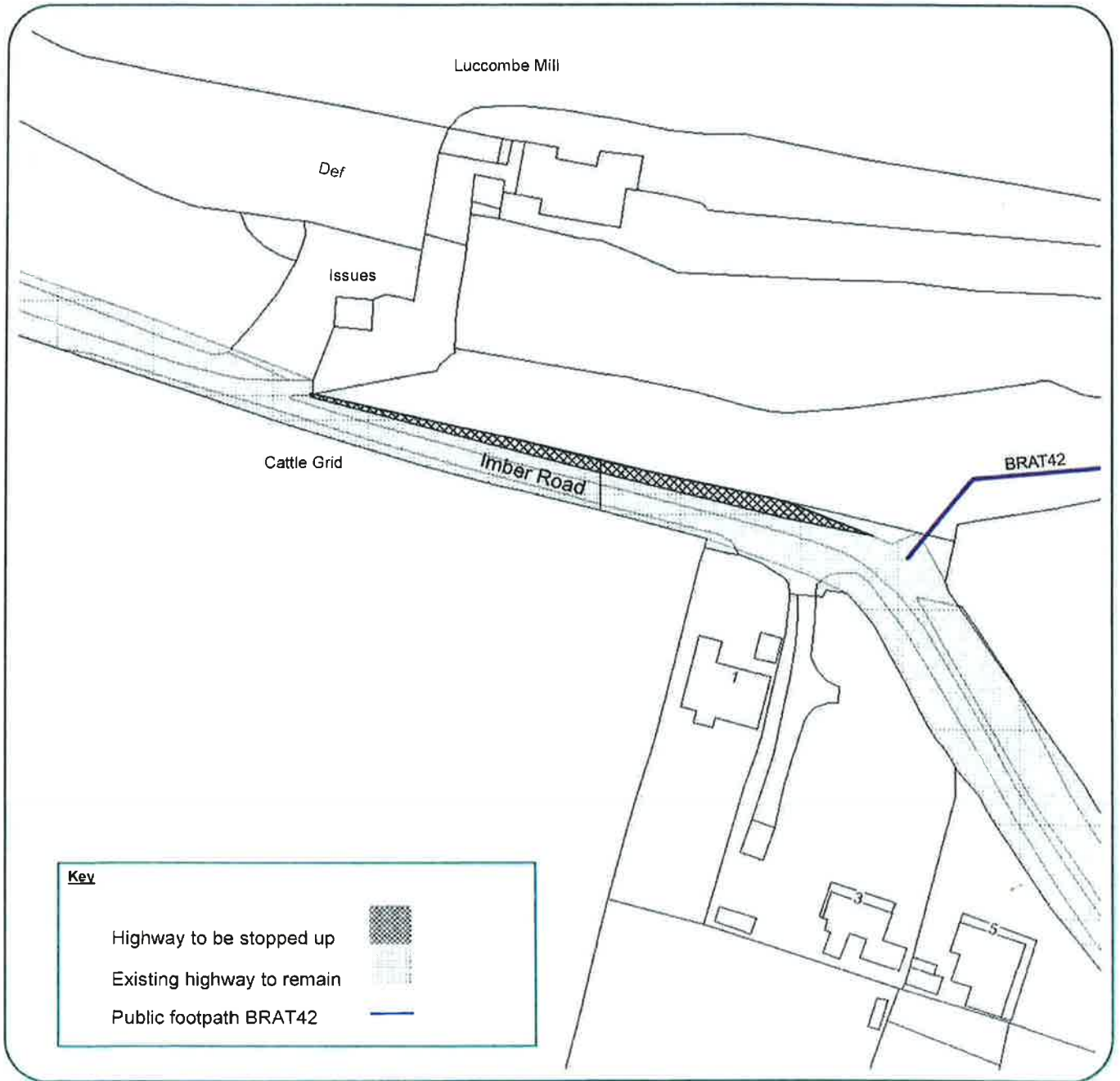


**Proposed application to stop up area of highway along Imber Road, Bratton.  
Date: 12th February 2020.  
Centre co ordinates: 391999 152055**



Section 116, Highways Act 1980

Area of highway proposed to be stopped up is shown cross hatched black and is approximately 98 metres long by 1 metre in width at its western end widening to 2 then 3 metres in width going eastwards and tapering to a point at its eastern end.

