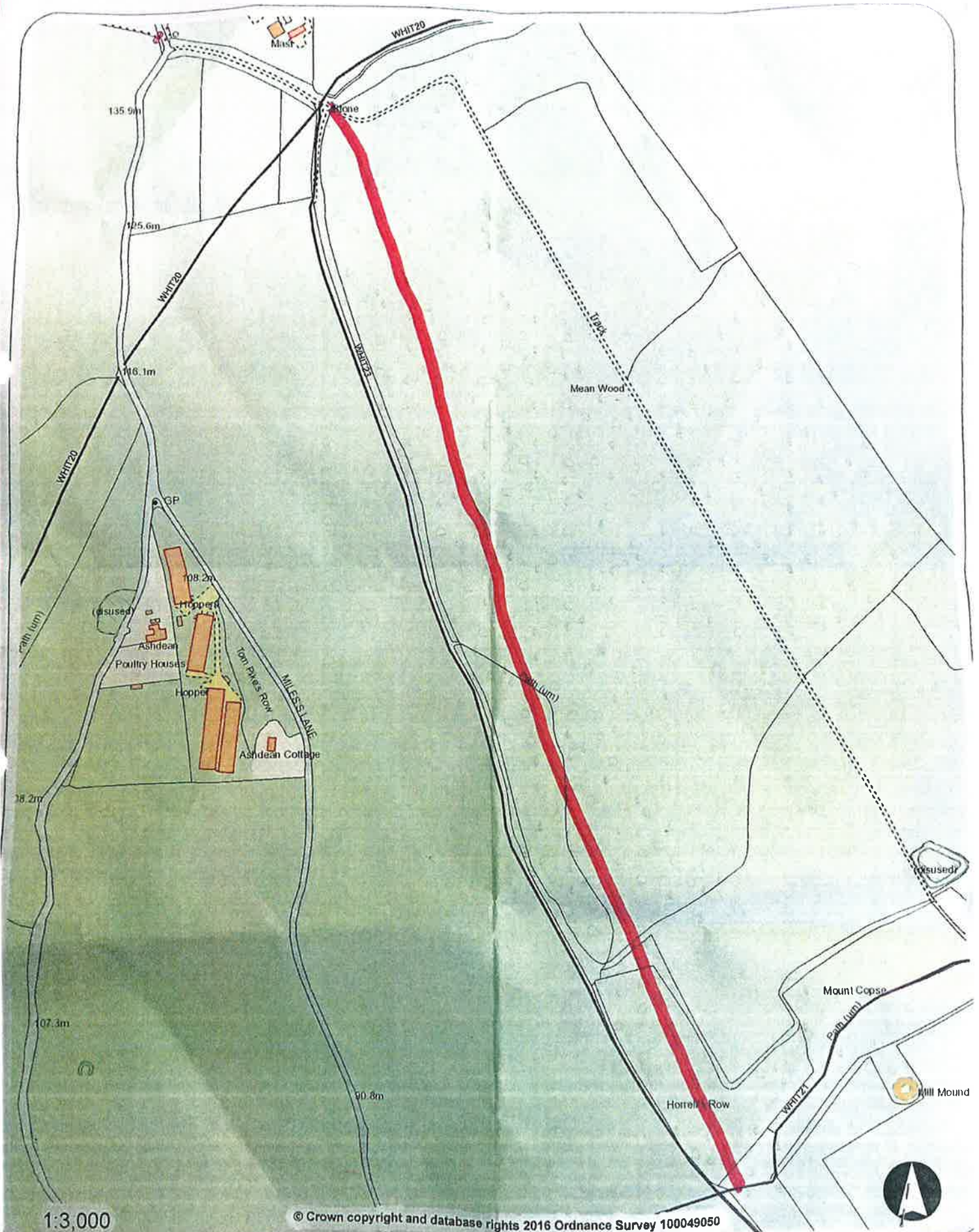
I would consider it to be potentially very dangerous for the path to become a public footpath if shooting is being undertaken – mainly from the thought the public may not be aware that shooting is taking place and panic. The wood is quite dense and if they were to leave the footpath in haste, they would put themselves in danger, it is incredibly slippery especially in winter and many of the branches that would need to be climbed over off the path are rotten.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

[REDACTED]

ADAM WILSON

24 Jan 2017



1:3,000

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Kay Lindars and Tony Kilby,
[REDACTED]
Hamble,
Hampshire, SO31 4HG.

35

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

27th January 2017

Dear Ms. Madgwick,

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

We are aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to this statement.

The path starts at the southern end of the Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to footpath 23 and within 10 to 20 metres of it, ending where path 23 meets path 20.

I am aware that this is a permissive path over private woodland to be used only with the owner's permission. It is not a public right of way.

The path marked red on the plan crosses land that our shooting syndicate rents from Mr. Newman and I have been told that some people locally in Whiteparish are claiming that this is a footpath that they regularly used. In 5 years on the Whiteparish Shoot, I have never, thank goodness, seen anyone using this path other than shoot members. Due to the nature of the terrain it would be extremely dangerous for anyone not involved in the shoot to be crossing that land.

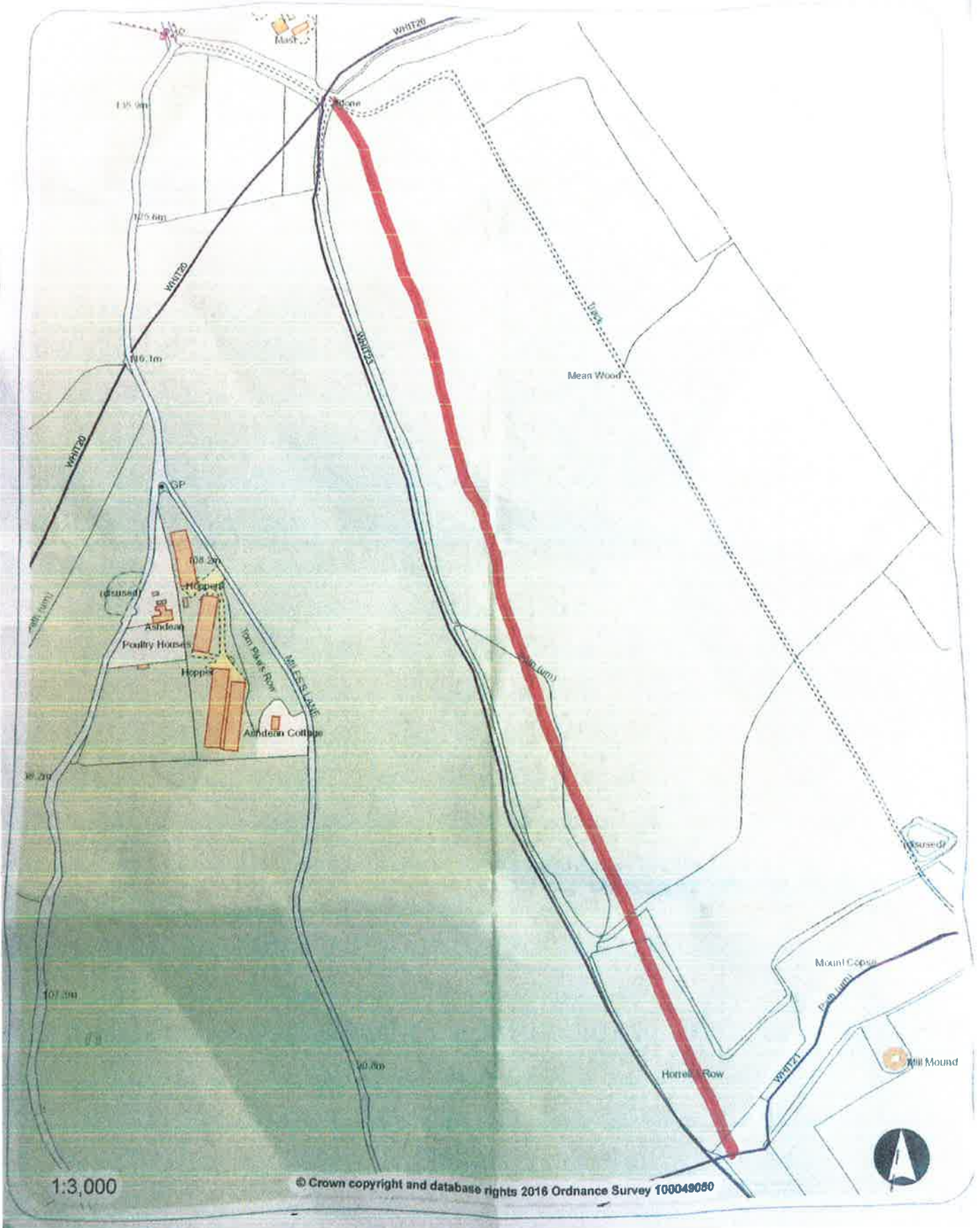
I would dissuade anyone from coming across this land without the land owners permission. Should people come onto the land with dogs who were not used to woodland and the wildlife therein they could cause untold damage to the environment which the land owner and ourselves on the shoot are cultivating.

Looking at Ordnance Survey maps of the area it would appear there are ample public footpaths in the area for use so do not understand why this permissive path needs its status modified.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours sincerely,

[REDACTED]
Kay Lindars (Ms)



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

36

26-January 2017

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

I am Alan Clark, a retired computer technician, born 3 July 1947. My address is:

[REDACTED]

Romsey
Hampshire
SO51 7WG

[REDACTED]

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where public footpaths 23 and 21 cross. The path travels through the wood parallel to public footpath 23 and within 10 to 20 metres of it, ending close to where path 23 meets path 20. The path is on Mr Newman's private land and is not a public right of way. He gives permission for groups or individuals to use it especially during the bluebell season.

In the past I have been a leader of the Scouts and, later, the Boys' Brigade in Romsey. I have regularly, once or twice a year, used this footpath (marked in red on the plan) for walking with these two organisations. With the Scouts this started in the mid-80s and with the Boys' Brigade from the mid-90s until the company was disbanded about four years ago. In all cases I asked Mr Newman for permission to use his paddock and Mean Wood with the path in question.

I have also walked it on several occasions during the bluebell season with our church group, led by Mr Newman. I first attended these walks in the early 90s and the last walk I did was in 2014.

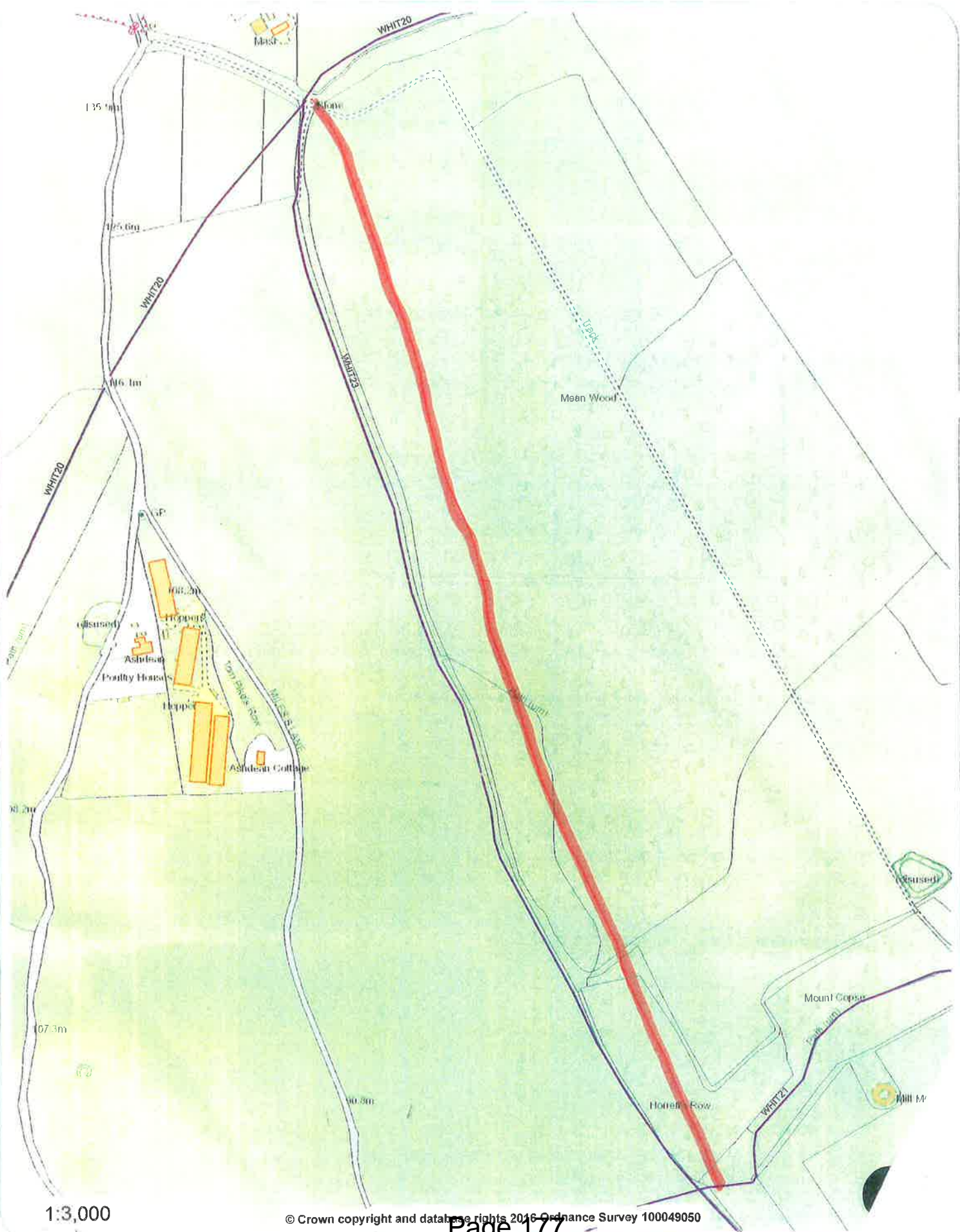
I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours faithfully

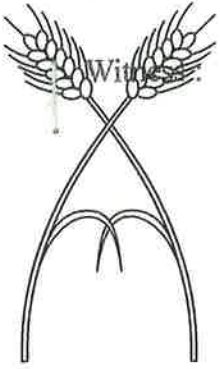
[REDACTED]

26-1-17

Alan Clark



1:3,000



Clive Jones

Agricultural Contractor - Hay & Straw
Dazel Farm House, Bramshaw, Lyndhurst, Hants SO43 7JN
Telephone: 07860 616851

37

17th January 2017

RE : MEAN WOOD

Dear Sir,

I am the above named person and live at the address stated.

I write with reference to "MEAN WOOD". I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path starts at the southern end of Mean Wood within 10 or 15 metres of where footpaths 23 and 21 cross. The path travels through the wood parallel to the footpath 23 and within 10 to 20 metres of it, ending close to where path 23 meets path 20.

I've walked this area with friends and family for over thirty years, with the kind permission of the Owner, Mr B. G. Newman. This occurs on average six times a year. Over this period I have never seen anyone else walking in these woods.

These woods are home to rare birds and plants, i.e. Breeding Woodcock and the elusive Goshawk, which are very susceptible to disturbance.

In my opinion there is no need for another footpath, as there is an existing footpath running parallel to Mean Wood.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Yours Faithfully

[Redacted signature]

C.AJONES

WITNESS

[Redacted name]

Sally Ayres

[Redacted address]

Forest Road

Redlynch

Wills SPS 2PM

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

One Glass Wharf
Bristol BS2 0ZX
Tel: +44 (0)117 939 2000
Fax: +44 (0)117 902 4400
email@burgess-salmon.com
www.burgess-salmon.com
DX 7829 Bristol

38

Direct Line: +44 (0) [REDACTED]

Our ref: AM16/GS03/9905.14/MINHI

Your ref:

27 January 2017

Dear Ms Madgwick

Application for Footpath Modification Order regarding Mean Wood, Whiteparish

1 INTRODUCTION

- 1.1 Thank you for your letter of 21 November 2016, and for extending the consultation period relating to the Application to 30 January 2017.
- 1.2 This letter relates to the application for a Footpath Modification Order regarding the route of a proposed footpath through Mean Wood, Whiteparish. Reference will be made to that Application and the route of the Proposed Footpath as shown highlighted in red on the plan at Annex 1 to this letter.
- 1.3 My client, Mr Bradley Newman and his family, is the owner of the land at Whiteparish over which the Proposed Footpath would be created, and he objects strenuously to the Application which has been made to Wiltshire Council (the Council) for the proposed Footpath Modification Order.
- 1.4 The reasons for that objection are more carefully detailed in the remainder of this letter, but are in summary:
- (a) a landowner statement and declaration were made and lodged with the Council in February 2012 under s.31(6) of the Highways Act 1980 (the 1980 Act). The statement is sufficient evidence to negative any presumed intention of the owner to dedicate any additional way not shown on that statement as a highway.
 - (b) in any event, any use of the Proposed Footpath has at all times been permissive. It cannot therefore constitute use "as of right" for the purposes of s.31(1) of the 1980 Act. That the Proposed Footpath is a permissive way is demonstrated by:
 - (i) the large number of letters the Council has received to that effect;
 - (ii) the frequent and complete exclusion of members of the public from Mean Wood occasioned by regular shoots which take place, and the evidence submitted in that regard;
 - (iii) exclusion of members of the public from Mean Wood and indeed all public or permissive footpaths on the farm during the foot and mouth outbreak of 2001; and
 - (iv) the evidence which demonstrates that any persons using the Proposed Footpath have regularly been challenged and asked to refrain from using the way.

(c) the evidence submitted in support of the Application is insufficient to amount to evidence of public user due to various flaws in that evidence which are outlined in more detail below.

1.5 For the avoidance of doubt, my client does not deny the existence of the Proposed Footpath. His objection is that any use of that path does not indicate any intent on his part to dedicate the land as highway. Accordingly his contention is that the proposed Footpath Modification Order should not be made.

2 LANDOWNER STATEMENT DATED 9 FEBRUARY 2012

2.1 On 9 February 2012 my client deposited with the Council a landowner statement and declaration made pursuant to s.31(6) of the 1980 Act. A copy is appended at Annex 2. The statement identified in blue the ways that had been dedicated as footpaths on that date. The Proposed Footpath does not appear within that statement.

2.2 The effect of a statement made under s.31(6) is that, for a period of 10 years from the date of the statement, it is:

"in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway".

2.3 In other words, the statement is evidence that there is no intention from that date to dedicate the land as highway. An applicant must show a period of 20 years' use as of right prior to the date of the statement to fall within the presumed intent of s.31(1).

2.4 On the strength of this landowner statement alone, eleven of the twenty five user evidence forms¹ should be disregarded from your decision making as the periods of use specified within those forms do not date back to 10 February 1992. Any use after that threshold date is not capable of contributing to 20 years' use prior to the landowner statement taking effect on 9 February 2012

2.5 The user forms which should be disregarded on this basis alone are those numbered 1, 2, 5, 6, 7, 11, 13, 18, 19, 22, 23 and 24.

3 LANDOWNER PERMISSION

3.1 Any use of the Proposed Footpath dating back to the early 1950s has been with the express or implied permission of the landowners, my client Mr Bradley Newman and his family, and previously his father Mr Gerald Newman. This is demonstrated primarily with reference to the witness statement of Mr Bradley Newman contained at Annex 3 this letter.

3.2 This statement explains that:

- (a) employees of Mr Newman and his father, present on the farm for significant periods, have regularly challenged users of the Proposed Footpath within Mean Wood;
- (b) various community and other local groups have used the path in an organised manner with the express consent of the landowners; and
- (c) regular shooting activities throughout the year exclude users from Mean Wood and the Proposed Footpath on a regular basis.

3.3 These matters are corroborated by the other statements and letters forming part of Annex 3 which have been submitted to the Council by:

¹ As included and numbered in your letter of 21 November 2016

- (a) Mrs Susan Newman;
- (b) Ms Lydia Newman;
- (c) Mr Alex Newman;
- (d) Mr Jason Newman;
- (e) Mr Glenn Barrett; and
- (f) Mr Michael Barrett.

3.4 It is settled law that where use of a way is with the express or implied permission of the landowner, then the use of that way is not "as of right" for the purposes of s.31(1) of the 1980 Act and cannot therefore give rise to any presumed intention to dedicate the way. That permission may be express or implied was recently confirmed by the House of Lords in the case of *Beresford v Sunderland City Council* [2003] UKHL 60². In the leading judgment, Lord Bingham (at para 5) states that:

"... A landowner may so conduct himself as to make clear, even in the absence of any express statement, notice or record, that the inhabitants' use of the land is pursuant to his permission. This may be done, for example, by excluding the inhabitants when the landowner wishes to use the land for his own purposes, or by excluding the inhabitants on occasional days: the landowner in this way asserts his right to exclude, and so makes plain that the inhabitants' use on other occasions occurs because he does not choose on those occasions to exercise his right to exclude and so permits such use."

3.5 That the use of the Proposed Footpath has been generally understood to be permissive by the inhabitants of the local area can clearly be seen with reference to:

- (a) the large number of statements submitted by local inhabitants indicating that they have been aware that the use of the path has been with the permission of the landowner. A number of those statements have been passed to Mr Newman as they have been submitted to the Council, and copies of those are attached as Annex 4. It is understood that in addition to the four attached statements, additional statements have been submitted directly to the Council;
- (b) those statements make it clear that other users of the path were also aware that the Proposed Footpath was used with the permission of the landowner;
- (c) the extracts of Parish Council Notes at Annex 5 from March 2015 and December 2016 demonstrating that the Proposed Footpath has been a permissive path.

3.6 That the Proposed Footpath was not open for unauthorised public use is reinforced by the alternative route which runs parallel to the Proposed Footpath and is already dedicated as a public footpath; reference WHT23. The presence of that path and others is clearly signposted, which clearly provides users of the paths in this area with clear evidence that the Proposed Footpath is not one dedicated (or intended to be) a public footpath. This is explained at paragraph 27 of Mr Newman's statement.

3.7 There is clear evidence from Mr Newman and his family's evidence that use of the path on a permissive basis stretches back at least to the 1950s. Of the evidence submitted by other parties and shared with Mr Newman (Annex 4), there is clear evidence that the permissive use of the path dates back to 1978. In either case, the evidence clearly points use of the path being with the express consent of the landowner, and use "as of right" for the purposes of s.31(1) has not accrued. Whilst detailed commentary on the user evidence submitted with the application is contained at Annex 6, it

² It is expected that the Council will be familiar with this case, but a copy can be provided if that would assist.

is Mr Newman's submission to the Council that the small number of users that claim to have used the path without permission is not sufficient evidence for the Council to reach a conclusion that the public at large have used the Proposed Footpath on that basis. Rather, the clear indication from the evidence before the Council was that it was common knowledge amongst the vast majority of the users of the Proposed Footpath that their use was on a permissive basis.

4 EXCLUSION OF USE DURING SHOOTS

4.1 Mean Wood is used for the purposes of shooting throughout the year. During the shooting season regular shoots in the wood mean that no one could safely use the Proposed Footpath. During the off season, members of the shooting syndicate attend to animals within Mean Wood and challenge users of the path, particularly those whose dogs may cause a disturbance to the shooting stock.

4.2 Reference can be made in this regard to the statements appended at Annex 3. Of particular note in this regard are the statements of:

(a) Mr Glenn Barrett; and

(b) Mr Michael Barrett.

4.3 It is clear from these statements, that dating back to at least 1980, any person seeking to use the Proposed Footpath would have been unable to do so on a regular basis whilst the shoots were ongoing. Members of the public were regularly therefore excluded from using the Proposed Footpath. In doing so the landowner was exercising his right to exclude users from the permissive path and in doing so demonstrating that any use could not be "as of right" for the purpose of s.31(1) of the 1980 Act.

5 UNAUTHORISED USERS CHALLENGED

5.1 There are numerous references within the statements submitted in response to the Application which demonstrate that unauthorised users of the path have been regularly challenged, and either made aware that any use must be with the consent of the landowner, or asked to use alternative routes.

5.2 This is evidence by the statements at Annexes 3 and 4 of this letter.

5.3 It is clear from these statements that dating back to at least the early 1980s, any person using the Proposed Footpath was regularly challenged if not recognised as a permitted user. In doing so the landowner was exercising his right to exclude users from the permissive path and in doing so demonstrating that any use could not be "as of right" for the purpose of s.31(1) of the 1980 Act.

6 USER EVIDENCE

6.1 Annex 6 contains a series of specific comments made on the relevance of the user evidence submitted to the Council in support of the application. For the reasons outlined within that Annex, that evidence does not amount to evidence of use of the Proposed Footpath as of right at any time for the requisite period of 20 years to amount to presumed intent for the purposes of s.31 of the 1980 Act.

6.2 For that reason, it is my client's contention that there is no evidence that would allow the Council to reach a reasonable decision that the Footpath Modification Order should be made.

