

WILTSHIRE COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

PROPOSED EXTINGUISHMENT OF PART OF LANGLEY BURRELL FOOTPATH  
22 (LBUR22) TO ENABLE DEVELOPMENT BY WAVIN LTD

**1 Purpose of Report**

1 To:

- (i) Consider and comment on an application to extinguish part of Langley Burrell footpath 22 (LBUR22) to enable development to take place.
- (ii) Recommend that an Order be made under s.257 of the Town and Country Planning Act 1990 to extinguish the part of the path affected by the development and to confirm the order if no representations or objections are received.

**2 Background**

2 On the 11<sup>th</sup> of August 2015 Wiltshire Council received an application from Roger Taylor of Wavin Limited, Parsonage Way, Chippenham, SN15 5PN to extinguish part of LBUR22.

3 The reason for the extinguishment was given as:

*“Conversion of land over which the footpath LBUR 22 runs to a car park and stockyard. Planning Application Reference 15/04763/FUL.”*

The proposed new route for pedestrians being over the existing footway of the B4069, Maud Heath’s Causeway. This is recorded as a publicly maintainable highway.

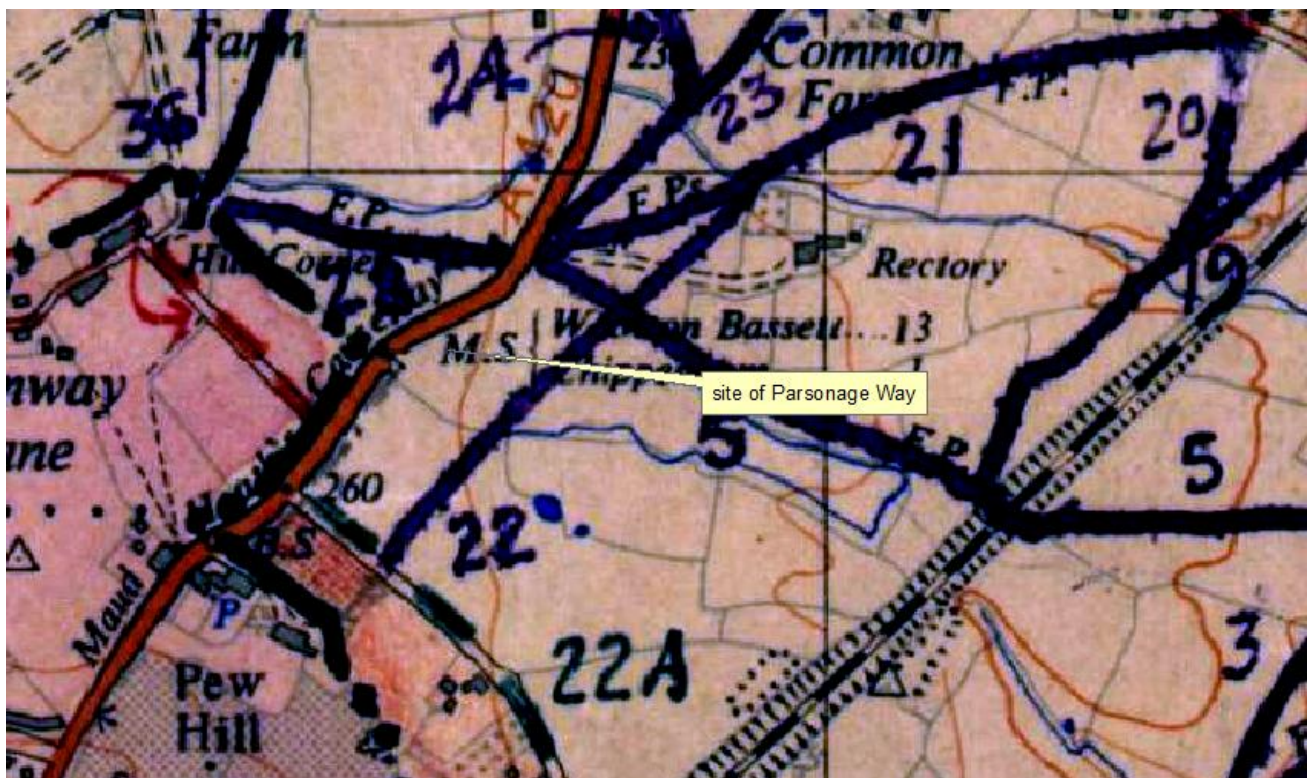
4 Although planning application ref. 15/04763/FUL has not yet been decided, changes to s.257 of the Town and Country Planning Act 1990 brought about by the Growth and Infrastructure Act 2013 permit Wiltshire Council to proceed with making an Order under s.257 before that decision is made. Any Order so made cannot however be confirmed until Planning Permission has been granted.

5 Further, paragraph 7.9 of the Government’s Rights of Way Circular 1/09 “Guidance for Local Authorities” Version 2 October 2009 advises that:

*“...if there is a reasonable expectation that planning permission will eventually be forthcoming there is clearly no reason why the proposals for any consequential stopping up or diversion of public rights of way should not be*