Date: 12/02/2020



1:1,000

**WILTSHIRE COUNCIL**  
**HIGHWAYS ACT 1980**  
**SECTION 116 APPLICATION**

20 MAR 2020

**Highway at Imber Road, Bratton**

Bratton Parish Council hereby consents / ~~does not consent~~ to Wiltshire Council making an application to the Magistrates' Court for an order under Section 116 of the **Highways Act 1980** providing for the stopping up of a section of highway on the ground that it is unnecessary for public use or any other highway-related purpose.

The section of highway concerned is shown cross-hatched in black on the plan on the reverse of this form.

Signed N. Duke

Please print name NIKOLA DUKE

Post held PARISH CLERK

Date 11.03.2020

**\*Please delete as applicable**

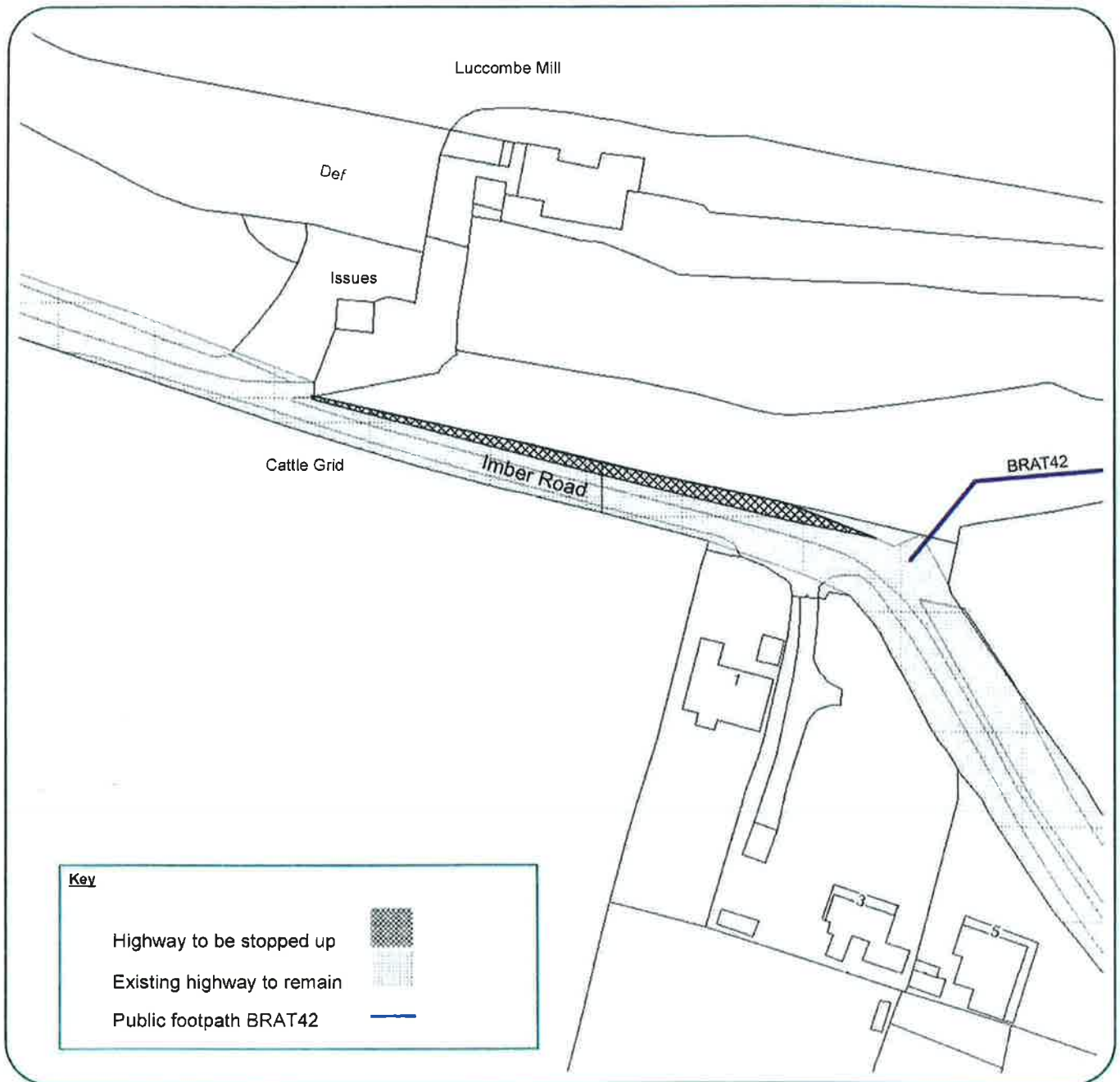
Please return this form to:-

Solicitor to the Council  
Wiltshire Council (Ref: 127261),  
County Hall,  
Trowbridge,  
Wiltshire BA14 8JN

## Proposed application to stop up area of highway along Imber Road, Bratton.

Date: 12th February 2020.

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Date: 12/02/2020



# APPENDIX 3



## APPENDIX 3



## APPENDIX 3



## APPENDIX 3



3 Imber Road  
Bratton  
Nr. Westbury  
Wiltshire  
BA13 4SH

## APPENDIX 4

Attn:  
centralhighways@wiltshire.gov.uk  
kevin.gale@wiltshire.gov.uk

**Ref: Proposed Application for the Stopping up of a section of Public Highway at  
Luccombe Mill, Imber Road**

Dear Wiltshire Highways,

I am sending this to you direct as I do not believe that all my observations were included in the Bratton Parish Council document . I have therefore compiled both into one document.

Yours sincerely,

Mark Cockerton

-----  
First letter sent to Mr. Ligo, Bratton Parish Council on 28th January 2020

Dear Mr Ligo,

I wish to formally object to the following:

1. The destruction of the beech hedge at Luccombe Mill, Imber Road, Bratton, Wiltshire BA13 4SH.
2. The planting of a new laurel hedge, NOT on the previous hedge/boundary line, at it's greatest divergence 4 metres towards the road.
3. Negating of safe 'sight-lines' where the top of the drive of Luccombe Mill joins Imber Road. Both for drivers exiting the Mill and drivers coming down Imber Road, towards the village.