7 SITE VISIT

7.1 Should you wish to attend the site so that you can walk the route of the Proposed Footpath, my client would be happy to accommodate a site visit and show you the various landmarks or matters pointed to in the user evidence. Please do contact Mr Newman directly should you wish to do so.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Alex Minhinick
Senior Associate

ANNEX 1

Notice of Application

Wiltshire Council

Wildlife and Countryside Act 1981

Definitive Map and Statement of Rights of Way for the County of Wiltshire

Notice of Application for Modification Order

To: MR B G NEWMAN, HONEYSUCKLE LODGE,
MILES LANE, WHITEPARISH, SALISBURY SP5 2QU

Notice is hereby given that on the (insert date) 27/10/16.....I/We (please insert your name or the name of the organisation making the application) MRS JANE LAY, MRS PATRICIA WOODRUFFE, MR CHRISTOPHER BAKER, MRS TRUDI DEANE + MR PAUL WITTEBE (please insert your full address)

ABBOTSTONE HOUSE, THE STREET, WHITEPARISH,.....
SALISBURY SP5 2SH.....

made application to Wiltshire Council that the Definitive Map and Statement for the area to be modified by:-

Adding the footpath/~~bridleway/restricted byway/byway open to all traffic~~ (please delete the irrelevant status) **leading from** (please describe the position and route of the right of way you are referring to)

..SU 2513 2558..... TO SU 2542 2479.....

FOOTPATH FOLLOWING ROUTE THROUGH THE WOODS,

REASONABLY STRAIGHT BUT AROUND TREES AND LAND FEATURES WHERE NECESSARY.

With a width of: AVERAGING ONE METRE.....

The route of the right of way is shown on the attached map.

Dated 27.10.2016

Signed

chBu
Jane Lay
Trudi Deane

For a definition of the various categories of rights of way please see overleaf.

For further information please contact the Rights of Way and Countryside Section, Waste and Environment, Wiltshire Council, Bythesea Road, Trowbridge, BA14 8JN 01225 713044/713392

ANNEX 2

Landowner Statement

Statutory Declaration

Section 31 (6), Highways Act 1980

I B G Newman DO SOLEMNLY AND SINCERELY DECLARE as follows:

- 1. I am and have been since 30th June 2004 the owner of the land known as Upper Cowesfield Farm more particularly delineated on the plan accompanying this declaration and thereon edged red.
- 2. On the 9th (day) day of Feb. 2012 (month, year) I deposited with Wiltshire County Council, being the appropriate Council, a statement accompanied by a plan delineating my property by red edging which stated that the ways coloured blue on the said plan had been dedicated as footpaths the ways coloured green on the said plan had been dedicated as bridleways.
- 3. No additional ways have been dedicated over the land edged red on the plan accompanying this declaration since the statement dated 9th Feb. 2012 (day, month, year) referred to in 2. above and at the present time I have no intention of dedicating any more public rights of way over my property.

AND I MAKE this solemn declaration on the 17th (day) day of Feb. 2012 (month, year) conscientiously believing it to be true and by virtue of the Statutory Declaration Act 1835.

Declared at
(address) 46 The Green
A. P. ...
.....
.....

Signed: [Signature]
(signature of landowner)

Before me [Signature]


(Commissioner for Oaths or a Justice of the Peace or Solicitor)

Deposit Of Statement And Plan

Section 31 (6), Highways Act 1980

To Wiltshire County Council:


1. I am and have been since 30th June 2004 the owner within the meaning of the above section of the land known as Upper Cowesfield Farm more particularly delineated on the plan accompanying this statement and thereon edged red.
2. The aforementioned land lies in the parishes of Whiteparish.
3. The ways coloured blue on the said plan have been dedicated as footpaths.
4. The ways coloured green on the said plan have been dedicated as bridleways.
5. No other ways over the land have been dedicated as highways.
6. The deposit shall comprise of this statement and accompanying plan.

Signed 

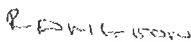
Name Bradley G Newman

Address Honeysuckle Lodge, Miles Lane, Whiteparish, Salisbury, Wiltshire. SP5 2QU

Date 09.02.12.

Signed (witness) 

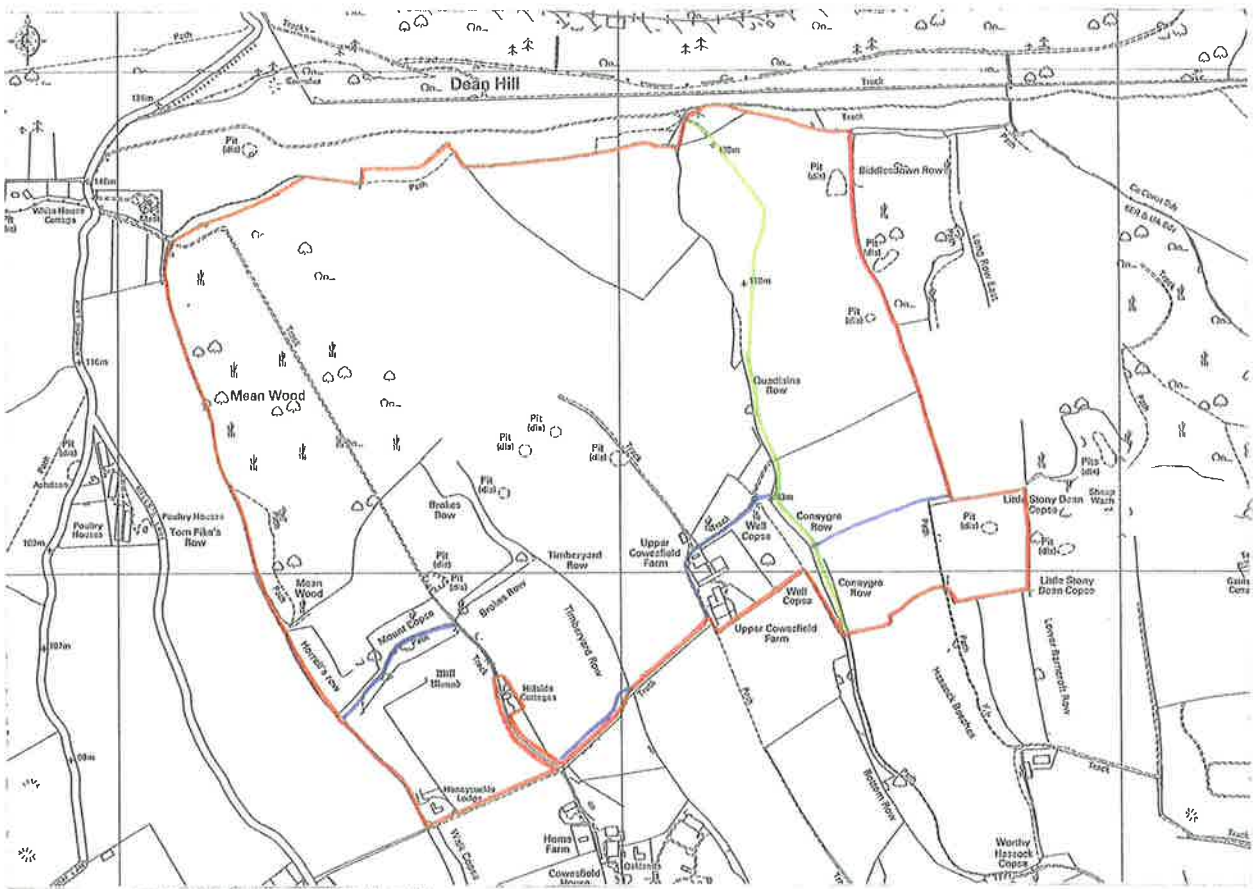
Name (witness) H.H. ALFORD

Address  THE RIDGE, LODDFALL, SALISBURY SP5 2HH

Occupation Secretary

Upper Covesfield Farm

SMITHSGORE



Handwritten signature
T.C. West

Promap

ANNEX 3

Witness Statements of Mr Bradley Newman, Mrs Susan Newman, Ms Lydia Newman, Mr Alex Newman, Mr Jason Newman, Mr Glenn Barrett and Mr Michael Barrett

STATEMENT OF BRADLEY NEWMAN

APPLICATION FOR MEAN WOOD FOOTPATH MODIFICATION ORDER, WHITEPARISH

1 My name is Bradley Gerald Newman and my address is [REDACTED] Honeysuckle Lodge, Miles Lane, Whiteparish, Salisbury, Wiltshire SP5 2QU. I am a farmer by profession, born [REDACTED] 3rd February 1953, and my contact telephone numbers are [REDACTED] and [REDACTED].

2 I object to the making of the proposed footpath modification order relating to the proposed footpath shown red on the attached plan.

Background

3 Mean Wood is part of our farm situated on the North West boundary. The farm is called: Upper Cowesfield Farm, Miles Lane, Whiteparish. Salisbury Wilts.

4 My father, Gerald Lewis Newman, bought the farm in the early 1950s soon after the end of the war. I have been involved in the farm since the mid 1960s. I went to the Royal Agricultural College in 1971 and became involved in running the farm once I left college in 1974.

5 I worked with my Father for about a year until he had a heart attack in 1975 after which he was unable to do physical work.

6 I was responsible for managing the farm and staff, drilling, spraying and fertilizing the crops and storing the corn at harvest. I helped with the silage and haymaking and during the winter feeding the young stock and helping with the dairy herd elsewhere.

7 I was on the farm every day of the year except when on holiday.

8 Before we moved to Honeysuckle Lodge I lived at Woodfalls, Sherfield English Romsey, Hants with my parents and then moved to Maydene Forest Rd Hale, Salisbury, Wilts for 2 years after we were married and whilst we were building Honeysuckle Lodge.

9 I moved onto the farm to live in 1981 having built Honeysuckle Lodge on the south west edge of our holding. The farm grows arable crops and rears dairy heifers.

10 My father lived away from the farm and relied on farm staff, hurdle makers, and keepers to keep an eye on the woodland etc. The farm and woodland is let to a shooting syndicate. Members are around for much of the year and are responsible for turning away trespassers, including Mean Wood.

11 I can remember Jack Chant who lived on the farm in a caravan with his two terriers. He was a builder but fell on hard times after he had a protracted illness. He asked if he could live on the farm as he was homeless. Father gave him permission.

- 12 Although he didn't work for us he was a sort of night watchman come security man. I can remember one occasion when he was attacked by a group of men who were illegally hare coursing. He must have moved in during the late 1960s.
- 13 We still have trouble from time to time with people illegally trying to shoot deer at night with rifles.
- 14 With regard to Mean Wood Jack Chant used to control pigeons, rabbits and squirrels. He spent quite a lot of time in Mean wood and actually died of a heart attack in the wood whilst pursuing his favourite hobby. In addition to shooting he was on the lookout for accidental trespassers.
- 15 In addition to Mr. Chant, Mr. Holland May was a hurdle maker and spar maker. He also worked in Mean Wood during the 1970's and 1980's. He was also on the lookout for accidental trespassers. Mean Wood is described as "Ancient Semi Natural Woodland." The key features are broadleaved trees such as oak and beech and hazel coppice. The hazel coppice has been used for centuries to make wooden hurdles for sheep fencing and garden decoration and wooden spars for fixing thatching to thatched houses.
- 16 Captain Hamilton lived in West Dean around 1970 to 1990 I can't remember the exact dates. He also had permission from my Father to walk Mean Wood. Apart from trespassers he was concerned in a public spirited sort of way with the security of RNAD Dean Hill. He looked after Mean Wood for us and reported odd goings on to the military Police. Again he informed people that the path was permissive and not a Public Right of Way. His catch phrase was "Fore warned is forearmed". He walked Mean Wood several times a week as he was retired and I occasionally came across him on the farm whilst I was working. He used to 'phone if he came across anything or anyone.
- 17 Mrs. Butler operated Ashdene Poultry Farm, Miles Lane, SP5 2QU. She had permission to walk in the Mean Wood with her friends and dog. Once again she kept an eye open for trespassers.
- 18 In 1982 Jim and Olive Gallagher and family moved into 1 Hillside Cottage, Miles Lane Whiteparish. I can remember the date because it was just after my son Jason was born. He had retired from the Ordinance Survey in Southampton. Jim and his family had a dog. They loved the countryside and walking. Again Jim walked the path regularly and challenged trespassers telling that the woodland and path were private.

Use of the path

- 19 My personal use of the path increased significantly once we moved to Honeysuckle Lodge. This was in June of 1981. It made a good walk with the dog and weekend walks with our children and their friends as they grew older.

- 20 During the summer I walk it around four times a week and probably three times in the winter. I normally walk up the path to the top of Dean Hill and return via the farmland. Obviously I trim back the brambles and twigs from time to time as required. I rarely met anyone and if I did it was someone I knew. If time is short or it's getting dark I just walk to the top of public footpath 23 (Dean Hill mast) and back again. I still do and meet a few people on path 23.
- 21 During the 1980's, probably from around 1980 until 1992 we helped run a youth group for our church in Woodfalls. They came for lunch once a month on a Sunday and we often walked the Mean Wood path in the afternoon with the group and other leaders. Sometimes we walked with them and sometimes we didn't. Once or twice we had a weekend camp for them in the garden and they had fun in the woods and walked the path.
- 22 Mean Wood is famous for its blue bells. In early May we organise a Charity walk for all the Romsey churches and include people from Landford and sometimes Whiteparish. Folk ask to return during the year with their friends. It's a sort of blanket invitation.
- 23 Because of the Blue bell walk Mean Wood and the path became fairly well known. The Boys Brigade in Romsey asked if they could come for a Bank Holiday camp and use Mean Wood and the path. They have been several times over the years. This evolved into the Romsey Scouts coming. The leader of local brownies 'phones up from time to time to ask if she can come and walk through the Blue bells with the Brownies and their families. They are fairly regular.
- 24 During the 1980s I was persuaded to help with the Whiteparish Cub Pack by the leaders, Anne and Bob Meehan who lived in Denmans Miles lane Whiteparish, Salisbury Wilts. They have since moved away.
- 25 During this period and after I retired from the club Anne asked for permission to take the children and their families into the wood most years to see the Bluebells. On at least one occasion she asked permission to take them up through the woods with their families to watch the hurdle maker at work. Other village groups have asked for permission from time to time.
- 26 During the blue bell season many of the locals walk through the wood to enjoy the orchids and bluebells. This is a relatively short season probably from the middle of April to the middle of May. Of course, many of the folk will have had personal permission were as some may have relied on past permission from the Cubs or Brownies etc.
- 27 All the local public foot paths were and are clearly marked with the public foot path bright yellow arrow signs normally on a white background. The public footpaths were clearly marked on the Whiteparish website map. They were clearly marked on all relevant ordinance survey maps.
- 28 During my walks I rarely met anyone on the path although there was evidence of occasional human foot prints, badgers, deer etc. I challenged anyone I didn't know.

29 My overriding memory of the path is of people asking if they could walk through the woods especially to see the bluebells. I have always been happy to give that permission as I have always been certain that it is private land.

30 Soon after we closed the path a friend from the village said "I'm sorry you had to close your path."

Shooting syndicate

31 Mean Wood is an important part of the farming operation in so far as it's part of the land used by the shooting syndicate.

32 They rear and shoot pheasants and partridge for sport and obviously to eat but the main benefit to the farm is security and control of pigeons and rabbits. In addition they cull sick and injured foxes and deer.

33 As far a security is concerned members are around for most of the year including the shooting season. They guide trespassers and people that are genuinely lost. Most people say they are lost. They curb hare coursing and deer poaching. In addition they coppice some of the hazel, tidy up fallen trees, repair the odd fence and warn us if cattle have escaped. A lot of preparation has to be done out of season such as repairing and renewing the rearing pens and cutting out paths for the beaters. Once the poults are on the farm in early august they have to be on the lookout for poachers.

34 Mean wood has several rearing pens. It is an important part of the shoot.

35 When shooting is in progress the boundaries are secured and the beaters with their dogs flush the pheasants towards the guns. Clearly the beaters ensure that there are no trespassers or lost folk in the wood over this period.

36 When my Father bought the farm one of the conditions was that the shooting should be made available to the existing syndicate. I think the man in charge was Mr Higlet who died several years ago.

Works to the path

37 I have looked at the council plan with the red demarcation line on it. I presume that this is indicative only. Many of the statements confirmed that the path ran 10 to 20 metres from public footpath 23. Having checked the measurement this is broadly correct. The plan however has not been scaled to reflect this.

38 During 2004 and 2005 the middle section of the path was moved and widened. It helped with the game birds, it enabled horse riding friends to have a different route and it enabled me to drive my Mother who was getting a bit frail through the wood.

- 39 The original path went around the top of the chalk pit marked approximately on the plan. Although we call it a path it is more like animal trails. When we first used the trail it was literally a trail used by deer badgers and other animals. The area is crisscrossed with animal tracks. Once we started using the trail it became more obvious.
- 40 Apart from the deliberate moving of the path in 2004 as trees fall down and cause a blockage the path moves.

Comments on user evidence

- 41 I have been supplied with the user evidence forms by the Council. As a general comment, clearly the assertion contained within those user forms that the use of the path was without my permission are incorrect. As I have explained above, use of the permissive path has always been with my express or implied permission.
- 42 I have some detailed comments on particular users' evidence:

User number 3. Patricia Woodruffe. Patricia is very interested in plants and flowers. Many years ago she asked for permission to survey Mean Wood. I gave her permission and told her to come back as she wished. I was astounded to see her name on the application because she has permission as does her husband by family connection.

User number 9. Linda Turk. Linda refers expressly in her form to the village groups using the path. I have explained above how that use was organised and carried out with my permission. It should have been clear to her that such large groups using a path of this sort on private land would be known to the landowner and only carried out on a consistent basis with their express permission.

User numbers 14 and 15. Ann and Chris Baker. We have known the Bakers and their family since the early 1980s. Our children went to school together at Northaw Prep School, West Tytherley. My son Jason and Hannah Baker were about the same age. We chatted if we met at school or if we met whilst they walked or jogged all over the farm including Mean Wood with their dogs with our permission. We only ever had crossed words if the dogs accidentally chased cattle or pheasants.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.



Bradley Gerald Newman

BRADLEY GERALD NEWMAN

Date: 23.01.2017.

Whit

Whit p i h



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

E mail. sally.madgwick@wiltshire.gov.uk

20/1/17

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Susan Elizabeth Newman

[REDACTED], Whiteparish, Salisbury, Wilts, SP5 2QU

Music Teacher

DOB [REDACTED] 1955

The path under discussion begins at the southerly end of Mean Wood and begins within 10 or 15 metres of the intersecting Public Rights of Way path 23 and 21. Footpath 23 leaves the wood and carries on up the side of the field adjacent to the woods. The permissive path travels parallel to this within the wood at distance ranging from 10 to 20 metres to public footpath 23, and ends near to the meeting point of public footpaths 23 and 20, marked red on attached plan. The exact route of the path moves from time to time as brambles grow and trees and branches fall. I would say that the red line is an approximation of the route.

I started using the path in 1977 particularly for dog walking with the family and to see the bluebells in the spring. I was introduced to it by my husband before we were married. I was aware at the time that my father in law permitted the local hunt and followers to pass over the entire farm including Mean Wood and the path if they were in the area. We occasionally see the drag hunt and their followers now if they are passing through. For your information followers are members of the public who come with the hunt, as part of the invitation, and follow either on foot or on horse back.. Permission is therefore given to both the hunt and any followers who may come.

I have used the path since 1977 which, at the time seemed little more than an animal trail. Our use increased once we moved to Honeysuckle Lodge especially for walks with our family, children and their friends. The path was opened out around 2000 to 2004 so that I could use it with my friends and family for horse riding.

The last time I used the path was during the early part of 2015.

When the children were young we used the path several times a week at different times of the day.

From time to time we give permission for friends and acquaintances to use the path.

For example, Alex used to belong to the Cubs in the village and Bradley was the chairman for a while. They asked to walk through the woods to see the blue bells

and did this most years during the 1980s and early 1990s. They also visited Mr May the hurdle maker.

I arrange a church bluebell walk for charity once a year in late April to early May. We offer the walk over 2 days, Saturday and Sunday then follow it with drinks and cakes at Honeysuckle Lodge. Normally it involves all the Romsey churches, the local Methodist Churches, St Andrews Landford and sometimes Whiteparish Church. Normally 70 or 80 people come.

The local Brownie Group comes most years having asked permission. There are several others who phone up to come each year mainly to see the bluebells.

We have had a church Youth Group from Woodfalls Methodist Church camping up here once a year in the 1980s for several years and they have used the path and wood for general walking and pleasure. The same group came monthly over that period up until 1991 on Sunday afternoons, nearly always making use of Mean Wood and the permissive path.

The Romsey Scout Group and Boys Brigade have camped on our field for several years on bank holidays and used the wood and path for various activities.

During the late 1980s and early 1990s my son Jason and I rose at 6.00am most days over a 2 to 3 year period and walked the permissive path and many little animal trails, always with our dogs and sometimes with our cats as well. We walked in all weathers and don't remember meeting anyone at that time of day.

As you can see the path gets quite a lot of family and friend use.

I would dispute the statements of Chris and Anne Baker. Our children went to school together in the early days I think Jason was the same age as Hannah. They have always walked all over our farm with their dogs using the public rights of way and the open fields, woodland and permissive path. We have always been pleased for them to do so. We chat from time to time as they confirm in their statement.

Although I have used the path for many years I have seen few walkers. If I do meet someone that I don't recognise as having had permission I ask them if they are lost and inform them that it is private woodland and that the path is by the owner's permission and direct them to the closest public footpath.

Our area is well covered by Ordinance Survey maps. None of them show this path as a public right of way. There is a public right of way map on the Whiteparish web site; again, the path is not on there. Furthermore we are already well served with public footpaths in the area all of which are clearly marked with the normal yellow arrows.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Sign



Print

SUSAN ELIZABETH NEWMAN.

Date

26.01.17

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

E mail: sally.madgwick@wiltshire.gov.uk

18th January 2017

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Lydia Helen Rosetta Newman
[REDACTED] Callow End, Worcs, WR2 4TE
[REDACTED]

Farm Administrator
Date of Birth: [REDACTED] 1990

It has come to my attention that there is an application to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path begins at the southern end of Mean Wood within 10 or 15 metres of where public footpaths 23 and 21 cross. The path travels up through the woods, parallel to public footpath 23 and within 10 to 20 metres of it, in the adjacent field, and finishes near to where public footpath 23 meets path 20.

I have used the woods throughout my life, firstly being carried up the path by my father, Bradley Newman, and then as I grew older on leisurely dog walks either alone or with friends and family. Whilst I lived at home I would walk the path several times a month, and more during the bluebell season.

I have only ever met one person on the path, and in my conversation with her I highlighted that the path was private, and not Public Right Of Way.

This path is a family favourite, and we enjoy using it throughout the year.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

[REDACTED]

Lydia Newman

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

E mail. sally.madgwick@wiltshire.gov.uk

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Alexander Bradley Newman

Wiltshire, Sherfield English, Romsey, Hants SO51 6FS

Telephone: [REDACTED]

Occupation: Farmer

Date of birth: [REDACTED] 1981

I am aware that an application has been put forward to insert a footpath to the definitive map along the route shown in red on the plan attached to my statement.

The path commences towards the southern end of Mean Wood, within 10 or 15 metres of where the established footpaths 23 and 21 intersect. The path travels parallel to footpath 23 but 10 or 20 metres into the wood, and finishes close to where path 23 meets path 20.

I am aware that this is a permissive path over private woodland held in my family's ownership since the 1950s, to be used only with the owner's permission. It is not a public right of way.

I lived at Honeysuckle Lodge from 1981-2004 with my parents and family. Throughout those years, (and in subsequent years though I live elsewhere) I have walked regularly in Mean Wood through out my entire life.

As a child I can remember Mr. Holland May and Jack Chant working in the woods hurdle making and controlling vermin. They also acted in an unofficial security capacity deterring poachers and redirecting people that had strayed from the official public footpaths.

Jim Gallagher who used to live at Mole End also used to regularly roam the woods with the family's permission. He would educate people with out of control dogs to regain control and also redirect people that strayed from the official public footpaths.

When I started school in 1985 at Northaw Pre Prep in West Tytherley, the family soon became acquainted with the Baker family from the village and gave them permission to walk through the woods as a result. I can also remember having birthday parties through the years for which my parents would organise walks right around the farm starting at Honeysuckle Lodge and then up through Mean Wood,

often including the permissive path in question. My recollection of the path in those days was of semi natural appearance made up of generally criss crossing animal tracks meandering up the side of the wood adjacent to public footpath WHT 21 and then towards the northern end dipping a little deeper into the wood around a disused chalk pit. The permissive path altered from a linear position on frequent occasions as a result of falling trees.

I joined the Whiteparish Cub Scouts in approximately 1989 and can also remember joining them for walks through the woods on several occasions organised by the the leaders Bob and Anne Meehan. The walks would often start from Honeysuckle Lodge travelling north into Mean Wood along the permissive path and then down the track in the middle of the wood returning to Honeysuckle Lodge. Subsequently my father still had dealings with the Cubs and would invite them and their families to enjoy the woods at certain times of the year on many occasions. an example of this would be to view the bluebells in May. It was nice to share the woods with the villagers.