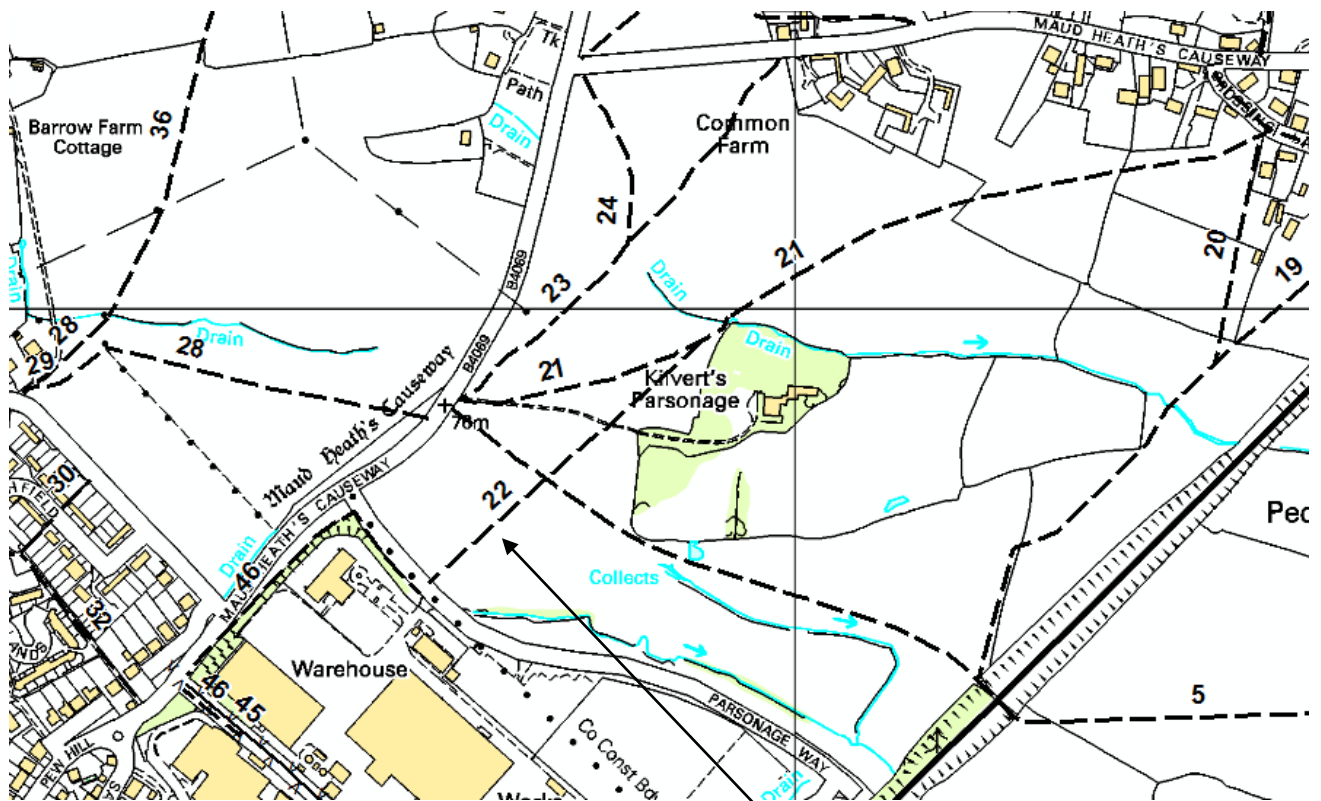
*considered concurrently with, and as part of, discussions on the proposed development rather than await the grant of planning permission..”*

- 6 The planning application submitted by Wavin on the 15<sup>th</sup> May 2015 included plans showing the proposed extinguishment of part of LBUR22 and it was therefore open to public consultation from that time. A further consultation was also conducted by the Rights of Way team throughout September 2015 and is detailed later in this report.
- 7 LBUR22 was originally recorded in the Calne and Chippenham Rural District Council area definitive map and statement dated 1953 as a footpath extending from LBUR21 in a south westerly direction to its junction with path no 45.



- 8 Part of the route was diverted in 1979 to allow for industrial development south of Parsonage Way and this is reflected in the working copy shown as paragraph 10.
- 9 The definitive statement reads:

Langley Burrell      22      FOOTPATH. From Parsonage Way, leading north-east across path No.5 to Without      path No.21, west of the Rectory.  
  
Approximate length 350 m.



- 11 Planning application 15/04763/FUL seeks to build a car park and stock yard over land north of Parsonage Way, crossed by part of LBUR22.
- 12 Wavin Limited currently operates on land south of Parsonage Way and this proposed development is Phase 2 of an expansion programme. A secure perimeter fence around the car park and stock yard is fundamental to the operation of the new site which will be accessed from Parsonage Way and a route around the northern boundary created by a new access road from the B4069, Maud Heath's Causeway. The site will therefore be accessed from two roads, albeit that the north eastern one will be a private access route for lorries.
- 13 There is a significant requirement for screening of the site in the north east and it is likely to be bounded by a planted bund of at least 3 metres high.
- A plan showing the proposed development is attached at **APPENDIX A**
- 14 The route of LBUR22 affected by this application currently leads across a field from its junction with footpath 5 to Parsonage Way. The affected length is 150 metres.
- 15 The site was visited by officers of the Council in June and August 2015 and the route of LBUR 22 walked. Officers also walked the alternative route alongside the B4069 in August.