4. The covering over of the 'pull-in' used by Wessex Water to inspect the fresh water springs and pumps.
5. The obstruction of the Open Reach/Telecoms/Broadband box opposite 1 & 3 Imber Road as the new hedge has now been planted in front of it.



### **Mr. Pelly's seeking of a 'stopping-up' order**

Imber Road, from Stradbrook up to the Plain is a single track road. I object in the strongest possible terms to this attempt by Mr Pelly to steal a crucially safe area from a public highway. In the past a friend of mine, Michael Reed, the son of Doug Reed who owned the garage in Bratton was hit by a car when walking up to my house. To be able to safely walk on a public road and step onto the verge out of the way of passing cars is vital.

It is opportunism on Mr. Pelly's part to 'assume' he owns the verge by planting on it. The boundaries on Land Registry documents have not been determined to indicate their exact line. They operate under Section 60 LRA 2003 as general boundaries only. The verge has been historically maintained by the Highways Authority and is undisputedly part of the public highway.

I quote Alan Riley - Property Law Consultant, Title and Covenant Brokers Ltd. - [www.titleandcovenant.co.uk](http://www.titleandcovenant.co.uk).

*"Where there are fences and hedges on either side of the highway, and the presence of these boundary features are referable to the highway, it may be presumed that the highway includes all of the land between the features. See **Attorney-General v Beynon** [1970] Ch 1. The "hedge to hedge" presumption is that a highway extends to the whole width of the space between fences on either side of the highway and is not limited to the metalled part of the roadway. The hedge is presumed to belong to the adjacent landowner, although the boundary probably runs along its root line."*

On Imber Road the boundary features on both sides of highway have been clearly defined over an extremely long period of time.

The laurel hedge should be re-planted on the correct boundary perimeter of Luccombe Mill to restore the land taken to it's rightful use and to solve the problems of visibility, access to communications equipment and the serious threat to safety that are caused by the hedge's present position.