During my teenage years and young adulthood (1993-2004), I would walk the permissive path on average once a month, though this increased or decreased in frequency depending on the workload on the family's farm. Often I would walk the woods on a Sunday afternoon with my Grandparents. Walks took place for recreational purposes with the dogs and sometimes to control vermin that would be damaging to the woods and the crops. During this period, I never met anyone using the permitted path. However, elsewhere in the wood if I caught somebody with an out of control dog or even lost persons I would request that the dog was brought back under control immediately for fear of disturbing the wildlife and pheasants. Lost people would also be redirected to public footpaths WHT21 or 23 (whichever being the closest) and asked politely not to do it again.

Whilst the Foot and Mouth outbreak (which started in late February 2001) was affecting the country, all public footpaths, bridleways and permitted paths were closed for a period of 2 or 3 months. All access through Mean Wood was stopped in line with these regulations.

Whilst studying at the Royal Agricultural College between 2000-2004, I returned home to work on the farm every weekend and again never met anyone on the permitted path in Mean Wood.

Upon my graduation from College in 2004, I returned to work full time on the family farm, taking increased responsibility for the running of the business. Part of this responsibility includes taking an active interest in the running of the Shoot, not only during the season but throughout the year whilst essential preparation is undertaken. I have built up a very good working relationship with both Mr G. Barrett and his father Mr M. Barrett in their role as Gamekeepers and liaise frequently with them regarding the condition of Mean Wood, their control of vermin and any concerns they have regarding suspicious activity or trespassers. Shoots take place every 3 weeks during the season (1st October until 1st February) and of course a significant part of Messers Barrett and the beaters' role (both on shoot days and on other days) is to ensure that any walkers only use the public footpaths so that their

safety around the Guns can be guaranteed. When I have been fortunate to be invited to shoot with the syndicate, I have never seen any walkers using the permitted path in Mean Wood. In conversation with Messers Barrett over the years it has to be noted that walkers have not been found to be using the permitted path on shoot days, although there have been occasions when people have been redirected back to the public footpaths at other times.

Deer stalking also takes place all over the farm and the woodland where safe to do so. This is done to control the populations of fallow and roe deer. The Fallow season runs from 1 August until 30 April for bucks and 1 November until 31 March for does. The season for Roe deer is 1 April until 31 October for bucks and 1 November until 31 March for the does. This does not take place in the actual wood, but more on the edges particularly in the three fields with in the wood. High powered rifles are used to ensure clean kills. The existing public footpaths keep the general public at a safe distance from the shooting. The stalking regularly takes place at dawn and dusk throughout the season. The deer stalkers have commented that over the last 20 years minimal disturbances have occurred as a result of uncontrolled dogs. The wood also contains many badger setts. These setts are situated throughout the wood and can go some way in explaining some of the established track for the permissive path. These are a protected species which the family is proud to look after and actively seeks to minimise their disturbance on shoot days both deer and pheasant .

In 2004 Michael Barrett changed the route of the permitted path quite significantly to improve the shoot access. The change was made in the middle section of the permitted path of the wood with the original route passing north east of a chalk pit and the new route passing closer to the western side of Mean Wood. This had many benefits including allowing my family to enjoy riding their horses through the wood with ease and also to allow better vehicular access which meant that my elderly grandmother could then be driven through the woods after she had become ill and bed bound.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Signed Alexander Newman


.....

Date

26/1/2017.....

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

E mail. sally.madgwick@wiltshire.gov.uk

23/01/2017

Footpath Modification Order at Mean Wood, Whiteparish.

Jason Lewis Newman
[REDACTED] Whiteparish, Salisbury, Wilts, SP5 2QU
07887571126
Farmer
Date of birth [REDACTED] 1982

I am writing to object to the above order.

The path marked red on the plan begins at the southerly end of Mean Wood and starts within 10 or 15 metres of the intersection of Public footpath 23 and 21. Public Footpath 23 carries on up the side of the field adjacent to the woods. The path travels parallel to this within the wood at a distance ranging from 10 to 20 metres from it. The path ends near to the meeting point of public foot paths 23 and 20.

I have used the path regularly for as long as I can remember. During my childhood we used it for walking the dogs. I can remember walking it quite often with Olive Gallagher and sometimes Jim with their dog Harvey.

While I was still quite young I remember walking the animal trails in the wood with my mother before school. In those days the said path was little more than an animal trail.

As I grew older I rode my horse on the path although the branches were quite low in places.

When the Scouts and Boys brigade visited I went with them on a night hike for several years using the path to get to the top of Dean Hill.

Over the years the path has changed as trees have fallen and we have had to go around them.

I left the Royal Agricultural College in 2004 and joined the family farm. Since then I have been looking after the dairy herd and young stock. Although I now have limited spare time I enjoy walking the path and woodland when I have time, probably 10 or so times a year.

Over all this time I have only ever seen people I know on the path. It is a permissive path in woodland that we own. If I had seen someone I didn't know I would have made it clear to them that it is on private land and should only be walked with the

land owner's permission and show them how to reach one of the public footpaths.
Over the years I have seen walkers on the public footpaths.

I hereby certify that to the best of my knowledge and belief the facts that I have
stated in this statement are true.



JASON LEWIS NEWMAN.

26/1/17

Mr Glenn Barrett
[REDACTED]

Eastleigh
Hampshire
SO50 5EZ
[REDACTED]

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

10 January 2017

Objection to Footpath Modification Order at Mean Wood, Whiteparish

Dear Ms Madgwick

I am aware an application for a footpath modification order for a new footpath in Mean Wood has been made and that this letter is being submitted in relation to that.

I am a 47 year old carpenter as well as a gamekeeper in my spare time. I help run a syndicate shoot who rents the shooting rights from Mr Newman. The land includes Mean wood. The syndicate was formed at least 60 years ago and since 1986 I have been looking after the pheasant shoot in Mean Wood which involves raising pheasant poults, woodland management and vermin control.

I am in charge of the shoot days and the day to day running of things. The syndicate and I meet up for an AGM to discuss the season ahead and to enjoy an evening out.

The syndicate is made up of 14 paying guns who are all friends and enjoy the company as well as the shooting. I have been very lucky to know most of the guns for a very long time and have become great friends. We are also very lucky to have a very loyal team of beaters who turn up each week no matter what the weather is like. The beaters are generally husband and wife and also their children, some of which have now reached the age where they can occasionally shoot with an adult supervising them. We are very active in encouraging them as they are the future of our shoot. The beating team all have their own dogs and enjoy watching them work. We also have a shoot dinner where both guns and beaters meet up for a very sociable evening.

I constructed a lunch hut within Mean Wood where we meet in the morning and return at lunchtime. The guns and beaters all sit together and enjoy a good chat whilst eating which makes for a very relaxing and enjoyable break. It feels like we are one big family.

We shoot Mean Wood every 3 weeks during the course of the season which runs from October 1st to February 1st. The entire width of the wood and the complete area around the shaded red line on the attached plan is driven by a line of beaters and some walking guns in a Southerly direction towards the standing guns who are placed in the field at the end of the wood. During this drive I have not encountered any walkers within the wood. I know that the path shaded in red on the attached plan is a permitted path whereby it can be used with the owners permission. This also includes our syndicate members who enjoy walking the path regularly throughout the year.

I am very active in the wood during the course of the year. During the close season, mainly from February until July there are rides to be kept clear for the beaters and walking guns which includes the path shaded in red on the plan. Keeping this path clear is vital as it is used to keep the beaters in line on shoot days and allow our members to walk through when we are not shooting, this also helps me as they will always report back should there be any problems, i.e. any trees that have fallen etc. I will also be carrying out repairs/modifications to the pens, tree management and vermin control which are generally carried out every weekend. I will also visit the wood 2-3 times during the week at various times to check on things and to make sure there are no problems. From July there is the arrival of the pheasant poults which requires daily attention for the first 4 weeks, after which I will visit the wood every 2 days throughout the season.

During my years in Mean I have encountered people walking through the wood. Although walkers I have met are generally quiet, their dogs certainly are not. Sadly this is due to the dogs not being under any control and running wild within the wood yelping and barking as they chase after all manner of wildlife. Indeed this is just one example, I witnessed a Labrador chase a deer across three fields before heading back to its owner who was in Mean Wood at the time. I was able to intercept the owner and explained what I have just seen only to appear to fall on deaf ears. As with everybody I have encountered, I have very politely informed them that there is no public right of way through the bottom length of the wood and that the public footpath (wht23 as shown on the plan) runs along the edge of the field next to the wood. The general reply has been they didn't know where the actual footpath was (wht23). I have also requested that their dogs are kept under control.

I own two Labradors but they are always kept under close control especially if I am walking on public footpaths. My dogs are with me even when I am not shooting. On occasions it is my dogs that have alerted me to activity in the wood. For example I was working on one of our pheasant pens when the dogs started barking, when I looked up there was a man walking just below the pen. He claimed he was lost even though there are no tracks leading to the pen from the public footpath approximately 300 yards away. On this occasion I walked back with him to the public footpath (wht23) and showed him where the public right of way is.

The path shaded in red on the plan is within a few metres of the existing public footpath. There is a good fence between Mean Wood and the public path for much of its length which keeps the majority of walkers on track and safe. The fence line also helps to protect the wildlife and my pheasants from dogs.

A lot of time and money is invested within our shoot to provide food and an environment, not just for the pheasants, but for all the wildlife that inhabits the woodland to benefit from. It would be

almost impossible to continue with our activity if the public at large and their dogs were permitted to wander through the wood as a public right of way.

I hereby certify that to the best of my knowledge and belief the facts I have stated in this statement are true



Glenn Barrett

10 January 2017

Michael Barrett
[REDACTED]
Salisbury Rd
Sherfield English
SO51 6FL

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

Date 13/01/17

Objection to Footpath Modification Order at Mean Wood, Whiteparish.

Occupation: Retired Police Officer

DOB: [REDACTED] 1941

In 1980 I commenced helping with the running of a shoot on Mr Newman's land at Upper Cowesfield Farm.

My involvement was to improve the shooting for the resident syndicate and improve the wildlife habitat.

With Mr Newman's permission I accessed all the farm which included Mean Wood.

I was permitted to place feeders in the wood and to coppice the Birch and Hazel to regenerate the woods.

I was aware of the existing footpaths on the farm and at times I cleared some of them to enable myself and others to use them.

There was a path of sorts which ran from the top of Mean Wood to the junction of public foot paths 21 and 23. The path is marked red on your plan, although this is a general outline and not the specific path.

I believe that this path had been established by previous woodsmen who had cut hazel for hurdles etc. with Mr Newman's permission. I also became aware that Mr and Mrs Newman used to walk the path with their dogs and also that he permitted some of his neighbours and friends to walk the area. I always understood that this path and the woods as a whole were private property and not open to the public.

In later years Mrs Newman mentioned that she enjoyed riding her horse in Mean Wood with family or friends and about 1998 I commenced opening up the paths, including parts of the disputed foot path, in order for her to be able to complete circular walks in the wood. This possibly made it easier for uninvited people to get into the wood. I would meet these walkers from time to time and politely inform them that there was no public footpath in the disputed area.

I would probably speak to walkers a couple of times a month to clarify where they should be. A number of people made regular visits and would enter the woods and the pony tracks to let their dogs run wild and chase the deer and wildlife. I would speak to them, but they were more difficult. I have spoken to a number of such people over the last few years but they are reluctant to leave as they thought they should be allowed to run their dogs in the wood. I explained to those people that the wood was private land and that the footpath could only be used with the owner's permission.

My particular concern from the point of view of the shoot is that the dogs running wild not only disturb and kill the young pheasants living in the wood but also destroy their habitat. My main concern however is that from a legal point of view the wood has several badger sets, and badgers are a protected species; these dogs could be chasing and killing young badgers. In addition there are many deer in the area and it is illegal to kill deer from 1st April through to 31st October. I made Mr Newman aware of this problem.

Since 1980 I have been a regular visitor to Mean Wood, supervising the shoot and woodland management. I would walk parts of the wood up to three times a week. I am still doing this at present time.

The shooting syndicate is made up of 14 paying guns. In addition we have a team of beaters who come each week. The beaters are generally husband and wife and also their children. The beaters all have their own dogs and enjoy training the dogs and watching them work.

For your information, the beaters and dogs walk through the wood and undergrowth to disturb the pheasants and encourage them to fly. After we shoot an area the beaters and dogs pick up the dead birds and we share them out for cooking.

We shoot the whole of Mean Wood including the line of the permissive path every 3 weeks during the season which runs from October 1st to February 1st.

I have not encountered any walkers within the wood or on the path during the time when we were shooting.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

Signed:



Print Name

MICHAEL GARRETT

Date

24th JANUARY 2017

ANNEX 4

Additional statements

LEO RANDALL

LORRAINE SMITH

HELEN RANDALL

JANE GLASGOW

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

Dear Sir,

Footpath modification order at Mean Wood, Whiteparish.

I am Leo Randall and I live at [REDACTED], Cowesfield Green, Whiteparish. SP5 2QS
Tel: [REDACTED] was the Councillor for Whiteparish and Landford on Salisbury District Council for 9 years and I am currently the Wiltshire Councillor for Redlynch and Landford. I am also a Parish Councillor for Whiteparish and for a number of years I was the Member responsible for rights of way in the Parish.

I have used the path though Mean Wood for over 15 years. Generally I used it about twice to three times per week, it made a very pleasant and convenient route to the top of Dean Hill and from that point there are a range of rights of way that can then be taken to provide a circular walk. I fully understand the concern and upset of the public over the loss as this is a very attractive route that people have been using for many years.

I always try to walk on approved routes, rights of way, Crow land or permissive paths. In conversation with local residents of Whiteparish before I used the path it was clear that the route though the wood was permissive. As there was no actual sign to this effect, I spoke to the landowner at that time and asked if it was acceptable for me to use the path, he confirmed that he had given a general permission for the public to use the path and he was happy for me to continue using it.

As well as speaking to the landowner about the order, I have also spoken to some of its supporters. The landowner stated that he used the path himself on a regular basis for exercise, this was confirmed by supporters who stated that they saw him from time to time on the path. They went on to state that he was always pleasant, exchanging greetings and so forth, and never objected to them being in his wood. This is what one would expect from a landowner that has given permission for the public to use his path.

I note that the first letter in the Parish Magazine specifically stated that it was a permissive path that had been closed, and this term was often used. Later in the campaign the use of the word permissive has been dropped, presumably as this would not support the case for a right of way.

It is unfortunate that this path has been lost, however it is clearly wrong for a new right to be created over private land simply because it is wanted by a number of people. The status of the path has clearly been very well known in the village for many years, and this cannot be ignored because it is not convenient. I therefore object to this order being made.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true.

L. J. Randall
[Redacted Signature]

Leo Randall.
Dated 2nd January 2017

Map of proposed right of way.



~~Redacted~~
SHIRLEY
SOUTHAMPTON
HANTS

SOIS 8PF.

14/1/2017.

02380-320797.

DEAR SIR,

RE: FOOTPATH THROUGH MEAN WOOD, WHITEPARISH, SALISBURY.

I AM MRS LORRAINE SMITH, A HAIRDRESSER FROM SOUTHAMPTON.

I AM AWARE OF THE APPLICATION TO ADD THE ABOVE PERMISSIVE FOOTPATH TO THE DEFINITIVE MAP ALONG THE ROUTE SHOWN IN RED ON THE ATTACHED PLAN. THE PATH STARTS AT THE TOP OF DEAN HILL AND FOLLOWS THE SOUTH UNTIL THE BOTTOM OF MEAN WOOD WHERE IT JOINS PATH 21.

I AM IN NO WAY CONNECTED TO THE LANDOWNERS BUT HAVE USED THIS PATH ABOUT ONCE A MONTH SINCE THE EARLY 1980'S WITH FRIENDS WHO LIVE IN WHITEPARISH, WHO HAVE PERMISSION FROM MR. BRADLEY NEWMAN, THE LANDOWNER. MR. NEWMAN AND HIS WIFE ALWAYS MADE US VERY WELCOME IF WE EVER ENCOUNTERED THEM ON OUR RAMBLES.

I WAS AWARE THAT I WAS USING THE FOOTPATH WITH THE PERMISSION OF THE LANDOWNER AND THAT IS WAS PRIVATELY OWNED. I KNEW IT WAS NOT A PUBLIC PATH

TO THE BEST OF MY KNOWLEDGE THESE ARE THE TRUE FACTS AS I UNDERSTAND THEM

~~Redacted~~
LORRAINE SMITH (MRS.)

Helen Randall
[REDACTED],
Cowesfield Green,
Whiteparish,
Salisbury,
Wiltshire.
SP5 2QS

Dear Sir

Re Footpath through Mean Wood Whiteparish, Salisbury

1. I am Mrs. Helen Randall b 26.07.1949 Tel 01794 884929 and I have lived at the above address since 1981. I am a retired Family Court Social Worker.
2. I am aware of the application to add the above permissive footpath to the definitive map along the route shown in red on the attached plan. The path starts at the top of Dean Hill and follows south until the bottom of Mean Wood where it joins path 21.
3. I am not connected to the owners of this land.
4. I have used the footpath since we moved to the village in 1978. It is a very pretty woodland particularly when the bluebells are in flower. I last used the path in the spring of 2015. I used the path about every 2 weeks but sometimes would go 3-4 weeks. I used the path with the permission of Bradley Newman who gave me verbal permission many years ago. He and his wife always made me welcome if I saw them.
5. From time to time I saw other users often with their dogs but I did not ask if they had permission.
6. I was always aware that I was allowed to use the footpath but that it was privately owned and my usage and that of other users, was by kind invitation of Bradley Newman. I knew it was not a public path.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in this statement are true

[REDACTED]

Mrs Helen Randall
12.01.2017

Sally Madgwick
Rights of Way and Countryside Waste Environment
County Hall
Bythesea Road
Twowbridge
Wiltshire
B.A. 14 8JN

Objection to Footpath Modification Order
at Mean Wood, Whiteparish

Mrs Jane Glasgow

Phone: [REDACTED]

[REDACTED]

Occ : retired

Palmerston Street

Dob : [REDACTED] 1945

Romsey

SOS1 8QH

I am aware that an application has been made to add a footpath to the definitive map along the route shown in red on the plan attached to my statement.


The path starts at the southern end of Mean Wood, within 10 or 15 metres of where public footpaths 23 and 21 cross. The path travels through the wood parallel to public footpath 23 and within 10 to 20 metres of its ending close to where path 23 meets path 20.

The path is on Mr Newman's private land and is NOT a public right of way.

In the past I have been a leader of the Boys Brigade in Romsey. Mr Newman has given his permission to the Boys Brigade to use the Paddock and Mean Wood with the path marked in red. We used to meet at least once per year over Bank Holidays to camp. Also privately and with my Church Group I have walked on many occasions during the bluebell season.

In summary I have used the path since the mid 1990's, most often during Boys Brigade camps and church groups. Last used in May of 2015, in a private visit.

I hereby certify that to the best of my knowledge and belief the facts that I have stated in the statement are true.


JANE GLASGOW

27-1-17

ANNEX 5

Parish Council minutes and notes

APRIL 15.

Mean Woods Footpath

Many in the village are upset at the blocking of the Mean Woods footpath and concerned as to how to proceed.

I have been in touch with The Ramblers Association who have been very helpful and sent the following information:

'The path has been used by the public, without interruption, for 20 years a right of way may well have come into existence.

You can make an application to the Highway Authority to have the path added to the definitive map based on user evidence.

All you need is to get at least 7 people, (preferably more) who have used the path during the 20-year period, to fill in a User Evidence form.

The Rights of Way team at the Highway Authority should provide all the information required to make the application.

Further information on this process is also available from The Ramblers website <http://www.ramblers.org.uk/advice/improve-the-footpath-network/how-to-claim-an-unrecorded-right-of-way.aspx>

From Emily Shaw, Policy Support Officer, Ramblers Association"

Our Treasurer, Trudi Dean, says she will collate the form from the Post Office as she sees so many footpath users.

Both Trudi and I have contacted Wiltshire Council on the matter without success, thankfully The Ramblers are very helpful.

It is a rather disappointing that the Parish Council are unwilling to support the village as well, though with all our concerted efforts I am sure we will be able to enjoy the bluebells once more.

Jane Legat, Trudi Deane and Pat Woodruffe




£7 per person
Bluebell Walk
 SUNDAY 12th APRIL
 MEETING
 'BUCKBY' EAST GRIMSTEAD
 POINT
 1030am FOR 11AM WALK
County Commission Register No. 803680
 Charity Registered No. SC 039050
 BBQ 12pm Raffle

**ALL SAINTS' CHURCH
 SPRING CLEAN**
 SATURDAY 25th APRIL
 9:30am - 12:30am



All help would be appreciated for cleaning inside the church on the above date- there are many varied tasks - please bring useful cleaning equipment.



Contact Churchwarden - Jane Legat 884600
 You do not have to be on the cleaning rota -
 Everyone needed!

Mean woods footpath closure. Dean Hill.

MARCH 15.

It is with great sadness that we now see the owner of Mean Woods now closing the permissible footpath through this particularly lovely stretch of woodland. During the last ten years we have resided in Whiteparish we have thoroughly enjoyed the access through Mean Woods, as I am sure generations of villagers have done for many years before.

We understand that the owners are simply trying to secure the woodland from unscrupulous nocturnal visitors who have abused this access and caused damage. However we cannot see that a bit of barbed wire fencing will keep this sort of visitor out of the woodland but it is likely to stop law abiding village walkers from enjoying their favourite ramble.

During the ten years we have used the well trodden footpath through the woods we have never seen anyone causing damage or abusing the access in any way. The closure remains particularly sad at this time of year as the small early spring flowers start to appear and blue bells make their spectacular show throughout the woodland.

Tony (The Street)

Why does the HLOW air ambulance need your bras?

The air Ambulance is a charity, which cannot provide a 24 hour service as it does not have a night flying helicopter. All effort is being made to meet with this objective, as well as keeping their normal device active.

They will take your old bras (which all women have!) but usually throw away! So old, grey, stretched, wired, padded or sports they will take them all.

The benefits are twofold, the air ambulance receives 10p per bra, they are then sent to Africa to be sold on market stalls. The amazing outcome for Africa is that the incidence of rape has gone down in women that wear bras.

Please spread the word!

Bras can be dropped off or left in the porch (In a bag please) at 14 Meadow Court, Whiteparish.

WOOD FOR SALE

There has been extensive and costly work carried out in the Churchyard recently.

Large quantities of lime wood is available for sale.

It would need to be kept to dry out before burning.

Sale by the boot full considered, as well as by the trailer load.

For further information please contact Jane Legat 01794 884 600

PACIA MAR.



Whiteparish Parish Council

PARISH COUNCIL NOTES

From the Meeting held 24th March 2015 in the Memorial Centre, Whiteparish.

Councillor Vacancy

There is a vacancy on the Parish Council. Please contact the Parish Clerk or a councillor for further information on joining the Parish Council.

Miles Lane

Wiltshire Council Highways is investigating installing extra high kerbing at the junction with Miles Lane and the A27.

Parish Council Boundary Fence

The condition of the Parish Council boundary fence, near the skate ramp, was discussed and it was agreed to get quotes for repair before considering the cost for a new replacement fence.

Skate Ramp

Further to the annual inspection report quotes are being obtained for repairs to the skate ramp. This will be prior to the Whiteparish Youth Groups implementing its new artwork.

Best Kept Village Competition 2015

It was agreed to enter the Best Kept Village competition 2015.

Rights of Way

Dog owners are reminded that they should clear up any mess made by their dog and that this waste is not hung in bushes or trees. Please dispose of it in the nearest litter waste bin.

Villagers are reminded that they must keep to designated rights of way and not stray from them. Land owners are reminded it is their responsibility that public rights of way on their land are kept clear and accessible.

Next Parish Council Meeting

The next meeting is the Annual General meeting which will be held at 7.30pm on Wednesday 20th May 2015 in the Memorial Centre. Please inform the clerk or any councillor if you are unable to attend and wish to raise any village matter.

PARISH COUNCIL NOMINATED MEMORIAL TRUST TRUSTEE

Under the Constitution of the Memorial Trust the Parish Council is responsible for appointing three Trustees.

The Trustees can either be Parish Councillors or members of the public. A vacancy has arisen due to the resignation of Linda Palmer, a Parish Council nominated Trustee, and the Parish Council wishes to appoint a member of the public as a Trustee.

If you are interested in becoming a Trustee please contact the Parish Clerk at maria.pennington456@btinternet.com.

CLOSURE OF PERMISSIVE PATH THROUGH MEAN WOOD

The Parish Council have always understood that the path that has recently been closed was permissive and therefore the land owner is within his legal rights to do so.

Any member of the public who wishes to discuss this further with the Parish Council are welcome to attend the next Parish Council meeting on Wednesday 20th May 2015 in the Memorial Centre at 7.30pm.



Whiteparish Parish Council

PARISH COUNCIL NOTES

From the Meeting held 8th December 2016 in the Memorial Centre, Whiteparish.

Parish Precept

It was agreed to set the precept for 2017/2018 at an increase of 3.82% which equates to £1.50 for a Band D property for the year.