16 June 2015



Line of path from Parsonage Way stile north towards LBUR5

17 August 2015



Line of path from LBUR5 stile south west towards Parsonage Way stile

18 August 2015



Line of path to Parsonage Way stile

19 August 2015 – part of 1979 diversion of LBUR22 (now CHIP46)



FP CHIP46



**3 Land Ownership**

21 Wavin Limited, Parsonage Way, Chippenham, Wiltshire, SN15 5PN . Former owners The Diocese of Bristol, c/o Savills, 14 Cirencester Office Park, Tetbury Road, Cirencester, GL7 6JJ

**4 Consultation**

22 An initial consultation period was carried out between 20 August and 02 October 2015. The following letter was circulated:

***Town and Country Planning Act 1990 s.257***

***Application to extinguish part of footpath Langley Burrell 22 at SN15 4LE***

*Wiltshire Council has received an application to extinguish part of Langley Burrell 22 from its junction with Parsonage Way, Chippenham to path Langley Burrell 5; a distance of 152 metres. The applicant, Wavin Ltd, have also applied to Wiltshire Council for planning consent to develop the area with the construction of a car park and storage area. Application no 15/04763/FUL.*

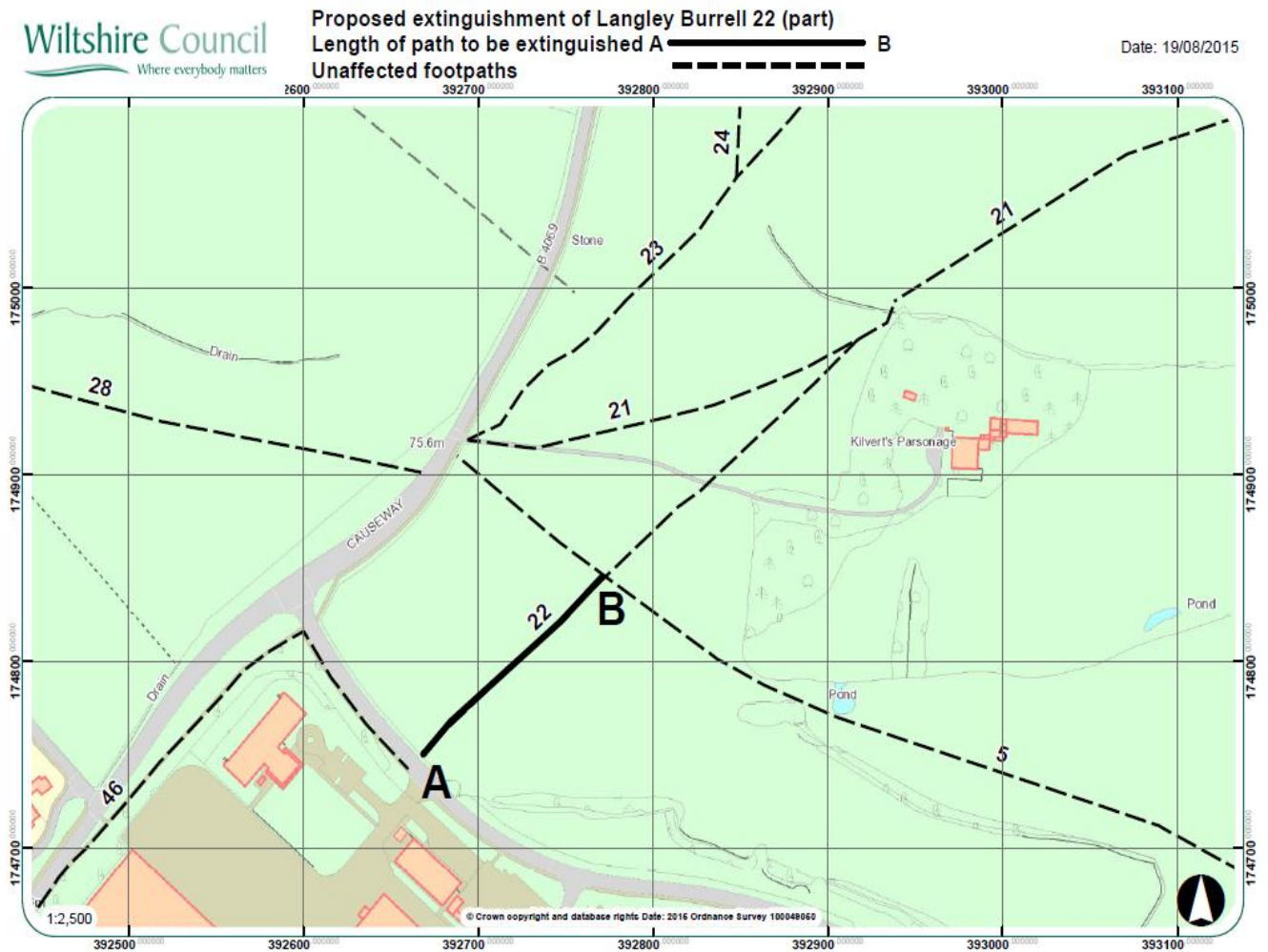
*If permission is granted for this development it will be necessary to extinguish that part of the footpath that crosses the site as it is coincident with the storage*

or stockyard area. Although an alternative footway is proposed (leading from Chippenham 46 across Parsonage Way and north east beside the B. 4069 Maud Heath's Causeway) it lies within the boundaries of the existing publicly maintainable highway and as a result may not form a diversion for that part to be extinguished (as it is not possible to record a highway on an existing highway).

Please find enclosed a map showing the proposed length to be extinguished and also a plan showing the extent of the site affected by the planning application.

If you have any comments to make on the extinguishment of the path (but please don't submit responses related to the planning application to this team) I would be pleased to receive them by Friday October 2<sup>nd</sup> 2015. If you have any queries related to this please don't hesitate to contact me.