Yours sincerely,

Mark Cockerton

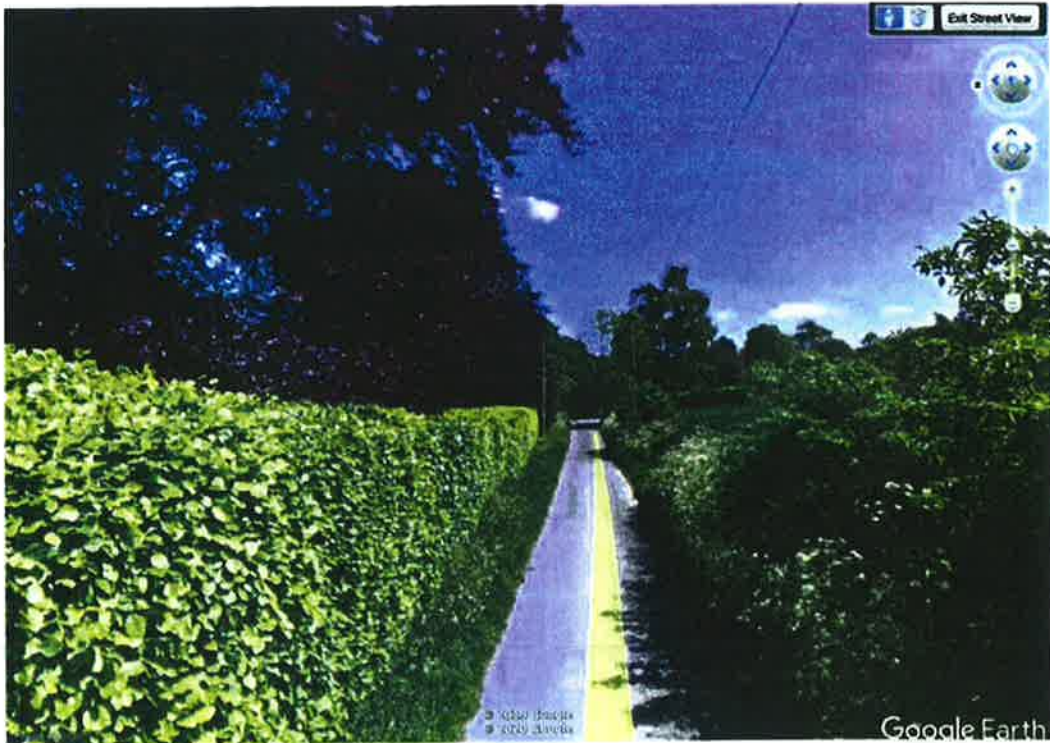
28th January 2020

6. The application by Mr. Pelly to prevent members of the public taking refuge on the verge of Imber Road, a narrow public highway, when any traffic approaches.

My name is Mark Cockerton, I have lived at 3 Imber Road, Bratton since 1956. My grandfather, Fredrick Rogers Cockerton bought the land on Imber Road and had built a house at 3 Imber Road by 1924. He also built the house at No. 7 Imber Road by the 1930's which he lived in. No 7 Imber Road was sold in 1955. By then my father had married and was living at 3 Imber Road.

### **1. Destruction of the existing Beech hedge**

It was very sad to see that Mr Pelly had torn out the 200 year old existing beech hedge along Imber Road. The boundary to his property would be deemed to run along the root line of the beech hedge. Not only did it have great beauty and colour, native beech is known to support over sixty-four insect species.



### **Planting of the new hedge outside the existing Luccombe Mill boundary**

The new laurel hedge that has been planted does not follow the previous hedge/boundary line. It is much closer to the road, planted at the top of the bank. The beech hedge grew further down the bank. Note the width of available road in summer.



The new laurel hedge significantly encroaches onto the verge. This will only get worse over time.



#### **Safe 'Sight-Lines' at the entrance to Luccombe Mill**

Previously, if you were driving down Imber Road, towards the village, at the junction of the drive and the road there was a clear section with a low fence and post. When coming down the hill you could clearly see if a car was drawing out. This section has now been planted with laurel obscuring the 'Sight-Line' and increasing the probability of an accident.

Conversely, if a car is pulling out of the drive, the driver cannot see a vehicle coming down the hill until it's right on top of them. The new planting, where before there was none, increases the likelihood of an accident.

(See pictures on next page).