Next year's budget is £9,319 more than projected spend for this year. The raise is primarily due to the £5,000 cost of potential elections as advised by Wiltshire Council, £2,600 for two new noticeboards and £1,000 (£500 each) for potential football pitch and bench maintenance.

The Parish Council last increased the precept in 2011.

Publication of approved minutes

Approved minutes have always been readily available to view as the original copy via request to the Parish Council Chairman.

In the future, approved minutes will also be published on the village website and all approved minutes can still be viewed via the Parish Council Chairman. Parish Council Notes will continue to be placed on the noticeboard and in the Steeple and Street.

Rights of Way

With the help of Riverbourne Community Farm and volunteers path 26 has been cleared. Part of Bridleway 39 has also been cleared with the assistance of the British Horse Society, Wiltshire Council and the landowner. The Parish Council encourages use of the Whiteparish rights of way and hopes frequent use will keep paths clear.

BT Payphone Removal consultation – payphone on A36, Southampton Road

The Parish Council raised no objections to the removal of this payphone. The report supplied by BT indicated it has had zero use in the past year.

To nominate three people to become Trustees of Whiteparish Memorial Trust

Mike Hayday, Richard Burr and John Herrett were again nominated by the Parish Council to continue as Trustees.

Mean Wood, Whiteparish

The Parish Council objected to the application for an order to add a public footpath at Mean Wood, Whiteparish to the definitive map and statement. It was a unanimous decision and the Parish Council has always understood this was a permissive footpath.

Churchyard grass cutting

It was agreed to support the PCC request with financial assistance towards grass cutting of the churchyard.

Community

Villagers are invited to come and meet their Parish Councillors and find out what the Parish Council does at the Annual Parish Meeting on Thursday, 16th March at 7.30pm in the Memorial Centre. Everyone is welcome.

Reporting Highway Issues

To report a highway problem to Wiltshire Council please call 0300 456 0105 or contact the Parish Clerk at maria.pennington456@btinternet.com. If going direct to Wiltshire Council please request the issue number should the progress need to be tracked.

Next Meeting

The next meeting is on Thursday, 12th January 2017 at 7.30pm. Villagers are invited to attend the meetings. Please inform the Parish Clerk if you are unable to attend and wish to raise any village matter.

ANNEX 6

Mr Newman's comments on user evidence

User number	Comments
1	<p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 1994.</p> <p>Use 3 or 4 times a year is insufficient evidence to establish general public use.</p> <p>In any event, use of the path has been permissive for the reasons outlined within this letter.</p>
2	<p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 1994.</p> <p>Use 3 or 4 times a year between 2003 and 2004 is insufficient evidence to establish general public use.</p> <p>In any event, use of the path has been permissive for the reasons outlined within this letter.</p>
3	<p>Despite Ms Woodruff's comments at question 12 of her form, my client is very clear in his statement that Ms Woodruff's use of the Proposed Footpath has been with his express oral consent. Ms Woodruff's evidence should not be relied on to comprise use as of right for the purposes of s.31. Her use was with the express permission of the landowner.</p> <p>Ms Woodruff appends an OS maps, purportedly published in 1958 and 1885. There is no evidence from those plans (or user evidence) that the ways so marked are in public use. That there are paths in (or adjacent to) Mean Wood is not in dispute. The issue is that it is only those that are currently recorded as public footpaths WHT21 and WHT23 which are public rights of way. As explained within this letter and supporting evidence, all other paths are permissive.</p> <p>It is helpful to note that the old OS maps show the woodland broken into rectangles by dotted paths. These paths were for management purposes to give the hurdle makers and foresters easy access to the woodland. Timber and hazel would have been cut out of each block in rotation. It would also have helped with rabbit and deer control and amenity use of the land owner for shooting and so on. The paths were not marked as public footpaths and for the reasons explained within this paragraph were not intended for public use (nor was public use acquiesced to).</p>
4	<p>The route that Mr Moore has drawn on his plan is significantly different to the route claimed. The Proposed Footpath clearly enters Mean Wood, runs a significant distance from existing WHT23 (not the 3 metres Mr Moore refers to and draws), and runs in and out of trees in a meandering fashion. The route Mr Moore claims to have used is not the Proposed Footpath. His evidence should not therefore be taken into account.</p> <p>In any event, use of any path within Mean Wood has been permissive for the reasons outlined within this letter.</p>
5	<p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 2000.</p> <p>The plan submitted in support of this statement shows that the route used is not the</p>

	Proposed Footpath claimed. This evidence should not be taken into account.
6	<p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 2000.</p> <p>The plan submitted in support of this statement shows that the route used is not the Proposed Footpath claimed. This evidence should not be taken into account.</p>
7	<p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 2001.</p> <p>A significant portion of the route claimed by this user runs immediately adjacent to WHT23 in northern part of Mean Wood. It does not appear to show the Proposed Footpath in at least that portion of Mean Wood, and should be disregarded in that portion.</p> <p>In any event, use of any path within Mean Wood has been permissive for the reasons outlined within this letter.</p>
8	<p>This user's evidence only shows use of the northern half of the Proposed Footpath, and should be disregarded in relation to the southern half of the Proposed Footpath which is not shown to have been used.</p> <p>In any event, use of any path within Mean Wood has been permissive for the reasons outlined within this letter.</p>
9	<p>This user's evidence only shows use of the northern half of the Proposed Footpath, and should be disregarded in relation to the southern half of the Proposed Footpath which is not shown to have been used.</p> <p>In any event, use of any path within Mean Wood has been permissive for the reasons outlined above. This is clear from the references at question 13 of this form which refer to walks which have been organised for local groups. As Mr Newman makes clear in his statement, these organised walks took place with his express permission, and are indicative of the permissive manner in which any paths within Mean Wood including the Proposed Footpath.</p>
10	Any use by this user of the Proposed Footpath within Mean Wood cannot comprise use of as of right. For the reasons outlined above, this use has been permissive. Given the level of use claimed by this user, it is highly likely that he has either had to avoid Mean Wood during times of active shooting, or has been challenged or turned away by the various persons outlined within the statements referred within this objection.
11	<p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 2006.</p> <p>In any event, use of the path has been permissive for the reasons outlined within this letter.</p>
12	<p>The level of use claimed by this user (once or twice a year) is insufficient evidence to establish general public use.</p> <p>A significant portion of the route claimed by this user runs immediately adjacent to WHT23 in northern part of Mean Wood. It does not appear to show the Proposed Footpath in at least that portion of Mean Wood, and should be disregarded in that portion.</p>

	<p>My client is not aware if Mr Woodruffe is related to Ms Woodruffe (user number 3). However, they live at the same address so that would appear to be the case. Mr Woodruffe should therefore have been aware of the express permission granted to Ms Woodruffe (as outlined above). Mr Woodruffe's evidence should not be relied on to comprise use as of right for the purposes of s.31. His use was with the express permission of the landowner.</p> <p>In any event, use of the path has been permissive for the reasons outlined within this letter.</p>
13	<p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 2006.</p> <p>In any event, use of any path within Mean Wood has been permissive for the reasons outlined within this letter.</p>
14	<p>In his statement Mr Newman explains the relationship with this user, and that through conversations in the past express oral permission has been given for the use of the Proposed Footpath. This user's evidence should therefore be disregarded as it does not amount to use as of right.</p>
15	<p>In his statement Mr Newman explains the relationship with this user, and that through conversations in the past express oral permission has been given for the use of the Proposed Footpath. This user's evidence should therefore be disregarded as it does not amount to use as of right.</p>
16	<p>Use 6 to 8 times a year is insufficient evidence to establish general public use.</p> <p>In any event, use of the path has been permissive for the reasons outlined within this letter.</p>
17	<p>Any use by this user of the Proposed Footpath within Mean Wood cannot comprise use of as of right. For the reasons outlined above, this use has been permissive. Given the level of use claimed by this user, it is highly likely that he has either had to avoid Mean Wood during times of active shooting, or has been challenged or turned away by the various persons outlined within the statements referred within this objection.</p>
18	<p>Use 3 times a year is insufficient evidence to establish general public use.</p> <p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 2005.</p> <p>In any event, use of the path has been permissive for the reasons outlined within this letter.</p>
19	<p>Given the addresses, it is assumed that this user is related to user 18. The occasional use is therefore taken to be similar to user 18's 3 times a year, which is insufficient evidence to establish general public use.</p> <p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 2006.</p> <p>In any event, use of the path has been permissive for the reasons outlined within this letter.</p>
20	<p>Use 4 times a year is insufficient evidence to establish general public use.</p> <p>Any use by this user of the Proposed Footpath within Mean Wood cannot comprise use of</p>

	<p>as of right. For the reasons outlined above, this use has been permissive.</p>
21	<p>Use 6 to 8 times a year is insufficient evidence to establish general public use.</p> <p>Any use by this user of the Proposed Footpath within Mean Wood cannot comprise use of as of right. For the reasons outlined above, this use has been permissive.</p>
22	<p>The route drawn on this user's plan is significantly different to the route claimed. The Proposed Footpath clearly enters Mean Wood, runs a significant distance from existing WHT23 (not immediately adjacent as shown here), and runs in and out of trees in a meandering fashion. The route claimed by this user is not the Proposed Footpath. This evidence should not therefore be taken into account.</p> <p>This user's evidence also commenced within 20 years of the landowner statement of 9 February 2012, and could not therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 1997.</p> <p>In any event, use of the path has been permissive for the reasons outlined within this letter.</p>
23	<p>Use 5 times a year is insufficient evidence to establish general public use.</p> <p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 1998.</p> <p>The user (at Q12) refers to a farmer maintain a path from Miles Lane to a stile in Mean Wood open. This is not relevant – that path would be WHT21 which is already a public footpath and not relevant to this Application.</p> <p>This user refers to an ordnance survey map but no copy is provided. If the reference is to the OS sheet dated 1958 provided by user 3, as explained above, there is no evidence from that sheet that the Proposed Footpath is in public use. The sheet shows many paths in Mean Wood, all of which (save for WHT21 and WHT23) are permissive.</p> <p>It is helpful to note that the old OS maps show the woodland broken into rectangles by dotted paths. These paths were for management purposes to give the hurdle makers and foresters easy access to the woodland. Timber and hazel would have been cut out of each block in rotation. It would also have helped with rabbit and deer control and amenity use of the land owner for shooting and so on. The paths were not marked as public footpaths and for the reasons explained within this paragraph were not intended for public use (nor was public use acquiesced to).</p>
24	<p>Use 6 times a year is insufficient evidence to establish general public use.</p> <p>This user's evidence commenced within 20 years of the landowner statement of 9 February 2012, and cannot therefore comprise evidence demonstrating 20 years' use for the purposes of s.31. In this case the evidence of use commenced in 1998.</p> <p>The user (at Q12) refers to a farmer maintain a path from Miles Lane to a stile in Mean Wood open. This is not relevant – that path would be WHT21 which is already a public footpath and not relevant to this Application.</p> <p>This user refers to an ordnance survey map but no copy is provided. If the reference is to the OS sheet dated 1958 provided by user 3, as explained above, there is no evidence from that sheet that the Proposed Footpath is in public use. The sheet shows many paths in Mean Wood, all of which (save for WHT21 and WHT23) are permissive.</p> <p>It is helpful to note that the old OS maps show the woodland broken into rectangles by dotted paths. These paths were for management purposes to give the hurdle makers and</p>

foresters easy access to the woodland. Timber and hazel would have been cut out of each block in rotation. It would also have helped with rabbit and deer control and amenity use of the land owner for shooting and so on. The paths were not marked as public footpaths and for the reasons explained within this paragraph were not intended for public use (nor was public use acquiesced to).

25 Any use by this user of the Proposed Footpath within Mean Wood cannot comprise use of as of right. For the reasons outlined above, this use has been permissive. Given the level of use claimed by this user at weekends, it is highly likely that he has either had to avoid Mean Wood during times of active shooting, or has been challenged or turned away by the various persons outlined within the statements referred within this objection.

Please note that whilst Mr Hobbs refers to a car park at the northern end of the footpath, he is mistaken. There is no public parking available in the area indicated on the plan accompanying his user form.

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NB Relevant Period 1992 – 2012 (S.31(6) HA80 Deposit and Statutory Declaration)

Witness no.	Name	Address	Dates of use	Route claimed
1	Sheila Harrison – King	The Brambles, Clay Street, Whiteparish	1994 – 2014	As claimed route
2	Trudi L Deane	Coopers, Common Road, Whiteparish, SP5 2SU	1994 – 2015	As claimed route
3	Patricia M Woodruffe	Anchorsholme, Clay Street, Whiteparish, SP5 2ST	1969 – 2015	Shorter route and more detailed claimed route
4	Philip Moore	Rosebank, Common Road, Whiteparish, SP5 2SU	1985 – 2008 2012 – 2014	Route drawn on wood boundary – about 3 metres ‘in’
5	John C d’Orville	Ashdean, Dean Lane, Whiteparish, SP5 2RW	2000 – 2015	Unclear route drawn
6	Jennifer d’Orville	Ashdean, Dean Lane, Whiteparish, SP5 2RW	2000 – 2015	Part of claimed route drawn
7	Peter Combridge	16 Green Close, Whiteparish	2001 – closure	As claimed route
8	Nigel J Turk	Birch Tree Cottage, The Common, Whiteparish, SP5 2RD	1976 – 2013	Part of claimed route only
9	Linda Turk	Birch Tree Cottage, The Common, Whiteparish, SP5 2RD	1977 – 2013	Part of claimed route only
10	Paul Witcher	19 Highlands Way, Whiteparish, SP5 2SZ	1990 – closure	As claimed route
11	Norma Aplin	43 Highlands Way, Whiteparish	2006 – closure	East of claimed route
12	Brian Woodruffe	Anchorsholme, Whiteparish, SP5 2ST	1971 – 2005	As claimed route
13	Michael R Aplin	43 Highlands Way, Whiteparish, SP5 2SZ	2006 – closure	East of claimed route
14	Anne Baker	5 Meadow Court, Whiteparish, SP5 2SE	1979 – 2014	East of claimed route
15	Christopher Baker	5 Meadow Court, Whiteparish, SP5 2SE	1979 – 2014	East of claimed route
16	Colin Bray	11 Highlands Way, Whiteparish, SP5 2SZ	1988 – 2010	As claimed route but detailed
17	Kay Witcher	19 Highlands Way, Whiteparish	1990 – closure	East of claimed route
18	John Harrison	Westways, Clay Street, Whiteparish, SP5 2ST	2005 – 2014	As claimed route
19	Jennifer Harrison	Westways, Clay Street, Whiteparish, SP5 2ST	2006 onwards	As claimed route
20	W Graham Lawson	4 Nunns Park, Whiteparish	1990 – 2012	As claimed route
21	Kate Lawson	4 Nunns Park, Whiteparish	1989 – 2013	As claimed route
22	John A Dunlop	Little Paddock, Romsey Road, Whiteparish, SP5 2SD	1997 – 2016	Shows route further west but describes claimed route
23	Andrew J W Lax	Abbot stone House, Whiteparish, SP5 2SH	1998 – 2013	As claimed route
24	Jane Lax	Abbotstone House, Whiteparish, SP5 2SH	1998 – 2013	As claimed route
25	Keith Hobbs	Cleish, Brickworth Road, Whiteparish, SP5 2QG	1979 – 2005	Most of claimed route

Widths: c.1 m, ave. 1 m, 0.75 m, less than a metre to 2 m, 1 – 1.5 m, 1 – 1.5 m, wide enough to walk without being in vegetation, varies up to 2 m, variable at least 1 m, 1 m, 1 m, 1 m, 1 m, 1 m, c. 1 m, not more than 1 m, 1 to 2 m, 1 – 2 m, c. 1 m, 1 m, 1 to 2 m, 1 – 1.5 m, 1 – 1.5 m. Mean = 1.2 metres

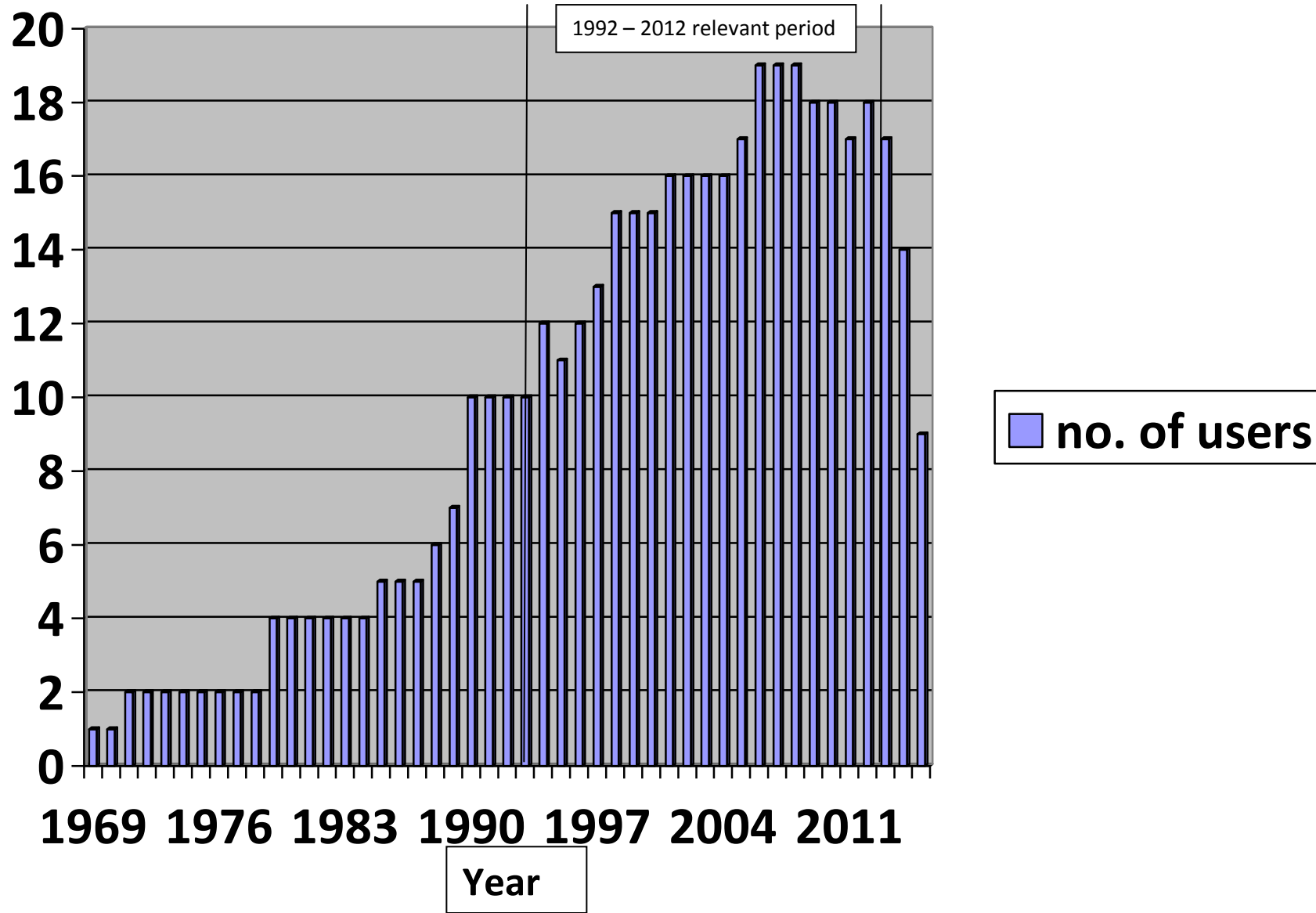
No.	Yrs in rel. period	Frequency	Other users	Gates or stiles	Permission	Signs or notices	Belief that the owner was aware?	Comments
1	19	3 to 4 per annum	Yes	Stiles at start and end	No	No	"Yes because a lot of people used it and knew about it"	Was told about it by others
2	20	3 to 4 per annum until 2004 and then 4 per week	Yes other walkers	Gate at SE end with a gap (for walkers)	No	No	"yes it is a well worn path as demonstrated in the photo and used frequently."	Also attached 1926 map showing path in same location
3	20	Several times a year most years	No	In 2015	No	No	"Trampling was sufficient to maintain a clear path through the woodland vegetation."	As claimed route plus shorter route also enclosed OS maps 1885 and 1958 showing route.
4	10	Monthly to 2008 then 4 times per annum	Yes other walkers	No	No "I did not think it was required"	No	"It was used frequently by a considerable number of walkers and the path was used over a long period of time. The path was well defined and I believe the owner or occupier was well aware of the public using it which is why I believe it was fenced off to prohibit access and use of the footpath"	"This footpath has been used by the people of Whiteparish for generations and I know that many people in this village want the footpath reopened. Myself included." Shows route to west of claimed route
5	14	Most days	Yes frequently dog walkers	Not on claimed route	No	No	"public have used this way for many years mostly for walking their dogs."	Shows only part of claimed route.
6	15	Most days	Frequently dog walkers	Not on claimed route	No	No	"used by members of the public for many many years before and since I moved into the area"	Shows only part of claimed route
7	14	10 to 20 per annum	Yes walkers	Not until 2015	No	No	"he must have been: the path was obvious when I first used it in 2001 and he must have been aware to decided to block it"	"It was unclear to me which was the official FP – but most folk walked inside the wood." "never heard of anyone stopped or turned back" Shows claimed route

No.	Yrs in rel. period	Frequency	Other users	Gates or stiles	Permission	Signs or notices	Belief that the owner was aware?	Comments
8	18	Twice a year	Yes walkers	Padlocked metal gate and barbed wire	No	No	"senior member of landowning family familiar with village life & well aware of villagers using paths over many years."	"Woodland walk established over many years. Especially well used in springtime for seeing bluebells. My own use includes dog walking, which is undertaken by many others too". Shows part of claimed route
9	18	Once or twice a year	Yes other walkers admiring bluebells	Sometimes a gate at northern end	No	No	"It is a route well known in the village and has been used by local groups as well as individuals – 'walks' have been mentioned in the village magazine. The owner was involved in the village. In the late 1970s or early 1980s groups of village children were taken to see the hurdle maker working in the wood."	Shows part of claimed route "long established woodland footpath. Bluebells attract walkers in springtime & autumn leaves later in the year."
20	30 times per annum	Yes walkers	No	No	No	No	"I'm sure the owner must have been aware due to well worn path."	Shows claimed route
9	15 to 18 times per annum	Yes other walkers	No	No	No	No	"well trodden footpath and assume it would have been obvious to the owner also often met other people using the footpath".	"well trodden path through Mean Wood. As access has been denied for some time the accuracy of my route is doubtful, there were no definable features – just a very pleasant quiet route through the wood." Shows claimed route
12	10	1 or 2 times per annum	Rarely	Stile	No	No	"no idea"	"through woodland (open) and copse area at S with stile at S end" Shows claimed route.
13	9	15 to 18 times per annum	Yes walkers	No	No	No	"well trodden pathway would have been obvious to owner"	"well trodden path through Mean Wood there are no landmarks – footpath meandered through woods and glades and is considerably more wiggly than my line. Time has obscured exact memory of route – but is not the pleasure gained."

No.	Yrs in rel. period	Frequency	Other users	Gates or stiles	Permission	Signs or notices	Belief that the owner was aware?	Comments
14	19	5 times per week	Other walkers	No	No	Not until early 2014	"Have met Mrs Newman on path and talked to her on numerous occasions."	Similar to claimed route but to the east
15	19	3 times per week	Other walkers on numerous occasions	No	No	Not until early 2014	"Chatted with Mrs Newman on numerous occasions."	Similar to claimed route but to the east
16	15	6 to 8 times per annum	Yes other walkers	Yes stile at entry to wood	No	No	"yes because of the very footworn path and the people who the owner would have seen using it."	"The route that was most used is where the footpath from Miles Lane enters Mean wood as shown on the marked map. There was a stile over which one could proceed into the wood and join a path defined by the foot tracks of various walkers. You would turn to the left following the path that meandered upwards in the same general direction before passing near a paddock at which one could turn left and return and was a route of great beauty through woodland and seasonable bluebells and wild orchids."
17	20	2 to 3 times per week	Walkers with and without dogs and joggers	Not until blocked	No	No	"yes because people had been using it for years. The path was so well worn it was a proper footpath."	Shown as straight route slightly east of claimed route "when we moved to the village we were told about it because of the bluebells."
18	9	3 times a year	Yes walkers	Stile at southern end open at north	No	No	"yes, commonly walked and maintained by locals"	Photos submitted showing well trodden path being used by 6 people. As claimed route

No.	Yrs in rel. period	Frequency	Other users	Gates or stiles	Permission	Signs or notices	Belief that the owner was aware?	Comments
19	9	Occasionally	A group of walkers	Stile at southern end	No	No	"yes, this path is locally recognised as a pleasant place to walk."	As claimed route
20	17	4 times per annum	Yes other walkers	Stile at southern end	No	No	"yes, well worn path used frequently by many walkers over the years."	As claimed route "starting from the footpath off Miles Lane, we proceeded across the field and crossed over a stile into the wood. We then turned off and followed the path up to the top end of the wood. From there we walked back to Miles Lane following the line of the hedgerow between the wood and the field beyond it."
21	17	6 to 8 times per annum	Yes other walkers	Stile at southern end	No	No	"yes as it was a well worn path used by many walkers over the years."	As claimed route "the route we took was from the footpath off Miles Lane, across field and entered the wood over a stile. Turned left and followed the path (which meandered quite a bit) to the top end of wood and then back into Miles Lane. Path followed the line of the hedgerow between the wood and field beyond."
22	19	12 times per annum	Many others each time I walked the path	Stile at southern end Stile at northern end Gates and barbed wire 2015	No	No	"yes clearly used path. Frequently and regularly used by many people."	Similar to claimed route but shown to the west "The path starts just inside the stile into the woods at point 1 on the map. The path is well used and clear going left within the wood and proceeds up the hill all the way to the top of the wood to the point marked 2 on the map. The path is well used and clearly defined all the way from point 1 to point 2."