23 The plan appended at A and the plan below were circulated:



24 This was sent to:

The Auto Cycle Union  
Commons, Open Spaces and Footpaths Society  
Wiltshire Bridleways Association  
Wiltshire Cycling Touring Club  
British Horse Society (BHS)  
Langley Burrell Parish Council  
Wiltshire Councillor Howard Greenman (Kington Division)  
Wiltshire Councillor Chris Caswill (Chippenham Monkton Division)  
Mrs D Plummer BHS Wiltshire  
Byways and Bridleways Trust  
Wiltshire Council Senior Rights of Way Warden Stephen Leonard  
Wiltshire Ramblers representative Mrs Judy Hible  
Wiltshire Council Ecology Consultations  
Trail Riders Fellowship  
Open Spaces Society  
Wavin Limited  
The Diocese of Bristol  
British Driving Society  
National Grid Electricity and Gas  
Scottish and Southern Electric plc  
Wales and West Utilities  
Easynet BT  
Wessex Water  
Virgin Media

**5 Consultation responses**

25 **Linesearch 19.08.15**

No apparatus affected.

26 **Virgin Media 19.08.15**

No apparatus affected.

27 **Openreach BT 19.08.15**

No apparatus affected.

28 **Scottish and Southern Energy 19.08.15**

High voltage overhead lines cross the field and the path.



29 **Mr D Mannering 25.09.15**

Mr Mannering submitted a 6 page paper containing his comments and conclusion on the application. This is reproduced in full below and considered by officers at Section 6.0 of this report.

**“Motive for extinguishment**

*The motive for the application to extinguish LBUR 22 is the planning application 15/04763/FUL by Wavin Plastics Ltd for a Car Park & Storage Area on the surrounding land. Originally, Wavin proposed to divert the path as shown in diagram 1 (design proposals section 6). However, Wiltshire Council advised that it was not possible to divert the path along an existing right of way; an application for extinguishment should be made instead.*

*I have submitted a separate response to the planning application. This response shows that there are numerous conflicts between the application and the National Planning Policy Framework (NPPF), Wiltshire’s Core Strategy (WCS) and the associated Core Policies. I have submitted evidence to show that the proposal fails to meet sustainability criteria and, therefore, according to Wiltshire Council’s own policy, should not be supported. Given the rejection of the planning application, the argument for diversion disappears and the application to extinguish the path should also be rejected.*

*Without prejudice to the above arguments, there are distinct arguments for retaining the footpath even if the planning application is approved subject to conditions. These are set out below.*

**Extinguishment not necessary for the development**

*If the Council were to agree to the request, this would be under s257 of the Town and Country Planning Act 1990. For the powers to stop up the path to be exercisable, the planning authority must be satisfied that it is necessary to extinguish the way in order to enable the development to be carried out. It is not sufficient that the extinguishment of the path would make it more convenient for the developer.*

*I shall show that the extinguishment of the path is not necessary for the development to proceed:*

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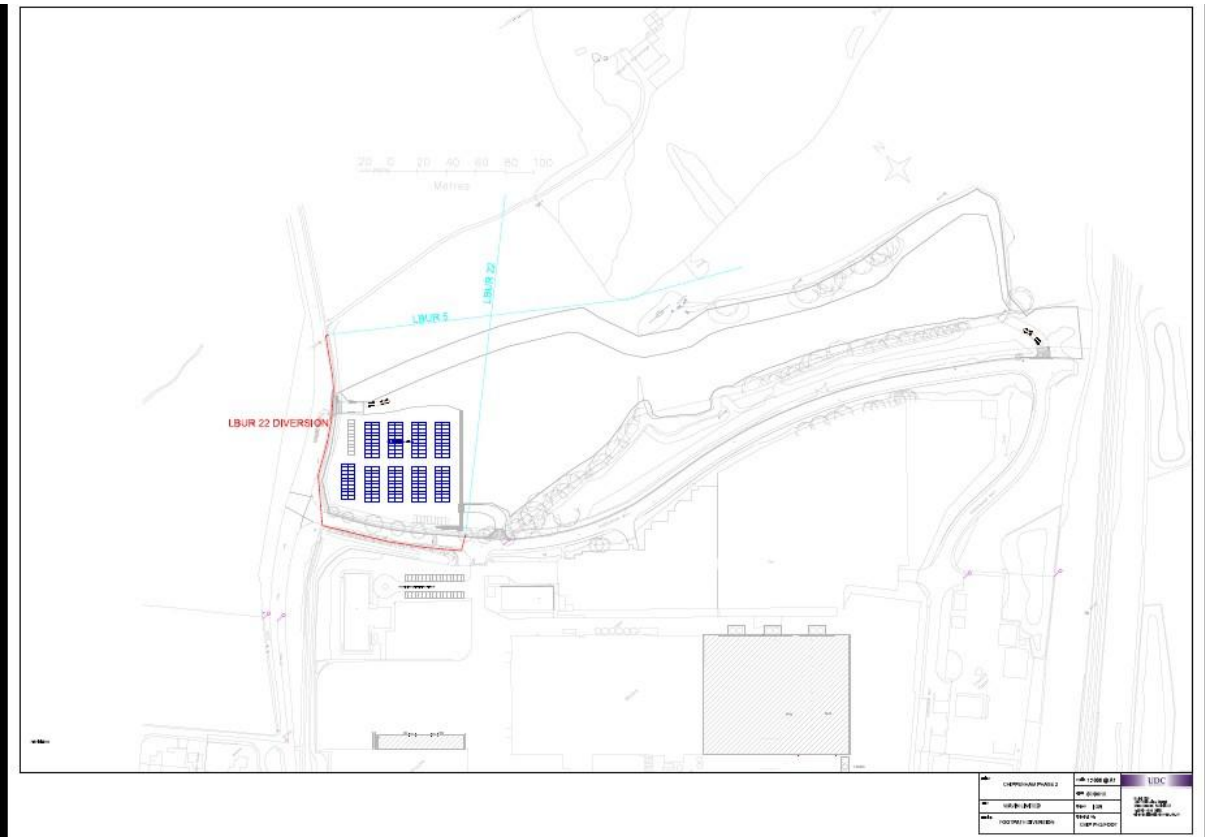
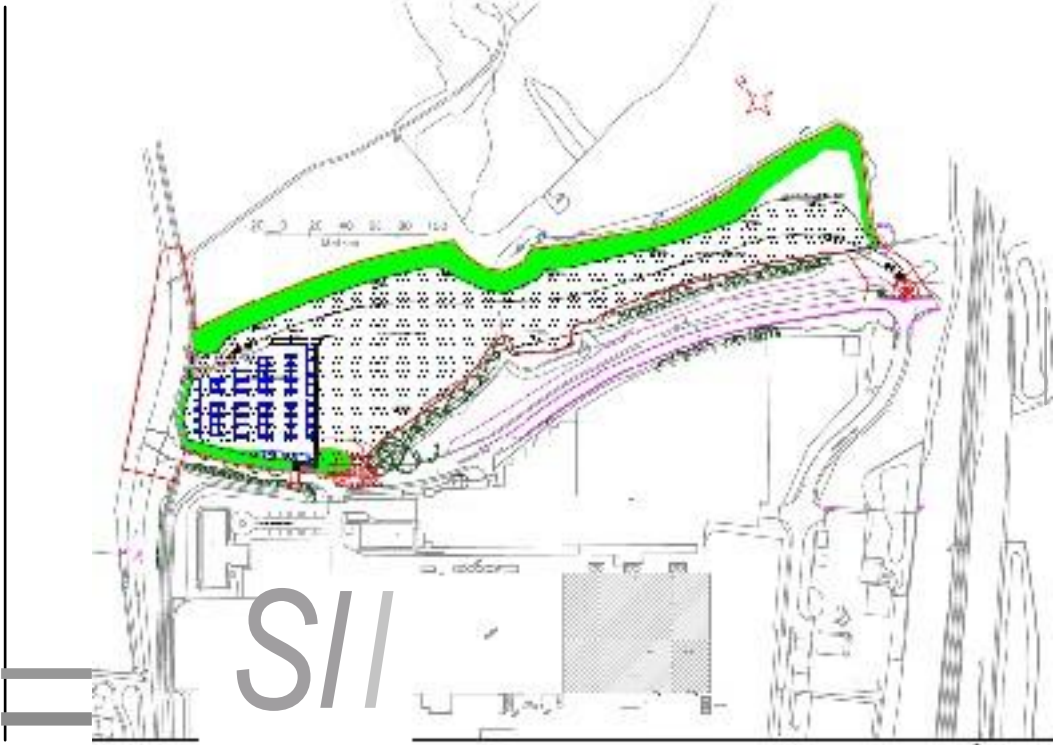