Original entrance to Luccombe Mill. Note the open fence that allowed a safe view back up the road , when exiting, and the ability to see a car coming out of the drive if you were coming down Imber Road towards the village.



Visibility back up the road is now obscured. And also any vehicle exiting Luccombe Mill.



The ability to see a car pulling out from Luccombe Mill on the right and react in time is now impaired.

#### **Covering over of 'pull-in' area**

For as long as I can remember there has been a 'pull-in' opposite 1 and 3 Imber Road. This was tarmaced in the 60's by Wessex Water as a safe place for their engineers to park when visiting the springs and pumps in the valley. This has now been covered over by Mr. Pelly.

Note the previous hedge line in relation to the telegraph poles.



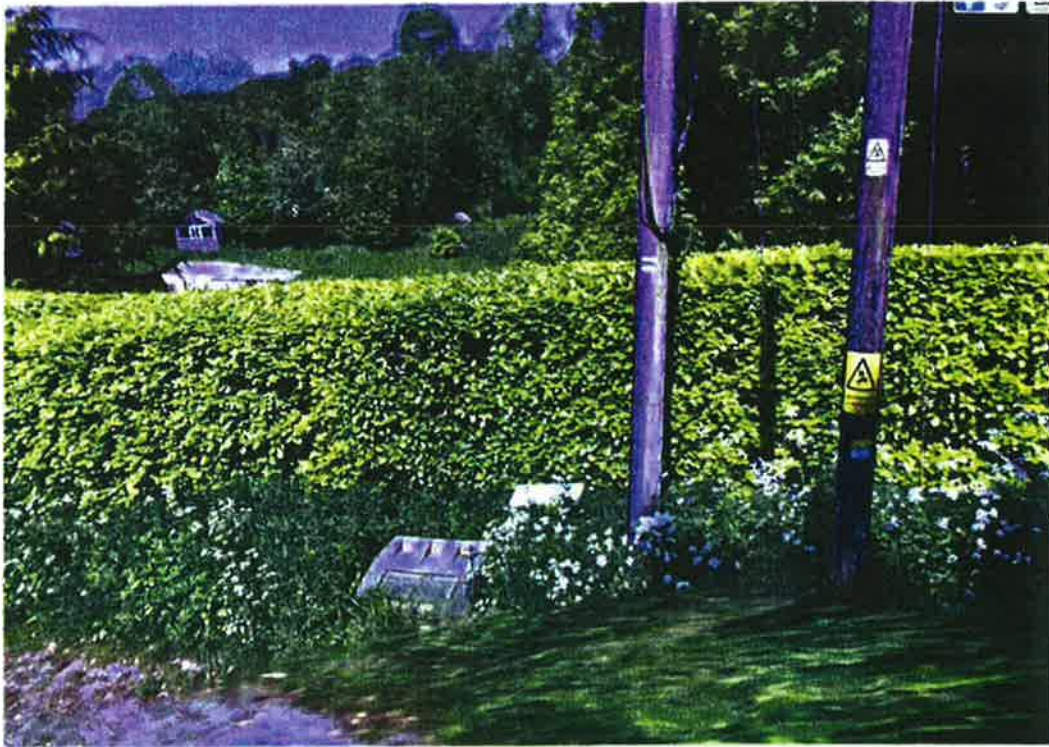
**Obstruction of the Open Reach Telecoms/Broadband box**

Previously the junction box was in-front of the existing boundary hedge.

The grey box behind the grit bin.

Now it is not. The new hedge has been planted in front of it.

Note the line of the new hedge compared to the beech hedge in relation to the telegraph poles.



The now non-accessible telecom/broadband junction box.

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Second correspondence to Mr. Ligo, Bratton Parish Council, sent 1st March 2020

To the Bratton Parish Council

1st March 2020

Additional objections concerning s116 application to 'Stop-Up' a section of Imber Road. - Public highways land bordering Luccombe Mill, Bratton.

Circumstances are as follows:

1. Mr Pelly has moved his boundary illegally up to 4 metres toward the centre of the highway.

I object to this theft of public carriageway. The verge borders his property, he does not own it.

2. It seems that Mr Pelly's aim is to gain ownership of this public verge by first attaining a stopping up order, s116, and then purchasing it from Highways/Wiltshire Council.