No.	Yrs in rel. period	Frequency	Other users	Gates or stiles	Permission	Signs or notices	Belief that the owner was aware?	Comments
23	17	About 5 times per annum	Yes walkers	Stile at each end. Barbed wire in 2015	No	No	"yes the owner of the land must have known and seen walkers. Why else cut a path through the crops in the field adjoining Mean Wood."	As claimed route "as marked on OS maps". "the path begins at a stile that gives access to the wood from the field. The path turns left and winds through the trees in a northerly direction parallel with the field. The woodland is beautifully covered with bluebells in the spring with rare orchids, celandines and wood anemones. The path does not pass any houses roads or ponds and arrives at the northern boundary of the wood."
24	17	About 6 times per annum	Yes walkers	Stiles at beginning and end. Never locked. Barbed wire across path in early 2015."	No	No	"yes because it has been walked for the lifetime of many old members of the village. The path is marked on my 1958 OS Sheet SU22."	As claimed route "there is an old chalk pit and large badger set."
25	10	Most weekends	Yes walkers and horse riders	Open entrance no barriers barbed wire in recent years	No	No "never needed it was open to all".	"yes, cars regularly parked at entrance visible from the road."	Part of claimed route. Shows car parking at the northern end.



NB user evidence graph does not include users who claimed to use only part of the route (nos 5, 6, 8, 9 and 25).

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WILDLIFE AND COUNTRYSIDE ACT 1981

THE DEFINITIVE MAP AND STATEMENT FOR THE SALISBURY AND WILTON RURAL DISTRICT COUNCIL AREA DATED 1953 AS MODIFIED UNDER THE PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

THE WILTSHIRE COUNCIL PARISH OF WHITEPARISH PATH No. 41 RIGHTS OF WAY MODIFICATION ORDER 2017

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 Salisbury and Wilton Rural District Council area dated 1953 as modified under the provisions of the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of events specified in section 53(3)(c)(i) and (iii) of the Act, namely the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

- (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;
- (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 27th April 2017
2. The Definitive Map and Statement for the Salisbury and Wilton Rural District Council Area dated 1953 as modified under the provisions of the Wildlife and Countryside Act 1981 shall be modified as described in Parts I and II of the Schedule and shown on the 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 Parish of Whiteparish Path No. 41 Rights of Way Modification Order 2017

THE COMMON SEAL of }
WILTSHIRE COUNCIL was }
hereunto affixed this 8th day }
of May 2017 }



85519

in the presence of:

Senior Solicitor

SCHEDULE

PART I

MODIFICATION OF DEFINITIVE MAP

Parish	Path No	Description of footpath to be added	Modified under Section 53(3) as specified
Whiteparish	41	That length of footpath leading from point A at OS Grid ref. SU2510 2566 to point B at OS Grid ref. SU 2546 2471 as shown on the plan attached hereto by a black broken line. Approx. length = 1030 metres Width = 1 metre	53(3)(c)(i)

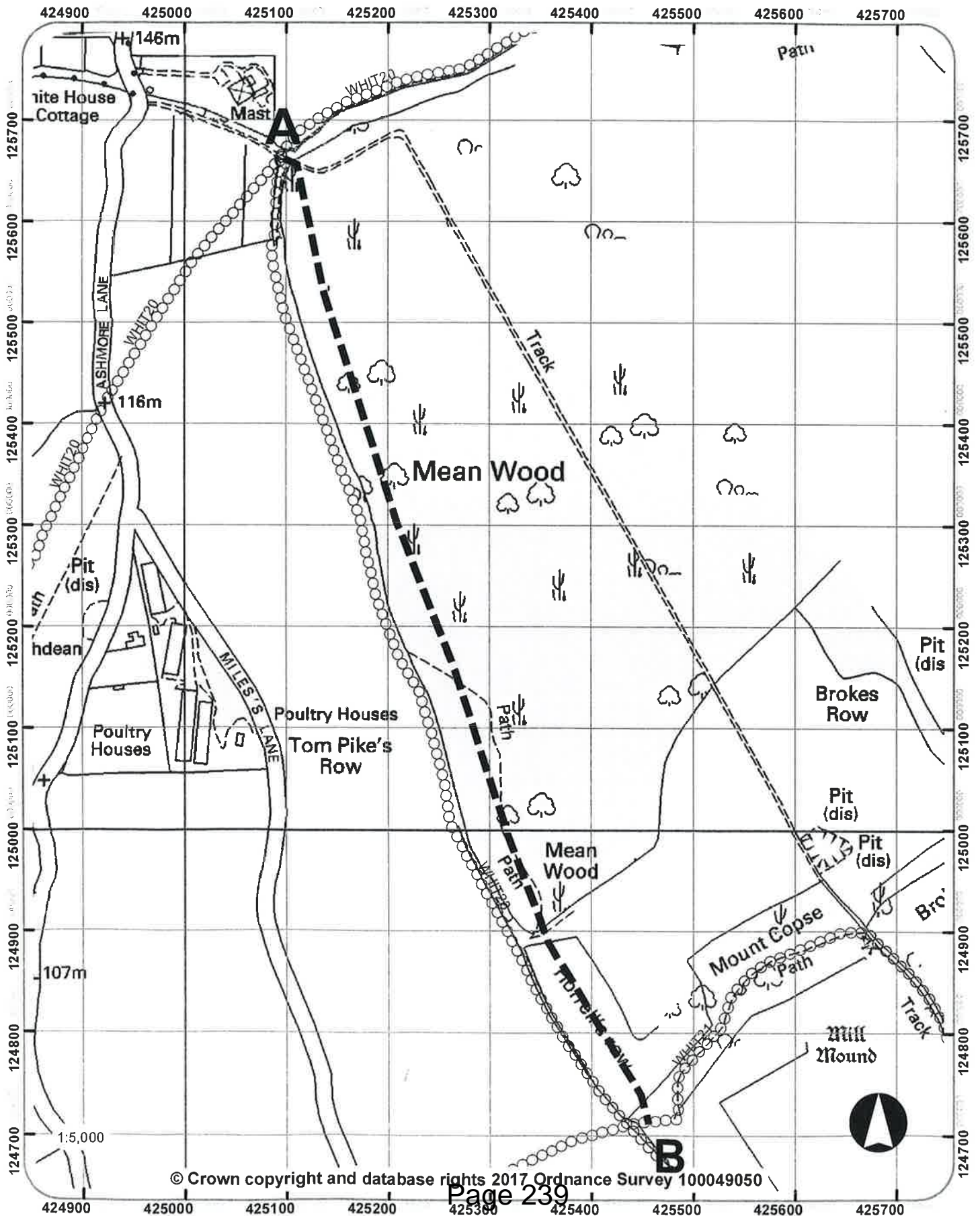
SCHEDULE

PART II

MODIFICATION OF DEFINITIVE STATEMENT

Parish	Path No	Description of path	Modified under Section 53(3) as specified
Whiteparish	41	FOOTPATH leading from its junction with Path no. 20 at the northern end of Mean Wood leading in a south south easterly direction through the woods to its junction With path no 21. Width = 1 metre Approx. length = 1030 metres	53(3)(c)(i) & (iii)

Whiteparish 41 Order Plan
Footpath to be added A
Existing public footpaths
on definitive map



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Route followed in Mean Wood by a Whiteparish village runner in 2013 – data from GPS tracker



11 March 2013

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Wiltshire Council
Southern Area Planning Committee
16th November 2017

Planning Appeals Received between 06/10/2017 and 03/11/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
17/03525/FUL	9 Gason Hill Road Tidworth, Wiltshire SP9 7JX	TIDWORTH	Proposed 2 storey extension and porch	DEL	House Holder Appeal	Refuse	16/10/2017	No
17/04218/FUL	40 Kilford Close Amesbury, SP4 7XS	AMESBURY	Convert and extend garage to give residential accommodation for dependent disabled relative	DEL	House Holder Appeal	Refuse	16/10/2017	No

Planning Appeals Decided between 06/10/2017 and 03/11/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
17/02461/FUL	25 Churchfields Road, Salisbury Wiltshire, SP2 7NH	SALISBURY CITY	Retrospective application for cladding to gable end, lean to roof to front elevation and cladding to side of lean to.	DEL	House Holder Appeal	Refuse	Dismissed	10/10/2017	None
17/03716/FUL	Windrush Farm Dean Road West Dean SP5 1HR	WEST DEAN	Proposed first floor extension, insertion of dormer windows on west elevation, new porch and internal alterations to first and ground floors	DEL	House Holder Appeal	Refuse	Allowed with Conditions	16/10/2017	None

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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 1

Date of Meeting	16 November 2017
Application Number	17/08365/FUL
Site Address	Longs Farm Sutton Mandeville Wiltshire SP3 5LT
Proposal	Proposed demolition of existing buildings and its replacement with four tourist accommodation units together with associated works. (Amended scheme following withdrawal of application 16/10495/FUL).
Applicant	Frances Whyte
Town/Parish Council	SUTTON MANDEVILLE
Electoral Division	FOVANT AND CHALKE VALLEY – Cllr Green
Grid Ref	399242 129459
Type of application	Full Planning
Case Officer	Warren Simmonds

Reason for the application being considered by Committee

The application has been called-in to Committee by Cllr Green due to the level of public interest shown in the application proposal.

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 the Conditions set out at the conclusion of this report.

2. Report Summary

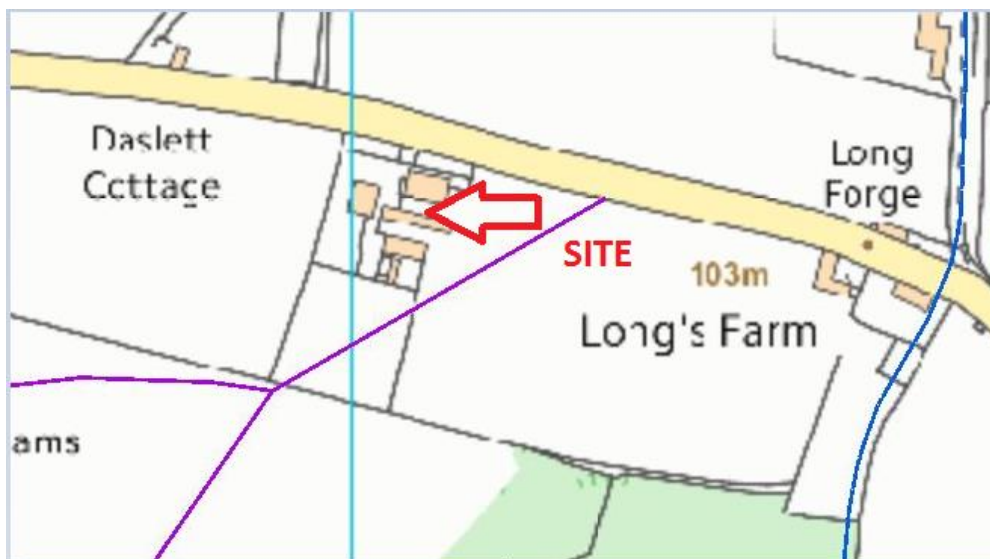
1. Principles and policies
2. Design and impact on the surrounding area (AONB)
3. Impact on Neighbour amenity
4. Highways and parking
5. Archaeology
6. Ecology and drainage

Sutton Mandeville parish council supports the application subject to Conditions

A total of fifty seven representations from third parties were received. Twenty three of the representations were in support of the proposal. Thirty three of the representations were opposed/objecting to the proposed development (including a representation objecting to the proposal from a representative of the CPRE South Wiltshire Group). One representation was received that was neither supporting nor in objection to the proposed development.

3. Site Description

The application site comprises a group of redundant former agricultural buildings located to the West of Longs Farm, within the dispersed rural settlement of Sutton Mandeville. Longs Farmhouse is a GII listed building, but this is separated from the application site by a field and a distance of approximately 185 metres. Access to the site is via an existing entrance off of the classified C road running across the North boundary of the site. A public footpath (SMAN2) intersects from the highway to the East of the site and runs approximately South West passing close to the application site on its Sounthernmost (SE) corner. The application is located within the designated Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty, it is not within the defined limits of development and as such is considered as 'countryside' for the purposes of planning policy.



Application site indicated by arrow, Public Footpath indicated by purple line

4. Planning History

16/10495/FUL	Proposed demolition of existing buildings, and erection of six tourist accommodation units, together with ancillary facilities and associated works.	Application withdrawn
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5. The Proposal

The application proposes the demolition of existing buildings and the construction of four units of tourism accommodation, together with associated landscaping and works.

6. Local Planning Policy

Wiltshire Core Strategy Core Policies CP1, CP2, CP27, CP39, CP48, CP50, CP51, CP57 & CP64.

Delivering the Strategic Objectives of the adopted Wiltshire Core Strategy

National planning policy guidance set out within the NPPF & NPPG

7. Summary of consultation responses

WC Archaeology – No objections

WC Economic Development & Tourism – Support, with comments

WC Highways – No Highway objection, subject to Conditions and an Informative

WC Spatial Planning (Policy) – Proposal is considered compliant with Development Plan policy in principle

WC Landscape officer – No response received

Tree officer – No response received

AONB Partnership – A variety of comments and concerns

WC Public Protection – No objection, subject to Conditions

WC Drainage officer – Additional information requested

Rights of Way officer – No response received (previously no comment to 16/10495/FUL)

WC Conservation – No response received

WC Ecology officer – No response received (previously no objection to 16/10495/FUL)

Sutton Mandeville parish council – Support, subject to Conditions

8. Third party/neighbourhood responses

A total of fifty seven representations from third parties were received. Twenty three of the representations were in support of the proposal. Thirty three of the representations were opposed/objecting to the proposed development (including a representation objecting to the proposal from a representative of the CPRE South Wiltshire Group). One representation was received that was neither supporting nor in objection to the proposed development.

Reasons for objecting to the proposed development included:

Inappropriate development in the countryside, inadequate roads providing access to the site, unsustainable development (lack of public transport and local facilities in the area, leading to a dependence on using cars), visual impact and adverse impact on the character of the surrounding landscape and wider AONB, proposal not compliant with local plan policy, proposal does not relate to a specific countryside attraction, adverse precedent, adverse impact(s) on wildlife/nature conservation interests and light pollution.

9. Planning Considerations

9.1 Principle of the proposed development

9.1.1 Core Policy 1 of the Wiltshire Core Strategy aims to focus development at principal settlements since these have the services and facilities to support development. The proposal is within the parish of Sutton Mandeville, however it is approx. 1.5km from

Sutton Mandeville (designated as a Small Village by the Wiltshire Core Strategy) and approx. 1km from the centre of Fovant (a Large Village). It is therefore considered to be located in Open Countryside and would not be regarded as a sustainable location for residential development as defined by the Settlement Strategy (WCS Core Policy 1).

- 9.1.2 In relation to the sustainability of the location, from the perspective of reducing the need to travel, national policy recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas (NPPF paragraph 29). Transport colleagues have advised that the site has adequate access and commented on whether the proposal maximises the opportunities to reduce the need to travel, appropriate to this location and type of development, bearing in mind the supporting evidence illustrating the tourist attractions, facilities and employment base that might be accessible from this location. The conclusion and recommendation of the Highways officer is that whilst there are no local facilities within easy walking distance of the site and little opportunity to travel by means other than the private car, the proposed development would normally attract an adverse highway recommendation on grounds of being in an unsustainable location - however on the basis that there are overriding planning policies which permit the construction of buildings for tourist accommodation, the Highways officer does not wish to raise a highway objection to the proposal subject to relevant Conditions in respect of access, surfacing and drainage provisions.
- 9.1.3 There are separate provisions for tourist accommodation within the Wiltshire Core Strategy and these are outlined in Core Policy 39. The Tisbury Area Strategy at paragraph 5.146 identifies that there is a lack of tourist accommodation in the area and that development in the community area will need to conserve the designated landscape of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB). Core Policy 39 supports tourist accommodation when it is located within or close to a Principal Settlement, Market Town, Local Service Centre or Large or Small Villages, and where practicable should be located in existing or replacement buildings. The proposal is not located at or close to a settlement so does not align with the policy in this respect. However, the policy does allow for exceptions, where a proposal meets all of the following criteria:
- i. There is evidence that the facilities are in conjunction with a particular countryside attraction.
 - ii. No suitable alternative existing buildings or sites exist which are available for reuse.
 - iii. The scale, design and use of the proposal is compatible with its wider landscape setting and would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas.
 - iv. The building is served by adequate access and infrastructure.
 - v. The site has reasonable access to local services and a local employment base.
- 9.1.4 The applicant, therefore, needs to demonstrate that the proposal is in accordance with the exceptions criteria listed above and why a development in this location is appropriate. Spatial Planning provide the following comments in relation to how the application meets the criteria.

i. There is evidence that the facilities are in conjunction with a particular countryside attraction. The proposal is not for facilities that are in conjunction with a specific countryside attraction, however the site is located within the Cranborne Chase and West Wiltshire Downs AONB which itself is considered an attraction to tourists, as mentioned in paragraph 6.30 of the WCS. There has been significant debate as to whether the AONB itself should be considered as a 'specific countryside attraction' – the Visit Wiltshire official Wiltshire Tourist Information website (www.visitwiltshire.co.uk) lists the Cranborne Chase & West Wiltshire Downs as a place to explore, describing it as

“The area is a great place to stay and explore. With many charming rural villages like [Tisbury](#), visitors will be spoilt for choice. There are also immense opportunities for walking, cycling and horse-riding, as well as other outdoor activities such as golf and fishing. Enjoy breath-taking views along The Wessex Ridgeway Jubilee Trail and the Monarch’s Way which cross the area, or enjoy a family day out at many of our local attractions including Longleat, Stourhead, the Larmer Tree Gardens and Old Wardour Castle which lie within the AONB.”

The AONB Partnership itself, in it’s own consultation response is uncertain of whether the status of the AONB amounts to a countryside attraction in tis own right, commenting:

“In relation to the policy position I see that there is considerable discussion of Core Policy 39 of the Wiltshire Core Strategy by the consultants and those making representations. The debate seems to circulate around whether or not the AONB is a tourist attraction. I have canvassed the opinion of colleagues in connection with this proposal and the considered view is that whilst the AONB is undoubtedly an attraction it is not a tourist attraction in the same way that a facility such as Longleat or Stourhead would be identified as a tourist attraction.”

Recent planning appeal decisions for the provision of rural tourism accommodation have taken differing views on the interpretation and weighting of this criterion of CP39. In planning appeal reference APP/Y3940/W/17/3178643: Oakley Farm House, Lower Woodrow (attached as Appendix 1 to this report) the Inspector opined as follows:

12. The first criterion is there is evidence that the facilities are in conjunction with a particular countryside attraction. Although the appeal site is around 2.5 km from the popular tourist village of Lacock, as well as other tourist destinations in the area, it cannot be said that this development would be associated with this particular or any other specific attraction. It is not providing accommodation directly associated with Lacock. Consequently the proposal is contrary to this criterion.

And he goes on to conclude:

16. As such the proposal would not comply with development plan policies relating to tourist development in the countryside and would be contrary to CP39 of the CS as set out above. I give this full weight. It would also be contrary to paragraph 28 of the National Planning Policy Framework (the Framework) which indicate policies should support sustainable rural tourism which respect the character of the countryside. It would also be contrary to paragraph 55 of the Framework in that it would represent the provision of isolated new dwellings in the countryside without a necessary special circumstance.

Whereas another appeal relating to the provision of new tourist accommodation in the countryside (Appeal ref: APP/Y3940/W/16/3158480 - Firs Farm, Swindon Road, Little Somerford, Wiltshire, attached as Appendix 2 to this report) in allowing the appeal, took

a different view in respect of criterion (i) of CP39 (the proposed accommodation did not relate specifically to any particular countryside attraction), as follows:

5. Moreover, the supporting text to Core Policy 39 of the CS explains the importance of tourism to the local economy and the wealth of assets, including the countryside, that are to be found in Wiltshire. In this regard I am mindful of the support for the proposal provided by interested parties including the submitted evidence which identifies a shortage of self-catering accommodation in the north of the district.

The appeal Inspector in this case accepts a certain amount of travelling by car is inevitable and considers the policy context should be considered according to the Core Strategy as a whole, rather than focussing on the individual policy:

7. However, Core Policy 39 only requires that new tourist accommodation is located in close proximity to small villages. While there would undoubtedly be some car usage, the appeal site is located within a reasonable walk over the country footpath network of the villages of Lea and Little Somerford, and within a moderate cycle ride of Malmesbury. I acknowledge that although there is a frequent bus service that access on foot along the B4042 to the bus stops at Lea Crescent would not be attractive due to the lack of suitable footways.
8. By rural standards, therefore, I find the appeal site to be relatively accessible and that occupiers of the holiday accommodation would have a realistic alternative to the private car for some journeys. Overall, the proposal would accord with the requirements of Core Policy 39 of the CS which read as a whole and in the context of the stated exceptions at Core Policies 1 and 2 is favourable toward the provision of new tourist accommodation at rural locations.

The location of the proposed tourism accommodation at Longs Farm would mean that occupiers of the proposed development would be able to travel to a variety of well known tourism destinations in South Wiltshire such the nearby Fovant Badges, Salisbury Cathedral, Stonehenge World Heritage Site, Old Sarum, Wilton House, Longleat and Stourhead. Evidence in the form of the consultation response to the application from the Council's Economic Development and Tourism officer confirms the most recent economic research into visitor accommodation supply and demand in Wiltshire - the Wiltshire and Swindon Accommodation Futures (WSAF) identifies Cranborne Chase as a location where self-catering letting agencies are looking for additional properties, which further indicates demand, and notes south Wiltshire as a location where demand is strongest.

ii. No suitable alternative existing buildings or sites exist which are available for reuse. The proposal itself does not constitute reuse of the farm buildings, but re-development for a different use. It does re-use an existing site. The application states that there are no alternative sites or buildings that could be available for reuse. Third parties have suggested that there may be alternative building(s) on Longs Farm, however the applicant has negated this as follows:

"There are no alternative buildings that would be suitable for use as holiday lets on Long's Farm.

My parents' house is 17th century; it is a listed building and very small. It lacks space for essential household items.

Given their close proximity and ease for my parents, the buildings across the yard from their house are in regular use and serve a number of purposes, including utility space for e.g. freezer, a washing machine and tumble dryer (which cannot fit in their house).

In addition, the rest of the building space is used as storage for my parents' personal items as well as a workshop and log storage. There is still potential to use the stables for horses which may come into use again, particularly on our moving back to Wiltshire (with children).

Regardless of these buildings being in current use, these buildings share a drive / yard with Long's Farm, and it would not be practical to convert these to tourist accommodation as this would encroach on my parents' private space and privacy.

The barn and stables are in a reasonable condition and not causing an eyesore to the landscape – the pig buildings on the other hand are an issue on both counts.”

iii. The scale, design and use of the proposal is compatible with its wider landscape setting and would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas.

This criterion requires careful consideration of landscapes and environmentally sensitive areas. Since the proposal site is located entirely within the AONB, the principle of development is tied to the ability of the proposals to satisfy policy requirements and management objectives in relation to the AONB.

The consultation response of the AONB Partnerships' Landscape and Planning Advisor confirms that “*Subject to comments later in relation to the actual design and layout of the proposal, it seems that a development in the style proposed would be an improvement on the redundant and dilapidated farm buildings*”.

There are no properties immediately adjacent to the proposal location. The application states that the closest property is Daslett Cottage, approx. 100m distant, and that residential amenity would not be harmed. Taking into consideration the poor and dilapidated condition of the existing redundant agricultural buildings, and considering the generally reduced scale, appropriate design and appropriate external materials proposed for the tourism accommodation buildings (together with enhanced planting and natural screening around the site), it is considered the proposed development is compatible with the wider landscape setting and would not detract from the character and appearance of the local area, or be detrimental in terms of the amenity of neighbours.

iv. The building is served by adequate access and infrastructure. Wiltshire Council Highways have assessed the proposed development and raise no Highway objection, subject to Conditions in respect of appropriate surfacing, access and drainage measures being incorporated into the scheme. Eleven parking spaces and four racks of cycle parking are to be provided within the site (submitted drawing number PL003/PL5 refers). Officers note that whereas the current scheme is for 4 x tourism accommodation units (12 bedrooms in total), the Council's Highways engineer also made no Highway

objection to the previously withdrawn scheme (under planning reference 16/10495/FUL) which was a larger scheme and had proposed 6 x tourism units (18 bedrooms in total).

v. The site has reasonable access to local services and a local employment base.