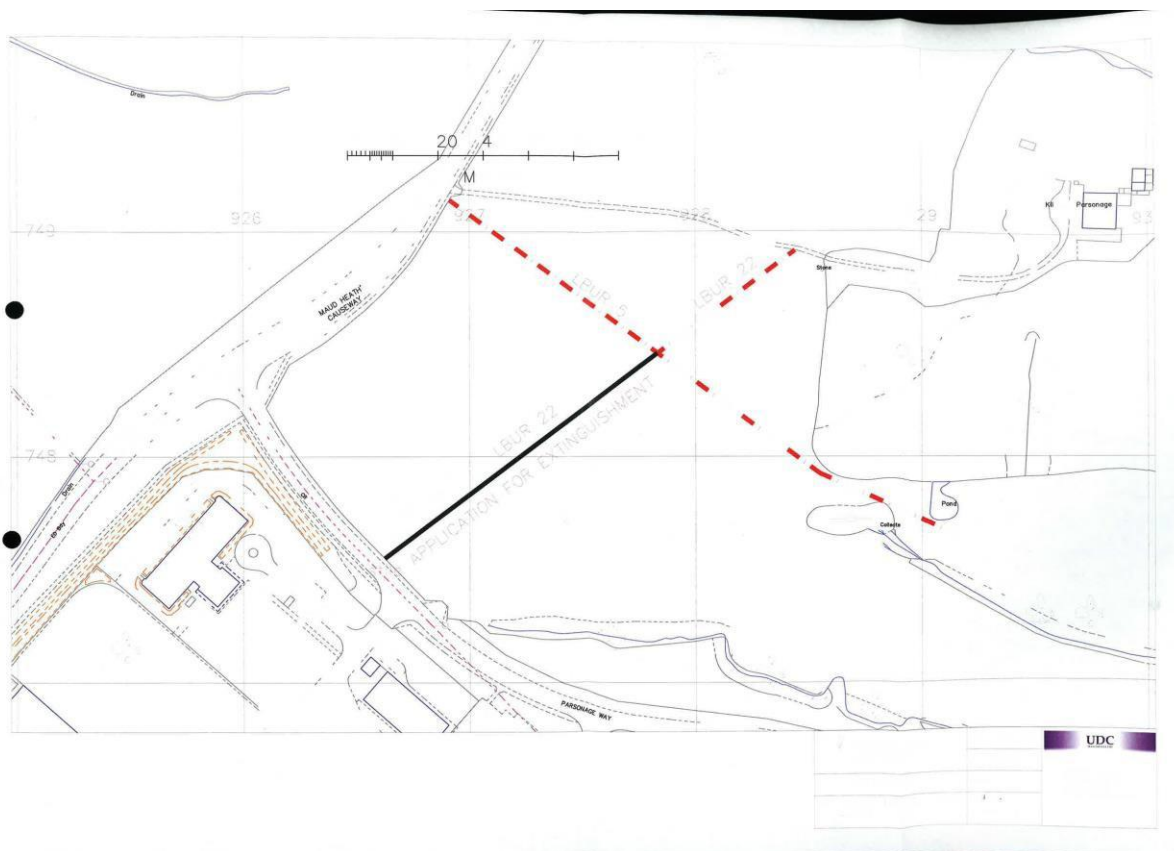
Diagram 1 – Wavin's original diversion plan