I strongly object to this request to stop up the verge, ultimately giving ownership of what has for thousands of years been part of the public highway.

3. The Highways Act 1980, section 141 clearly states that no hedges or trees should be planted within 15 foot from the centre of the highway. The new Yew hedge has been planted between < 7 foot and 14 foot.
4. If the boundary of Luccombe Mill is moved to the edge of the tarmac highway there is no guarantee or safeguard that the present or a subsequent owner will allow neighbours and pedestrians to walk on the verge in perpetuity.

### **Pertinent sections of The Highways Act 1980**

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**<http://www.legislation.gov.uk/ukpga/1980/66/contents>**

#### **116 Power of magistrates' court to authorise stopping up or diversion of highway.**

(1) Subject to the provisions of this section, if it appears to a magistrates' court, after a view, if the court thinks fit, by any two or more of the justices composing the court, that a highway (other than a trunk road or a special road) as respects which the [F1highway] authority have made an application under this section—

(a) is unnecessary, or

**My objection: The verge on this section of Imber Road is a necessary refuge for pedestrians to avoid cars, tractors, horses on the single track road.**

(b) can be diverted so as to make it nearer or more commodious to the public,

the court may by order authorise it to be stopped up or, as the case may be, to be so diverted.

**My objection: There is no reason to divert the carriageway. If the stopping up order is implemented it will be 'less comodious to the public'.**

### **130 Protection of public rights.**

(1) It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.

**My observation: If a stopping up order is implemented the Highway Authority will not be asserting and protecting the rights of the public to use and enjoy the highway. They will be putting the public at risk.**

(3) Without prejudice to subsections (1) and (2) above, it is the duty of a council who are a highway authority to prevent, as far as possible, the stopping up or obstruction of—

(a) the highways for which they are the highway authority, and

(b) any highway for which they are not the highway authority, if, in their opinion, the stopping up or obstruction of that highway would be prejudicial to the interests of their area.

**My observation: 'The interests of the area' include the ability of the residents of Imber Road to walk in safety to and from their homes whenever they wish.**

(4) Without prejudice to the foregoing provisions of this section, it is the duty of a local highway authority to prevent any unlawful encroachment on any roadside waste comprised in a highway for which they are the highway authority.

**My observation: Mr Pelly has unlawfully encroached upon the verge ('roadside waste') by the planting of a new hedge closer to the highway than the existing beech hedge which stood 4 metres further back.**

**I would also draw your attention to The Highways Act 1980 - Section 141**

### **141 Restriction on planting of trees etc. in or near carriageway.**

(1) Subject to sections 64 and 96 above and section 142 below, no tree or shrub shall be planted in a made-up carriageway, or within 15 feet from the centre of a made-up carriageway.





The junction box is already obscured by new growth.



This picture clearly shows how far the hedge line has been moved up the bank.

The new Yew hedge planted by Mr Pelly has been planted within 15 feet of the centre of the carriageway. Opposite No 3 Imber Road the measurement is 14 foot.



Opposite the gate into the field on Imber Road, halfway up the hedge, the measurement is 9 foot.



At the entrance to Luccombe Mill on Imber Road the measurement is < 7 foot.

(2) If a tree or shrub is planted in contravention of this section the highway authority for the highway or, in the case of a highway maintainable by reason of tenure, enclosure or prescription, the person liable to maintain the highway, may by notice given either to the owner or to the occupier of the land in which the tree or shrub is planted require him to remove it within 21 days from the date of service of the notice.

**My observation: The new planting clearly contravenes Section 141 of the Act concerning the planting of new trees and shrubs in or near a carriageway. The new hedge has been planted between 14ft and < 7 foot from the centre of Imber Road.**

### **To Conclude:**

1. The existing hedgeline and border to Luccombe Mill property should be respected. The Yew hedge should be replanted on the legal border line.

*The picture below, taken when the Seymour family owned Luccombe Mill, clearly shows the previous hedgeline running at the bottom of the bank. The second picture clearly shows how far Mr Pelly has encroached towards the highway.*



2. For the safety of residents and walkers along Imber Road refuge from passing cars, agricultural vehicles and horses is crucial. The verge should not be allowed to be 'stopped-up' and sold off.