A development of this number of tourist units has the potential to strengthen the local economy. Core Policy 39 also requires that the proposal site has reasonable access to local services and a local employment base, in order to reduce the need to travel. The proposed development has the potential to generate a variety of employment opportunities, such as cleaners, grounds and buildings maintenance etc. The site lies within 0.4 miles of the village bus stops which offer regular services (nos. 26 & 27) to Salisbury and Shaftesbury via Fovant. Additionally, the Local Service Centre at Tisbury, is located less than four miles away to the west – considered to be a reasonable distance for a cycle ride/commute for employees. Strategic Objective 1 (delivering a thriving economy) of the adopted Wiltshire Core Strategy is supportive of the creation of new jobs, delivering resilient rural communities and targeting growth in the tourism sector.

There are no made or emerging neighbourhood plans relating to the area of the proposal.

9.1.5 National planning policy

The NPPF (paragraph 28) states that in order to support a strong rural economy, sustainable rural tourism should be supported, provided that it benefits businesses in rural areas, respects the countryside and that they are in an appropriate location where identified needs are not met by existing facilities in rural service centres and promote the retention and development of local services and community facilities in villages. These requirements of the NPPF are reflected in Core Policy 39 and form the basis for the need to be sure that the proposal will be strengthening the rural economy. The application provides evidence in relation to the identification of needs (tourist accommodation) that are not met by existing facilities and, by providing a customer base of visiting holidaymakers, seeks to promote the retention and development of local services and community facilities in villages.

9.1.6 Conclusion

Taking into consideration the position of the proposed development in respect of the criteria set out under CP39 as detailed above, and considering the proposal within the wider context of the adopted Wiltshire Core Strategy and as a whole (being an economically derived plan) whereby *“The underpinning idea of the strategy is to strengthen communities, wherever possible, by maintaining and increasing the supply of jobs to ensure that Wiltshire remains strong and prosperous”*, and in the light of overarching national planning policy guidance set out within the NPPF & NPPG, the proposed development is considered by officers to be acceptable in principle and accordant with the policies of the Development Plan.

9.2 Design and impact on the surrounding area (AONB)

9.2.1 The application proposes the demolition of the seven existing former agricultural (piggery) buildings and the erection of four new buildings to provide tourism

accommodation. The existing buildings are redundant and in dilapidated condition. They are not considered capable of conversion. The proposed replacement buildings occupy a similar footprint and orientation to the main existing buildings on the site. Arranged around a central courtyard the proposed buildings have been designed to have no greater impact on the surrounding landscape than the existing and incorporate high quality external materials including local natural stone and horizontal timber cladding for walls and natural slate and clay tiles for roofs.

- 9.2.2 To ensure appropriateness to the local vernacular and character of the surrounding area the precise specification of external materials can be made a Condition of planning approval. A timber clad bin store with green roof is also proposed. New/supplementary boundary planting is proposed and the majority of existing trees within the site are to be retained. The precise details of proposed planting and landscaping can be made a Condition of planning approval.
- 9.2.3 The applicant is sensitive to the aspirations of the AONB Partnership in respect of their bid for Dark Skies status. It is suggested in the consultation response of the AONB's Planning and Landscape Advisor that rooflight windows should be fitted with functioning louvres or blinds so that these can be closed to prevent light pollution. Whilst it is considered that such a Condition would not meet the tests for Conditions as set out in the NPPF (by reason of lack of enforceability), this advice can be provided to the applicant as an Informative to any planning permission. The Public Protection officer has assessed the Proposed External Lighting Scheme for the development and is content for the lighting to be Conditioned as per the plans submitted, with any additional lighting needing a separate planning application with assurance that it complies with Environmental Zone E1.
- 9.2.4 By reason of the appropriate scale, design and materials of the proposed buildings, and through the use of sensitive landscaping and planting mitigation, it is considered the proposed development would not adversely affect the existing character of the surrounding landscape of the designated AONB.

9.3 Impact on Neighbour amenity

- 9.3.1 The application site stands alone on the South side of the road with fields on all four sides. The closest unrelated dwelling to the application site is located approximately 80 metres to the East and on the opposite (North) side of the road. The proposed use of the site for tourism accommodation (in planning terms a C3 use) is considered compatible in terms of the amenity of neighbouring properties. Accommodation is to be provided within substantially constructed buildings and on a self catering basis. It is unlikely to be undue noise and disturbance emanating from the site as might otherwise be the case for example in tented accommodation.
- 9.3.2 By reason of the separation distance between the application site and the closest neighbouring dwellings, and by reason of the compatible nature of the C3 use proposed (akin to residential, but restricted to holiday letting accommodation), it is considered the proposed development would not have undue impacts on the amenity of neighbouring residents.

9.4 Highways and parking

- 9.4.1 The Council's Highways officer has assessed the proposal and raises no Highway objection, subject to Conditions in respect of providing a suitably consolidated and designed access to the site with the adjacent road. Eleven parking spaces and four racks of cycle parking are to be provided within the site (submitted drawing number

PL003/PL5 refers). Officers note that whereas the current scheme is for 4 x tourism accommodation units (12 bedrooms in total), the Council's Highways engineer also made no Highway objection to the previously withdrawn scheme (under planning reference 16/10495/FUL) which was a larger scheme and had proposed 6 x tourism units (18 bedrooms in total).

- 9.4.2 The proposed development is therefore considered to provide an appropriate level of parking provision, internal turning and access facilities and would not be detrimental in terms of Highway safety.

9.5 Archaeology

The Assistant County Archaeologist has assessed the proposal and raises no objection. She provides the following comments:

"There are no historic environment records in or in the near vicinity of the site. It is possible that the lack of archaeological finds might be due to a lack of previous archaeological work in this area. However, on the evidence available to me at present, I consider it unlikely that significant archaeological remains would be disturbed by the proposed development and so have no further comment to make".

9.6 Ecology and drainage

- 9.6.1 The applicant has submitted a Protected Species survey report (Sedgehill Ecology Services, July 2017). The survey report concluded the existing buildings presented low potential use for roosting daytime bats and that no evidence of roosting bats was found in any of the buildings. The report concludes that the proposed development would be acceptable in nature conservation/protected species terms, subject to appropriate mitigation measures and enhancements as set out in the recommendations of the survey report.
- 9.6.2 The applicant has submitted a Drainage Strategy (PFA Consulting, October 2017) whereby the development proposes a sustainable drainage strategy, involving the implementation of SuDS, for managing the disposal of surface water runoff from the proposed development on the site. In respect of foul water drainage for the site, as a connection to mains drainage is not available, in accordance with the Building Regulations it is proposed that foul flows from the development are drained to an on-site packaged sewage treatment plant with discharge of treated effluent to the ditch. Based on the details of the submitted Drainage Strategy it is considered the proposed site/development can be adequately and satisfactorily drained, subject to the approval of details (by Condition).

10. S106 contributions

No Section 106 contributions/heads of terms are relevant. The proposed development would be liable for CIL in the normal way.

11. Conclusion

The proposed development makes appropriate use of a redundant and dilapidated site to create a small scale and low-key rural tourism accommodation business (for which there is a demonstrated need) that will create local employment opportunities and contribute towards

economic development, the delivery of resilient rural communities and the sustainability of local services and tourism development generally in the South Wiltshire area.

By reason of the appropriate scale, design and materials of the proposed buildings, and through the use of sensitive landscaping and planting mitigation, it is considered the proposed development would not adversely affect the existing character of the surrounding landscape of the designated AONB.

By reason of the separation distance between the application site and the closest neighbouring dwellings, and by reason of the compatible nature of the C3 use proposed (akin to residential, but restricted to holiday letting accommodation), it is considered the proposed development would not have undue impacts on the amenity of neighbouring residents.

The proposed development is considered to provide an appropriate level of parking provision, internal turning and access facilities and would not be detrimental in terms of Highway safety.

RECOMMENDATION

That the application be APPROVED subject to the following conditions:

01. 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.

02. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing number PLO/25 Revision PL1 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL003 Revision PL5 dated 23.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL002 Revision PL4 dated 23.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL004 Revision PL3 dated 23.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL001 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL009 Revision PL2 dated 23.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL005 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL006 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL016 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL007 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and

Drawing number PL015 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and
Drawing number PL018 Revision PL3 dated 15.08.17, as deposited with the local planning authority on 11.09.17, and
Drawing number PL017 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and
Drawing number PL008 Revision PL4 dated 15.08.17, as deposited with the local planning authority on 11.09.17, and
Drawing number PL011 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and
Drawing number PL013 Revision PL3 dated 15.08.17, as deposited with the local planning authority on 11.09.17, and
Drawing number PL010 Revision PL2 dated 09.08.17, as deposited with the local planning authority on 11.09.17, and
Drawing number PL012 Revision PL3 dated 15.08.17, as deposited with the local planning authority on 11.09.17.

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

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

REASON: In the interests of visual amenity and the character and appearance of the area.

04. No development shall commence on site until a sample panel of stonework, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: In the interests of visual amenity and the character and appearance of the area.

05. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- (a) indications of all existing trees and hedgerows on the land;
- (b) details of any to be retained, together with measures for their protection in the course of development;
- (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- (d) finished levels and contours;
- (e) means of enclosure;
- (f) car parking layouts;
- (g) other vehicle and pedestrian access and circulation areas;
- (h) hard surfacing materials;

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

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

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

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

07. The development hereby permitted shall not be first brought into use until the first five metres of the each access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The accesses shall be maintained as such thereafter.

Reason: In the interests of highway safety.

08. No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4m back from the edge of the carriageway, measured along the centreline of each access, to the points on the edge of the carriageway 43m to the east and 43m to the west from the centre of each access. Such splays shall thereafter be permanently maintained free of obstruction to vision above a height of 1.0m above the level of the adjacent carriageway.

Reason: In the interests of highway safety.

09. No development shall commence until details of a consolidated and surfaced vehicle turning space in respect of the eastern site access has been submitted to and approved in writing by the local planning authority. No part of the development shall be first brought into use until that turning space has been completed in accordance with the approved details. Such turning space shall be thereafter maintained and kept clear of obstruction at all times.

Reason: To enable vehicles to enter and leave the site in forward gear in the interests of highway safety.

10. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the accesses/driveways), incorporating sustainable drainage details, has been submitted to and approved in writing by the local planning authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

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

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take place on the units of tourism accommodation hereby permitted or within their curtilage.

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.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no rooflight window(s), other than those shown on the approved plans, shall be inserted in any roofslope(s) of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

13. No external lighting shall be installed on site other than that shown on the approved plans (Proposed External Lighting & Landscape Finishes Key, drawing number PL004 Rev.PL3 dated 23.08.17). The lighting approved shall be installed and shall be maintained in accordance with the submitted details.

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

14. Development shall be carried out in accordance with the recommendations of the submitted Daytime Bat and Nesting Bird Survey Report (Sedgehill Ecology Services, July 2017).

REASON: In the interests of protected species and nature conservation interests.

15. No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

16. The development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

17. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 at the location of any proposed soakaways, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

18. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

19. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON: In the interests of amenity

20. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority.

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

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

The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times

REASON: In the interests of amenity

21. No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.

Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details shall be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

22. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 and the Use Classes (Amendment) Order 2005 (or any Order revoking and re-enacting those Orders, with or without modification), the accommodation/buildings hereby permitted shall be used for holiday accommodation only and for no other purpose.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

23. No person shall occupy any of the holiday accommodation hereby permitted for a continuous period of more than 28 days in any calendar year and no accommodation on the site shall be reoccupied by the same person/s within 28 days following the end of that period.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

24. The owners/ operators of the site shall maintain an up -to -date register of the names of all occupiers of individual buildings on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

25. The building(s)/accommodation hereby permitted shall not be occupied as a persons' sole or main place or residence.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

INFORMATIVES

Highways Informative:

The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence is required from the local highway authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the Council's Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352.

Dark Skies Informative:

The application site is located within the countryside of the AONB which is currently bidding for 'Dark Sky Reserve Status' (further information can be found via - <http://www.ccwwdaonb.org.uk/our-work/dark-night-skies/>). It is therefore recommended the applicant consider a scheme of screening/louvres to be attached to and used on all approved rooflight windows in the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.



Appeal Decision

Site visit made on 27 September 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 October 2017

Appeal Ref: APP/Y3940/W/17/3178643

Oakley Farm, Lower Woodrow, Forest SN12 7RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Turrell against the decision of Wiltshire Council.
 - The application Ref 17/02578/FUL, dated 14 March 2017, was refused by notice dated 2 June 2017.
 - The development proposed is erection of tourist accommodation.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Turrell against Wiltshire Council. This application is the subject of a separate Decision.

Procedural matter

3. An amended plan was submitted during the consideration of the application by the Council showing the route of the public right of way through the site. The Council's decision notice refers to both the original drawing, 1554/002.A, and the revised drawing, 1554/002.B. Amendments supersede the original, although there is no material difference as to what is proposed, and consequently I will use only the amended drawing in this decision.

Main Issues

4. The main issues are:
 - whether the proposed development complies with development plan policies on tourist development in the countryside;
 - the effect on the character and appearance of the area;
 - whether the location is such that the need to travel will be minimised and the use of sustainable transport modes can be maximised; and
 - whether there are any other material considerations, including the benefits of the scheme, which mean that the development should be determined otherwise than in accordance with the terms of the development plan.

Reasons

5. The appeal site lies in an area of open countryside to the northeast of Melksham. The countryside in the immediate area is generally flat, although with some variation. Field boundaries are made up of hedgerows, although close to the appeal site these are often divided into paddocks by post and rail fences and tapes.
6. The appeal site is a rectangular area of land set a short distance back from the road, Lower Woodrow, which forms part of the National Cycleway Network. It is surrounded by post and rail fences and there is vegetation on the outside. A public footpath (MELW47) passes through the eastern part the appeal site and to the south, although at the time of my visit the route to the south was not apparent or accessible.
7. The main part of the appeal site is laid to grass, although there was a small pile of earth where it was indicated an earlier planning permission for a farm shop had been implemented. The eastern part of the appeal site is laid to hardsurfacing. To the east of the appeal site is a two storey dwelling, Oakley Farm House, with rooms in the roof. In the paddocks to the southeast I saw around 20 alpacas as well as associated activity.
8. To the northeast of the appeal site building works were on-going for what appeared to be equestrian activities, including horse-walkers and stables. There was also a completed ménage with jumps set up upon it. To the south was another building under construction.
9. The proposal is to erect three units of tourist accommodation on the southern part of the appeal site. This would consist of a single storey building with rooms in the roof lit through rooflights. Each unit would have two bedrooms and one of the units would be suitable for those with mobility issues. These would be dwellings since they would enjoy all the facilities necessary for day to day living. If permission was granted the occupation would be restricted through a condition to maximum stays.

Tourist accommodation

10. It is not in dispute that the site lies in the open countryside. Core Policy (CP) 1 (Settlement Strategy) and CP2 (Delivery Strategy) of the Wiltshire Core Strategy 2015 (the CS) direct new development to locations with a range of services and employment opportunities in order to minimise the need to travel. The explanatory text to CP2 indicates that the CS also includes a number of 'exception policies' to seek to respond to local circumstance and national policy. Included with these is CP39 which deals with Tourist Development.
11. CP39 indicates that in exceptional circumstances outside Market Towns (of which Melksham is one), development, and in this context this must refer to tourist and visitor facilities, may be supported where it can be demonstrated that all of a number of criteria are met. The Council indicate that it considers that if all the criteria are met then an 'exceptional circumstance' "may" have been demonstrated since this is the word in the policy. I would accept this proposition, as there may, of course, be other policies and material considerations which are relevant. It makes sense to go through each criterion in turn. Policies should be read objectively in accordance with the language

used read in its proper context, although the explanatory text can be used to clarify this.

12. The first criterion is there is evidence that the facilities are in conjunction with a particular countryside attraction. Although the appeal site is around 2.5 km from the popular tourist village of Lacock, as well as other tourist destinations in the area, it cannot be said that this development would be associated with this particular or any other specific attraction. It is not providing accommodation directly associated with Lacock. Consequently the proposal is contrary to this criterion.
13. The second criterion is that no alternative existing buildings or sites exist which are available for re-use. The appellant makes the point that there are no buildings on site in his case for the development. (I will discuss any potential re-use of the farm shop building in the section dealing with other considerations below.) However, as the policy refers to "or sites" it has not been demonstrated that there are no other locations which would not be more suitable. Again, the proposal is contrary to this criterion.
14. Thirdly, that scale, design and use of the proposal should be compatible with its wider landscape setting and should not detract from the character or appearance of the landscape or settlement and should not be detrimental to the amenities of residential areas. The first part of this is the second main issue, and I conclude below that the proposal would be moderately harmful. The proposal is sufficiently separated so that it would have no material effect on the living conditions of any residential area.
15. There is no dispute that the fourth criterion, that the building would be supplied by adequate access and infrastructure, is met. The fifth criterion is that the site has reasonable access to local services and a local employment base are covered in the third main issue, and I conclude below that this would not be the case.
16. As such the proposal would not comply with development plan policies relating to tourist development in the countryside and would be contrary to CP39 of the CS as set out above. I give this full weight. It would also be contrary to paragraph 28 of the National Planning Policy Framework (the Framework) which indicate policies should support sustainable rural tourism which respect the character of the countryside. It would also be contrary to paragraph 55 of the Framework in that it would represent the provision of isolated new dwellings in the countryside without a necessary special circumstance.

Character and appearance

17. The appeal site lies in an attractive area of open countryside. The proposed development would represent an urbanisation of the area through the provision of an additional building used for residential purposes. While there is development in the surrounding area this is associated with rural activities, and as such is expected to be encountered in such a location. From Lower Woodrow the proposal would be only visible in a glimpsed view. However, for anyone using the public right of way through the appeal site the proposal would have a significantly harmful urbanising effect.
18. In addition to the effect of the building, there would be the parking of cars from those staying in the holiday accommodation along with ancillary activities, for

example outside tables and chairs from those taking advantage of good weather which would have a further urbanising effect detrimental to the character and appearance of the countryside.

19. The Council has indicated that it considers the design, and in particular the materials, would be out of keeping with the area. However, subject to the precise specification of those materials being agreed through a condition, the design of the building of itself would have been acceptable. In this regard the proposal would comply with CP57 of the CS.
20. However, through its siting and effects the proposal would be significantly harmful to the character and appearance of the area. It would therefore be contrary to CP39 and CP51 of the CS as set out above, and in that it would not protect or conserve landscape character. It would also be contrary to paragraph 17 of the Framework in that it would not recognise the intrinsic character and beauty of the countryside.

Locational Accessibility

21. The appeal site is located approximately 1.25 km northeast of Melksham and 2.5 km southwest of Lacock. However, in the former case this is the edge of the town with the main facilities being further to the southwest. There is no footway on Lower Woodrow and pedestrians are required to walk in the carriageway.
22. The public rights of way network passes through the appeal site. To the west it emerges at the junction of Lower Woodrow with New Road. At the time of the site visit this right of way was not visible or passable immediately to the west of the appeal site, but for the purposes of this appeal I will assume that this is maintained and fully accessible as should be the case. When the footpath joins the main highways network there is no footway in the northeastern section of Woodrow Road, and none of the roads in the nearby vicinity are lit.
23. Those using the accommodation as a base for a walking holiday may not use the private car to go to and from the appeal site, and the site is very close to part of the National Cycle Network so similar considerations would apply for those on a cycling holiday. While there is a shopper bus this only operates for two days a week. Particularly in the dark, the network would not be attractive to the user of non-car modes. The reality is that most visitors will use the private car for their transport as it is not a reasonable walk to nearby facilities due to the distances and nature of the rights of way (including the roads) in the area. Locations in or closer to principal settlements, market towns, local service centres and large and small villages would create less of a need to travel and allow greater use of sustainable transport modes.
24. This is clearly a matter of balance since as it reasonably pointed out those on holiday are likely to travel to attractions. However, in looking at this proposal in the round the location is such that the need to travel will not be minimised and the use of sustainable transport modes cannot be maximised and this weighs against the proposal but only with moderate weight. As such the proposal is contrary to CP39, CP60 and CP61 of the CS, as set out above, in that it would not be located so as to reduce the need to travel, particularly by the private car. It would also be contrary to paragraph 34 of the Framework as the need to travel will not be minimised and the use of sustainable transport modes maximised.

Other considerations

25. The appellant has pointed to a number of other considerations which he considers to be material to this case. First, is the planning permission for the farm shop on the site. A letter has been provided from the Council whereby it indicates that the planning permission has been implemented and could be completed. The planning permission may be completed, but the planning permission dates from January 2012 and only limited works have undertaken to date. While I consider that there is a greater than theoretical possibility that the farm shop may be built out I consider that this is not a likely event and only give this limited weight.
26. This building would have a similar footprint to the proposal but would be lower by 1.3 m. The farm shop building would have a more rural aesthetic when compared to the proposed tourist accommodation. The parking areas for the farm shop and the tourist accommodation would have similar effects. Above I have indicated there may be outside tables and chairs and it may be that there are outside activities associated with the farm shop, so these effects would be similar to each other. Overall I consider that the farm shop would have less of an effect on the character and appearance of the area than the proposal. The harm from the proposal in respect on its effect on the character and appearance of the area is therefore reduced from significant to moderate, and I will use that in the final planning balance.
27. The appellant points out that if the farm shop was to be constructed it would then represent a building which could be converted under the second criterion of CP39. However, as a less tall building less accommodation is likely to be provided, which would have lesser effects. This reduces the harm in respect of the second criterion of CP39 but only by a very limited amount due to the likelihood I have found that the farm shop would actually be completed.
28. The appellant has drawn attention to what he sees as a lack of tourist accommodation in the area with that in existence being booked up. Both the appellant and Council have provided evidence as to what they see as the demand, or lack of it, for accommodation through websites. The problem with such evidence is that it depends on the search criteria used and is dynamic, and no tourist website will be comprehensive. The supporting text to CP39 does emphasize the importance of tourism to Wiltshire's economy and this proposal would add to that part of the economy and, in line with paragraph 19 of the Framework, I give this significant weight.
29. Paragraph 28 of the Framework promotes the diversification and development of agricultural and other land-based rural businesses. However, it must be remembered that the CS post-dates the publication of the Framework and must have had regard to its policies. The supporting text to CP1 of the CS makes clear that the exception policies, which include CP39, are to respond to local circumstance and national policy and it is reasonable to conclude that the extent of these policies is to meet the needs of the area. These policies include CP48 (Supporting Rural Life), but there is no reference to farm diversification within that policy.
30. It is also not clear whether the proposal is actually part of a farm diversification project in the sense of the term as set out in the Planning Practice Guidance¹,

¹ See Reference ID: 13-112-20170728

that being to enhance the sustainability of the farm business and benefit the local community, as opposed being a stand-alone project. The appellant has indicated that the alpaca farm has been affected by two stock losses and may be affected in the future by the decision to leave the European Union. However, he indicates that this business is viable and this proposal would strengthen the overall business. While there is no development plan requirement to show accounts this does not prevent a promoter of development from supporting their case by the provision of such accounts or a business plan. No such financial case has been provided, and given that it is indicated that the existing enterprise is viable, I can give no additional weight on top of that I have already given to the more general economic benefits of the development.

31. The appellant has referred to an appeal decision at Firs Farm, Little Somerford² and sees parallels between the two sites. Here the Inspector concluded that the particular site was "relatively accessible" while I have found, on the information in front of me, that this would not be the case for the appeal site. There are therefore differences between the two sites.

Planning Balance

32. I have found that the proposal would be contrary to development plan policies in respect of tourist development located away from settlements. I give this full weight. There would be harmful effects on the character and appearance of the area, although these would only be of moderate weight. The location is such that the need to travel would not be minimised and the use of sustainable transport modes maximised and I give this moderate weight. Set against this is the significant benefit to the economy of the area. Overall, the benefits of the development are not sufficient to outweigh the presumption that the proposal should be determined in accordance with the terms of the up-to-date development plan as reiterated in paragraph 12 of the Framework. As such the appeal should be dismissed.

Conclusion

33. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR

² APP/Y3940/W/16/3158480



The Planning Inspectorate

3P Kite Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: 0303 44 45931
Customer Services:
0303 444 5000
Email: West1@pins.gsi.gov.uk

www.gov.uk/planning-inspectorate

Your Ref: 16/03206/ful
Our Ref: APP/Y3940/W/16/3158480

Wiltshire Council
Development Services
The Council House
Bourne Hill
Salisbury
SP1 3UZ

19 January 2017

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr David Clifford
Site Address: Firs Farm, Little Somerford, CHIPPENHAM, SN15 5BJ

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Jasmine Rogers

Jasmine Rogers

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Appeal Decision

Site visit made on 20 December 2016

by **David Walker MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th January 2017

Appeal Ref: APP/Y3940/W/16/3158480

Firs Farm, Swindon Road, Little Somerford, Wiltshire SN15 5BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Clifford against the decision of Wiltshire Council.
 - The application Ref 16/03206/FUL, dated 4 April 2016, was refused by notice dated 28 June 2016.
 - The development proposed is demolition of existing outbuilding to be replaced with 4 No tourist accommodation units with associated parking.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing outbuilding to be replaced with 4 No tourist accommodation units with associated parking at Firs Farm, Swindon Road, Little Somerford, Wiltshire SN15 5BJ in accordance with the terms of the application, Ref 16/03206/FUL, dated 4 April 2016, subject to the conditions in the attached Schedule.