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Diagram2 shows the site layout proposed by Wavin



**Diagram 3 Proposed extinguishment of LBUR 22:**



*It is clear from diagrams 1, 2 and 3 that the left hand (western) boundary of the footpath follows broadly the right hand boundary of the proposed car park. It would be easy to divert the path to follow the right hand boundary of the car park. Alternatively, the car park could be reshaped so that its right hand boundary follows the existing line of the footpath. This second approach might make the car park slightly larger. However, I have already pointed out in my response to the planning application that the proposed car park capacity does not provide for the offsite parking of cars that are currently parked along Parsonage Way. On-street parking will become untenable once Parsonage Way becomes part of the northern bypass.*

*A footpath along the side of the car park is likely to be useful to car park users as well as existing users of LBUR 22.*

*If Wavin has concerns about the security of the proposed storage area, this could be fenced off from the footpath.*

*Wavin may seek to claim that the footpath needs to be extinguished on safety grounds because it crosses the proposed HGV access road (shown running along the northern edge of the site in diagram 2). Such an argument would not stand up to scrutiny. First, Wavin's proposed alternative to LBUR 22 for pedestrians is that they walk along the main road. This too would involve crossing the proposed access road and is more dangerous for pedestrians as drivers' attention will be focused on B4069 traffic as they try to exit the site. Should there be any perceived residual safety issues where the path crosses the proposed access road, these could be addressed by building a footbridge over the access road.*

*In any event, I have argued that the proposed route of the access road, and in particular, the proposed exit point onto the B4069 is undesirable on safety and congestion grounds. Under an alternative configuration, where the access road links only with Parsonage Way, it would no longer cross the line of LBUR 22.*

*The conclusion is that it is not necessary to extinguish LBUR 22 even if the development proceeds and retains broadly Wavin's configuration as above. If the configuration were to be amended to improve the acceptability of the site against other planning criteria, the case for extinguishing LBUR 22 would be even weaker.*

### **Amenity value of LBUR 22**

*LBUR 22 provides a more direct link between the village of Langley Burrell and the northern end of Chippenham. It is also preferable to walking along the main road – the views are better and one is not subject to the constant rush of passing vehicles. I use the path regularly.*

### **Contravention of NPPF and Wiltshire Core Policies**

*The WCS defines Green Infrastructure as follows:*

*6.82 Green infrastructure is a descriptive term used to characterise spaces such as parks and gardens (urban and country parks, formal gardens); amenity green space (informal and formal recreation and sports spaces, domestic gardens, village greens, green roofs); urban green spaces (urban commons, waste land and disturbed ground); woodland, downland and meadows, wetlands, open and running water, quarries; green corridors (rivers and canals including their banks, road and rail corridors, cycling routes, pedestrian paths, and **rights of way**);*

*Thus Rights of Way including Public Footpaths are part of Wiltshire's Green Infrastructure.*

#### **Core Policy 52 states:**

##### **Green infrastructure**

*Development shall make provision for the retention and enhancement of Wiltshire's Green Infrastructure network, and shall ensure that suitable links to the network are provided and maintained. Where development is permitted developers will be required to:*

*Retain and enhance existing on site green infrastructure*

#### **NPPF 75 states:**

*Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.*

#### **WCS para 3.9 states:**

##### **Key outcomes**

*Wiltshire's network of multi-functional green infrastructure will have been maintained and enhanced to contribute towards achieving the vision set out in the Wiltshire Green Infrastructure Strategy.*

*In summary, both the NPPF and the WCS require developments to enhance or, at least, maintain existing rights of way. If Wiltshire Council were to agree to the extinguishment of this footpath, it would be a flagrant breach of its own and national policies.*

## **Conclusion**

*Based on planning law, national and county policies, walkers have a legitimate expectation that Wiltshire Council will reject the application to stop up LBUR 22. This conclusion is at odds with the comments from Wavin which state (Letter to Lee Burman dated 25<sup>th</sup> August 2015):*

### ***“Public Rights of Way***

*We note that no objection is raised subject to conditions.”*

*This is based on the response from the Wiltshire Council Rights of Way Officer – North whose response dated 18th June 2015 has ticked the box “support subject to conditions”.*

*The conditions suggested are as follows:*

### ***Matters Considered:***

*The applicant is proposing to divert the public footpath (LBUR22) onto the public highway. Public rights of way cannot be diverted onto existing highway. **Conditions:** The applicant should apply for an extinguishment of LBUR22 under section 257 of the Town and Country Planning Act 1990. This application can be made prior to planning permission being granted and must be applied for prior to commencement of works. The path should be available on its legal line until an order to extinguish the path is confirmed.*

*For the reasons set out above, I do not see how the Wiltshire Council Rights of Way Officer could justifiably support the planning application on condition that the footpath is extinguished. Compliance with the Town and Country Planning Act, the NPPF and Wiltshire Core Strategy would all seem to require a condition that the footpath is maintained.*