Yours sincerely,

Mark Cockerton

1 March 2020

## APPENDIX 5



## APPENDIX 5

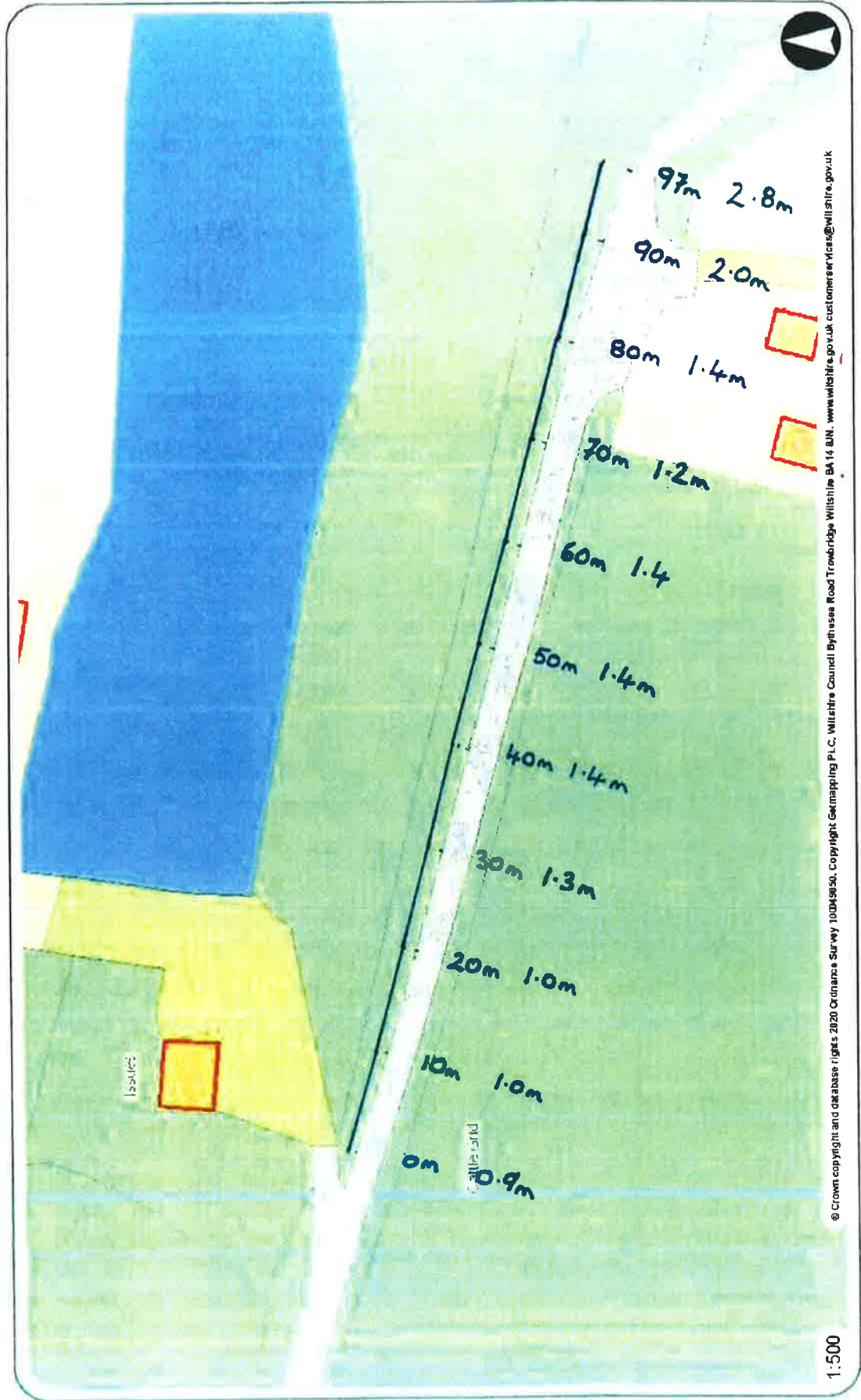


**APPENDIX 5**



Date: 21 Feb 2020  
Centre Coordinate: 391,994 152,058

**Wiltshire Council**  
ArcGIS Web Map



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