Main Issues

2. The main issues in the appeal are:
 - i) whether the proposal accords with policies for the location of new tourist accommodation; and
 - ii) the effect of the proposal on the living conditions of future occupants having regard to the proximity of existing commercial uses and in relation to noise and disturbance.

Reasons

Policies for the location of new tourist accommodation

3. There is no dispute between the parties that the appeal site is located in the open countryside. In these circumstances the Council has pointed me to the settlement strategy contained at Core Policy 1 of the Wiltshire Core Strategy 2015 (the CS), and the associated delivery strategy at Core Policy 2. These seek to direct new development to locations with a range of services and employment opportunities in order to minimise the need for travel. It is an approach consistent with the Government's expression of what sustainable development means in practice as set out within the National Planning Policy Framework, particularly at paragraph 17.
4. However, it is clear from the supporting text to Core Policies 1 and 2 of the CS that they are primarily aimed at new site allocations for housing and

employment development. The provision of rural tourist accommodation is specifically identified as being a necessary exception to the settlement strategy within paragraphs 4.17 and 4.25 of the supporting text to the policies.

5. Moreover, the supporting text to Core Policy 39 of the CS explains the importance of tourism to the local economy and the wealth of assets, including the countryside, that are to be found in Wiltshire. In this regard I am mindful of the support for the proposal provided by interested parties including the submitted evidence which identifies a shortage of self-catering accommodation in the north of the district.
6. I find the extent to which the proposal would replace an existing building within the confines of the grouping of buildings at Firs Farm would safeguard the landscape and environmental requirements of the Core Policy 39 of the CS. The Council's main objection therefore, and that of the Local Highway Authority (LHA) and Lea and Cleverton Parish Council, is that the proposal would be isolated from services and so result in travel patterns that would not accord with the aim of reducing private car usage set out at Core Policies 60 and 61 of the CS.
7. However, Core Policy 39 only requires that new tourist accommodation is located in close proximity to small villages. While there would undoubtedly be some car usage, the appeal site is located within a reasonable walk over the country footpath network of the villages of Lea and Little Somerford, and within a moderate cycle ride of Malmesbury. I acknowledge that although there is a frequent bus service that access on foot along the B4042 to the bus stops at Lea Crescent would not be attractive due to the lack of suitable footways.
8. By rural standards, therefore, I find the appeal site to be relatively accessible and that occupiers of the holiday accommodation would have a realistic alternative to the private car for some journeys. Overall, the proposal would accord with the requirements of Core Policy 39 of the CS which read as a whole and in the context of the stated exceptions at Core Policies 1 and 2 is favourable toward the provision of new tourist accommodation at rural locations.

Living conditions

9. The proposed accommodation would be located at a different site to the existing commercial operations, albeit immediately adjacent and in the same ownership. It would, however, be physically separated by existing store and office buildings and share an independent access with Firs Farmhouse. From my site inspection it is clear that the immediate setting to the proposal would be more akin to being residential than commercial in character.
10. I acknowledge that with civil engineering and builder's yard related activities in close proximity some noise and disturbance would be inevitable. However, I accept the appellant's argument that any such commercial activities would logically occur during work day hours when holidaymakers are likely to be out and about, and not during the evenings.
11. In this regard I find these differing uses of the Firs Farm complex to be complementary to each other. Unacceptable harm is accordingly unlikely to arise to cause conflict with the requirements of Core Policy 57 (vii) of the CS to have regard to the compatibility of adjoining uses among other things.

Other Matters

12. At the time of the planning application Lea and Cleverton Parish Council raised concerns about the suitability of the existing access serving Firs Farmhouse, given the nature of the B4042 with fast flowing traffic and parking demands. However, as the LHA does not raise objection to the use of the existing access from a highway safety standpoint this is not matter that weighs heavily against the scheme.

Conditions

13. I have given consideration to the suggested conditions provided by the Council and appellant. The period for implementation and plans approved are specified for the avoidance of doubt. Having regard to the potential for bats within the building to be demolished it is necessary that the development proceeds in the manner stipulated within the submitted Bat Search and Assessment report.
14. I agree that further details of the provision of an alternative nesting site for swallows and roosting features for bats are required to accord with paragraph 118 of the National Planning Policy Framework. I am satisfied that such details can reasonably be agreed prior to any development above the base course level. Having regard to the countryside setting of the proposal and the requirements of Core Policy 39 of the CS it is also necessary that details of the materials to be used for the external walls and roofs are agreed before any development above the base course level.
15. To ensure that adequate provision is made for parking within the site it is necessary in the interests of highway safety to ensure that the parking area shown on the plans is provided before any occupation of the approved accommodation. To this I add the requirement, as agreed by the appellant, for a scheme of cycle storage to be provided before first occupation to ensure compliance with the requirements of Core Policies 60 and 61 of the CS.
16. As the proposal is located where permanent residential accommodation would not normally be permitted it is necessary to restrict occupation for temporary periods only. Aligned to this, in the interests of certainty, is the requirement that the proposal be used only for holiday accommodation and not for any other purpose under Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Conclusion

17. For the reasons given above, and with regard to the development plan read as a whole, I conclude that the appeal should be allowed subject to conditions.

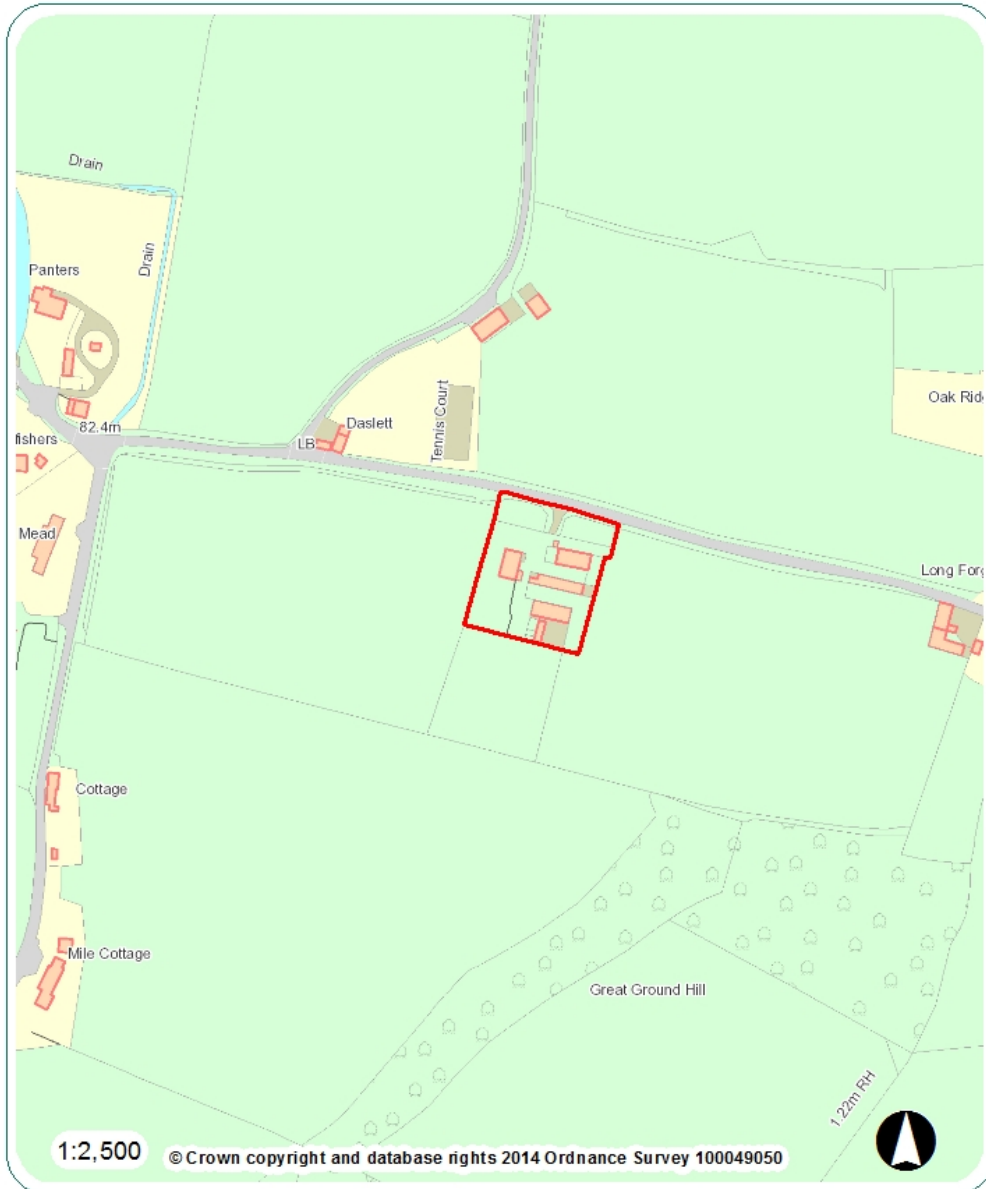
David Walker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 2720/01 Site Plan & Location Plan and Drawing No 2720/03 Layout & Elevations as Proposed.
- 3) The development hereby approved shall be carried out in accordance with the recommendations for removal of the outbuilding roof in sections 6.1 and 6.2 of the Bat Search and Assessment report dated 7 March 2016 prepared by Wessex Ecology.
- 4) Before any development above base course level takes place, details of the provision of an alternative nesting site for swallows and roosting features for bats, including a plan showing the locations and types of features, shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the new holiday units are first occupied and retained for the lifetime of the development.
- 5) No development above base course level shall be commenced until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) No part of the development hereby approved shall be first brought into use until the parking area shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.
- 7) No part of the development hereby approved shall be first brought into use until cycle parking facilities have been installed in accordance with a scheme to be agreed with the local planning authority. Such facilities are to be maintained and kept available for use at all times thereafter.
- 8) No person shall occupy the holiday accommodation hereby permitted for a continuous period of more than 28 days in any calendar year and it shall not be re-occupied by the same person/s within 28 days following the end of that period.
- 9) Notwithstanding Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification), the accommodation hereby permitted shall be used to provide holiday accommodation only, which shall not be occupied as permanent, unrestricted accommodation or as a primary place of residence. An up-to-date register of names and main home addresses of all occupiers shall be maintained and shall be made available at all reasonable times to the Local Planning Authority.

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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 2

Date of Meeting	16 th November 2017
Application Numbers	Planning application 17/05344/FUL and listed building application 17/05345/LBC
Site Address	Garden Cottage, Penruddocke Arms, Hindon Road, Dinton, Wiltshire, SP3 5EL
Proposal	Erection of single storey rear extension and a new pitched roof
Applicant	Mr John Ring
Town/Parish Council	DINTON
Electoral Division	NADDER AND EAST KNOYLE – (Cllr Wayman)
Grid Ref	403181 131328
Type of application	Full Planning
Case Officer	Lucy Minting

Reason for the applications being considered by Committee

Councillor Wayman has called in the applications for the following reasons:

- Scale of development
- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design - bulk, height, general appearance

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 of the Head of Development Management that planning permission and listed building consent should be APPROVED subject to conditions.

2. Report Summary

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

- Background/site history/appeal decisions
- Principle of development
- Impact to the setting and significance of the curtilage listed building (Garden Cottage) and the principal listed building (Penruddocke Arms) and the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty
- Impact on neighbour amenity
- Parking
- Flood Risk

The application has generated 7 third party representations of support, and an objection from Dinton Parish Council

3. Site Description

The application site is located to the rear of the Grade II listed Penruddocke Arms.

The Penruddocke Arms is a grade II listed building and dates from the early nineteenth century. Built of stone under a slate roof, it has painted elevations and its plan is little altered since the late 19th century. The main part of the property is two storey with ancillary

subservient single storey additions. There is a detached single storey outbuilding running along the west boundary of the site. There is a large car park to the east of the building.

The building in question was originally a small single-storey outbuilding and is curtilage listed.

4. Planning History

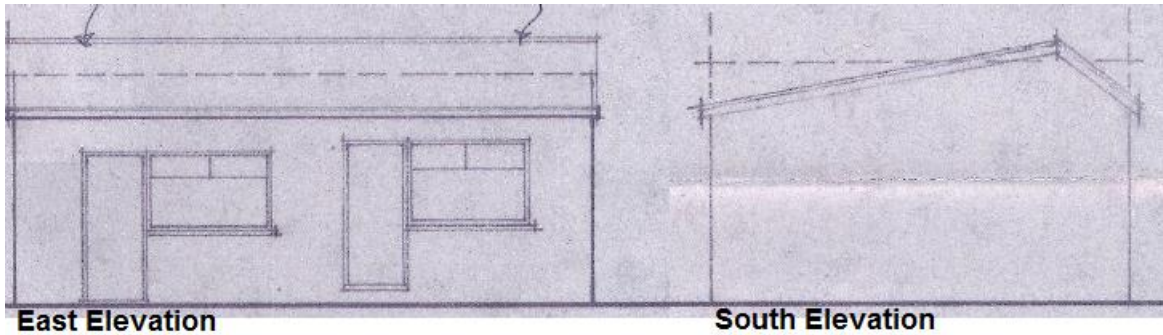
Application ref	Proposal	Decision
15/06643/FUL	Extension to form a kitchen and additional bed rooms	Refused 07/03/2016 Appeal Dismissed 02/11/2016
15/02806/LBC	Extension to form a kitchen and additional bed rooms	Refused 07/03/2016 Appeal Dismissed 02/11/2016
15/00415/FUL	Extension to form a kitchen and additional bed rooms	Refused 09/04/2015
14/04785/CLE	Certificate of lawfulness for the use of the dwelling as separate to the Penruddocke Arms	Approved 22/12/2014
14/02275/FUL	Extension to form a kitchen and additional bed rooms	Withdrawn 23/04/2014

Planning permission was sought in 2014 to extend the building (14/02275/FUL). This application was later withdrawn when it was established that the use of the building as a separate dwelling did not benefit from planning permission.

A certificate of Lawful Development (14/04785/CLE) was then applied for and issued for the use of the building (now known as Garden Cottage) as a separate dwelling. This conclusion was reached based on sufficient evidence being submitted to prove, on the balance of probabilities, that Garden Cottage had been used as a separate dwelling for in excess of 4 continuous years, and therefore the lack of planning permission for the change of use was immune from enforcement action.

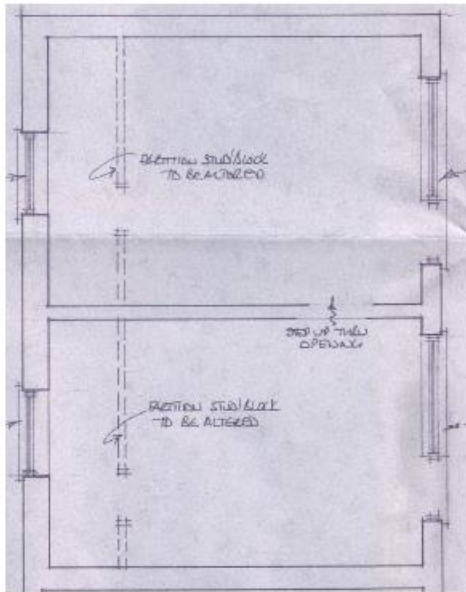


The building as it stood on 31/03/2014 – the subject of the CLE application.



East Elevation

South Elevation

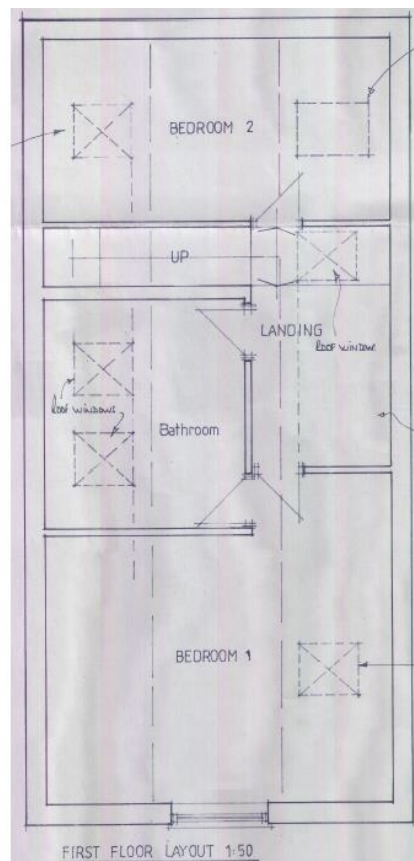
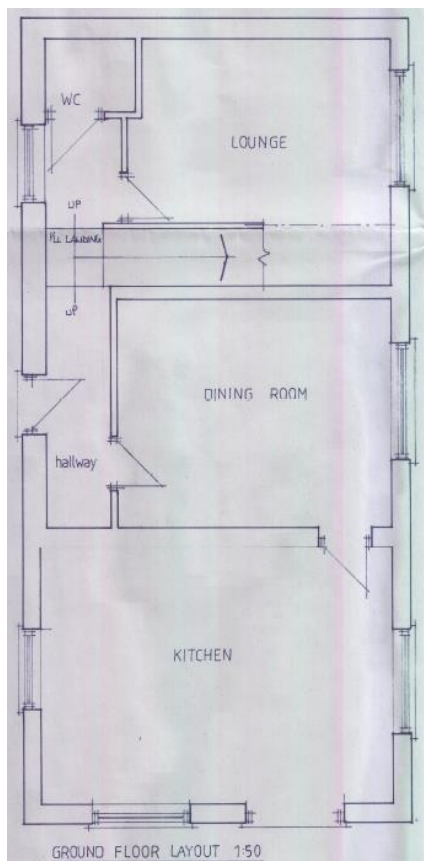
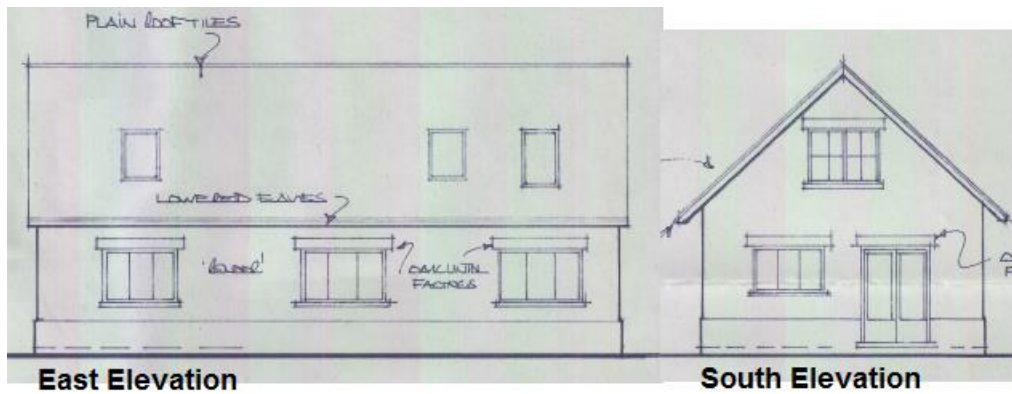


Floor Plan

Plans of the building as it was previously are attached above. The building was a modest single storey outbuilding originally of two rooms (with studwork partitioned sections at each end) and built of local greensand stone. The asymmetric roof form had a steep but narrow frontage, with a gently sloping rear roofslope. The building had a very adhoc appearance as a result of the unauthorised conversion works that had been undertaken (including later additions of brickwork, blockwork and UPVC windows and a satellite dish fixed to the rear elevation). There had been no application for listed building consent for these alterations when the building was originally converted to a dwelling.

Planning permission was then sought in 2015 (15/00415/FUL) for the substantial expansion of Garden Cottage, to create a two-storey dwelling with additional footprint. This application was refused.

Planning and listed building consent were then sought under 15/06643/FUL and 15/02806/LBC for extensions and alterations Garden Cottage, to form a 1.5 storey dwelling with increased footprint. Extracts from the proposed plans have been included below:



These applications were both refused and dismissed at appeal. The appeal Inspector's decision is attached at appendix A and is a material consideration to these applications. The appeal Inspector identified the main issues where whether the proposed alterations and extensions would preserve the setting and significance of the principal listed building and the effect of the proposal on the natural beauty and character of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB).

There have also been two applications for the erection of additional guest accommodation within the car park of the Penruddocke Arms (S/2012/1566 and 14/08025/FUL) both of which were refused and also dismissed at appeal. Both appeal Inspectors identified that the main issues of concern was whether that particular scheme represented sustainable development having particularly in mind the effect on the character and appearance of the rural area (in the Cranborne Chase and West Wiltshire Downs AONB) and the setting of the grade II listed Penruddocke Arms.

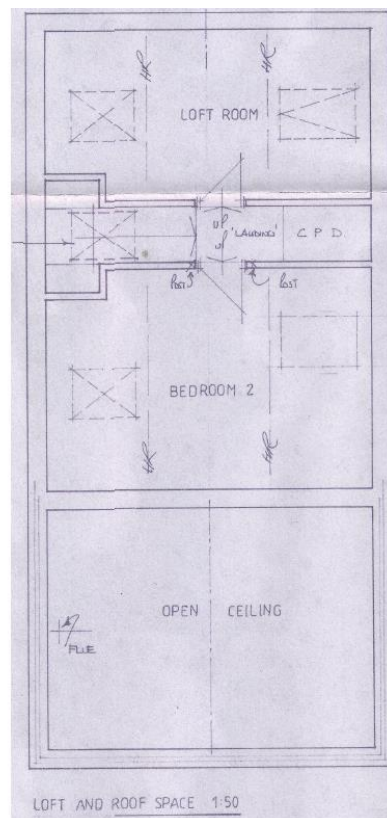
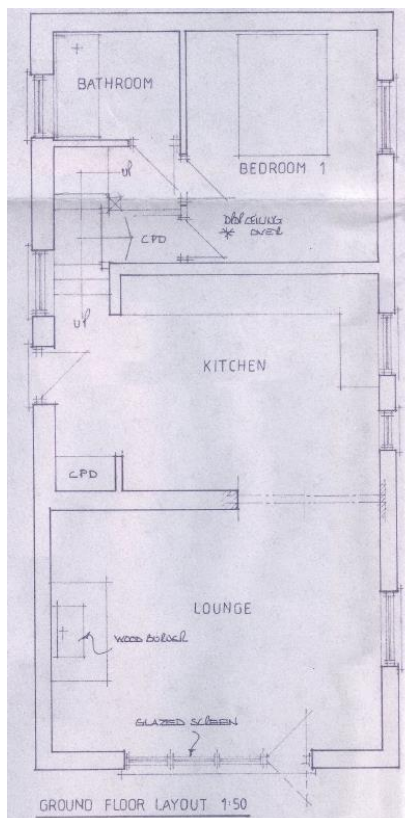
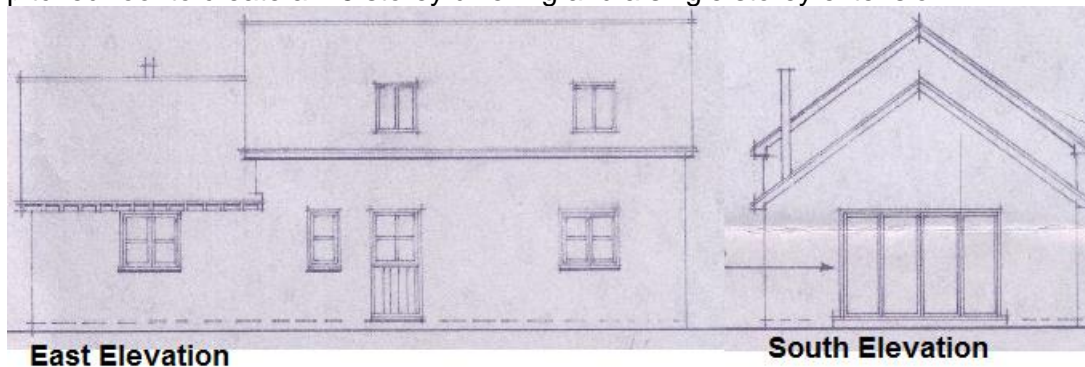
Work has already commenced, although the works which has already been undertaken do not benefit from consent. The proposals currently under consideration are for a different scheme to the property as it is currently built.

Carrying out work without the necessary listed building consent (whereby such works materially affect the historic or architectural significance of the building) is an offence under section 9 of the Planning (Listed Building and Conservations) Act 1990 and carrying out work without the required planning permission is an offence under section 196D of the Town and Country Planning Act 1990.

There is an open enforcement case on the site, although this is pending the determination of these planning and listed building consent applications.