*I object to the extinguishment of this path.”*

## **30 Langley Burrell Parish Council 30.09.15**

*“At its meeting on 21<sup>st</sup> September, this Council debated the views expressed by our Councillor David Mannering in his paper attached, and formally and unanimously supported the opinions stated therein. Accordingly this Council OBJECTS to the extinguishment of this footpath.” See Mr Mannering’s submission at paragraph 29.*

## **31 Ms J Hible, The Ramblers 09.10.15**

*“I visited this site this morning . The path is in use although the stile at ST 927 747 has a broken footstep,*

*The application is misleading as it implies that the path finishes at this point. The route continues across the road as footpath Chippenham 46 which joins up with Chippenham 32 and Chippenham 45. In the opposite direction, it connects with*

*Langley Burrell 5, and Langley Burrell 21 thus forming a key part of an extensive area of footpaths on this northern edge of Chippenham. This is part of 'Kilvert Country' and an important area for those with a literary interest. Maud Heath's Causeway follows the main road here before turning west through the village. Langley Burrell 22 forms part of a good walking route allowing the walker to follow the route of the causeway, avoiding the main road until the quieter stretches can be reached through the village.*

*To the east of the main road, major developments are in hand so any further loss of the path network is to be deprecated.*

*The land was purchased for development quite recently, knowing that the right of way was there. It could easily have been incorporated into the plans. As it is, the route could be retained across the car park along the boundary with the storage or stockyard area with minimal change from its current course. If it is safe for employees to use the car park then it should be safe for walkers to cross it.*

*Chippenham Ramblers wish to oppose the application to extinguish this part of footpath Langley Burrell 22.”*

## **6 Considerations for the Council – Legal Empowerment**

32 The Town and Country Planning Act of 1990 states (as amended by section 12 of the Growth and Infrastructure Act 2013), in sections 257 and 259:

### **257 Footpaths and bridleways affected by development: orders by other authorities.**

(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III, or

(b) by a government department.

(1A) Subject to section 259, a competent authority may by order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that –

(a) an application for planning permission in respect of development has been made under Part 3, and

(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.

(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—

(a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;

(b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order;

(c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;

(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

(4) In this section “competent authority” means—

(a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it

(b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

(c) in the case of development in respect of which an application for planning permission has been made under Part 3, the local planning authority to whom the application has been made or, in the case of an application made to the Secretary of State under section 62A, the local planning authority to whom the application would otherwise have been made.”

### **259 Confirmation of orders made by other authorities.**

(1) An order made under section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.

(1A) An order under section 257(1A) may not be confirmed unless the Secretary of State or (as the case may be) the authority is satisfied –



- (a) that planning permission in respect of the development has been granted, and
- (b) it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.

(2)The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.

(3)The time specified—

(a)in an order under section 257 as the time from which a footpath or bridleway is to be stopped up or diverted; or

(b)in an order under section 258 as the time from which a right of way is to be extinguished,

shall not be earlier than confirmation of the order.

(4)Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.

Prior to the changes brought about to s.257 on the 1990 Act by the Growth and Infrastructure Act 2013 it had only been possible to make an order under Section 257 of the Town and Country Planning Act 1990 where planning permission was already granted under part III of the 1990 Act, however the amendment of the 1990 Act under the Growth and Infrastructure Act 2013, also allows a s.257 order to be made where an application for planning permission has been made under part III of the 1990 Act and where, if the application is granted, it would be necessary to stop up or divert the footpath in order to enable the development to continue. Any such order must not be confirmed until full planning permission has been granted.

33 The Order Making Authority may therefore consider whether or not to make Orders in advance of planning permission being granted. In this case, a planning application is in place, but the application has not yet been determined. Making an order prior to the granting of planning permission would be beneficial to the applicant as once permission for the development is granted there is no undue delay in commencing works as the order is in place and can be confirmed once the planning permission is granted. Alternatively, where the planning application is not successful, the authority is entitled to recover from the applicant, its reasonable costs in processing the order to date and making the order, even where it is not confirmed.

34 Paragraph 7.15 of Circular 1/09 (Rights of Way Circular – Guidance for Local Authorities – Defra) advises that the disadvantages or loss likely to arise as a result

of the stopping up, either to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the Order.

35 7.15 states:

*“...Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to person whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.”*

## **6 Comments on Considerations**

### **i) Whether it is necessary to stop up or divert the footpath in order to enable development to be carried out.**

36 The application, both as made and as amended, has a perimeter fence as fundamental to the development. Any unrestricted public access through the site would therefore be contrary to the aim of the applicant. Division of the site into two fenced secure areas creates a less than desirable situation for the applicant (who would have to maintain two secure areas) and would also create a footpath that led between security fences giving it an industrial and restrictive feel. Any diversion of the path within the bounds of the site would create a similar situation.

37 To provide adequate screening of the site from the north east a bund of at least 3 metres high will be constructed. The footpath would have to cross this bund (regardless of fencing or position within the site) which would be unacceptably steep and inaccessible. Any reduction in the bund to allow the footpath would reduce the screening capability of the bund allowing noise, light and visual intrusion to the areas north east of the site.

38 Officers therefore consider that however undesirable it is to lose footpaths where they are green corridors (as per Wiltshire Council's Core Policy 52) the change of use of this site from agricultural land to developed land leads to an inevitable loss of the green qualities of the path, wherever it is located within the site.