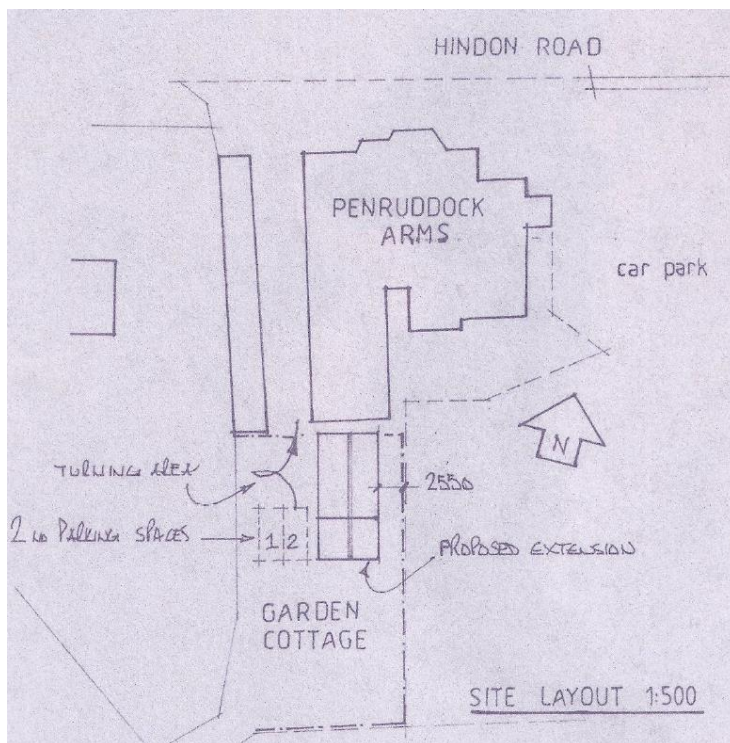
5. The Proposal

The proposal is for extensions and alterations to Garden Cottage, to include the addition of a pitched roof to create a 1.5 storey dwelling and a single storey extension



Proposed Floor Plans

Two parking spaces are provided adjacent to the dwelling:



6. Local Planning Policy

Planning (Listed Building and Conservation Areas) Act 1990:

- Section 16: Listed Building Decisions
- Section 66: Special considerations affecting planning functions

Wiltshire Core Strategy (WCS):

- Core Policy 1: Settlement Strategy
- Core Policy 2: Delivery Strategy
- Core Policy 33: Spatial Strategy: Wilton Community Area
- Core Policy 51: Landscape
- Core Policy 57: Ensuring high quality design and place shaping
- Core Policy 58: Ensuring the conservation of the historic environment
- Core Policy 64: Demand Management

Saved policies of the Salisbury District Local Plan:

- H31: Extensions to dwellings in the countryside

Wiltshire Local Transport Plan – Car Parking Strategy:

- Chapter 7: Parking Standards

Supplementary Planning Documents:

The AONB Management Plan (2014-2019)

Creating Places Design Guide

Government Guidance:

Planning Practice Guidance

National Planning Policy Framework (NPPF) March 2012

- In particular, chapter 7: Requiring good design (paragraphs 58 and 61), chapter 10: Meeting the challenge of climate change, flooding and coastal change (paragraphs 100 and 101), chapter 11: Conserving and enhancing the natural environment (paragraphs 109 & 115) and chapter 12: Conserving and enhancing the historic environment (paragraphs 128, 129, 131, 132, 133 & 134) of the framework are considered particularly relevant.

7. Summary of consultation responses

Conservation: No objections subject to conditions (materials and large scale window/rooflight/door details)

Dinton Parish Council: Object

- The proposed building does not comply with building regulations.
- Site is outside of the housing policy boundary
- The proposed sky lights are contrary to the Cranbourne Chase and west Wiltshire AONB dark skies status.
- The proposed ridge height is higher than the wing of the adjacent Grade 2 listed building.
- Property is too close to the Grade 2 listed building.

If Officers are minded to approve, Dinton PC request that the application is called into committee.

8. Publicity

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

7 third party representations have been received supporting the scheme (summarised):

- The new building is not overbearing
- The property/land before any work was undertaken was in a very sorry state and blot on the landscape
- Proposals are in keeping with the listed building and will improve the look and views of the area, the public house, the landscape and will not cause any harm
- More houses are needed in Wiltshire
- Development is compliant with building regulations and Wiltshire Council requirements (including amending and redesigning plans resulting in financial losses for applicants)
- Objection on grounds of skylights is unreasonable given public house has lights on in the evening; there are numerous other properties within the catchment that have lights on in the evenings; the proposed skylights are small and bedroom light would only be on for a minimal amount of time each day

Comments from the applicant responding to parish and third party comments (summarised):

- Wiltshire Council building control have signed off each phase of building works
- Site is in the parish boundary of Baverstock
- Regarding objection to Skylights to bedroom would only be on for short time and there are 100s of skylights in Dinton Village on old and new properties
- The revised plans reduce the ridge height
- Property has not been moved and was always close to the listed building
- Dinton Parish council has not considered the revised plans

9. Planning Considerations

9.1 Principle of development

The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and makes it clear that planning law (Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF confirms that the 'NPPF does not change the statutory status of the development plan as the starting point for decision making' and proposed development that is in accordance with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

The proposals are therefore to be considered in the context of the National Planning Policy Framework (NPPF) which sets out Central Government's planning policies, and the adopted Wiltshire Core Strategy (WCS) which also includes some saved policies of the Salisbury District Local Plan (SDLP).

At the heart of the NPPF is a presumption in favour of sustainable development and the Adopted Wiltshire Core Strategy seeks to build resilient communities and support rural communities but this must not be at the expense of sustainable development principles and the Settlement and Delivery Strategies of the Core Strategy are designed to ensure new development fulfils the fundamental principles of sustainability.

This means focusing growth around settlements with a range of facilities, where local housing, service and employment needs can be met in a sustainable manner. A hierarchy has been identified based on the size and function of settlements, which is the basis for setting out how the Spatial Strategy will deliver the levels of growth.

The site is within the Wilton Community Area and Core Policy 33 confirms that '*Development in the Wilton Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1.*'

Core Policy 1 of the Wiltshire Core Strategy sets out the '*Settlement Strategy*' for the county, and identifies four tiers of settlement - Principal Settlements, Market Towns, Local Service Centres, and Large and Small Villages. Only the Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development/settlement boundaries, and there is a general presumption against development outside of these.

Core Policy 2 of the Wiltshire Core Strategy sets out the '*Delivery Strategy*'. It identifies the scale of growth appropriate within each settlement tier, stating that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages.

The site is located outside of any designated Settlement Boundary is therefore deemed to be within Open Countryside which is considered to be the most unsustainable location for new growth and where development is strictly controlled.

However saved policy 31 of the Salisbury District Local Plan does apply to extensions to dwellings in the countryside and will therefore apply:

H31 In the countryside extensions to existing dwellings will be permitted provided that:

- (i) the extension is subservient in size to the existing dwelling and house plot and does not substantially alter the character of the dwelling;*
- (ii) the design of the extension is in keeping with that of the existing dwelling and uses complementary materials; and*
- (iii) the extension would not create, or be capable of creating, a separate dwelling.*

It is also necessary to consider the other relevant planning policies and the normal range of material considerations that have to be taken into account when determining a planning application and a judgement is necessary in terms of all the development impacts considered below.

9.2 Impact to the setting and significance of the curtilage listed building (Garden Cottage) and the principal listed building (Penruddocke Arms) and the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty

Sections 16 and 66 of the Planning (Listed Building and Conservation Areas) Act 1990 place a duty on the local planning authority to have special regard to the desirability of preserving listed buildings and their settings:

'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, 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.'

Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

In paying 'special regard' an assessment must be made as to whether the proposals cause 'substantial harm', 'less than substantial harm' or no harm to the heritage asset.

The National Planning Policy Framework (NPPF) outlines government policy, including its policy in respect of the historic environment (Section 12). The policy requires that great weight be given to the conservation of heritage assets (para 132) and advises a balanced approach with the public benefits which may result from proposals being weighed against any harm caused (paragraph 134).

Core Policy 58 'Ensuring the conservation of the historic environment' requires that *'designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance.'*

Core Policy 57 of the WCS requires a high standard of design in all new developments through, in particular, enhancing local distinctiveness, retaining and enhancing existing important features, being sympathetic to and conserving historic buildings and landscapes, making efficient use of land, and ensuring compatibility of uses (including in terms of ensuring residential amenity is safeguarded).

The NPPF states that the planning system should also contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes which include AONBs. Core Policy 51 of the WCS seeks to protect, conserve and enhance Wiltshire's distinctive landscape character and development *'must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.'* Development proposed in AONB should demonstrate particular regard to the character and appearance of the landscape setting.

The appeal Inspector considered that the rear setting of the Penruddock Arms is an informal area, reflecting its service role and that the descending hierarchy of extensions and buildings make a contribution to the historic significance of the country roadside Inn. The appeal Inspector considered that the quality of this setting has suffered over time due to unsympathetic side extensions and that whilst Garden Cottage was of distinctly poor architectural quality, it was small and low.

The appeal Inspector considered that the high and long roof of the previous scheme would be at odds with the descending rooflines of the existing outbuildings and that the overall design (which had a wide eaves overhang) and proportions would not relate to any building type or construction in the area and overall would fail to preserve the setting or significance of the listed building and would harm the wider landscape setting of the heritage asset contrary to the aims of the AONB Management Plan (the aims of which include protection of the area's natural beauty and the conservation of the historic, archaeological and cultural features within the area).

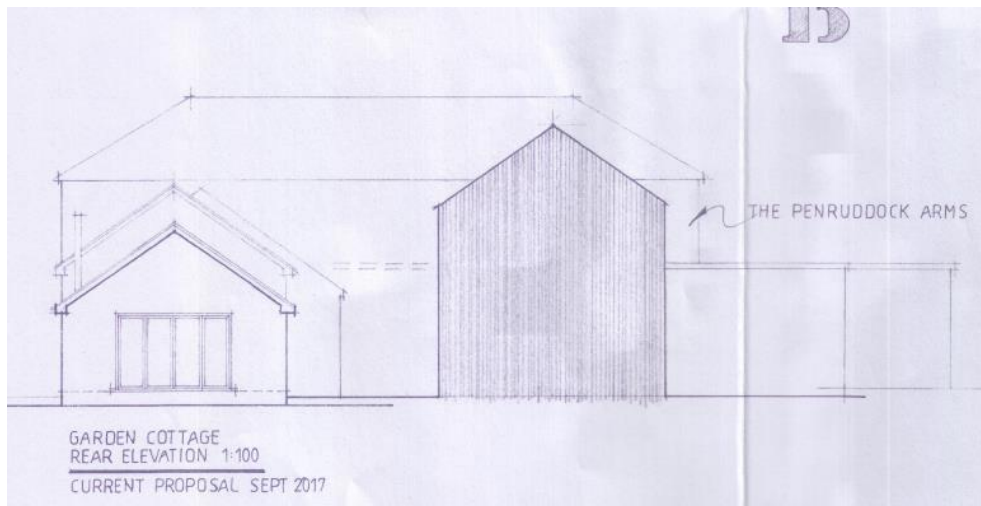
In conclusion and weighing up the harm identified by the appeal Inspector against any public benefits of the proposal; the appeal Inspector considered the provision of a larger dwelling would improve the amenity of the occupiers but considered that the dwelling *'could be improved and extended using other design approaches which would not have the harmful effects I have identified'* and the appeals were dismissed.

This revised scheme proposes a smaller building than the previous refused and dismissed at appeal scheme, with the southern bay reduced to single storey (with no glazing above ground floor level), the ridge height lowered and the angle of the roof pitch and the eaves revised.

Additional section drawings have also been provided showing a comparison of the proposed scheme against the existing southern wing of the public house. This shows that the angle of pitch of the roof matches that of the wing of the public house, the ridge height of the proposal is only slightly higher than the wing, and the reduction in scale of the southern third of the building with a single storey section with lower eaves height reduces the visual differences between the two buildings and the prominence of Garden Cottage against the public house.

Timber windows are also proposed of more traditional proportions considered to be an improvement over the existing building.





Following the receipt of these section drawings showing how the new proposal would relate to the existing SW wing of the pub, the conservation officer considers that the revised drawings show a greatly improved roof pitch, eaves and a better relationship between Garden Cottage and the public house (with the step-down making a huge difference to its impact), and has raised no objections to the scheme subject to conditions (materials and large scale window/rooflight/door details).

It is considered that the revised scheme with reduction in scale, revised roof pitch and eaves details and descending roofline would not harm the setting or significance of the principal listed building or the wider open landscape of the AONB.

9.3 The impact on the living conditions of nearby properties

Core Policy 57 also requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF's Core Planning Principles (paragraph 17) includes that planning should *'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'*

No third party objections have been raised to the scheme and the occupier of the nearest dwelling 'The Barn' has supported the proposal.

Whilst the proposal creates additional bulk to the dwelling and the addition of three rooflight windows on the west facing roofslope to a bedroom, storeroom and stairwell (facing towards the garden of the adjacent dwelling, known as The Barn), there is intervening boundary vegetation within the adjacent garden screening the site and it is considered that the proposal is of sufficient distance from the built form of the neighbouring dwelling to not have any overshadowing, overbearing or significant overlooking impacts.

9.4 Parking

The supporting text to Core Policy 64 refers to a parking study, commissioned by the council in January 2010, which included a comprehensive review of parking standards, charges and policy within both the plan area and neighbouring areas. The resulting LTP3 Car Parking Strategy was adopted by the council in February 2011 and includes policy PS6 – Residential parking standards and policy PS4 - Private non-residential standards. The parking standards for new dwellings are set out in the Wiltshire Local Transport Plan 2011-2026 – car parking strategy:

Table 7.1 Minimum parking standards (allocated parking)

Bedrooms	Minimum spaces
1	1 space
2 to 3	2 spaces
4+	3 spaces
Visitor parking	0.2 spaces per dwelling (unallocated)

The proposed extensions will create a 2-bed dwelling. The proposed two parking spaces shown on the site layout plan therefore satisfy the requirement of the LTP3.

9.5 Flood Risk

The application site is located within Flood Zones 2 and 3. Paragraph 100 of the NPPF states *'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere'* The NPPF also highlights that the Environment Agency advice should be adhered to. The Environment Agency's standing advice for householder developments such as this requires proposals to have matching floor-levels to the existing dwelling and that flood proofing measures will be incorporated in the development where appropriate.

A Flood Risk Assessment has been submitted as part of the application documents. This states that the new ground floor level of the single storey extension will be no lower than the existing ground-floor level and also describes flood proofing measures, such as electrical sockets at suitable heights.

These flood mitigations methods are considered to comply with the Environment Agency's standing advice.

9.6 Other issues

The parish council objections include that the building does not comply with building regulations. This is not a material planning consideration/relevant to the consideration of the applications, as building regulations is covered under separate legislation to planning.

The parish council has also objected to the proposed skylights due to the impact to dark skies in the AONB. The AONB Partnership is currently bidding for Dark Skies status, although their website confirms that there is no legislation that can be enforced to protect dark night skies and as such, it is considered unreasonable to recommend the application for refusal on the grounds that rooflights are proposed. It is also considered that a condition requiring the rooflight windows to be fitted with louvres/blinds so that these can be closed to prevent light pollution would not meet the tests for conditions as set out in the NPPF (by reason of lack of enforceability), this advice can however be provided to the applicant as an informative to any planning permission.

10. Conclusion

It is considered that the proposals will not harm residential amenity or highway safety and subject to conditioning window/door/rooflight details and materials and finishes; it is considered that the revised scheme with a reduction in massing and a descending roofline

(in comparison with the previous refused and dismissed at appeal scheme) would not harm the setting or significance of the listed buildings or the wider open landscape of the AONB.

RECOMMENDATION: That the applications for planning permission and listed building consent be granted, subject to the following Conditions:

In respect of planning application 17/05344/FUL:

(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:

Plan Reference: DRWG 8 Arrangement to rear of public house dated September 2017, received by this office 20/10/2017

Plan Reference: 1:1250 Site Location Plan, received by this office, received by this office 29/06/2017

Plan Reference: DRWG 7 Extension & Alterations dated May 2017, received by this office 29/06/2017

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

INFORMATIVE TO APPLICANT:

The application site is located within the countryside of the AONB which is currently bidding for 'Dark Sky Reserve Status' (further information can be found via - <http://www.ccwwdaonb.org.uk/our-work/dark-night-skies>). It is therefore recommended the applicant consider a scheme of screening/louvres to be attached to and used on all approved rooflight windows in the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

In respect of listed building consent application 17/05345/LBC:

(1) The works for which Listed Building Consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Plan Reference: DRWG 8 Arrangement to rear of public house dated September 2017, received by this office 20/10/2017

Plan Reference: 1:1250 Site Location Plan, received by this office, received by this office 29/06/2017

Plan Reference: DRWG 7 Extension & Alterations dated May 2017, received by this office 29/06/2017

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

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

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

the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area and the setting of listed building.

(4) No development shall commence on site until large scale drawings to include 1:5 scale elevations and 1:2 scale horizontal and vertical sections of all windows (including head, sill and window reveal details), external doors and rooflight windows (which shall be set in plane with the roof covering), together with details of rainwater goods have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

INFORMATIVE TO APPLICANT: Material Samples

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

Appeal Decisions

Hearing held on 29 September 2016

Site visit made on 29 September 2016

by **Jacqueline Wilkinson Reg. Architect IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 November 2016

Appeal Ref: APP/Y3940/W/16/3151379

Garden Cottage, Penruddocke Arms, Hindon Road, Dinton, Salisbury, SP3 5EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Ring against the decision of Wiltshire Council.
 - The application Ref 15/06643/FUL, dated 24 July 2015, was refused by notice dated 7 March 2016.
 - The development proposed is to extend a curtilage listed building (extend and form a kitchen and additional bedrooms).
-

Appeal Ref: APP/Y3940 /Y/16/3151381

Garden Cottage, Penruddocke Arms, Hindon Road, Dinton, Salisbury, SP3 5EL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr John Ring against the decision of Wiltshire Council.
 - The application Ref 15/02806/LBC, dated 24 July 2015, was refused by notice dated 7 March 2016.
 - The works proposed are to extend a curtilage listed building (extend and form a kitchen and additional bedrooms).
-

Preliminary matters

1. A significant amount of construction has taken place which differs from the submitted plans in a number of ways and a number of fences, gates and sheds have been erected at the appeal site. The rubble stone wall (the west elevation of the appeal building) has been substantially rebuilt/altere. These are all matters for the Council and I have not taken them into account when assessing these appeals.
2. For the avoidance of doubt, I have assessed these appeals with reference to the submitted plans as I am required to do and I have referred to them as the as the proposed plans.

Decision

3. The appeals are dismissed.

Main Issues

4. The appellant makes the case that the appeal building does not fall into the definition of a curtilage listed building set out in above Act¹. However, an outbuilding is shown on 1939 Ordnance Survey map approximately in the position of the current building. Its original function is likely to have been a piggery, as indicated by the small walled yards facing south. The 1978 map shows that it was altered by then to a horticultural use, as indicated by the glazed area over the yards. It was then later converted to staff accommodation. Photographs show that this clearly involved significant rebuilding and alteration, but as the building was there in 1948, it was reasonable for the Council to take the view that it was listed by virtue of its curtilage connection with the principal listed building. However, reasonable evidence was submitted to demonstrate that the alterations to convert it to accommodation took place before the date of listing (December 1986).
5. In its heavily altered form the historic interest of the staff accommodation building was solely due to the coursed rubble stonework in the west wall, which was the only part of this building which was there in 1948. This section of wall therefore remained within the definition of a curtilage listed structure. The Council did not object to the proposed alterations to the wall as shown on the submitted plans. Due to the isolated and altered context of this wall the proposed works to it would not harm the setting or significance of the principal listed building.
6. I have assessed the main issues in these appeals on the basis of advice given by Historic England², which is that "curtilage structures should be considered in proportion to their significance". Given the very limited significance of the appeal building, I have identified the main issues as i) whether the proposed alterations and extensions would preserve the setting, and therefore significance of the principal listed building and ii) the effect of the proposal on the natural beauty and character of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB).

Reasons

Setting of listed building

7. The Penruddocke Arms is a Grade 2 listed early nineteenth century roadside inn. As would be expected, its main and more formal façade faces the road, with a distinctive wide double canted bay. The rear elevation is dominated by a large two storey late 19th century wing, with former stabling entered from the west side. Two other outbuildings were shown on the 1939 map, but they had gone by 1978. By contrast to the formal front, this rear setting is an informal area, reflecting its service role to the roadside inn. The lost outbuildings were small and would have been relatively unobtrusive in the wider setting of the inn. The quality of this setting has suffered over time due to an unattractive flat roofed rear extension and the unsympathetic 20th century side extensions, as well as the use of suburban timber fencing. The former staff building (the appeal building as it was), was of distinctly poor architectural quality.
8. The primary setting for the listed inn is its roadside approaches from both directions. There is sporadic development here and there along the road, and

¹ Section 1(5) (b)

² Section 15 Managing Significance in Decision -Taking in the Historic Environment. 2015

there are two dwellings to the west, although these are well set back and are low. Nevertheless, the listed inn still retains its wider open landscape setting, giving it a sense of its relative isolation. This is especially apparent in views looking towards the appeal building across the open car park. This openness is important because it contributes to its historic significance of the building as a country roadside inn. The informal setting at the rear is not the main setting for the listed building but nevertheless the descending hierarchy of extensions and buildings makes a contribution to the understanding of how the roadside inn functioned in the past.

9. It is proposed to increase the accommodation of the appeal building by extending it to the south and adding a pitched roof with two rooms and a bathroom. To achieve this level of accommodation in the roof, the existing walls are proposed to be raised by a considerable amount and the footprint would be increased by approximately one third.
10. Both the ridge and the eaves line of the proposed roof extension would be higher than the adjacent 19th century rear wing of the principal building. Although it is to the rear of the main building, the proposed roof and the upper part of the side elevation would be seen clearly from the semi-public large car park and from the beer garden and children's play area, all of which constitute the open landscape setting to the pub. When seen from these areas the high and long roof of the proposed building would be at odds with the descending rooflines of the existing outbuildings. It would impinge significantly on the wider open landscape setting around the listed inn.
11. The appellant makes the case that the proposal would be an improvement over the former staff block. However, the extension of the eaves well beyond the walls would fail to disguise scale of the proposed building and this wide eaves overhang would look odd. The large section of wall over the window heads would give it awkward proportions, which can be seen on the submitted cross-section. Its overall design would not relate to any traditional building type or construction in the area. The proposed roof tiles and roof lights would be traditional in character, but this would not overcome the excessive height and length and poor design quality of the proposed building. Whilst the existing building was no thing of beauty, it was small and low. The proposed building would not only be of poor design quality but it would also be significantly higher and longer. I note the applicant is willing to substitute timber windows for the PVCu windows, but this would not overcome the fundamental issue of the scale and height of the proposed building.
12. I therefore conclude that the proposed building would fail to preserve the setting or significance of the listed building as required by Sections 16 and 66 of the Act and Wiltshire Core Strategy 2015, policy 58 *Ensuring the conservation of the historic environment*.

Area of outstanding natural beauty (AONB)

13. Policy 51 *Landscape* of the Wiltshire Core Strategy, 2015, requires that development should protect, conserve and where possible enhance landscape character and in the case of AONBs it should take into account the objectives, policies and actions in the relevant management plans. The Cranborne Chase and West Wiltshire Downs AONB Management Plan explains that whilst the protection of the area's natural beauty is its primary purpose, amongst its

other community priorities is the conservation of the historic, archaeological and cultural features within the area.

14. The Penruddocke Arms is one of a number of historic roadside and village pubs in this part of the AONB. Its significance is partly due to its relatively open and isolated location, which clearly distinguishes it as an roadside inn. Whilst the previous appearance of the appeal building was unsympathetic to its historic setting, the proposed building would be much higher and longer and as I have explained above, its design would not refer to any local building tradition. This would harm the wider landscape setting of the heritage asset, contrary to the aims of the AONB Management Plan. The proposal would therefore fail the requirements of Core policy 57.

Conclusions

15. I have concluded that the proposed building, due to its height and scale, would harm the setting and therefore the significance of the principal listed building and it would also harm the wider open landscape setting of the listed building, which would be in conflict with the aims of the AONB Management Plan to conserve the natural and cultural landscape character of the area.
16. I am required by paragraph 134 of the National Planning Policy Framework to weigh this harm against any public benefits of the proposal. For the reasons I have set out above, I am not persuaded by the appellant's suggestion that the proposal would lead to an improvement over the existing building. Whilst timber windows would improve its appearance, this would not overcome the fundamental matters of its excessive height and scale. The provision of a larger dwelling would improve the amenity of the occupiers, but a different design approach would be just as likely to be adequate in terms of amenity, so I do not give this weight as a public benefit.
17. I note the petition of signatures and local support. However, these do not persuade me that the appeal should be upheld, particularly as the dwelling could be improved and extended using other design approaches which would not have the harmful effects I have identified.
18. I therefore conclude that there would be no public benefits to outweigh the harm I have identified to the principal listed building. For the reasons given above I conclude that the appeals should fail.

Jacqueline Wilkinson

INSPECTOR

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