39 The footpath on the opposite side of Parsonage Way was diverted away from the land to the roadside footway when the site was developed in the late 1970s/early 1980s and the 150 metres of Langley Burrell 22 affected by this application would also need to be similarly dealt with to enable the development to proceed.

ii) **The disadvantages or loss likely to arise as a result of the extinguishment**

- 40 Although Langley Burrell 22 was once part of a relatively direct footpath linking Langley Burrell with Chippenham it lost its sense of direction and purpose with the diversion of a section in 1979 . It is therefore considered that the loss of under 150 metres of footpath does not represent a significant loss and that the use of the existing footway alongside the B4069 provides a safe and reasonable alternative.
- 41 The section of Langley Burrell 22 affected by the application does not appear to be well used (there was no path visible through the long grass in June 2015 (see photograph at paragraph 16). Ms Hible in her response from The Ramblers points out that the B4069 follows the route of Maud Heaths Causeway but that she advocates using LBUR22 as it allows the walker to avoid the road. It is however noted that the first promoted Maud Heath walk to appear when searching the internet with Google ([www.walkscene.co.uk](http://www.walkscene.co.uk)) doesn't use LBUR22 but uses the footway beside the B4069 instead.
- 42 It is a logical route as the B4069 footway option is direct, has good visibility and does not require the dog-leg into Parsonage Way that is currently required if using LBUR22.
- 43 Although Mr Mannering and the Parish Council object to the loss of the footpath it is noted that there was less concern for the loss at the consultation stage for the planning application (which clearly showed the route being diverted along the B4069 footway) and that this was publicly consulted.
- 44 In that consultation the Langley Burrell Residents Association responded to say that *"it is absolutely critical that if the proposal is to proceed the storage area has comprehensive screening, such that the activities behind it cannot be seen from any of the neighbouring properties or public footpaths."*
- 45 There can be little doubt that there is nothing visually attractive to the public offered by Wavin's car park and stock yard and photographs of the car park and stock yard on the opposite side of Parsonage Way are included here to give a flavour for the proposed site:





**iii) Alternative Routes**

46 The footway beside the B4069 offers a reasonable alternative route for users of the short section of LBUR22 to be extinguished. The footway route is surfaced, will not become wet or muddy, is more accessible and is more direct.

**iv) Environmental Impact of the Recommendation**

47 Planning Consent would be granted with full consideration of the environmental impacts of the proposal. The stopping up of the right of way has no environmental impact.

**v) Risk Assessment**

48 There are no risks to users of the path associated with the proposed extinguishment.

**vi) Legal Considerations and Financial Implications**

49 The landowner will meet all costs related to the making of the Order. The landowner will meet all costs related to the confirmation of the order excluding any costs associated with sending the Order to the Secretary of State (SoS) for determination. This occurs if objections are received. The SoS may choose to determine the order by written representations (no additional cost to the Council), a local hearing (approximate cost £200) or a public inquiry (approximate cost £2500).

50 Although the making of public path orders is a power that Wiltshire Council has and is not a duty, where the planning authority and the highway authority are the same authority, a duty is implied. If Wiltshire Council fails to make an order following the granting of planning permission it is liable to application for judicial review from the developer. This has a potential cost to the Council of up to £50000.

51 In this instance planning permission has not yet been granted. If permission is not granted the Order cannot be confirmed and there is no further cost to the Council.

52 Officers consider that given the importance to the local economy of the proposed development, proceeding with making an Order prior to any decision relating to the

Planning application is made, is a sensible approach as it could enable the applicant to proceed in a more timely manner with the development, if permission is granted.

## **vii) Equality Impact**

53 The Council must have regard to The Equality Act 2010. This act requires (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to ensure that a disabled person is not put at a substantial disadvantage in comparison with a person who is not disabled. The Equality Act goes further than just requiring a public authority does not discriminate against a disabled person. Section 149 imposes a duty, known as the “public sector equality duty”, on the public bodies listed in sch. 19 to the Act, to have due regard to three specified matters when exercising their functions.

54 These three matters are:

- Eliminating conduct that is prohibited by the Act
- Advancing equality of opportunity between people who have a disability and people who do not; and
- Fostering good relations between people who have a disability and people who do not.

55 The Equality Act applies to a highway authority’s provision of public rights of way services. (DEFRA Guidance *Authorising structures (gaps, gates and stiles) on rights of way* Oct 2010)

56 The Council must also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP). The ROWIP recognises the Council’s duty to have regard to DDA95 (replaced by the Equalities Act 2010) and to consider the least restrictive option.

57 The alternative route offered by this proposal provides a flat and accessible path of comparable distance to the existing one. The footway route is well defined, has no limitations or conditions (LBUR22 has two stiles), is easy to follow and would currently be the route of choice for anyone with impaired mobility or sight.

## **8 Options to Consider**

58 i) To make an order to extinguish part of Langley Burrell 22 under s.257 of the Town and Country Planning Act 1990.

ii) Not to make an order to extinguish part of Langley Burrell 22 under s.257 of the Town and Country Planning Act 1990.

## **9 Reasons for Recommendation**

- 59 The change of use from agricultural to industrial brings about an inevitable change in the landscape. In the event that planning permission is granted officers can see no route for LBUR22 through the site that allows Wavin to conduct its operations there safely and securely or for the public to continue to enjoy a rural footpath.
- 60 If permission to develop is not granted then no changes to the path can occur under the proposed Order. If permission to develop is granted then the early processing of the application to extinguish the path will assist the developer.

## **10 Recommendation**

- 59 **That Wiltshire Council makes an order under s.257 of the Town and Country Planning Act 1990 and s.53 of the Wildlife and Countryside Act 1981 to extinguish part of Langley Burrell 22 and if after due advertisement no objections or representations are received the Order be confirmed when the grant of planning permission is made (s.259(1A) TCPA 90) and the definitive map and statement be altered accordingly.**

Sally Madgwick  
Rights of Way Officer

13 October 2015